

UNITED STATES



OF AMERICA

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS
SECOND SESSION

VOLUME 136—PART 15

AUGUST 1, 1990 TO AUGUST 2, 1990

(PAGES 20965 TO 22130)





OF AMERICA

UNITED STATES

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101ST CONGRESS
SECOND SESSION

VOLUME 136—PART 12

AUGUST 1, 1990 TO AUGUST 2, 1990
(PAGES 2007 TO 2110)





United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 101st CONGRESS, SECOND SESSION

SENATE—Wednesday, August 1, 1990

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 9:15 a.m., on the expiration of the recess, and was called to order by the Honorable WENDELL H. FORD, a Senator from the State of Kentucky.

The PRESIDING OFFICER. Today's prayer will be offered by our guest chaplain, the Reverend Larry Christenson, International Lutheran Renewal Center, St. Paul, MN.

PRAYER

Rev. Larry Christenson, International Lutheran Renewal Center, St. Paul, MN, offered the following prayer:

Let us pray:

Heavenly Father, we thank You for this new day. We thank You, Sovereign Lord, for the goodness and favor You have shown to our country; for the blessing of freedom, for opportunity, for abundance.

Bless the men and women of the Senate today. Help them in the work of government that You have entrusted to them. Like the prophet Daniel, let them find in You the source of wisdom and power:

"Daniel praised the God of heaven, and said, Praise be to the name of God for ever and ever; wisdom and power are his. He changes times and seasons; he sets up kings and deposes them. He gives wisdom to the wise and knowledge to the discerning. He reveals deep and hidden things; he knows what lies in darkness, and light dwells with him."—Daniel 2:20-22.

Let this be more than words, Lord. Let it be Your gift to the men and women of the Senate today.

Give them wisdom. Let them order their words and actions in a way that You find good and right. Let Your Holy Spirit be at work in this Chamber—the Spirit of knowledge, understanding, and wisdom.

Give them courage. Let them do what is right in Your eyes.

Give them comfort. Let them see Your hand laid upon their mistakes and failures. Let the message of forgiveness that Your son taught give

them thankfulness, hope, and compassion toward others.

Let them come to the end of this day with the knowledge that they have done what lay in their power to do, in a way that was pleasing to You. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. BYRD].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, August 1, 1990.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Wendell H. Ford, a Senator from the State of Kentucky, to perform the duties of the Chair.

ROBERT C. BYRD,
President pro tempore.

Mr. FORD thereupon assumed the chair as Acting President pro tempore.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 9:30, with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Minnesota, the acting minority leader, is recognized.

THE GUEST CHAPLAIN

Mr. BOSCHWITZ. Mr. President, I would like to recognize and thank the guest chaplain of this morning, Rev. Larry Christenson, for offering the opening prayer.

Pastor Christenson's family first settled in Minnesota in 1914, when his grandparents moved their family to Northfield, MN, where there is a college, St. Olaf College. They moved there so that their sons could go to school, and I will remark in a moment about the importance of education to the family.

Larry grew up in Northfield and graduated from St. Olaf, where his father was employed for many years. I believe he was the athletic director at St. Olaf for three decades. Pastor Christenson has been a minister in the Lutheran Church now for 30 years.

More recently, Larry and his wife, Nordis, have moved to Northome, MN, which is in the very northern reaches of our State, 70 miles from the Canadian border, out in the woods. After spending most of his life as a busy parish pastor, he moved north 6 years ago, as I mentioned, to enjoy a quieter life and do the writing that he has done so much of over the years.

I have visited Pastor Christenson in his home in Northome and, as I say, it is up in the woods of northern Minnesota among the pine trees, and it is very beautiful indeed.

Two of his sons, Tim and Arne, have both served on my staff. Tim is a Fulbright scholar and was an honors graduate from St. Olaf College. His son Arne, who is my legislative director, was a member of Phi Beta Kappa and a summa cum laude graduate of St. Olaf College. These are boys who really have achieved.

Tim was my foreign policy and defense assistant for several years and now has moved over to the Pentagon, where he is working in the arms control negotiations area. Arne was my legislative director for a couple of years and now has moved over to the House side and is the administration assistant to Congressman VIN WEBER.

Larry is not only in town to be the guest chaplain of the Senate today, but he is in town for a special purpose, and that is that his son, Arne, is marrying my personal secretary, Debra

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

Svieven, who is also a Phi Beta Kappa graduate from college.

I have also developed something of a reputation as a matchmaker, and this is one of my greatest achievements. I am indeed pleased and proud to have Pastor Christenson as a guest chaplain today, and I trust he will spend a good deal of time on the floor and get to know us here in the Senate better.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Carolina [Mr. SANFORD] is recognized for 5 minutes.

THE REAL DEFICIT

Mr. SANFORD. Mr. President, early this morning I was drinking coffee and reading the newspaper about our S&L scandal. And it is a terrible scandal, one of the worst scandals of neglect and abuse of authority in the history of the country. Then I turned over to the editorial page and it suddenly struck me that we have a far bigger scandal hanging over this town, hanging over this Congress, and hanging over the White House. I am referring to the scandal of the hidden national debt.

For the last 12 years, Mr. President, as you know, we have continued to pile up the largest debt in the history of this Nation. And in a few more years, before the turn of the century, if we go unabated, if we do not do something to reduce it, the debt will exceed the gross national product.

What caught my attention this morning was an editorial that said, in effect: Why not take money back from the beneficiaries of Social Security to help balance the budget? After all, they say, is it not reasonable for beneficiaries to give up some of their COLA's to help balance the budget?

That then, Mr. President, got me thinking about the shameful state of affairs on the editorial page of the Washington Post. Here is one of the great newspapers of the country with great leadership. I remember 30 years ago working with Agnes Meyer, who then was the publisher, working with her on problems of improving education in America.

Then her daughter, who has provided such great leadership, Katharine Meyer Graham, made that one of the great papers. But I have observed in the time that I have been here, that the editorial page and the op-ed page simply have not bothered to inform the people of the real problem of the Nation's rising debt. They at the Washington Post do not understand it.

In fact, it is appalling to see so much ignorance expressed on the editorial page of the Washington Post.

I do not mind an editorial that is biased. An editor is entitled to be biased. I do not mind an editor who expresses some particular point of

view that might disagree with mine. That is the right of an editorial writer. But I do not think the editorial writers can be excused for simply being ignorant and too lazy to get educated.

In the time I have been in Washington, not once have I seen an analysis of the true problem of the budget on the editorial pages of this great newspaper. Today they talk about taking off Social Security. Why take off Social Security? Let Social Security help balance the budget.

Suppose this editorial writer would walk around the corner, or to the next floor to wherever the business office of the Washington Post is and said: Why do we not count our retirement funds on the bottom line of the Washington Post? It will run up the stock; it will make it look like we are making a lot more money.

Of course, that is not going to be done. But that is what we have been doing with the Federal budget, Mr. President, now, for at least 12 years. We have been covering up the deficit. Consequently, for these years we have been saying year after year that we are reducing our deficit. I remember "108 in 1988." We were trying to get the Gramm-Rudman target up \$108 billion, claiming great credit that we were reducing the deficit.

Finally, at the end of that year, though we claimed we got 108, it ended up at 158, as a deficit under Gramm-Rudman's measure. But in truth, we added a quarter of a trillion dollars to the debt, and on the average we have been running \$250 billion real deficits each and every year. The cover up of real deficit is how we have moved from a debt of just under a trillion dollars to a debt now approaching \$4 trillion.

Mr. President, that is the scandal. The scandal is that we have let this debt run up. We are now over at the summit talking about how to reduce an artificial deficit. If we take the 5-year plan that has been proposed or suggested in the newspapers with the President's new taxes, in the next 5 years we will reduce the debt \$450 to \$500 billion while adding another \$1 trillion to the debt. We will be over \$4 trillion at the time we say this new plan will have balanced the budget. Mr. President, I cannot put up with this deceit any longer.

I have not voted for any increases in the debt limit during this Congress and do not intend to because I do not want to be a party to this unrestrained debt. We can bring it under control if the White House and the Congress will simply have the courage. This is the great scandal. We are putting these trillions of dollars of debt on our children and our grandchildren, and at the same time weakening this country in every possible respect: weakening it in housing, in education, in our national competitiveness, in our worldwide

posture. I think it is time we caught hold of this national debt and started reducing it.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Minnesota.

THE DEBT

Mr. BOSCHWITZ. I thank the Senator from North Carolina for his statement about the debt, with which I disagree. I notice he mentioned the White House and cast some blame in that direction. I hope my friends on the other side of the aisle will shortly come with their own proposal for settling the debt crisis in short order. We are expecting it.

(The remarks of Mr. BOSCHWITZ pertaining to the introduction of S. 2947 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. BOSCHWITZ. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

CRP AMENDMENT TO 1990 FARM BILL

Mr. SYMMS. Mr. President, I rise this morning to tell my colleagues of another agricultural pest situation involving private land under Conservation Reserve Program contract.

Recently, I received reports that the voracious barley thrip, a pest which literally cuts cell walls and drinks nutrients inside, may damage up to 30 percent of the Spring Malt Barley crop in southeastern Idaho.

In winter, pests take refuge in CRP land, and in the spring spread to surrounding farmland. I bring this to your attention to demonstrate the continuing importance of my amendment establishing a system to manage pests on CRP land.

I wish to again thank my colleagues for unanimously accepting my amendment on Tuesday to combat pests on CRP land. I am certain the people of southeastern Idaho who have this year suffered under Mormon crickets and now the barley thrip share my gratitude.

THE NATIONAL PEACE ESSAY CONTEST, 1989-90

Mr. SYMMS. Mr. President, I rise today to bring attention to a significant achievement of a young peace-maker from my State, Sara Peterson.

Sara, a student at Blackfoot High School, in Blackfoot won first place in the State-level competition of the National Peace Essay Contest, 1989-90, sponsored by the U.S. Institute of Peace. This organization was founded by an act of Congress in 1984 as an independent, nonpartisan, Federal institution whose goals include supporting public information, education and training programs about the complexities and international conflict surrounding peacemaking.

Sara and other State level first-place winners had a chance to visit Washington on June 25-29. While here in Washington, Sara and her colleagues took part in a simulation exercise in which they assumed the roles of United States, Soviet, and European officials. They addressed issues such as German reunification and the future of European and security alliances.

Sara's essay, "Theodore Roosevelt Intervenes," discusses the events that led to the Russo-Japanese War and how President Theodore Roosevelt went over the heads of the United States' Cabinet and Congress to intervene in this conflict by inviting both Japanese and Russian officials to hold peace talks in the United States. These efforts earned President Roosevelt the Nobel Peace Prize in 1906. Sara's fine job of researching this topic and writing an outstanding essay earned her a \$500 college scholarship along with a trip to our Nation's Capital.

I ask unanimous consent that her article be printed in the RECORD and I commend it to the attention of my colleagues.

There being no objection, the essay was ordered to be printed in the RECORD, as follows:

[National Peace Essay Contest, 1989-90]

THEODORE ROOSEVELT INTERVENES

(By Sara Petersen)

Since the colonial days, the United States has maintained the philosophy of peaceful, democratic ideals. This country gained an early reputation for establishing and supporting harmony throughout the world. A lesson that should always be remembered is that as the twentieth century dawned, President Theodore Roosevelt continued this tradition by intervening in a conflict between Russia and Japan. That intervention would change the course of history, earn him the Nobel Peace Prize, and establish the United States as a peacemaker in the nineteenth centuries.

It was February 8, 1904, when the Russian-Japanese war began. Both Russia and Japan had ambitions to expand and control the world. Russia had begun building a railroad system in 1891 called the Trans-Siberian Railway that connected Moscow with Vladivostok. The Russians signed a contract with China in 1896 that allowed Russia to build the Chinese Eastern Railway. This railway extended across Manchuria and gave Russia partial control of that province. Russia kept expanding from Liaotung Peninsula, the location of the naval base of Port Arthur, to Korea.

The Japanese were furious with the Russian movements. They also wanted to expand their territory, especially into China. Japan tried to take over Liaotung Peninsula but French, German, and Russian troops prevented this from happening. When Russia attempted to lease land from the Chinese for further expansion, the Japanese became so angry they set up an alliance with Great Britain and began to prepare for war in 1902. On February 6, 1904, Japan broke off all diplomatic relations with Russia, and on February 10, 1904, it declared war with Russia.

Most people expected Russia to win the war because of its size and power. However, even though Russia had some 80,000 troops in the Far East when the war broke out, Japan had 200,000 troops in China and another large army on standby. The only way Russia could get help was by shipping more soldiers and supplies on the unfinished Trans-Siberian Railway from western Russia more than 5,000 miles away. Japan had alternate ideas:

"In February, 1904, Japan did what Roosevelt wanted to do theoretically but felt he could not—attack Russia by staging a torpedo boat raid on the Russian fleet anchored at Port Arthur. This initial Japanese victory was shortly followed by others on both land and sea" (Mowry 183).

Neither Russia nor Japan did very well in the war. The Russian government had poor leadership and a lack of troops and supplies. The Japanese were more skilled and aggressive but lacked necessary funding.

Many battles were fought during this war between Russia and Japan, and finally after a two-month siege, the Russians surrendered at Port Arthur to Japan. Roosevelt had his own ideas about how the outcome should be staged:

"Although the president favored the Japanese as a countervailing force to Russian designs on China, he feared that an overwhelming Japanese victory might establish that nation as a danger in the Pacific. Therefore, when the war tilted dramatically in Japan's favor, Roosevelt intervened (inviting both parties to hold peace talks in the United States), without the knowledge of the cabinet or Congress, or even most of the State Department, and eventually won consent from both Russia and Japan to meet in a peace conference at Portsmouth, New Hampshire" (Nelson 100).

"Under Roosevelt's vigorous shepherding, the Japanese and Russian delegates gathered near Portsmouth, New Hampshire, in 1905. The politely bowing Orientals, on the basis of their victories, presented stern demands. They asked for a huge indemnity and for all of the island of Sakhalin, which commands the Amur River—the Mississippi of Siberia" (Bailey 594).

"The Treaty of Portsmouth, signed in September 1905, recognized the Japanese victory, the first for an Asian nation over a European power. Japan was awarded Port Arthur, the southern half of Sakhalin Island, control of the Manchurian railroads, and, in effect, control of Korea. In turn, Japan gave up its demand that Russia pay for war damages. Manchuria remained part of China" (Davidson 494).

For his efforts in establishing harmony between Russia and Japan, Theodore Roosevelt was awarded the Nobel Peace Prize in 1906. Even though he was awarded this highly coveted recognition, he was not at all popular with either country; each felt that it had been denied due rights and had lost face with the rest of the world. This

tension would last well into the first half of the century, and the United States' popularity with either country would be nil.

Even though the treaty granted Japan the territory of Korea, one wonders where the Japanese invasion of mainland Asia would have ended had it not been for President Roosevelt's intervention. Would this Oriental nation have insisted that its manifest destiny entitled it to continue its march across China? This possibility could definitely have affected the outcome of World War II as well as the economy of the world today.

Russia could have fought the Japanese for years, losing money, troops, and its spirit for fighting. This could have affected the power Russia exhibited during World War II. Could the Soviet Union have been so successful on the western front against Germany if it were also fighting a long-established conflict with the powerful Japanese in the East?

Fortunately the world will never know the answers to these questions because one man, President Theodore Roosevelt, went over the heads of the United States' Cabinet and Congress to intervene in a conflict that threatened world peace. He defied friendships in order to establish that peace. The Nobel Prize committee saw the importance of his actions and recognized him as the international peacemaker in 1906. History could definitely have taken a different turn in the world if it had not been for this great president.

As a nation, people must never forget what President Roosevelt did in preventing the expansions of Japan and Russia at that time. He was a recognized peacemaker who set the pace for the United States in the twentieth century and beyond. He was dedicated to the past and committed to the future.

WORKS CITED

- Bailey, Thomas A. and David M. Kennedy. *The American Pageant Seventh Edition*. Lexington: D.C. Heath and Company, 1983.
- Donaldson, James West and Mark H. Lytle. *The United States: A History of the Republic*. Englewood Cliffs: Prentice Hall, 1986.
- Mowry, George E. *The Era of Theodore Roosevelt and the Birth of Modern America*. New York: Harper & Row, 1958.
- Nelson, Michael, ed. *Congressional Quarterly's Guide to the Presidency*. Washington: Cong. Quarterly, Inc., 1989.

PRESCRIPTION PRICING

Mr. HATCH. Mr. President, I rise today to address the subject of prescription drug costs, an issue I know is of concern to many Americans.

In 1984, I was privileged to be a part of one of the most significant efforts in recent history to obtain lower prescription drug prices for the American people. I am referring to legislation I coauthored—the Drug Price Competition and Patent Term Restoration Act of 1984—which cleared away many of the legal and regulatory roadblocks to the marketing of low-price generic drugs.

Although a handful of bad actors in some generic pharmaceutical companies has created some temporary difficulties for the generic industry, I am

satisfied that—in the long run—this program will continue to help the American people obtain low-cost pharmaceutical products.

The basic premise of that law is that, if the generic version of a drug is tested and found to be bioequivalent to the original pioneer drug, consumers should have expeditious access to the lower cost of the drug. The generic drug is bioequivalent if it is absorbed into the bloodstream and responds in the same way as the original brand name drug. This is known as generic substitution.

As a consequence of this law, virtually every State implemented mandatory generic substitution programs that have saved Medicaid and other taxpayer funded pharmaceutical assistance programs billions of dollars since 1984.

Unfortunately, today, some leading policymakers and groups are trying to take the basic premise of this act a step further—a very dangerous step, in my judgment. While we are all concerned about the rising costs of health care and pharmaceuticals, some have become so concerned about cutting costs that they want to go beyond generic substitution into an area known as therapeutic substitution, a practice in which an entirely different chemical would be substituted for the one prescribed.

This issue has even come up in the budget summit because of interest in cutting Medicaid expenditures for prescription drugs. One proposal would have required pharmacists to substitute a chemically different drug from the one prescribed if it had a lower price; that is, therapeutic substitution.

With generic substitution, the consumer is guaranteed a virtually identical product to the one prescribed. With therapeutic substitution, the patient gets a different product that has a different chemical composition, a different profile, different side effects, and different indications. This is bad health care policy.

Mr. President, in the context of the current OMB proposal on prescription drug prices and therapeutic substitution, the outpouring of criticism and opposition has been impressive. This is a list of just a few of the leading groups that have spoken out against therapeutic substitution as the rule for the Medicaid outpatient population:

- American Medical Association;
- National Medical Association;
- American Cancer Society;
- American College of Cardiology;
- American Heart Association;
- Cystic Fibrosis Foundation;
- Epilepsy Foundation;
- National Multiple Sclerosis Society;
- Alzheimer's Disease and Related Disorders Association;
- National Hemophilia Foundation;

American Academy of Family Physicians;

American Psychiatric Association;

American Society of Clinical Pharmacology and Therapeutics; and

American Society of Internal Medicine.

The political opposition spans the spectrum from the Heritage Foundation to the Rainbow Coalition and from the National Black Caucus of State Legislators to the American Legislative Exchange Council [ALEC]. Numerous groups representing the low-income citizens strongly oppose any proposal that results in switching Medicaid patients to anything other than the optimum prescription drug for their illness.

Mr. President, I do not question the need to save money in Medicaid, but, we must not rush into approving a highly controversial, scientifically questionable system of drug switching. While I could cite a number of distinguished medical sources, I believe the American Heart Association and American College of Cardiology stated it best when they said:

Therapeutic substitution is a flawed concept and dangerous practice, even if physicians can override the substitution mandate.

We should heed these warnings. There have never been any hearings on any of these proposals. Indeed, the only bill ever introduced on this subject, S. 2605, has been pending for just 2 months.

A serious question also exists as to whether these proposals will actually result in savings. Strong evidence suggests that restrictive Medicaid drug proposals could not be quickly implemented, may not perform as promised, and may be offset by administrative and other costs.

At the same time, the pharmaceutical industry is attempting to respond to our concerns by offering alternative proposals which, in my judgment, look at if they really could actually save money. As of today, at least four individual drug companies have proposed measures that could result in the payment of hundreds of millions of dollars to State Medicaid programs by drug manufacturers. While those proposals may not be perfect and may require further clarification, I believe they represent a good faith effort by the industry to respond to our concerns, and we owe it to ourselves and to the beneficiaries of Medicaid to thoughtfully look at those alternatives.

Mr. President, I want to try to put this whole issue in perspective with regard to Medicaid spending.

Medicaid faces serious financial problems. Medicaid now provides health care to approximately 22 million people. Total funding for Medicaid has increased dramatically over the last 17 years—from \$2.2 billion in 1970 to \$39.5 billion in 1985 to \$48.7

billion in 1988, in large part due to expansion of benefits and increased utilization.

Of every dollar spent on Medicaid, only 6.5 cents is spent on prescription drugs. And, of the 6.5 cents, only a fraction goes to the manufacturer of brand name drugs. More than one-half goes to pay for over-the-counter products, generic drugs, distribution costs, and pharmacy fees/retail markup. In short, less than 3 cents out of every Medicaid dollar goes to the research-based pharmaceutical industry.

In all, the \$3.3-billion spent by Medicaid for prescription drugs compares to \$12 billion spent for hospitals, \$6 billion for intermediate care for the mentally retarded, \$7.9 billion for intermediate care for all others, \$3.5 billion for clinics and outpatient hospital care, \$6.3 billion for skilled nursing care, and \$3.8 billion payments to doctors, dentists, and other health care practitioners.

It has been suggested that just a small percentage savings in the Medicaid drug budget will take the pressure off these categories. However, I think my colleagues can readily see that the savings just are not there.

It has, nevertheless, been suggested that drug price increases are way out of line. It has been pointed out that, between 1981 and 1988, drug prices have risen by 88 percent, whereas the general inflation rate has increased by just 28 percent.

Mr. President, it is true that drug prices have risen faster than the overall rate of inflation. Nevertheless, the real issue here is not the rate of inflation but the affordability of prescription drugs and the justifiability of price increases.

Let us look at the first question of affordability. In the late 1960's and 1970's, pharmaceutical prices rose less than the consumer price index [CPI]. In the 1980's, drug prices have increased more than the CPI.

However, the amount of the average worker's wage that is claimed by prescription drugs has actually dropped from 3.4 percent in 1976 to 3 percent today.

If all we were looking at were simply whether a certain medication could be produced in 1988 as cheaply as it was in 1981, then the debate would be simple. But, the pharmaceutical industry produces more than just pills; it produces research.

Since 1980, the pharmaceutical industry has quadrupled what it spends on research and development, from just \$2 billion in 1981 to \$8 billion per year today. And, for a new drug to be reviewed and approved by the FDA, the manufacturer must produce a truckload of information concerning the composition of the drug, the results of clinical trials, and so forth. These FDA regulations are necessary

to ensure that drugs are safe and effective, but the process is very costly.

Biomedical research is expensive. The equipment is expensive. The buildings are expensive and state-of-the-art. The salaries for scientists and regulatory experts are high. The competition among different companies and even among nations is intense. A comparison of the biomedical research and development index, as compiled by the National Institutes of Health, shows that in the most recent year studied, 1986, research prices increased 76 percent faster than the CPI. Some studies indicate that the cost of bringing a new drug to market has now reached \$231 million. Drug prices have gone up 88 percent, and the cost of biomedical research has gone up 76 percent.

Some studies now indicate that the cost of bringing a new drug to market has reached \$231 million. That figure has been disputed. The old figure is \$125 million. Whichever number you happen to support, I think everyone will agree that the cost is high and getting higher all the time.

As things currently stand, studies show that only 3 out of every 10 drugs on the market actually recover the costs of drug development. One of the principal reasons is that, for every compound that is commercialized, some 4,000 are abandoned in research at a considerable expense to the sponsor.

However, evidence shows that pharmaceuticals are saving money for our health care system. A recent study found that incremental improvements in just seven pharmaceutical products yielded an estimated savings to insurers and the public of \$6.5 billion annually from reduced hospital and nursing homes stays, fewer physician visits, and reduced need for surgery. For example, in 1988, a drug was introduced to dissolve gallstones which has few side effects and costs less than \$2,000 per year. For about 50 percent of the patients, it is an effective alternative to an approximately \$10,000 surgical procedure that also requires a 10-day hospital stay.

While I do not dispute the need to keep prescription drugs affordable, we need to look at the big picture. We also cannot afford to jeopardize research and innovation in one of America's leading industries. We also cannot afford to compromise the health care of those who depend on Medicaid. In my opinion, Mr. President, we have not yet exhausted the possibilities for controlling health care costs that are consistent with delivering quality care to all Americans, rich or poor. I will certainly be at the head of the parade in advocating such solutions.

OBSERVING THE VISIT OF NORTH KINGSTOWN RECREATION INTERNATIONAL TO MINSK, BYELORUSSIAN SOVIET SOCIALIST REPUBLIC

Mr. CHAFEE. Mr. President, today I would like to mark an event that is surely another sign of the increasing friendship between the people of the United States and the people of the Soviet Union.

This afternoon, a group of youngsters from North Kingstown, RI, departed the United States for a 10-day visit to the city of Minsk in the Byelorussian republic of the Soviet Union [BSSR]. The trip, the second of its kind, is sponsored by North Kingstown Recreation International [NKRI], a group of Rhode Island parents and children who believe in the ability of recreational sports and cultural activities to promote greater international understanding through mutual respect.

In 1988 NKRI sent a group of players to the Soviet Union to play soccer and get acquainted with youngsters of their own age. Last summer Rhode Islanders were pleased to welcome a group of Soviet teenagers for a return visit.

Recreational sailing, a sport that is just beginning to catch on in the Soviet Union, is the focus of this summer's activities. The youngsters from North Kingstown hope that sailing with their new friends in the U.S.S.R. will show something of what life in the United States and especially in Rhode Island, "the Ocean State," is like.

Many such sports exchange programs take place each year. NKRI's program deserves special mention because its sports activities are noncompetitive. Team sports are organized like the pickup games on American playgrounds. Soviet and American youngsters play together on mixed squads, eliminating the element of nation versus nation competition that marks most larger scale international games. The central themes here are fun and friendship.

Last summer, NKRI and its Soviet counterpart, Byelsportobespechenie—the State Sports Committee of the BSSR—agreed to expand their existing program by encouraging other groups in their respective countries to participate in these cultural and recreational activities. I am pleased and honored to have had the opportunity to work with NKRI to establish this program, and I look forward to its continuing success.

I ask my colleagues to join me in saluting the families of NKRI and in sending the warmest greetings of the U.S. Senate to the people of Minsk.

THE 10TH ANNIVERSARY OF MOTHERS AGAINST DRUNK DRIVING

Mr. DANFORTH. Mr. President, I want to join a number of my colleagues in commemorating the 10th anniversary of an exemplary national volunteer safety organization, Mothers Against Drunk Driving [MADD]. Over the past 10 years, this organization has grown from a fledgling group meeting in a California mother's home into a national force instrumental in the passage of legislation which has saved thousands of American lives. Because of the magnitude of MADD's contribution to the effort to eradicate the national tragedy of drunk driving, it is only fitting that this lifesaving organization be recognized on this anniversary. During this period, MADD's support has been crucial to the enactment of every major Federal drunk driving law. MADD has also played a role in the creation of many State and local measures designed to eliminate impaired driving. These laws helped reverse the trend of yearly increases in alcohol-related traffic deaths and injuries.

In 1982, with MADD's strong support, Senator PELL and I authored legislation creating a program of providing State and local government incentives to encourage strict laws against drunk driving, including prompt suspension of driver's licenses for first time offenders and those who refuse chemical tests, mandatory imprisonment for repeat offenders, and the establishment of a .10-percent blood alcohol content as evidence of intoxication.

In 1984, MADD's aggressive advocacy of the nationwide 21-year-old drinking age won one of the organization's greatest victories. The National Highway Traffic Safety Administration estimates that the Uniform Minimum Drinking Age Act of 1984 saves about 1,000 lives a year.

In 1988, MADD continued its role as an energetic safety advocate on behalf of the Drunk Driving Prevention Act of 1988. With MADD's support, Senator LAUTENBERG and I secured enactment of legislation encouraging the immediate administrative suspension or revocation of the drivers' licenses of those determined to be driving under the influence, the creation of self-sustaining drunk driving prevention programs, the enactment of open container laws, the suspension of vehicle registration for repeat offenders, and the prevention of drivers under age 21 from obtaining alcoholic beverages.

This legislation has had a positive impact. Under-age drinking and driving and overall alcohol-related accidents have declined since these measures were enacted. But, until this safety threat is eliminated entirely, we cannot lose sight of the goals that

have been espoused so energetically by the members of MADD.

I hope that, on the occasion of MADD's 10th anniversary, its members will dedicate themselves to supporting additional measures to eradicate drunk and drugged driving from all areas of transportation. There is absolutely no room in the transportation industry for impaired operators. The American people must be secure in the knowledge that pilots, engineers, and truck and bus drivers are alcohol and drug free. The public wants testing in transportation jobs; in a recent survey, more than 90 percent favored testing for airline pilots and truck drivers. Only through lack of public awareness and inaction can this national safety hazard persist. A measure introduced by Senator HOLLINGS and myself, which would provide for comprehensive testing, has passed the Senate nine times. MADD has stated its support for this legislation. With its organizational strength, MADD can help focus public attention on this issue so that the House of Representatives will act on legislation this year. Further delay will mean a continued menace to the safety of the American public.

Mr. President, MADD's past efforts have helped to improve the tragic plight of the victims of drunk and drugged drivers. On July 11, the Senate passed the Drunk Driving Victims' Protection Act as part of the crime bill. This legislation would ensure that drunk and drugged drivers cannot avoid paying compensation to their victims by seeking refuge in the bankruptcy laws. The support of the 2.8 million members of MADD should help ensure swift enactment of this legislation.

MADD can also focus public attention on new and innovative means to fight impaired driving. MADD has worked with Aetna Life & Casualty Co. to provide police officers with videotape cameras to record impaired drivers who weave across the road and cannot walk a straight line. This pilot project has increased the conviction rate of impaired drivers because the judge and jury can better appreciate the extent of the drivers' impairment. I have proposed legislation that would expand the use of this effective enforcement tool by encouraging the Department of Transportation to help States acquire and use videotaping equipment. With the support of MADD and others concerned about drunk driving, I believe this measure will become law.

In conclusion, for the past 10 years MADD has helped change the public's attitude toward drinking and driving and has helped enact tough laws to combat impaired driving. Despite these efforts, drug and alcohol abuse remain a menace to the safety of the traveling public. Thus, this anniversary

should not signal the end of an era in the fight against substance abuse in transportation. Instead, MADD's members can use this anniversary to mark the beginning of a renewed effort to prevent needless death and injury.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,964th day that Terry Anderson has been held in captivity in Beirut.

ARMY HIGH RESOLUTION DISPLAY RESEARCH

Mr. BINGAMAN. Mr. President, I rise today to talk about a success story in our Nation's technology development efforts. It is the sort of success story I would like to see repeated far more often.

The August issue of Signal magazine, which is published by the Armed Forces Communications and Electronics Association, contains an article entitled, "Army's Display Technology Emerging to Eclipse HDTV," written by Clarence Robinson. I ask unanimous consent that the article be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, the article relates the efforts of the Army's Electronics Technology and Devices Laboratory at Fort Monmouth, NJ, to foster the development of electroluminescent flat panel displays over the past decade. The Army pursued this technology in collaboration with several industrial firms. While much of the commercial research on flat panel displays here and in Japan has been focused on liquid crystal displays, the Army stuck with its small research program on thin film electroluminescent technology because of ruggedness and temperature requirements for weapons system applications.

Now, the Army-industry effort is on the verge of a major breakthrough with not only military potential but enormous commercial potential as well. One of the Army's contractors, Planar Systems of Beaverton, OR, in the past year has made tremendous strides in solving the remaining obstacle to full-color electroluminescent flat panel displays, namely developing a saturated blue phosphor which gives a full color range to the display. Helping the program over the past year was an infusion of Defense Advanced Research Projects Agency [DARPA] money as part of its high resolution display program.

Essentially the Army and Planar may have scooped the far larger Japanese high resolution display efforts

which have focused on liquid crystal displays [LCD's]. Electroluminescent displays appear to offer tremendous advantages in ease of manufacture, since large LCD's effectively require a transistor at every pixel in the screen to serve as an on-off switch. This drives up costs and power requirements and drives down yields in production.

Mr. President, this electroluminescent technology is still not to the marketplace. Further research needs to be done to resolve remaining questions on the blue phosphor. I hope DARPA and the Army will see this program through to the point that Planar Systems can then accept the remaining risks and bring the product to market. Approximately \$3 million is needed in the coming year for that effort.

What lessons can we draw from this successful effort for our defense and civilian technology policy more generally?

First, I think this shows just how closely intertwined the military and commercial marketplaces are. Most of the demand for Planar's monochrome electroluminescent flat panel displays comes from the commercial sector. Most of the demand for the full-color displays, once they are in production, will come from the commercial sector.

Yet, an Army research effort here was totally appropriate. It was not a case of dreaded industrial policy. The Army had needs for ruggedness and temperature range of operation which the main commercially oriented research efforts on liquid crystal displays here and in Japan simply would never have met. The Army could not rely on the marketplace to meet its needs.

The Army also ran this program with several commercial firms involved, not only Planar, but Norden, GTE, Supertex, and HYCOM, a subsidiary of the Sharp Corp. in Japan. With a small amount of money each year, leveraging the resources the firms themselves were investing, the Fort Monmouth Laboratory essentially ran a technological horse race in which Planar emerged the winner.

Mr. President, back in May I chaired a hearing on the current status and future of the Department of Defense laboratories in the Armed Services Subcommittee on Defense Industry and Technology. Dr. Clare Thornton, who heads the Army's Fort Monmouth Laboratory, spoke proudly at the time of his efforts to leverage industry and university research efforts to produce electronic devices important to the Army and the Nation. He has aggressively utilized the authority granted him under the 1986 Stevenson-Wydler Act amendments to enter cooperative research and development agreements with private sector firms. He also has been a leader in trying to

build mutually beneficial ties with Japanese industry and research institutions. His colleagues from the Naval Research Laboratory and the Air Force's Wright Research and Development Center told similar stories of their own efforts.

Mr. President, each year the Defense Department spends about \$3.5 billion on technology base research. Almost all of that research has both commercial and military significance. Perhaps, because it is based here in Washington, DARPA tends to receive most of the press attention for the programs it supports in software, advanced materials, supercomputing, semiconductors, light satellites, and many other fields. But DARPA accounts for less than \$1 billion of the \$3.5 billion DOD technology base. The service research laboratories are pursuing parallel efforts, often in conjunction with DARPA, with the remaining \$2.5 billion. In my view, that is an essential part of our Nation's technological infrastructure and I am glad the DOD technology base has received solid support from both the Senate and House Armed Services Committees this year, even as reductions were made elsewhere in the DOD budget. I hope to see even stronger ties forged between the DOD laboratories and industry as more and more use is made of the authority in the Stevenson-Wydler Act to transfer technology and enter into cooperative agreements.

Mr. President, my final comment is aimed at the defeatist attitude that sometimes pervades technology policy discussions in this country. There is no doubt that many trends point against us at the moment. The Commerce Department's May 1990 Emerging Technologies Report found the trends in Japan's favor in 10 of the 12 technologies they identified. But the Army-Planar collaboration shows that we can successfully compete with Japanese industry in areas where they take a temporary lead. At the start of the 1980's Sharp clearly led the world in electroluminescent flat panel displays. That is why the Army included HYCOM in its program. Planar did not even exist in 1980 as it had not yet spun off from Tektronics. But over the past 5 years, Planar has stayed focused on electroluminescent displays and Sharp got caught up in the general Japanese emphasis on liquid crystal displays. Now Planar is the clear leader.

The point is that we still have an unmatched national technological infrastructure and an ability to pursue broad-based research efforts, including some that may not be in fashion at the moment. If we marshal our resources in the key emerging technologies of military and commercial significance, we can compete with anyone in the world and win. We can still

afford to undertake a backup effort or two for what may be the most fashionable approach at the moment. Indeed, a well-run technology base program is basically a risk-management program. Backing multiple approaches in the tech base, when programs are inexpensive, can preclude costly failures downstream in production when costs escalate exponentially.

Mr. President, let me conclude by commending the Army and Planar Systems for their research efforts and Mr. Robinson and Signal magazine for calling attention to these efforts. I am convinced that, with a coherent technology strategy in the Pentagon and other Federal mission agencies, one I hope will emerge from the National Critical Technology Panel which began meeting this week, we can and will see far more such success stories in the 1990's. The technology trends which are adverse to us today need not be at the end of the 1990's.

EXHIBIT 1

ARMY'S DISPLAY TECHNOLOGY EMERGING TO ECLIPSE HDTV

An obscure, sparsely funded U.S. Army research effort promises to end run massive high definition television investments by Japan's electronics industry. The Army's advanced development program is aimed at high resolution color displays for the battlefield. But the required technology also offers competitive improvements across broad commercial display markets, including computer graphics and television.

Using what is known as thin film electroluminescent technology, full-color, compact, inexpensive displays are expected to emerge this year from the Army's Fort Monmouth, New Jersey, Technology and Devices Laboratory. The Army laboratory has spent the last 15 years involved in research on bright, full-color displays for a variety of military uses. During this scientific exploration, laboratory officials have examined active matrix liquid crystal thin film transistor, plasma, thin film electroluminescent and improved cathode ray display technologies.

Active matrix liquid crystal thin film transistor technology is the most mature for displays and is the choice of many major Japanese electronic companies involved in the development of high definition television (HDTV). Billions of dollars are being invested in liquid crystal displays in Japan's effort to gain an early foothold and to dominate the international market. At approximately \$1 billion a year, Japan is outspending the United States ten to one in high definition television research, with some applications already taking place.

The electronic display market is estimated to be \$12 billion a year, with a projected compounded annual growth rate of 13 percent to a market of more than \$30 billion, by 1996, according to Stanford Resources, Incorporated, San Jose, California. The current growth rate of flat panel displays is nearly twice that of cathode ray tubes, and by 1996, flat panels will account for more than 40 percent of all display sales.

There are two reasons why the Army's research in thin film electroluminescent technology is growing in importance. The transition from cathode ray tubes to high brightness flat panel displays in computer manufacturing could enable elimination of separate monitors with integration of mechani-

cal and electronics functions in a single device. Because the United States is behind Japan in liquid crystal thin film transistor technology, the potential cost and performance advantages in thin film electroluminescent technology can be used to change the competitive position of the U.S. electronics industry and to place the nation on a more equal footing in the arena of high definition television.

RESEARCH AND DEVELOPMENT

Scientists in the Army's Technology and Devices Laboratory quietly turned their attention in the mid-1980s toward the thin film electroluminescent technical approach to find an advanced, full-function replacement for the military display cathode ray tube. The scientists examined a number of media technical approaches to flat panel displays. This included obtaining liquid crystal displays from Japan and experimenting with the technology involved.

Army scientists believe that, of the three companies involved in thin film electroluminescent research and development, Planar Systems, Incorporated, of Beaverton, Oregon, is technically superior to Sharp in Japan and Lohia in Finland. Japan's Matsushita also is investing to a lesser degree in this technology.

Planar Systems, a company with 150 employees and sales of approximately \$25 million, has developed a proprietary technique using a saturated blue phosphor to gain full-color range and to improve the luminous quality essential to multicolor flat panel display.

An earlier blue phosphor using strontium sulfide cerium fluoride was too unsaturated, producing a blue-green color that appeared washed out. But what has now been developed, according to M. Robert Miller, chief of the laboratory's devices and technology branch, is a saturated blue phosphor that is close to a single wavelength. The laboratory still is delving into the technology, materials and the fabrication process to develop slightly better blue saturation and luminescence levels.

The Army and Planar have been involved together for several years in developing flat panel displays for a variety of military applications, mostly using monochrome black and yellow displays with 64 shades of color. Over the past year, however, a color demonstration model has been functioning, as development continued with Planar, to discover the proper compound for the required blue phosphor, explains Miller.

Development of blue phosphor also is a priority for the Defense Advanced Research Projects Agency's high definition display technology program, a separate effort from the Army's work.

Miller estimates that his branch is very close to having the proper blue phosphor and full-color rugged displays that require low power levels for operational uses. But he emphasizes that, while the blue phosphor now being tested is very close to pure color with strong luminescence, still some additional brightness and producibility improvements are desired. Miller states that within a short period of time the thin film electroluminescent displays from his laboratory and Planar will have the potential to overtake Japan in high definition television technology.

The Army's effort with Planar is at relatively low funding levels of a few hundred thousand dollars a year. Planar also is investing its own company research funds,

and progress has been rapid in the past year of full color capability.

Planar developed an in-line vacuum producing high-volume, state-of-the-art flat panel. In 1984, Planar became the first U.S. company to manufacture electroluminescent displays, shipping an 80-character, 25-line display. The following year, the company shipped an MS-DOS compatible, 640 column X 200 row electroluminescent monitor.

Continuous production facilities permitted Planar by 1986 to capture world market share, surpassing Sharp and Lohja. A new technology for high-bright military displays developed by the company for military applications entered the market in 1987, along with the commercial 640 column X 400 row display compatible with IBM enhanced graphics adapter in volume shipments.

Standard display brightness increased by 50 percent in 1988, and Planar made military research. Full-color prototypes have been delivered. A 19-inch diagonal monochrome electroluminescent work station display moved into commercial production. This high resolution display developed for Digital Equipment Corporation supports 1,024 columns X 864 rows and is considered a breakthrough in electroluminescent and solid-state flat panel display fabrication. The company introduced last year an improved single board version of its 640 X 400 pixel enhanced graphics adapter compatible display.

THE TECHNOLOGY

Planar uses a technical process for production in which a sandwich of thin films is vacuum deposited on a glass substrate. The high-quality, low alkali glass substrates are patterned with transparent column electrodes. In a single manufacturing step, three thin film layers are sequentially deposited—an insulating dielectric film, a phosphor film and another dielectric film. Metallic row electrodes then are laid down perpendicular to the transparent column electrodes, and the entire structure is sealed to protect it from the environment. With the phosphor layer at the center of the stack, the perpendicular row and column electrodes, defined through photolithography, form the two outermost layers.

A circuit board is attached to the back of the glass package using advanced interconnect technology. Driver components are mounted on the circuit board within the same space as the viewing area on the other side to provide logic signals and voltage to operate the display. When alternating current voltage is applied between a column and a row electrode, the phosphor thin film between them emits light that passes through the transparent electrode, through the glass face and onto the viewer. As phosphor glows with a bright intensity when subjected to the alternating current, the light is emitted uniformly at electrode intersections, creating precisely defined pixels with high contrast.

Planar's largest display has 75 electrodes per inch on both axes, producing 884,736 individually addressable pixels on a display, the equivalent of a 19-inch diagonal cathode ray tube work station monitor.

LIQUID CRYSTAL DISPLAYS

An analysis by Planar officials shows that there are two approaches to achieve a color liquid crystal display; a matrix multiplexed, double layer neutral twisted nematic and an active matrix addressed system. The double layer liquid crystal display will use drive electronics similar to today's monochrome

liquid crystal displays, except that more drivers will be used for the additional red, green and blue subpixels. For the popular quad pixel arrangement, the addressing cost for a double layer liquid crystal display approximately will be twice that of present monochrome liquid crystal displays.

The active matrix liquid crystal display driver cost is dependent on the panel yield because pixel drives are built into the device structure. It is estimated, however, that the cost will be twice that of the multiplexed liquid crystal display.

Initial liquid crystal display products consumed only milliwatts of power, but brightness in the reflective mode was deemed unacceptable by the marketplace. Most of today's liquid crystal displays use backlight and work in the transmissive mode. The luminous efficacies of backlight assemblies and the transmission through the display structure—polarizers, wavelength compensator and transparent electrodes—determine the power consumption of the backlit display. The level of transmission through the liquid crystal display structure is 25 to 35 percent, resulting in a typical power consumption of 5 watts for a 15 foot lambert, 10-inch diagonal, half-page display. This limits the battery life of a laptop computer to approximately four hours, according to a Planar study.

In the laboratory's research efforts to assess various display technologies, Miller explains, the branch contributed characterization techniques, including applications to plasma, liquid crystal thin film transistor and advanced cathode ray tubes to understand better the physics involved in approaches to electro-optics. Prior to developing this characterization, measurements, as an example, were based on applying a 5-kilohertz sine wave to thin films.

In actual display devices, the laboratory determined that pulses had to be applied to columns and rows. This led to real time applications of current and voltage to calculate the device's power consumption. Miller says that the device built for characterization is automated, and it has been used with all of three competitive technologies, including active matrix liquid crystal thin film transistor displays now being developed and produced in Japan and the United States.

The Army laboratory bought display devices as commercial samples to examine and characterize the technologies involved. This includes examination of displays such as the cold cathode ray tube; a flat matrix addressed display; a vacuum fluorescent display; and projection systems.

This research into displays and components led laboratory scientists, Miller explains, to become familiar with all of the technologies involved, their strengths and weaknesses in terms of resolution, cost, power consumption, size and weight. Most of the laboratory's resources, however, have been applied to electroluminescent displays. The reason for this research concentration, according to Miller, is because the technology is inherently rugged with military applications over a wide temperature range. Low power consumption, size and weight also meet the proper parameters for field applications.

Another reason the laboratory concentrated on electroluminescent technology is that the active matrix liquid crystal and plasma displays already were advanced in development and production while electroluminescent technology was in relatively early development and application cycles.

Miller explains that, in earlier smaller liquid crystal displays, excellent properties

exist with extremely low power and electrical connections with each segment to turn power on and off with total control over the materials. But the trend now is with active matrix thin film transistor technology in liquid crystal displays, and Miller considers this a brute force approach as compared to electroluminescent, based on the laboratory's characterization.

Control in the active matrix display is shared with the transistors. In addressing the display, a sharp threshold is necessary so that pixel elements turn on with full voltage. With only partial voltage, the elements do not turn on. The active matrix is placed behind the liquid crystal with an array of thin film transistors. This approach, Miller believes, no longer produces low power, high yield or low costs associated with earlier liquid crystal displays. He explains that this is the technique being used by Sharp, Seiko, Toshiba and Hitachi in Japan and Ovonic in Troy, Michigan.

Miller adds that with the active matrix display are transistor dimensions of several microns across the entire display that must be controlled for operation. Filters are necessary for each of the liquid crystal colors, and each pixel is made up of subpixels with red, green and blue filters. These filters provide color by removing about 66 percent of the light, so that the display no longer is reflective and requires strong backlighting, relates Miller.

Polarizers also are required, and this in turn removes in part still more of the display light. Because the thin film transistor structure is opaque, transmissivity is only 5 percent. The result, Miller adds, is that the design requires about 20 times the backlighting to maintain desired output. Just the process in liquid crystal displays produces imagery by removing some fraction of light so that these displays no longer are low power. They consume, Miller states, more power than plasma and thin film electroluminescent displays.

Laboratory tests of liquid crystal displays also reveal that colors change in hue based on the viewing angle and that the temperature range is very narrow because a liquid is used.

A very strong advantage for liquid crystal displays, however, Miller emphasizes, is the legibility in bright sunlight. This is a big advantage, especially in fighter aircraft cockpits. Liquid crystal is a light modulating display, therefore also modulating ambient light as well as the light transmitted through the display. Cathode ray tube, plasma and electroluminescent displays must compete with ambient light.

Miller sees electroluminescent technology's application in widespread industrial uses in addition to the consumer high definition television market. In recent years, liquid crystal technology, Miller says, has had a free ride because electroluminescent technology was not a competitor in full color through the lack of saturated blue phosphor capability. "That is all changing now," Miller stresses, "and electroluminescent [technology] will become highly competitive with near full-color military [display units] realistically in the 10-inch display area with less than a 2-inch thickness. This includes containment in the package of all the drive electronics, processing and display electronics."

The display package thickness for commercial uses need only be a fraction of the 2-inch thickness required for the Army because of military specifications. Miller believes that future improvements for the

Army will come from increasing the electronics density rather than reducing size. This would provide within the package a full system instead of having the display tethered to a separate processing system.

Miller's devices team within the branch already is building prototype hardware as a demonstrator to encourage insertion of technical advances when working with various program managers and also to demonstrate to industry so that proposal bids will contain the new display technology.

"We don't just hand the commander a pretty piece of glass that lights up," Miller states. "The 'lab' must show how this technology can be used to help do the job. This includes writing the software specifications so that systems function like systems that would be used in the operational environment."

INTELLIGENT DISPLAY

One of the applications developed by the laboratory and tested in the field is the commander's intelligent display. This system is designed around a multi-function 80386 central processing board. The central processing unit and the 80387 math co-processor run at 20 megahertz. The board is populated with 8 megabytes of memory and is expandable to 16 megabytes. The board is mounted in a passive AT-style bus/backplane, along with keyboard interface, an Ethernet network board, a dual port serial board and a video -7 V/EGA video board. The system also contains a 200-megabyte 3.5-inch high speed enhanced small device interface (ESDI) hard disk and controller. The display is through a flat panel monochrome device with 16 shades of gray, 640 X 512 pixel resolution and an embedded infrared touch panel. With a weight of 27 pounds mounted in a 7-inch deep metal briefcase, the system draws 130 watts and is configured for Unix and X windows.

To plan effectively on the modern battlefield, the commander requires timely access to a large volume of data, including sensor input to information on doctrine and tactics. This becomes even more important for command and control of forces when small unit action is involved in semi-independent operations when a more fluid, fast-moving battlefield is envisioned.

The commander's intelligent display was developed by the laboratory to demonstrate the potential advantages of interactive flat panel displays, advanced microcomputers, high density storage devices, expert systems and digital mapping software. The system was evaluated during the past year at the smart weapons command post exercise, Aberdeen Proving Ground, Maryland. Other evaluations were at the Infantry School, Fort Benning, Georgia; and the Combined Arms Center, Fort Leavenworth, Kansas.

The result of the evaluation is that the system offers a significant improvement in both efficiency of tactical planning and in the quality of the resulting operations.

MORE DEVELOPMENTS

Another evaluation of the electroluminescent technology for displays includes the explosive ordnance disposal (EOD) automated information retrieval and expert system. This capability was developed to demonstrate the feasibility of using interactive flat panel displays, advanced microcomputers, optical storage and expert systems software to assist EOD teams in identifying and rendering safe, unexploded ordnance. Tests were conducted at the U.S. Navy EOD Technology Center, Indianhead, Maryland.

Test participants were able to operate the system effectively with only 20 minutes of

training. The conclusion from the test is that the system offers significant improvement both in the efficiency and in the safety of the EOD technician in the identification of unexploded ordnance. The retrieval and expert system replaces some 24,000 documents containing 2.7 million pages. The flat panel displays for presentation of high-resolution graphics and text have made it possible to access large complex data bases effectively in the tactical environment, according to the test report. The hardware and software successfully demonstrated the system's capability to apply a wide range of diagnostic, prognostic and command and control systems in the tactical environment.

An important laboratory development is the large-area electroluminescent display matrix addressing for full video, according to Miller. A fully functional 10.1-inch X 12.6-inch thin film flat panel video display has been demonstrated. This demonstration tends to dissuade the widely held belief that a panel of this size could not be driven without severe penalty. This system is free of the alternating line problem and excessive power consumption predicted to be associated with interdigitated drivers and large panel capacity.

The large area display system contains 512 rows and 640 columns with dimensions of 15 inches X 17 inches X 0.75 inches, a weight of 6 pounds and power requirements of 20 watts. The picture frame drive assembly houses 40 monolithic row drivers and 32 monolithic column drivers with built-in voltage selection capability to provide 16 gray levels. These drivers interface with the panel by elastometric connectors. The display head is connected by ribbon cable to a breadboard interface for presentation of live television imagery on the panel.

Test results for the large area system include a conclusion that the adequacy of threshold characteristics to support multiplexing more than 500 lines directly has been demonstrated. The system displays high quality live television, although further optimization of the drive interface system still is required. The system consumes much less power than predicted without making use of an energy recovery drive technique. Incorporating an energy recovery technique further could reduce power to under 10 watts.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is closed.

SENATORIAL ELECTION CAMPAIGN ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the hour of 9:30 a.m. having arrived, the Senate will now resume consideration of S. 137, which the clerk will report. The legislative clerk read as follows:

A bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

Mitchell (for Boren) amendment No. 2432, in the nature of a substitute.

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Connecticut [Mr. DODD] is recognized to offer an amendment.

The Senator from Connecticut.

AMENDMENT NO. 2445 TO AMENDMENT NO. 2432

(Purpose: To amend the Ethics in Government Act of 1978 and the Ethics Reform Act of 1989 to apply the same honoraria provisions to Senators and officers and employees of the Senate as apply to Members of the House of Representatives and other officers and employees of the Government, and for other purposes)

Mr. DODD. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. DODD], for himself, Mr. BYRD, Mr. LEAHY, Mr. SANFORD, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. WIRTH, Mr. HEFLIN, Mr. LIEBERMAN, Mr. ROBB, Mr. ADAMS, Mr. KOHL, Mr. HARKIN, Mr. BRYAN, Mr. KERRY, Mr. LEVIN, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. REID, Mr. HUMPHREY, Mr. PRESSLER, Mr. GLENN, and Mrs. KASSEBAUM, proposes an amendment numbered 2445.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following new section:

SEC. . UNIFORM HONORARIA AND INCOME LIMITATIONS FOR CONGRESS.

(a) ADMINISTRATION OF RULES AND REGULATIONS.—Section 503 of the Ethics in Government Act of 1978 (as in effect on January 1, 1991) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and
(2) inserting after paragraph (1) the following:

"(2) and administered by the committee of the Senate assigned responsibility for administering the reporting requirements of title I with respect to Members, officers, and employees of the Senate;"

(b) DEFINITIONS.—Section 505 of the Ethics in Government Act of 1978 is amended—

(1) in paragraph (1) by inserting "a Senator or" after "means"; and

(2) in paragraph (2) by striking "(A)" and all that follows through "(B)".

(c) AMENDMENTS TO THE ETHICS REFORM ACT OF 1989.—Section 1101(b) of the Ethics Reform Act of 1989 is repealed and section 1101(c) is redesignated as section 1101(b).

(d) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—Section 323 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is repealed.

(e) SUPPLEMENTAL APPROPRIATIONS ACT, 1983.—Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

Mr. President, in summary I will describe what this amendment does, but I suspect for those who may be observing these proceedings by electronic device, it will come as no surprise as to what this amendment is all about. This honoraria ban amendment has been the subject, I know, of some discussion over the last several days. In fact, it has been a subject of discussion for some period of time. In the last 24 or 48 hours, the question has centered on whether or not this amendment will be offered on this particular vehicle and on how it is that this matter ought to most properly be handled.

Mr. President, this amendment is, in effect, the honoraria ban legislation that I introduced almost a year ago. I, at that time, informed my colleagues that I would offer it as an amendment at some point this year. I had hoped, quite frankly, that this matter could have been dealt with over a year ago, when the House combined the elimination of honoraria with a salary increase. If we had acted then, in the same manner as the House, Senate Members would have been left with virtually the same pay as before the ban. That pay would simply and quite rightly, come from a single source—the Federal Treasury.

Unfortunately, such was not the case. It did not work out, despite significant efforts of the two leaders to try to put that package together. It was a package supported by many organizations and groups and editorialists across the country. In the absence of the honoraria ban in conjunction with a pay increase, we were left with the situation of being in an unequal story position in relation to the other body. We find ourselves in the bizarre position of being the only part of the entire Federal Government that still allows the collection of outside speaking fees as a way to supplement our Senate salaries, our Federal salaries.

In sum, Mr. President, this amendment bans the acceptance of honoraria by Senators beginning January 1, 1991. The amendment limits outside earned income to 15 percent of a Senator's salary and place further limitations on outside income. Beginning in 1991, a Member of this body may not: one, affiliate with a firm to provide professional services for compensation which involve a fiduciary relationship; two, permit that Senator's name to be used by any such firm or entity; three, practice a profession which involves a fiduciary relationship for compensation; four, serve for compensation on the board of directors of any association, corporation, or other entity; and, five, receive compensation for teaching without prior notification or approval by the Senate Ethics Committee.

Last, Mr. President, the bill would place restrictions on treatment of charitable contributions such that no

payments in lieu of honoraria may be paid on behalf of the Senator, officer, or employee directly to a charitable organization if such payments exceed \$2,000 per speaking event or are made to a charitable organization from which the individual or immediate family member derives any direct financial benefit.

Mr. President, that is what the amendment does. It tracks the language of the amendment adopted by the other body last year in the Ethics Reform Act of 1989 with the exception of changing the technical wording to comply with this body. It is the exact same language. So, it is nothing new to Members who viewed and examined that particular proposition a year ago.

Mr. President, the amendment is very straightforward. As such, I hope we will not engage in a protracted debate here this morning. Everybody knows what the issues are; it is not new subject matter. We have been over this again and again and again during the last few years.

I should say, by the way, because someone may want to raise it, that I accepted honoraria as a Member of this body for a number of years and decided in February of last year to stop that practice. When we began to deal with these issues back in the early part of the decade, we came up with the idea of having Members supplement their income with outside speaking fees or honoraria, rather than face salary increases.

Most of us here, with the exception of one or two, accepted that alternative rather than face the very difficult proposition of pay increases that this body has struggled with historically since 1789. We are always placed in the awkward situation, unlike almost any other institution in the country, or having to vote for our own salary increases. There is no way around it because the power of the purse is in the hands of the Congress; and it is from that purse that we increase our salaries.

We came up with different approaches, new twists. When many said it was inconsistent for us to vote on our own salaries, we established a board that would review the needs of Members of Congress and make recommendations. We envisioned that it would lessen or eliminate our involvement in the debate.

We went through that process for a while and it ended up that we did not have the courage to stand up and vote on our own salaries. Then, as I've said, we tried to increase salaries while banning honoraria. That approach did not work.

Mr. President, It has long been my contention that Senators ought to be paid by the people, for whom they work. That is the taxpayers. The pay system that has evolved over the years with the public paying the bulk of a

Senator's salary and a handful or interest groups picking up the rest is untenable and must be changed. This is the time and place, in my view, to do it; on this comprehensive campaign finance reform legislation; in the lingering wake of the House-passed ban; in the final weeks and days before our attentions turn to the essential issues of a busy election autumn; at a time when the failure to conform the Senate ethics standards to the rest of Government would subject this great body to further scrutiny, unnecessary risk and continuing criticism. Thirty-four Senators have already adopted a policy of not accepting honoraria for personal use. I am pleased to have been joined in my efforts by 21 of our colleagues from both sides of the aisle who have sponsored this honoraria ban legislation.

Mr. President, I note at this particular point that two of my principal cosponsors, Senator BYRD and Senator SANFORD, who feel very strongly about the legislation have joined me on the floor.

Some may ask, why is it necessary to revisit this issue after the long and grueling debates of the last session surrounding both honoraria and the pay raise issue? After all, did we not settle this debate in the last days of the last session?

The fact is, Mr. President, that all the Senate ended up doing last session, as it related to honoraria, was to agree not to settle the issue. Valiant attempts by the leadership to couple the pay raise with a corresponding ban on honoraria were thwarted at the 11th hour because we failed to come up with the votes that would have produced that particular package. When the doors were closed on the first session of the 101st Congress, the Senate found itself in the bizarre and unique position of being the only place in the Federal Government where the receipt of honoraria was still legal.

Mr. President, the amendment that I offer today does not include any provisions related to a pay raise. I will say for the record, however, that I support a pay raise. I supported the proposition offered last year and I regret that the votes are not here today to couple the pay raise and honoraria ban issues. I would vote for that.

Nonetheless, the honoraria issue can stand on its own. We can face the question of whether or not we want to continue a practice which, I think, raises significant questions about this institution at a time when public scrutiny and concern about this institution, makes that question a compelling one.

If you will recall, Mr. President, during November's debate on the Ethics Reform Act, the Senate refused to accept the honoraria ban. Instead, the Senate reduced the honoraria al-

lowance by an amount equal to 10 percent, actually 9.7-percent of the then Senate salary of \$89,500. The Senate also increased the base pay by the same amount. As such the Senate salary became \$89,500, plus the 9.7 percent increase, \$98,200. The Senate still allowed itself to receive almost \$30,000 in honoraria.

The House, for its part, banned honoraria, took a 7.8-percent pay increase and agreed to a 25-percent catchup increase in 1991.

I happen to believe, Mr. President, that the best way to rid ourselves of the honoraria is to couple the ban, as I said a moment ago, with a pay raise. I offered the legislation coupling the pay raise with a corresponding ban on honoraria in June 1989. I did this because I strongly believe that the vitality of our Nation's future is linked to our ability to attract our best young people into public service. We cannot attract our best into public service, or those who may not be financially independent, in a world of inflation and economic uncertainty, if we are not willing to pay them salaries that can allow them to remain committed to a government of integrity that is a necessary catalyst for improving the quality of our Nation's future.

Absent the political will to vote a pay raise, however, the integrity of this institution remains, in my view, threatened by the continuing receipt of honoraria. That view is not one that I alone hold. In conversations with my colleagues, an overwhelming majority agree, but are caught in the bind of trying to meet family needs as well as continue their good service here in the Senate.

Even with elaborate disclosure and accounting requirements, the notion of special interest groups supplementing Senator's incomes with speaking fees is a system burdened by the potential for abuse. Even the appearance of conflict would be enough to end a system that does nothing but add fuel to the fire of public cynicism about the motives of its highest elected officials.

Who pays the Senate is really the crucial issue. Who pays the Senate? Should a substantial portion of our salaries as Members of the Senate come from speaking fees or should it come wholly from the Federal Treasury, as I think was the original intention originally?

The answer, it seems to me, is a simple one. As public servants, our salaries should come from the public alone. Today, let us make the answer to that question finally and unequivocally clear with a ban on honoraria going into effect on the first of the coming year.

Then my hope would be, Mr. President, faced with that alternative, that Members would then feel compelled to make the case, as I think many people

have already done, that a salary increase to make up the difference is necessary. I am prepared to fully support that, stand here and defend it, as my colleagues in the House did a few short months ago.

So, Mr. President, again, I do not believe in having a protracted debate on this matter. Everybody knows the amendment, knows the issue. I hope we can deal with this expeditiously and move on to the remainder of this bill. I know there are a number of significant amendments yet to be considered on the Campaign Finance Reform Act. My hope is we can get to those as soon as possible.

One final thought, Mr. President. There are some who suggest there may be another vehicle I should have used for this proposition. I think the issues of campaign finance reform and honoraria issue are very linked and that the questions surrounding financial interest are involved in determining the issues that are before the Senate today. It is the outrageous financial cost of these campaigns and where these moneys are coming that has led us to the need for campaign finance reform.

It seems to me that honoraria fits into that niche. That is what we are talking about: Who pays the Senate? Where do Senators collect these honoraria? What is the impact on the decisionmaking process as the Senate conducts its business?

Mr. President, I have completed my prepared remarks, and at this point I note the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BYRD. Mr. President, I rise today in strong support of the amendment that has been introduced by Mr. DODD to ban honoraria and limit outside earned income.

The practice of accepting honoraria is fundamental to the continuing erosion of the public trust, and this representative democracy. It is a deceitful exercise that hides the back door special interest subsidies which go directly into a Senator's pocket.

It is legal. It is required to be reported. But it is an unhealthy supplement that allows for a Member to grant himself a pay raise through the back channels of special interest groups.

I do not fault the special interests for trying to help Senators. I do not fault the special interests for trying to bring their views to the attention of Members. I fault those of us who are charged with upholding the public

trust for letting the practice get out of control, and for continuing it long after it has become a deterrent to public confidence.

While I am on the subject of honoraria, let me also say that I think the representatives of the media ought to consider fuller disclosure of the honoraria that they receive, because public trust is also important for those in the media who report news events and shape public opinion editorially.

Nevertheless, that is no excuse for us Senators. Perhaps we can set an example for others by our action here today.

Most constituents believe that a Senator's salary is limited to \$98,400 a year, but, in reality, a Senator can pocket an additional \$27,337 a year. And he can do it without any change in the law, without any debate on a pay raise. The extra \$27,337 that receives the close scrutiny of very few Americans comes from honoraria.

In effect, every Member of this body can grant himself a \$27,337 pay raise every year if he keeps the maximum amount of honoraria he is allowed to keep under the law. I can grant myself a little larger pay raise because, as President pro tempore, I have a little larger salary than most other Senators by about \$10,000 a year, which means that I can also increase my honoraria over and above that which other Senators can earn.

I am sure that there are a lot of people out there beyond the beltway who would like to be able to grant themselves such a pay raise, a 27-percent pay increase.

How does this magic pay raise happen? An outside special interest group can pay a fee of up to \$2,000 per appearance for a Senator to come and make a speech, or have coffee and answer questions. These are usually not the Senator's constituents. I have never been in the habit of accepting honoraria from my own constituents. So if I have coffee, or talk with them and make a speech to my West Virginia constituents, I do not accept any honoraria. I feel that is my duty to them.

Most likely the groups we are talking about are based in Washington with a vested interest in legislation which will come before the Congress every year. Honoraria paid to Senators can be simply a camouflage for efforts by individuals or entities to gain favor.

That is not the case in every instance. Many of us from time to time also address college or university audiences, and answer questions. There is no special interest factor at work there. There is no doubt but that perhaps we do some good in talking to audiences of that kind, usually made up of younger people than ourselves. But nevertheless we should not do it for honoraria.

I am not saying we should not address those audiences. But there are a number of reasons why we ought not to accept honoraria for doing it. I have been doing it, and have been accepting the honoraria, but the time has come for us to act in the interest of this institution, and to clean up our own act.

In my view there is nothing honorable about honoraria. The system is widely recognized as being one of the most serious ethics problems in Washington today. More than 200 newspapers across the country have editorialized against the system, and they have characterized it in various ways. They have characterized honoraria as "bag money," "lobbyists' payola," a "low-life practice," "special interest pay-offs," and "a disgrace."

According to a recent study, 53 Senators kept more than \$100,000 each in honoraria fees for personal use from 1983 through 1987. Members of the U.S. Senate kept a total of over \$9 million in honoraria fees for personal use during the past 6 years. I believe that the public has come to the point where it simply will not stand for continuation of this system.

If we are to pass legislation that claims to be real reform, that claims to be chasing special interest money out of politics—and I have been a strong advocate of that kind of legislation now for a good many years—that claim to refocus our attention on the interests of the many and frees us from too much influence by the few, that legislation also ought to contain provisions that ban the practice of taking honoraria.

The House of Representatives has already taken that important step. This Senate did not show the backbone and the courage and the vision that were shown by the other body not very long ago when the Senate had the opportunity, as good an opportunity as it will ever have—probably better than it will have again—to ban honoraria. But the House has taken that step.

The Senate leadership on both sides of the aisle joined hands and sought to enact legislation that would ban honoraria and provide for a salary increase for Senators, accordingly. And that effort failed. The Senate made a mistake.

I have been in the Senate now for 32 years, and that was one of the occasions when I have not been proud of the Senate. There have been many times when I have been very proud of this institution, when I have seen it take a tough stand, a stand for the right, as in the case of the Panama Canal Treaties—and there have been other instances on which the Senate has taken a courageous stand—but in that instance, on honoraria and a pay raise, we waffled, we wavered, we chickened out. The House had the courage to take the step.

Today, honoraria are outlawed in the executive branch. The other body has taken steps to eliminate honoraria. This is the only institution that I know of, that is established in the Constitution, the Members of which accept honoraria. We in the Senate cannot close the window on the special interests in campaigns while we leave the back door open once we are elected. To do so would be a hypocritical act.

I do not know of anyone who can better speak on this subject than I. I have been the majority leader of the Senate twice. I have been minority leader. I know how difficult it is for Senators to apply their full time and energy to the business of the Senate, in committees, and on the floor. I know how they are torn between their duties here and the necessity of getting out and raising funds for the next campaign.

I know that it requires, on the average, about \$12,500 a week, 52 weeks a year, 6 years in a senatorial term, for a Member of the Senate to prepare himself for reelection if he wishes to continue this public service. Most of us have to at least be prepared, as the Boy Scout motto ironically suggests. I know how frustrating it is to Senators. I know how frustrating it is to the leaders of this body when they have to be concerned about the problems facing their colleagues, and the need for their colleagues to get out and chase money all over this country, hold their hats in their hands and ask for money. "Give me, give me, give me more of your money." Not "give me more, more, more of your kisses," but "give me more, more, more of your money."

As a general rule, they are talking to people who are not their own constituents. I have had to do that myself. And along with that, we have this problem of honoraria. These are the things that I have said many times are undermining this institution, undermining the trust and confidence of the people in this institution.

You do not have to take my word. Look at the polls and see where the public trust is. It is not with us. It is not with the media. We are down at about the level, or lower, of a used car salesman—way, way down. We can only correct this ourselves. We have a duty to do it.

I accept honoraria. I do not boldly state that. I state it, rather, as a fact. I accept honoraria. I accept PAC contributions, but I want to get away from both. I want this Senate to get away from both. I accept honoraria for the same reason that most other Senators accept honoraria. It is very expensive to hold public office and especially so in Washington.

I live in Fairfax County, the county that has the highest per capita taxes of any county in the United States.

We pay more taxes per capita. My wife and I try to help our grandchildren get a college education. We have five grandchildren. But there are Members of this body who are considerably younger than I am who have more than five children. Thankfully, I have gotten two of my grandchildren through college. Two are not yet through. They would have had a difficult time going to college were it not for my help and the help of my wife.

What about the coal miner? He has trouble sending his kids to school, also. He cannot collect honoraria. What about the farmer out on the plains and in the Midwest? He, too, has difficulty sending his youngsters to college. But he cannot fall back upon honoraria.

So it is really no excuse. But that is why Senators here do it, most of them, certainly. They are strapped. They get big salaries. But most Senators have to provide for the upkeep of two homes.

I did not always do that. I did not feel it was a necessity to have a home back in West Virginia, because I cannot commute back and forth. I felt as long as I was here doing my job, that was good enough, and nobody doubts that I do my job and work hard at it, but I learned a few years ago that my constituents expect me to have a place in West Virginia. I found out in no uncertain terms that they expect me to own property in the State, even though I pay State income taxes in West Virginia and have through all the years paid State income taxes there; they still want me to have a piece of property there and pay some property taxes. I learned that. So I bought some property in West Virginia.

My wife and I are frugal when it comes to spending. I have a good wife who knows how to count pennies. Someone once said that, "You've got the first nickel you ever earned." My answer was, "You would be a damn sight better off if you had the first nickel you ever earned." So we try to be frugal. But I found out that people back home expect us to have property there.

It is costly to have two homes. And, as I say, living in Washington is not like living in Duck, WV, or Mud, WV, or Beckley, WV, or Charleston, WV.

The cost of living in Washington is not what it was when I was a produce boy years ago in a coal-mining community. I did not mind being called a produce boy. Why should I? My old mama always called me a boy. Even when I was a Member of the House of Representatives and later, Senator, she would say, "Robert, you be a good boy. I always pray for you."

So, I was a produce boy. I was also the boy at the gas station who put the gas in the tanks, \$55 a month; produce boy, \$60 a month; butcher boy, \$70 a

month. I was earning \$70 a month when I married.

Living in Washington is not what it was back when I was a produce boy in southern West Virginia, not what it was when I was a meatcutter, not what it was when I was a welder in the shipyards in Baltimore and Tampa.

Many Senators would find it extremely difficult to get along without the backdoor subsidy of honoraria. As I have said, it is legal; there is nothing illegal about it. There is a limitation on the amount. We have to report it. We adhere to the limitation and we report the honoraria.

But it still creates the perception that we are beholden to the interests that pay us the honoraria. So the time has come to halt that practice. If we are going to reform the campaign financing system, we need to include this particularly obvious avenue of influence, or else our efforts will ultimately be viewed, and they are viewed now, cynically by the public, and the cynicism will grow, and it will become more and more a problem for us to address.

It is my belief that Senators should be paid fairly and paid by the taxpayers who send them to serve, not by the special interests in Washington, DC. And this is not to say that the special interests are bad, not to say that lobbyists are bad.

I will have a chapter on lobbying in the second volume of the "History of the Senate," which I hope to have published before the end of the year. And, incidentally, I do not get 5 cents in commissions or royalty from this book. Here is volume No. 1. But I get satisfaction out of writing about this Senate. I hope that Senators will read my chapter on lobbying and lobbyists.

Many of the special interests support and promote matters that I am interested in, that the Senator from Connecticut is interested in, that coal miners are interested in, as well as the farmers, the butchers, the bakers, and the housewives. But still this collecting of honoraria is not the right thing to do.

The amendment by Mr. DODD is an effective reform that will foster good government.

We in the Congress have cause for great concern over the low esteem in which the national legislative branch is held. Here is a step that we can take to begin to raise that level of esteem.

We Senators, especially those who are not running—and I can understand the problem that Senators up for reelection have in voting for a pay increase—we other Senators ought to have the courage to stand up and vote for the kind of pay increase that was coupled with the elimination of honoraria just several months ago. I know it is difficult politically.

Ours is a big salary, and to go back home and explain why we would vote

to increase this salary is almost impossible for many people to understand. But it is necessary when we consider that this is the greatest corporation in the world from the standpoint of the money that it appropriates, the finances that it raises, and we, the Congress are the board of trustees. And here is a nation that pays its ballplayers, its movie actors, and its TV anchor people far more than it pays its school teachers who hold in their hands the shaping of our children's attitudes and visions of the future. Large corporations pay their people on the boards outlandish, even obscene salaries. Yet, here in Congress are the members of the board of trustees of the largest, most important, greatest decision-making body in this country, who, every day, act on matters that involve the interests and pass on the lives of every citizen in this country.

You name it—almost everything—Congress has touched it. Yet, the people, generally, don't want to pay very much for Members of Congress salaries.

It is important to have people who will put their full time in this work here and not be out running around raising money, who will spend their time here in the committees, here on the floor everyday, debating and voting. The Nation does not have its head screwed on straight. Its values are out of place, upside down.

The scandals of the past 2 years have placed a black mark on the calling of public service and have raised public cynicism to all-time high levels.

I said time and time again when I was the Senate leader, a scandal is going to happen if we do not clean up this campaign financing system. It is a scandal just waiting to happen. And we are seeing things fall apart all around us.

So my fears, unfortunately and regrettably, are coming true.

Let us show that we in this body can discipline ourselves and police ourselves and turn our backs on this very direct form of special interest influence. Let us take the opportunity now to try to restore the American people's faith in their public servants.

Gladstone, that great British statesman in the Victorian era—he was Prime Minister four times—referred to the United States Senate as "that remarkable body, the most remarkable of all the inventions of modern politics." I like to think that he was right in speaking of the Senate as "that remarkable body." Webster said that this is a Senate of equals, of men of individual honor and personal character and of absolute independence, who know no masters, who acknowledge no dictators."

I wonder if he was right. Are we men and women of absolute independence? Do we have any masters? Do we acknowledge any dictators?

Webster himself said those words, but I wonder if we could believe them today. Do we have any masters?

Unfortunately, Webster himself did not live up to his own statement. Reading from page 132 of my own volume 1 of *The Senate, 1789 to 1989*:

At the very time that Senator Webster was chairing the Finance Committee and leading the struggle against Jackson's bank plans, Webster was under retainer to the Bank of the United States! In a letter to Nicholas Biddle on December 21, 1833, Webster reminded Biddle that his retainer had not been "renewed, or refreshed, as usual. If it is wished that my relation to the Bank should be continued, it may be well to send me the usual retainer."

Those are Webster's words that came from his correspondence. This surely was one of the most egregious breaches of ethics in the history of the Senate, and one which will ever stain the reputation of Daniel Webster.

There was indeed a strange paradox about Daniel Webster: the "Godlike Daniel," whose speeches schoolboys of the 19th century memorized—and even some of us in the early 20th century—whose prodigious efforts helped to hold this Nation together in the perilous years before the great Civil War; and there was "Black Dan."

The "Godlike Daniel," and "Black Dan," whose personal weaknesses, particularly over money, kept him from the Presidency he sought. The two sides of Daniel Webster have been admirably presented in Irving Bartlett's recent biography, "Daniel Webster," and in Senator John F. Kennedy's stirring book, "Profiles in Courage."

So with the words of Webster ringing in our ears and the two sides of Webster remaining in our view, let us regain our own self-respect and begin to restore public confidence by cleaning up our own act now.

Mr. President, I congratulate the Senator from Connecticut. This is not easy for him, because he is hurting, if this is adopted—and we hope it will be—he is inflicting some pain on his colleagues. But it is a pain that we are going to have to suffer. It is better that we suffer some pain than it is for this institution to continue to suffer—the Senate, which is greater than all of us combined, larger than the sum of its component parts, the great institution which has been here 200 years. It will be here long after we are gone.

We are mere players upon the stage, here for a short time; 1,793 of us have walked these Halls and served in this institution. We have to think about it, the Senate, "that remarkable body, the most remarkable of all the inventions of modern politics."

We owe it to the Senate, we owe it to the people of this country, and we owe it to ourselves to bring to an end this practice, once and for all.

I thank Mr. DODD for having the courage to lead the way. I hope the

Senate will follow him. I hope the bill will pass. I hope it will become law. And if it does not, Senator Dobb will be back again and again. We might as well face up to it and get it over with. Not gold, but only men can make a nation great or strong;

Men who for truth and honor's sake stand fast and labor long;

Real men who work while others sleep,

Who dare while others fly.

They build a nation's pillars deep

And lift them to the sky.

Will we be men, will we be like Hector, in the field to die, or like perfumed Paris turn and fly?

As Victor Hugo said, invading armies may be repelled, but we cannot withstand an idea whose time has come. Here is an idea whose time has come. Senator Dobb has brought it before the Senate.

This is an hour we shall always remember. If we can eliminate this thing that is bringing us all down, casting an adverse reflection upon this great institution, it will be one of the finest moments in the history of the Senate. It will be a good deed that will live in our cherished memory. We will be true to those Senators who have gone before us. And, as we look into the beyond, at those who are not even yet knocking at the gates, and who will someday stand here where we stand, we can rest confident that we have also been true to them.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. SANFORD. Mr. President, I thank Senator BYRD for that wonderful recitation of the history and the traditions of this great body in relationship to the questions we now have up for debate and decision. I thank Senator Dobb for his initiative in bringing this important matter to the point of decision, and for allowing me to be a cosponsor of the amendment that will eliminate honoraria from the Senate system.

Mr. President, I think one of the worst aspects of being a U.S. Senator is the constant scramble to raise money. It is something that nobody wants to do. But, under the present system, a Senator is required to do just that to serve in this body.

This amendment, it must be remembered, is part of a general effort to do away with the necessity for constantly scrambling for contributions to run a campaign.

It has been said that a Senator, in an average State, spends about \$4 million in a campaign. In a larger State such as North Carolina, the last campaign saw each candidate spending about \$6 million. In the previous campaign in North Carolina it is reported that around \$25 million was spent in the campaign.

This is absolutely disgraceful. It means a Senator would have to raise about \$1 million a year in campaign

contributions just to stay in the campaign. We ought not to have a system that puts that kind of premium on raising money.

We saw, I think, a very touching story about one of our colleagues who said as he came here that he did not want to be put in a position of having to take honoraria. We know others do. If they have two or three children in college, it is almost essential that they have this kind of additional income just to provide for their families.

One Senator had to abandon temporarily his position of not accepting honoraria to pay a big family hospital bill. That ought not to be, and we ought not, in the U.S. Senate, put the burden on Members, here serving the public, to scramble around for honoraria from various sources.

I happen to think, and I have observed very carefully, Mr. President, that Members of the U.S. Senate are honorable people. They do not sell their votes. But the public gets the image that because a contribution is made you are going to vote the way that contributor wants you to vote. It is not true. In the first place, if you raise that much money from that many different people, you are really not bound to any one person or any one group. It is very easy to give back contributions. If you gave back \$40,000, that would only be 1 percent of the cost of the average successful Senate race. Senators, I know, will not take money from people who are unduly insistent on some kind of special privilege. That is not the point.

The point is, as we go out scrambling to earn a little bit of additional income to provide for the family, that does not corrupt any Senator. Senators are honorable people.

But what it does, it gives the appearance to the public that we are dependent on private funds, special interests, and rich individual friends to finance our campaigns. Acceptance of honoraria to help finance our personal financial requirements of having a home in the home State, a home here, and other demanding obligations, creates a negative perception.

But I do not believe I know of anybody who could be accused of selling a vote or selling influence or being unduly influenced.

The reason we need to set a ceiling of what can be spent in a campaign, and the reason we need to ban honoraria, is not because anybody is being corrupted, but because it gives the impression that undue influence is being exercised on the Congress of the United States.

I think the time has come for us to say that we not only are honorable people, but we do not want to do anything that gives an impression that we are not. We do not want to give an impression that we can be unduly influenced by a contribution. That is the

truth of the matter. But we are dealing with perceptions here, not reality.

So I hope we will examine our situation. I hope we will say we will limit how much can be spent in a campaign. I hope we will say that we work for the U.S. Government, for all of the people of this country. We need to be compensated by the people, and we should not have to do this demeaning task of scrambling around in order to keep things buckled and belted together here.

I think, Mr. President, the time has come. The public is ready for it. We certainly are ready to do away with all this added burden of scrambling around for money, raising \$1 million a year just to keep a campaign going. I think the time has come for us to put a limit on how much we can spend in a campaign. I think the time has come for us to look to the U.S. Government and the people to provide for us properly. That is the way it ought to be. That is what this legislation is intended to do, Mr. President.

I hope we will have the individual courage to do that. Our people back home will understand that we want to get away from this negative appearance. We need their help. We need their understanding as we cut back on campaign expenditures, as we cut back on this added personal income, and as we say to the people that, "We need you to provide our salaries. We want to work for you. We do not want to have to depend on special interests."

That is what this legislation is about, Mr. President. I congratulate not only Senator Dobb, who brings this particular point into focus with his amendment, but I congratulate the many Senators on both sides who are working now to limit how much can be spent on a campaign. That is the key to our cleaning up this concept that special interests play too big a part in the Congress of the United States. Thank you, and I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina yields the floor. The Senator from Connecticut.

Mr. DODD. Thank you, Mr. President. Let me commend our colleague and President pro tempore of the Senate, Senator BYRD, for not only his thoughts on the particular matter before us, but also for helping us understand the issue before the Senate today in its relationship to the history of this great institution.

We do not operate in a vacuum. We are trustees of this institution and everything we do reflects on this institution, its past, its present, and its future. Too rarely do we take into consideration what impact our actions have on the overall institution. Too rarely do we think how our constituencies and the world looks on this body, on this institution, and how it is we

should seek guidance as we try and wrestle with the issues of our time.

We will find in case after case that history is a pretty good teacher; that most issues are not new issues. In all my time here, I do not think I have ever run into a completely new issue. In the last 10 years in the Senate, 16 years in the Congress, most issues have been discussed in one way or another. We may be dealing with new technology and new innovations, but the underlying principles and values that are inherent in each and every question have been debated and discussed at one point or another in this body over its 200-year history.

So when Senator BYRD raises a historical perspective on an issue, he provides an invaluable service to any debate. I am honored that he has joined in cosponsoring this amendment and honored that he has taken the time this morning to elucidate to the Senate and the country on the importance of this issue as it relates to this institution and how this institution is seen and perceived.

I also want to thank my colleague from North Carolina for his support and his comments, along with the other 19 or 20 cosponsors of this legislation.

I will just make a couple of points, Mr. President, and then I will yield the floor and hope that others who may want to discuss this issue will come over or we can go to a vote on it.

As the Senator from West Virginia pointed out, it is a delicate matter. I do not get any pleasure by standing up here and offering this amendment. Normally, when we offer amendments on substantive matters, we get some pleasure out of that. We feel strongly that we are doing something that is going to have a tremendous benefit, not only to the country but also to the institution and to other Members if they support a particular proposition that we raise.

There are no more difficult matters raised in this body than matters that affect Members of this body. There are no matters that affect Members of this body more directly than those of finances. It is not with any sense of joy, in the normal sense of the word, Mr. President, that I raise this amendment. Some have suggested that I wait and do it another day, another time. I do not know when the right time is for these issues. Every time you think of a right time, someone will give you a reason why it is the wrong time or it is not the right vehicle; why it is we should wait for a better vehicle to come along.

Maybe there is a better vehicle. Some have suggested: Do it on the debt ceiling, do it on some reconciliation package or continuing resolution. Others have said, gee, do not do it there, we need to deal with those matters cleanly and directly.

Most of my colleagues know me fairly well after 10 years. I work pretty hard on an issue. I am not reluctant to go around and ask folks to support me on a matter. But, on this honoraria ban amendment I have not made a single call. I have not cornered a single colleague asking support for this amendment, because I think it is a matter that each and every Senator has to decide on his or her own. I have not gone out and done the normal corraling that Senators do on a matter that we care about, whether it is an amendment or a bill.

So to my colleagues who are concerned or feel as though I have somehow violated the sense of collegiality by raising this, I express my apology. But I must say to them as well, that this matter will not go away. If I do not offer this amendment today, the issue of an honoraria ban will not go away. It is going to happen. It can happen today or it can happen tomorrow or it can happen next month. But I do not know of anyone who believes it is not going to happen. Let us get it over with. Let us do it. Every person in this body knows it has to be done, and the longer we procrastinate and the longer we duck and the longer we say novenas and light candles and pray it will not happen, we are kidding ourselves. It is going to happen.

Let us just do it, and then let us get about the business at the appropriate time of dealing with compensation. Let us do it instead of hoping somehow that someone will not raise this, maybe we can get through another year, maybe we can delay it a few more months.

In the last 5 years, \$12 million has come in to the Members of this body who accept honoraria—\$12 million. Let us not kid ourselves, we know how it happens. I have done it. I literally showed up on one occasion in this town; I was there for 15 minutes. I had a cup of coffee and a Caesar salad for two grand.

I am not alone in that. That is before I stopped receiving honoraria a couple of years ago. But that is how it happens. Sometimes you go someplace and you spend a weekend and you give a long speech. I am not suggesting they are all like that. But, even the people who pay the honoraria do not like the system. They will tell you it bothers them.

We are not being invited to speak because of our forensic abilities or because we are Ciceros or because we have some fantastical insights to offer. We are being invited because we sit on a committee that involves legislation that affects those interests. That is all. There should be no illusions about this.

I think every one of us knows that we would prefer to be getting paid and compensated by the taxpayers as Members of the U.S. Senate. We

should not be out hustling. That is not our job. And when a significant percentage of our salaries comes from hustling, and that is what it amounts to, then I think we denigrate ourselves and the institution, and it ought to stop.

So whether this is the right vehicle at the right time we can debate ad nauseam. It has to come up; it has to be dealt with; and I think we ought to do it now. So I have chosen this vehicle because it involves the issue of campaigns, finances and this body and it seems to be the appropriate place to resolve this issue.

So I apologize to those who would prefer I do it another time, or that I wait awhile, or that somehow this matter be joined some other way. We have tried all of that. We had the best opportunity, as the Senator from West Virginia said, a year ago, and we did not use it.

Some, frankly, can return their Senate salaries and never feel it at all. There are some who are here who do need the income and, if we pass this legislation banning honoraria, they will support a salary increase. That will keep us, basically, at the same level of pay with normal basis of cost-of-living increase like any other group of Americans, whether they be in the private or public sector. Let us put these silly issues behind us so we can deal with the more fundamental questions that need to be addressed in this country.

Mr. President, again, I profoundly, thank my colleague from West Virginia for his remarks this morning, the insight, the history, the background that led us to this particular point; I also thank my colleague from North Carolina, for his remarks. Mr. President, I yield the floor, and I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

MR. DIXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER (Mr. FOWLER). Without objection, it is so ordered.

The Senator from Illinois is recognized.

MR. DIXON. I thank the Chair.

(The remarks of Mr. Dixon pertaining to the introduction of S. 2948 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

MR. DIXON. I yield the floor.

MR. PRESIDENT. I suggest the absence of a quorum.

THE PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. Dixon). Without objection, it is so ordered.

AMENDMENT NO. 2445, AS MODIFIED

Mr. DODD. Mr. President, parliamentary inquiry. As the author of the pending amendment, is it permissible for this Senator to modify his own amendment?

The PRESIDING OFFICER. The Senator retains the right to modify his amendment.

Mr. DODD. Mr. President, I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2445), as modified, is as follows:

On page 107, line 25, strike the word "campaigning," and insert the following:

SEC. . UNIFORM HONORARIA AND INCOME LIMITATIONS FOR CONGRESS

(a) ADMINISTRATION OF RULES AND REGULATIONS.—Section 503 of the Ethics in Government Act of 1978 (as in effect on January 1, 1991) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) inserting after paragraph (1) the following:

"(2) and administered by the committee of the Senate assigned responsibility for administering the reporting requirements of title I with respect to Members, officers, and employees of the Senate;"

(b) DEFINITIONS.—Section 505 of the Ethics in Government Act of 1978 is amended—

(1) in paragraph (1) by inserting "a Senator or" after "means"; and

(2) in paragraph (2) by striking "(A)" and all that follows through "(B)".

(c) AMENDMENTS TO THE ETHICS REFORM ACT OF 1989.—Section 1101(b) of the Ethics Reform Act of 1989 is repealed and section 1101(c) is redesignated as section 1101(b).

(d) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—Section 323 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is repealed.

(e) SUPPLEMENTAL APPROPRIATIONS ACT, 1983.—Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

RECESS UNTIL 11:30 A.M.

Mr. NUNN. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate stand in recess until the hour of 11:30.

There being no objection, the Senate, at 11:14 a.m., recessed; whereupon, the Senate reassembled at 11:30 a.m., when called to order by the Presiding Officer (Mr. BOREN).

The PRESIDING OFFICER. In my capacity as a Senator from Oklahoma, I suggest the absence of a quorum.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. LAUTENBERG). Without objection, it is so ordered.

Mr. BOREN. Mr. President, I would like to take this opportunity, as some discussions are going on off the floor about the pending amendment, to make again some overall remarks about the matter that is now before the Senate.

As I said in my opening remarks, this is not the kind of usual political issue that comes before us. It is not really a matter that should divide us philosophically or should divide us on each side of the aisle in a partisan sense, because this is an issue in which the integrity of the democratic process itself is at stake, the integrity of the election processes, the way we finance our campaigns, the way campaigns are operated, the way in which the people have an opportunity to participate in their own political process. It is at the heart and soul of the democratic process itself. It is fundamental to the functioning of the U.S. Senate as an institution and to the representative nature of the Senate as an institution, as we are all selected through this election process.

That is why, when we come to an issue like this, we are called upon really to be trustees of this institution, keepers of this institution and preservers of this institution and the constitutional process. It is a very heavy responsibility, one which we should take more seriously even than we do our responsibility on other issues before us because it is so fundamental to the democratic process. It is fundamental to the confidence that people have in their own Government and their feeling of oneness with their own Government.

Mr. President, I said in the beginning that it was my hope that we could reach a bill that would command bipartisan support, true campaign reform, not to serve the interests of one political party or another but to serve the interests of the American people because we all realize that something is seriously wrong with the current system.

The cost of successfully running for the U.S. Senate over the past 12 years has gone from \$600,000 to over \$4 million in the last election cycle. Certainly that kind of increasing influence of

money in the political system is not good for anyone. It is not good for the American people, who begin to wonder, "Do I, as a normal citizen who cannot afford to make a large political contribution, have the same standing, the same stake in my Government, the same influence on my Government as a person or group that is able to make large political contributions?"

The search for that money has led Members of the Senate and Members of the Congress to go all across the country to try to raise the necessary amounts to run for office, and, of necessity, they have had to raise that money often from strangers or people they do not know about, people who can later commit acts, even criminal acts, that tend to embarrass the Member of Congress who has received a campaign contribution from that person and tend to cast doubt in the minds of the public about the public official as well as about the integrity of the contributor who has provided the money.

More and more, funding of campaigns has not been at the grassroots level by the people back home, by the volunteers, but more and more the money has come from people who cannot even vote in the election, who cannot even vote for or against that candidate, lobbyists here in Washington, political action committees.

In the last election, over half of the Members of Congress received more than half of their campaign contributions not from the people back home but mainly from groups, political action committees and others, located outside their home State. So it has been too much money and the search for too much money turning us into part-time Senators and full-time fundraisers. It has been money coming from the wrong sources. It has been more and more a reduction of the power of the voters back home at the grassroots and an enhancement of the power of the special interest groups here in Washington that have typified the current political campaign process.

We have come to realize on both sides of the aisle that something is badly wrong, that we need real reform, that we need to change the rules. We need to get political campaigns back on the basis of competition between ideas and qualifications, away from a competition on the basis of which candidate can raise the most money. We need to change the system that favors incumbents over challengers, that makes it almost impossible for a new person to break into the political system.

One of my colleagues on the other side of the aisle indicated that congress has perhaps had less turnover than the Supreme Soviet. Why? Because, with no limits on campaign spending, the incumbent can always

raise more. In fact, in the last cycle, they raised \$2 for every \$1 the challengers were able to raise, and the result therefore tracked the money raisers. Those candidates who raised the most money were successful. In 51 out of the last 55 U.S. Senate races, incumbents have been able to raise far more money than challengers.

So, Mr. President, that is why we must act and that is why we need to act in a bipartisan fashion. Already some very important objectives have been achieved. I want to remind my colleagues how much real reform is already in this bill, real reform that has been called for by both sides of the aisle.

There has been some discussion that some of the votes have been on a party line basis. Many of the votes have not been on a party line basis. There was a vote last night, for example, to increase the amount of funds that could be received from the checkoff fund from the Treasury to candidates. That was offered on this side of the aisle. It was defeated. It was not accepted. There was an amendment from the other side of the aisle by my colleague from Oklahoma that related to mass mailings and the use of the franking privilege in the election season. It was accepted and it was adopted. There were other amendments voted on, including one which ended in a tie, in which Members on both sides of the aisle did not follow a party line vote.

But the important thing is this: There are fundamental reforms in this bill. I think it is very likely that when we act on the amendment of the Senator from Connecticut, which this Senator intends to support, we will add another important reform to this bill.

What do we have in the bill? We have disclosure of soft money and a reduction of the flow of soft money in large amounts that is allowed by current law. We have a total ban on political action committees listed as the No. 1 goal on the other side of the aisle. When they have defined real campaign reform in the past, when the President defined it, the very first point he mentioned was a ban on all political action committees.

I might say, Mr. President, I do not yield to any one on either side of the aisle on that issue. I noticed a scorecard in the morning papers. I ranked dead last, with a zero since 1972 of political action committee funds.

I have been working since 1983 to pass a bill to limit the influence of political action committees ever since Senator Goldwater and I began that effort in June 1983 in our first legislation on that subject.

So we have restrictions on soft money, we have a total ban on political action committees, and we now have some real limitations on the use of taxpayers' funds for incumbents who are campaigning for reelection by

using mass mailings subsidized by the taxpayers, newsletters, and other mass mailings to really send out campaign material at the taxpayers' expense; some very strong restrictions on misuse of the frank that were adopted yesterday by an overwhelming majority of the Senate. That is in that bill.

We are very likely to add it to a ban on honoraria. We have in the bill already overall spending limits, limits that would effectively reduce this money chase and stop the ever-upward spiraling race for money and more money in campaign funds, a race for money that is corrupting the political system of this country. And that is a real reform. We have restrictions on the bundling of campaign contributions. We have a system that discourages independent expenditures making negative attacks by independent groups on candidates.

We have a proposal in this bill that would require candidates to come on at the end of TV spots and assume responsibility for the content of the ads, a very, very strong provision that I think will encourage more positive campaigning on the issues and discourage the kind of negative campaigning with character assassination that we have had all too much of in the past.

So, Mr. President, these are only a few of the real reforms in this bill. Prior to our beginning this debate anyone would have said any one of these would have been a major breakthrough.

Real restrictions on soft money, declaring it to be hard money, and accounting for it in terms of contributions to State parties and other political committees, a major reform. That by itself would have been a worthy bill.

A ban on all political action committees, that by itself, a monumental contribution, would have been worthy of a lot of notice just as one individual proposition.

A limit on overall spending, another major contribution; a limit on the ability to misuse the frank for electioneering, another major contribution; a ban on honoraria, another major contribution; not to mention the other items like bundling and independent expenditures and the clean campaign proposal in advertising, that I have also mentioned just a moment ago.

So, Mr. President, we have come a long way. These major items that I have listed have been items that have been sought and emphasized just as much by those on the other side of the aisle as on this side of the aisle. What we have before us now is not a partisan bill. It is a good bill for this country. If I could have my way I would see it passed by both Houses today and signed into law by the President before nightfall. I think the American people would commend us for what we had done.

But I understand there are still changes that those on the other side of the aisle would like to see made. I hope we will be able to complete the process on this bill today. It is my goal to pass this bill today, to get a vote on final passage. We have been assured by those on the other side of the aisle that they have no intent to filibuster this bill. The majority leader has withheld bringing a cloture motion to the floor to make sure they could have a right to vote on all of their amendments. And we have given them an up-or-down vote without intervening amendments on all amendments that have been offered to date. We have kept the bargain. Thus far I see no sign that they have attempted to use the amendment process for delay.

I believe, and I fully expect, that they will keep their end of the bargain to let us have a vote on final passage of this bill without any need to impose cloture or push us under a procedure that would not allow amendments to be fully considered.

So I am optimistic, Mr. President. I find my colleagues on both sides of the aisle thus far have operated in good faith. We have enacted such important reforms for the American people that we owe it to them, we owe it to this institution, to not complete our work until we have passed this bill out of the Senate and sent it on to the House, and to continue to work through the whole process, including through the conference committee process, to find a bill that can be put in a form that the President of the United States will also want to sign.

Our point is not just to pass a bill through the Senate, but to see it enacted into law. So I repeat my own offer to those on the other side of the aisle. Bring to us those suggestions that you might have for bringing us together on a bill that can have overwhelming support on both sides of the aisle. We are willing to listen. We are ready to go to work with you to do that.

We have tried and I think there was an indication again last night on the question of how much public financing would be in the bill. Those on this side of the aisle are being sensitive to those concerns on the other side of the aisle.

I think what we have done with political action committees indicates a real sensitivity to the desires of those on the other side of the aisle. As I pointed out, perhaps we could have demonstrated it more dramatically, perhaps we made a mistake in strategy by putting the PAC ban in our original bill instead of waiting to let that amendment be offered by the floor and then by its overwhelming adoption we could have indicated very forcefully our effort to be bipartisan in this situation.

The proposal from the other side of the aisle, as I mentioned, a very important one involving mass mailing and use of the frank has also been adopted.

Mr. President, let us challenge ourselves. Let us not allow any of us on either side of the aisle to be stamped into unnecessary partisan rhetoric. Let us not allow ourselves to be divided on party lines, wherever possible. Let us try to frame our amendments in ways that will try to get support from the opposite side of the aisle, instead of framing our amendments in ways we think might make it impossible for those on the other side of the aisle to vote with us. Let us keep our good humor. And, above all, let us dedicate ourselves to work hard in the next 12 hours of this day to forge real bipartisan campaign reform in a fashion so all of us, when the product is through, can say: We have never done a better day's work than we have done today in the U.S. Senate. We have never passed a more important proposal, in terms of restoring integrity to the political process of this country.

There are those who have come to doubt whether this institution is capable, anymore, of rising to the occasion and the challenge in that fashion. I see my good friend from the State of Washington here on the floor. We were privileged to come to the Senate at the same time. We came here together as freshmen. And I remember that the spirit that prevailed in that freshman class, with all of us, was a spirit of real friendship and mutual respect that was not in any way described by which party you might happen to belong to. We came here with the desire to try to do something for the country. Our friendships were not defined by which political party we happened to belong to.

I am glad we came with that spirit. I have to say that over the last 12 years that I have served in the Senate, one of the things that has distressed me most is that I think the spirit of comity and understanding and trust between the two sides of the Senate, and that prevailing on both sides of the aisle, has declined over that period of time. Partisan divisions have been deepened and it has become harder and harder to bring us together on the important issues of the day.

Mr. President, we were not sent here to bicker with each other. We were not sent here to think of ourselves first and foremost as members of one party or another. We were sent here to grapple with the challenges that face this country.

We face the greatest challenge that we have faced in this century, probably since the period of the Civil War, in terms of the changes that are going on around us in the world. We have led the world because our allies needed

the protection of our military strength.

We have been known as a superpower in these cold war years from 1945 until 1989, when the cold war began to wind down as the wall fell in Berlin. But now we are entering into a new era, a totally changed world. Countries that have been our allies are now saying to us: Why should we follow your lead? Why should we cooperate with you? We do not need you so much any more, because we no longer have a Russian threat. We do not need your military so much any more. You have been footing the bill to protect us, but now that there is not a threat, we will get along on our own, thank you very much, without much advice or leadership from you.

So the leadership role of this country is going to be based upon new factors: the economic strength of this country. It is going to take bipartisan ship.

The budget negotiations are now going on to rebuild the economic strength of this country. It means not only dealing with the budget deficit; it means also having the appropriate tax incentives to encourage savings and investment again in this country, to get our cost of capital down and make us competitive.

It means rebuilding the labor pool of this country. We cannot lead the world if 29 percent of our 18-year-olds have dropped out of school before they graduate, with their talent tragically wasted.

It means coming together on ways to try to end the tragic role that drugs are taking on many of our fellow citizens who become, instead of productive citizens adding to the capacity of this country and helping this country compete internationally, burdens on this society, problems, purveyors of violence.

So, Mr. President, there are so many problems that we face in a world in which critical decisions will have to be made and made soon. If we do not make them soon, we will find that the door that is now open to us to adjust to the new world, the shift of our resources from the military side into the rejuvenation of our civilian economy, changes in tax policy that will help us compete with the rest of the world, improvements in our educational system that we will have waited too long; that other countries will have adjusted more rapidly. We will have a world in which the Japanese and the newly emerging united Germany and the European Community will have outpaced us in terms of their productivity and their ability to compete in the world.

The only way we have any possibility of responding to these challenges is to do it together, not as Republicans, not as Democrats, but as Americans.

So, as so many challenges face us, I cannot think of a better signal that we could send to our fellow countrymen and, indeed, to the rest of the world that we are prepared to come together as we need to do on more occasions in the past and work together, not trying to score political points on each other, but work together for what is good and right for the country.

For us to come together on a bill that bans political action committees, as this one does, to come together on a bill that stops the abuse of the frank, as this one does, to come together on a bill that is likely, with the amendment of the Senator from Connecticut, to ban honoraria and restore public confidence in that area, to come together on a bill that helps stop runaway spending and more and more money being pumped into campaigns in this country, I cannot think of a finer and a better message that we can send that the institution of the U.S. Senate is still vital, is still able to act, is still able to come together on important issues of the day. We are still able to perform the role that we should be able to perform; that we are worthy of the title of U.S. Senators; that we are more concerned about the preservation of this institution and its capability to function and the vitality of our constitutional election system than we are our own narrow self-interests.

Mr. President, that is my hope. I do not say this in a preaching way, nor do I say it with the assumption that I am the only one in this Chamber who feels this way. I have many friends and colleagues on the other side of the aisle, as well as on this side of the aisle, who I know share my desire.

My message to all of them is, let us not allow our temper to grow short; let us not allow those who would perhaps incite us to partisanship on either side of the aisle influence us. Let us do our duty and let us work to pass this bill and to pass it today expeditiously.

We have a number of items before us before we go out for the recess. The distinguished leader has indicated we will stay on this bill until we have final action. Let us help the process along. Let us work not only on the floor; let us work today off the floor to see if we cannot fashion a final agreement and get this bill passed today and get it passed with a strong majority on both sides.

Mr. President, I suggest the absence of a quorum.

Mr. GORTON. Will the Senator withhold?

Mr. BOREN. Mr. President, I will be happy to withhold.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Washington.

Mr. GORTON. Mr. President, I ask unanimous consent to be allowed to

proceed for 5 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington is recognized.

Mr. GORTON. I thank the Chair.

(The remarks of Mr. GORTON pertaining to the introduction of S. 2949 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GORTON. Mr. President, I now seek recognition with respect to the bill which is before us.

The PRESIDING OFFICER. Will the Senator repeat the request?

Mr. GORTON. I was speaking as in morning business. I now seek recognition in connection with the bill before us.

The PRESIDING OFFICER. The Senator may proceed.

Mr. GORTON. Mr. President, I am sorry that the distinguished Senator from Oklahoma has left the floor. I listened to his plea for understanding—I see that he has returned—and for a bill which not only can be passed by the Senate, but signed by the President which will reform our election process.

I join him in that desire, but though I have not yet spoken on this bill, I need to share with him my intense frustration at the progress of this bill to this point which does not seem to me to lead to that end.

If I may say, incidentally, in passing, personally that I am flattered and delighted that he treats me as a member of his class in the U.S. Senate, which is not so. He has been here 2 years longer than I have. Perhaps I could say to my friend it only seems that long.

Mr. BOREN. If my colleague will yield on that point, as one who has had a change in campaign slogan from "Give a Young Man a Chance" to "Maturity and Experience Counts," I simply try to hide the fact I have been here a little longer.

Mr. GORTON. I join that gracious response. We must all change our campaign slogans from time to time.

At the opening of this debate, the distinguished majority leader said that there was one fundamental difference between the attitude of the two parties on this bill. The Democrats sought to limit campaign expenditures while the Republicans opposed any such limitations.

Mr. President, that is a graphic description. Unfortunately, it is an inaccurate description. It would be far more accurate to describe the bill which is before us as a way in which to limit campaign expenditures by candidates, campaign expenditures by those candidates who have shown the greatest degree of ability to find individual citizens to support their campaigns but to leave almost untouched the

ability of others outside of campaign organizations to spend money on political campaigns and to affect their outcomes.

We, on this side of the aisle, I am convinced, will be far more included to support the plea for understanding and a bipartisan approach to this problem from the distinguished Senator from Oklahoma and the majority leader when they show some willingness to limit campaign expenditures by those organizations which abuse their tax-exempt status to support overwhelmingly candidates and incumbents of their party than we are when we have a bill before us which limits what Republicans have been best at, and that is getting individual contributions from individuals across the United States to carry out our political campaigns. We will be somewhat more inclined to go along with what can be called a bipartisan proposal if there are some serious attempts to limit independent expenditures rather than simply to encourage a vast array of independent expenditures by labor organizations and by other lobbying groups across the country.

This is an issue, Mr. President, which is correctly stated and correctly argued by the Senator from Oklahoma. Reform in the way in which money is collected and spent in political campaigns, a greater degree of accountability on the part of those who spend it, is an important national purpose. But it goes somewhat beyond the realm of reason to be asked to join in a bipartisan effort to pass a bill which is almost a purely partisan exercise which limits expenditures and money raising above the table, money raising which is disclosed, and yet not to limit expenditures by tax-exempt organizations which largely favor the other party.

We are, I am convinced, and I am convinced that I speak for more than myself, that I speak for the distinguished minority manager of this bill and the minority leader on the floor, more than willing to join in negotiations toward true, fair, bipartisan, and evenhanded campaign reform. What we are not willing to do is to call a partisan bill a nonpartisan bill, to call a bill which is designed toward partisan advantage election reform, and that is what we are being asked to do on the floor today.

Mr. McCONNELL. Mr. President, I commend my friend from Washington for the contribution he has made to the development of this issue over the years. He has had a lot of involvement in developing the Republican's position. I thank the Senator from Washington [Mr. GORTON] for all his help.

I thought I might take a couple of minutes to update those on our side with the current status of this issue.

I talked to the President's Chief of Staff within the last hour, and I think

it is safe to say that the administration is distressed at the turn that this most important debate has taken. Clearly, this is not going to end up being a bipartisan campaign finance reform bill as we had all hoped. This bill starts a new entitlement program for politicians.

We have put, against the best efforts of those of us on this side; by the way, there was not a single Republican Senator who supported public funding for our elections. Nevertheless, we now have approved, in this bill, public funding of senatorial elections, starting a new entitlement program for politicians in the midst of this deficit reduction effort which seems at the moment to be going nowhere. It strikes this Senator as being particularly absurd.

In addition to that, as Senator GORTON just pointed out, we have done nothing about sewer money; that whole area of undisclosed and unlimited campaign activity conducted by tax-exempt organizations will continue unabated.

This bill clearly, Mr. President, will not become law. The President will veto the bill in current form. That was confirmed to me again this morning by the Chief of Staff. I hope that at the end of the debate maybe we could get back to what we should have done some time back, which is to craft a bipartisan campaign finance reform bill that does not tilt the playing field either way and could qualify as meaningful campaign finance reform.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, is the pending business the Dodd amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I will speak very briefly.

We are about ready to deal with that amendment. I think it is all a question of strategy. I had thought about offering a second-degree amendment which would simply state that the provision shall become effective when the salaries of the Members of the Senate are equal to that of the Members of the House of Representatives. That is really the issue. It is a question of strategy, whether we ban honoraria now or whether we deal with honoraria when we deal with a pay raise or when we do not deal with a pay raise. Come January next year the House Members will be paid about \$22,000 more than Senators.

That may be the right way to pay Members of Congress. I think there might be some difference of opinion in this Chamber. I think more than half of the Republicans would support this amendment. I understand there are not the total votes to pass the second-degree amendment, so the question then becomes the Dodd amendment.

There is a 15-percent limit on outside earned income. Last time we checked, which was last November, there are only two Senators in that category, so I am not certain that is necessary. Only two Senators had more than 15 percent of their salaries in outside earned income, which would mean that 98 percent would not be affected by this provision, or at least under present conditions. But again that may not be the issue.

In this case, I believe both the Senator from Kansas and the Senator from Connecticut have the same ultimate goal, that is, to have parity as far as pay is concerned in the House and Senate. I think the honoraria ban is coming. Nobody quarrels with that. Some of us would still be able to, as I understand, make speeches and give the money to qualified charities.

I do not see any problem there. Some would even ban that on the theory that somehow we are tainted because we make a speech and somebody else benefits from it. That has not bothered me. Maybe it has bothered some. That would be permissible, as I understand it, under the Senator's honoraria ban.

So I will not offer the amendment. I think it would just take additional time. I doubt that we have the votes. It might be fairly close. I think the larger question is whether this bill is going anywhere. I know the press is always interested when we seem to punish ourselves. There is always a pretty good crowd that gathers when we ban honoraria or do something else, but I do not know whether this bill is going anywhere.

I think the Senator from Washington just made a good statement. This is not a nonpartisan bill. There are still some opportunities to make it that way.

I certainly want to commend the distinguished Senator from Oklahoma [Mr. BOREN], who I believe really wants to get a bipartisan piece of legislation. But unless there are some other substantial changes than what we have done so far, that is not going to be possible.

There are those of us who oppose this partisan bill on this side who will be accused of not wanting campaign reform. But that is the way it goes. It is not campaign reform. It should not be titled that. It is public financing, which some say they are against.

An overwhelming majority last night voted against additional public financing, but there is already public finances in the bill. There is soft money with no limits on soft money; only limits on so-called hard money, because nobody understands soft money. They say well, people do not understand soft money, so let everybody give \$1 million in soft money. Nobody understands that. It is pretty hard to make a case for that or write about it

or to get it on the 30-second spot on the evening news.

But for whatever may happen, I think the Senator from Connecticut certainly is justified in offering the amendment. It is the position he has held for some time. He believes that by eliminating honoraria it will force Members to face up to the fact that either you are going to vote for a pay raise or you are not.

Again, nobody wants to vote for a pay raise. That is not an easy thing to do. But if some had not had the courage to vote for pay raises, we would still be getting the same pay they received when Congress started a couple hundred years ago, which I think was \$3 a day. So fortunately over the years there have been enough in this Chamber, and a majority, to vote for pay raises.

Some have always had the slogan "Vote no, and take the dough." It served them well over the years. They do not want to make the hard choices. Vote no, and take the pay raise. Hopefully there will be enough people to vote for it.

So I will not offer the second-degree amendment. I am prepared to vote.

I will not vote for the Dodd amendment even though we have the same ultimate goal. I think his strategy is wrong. My view, if you are going to have parity in pay, is that it has to be coupled with the honoraria issue. If you separate out honoraria, then I believe we can be receiving about \$22,000 less for years to come.

It seems to me we have to couple the two. The Senator from Connecticut has a different theory. Unless some start facing reality that honoraria is going to go, you had better vote for the pay raise. That may be the best strategy.

I do not quarrel with the Senator from Connecticut because he understands the issue very well, and he has spent a lot of time on it. But I am prepared to vote.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Very briefly, let me commend the Republican leader. There is a bit of difference on strategy I guess, but there is no doubt, as I have said before, privately and publicly that our goal is the same. I hope that this approach will bring us closer to that reality.

So I appreciate his comments, and look forward to continuing the working relationship that we have on this and many other items of business.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays are ordered.

Mr. LIEBERMAN. Mr. President, I rise today in support of the amend-

ment proposed by my senior colleague from Connecticut, Senator DODD, and to thank him for his leadership on the issue of honoraria. If we adopt the amendment he offers today and ban Senators from receiving honoraria, we will take a big step in the direction of removing the appearance that the Senate is for sale.

It may be useful here to consider how we would view a judicial nominee who, while a sitting judge, took honoraria from parties in cases before that judge and then continued to sit on those cases. I believe that there would be a severe outcry against that hypothetical judge. We would, quite properly, view that judge as having compromised both himself and his office by creating the appearance of impropriety, even if that judge did not let the honoraria affect his or her decisions.

Mr. President, I recognize that we are not judges. And I understand that as elected political officeholders, in the absence of full public financing, we must continue to solicit and collect funds in order to run for office. But unlike political campaign contributions, honoraria up to \$27,337 go directly into a Member's pocket. It is a form of private financing of a Senator's personal expenses. We should not receive private remuneration while we are public officials.

Yesterday, Mr. President, the Senate defeated a proposal by Senator KERRY, which I cosponsored, for public financing of senatorial elections. Regardless of the merits of public versus private financing of Senate election expenses, I believe that we must have exclusively public financing of Senators' salaries. The time has come to enact a ban on Senate honoraria.

Mr. DECONCINI. Mr. President, I rise in support of Senator DODD's amendment to prohibit the receipt of honoraria by U.S. Senators. I am a cosponsor of Senator DODD's bill to prohibit this outside income for Senators and introduced similar legislation last year, S. 158. Members of Congress, as public officials, should be paid by the public and not by private or by corporate interests.

While we are all aware of the high cost of living in Washington, DC, and the expense many Senators incur in maintaining two residences, one in Washington and one in their home State, I do not believe Members of Congress should supplement their income through honoraria. There is a great potential for conflict of interest when corporations and special interests are allowed to pay large amounts of money to hear Senators and Congressmen speak. It has always been my view that speeches to various interest groups are part of our Senate responsibilities. Therefore, I have never accepted honoraria. When I go back to

Apache Junction, AZ, and talk about legislation, I do not charge the listeners a fee. The people who are listening pay my salary because they pay taxes. They should not have to pay me again to hear me speak.

Under Senate rules, Senators may earn \$26,568 beyond their \$98,000 income through the receipt of honoraria. This supplemental income approaches what the Census Bureau estimates to be the national median income for a family.

I hope that the Senate will adopt the Dodd amendment which ensures that the public, and not private interest groups, pay Senators' salaries.

Mr. DURENBERGER. Mr. President, I rise to state that I will vote for the pending amendment, and urge my colleagues to do likewise.

I am already on record in support of the proposition that honoraria should be phased out while compensation for Senators is increased. This is what the House of Representatives has already done. Unfortunately, Mr. President, when the Senate leadership attempted to follow the House on November 17, 1989, there were not sufficient votes for an honoraria ban and salary increase. The Senator from Connecticut is attempting to move us back in that direction with his amendment, and for that reason I support it.

I recognize that the amendment before us only bans honoraria, and does nothing with Senate compensation. But I believe that it is only by adopting amendment like this that the Senate will realistically address the issue of compensation.

Mr. President, we need to deal with the perception of the American people that there is something improper about Senators receiving some of their compensation from the Treasury and some from special interests. I hope we as a body will do so promptly.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. DODD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DODD. Mr. President, I renew the request for a recorded vote.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Connecticut [Mr. DODD]. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 77, nays 23, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—77

Adams	Fowler	Mitchell
Akaka	Glenn	Moynihan
Baucus	Gore	Murkowski
Bentsen	Graham	Nickles
Biden	Grassley	Nunn
Bingaman	Harkin	Pell
Bond	Heflin	Pressler
Boren	Heinz	Pryor
Bradley	Helms	Reid
Bryan	Hollings	Riegle
Bumpers	Humphrey	Robb
Burdick	Jeffords	Rockefeller
Burns	Johnston	Rudman
Byrd	Kassebaum	Sanford
Coats	Kasten	Sarbanes
Cohen	Kennedy	Sasser
Conrad	Kerrey	Shelby
Cranston	Kerry	Simon
D'Amato	Kohl	Simpson
Daschle	Lautenberg	Specter
DeConcini	Leahy	Stevens
Dixon	Levin	Thurmond
Dodd	Lieberman	Warner
Durenberger	McCain	Wilson
Exon	Metzenbaum	Wirth
Ford	Mikulski	

NAYS—23

Armstrong	Garn	Mack
Boschwitz	Gorton	McClure
Breaux	Gramm	McConnell
Chafee	Hatch	Packwood
Cochran	Hatfield	Roth
Danforth	Inouye	Symms
Dole	Lott	Wallop
Domenici	Lugar	

So, the amendment (No. 2445) was agreed to.

Mr. DODD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, the distinguished Senator from Montana requests 2 minutes as if in morning business. I ask unanimous consent that the Senator from Montana might be recognized to proceed as if in morning business for 2 minutes.

Following the expiration of that time, I ask unanimous consent that the Senate proceed to consideration of the amendment by the Senator from New York [Mr. MOYNIHAN] with a time limitation of 20 minutes to be equally divided, without any amendments being in order, to be followed by consideration of an amendment by the distinguished Senator from California [Mr. WILSON] with a time limitation of 40 minutes to be equally divided; with the vote on the Moynihan amendment to occur immediately after the expiration of time on the Wilson amendment, and the vote on the Wilson amendment to follow immediately after the vote on the Moynihan amendment, with no second-degree amendments being in order to either the Moynihan amendment or the Wilson amendment.

Mr. MOYNIHAN. Will the distinguished manager yield for a question?

Mr. BOREN. I am happy to yield.

Mr. MOYNIHAN. Did I understand the Senator wishes to put the vote on my amendment off until a later time, which is fine by me?

Mr. BOREN. Yes. We would stack the two votes. So it means both votes would occur approximately 1 hour from now if all the time were used, and that would convenience Members, some of whom are off the Hill at this point.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. I wonder if the Senator could amend the request for 3 minutes.

Mr. BOREN. The Senator would be happy to amend his request. The rest would remain the same except for allowing the Senator from Montana 3 minutes to proceed as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana.

LOG EXPORTS

Mr. BAUCUS. Mr. President, as a conferee on the Customs and Trade Act of 1990 I am proud to say that the conference has reached a sound agreement.

This agreement bans the export of logs harvested on public lands.

The log export ban is one of several provisions in the bill which also covers imports from Caribbean nations, revising the Jackson-Vanik Act, and suspending tariffs on various imports.

I hope both the Senate and House can approve the conference report this week.

The President's advisers have indicated to me that he will sign this legislation into law. I hope this is correct. We have worked on this legislation in a bipartisan fashion and we have been careful to accommodate the legitimate concerns of the administration.

I hope the President can sign this important legislation into law in the next 2 weeks.

The agreement to prohibit log exports has three important provisions.

First, the ban on log exports from Federal land is made permanent;

Second, regulations are tightened to prevent those who export logs from private land from also harvesting public timber; and

Third, exports of logs from all State lands are banned—except in the State of Washington.

This legislation sends a critical message. It demonstrates that the Congress will put an end to the scandal of exporting logs from public lands.

Everytime we export a shipment of logs, we export mill jobs right along with them.

This legislation also makes a positive contribution to the timber shortage. Instead of exporting millions and millions of board feet of logs to China, Japan, and Korea, we will keep those logs at home.

In times of a severe timber shortage, we must keep Montana timber at home to benefit Montana mill workers, as well as other mill workers in the Northwest.

This legislation, coupled with the recent agreement to open the Japanese processed forest product market, will provide a big boost to the United States forest products industry.

From now on we will be exporting processed products and keeping many, at least most, of those logs at home, keep the jobs at home, and keep the dollars at home.

I commend Senator BENTSEN and Senator PACKWOOD for their tireless efforts on this legislation.

As I said, I hope the conference report can be approved very speedily.

I thank the Chair and yield back the remainder of my time.

The PRESIDING OFFICER. Under the previous order, the Senator from New York is recognized.

SENATORIAL ELECTION CAMPAIGN ACT

The Senate continued with consideration of the bill.

AMENDMENT NO. 2446 TO AMENDMENT NO. 2432

Mr. MOYNIHAN. Mr. President, we have just, by a resounding vote, agreed that there should be a limit on a Senator's earned income of 15 percent of his or her Senate salary. I voted for that measure. But it omits, Mr. President, a large source of income which is of great consequence to persons in this body and people in the Nation, and that is to say unearned income.

Mr. President, I find it difficult to see how this body could undertake to limit the earned income of its Members while leaving untouched the large amount of unearned income based on accumulated capital and property that is undoubtedly distributed in this body; if reports are true, that is rather concentrated in this body.

Now, Mr. President, from the earliest days of the Republic, the common man has understood one thing, and that is that the different degrees of ownership or nonownership of property is a profound distinction in the human condition. In that greatest of all essays in political science, the Federalist number 10, published in New York, urging the adoption of the Constitution, Madison states that of the many sources of division among men, none is so powerful as the distribution of property. Right there in the beginning of the Nation, we put together a Government of checks and balances. Madison did not expect people of different degrees of property to be mag-

nanimous. He expected them to be self-interested. But he wanted to see that those interests had counterinterests, to offset and balance.

The PRESIDING OFFICER. If the Senator from New York will suspend, under the time agreement that we are under, or would be under, time will not run until the amendment is offered.

Mr. MOYNIHAN. I regret that, Mr. President. May I say I will not use the full time otherwise available to me.

Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New York [Mr. MOYNIHAN] proposes an amendment numbered 2446 to amendment numbered 2432.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 107, line 17, of the amendment, strike "January 1, 1991" and insert the following: January 1, 1991.

Section 501 of Public Law 101-194 is amended as follows:

In paragraph (1) of section 501(a) add the words "or unearned" after the word "earned".

In paragraph 2 of section 501(a) add the words "or unearned" after the word "earned".

Now, Mr. President, having just agreed to limitation of earned income of 15 percent of our Senate salary, I now propose an amendment that will invoke the same 15 percent limit on unearned income, income from property of the kind Madison thought would be the most profound division in this society. I think in a time, sir, when average weekly earnings in the United States are lower than they were when Dwight Eisenhower was President, and when we have seen vast increases in the concentration of wealth—and, sir, we have seen them in this Chamber—and we decide to limit earned income, but not mention unearned income; well, let us find out, let us see. At a time when median family income is just now getting back to the levels of 1973, let us find out. American workers have not had a raise in a generation, and mostly we talk about cutting capital gains and increasing the concentration of wealth for the top 1 percent of the population. It took a conservative Republican intellectual writer, Kevin Phillips, to tell us this, but it is true. And so I ask that in order that there be a level playing field, let everybody be a little equal in the Senate. It does not mean you have to have equal numbers of houses and cars, but income will be equal, earned or unearned.

Mr. President, conscious of the time and concern for the calendar we are

trying to move forward, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Who yields time? Who controls time in opposition to this amendment? Time is to be equally divided by the agreement.

The Senator from Kentucky?

Mr. McCONNELL. I am unaware of anyone prepared to speak on either side of the issue. My suggestion is we turn to the Wilson amendment.

Mr. MOYNIHAN. May I ask my distinguished friend, is all time yielded back?

Mr. McCONNELL. I will be happy to yield back the time on this side because I am unaware of anyone wishing to speak to the amendment.

Mr. MOYNIHAN. Do I have any time left?

The PRESIDING OFFICER. The Senator from New York has 4 minutes left.

Mr. MOYNIHAN. May I use 2 minutes?

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I cannot fail to note that not a single Senator rises in opposition to this amendment.

Mr. McCONNELL. Will the Senator yield? The Senator from Kentucky would like to commend the Senator from New York for an excellent amendment, and I certainly intend to vote for it.

Mr. MOYNIHAN. That is good news, sir. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time will be equally charged against each party.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ADAMS). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WILSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. I state to the Senator, that there is still time remaining on the Moynihan amendment.

Mr. WILSON. Mr. President, my apologies. I was unaware of that.

The PRESIDING OFFICER. I will entertain a request for the time to be yielded back, and the Senator will be recognized under the unanimous-consent agreement for his amendment as

soon as we have disposed of the other matter.

Mr. BOREN. Mr. President, I yield back all time remaining on the Moynihan amendment on this side.

The PRESIDING OFFICER. All time is yielded back.

The Senator from California.

AMENDMENT NO. 2447 TO AMENDMENT NO. 2432

(Purpose: To prohibit expenditures for public financing under the Federal Election Campaign Act unless \$100,000,000 is appropriated to carry out programs for pregnant and post partum women and their infants)

Mr. WILSON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON] proposes an amendment numbered 2447 to amendment No. 2432.

At the appropriate place, insert the following new section:

SEC. . APPROPRIATION LIMIT.

Notwithstanding any other provision of this Act, no payments shall be made in any fiscal year from the Senate Election Campaign Fund in accordance with paragraph (3) or (4) of section 504(a) unless the amount appropriated to carry out section 509F of the Public Health Service Act (42 U.S.C. 290aa-13) exceeds \$100,000,000 in the fiscal year.

Mr. WILSON. Mr. President, I did not ask for the clerk to dispense with the reading because it does not take long for him to read the full text of the amendment. It is a simple amendment.

What it provides really goes to two questions. They may seem to Members to be unrelated. In fact, I think very much the contrary is the case. We have had considerable discussion already in the context of campaign reform on whether or not it is a wise thing for the public, for taxpayers, to finance the election campaigns of Senators. There has been a great deal of discussion on that already.

To summarize that discussion, the chief argument on behalf of those who would propose taxpayer financing is that it will not only relieve Senators of the great burden of the time and the effort they presently devote to fundraising, but that it will do something important from the standpoint of a societal and a governmental interest; and that is, it will remove both the fact and the appearance of any undue influence which might arise which might be inferred from the fact that someone takes a contribution.

I might say in that connection, last night when the Senator from Massachusetts offered his amendment for full public funding of Senate election campaigns, to make his point, he described the magnitude of the effort that is presently involved on behalf of a number of Members and selected the Senator from California, as an exam-

ple. I think perhaps to place in context the kind of effort that is made, there needs to be some update.

I am currently engaged in another effort, not under Federal law but under State law. I am seeking the office of Governor of my State. The law of the State is now rather similar to Federal law. There are limitations imposed on individual contributions. I had to file a report that was the cumulative total for the 18 months preceding.

In that period of time, Mr. President, I have received 86,000 individual contributions; that is to say, 86,000 people have given contributions. They were not all the same size. The maximum permissible under the State law is \$1,000. Many have been like those that we noted the other day sent by a 90-year-old woman in Grass Valley who wrote she did not have much money but she wanted to support my candidacy, so she made a contribution of \$5. The average of those 86,000 contributions is less than \$150.

I make that point simply because I do not dispute a lot of time and effort is expended by Senators in raising campaign funds in order they may tell their story to their constituents. But I think it is necessary that there be a clear picture. I do not see anybody on this floor who has devoted all of his or her time and effort that he or she has been prevented from doing his or her job as a Senator. Really, that is a digression.

When people oppose public financing or, as we think it is more accurately called, taxpayer financing, we do so because we do not dispute the fact that it would make life much more simple for us. It would. As a candidate, I can say that my life would be greatly inconvenienced if I were not compelled to make the effort to raise campaign funds. That is, without dispute, the case for all of us.

Rather, it is our position that candidate convenience is not the most urgent of public priorities. When we consider all the competing claims upon the Public Treasury, the convenience of candidates is not the highest. I suspect it is the lowest; it may even rank after congressional newsletters.

What I have proposed in this amendment, Mr. President, I think makes the point. I am seeking to contrast what I conceive to be the lowest of priorities in terms of claims upon the Treasury with what is presently in my judgment the most urgent priority for public funding and one that has been routinely ignored by the Congress at great peril, peril to the drug babies who are becoming an epidemic in this Nation, great peril to society that will be called upon to expend great sums of money in the care of these addicted newborns, well past their infancy, through childhood, even into adoles-

cence, and we really do not know but perhaps all through life.

That is distinctly possible, not just possible, because young women who abuse their bodies during pregnancy are also abusing the fetus, the child that they are carrying, and the great probability in cases of extreme abuse is that they will produce a child suffering from diminished capacities, irreversibly diminished capacities that will last a lifetime, like mental retardation, like physical deformity, like the kind of neurological damage that will prevent learning.

Mr. President, that is a tragedy, one that we must prevent and can prevent, but we will not do it by expending the kinds of resources that presently we devote to treatment, to education, and to outreach or to rehabilitation of those who simply cannot find the strength to come to treatment voluntarily and who must seek rehabilitation with the assistance of a public agency through some kind of civil commitment process.

Let me tell you what we are now spending, Mr. President. In fiscal year 1989, we granted a total of 20 grants. They were model grants administered under the auspices of the Office of Substance Abuse Prevention in the Department of Health and Human Services. These were demonstration programs for substance abusing pregnant and postpartum women.

In fiscal 1989, we spent the munificent sum of less than \$5 million for all of those programs nationwide. In fiscal year 1990, the ensuing year, we increased the number of grants and we increased the funding. We went up over \$30 million.

In fiscal year 1991, it is proposed under the budget of the Office of Substance Abuse Prevention that we will increase the number of grants, that is, the number of model programs, the demonstrations, only very slightly, by a total of 14 programs nationwide. What that means is we will increase funding through the appropriation process for that purpose this year in the fiscal year 1991 budget by less than \$4 million.

Mr. President, that is disgraceful. It is disgraceful that the Congress of the United States, in seeking to perform our major responsibility, which is the allocation of tax resources to all of the competing needs that make claim upon those dollars, found less than \$4 million.

I suggest that what we do is something which would make simple good sense to our constituents, so that they do not, down the line, have to pay extraordinary sums in terms of State and local taxes for special compensatory education, for the neonatal, the postnatal intensive care of crack babies, so that we do not have to deal with the special problems of retarded

children when, in fact, those retarded children might be born whole and healthy.

That is what we are talking about, Mr. President. We are talking about prevention. We are talking about what is presently becoming an epidemic.

Let me just share with you the dimensions of this problem. I think most people do not begin to understand that it is estimated—and it is a gross underestimate—that there were 400,000 addicted newborns last year. That does not begin to jibe with the individual State estimates.

I heard Governor Martinez of Florida say last year that this year there will be 10,000 born in the State of Florida alone. The estimate in my State tops 7,000.

It is not a problem of the inner cities. It is a problem of rural areas. Go to Fresno, to the teaching hospital there. One in five newborns is born addicted.

Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 9 minutes and 50 seconds.

Mr. WILSON. I thank the Chair.

Mr. President, in Michigan, according to the State estimates of pregnant women identified by the National Association of State Alcohol and Drug Abuse Directors, it is thought that there will be 25,000 women in need of drug and alcohol abuse treatment in this year. In the State of New York, it is virtually the same number, slightly less, 24,000; in the State of Illinois, 17,500; in the State of Virginia, 12,500; in the State of Florida, 10,000; in the State of South Carolina, 6,300. That is the estimate of pregnant women identified by the State alcohol and drug abuse programs as in need of drug and alcohol abuse treatment.

The fact is it is very difficult for women to find treatment in the United States. New York City pioneered a lot of drug treatment and rehabilitation programs but, early on, drug abuse was thought to be the special affliction of men; not very many women were thought to have this problem. As a result, what we find is that it is quite difficult for women to find the treatment that they require.

A 1989 survey of 78 New York City treatment programs found that 54 percent of them exclude all pregnant women, 67 percent do not accept pregnant women on Medicaid, and 87 percent do not treat pregnant women who are addicted to crack.

That is precisely the audience that is in desperate need of attention. It is these women who are giving birth to this epidemic of crack babies: women whose maternal instinct is being destroyed by their addiction, producing the so-called boarder babies, the children whom they give birth to and then abandon in the hospitals.

These estimates do not begin to take into account all of the birthing that occurs outside hospitals, that goes unreported.

We are facing truly an epidemic. What is presently being expended on these children is the tip of the iceberg. It is estimated in my State, looking at simply the neonatal, the postnatal intensive medical care that is required, looking at the kind of special compensatory education that is required, that through age 5 we will spend about \$120,000 per addicted newborn above the cost of dealing with a normal child.

Mr. President, we are not going to do anything to stop that, to contain or to reverse this epidemic of infantile drug addiction with all of its long-term consequences. And we do not even know the full consequences. Wait until this wave of crack babies hits the schools. Wait until they begin disrupting the classrooms and we have to have special classes for them alone.

Wait until they become juveniles, beginning to be adults physically but with perhaps diminished mental and even moral capacity. We have seen what happened with the PCP babies. In many there is no discernible, measurable capacity for remorse.

I think that we should have terrible remorse, Mr. President, if this Congress continues to fail so abysmally, if we continue to ignore this obvious need. By now it is obvious. There have been enough hearings, and in enough committees of the Congress. There just has not been much action. We need to go much further than this. We need to pass the kind of legislation that I have introduced earlier, a bill that begins to address the real needs. The \$100 million is a beginning requirement to deal with this problem so we are not compelled to deal with it, and magnify it beyond recognition in just a few years with infinitely greater costs.

This amendment proposes that we take a look at the priorities that are facing us in that role that we have in allocating. If we have any responsibility at all, it is to make a wise judgment as to how we allocate those tax dollars.

Mr. President, the amendment would provide, as you have heard the clerk read, that there will be no funds, no tax dollars expended to finance the provisions of this legislation, no taxpayer financing of election campaign expenditures for Members of the U.S. Senate unless and until we have funded these programs to the level of \$100 million. And that is simple justice because it is saying that we should not support the least important of all priorities, and instead use the money to finance the most important. But it does not even take money away from the public financing that is projected in this legislation. It simply says that

we cannot expend any funds for that purpose until we have made good on the obligation. That should be our first priority. There are many other purposes for which we could be spending money admirably, better than in this legislation. But in my judgment, there is no more pressing need than the one that I have described.

Mr. President, I reserve the remainder of my time.

I inquire of the Chair what time is left.

The PRESIDING OFFICER. The Senator has 3 minutes remaining on his time. The Senator has reserved his time.

Mr. BOREN. Mr. President, I yield myself such time as I might require.

I know that my distinguished colleague from California knows my own personal interest in the matter which he is discussing in terms of providing adequate funds and care for those infants who are born addicted to crack cocaine, who come from families where the use of cocaine has affected their abilities in this world as they come into this world, through no fault of their own, suffering from the effects of addiction of the mother. It is a very, very serious problem that we face. It is something that I am very sympathetic that we do something about.

Let me say, first of all, that I want to make it clear, and I want to state this again, it will be clarified again in the course of the legislative product, that the funds—I think this has been very misunderstood—which are provided for in this legislation, the television voucher which was first proposed by the Senator from Missouri [Mr. DANFORTH] who was on the floor yesterday, said he still supported the concept of a voucher paid for out of a checkoff fund. He had no philosophical objection to that, but he does not like the framework with which we have conditioned it on compliance with spending limits.

That fund and the vouchers and any standby mechanism for candidates to receive funds, those candidates who comply with spending limits to receive funds produced by the checkoff in the event that the other candidate breaks before the spending barrier, are not taxpayer funds. I think this has been perhaps the misunderstanding by many, not only in this Chamber but outside this Chamber. It has always been the intention of the Senator from Oklahoma that the details of this proposal cannot be completely spelled out in this legislation because of jurisdictional problems with the House.

It has always been the statement of this Senator that he would endeavor to bring back a bill from the conference committee which would not provide any funds due and owing to the

Treasury to support either the television vouchers or the standby funds that would be received if the other candidate broke the spending limit. These would come from a totally voluntary checkoff which would not be the same as the checkoff used by the Presidential system.

In the Presidential system, the taxpayer simply has the option of diverting some of the money that he or she already owes in taxes to the Presidential campaign fund. In other words, if \$100 is owed in taxes, \$3 of that \$100 can be diverted by checking it off on the tax return for the Presidential checkoff fund. The Treasury then would lose the \$3 that had been previously owed in taxes by having those funds diverted to a separate and distinct account.

Under the proposal which we are making, we have made it clear, and following through the language as far as we could go on this side before it comes out of conference, that this fund would not be funds due the Government in taxes. If the taxpayer owed \$100, the taxpayer would have the option of contributing voluntarily an additional \$3 over and above taxes owed which could then go into a voluntary fund to be used to finance election reform and clean elections in the U.S. Senate.

That is not taxpayer money. That is personal money. It is voluntarily contributed, just as voluntarily as if you enclosed an additional \$3 on your income tax return and said: "I want it to be sent to the Red Cross, my church, or the Salvation Army, or some other worthwhile cause."

So under the system we have proposed we are not talking about \$20 million, which is the high estimate of the cost of the vouchers at the highest estimate. I do not know where \$150 million comes from. It is \$20 million. If candidates all stayed within the spending limits, that is all there would be. Even that \$20 million would be in voluntary contributions, not money owed by the taxpayer to the Government in taxes.

So it is not public funding at all in the usual sense of the word. The only way the Government is involved is as the collector of private voluntary contributions as if the Government became the collector of contributions for the Red Cross. Again, I want to emphasize that. But the whole question of public funding is, in the opinion of this Senator, a red herring thrown up by those who opposed spending limits to try to remove from the bill incentives for candidates to accept the spending limits on a voluntary basis, such as television vouchers, the possibility that they would receive funds from this voluntary checkoff fund if, indeed, the spending barrier were broken. That is different than the amendment. I hope my colleagues

will understand. It is different than the proposal made last night by the distinguished Senator from Massachusetts [Mr. KERRY].

His proposal was to provide funds from a checkoff that would operate like the Presidential checkoff. If you owed \$100 in taxes, you could designate \$3 out of the \$100 to flow to this particular fund. That is not what the managers of the bill on this side have indicated would be the source of funding, not a Presidential checkoff type mechanism for the proposal in this bill. It would not be money otherwise owed to the Government. It would be money over and above.

So we are not here talking about diverting any moneys that would flow to the Treasury otherwise that could be used for any purpose, including aid to infants suffering from crack cocaine or any other purpose. We would not be competing with any other purpose in the Government because this would be money not otherwise due and owing to the Treasury.

So that is one point that I would like to make. However, I think the Senator from California has made a very good point in terms of the emphasis that he is placing on the critical need to deal with the increasing use of drugs in our society, and especially as it effects newborn infants in this country. It is a tragedy indeed, when we think about the results, the long-term results, of our failure to deal with this situation, and we think about these infants that are born addicted to crack cocaine.

I apologize that I missed a portion of the remarks of my colleague from California, but I have seen the statistics, that in some inner city hospitals in our country as many as one out of every six newborn infants in those hospitals have been born addicted to crack cocaine.

What a tragedy that is. And what a challenge that gives to all of us to deal not only with the proper treatment of those infants, but to try to get at the underlying causes of this explosion of drug use in our society, the tremendous human toll that it takes, the tremendous amount of human talent that is wasted, and the amount of crime and violence that is in our society as a result. It is something of great concern and should be of great concern to all of us. I know it is of great concern to the Senator from California, because I have heard him speaking on this subject not only on this occasion but on many occasions, and I have seen him putting forward that need in committee action as well.

When you think about these infants as they mature and reach school age, and you think about the very grave difficulty of trying to teach these children, to develop their talents and that human potential, and if we do not deal with this problem early, the problem becomes far more severe.

So the Senator is not unsympathetic to this particular amendment. I have to say again that I do not see the relationship to the bill, because we are not talking about tax funds; we are talking only about funds that would be voluntarily contributed over and above the amount of tax liability. But I think it is important that we send a message in terms of the need for us to set a priority in this country, in terms of setting budgetary priorities for dealing with this problem.

So I say to my colleague in the spirit of comity, if he wishes to just simply have a voice vote on this matter, as manager of the bill I would be happy on this side to accept the amendment of the Senator from California. I hope I will have an opportunity to do that, because I do not think there is a need for a rollcall on it. I am happy to accept it.

We had a situation last night where I attempted to accept an amendment. Unfortunately, I was not allowed to accept the amendment; it was not adopted.

So I say to my good friend from California, if he wishes to follow that path, the Senator from Oklahoma would be happy to accept this amendment, even to ask unanimous consent that we vote on it right now by voice vote, and accept it on behalf of the managers on this side.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I thank the distinguished Senator from Oklahoma for his kind words and for his kind offer.

The problem is that while I have every confidence in his word, he alone is unable to guarantee what the conduct of the House of Representatives will be. I have no assurance that we will not see a conference report returned to us which cannot be amended. That does not indicate his desires. That, in fact, does embrace a good deal more in the way of taxpayer financing than he would like to see.

So I think that he is a part of wisdom to place this amendment in the bill at this time. Ordinarily, I would be inclined to accept the offer to have it accepted without a rollcall vote, but because of the need for the Senate to make clear its purposes to the House, and anticipating that there will be no such provision from the House in conference, I think that we would be wise to get the yeas and nays, which I now ask for.

The PRESIDING OFFICER. Is there a sufficient second. There is not a sufficient second.

Mr. BOREN. Mr. President, it is fine with me if the Senator from California wants the yeas and nays. I will vote the same way on the yeas and nays. I would be happy to accept it. I do not

think it makes any difference whether we do it with the yeas and nays or I simply accept it. The Senator is assured of it being adopted if we accept it now. If we go to the yeas and nays, the Senator is not assured of it.

I have discussed this matter with the distinguished chairman of the Appropriations Committee since the amendment was laid down. The distinguished chairman of the Appropriations Committee indicates that he understands the need to deal with this problem. He has no objection to my acceptance of the amendment either.

Nobody here can control what is done on the House side, but I think that, as far as I know, there is no hesitation on the part of the Senate in going on record in favor of providing adequate funds for dealing with this very, very serious problem. But that is up to the Senator from California, and at any time in which we are able to proceed forward, if he wants to continue to ask for the yeas and nays, that is fine. Otherwise, I renew my offer to ask for unanimous consent to voice vote the amendment now, and accept it on behalf of the manager of the bill.

Mr. McCONNELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. Mr. President, Monday night we had a vote on an amendment designed to strip public funding from the legislation that is before us. Continuously, since Monday night, I have heard people stand up on the floor of the Senate and claim there is not any public money in this bill.

There is public money in this bill. We have taken the first step in the direction of an entitlement program for politicians who run for office here in the Senate. So I want to commend the Senator from California for his amendment. He makes a very important point, that there are certainly greater priorities out there across America to be funded than our own campaigns. And public funding is in this bill. That is what the vote Monday night was about, and the Senator from California, it seems to me, is doing this body and the country a service by offering this amendment. I look forward to enthusiastically supporting it.

Mr. WILSON. Mr. President, I thank my friend from Kentucky and my friend from Oklahoma. The problem is that the House has not demonstrated any similar sympathy to this problem. There is no increase in funding at all on this side. It is embarrassing. This is the necessity for the yeas and nays.

Mr. BOREN. This Senator has no objection to the yeas and nays being offered. If the Senator has no objection to the amendment—I repeat that I do not think it is relevant to this particular piece of legislation, because we

are not engaged and we have no intention of engaging, as I have indicated, in bringing a bill back from conference that would use funds that are already destined for the Treasury, to have diverted to the checkoff fund. We have an intention only of using voluntary funding over and above tax liability.

I suppose we can have a whole series of amendments. I think we should try to move on, in all earnestness, to matters germane to the bill. We want to act on this bill today. Both the distinguished minority leader and the distinguished majority leader have indicated to me that they would like to complete action on this legislation by close of business tonight. I hope that Senators on both sides will come to the floor and offer amendments that are germane. There are many areas that we could deal with in terms of changes in the substantive nature of the bill.

I do not understand the rhetorical point being repeatedly made on the other side, and I suppose I will not understand it any better if it is made 100 more times. We could have amendments to defer implementation of the bill until 20 other programs are funded, and that would not increase the level of public enlightenment, nor would it increase the chances of speedy passage of this bill.

I hope that we can refrain from doing that and get on with the business and keep the spirit of our agreement that we will not be trying just to score rhetorical points, but to get on with the business of the Senate.

So I would say I am ready to vote on this matter on this side of the aisle. I am prepared in just a moment to yield back all time, so we may proceed to an immediate vote.

I will say to my colleague from California again my support was very sincere in efforts to provide adequate appropriations to deal with this problem. I would also say that the measure pending here is not the source of his difficulty in obtaining funds for that purpose. It is the normal appropriations process through both Houses. There is nothing in this bill that would in any way delay or defer action to take care of infants that suffer from this kind of drug addiction or to make it one bit less possible.

I assure my colleague that those of us who believe there should be limits in overall campaign spending instead of having runaway campaign spending are just as much in favor of dealing with the drug problems of this country as those who have philosophical objection to putting spending limits on runaway spending for campaigns. In fact, there might even be some people and some of us who have been pouring millions of dollars in campaigns without spending limits. They might be encouraged to give voluntary contributions to deal with the drug problems in this country and help the massive

private efforts across this country by giving voluntary contributions instead of pouring that money into political campaigns where they seem to have fallen under the present corrupt system which is operating with way too much money and none of the money they have to pour it in in order to get a hearing here.

We have spending limits. Many of those people will understand it is not money primarily deciding elections and maybe they will not feel such an obligation to pour in all those funds. Maybe they will start giving the funds instead to worthwhile charities across the country that deal with some of these problems.

So, Mr. President, I am happy to yield to my good friend from Nebraska as much time as he might require before I yield back time.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. EXON. Mr. President, I thank my friend from Oklahoma and thank the Chair.

I have been listening to the debate. I would like to pose a question to the author of the bill, the Senator from California, and possibly the minority manager of the bill on that side of the aisle, and also to the Senator from Oklahoma who is managing the bill on this side.

I believe that I understand what the Senator from California is trying to address. It is my feeling and I believe it is the feeling of the Senator from California that we should not pass this bill unless we have eliminated the possibility of taxpayer financing directly or indirectly.

Is that one of the reservations, maybe the principal reservation, that the Senator from California has on the bill authored by the Senator from Oklahoma?

Mr. WILSON. Mr. President, I say to my friend from Nebraska, my feeling is that we should not have taxpayer financing in any form. But to answer his question as it relates to this amendment, the purpose of the amendment is not, per se, to prevent the taxpayer financing that is involved in the legislation but rather to say that before any of that money can be spent for that purpose there has to have been appropriated \$100 million for the purposes of the Office of Substance Abuse Prevention and demonstration program.

Mr. EXON. Mr. President, let me further inquire of my friend and colleague from California. If as this Senator is proposing, along with others, that we offer strengthening amendments to the bill offered by the Senator from Oklahoma that would make it certain that there would not be any taxpayer financing of the bill, then in that event the amendment offered by the

Senator from California would be not necessary; is that correct?

Mr. WILSON. The program is clearly necessary. One of the things we are trying to do is to get the majority of the Senate to go on record in support of that level of support for the programs of the Office of Substance Abuse Prevention. But the specific provisions of the amendment provide that before there can be any funding under the provisions of this legislation for the purposes of spending tax dollars for television vouchers for the particular provision that would have to in fact be preceded by the appropriation.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BOREN. I ask unanimous consent that the Senator from Nebraska be yielded 2 more minutes in order to complete his statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I thank the Chair.

I think it is important that we have an understanding on this. If the Senator from California could be assured, as I hope I can assure him and I hope the bill can assure him, that there would be no taxpayer financing of this measure, with regards to vouchers or any other instrument, then is the California Senator indicating that notwithstanding if that were a fact and accomplished in the bill he would still feel as to the voluntary, truly voluntary, contribution or checkoff that the taxpayer would make at his own expense, that that money should be diverted to the worthy cause that the Senator from California advocates?

Mr. WILSON. Mr. President, if the Senator is asking my opinion I would think that to be a far worthier cause and I would certainly solicit private contributions, as in fact I have. But what we are really talking about is what the competing claims upon the public Treasury are.

Now the distinguished manager of the legislation, the Senator from Oklahoma, has been at some pains to give assurance that in contrast to Senator KERRY's amendment what he is looking for is something different. The question I have is what happens if under the scheme that is proposed here there is not sufficient private funding. What happens? Who pays for the television vouchers?

Mr. BOREN. The answer to that question is that that candidate pays. The legislation, if you look at the section that talks about pro rata reduction, says, for instance, in the bill if there are insufficient funds to pay for the vouchers every candidate's percentage will be reduced proportionately. If only \$1, the person will get 1 penny.

The PRESIDING OFFICER. The Senator from California has 1 minute remaining.

Mr. McCONNELL. Mr. President, will the Senator from California yield?

Mr. WILSON. Mr. President, if I may, let me yield a minute. If I need additional time, perhaps the managers will be generous enough to afford me additional time.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

Mr. WILSON. Mr. President, I have the floor and I will not yield.

The PRESIDING OFFICER. The Senator from Nebraska did not have the floor. We are under a time agreement and the time is running during quorum calls. So the Senator from California still retains the floor and he has 4 seconds remaining.

Mr. WILSON. Mr. President, I ask unanimous consent for an additional 2 minutes, and I will yield to the Senator from Kentucky 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 2 additional minutes. He has yielded the floor to the Senator from Kentucky.

The Senator from Kentucky is recognized.

Mr. McCONNELL. Mr. President, let me say briefly you would think we did not have a vote Monday night on the question of public funding to listen to the debate since then. There is no provision for a checkoff in this bill. It is presumed, I suppose, that that provision will somehow magically appear during the course of the debate. In fact, there is the potential for \$150 million per cycle in Federal money to be spent in this bill. That is what the vote was about Monday night.

I noted that my friend from Nebraska voted for the amendment, one of two on the other side. So obviously he was in favor Monday night of stripping out the public funding that was in the measure. Let us make no mistake about it. There is significant public funding in this bill. There is no question about it.

I thank my friend from California for yielding.

The PRESIDING OFFICER. The Senator from California has 1 minute and 58 seconds remaining.

Mr. WILSON. Mr. President, I thank the Chair.

Let me just say that there seems to be genuine difference of opinion. I think that the bill as it is written presently, not the intentions of the managers but as it is written presently, portends the expenditure of taxpayers' dollars to pay for election campaigns for the Senate. I have to tell you I think that is the lowest of all priorities, the lowest of public claims.

This represents to me the most urgent unmet need. What I am saying is before we spend a dime for the purpose of paying for our campaigns let us do what we ought to do and address the problem of drug abuse by preg-

nant women which has become an epidemic in this country.

Mr. President, I yield back the remainder of my time.

Mr. BOREN. Mr. President, I ask unanimous consent I be allowed 1 minute.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I will try to confine myself as there is no use rehashing; we both have a difference of opinion. I am the most mystified of all where a figure of \$150 million of public funds comes about in the first place. As to the cost of vouchers, the highest possible estimate is \$20 million; the bill applies only to the Senate. It is not \$150 million but \$20 million, and if all candidates abide by the spending limit there will be no more funds provided.

In addition—I will repeat—as Members on both sides know, because of the House rules, we cannot spell out in this legislation in detail the checkoff method. What we have spelled out is there will be a pro rata reduction to any benefit given to candidates. So in the voluntary plan as I have said it is our intention to bring back from conference, if there are not enough voluntary contributions from taxpayers, this bill says there will be a pro rata reduction in benefits to be given to the candidates, not an appropriation from the Treasury.

So I am very mystified as to where the magical amounts of taxpayers' money, as opposed to contributions, come from, when we very clearly said there would be a pro rata reduction. I guess we will continue to have that difference of opinion.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I ask unanimous consent, pursuant to the previous order entered, that the back-to-back votes now commence, first, on the Moynihan amendment; to be immediately followed by the vote on the amendment of the Senator from California.

VOTE ON AMENDMENT NO. 2446

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to amendment No. 2446 proposed by the Senator from New York.

The yeas and nays have been ordered and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. PRYOR). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 51, nays 49, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—51

Akaka	Exon	Lugar
Baucus	Fowler	McCain
Biden	Garn	McClure
Bond	Gorton	McConnell
Boren	Grassley	Mikulski
Boschwitz	Harkin	Mitchell
Breaux	Hatch	Moynihan
Burns	Hatfield	Murkowski
Chafee	Kelms	Nickles
Coats	Jeffords	Packwood
Cochran	Johnston	Pressler
Cohen	Kassebaum	Riegle
Conrad	Kasten	Sarbanes
D'Amato	Kerry	Sasser
Daschle	Kerry	Simpson
Domenici	Leahy	Specter
Durenberger	Lott	Thurmond

NAYS—49

Adams	Gore	Pryor
Armstrong	Graham	Reid
Bentsen	Gramm	Robb
Bingaman	Hefflin	Rockefeller
Bradley	Heinz	Roth
Bryan	Hollings	Rudman
Bumpers	Humphrey	Sanford
Burdick	Inouye	Shelby
Byrd	Kennedy	Simon
Cranston	Kohl	Stevens
Danforth	Lautenberg	Symms
DeConcini	Levin	Wallop
Dixon	Lieberman	Warner
Dodd	Mack	Wilson
Dole	Metzenbaum	Wirth
Ford	Nunn	
Glenn	Pell	

So, the amendment (No. 2446) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. LOTT. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senate will be in order.

The majority leader is recognized.

Mr. MITCHELL. Mr. President, I hope that we can move promptly on this bill, which means remaining here and casting our votes and maintaining some degree of order so that we can complete action on this bill and not have another very late evening tonight. So I encourage all Senators to cast their votes and take their conversations into the Cloakroom so we can proceed. There are several amendments to be considered. It is in the interest of all Senators, I assume, that we complete action as promptly as possible so we do not have another long evening.

The PRESIDING OFFICER. Does the Senator from West Virginia seek the floor?

Mr. BYRD. Mr. President, is there supposed to be a vote immediately?

The PRESIDING OFFICER. A vote is required immediately on the amendment offered by the Senator from California [Mr. WILSON].

Mr. BYRD. I thank the Chair. Mr. President, I ask unanimous consent to proceed for 2 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPLANATION OF VOTE

Mr. BYRD. Mr. President, I will vote no on the amendment by Mr. WILSON. I am not suggesting that others do likewise, but I want to explain why I am going to vote no. I will do so because I do not support amendments of this kind which set floors on appropriations items. The Appropriations Committee has the responsibility to set priorities and to report those priorities to the Senate. Any Senator who wishes to offer amendments to appropriations bills on the floor affecting any particular program can do that. That is the time for amendments, such as this one, to be offered.

Mr. President, the Senator from California has a perfect right to offer this amendment, but he also has a perfect right and a responsibility to appear before the Appropriations Committee and the appropriations subcommittee that has jurisdiction over the time of appropriations for crack babies. I urge that he appear before the subcommittee at that time and make his case.

I would also note that the Labor-HHS Subcommittee has the intention—Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate is not in order.

The Senator may proceed.

Mr. BYRD. I also note that the Labor-HHS Subcommittee has the intention, may I say to the distinguished Senator from California, of recommending appropriations for crack babies at a level in excess of \$100 million if its 302(b) allocation is not further reduced as a result of the budget summit agreement or a sequester.

In the first place, the Appropriations Committee is not going to be affected by this amendment whether or not the Senate adopts it and whether or not it is adopted in conference and whether or not the bill is signed by the President. The Appropriations Committee is not going to pay attention to this amendment. It is not going to affect the Appropriations Committee action.

Second, the Appropriations Committee, without any direction by this amendment, is going to appropriate in excess of the amount that is called for in the amendment if, as I have already indicated, the 302(b) allocation is not further reduced by virtue of a sequester or the budget summit agreement. So I will vote no on the amendment. I hope the Chair will call the roll and let me vote quickly because I have two markups in the Appropriations Committee and need to get to my post there.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from California.

Mr. WILSON. Mr. President, I ask unanimous consent to have 3 minutes.

Mr. DeCONCINI. I object.

The PRESIDING OFFICER. Is there objection?

Mr. DeCONCINI. I object.

The PRESIDING OFFICER. There is an objection.

Mr. MITCHELL. Mr. President, I ask unanimous consent that—

Mr. BYRD. Mr. President, I had 2 minutes. I hope the Senator from California can have 2 minutes.

Mr. MITCHELL. I ask unanimous consent the Senator from California have 2 minutes.

The PRESIDING OFFICER. Is there objection. Without objection, it is so ordered.

Mr. WILSON. Mr. President, let me just say that the chairman of the Appropriations Committee has just said that the Labor-HHS Committee intends to mark up even more. More power to them. That should remove any objection he has if they intend to put in more money. Let me say that the chairman cannot speak for the House. The record of the House is not good. In fact, it is evidently their intention to offer nothing in the way of added moneys.

But there is another point to be made, and that is that if he chooses to ignore this bill, why, clearly that is up to him. On the other hand, what the bill provides, or will provide with this amendment is that before we spend any tax dollars to elect Senators or anyone else, we will first appropriate enough money to begin to deal with a far more pressing need than the reelection of any Member of this body.

If the Senator wishes to vote against that, that clearly is his privilege. Let me just be very clear. We have had debates on public financing in this body, but perhaps they have not really focused on the issue. That is when we spend tax dollars for our own reelection or when we spend them for newsletters we are taking them away from far more urgent necessities which we leave inadequately funded. This amendment puts in contrast not only the least important but a priority that I do not think justifiably can be called a priority and that is financing our own races and in contrast says that we must spend a beginning minimum amount to deal with an epidemic of crack babies. The costs of failing to do so, I tell you, will involve us in hellacious costs very soon. You have seen only the tip of the tip of the iceberg.

Mr. President, I ask for yeas and nays.

The PRESIDING OFFICER. The Senator's time has expired.

Is there a sufficient second? There is a sufficient second.

Mr. BRADLEY addressed the Chair. The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Will the Senator from California yield for a question.

The PRESIDING OFFICER. All time has expired.

Mr. BRADLEY. I ask unanimous consent for 1 minute to direct a question to the Senator from California.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BRADLEY. The Senator from California has proposed an amendment that is supposed to deal with crack babies. The Senator from New York has a bill that would provide Medicaid coverage for those eligible for a drug treatment. My question to the Senator is would he support an amendment that would support Medicaid coverage for women who are poor, pregnant, and drug addicted? Would he support an amendment that would provide drug treatment paid by Medicaid for such women?

Mr. WILSON. Absolutely. And I hope the Senator from New Jersey would as well because if we do not—

Mr. BRADLEY. I thank the Senator for his support.

Mr. WILSON. I will thank the Senator for his support.

The PRESIDING OFFICER. All time has expired.

Did the Senator request the yeas and nays on his amendment?

Mr. WILSON. Yes.

The PRESIDING OFFICER. Is there a sufficient second? Evidently there is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 59, nays 41, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—59

Armstrong	Gramm	McConnell
Baucus	Grassley	Metzenbaum
Bond	Harkin	Murkowski
Boren	Hatch	Nickles
Boschwitz	Hatfield	Packwood
Bradley	Heinz	Pressler
Burdick	Helms	Riegle
Burns	Humphrey	Roth
Chafee	Jeffords	Rudman
Coats	Kassebaum	Shelby
Cochran	Kasten	Simon
Cohen	Kerry	Simpson
D'Amato	Kohl	Specter
Danforth	Lautenberg	Stevens
Dole	Leahy	Symms
Domenici	Levin	Thurmond
Durenberger	Lott	Wallop
Exon	Lugar	Warner
Garn	Mack	Wilson
Gorton	McCaIn	

NAYS—41

Adams	Bumpers	Dodd
Akaka	Byrd	Ford
Bentsen	Conrad	Fowler
Biden	Cranston	Glenn
Bingaman	Daschle	Gore
Breaux	DeConcini	Graham
Bryan	Dixon	Hefflin

Hollings	Mikulski	Robb
Inouye	Mitchell	Rockefeller
Johnston	Moynihan	Sanford
Kennedy	Nunn	Sarbanes
Kerrey	Pell	Sasser
Lieberman	Pryor	Wirth
McClure	Reid	

So the amendment (No. 2447) was agreed to.

Mr. HELMS. Mr. President, I move to reconsider the vote.

Mr. BOREN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I have been given a list of amendments that are intended to be offered by those on both sides. It is my intention to first go to the Exon amendment. Then I understand Senator DANFORTH has two amendments which he wants to offer.

I will inquire of others. Let me see if we cannot get time limitations on these amendments.

First, on the Exon amendment, I ask unanimous consent that there be a 20-minute time limitation, equally divided.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. BOREN. On the two Danforth amendments, I have discussed it with the Senator from Missouri.

Mr. McCONNELL. Next in line is Senator McCain.

Mr. BOREN. We are not sequencing. Let me get time agreements.

Mr. McCONNELL. We have been sequencing on this side, and Senator McCain is ready.

Mr. BOREN. I am not asking for sequencing, but time limitations, on the amendments when called up.

I ask unanimous consent that when the Danforth amendment is called up, the one on lowest unit rate, and the Danforth on vouchers to be used for purchase of only 5-minute advertisements, that there be a limitation of 30 minutes each on the two amendments, with the time to be equally divided.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BOREN. Let me engage in a colloquy with my colleague from Kentucky. I had been requested by the distinguished minority leader and the distinguished majority leader to seek 30-minute time agreements on all amendments, if it is agreeable to the authors. Senator DANFORTH indicated to me it was agreeable to him to have a 30-minute limitation on each amendment.

Mr. McCONNELL. If the Senator will yield, I am not certain who objected, but there is an objection on this side.

Why do we not proceed with Senator Exon's amendment and get back to the Senator on that.

Mr. BOREN. All right.

Mr. President, I yield the floor so that the Senator from Nebraska may be recognized.

Mr. HELMS. Will the Senator yield?

Mr. BOREN. Yes.

Mr. HELMS. Will the Senator complete the list?

Mr. BOREN. I will list the other amendments.

I ask unanimous consent that the time I am taking not be charged against the time of the amendment of the Senator from Nebraska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Let me list the other amendments that everybody indicated to me would be offered:

Senator DOMENICI, related to \$250-limit on out-of-State contributions; Senator McCain, related to spending limits in compliance, official expense fund; another amendment by Senator HATCH, I believe, in addition to the one offered earlier, on the Beck amendment; is that correct?

Mr. McCONNELL. That is my understanding, yes.

Mr. BOREN. An amendment by the Senator from Delaware [Mr. ROTH] on free broadcast time; the two Danforth amendments; an amendment by the Senator from Kentucky [Mr. McCONNELL] on mandating access to candidates requiring FEC audits and certification of lowest unit rate of broadcasters extending the lowest unit rate to all candidates; the Senator from New Hampshire [Mr. RUDMAN] requiring the broadcast time be sold to candidates at some fraction of the lowest unit rate.

That is the list that I have been given.

Mr. McCONNELL. In addition, the Senator from North Carolina has one.

Mr. BOREN. What would be the subject?

Mr. HELMS. It is related to compulsory union dues.

Mr. BOREN. Let me ask, then, if it would be in order that we might try to determine which of these amendments would be acceptable to have a 30-minute time limitation. Perhaps we can ask on those others after disposition of the Exon amendment.

Mr. McCONNELL. We can save a lot of time by going on the Exon amendment, and the McCain amendment, and we will get back to the Senator in terms of the other amendments in terms of time agreements.

Mr. BOREN. I appreciate the offer of my colleague.

I just reiterate that both the minority and majority leaders indicated to me a desire for us to seek time agreements of not to exceed 30 minutes on all of these amendments, because I know they both intend to finish the bill tonight and proceed to other business. So I think it is important to get a list of all the amendments.

I urge my colleagues on both sides of the aisle, and those listening in their offices, if there are other amendments that any Senator desires to offer, please bring those amendments to the floor, so that we may have that list and be able to act upon them.

Mr. President, I ask unanimous consent that in regard to the Exon amendment, as we have done with all other amendments, that no second-degree amendments be in order.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

Mr. BOREN. I yield the floor.

AMENDMENT NO. 2448 TO AMENDMENT NO. 2432

Mr. EXON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. EXON], for himself, Mr. KERREY, Mr. KOHL, and Mr. LEVIN, proposes an amendment numbered 2448.

On page 26, line 12 after the word "fund" strike the ";" and insert: ", provided such fund will be established exclusively with monies derived from income tax refunds due the person or additional amounts included with the person's return and not from any income tax liability owed by the person to the Treasury;"

Mr. EXON. Mr. President, just for clarification of the record, I cite that this amendment is being offered by myself and my colleague, Senator KERREY from Nebraska, along with Senator KOHL and Senator LEVIN.

I agreed to a minimum time limit, although I think this is a very key amendment with regard to the bill. I believe that it will put to rest all of the debate that we have had as to whether or not we are going to have public financing under this bill.

What this amendment simply says, in a very straightforward manner, is that, simply, any funds that are used for any purpose in this bill will not come from taxpayer sources. They can and will only come if the taxpayer, voluntarily, in his or her decision, wishes to "contribute," if you will, to the fund. It would not, for example, allow any backdoor financing of this bill.

At the present time, as the Chair knows, and I think the Members of the Senate know, on the Presidential checkoff, the taxpayer has an option of indicating whether or not that taxpayer wants to have \$1 of the total tax that he has paid go into the Presidential fund.

That \$1 then, if you check it off, is taken away from the Treasury of the United States into the fund. Or another way of putting that is that the taxpayer is directing that \$1 of the taxes that he paid go into the Presidential campaign fund.

There has been lots of talk on the floor of the U.S. Senate. I think the amendment, if adopted, will lay to rest that, and we will not have to argue as to whether or not there is taxpayer financing of any of the parts of this bill that have been suggested and others will be suggested as we go on down the line.

Let me emphasize that this amendment, if it becomes law, then there absolutely will be no taxpayer funding for this measure or any of the things that it authorizes, and it should lay that to rest forever.

Mr. President, I reserve the remainder of my time and I yield 2 minutes to my colleague from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, first of all, let me simply say that the senior Senator from Nebraska is illustrating something here that I think is very important to know; that is, that there are large numbers of people in this body who in fact would like to see campaign reform enacted. They would like to see something done. There is also a number who would like to come to the floor and talk about it from time to time, and I am not certain they want anything passed at all.

I applaud the senior Senator from Nebraska for offering this legislation. It clears up one of the most controversial pieces of legislation, whether or not to have public funding—I prefer not to have public funding and thus cosponsor with the Senator—but other controversial issues as well.

I applaud both the Senator from Oklahoma and the Senator from Kentucky for their work. They obviously would like to see campaign reform passed. They have identified a serious problem in the electoral process in the measure today that caused deterioration of confidence among the electorate and I hope this piece of legislation will pass in a form the President will sign.

It does require compromise and requires people to set aside differences. I appreciate very much the senior Senator from Nebraska, Senator Exon, attempting to do that.

It would be fairly easy to say it has public financing in it; therefore, we should vote against it. Nothing would then happen; no change or reform would occur. We are struggling to make certain public financing will not be included and in this amendment we are given an opportunity to make certain that will not occur.

As a consequence, the Senator put the bill in the form that he can support. I applaud that. It means that he identifies not only the service here in the Senate as being important but the entire system being important.

We have to make changes so the public itself will increase their confi-

dence in democracy and that in fact it is working on their behalf.

I thank the senior Senator from Nebraska for bringing this amendment to the attention of the Senate and for offering it here today. I fully support it and hope it will be attached to the bill.

Mr. EXON. I thank my friend and colleague from Nebraska. This has been cleared on this side and I assume it will be cleared on the other side as well.

I reserve the remainder of my time. The PRESIDING OFFICER. The Chair inquires if anyone seeks time in opposition to this amendment.

Mr. EXON. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Nebraska, the proponent of the amendment, has 4 minutes and 38 seconds.

Mr. EXON. I yield 2 minutes to the Senator from Oklahoma if he desires time.

The PRESIDING OFFICER. Does the Senator from Oklahoma seek recognition?

Mr. BOREN. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. EXON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I yield 1 minute of my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I simply commend the two Senators from Nebraska for offering this amendment.

There has been a lot of discussion and concern expressed particularly on the other side of the aisle during the course of this debate whether or not we are engaged in public financing. This is an opportunity for the Senate to very clearly indicate that we are not planning to fund the benefits and inducements to accept spending limits out of the public treasury. It makes it clear that the checkoff will be purely voluntary, that the money checked off by the taxpayers will be over and above any money owned to the Treasury; a purely voluntary contribution just as voluntary as \$3 or whatever amount of money would be if given to the Red Cross, or added on an additional amount to the tax bill owed by the citizen.

Since so much concern was expressed about it on the other side of the aisle we are reflecting our joint concern and make it absolutely clear it will allay those concerns about public

financing to make it clear we are not using taxpayer financing here for inducement vouchers and other inducements in this bill and to set that fear to rest once and for all.

So I hope we will have support from the other side of the aisle, especially since they have raised this concern again and again. This is an opportunity to put into this bill itself a provision to make it very clear that we are not using taxpayer financing but only voluntary contributions from citizens to fund these benefits.

So I commend the two Senators from Nebraska for offering this amendment. I support it and hope it will be unanimously accepted on both sides.

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. Mr. President, I again suggest the absence of a quorum and ask unanimous consent that the time not be charged against either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I thank my friend from Oklahoma for entering a quorum call and giving us a chance to look at the Exon amendment which we just got.

The PRESIDING OFFICER. The Chair would ask the Senator from Kentucky, on whose time does he wish to speak?

Mr. McCONNELL. Mr. President, I yield myself whatever time I may use.

The PRESIDING OFFICER. Will it be taken from time in favor or in opposition of the amendment?

Mr. McCONNELL. Time in opposition.

The PRESIDING OFFICER. (Ms. MIKULSKI). The Senator has 10 minutes.

Mr. McCONNELL. Madam President, as I was saying, I want to thank my friend from Oklahoma for entering the quorum call and giving me a chance to examine the Exon amendment.

We have done a lot of sparring since Monday night about whether or not public funding is in this bill. As I read the amendment of the Senator from Nebraska, it is to make certain that this public money is distinguished from the Presidential public money in the following way: Under the Presidential system, a taxpayer has the opportunity of diverting taxes already owed into the Presidential election fund.

Madam President, we know that only 20 percent of Americans are now doing that. That is a declining figure.

We have received a letter from the FEC indicating that in all likelihood there will not be enough money in the Presidential election fund to fund the 1992 Presidential election, and certainly, by all estimates, in 1996, when there should be a wide-open nomination contest on both sides, the pool will fall extremely short of being adequate. So we know that American taxpayers, even when they know it is simply diverting taxes already owed, have no enthusiasm for public funding of elections and that the Presidential system is on the way to bankruptcy. Let me address myself to the way in which I believe the amendment would seek to distinguish from that.

As I understand the amendment of the Senator from Nebraska, it is to specify that only volunteered money by taxpayers, such as money out of a refund, would go into this bill, therefore adding a tax obligation to the taxpayer in order to fund the pool for Senate elections.

Madam President, first as to the question of whether or not this would generate any money, I have already described the declining participation in the Presidential election system when it does not cost the taxpayer anything; it simply diverts money already owed. That is on the way to bankruptcy. I think it is safe to say that not many taxpayers are going to volunteer this additional tax obligation to fund senatorial races. We already know from all the surveys that we have had access to that the public has no enthusiasm whatsoever for paying out of tax dollars for political campaigns.

But let us assume that some taxpayers do jump at this marvelous opportunity to assess an additional tax burden on themselves to fund senatorial races. Once that happens, Madam President, the Federal entitlement program has commenced. I described it earlier this week as the food stamp program for politicians. If any American taxpayers voluntarily assess themselves an additional tax burden to create this pool of money, out of which would come the broadcast vouchers and the punitive pool of funds available to pummel anyone who exercises his first amendment right to see how much support he can get, then the bureaucracy is created. Madam President, I have been here 5½ years, not as long as most of my colleagues, but I cannot recall, with one possible exception, any Federal program we have ever ended. Maybe there were some that missed me.

But this amendment will not guarantee that the program will not commence. As a matter of fact, if there are any hapless souls out there who want to volunteer an additional payment to the Government, then the pool will be created—be it ever so inadequate, it

will be used for this entitlement program for Senate candidates.

So, Madam President, I respectfully suggest that we ought not to create this new Federal program in the first place. Making the effort voluntary does not solve the problem. If anybody volunteers, and I assume there are some out there who will, then the new Federal program begins, the entitlement commences, and, given the history of the Federal Government, there will be no end to it. And we know what will happen, Madam President. We know what will happen. When the pool of money comes up short, as it most certainly will, then we will dip into the Treasury, and we will make up the difference.

So, essentially, in summary, Madam President, I would say that the vote on the Exon amendment is very important. If Senators are opposed to setting up yet another Federal program, if Senators are opposed to an entitlement program for our own campaigns, then they will vote no on the Exon amendment.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes and 10 seconds.

Mr. McCONNELL. I reserve the remainder of my time.

Mr. EXON. Madam President, I yield myself 2 minutes.

Madam President, I am somewhat amazed, surprised and a little disappointed about the remarks just made by the Senator from Kentucky. The Senator from Kentucky has been on this floor more than any other person in the U.S. Senate, and time and time again we have heard the main opposition to the campaign reform bill is that he and the Members on that side are against taxpayers paying for campaigns. I have always supported the Senator from Kentucky in that regard and my votes have so indicated.

The day before yesterday, in the local press, there was a big story about the distinguished Senator from Kentucky regarding his fight to keep taxpayers from having to pay anything under this measure. The bill that has been presented and the amendment right now blows that argument out the window. That is the main reason, I suggest, why there is opposition, where this Senator assumed that there would be support, because it addresses one of the main arguments that have been advanced on that side of the aisle.

I wish they would change their minds because I do not think it is consistent. We are not setting up a bureaucracy. And what happens in the future, no one can predict. I simply say, if this amendment is accepted, there will be nothing in this bill, period, that would allow taxpayer financing, and I doubt that it would

pass the House and the Senate in the future. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator has 45 seconds remaining. Who seeks recognition?

Mr. EXON. I yield 20 seconds to the Senator from Nebraska.

The PRESIDING OFFICER. The junior Senator from Nebraska.

Mr. KERREY. The Senator from Kentucky is trying to frame this as a vote for entitlement. This is a vote for public financing, not a vote for a public entitlement. When Senators come to the floor and vote on this thing, the question is do they support public financing; yes or no? If they do not support public financing then they must vote for this amendment.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. McCONNELL. There has been a great effort since Monday night to somehow deny we are setting up a new Federal program in this legislation. Ever since Monday night, when we had an opportunity—and I would say, we were happy to have his vote Monday night on an amendment that stripped public funding from this bill.

Unfortunately, Madam President, regardless of whether the money is volunteered on the tax return by the taxpayer, the net result is that a Federal bureaucracy must be created. Because then we are talking Federal money. Just like in the Federal system, there will be a need to audit the accounts of Senators to make sure that this Federal money has been spent properly.

Once the money comes into the Treasury and then is disbursed out to campaigns, there must, of necessity, be an audit and checks to make certain that the money has been spent properly since it is public taxpayers' money.

Make no mistake about it. This is an amendment about whether we want to create a new Federal bureaucracy to supervise the expenditure of public money.

Any way we cut it, Madam President, this is a rehash of a series of votes we had. If Senators want to cast a vote against the creation of another Federal bureaucratic responsibility, if they want to vote against a provision of this legislation that I have said in the past will require the FEC to become as big as the Veterans' Administration at some point, if they are having to audit 535 different campaigns, then they should vote against the Exon amendment. I understand the desire of my friend from Nebraska. He voted the right way Monday night. We were happy to have his support, that of the Senator from Nebraska, and Senator HOLLINGS of South Carolina.

But the bottom line is this: If the money is volunteered on the tax return, it becomes public money. The disbursing of that public money must

be subject to audit. The responsibilities of the FEC will be thereby expanded and we will have created another Federal entitlement program and this time we will have done it for ourselves.

With all the great needs out there in the country, unaddressed needs that we simply do not have the money to deal with, and the crushing deficit which we are struggling to somehow come up with a compromise on to reach the Gramm-Rudman targets for this year, the very last thing we should do, Madam President, it seems to this Senator, is set up yet another Federal program.

I think the amendment of the Senator from Nebraska, while well intentioned, does not go to the heart of the issue. And the heart of the issue is do we want to have a Federal entitlement program for ourselves? So the amendment of the Senator from Nebraska should be opposed because it simply does not do the job.

Madam President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes and 35 seconds.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. If the Senator would withhold, the Chair needs to apologize and correct an error. The Senator has 33 seconds. I read a zero wrong.

Mr. McCONNELL. I reserve my 33 seconds.

The PRESIDING OFFICER. The Senator from Nebraska has 20 seconds; the Senator from Kentucky has 33.

Mr. EXON. I want to yield 10 seconds to myself. I do not understand the arguments being made by the Senator from Kentucky. I thought he was for campaign finance reform, so long as we could do it without taxpayer financing. Evidently I was misinformed. I still think this is a great amendment. I yield whatever time I have under my time to the Senator from Oklahoma.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Kentucky.

Mr. McCONNELL. With all due respect to my friend on the other side, we are either going to have a Federal program or not. Whether this tax money is volunteered as an addition to the tax obligation by the taxpayer to the American Government or not, it will go into the pool. It will be available for broadcast vouchers. It will be available to punish candidates who exceed the arbitrary spending limit.

This is public money. Once that public money comes into the Government coffers, the expenditure of it will have to be audited. The bureaucracy will move forward. I think anyone who opposes the creation of another Federal bureaucracy should oppose the Exon amendment.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. Madam President, I request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. There being no further debate, the question is on agreeing to the amendment of the Senator from Nebraska. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 39, nays 60, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—39

Adams	Dodd	Levin
Baucus	Exon	Mikulski
Bentsen	Fowler	Moynihan
Bingaman	Gore	Nunn
Boren	Heflin	Pryor
Bradley	Hollings	Reid
Breaux	Humphrey	Robb
Bryan	Jeffords	Rockefeller
Bumpers	Kassebaum	Sanford
Burdick	Kerrey	Sasser
Byrd	Kohl	Shelby
D'Amato	Lautenberg	Simon
Dixon	Leahy	Wirth

NAYS—60

Akaka	Gorton	McConnell
Biden	Graham	Metzenbaum
Bond	Gramm	Mitchell
Boschwitz	Grassley	Murkowski
Burns	Harkin	Nickles
Chafee	Hatch	Packwood
Coats	Hatfield	Pell
Cochran	Heinz	Pressler
Cohen	Helms	Riegle
Conrad	Inouye	Roth
Cranston	Johnston	Rudman
Danforth	Kasten	Sarbanes
Daschle	Kennedy	Simpson
DeConcini	Kerry	Specter
Dole	Lieberman	Stevens
Domenici	Lott	Symms
Durenberger	Lugar	Thurmond
Ford	Mack	Wallop
Garn	McCain	Warner
Glenn	McClure	Wilson

NOT VOTING—1

Armstrong

So the amendment (No. 2448) was rejected.

Mr. BOREN. Madam President, I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2449

Mr. BOREN. Madam President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from Oklahoma.

The bill clerk read as follows:

The Senator from Oklahoma [Mr. BOREN] proposes an amendment numbered 2449:

On page 26, line 12 after the word "fund" strike the "," and insert: "it is the sense of the Senate that such fund will be established exclusively with monies derived from income tax refunds due the person or additional amounts included with the person's return and not from any income tax liability owed by the person to the Treasury;"

Mr. BOREN. Madam President, I thank the Chair.

I want to explain to my colleagues why I have just sent an amendment to the desk that is virtually word for word, except for a very few changes, the same substantive language as was just voted on a moment ago as offered by the Senator from Nebraska and others.

In the course of the proceedings, just as the roll was beginning to be called, we had been checking with the House of Representatives about the nature of the amendment, trying to determine exactly the rights of the U.S. Senate in this regard from a procedural point of view.

As we all understand, any legislation dealing with changing of the Internal Revenue Code, or particularly with the raising of revenues, must originate in the House of Representatives. They are of course the judge when a piece of legislation comes over to them from this side as to whether or not we have transgressed upon their jurisdiction.

We have tried very, very carefully to draft the substitute bill, which is now before us, in a form that would not raise jurisdictional problems with the House of Representatives because of their right to originate revenue measures. That is the reason we have used the language simply instituting a fund within the Treasury, which would be funded by the checkoff fund for the purpose of providing inducements to candidates to accept spending limitations.

After we were in the process already of beginning the rollcall on the amendment offered by Senator Exon, we were notified by staff of the House Ways and Means Committee, and other officials in the House of Representatives, that they felt the way the amendment was drafted it could result in what is called a blue slipping of the bill; that is, the House returning the bill to the Senate after the Senate had acted to pass it.

Of course, it is not the desire of anyone here to do that. We are all interested in getting campaign reform passed. We do not want to do anything that procedurally would cause a problem with the House of Representatives.

It was determined, however, in discussion with officials of the House of Representatives, that the Senate could clearly express its view as to how the conference committee, before the legislation comes back to the Senate, would set up the checkoff fund.

The Senator from Nebraska was attempting to make it clear what we

have been saying all along, that the debate over public financing as has been raised on the other side is really, to a large degree, a red herring. There are ways in which we can have purely voluntary contributions brought into this particular fund of the Treasury so that it would not be funds already owed by the taxpayer, but it would be a contribution.

I listened a little earlier while the Senator from Kentucky ingenuously described this as one taxing oneself. I suppose any time one gives a contribution that is some payment of money that one does not owe to a church or to a charity or any other organization, that could be described as self taxing. It is not usually described in that way. It is described as a contribution, not a self tax. It is a voluntary contribution.

What the Senator from Nebraska was trying to indicate, which the Senator from Oklahoma has said probably 50 times, at least, on the floor previously, is that it is the intent of the authors of this bill that the system for funding the checkoff should be voluntary. That is, instead of the funds coming out of taxes already owed, the funds would be voluntarily contributed by the taxpayer; not a tax, not a public funding, but a voluntary contribution funding with the Government simply acting as the clearing house to receive these voluntary contributions.

So that is why the Senator from Nebraska offered that amendment to clarify. All I have done with this amendment—and there were a number of Senators on this side, I might say, that favored the Exon amendment, that would have voted in favor of the Exon amendment but changed their votes after it was received from the House of Representatives, this message that the rollcall was in progress.

What I have done in the amendment that I have sent to the desk is simply restate, with the exception of adding the words that it is the sense of the Senate that such fund would be established out of voluntary contributions. That is the essence of what the words mean. I have used the very same language that the Senator from Nebraska used a moment ago. I have done so in a way that enables us to clearly express in this Chamber our desire that it would be voluntary contributions as opposed to mandatory taxes that would provide the incentives for candidates.

Let me say, as I was listening to the course of the debate a while ago—I hope my colleagues on the other side of the aisle, especially those back in their offices, will listen to me and a while ago we ran out of time in discussing it—the issue was not a question of whether or not we were establishing a new fund. That was not the subject of the amendment. The fund is established in the bill. The amend-

ment had nothing to do with the establishment of the fund.

This amendment, therefore, simply has to do with how that fund will be financed. Will it be public funds in the sense that it is mandatory taxpayer contributions? Or will it be voluntary, with taxpayers having the right to make the contribution over and above what they owe in taxes, unlike the Presidential system where a person can designate if they owe \$100 that \$3 of the taxes they already owe would go to the Presidential checkoff.

We are here talking about not taking anything from the \$100 already owed to the Government, but adding \$3 voluntary contribution.

So the issue is very clear. The Senate has an opportunity to express itself on this matter, and to express itself in this amendment in a way in which it will not endanger the path of the bill through the House of Representatives. That is, we can express our feeling that the checkoff system should be voluntary, that it should be a voluntary contribution and not taxpayer-owed funds to the Treasury, not simply shifting and diverting funds that are otherwise owed to the Treasury.

That is the reason, Madam President, I absolutely must say that I have heard and seen many strange things done on this floor from time to time. But I have to say that the opposition on the other side of the aisle, a moment ago, with the acceptance of this amendment, to me is one of the strangest. We have heard over and over again—we heard Monday night, we saw quotations in the paper—\$150 million of taxpayers' funds, mandatory taxpayers' funds, public funds being used and forcibly taken from taxpayers and given to candidates.

Madam President, this is an opportunity for us to decide whether or not we want it to be mandatory or whether or not we want it to be voluntary.

So if there really is a concern, if there really is a concern on the other side of the aisle that they are worried about public financing, this amendment, which is the same substance identically as the amendment just offered by the Senator from Nebraska but in a form that will not cause any procedural problems for the passage of this bill, is the clear opportunity to express ourselves.

You know, it makes you wonder. We have in this bill things that we have heard on both sides of the aisle, that Members are for a ban on PAC's. That was the No. 1 priority on the other side of the aisle. I assume they are for it, a ban on newsletters.

I have seen my distinguished colleague from Oklahoma on the floor. I support his amendment enthusiastically. It is a good amendment. It is real campaign reform. I am glad it passed.

It is in there. We now have a ban on honoraria. We have clean broadcasting requirements for candidates to claim responsibility for their ads. We have antibundling language. We have anti-independent expenditure language.

We have heard over and over again from the other side of the aisle we are for all these things. We are for all these things, but we are so concerned about public financing. Mandatory public financing pains us so much—it pains us so much that we may not be able to vote for all these good reforms that we are really for because of public financing.

We have given them the opportunity now, the opportunity to come forward and say, well, we are sincere about that. We were not just using it as an excuse. We were not just using it as an excuse for not being for these other reforms. We really meant it. Here is an opportunity for them to say so; that it is the sense of the Senate. And I am sure our conference would be strongly influenced in terms of bringing a bill back to the Senate, if the sense of the Senate is we do not want this kind of mandatory public financing; we want voluntary contributions if it is going to be funded. This is the opportunity.

I hope that the media has been following this because the media in some cases has been inaccurately buying the argument from the other side of the aisle that we were somehow forcing taxpayers to contribute to our campaigns. Now the issue is very clear. Were those on the other side of the aisle sincere? Is that the real issue. Is the real issue that they want contributions not to be coerced out of the taxpayers? This does not have anything to do with setting up a fund. The fund is in the bill.

The issue here is one, and only one issue; one, and only one question. It does not change anything else in the bill. It simply says this will be voluntarily funded, not out of tax dollars as opposed to mandatorily funded out of taxes already owed by the taxpayer. That is the only issue here; the only issue.

That is why this Senator is amazed. This Senator cannot understand. This Senator heard the Senator from Kentucky say a moment ago, oh, this is about creating a fund. It does not create a fund. The fund is already in the bill. It is a question of how any fund would be financed voluntarily or mandatorily out of tax dollars. It is pure and simple. The issue is whether or not we are going to have voluntary non-taxpayer-owed money, voluntary contributions from those that want to contribute it.

The Senator from Kentucky said, "What happens if not enough people check this off voluntarily?" What happens is spelled out in the bill. The benefits go down to the level and the amount of voluntary contributions

that come in. If there is not enough money to provide for a 20-percent voucher, then people will not get a 20-percent voucher; it may be a 5- or 10-percent voucher, if that is the level of contributions in the fund.

The Senator from Kentucky, I have to say, with all due respect—and I do not mean this personally, I mean this in terms of intellectual argument—cannot logically have it both ways. He cannot say we are so fearful about public financing, it is the evil which prevents us from doing away with tax and some other things in this bill. My, we are so worried you might not get enough voluntary contributions in to give the full benefit. If they were opposed to public financing and wanted only voluntary contributions, they would not be so concerned, and they would not want us to coerce the taxpayers into giving additional funds.

I have to say, Madam President, from the point of view of the public watching this debate, it is very clear that unless we get support on the other side of the aisle for this amendment—and I imagine many must not have read it when they came to the floor—we will be left to only conclude that the whole debate about public financing is merely an excuse not to be for the other reforms in this bill.

I simply do not understand it. Are we looking for an excuse, are we looking for a smokescreen as to why we are not for the reforms in this bill, or are we sincerely concerned that we do not want taxpayers being forced to make contributions to candidates through this method? If that is the case, here is the opportunity for us to express ourselves, Madam President.

The previous amendment, I am convinced, would have passed. There were many people here who would have voted for it had we not been informed right in the middle of a rollcall there was a technical procedural problem and technical correction that needed to be made.

I think it is important that we learn once and for all, is this a serious matter of concern, is it a sincere concern about the idea of mandatorily taking money from the taxpayers? If that is a sincere concern—and maybe those on the other side of the aisle, I have to believe, did not understand this amendment, because they talked about setting up the funds and talked about people taxing themselves.

This is not people taxing themselves. This amendment does not create a fund. It says that people will be allowed to give voluntary contributions as opposed to mandated tax funds.

So the issue is clear. We have a chance to reconsider it, because we had a technical correction that needed to be made. This issue is now before the Senate, and I urge my colleagues on the other side, including those listening in their offices, to vote consist-

ently with what they have been saying on the floor. They have been saying, let us not force taxpayers mandatorily to contribute to candidates, and that is exactly what this amendment says. It says, let us allow the taxpayers to voluntarily contribute, if they wish, to candidates.

So the issue is clear. I urge my colleagues on the other side of the aisle to reassess this amendment. I will not prolong the debate. We have debated in essence the substance before. But I hope they will reread the language. It does not say one word at any point about establishing additional funds or establishing additional auditing or anything else.

Let me read it to the Senate so that those Senators in their offices, particularly on the other side of the aisle, will hear it. It says that "it is the sense of the Senate that such funds"—which has already been established—"will be established exclusively"—it has already been created in the bill—"with moneys derived from income tax refunds due persons, or additional amounts included with the person's return, not from income tax liability owed by the person to the Treasury."

That means voluntary contributions, Madam President. I just hope that my colleagues on the other side of the aisle will join me in supporting this amendment, which I offer.

I apologize to my good friend and colleague from Nebraska. I think he has made a very important point with the amendment that he offered a moment ago. It is a position that the Senator from Nebraska has asked the manager of the bill about several times. The manager has said to the Senator that this is the way we intended to establish this fund, to the extent that we can spell that out in this legislation without preventing the House of Representatives from considering our bill procedurally.

We will spell it out. I say that to him again. I apologize that we were not aware of the procedural problem until in the midst of the rollcall, and I offered this amendment in the hope that a resounding majority on both sides of the aisle will send a very strong signal as to exactly what the sense of the Senate is in the way that this fund should be established.

I yield the floor. I hope my colleagues on the other side will reconsider their position on the previous amendment and join us in supporting this particular proposal.

Mr. McCONNELL. Madam President, with all due respect to my good friend from Oklahoma, there is only one purpose for this sense-of-the-Senate resolution. That is to try to fool the American taxpayers into believing that somehow the underlying amendment does not have any tax money in it; to try to fool the Ameri-

can people that somehow the proposal before us does not take anything out of their pockets. It is not going to work. We had that vote Monday night by a vote of 49 to 46, and the Senate decided to continue the Federal subsidies.

Mr. KERRY. Will the Senator yield for a question?

Mr. McCONNELL. No, not at this time.

The point the Senator from Kentucky makes is that the sense-of-the-Senate resolution does not go to the heart of the matter. The issue is, first, do we want to use Federal money, taxpayers' money, at all in campaigns; second, do we want to create a new Federal bureaucracy, which would be necessary to police that Federal money once it is dispensed to candidates; and third, of course, the sense-of-the-Senate resolution does not go to the postal subsidy.

There is \$5 million for the Senate and \$26 million for the House in postal subsidy. That is not covered by the sense-of-the-Senate resolution. That was not covered by the amendment of the distinguished Senator from Nebraska, that we defeated overwhelmingly a few moments ago. Sixty-one Senators voted against the amendment of the Senator from Nebraska.

The sense-of-the-Senate resolution that we have before us is one more effort to rehash the same old issue. It does not touch the postal subsidy, which is still in the bill. That is \$31 million in tax dollars to go to our campaigns. And it is an attempt to mislead the American people into thinking that, somehow, by voting for this sense-of-the-Senate resolution, Senators are saying that they do not want tax dollars used in our political campaigns.

That is a major part of the purpose of this undertaking, Madam President. It is to get a new Federal entitlement program for all of us started, started with mail subsidy, started with new tax dollars coming into the Treasury, which would then be dispensed to candidates and which did not have to be audited.

As I have said frequently, and I know the Republican leader has said, you start using Federal money in congressional campaigns and pretty soon the FEC will be the size of the Veterans' Administration. Of course, if we use simply volunteered tax dollars, we buy the notion that the American taxpayers are so enamored with the possibility of helping us in our races by adding tax obligations onto their returns, which would then be dispensed to us, assuming anybody would think we would do that, as soon as any of that money comes in, then the program is created.

We all know what is going to happen. Not much money is going to come in that way. Enough is going to

come in and create an entitlement program, but there is going to be a shortfall. Even though the current bill says the shortfall will be shared by all and the disbursements will be reduced and there will be a prorata disposition of those funds to those using public money; in fact, what will happen as with every Federal program is that we will step in at some point, I fear, out of the Treasury and supplement that shortfall.

Madam President, I understand what the Senator from Oklahoma is seeking to do here, but we had the vote Monday night on the question of whether or not we wanted to strip all public money out of this bill. We had that vote. Unfortunately, my side lost. Yet we keep waltzing with the same issue over again. This sense-of-the-Senate resolution, I say respectfully, does not solve the problem but rather is to mislead the American people as to what the underlying bill is all about.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Madam President, I just have to say that the vote on Monday night was not a vote on whether or not the checkoff fund, which would fund the benefits, would be voluntary or mandatory. This is the first time this matter has come up for a vote. That was not it at all. The question of whether or not it would be a taxpayer fund, whether it would be voluntary contributions, was not at issue. If we look again at the amendment that was offered, that was a vote of whether or not to strip all the inducements out of the bill so there would be no inducements for candidates to accept spending limits.

I think it is very interesting that those on the other side of the aisle have tried to portray that vote as a public financing vote. I said at that time it was not a smokescreen, not a public financing vote. That vote was whether or not we would have spending limits because all the inducements to accept spending limits, as must be inducements now, given the Supreme Court decision to have any spending limits, were to be stripped out of the bill.

So this was an effort to simply make it impossible to induce candidates to accept spending limits, and spending limits, as we said and the American people have said, 85 percent in the latest poll says that is the heart of reform—too much money coming in the system. We want something done to stop the money chase. I think that was what that was about.

My amendment, on the other hand, is about whether or not the funds to provide those inducements will be voluntary or mandatory taxpayer funds. This is an opportunity for us to vote on this, and I think it is a clear signal

to the public as to whether or not those on the other side of the aisle were serious when they said there concern was about public financing.

I think again what it says, if they want to say now "Oh, no, we are opposed to voluntary contributions; we want it to be mandatory," that is what they would be saying by voting no. "We do not want voluntary contributions. We want mandatory taxpayer support." What they would be really saying is when we had the 49-to-46 vote, it was about spending limits and, really, that is what we are concerned about and not about the public financing aspect because there is an opportunity for use to express ourselves on voluntary versus mandatory.

So I will not take any more time of my colleagues. We have many more amendments to consider. But I would ask my colleague, on the other side of the aisle, one question. If he is concerned about us having accounting expenses, and so on, if we were to pay all accounting expenses and overhead expenses for operating the fund also out of the voluntary contributions, and we were to offer to modify the amendment, would that cause the Senator from Kentucky to support the amendment which I just offered.

Mr. McCONNELL. I say to friend from Oklahoma, there is still the question of postal subsidy which we estimate to be about \$31 million a year.

Mr. BOREN. That is a separate issue.

Mr. McCONNELL. It is a taxpayer funding issue, I say to my friend from Oklahoma, which, I think, is what all of this has been about. There are an awful lot of people on this side of the aisle who do not support spending taxpayers' funds in any way, shape, or form on our campaigns.

I wish we could move on to some of the other amendments we have pending over on our side. We voted on this issue time and time again beginning last Monday night and I know there has been some concern on the part of the Senator from Oklahoma that we move forward on the bill. Say, we leap to do that. We have amendments in the waiting.

Mr. BOREN. I say to the Senator from Kentucky, I am not going to prolong the matter. We are going to vote in just a moment.

But as to the payment for the vouchers and the standby funds which would be provided in case one candidate did not abide by the spending limit, these funds which, I presume, if the Senator from Kentucky is tabulating the postal subsidy at \$31 million and he used the figure \$150 million, that means another \$120 million. I do not happen to agree with those numbers.

We have an item now to make the \$120 million out of \$150 million he

talked about clearly voluntary as opposed to taxpayer funding, and my question to the Senator is, in terms of those particular programs, if we were able to make it clear that also the overhead expenses, auditing or accounting expenses would also come out of voluntary contributions, would he then want to join me in supporting this amendment since it would be clearly stating that as to those portions, it would be voluntary and not mandatory taxpayer funding?

Mr. McCONNELL. I say to my friend from Oklahoma, what I would be happy to agree to is to reconsider the vote of Monday night. It was clear. It was unambiguous. The vote was on the issue of whether or not to strip all taxpayer funding from this bill. If we want to make the statement in this body that we are against the use of taxpayer funds in our campaigns, I would respectfully suggest to my friend from Oklahoma let us go back and vote on the one clear amendment we had on this subject before this body, and if there is as much concern on the other side as I hear there may be now about the question of using taxpayer funds, maybe the amendment of the Senator from Kentucky will pass this time. That will give me great hope that we might be able to get a majority this time.

Mr. BOREN. Madam President, the reason I hope that amendment would not pass is it would make it impossible to have spending limits and stop the runaway money chase. I think what is clear, and crystal clear, in the course of this debate is the concern about the inducements that were in the bill that were offered to be stripped out of the bill. Inducements to have spending limits on Monday night was a concern clearly about spending limits because we, obviously, were giving those on the other side of the aisle, and I do hope that we will not just have a knee-jerk reaction here but that people will read this amendment, understand what it is about when we come back to the floor to vote on it, that we are giving them a chance to show they are serious about being concerned that these contributions be voluntary and not mandatory taxpayer funds.

I hope that those who have been misled in the media in the past about what the real concerns are would sit up and take notice that here is an opportunity to vote on whether or not we are going to have voluntary financing or not.

I yield the floor.

The PRESIDING OFFICER (Mr. LIEBERMAN). The Chair recognizes the Senator from Nebraska [Mr. Exon].

Mr. EXON. I thank the Chair.

Mr. President, I ask unanimous consent that the clerk read the amendment that has just been sent to the desk by the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, the clerk will read the amendment.

The bill clerk read as follows:

On page 26, line 12, after the word "fund" strike the "and" and insert "it is the sense of the Senate that such fund will be established exclusively with monies derived from income tax refunds due the person or additional amounts included with the person's return and not from any income tax liability owned by the person to the Treasury."

Mr. EXON. Mr. President, I only asked the clerk to read the language because it is identical with the amendment that I just threw in the wastepaper basket that was originally drawn by staff. It had the sense-of-the-Senate concept in it.

I struck the sense-of-the-Senate concept because I wanted something even stronger than an indication from the U.S. Senate that we are not for public financing of campaigns, as we have been attacked for doing time after time by those on that side of the aisle.

I say again I was absolutely astonished when those on that side of the aisle who are supposedly against campaign financing by the public voted against the amendment that I just offered that would have assured us that that would not happen.

The vote was a very interesting vote, I think, on the last measure and, therefore, I am not as happy with the amendment offered by the Senator from Oklahoma as I was with the amendment that I offered that was even stronger because it eliminated the words "sense-of-the-Senate." The amendment in the bill that I offered, with the help of my colleagues from Nebraska; the Senator from Wisconsin [Mr. KOHL], and the Senator from Michigan [Mr. LEVIN], left no doubt that we were not going to have taxpayer financing of these services.

It is something like the measure that was passed on Monday night that there has been so much reference to here. I suppose that those on that side of the aisle would, indeed, want to talk about that particular measure.

The press ate up their rhetoric. They scooped it up and they stuffed it into their mouths and they put it on their screens and it appeared in the newspaper clear across the country that Republican move to stop taxpayer financing of campaigns fails. I thought that was a misnomer. But I would simply say that I was a Senator that crossed over and voted with the Republicans on that because I am very sincere and I am concerned about general taxpayer financing of this effort.

That is one of the reasons, Mr. President, that I struck the sense-of-the-Senate proposition and said the Senate would bar it.

With regard to the concern in the House of Representatives and the message that we received in a very timely fashion on this side of the aisle during

the debate; whether that was just happenstance or not, this Senator will never know. Up until that time I believe the amendment would have passed. But it was alleged that the House of Representatives would object to the amendment that we offered because somehow it treaded on their prerogative, and they certainly have a right as a separate independent body to make that observation whenever they want.

I did some inquiry and I also find out that there is some concern in the House of Representatives about the whole section of creating the fund. When I asked about that I was advised they are concerned about it, but they are not making a determination of that right now.

The worst that could have possibly happened, had those on that side of the aisle who proclaim they are against taxpayer financing and those on this side of the aisle that were not dissuaded by that instantaneous message, I think that the measure would have passed and we would have settled, for all practical purposes, the matter of taxpayers financing as far as a Senate bill is concerned. But had we done that, it would have gone to the House of Representatives and indeed the House of Representatives may have "blue-slipped" that, which means they could have just said it was a violation of their initiatives and they could have sent it back over to us. If that were the case we could have changed it and sent it back to them. Or they could have taken a more reasonable mode and changed that in some form as they passed their version of the bill on that side and let us work it out in conference.

This Senator remains opposed to direct or indirect general public financing of campaigns. But it seems to me that we have to move ahead and get some kind of a campaign reform package.

I could not imagine that those on that side of the aisle who voted overwhelmingly against the proposal that myself and the three others just offered, I could not imagine they would not agree to the sense-of-the-Senate version of that when they voted down a tougher measure. But those on that side of the aisle who have been lamenting against taxpayer financing cast a strange, strange, weird, weird vote indeed when they cast votes against the amendment that myself and my three colleagues offered.

So I guess the only position that I can find myself in at the present time, Mr. President, is to reluctantly support the amendment that I first considered introducing because the better amendment in my view failed the consideration on basically that side of the aisle.

I yield the floor.

The PRESIDING OFFICER. Is there further debate?

Mr. KERRY. I just wanted to ask the Senator from Oklahoma a question. The Senator has been talking about mandatory versus voluntary contributions. I would just like to ask him: Is the current Presidential check-off system mandatory or voluntary?

Mr. BOREN. Let me say the current Presidential system is a voluntary system in the sense that the citizen does not have to check it off. It does divert funds or designate funds out of previously owed tax liability. So let us then say the taxpayer owes \$100 in taxes. The taxpayer has a right to voluntarily check a box designating—I have forgotten whether it is \$1 or \$3—\$1 to go to this fund. So it is a voluntary action on the taxpayer to say "I want \$1 of what I owe in taxes to go into a fund to fund the Presidential system."

Mr. KERRY. But there is no mandatory taxation.

Mr. BOREN. There is no mandatory requirement that any taxpayer has to check that box and make that designation.

Mr. KERRY. There is no mandatory confiscation of any funds from a taxpayer.

Mr. BOREN. That is correct.

Mr. KERRY. And there is no mandatory entitlement on the part of Government of any taxpayer funds.

Mr. BOREN. That is absolutely correct.

Mr. SANFORD. Mr. President, may I ask the Senator from Oklahoma, in this instance, for these campaign funds, the difference is that this money does not come off a tax bill; it is in addition to the tax bill.

Mr. BOREN. The Senator is correct.

Mr. SANFORD. So this is truly a voluntary contribution that the individual makes to the campaign fund.

Mr. BOREN. The Senator is correct.

Mr. SANFORD. I think this is a great idea. It is just a massive, nationwide fundraising event, voluntary fundraising event. The Government simply provides the role of host to collect it. The great thing about it is that it seems to me that here we have thousands and thousands and indeed millions of people that can contribute \$3 to wholesome campaigning in American politics, and we do not just have rich people coming up to the table and making contributions.

Mr. BOREN. I thank the Senator from North Carolina for his comment. He puts it in a very refreshing way. What concerns so many of us is, as many of us go in and out of these fundraisers, it is only people very often that are there that have \$500 or \$1,000 or maybe even \$2,000 a couple to come in to this so-called power fundraisers around Washington, D.C. and other places.

No wonder the citizens back home begin to get cynical about their Government. They are saying: Do I have the same say? Do I have as much influence with my Senator as that person that could afford to go to that \$1,000 fundraiser that I cannot?

I think citizens all across this country, when we set up this voluntary procedure, how good they would feel about going to a \$1 a person fundraiser hosted by the Government, that we could all afford to participate in that, then the citizens would know it was not just some special interest or somebody, just because they had a lot of money or some interest group, who could go to their Government, and they would all feel a part of it and they would know they had as much say as someone else.

I think the Senator from North Carolina really puts it in a very eloquent way in terms of what we are trying to do. We are trying to get this Government back to the people. We are trying to get the way we fund our campaigns back to the people. This would be an invitation for them to voluntarily participate.

I think for the sake of clean Government and getting their Senators out from under special interest financing and running all over the United States for \$1,000 a person fundraisers, I believe the people would welcome an opportunity like this.

Mr. SANFORD. Mr. President, I say to my distinguished colleague from Oklahoma, I would agree with that. I disagree with our colleague from Kentucky and his pessimism that people will not want to participate. I think you will find people eager to say this is one way I can do something about cleaning up Government, cleaning up campaign expenditures. I think it is something they are going to receive very well.

Mr. BOREN. I thank the Senator. I would just conclude by saying to the Chair that this amendment is very clear. If you are for voluntary contributions, you vote yes for this amendment. If you are for mandatory taxpayer funding, you vote no. It is a very simple question. Now let us just see.

That is all the amendment is about. It is not about any other subject. Will the checkoff be voluntary or mandatory?

We have heard so much about public funding and we have attempted to cloak the issue of spending limits by talking about it as if it were public funding.

I think it is time to call the roll to see where people stand on this issue. Are they concerned about making it voluntary? Do they want campaign reform or do they want an issue?

Mr. President I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate? The Senator from Kentucky [Mr. McCONNELL] is recognized.

Mr. McCONNELL. There is really no need to prolong this. The vote on whether Senators were in favor of stripping public funding out of the bill before us was Monday night. My good friend from Nebraska supported that amendment. We were pleased to have him on our side. Every single Republican supported that amendment. That was the vote on whether or not Senators were in favor of spending a single dollar of tax money on our campaigns.

With all due respect to my friend, Senator BOREN, and others, this vote is simply an attempt to mislead the American people into thinking we are somehow not in the process here of voting for a new program, an entitlement program for our campaigns that will be funded with tax dollars.

So I urge all Senators who have already had a chance to vote on the critical issue Monday night to not confuse the issue, not support this amendment, which attempts to confuse the American people as to where we are on the spending of tax dollars for our campaigns, and to oppose the sense-of-the-Senate resolution of my good friend from Oklahoma.

In addition, the sense of the Senate does not go to the mail subsidy. The mail subsidy continues to exist to the tune of \$31 million a year.

I think the only clear message to send is that we do not want any tax dollars spent on our campaigns. We had that vote the other night. Every vote we have had since then is an attempt to confuse the issue, and I urge my colleagues to vote against this sense-of-the-Senate resolution.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I did not intend to speak, but I listened to the comments of the distinguished Senator from Kentucky and I do want to respond. I want to respond because, as the principal proponent of that measure that did encompass originally public funding, I am sensitive to the notion that the motivation for this amendment is being stated as being a subterfuge, somehow an effort by colleagues of mine on this side to mislead the American people.

The Senator from Nebraska and I happen to disagree, I can say 100 percent, because I have spent a couple of months trying to persuade him. But the Senator from Nebraska is here because he opposes the spending of any public money. And that is the sole motivation behind this amendment.

Would that I had persuaded him otherwise, and a number of other colleagues on this side of the aisle. But the reality is the original proposal of Senator BIDEN, Senator BRADLEY, myself, and others, was to draw from the Federal Treasury in the event that there was not enough money in the fund.

It was because of the lack of the capacity to build a majority on that notion that an alternative, a modernization of that was then proposed, which also lost. That moderation, that alternative, gave up the idea of drawing from the Federal Treasury and proposed a purely voluntary checkoff which, if there were not sufficient funding, would have then seen individuals required to go out and raise enough money themselves just as we do under the current system, so that there would not have been any draw-down on the Federal system or Treasury.

That, too, lost. So, I can say that the motivation of the Senator from Nebraska and those colleagues who joined him because they were opposed consistently to that effort on this side—and they are the reason it is not now part of the bill—is a legitimate and bona fide intent to state their attitude and their belief about the public funding issue.

So I think it is inappropriate for the Senator from Kentucky to allege there is somehow this motivation to mislead the American people. This particular amendment, this resolution with respect to a sense of the Senate, does not talk about the mailing. It talks only about the fund. And that fund is a compliance fund. And that is the only way we can have limits in this bill.

So again we differ with the characterization of the Senator from Kentucky as to what the vote was about on Monday. I have been involved in the negotiations since day 1 on this issue, and the great dividing issue has consistently been the question of limits. We want limits. They have not wanted aggregate limits. And the only way we can have limits is to have the compliance capacity, the enforcement fund. It is the only way to do it and stay constitutional within the framework of the Buckley versus Valeo decision.

So the vote on Monday was very clearly whether or not we would have the ability to enforce limits. And the vote today is very clearly an expression by some of my colleagues, as I say, of how this fund and only this fund will find its revenue.

I think their intent is bona fide and I think it ought to be reported so.

I yield the floor.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on

agreeing to the amendment of the Senator from Oklahoma.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. I thank the Chair.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on agreeing to the amendment of the Senator from Oklahoma. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. DODD). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 55, nays 44, as follows:

[Rollcall Vote No. 200 Leg.]

YEAS—55

Adams	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Gore	Moynihan
Bingaman	Graham	Nunn
Boren	Heflin	Pell
Bradley	Hollings	Pressler
Breaux	Humphrey	Pryor
Bryan	Inouye	Reid
Bumpers	Jeffords	Robb
Burdick	Johnston	Rockefeller
Byrd	Kassebaum	Roth
Conrad	Kennedy	Sanford
D'Amato	Kerrey	Sarbanes
Danforth	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dixon	Levin	Wirth
Dodd	Lieberman	
Exon	Metzenbaum	

NAYS—44

Akaka	Gorton	McConnell
Biden	Gramm	Murkowski
Bond	Grassley	Nickles
Boschwitz	Harkin	Packwood
Burns	Hatch	Riegle
Chafee	Hatfield	Rudman
Coats	Heinz	Simpson
Cochran	Helms	Specter
Cohen	Kasten	Stevens
Cranston	Kerry	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Durenberger	Mack	Warner
Garn	McCain	Wilson
Glenn	McClure	

NOT VOTING—1

Armstrong

So the amendment (No. 2449) was agreed to.

Mr. BOREN. I move to reconsider the vote by which the amendment was agreed to.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, if I could have the attention of Senators, we have been working together on both sides of the aisle to come up with a list of all of the amendments we know of that Members intend to offer. I have a list of approximately a dozen amendments. Let me go down them.

A number of these have now been cleared on both sides, it is my understanding, for time agreements. So before going into the question of sequencing, let me list these amendments and ask unanimous consent that there be a time limitation of not to exceed 30 minutes equally divided on each of these amendments, and then no amendments in the second degree would be in order to each of these amendments. Let me list these amendments now that I understand have been cleared on both sides:

A McCain amendment relating to spending limits in compliance official expense fund; a Hatch amendment relating to the Beck decision; a Roth amendment relating to free broadcast time; a Danforth amendment relating to the lowest unit rate to political candidates and shortening the time period when the lowest unit rate applies; a McConnell amendment relating to FEC audits and certification of lowest rate of broadcasters, which would be the only one that would require a 40-minute time limitation—the others I have just named would be 30 minutes—a Rudman amendment requiring broadcast time to be sold to candidates at some fraction of lowest unit rate; a Danforth amendment providing vouchers would only be used to purchase 5-minute time advertisements; a Helms amendment relating to compulsory union dues; an amendment by Mr. GRAHAM which relates to foreign agents disclosure. There is another Graham amendment on which there is not yet an agreement on time; a Nickles amendment relating to the percentage of contributions that a candidate may receive from outside the State.

Let me list them again: The Nickles amendment; the Graham amendment on foreign agents disclosure; the Helms amendment relating to union dues; Danforth, two amendments: one on vouchers of 5-minute time, and one on lowest unit rate; McConnell amendment, for 40 minutes—all of these I have named being 30 minutes—relating to lowest unit rate; Rudman, relating to lowest unit rate; Hatch, relating to the Beck decision; and McCain, relating to spending limits in compliance with official expense fund.

Mr. President, I ask unanimous consent that the time on all of those amendments, which I understand has been cleared in terms of the time limitations on both sides of the aisle, be limited to 30 minutes, with the excep-

tion of the McConnell amendment, which would have a 40-minute time limitation.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object, Mr. President, as I mentioned to my friend from Oklahoma privately a minute ago, on this side we are having a conference at 5 o'clock, and there are a number of us who would like to attend that and be accommodated. I was diverted during the list. The McCain amendment is 30 minutes equally divided—

Mr. BOREN. Let me go down the list. All of these would be 30 minutes except for McConnell, McCain; Hatch on Beck; Roth on free broadcast time; Danforth, lowest unit rate; McConnell audits and lowest unit rate; Rudman broadcast time; Danforth on the 5-minute advertisements; Helms on compulsory union dues; Graham the second Graham listed here, one relating to foreign agents, not the other Graham amendment; the Nickles amendment relating to out-of-State personal campaign contributions. Those would all be 30 minutes.

I understand those are the ones that have been cleared on both sides of the aisle, except the McConnell amendment which would be 40 minutes, equally divided, with second-degree amendments not in order.

Mr. COATS. Mr. President, reserving the right to object, I wonder if I might inquire. Is this an exclusive list?

Mr. BOREN. No. I say to my friend from Indiana, this is not meant to be an exclusive list. We have some other amendments than here listed. But we have not yet been able to clear them for time agreements. This is merely those that we thus far think we have been able to clear from time to time.

Mr. STEVENS. Reserving the right to object, is this meant to be in order of presentation?

Mr. BOREN. No. this is not meant to be in order.

I have an amendment by the distinguished Senator from Alaska as well as I have not yet been able to clear on both sides with the time limitation. But the order in which I have listed them has no bearing necessarily as to what time or what order these amendments would be considered.

Mr. STEVENS. Is there any indication if an amendment is not listed on that it will not have access to the floor prior to the expiration of that list?

Mr. BOREN. Mr. President, there is nothing in the intent of the request of the Senator from Oklahoma that would give preference to these other amendments not yet considered. We are trying to lock in the amount of time for these amendments when they are called up.

Mr. DOMENICI. Reserving the right to object, Mr. President, I wonder if

you might list my amendment that we call the millionaire amendment.

Mr. BOREN. Is that the \$250 limit on out of State?

Mr. DOMENICI. I have two. That is one. The one I am referring to is we will just call it—

Mr. BOREN. Millionaire amendment?

Mr. DOMENICI. Yes. I do not need much time.

Mr. BOREN. Would the Senator like to suggest what time he would require on his two amendments?

Mr. McCONNELL. Mr. President, will the Senator yield?

Mr. BOREN. Mr. President, I yield the floor. My unanimous-consent request is pending.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object, I would like to add two more Senators to the list, Senator PRESSLER, postal subsidy, 30 minutes equally divided; Senator WILSON on independent expenditures, 40 minutes equally divided.

Mr. BOREN. I modify my request to add to those previously mentioned 30 minutes on a Pressler amendment on postal subsidies, 40 minutes on a Wilson amendment on expenditures, independent expenditures.

I am told by the Senator from New Mexico that he would accept a 30-minute time limitation on his millionaire amendment, and on his amendment dealing with \$250 limit on out of State contributions.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. Is there objection?

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me say to the distinguished Senator on the \$250 limitation for out-of-State contributions, I have a problem. I would like to discuss it. I do not think it will take very long. But Senator PACKWOOD wants to be here when I offer it. He does not want to agree to a time agreement. Yet I do not want to continue to agree to time agreements on all the other amendments. I would like mine to either precede or follow the Nickles amendment because they are kind of related.

Mr. BOREN. I understand. I ask unanimous consent that in sequencing, the amendment of the Senator from New Mexico might follow consideration of the amendment of my junior colleague from Oklahoma.

Mr. DOMENICI. I think he thought we would precede his.

Mr. BOREN. All right. I modify my request. In addition to the time limitations that I have requested on these amendments, I delete the 30-minute time limitation on the Domenici

amendment dealing with \$250 limits. I request that the consideration of the Domenici amendment on \$250 contribution limits be paired with consideration of the Nickles amendment so that is immediately precedes consideration of the Nickles amendment.

Mr. McCONNELL. Will the Senator yield?

Mr. BOREN. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Reserving the right to object, for the moment I am going to have to delete the Pressler and Wilson amendments from the request.

Mr. BOREN. All right. Mr. President, I again press my request, modifying it to delete from the request the Pressler amendment dealing with postal subsidies, and the Wilson amendment dealing with independent expenditures.

So if I might summarize for the Chair, there would be a 30-minute time limitation on the McCain amendment under this request, on spending limits; 30-minute limitation on the Hatch amendment on the Beck decision; a 30-minute maximum time limitation on the Roth amendment on broadcast rates; 30 minutes on Danforth on lowest unit rate; 40 minutes on McConnell on audits and lowest unit rate; 30 minutes on Rudman on lowest unit rate; 30 minutes on Danforth on 5-minute advertisements; 30 minutes on Helms on compulsory union dues; 30 minutes on Graham relating to foreign agents disclosure; 30 minutes on the Nickles amendment relating to out-of-State contributions; and in addition the request would be that the Nickles amendment and the Domenici amendment dealing with \$250 limits on which there would be no time limitation under this request would be paired with the Domenici amendment consideration preceding that immediately of the Nickles amendment consideration; and, that there be no second-degree amendments in order to these amendments.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BOREN. Mr. President, I add one additional request, and that is that the Domenici millionaire amendment have a limitation of not to exceed 30 minutes of time limitation on it when it is considered.

The PRESIDING OFFICER. Is there objection?

Mr. McCONNELL. Objection.

The PRESIDING OFFICER. Objection is heard. The previous consent however has been obtained. This was a separate unanimous-consent request.

(Mr. DODD assumed the chair.)

Mr. BOREN. Mr. President, I thank the Chair. Let me inquire of my colleagues, the distinguished majority

leader, the distinguished minority leader. Is it their desire that the managers of the bill proceed with amendments? If so, we are prepared to begin with the McCain amendment.

Mr. President, I suggest that we proceed with the amendment of the Senator from Arizona so that it may be laid down, and so that a portion of his time may be utilized. It will then be our intention to proceed to set it aside temporarily and proceed to final disposition of the amendment of the Senator from Florida [Mr. GRAHAM] relating to foreign agents disclosure.

I yield the floor.

Mr. McCain addressed the Chair.
The PRESIDING OFFICER. The Senator from Arizona [Mr. McCain].

AMENDMENT NO. 2450 TO AMENDMENT NO. 2432

(Purpose: Striking certain provisions allowing a candidate to exceed spending limits)

Mr. McCain. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. McCain] proposes an amendment numbered 2450 to amendment No. 2432.

Mr. McCain. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 9, strike lines 12 through 14.

On page 16, beginning with line 6, strike all through page 19, line 20.

On page 38, strike lines 5 through 20, and insert:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to elections occurring after the date of the enactment of this Act.

On page 46, beginning with line 15, strike all through page 51, line 9.

On page 51, line 10, strike "(c)" and insert "Sec. 304A(a)".

On page 52, line 5, strike "(d)" and insert "(b)".

Mr. McCain. Mr. President, I rise today to offer an amendment. Since we are giving amendments a name, this will be called the slush-fund-for-incumbents amendment, to help ensure that challengers running in 1992 not be placed at an unfair disadvantage against incumbent Senators under the spending limits proposal which is before us.

Mr. President, my amendment strikes two provisions in the substitute which are totally inconsistent with the stated goal of imposing strict limits on spending.

Mr. President, if we are serious about limiting how much incumbents can spend to get reelected, let us do it. Let us not be hypocritical by also adopting several clever little exemptions to strengthen our advantages as incumbents.

Two of these exemptions stand out, Mr. President—the grandfather clause for early spending by incumbents, and the establishment of a compliance and official expense fund. My amendment will strike both of these provisions from the substitute bill.

Mr. President, on May 11, 1990, there was an article in the New York Times which I ask unanimous consent to be printed in the RECORD at this time.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the New York Times, May 11, 1990]

ALTERED CAMPAIGN BILL AIDS SENATORS

(By Richard L. Berke)

WASHINGTON, May 10.—Several Senate Democrats who face re-election in 1992 have engineered new provisions in their party's campaign financing bill that would allow their campaign organizations to spend hundreds of thousands of dollars beyond the legislation's spending limits.

While warning that the move will have the appearance of protecting incumbents, Senator George J. Mitchell of Maine, the majority leader, has gone along with some changes from the stricter rules that were passed by the Senate Rules Committee, several senators said. But they also said Mr. Mitchell had pressured his colleagues into scaling back some revisions they wanted to include.

The centerpiece of the Democratic bill, scheduled to be introduced in the Senate on Friday, is a system through which campaigns of incumbents and challengers alike would be eligible to receive subsidies of public money if the candidates agreed to accept limits on their total spending. The limits would apply to the primary and general elections together and would vary according to the state's voting-age population, ranging from \$1.5 million to \$8.2 million.

The revisions from the bill as passed by the committee would free the 20 Democratic and 14 Republican Senators who are up for re-election in 1992 from counting their early spending toward the new limits. The changes would also allow incumbents to exempt certain campaign costs from the limits. The effect would be that incumbents could spend hundreds of thousands of dollars more than was intended under the legislation.

"INCUMBENT-PROTECTION" BILL

It is not unusual for major bills in the Senate to be altered by party leaders between the time they are approved by a committee and the time they are introduced on the floor.

"I was very worried that this all was beginning to look like giant incumbent-protection legislation," said Senator Joseph R. Biden Jr., Democrat of Delaware, who argued against the changes in several long meetings of Democratic Senators in recent weeks.

Mr. Biden said in an interview that he was concerned the changes could undermine the party's commitment to curtailing campaign spending. The Senator said the revisions did not go as far as some of his colleagues had proposed, and he found that heartening. But he said he was still concerned that the legislation "appears very hypocritical."

Senator David L. Boren of Oklahoma, Democrat who is the leading sponsor of the bill, said he had misgivings about efforts to

change it, and described Mr. Biden's concerns as "real legitimate." He said that the bill as revised gave "a slight advantage" to incumbents, but that he was comfortable with its current form.

"I think what we ended up with is defensible," Mr. Boren said. "What's miraculous to me is that we've come out with a bill that's as restrictive as this one is."

The bill would apply to all Senate races beginning in 1992, which is considered a critical election year because 11 first-term Democrats, an unusually large number, will face re-election.

SENATORS WHO URGED CHANGES

Several senators and their aides said the Democrat seeking re-election in 1992 who were most vocal in pushing for the revisions were Tim Wirth of Colorado, Tom Daschle of South Dakota, Kent Conrad of North Dakota, Patrick J. Leahy of Vermont and Harry Reid of Nevada. All but Mr. Leahy are in their first terms elected in 1986.

Two Democratic senators who are seeking re-election this year, John Kerry of Massachusetts and Max Baucus of Montana, were also outspoken in advocating some of the changes, people familiar with the discussions said.

One major revision in the legislation would exempt certain expenditures by campaign committees from the limits. It is current practice for senators to charge many expenses to their campaigns, like some travel and entertainment of supporters, so they can free more of their office money for other purposes, like staff salaries.

Some senators argued that such costs were more related to their official duties than to campaigning, so the Democrats wrote new provisions for the bill that specifically said the cost of a senator's spouse or children traveling between Washington and the member's home state would not count toward the limits. Rather than include other specific exemptions, the bill was revised to include a broad new exemption that "costs of any ordinary and necessary expenses incurred in connection with an individual's duties as Senator" would not count against the limits.

Although several senators had sought an unlimited exemption for such expenditures, Senator Boren said he and Senator Mitchell had pushed through a compromise that would limit the exemptions to 15 percent of a candidates' total spending limit or \$300,000, whichever is lower. The effect of that would be that a senator's campaign could spend 15 percent or \$300,000 above the limit for costs the senator said were necessary in his official duties.

Senator Kerry argued that it was only fair that there be "some adjustment for day-to-day expenses of running an office." As an example, he told his colleagues that his campaign had spent a large sum on computer lists of his constituents and that he did not think this should count toward a campaign spending limit.

Mr. Kerry dismissed the argument that senators should not get the exemptions because they already benefited from other incumbency advantages, like free mailing and large official staffs.

"Incumbents are giving up an enormous amount in this bill," he said. Senators are able to "raise about as much as they need to win," he said, but by accepting spending limits, they sacrifice the right to do that, he said.

Another change would apply specifically to the 1992 campaign. Under the bill ap-

proved by the Rules Committee, and spending for that election would have counted toward the limit. But the Democratic Senators changed that to apply only to spending that occurred after the bill's enactment. This would affect both incumbents and challengers, but it is generally seen as benefiting incumbents because there are not likely to be many announced challengers by the time the bill is enacted, presumably this fall.

"I don't want a special rule for incumbents," said Senator Leahy. "All I want is specific rules so people are treated the same."

Senator Daschle, one of those who backed the changes, defended them by saying he had already spent large sums for this 1992 campaign that he might have used differently had he known the money would be counted toward a spending limit.

The provision that delays the effective date of the limits, he said, is "what we call a fresh-start approach—up until the time the election cycle begins, nothing we raise or spend will be counted against us."

Other senators who had encouraged the revisions did not respond to requests for interviews. Mr. Mitchell could not be reached for comment.

Mr. McCAIN. Mr. President, I just will read briefly from it.

"Altered Campaign Bill Aids Senators."

It starts out:

Several Senate Democrats who face re-election in 1992 have engineered new provisions in their party's campaign financing bill that would allow their campaign organizations to spend hundreds of thousands of dollars beyond the legislation's spending limits.

While warning that the move will have the appearance of protecting incumbents, Senator George Mitchell of Maine, the majority leader has gone along with some changes from the stricter rules that were passed by the Senate Rules Committee, several Senators said.

*** The centerpiece of the Democratic bill—

Et cetera.

And it says:

The revisions from the bill as passed by the committee would free the 20 Democratic and 14 Republican Senators who are up for re-election in 1992 from counting their early spending toward the new limits. The changes would also allow incumbents to exempt certain campaign costs from the limits. The effect would be that incumbent could spend hundreds of thousands of dollars more than was intended under the legislation.

Mr. President, it is very difficult for me to elaborate on what was written in the New York Times. The fact is that the original bill that came out of the Rules Committee had no provision for the "early spending" that had already taken place prior to the 1992 campaigns.

Mr. President, an enormous amount of money has already been spent. Incumbent Senators up for reelection in 1992 raised \$25.8 million through the end of 1989. These same Members have spent \$19.8 million on campaign activities.

Under the supposed grandfather clause, as part of this so-called even, equitable, fair playing field for challengers, all of this money would be exempt from any spending limit. Frankly, it is an outrage and an insult to the intelligence and the integrity of Members of this body, if they would allow such a thing to go on.

I hope that the discussion on this is brief, and I hope we recognize it for what it is, and knock it out quickly. I want to move to the compliance and official expense fund. Remember those words, "official expense." That is the key to this little slush fund.

The second issue: this provision allows the Senator to exceed his or her spending limit by 15 percent of a State's limit, up to a maximum \$300,000.

The first question that pops into mind, Mr. President, is, why do we have an additional 15 percent, or a maximum of \$300,000? Why not just raise the level of spending limits? If we want the incumbents to have another 15 percent, another 300 grand, just raise it. No.

The reason we have it in there, Mr. President, is because incumbents can spend this money with much greater ease and in much different ways than the challengers. In fact, when we talk about qualified official expenditures, that is available, according to FEC law, only to Federal officeholders.

So although the challenger can indeed spend some moneys for legal assistance, et cetera, the incumbent can spend it in a broad variety of ways, which would, obviously, give him additional help.

I quote from section 439a of the Federal Election Campaign laws:

Amounts received by a candidate as contributions that are in excess of any amount necessary to defray his expenditures, and any other amounts contributed to an individual for the purpose of supporting his or her activities as a holder of Federal office, may be used by such candidate or individual, as the case may be, to defray any ordinary and necessary expenses incurred in connection with his or her duties as a holder of Federal office ***

In other words, a nonholder of Federal office does not have that.

There have been many public statements about, and my good friend, Senator BOREN, complained about the money chase, which he claims requires Senators to raise \$15,000 a year to finance a reelection campaign. This proposal permits Senators to keep fundraising at this level for 20 more weeks in order to pay for qualified official expenditures.

My friend from Oklahoma will, with some justification, talk about the obligations of an incumbent. You have to take somebody to lunch, and you have to go here and there. My friends, yes, he has to take somebody to lunch, right after he uses his free phone to call them up; he uses free stationery

to thank them; he uses the free secretary to do the typing; and he probably goes down to his free parking place and leaves after he has had lunch with them.

Mr. President, the incumbents have ample advantages without this kind of slush fund. I hope that the Senate will act, with all due knowledge and respect for fairness.

Last night, Mr. President, we refused to eliminate the rollover funds because of some objections that were raised. But the fact is, we now have in law the ability of an incumbent to roll over millions of dollars from one campaign to another. Now we are going to establish a slush fund and exempt all incumbents from some \$25 million that they have already raised and spent as being exempt from these limits.

Mr. President, the New York Times says:

Several senators and their aides said the Democrats seeking re-election in 1992 who were most vocal in pushing for the revisions *** argued that such costs were more related to their official duties than to campaigning ***.

So the Democrats wrote new provisions for a bill that said that the cost of a Senator's spouse or children traveling between Washington and the Member's home State would not count toward the limits.

I guess to add insult to injury, Mr. President, not only is this \$300,000, unbelievable in itself, there is also a provision in law that it can be rolled over into the next campaign.

So, Mr. President, I hope, frankly, that we get a voice vote on this as rapidly as possible and correct this glaring injustice and return to the original bill that the Senator from Oklahoma supported that came out of the Rules Committee.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. ROBB). Who yields time?

Mr. BOREN. Mr. President, I rise in opposition to the amendment offered by the distinguished Senator from Arizona. I understand that there are some concerns that the Senator has expressed that we not have some huge amount of money available. He called it a "slush fund." I certainly oppose a huge amount of money being available, too.

We labored long and hard over trying to strike a reasonable balance, trying to put some kind of limitation on how much funding would be available that would not count against a spending limit for an incumbent, who is here for a 6-year term, and to set a figure that would not cause an unlevel playing field between an incumbent and the challenger.

At the same time, we have to be aware of the fact that until we want to change the nature of the United States Senate there are simply many

people here who are not millionaires, many people here who are not independently wealthy. While the income level of the Members of the Senate and net worth on the Members of the Senate on the average is far, far above that of the average American citizen, I do not think any of us here would want to finally see the Senate become an organization in which only those of immense wealth could afford to serve.

Therefore, we tried to strike a balance between some kind of reasonable figure for an account that would take care of those expenditures that are really obligatory on a Member of the Senate without leaving it so wide open that it would create an unfair advantage for an incumbent.

We also wanted to set the figure at a reasonable enough level so there would not be attempts to evade that particular spending level that would be set for what we have here called compliance fund to have a system that would really work, not one that people, because it was so inadequate, the first day we operated under the new law would try to find some loophole in it or some way around it, a system that would really work and practically strike that practical balance that is necessary to keep this kind of spending under control.

So there are several things about this fund that I should point out. First of all, it would be at a maximum of 15 percent of the spending limit for that particular State. If the spending limit for a State were \$1 million, that would be limited to \$150,000 during a 6-year period of time.

I hasten to point that out that is not for a year but during a 6-year period of time, and in very, very large States where there are even more obligations, the maximum amount could go as high as \$300,000 but in no case could it exceed \$300,000.

Even in those States with very large populations that have a spending limit of \$5.5 million under this particular bill 15 percent would be more in the neighborhood of \$750,000, and they would not be allowed to have more than \$300,000 at a maximum even in a very large State in what is here designated the compliance account.

Why do we need to have such compliance account? Mr. President, in the first place, there are certain records that have to be kept. If we want to be scrupulously honest about keeping our campaign affairs separate and apart from our personal affairs or our official office account affairs—and I think virtually all the Members of the Senate, all of those with whom I am familiar, try very conscientiously to keep their campaign activities separate and apart from their office activities—in other words, they do not try to pay people on the public payroll to maintain their records and their accounts, they do not try to operate

campaign operations out of the Government office space, they do not try to put their own personal accountants or their lawyers who prepare reports for the Federal Election Commission on their office payrolls and have them do campaign work, they want to be scrupulously honest about it, and therefore they pay them separately out of campaign accounts.

Since we are operating in a 6-year election cycle and we are in office for a 6-year term, these expenditures begin immediately after an election is over and continue throughout a 6-year period.

On the other hand, someone seeking to run for the U.S. Senate, perhaps becomes a candidate only 6 months before the election and has no obligation to file reports with the Federal Election Commission during this period of time, has no obligation to have accountants and lawyers if you are going to be extra careful with these reports and prepare them and have no requirements to have bookkeepers and people keeping these records and other things that are related to the requirement through an entire 6-year period to file these records with the FEC.

So, Mr. President, I think it only fair that since those kinds of requirements are not imposed upon others but are imposed upon those currently in office during the whole 6-year period of time, there be some ability to comply with the law, not encouraging people to violate it, but to comply with it, to be able to pay for these kind of expenses of complying with the requirements of the law itself, and that is one of the purposes of the fund that we have called the compliance fund.

Unless you are independently wealthy, how would you pay for your accountant, the lawyers, the bookkeeper, and the others that fulfill these functions and requirements of maintaining certain campaign records? That is one thing right from the beginning.

Many times people are not able to get people to volunteer their services or they are not satisfied with the quality of the volunteered service. They want to make sure that those people take very seriously the work and the accuracy of the reports. And, therefore, I know, myself, I pay a CPA, for example, to go over my reports to make sure that my reports are fully accurate. I do not rely upon nonprofessionals or upon volunteers to do that kind of work.

In addition, we are confronted with all sorts of official obligations as a result of serving in the U.S. Senate. There are many situations, for example, in which you are called upon to go back to your home State for a particular public appearance at which it would be considered an offense if your spouse did not accompany you, if you

happen to have a spouse. There are many events that involve both husbands and wives that are events of State, public functions, not political functions, literally public functions that are a part of the duties that we are expected to perform.

Mr. President, again this Senator is not in a position—I have no independent source of income other than my compensation for being a U.S. Senator. I do not have large amounts of stocks and bonds. I wish I were in that position. I think I could adjust my standard of living without too much difficulty if I did have access to those kinds of resources. And I use myself just as an example. There are others with numbers of children in college and other obligations who certainly face even more severe situations than this Senator.

We really are then faced with a choice of not making it possible, unless you can have a fund set up that allows this to happen, for example, to take a spouse back to the home State, and in some cases let me say with air fares as they are with deregulation, if you happen to live in a part of the country where there is not a direct flight, those air fares, even at coach, can run \$800 or \$900 or \$1,000 for one round trip on a weekend for some public function that you would perhaps not even consider attending if you were not a U.S. Senator, and your wife or spouse would probably not really willingly want to attend either. But out of a sense of duty and public responsibility you do attend and your spouse does attend, and you are expected to do so.

I do not think there is anything sinister about that. That is an obligation that is not imposed on other people who are not in this office.

Let me say I think, therefore, what we want to do is strike a balance. Let us not have some huge unlimited fund of \$1 million, \$2 million, the sky is the limit, that could be used as Members of the Senate for all sorts of purposes that would not apply against the spending limit. That would not be right.

On the other hand, I do not think it would be right for those, especially those who did not have independent means to pay bookkeepers and accountants out of their own pockets or to enable, for example, their spouses to accompany them to public events where they are both expected to appear, to be deprived of the ability to function in this way or to be deprived really of the ability to serve in the U.S. Senate with the same kind of capabilities as others who are of independent means.

I do not think we want to do that.

We also want to keep a level playing field, as I said, between the challengers who do not have to file such reports, who do not come under limita-

tions for money that they raise and spend prior to becoming declared candidates for office.

Let us take a Governor, for example. The distinguished Presiding Officer and I both have had an opportunity to serve as Governor of our State. Let us suppose that a Governor decides that he or she is going to seek a U.S. Senate seat but they are not going to make the public announcement until 3 months before the election; they are not going to start filing the reports.

For one thing, for the most part, in States, for example, very often candidates for the Senate are coming from other public offices in State government, they are not going to have any problem with expenditures of taking the spouses to public events; they are expected to be there. The first lady of the State, or the first man of the State if it is a lady Governor with a male spouse, are expected to be present.

Second, they do not have to disclose if they raise money to begin their computer operations, to begin other operations that would be very, very helpful in a U.S. Senate race; they do not have to disclose any of those expenditures or report them or count them against the spending limit until they officially announce to become candidates.

So those funds which are raised by a Senator which are used during an entire 6-year period to pay the cost of my complying with campaign laws and add further expenditures really related to being a U.S. Senator would all count against the limit of the Senator for over an entire 6-year period and only those under my example of the Governor who decides to run for the Senate and does not announce until 3 months before would be counted against the spending limit for that sitting Governor who is going to run for the Senate.

There is nothing perfect about the limit, I would hasten to say to my colleagues that we have set in this bill. There is absolutely nothing perfect about it. There is nothing exact about it. It is not engraved in stone.

I would be the first to say that you could argue, as some did when we were trying to put this together, some said it was entirely inadequate, that it particularly discriminated against those from the Western States and those from States farflung from Washington that had even higher expenditures.

There were others from large States with the \$300,000 limitation because of the cost of recordkeeping being even higher.

There were others who said it could have been lower and that we should have tried to constrain it even further.

So there is nothing perfect about the figure that we derived. What we did try to do was develop a concept that was fair, that would stand the light of day, that would require that

all of these expenditures would be disclosed.

I think that is very important. We do not want people operating out of the hip pocket and not disclosing these expenditures. These expenditures would all be required to be disclosed principally to the FEC and, of course, these expenditures would also all have to meet the standards that would be required under the rules of the Senate, the ethics rules of the Senate.

So, Mr. President, I would just say that I think it would be unfortunate if this amendment were stricken from the bill. I do not think we have here sought an undue advantage for incumbents. I do think we have to be very sensitive, and I hope my colleagues who are of greater means than others who serve here would be very sensitive to the problems that are faced by people of limited means and to the pressures that are already here on family life, for example, in terms of families to have an opportunity to be together.

I think we should also be sensitive to the fact that those that are apt to be running for office and filing for the Senate are not under the same kind of obligations and constraints over a 6-year period of time of having their expenditures, the very same expenditures that we might be making, count against their expenditure level because they do not declare their candidacy until the last minute and, therefore, they are constrained to the period of time to cover it.

I think it is imperfect, of course, but it is an honest effort to deal with a very difficult problem and to try to do so fairly, do so in a way that will stand the light of day, and do so in a manner that will have full disclosure.

I reserve the remainder of my time. The PRESIDING OFFICER. Who yields time?

Mr. McCAIN. Mr. President, I yield myself as much time as I may consume.

I am sorry that my friend from Oklahoma did not address the other part of the amendment, which is of course clearly an incredible inequity, and that is allowing those in the so-called class of 1992 to amass incredible amounts of funds and not count it against the spending limit.

I also noted with fascination and awe that those of us who are up for election in 1992 will receive \$150,000 a year if we are from a large enough State. Mr. President, this is outrageous.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BOREN. Mr. President, let me—

Mr. McCAIN. Mr. President, I still have the floor. Let me just finish my statement. I will not be much longer.

As to the terrible trials of having to attend a public function in one's home State, let me remind my colleague from Oklahoma, nothing in this amendment prevents the Senator from using his or her campaign account to fly his family around or to take constituents to a nice meal in the dining room. In fact, the parking is free, the stationery is free, the staff escort is free, the office is free, and the trip home is free.

Everyone recognizes, I say to my friend from Oklahoma, the enormous advantages that the incumbents have already. Let us not give them another \$300,000 a cycle or, in the case of those who are up for election in 1992, \$150,000 a year. This is just not fair. I believe that my friend from Oklahoma recognizes it. As the New York Times clearly pointed out, these changes were made at the urging of those who were up for reelection in 1992. Let us do away with it.

The fact is that if the Senator from Oklahoma wants to fly his wife to Washington, if he wants to go to a public function, if he wants to do any of those things, he can take it out of campaign funds.

No. 2, anybody who makes the argument that CPA's and lawyers are going to consume a great deal of money obviously has not been in a campaign, because all of us know it can be done on a volunteer basis. The committees can provide that assistance for an officeholder. And almost everybody that I know finds, according to the law, that those services are provided for free and exempt from counting as part of the campaign spending. So let us not even get into that aspect of it, of the problem of CPA's and lawyers.

Every incumbent, Mr. President, if he is going to be competitive, is going to have to start raising money fairly early on, maybe 3, 4 years ahead of time, and he is going to have to do the same thing. Only as my friend from Oklahoma left out, the official duties part of this slush fund is only applicable to the incumbent and not to the challenger.

I reserve the remainder of my time. The PRESIDING OFFICER. Who yields time?

Mr. BOREN. How much time remains to each side?

The PRESIDING OFFICER. The Senator from Oklahoma controls 1 minute 9 seconds; the Senator from Arizona controls 3 minutes 43 seconds. Who yields time?

Mr. BOREN. Mr. President, I yield myself the remainder of my time.

This is just simply for clarification. I hope my colleague might allow me, I do not know if there is enough time—

this is a question, not an argument—to ask this question and have his response.

Mr. McCAIN. Mr. President, I ask unanimous consent that my colleague be allowed to consume what time is necessary to respond.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BOREN. Mr. President, I thank my colleague for his courtesy.

I was trying to follow and I could not quite follow and our staff has had difficulty following the comment about the class of 1992, some special additional advantage being given. The Senator said I did not address that part of the amendment. It was probably because I did not fully understand it.

We do provide in the bill that, since we are coming into a transition and changing the rules in the middle of the game, that those funds already expended, raised and expended by the class of 1992, prior to enactment of the law would not be considered against the limit.

Was there an additional provision, or is that the provision that the Senator was addressing?

Mr. McCAIN. That is the provision I was describing, the second provision in the amendment. There are two provisions in the amendment.

Mr. BOREN. I understand.

I would simply say, in fairness to those up in 1992, since we are changing the rules of the game, that we should not retroactively apply these ceilings against expenditures that they have made before they knew any expenditure ceilings were going to be in place.

I understand what the Senator from Arizona has said. We have some difference of opinion about how we would characterize this fund. I think it is an honest difference of opinion. And I believe that I have already adequately spelled out my feelings about it and my reasons for being opposed to the amendment.

I will yield the floor at this point with this suggestion: that we might ask unanimous consent, if the Senator also wishes to complete his remarks and yield back time, that the vote on the McCain amendment to accommodate the Republican conference, that the vote on the McCain amendment might be scheduled to follow immediately upon conclusion or expiration of time of the amendment of the Senator from Florida [Mr. GRAHAM] which should be offered next on the floor.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The vote will be scheduled to occur immediately at the conclusion of the amendment offered by the Senator from Florida [Mr. GRAHAM].

Mr. McCAIN. Mr. President, again I thank my colleague from Oklahoma for his hard work over many years on this issue. I respect his intelligence, his hard work, and his dedication to fairness. I understand that when this bill was first passed through, the Rules Committee did not have this incumbent protection aspect of it.

Let me point out again, Mr. President, incumbent Senators up for reelection in 1992 raised \$25.8 million through the end of 1989. I do not know how much it is in 1990. And these same Members spent \$19.8 million on campaign activity. We are just going to wipe that all out. We are just going to say now the incumbent and challenger are on a level playing field. Surely, that is not the case, Mr. President.

I urge my colleagues to vote aye on this amendment so we can truly give challengers a level playing field, which is the desire and goal of all of us.

We cannot do that, Mr. President, by allowing incumbents to spend an additional \$19 to \$20 million and more already, and not have that counted against any spending limits that are about to be imposed.

Mr. BOREN. Mr. President, I have just been informed that it may be difficult for the Senator from Florida to come to the floor at this time. I had anticipated that he would be offering his amendment at this time, and we had scheduled all the amendments with that in mind.

I am not sure whether there are other Senators that might be prepared to come to the floor to begin a discussion of their amendment. So I might ask unanimous consent, and perhaps my colleague from Arizona, if he is returning to the Republican caucus, might inquire there.

Apparently Senator GRAHAM cannot offer his amendment until about 6:30. If my colleague could inquire in the Republican caucus of either Senator DANFORTH or one of the others who might be willing to come and do their amendment but not have their vote during the time, it would be appreciated. Perhaps I could now ask unanimous consent that the vote on the McCain amendment occur immediately following the expiration of time on whichever amendment is considered next, as we might be going to another amendment before the Senator from Florida.

The PRESIDING OFFICER. Is there objection? Without objection, the vote on the McCain amendment will occur immediately upon the expiration of time on the next amendment considered by the Senate.

The Chair recognizes the Senator from Arizona [Mr. McCAIN].

Mr. McCAIN. The Senator from Oklahoma is always welcome in the caucus to make that request himself, but I will relay that request when I

get there, and I hope we can bring up the Domenici amendment next if it is agreeable to my distinguished friend.

Mr. BOREN. That is certainly agreeable to me. If that is not possible, because I know Senator PACKWOOD wished to be on the floor when that is considered, I do notice Senator DANFORTH has two amendments that perhaps may not be very controversial. He might be willing, while the caucus is going on, to come forward and offer those two.

Mr. McCAIN. I understand my friend from Oklahoma is understandably growing a bit weary after 2 days of very intense and difficult debate on a very complex issue. Again, could I express my appreciation to him for everything he has done to further the cause of true campaign finance reform.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BRYAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, I think we have reached an appropriate point in this debate to try to put into perspective where we have gone on campaign reform legislation and where we need to go.

In 1971, the Congress enacted the Federal Campaign Act, which established a comprehensive system of campaign rules that has largely guided the election process since then. The law was strengthened with amendments in 1974, 1976, and 1979.

It may be remembered that as a part of the original comprehensive campaign reform, a central element was a restriction on the amount of money that could be spent for candidates running for Federal office. All of us in this Chamber are aware of the consequence of the Buckley versus Valeo decision, a decision which, in my view, has had unfortunate consequences for the political system, and a decision of which I believe the reasoning process does not hold up against logic or experience.

As a consequence of that decision, the limits imposed upon the amount of money that a candidate can spend for public office was declared unconstitutional.

The other elements of that campaign reform of 1971, with subsequent enactments, have largely remained in force.

As a consequence of the Buckley decision, over the last decade we have seen spending spiral out of control. We have seen the very nature of political campaigns undergo a dramatic trans-

formation, as both major parties are engaged in a campaign funds arms race. Mr. President, like all arms races, this one can end in only one of two ways: Disaster or arms reduction. The question may be asked, has our democratic system of Government suffered? In my view, the answer is yes, and I think that is a view that is largely shared by our constituents.

Unless we enact campaign reforms now, the system will undoubtedly suffer more in the decade ahead. The essential element of any campaign reform must be spending limits. The greatest vice in the American political system today is the amount of money it takes to run for public office.

There can be no real reform, no reform worthy of its name, unless we go directly to the source of the problem, and that is too much money spent in the electoral process. With no cap on spending, candidates are driven to raise larger and larger amounts of campaign funds out of fear of being outspent by their opponents. This fear affects both parties and is growing, not abating.

In 1976, the average cost of a U.S. Senate race was \$600,000. By the 1988 election cycle, the average Senate race cost approximately \$4 million, a 570-percent increase in 12 years.

Based upon the increase in spending between the last two election cycles, one can reasonably anticipate that by 1994 the average Senate race will cost nearly \$10 million. In my view, this sends an unfortunate message to the voters that increasingly their contributions are more important and more meaningful to us than their votes.

Honest men and women of both political parties are caught in a system which has no limit. Candidates, many of whom already serve in public office with a job to perform, spend an inordinate amount of time trying to raise campaign money. It is fair to observe, Mr. President, without partisan bias, that there is not a night in this city when the Senate is in session that one or more Senators do not have a campaign fundraising function in anticipation of his or her next campaign.

It is also fair to observe that in the process by which we consider legislation there are requests directed to the leadership of both parties: "Can you provide us a window in the evening, because I have an event?" An event, Mr. President, is a shorthand word of expressing there is a campaign fundraising event which I have organized in anticipation of the growing amount of money needed for reelection to the Senate. Candidates then, Mr. President, are pushed toward the focus of the almighty dollars. I believe this is wrong. I think the American public fully understands its implications and they believe it is wrong.

In addition to this phenomenon, we have also seen another transformation

that has occurred in the political process and that is the advent of independent expenditures. The advent of the ostensibly uncoordinated independent expenditure has driven the cost of the election process even higher. In the 1988 cycle, independent expenditures totaled \$21 million, and in my view, a view shared by many, constitute a growing abuse in the campaign system.

These so-called independent expenditures represent special interest money outside the limits imposed on either party's candidates. For example, Mr. President, in one 1988 Senate race, independent expenditures made by only one out-of-State organization reached nearly \$550,000, with the bulk of that money poured into that State in the closing weeks of the campaign. Frequently, those who run the independent campaigns choose not to advance a position in which that interest group has an ostensible interest.

The focus becomes the negative campaign, the 30-second spot that we have heard so much about, appealing to popular but emotional issues that are totally unrelated to the policies advocated by that organization. As a result, the public does not know the identity of the sponsoring organization, nor does it understand that organization's positions on legislative issues which, if known, in many instances would not be worthy of the support of the constituency.

Mr. President, we must not allow partisan politics to prevent us from enacting campaign finance reform now, including spending limits and other provisions to eliminate the abuse in the democratic election system.

I want to emphasize again that the need for spending limits is a crucial element of any campaign reform. Those who claim to support campaign reform but at the same time reject any meaningful limits on the amount of money that we can spend in running for the Senate stand for no campaign reform at all, and the American people ought to understand that.

In the 1988 elections, challengers were outspent by incumbent officeholders by more than 2 to 1. That ought to set at rest the notion that if we impose limits on the amount of money that can be spent in running for the Senate, somehow we bend or twist the rules to support incumbents.

Like many of my colleagues, I came to the Senate as a consequence of a challenge to an incumbent U.S. Senator. I think it is fair to say that the incumbent has an advantage under the present system which permits unlimited fundraising potential and that most challengers would be advantaged by placing a limitation on the amount of money one can spend in running for the Senate.

Early in the 1988 campaign in my own instance, I challenged my oppo-

nent to a meaningful, and I think a responsible, limit in the amount of money that we would spend in the Senate race in our own State. That was rejected. I suspect that is the experience of most challengers whose incumbent opponents have a decided advantage under the present system, and I believe that reducing the amount of money one can spend in running for the Senate would tend to encourage more candidacies and more challenges rather than discourage them.

I know I speak for many of my colleagues when I say that I came to the Senate not to spend my time raising campaign contributions early in my term. Instead, like most who are in this Chamber, I came because I wanted to spend my time working on interests that are vitally important in my own State and helping to formulate public policies on the issues that face our Nation.

I do not want, nor seek to retain, a system which automatically protects incumbents because they have the ability to raise a war chest far larger than most challengers. I do not want a system in which the voter feels that his or her vote is not as important as a contributor's dollar.

In the eighties, we have lived through a decade in which politics has become a dirty word. That is a national tragedy. If there is anything in the United States of America of which we should be proud, it is our electoral system. It is up to the Congress to ensure that we can again become a role model for the electoral systems of emerging democracies throughout the world, for if we permit a deterioration of our American political process, then a deterioration of our democratic system of government cannot be far behind.

Mr. President, I thank the Chair. If there is no other Senator who seeks recognition, I suggest the absence of a quorum.

THE PRESIDING OFFICER. The absence of a quorum has been suggested. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I think the Senator from Oklahoma is probably on the way back to the floor. Parliamentary inquiry. Has the time run on the McCain amendment?

THE PRESIDING OFFICER. (Mr. KERREY) It has.

Mr. McCONNELL. I might say, while we are waiting the return of the Senator from Oklahoma, to inform Senators of the plans to this side of the aisle, it would be our plan to go to a vote on the McCain amendment,

then offer an amendment by the Senator from New Mexico [Mr. DOMENICI] upon which I believe we have agreed to a time agreement. Then the distinguished Republican leader would like to offer a comprehensive proposal in the nature of a substitute, then I believe it is appropriate for us to go to final passage on the bill.

That is the current plan and I have so informed the distinguished Senator from Oklahoma.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I apologize to my colleague from Kentucky. I did not hear the last request.

Did I understand it was in the nature of a request to modify the McCain amendment even though the yeas and nays have been ordered on the McCain amendment.

Mr. McCONNELL. I had not made that request yet. I was about to.

Mr. BOREN. I have looked at the modification that is proposed. I see no objection to the modification.

If the Senator from Kentucky would like to ask unanimous consent to make that request, there will be no objection on our side.

AMENDMENT NO. 2450, AS MODIFIED

Mr. McCONNELL. Mr. President, I ask unanimous consent that the amendment of Senator McCain be modified as follows. I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is so modified.

The amendment (No. 2450), as modified, is as follows:

On page 9, strike lines 12 through 14.

On page 16, beginning with line 6, strike all through page 19, line 20.

On page 38, strike lines 5 through 20, and insert:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to elections occurring after the date of the enactment of this Act.

Mr. McCONNELL. Is it my understanding, Mr. President, that the current situation is the vote on the McCain amendment will not occur until after the debate on the Domenici amendment?

The PRESIDING OFFICER. That is correct.

Mr. BOREN. Mr. President, what happened previously—and I ask my colleague to consult with him on this—under the previous unanimous consent, it was anticipated that the amendment of the Senator from Florida would immediately follow. Then we determined there might be another in-

tervening amendment. We got unanimous consent that on the expiration of the time of the very next amendment the vote would proceed on the McCain amendment.

I have no objection since we do not have another amendment actually in process at this point, and since many Members have come to the floor in anticipation of voting, I would have no objection, if there is no objection on the other side, for us to now immediately proceed to the vote on the McCain amendment.

If there is no objection, I make the unanimous-consent request that we proceed at this point to a vote on the McCain amendment. Following that vote, we will then consult with each other about which amendment is available to be taken up next.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from Arizona.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—44

Biden	Grassley	Murkowski
Bond	Hatch	Nickles
Boschwitz	Hatfield	Packwood
Burns	Heinz	Pressler
Chafee	Helms	Roth
Coats	Humphrey	Rudman
Cochran	Jeffords	Simpson
Cohen	Kassebaum	Specter
Danforth	Kasten	Stevens
Dole	Lott	Symms
Domenici	Lugar	Thurmond
Durenberger	Mack	Wallop
Garn	McCain	Warner
Gorton	McClure	Wilson
Gramm	McConnell	

NAYS—55

Adams	Exon	Metzenbaum
Akaka	Ford	Mikulski
Baucus	Fowler	Mitchell
Bentsen	Glenn	Moynihan
Bingaman	Gore	Nunn
Boren	Graham	Pell
Bradley	Harkin	Pryor
Breaux	Heflin	Reid
Bryan	Hollings	Riegle
Bumpers	Inouye	Robb
Burdick	Johnston	Rockefeller
Byrd	Kennedy	Sanford
Conrad	Kerrey	Sarbanes
Cranston	Kerry	Sasser
D'Amato	Kohl	Shelby
Daschle	Lautenberg	Simon
DeConcini	Leahy	Wirth
Dixon	Levin	
Dodd	Lieberman	

NOT VOTING—1

Armstrong

So the amendment (No. 2450) as modified, was rejected.

Mr. BOREN. Mr. President, I move to reconsider the vote.

Mr. McCONNELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

AMENDMENT NO. 2451 TO AMENDMENT NO. 2432

(Purpose: To reduce to \$250 the amount of contributions to a candidate for Congress that may be made by a nonresident of the candidate's State)

Mr. DOMENICI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 2451 to amendment No. 2432.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 68, after line 19, add the following, and renumber subsequent sections accordingly.

SEC. 212. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) CHANGE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "\$1,000" and inserting "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 223(b), is amended by adding at the end thereof the following new paragraph:

"(10) For purposes of subsection (a)(1)(A)—

"(A) The term 'applicable amount' means—

"(i) \$1,000 in the case of contributions by a person to—

"(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

"(II) any other candidate or such candidate's authorized committees if, at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

"(ii) \$250 in the case of contributions by any other person to a candidate described in clause (i)(II) or such candidate's authorized committees.

"(B) At the beginning of 1991 and each odd-numbered calendar year thereafter, the Secretary of Labor shall certify in the same manner as under subsection (c)(1) the percent difference between the price index for the preceding calendar year and the price index for calendar year 1989. Each of the dollar limits under subparagraph (A) shall be increased by such percent difference and rounded to the nearest \$100. Each amount so increased shall be the amount in effect for the calendar year for which determined and the succeeding calendar year."

Mr. DOMENICI. Mr. President, I am going to be brief. I understand that my good friend from Oregon, Senator

PACKWOOD, might want to speak, and there may be others. I do not intend at this late hour to belabor the Senate very much on this amendment.

I want to talk about what I see as one of the most serious problems with campaign financing. That is the growing trend for U.S. Senators to fund their campaigns with money from out of State.

We have heard in the debate here today some marvelous words about our great democracy, about campaigning. We have heard statements like, "let us get back to our people." We have heard statements like, "let us return the power to the people." We have heard statements like, "let us get back to the grass roots."

Well, Mr. President, the Senator from New Mexico believes that the best way to fund a campaign for the U.S. Senate is to go to the people in the State that you represent and ask them, in addition to working in your campaign and voting for you, to give you contributions for your campaign. Whether it is \$5 or the \$1,000 limit, there is nothing better than to have constituents that you serve give you contributions for your campaign.

Let me say, Mr. President, I honestly believe that had Senators for the past 15 years not moved in the direction of funding their campaigns with out-of-State money, whether it is PAC's or otherwise, I do not believe we would be on the floor of the U.S. Senate today, even if Senators were spending the same amount of money as they are spending today, if most of their contributions were from their own hometown folks.

I just do not believe that the issue would be one of caps or groups said to be exerting undue pressure in exchange for contributions. If the contributors were from one's home State, I do not believe any of those questions would have been asked, and nobody would be here seeking so-called reform to the campaign laws of the United States.

The Senator from New Mexico in his last campaign, in a State with less than 1½ million people, had almost 17,000, I say to my friend from Oregon, individual contributors from my State, \$5, \$10, \$50, and \$1,000. That is 2½ times more individual New Mexico residents contributing to a statewide campaign than any in the history of our State to anyone. And no one, to my knowledge, raised a concern in my State that I had too many contributors or that they were giving too much money to the Senator from New Mexico.

Now, I am fully aware of the trends, in the past decade in particular, on how much of the total funding for a Senator's campaign is coming from home and how much is coming from nonresidents. The trend is unequivocally in the direction of more and

more of one's campaign funds coming from out of State. I thought the very best of reform and the very simplest of reform and the fairest of reform would be to create a disincentive to that trend, trying to move it in the other direction. And when I first introduced a campaign reform bill, I said we ought to allow no money from out of State. But I was talked out of that, as it pertains to this amendment today, by some who said, "Senator, that is probably not constitutional."

My amendment is very, very simple. It says, you cannot take more than \$250 from any person who is not a resident of your home State. That is it.

This bill, in its final form, is one where, in New Mexico, you can raise \$1.3 million in contributions of as much as \$1,000 during the primary and the general election. All of that could be \$1,000 contributions raised in the city of Los Angeles, I say to my friend, Senator Packwood, or New York City.

I do not believe that ought to be the case. In fact, I believe we ought to push the incentive in the other direction.

My amendment does it in a very simple way. It says we leave the \$1,000 limit per person per election, but that applies to residents of one's home State. And then we say, for nonresidents, it is \$250.

Now, I do not think I can say any more about it. I do not think I want to say any more about it. I hope that we will adopt it. I honestly believe it is good reform. While I do not like the underlying bill, I think it is good reform applied to it. I think if you are going to use part public financing and the voluntary caps, you still ought to create an incentive to get your money from those people you truly represent and have a responsibility to and a responsibility for.

That is: The \$1,000 contribution from your home residents. It does not have to be \$1,000, but up to that. And we ought to limit to \$250 the out-of-State contributions.

Mr. President, I ask for the yeas and nays on my amendment.

Mr. BOREN. Mr. President, I wonder if the Senator might withhold that request momentarily? Might my colleague yield for a moment that I might understand the amendment fully, because it is possible we might be able to accept it on this side and perhaps the Senator would not require a rollcall if that is the case.

Is it my understanding he does not knock out the aggregate limits that we have in the bill?

Mr. DOMENICI. My amendment does not.

Mr. BOREN. It does not affect the aggregate limits, so in other words there is still a limit. If the limit for a particular State is \$1 million, you do

not change that aggregate limit. You are simply saying, of funds raised outside the home State of that particular Senator, that contributions in excess of \$250 per individual would not be allowed?

Mr. DOMENICI. Are illegal.

Mr. BOREN. They are illegal. A candidate could not receive contributions of more than \$250? The Senator does not do anything else to the bill, except change—except specify a new limit for how large an out-of-State contribution can be? He does not change an aggregate limit on contributions from all sources, what that could be? Is that correct?

Mr. DOMENICI. My amendment, as I have offered it, does not change any of the limits in the bill. It merely says any out-of-State contributions cannot exceed \$250.

Mr. BOREN. Does the amendment do anything else?

Mr. DOMENICI. To my knowledge it does not do anything else.

Mr. BOREN. Mr. President, I say for the information of my colleague, if that is the case, I think that amendment would probably be acceptable on this side. Perhaps we would not have to have a vote unless the Senator just wants us to have a vote.

Mr. DOMENICI. I need to confer.

Mr. BOREN. We could suggest the absence of a quorum. We need to have staff continue to look to make sure the amendment fully follows the intent of the Senator. We need time for us to check.

Mr. DOMENICI. I suggest the absence of a quorum.

THE PRESIDING OFFICER. The Clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

THE PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, if I could have the attention of my colleague from New Mexico again, the distinguished ranking member of the Budget Committee? In studying the amendment, I find that the amendment does additional things, other than just change the contribution limit from \$250, a maximum of \$250 out-of-State. It also appears to index all contribution limits in the bill. This would mean that the current \$1,000 limit that is applied to in-State contributions, for example, or the \$250 established by this amendment, would then be indexed in the future and would continue to escalate.

There are many of us who feel very strongly we do not want to increase that \$1,000 limit that any individual could give in a campaign. We have not provided for indexing in our bill. I am fearful that this would simply have

the effect, over time, of raising the individual contribution limits, which would increase the influence of those with means, rather than decreasing the influence of those with means.

So I wonder if my friend and colleague from New Mexico might be willing to modify? If I could have his attention just a moment?

In studying the amendment I find it also indexes all contribution limits, so it would raise the current \$1,000 limit periodically with inflation adjustments. On this side of the aisle that is a problem in that we have never been in favor, many of us, of raising the \$1,000 limit. We would like to see the influence of large contributions diminished rather than increased over time. The Senator did not list that as a provision of his amendment.

I wonder if he would be willing to remove the indexing part of his amendment and leave it simply to the question of reducing out-of-State contributions to \$250, which this Senator would be prepared to accept without a rollcall or, indeed, to support if we do go to a rollcall?

Mr. DOMENICI. Let me suggest I do not have any problem with that, but I do have a problem proceeding with my amendment because I need to discuss it with a couple of Senators whom I have not discussed it with.

I wonder if the Senator has another amendment, if he could go to it and set my amendment aside?

Mr. BOREN. I think we can just do a quorum call, because I know of no other amendments other than the amendment to be offered by the distinguished minority leader in the nature of a substitute.

Mr. President, in order to accommodate the conferences taking place now on the amendment of the Senator from New Mexico, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I rise in support of the amendment offered by my colleague and friend from New Mexico.

Campaign finance reform is something that we have all agreed to be a desired goal. However, Democrats and Republicans have chosen different targets for their reforms.

The Democrats would have us limit the amount of hard money that could be spent while allowing the sewer soft money to continue flowing.

Republicans have targeted the sewer soft money that increasingly seeps into our elections and undermines the integrity of the electoral process.

Allowing candidates to spend as they choose as long as their money comes from clean sources.

The perceived stench coming from the campaign finance system comes not from the expenditures of candidates, but from the special interest sources of funds.

The bipartisan task force recognized this distinction and proposed limits on out-of-State contributions and PAC contributions while preserving the right of individual constituents to support the candidates of their choosing.

The Republican proposal incorporates these recommendations: Bans PAC's, and cuts in half the allowable contribution limit for out-of-State individuals.

These two reforms would go a long way in alleviating the perception that lawmakers are beholden to special interests rather than to their constituents.

Increasingly, the campaign seasons are marked by processions of candidates streaming to Hollywood and New York to attend fundraisers.

More than half of the winners of the 1987-88 senatorial elections received more large contributions, \$500 or more, from out-of-State than from in-State contributors.

The New York Times has repeatedly alluded to sewer money in its calls for campaign finance reform. I think everyone will agree that out-of-State money does not smell as nice as in-State.

Most of my colleagues join me in lamenting this trend in going to either coast for funds for campaigns in the Midwest, Plains, and the South.

This method of financing is a form of incumbent advantage, because most challengers do not have the drawing power to raise large amounts of money out-of-State.

Only one-third of the defeated candidates in the 1987-88 senatorial elections were able to raise more large out-of-State contributions than in-State contributions.

Contributions from constituents arise from grassroots support and a belief in a candidate's dedication to the State.

Out-of-State contributions often arise only from interest in a committee assignment.

David Magleby of the Senate Bipartisan Task Force on Campaign Finance Reform, noted:

You don't go to Beverly Hills and rake in \$50,000 a night without having made some commitments to people. The Senators end up having two constituencies—the constituents who vote for them and the constituents who give to their campaigns. It means that the Senator has divided loyalties.

PAC's are not the only source of out-of-State contributions.

For instance, bundling of large contributions is a serious problem and major source of out-of-State money.

Spending limits would not solve these problems, and would in fact enhance the relative value of large contributors.

Spending limits squeeze out small individual contributors and will further discourage candidates from building grassroots support.

Under the Democrats' proposal the first in the door will be the organized fundraisers, bundlers, PAC's and those with special interest in legislation.

Small in-State donors who wish to contribute to a campaign late in an election will be blocked by the spending limit.

Heavy reliance on out-of-State money is a legitimate issue for constituents to raise in asking: "Who is the candidate working for?"

While we are national legislators, working on issues of national scope, it is disturbing to the extent that politicians have gone out-of-State to raise money rather than build grassroots support in their own States.

It is a practice that undermines Americans' confidence in this institution and the integrity of the political process.

The bipartisan task force appointed by Senator DOLE and Senator MITCHELL distinguished between good money—in-State and political parties—and bad money—PAC and out-of-State money.

Republicans and Democrats have reached an agreement on PAC's—banning them altogether.

This amendment would dramatically lessen the influence of out-of-State funds while preserving for voters the right to support candidates in their own State.

The bipartisan task force recommended exempting from spending limits in-State donations from individuals.

It would be up to voters to determine how much a candidate can spend.

I urge my colleagues to join me in restoring to our constituents the electoral voice that is being drowned out by out-of-State interests by voting for this amendment.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2451, AS MODIFIED

Mr. DOMENICI. Mr. President, I send a modified amendment to the desk.

The PRESIDING OFFICER. The Senator has a right to modify his

amendment. The amendment is so modified.

The amendment, as modified, is as follows:

On page 68, after line 19, add the following, and renumber subsequent sections accordingly.

SEC. 212. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) CHANGE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "\$1,000" and inserting "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 223(b), is amended by adding at the end thereof the following new paragraph:

"(10) For purposes of subsection (a)(1)(A) the term 'applicable amount' means—

"(i) \$1,000 in the case of contributions by a person to—

"(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

"(II) any other candidate or such candidate's authorized committees if, at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

"(ii) \$250 in the case of contributions by any other person to a candidate described in clause (i)(II) or such candidate's authorized committees."

Mr. DOMENICI. Mr. President, I have stricken the language with reference to indexing. That leaves in the amendment merely the \$250 limit on nonresident contribution.

Mr. President, this amendment offers true and meaningful reform to campaign financing.

This amendment returns campaign financing where it belongs—our own people, to our constituents—not the American taxpayers.

Earlier this year, I introduced S. 2265. The amendment I offer today is a variation on the key provision in that bill.

This amendment restricts sharply the ability of candidates for the Congress to raise funds outside their home State.

My amendment allows Senate and House candidates to continue to raise contributions from our own State at the levels now permitted under current law—up to \$1,000 per contributor.

But my amendment limits to \$250 any contribution made by out-of-State giver.

In other words, if you are a candidate for the U.S. Senate in New Mexico, you may raise contributions of up to \$1,000 from individuals living in Albuquerque or Farmington or Las Cruces or Roswell.

But if you go to New York or Los Angeles or Dallas for money, all you can raise per contributor is \$250.

Obviously, this amendment is intended to make it far tougher to raise large sums of campaign money in nearly every State. Because this amendment will reduce the sources of

money, it will inherently reduce spending—the goal of so many in this Chamber.

But this amendment restrains campaign spending not with some arbitrary, partisan, federally imposed ceiling—one that gives incumbents a great advantage.

It is my intent, of course, for candidates to go to the people, particularly our constituents, for our campaign funds—not to the taxpayers.

This amendment simply encourages Members of the Congress return to our own constituents for a greater share of our campaign support.

To this Senator, that represents a fair and reasonable approach.

The American people are worried about where our campaign money comes from, not how many TV ads we purchase.

My amendment, and others that will be offered from this side of the aisle, seeks to control where our money comes from. I would point out that the majority's underlying amendment, amendment 2432, does not.

The American people do not insist on spending limits. Special interest groups may like that concept—since it will strengthen their clout—but the American people are not saying that.

Nor do I believe that the American people want to be taxed to finance our campaigns, as amendment 2432 proposes.

Fewer and fewer Americans are checking off contributions to the Presidential campaign—a fact that should tell us something about how the American people feel about federally financed elections.

In the views of this Senator, we need to encourage more, not fewer, individuals to participate in the financing of elections. We particularly need to encourage our own constituents to contribute to us and yes, to our opponents.

In other words, we need to send all candidates back into retail politics, not to the Federal Treasury to pick up a campaign check.

The amendment I am offering today heads toward that goal. It gives no party or individual an advantage. It certainly will not give incumbents an advantage, since incumbents are the ones who do best in raising large sums of money from out-of-State donors.

My amendment will inherently wring a lot of money out of the process, but in a manner that leaves everyone playing on a level field.

At the time I introduced S. 2265, I proposed a total prohibition on House and Senate candidates raising money outside their home state.

While I believe strongly in the provisions of S. 2265, I am a realist. I recognize that many Members of the Senate believe it is reasonable to allow a measure of out-of-State contributions.

Therefore, I am offering this amendment as a compromise—a compromise that will return us to our constituents, while allowing some flexibility.

Why is this amendment necessary? The reason is very clear.

First, individual giving, as a percentage of total campaign funds raised, has dropped rather sharply over the years.

Individual contributions in 1974 accounted for 76 percent of the money raised by those running for the Senate that year. By the 1988 election cycle, the proportion of contributions from individuals had dropped to 59 percent.

It is impossible, I have discovered to break down individual contributions with great accuracy, since records on in-State and out-of-State contributions were not kept during most recent election cycles.

The Federal Election Commission collected such records on the contributions of \$100 or more during the 1977-78 cycle, but it failed to break down donations again until the 1987-88 cycle, when it collected records on contributions of \$500 or more.

The difference in just a decade is quite remarkable. Senate candidates are becoming more and more dependent on out-of-State contributors. And that doesn't count all the out-of-State PAC money or soft money given candidates.

In 1978, two out of three Senators received the bulk of their large, individual campaign contributions from in-State donors. In the 1988 campaign, more than half of the Senators received the bulk of such contributions from out-of-State donors.

While these records are not fully comparable, examining the trends certainly is instructive.

One candidate for the Senate in 1988, for example received a total of \$1,932,126 in individual contributions of \$500 or more. Of that total, \$1,383,401—72 percent—came from out-of-State donors—persons who were not the candidate's constituents.

Another successful 1988 Senate candidate received \$3,479,589 from individuals giving \$500 or more—\$2,040,915—59 percent—from out-of-State contributors.

The greatest disparity involved a successful candidate who received \$4,500 from in-State donors of \$500 or more, while that same candidate received \$470,963 from out-of-State donors giving \$500 or more.

In other words, more than 99 percent of this candidate's large individual contributions came from out-of-State donors.

There are, of course, some candidates who depended heavily on in-State contributors. One 1988 Senate candidate raised \$4,396,197 from in-State individuals contributing \$500 or more, with a relatively modest, by

comparison, \$648,097 coming from out-of-State contributors of similar amounts.

But the reality is that a majority of the Senators running for reelection in 1988—15 of the 27 candidates—raised more from individuals living outside their State than they raised from their own constituents, at least in contributions of \$500 or more.

Out of \$35,693,000 that was raised by incumbents in individual contributions of \$500 or more for the 1988 election, nearly half—\$16,094,000—was raised from nonconstituents.

What about the records for the 1978 election, when, incidentally, I was a candidate? Based on records for contributions of \$100 or more made during the 1977-78 cycle, 16 of the 24 Senators running for reelection received the bulk of their larger individual campaign contributions from in-State donors.

Only one candidate in 1978 raised as much as \$500,000 from out-of-State donors, while 12 out of 24 raised less than \$100,000 out-of-State. By 1988, 10 candidates raised more than \$500,000 out-of-State, with only one raising less than \$100,000 out-of-State.

Mr. President, I am convinced my \$250 amendment represents an effective way to reform campaign financing, rebuilding that link House and Senate candidates need to have with those we serve, our constituents.

Mr. President, I ask unanimous consent to have printed the RECORD three tables detailing the increase in out-of-State contributions to Senate candidates, as well as a copy of an article on this subject that appeared in yesterday's Washington Post.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SENATORS WHO PARTICIPATED IN 1977-78 ELECTIONS

Candidate	PAC contributions	Party contributions	Individual contribution \$100 or more home State	Individual contribution \$100 or more out of State
Candidate A	\$66,405	\$15,000	\$132,529	\$9,200
Candidate B	170,724	10,942	29,752	38,750
Candidate C	213,435	21,280	90,882	173,257
Candidate D	126,100	10,000	64,200	167,681
Candidate E	135,145	3,500	266,806	37,090
Candidate F	161,873	15,500	32,178	29,300
Candidate G	217,710	17,116	735,416	132,673
Candidate H	214,777	17,750	97,182	177,922
Candidate I	152,664	11,000	57,101	41,963
Candidate J	206,705	17,500	483,770	137,648
Candidate K	166,594	19,500	61,042	92,371
Candidate L	203,767	16,394	224,773	91,093
Candidate M	307,944	23,902	523,751	118,182
Candidate N	198,847	18,605	396,901	130,975
Candidate O	36,020	9,000	40,774	10,252
Candidate P	102,450	15,000	72,547	33,580
Candidate Q	43,800	16,050	102,275	38,125
Candidate R	150,401	16,334	238,584	81,133
Candidate S	271,290	17,146	498,701	549,479
Candidate T	75,945	7,000	62,345	151,939
Candidate U	216,890	16,170	222,423	131,019
Candidate V	344,683	17,261	528,141	331,520
Candidate W	392,722	30,042	1,609,186	88,529
Candidate X	240,250	17,500	108,256	187,920

Note.—Some of these candidates lost in primaries. No information is available on individual contributions less than \$100.

1987-88 ELECTION CYCLE CONTRIBUTIONS TO SENATE MEMBERS RUNNING FOR REELECTION

Candidate:	PAC contributions	Party contributions	Total individual contributions	Individual contribution of \$500 or more home State	Individual contribution of \$500 or more out of State
A	\$989,181	0	\$1,603,419	\$550,691	\$522,694
B	1,831,085	\$30,499	9,187,165	4,396,197	648,097
C	935,823	25,955	1,456,739	445,655	492,950
D	773,046	15,000	1,037,362	433,550	211,622
E	429,149	0	359,666	83,503	66,925
F	784,528	16,189	2,110,438	506,354	240,342
G	735,141	5,241	970,159	176,569	416,345
H	600,858	25,000	796,276	185,145	294,809
I	325,991	17,500	2,865,868	548,725	1,383,401
J	1,274,738	5,125	1,695,507	304,785	956,123
K	1,514,798	21,037	3,260,540	429,723	403,714
L	1,175,156	16,028	2,651,190	1,014,833	477,947
M	807,544	17,500	375,484	30,000	112,750
N	895,504	23,653	2,279,583	814,074	397,014
O	1,017,047	17,443	1,775,338	525,270	869,284
P	1,404,242	19,400	5,060,472	1,438,674	2,040,915
Q	1,087,814	0	1,635,859	234,646	347,537
R	906,891	18,500	3,270,664	730,533	348,268
S	1,058,107	17,500	617,777	4,500	470,963
T	1,025,894	18,500	5,839,753	1,003,463	1,993,425
U	1,366,075	18,476	3,605,924	1,170,265	716,836
V	1,042,170	17,500	1,267,565	163,602	361,594
W	1,387,554	18,500	1,710,031	748,019	349,217
X	2,303,804	5,341	5,406,218	2,414,155	1,673,140
Y	1,153,218	15,000	2,522,983	88,000	838,633
Z	919,764	0	351,092	70,622	199,850
AA	933,287	17,493	473,729	83,937	259,275

Notes.—The residence of individual contributors is known for contributions of at least \$500 only. These contributors are not expected to be representative of individuals who contribute in smaller dollar amounts.

TRENDS IN CAMPAIGN CONTRIBUTIONS TO SENATE GENERAL ELECTION CANDIDATES: 1974-88

(In millions of dollars)

	1974	1976	1978	1980	1982	1984	1986	1988
Receipt: ¹								
Total	28.2	39.1	68.9	83.7	127.0	156.2	208.7	199.7
Percent of total	100	100	100	100	100	100	100	100
Individuals: ²								
Total	21.4	26.9	50.6	52.4	70.3	95.7	125.4	118.5
Percent of total	76	69	73	62	55	61	60	59
PACs: ³								
Total	3.1	5.8	8.9	15.9	21.8	28.1	44.6	44.4
Percent of total	11	15	13	19	17	18	21	22
Parties: ⁴								
Total	1.7	1.4	4.1	7.7	12.2	11.3	18.1	18.0
Percent of total	6	3	6	9	10	7	9	9
All other: ⁵								
Total	2.0	5.0	5.3	7.7	22.5	21.1	20.6	18.8
Percent of total	17	13	8	9	18	14	10	9
Individuals ⁶ over \$500:								
Total	NA	10.6	14.5	19.8	30.6	37.0	62.1	65.6
Percent of total	NA	27	21	24	24	24	30	33

¹ Includes political party coordinated expenditures on behalf of candidates (as allowed under 2 U.S.C. 441a(d)).

² Total contributions from individuals.

³ Total contributions from non-party political action committees.

⁴ Includes both direct party contributions to candidates and coordinated expenditures on their behalf (as provided under 2 U.S.C. 441a(d)).

⁵ Includes candidate contributions and loans, interest and dividends, transfers from affiliated committees, and refunds.

⁶ Total contributions from individuals in amounts of \$500 or more. This category was not provided in Conlan's work; these data are from the FEC Reports on Financial Activity. Final Report U.S. Senate and House series for 1976-88.

Note: Percentages in columns may not add up to 100, due to rounding.

Sources: For all categories (other than "individuals over \$500") for 1974-84: Conlan, Richard P. "The Declining Role of Individual Contributions in Financing Congressional Campaigns." The Journal of Law and Politics, v. 3, Winter 1987, p. 491, 495, see notes to Conlan's tables for more detailed explanations. For all categories in 1986-88 and "individuals over \$500" for all years: U.S. Federal Election Commission Reports on Financial Activity. Final Report U.S. Senate and House Campaigns, various years.

[From the Washington Post, July 31, 1990] OUT-OF-STATE DONATIONS TO CANDIDATES ARE ON THE RISE

(By Richard Morin and Charles R. Babcock)

Rep. Edward J. Markey (D-Mass.), chairman of the powerful House telecommunications and finance subcommittee, is a rarity in Congress: He refuses to accept campaign contributions from political action committees (PACs) and he turns down honoraria from special interest groups.

But money from special interest groups ends up in Markey's coffers, anyway. In the past three years, Markey has collected \$333,675 in contributions of \$200 or larger from donors living outside Massachusetts; about 75 percent of those out-of-state dollars came from people with ties to the telecommunications and financial industries. By contrast, he raised \$146,950 from the folks at home.

Markey isn't alone. Increasingly, congressional candidates—particularly incumbents—are getting their campaign funds from outside their home states. Not all this money is tied directly to special interests, but much of it is the result of sophisticated fund-raising efforts aimed at givers with a business interest or an ideological cause they wish to promote.

contrast, he raised \$146,950 from the folks at home.

Markey isn't alone. Increasingly, congressional candidates—particularly incumbents—are getting their campaign funds from outside their home states. Not all this money is tied directly to special interests, but much of it is the result of sophisticated fund-raising efforts aimed at givers with a business interest or an ideological cause they wish to promote.

In the Senate, for example, out-of-state contributions in 1988 election cycle comprised 25 percent of all individual donations, up from 16 percent in 1984. In the 15 months ending March 31 of this year, 50 Senators and 107 House members received a majority of their large individual donations from out of state, according to a Washington Post study.

Federal election law allows individuals to contribute a maximum of \$1,000 to each election campaign, and requires candidates to identify donors who gave \$200 or more. Donations of less than \$200 are not itemized by the FEC.

As the House and Senate debate this week whether to change the system of campaign finance, some who study the role of money in politics say this nationwide treasure hunt obligates members of Congress to economic or ideological interests outside their district.

"There's a real problem with dual constituencies," said David Magleby, a Brigham Young University professor who recently published a book on campaign finance. "The member needs to devote large amounts of time to their financial constituencies. Typically, they have less time to devote to their voting constituencies."

While the campaign-finance debate is focused on the role of PACs, some people predict that banning or limiting PAC donations won't change the system. "Attempts to legislate increased reliance on individual contributions and reduce reliance on PACs might not only fail as a means of reducing the influence of special interests, but might actually increase the influence of certain narrowly based groups—with very well-to-do Americans being the most obvious beneficiaries," the Democratic Study Group (DSG) concluded in a report on campaign donations by wealthy Americans.

Special interest money will still flow, the DSG report said, but it will come in the form of out-of-state individual contributions—making it harder to identify which special interest is giving.

The Federal Election Commission already finds it impossible to enforce the requirement that contributors identify their occupation and place of business. For example, one-quarter of the large contributors during the current election cycle have not listed this information at all. And in thousands of other cases, they identify themselves merely as "lawyer" or "investor" or "consultant."

The constant search for campaign dollars takes congressional candidates far from their homes. Some hold fund-raisers in such wealthy areas as Beverly Hills in California or New York's Upper East Side, which lead the nation in political giving; others prefer the Washington event, inviting lobbyists and representatives of companies with business before Congress.

For example, Markey's most successful fund-raiser this cycle was held in Washington in January. FEC records show he raised \$64,500 that night, virtually all of it from representatives of industries affected by the decisions of Markey's subcommittee. They included officials of the Pacific and American stock exchanges, the Public Securities Association, Pacific Telesis and BellSouth Corp.

Markey, whose districts includes the suburbs north of Boston, said in an interview that many of the people who attended the fund-raiser represented Massachusetts businesses. "If I accepted PAC contributions, I could have raised several hundred thousand dollars," he said.

Members in leadership positions have no trouble attracting long-distance contribu-

tions. House Speaker Thomas S. Foley (D-Wash.), who has long received most of his campaign money from PACs, collected 95 percent of his individual donations of \$200 or more from outside his home state.

In the first 15 months of this election cycle, Foley reported receiving \$51,923 from out-of-state donors, \$1,600 from Washington state residents and \$1,000 from donors who did not give an address. Some of that money came from a fund-raiser last October in the wealthy New York suburbs of Westchester County, which was sponsored by executives of PepsiCo Inc., the soft drink company.

Spokesman Jeff Biggs said Foley did more fund-raising in his district in his early years in Congress. "But part of the phenomenon of becoming a part of the leadership is a quantum leap in the level of visibility. It became much easier to raise campaign funds," Biggs said.

Other members have increasingly targeted national constituency groups. These range from donors faithful to a party, to those who give on a single issue appeal for or against such causes as abortion, the arts, guns, or Israel.

Rep. Sidney R. Yates (D-Ill.), running in his first tight race in years, has raised more large individual donations than any other House member—\$228,427. Mary Bain, Yates' longtime top aid, said the money came from groups that support Yates' stand on certain issues; environmental, supporters of government funding for the arts, and Jewish Americans.

For the first time, Yates hired a professional fund-raiser, who actively solicited individuals and PAC's and bought television time in the expensive Chicago market. "It was hard for him [Yates] to adjust to the fact it had to be done," Bain said. "He was uncomfortable with the whole idea."

Yates' fund-raising included a Washington event last December at the home of Roger Stevens, former chairman of the Kennedy Center, which raised about \$80,000, Bain said. The congressman also traveled to New York for a \$60,000 event sponsored by the arts community, and to California, where he raised \$100,000 from events in San Francisco and Los Angeles set up by Jewish supporters, environmentalists and art groups, she added.

Of course, senators with national reputations have no trouble raising out-of-state money for their campaigns. Sen. Bill Bradley (D-NJ), a possible presidential candidate who faces token opposition this fall, leads the Senate in out-of-state donations, with \$2.9 million. He has raised \$1 million from New Jersey residents.

Sen. Tom Harkin (D-Iowa), while lesser known, has collected more than 90 percent of his \$200-and-over donations from outside Iowa. He is among several senators who make regular fund-raising trips to richer states such as California and New York.

In the first 15 months of the election cycle, Harkin received \$869,651 in contributions of \$200 or more from outside his home state, compared to \$95,759 in similarly large contributions from Iowa residents.

Harkin campaign spokesman Phil Roeder said Harkin had to raise money outside the state because "Iowa hasn't been a politically rich state, especially for Democrats." He said "candidates fly here to get votes in the presidential caucus, not to bankroll campaigns."

Harkin also "is fortunate," Roeder said, to be chairman of the second largest Appropriations subcommittee—labor, health and human services, education—where "he deals

with a wide variety of people from across the country."

Harkin's opponent, Rep Thomas J. Tauke (R-Iowa), has tried to make a campaign issue of this money, saying it is symbolic of the incumbent being out of touch with the state. Tauke has raised \$627,242 from Iowans in donations of \$200 or more, and \$132,639 from outside the state.

CAMPAIGN '90: WHO GETS THE MOST

In the 15-month period ending March 31, House and Senate candidates have received a total of \$28 million in large contributions from donors living outside the candidates' home states. Here are members of Congress and challengers who have collected the most in contributions of \$200 or more from out-of-state supporters.

House of Representatives	Total from out-of-State	Total from home State	Percent from out-of-State
Sidney R. Yates (Illinois).....	\$228,427	\$126,106	64
Lyndon LaRouche Jr. (Virginia) ¹	180,391	2,300	99
Ron Wyden (Oregon).....	134,161	64,170	68
Joseph P. Kennedy II (Massachusetts).....	132,216	107,274	55
Les Aspin (Wisconsin).....	115,640	23,417	83
Edward J. Markey (Massachusetts).....	110,150	68,850	60
Craig Thomas (Wyoming).....	103,725	85,209	55
Thomas H. Anderson Jr. (Mississippi) ¹	99,899	223,948	31
Stephen J. Solarz (New York).....	92,805	51,400	64
Pete Geren (Texas).....	87,100	430,430	17
Total for House incumbents.....	\$5,113,462	\$19,851,857	20
Total for challengers.....	960,154	4,158,476	19

¹ Denotes challenger or candidate for an open seat.

Senate	Total from out-of-State	Total from home State	Percent from out-of-State
Bill Bradley (New Jersey).....	\$2,946,008	\$1,028,681	74
Rudy Boschwitz (Minnesota).....	1,392,844	479,838	67
Carl Levin (Michigan).....	1,193,556	580,435	73
John F. Kerry (Massachusetts).....	1,045,019	1,035,063	50
Paul Simon (Illinois).....	934,907	862,286	51
Tom Harkin (Iowa).....	869,651	95,759	90
Phil Gramm (Texas).....	625,450	3,665,710	14
John D. Rockefeller IV (W.Va.).....	621,124	366,097	63
Howell T. Heflin (Alabama).....	558,385	505,108	52
Mitch McConnell (Kentucky).....	546,132	1,233,525	32
Total for Senate incumbents.....	\$18,207,948	\$20,622,500	46
Total for challengers.....	1,559,597	5,559,597	21

Totals for candidates running for an open Senate or House seat—one where an incumbent is not running—are not shown.

WHERE THE MONEY COMES FROM The Top 15 Contributing ZIP Codes

Two Manhattan neighborhoods and Beverly Hills have given the most in large contributions to candidates for the Senate and the House, with most of the money going to out-of-state candidates and to Democrats. In fact, big donors living in 11 of the nation's 15 most generous ZIP codes gave more money to out-of-state candidates than they gave to candidates in their own state. And all but one gave more to Democratic than to Republican candidates.

Rank	ZIP	Area	Total	Percent to		Out-of-State candidates
				Dems	GOP	
1	10021	Upper East Side, NYC	\$970,331	68	32	79
2	10022	Upper East Side, NYC	607,664	65	35	78
3	90210	Beverly Hills, Calif.	604,148	88	12	61
4	20036	D.C. (K Street)	437,295	67	33	99
5	77002	Houston (Downtown), Tex.	437,274	52	48	24
6	20007	D.C. (Georgetown)	407,281	72	28	99
7	20006	D.C. (K Street)	378,445	68	32	100
8	60611	Chicago (Near North), Ill.	364,188	78	22	48

Rank	ZIP	Area	Total	Percent to		Out-of-State candidates
				Dems	GOP	
9	90049	Brentwood, Calif.	338,563	80	20	55
10	10028	Upper East Side, NYC	322,670	72	28	77
11	76102	Fort Worth, Tex.	304,088	60	40	12
12	48640	Midland, Mich.	300,530	1	99	1
13	90067	Century City, Calif.	296,754	79	21	49
14	20016	D.C. (Upper Northwest)	270,638	69	31	99
15	10128	East Side, NYC	266,000	73	27	84

The Top Three Contributing ZIPS in Maryland and Virginia

In Maryland, residents of Potomac and Chevy Chase suburbs outside the District gave the most to House and Senate candidates during the past 15 months, with virtually all of that money going to out-of-state candidates.

Rank	ZIP	Locale	Total	Percent to		Out-of-State candidates
				Dems	GOP	
24	20854	Potomac	\$229,905	55	45	86
31	20815	Chevy Chase	191,938	72	28	94
55	20816	Chevy Chase	150,450	69	31	93

Across the river in Virginia, three upscale northern Virginia suburbs provided the most money in large contributions to congressional candidates, with a majority of that money going to candidates outside the state.

Rank	ZIP	Locale	Total	Percent to		Out-of-State candidates
				Dems	GOP	
35	22101	McLean	\$185,923	51	49	69
65	22314	Alexandria	135,058	70	30	85
84	22207	Arlington	109,135	55	45	78

Figures based on a Washington Post analysis of Federal Election Commission data on individual contributions through March 31 for the 1989-90 campaign cycle. The FEC only provides data on individual contributions of \$200 or more.

The Post computer study found that individual contributions of \$200 or more are the single biggest source of campaign dollars for congressional candidates—with \$28 million in itemized contributions going to candidates outside the donor's home state.

Almost 90 percent of that money went to incumbents. Democrats, who control both houses of Congress, received the bulk of these big out-of-state contributions, \$18 million to \$9 million for GOP candidates.

New York leads the country in giving to out-of-state candidates, followed by California and Texas. New Yorkers gave a total of \$7.9 million in contributions of \$200 or more to congressional candidates, with two out of every three dollars going outside the state.

Three of the 10 ZIP codes in the country that contributed the most to out-of-state candidates were located in Manhattan—and three others were in the District of Columbia.

Out-of-state money takes time to raise—time that some congressional leaders complain is stolen from their work on the Hill. Congressional leaders complain "they have a hard time getting members together for a vote," Magleby said. "The members end up being strewn across the country either at fundraisers for themselves or as the draw to fund-raisers for a junior member."

Mr. BOREN. Mr. President, I thank the Senator from New Mexico. I understand the principle he is supporting, and that is, that as much as possible we should be encouraging those who are running for office to depend mainly upon their own constituencies in the raising of funds. I think that is a good principle, certainly a principle to which this Senator subscribes.

I have discussed this matter with others on this side of the aisle and heard no request for a rollcall vote. I am prepared to accept the amendment on behalf of this side of the aisle and join in supporting the amendment of the Senator from New Mexico.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment, as modified.

The amendment (No. 2451), as modified, was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BOREN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BOREN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BOREN. Mr. President, for the information of my colleagues or members of their staffs who may be following this matter and wondering about our schedule on this bill for the rest of the evening, I have received an indication from the other side of the aisle that the distinguished minority leader wishes to offer an amendment in the nature of a substitute to the entire bill, and that it is very likely that after consideration of that substitute offered by the minority leader that we will then be rapidly proceeding to vote on final passage of the legislation tonight.

So I will just alert all Senators that I do not anticipate—and I have discussed this matter with the minority leader—that once the substitute is laid down that the debate will take very much time on the substitute as the major outlines of it have been well known to us for some time. The main facets have been embodied principally in letters exchanged on both sides previously.

The distinguished Senator from Kansas has indicated to me he does not feel it will take prolonged debate,

nor would I anticipate that there would be the need for any prolonged debate as we move to final passage.

So I alert Members that it is possible that in the course of the next 2 hours, perhaps even slightly less time, that we will take action on the substitute by the distinguished minority leader and then on final passage of the legislation. So just in terms of alerting Senators so they might know the plans, they should know this is a possibility and the likely schedule of activities here on the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. RIEGLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KOHL). Without objection, it is so ordered.

Mr. RIEGLE. Mr. President, I rise in strong support of the campaign financing reform bill that we are hopefully about to complete action on this evening.

I am very pleased to be a cosponsor of S. 137. As we have worked this legislation through the Senate process the last several hours and the last 2 or 3 days, I think we are fashioning a campaign financing reform package that will make a very profound and beneficial change for our country. I think anyone who has been in politics for any number of years in the United States knows how the cost of campaigns has gone up very sharply. Most of the money that is raised is spent on television because the cost of television has itself become ever more expensive.

I know 24 years ago when I first ran for Congress—I was in the other party at that time and was challenging an incumbent House Member in a difficult primary contest and in a more difficult general election—it cost \$80,000 in the Seventh Congressional District of Michigan. In 1976, back some 14 years ago, in a race for the Senate in Michigan—again a contested primary and general election—I recall raising and spending about \$800,000. Six years later the cost of the campaign had escalated to about \$1.8 million, and that larger amount of money 6 years later, in 1982, actually was able to finance a campaign that was roughly the same as we had had 6 years earlier that had only cost \$800,000. A major factor in that increase was the sharply rising cost of television advertising time.

Then when I ran the third time for the Senate, which was in 1988, the same type of campaign, same amount of general activity and television time, and so forth, it had risen in cost to about \$4.5 million. In three steps it

had gone from \$800,000; 6 years later, \$1.8 million; and 6 years later, up to \$4.5 million.

Now there is a Senate race underway in Michigan. My colleague, of course, is standing for reelection. There are opponents on the other side seeking the nomination of the other party. The cost to put on a comparable campaign in 1990 is an estimated figure of \$7 to \$9 million.

So I think one can see by those benchmark figures over a period of time how the cost of these campaigns, particularly in the larger geographic States with the larger populations, is going through the roof. The difficulty of raising \$4 million or \$6 million or \$8 million is so extreme and difficult for virtually every candidate that, clearly, the system, I think, must be changed.

It has to be changed, I think, in order to bring it back into balance for anyone who is running for office, but also to keep the costs within a level where challengers are able to mount an effective campaign against those of us who are incumbents.

When the costs become too high I think it becomes very difficult for a challenger candidate to have any realistic chance of coming forward and running. It is very significant just this year. In any 2-year election cycle we have roughly a third of the Senate standing for reelection. So this year either 34 or 33 seats will be contested for reelection here in the U.S. Senate. But this year we have five of those seats that are in effect uncontested, where the Senators who are running have in effect already been reelected, which, in part, is a credit to them and their popularity within their home States.

Also, I think it marks the fact that the amount of money which must be raised by a challenger has now grown to such a size that we are finding a larger number of races of each election cycle for the U.S. Senate where there is no effective challenge, where there is no candidate running on the other side, I think in substantial measure because the entry costs of some multiple of millions of dollars, \$3 million, \$4 million or \$5 million or \$6 million is beyond the reach of candidates and hence they are unwilling to try to make the race.

So I think that fact about this election cycle which has I think not gotten much attention is another way of measuring the fact that the system has been tilted in such a way that the rising costs have made it very very difficult for the vast majority of people in our country to even consider running for the U.S. Senate.

So we have to bring the cost back into reach, which means we bring the office and the competitive activity back into reach. I think that is profoundly in the public interest. This bill will do that. This bill will provide

spending limits in campaigns. It will provide an opportunity for some public financing under circumstances where a candidate may be overwhelmed by money coming into the opponents campaign.

It does not, I might say, completely solve the problem of the high cost of television time. On a major television station in Detroit, for example, to run a 30-second television spot in prime time on a popular show, like the "Cosby Show" costs about \$10,000. That is just to put your message on one television station in one media market one time for 30 seconds, and \$10,000 is gone.

So one can quickly see that if you are going to try to communicate your campaign message and your stands on the issues within the 30-second time segment, 1-minute time segment, or 5-minute special, it quickly adds up to hundreds of thousands of dollars, millions of dollars, just to be able to communicate to a large constituency.

In the State of Michigan the constituency is in excess of 9 million people but in other large States in our country, like Texas, New York, California, the costs are even much higher than that in order to be able to just get the basic points of a campaign message out through the television medium to the citizens of the States so they might have a basis for comparing the candidates and making their own judgment.

So this reform I think is good for America. It is a way of bringing the political process back home I think much more to the people, and I think it will foster a greater competition for these important elected positions. I think that is all to the good.

Those of us who have the rare privilege and honor of serving in the U.S. Senate I think can understand clearly why it is that we ought to keep access in the Senate for people of the country who want to seek these jobs, men and women. We want to keep that access as broad as we can possibly have it.

We all have school children that come and visit Washington from our home States. We talk to them about the importance of Government, public service, voting, and someday running for office themselves; talking about their chance to perhaps someday even be the President of the United States. It loses its meaning, it seems to me, if the cost of running gets to such an enormously high level that as a practical fact most people cannot even think about running. It just is not a practical possibility.

I realize there is a loophole in the law that says if someone has great personal resources, great wealth, under the quirk in the law the person with those personal resources can use that to run.

I do not think it is fair that the system is that way, but the Supreme Court has ruled that way. That is the situation we have.

So that confers a special advantage on those people in our society who may have a desire to serve and may also have an enormous capability, and great strengths to offer as a candidate. I do not speak against the qualities of a person who is so favored in terms of their own personal financial situation. But we should not have a system where the person who has that advantage has an extra ability to seek a seat in the U.S. Senate or a seat in the House of Representatives while the vast majority of our people are finding themselves pushed further and further away from the real chance to run because the cost of running is just beyond their reach.

We can do something about that. It is important that we do something about that. I am one of the few Members of this body who has had the chance to serve in the Congress as a member of both political parties. I have had the chance to serve in the House on the Republican side, then later in the House on the Democratic side, and here in the Senate on the Democratic side.

But from my experiences in both parties it seems to me that what I have seen has been, throughout my political life, people who have had a desire to run, who have had an interest in politics, had a love of public issues, have wanted to work for the people, and very often the thing that has kept them from running is the fact that they have not seen the way to be able to raise enough money to actually mount an effective campaign, particularly on a larger scale of a contest, whether for the House or particularly the U.S. Senate seat, which of course covers an entire State.

What I want to see us do is bring this system back into reach in a sense for all the people of our country who have the ability, the desire, and the motivation to want to seek these offices. I want them to have a fighting chance to do that. I want them to have the chance regardless of their party affiliation, and I want them to have that chance even if they are an outsider coming cold into politics, and want to take on entrenched incumbent.

I think we have to keep those doors open. I think that is how we let the country speak, and find its balance point in terms of who we are and what it is that we have to say as a nation—by keeping the doors open so that citizens across the country have a real chance to run and win these seats.

That has been disappearing. It is just a cold fact of the matter that it has been disappearing. In States like ours, Michigan, a larger State, about

eighth in population size in the country, when the threshold costs to run, gets up into the several millions of dollars, whether it is \$6, \$7, \$8, \$10 million, wherever it may be, 2, 4, 6 years down the road, that situation works against democracy and works against self-government. We cannot have it. We have to change it. We have a realistic way to change it right here.

I do not assert that this bill is perfect. It is not perfect. We do not write perfect bills here. But at a minimum I think we have something here that constitutes a reform which will open this process up to more of our people, and I think that is all to the good.

Mr. President, I yield the floor.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, yesterday the Senate agreed to an amendment by the distinguished Senator from Oklahoma [Mr. BOREN] that purported to implement the Supreme Court's decision in *Communications Workers of America versus Beck*.

As we know from our discussion yesterday, the Beck case was the most recent in a long line of cases clearly asserting that unions may not use compulsory union dues for any purpose other than those activities necessary in performing the duties of an exclusive bargaining representative.

Unfortunately, there was very little debate on the amendment before the vote, and consequently, I think some Senators may be unaware of the significance of the Boren amendment.

Mr. President, we have consulted several distinguished labor lawyers about the Boren amendment. We are advised by these lawyers that the amendment absolutely does not restrict the use of compulsory union dues, as was the holding in the Beck case.

On the contrary, if enacted, it will legislatively overrule almost 30 years of decisions by the U.S. Supreme Court that have interpreted Federal labor laws to protect the freedoms of individual workers.

Mr. President, in 1961, the Supreme Court construed the Railway Labor Act to prohibit unions, if employees object, from spending—for any political or ideological purpose—the union dues and fees that employees are required to pay as a condition of employment. That case was *Machinist v. Street*, 367 U.S. 740 (1961).

The Court later extended that interpretation to limit the use of compulsory union dues and fees to those activities necessary to performing the duties of an exclusive bargaining representative of the objecting employees in dealing with their employer on labor-management issues, that is, collective bargaining, contract administration, and grievance adjustment. That case

was *Ellis v. Railway Clerks*, 466 U.S. 435 (1984).

Two years ago, in the Beck case, the Court construed the National Labor Relations Act as containing the same limitation on the use of union dues.

Mr. President, as I stated earlier, yesterday, the Senate adopted an amendment, offered by Senator BOREN, that would effectively overrule the Supreme Court's interpretation of the Federal labor laws, thereby allowing the use, now prohibited, of compulsory dues and fees for a broad range of political, ideological, and other nonbargaining purposes.

The Boren amendment expressly supersedes the Supreme Court's interpretations of the labor statutes. It expressly provides that its provisions "are in lieu of any requirement limiting the financial obligations of objecting employees under any other provision of Federal law—including the National Labor Relations Act, as amended, and the Railway Labor Act, as amended."

The amendment would overrule the Court's decisions in *Ellis* and *Beck*, because it prohibits the use of compulsory union dues only for "political activities," rather than for all activities that are unnecessary to the performance of a union's duties as the exclusive bargaining agent for the objecting employees' bargaining unit.

Under the amendment, nonunion members could be forced to pay for union organizing, litigation not concerning their bargaining unit, and union publications. All these expenditures are now prohibited under the Supreme Court's decisions in *Ellis* and *Beck*.

Even worse, the Boren amendment would repudiate the 1961 decision in the *Street* case that no political and ideological activities may be subsidized with compulsory dues and fees.

The Boren amendment limits the definition of "political activities" to activities "in connection with any * * * election for public office, any partisan political cause, and any ideological cause that is not reasonably related to advancing the employment interests of employees the organization [i.e., union] represents."

Lobbying on legislation and campaigning on ballot propositions is theoretically not partisan—even though we all know that is not, in fact, the case. Furthermore, every ideological cause that unions support could be said to be "reasonably related to advancing the employment interests of employees" whom a union represents. Consequently, the Boren amendment effectively prohibits the use of compulsory dues and fees only for expenditures directly for or against candidates for public office.

This amendment, should it become law, would represent the most radical

change in U.S. labor law since the 1960's.

Mr. President, some of my colleagues have complained that this whole issue has been a partisan exercise. Now it has moved a giant step further by giving labor unions unprecedented power to use compulsory union dues for a variety of purposes.

Mr. President, I ask unanimous consent that these news articles and one editorial be printed in the RECORD at the point, following which I shall conclude my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Washington Times, Aug. 25, 1988]

AFL-CIO HAILS DUKAKIS, BUT POLLS SHOW BUSH AHEAD

(By Isaiah J. Poole)

The AFL-CIO officially endorsed Democratic nominee Michael Dukakis for president yesterday in an effort to deliver the bulk of the labor federation's 14 million members for the Massachusetts governor in the November election.

AFL-CIO President Lane Kirkland told Mr. Dukakis the endorsement "represents our commitment to work for you in every state in the union."

A spokesman for GOP nominee George Bush called the endorsement "a classic dog-bites-man story."

"Every four years the AFL-CIO trots out what has become an obligatory endorsement of a Democratic presidential candidate and 1988 is obviously no exception," Bush spokesman Mark Goodin said.

Meanwhile, two new polls yesterday gave Mr. Bush a slim advantage over Mr. Dukakis.

An NBC News-Wall Street Journal poll gave Mr. Bush a 44-39 lead over Mr. Dukakis, while a Harris poll gave Mr. Bush a 49-47 edge.

The NBC-Journal poll contacted 1,762 registered voters; the Harris poll contacted 1,310 likely voters. Both polls were conducted after the Republican convention and had error margins of plus or minus three points.

The AFL-CIO endorsement puts millions of dollars of campaign help at the disposal of Mr. Dukakis. The union's political action committee has a \$2.5 million war chest that will be used to help elect Mr. Dukakis and other candidates through voter education and registration, union leaders said.

More than \$10 million worth of aid—in the form of cash, volunteer help, phone banks and literature—will flow from the local unions and their affiliates into the campaign of Mr. Dukakis and other labor-endorsed candidates.

Mr. Kirkland took pains to stress that the endorsement was based on a consensus of union membership nationwide. "Democracy is at work in the trade union movement," he said.

By contrast, in 1984 the union rushed into an endorsement of Democratic presidential nominee Walter Mondale during the early phase of the Democratic primaries. That year, large numbers of union Democrats split with their leaders during both the primaries and the general election.

The presidents of the AFL-CIO's 91 affiliated unions voted 95.7 percent of their 14.1 million members in favor of the Dukakis en-

dorsement, with three unions abstaining entirely.

The largest member of the federation, the 1.6 million-member Teamsters, voted to abstain, as did the 30,000-member Air Line Pilots Association and the 40,000-member Marine Engineers union. The Newspaper Guild voted 4,000 of its 25,390 members as abstaining primarily because of opposition to any endorsement by its Wire Service Guild local.

Newly installed Teamster President William McCarthy of Boston said he is withholding an endorsement until a mail poll of his members is completed Sept. 16. The Teamsters endorsed Ronald Reagan in 1980 and 1984.

Speaking to the union leaders at the AFL-CIO's general board meeting in Washington, Mr. Dukakis preached a message of "economic patriotism."

"Foreign investment has its place. But I want a future where American businesses are investing in America, where American ideas are working for America, and where American jobs stay in America and where American productivity and workmanship are the best in the world," he said.

Mr. Dukakis said he would support economic development grants to high-unemployment areas and a National Teachers Corps he described as a "domestic peace corps for teachers."

Communications Workers President Morton Bahr said four polls of his union's members in the past year show that those who voted for Mr. Reagan in 1984 "are coming home to the Democratic party."

United Auto Workers President Owen Bieber said a poll of his union's members in July and August at 28 sites showed 96.9 percent favoring a Dukakis endorsement.

"Obviously, we had a lot of people in 1980 and 1984 who made a mistake," Mr. Bieber said. "The attitude of our members has changed."

Later yesterday in Grand Rapids, Mich., Mr. Dukakis praised a high-technology research center and pledged to make a Dukakis administration an active partner in global technological competition.

The center at the Grand Valley State University Research and Technology Institute offers research and development to small- and medium-sized businesses in western Michigan. The program uses both private and state funds.

"This is precisely the kind of thing I want to do as president of the United States," Mr. Dukakis said.

[From the Wall Street Journal, Sept. 20, 1988]

A SPECIAL NEWS REPORT ON PEOPLE AND THEIR JOBS IN OFFICES, FIELDS AND FACTORIES

Unions gear up for big election push for Dukakis.

With more money and enthusiasm than four years ago, the AFL-CIO launches a massive effort to get 13 million unionized workers to register and vote for Democratic nominee Michael Dukakis. "We sense this time we have a real chance," compared to 1984's futility when unions backed Walter Mondale, observes Jerry Clark, political director of the American Federation of State, County and Municipal Employees.

The AFL-CIO plasters its newspaper with the Dukakis message and follows with videos and millions of fliers. It expects to field 500,000 volunteers. The American Federation of Teachers sends 16-minute videos to 100 locals. The United Auto Workers taps

union publications and the mails. The Communications Workers turns to phone banks to get out Democratic votes.

But a few union officials complain their efforts are being hampered by confusion in the Dukakis camp.—Selwyn Feinstein.

[From the Washington Post, Oct. 11, 1988]

LABOR TRIES TO SPARK ENTHUSIASM FOR DUKAKIS

(By Frank Swoboda)

For organized labor, the past five weeks have been a warmup. This week marks the start of the presidential election campaign.

Armed with nearly \$40 million in cash, an army of volunteers and perhaps more hope of winning than at any time this decade, labor is moving into the critical "get-out-the-vote" phase of its campaign to elect Democratic presidential nominee Michael S. Dukakis.

The goal is to get 65 percent of the union members in at least 10 key states to vote for Dukakis in the Nov. 8 election.

But there is a level of frustration among many union officials, who suggest that the labor effort for Dukakis is far more organized and efficient than the national Democratic campaign.

Labor is concentrating on the states with the heaviest union membership: New York, California, Pennsylvania, Illinois, Ohio, New Jersey, Michigan, Massachusetts, Texas and Florida. At this point, however, key labor officials see Florida as a lost cause—Dukakis is running behind Republican nominee George Bush by as much as 20 points in their polls.

Labor's effort is not confined to these states, however. Union political operatives point to Washington and Oregon as states where they expect labor's efforts and organization to make a difference. In terms of organization and volunteers, said Joan Baggett, labor coordinator for the Dukakis campaign, "our campaign has an edge in the field."

Labor brings more than people and tactics. AFL-CIO spokesman Rex Hardesty said union political action funds total between \$36 million and \$41 million, 300 percent more than in 1984. "This election's going to be close because Dukakis can compete," he said.

Union officials said they have assembled the most sophisticated election operation in memory, to try to overcome what they see as a lackluster national campaign by Dukakis. There concern is that it will be hard for the unions to do well in the next 30 days unless the Dukakis campaign generates more enthusiasm among the voters.

Officials from nearly all of the politically active unions contacted in recent days said a major difference between this campaign and those in 1980 and 1985 is the active involvement of local union leaders. At this stage of the campaign in both the 1980 reelection campaign of President Jimmy Carter and the 1984 campaign of former vice president Walter F. Mondale, key union officers were giving only lip service to the candidate, these officials said.

"I think there's a lot more participation as far as the [union] leadership and political people are concerned," said the political director of one union. "There's almost a sense of desperation. Labor is much more organized and focused than the [Dukakis] campaign."

Until now, said Loretta Bowen, political director of the Communications Workers of America (CWA), many union people have been "searching desperately for a spark" to

help ignite rank-and-file enthusiasm about Dukakis. Now, she said, "people realize there may not be that spark."

As a result, the CWA, one of a handful of politically active unions, has ordered everyone on its 200-member field staff not actively involved in contract negotiations to spend full time to the election.

Bowen said the union was concentrating its efforts on two tiers of states where it has large membership. The top tier, where CWA membership is the largest, includes New Jersey, Ohio, Texas and Tennessee. The second tier of important states where there also is sizable membership includes California, Georgia, Michigan, North Carolina, Pennsylvania and New York.

The United Auto Workers (UAW) union, whose efforts could spell the difference for Dukakis in Michigan and other key industrial states, this week will mail more than 1 million personalized, pro-Dukakis letters to UAW members. Each letter also identifies the individuals by their employer.

The UAW is distributing anti-Bush material at plant gates in the hope that members will use the material to argue against Bush during what research shows is a general willingness to discuss politics on the job.

Political research within the union shows the membership responds to what UAW spokesman Peter Laarman calls the "squeeze issues," such as concerns that the next generation will not be able to do as well economically.

Laarman said that so far Dukakis hasn't automatically appealed to union workers who may be ready to return to the Democratic Party. But he said he senses the campaign is beginning to coalesce among UAW members. "We're building," he said. "I don't think anyone is running away from the fact that this is a real tough battle."

Sam Dawson, political director of the United Steelworkers of America, said labor's campaign effort to date was "more organized than any I've seen since 1960." Key labor officials credit Democratic National Chairman Paul G. Kirk Jr. for building up the party's state operations since 1984. They said much of the campaign organization and coordination is being handled by the state party organizations rather than the Dukakis campaign.

Dawson said that until recently few workers seemed to focus on the election and there was little enthusiasm for either Dukakis or Bush. Now there are indications the membership is beginning to turn toward Dukakis, he said. "Our people sense that it can be won. We are close enough in the states that we have to win that we think we can do it."

This year, for the first time on any scale, key unions have been using focus groups to try to determine the message their members want to hear from candidates. The results have been surprising, union leaders said. In general, the research showed that the membership wanted facts—to help them make up their own minds—not the traditional party or union political rhetoric.

Perhaps the best example of this was the National Education Association which, after endorsing Dukakis, put the pictures of both Bush and Dukakis on the front of its monthly newspaper. NEA's Ken Melley said the union attempted to present a balanced assessment of the two candidates and explain why the union picked Dukakis.

[From the Wall Street Journal, July 13, 1989]

UNION DUES AND DON'TS

For 13 years, former telephone repairman Harry Beck fought to give union members the right to withhold any portion of their dues that is used for non-bargaining activity, such as political campaigning. For some unions that could mean most of the dues. Mr. Beck is finally winning.

Last year, the Supreme Court ruled Mr. Beck had been unconstitutionally compelled to pay union dues that supported political causes he opposed. The majority opinion by Justice William Brennan held that employees do not have to pay dues for anything other than collective bargaining, contract administration and grievance procedures. Last month, President Bush announced he would propose legislation to write the Beck decision into law.

Campaigns are already under way to inform union workers on how they can demand a partial refund of their dues and fees, which average \$330. Since the Supreme Court in 1986 put strict curbs on the accounting methods unions can use to determine how much of their expenses go for actual bargaining, the possible refunds could be huge. A Baltimore court found Mr. Beck's union, the Communications Workers of America, had spent 79% of member dues on activities unrelated to bargaining. A Michigan judge recently found that only 10% of the dues collected by a National Education Association affiliate were spent on collective bargaining and related activities.

Labor unions represent about 15% of the American work force today, down from 30% in the 1950s. This drop has made many unions anxious to hold on to the political influence they have accumulated. Many unions have raised fees to make up for lost members, and total dues and fees collected by unions total \$5.1 billion.

No one knows how much of that income goes into non-bargaining activities, but in 1988 unions gave \$33.5 million directly to federal candidates. According to an article in the current Policy Review, an additional \$100 million to \$350 million was given through in-kind contributions such as printing, voter registration and precinct walking.

In seeking to codify the Beck decision and to protect workers from subsidizing causes they may abhor, Mr. Bush has not forgotten that some corporate political-action committees can use shakedown tactics to generate political donations. That kind of coercion is just as wrong and just as corrupting of the political process.

Recent trials in Texas have revealed how insolvent S&Ls gave their executives hefty raises and then instructed them to write checks to Congresspersons who were debating tougher limits on the risky investments the same S&Ls were making with insured deposits. Many Members then found it convenient to let the issue slide, a move that has cost the taxpayers billions.

That's why President Bush's plan to eliminate PACs that do not have an ideological focus in exchange for allowing political parties to contribute more to individual candidates is intriguing. Money given to political candidates is a legitimate form of free speech, but the Bush proposals would distinguish between those who donate to promote a set of ideas and those who only want to buy political access and favors.

Codifying the Beck protections for union members and limiting the power of PACs won't on their own solve the problem of spe-

cial interests grabbing the power of government for illegitimate purposes. That problem will go away only when politicians are elected who will govern in the public interest, not for private interests.

Mr. HELMS. Mr. President, now that the effect of the Boren amendment is clear, Senators should be aware of the situation before casting their votes on final passage of this bill.

In summary, Mr. President, the Boren amendment repeals all other protections that employees may have under Federal law. I cannot believe that was the intent of the Senator from Oklahoma. In any event, there is no way that I can support this bill, and I urge the President to veto it.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Republican leader is recognized.

Mr. DOLE. Mr. President, in just a moment or two, I am going to offer a substitute that will be the same proposal that I have previously sent to the majority leader. We included the changes made yesterday in the franking provision by Senator NICKLES. The substitute, however, does not contain an honoraria ban.

My view is that that is not a campaign reform issue. That is pay related and ought to be determined when we determine whether we will receive the same pay as the House, or whether we will receive \$22,000 or \$23,000 less per year come January 1, 1991.

Let me say at the outset, I think there are two courses we could have followed. There were 15 or 20 amendments pending here, and we had time agreement of 15 to 30 minutes for each amendment. That is a long, long time, as I calculated it, plus rollcall votes, 30 rollcall votes. That is another several hours. I do not believe it would have changed anything.

In my view, the die is cast on this bill. We might as well offer the substitute and vote on the substitute and go to final passage and have a vote on that. There is no doubt about the outcome, probably, of either.

Maybe there will still be opportunities to try to resolve some of the differences. It does not seem possible to me, though you never know. We do not know what the House may do, or what may happen in the conference. We have conferees that are going to be well attuned to specifics on all these bills. So hope springs eternal.

There are obviously some good things in the Democratic proposal, but in our view, there are some very onerous provisions that nearly all of us on

this side cannot support—particularly, the lack of soft money provisions and the taxpayer financing provisions. They are still in there.

I do not care what the people say on the other side. There is still postal subsidies, and there is still voucher subsidies. I do not know where you get the money to finance these activities if not from taxpayers. Maybe somebody might be able to tell me where it comes from.

In the final analysis, rather than spending another day, or all night on this bill, it seems to us that the best thing is to have a resolution. We indicated at the start we were going to cooperate with the majority, and it was indicated weeks and weeks ago by the Senator from Kentucky [Mr. McCONNELL]. I think we have kept that pledge.

I think today, for example, most of the amendments have been offered by Members on the other side. Four were offered by Democrats and two by Republicans where we have had rollcall votes. I do not believe there have been many quorum calls in the past 2½ days. So there has been an effort on both sides to move ahead.

I commend the Senator from Oklahoma; I think he sincerely would like to put together a bipartisan bill. But I do not believe he can on that side. I am not certain that we can on this side. There are some on each side that may not want any bill—very few, but maybe some. Some have different views in different areas, and I guess in the final analysis, some would like to draft the bill to fit their particular circumstance in their own State. And under those restrictions, it does not seem to me that it serves my purpose to spend another day or 2 days on what has been termed, at least, "campaign finance reform."

AMENDMENT NO. 2452 TO AMENDMENT NO. 2432

(Purpose: Substitute amendment)

Mr. DOLE. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2452 as a substitute to Amendment No. 2432.

Mr. DOLE. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. DOLE. Mr. President, this is a complete substitute for the so-called reform package now pending before the Senate. I believe it is fair, and I believe it is comprehensive, and I hope it can be bipartisan. Maybe it is too late for that.

This amendment adopts what we call "flexible fundraising targets." I might say some do not care for that provision on this side of the aisle but it does adopt the flexible fundraising targets I proposed to the majority leader, Senator MITCHELL, last week.

I ask unanimous consent that my letter to the majority leader be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
OFFICE OF THE REPUBLICAN LEADER,
Washington, DC, July 25, 1990.

Hon. GEORGE J. MITCHELL,
U.S. Senate, Washington, DC.

DEAR GEORGE: This letter is a follow-up to my previous letter to you, dated July 6, 1990, in which I responded to your 5-point campaign finance reform proposal.

As promised, I have attached for your review a Republican counter-proposal. In a nutshell, the counter-proposal incorporates the "flexible" approach endorsed by the Bipartisan Campaign Finance Reform Panel, which we established jointly last February.

As you know, the Bipartisan Panel distinguished between "potentially corrupting" sources of campaign financing (PACs and out-of-state contributors) and "desirable sources," such as a candidate's own individual constituents. The Republican counter-proposal reflects this distinction by adopting the following three key principles:

1. A Ban on Political Action Committee (PAC) Contributions.

2. "Flexible" Fundraising Targets establishing aggregate limits on personal funds, contributions from out-of-state individuals in excess of \$250, and contributions from PACs (if the PAC-ban is declared unconstitutional).

3. A Reduction in the Out-of-State Individual Contribution Limit from \$1,000 to \$500.

Like the Bipartisan Panel, the Republican counter-proposal also recognizes the importance of expanding the role of the national and state political parties and the need to reduce the cost of campaigns by making television advertising more affordable.

George, I look forward to hearing your thoughts on the Republican counter-proposal at your earliest convenience. It is my sincere hope that the counter-proposal can serve as the basis for a comprehensive and bipartisan compromise on this very important issue for all Americans.

Sincerely,

BOB DOLE.

CAMPAIGN FINANCE REFORM COUNTER-PROPOSAL

1. "Flexible" Fundraising Targets. Adopt "flexible" approach advocated by Bipartisan Panel. Establish aggregate state-by-state fundraising targets based on voting age population. Fundraising targets would cap contributions from political action committees (if PAC-ban is declared unconstitutional), personal funds, and contributions from out-of-state individuals in excess of \$250.

Flexible Component. Exempt donations from in-state individuals. Exempt donations of \$250 or less from out-of-state individuals.

Conditions. "Flexible" fundraising targets must be a) "reasonably high," b) conditioned on "a significantly expanded role for the parties," and c) subject to automatic

cost-of-living adjustments (See Panel Report, pages 6-7).

Voluntary. Acceptance of "flexible" fundraising target would be voluntary. Participating candidates would be entitled to 1) reduced broadcast rates (discussed below) and 2) reduced postal rates.

2. Political Action Committees. Prohibit all PACs from participating in the federal election process.

Fall-back: If PAC-ban is declared unconstitutional, reduce the maximum allowable PAC contribution from \$5,000 to \$1,000. Limit aggregate PAC contributions to 20% of fundraising target.

3. Out-of-State Contributions. Reduce from \$1,000 to \$500 the contribution limit for individuals residing outside of a candidate's home state.

4. Political Parties. Exempt certain organizational activities (e.g., research, get-out-the-vote, voter registration) from the coordinated expenditure limitations.

5. Broadcast Rates. Lowest Unit Rate. Require broadcasters to offer Congressional candidates non-preemptible lowest unit rate 45 days before the primary and 60 days before the general election. Mandate candidate access to non-preemptible, lowest unit rate time slots.

6. Challenger "Seed Money." Allow political parties to match early, in-state contributions to challengers. Party committee matching funds would be permitted to a maximum of \$100,000 for House and Senate candidates.

7. Tax-Exempt Organizations. Prohibit all tax-exempt 501(c) organizations from engaging in any activity which attempts to influence a federal election on behalf of a specific candidate. Prohibit tax-exempt 501(c) organizations from engaging in voter registration or get-out-the-vote activities if a Member of Congress solicits donations for the organization.

8. Franked Communications. Prohibit franked "mass mailings" during the election year of a Member of Congress.

9. "Soft Money." Codify Supreme Court's *Beck* decision. Prohibit corporations, unions, and trade associations from financing the administrative expenses of their connected PACs. Prohibit corporations, unions, and trade associations from engaging in voter registration and get-out-the-vote activities in connection with a federal election.

10. Bipartisan Commission. Establish a Bipartisan Commission to review effects of legislation on campaign spending and the cost of campaigns during the 2 general elections following enactment. Require Bipartisan Commission to submit a report to the Senate Majority and Minority Leaders and to the House Majority and Minority Leaders outlining its findings 5 years after enactment.

11. Sunset Provision. Establish a sunset provision after 3 general elections (i.e. 6 years). At that time, legislation would expire unless reenacted Congress and signed by the President.

All other issues to be negotiated.

Mr. DOLE. As most of my colleagues know, the flexible fundraising targets are based on recommendations made by the six-member bipartisan panel of campaign finance experts, who were selected last February. I chose three and the majority leader chose three. They did the best they could with a very difficult problem.

In some areas they found agreement and in some areas they disagreed.

Using the panel's good money/bad money distinction, the flexible fundraising targets place an aggregate cap on the so-called bad money source, that is personal funds, that is, out-of-State individual contributions in excess of \$250 and political action committee contributions if the PAC ban proposed by the amendment is ever declared unconstitutional. The flexible fundraising targets, on the other hand, would not cap contributions from so-called good money sources, in-state individual donations and out-of-State individual contributions of \$250 or less.

Some would say you have to cap even what we might raise in our home States, the State of Kansas, in my State, or the State of Kentucky, State of Oklahoma, State of Maine, whatever. We do not believe that we should preclude the taxpayers, the voters of our own States from making contributions.

Some may suggest that maybe we ought to limit the large contributions but there should not be any limit under a certain amount. We do not believe at this point there should be any limit at all from in-state contributions. If someone in my State wants to contribute, I should not have to say, "I am sorry, I reached a limit; you cannot contribute to my campaign." So we do not include that limit. We do not see what is wrong with sending a lot of these Senators back home to raise money instead of raising it all around the country. I hope somebody put in the RECORD the Washington Post piece of yesterday.

Mr. DOMENICI, I did.

Mr. DOLE. I hope there will be a careful examination of that to see which party is raising all the money out of State. It is not the Republican party. It gives the percentages, and I think, with one exception, Midland, MI, where Republicans had an edge, in every other place the Democrats had a big, big edge in out-of-State funds. Why should we restrict the best dollars in politics, money that comes from people we know in our own States? Why should we restrict that? We do not believe we should.

I do not believe we are going to taint the process by saying \$250 or less out of State should not be limited. You are not going to buy a lot for \$250, if that is what they are concerned about.

Small out-of-State contributions are not made to gain access to the decisionmakers in Congress. And despite the cynics, you know there are some people who believe in a different philosophy. They may live in Illinois, Texas, or California. They may want to contribute to the Senator from Arkansas because they like his philosophy. They know that this Senate deals with problems that affect the Nation, not just single States, international

problems. So they are committed to philosophy. Maybe they are liberal, maybe they are moderate, maybe they are conservative, oh, yes, maybe even one-issue people who feel strongly about flag burning or some other issue. So we do not believe they should be precluded from expressing their views, their first amendment rights, although we do limit it some.

So there is good/bad money. We do not see anything wrong with the good money, and I do not think the American people see anything wrong with the good money. If the American people are concerned at all, and concern is as great outside the Beltway or outside the Capitol Grounds as it is inside, I think they would make a distinction between political action committees, which are banned and also banned in the pending proposal, and in-state contributions where there is no limit in our proposal and out of State where we do limit it at \$250 or less.

So we think that is a good proposal, and it was not easy to put together on this side of the aisle. The fundraising targets are voluntary, another point I would make. Targets are set at the State-by-State limits proposed in the Boren-Mitchell substitute, and those who accept the targets will be eligible to receive reduced broadcast rates.

We also reduce out-of-State individual contributions from \$1,000 to \$500. Another limit. Some are concerned about many of our colleagues who raise money, myself included, in New York, Los Angeles, Miami, or Chicago, or some other urban area.

Following the panel's recommendation of increasing the role of the political parties, the amendment proposes a challenger seed money mechanism to give House and Senate challengers a jump start in campaigns.

Finally, Mr. President, flexible fundraising targets will sunset in 6 years. So everybody will have an opportunity in 6 years to see if they worked in favor of one party, one region of the country, or a group of candidates who maybe some say are single-issue candidates. If the targets do not work, they would be changed or we could toss the targets into the legislative garbage can.

During the past 3 days of debate, we heard touted time after time inflexible aggregate spending limits as the centerpiece of reform from the other side of the aisle.

My colleagues on the other side of the aisle also decided to limit citizen participation through campaigns by embracing public financing, and again I have heard a number of my colleagues say there is not any in here. I do not know how they are going to pay for the subsidy on mail, the subsidy on broadcasting.

But I must say we are not a bit bashful on this side when it comes to rejecting public financing. We do not

like it. We have a budget crisis. The budget summit talks I do not think have collapsed, but they are teetering. What are we doing? We are trying to dream up one more spending program before the recess to add to our problems. It is going to start out small, like most spending programs start out small, but it will mushroom like most spending programs mushroom in the Congress, and before long we will all be under the thumb of the Federal Election Commission and they will tell us what we can do with our money and what we cannot do with our money. They have a lot of people who like to do that over there, and they will have a lot more. As I said, they will be as large as the Pentagon maybe in 10 or 20 years. The Pentagon will be much smaller in that time.

Our viewpoint from the start has been the source of the money. It is the source of the money we ought to be looking at, not some arbitrary, inflexible spending limit. It is the source.

So what we have attempted in this amendment is to try to bridge the two partisan approaches by taking the best idea of both approaches.

This amendment accepts the concept of target limits in fundraising. It embraces the good money/bad money distinction made by the bipartisan panel. It does not bar honoraria, as I said, because in my view that should be pay related and there is no particular reason it ought to be in this bill, but it is in this bill. Maybe this bill is not going anywhere, so maybe that is a good place to have it, but it is pay related. As I said this morning, everybody knows honoraria is going to be banned. It is a question of when. It is a matter of strategy. It is my strategy, and I think the strategy of the majority leader, that ought to be left when we get into pay-related matters. In any event it is part of the package.

Finally, Mr. President, I would like to thank my distinguished colleague from Kentucky, Senator MITCH MCCONNELL. There is no one in this Chamber on either side—and there are a lot of people that know a lot about campaign finance—who knows more than the Senator from Kentucky.

Again, as I said weeks and weeks and weeks ago, we are not going to frustrate the will of the majority; we are not going to fight cloture, which we could have done successfully and had 3 or 4 days of wrangling over that. We believed, and still believe to some small extent, that maybe something will come out after all of this. Maybe the House will provide some additional guidance. Maybe in conference with conferees—some are on the floor—people knowledgeable in this will come up with something that can be fair that will not give one party an advantage over the other.

But certainly there is no one on this side who has worked harder than Sen-

ator MCCONNELL. This is a tireless, thankless job. What you get out of learning about campaign finance, probably an Excedrin headache is what you get. He has not complained about that. It is a long, tortuous road, and I think we have come a long way. And I think Senator MCCONNELL, on this side of the aisle, has earned the respect and admiration of his colleagues, and I think the same is true on the other side of the aisle.

So, Mr. President, I am not going to take a lot of time. I think we have taken enough. I said we ought to be able to finish action by 8 o'clock, but not quite. I would be happy to enter into an agreement that the majority leader and the manager would like to make on that side.

One of my colleagues wanted to offer an amendment earlier. I am trying to find him to see if that is still necessary. I have just been advised that Senator PRESSLER will not offer his amendment.

Mr. President, I ask unanimous consent that a summary of the substitute amendment be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

DOLE SUBSTITUTE AMENDMENT—CAMPAIGN FINANCE REFORM

1. "Flexible" Fundraising Targets. Adopt "flexible" approach advocated by Bipartisan Panel. Establish aggregate state-by-state fundraising targets based on voting age population. Fundraising targets would cap contributions from political action committees (if PAC-ban is declared unconstitutional), personal funds, and contributions from out-of-state individuals in excess of \$250.

Flexible Component. Exempt donations from in-state individuals. Exempt donations of \$250 or less from out-of-state individuals.

Voluntary. Acceptance of "flexible" fundraising targets would be voluntary. Participating candidates would be entitled to reduced broadcast rates (discussed below).

2. Political Action Committees. Prohibit all PACs from participating in the federal election process.

Fall-back: If PAC-ban is declared unconstitutional, reduce the maximum allowable PAC contribution from \$5,000 to \$1,000. Limit aggregate PAC contributions to 20% of fundraising target.

3. Out-of-State Contributions. Reduce from \$1,000 to \$500 the contribution limit for individuals residing outside of a candidate's home state.

4. Political Parties. Exempt certain organizational activities (e.g., research, get-out-the-vote, voter registration) from the coordinated expenditure limitations.

5. Broadcast Rates. Lowest Unit Rate. Require broadcasters to offer Congressional candidates non-preemptible lowest unit rate 45 days before the primary and 60 days before the general election. Mandate candidate access to non-preemptible, lowest unit rate time slots.

6. Challenger "Seed Money." Allow political parties to match early, in-state contributions to challengers. Party committee matching funds would be permitted to a

maximum of \$100,000 for House and Senate candidates.

7. Tax-Exempt Organizations. Prohibit all tax-exempt 501(c) organizations from engaging in any activity which attempts to influence a federal election on behalf of a specific candidate. Prohibit tax-exempt 501(c) organizations from engaging in voter registration or get-out-the-vote activities if a Member of Congress solicits donations for the organization.

8. Franked Communications. Prohibit franked "mass mailings" during the election year of a Member of Congress.

9. "Soft Money." Codify Supreme Court's *Beck* decision. Prohibit corporations, unions, and trade associations from financing the administrative expenses of their connected PACs. Prohibit corporations, unions, and trade associations from engaging in voter registration and get-out-the-vote activities in connection with a federal election.

10. Bipartisan Commission. Establish a Bipartisan Commission to review effects of legislation on campaign spending and the cost of campaigns during the 2 general elections following enactment. Require Bipartisan Commission to submit a report to the Senate Majority and Minority Leaders and to the House Majority and Minority Leaders outlining its findings 5 years after enactment.

11. Sunset Provision. Establish a sunset provision after 3 general elections (i.e. 6 years). At that time, legislation would expire unless reenacted by Congress and signed by the President.

Mr. DOLE. Mr. President, the following table lists the public financing moneys that would be available under the Democratic bill to a Senate candidate in a sampling of six States. I ask unanimous consent that the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

	General election spending limit	Public financing—20 percent broadcast vouchers
South Dakota.....	\$950,000	Almost \$200,000.
North Dakota.....	950,000	Almost 200,000.
Nebraska.....	950,000	Almost 200,000.
Iowa.....	1,039,500	More than 200,000.
Kansas.....	956,200	Almost 200,000.
California.....	5,500,000	1.1 million.

Note.—If two candidates are in race and they accept spending limits, amounts are doubled.

Mr. RUDMAN. Mr. President, I will be very brief.

I want to start out by saying to the distinguished Senator from Oklahoma and my colleague on this side of the aisle, the Senator from Kentucky, that I do not think anyone could have worked with anymore diligence than the two of them. They both operated in good faith.

There is a problem which exists here that our leader did not address. He addressed everything else.

But the Republican leader a few days ago—in a conversation—was talking about a Soviet leader. I think it might have been the mayor of Leningrad, who was unhappy with the political system there. And he suggested that maybe they needed to form sever-

al more parties. The Republican leader, in his inimitable way, quipped, "He can join one of ours. We have five on this side of the aisle."

And I would say that on his issue, the Democrats have five on their side of the aisle.

The majority leader indicates six.

That of course has been the problem we have been grappling with.

I understand the excellent statement made by the distinguished Senator from Maine, the Democratic leader, about the need for limits, because there is a perception that too much money is being spent in politics and he, I think, expresses a view that spending ought to be limited in some way. I have never really disagreed with that, although I have been in the minority on this side.

The problem has been there has been some hysteria—outside of this body, not inside of it—with special-interest groups who want to talk about spending limits, and that approach really disregards what the real problem is. The real problem is not how much money we have to raise. It is how much money we have to spend.

The Senator from Maine, the majority leader, knows that, as a Senator from New Hampshire, I am required to buy Boston television. The outrage of that, I will demonstrate in 30 seconds. In 1980, a 30-second commercial in prime time—one—costs \$5,000. When I ran for reelection in 1986, it was about \$12,000.

The Red Sox did well that year, so I wanted to buy one 30-second spot for the playoffs. They told me it would be \$50,000. I did not buy it.

In 1990, it is up to \$18,000 and they tell me in 1992 it will probably be up around \$20,000.

No matter what we do with limits, the amount of money that is going to be spent on politics, be it from special interests, the public, or from the Government, is going to escalate out of sight until we address that problem. And that is one that I do not believe that either side has addressed properly. Quite frankly, there is quite a special-interest group that is really fighting this, called the National Association of Broadcasters. Even though only three-quarters of 1 percent of their revenue comes from political advertising, 70 percent of the money that we spend on politics in our campaign, 70 percent, is on television and associated costs.

So, that is the underlying problem that we have yet to address, no matter what else we do with reform.

Now, I know that Common Cause—I would remind everybody, parenthetically, those wonderful people that brought us political action committees, another one of their great ideas—has been laboring for limits. And I say that we probably still can have some sort of limits so long as we encompass

the principle that small contributions in our own States should be unlimited in their contributions. That is my belief.

On our side, I think there is still not a full consensus for that. I believe it would develop.

But the problem is the way the people on the other side have access to fund. And that is, of course, so-called soft money.

I discussed that with the Senator from Oklahoma and told him very frankly that Republicans were very concerned about spending limits. Because, under those limits, soft money from labor groups, which academics estimate approaches \$300 million a year will not be regulated or disclosed. I do not know whether this estimate is true, or not. Maybe it is \$100 million a year. But, obviously, that is where the problem is.

I submit to the leadership on the floor tonight that if we are going to eventually have a compromise, we will have to have some recognition of the right of our constituents to contribute to us in our own States. We will have to address the real problem of the way we communicate with our constituencies through television, and we have to address soft money in some reasonable way, recognizing that is a constituency that Democrats have and Republicans do not, and obviously that constituency is entitled to express itself.

But I truly believe that no one on either side who is part of the leadership of this was really trying to do anything but develop a consensus.

I know the Senator from Maine and the Senator from Oklahoma, the Senator from Kentucky, and the minority leader, were unable to develop a consensus on both sides. So we will vote for this substitute because it approaches what we believe more realistically protects our interests.

The leadership package will pass. Maybe something will happen in conference. I would like to be a part of making that happen. But I submit to you until we address some of these underlying problems, we are not going to have any real compromise here.

I would like to thank all who participated in this.

I am saddened that we do not have a bipartisan bill that could pass unanimously, with everyone voting for it tonight.

Mr. DOMENICI. Mr. President, I want to assure those who are left on the floor that I will be very brief. I want to extend my congratulations to those who managed this bill. Obviously, the Senator from Oklahoma and the Senator from Kentucky have done a marvelous service to the Senate. They know what they are talking about.

I, too, wish that we would have ended up with a bipartisan bill. It

became obvious to me early on that we were not going to, I say to my friend, the majority leader.

But I want to say just a few words about the bill that Senator DOLE offered on this side of the aisle, with the hope that some on the other side would join in supporting it. I guess the hope is a very weak hope at this time of the night, considering what has happened.

But, essentially, I believe there is nothing more important to our processes than how our elections are run and how we run our campaigns and where we get our support. I believe we would not be on the floor of the Senate talking about reform if most of our campaign money came from people in our home States.

I, frankly, do not believe there would be national writers concerned about the State of New Mexico and 17,000 people contributing to the campaign of the Senator from New Mexico, even if that was \$3 or \$4 million in a small State. I do not think anyone would be challenging that money or that expenditure.

I think what has happened is that we have gone way, way, far and away from home to get our money, and the issue should be, "Where does the money come from?" more than "How much do you spend in a campaign?"

The bill which the distinguished minority leader offers is a very good bill because it has some very strong incentives directed at pushing us to get more money from residents of our home State and less money from those who do not live in our States. It does away with PAC's, it does away with soft money, or sewer money, and essentially, as he has so aptly put it, seeks to put no limitation on our constituents, other than \$1,000 as the maximum. But, there is no limitation as to how much can be given to a campaign in New Mexico or a campaign in any of the States where the distinguished Senators on the floor here tonight run.

Having said that, I believe when we take this amendment in its totality, it is real reform. I am sorry that the other side insists that we have some kind of caps because I believe we do not need any caps, if we are talking about contributions from the home folk. I believe those are self-policing, so long as they are disclosed. Who is going to complain about those? I do not believe there is anything to caps, when it comes to that kind of contribution and I am not alone.

I have been instructed, since I started this—my good friend from Kentucky has given me a number of treatises, written by some of the best political scientists in America—and I do not think any of them truly support mandatory caps as good policy for the American democracy, for the campaigns of U.S. Senators or U.S. Repre-

sentatives. That is how I read them. I did not read any significant ones that thought that was a good way to reform our process.

Having said that I want to remind the Senate there is one other provision in the Dole amendment that I think is good. Had we continued on with the amendment we would have offered a Domenici-Wilson amendment. We call it the millionaire's amendment. I do not say that in any derogatory way. But essentially, we have a situation in our country, because of the Supreme Court's decisions, saying if one is spending their own money or lending their own money to a campaign, they can put in as much as they desire. We do not change that.

But, what we do seek to do in this bill is shift the equilibrium a bit for the candidate who does not have a lot of money. We do it in a very simple way. Any contribution that one makes to his or her own campaign, from \$250,000 to \$1 million, lifts the \$1,000 limit on the nonrich candidate, and lets them go up to \$5,000 on personal solicitation.

If the wealthy person puts their own money in exceeding \$1 million, then there are no caps on the individual contributions that the nonwealthy candidate can raise. He can go to helpers, contributors, and raise \$100,000, \$200,000—the caps are taken off. I think that is fair. I do not think anyone ought to object to that, and frankly whether we adopt the Dole amendment or not, we ought to put that proposal in any bill on campaign reform that has a chance of passing. We think it is constitutional and it is obviously fair.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alaska.

Mr. STEVENS. Mr. President, when the two leaders appointed the group that met and gave us the report pertaining to campaign reform, it was delivered to the Rules Committee. I thought along with my good friend from Kentucky, the chairman of the committee, Senator FORD, we finally reached a point where we could be part of a really effective effort to bring about meaningful campaign reform in the United States. I think I am the only Member here who served on the committee and the conference committee in the 1970's that reported the bill finally signed by President Nixon that was ruled unconstitutional in the *Valeo* case.

Having worked on this subject for a long time I have, I think, an abiding interest in trying to achieve some of the goals we were unable to achieve then. But since that time we have come through some interesting periods of our constitutional history. One of the aspects of this issue that interests

me is the concept of trying to put absolute caps on contributions. I believe that contributions can and should be limited. But I am of the belief it is not constitutionally possible to prohibit a person from making a campaign contribution—altogether prohibit it—to a candidate of his or her choice.

This bill we are going to vote on, the majority bill, would do that in my opinion. We have had a recent Supreme Court decision that a person who asks for money, literally begs from another person, has a constitutionally protected right to do that under the concepts of freedom of speech. If that right exists, and it does in our country because of the Supreme Court's decision, and I agree with it, I think that there is a similar constitutionally protected right for anyone to participate in the basic mechanism of our democracy and that is the electoral process; to participate and make a statement in terms of giving something in support of a candidate.

The bills we have looked at have tried in many ways. I think the minority leader's bill finally reaches that concept—sort of a springing limit for spending by saying you can spend what you can raise legitimately with these contribution limits. With a meaningful contribution limit on the individuals in a candidate's State, and a restricted limit on those out of the State, I think we have found the basic key. It came, really, from the panel. But it should be the key to spending limits. The limit will be what the people who are authorized to contribute will in fact give to a candidate.

Only today I had a conversation with one of the reporters in town about the fact that some candidates just do not seem to raise money. That is an interesting fact of a democracy. There are some candidates to whom our citizens just will not give money. That is the process. And I think the minority leader's substitute brings that whole issue to a real peak, saying we will agree to spending limits. You can spend what you can constitutionally raise under these contribution limits.

I spent a lot of time with my good friend from Oklahoma, Senator BOREN, I commend him for the amount of time he has put in on this matter. As long as I mention that, too, the junior Senator from Kentucky has worked long and hard on this issue and has an abiding interest in it.

The difficulty I have is once again we are going to throw in the towel. That is unfortunate to me. There is no apparent remedy, however, for that situation, as the minority leader has mentioned. The politics of this body just do not mesh now. They used to mesh, Mr. President. We used to be able to work out differences like this, but the system is not working right, in

my judgment, when we on almost every issue reach the conclusion. Just let it go, the President will veto it and we will sustain the veto.

The net results is the Senate of the United States and the Congress will waste a lot of time, and so will the President, and the people will not have a solution. I believe we should have a solution.

The motivation of the minority leader and the majority leader and those who worked on this panel and those who have tried to implement the panel's recommendation have been admirable and commendable. But I think it is going to be a sad mark, once again, for the Senate, to in effect say everyone on this side vote for the minority leader's substitute—everyone on that side vote for the majority leader's substitute. That side has the numbers, by definition, and they win temporarily.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

Mr. BUMPERS. Mr. President, is the Dole substitute the pending business?

The PRESIDING OFFICER. The Senator is correct.

Mr. BUMPERS. Is there a time agreement?

The PRESIDING OFFICER. There is no consent agreement.

Mr. FORD. Mr. President, will the Senator yield to me for a unanimous consent?

Mr. BUMPERS. I will be happy to yield to the Senator from Kentucky.

AMENDMENT NO. 2453 TO AMENDMENT NO. 2432
(Purpose: Technical Amendment)

Mr. FORD. I think it has been cleared on both sides. I ask unanimous consent for a technical amendment to amendment No. 2432, bill S. 137, which strikes "Commission" and inserts "Secretary of the Senate" therefore. I ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the amendment? Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kentucky, [Mr. Ford] proposes an amendment numbered 2453 to amendment No. 2432.

Mr. FORD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, line 3 strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 7, line 22 strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 11, line 4 before "Commission" and insert "Secretary of the Senate or" in lieu thereof.

On page 18, line 14 after "Commission" and insert "by filing with Secretary of the Senate".

On page 25, line 4 strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 50, lines 5 and 6 strike "Commission" each place it appears and insert "Secretary of the Senate" in lieu thereof.

On page 50, line 20 strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 51, line 3 strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 52, line 16 strike "Commission".

On page 52, line 23 strike "Commission".

On page 53, line 11 strike "Commission" and insert the following: "the Secretary of the Senate, or with the Commission in the case of political committees required to register and report to the Commission under other provisions of this Act".

On page 55, line 2 strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 56, line 6 strike "Commission" and insert "Secretary of the Senate" in lieu thereof the following:

On page 56, line 19 and 20 strike "with such Commission".

On page 56, strike line 23 through page 57, line 2 and insert in lieu thereof the following:

"(f) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this Act to the Commission as soon as possible (but no later than 4 working hours) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 438(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 438(a)(5)."

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kentucky.

The amendment (No. 2453) was agreed to.

Mr. FORD. I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I will be brief.

I just want to say that I suppose Congress has never been very popular with the American people. I know when I was Governor of my State, anytime I wanted to go up a few points in the polls, I would jump on the legislature. Everybody loves it.

The same way with the President. Only the President can pull off all three networks; only the President can be guaranteed every network will be present when he has a press conference. He is the No. 1 newsmaker. So he can dump off on Congress and, frankly, people like him.

There are a lot of reasons—some of them legitimate, some of them maybe not so legitimate—that people hold Congress in low esteem. A lot of people here regret it, do not like it, and perhaps it cannot be changed. But I would say that the cynicism of people toward Congress is based not only on the fact that the President

can always charge Congress with the responsibility for everything that goes wrong—and this President is a packer compared to the last one in that department—but it is also because people do not think we are doing things that are relevant in their lives, especially if you are having a tough time paying your utility bills, if every year you go to renew your car insurance and it is up, every year you get your property tax bill on your home, and your property taxes are up, and the cities and counties are strapped and always asking for a new sales tax or something else, people go to the doctor and they cannot afford him and they certainly cannot afford the prescription the doctor gave them when they go to the pharmacy.

We actually make people in this country pay taxes on income even though they live below the U.S. Government's definition of the poverty line.

The last reason—and there are a lot. I am just sort of philosophizing about the way I see it. I think one of the main reasons people distrust Congress—and if they do not distrust Congress, they do not think much of them, because they know that money is playing too big a role in campaigns. There is not a country in the world, Mr. President, that finances campaigns the way we do. I sometimes wish the Germans had had an individual contribution system when Adolf Hitler was coming to power. Hitler could not have come to power because people would have given a great deal of money to his opponent. It is not all bad. It is not all insidious, and it certainly is not all corrupt.

But when people see that we have to raise \$4 million to wage a successful campaign for the U.S. Senate, they know that something is seriously wrong in the country. And they want it reformed. Everybody does not. A lot of people are not paying that much attention. But among people who do pay attention—and certainly with the media of the country, which harps on it endlessly from sun to sundown—they see it as the most disruptive, prohibitive cause of the Congress and the President dealing with the real problems of the country.

When I think about our competitiveness and as a Soviet diplomat said, "The cold war is over, and guess who won? The Germans and the Japanese."

Here we are facing a real deficit next year, \$335 billion, not \$169 billion, as the President said. The real deficit is \$335 billion. Put RTC and the S&L bailout on budget and take Social Security off, and it all comes to about \$335 billion. It is a big problem. There are 38 million people with no health insurance; dead last in every measure of education against other developed

nations; a murder rate—listen to this, Mr. President—40 times more murders in the United States per capita than in Western Europe.

After my vote to ban those infamous nine military assault weapons, you can imagine I got quite a bit of mail. One man who was terribly critical of my vote wrote: The first thing you know, we will be just like some of those European countries.

I can tell my colleagues there is one thing about the European countries that I would not mind emulating, and that is a murder rate that is 40 times less than ours, and no letup in sight. We saw the story in the Washington Post this morning about murders at a new all-time high in this country, military assault weapons one of the main reasons. Drugs are the principal reason.

Mr. President, listen to this: Drug use among people who make over \$50,000 is declining. Drug use among college graduates is declining. Drug use in the inner cities where people have no self-esteem, no feeling of hope, no hope of ever getting a piece of the rock, drug use—soaring.

You do not have to be a rocket scientist to figure that out. And we are not dealing with it. We are not ever going to interdict all the drugs coming into this country. As my friend from South Carolina, the distinguished Senator HOLLINGS said, people will invent designer drugs. And 24 percent of the children of this country under the age of 6 living below the poverty line.

What kind of values do we have? I saw someplace yesterday where one of my friends on the other side of the aisle, not one of the Members of this body but of that party, said they do not share our values. What are our values? What are our values when we rank dead last in education, 38 million people have no health care, one out of every four children living below the poverty line, and we simply cannot compete, and a deficit big enough to choke a mule?

Last night I heard the distinguished Senator from Oregon ask the distinguished Senator from Massachusetts, how do you define a special interest? You have talked a lot about special interest groups. We are all broken into special interest groups—doctors, lawyers, farmers, realtors. There are 4,000 PAC's in this country. There are 4,000 special interests. I am not being critical. I am just saying that people know that the way we finance campaigns in this country is eschew, it is wrong.

I voted for the Kerry amendment last evening. Not public financing; voluntary financing by the American people. You check off on your tax return an additional \$6 or give \$6 of your refund, not a dime out of the U.S. Treasury and, Mr. President, ultimately, we will come to that in this country.

Sometimes, as Walter Lippman said, the key to political survival is not being right before it is popular. Sometimes an idea has to ferment for a while. But everybody in this body at the belt buckle level knows that we are going to go to public financing some day. You cannot get this country back on track the way we are doing it now.

So, Mr. President, I have a small portion in this bill that I am very proud of. And, in a sense, I am sad that we have spent 3 days on the bill which the President has committed to veto, and I think that is sad. But I have a provision in there that would eliminate what I consider one of the most egregious abuses of campaign financing; that is the use of so-called independent expenditures.

Mr. President, you know what that is. That is where somebody, not anymore but at one time, an organization like NCPAC comes into your State. They do not mention my opponent's name. They just tell the people of Arkansas that I am a no good so and so, and they can spend any amount of money they want criticizing me, calling me by name, picking out every vote they think is calculated to make the citizen's blood boil. They can spend corporate money doing it, they can spend PAC money doing it, as long as they do not, so-called, orchestrate it with my opponent. He is not supposed to know anything about it.

Mr. President, I have seen Members who were running for the Senate, and some who are not here, get defeated in the last 36 to 48 hours of a campaign because somebody decided to dump hundreds of thousands of dollars into a campaign against them. The fact is that they simply do not mention the opponent's name, just criticize, run those negative 30-second spots that an unsophisticated voter looks at and says I would not vote for him for dog-catcher. Everybody knows what is coming on 30-second spots on flag burning this fall. I am amazed that I have not heard President Bush offer a constitutional amendment to stop Roseanne Barr from singing the National Anthem. I was more offended by that, Mr. President, than I am by a lot of things. I am an old stodgy when it comes to the National Anthem. I like the military version. I like the version I heard when I was in the Marine Corps when the Marine Corps band played it, the kind that sent cold chills down my spine and tears running down my cheeks. Yes, I am offended by people like Roseanne Barr, but I am not willing to amend the Constitution to keep her from giving that rendition, just as I was not willing to amend the Bill of Rights because some lunatic in Texas decided to burn a flag.

But the point is everybody here who voted against the constitutional

amendment out of pure heart and conscience and courage knows what he is going to be facing this fall. We all know what those ads can do to the average voter. And so it is with these independent groups. They are hate groups.

My portion of this bill, which the distinguished Senator from Oklahoma generously incorporated before it was ever presented, would stop those kinds of independent expenditures if that organization has any association or affiliation with any group or person who lobbies in Congress for legislation.

Mr. President, a lot of people think you cannot make a banning of independent expenditures constitutional. I say you can. We spent long hours on this and we spent long hours talking to a man whose constitutional law credentials are pretty good. I am saying it is certainly worth getting that in the bill to stop one of the most flagrant abuses of the political system in this country.

For the President to veto that is sad. As we went through all of the exercises, jumping through the hoops, sometimes shooting ourselves in the foot today, I thought why are we doing this to ourselves when the President has vowed he is going to veto it.

One thing we are doing is getting the American public tuned into a debate that absolutely has to take place in this country. You cannot mickey with it around the edges. It takes a great deal of courage and vision to deal with this.

Incumbents know they can raise money. Tragically, these days, with ethics as they are, it is going to be tough for incumbents to raise money. You have to say to a guy, give me \$1,000 and promise me, sign here that you will not get in trouble in the next 5 years and embarrass me. Or if you give me money, do not ever call me for a favor. If you do not give me money, call me anytime. That is where we are headed in this country.

All politicians ought to use some judgment and discretion. But I am just simply saying that is where we are heading and that is the reason for public financing, in my opinion, allowing the people to contribute \$6 apiece on their own volition, not of their tax money but out of their pockets so that every person who wants to give \$6 to finance the congressional campaigns of this country will know that he is just as important as the biggest fat cat in the country and maybe, just maybe, you will get more people interested in the political process.

Mr. President, I was in Leipzig, Germany, 3 days before they voted. The East Germans were rhapsodic about this vote that was coming up on Sunday. On Thursday evening Helmut Schmidt spoke in a plaza in Leipzig for 45 minutes with 30,000 people there

and you could have heard a pin drop for 45 minutes out in a cold night. That is political process at its best.

I was not there, but the following Sunday 93 percent of those people voted, most of them for the first time in their life. I get home, start reading the old papers, and the New York Times says Texas just had the hottest Governor's race in history. How many people do you think voted? A whopping 30 percent of the eligible voters. And 50.15 percent of the eligible voters in this country bother to go vote in the Presidential race.

Mr. President, there are a lot of reasons for that. Education is one. We are not teaching children about the political process. I had to sit on the courthouse lawn in Charleston, AK, population 1,200, when I was 12 years old and listen to every candidate that came through town because my father expected me at the dinner table that night to be able to discuss whatever that politician said.

There are a lot of reasons why people are not voting, but I promise you that not the least of the reasons is they do not think it makes any difference. When they know that we have to raise \$4 million to run for office, they know they cannot make a dent in their contributions. They know they do not count.

I am reluctant to say this, but I think that if somebody who put \$5,000 from a PAC contribution in your pot, came into your office and your secretary came back and said so and so from a certain political action committee who gave us 10 grand last time, 5 in the primary and 5 in the general, is here, you would say, you bet, show them in. Then Mr. and Mrs. Joe Blow just happen to be in town with their children sightseeing. I am going to exonerate myself; I see all those people. We have an ironclad rule in my office: If you are from Arkansas, you get in, no exceptions. But you just think about how you feel if you are busy, you are reading a memo, your staff is coming in, in a minute and you are going to discuss something. Are you going to see Mr. and Mrs. Joe Blow as quickly as you see this group that gave you 10,000 bucks last time to help you get reelected?

That is the reason Mr. and Mrs. Joe Blow are cynical about the political process. We are going to pass a bill here I hope tonight. Maybe it is going nowhere, maybe the President is going to veto it. At times I thought some of the things going on here today were absolutely frivolous, dismaying, undignified, but still the debate took place and much of it was good.

Some people across America watched it on C-SPAN. I watched some of the evening newscast, some of those cynical remarks made by those people who have to get along on \$500,000 or \$600,000 a year, talking

about how the Senate has to straighten up its act. I will not do it, but I often wonder what their honoraria a year is.

I think honoraria has to be abolished. It is something we have to do. No matter how careful you have been in the past, the perception of honoraria is what counts. We are dealing with perceptions as well as reality. Honoraria has to go; campaign finance reform has to be passed—if not now, next year.

Mr. President, this country has big, big problems. This is not the least of them. It is one. I am so pleased, and I congratulate the Senator from Oklahoma for his tenacity, his diligence, his vision. I always think, and I have cited on this floor before, about how we can never seem to come to grips with something until it is a crisis; we deal with everything on a crisis basis.

We are going to get up to that blinking mode on the budget. Who blinks first? But I think about when Robert E. Lee went from Appomattox to Richmond on his beautiful horse, Traveler. People in every village came out in droves, giving the rebel yell, hollering. Talk about a certified hero. Robert E. Lee was it.

About the third day out, he stopped; he got off his horse. There was a battlefield where corpses were still rotting, a little overdramatic for this cause, but the point is well taken. He turned to one of his aides. He pointed to the battlefield. He said, "The politicians caused this." At a time when this country needed a few men of vision and courage and forbearance, all we had were politicians feeding the hostilities, prejudices, and the bigotries of the people until the war became inevitable.

Nothing much has changed, Mr. President, but this will come. This debate has been good.

I extend my sincere thanks to the Senator from Oklahoma.

I yield the floor.

Mr. GORTON. Mr. President, I join with my colleagues in offering the bill I authored, S. 2595, along with 34 cosponsors, as a substitute for the Democratic bill on campaign finance.

I must express my reservations about one proposal which has been added to what previously was the Republican alternative.

Contained in the substitute is a flexible spending limits proposal. I think everyone in this body is aware of my strong views on the subject of spending limits.

Spending limits generally favor incumbents over challengers. Spending limits result in unnecessary regulation of our campaign finance laws. And spending limits are not supported by any reputable scholar who has studied the subject.

The original version of the Republican alternative demonstrated that

flexible spending limits were not a requirement for real reform. Flexible limits involved certain limits on out-of-State fundraising and political action committee contributions. Our alternative reduced the out-of-State contribution limit by one-half and we proposed the total elimination of PAC's.

Contribution limits can be used to limit spending, and I do not think we need to impose an aggregate limit if we substantially reduce contribution limits. However, Republicans are offering this flexible spending limits to illustrate that we are willing to move beyond our party's previous position to reach a bipartisan agreement on this legislation.

Mr. President, we have been debating a matter of the utmost importance, both to this body and to the American electorate. Political competition goes to the very heart of the American system of democratic government. Noncompetition in Congress means that incumbents are not held accountable for their actions. Currently the reelection rate in the House is 98 percent; in the Senate it is 84 percent. I would like to believe this is simply a result of the fact that Congress has done its job so well the American people do not feel challengers could adequately fill their shoes. Unfortunately other factors obviously influence congressional incumbents reelection rates. It is precisely these factors in the campaign finance process which we have been discussing.

Campaign finance reform is not a new idea. Since 1974, when Congress approved the basic provisions of the Federal Election Campaign Act, there have been bitter and often partisan battles over campaign finance reform. Reforming the Federal election process has long been a point of concern. Reforms in this area date back to the Tillman Act of 1907, limitations which were expanded in the Taft-Hartley Act of 1974.

We all agree that campaign finance reform is necessary. However it is quite evident after a few days of debate that there is no bipartisan consensus on what should be done to solve campaign finance problems.

Unfortunately, the campaign finance reform effort has become a frustrating partisan issue again this year. We should be working together to develop the most positive real reforms possible. The bipartisan talks on this issue were, regrettably, less than successful in developing a plan which both parties could agree upon, notwithstanding the diligent efforts of the distinguished negotiators on both sides of the aisle.

This disagreement has obviously carried over onto the floor as the vast majority of positive Republican amendments to the Democratic campaign fi-

nance reform package has failed due to partisan majority votes.

There are a number of features which we, on this side of the aisle, have consistently insisted must be addressed.

We believe that we must eliminate the influence of the PAC's which have usurped the rightful authority of the American voter.

We believe that we must eliminate the tide of unreported and unregulated soft money, or sewer money as it is now called by many here in Congress.

We must further address the problem of out-of-State financing of campaigns.

Basically, our efforts must be directed toward returning the American electoral system to the American voter by eliminating the corrupting influence of powerful special interest groups.

Frankly, there are some legitimate differences of opinion between the two parties about how to proceed on campaign reform. The primary difference, as I see it, is that we on the Republican side feel that the real problem is where the money comes from, and the influence on the system that emanates from special interest money.

The Democrats continue to reiterate the tired old phrase that there will be no campaign reform without a cap on campaign expenditures. Simply put, this looks through the wrong end of the telescope. It is a case of addressing symptoms rather than diseases. This is not what we need, and this is not what the American people want.

Spending limits are counterproductive, and result in a further entrenchment of incumbency. The President has vowed to veto a campaign finance bill which contains campaign spending limits, and I think, rightly so.

In the last three Presidential elections, spending limits have not reduced spending. They have forced spending into undisclosed, unreported channels.

Furthermore, the public or taxpayer financing created by this shift in Presidential election policy, has allowed fringe candidates, such as Lyndon LaRouche and Lenora Fulani, to dip into the public till for campaign finance support. Spending limits and public financing are a bad idea because they force the American electorate to subsidize the political ambitions of people they would otherwise not support.

Spending limits are directly contrary to the Supreme Court decision *Buckley versus Valeo* which stipulated that the spending of money for political purposes is a constitutionally protected liberty.

Mr. President, I find it ironic that many of the same legislators who recently fought to defeat the flag amendment, which they considered to be an infringement upon an individ-

ual's right of expression, would so readily support campaign spending limits, which obviously limit the legitimate right of Americans to express their support for a particular political candidate. Campaign spending limits lose on all grounds.

There is a problem with the campaign finance system. The American people realize there is a problem, and so do we, but the solution to the problem does not lie in the esoteric approach of limiting the amount of money which can be spent in a campaign. Spending limits are an arbitrary limit on the right of voluntary citizen participation in politics.

My Democratic colleagues have further tied public financing of political campaigns to these caps in campaign spending. Mr. President, this only makes a bad idea worse. To expect the American taxpayer to finance Senate campaigns, and if the House were to adopt this idea, House campaigns is a truly ridiculous idea—a new entitlement for politicians.

Mr. President, we must deal with the problem and not the symptoms.

The Republican alternative as offered by Senator Dole's amendment responds in a fair and responsible manner to the problems facing us today in the area of campaign finance. Mr. President, due to the questions I have previously raised, and the partisan nature of the Democratic campaign finance reform, I simply must vote against the Democratic plan and for the more responsible Republican plan.

The real solution is addressing illegitimate forms of campaign financing. This is what the Republican campaign finance plan does. This will result in a natural reduction in the amount of money spent on campaigns. I do not feel that the Democratic campaign finance plan is all bad, but unfortunately it does not go far enough in reform, and actually goes in the opposite direction from positive reform in some areas.

The Republican package will not deny the constitutional right of the American voters financially to support the candidate of their choice.

It will end the influence of PAC's, the undermining effect of soft, or sewer money from labor unions and other interest groups, and will limit the undue influence allowed to out-of-State campaign contributors, and includes other positive campaign reforms.

Mr. President, the limit on campaign spending would actually be counterproductive to our goal of ensuring that the voices of the American people are truly heard in the electoral process.

It is well known that the ability to spend without constraint is far more important to challengers than it is to incumbents. The perks of holding office—the frank, the ability to attract

special economic interest campaign contributions, rollover campaign war-chests, free staff, and a forum to attract media coverage—all add up to a huge advantage. If an incumbent and a challenger are limited to spending the same amount, the incumbent will win almost every time.

We need responsible reform. Unfortunately, the Democratic campaign finance reform plan only partially fits this criteria. For this reason it is absolutely necessary that we vote for the Republican amendment which does fit. A number of positive reform amendments have been proposed on this side of the aisle to be incorporated into this legislation only to fall in along narrow partisan lines. I am pleased that this body has an opportunity to vote up or down on the Republican finance reform package as a whole, and the Democratic finance reform package as a whole.

There are numerous provisions contained in Senator Dole's amendment, the Republican campaign finance bill, which are not contained in the pending Democratic amendment. These provisions are both responsible and necessary.

I cosponsored and supported numerous amendments which were proposed to the Democratic campaign finance reform package. I supported these amendments because, without incorporating ideas such as these into this legislation, we simply miss the mark in our attempts to address the real problems in campaign finance laws. I also support other amendments which were proposed yet not offered to the Democratic package.

There are a few of the amendments which I feel are absolutely necessary in any campaign finance bill.

An amendment to eliminate all non-party soft, or sewer money.

Mr. President, unfortunately the amendment which would delete the provisions of the Democratic plan which provides for taxpayer financing as an incentive to encourage limitation of campaign expenditures failed in a close vote on Monday evening. If my colleagues on the other side think Americans have a problem with the expense of campaigns now, just wait until they realize that in the future their tax dollars will be used to help finance political campaigns. This provision of the pending legislation is "reform" in the wrong direction.

Mr. President it is simply wrong for the Members of Congress to use taxpayers money to fund mailings which are exclusively for the purpose of campaigning. I realize there is a necessity for Members of Congress to keep their constituents informed about what they are doing. That is different. Everytime an election cycle comes around up here, something mysterious hap-

pens—franked mail expenditures go through the roof.

A Republican amendment to prohibit all franked mass mailings during the election year by a Member of Congress did pass. I am delighted.

An amendment to allow challengers of millionaire incumbents a fair election is certainly needed.

There are further changes in the current plan in which I am interested as well. The real issue, Mr. President, is that the Boren amendment to S. 137 otherwise called the Democratic finance plan does not address the real problems in current campaign financing.

Congress is elected to represent the interests of the American public. Many Americans feel they have lost touch with their elected representatives who listen more to special interest groups waving money around as the election comes near.

Mr. President, the Republican campaign finance reform plan is good for this country, and it is good for this body. It addresses the real problems we are facing in the campaign finance system. A natural result of the positive reforms proposed in the Republican package which will solve the real problem, that is where the money is coming from, will be a lessening of the amount of money being spent in campaigns. This way we solve the problem, and alleviate the symptoms.

The Democratic proposal has adopted the Republican idea of banning all PAC's from election contributions. I fully agree. The Democratic proposal has some other meritorious features with which I agree. These small positives are just not enough to clean up a bad campaign finance reform package.

Mr. President the Republican substitute amendment on campaign finance reform is our only real alternative. I hope that we can eventually work out a real reform of the campaign finance reform system. The time has come for a positive change.

Mr. GRAHAM. Mr. President, the public has spoken. Voters are fed up and frustrated, and their frustration is endangering our system of elective government.

The high cost of campaigning is costing us too much.

First, millions of people have turned off and tuned out. They reject a process they see as poisoned. They do not vote.

Second, too much of our time is spent fundraising. We chase checks from coast to coast. In election years, we become fundraisers first and public servants second.

Third, today's big bucks campaigns have separated candidates from the public they seek to serve. We drive to TV studios instead of town meetings.

We raise millions of dollars, turn those millions over to the best consultants, and produce slick, oversimplified

commercials that sometimes bend the truth.

Mr. President, I like to campaign. I like meeting people face to face. I like meeting their children, visiting their homes, and understanding their hopes, dreams and problems.

That is why I am fed up with the high cost of campaigning. That is why voters are fed up. That is why the time for reform is now.

If you are unconvinced, I invite you to read my mail.

One letter reads:

DEAR SENATOR GRAHAM: Let us do whatever necessary to enable congressmen to actually represent the voters instead of the moneyed interests that contribute so heavily to their election campaigns.

Another reads:

DEAR SENATOR GRAHAM: The manner in which campaign money is raised is creating a crisis in our political system. Even in presidential elections only 50 percent of our citizens bother to vote. They believe that we have the best Congress that money from PACs and large contributors can buy.

An article which recently appeared in the Washington Post, written by Paul Taylor, cited an estimated 100 to 120 million Americans, nearly two-thirds of the electorate, who will not vote in 1990. This will be the largest group of nonvoters in U.S. history.

It is time for reform. Only with reform can we use our time to better serve the people who elected us.

When I ran for Senate in 1986, I spent 16 hours a day campaigning. At that time, I was Governor of the State of Florida. Campaigning took me away from my duties as Governor.

Now, as a Senator, I spend several hours a week laying the groundwork for my next campaign. The bottom line is that the high cost of campaigning costs us time away from serving the public.

What we have is a misallocation of time and misallocation of money.

In 1986, the Senate race in Florida cost more than \$13 million. I raised and spent nearly half of that. My opponent did likewise.

In 1986, that was close to what the Federal Government spent on natural resources and environmental programs and about half of what we spent on transportation programs.

Instead of improving our Nation's infrastructure, my opponent and I waged a media war. We were campaigning in a State that has 67 counties—all geographically, ethnically, and economically diverse. To reach voters we took our campaigns from public meetings to any kind of media we could afford.

Our media war was waged at a high cost.

It created the perception that we were for sale. It shifted focus from a public contest to a television competition. Sound bites became more impor-

tant than our views on substantive issues. It cost us respect.

Mr. President, campaigns have turned into high-priced propaganda battles.

There is little meaningful dialog between candidate and voter. In the past, we presented our views and qualifications directly to voters.

Voters presented to us the issues and ideas that mattered to them. That dialog led to informed choices on election day. Voters were well-served by the process and we, in turn, had time to serve them.

Today, there is little meaningful dialog between candidates and voters.

Today, candidates carry on monolog, not dialog.

Today, voters have turned off and turned away from the voting booth.

CONSTITUTIONALITY OF EXPENDITURE AND PAC LIMITS

Mr. KERRY. Mr. President, one of the most important issues we have to address in looking at campaign finance is the issue of what is constitutional. Can we limit campaign spending through a system of voluntary spending limits? Can we establish a voluntary system of public funding of campaigns? Can we limit or abolish PAC's? If so, under what circumstances, and for what purposes?

I am confident that the legislation before us today is constitutional. In all respects, this bill is designed to fight the problem of corruption and the perception of corruption which is a compelling state interest justifying regulations of campaigns and elections. The legislation has been crafted to create a system that is voluntary, backed up by public benefits—a structure that the Supreme Court has said that is the constitutional means for a system of spending limits.

But I also believe it is critical to provide a clear legislative record as to the facts which the Congress considered in reaching its determination that this legislation is necessary to meet the problem of corruption.

This is especially true because the Supreme Court, in the seminal case of Buckley versus Valeo, did not have before it a factual record adequate to demonstrate to the satisfaction of that Court that the scheme of regulating expenditures and contributions passed by the Congress was essential to meet the problem of corruption, and the problem of public perception of corruption.

Accordingly, I wish at this time to lay out why the record that exists today regarding the problem of corruption and the Congress provides a constitutionally appropriate basis for the legislation that we are seeking to enact today. This record, which was not before the Buckley court, demonstrates compellingly why a majority of the Members of this body want to

reform our current system of campaign finance, and why no system other than one which is truly comprehensive, including expenditure limitations, would be adequate to meet the problem of corruption and the public's perception thereof.

To begin, it is necessary to review the precise holdings and findings in the Buckley case.

On January 30, 1976, the Supreme Court in *Buckley versus Valeo* upheld provisions requiring disclosure of contributors, reporting to the Federal Election Commission, and contribution limitations, on the grounds that they are effective "legislative weapons against the reality or appearance of improper influence stemming from the dependence of candidates on large campaign contributions, and the ceilings imposed accordingly serve the basic governmental interest in safeguarding the integrity of the electoral process without directly impinging upon the rights of individual citizens and candidates to engage in political debate and discussion." *Buckley*, at 3.

The actuality or appearance of corruption was found to be the only compelling state interest sufficient to burden political free speech.

Accordingly, the Court in *Buckley* struck down independent expenditure ceilings, ceilings on overall campaign expenditures, and limitations on a candidate's expenditures from his own personal funds, on the grounds that such provisions posed direct and substantial restrictions on political free speech without being reasonably related to preventing corruption, or the appearance of corruption.

In distinguishing campaign contributions from expenditures, the Court found that expenditures did not "presently appear to pose dangers of real or apparent corruption comparable to those identified with large campaign contributions." *Buckley*, at 46., and therefore could not be constitutionally burdened by the state.

I note the word "presently." The word "presently" is critical, because it is a reminder that the Court's rulings in *Buckley versus Valeo*, as in any case before the Court, were based on the record before it at the time that it was decided, and only that record. The Court 15 years ago did not have the benefit of what this Nation has learned since about campaign finance. The Court could not know the unintended consequences that would flow from a system that limited contributions but not expenditures, and of the impact on the political system resulting, as campaigns sought ways to circumvent the limits on contributions.

Although 15 years ago the Court found no compelling state interest in the limitation of expenditures, an analysis of the Court's rationale in upholding campaign contribution limitations demonstrates that that rationale

now should support expenditures limitations as well.

This is because cases of political corruption, or the appearance of corruption, which have arisen since *Buckley* have demonstrated conclusively that no system that regulates contributions alone, without regulating and limiting expenditures, can prevent the problem of corruption. The drive to raise additional dollars to remain competitive insures that candidates will again and again seek to circumvent contribution limitations with new "creative" approaches to campaign finance.

The past 15 years have witnessed the growth of "soft" money, political action committees, State party expenditures, and many other techniques to circumvent limitations on individual contributions. Every one of these areas has proven controversial, been related to the problem of corruption, and become the object of reform. Only by regulating expenditures, as well as contributions, can we hope to stop the current abuses. Unless Congress regulates expenditures, it merely stanches the flow of dollars in particular directions, with the result that they will begin to flow into campaigns through new techniques, with the problem of corruption remaining.

Buckley does not stand for the proposition, as some claim, that limitations on expenditures are unconstitutional. Rather, the *Buckley* opinion set out a three-part test to determine the validity of limitations on political contributions and expenditures. First, the limitation must focus on "the narrow aspect of political association where the actuality and potential for corruption have been identified."

Second, it must leave "persons free to engage in independent political expression, to associate actively through volunteering their services, and to assist to a limited but nonetheless substantial extent in supporting candidates and committees with financial resources."

Last, the limitations must "not undermine to any material degree the potential for robust and effective discussion of candidates and campaign issues by individual citizens, associations, the institutional press, candidates, and political parties." *Buckley*, at 29. The Supreme Court specifically upheld as constitutional voluntary expenditure limitations on campaign spending by candidates who receive public benefits: This voluntary compliance with spending limits is the basis of finance reform under the substitute to S. 137. These public benefits serve as incentives to participate in the public funding program, without burdening nonparticipants. In addition to the voluntary program, S. 137 also prohibits contributions from political action committees—thus eliminating the appearance of corruption inherent

in the present system of PAC contributions.

Unlike the limitations struck down in *Buckley*, the provisions of S. 137 are not in violation of first amendment free speech protections. First, evidence of corruption and the appearance of corruption, which was not before the Court at the time of its decision in *Buckley*, now clearly presents the compelling state interest requisite for any limitation of political free speech. This state interest, in concert with the narrowly constructed limitations, fulfills the strict scrutiny test applied by the Court in all first amendment cases. Second, all candidate campaign expenditure limitations in the current legislation are purely voluntary; this is in direct compliance with the *Buckley* Court's holding that a voluntary system coupled with public benefits is constitutional. *Buckley*, at 57. Finally, the comprehensive election system established by this legislation is designed to promote competition in campaigns, and to promote the free exchange of ideas in campaigns, through reforms aimed at making debate and ideas, by candidates and by independent individuals and groups alike, the determinants of elections, rather than, as is now too often the case, the amount of money a candidate can raise.

As decided earlier this year by the Supreme Court in *Austin versus Michigan State Chamber of Commerce*, limitations which are narrowly constructed so as to eliminate the threat of corruption, or the appearance of corruption, while still permitting other political expression, will pass muster as the least restrictive means under the strict scrutiny test. *Austin*, at 7. This holding also applies in the area of soft money regulation: the unreported and unregulated activities which directly affect the outcome of elections have come to pose the threat of corruption, and the appearance of corruption, thus meriting limitation by the campaign finance reform law.

This legislation in all of its provisions, limiting both expenditures and contributions, satisfies the three prongs of the *Buckley* test: the limits focus upon the specific areas of campaign finance where corruption or the appearance of corruption have taken place; political supporters are left free to actively champion for the candidates and issues of their choice, independently from the candidates; and the quality of political discussion will be enhanced by public benefits which promote debate of campaign issues by eliminating many of the advantages of incumbency, and through spending limits and limited public funding, promoting the ability of both major political parties to field candidates for all Senate general elections, while pro-

protecting the ability of other parties to participate as well.

As the Court found, Congress is "justified in concluding that the interest in safeguarding against the appearance of impropriety requires that the opportunity for abuse inherent in the process of raising large monetary contributions be eliminated." Buckley, at 30. As noted above, in distinguishing between campaign contribution limitations and expenditure limitations in Buckley, the Court found that expenditures did not "presently appear to pose dangers of real or apparent corruption comparable to those identified with large campaign contributions." Buckley, at 46.

At the time that the Supreme Court reached its decision in Buckley, it did not have before it facts to show whether limitations on donations alone, without limitations on expenditures, would in fact eliminate the problem of corruption. In effect, in Buckley the Court determined that without a clear factual showing that expenditure limits and limits on political action committees were essential in combating corruption, or the perception of corruption, that such limits were unconstitutional.

In the 15 years since the Court decided Buckley, numerous scandals involving congressional elections and campaign finance have demonstrated that, without a comprehensive campaign election reform system including expenditure limits and further limitations on political action committees, the problem of corruption cannot be solved through contribution limits alone.

Indeed, not a single session of the Congress has gone by since the Buckley decision in which ethical issues related to congressional campaigns and elections have not arisen under the truncated campaign finance reform system left in place under Buckley.

The scandals relate to several interconnected problems with the current system:

The problem of contributions from political action committees (PAC's), raising the perception of corruption by suggesting possible quid-pro-quos for legislators receipts of contributions;

The problem of spiraling expenditures pushing candidates to seek creative means of circumventing limits on individual contributions, through funneling contributions to entities other than a candidate's political committee;

The problem of ostensibly "independent" groups making ostensibly "independent" expenditures that are in fact closely related to the interests of one candidate and against another, thus again raising the question of quid-pro-quo.

As Buckley found:

To the extent that large contributions are given to secure political quid pro quos from current and potential office holders, the in-

tegrity of our system of representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturbing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one. Buckley at 30.

Through eliminating spending limits, Buckley unintentionally created an environment in which new techniques were developed to continue the practices of large contributions being given which appear to secure political quid pro quos. As commentators and pollsters alike have confirmed, the result has in fact been the undermining of our system of representative democracy. Case histories demonstrating this began from the time that Buckley was argued and continuing to the present.

The first new scandals involving Federal elected officials and directly related to the campaign election system left in place after Buckley, arose even before the Buckley decision was finally decided, but after all factual issues were briefed. In the years to follow, numerous additional campaign-related scandals arose, illustrating the continuing impact of the current system of campaign finance in creating an environment in which corruption and the appearance thereof permeated the Congress.

What the cases below demonstrate is that limitations on corporate contributions, even through political action committees, are critical for reform. But equally critical are limitations on outright expenditures by candidates. For without limitations on such expenditures, candidates become involved in an unlimited "arms race" for their campaigns, with the result that they are perpetually engaged in seeking to circumvent limitations on contributions. Thus, any system that limits contributions without limiting expenditures contains an inherent and systematic internal contradiction, with the result that the system becomes corrupted.

The close interrelationship between contributions and expenditures is exemplified by the Gulf Oil cases which arose in 1972. In December 1975, the Gulf Oil Corp. reported to the Securities and Exchange Commission that it had made expenditures totaling more than \$5 million of corporate funds to the campaign efforts of dozens of Members. The recipients of these funds included some of the most influential Members of the Congress.

To quote the 1976 annual of the Congressional Quarterly:

James R. Jones (D-Okla.) pleaded guilty to a misdemeanor in connection with failure to report a contribution; [a currently sitting Senator] publicly admitted having received illegal contributions from the oil company . . . but the bulk of public attention focused on charges that Senate Minority Leader Hugh Scott had received up to \$100,000 in illegal campaign contributions

from Gulf Oil lobbyist Claude Wild between 1960 and 1973. 1976 C.Q. Almanac pgs. 23-31.

According to CQ, Minority Leader Scott of Pennsylvania ultimately admitted to receiving \$45,000 in Gulf money. The Gulf Oil scandal also implicated others in Congress. According to CQ, a Senate administrative aide admitted to passing on \$5,000 dollars to his Senator. In addition to those members admitting to malfeasance, five other Senators were questioned by the special prosecutor's office in the largest scandal of the 94th Congress, including two who are still serving in this body. 1976 C.Q. Almanac pgs. 23-31.

The Gulf Oil cases provided the earliest evidence that limitations on contributions, without limitations on expenditures, invite abuse. While many of the actions taken were in fact illegal, they took place in an environment in which candidates had every incentive to raise as much legal money as they possibly could, because of the absence of expenditure limits. Had such limits been in place, the officials involved would have had no reason to seek the additional illegal contributions, because the would, like most incumbents, have been easily able to raise the full legal amount through legal contributions.

Two years later, in 1978, the "Koreagate" scandal broke: three Congressmen were investigated for taking illegal gratuities and contributions from Korean businessman Tongsun Park. In the end Congressmen John J. McFall of California and CHARLES H. WILSON of California were officially reprimanded, and Congressman EDWARD R. ROYBAL of California was recommended to be censured by the Ethics Committee. Congressional Quarterly, April 29, 1989 pg. 940. Again, contribution limits remained in place which were violated, in part because there were no limits on expenditures, creating tremendous incentives to raise funds from whatever sources were available.

In recent years, the focus of expenditure scandals has shifted to the appearance of corruption resulting from special interest organizations' donations to a specific Member's campaign, oftentimes in concert with the Member's ability to influence key policies pertaining to the organization. Although these donations are legal under the present campaign finance laws, the inference of malfeasance has impugned the professional reputations of many Members of Congress. The inference of malfeasance is not merely a consequence of failure to regulate contributions, but inherent in a system in which any source can be viewed as improper, at a time when most candidates are driven to seeking as much money as possible from every available

source because of the failure to have imposed expenditure limits.

These cases break down into several categories: Those involving contributions from political action committees representing corporate or other alleged special interests with legislation affecting their industry or interest before the Congress; those involving contributions from wealthy individuals to State parties and through other soft money contributions; those involving independent expenditures by organizations that are in fact coordinated or closely linked to a candidate; and those involving creative campaign financing, in which a wealthy individual or other entity establishes an independent organization which engages in activity calculated to help a candidate get elected, or to damage his opponent, in turn receiving assistance from an elected official in an alleged quid pro quo.

All of these practices are the consequence of the failure of having expenditure limits, and would be substantially curtailed by such limits. All of these practices are independently constrained by this legislation. But each of these practices is in large part a consequence of the failure to maintain expenditure limitations. Hence, without such limitations, the problem of corruption and the perception of corruption would likely remain.

Examples of the problem that have arisen over the past 15 years are legion.

Corporations such as LTV, Northrop, Texas Air, and Monsanto have been cited in articles in recent months regarding their contributions to the campaign coffers of those Senators active on key issues. See U.S. News & World Report, November 7, 1988, pages 20 to 24. These Senators have not been accused of any wrongdoing; however, the implication of such donations is that a quid pro quo money-for-influence transaction has taken place. The appearance of corruption, inherent to those political action committee (PAC) contributions which are directed to issue-specific members of Congress, was the subject of an extensive report by U.S. News & World Report and numerous articles in both periodicals and national newspapers. Specific cases involving a wide variety of special interests and many legislators have been cited:

The LTV Corp. and the Wheeling-Pittsburgh Steel Corp. both lobbied aggressively for legislation facilitating their claim to \$144 million dollars in tax refunds, despite prohibitions against such refunds where a corporation has cut off pension-plan payments to retirees. After spending \$201,384 dollars in campaign contributions, some directed to two key Senators on the legislation, the legislation passed. Although the two companies revoked pension payments for over

100,000 retirees, they were allowed to claim some relief under the new law. The result of the relationship between campaign finance and controversial policymaking was the appearance of impropriety—and explicit allegations that the two Senators had acted improperly. See U.S. News & World Report, November 7, 1988, page 23.

The Northrop Corp. spent well over \$250,000 in PAC money to Congress in 1988, just as consideration of the Tacit Rainbow project came up in the Senate. Several thousand dollars were contributed directly to the campaign of a chairman of one of the committees of jurisdiction. Although this anti-radar project had failed four flight tests and accrued tremendous cost overruns, \$180 million was budgeted for its continued development. The conflict of interest at the level of appearances led to allegations of impropriety related to the combination of the campaign contributions received by the legislator and eventual favorable legislation toward the Northrop Corp. U.S. News & World Report, at 23.

In 1988, the savings and loan industry lobbied Congress to prevent the dissolution of the Federal Asset Disposition Authority, the agency authorized to liquidate the assets of failing savings and loans. Although the industry itself would require a billion dollar bailout just 12 months later, it spent over one-half million dollars of PAC money on Congressmen—some directed at key Representatives who were influential in the floor debate. The resulting allegations of improper actions by some Congressmen on behalf of the Savings and Loan industry, and individual S&L's, were only part of the damage: the continued existence of the ineffectual FADA prolonged the downfall of the savings and loan industry and cost the taxpayers millions of dollars in the bailout. See The Wall Street Journal, November 6, 1989, page A18. Also see Business Week, April 16, 1990.

The utility industry, some members of which were being threatened with municipal takeovers, poured over \$1 million of PAC money into congressional campaign coffers. One chairman of a key House committee, who also represents one of the mentioned municipalities, received \$15,000 in campaign contributions from utility industry PAC's. The spending bill limited the use of tax-exempt bonds by State and local governments in the acquisition of privately owned utilities, thus protecting the threatened companies from an option that could have saved the taxpayer billions of dollars. In another utilities case, allegations were lodged against three Congressmen on the House Ways and Means Committee who received thousands of dollars in campaign contributions from the industry. When a bill came before the

Committee which required utility companies to refund billions of dollars owed to their customers in 3 years, rather than 30, all three Congressmen voted against the measure. The perception that campaign contributions to these Congressmen had a direct effect on their votes resulted in an outcry from public interest groups. See Syracuse Herald-Journal, October 23, 1989.

In another case, a Senator received \$83,800 dollars in PAC money from defense industry representatives eager to stop a provision requiring the reporting of all profits earned on Pentagon projects. Although official General Accounting Office estimates were that the defense firms received profits disproportionately higher than those earned on commercial projects, the Congress declined to pass the disclosure measure. Again, the appearance of impropriety resulted from the Senator's acceptance of campaign donations from those PACs directly interested, and impacted, by legislation controlled by the Senate. U.S. News & World Report, at 24.

Texas Air Corp. received a \$47 million tax break by being exempted from regulations of the 1986 tax reform bill. By allowing Texas Air to carry forward millions of dollars of losses, and offsetting their profits in computing corporate taxes, Congress gave the troubled airline a privilege not extended to other firms. A Senator pivotal in gaining support for the measure received \$11,000 of the \$242,925 expended on Congress. U.S. News & World Report, at 24. This presented yet another case involving PACs in which the interests of the PAC and the contributions by the PAC led to the appearance of impropriety.

In another case, the coal industry benefitted greatly from Congress' provision that U.S. military bases purchase \$22 million worth of superfluous coal reserves, to be added to their already abundant supply. Two Members who represent key industry States received PAC contributions resulting in the public perception that such contributions were made either to encourage such legislation, or as a reward for such favorable treatment. Ibid. Again, this case raised the issue of the appearance of corruption through the acceptance of PAC money.

In the face of environmentalists' outrage over record global deforestation, the Senate terminated a House measure which would have ended a \$40 million subsidy to two timber companies which destroy Alaska's Tongass National Forest. Although ending the subsidy may have protected one of the last remaining rain forests, the Senate was pressured to extend the Government grant. Tens of thousands of dollars went to Congress from interested PAC's, some to politicians directly in-

volved in the legislation. Again, the implied relationship between PAC campaign donations and key congressional votes and allegations of the appearance of corruption were documented in the media. *Ibid.*

The Monsanto Corp. is just one of many multinational corporations that were allowed to continue deducting a large portion of their research expenses from their taxes. The results were over \$211 million in tax benefits in addition to the \$1 billion in annual benefits already given, and \$703 million in potential research tax breaks for the future. Of the \$2.627 billion these multinationals spent in PAC money, one Senator alone received over \$50,000 in campaign contributions and two Congressmen also received significant funds for their reelection. The receipt of such a large campaign donation from interested corporations reinforced the public perception of influence-peddling on Capitol Hill, and resulted in allegations of favoritism. *Ibid.*, at 20.

In essence, the acceptance of political contributions from any "special-interest" political action committee has come to create the perception of an inherent conflict of interest on the part of the elected official regarding the issues of interest to that political action committee. That perception has fundamentally undermined public trust in the Congress as an institution. The Supreme Court has concluded that Congress may legitimately assume that not only corruption but the avoidance of the appearance of improper influence "is also critical . . . if confidence in the system of representative government is not to be eroded to a disastrous extent." *CSC v. Letter Carriers*, 413 U.S. 518, at 565.

A current poll conducted by the Louis Harris & Associates firm found that a dismal 15 percent of Americans express a great deal of confidence in Congress—a plunge downward from 28 percent in 1984. See *Business Week*, April 16, 1990. Another poll, conducted by Greenberg-Lake, indicates that 81 percent of the respondents feel that the current campaign finance laws are flawed and need revision. The same percentage overwhelmingly responded to a Harris poll that contributors have too much influence over public officials. Finally, the results of the Greenberg-Lake poll indicate that a clear majority of the public sampling feels that political action committees should be prohibited from contributing to Federal election campaigns (57 percent). As a result, the campaign finance reform legislation introduced by both the Democratic and Republican party leadership in the Senate—and the bill now before us—all take as a starting point the proposition that contributions by political action committees to individual candidates should no longer be permitted.

In addition to the perception of corruption intrinsic in PAC campaign contributions, the sheer number of PAC's coupled with their power to contribute hundreds of thousands of dollars to a candidate has completely altered the very nature of policy campaigns. According to the Federal Election Commission, political action committees contributed over \$63 million to 1989-1990 congressional campaigns: more than doubling the amount spent by PAC's just 4 years ago. Of the \$63 million, incumbent Members of Congress received more PAC money than challengers by an overwhelming 15 to 1 ratio. This incongruity benefited both the incumbents, as well as the special interest groups, by insuring a continued relationship between the two. As a result, many political commentators and much of the public has concluded that the role today played by PAC's has in fact corrupted the Congress. Accordingly, this bill would end that role, and limit PACs to truly independent political activities.

As suggested above, the failure to include expenditure limits within campaign finance reform legislation has had the result of driving candidates into a campaign arms race, in which the drive to raise ever larger sums of money has had the consequence of pushing campaigns and candidates to engage in behavior that raises significant public questions about the appearance of corruption.

As a consequence of the unlimited expenditures permitted under current campaign finance law, candidates have become participants in a spiraling race to outfinance their opponents. The very corruption the Supreme Court sought to eliminate through contribution limitations has continued due to uncontrolled expenditures and the financial arms race fueled by PAC money. Without spending caps, the incentive to find loopholes in campaign finance provisions will continue; and with it the continued corruption, or perception of corruption, which undermines public trust in the electoral system. As the Supreme Court found in *Buckley*, Congress is "justified in concluding that the interest in safeguarding against the appearance of impropriety requires that the opportunity for abuse inherent in the process of raising large monetary contributions be eliminated." *Buckley*, at 30. The past 15 years have demonstrated that these abuses will not stop without limitations on expenditures as well as contributions. Accordingly, the limits in this legislation are constitutional.

Perhaps the most clear proof that expenditures themselves are directly related to corruption, or to the perception thereof, is demonstrated by the recent "Keating Affair" regarding the now-defunct Lincoln Savings and Loan. Mr. Charles Keating, chairman and principal shareholder of the

American Continental Corp. which owns the Lincoln Savings and Loan, organized and executed large expenditures on behalf of several U.S. Senators. These expenditures, totaling well over \$1½ million, were made not only to the reelection campaign of these members, but to organizations associated with the candidate which worked toward their re-election effort.

The direct impact of these expenditures on the candidates' re-election effort raised significant issues with the public. The careers and reputations of the Senators who received the assistance from Mr. Keating have been impugned, not because of any factual proof of wrongdoing, but rather from the appearance of impropriety—one founded on the inherent conflict between accepting contributions from recognizable interests who may have interests before the Congress. *National Journal*, December 2, 1989.

While all the Senators involved received campaign contributions from Keating and his associates ranging from \$34,000 to \$112,000, the most significant aspect of the Keating Affair was its demonstration of the fact that without expenditure limitations, contribution limitations may well be circumvented—legally—but with a potentially significant negative impact on the public reputation of the candidates involved if the contributor later is involved in alleged wrongdoing.

The political action committee controlled by one Senator received \$200,000 in corporate donations. *Congressional Quarterly*, November 11, 1989. Although these funds could not legally be used by the Senator for his own campaign activities, they were allegedly used to financially sustain the committee itself, thus facilitating the fundraising of money which could be used by the campaign. Again, an expenditure-related campaign finance issue came to represent a source of the appearance of impropriety.

The impact of nearly \$¼ million expenditures in any single campaign can be the determining factor in the outcome: these controlled expenditures send opposing candidates on a race to obtain similar amounts of funding. The single largest source for lump sum expenditures on behalf of candidates is the political action committee: the hundreds of thousands of dollars that can be mobilized by a PAC in 1 day, would take the candidate weeks to raise in individual donations. The appearance of an elected official being tempted to cater to special interest groups, in order to receive financial backing, is precisely why the Court in *Buckley* said that limitations on contributions were essential to respond to the problem of corruption and the appearance of corruption.

In another example of alleged improper appearances in the Keating

Affair, a Senator allegedly solicited corporate donations from Mr. Keating for three organizations devoted to his own reelection. The three organizations were voter registration projects. A total of \$850,000 was received by these organizations, and allegedly expended to the direct benefit of the Senator, raising directly the question of the appearance of impropriety.

A third means of alleged attempts to circumvent the restrictions left in place on individual contributions after Buckley has been through State political party expenditures. By making large donations to a State political party during a specific electoral cycle, a special interest group can effectively control the amount of related expenditures devoted to a specific candidate. During the 1986 editorial cycle, Mr. Keating, a conservative Republican, donated \$85,000 to a State Democratic Party for its get-out-the-vote effort benefiting one of the five Senators involved in the scandal: according to an article in the July 16, 1989 Los Angeles Daily News, this effort was specifically credited by the Senator for his successful reelection. Once again, this form of creative campaign financing appeared improper to some, and in any case, raised the question of the appearance of impropriety.

In striking down limitations on expenditures, the Buckley Court stated:

No governmental interest that has been suggested is sufficient to justify the restriction on the quantity of political expression imposed by sec. 608(c)'s campaign expenditure limitations. The major evil associated with rapidly increasing campaign expenditures is the danger of candidate dependence on large contributions. The interest in alleviating the corrupting influence of large contributions is served by the Act's contribution limitations and disclosure provisions rather than by sec. 608(c)'s campaign expenditure ceilings.

In making this ruling, the Supreme Court relied on the record before it. We have a different record now. That record, outlined in part above, is the basis for our action on this legislation.

Privately, numerous Senators have discussed with me the fact that all of us may become subject to claims about the appearance of impropriety under the current system. I know that concerns about the appearance of impropriety and the appearance of corruption are at the heart of why we have chosen to impose a voluntary system of spending limits, broadcasts vouchers, and limitations of PAC's, and the rest of the system contained in the legislation.

As the above cases suggest, we have found over the past 15 years that spending caps without limits on such expenditures has been proven ineffectual. The incentive to obviate restrictions on any kind of contributions to gain political and partisan advantage has placed an extraordinary strain on the system, and the system as a result

has broken down. The unintended consequence of the 1974 campaign finance reform systems, after Buckley, has not been the elimination of corruption and the appearance thereof. To the contrary, the current system is viewed as fundamentally flawed by candidates, elected officials, and the public alike. The current system has driven candidates and parties alike again and again to seek ways to outfinance their opponents through circumventing the restrictions on contributions that exist.

Only by implementing a comprehensive campaign reform which simultaneously controls Party expenditures, PAC expenditures, soft money and campaign spending, can the governmental interest of preventing corruption and the perception thereof be served.

Does such a scheme unconstitutionally interfere with political expression? In fact, this bill has been carefully constructed not to do so.

The expenditure limitations contained in this legislation do not interfere materially with first amendment guarantees of political expression. In Buckley, the Supreme Court held as constitutional a person's assistance " * * * to a limited but nonetheless substantial extent in supporting candidates and committees with financial resources" to be a sufficient protection of free speech. Buckley, at 28. Under the proposed reform, there will be no chilling effect upon an individual's ability and freedom to express political speech through financial assistance and volunteerism. The specific reforms in the bill, directed at eliminating corruption, and the appearance of corruption, would not inhibit free association with political organizations, because the reforms preserve the ability of such organizations to educate their membership and the public in a variety of ways concerning campaigns and elections, while limiting them solely in ways necessary to fight corruption and its appearance.

The breadth of the congressional ability to regulate political contributions for the purpose of preventing corruption is substantial. In Austin versus Michigan State Chamber of Commerce, decided on March 27 of this year, the Supreme Court again found that a compelling State interest can be found in the prevention of corruption, or the appearance of corruption, by "reducing the threat that huge corporate treasuries, which are amassed with the aid of favorable State laws and have little or no correlation to the public's support for the corporation's political ideas, will be used to influence unfairly the election outcomes". Austin, see syllabus. The Court was careful to note that the fact that corporations may accumulate large amounts of wealth was not the justification for this interest, but rather the "unique state-conferred

corporate structure that facilitates the amassing" of such treasuries. Also, the Court found that so long as the limitations are narrowly constructed to eliminate the threat of corruption, or the appearance of corruption, while still permitting some political expression they will pass muster as the least restrictive means under the strict scrutiny test. Austin, at 7.

A final question is whether the system of campaign finance we are establishing with this legislation would continue to provide for the means for fostering robust political debate. The last part of the test developed under the Buckley holding requires that no limitation on political contributions and expenditures may impinge upon the "robust and effective discussion" of political principles and issues by individuals, associations, candidates, political parties, and the media. Buckley, at 29. S. 137 fulfills every aspect of this requirement.

The proposed campaign reform legislation leaves individuals free to contribute directly to any campaign, as well as protecting the individual's right to make independent campaign expenditures in the furtherance of their political ideals and philosophy. Likewise, political action committees are also guaranteed the freedom to engage in noncorruptive independent expenditures. The bill specifically addresses those contributions and independent expenditures which have been proven to be corruptive, or give the appearance of being corruptive, thus posing a danger to the present campaign finance system. As the Court found in Buckley,

It is clear that "neither the right to associate nor the right to participate in political activities is absolute." *CSC v. Letter Carriers*, 413 U.S. 548, 567 (1973). Even a "significant interference" with protected rights of political association may be sustained if the State demonstrates a sufficiently important interest and employs means closely drawn to avoid unnecessary abridgement of associational freedoms." *Cousins v. Wigoda*, 419 U.S., at 488; [cities omitted].

The Supreme Court has recognized the threat to our political system presented by the financial race among candidates for public office. As early as 1975, the Court stated:

Under a system of private financing of elections, a candidate lacking immense personal or family wealth must depend on financial contributions from others to provide the resources necessary to conduct a successful campaign. The increasing importance of the communications media and sophisticated mass-mailings and polling operations to effective campaigning make the raising of large sums of money an ever more essential ingredient of an effective candidacy. To the extent that large contributions are given to secure political quid pro quo's from current and political officeholders, the integrity of our system of representative democracy is undermined. Although the scope of such pernicious practices can never be reliably ascertained, the deeply disturb-

ing examples surfacing after the 1972 election demonstrate that the problem is not an illusory one. *Buckley*, at 27.

The compelling governmental interest in preventing corruption, or the appearance of corruption, is served effectively by the substitute to S.137 while also protecting the freedoms and spirit of first amendment political speech:

The elimination of specific kinds of campaign contributions and expenditures will preserve and improve the integrity of the electoral process by preventing corruption;

Persons remain free to engage in independent political expression and participate in political associations;

Spirited debate of both candidates and campaign issues will be facilitated by public benefit provisions.

By satisfying the Supreme Court's *Buckley* test, the present campaign finance reform proposals effectively fulfill all constitutional interests as well as serving the public interest in an honest, representative electoral process, freed of the appearance of impropriety that now casts a shadow over so much of this institution.

Mr. DeCONCINI. Mr. President, I rise in strong support of S. 137. We often talk in this body about how the time for campaign finance reform has come. The time, Mr. President, is long past due. It is a shame that in 1990 the Senate has still not passed a comprehensive campaign finance reform bill.

When I first came to the Senate in 1977 we were discussing campaign finance reform. At that time I supported legislation for public financing of Senate races and spending limits. Spending limits and public financing are goals I still advocate and have supported both through my own bill, S. 2120, and by cosponsoring Senator KERRY's amendment to this bill. Almost 13 years later, we are still talking about campaign reform. Is it any wonder that the turnout for elections continues to shrink? Is it any wonder that the American people hold the Congress in such low regard.

I will not repeat all of the arguments that have been made over the past few days. But the bottom line to all of this discussion is spending limits. Without spending limits, there is no reform. Without spending limits, we may as well just give up the process because it is fruitless. The only way to restore integrity to campaigns is to limit the ever-increasing amount of money running through the process.

There are a number of other provisions that I would like to see in a campaign finance reform bill, such as partial public financing and restrictions on periods for campaigning. But frankly, Mr. President, if these are not included I will still support the bill. But spending limits, that is the key; without effective, strong spending limits, there simply is no bill.

I am pleased that we are in general agreement on many of the campaign issues facing us:

We agree that the present system of financing Senate campaigns creates an overwhelming public perception of special interest influence.

We agree that a 50-percent turnout at the polls in 1988 indicates that the American citizen has lost faith in the electoral process.

We agree that the prevalence of soft money, which allows groups and individuals to evade contribution limits, renders our current system weak in enforcing intended limits.

We agree that the practice of bundling contributions provides PAC's and individuals with a means of getting credit for larger contributions than those allowed under law.

We agree that the current system provides incumbents with an unfair advantage against challengers by virtue of greater PAC contributions, established name recognition, and the availability of the frank for enhanced publicity.

We agree that the incredibly high cost of campaigning, which has increased fivefold since 1976 while the cost of living has only doubled, must be curbed.

We agree that the cost of television and radio time must be reduced to give candidates the ability to reach the public with their message while at the same time controlling the spiralling costs of campaigning.

Mr. President, with so much agreement on this issue, I believe it would be a tragedy and a breach of trust to the American public to fail to pass effective campaign finance reform in this Congress. And yet, with so much agreement, there remain some fundamental issues which threaten the passage of true reform. It is my fervent hope that in the same spirit with which we have engaged in cooperative debate on this issue, we can reach agreement on the key elements of meaningful reform.

It is my fervent hope that we can agree that the never ending money chase with which we are currently faced must be brought to an end by limiting the runaway spending which currently fuels the system.

It is my hope that we can agree that the elimination of special interest influence through the prohibition or a significant limitation on PAC contributions must not simply be replaced with the special interest influence by very wealthy individuals in this country.

It is my hope that we can agree that the unfair advantages enjoyed by incumbents should be eliminated through the implementation of fair and reasonable spending limits which would level the playing field and give all candidates a fair chance with the voters.

I congratulate the Senator from Oklahoma on his long, diligent efforts on behalf of campaign reform. It has been a long road, for me a road stretching over 13 years—my entire Senate career. Let us hope that we have reached the end of that road and that today we will pass S. 137 and achieve real campaign finance reform.

Mr. RUDMAN. Mr. President, I rise in opposition to S. 137, the pending Boren-Mitchell campaign finance bill.

At the outset, I will note that I strongly believe the present rules governing Federal elections are badly in need of change. A system has been created in which candidates often require massive amounts of money in order to mount a credible campaign. In search of that money, candidates are forced to rely to a substantial extent on out-of-State special interests, on individuals and groups who have little or no presence in the candidate's State.

These special interests groups, regardless of ideology or political views, tend to give most of their contributions to incumbents and, as it happens, incumbents win most elections. The result has been to create a perception about Congress which is undermining confidence in our public institutions. This lack of confidence makes it more difficult for the Government to deal with the complex and difficult problems facing our country because it affects the ability and willingness of elected officials to take the controversial steps necessary to deal with those problems.

Ever since coming to the Senate in 1981, I have worked for campaign finance reform. I have consistently advocated tough restrictions on political action committees, and proposed a variety of measures to bring about reform. This year, in an effort to help produce a campaign finance reform bill, I agreed to serve on the Republican Campaign Finance Task Force appointed by Senator DOLE to negotiate a bipartisan bill with the Democrats. Senators McCONNELL, STEVENS, PACKWOOD, NICKLES, and I spent hours negotiating with our counterparts on the Democratic side in an effort to produce such a bill. Unfortunately, the Democrats have now decided to proceed with their own bill.

Regrettably, the bill we are voting on tonight fails to address the real problems with our campaign rules. It would do nothing to curb so-called soft money which the New York Times called sewer money, contains arbitrary spending limits which would hurt the ability of challengers to compete against incumbents, provides direct taxpayer funding of Senate campaigns, and includes a number of partisan, anti-Republican provisions which have nothing to do with campaign reform. That is why I opposed the original version of S. 137 last year,

and the revisions made by the Democrats change little.

Instead, I cosponsored S. 2595 which was introduced by Senator McCONNELL earlier this year. In contrast to the Democratic bill, S. 2595 abolished PAC's, limited fundraising from other special interests outside a candidate's home State, prevented soft money from influencing Federal elections, and strengthened the role of political parties. Unlike the Democratic bill, our bill did not rely on the use of taxpayer funds to accomplish its objectives.

S. 2595 would completely eliminate PAC's. PAC contributions are the most egregious way in which special interests taint the political process. My concern about PAC's has been so great that I tried to set an example by refusing to accept any non-New Hampshire PAC contributions during both my 1980 and 1986 campaigns. The Democratic majority finally agreed to this proposal last Friday, and it is the only valuable provision in this entire bill.

However, eliminating PAC's is not the only necessary step to limit the influence of money tied to interest groups. Senator McCONNELL's bill would also eliminate soft money expenditures. Soft money are funds raised and spent outside of the source restrictions, contribution limits, and disclosure requirements of the Federal Election Act. As I noted, the New York Times referred to it as sewer money in an editorial earlier this year. Not only did the Democrats vote this proposal down on virtually a party line vote, but they refuse to even agree to full disclosure of such expenditures.

I would now like to address the issue of spending limits. We modeled our proposal after that proposed by the task force on campaign finance reform. For those not familiar with this group, it was a bipartisan group of six election law experts, three appointed by the majority leader and three by the minority leader, who were charged with developing a real campaign finance reform bill.

Our proposal would impose spending limits on special interest money while allowing a candidate's constituents to contribute to his or her campaign. The task force, including all three appointed by Senator MITCHELL, believed that there should be an exemption for limited contributions from individuals from the candidate's State:

By exempting from spending limits limited in-state donations from individuals, the candidate becomes dependent upon his or her ability to convince voters to contribute. Thus, the voters would determine how much money a candidate is permitted to spend. The candidate also is encouraged to spend less time on fundraising among PAC's and out-of-staters (whose funds are subject to spending limits) and more time among voters (whose contributions are limited but not capped). We could not determine what

level of individual contribution should be exempt from the spending limit.

As the task force points out, under this proposal a candidate's constituents would become the most powerful fundraising voice. This is how it should be.

There is no reason to limit small, disclosed, contributions from individual constituents. These small contributors are not giving money to influence policy or buy votes. To believe that these contributions are corrupting or improper, one must question our entire system of representative government. These are the kind of contributions that should be encouraged, not limited. The Democratic bill, nonetheless, continues to restrict small in-state contributions.

But as we attempt to control the influx of money into campaigns, we have to look at why this is occurring.

Mr. President, the fact is that the reason that campaign finance reform has become an issue is that the cost of campaigns has and continues to explode. And the reason that campaigns cost so much today can be summed up on one word: "television." In the Senate today, at least 50 to 70 percent of the cost of a campaign goes toward advertising. Democratic media consultant Frank Greer believes the figure is even higher "In any competitive campaign, 75 to 80 percent of the budget is going to go into television. There is one overwhelming factor in the growing cost * * * and that is the increased rates of radio and television advertising."

In my own State of New Hampshire, we must purchase time on Boston television markets to get our message out to the public. The National Journal recently published statistics on the cost of a 30-second commercial spot as measured by cost per rating point [CRP] in prime time. In 1982, the cost per rating point of a 30-second ad in prime time was \$350. In 1986, the same ad cost \$414, an 18.2 percent increase. More startling still is that in 1990, the cost per rating point has risen to \$610, 47.3 percent more than the 1986 price and 74.3 percent over the 1982 cost.

A 30-second commercial in the CBS prime time show "Jake and the Fatman," which is, on a ratings basis, exactly the average of all primetime programming, costs almost \$5,000. In New York City and Los Angeles, the same commercial would cost almost \$10,000; this is \$10,000 for one 30-second spot. Mr. President, this is the reason that more money is being raised year after year. The money is being raised because it simply must be raised to pay for the costs of contacting our constituents, to get our message out. Mr. President, any campaign finance reform bill which does not address this problem will either stifle the ability of candidates to legitimately discuss issues with the voters or be

sufficiently loophole ridden that it fails to control campaign spending.

The fact of the matter is that political candidates pay more for commercial time than any other advertiser. The Congress tried to address this problem in 1971 by establishing a broadcast discount for candidates. It was intended to provide candidates the lowest unit rate for advertising during the 45-day period prior to the primary election and 60 days before the general.

Broadcasters, however, quickly found a way around this rule by establishing different classes of time. The broadcasters now sell time in two forms—preemptible and nonpreemptible. Candidates, who must get their message to specified groups of voters at specific times, must purchase non-preemptible or fixed time. This non-preemptible time is 3 to 5 times more expensive than preemptible time. It is sold almost exclusively to political advertisers. Rather than getting a break on advertising, candidates currently pay more than virtually any other advertiser.

Compounding the problem, the arbitrary, low spending limits in this bill will make it impossible for a challenger to successfully compete with an incumbent unless the cost of television advertising is reduced. Incumbents begin campaigns with many advantages: name recognition and free media from their legislative work, to name just two. Candidates must often spend hundreds of thousands of dollars just to get their names known. Yet, these limits are so low as to prevent a candidate in many States from obtaining the air time necessary to compete.

Mr. President, the Republicans proposed providing candidates non-preemptible time at the lowest unit rate for preemptible time. This would alleviate a tremendous financial strain on campaigns, particularly those of underfunded challengers. It would affect only a small portion of the three-fourths of 1 percent of broadcasters' revenue that is attributable to political advertising. It is important to remember that this revenue is made possible by the Government grant of a scarce public resource: the airwaves. However, the Democrats refused to accept Republican language that ensured all candidates access to advertising time, so the change may not prove useful as we would like.

In my view, even the provision in the Republican bill did not go far enough. For meaningful spending limits to operate fairly, that is, work in favor of better known incumbents, the cost of television time has to be further reduced, either by providing free time as is done in most European countries or by further reducing the amount charged. I had planned to offer an

amendment on this subject. However, after watching every significant amendment offered by a Republican over 3 days be voted down on a party line vote, it was obvious that there was no point in doing so.

Mr. President, I would like to briefly comment on the provisions in the Democratic proposal which force the taxpayer to pay for our elections.

While their most extreme proposal, to have the taxpayers pay 70 percent of all general election costs was dropped, the bill retains provisions that will impose a significant additional cost on the American taxpayer at a time when the Congress is by necessity considering tax increases to deal with the enormous and persistent budget deficit. Under the bill now being considered, if one candidate refuses to abide by spending limits, then his opponent will be eligible for a grant from the Treasury to offset these expenditures. In addition, the Democratic bill has the taxpayer providing candidates with broadcast vouchers equal to 20 percent of their general election spending to pay for media and with subsidized mail estimated to be worth about \$30 million. Mr. President, I believe that it is seriously ill advised to impose these additional burdens on the taxpayer at a time when we are already struggling to reduce the budget deficit, and it is my hope that these provisions can be amended or removed.

Finally, I would note that there are a number of other provisions in the Democratic bill which cause me concern which I have not mentioned today. Most notably, S. 137 would impose harsh new restrictions on State party organizations, which Republicans have historically used for indirect campaign activities. This stands in sharp contrast to the Democratic refusal to permit any limitation on special interest groups, most of which are affiliated with the Democratic Party. These issues have been explored in great detail throughout this debate and I will not repeat everything here.

Mr. President, although I am proud to be a Republican, I try to be a non-partisan legislator. However, after years of working on this issue, it is difficult to avoid the conclusion that the Democrats were interested only in a bill that provides them with partisan advantage. In saying that, I fully recognize that some Members on the other side of the aisle, including the Senator from Oklahoma, were striving for a bipartisan result. A one-sided, partisan, anti-Republican bill is something I cannot support and, accordingly, I will vote against S. 137.

Mr. HATFIELD. Mr. President, our discussion of campaign finance reform is being watched anxiously by the American people. They are tired and suspicious of the system as it currently functions. While the perception of cor-

ruption may be overstated in the public's mind, there are very serious problems with the system which need to be addressed—I hope through a piece of legislation enacted by this body.

Here is what I support: I support reducing the cost of congressional campaigns. Here is what I oppose: I oppose shifting the burden of paying for immorally expensive campaigns from the candidate to the taxpayer. Here is what I support: I support pouring sunlight on campaign finances. Here is what I oppose: I oppose hiding what is going on with the facade of reform. Here is what I support: I support increasing citizen involvement in campaigns. Here is what I oppose: I oppose the development of the parasitic campaign industry run by professionals.

Mr. President, my campaigns for the U.S. Senate have been run on smaller budgets than nearly every other Senate campaign. This morning the Washington Post published a list of the PAC receipts since 1972 of every current U.S. Senator. I was ranked 89th out of 100 despite the fact that 70 of the Senators who have received more PAC contributions than me have served in the Senate less time than I have. So, Mr. President, in a real sense campaign reforms will have no impact on my campaign methods. They already represent reform. I run a people-to-people, volunteer-based campaign. I rely on a network of supporters that covers the State of Oregon. Some call this old-fashioned and outdated. Some say it is a style that cannot be successful in the modern age of TV sound bites, political consultants, negative campaigning and multimillion-dollar campaign budgets.

I would counter that a Senator can spend the first 5 years of his or her term of office serving people's needs and in the 6th year—the campaign year—a Senator will not need to break pace to begin a frenetic schedule of fundraising and campaign appearances.

But let me also be very clear in stating that I do recognize that there are abuses of the current system. And these abuses must be addressed. However, I am concerned that we are falling into the old trap of thinking that reform can only be defined by wholesale change: by creating a whole new set of rules and regulations. There is little question in my mind that the system needs some reworking. But wholesale, reactionary change simply for political purposes is a dangerous step. It is my sincere hope that our debate and the final final product which emerges from it will reflect that fact. We might reflect on the experience of the French who, in the name of reform, have written five constitutions in the last 200 years.

Would it not make more sense to fine tune the current system of campaign finance to perfection—rather

than create a completely new system which may have untold problems?

As the system currently functions, an average successful Senate campaign costs in excess of \$2.8 million. This is an outrageous figure—and many campaigns cost far more than that. The money to finance the huge costs of campaigns must be raised by the candidates and comes from a number of sources: political parties, individual contributors, political action committees, and personal funds. Fundraising requires an enormous amount of time. Moreover, it often creates a perception that campaign contributors are buying the loyalty and votes of Senators. This perception is dangerous indeed, for it undermines our most precious commodity, the public's trust.

Unfortunately, a number of the suggested proposals for reform come from various groups who think they have something to gain from a specific change in the current system. In general, the proposals cover systems of spending limits, public financing, contribution bans on certain groups, and forced cost reduction plans. I am concerned that too many people seem to be approaching this issue from the perspective of "what is in my best interest?"

Mr. President, we must realize that the American public will not—and should not—accept this approach to campaign finance reform. We must affect real reform in this area—reform which is well-crafted and deals with the real problems rather than the special interests or with misperceptions.

Each of the provisions of this legislation that I support, and each of the amendments for which I have voted, represent fine tuning of the current system. The provisions and amendment I opposed, unfortunately seem to be destined to remain at the heart of the bill: spending limits and public financing. By banning PAC contributions, eliminating nonparty soft money expenditures, and monitoring bundling, we are affecting significant reform. And I would add another: I have maintained from the beginning that the basis of campaign reform should be in the reduction of costs of the campaign through lowest unit costs for television time. Those changes do not, however, create an entirely new and unpredictable system.

We have engaged in reform before, and we must continue the process now. As an example, there has been a wide-ranging call for the elimination of PAC contributions. Many forget that political action committees were created as a part of the Election Campaign Reform Act of 1971. At the time, undue influence was being exercised by corporations and unions through their large political budgets. The creation of PAC's and the regulation of their activities brought the problem

under control by requiring political contributions to be funneled through these PAC's, limiting the amount a PAC could contribute to a candidate and requiring full disclosure of the source and amounts of all contributions. By eliminating campaign contributions by PAC's, we further revise the system. The evolution is continuous in nature. In each instance, both the creation of PAC's and now in the revision of their purpose, the change is a progression, but not a wholesale change of the kind spending limits would introduce.

Public concern must prompt us to action. But again I must caution against thoughtless change. We are here to represent the public—but are also here to moderate the temper of the Nation and keep our progress steady and on an even keel. This is how we must proceed on the issue of campaign finance reform. Not knee-jerk reaction, but thoughtful reform.

If we are facing public outcry over the state of campaign financing, we do a great disservice to respond with foolhardy gimmicks that relieve the political pressure for a time.

I encourage the people and the media to examine closely what is labeled "reform" in the area of campaign finance. I have done so—and voted my conscience during this debate. I believe that time will demonstrate the wisdom of the reforms I have supported.

Mr. BURDICK. Mr. President, this country needs campaign reform. We need to limit the cost of running for Congress and make our system more democratic. The American public needs to be reassured that their elected officials care more about constituents than about special interests.

The Supreme Court has indicted that the Constitution will not allow strict limits on campaign contributions or expenditures without public financing. I believe the best way to achieve meaningful reform is to establish true public financing of congressional elections with spending limits.

The next best option is to further restrict the size of each political contribution and to provide incentives for candidates to limit spending, which this bill does.

My concerns about the high cost of congressional campaigns outweigh my specific concerns about certain provisions within the Election Ethics Act of 1990. It is time for campaign finance reform, and I support this imperfect effort to clean up current law.

Mr. PRESSLER. Mr. President, on the question of final passage of S. 137, I intend to vote yes. I would like to take a moment to explain why.

I do not like many provisions in this bill. However, we were given a fair chance to try to amend the bill. It is obvious that this is the only bill we

can get through the Senate under present circumstances.

As a strong supporter of campaign finance reform, I would like to see a campaign reform bill become law. So I am voting to continue the process of trying to get that result—to continue the debate. This issue is that important.

In its present form, this bill is not likely to become law. The President has indicated that he plans to veto any bill with spending limits tied to public financing. So if those Senators who have insisted on those provisions truly are sincere in wanting a bill to become law, they should work in any conference committee or through other negotiations with the House and the President, to craft a bill that the President will sign.

Mr. President, 2 years ago we voted on another campaign reform bill, known as S. 2. I voted against cloture on that bill because—in spite of my strong support for campaign reform—parliamentary maneuvering was used to deny Republican and other Senators a fair chance to offer amendments. That is not the case this year.

Amendments were offered and voted upon. Improvements were made in the bill, including provisions banning PAC's, banning honoraria, prohibiting unsolicited franking in election years and placing a \$250 limit on out-of-State individual contributions. Those elements were not part of the bill offered 2 years ago.

In spite of these improvements, this bill has a long way to go. I particularly dislike the taxpayer financing provisions in the bill and voted to delete them.

So, I again urge my colleagues to work in any conference for major changes so that we may develop a bill that the President can sign. The final version of this bill, if there is one, ultimately will determine how I will vote on any veto message that may be forwarded to this body.

Mr. DURENBERGER. Mr. President, I rise briefly this evening to indicate my reason for voting for this bill.

The beginning of any solution is a proper definition of the problem. In my experience, there are four things the American people are telling us are wrong with our campaigns. First, they cost too much and the costs are escalating every year. As a result too many challenges are scared off, and too much time is spent by candidates raising exorbitant war chests.

Second, they are tired of the low quality of political discourse and the reliance on negative campaigning. Thirty seconds has become the yardstick for measuring a substantive idea.

Third, they perceive that special interests have too great a role in the process. Political Action Committees, which almost no one understands but

almost everyone dislikes, are seen as too influential.

And fourth, the American people are concerned over the overwhelming advantage of incumbents which leads to a permanent Congress.

People are losing confidence in their government, Mr. President, for a number of reasons. They are concerned with our inability to solve problems like the deficit and the S&L debacle. They are disillusioned by the scandals they see and read about. They are also fed a steady diet of political news which stresses only money and mudslinging, and not issues. And they have come to believe that elections, for the reasons stated about are irrelevant to the real issues in their lives. Well, we cannot change all that in one bill, Mr. President, but we can make a small start tonight.

As I approach this issue, I believe there are five components of genuine campaign reform.

First, we need to address the so-called money chase. To me that means we need to encourage clean sources of political participation, and discourage dirty sources. As I use those terms, Mr. President, I am speaking in terms of public perception. In my definition, small individual contributions, contributions from the candidates own State and political party, contributions are the most appropriate sources of campaign funds. PAC's, soft money and out of State gifts are less appropriate. True reform should make it less necessary for candidates to rely on sources which are perceived to be special interests which undermine the general interest.

Second, we need to provide incentives for more substantive communication through the public media. Thirty-second ads are a dangerous trivialization of political dialog; and ads which allow a candidate to slash his opponent with anonymity are equally dangerous. Within the limitations of the first amendment, we need to do what we can to clean up political advertising.

Third, we need to do what we can to slow down the money chase by controlling campaign costs. There is a linear relationship between the escalation in campaign spending and the rise in commercial advertising rates. We need to say that political dialog is important enough to this society to require cheaper ad time for politicians than for chewing gum.

Fourth, we need a flexible cap on campaign expenditures. We need to cap the amount of special interest moneys candidates spend, while leaving them free to compete with as much clean money as they can raise.

And fifth, to the degree that it is possible, any campaign finance bill should be comprehensive, bipartisan and very carefully drawn. The history

of campaign reform is littered with the errors of unintended consequences, and subtle competitive advantages, both of which distort the election process. No politician is a disinterested decisionmaker on this kind of bill. That is why extreme caution should be exercised.

Mr. President, there is much about the bill before us that disturbs me. The evidence of that is the number of amendments I supported to it, very few of which were successful.

I object to this bill's definition of spending limits. It does not embrace the notion of flexible limits put forward by the bipartisan commission appointed by the leaders earlier this year. This proposes an inflexible limit.

I object to the kind of public financing contained in this bill. Given the constitutional framework we are operating under and the urgency for real reform, I am prepared to accept some form of public financing, whereas for years I have been opposed across the board. I strongly support Senator DANFORTH's proposal for vouchers for candidates for 5-minute block of time. I would also strongly support restoration of a tax credit for small, in-State contributions. These are both expenditures of funds which give taxpayers better campaigns for their dollars. The pending bill makes general grants for mailings and other kinds of political activities the American people would not support.

And the pending bill falls considerably short of the measure of control we should impose on undisclosed soft money. And reform which locks most of the doors but leaves one ajar is asking for trouble. We do not want to push the money down in one place only to have it rise up somewhere else.

But there is significant programs to be supported in this bill.

First, the elimination of PAC's is a breakthrough. I have strongly supported PAC's throughout my career. In my experience they provide the opportunity for many small givers to be involved in politics through groups they belong to. Neither in my own case, or in any other I am aware of, have PAC's bought any votes. But, Mr. President, the perception is very different, and needs to be addressed. This bill does that.

Second, this bill significantly addresses incumbent's advantages. It takes control of franked mail to a new level. It guarantees the financial hurdle faced by challengers will be much lower. And it ends PAC spending, which has been shown to flow disproportionately to incumbents. I also agree with Senator DODD's addition to ban honoraria, as I stated before, as a means to realistically address Senator's compensation.

Third, this bill, because of the fine work of Senator Danforth, will result in significant changes in political

media, both as to its quality and quantity.

And fourth, while I am not enamored with how it accomplishes the task, this bill will cap overall campaign spending, which must be done.

In short, this bill addresses in an adequate way most of the problems in the current system. I am hopeful that this bill will, in the other body, or in conference, or in consultation with the President, before or after a veto, accomplish what it still lacks: bipartisanship. In the judgment of this Senator, it has gone far enough to deserve passage in this body and the chance to be improved through the rest of the legislative process.

This bill will not restore public confidence in Government all by itself. That is a much larger job. That will require boldness and leadership on behalf of public servants and those who educate and shape public opinion. And the American people must demand responsive Government, with their letters, with their campaign dollars and with their votes. Hopefully we have made a small contribution to this effort tonight, and will have the wisdom and courage to set aside party labels and advantages to accomplish far more in the days ahead for the American people.

Mr. FORD. Mr. President, as we attempt to conclude this debate on campaign finance reform, I believe there is one basic point which should not be missed in all of this detail. It is the point that has driven the debate all along. And while each side accuses the other of attempting to seek partisan advantage in this debate, it is the same fundamental point that has motivated both parties to act.

The point is very simple: the American public is growing increasingly cynical about this institution. The American public is growing increasingly cynical about how we are elected to come here, how we work to stay here, and how we spend our time once we are here. And Mr. President, those of us who have been here for a few years, and who feel some responsibility for the image of this institution, feel very deeply that something must be done to address the current system of campaign finance.

I believe something must be said about the danger to this institution if we fail to act to reform our system of campaign finance. Mr. President, I first came to the Senate in 1974, as a Member of what might be called the first post-Watergate class. I know a little bit about feelings of cynicism toward this institution and with government in general. I have been through those times. I have been through subsequent years when our constituents cried out for less government, less taxation, and less regulation. Stay off our backs and out of our

pockets, we have been told. In some ways, we have delivered.

But Mr. President, the mood is a little different out there today. My constituents are now wondering what the President and the Congress have been doing lately on so many important issues. They look at the savings and loan crisis, and they say "What has the Senate been doing?" They look at the budget deficit, Mr. President, and they say "What has the Senate been doing?" There are many areas in which they are demanding that we do more.

Well, I believe we have accomplished a great deal since I have been a Member of this institution. We have helped move this country forward in many areas since 1974. However, that is not the mood out there today, Mr. President. Americans have focused on how we have been acting in certain areas, and they don't like it. They know what has happened with mass mailings, and they don't like it. They know what has happened with various alleged ethics violations, and they don't like it. They know what is happening with modern day fundraising, and they don't like it.

The President, Vice President, and members of the Cabinet travel all over the country to raise money. Members of Congress who face reelection are raising record amounts of money. We are expected by our constituents to be here full-time, solving problems. They want to see us on the floor, or in the committee room, or at the desk; not out at the fundraiser. The perception out there, Mr. President, is that the influence of special interests is getting worse, and worse, and worse.

We simply must find a way to cap this money chase. We cannot fool Americans on this issue. We cannot convince our constituents that any meaningful reform has occurred, unless we have true spending limits. That is the most important issue. In some ways, it is the only issue.

We have heard a lot of discussion on limiting certain sources of money. But Mr. President, without aggregate spending caps, this money will continue to flow. We can try to eliminate political action committees, but without aggregate spending caps, this money will continue to flow. Money which currently flows through PAC's will find its way to our campaigns.

We can try to limit out-of-State donations, but without aggregate spending caps, we will still spend more and more of our time raising money. The money will continue to flow.

Mr. President, we have also heard many proposals about controlling costs. Many of these proposals are needed and overdue. But without aggregate spending caps, the money will continue to flow. We can try to limit the cost of broadcasting. We can force

the rates down. But without aggregate spending limits, we are only encouraging more advertising—and in some cases more negative ads. The money will continue to flow.

We can bring down the unit rate for postage. But without aggregate spending limits, we are only assuring more mass mailings. And in some cases, more junk mail. The money will continue to flow.

The failure to act on this issue has serious negative consequences. I believe it is harmful to this institution. We will all suffer collectively if we fail to address this issue. The image of the Senate will suffer if we fail to act. There are few issues that are more directly related to the mood of the American public than this one. And few issues relate directly to the perception of this body as this one does.

I hope we can recognize that fact. I hope we can see the long-term dangers of inaction. I hope we can realize that there can be no real reform without a spending cap. Mr. President, I hope we will be able to move forward with this legislation and see it enacted, so that we can finally end this money chase.

Mr. COHEN. Mr. President, 2 years ago we concluded a rancorous debate in this body on an unsatisfactory and bitter note. After months of deliberations and amid charges of bad faith and partisanship, the Senate failed to agree on legislation to reform the system for financing congressional campaigns.

The need for such legislation was clear then and remains so today. Congress continues to labor under the cloud of a public perception that its members are part of "the best Congress that money can buy." While I continue to believe that this assessment is heavy on rhetoric and light on substance, I also remain convinced that the mere appearance of impropriety or undue political influence stemming from campaign contributions is corroding the public's trust in its representatives and gives us reason enough to act.

And the debate has, indeed, continued—fueled by incidents which have increased criticism, by both the public and ourselves, of the existing system for financing congressional campaigns. The focus of the debate has been on issues that the public and we in Congress find most vexing: the role of political action committee [PAC's], the appropriateness of taxpayer financing of campaigns, overall spending limits, the propriety of soft money; that is, money which may indirectly influence the outcome of Federal elections, bundling of contributions by an intermediate agent for a candidate, and infusions of vast amounts of candidate's personal money.

In the Senate this year, both political parties developed campaign finance reform bills for consideration.

The bills were—and are—serious legislative vehicles for reform. To varying degrees, each touches on the key issues troubling American voters. While a measure of political partisanship has continued, the discussions and debate both on and off the floor of the Senate have been serious and have aimed at developing a bill which will truly reform campaign financing.

I studied each of the bills carefully and discussed the issues with a number of the drafters. I met with groups representing a variety of views on key issues. I found that there were elements in each of the bills which I supported and others which I opposed. For example, the original Democratic bill limited the role of PAC's, while the Republican bill banned them. In light of public perceptions of the role of PAC's, I felt that a ban was preferable to restrictions. At the same time, my Republican colleagues rejected the notion of campaign spending limits, a concept which I felt could be incorporated into a campaign reform bill. In the end, I decided not to cosponsor either of the party bills but, rather, to work for the crafting of legislation which included provisions which I felt would best meet the objective of developing a system for financing campaigns which is clean, as inexpensive as possible, and which encourages candidates to focus on substantive issues.

To be frank, the bill before us today is not the legislation I envisioned. I am uncomfortable with a number of its provisions. For example, I remain opposed to the idea of requiring the already overburdened American taxpayer to foot the bill for electing politicians to office. I believe that the soft money provisions are inequitable in their application and do not sufficiently address nonpolitical party sources. And I believe the limitations on wealthy candidates financing their own campaigns do not go far enough and could result in inequitable situations.

At the same time, I believe the legislation addresses, to varying degrees, many of the issues which have stymied progress on campaign finance reform in the past: the role of PAC's, the concept of soft money in campaigns, broadcast rates and regulations, bundling of funds in excess of contribution limits. As I have noted, in some cases I am not satisfied that we have moved far enough toward solving the problems facing us. However, I believe that we must begin to deal actively with a campaign system that has caused large numbers of American citizens to lose respect and confidence in the electoral process and has led to a situation in which many voters believe that money buys political access and favors. The legislation before us takes a step in this direction. Hence, while I do not agree with all its provisions, I intend to support its passage. It is my

hope, however, that the bill will be modified—particularly those provisions relating to public financing and soft money—so that I can support it after conference with the House of Representatives.

Mr. President, in the debate 2 years ago I concluded that there was no panacea for the ailments that afflict our campaign finance system. I continue to believe that there is no comprehensive solution we can put in place that will suddenly provide absolute assurance that money will never taint the legislative process. We cannot rest with the legislation we are considering today. We need to develop a true spirit of bipartisanship on this difficult issue in order to implement a system that will truly restore confidence in our campaign finance system. We must continue to work toward developing a system which will eliminate abuses from the electoral system, halt the campaign spending spiral, amplify the voice of the individual citizen, and lend greater dignity, substance, and responsiveness to the electoral process. The legislation we are considering today could take us a step in this direction, but we must continue our reform efforts.

Mr. DODD. Mr. President, I am pleased to vote for final passage of S. 137, the Senate Election Campaign Ethics Act of 1990. I believe this long overdue legislation will help restore integrity to the electoral and legislative processes and thus improve public confidence in the Congress.

A democratic government is only as strong as its support from the public. The low voter turnout in elections and the low esteem in which the Congress is held in public opinion polls tell us that the people are losing faith in their government.

There are many things we can do to restore that faith. We can enact a serious, no-smoke-and-mirrors plan to reduce the deficit and restore fiscal integrity. We can clean up the S&L mess, give the American people a full accounting of the fiasco, and make sure that we never repeat it.

The list of things we can do is a long one, but true campaign finance reform is right at the top of any list. The public has a perception that special interests have far too great a say in who gets elected and how they vote, and that we are spending more time chasing campaign contributions than pursuing the public good. True campaign finance reform must address both these concerns, as well as assure that challengers have enough money to make their views known.

To address the concern about special interest influence—that some contributors are more equal than others—the bill would prohibit contributions by political action committees [PAC's]. While individuals with an interest in

legislation, which in the broadest sense is all of us, could still make campaign contributions, the ban on PAC's will eliminate the undue influence that flows from groups of people being able to make contributions in \$5,000 chunks. In essence, eliminating PAC's strikes a blow in favor of a one-person/one-vote system. This is a provision that both Democrats and Republicans believe is an essential part of reform.

While my amendment to ban honoraria does not address campaign contributions, it does directly address the concern about undue influence by special interests. I am pleased that an overwhelming majority of my colleagues approved that amendment, agreeing with me that it would be unseemly for Senators to shut down special interest influence through one channel—campaign finances—while continuing to allow it through another.

The only way we can end the money chase that has become a fact of life in the Senate is to place spending limits on campaigns. The bill does so by utilizing a population-based formula that would permit expenditures for Senate candidates that range from \$950,000 in small States to slightly more than \$5 million in the largest one, California. Inasmuch as the Supreme Court decision in *Buckley versus Valeo* invalidated mandatory expenditure ceilings, the bill provides a series of inducements for candidates to abide by the expenditure limits, including broadcast vouchers equal to 20 percent of the general election spending limit, lower mail costs and contingent spending from voluntary contributions if an opposing candidate exceeds the spending limits.

These limits would significantly reduce the money chase. It's not very difficult to figure out that if the average Senate candidate today raises \$4 million to finance his or her campaign, that is roughly \$13,000 a week for every week of the 6-year term. That's an awful lot of money to raise and it can not be raised without considerable effort—effort that takes away from one's senatorial duties and from time that could be spent with constituents who want to talk about problems and issues.

And there is no sign that the chase is abating. To the contrary, the average cost of winning a seat in the Senate was about \$600,000 in 1976. By 1988, it had risen to \$4 million, a 570-percent increase, and there is no end in sight.

Unfortunately, the matter of spending limits is the major issue that divides Democrats and Republicans. Republicans fear that limits will assure that incumbents win most of the races and, since most Senate incumbents are Democrats, they fear that limits will assure that the Senate will remain in

democratic hands. I understand their concern, but the facts suggest the opposite. Spending limits will help—not hinder—challengers for Senate seats.

The amount of money that challengers can spend under the bill is more than enough to get their views across. In fact, the limits may encourage challengers—and their supporters—who have been scared off by the national advantage incumbency gives to Senators to raise greater sums.

Moreover, under the present system, challengers rarely get anywhere near as much as sitting Senators. For example, in the 1988 Senate races, 27 incumbents spent an average of \$3.7 million while 94 challengers spent an average of \$593,000. It is important to note that in the last two Senate races, incumbents outspent challengers by \$110 million. If the spending limits of S. 137 had been in place, the gap would have been \$21 million—one-fifth of the actual differential. These are just a few of the facts that demonstrate that spending limits will give challengers a fair change to get their message heard and thus to compete effectively with incumbents.

In short, Mr. President, I believe this bill is true campaign reform that would produce a better reelection system, free from the taint of special interest money and with more than enough funds for challenges to make their case. If I am correct, then we will have taken a significant step toward creating a fairer process and restoring public confidence in the Congress. Therefore, I urge adoption of the bill.

Mr. AKAKA. Mr. President, there are few more important issues the Senate will consider this session than campaign finance reform. We need to pass legislation containing meaningful spending limits to deal with the pervasive and pernicious influence of money in the congressional campaign process.

It is encouraging that there has been movement in the last few days toward a bipartisan compromise. For this, I commend the distinguished Senator from Oklahoma [Mr. BOREN] who has labored long and hard to craft legislation that can be passed by both Houses and be presented to the President. In a spirit of conciliation, the Senator from Oklahoma has offered substantial concessions to the other side of the aisle. There is now a meeting of minds on the issue of banning PAC contributions. As to public financing, the original Democratic proposal has been slimmed down so that the amount of funding would be very modest. I hope our Republican colleagues will respond to these concessions with an eye to working something out.

As the distinguished majority leader has said, the debate comes down to the pivotal, as yet unresolved issue of campaign funding limits. Those of us who support the Democratic substitute be-

lieve that the only meaningful way to reform the Senate election finance system is to have voluntary limits on campaign spending, with incentives. Anything less creates merely the appearance of reform. The American people know that our money-saturated campaign system should be overhauled. Mr. President, we ought to live up to their expectations by rejecting a cosmetic fix.

The problem with the latest Republican package is that it still lacks spending limits on Senate campaigns. What is particularly troubling is that the Republican package fails to effectively remove political soft money from the election system. If the Republican substitute becomes law, wealthy interest groups will continue to funnel large amounts of money to State party organizations to fund activities that affect Senate elections.

Mr. President, why do those of us who support the Democratic substitute insist on meaningful campaign spending limits? The first reason is that the astronomical cost of running for Congress is preventing many of our most talented citizens from becoming candidates. Among incumbents, the very high cost of running for reelection has given rise to a preoccupation with fundraising.

The second reason we need meaningful campaign limits is because demand for money has increased public perception that special interest groups hold an inordinate sway. This engenders public cynicism.

We in Congress must confront the shortcomings in our political process by enacting a comprehensive campaign reform bill that includes limits on campaign spending. Only after we have passed such legislation will our citizens eagerly participate in their political heritage. It is our responsibility to give the American voter a reason to return to the polls with confidence in our system of government.

Mr. President, I yield the floor.

Mr. CHAFEE. Mr. President, I want to commend those on both sides of the aisle—especially Senator McCONNELL and Senator BOREN—who played a leading role in shaping the campaign finance reform legislation that we have debated this week.

There are four goals which I believe a campaign finance reform bill should meet. First, it should limit the ability of special interests to influence the actions of those in government through political campaign contributions.

Second, it should improve competition in congressional campaigns, in which incumbents currently enjoy a number of advantages which inhibit the ability of challengers to compete. Third, it should reduce the rising costs of campaigns, which exert tremendous pressure on all candidates to undertake virtually ceaseless solicitation ac-

tivities. And fourth, it should be a bipartisan bill which does not put in place a system with built-in advantages or disadvantages for one political party.

I believe S. 2595, which I joined with Senator McCONNELL in sponsoring, offers the best approach for achieving these goals. It was my hope that this week's debate would lead the Senate to adopt many of the elements of our legislation. I am disappointed that this was not the case, and I must oppose the bill that is now before us—S. 137, Senator BOREN's legislation.

Unfortunately, S. 137 remains a bill that will do little to improve competition in congressional campaigns and will, in fact, leave in place many of the most troubling elements of the present system. S. 137 has been promoted as a reform measure chiefly because it would limit the amounts that can be spent by congressional candidates. This would be a dramatic step for our democracy to take—to impose an arbitrary limitation on the amount that a candidate can spend in an election. It may be a step that would be worth taking, if it were part of a system that truly was a level playing field.

But spending limits by themselves are not a panacea for improving our campaign system. If we are going to limit what a candidate can spend in an election, fairness dictates that we also limit all the other spending that goes on during an election campaign, including funds spent by those who are not themselves candidates.

When viewed with this in mind, S. 137 is by no means fair. Its proponents point to the limits which the bill imposes on the use of so-called soft money—funds that are raised by entities that are not subject to Federal rules, yet spent in behalf of Federal candidates. But the bill is selective in the type of soft money it prohibits. It would outlay such expenditures by the Democratic and Republican Party organizations, yet permit so-called independent expenditures to continue. Thus, candidates and political parties would be limited in what they could spend, while special-interest entities—unions, corporations, trade associations, and so forth—could spend whatever they wish to influence the outcome of an election. In my view, our failure to impose any limits on these expenditures is the most disappointing aspect of this week's debate.

I am also troubled by the bill's reliance on the use of funds from the Federal Treasury to provide an incentive for candidates to abide by spending limitations. It has been estimated that, when applied to both House and Senate candidates, the Federal funds to be made available by this legislation could total \$400 million over 2 years. At a time when the intractable budget deficit is constraining our spending in

a number of worthwhile areas—such as health care, education, and drug treatment—I find it difficult to explain to the taxpayers that we can afford to embark on a new program offering Federal subsidies for congressional candidates.

S. 2595 would have helped keep the efforts to influence elections centered in a candidate's home State, by sharply reducing the amounts that can be contributed by individuals who reside out of State. This change is not included in S. 137. In addition, S. 2595 would have reduced the single costliest element in modern campaigns—television advertising—by requiring broadcasters to make lower advertising rates available to all congressional candidates. S. 137 fails to make this change.

Our legislation, S. 2595, would also have greatly improved competition in campaigns by putting in place a mechanism for seed money to be made available for Democratic or Republican challengers, through the political party organizations. S. 137 includes no such provision and, indeed, commences a system of spending limits which is inherently advantageous to incumbent candidates.

I am disappointed that amendments offered by a number of my Republican colleagues to make this a truly bipartisan bill were defeated. It is my hope that before we adjourn for the year, we will be able to enact a truly bipartisan, evenhanded bill.

Mr. LEVIN. Mr. President, it is ironic as democracy is resurfacing everywhere from Prague to Panama and from Sofia to Santiago that here at home the public's confidence in the integrity of our own American democratic process is so shaky. People in our own country believe that political campaigns are too negative and too costly, and that the candidates spend too little time talking about the real issues and too much time seeking campaign contributions from the rich and powerful. It would be a tragedy to the cold war won abroad at the same time that more and more people here at home view our own democratic system with icy indifference.

It will take more than one piece of legislation to reverse that trend. It is the responsibility of this Nation's political leaders to perform in a manner which regains the trust of the American people. But this legislation which has been introduced by Senator BOREN is a substantial start. It allows for limits on campaign spending and encourages more issue oriented campaign advertising. It also provides a mechanism for allowing the American people to voluntarily do away with the excessive reliance on special interest campaign contributions and the cynicism that it breeds.

As Senator BOREN indicated in his remarks earlier during the debate, this bill does not provide any public financ-

ing through the appropriation of taxpayers' dollars. Nor does it provide for public funding through a taxpayer checkoff system whereby revenue raised through the normal process is allocated by the taxpayer to political campaigns. Instead, this bill is consistent with a checkoff system by which taxpayers could donate to the Senate election campaign fund money apart from what they owe in taxes. A majority of the Senate made clear its support for this approach by approving the sense of the Senate resolution offered by Senator BOREN. If these voluntary contributions or donations are not made, then under this bill there would be no funding of any kind provided for campaigns, including no funding to compensate candidates whose opponents receive contributions or make expenditures in excess of the bill's spending limits. In a very real sense, this bill takes a significant step toward campaign finance reform by offering the American public the opportunity to take campaign funding out of the hands of the special interests without forcing the hand of the American taxpayer.

Mr. EXON. Mr. President, we are about to pass, after years of unfortunate delay, a campaign reform bill. There is a crying and demanding need for such legislation.

This measure now goes to the House for its action.

The primary feature of this bill is the reasonable cap it places on campaign expenditures. This will help stop the money chase that has been the result of runaway spending.

This is not a perfect bill and, hopefully, the eventual House-Senate conference can come up with some needed improvements.

There remains in this Senator's mind one concern that must be addressed before I can vote for final passage of the measure after the conference report is returned to the Senate for final disposition. That has to do with explicit language that assures there will be no front door or back door public or taxpayer financing of general campaign expenditures.

I tried to eliminate any such possibility earlier today. This was blocked essentially because of a technicality that such provisions must originate in the House. At least we were successful in obtaining a Senate expression of our opposition to taxpayer financing as envisioned by some. I do not agree.

I support this bill at this juncture only under the hope and assumption my concerns will be addressed properly as this process continues. This bill is certainly a significant step in the right direction to correct an obvious wrong.

Mr. MURKOWSKI. Mr. President, there are many conflicting opinions about what is wrong with our campaign finance system, but everyone

agrees it needs fixing. The American public is as tired of the campaign money chase as we are. I am hopeful that this debate will produce a consensus for action.

However, this Senator must express serious reservations about the spending limits and restrictions on out-of-State contributions contained in S. 137. Democrats would set artificial State-by-State spending limits based solely on a State's voting age population, without consideration for factors such as transportation or media costs, that vary widely from State to State. The formula has a floor of \$950,000 for the general election or \$400,000 plus 30 cents times the State's voting age population, whichever number is greater. Spending would be capped for the most populous States at \$5.5 million. For a Senator from a small population State such as Alaska this formula would mean approximately \$950,000 for the general election. Primary spending would be capped at 67 percent of the limit for the general election, \$636,500 for Alaska. According to the formula in S. 137 an Alaskan candidate would be limited to about \$1.5 million. In my last election in 1986, I spent approximately \$1.4 million. S. 137 would represent approximately an 8-percent increase. Our colleagues on the other side of the aisle would also limit the amount a candidate could receive from out-of-State contributions to 50 percent of the total aggregate spending allowed, approximately \$750,000 for a candidate in Alaska.

A limit based on the voting age population of State is not truly reflective of the actual costs of campaigning, particularly in a State as large and geographically diverse as Alaska. Transportation costs alone in an around Alaska are enormous. Airfare from Anchorage to Deadhorse, AK, near Prudhoe Bay is \$566 on Alaska Airlines for a distance of 1,252 miles. As a frame of reference, the cost of a roundtrip ticket on a comparable airline from Washington, DC to Seattle, WA costs a mere \$494, for a distance of 4,624 miles. Flying roundtrip from Anchorage to Dutch Harbor, a thriving fishing port on the Aleutian Chain is a bargain at \$788 for 1,580 miles. These figures are based on the least expensive fares that would ever be available.

Spending limits will limit a candidate's ability to get out and meet the voters in Alaska. It will also frustrate a candidate's ability to get his message out to the voters. More importantly, it will hinder a constituent's ability to meet the candidates and obtain the information necessary to make an informed and intelligent decision come election day. Many communities in Alaska are extremely remote, accessible only by air. In more heavily populated States in the lower 48 a candidate can make media buys in a few

markets and blanket the entire State. In Alaska, a large part of media costs are composed of print and radio ads in hundreds of small communities, many with their own local newspapers and electronic media. Many of our small villages can only be reached by direct mail. For a candidate to be able to communicate with voters in Alaska—and that's what campaigning is—a lot of money is needed for transportation and individual local media outlets. Mr. President, the actual costs of campaigning are not something that can be based simply on voting age population formula.

Mr. President, this Senator is even more concerned about the limits on out-of-State contributions contained in the Democratic substitute to S. 137. As presently drafted the bill would limit the acceptance of out-of-State contributions to 50 percent of the total spending limit which would be \$750,000 for Alaska.

This limit represents a particular dilemma. These limits would hamper the ability of any Senator from Alaska to execute his or her duties as an elected official. Instead, a Senator would be forced to be a money-seeking politician, spending the little time he has in the State, having fundraisers. The Senator from Alaska is already restricted in the amount of time that can be spent in the State carrying out his Senate duties. These restrictions include the distance of Alaska from Washington, DC, the distribution of the State's population over an enormous and geographically diverse land mass, and the constraints of the Senate schedule. The Senate schedule is a fact of life and this Senator is not complaining. It is only mentioned to illustrate the difficulties any Senator from Alaska would have in traveling back and forth to the State to meet commitments at home.

I am not at all convinced that the aggregate amount that can be raised in individual contribution from outside your State should be capped. Alaska is a young State, with much of our economy based on outside investment in our tourism, fishing, and other resource industries. The resident wealth of Alaska is extremely low and much of our capital comes from individuals outside our State who do business primarily in Alaska. Why should these individuals be limited in their participation in the process? They have a direct stake in Alaska. Why should not a Senator from Alaska accept campaign contributions from individuals who may reside outside Alaska but are an important part of our State's economy and make their living off our State.

More realistic is the provision in the Republican version of campaign finance legislation, which would not arbitrarily cap out-of-State contributions, but rather reduce the current limit of \$1,000 for out-of-State contri-

butions to \$500. This is designed to reduce the alleged influence of large donors.

Several serious differences still remain to be resolved before the campaign reform package is finalized, but there is no question as to its direction. Congress must move forward with campaign finance reform in order to encourage participation and restore public confidence in our political system. The spending limits in S. 137 and the cap on out-of-State contributions do not further that goal.

Mr. DOLE. Mr. President, I indicated to the distinguished Senator from Louisiana that I would just take a minute to put this material in the RECORD.

I have gone back and taken the broadcast voucher and public financing, what it would mean to States in the Midwest like Kansas, Iowa, Nebraska, North Dakota, South Dakota, and the big State, California. In the States of the Presiding Officer and myself, it is about \$200,000 in taxpayer financing. In California, it is \$1.1 million; and if there were two candidates, about \$2.2 million. In Nebraska, it would be about \$200,000; Iowa, about \$200,000; our States are all pretty much the same.

The list is the same for South Dakota, North Dakota, Nebraska: \$950,000. In Kansas it is the same. In Iowa, it is over \$1 million.

So, in addition there would be the postage subsidy, which would be additional taxpayer financing. Then there are other possibilities for getting additional public financing.

So I ask that material be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

	General election spending limit	Public financing 20-pct. broadcast vouchers
South Dakota	\$950,000	Almost \$200,000.
North Dakota	950,000	Do.
Nebraska	950,000	Do.
Iowa	1,039,600	More than \$200,000.
Kansas	956,200	Almost \$200,000.
California	5,500,000	\$1.1 million.

Note.—If two candidates are in race and they accept spending limits, amounts are doubled.

THE SPENDING LIMITS—SOFT-MONEY CONNECTION

Mr. DOLE. Mr. President, during this debate, Democrats focused almost exclusively on the need for inflexible, aggregate spending limits as well as the need for taxpayer-financing of Senate elections.

Republicans, on the other hand, focused on what I believe to be the real campaign finance culprit—not aggregate spending, but the sources of campaign funds.

The debate was lively. Good points were made on both sides.

But one subject was not fully explored: the very real connection between spending limits, on the one hand, and nonparty soft money, on the other.

SOFT MONEY—WHAT IT IS

Mr. President, in the broadest terms, soft money is political money outside the source restrictions, contribution limits, and disclosure requirements of the Federal Election Campaign Act and its regulations. That is the academic definition, and it is the definition most widely accepted by the campaign finance experts.

But the real abuses of soft money come to life only when you look behind the academic definition and see what soft money means in real life and in real life campaigns.

Soft money is the \$850,000 in corporate cash that Charles Keating contributed to a tax-exempt 501(c)(3) organization that was supposedly dedicated to nonpartisan voter registration.

Soft money is the millions of dollars spent on door-to-door canvassing and other campaign activities by the citizen's action network, a supposedly nonpartisan organization now under investigation by the Federal Election Commission.

Soft money is the millions of dollars spent on phantom phone banks by special economic interests during the waning days of a campaign.

Soft money is the \$45 million spent by corporations and labor unions on voter registration activities during the 1988 Presidential primaries.

Soft money is the thousands of dollars spent by Common Cause on negative ads placed in a candidate's home-State press.

And soft money is the more than \$3.3 billion in dues that labor unions collect each year from members and nonmembers alike—a sum which happens to be greater than the gross national product of more than 75 countries. Needless to say, only a statistics genius—or perhaps a Democratic Party operative—can accurately estimate how much of this soft money actually gets pumped into the campaign finance pipeline each year.

So soft money can mean a lot of things, and it can have many different faces. But under any definition, soft money means money that is unreported, unregulated, under the table, and unquestionably a key ingredient of the so-called special-interest problem that now plagues Congress and breeds the growing cynicism among the American public.

THE SOFT MONEY-SPENDING LIMITS CONNECTION

Mr. President, one would think that a bill that calls itself campaign finance reform would curb these soft money abuses. One would think that a true reform proposal would wield an ax to nonparty soft money.

One would think, but one would also be wrong, for the Democratic proposal does virtually nothing—not a thing—to curb the nonparty soft money abuses that I have just described.

So, Mr. President, is it no wonder that some of my colleagues on the other side of the aisle so vigorously support aggregate, inflexible spending limits.

It is easy for a Senator to support limits on spending when he or she knows that an unlimited pool of soft money is waiting in the wings, ready to finance get-out-the-vote operations and other campaign activities.

So, Mr. President, there is nothing difficult about the spending limits-soft money equation.

Give something up with spending limits. But then take it back with nonparty soft money.

Put limits on federally disclosed and federally regulated individual contributions. But place no limits on undisclosed and unregulated nonparty soft money donations.

Place limits on the contributions that our own constituents can make. But place no limits on the amount of unregulated money that labor unions, corporations, and tax exempts can pump into the campaign finance system.

It is an easy formula, Mr. President, and it is a formula that highlights how nonparty soft money is—and will become, if the Democratic bill is enacted—the perfect campaign vitamin supplement to aggregate spending limits.

Mr. President, yesterday, my distinguished colleague from Kentucky, Senator McCONNELL, pointed out that not a single academic scholar or campaign finance expert believes that spending limits are good policy or good politics.

These scholars—Democrat and Republican alike—include people like Prof. Herb Alexander of the University of Southern California; Prof. Frank Sorauf of the University of Minnesota; Prof. Richard Neustadt of Harvard and a former adviser to Presidents Truman, Kennedy, and Johnson; Prof. Larry Sabato of the University of Virginia.

The list goes on.

Mr. President, I ask unanimous consent that a full list of those academics who are on record in opposition to aggregate, inflexible spending limits be printed in the RECORD, and, Mr. President, I also ask unanimous consent that excerpts taken from articles and congressional testimony of several leading academics, who point out the deficiencies of spending limits, also be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SCHOLARS AND ACADEMICS WHO HAVE CRITICIZED SPENDING LIMITS AS BAD PUBLIC POLICY

Herbert Alexander: Professor, University of Southern California; Director, Citizens' Research Foundation; Director, President Kennedy's Commission on Campaign Costs.
Christopher Arterton: Dean, Graduate School of Political Management, New York; Chair, Campaign Finance Study Group, John F. Kennedy School of Government, Harvard University; Associate Professor of Political Science, Yale University; Member, Commission on the Presidential Nomination and Party Structure of the National Democratic Party.

John Bibby: Professor of Political Science, University of Wisconsin.

Joel Fleischman: Vice-Chancellor, Duke University; Chair, Department of Public Policy Studies, Duke University; Member, Committee on Election Reform and Voter Participation, American Bar Association.

Joel Gora: Associate Professor, Brooklyn Law School; Assistant legal Director, American Civil Liberties Union; Winning Counsel, Buckley v. Valeo.

Gary Jacobson: Associate Professor, University of California, San Diego.

Xandra Kayden: Research Associate, John F. Kennedy School of Government, Harvard University; Director, Women's Advisory Council, McGovern-Shriver Campaign.

Susan King: Assistant to the Commissioner, Federal Election Commission; Chair, U.S. Consumer Product Safety Commission under President Carter.

Michael Malbin: Assistant Director, House Republican Conference Committee; Resident Scholar, American Enterprise Institute; Editor and Co-Author, Money and Politics in the United States.

Nicholas T. Mitropoulos: Assistant Director, Institute of Politics, Harvard University; Senior campaign staffer for George McGovern, Jimmy Carter and Charles Robb.

Jonathan Moore: Director, Institute of Politics, Harvard University.

Richard Neustadt: Lucius N. Littauer Professor, Harvard University Founding Director, Institute of Politics, Harvard University Consultant to Presidents Truman, Kennedy, and Johnson; Chair, Platform Committee, '72 Democratic National Convention.

Gary Orren: Professor, Institute of Politics, Harvard University; Member, Democratic Commission on Presidential Nominations; Director, Polling and Survey Research, Kennedy for President Committee, 1980.

Norman Ornstein: American Enterprise Institute.

Nelson Polsby: Professor, University of California, Berkeley.

Austin Ramsey: Professor, University of California, Berkeley.

Larry Sabato: Associate Professor of Government, University of Virginia.

Richard Scammon: Professor, American University.

Frank Sorauf: Professor, University of Minnesota.

EXCERPTS FROM TESTIMONY BY DR. DAVID ADAMANY, PRESIDENT OF WAYNE STATE UNIVERSITY, DETROIT, MI, BEFORE THE SENATE RULES COMMITTEE ON CAMPAIGN FINANCE PROPOSALS, APRIL 23, 1987

I want to make the point, Mr. Chairman, that it is important for all of us that campaigns be generously funded. The system of

checks and balances, as I try to teach students in my law school classes, is not just the checks and balances between the three branches of the government, but they are the checks and balances that emerge in a campaign system in which challengers have an opportunity to present their programs and to criticize the records of those who hold public office, since the ultimate electoral check is in voting and not in institutional relationships.

In a system where there is insufficient funding to wage campaigns, there can be no effective checks upon the government by voters.

I believe the expenditure limits as drafted in S. 2 are too low.

If one views expenditures not as an evil but as a form of public education, then limitations on expenditures should be approached with caution.

I would personally prefer that we have no expenditure limits. . . . So if there were a limit on PACs and a reduced limit on individual contributions, plus public financing, you would not need expenditure limits.

At the present time, my colleague, Gary Jacobson, who will be testifying later, has developed the leading scholarly studies that show that unless there is an opportunity to spend money, candidates—especially those with lower visibility—cannot develop a public presence sufficient to make an effective campaign.

As I looked at the numbers, it is apparent that more than half of the challengers in 1984 would have had their spending reduced by the limits proposed in this bill. That means that the least visible candidates would have been injured by the expenditure limits as presently written.

Mr. Chairman, I will not discuss the specific aspects of expenditure limits except to recommend that they be substantially increased in this bill if they must be retained at all.

I am concerned also, Mr. Chairman, about the limitation on citizen participation in politics that is incorporated in S. 2. I think it is very important for citizens to have an opportunity to participate in politics, and the provisions of S. 2 cut off the opportunity for people to participate in politics by making contributions. After \$250,000 is raised, there is not an opportunity under the public financing provisions, for an ordinary citizen to make a contribution. I think this is a mistake.

NOTE.—The following excerpts are from Dr. Adamany's written statement to the Committee.

The great danger in enacting contribution limits is that we will dry up the funds necessary to wage vigorous political campaigns. There is now a very considerable body of scholarly work that shows that the greatest impact of expenditure limits is on candidates who challenge incumbents. Those who hold office have ample opportunity to make their names and records known during their term of office. But challengers typically do not have wide recognition of either their names or their political programs. Hence, as they are able to reach the public with this information, voters become more aware of their choices at the polls. And this tends to produce a more vigorous electoral system.

At the same time, S. 2 also threatens to weaken competitive politics by setting expenditure limits on Senate campaigns. Expenditure limits may suppress opposition by capping campaign spending at a level that prevents challengers from gaining visibility for their records, their programs, and their criticisms of incumbent officeholders.

It is fair to ask, therefore, whether S. 2's expenditure limits are reasonable.

Incumbents' expenditures are not as important in political campaigns as challengers' expenditures.

Incumbents already have extensive visibility; it is challengers who need to spend money to gain public attention and support.

There are several possible remedies for this problem. The expenditure limits could simply be abolished, but a cap of \$250 could be put on all contributions.

The fourth major concern of campaign finance reform is to permit citizens to participate in the political process. Making campaign contributions is an important form of political participation.

The most serious defect in our presidential campaign regulations, in my view, is precisely the prohibition on individual contributions during the general election campaign. This cuts off opportunities for citizen participation.

NOTE.—In addition to serving as university president, Dr. Adamany is also a professor of law and political science and the former Chairman of the Wisconsin State Elections Board. His testimony before the Senate Rules Committee in 1987 was made in support of S. 2 with the strong reservations noted above on campaign expenditure limits.

EXCERPTS FROM TESTIMONY BY JOEL M. GORA, PROFESSOR OF LAW, BROOKLYN SCHOOL OF LAW, ON BEHALF OF THE AMERICAN CIVIL LIBERTIES UNION, BEFORE THE SENATE JUDICIARY COMMITTEE'S SUBCOMMITTEE ON THE CONSTITUTION, MARCH 17, 1988

The American Civil Liberties Union strongly opposes these proposed Constitutional amendments that would permit plenary government regulation of political campaign funding. These proposals (S.J. Res. 21 and S.J. Res. 130) pose a grave danger to the values of political speech and association, and thus to the essence of self-government.

The ACLU believes that government restrictions on political campaign funding infringe on freedom of speech and association.

We have viewed campaign finance restrictions with great skepticism. They appeared to us not so much as benign efforts to reform politics, but suspect attempts to restrict political speech and stifle citizen criticism of government.

That is why the ACLU believes that limitations on contributions or expenditures made for the purpose of advocating causes or candidates in the public forum impinge directly on freedom of speech and association and should generally be opposed. Government restrictions on political expenditures and contributions inevitably have two unacceptable consequences: (1) limiting the quantity of political resources directly restricts the quality and content of political speech, and (2) allowing government to monitor and control political speech in order to enforce such limitations is deeply disruptive of political freedom.

Disclosure is an effective antidote to any potential corruption or undue influence where candidates rely heavily on the contributions of others.

The proposed constitutional amendments would permit unacceptably sweeping and severe regulation of our system of political expression.

Giving government the power to regulate expenditures "intended to affect" elections invites intensive and disruptive official scrutiny

of all public speech even arguably within that zone. That has certainly been our experience with enforcement ever since the 1972 reforms, which were immediately applied against an ad hoc group that sponsored a newspaper advertisement urging the impeachment of President Nixon. The government claimed that the ad was for the purpose of influencing the outcome of the fall elections. The ACLU won that case, but the government has frequently applied campaign laws in an exceedingly sweeping fashion, despite warnings from the courts.

The responsible approach is to seek out solutions that maximize political speech and activity, not by limiting those groups and individuals whose resources permit them to engage in speech and association, but by improving the ability of those who lack such resources to participate in the political process.

One solution would be to lift the current \$1,000 ceiling on individual contributions to federal campaigns. That would encourage political access and opportunity, considerably ease fund-raising difficulties, and reduce the relative influence of political action committees. Concerns with undue influence could be addressed by requiring effective disclosure of large contributions.

NOTE.—Mr. Gora testified against two Senate proposals to amend the Constitution to permit Congress to regulate and limit campaign finance. The effect of these proposals would be to overturn the U.S. Supreme Court's ruling in *Buckley v. Valeo* (1976) which held that restrictions on campaign funding are restrictions on campaign speech and therefore not permitted under the First Amendment.

EXCERPTS FROM A STATEMENT BY LARRY SABATO, UNIVERSITY OF VIRGINIA, IN A LETTER TO SENATOR PACKWOOD, DATED MARCH 21, 1988

My objections (to campaign spending ceilings) can be stated succinctly:

(1) Expenditure ceilings, in most circumstances, will favor incumbents and make it even more difficult for challengers to defeat entrenched legislators. While some of your electorally threatened colleagues may disagree, our political and governmental system is heavily weighted toward incumbents—too much so, in my opinion. With more than 92 percent of incumbent U.S. House members regularly reelected (98 percent in 1986), discouraging competition ought to be the last thing we do.

(2) Ceilings will not stop or even slow campaign expenditures; they will merely redirect the flow and channels of money. Specifically, I would expect an increase in independent expenditures—the least accountable and often most negative form of election spending. Once again, an unintended, undesirable consequence will result from well intended campaign finance reform.

(3) Inevitably, ceilings will lead to creative accounting practices and other methods that will have the effect of "stretching" the ceilings. We have already seen this occur at the presidential level. The effect is to undermine respect for the campaign finance system generally. Why build into the law artificial devices that almost unavoidably lead to barely-legal cheating and encourage non-compliance?

(4) Designed to reduce special interest influence on government, ceilings may actually increase the power of some interests at the expense of others. Ceilings would favor the large, organized interests which are in a

position to contribute early in an election cycle, before the ceiling for a given candidate is reached. Smaller or later-organizing groups that lack capital early in the election cycle may be forbidden from contributing directly to a candidate. Since officeholders are especially likely to give access to those who have donated money to their election campaigns, spending ceilings may also have the unintended consequence of granting more access to the "haves" and less to the "have nots."

NOTE.—Larry Sabato is associate professor of government at the University of Virginia.

EXCERPTS FROM TESTIMONY BY DR. GARY C. JACOBSON, UNIVERSITY OF CALIFORNIA AT SAN DIEGO, BEFORE THE HOUSE ADMINISTRATION COMMITTEE'S TASK FORCE ON ELECTIONS, AUGUST 22, 1983

Insofar as the original FECA (Federal Election Campaign Act) was intended to place a lid on campaign spending and decrease the importance of campaign contributions from identifiable interests, it has not succeeded. It is easy to understand the concern that these developments have generated, but I think that much of the concern is misdirected. As a consequence, some current proposals for further changes in campaign finance regulation are likely to have unwelcome consequences. In particular, they threaten to decrease political competition and enhance the electoral security of incumbent office holders.

No candidate can be competitive without reaching voters, and under most circumstances there is no way of doing this without spending a great deal of money.

Congressional incumbents' campaigns are, in fact, heavily subsidized through the resources that come with the office. There is no way to eliminate this subsidy without impairing the Congressmen's ability to serve their constituents. Challengers normally need a great deal of money to begin to match the advantages available to incumbents.

Campaign money, therefore, matters most to candidates who are not incumbents. The statistical evidence on this is abundantly clear. In contests between incumbents and challengers, it is the amount spent by the challenger that makes by far the most difference. The more the challenger spends, the better the challenger does on election day. This relationship holds no matter what statistical controls are employed.

The same studies show that, once the challengers' spending is taken into account, the incumbents' spending has little effect on the outcome of the election. In simple terms—in fact, you might find this surprising—on the average, the more incumbents spend, the worse they do. This doesn't mean that incumbents lose votes by campaigning hard. It means that incumbents raise and spend more money the more seriously they are challenged, and the more seriously they are challenged, the smaller their share of the vote.

In general, any policy that increases the amount of money available to candidates will help challengers. It is also plain that the contribution or spending limits or any other measures that restrict the amount of money spent in campaigns will, if they have any effect at all on competition, help those already in office.

For those of us who worry about electoral competition then limits on campaign spending are clearly a bad idea.

More, rather than less, campaign money is necessary.

NOTE.—Dr. Jacobson is professor of political science at the University of California at San Diego.

EXCERPTS FROM A PAPER WRITTEN BY HERBERT E. ALEXANDER, UNIVERSITY OF SOUTHERN CALIFORNIA, FOR THE INTERNATIONAL POLITICAL SCIENCE ASSOCIATION MID-TERM ROUNDTABLE, MAY 19-24, 1987

"AMERICAN PRESIDENTIAL ELECTIONS SINCE PUBLIC FUNDING 1976-1984"

The low individual contribution limit and the expenditure limits have reduced campaign flexibility and rigidified the election campaign process. The contribution limit prevents potential candidates from mounting a campaign late in the prenomination season because it makes it extremely difficult to raise sufficient funds in a short time. The expenditure limit makes it difficult for candidates who have spent close to the maximum allowed to alter campaign strategy and tactics to fend off new challenges or to take new developments into account.

The relatively low expenditure limits have encouraged candidates to favor mass media advertising, which is more cost-effective and less time-consuming than grass-roots campaigning but may not be as informative. It has caused candidates to centralize control of their campaign efforts in order to assure that they remain within the expenditure limits, but this centralization comes at the expense of local authority and direction. The low expenditure limits also have led candidates to resort to a variety of subterfuges to circumvent the limits.

The low contribution and expenditure limits have encouraged the development of a variety of ways to frustrate the intent of the limits, including the presidential PACs, delegate committees and independent expenditures used in the most recent campaign. Such developments demonstrate the difficulties in attempting to regulate money strictly in the American political arena. In a pluralistic society, such as that of the United States, in which freedom of speech is guaranteed, restricting money at any given point in the campaign process often results in new channels being carved through which monied individuals and groups can seek to bring their influence to bear on campaigns and officeholders.

The 1984 general election experience strongly suggests that in a political system such as that of the United States, animated by a variety of competing interests each guaranteed freedom of expression, a tightly drawn system of expenditure limits does not work well.

NOTE.—Mr. Alexander is Director of the Citizens' Research Foundation as well as a professor of political science at the University of Southern California. These excerpts are from his conclusions in a paper delivered to an international conference of political scientists.

JOHN R. LOTT, JR., STANFORD UNIVERSITY

[Spending limits] . . . would make it harder for challengers to overcome the advantages incumbency provides and might end up making our representatives even less responsive to voters.

Incumbents have had their names advertised in previous elections. Also, they have had free media exposure and franking privileges during their tenure. This creates a great advantage, protecting them against newcomers who are potentially more representative and efficient. Unless challengers are free to solicit substantially larger contributions than the incumbents to offset this

advantage, they may have little chance to win, leaving less competent individuals in office.

For incumbents to claim that they are acting in the name of "fairness" when they are at the same time ensuring their future employment in Congress is hypocritical. It is unfair to pretend that incumbents and challengers are starting on an equal footing.

If we were to introduce low, uniform spending limits on congressional races—not recognizing the need for challengers to be able to raise relatively large sums—we would see incumbents stay in office longer and become less responsive to voters' opinions. The immediate effect would be to lower the current expenditures of incumbents and challengers alike, while leaving the incumbents' large past investments unchanged.

REPEAL OF BECK DECISION

Mr. McCONNELL. Mr. President, yesterday we adopted an amendment to this bill which, if it becomes law, will legislatively overrule almost 30 years of Supreme Court decisions interpreting Federal labor laws to protect the freedoms of America's working men and women. I deeply regret that the amendment offered by the Senator from Oklahoma [Mr. BOREN] was adopted in preference to that offered by the Senator from Utah [Mr. HATCH]. The difference between night and day does not begin to describe the difference between the two amendments.

Senator HATCH's amendment would have advanced union workers rights by providing them greater control over expenditure of their hard-earned dues money. Senator HATCH's amendment would have codified a line of authority in labor cases to allow union members to demand an accounting and rebate of a pro rata portion of their compulsory union dues. Instead, we find ourselves in the position of picking up the pieces after the majority succeeded in repealing the Supreme Court's Beck decision and the related line of cases.

Make no mistake, Mr. President, that is precisely what has occurred in this instance, despite the repeated representations by the other side that they sought only to codify the Beck decision. Let me explain.

In 1961, to save the constitutionality of the Railway Labor Act, the Supreme Court construed that statute to prohibit unions—if employees object—from spending for an political or ideological purpose the unions that they are required to pay as a condition of employment. *Machinists v. Street*, 367 U.S. 740 (1961).

The Court later extended that ruling to limit the use of compulsory union dues and fees to those activities necessary to performing the duties of an exclusive bargaining representative of the objecting employees in dealing with their employer on labor management issues. Such activities would include collective bargaining, contract administration, and grievance adjust-

ment. *Ellis v. Railway Clerks*, 466 U.S. 435 (1984).

Two years ago, the Court construed the National Labor Relations Act as containing the same limitation. Harry Beck, a telephone technician represented through an agency shop arrangement by the Communications Workers of America, objected to the use of his dues for noncollective bargaining purposes. The Supreme Court, in an opinion written by former Justice William Brennan, agree that the union could not use his dues to support candidates that he opposed. *Communications Workers v. Beck*, 487 U.S. 735 (1988).

A provision of the amendment offered by the Senator from Oklahoma yesterday—and late adopted by the Senator over the objections of this side—contained language “relating to payments of labor organizations in lieu of dues” which purports to limit the use of those payments. In fact, that amendment is skillfully drafted to overrule the Supreme Court’s interpretation of the Federal labor laws and sanction the use—now prohibited—of compulsory dues and fees for a broad range of political, ideological, and other nonbargaining purposes.

The Boren amendment would displace the Supreme Court’s interpretation of the labor statutes, because it expressly provides that its provisions are “in lieu of any requirement limiting the financial obligations of objecting employees under any other provisions of Federal law (including the National Labor Relations Act, as amended, and the Railway Labor Act, as amended).” The effect would be to overrule the Court’s decisions in *Ellis* and *Beck*, because it prohibits the use of compulsory union dues only for political activities, not for all activities unnecessary to the performance of a union’s duties as the exclusive bargaining agent for the objecting employees’ bargaining unit.

The amendment thus would permit the use of compulsory funds for union organizing, litigation not concerning nonmembers’ bargaining unit, and union publications—uses now prohibited under *Ellis* and *Beck*. Worse yet, the amendment would repudiate the 1961 decision in street that no political and ideological activities may be subsidized with compulsory dues and fees.

The amendment defines “political activities” for public office, any partisan political cause, and any ideological cause that is not reasonably related to advancing the employment interests of employees the [union] represents.” Since lobbying on legislation, judicial, and executive branch appointments and campaigning for an against ballot propositions are not “partisan,” and almost every political and ideological cause that unions support could be said to be “reasonably related to advancing the employment interests of

employees” a union “represents.” Thus, the Boren amendment would effectively prohibit the use of compulsory dues and fees only for and against candidates for public office—and only at the national union level at that.

A union wishing to circumvent this ban would need only engage in that very activity at the local union level. And that, Mr. President, that does not sound much like reform to me.

THE CASE AGAINST CAMPAIGN SPENDING LIMITS

Spending limits (S. 137): An arbitrary and inflexible ceiling on campaign expenditures of candidates for public office. Based on voting age population [VAP] or a State. Usually voluntary and accompanied by inducements such as taxpayer financing. S. 137 distinguished by punitive measures against candidates who do not comply.

THE NEED FOR CAMPAIGN FINANCE REFORM

Mr. President, never before this year had I been so optimistic of the prospect for real reform of our system of campaign finance. Recent events that are being invoked to propel the latest drive for reform highlight the abuses of our campaign finance system. Such activities are undermining Americans confidence in this institution. These actions attest to the need for more public disclosure and reinforce my commitment to stem the insidious effects of special interest money.

For some time now, real reform of our campaign finance system has been stymied by the obsession of so-called citizen activists and their allies with arbitrary limits on campaign spending. The refusal to put this one point of contention aside and deal with the dozens of other pressing campaign finance issues such as political action committees, soft money, independent expenditures, bundling, and rising costs has blocked meaningful and comprehensive reform.

With each passing Presidential election, evidence mounts that spending limits are a fraud on the American people. They do not contain campaign spending so much as they force it into channels hidden from the glare of public disclosure. That proponents of spending limits have been able to market this disaster as reform is remarkable. That they can profess to be knowledgeable on the issues and still believe in what they are proposing prompts me to enter into the *Record* my reasons and those of scholars, participants and numerous experts on campaign finance, for opposing campaign spending limits.

We have the luxury in this debate of not having to rely on theory in debating the efficacy of campaign spending limits. The Presidential system of spending limits and public funding provide the empirical evidence to make a reasoned judgment on their effects and the appropriateness of ap-

plying them to hundreds of congressional races.

The rhetoric today mirrors that heard nearly 20 years ago when so-called reformers cleansed the Presidential system of fat cats and special interest influence. The authors of that debacle are now falling over themselves to criticize the shortcomings of their brainchild. Simultaneously, they aspire, or conspire, to insinuate that mess on the congressional system of campaign finance. It would be a huge mistake.

PRESIDENTIAL SYSTEM OF LIMITS: FORMULA FOR DISASTER

In 1757, George Washington was a candidate for a seat in the Virginia House of Burgesses, and during the course of his campaign, Washington distributed 2 gallons of cider royal, 28 gallons of rum, 34 gallons of wine, 46 gallons of beer, and 50 gallons of rum punch. With only 391 eligible voters in the district, this amounted to more than a quart and a half of liquor per voter. This campaign finance information will not be found in any FEC report.

Political campaigns have come a long way. To ensure the integrity of our electoral process, a system of full disclosure and limits on individual contributions has been adopted. This system allows candidates latitude in how they choose to reach voters and allows supporters to contribute to the candidates of their choosing. It has worked remarkably well and is exemplified by the congressional system of campaign finance.

However, there are those who argue that elections have become too expensive and therefore we must put a Government-mandated ceiling on campaign expenditures of x amount of dollars. This is a simplistic, unrealistic, unfeasible, ineffective, and dangerous means of addressing myriad issues that have nothing to do with spending.

Proponents of spending limits conveniently ignore the empirical evidence that such limits are a fraud. They do not work as espoused. They do not level the playing field. They do not remove fat cats from the electoral process. They do not preserve the integrity of our democratic system. This evidence is irrefutable. Exhibit 1—the Presidential system of spending limits—is a disaster. It is also the model that proponents of spending limits would impose on 535 congressional races. It is embodied by the Democrats’ proposal.

Not one recognized academic or scholar in this field supports spending limits. Only tax-exempt organizations using the campaign finance reform issue to raise funds through direct mail solicitations are pushing the notion of spending limits to address

real and perceived abuses of the campaign finance system.

Spending limits have been denounced for 15 years as unsound, outmoded public policy by campaign finance scholars. These views were reiterated during 3 days of hearings in February. These experts span the ideological spectrum. Their reasons are always the same: spending limits do not control overall spending, but divert money into less accountable channels and suppress legitimate speech activity. Further, such limits promote cheating and disrespect for the law, as clearly seen in the Presidential system.

Between the last two Presidential elections, overall spending increased 50 percent, from \$325 million in 1984 to over \$500 million in 1988. Between the last two congressional cycles—where there are no spending limits—there was virtually no increase, from \$451 million in 1986 to \$459 million in 1988. Spending by Senate candidates decreased 5 percent, from \$211 million to \$201 million.

The John F. Kennedy School of Government at Harvard University found that expenditure limits and public financing in Presidential elections have not stopped the exponential growth of spending in campaigns. After a brief slowdown in spending in 1976, the money flowing into Presidential politics has increased at about the same rate as before spending limits and public financing were instituted. In fact, we cannot even measure for certain how spending is growing, because the spending limits have forced millions of dollars into undisclosed, unreported, and unlimited channels.

According to the Kennedy School report, spending limits have proven to be a total failure. They have failed to curtail spending in Presidential politics; they have failed to shorten the overall lengths of campaigns; they have interfered excessively with campaign strategies; and they have frustrated enforcement by spawning a host of arbitrary definitions and creative accounting practices.

In 1988, over half the money in the Presidential election was spent outside the candidates' control, through a huge black market of soft money. George Bush and Michael Dukakis each were given \$46 million in public funds to spend on their general election campaigns. In addition, both spent an estimated total of \$100 million in party soft money.

Political party soft money supports a lot of positive activities like volunteer participation, getting out the vote, and grassroots democracy. The real sewer money in the system is the special interest soft money—tens of millions of dollars in unreported and unlimited political activity by corporations, tax-exempt groups, and labor unions, which can use compulsory union dues

for political purposes. This special interest soft money exerts tremendous influence on the electoral process yet is undisclosed and unlimited. It would remain undisclosed and unlimited under spending limit proposals such as S. 137.

The Presidential system of spending limits has not lived up to its billing as a panacea for the allegedly obscene expense of our electoral process. The Wall Street Journal reported that, "so many loopholes have opened since the law was enacted in 1974 that the donation and spending limits have been effectively nullified." No less an authority on the system than 1984 Democratic Presidential nominee, Walter Mondale, said that, "There have been so many loopholes written into the law that it holds the whole thing up to ridicule." Furthermore, Mondale said, "It encourages public cynicism and apathy."

The Minneapolis Star & Tribune reported during a series of articles on the Presidential system that, "Reforms of the Watergate era were supposed to curb the influence of money in Presidential politics. New laws limited the size of individual contributions and put a cap on candidate spending. The reforms have failed * * *. The spending rules have become a joke." Furthermore, in a commentary on Walter Mondale's knowledge of the subject, "Mondale ought to know. In 1984, his campaign took advantage of some of those loopholes to build one of the most impressive Democratic fundraising operations in recent times. The spending limits that were supposed to level the playing field during the primary season have become an object of universal scorn."

These views of the Presidential system are not isolated. As the National Journal noted in a Nov. 18, 1989 article:

The effort to clamp a lid on deficit spending reads like a success story when it's compared with the effort to limit the growth of campaign spending.

In October 1974—just two months after Nixon resigned in the face of impeachment—Congress set contribution and spending limits for candidates for federal offices and approved public financing of presidential elections. The reforms were hailed as a historic step to reduce the influence of wealthy campaign contributors and to give would-be candidates without access to such sources an equal opportunity to run for public office.

It didn't take long to open loopholes big enough for a stretch limo.

The Presidential system has been a regulatory nightmare. Since 1974, every single major candidate for President has been cited by the FEC for some violation of the election laws. Fewer than 5 percent of the thousands of Congressional candidates have been cited.

Spending limits place a huge regulatory burden on Presidential candidates

that congressional candidates can hardly imagine. In 1988, the George Bush for President campaign processed every contribution it received through over 100 steps to ensure compliance with a maze of FEC regulations. The campaign budget included \$4 million for a compliance fund to defray legal and accounting expenditures. The Dukakis campaign allocated \$2.8 million, a lot of money off the top to deal with red tape and schemes to get around the limits.

Spending limits mean more jobs for lawyers, and accountants. In the Presidential system \$1 out of \$4 goes to complying with regulations and figuring out ways to get around the limits. The Wall Street Journal said, " * * the rules also make presidential campaigning a bureaucratized, regulation business run by lawyers, accountants, and political marketers." The Christian Science Monitor remarked that the typical campaign "well employ as many lawyers and accountants as a large corporation, and each month it will file finance reports to the FEC as thick as a Manhattan phonebook."

As Robert Beckel, a senior aide to the 1984 Democratic Presidential nominee, Walter Mondale, and respected consultant said: "If you're not finding every loophole that's available, you're not doing your job."

Yet even with the most painstaking procedures, the law becomes stretched far beyond its confining bounds, and the FEC steps in with citation in hand, to the embarrassment of the candidate. Very few of those legal violations involve issues of corruption of cloak-and-dagger transactions.

The Presidential election laws waste a huge amount of the candidates' and the FEC's time preventing these petty accounting mishaps, while ignoring the wholesale evasion of the system by wealthy contributors and political organizations. The huge stakes in the Presidential race encourage campaigns to push the margins. As the Los Angeles Times noted earlier this year, "for political operatives, the risk of stretching the law is nothing in comparison to the risk of losing an election."

That system has been a disaster ever since taxpayer financing and spending limits were imposed in 1974, and it gets worse every year. Some say there is a "scandal waiting to happen" in the way we finance elections in this country. You can stop holding your breath, because the scandal arrived long ago, and Congress created it. As Stephen Hess of the Brookings Institution noted in regard to the plight of Presidential campaigns under the current system of spending limits, "It would be very hard to have a major organization today that didn't violate at least the spirit of the law if not more than that."

We have a system where we spent, during the last three Presidential elections, nearly half a billion dollars of the taxpayer's money. We gave away millions of dollars to candidates like Lenora Fulani, and to disreputable fringe elements like Lyndon LaRouche.

We have created a bureaucratic maze where one out of four campaign dollars is wasted on accountants and lawyers, figuring out ways to get around the law. Campaigns have to process each contribution through as many as 100 different steps to ensure compliance. Political decisions are turned into accounting decisions. Yet, there has been unprecedented growth in campaign spending since spending limits were imposed.

In 1988, overall spending in the Presidential election exceeded half a billion dollars. That was 50 percent increase over 1984 spending—a 50 percent increase in one election cycle.

By comparison, campaign spending in Senate and House races increased only 20 percent between the 1984 and 1986 election cycles, and increases in congressional races have been dropping steadily since the late 1970's.

The Presidential system has turned every candidate into a cheater. It has fostered an alarming disrespect for the law. There are thousands of ways of getting around the restrictive limits imposed on Presidential campaigns. In such circumstances, legality becomes merely a matter of degree. There are limits, for example, on what Presidential campaigns may spend in each State. At least that is what the law says. Nevertheless, most candidates spend money on TV ads in Massachusetts to reach voters in New Hampshire. The mail for Iowa's voters is sent from New York and charged against New York's limit.

In 1984, the Democratic nominee spent about \$2 million in New Hampshire alone, even though the legal limit for the State was only \$400,000. The campaign finally got caught when it charged \$56,000 to its Massachusetts and Minnesota budgets for rental cars that never left Iowa or New Hampshire. Meanwhile, the Republican nominee was being cited for using his primary election funds to run for the general election.

Candidates also cheat on their overall spending limits by using delegate committees: political committees that are supposed to select favorable State delegates. In 1984, one campaign used its delegation selection committees to circumvent both contributions and spending limits. Campaign lawyers found that delegate committees were "a loophole big enough to drive a truck through." Overall, the campaign's delegate committees processed \$750,000, including several contributions from maxed-out donors.

Candidates also cheat on spending limits with precandidacy committees, designed to test the waters before initiating a formal Presidential bid. From 1981 to 1984, one such committee raised and spent \$5 million, partly to buy political favors—through donations to other politicians—and to spread the candidate's name across the country, all outside of the legal spending limits.

Other popular ways of cheating in the Presidential system include: having labor organizations pay the deposit costs for phone banks; sharing office space with special interest groups in order to save on rent; and getting friendly banks and corporations to extend very generous credit accounts. All of these have been tried, with varying measures of success, by both Democrats and Republicans.

Self-proclaimed "public-interest" groups hail this system and want to impose it on 535 Congressional races. Herbert London, a senior fellow at the Hudson Institute, noted that:

It is ironic that many political analysts who deplore the state of American politics are the very same reformers who proposed and lobbied for the present state of affairs.

He went on to say:

The debunkers have come to dominate the political atmosphere in this nation. They tear down every institution that doesn't fit their present agenda; when the nihilism doesn't result in what they hoped for, they organize a new reform agenda. We should realize that our political landscape is littered with institutions created by self-styled egalitarians who later lament the conditions their reforms created.

Those who debunk and reform are those who profit from the advice business. Americans should be willing to change their system, but only when those changes are consistent with our national spirit. That spirit isn't always easy to determine, but when it comes to counsel from the pundits, it is better to be wary before the fact than sorry afterward.

The effect of spending limits has been to erode the public's faith in the integrity of Presidential candidates and campaign laws. The Kennedy School of Government at Harvard University warned that "the creative accounting spawned under the Presidential system is stimulating overwhelming cynicism about campaign reforms.

Campaign staffers admit that one of the top planning priorities for a campaign is to identify in advance ways to circumvent the limits and rules—not deciding what you stand for, not articulating what you believe in, but amassing an army of lawyers and accountants who can tell you how to get around the law. As Jules Glazer, a treasurer for Jesse Jackson's Presidential campaign in California, said: "Violations are very common. They are in every campaign."

It is an outrage that American taxpayers are paying for this mess. The cost of the public financing system is borne by all taxpayers, regardless of whether or not they participate in the fictional voluntarism of the dollar checkoff on the tax returns. For the money that is appropriated through the check-off is taken out of general revenues. Revenue that otherwise could be used for health care, education, and child nutrition.

The last three Presidential elections have consumed a total of a half a billion dollars of the taxpayers' money. In 1988, the two party primaries alone cost \$40 million. Following that, each party spent several million more on lavish convention events—all at the expense of taxpayers.

Now that public financing has become an entitlement program for politicians, fringe candidates are sprouting like mushrooms to get their share. Extremist candidates squander taxpayers' money to spread views that most Americans do not agree with and are not interested in paying for. In 1984, Lyndon LaRouche received half a million dollars from the American taxpayers. LaRouche received another half-million in 1988, even though he was under investigation for fraud.

Then there was Lenora Fulani, a New York psychologist/social worker who considers herself to be Presidential material. Although she is hardly a household word in American politics, Lenora Fulani eventually received almost \$1 million from the Federal Government to run her Presidential campaign. Pop artist Andy Warhol once predicted that, in the future, everyone would be famous for 15 minutes. However, he did not envision that American taxpayers would be paying for the spotlight.

Certainly, everyone has a right to run for President in this country. No American would argue with that, but few would say that we should pay for each person's political ambitions, however quixotic or vain.

Special interests now wield more control than ever by spending outside the limits and disclosure requirements. This system is a scandal and a disgrace. This is what the U.S. Congress bought with half a billion dollars of the taxpayers' money. If we extend this system to Congress it would be the greatest boondoggle of all time.

I am not alone in this assessment. Dozens of scholars who have exhaustively studied campaign finance agree that the Presidential system is a mess, and that to impose it on hundreds of congressional races would be a monumental mistake.

Proponents of spending limits proclaim to want special interest influence reduced. Ironically, their proposal would empower special interests on a scale never before seen in American

politics. Gary Orren, of the esteemed John F. Kennedy School of Government at Harvard University, has written that " * * * spending limits force the campaigns to cut back spending for many crucial activities, particularly grassroots organizing * * *." He went on:

Expenditure limits in the primaries and general election significantly enhance the effectiveness of independent expenditures in the presidential campaign. When a campaign itself is restricted from spending necessary monies to get its message out, individuals and groups will divert substantial amounts of money into less accountable channels. Thus supporters can circumvent the limits by taking advantage of organizations that can mount unlimited spending campaigns on behalf of candidates.

Perhaps no one is more versed on the campaign finance system in our Nation than Herbert Alexander of the Citizens Research Foundation and the University of Southern California. Mr. Alexander has studied the Presidential election system extensively and presents evidence that it has failed to achieve the objectives of its proponents 20 years ago. And it has caused problems beyond their critics' worst nightmares. Mr. Alexander notes:

There has been ample experience with expenditure limits over four presidential election cycles to draw some conclusions. Problems have arisen in both the pre- and post-nomination campaigns, which illustrate what could be expected if expenditure limits were imposed in congressional campaigns.

Spending limits in the 1988 pre-nomination period illustrated their inflexibility and failure to respond to highly competitive campaigns and to events such as Super Tuesday. March 8th was almost half a national primary—20 states for the Democrats and 17 for the Republicans. The candidates could not spend the \$5 million that most experts said was necessary in order to campaign effectively in those numbers of states, or to purchase spot announcements in the 50 or more media markets. The candidates had to be selective in marshalling and allocating their resources in order not to leave themselves too short for the rest of the long presidential season.

In the 1988 general election, the campaigns both expressed a need for a level playing field. As a result, the campaigns sought to supplement spending beyond the expenditure limits through the use of soft money. Both parties raised tens of millions of soft money dollars, allowing them to effectively raise the spending limit of \$46.1 million to much more. Because soft money is regulated by state rather than federal law, many individuals contributed as much as \$100,000, also effectively raising the contribution limit. The money was raised through a paralleled fund-raising, effort, centralized at the national level and carried on by the candidates' pre-nomination staffs. The erosion of the effectiveness of the contribution and expenditure limits was considered by some to represent a return to bid money—public and private, candidate and party, hard and soft. These critics maintained that soft money threatened the general election funding concept, that full public funding would be provided, with minimal national party participation, and effective expenditure limitations. The presi-

dential candidates were directly involved in raising soft money, and their operatives are involved in directing its spending. So the expenditure limits were meaningless.

Analysis of the presidential general election periods demonstrates that at least three distinct but parallel campaigns were conducted, either by each candidate or on each candidate's behalf.

In the first campaign, spending was limited by law to the flat-grant amounts that public funding provides. This money was supplemented by national party coordinated expenditures. The total of these public and party funds was entirely within the control of the major-party nominees and their campaign organizations.

In the second campaign, spending was provided for but not limited under the law. Some of it was directly controlled by the nominees and their campaign organizations, and some was outside their control. Even those funds outside their direct control, however, could be coordinated with spending by the nominees. This second campaign was financed in part by funds raised under the FECA limits from private contributions to pay the legal, accounting, and related costs the organization incurred in complying with the law. It also was financed in part by soft money funds spent by state and local party committees. In addition, funds were spent on the nominee's behalf by labor unions, trade associations, and membership groups on partisan communications with their own constituencies and on nominally non-partisan activities directed to the general public. This parallel spending could be coordinated with spending by the nominees' campaign organizations.

In the third campaign, spending also was provided for but not limited under the law. Under Buckley v. Valeo, individuals and groups are permitted to spend unlimited amounts to advocate the election or defeat of specific candidates as long as these independent expenditures are made without consultation or collaboration with the candidates or their campaigns.

These three parallel campaigns illustrate why expenditure limits are illusory in a pluralistic system with numerous openings for disbursement sanctioned by law or court decisions. Such developments demonstrate the difficulties in attempting to regulate money strictly in the American political arena. When freedom of speech and association are guaranteed, restricting money at any given point in the campaign process results in new channels being carved through which monied individuals and groups can seek to bring their influence to bear on campaigns and officeholders.

With expenditure limits in Senate and House campaigns, the development of similar parallel forms of campaigning outside the limits could be expected. The implications for the regulatory and disclosure functions are notable. The work of the FEC would be expanded exponentially by the questions that would arise.

Comparing the 66 or so senatorial campaigns with the ten or so presidential campaigns, and adding in the several hundred eligible House candidates, gives some notion of the enormity of the administrative and enforcement functions the FEC would have to perform.

In terms of structuring an open and competitive system in which incumbents are not locked in and challengers are not locked out, then the best policy position is not to have expenditure limits because they tend to protect incumbents, but to permit unlim-

ited spending by those challengers who can raise the necessary money. Even without expenditure limits, the 1986 Democratic experience indicates that attractive candidates with sufficient funds can beat incumbents spending more money. Five challengers won despite being outspent by \$1 million or more; four of the five were outspent by a ratio of 2-to-1. This suggests a doctrine of sufficiency, that while challengers tend to be underfunded, they can compete effectively if they are capable and have sufficient money to present themselves and their messages. Then they may not need level playing fields.

This argument is turned upside down by reformers who argue that expenditure limits help challengers by keeping down incumbent spending in circumstances where incumbents normally can raise more money than challengers. But if the goal is to generate as much competition as is possible, then the better policy is to permit unlimited spending in those cases where incumbents and challengers alike can raise the money.

Finally, expenditure limits favor mass-media advertising at the expense of grassroots campaigning which involves volunteers. Media advertising is more cost-efficient given the need to get the biggest bang for the limited dollar. But expenditure limits unduly restrict campaigning and may lead to low voter turnout.

The expenditure limits and public funding under the FECA have been adjusted according to changes in the Consumer Price Index since 1974. The CPI as an inflationary corrective is not adequate when applied to campaign costs. Changes in the price of a loaf of bread or a gallon of gasoline do not necessarily bear much relation to changes in the cost of a 30-second television spot or of 500 interviews with registered voters for 20 minutes. The CPI simply does not measure the major components of campaign costs.

I would like to emphasize and second Mr. Alexander's recommendation that:

For constitutional and political reasons, and because they have been shown in presidential campaigns to be illusory and ineffective, no expenditure limitations should be enacted in conjunction with public financing or tax credits or broadcast or postage reductions.

The New York Times recently derided the "sewer" money in our campaign finance system and called for reform. Proposals advanced by proponents of spending limits would make it smell a lot worse. It would impose the failed Presidential system of spending limits on 100 Senate races. And it would make taxpayers pay for it.

It is time for this body to admit that it was wrong to tamper with the first amendment of the Constitution. This welfare program for politicians has been a monumental failure. Spending limits have corrupted the Presidential system, plunging it back into the controlled, scandal-ridden politics of the pre-reform era. The congressional system of limited contributions and full disclosure is really the ideal approach to campaign financing, insuring a broad base of participation and effectively deterring corruption.

The Presidential system of spending limits and public financing was a mis-

take. It has discouraged participation in our democracy. Under the Presidential system, grassroots participation has suffered. As David Broder wrote in the *Washington Post*:

Public financing has meant a virtual shut-down of local headquarters financed by small contributions. Grass-roots democracy has died.

No less a campaign authority than Bush for President campaign manager, James Baker, said, "The first things you cut are the grassroots items—pamphlets, buttons, bumper stickers. You save for the tube." Gary Orren observed that "expenditure limits make the candidates especially eager to take advantage of free or unpaid media. Thus, the limits encourage campaigns to create contrived media events that will catch the attention of the print and broadcast gurus."

The calls for spending limits come from many of the same individuals and groups who bemoan declining voter turnout in our Nation. Yet, these same people will stop at nothing to advance their agenda of campaign spending limits, a device that cuts the grassroots base of our democracy out of the electoral process. To stir people into greater participation in government, we should be making our electoral process more inclusive. We should strive to get campaign messages out to the electorate. We should not limit campaign speech. We should not shut the door to individual contributors while opening the floodgates for special interests and millionaires as the Presidential system of spending limits has done, and a congressional system surely would do.

SPENDING LIMITS AND CONGRESS

No recognized scholar on campaign finance advocates spending limits. Campaign spending limits have been denounced for 15 years as outmoded public policy by those who study the political system for a living—rather than live off of it as do politicians and so-called citizens activists.

These experts' resounding opposition to spending limits were reiterated during 3 days of hearings in February. These experts span the ideological spectrum. Their reasons are always the same: spending limits do not control overall spending, but divert money into less accountable channels and suppress legitimate speech activity. Further, such limits promote cheating and disrespect for the law, as clearly seen in the Presidential system.

The 1988 Senate elections confirm what I have been saying for a long time about spending limits. They are a uniquely effective incumbent protection device. Statistics prove that the ability to spend without any limit is far more important to challengers than it is to incumbents.

In the 1988 Senate elections, nearly 90 percent of the incumbents who spent under the limits that would be

set by S. 137 won their race. By comparison, of the 19 challengers who spent under the limits set by S. 137, 95 percent lost the race.

Eighty-five percent of the incumbents who spent over the S. 137 limits won—a lower winning percentage than for incumbents who spent below the limits. But for challengers, the ability to spend above the limits was decisive. Compared to a 5 percent winning record for challengers who spent below the limits—38 percent of the challengers who spent above the limits set by S. 137 were able to defeat the incumbent.

Only one of the challengers who defeated an incumbent in 1988 actually outspent the incumbent. But 75 percent of the challengers who won had to spend above the S. 137 limits to do it. Consequently, if we enact the spending limits contained in S. 137, the figures from 1988 show that challengers will have a 5-percent chance of unseating an incumbent in the future. Whereas, without the limits, challengers at least have about a 40-percent chance of winning in the Senate. I cannot conceive of a more effective and deliberate incumbent protection strategy than the spending limits in S. 137.

While this bill would shield incumbents from challengers, it opens our campaign finance system up for abuse eclipsing anything we have seen in the Presidential system. Spending limits will not remove money from the election process, they will remove it from the glare of public disclosure. They simply will force it into undisclosed and unreported channels. Individuals will be squeezed from the system, and special interests will be given the green light to influence campaigns through independent expenditures, and soft money. Our constituents will not be served by spending limits, special interests will be.

Spending limits are a fraud on the American people perpetuated by misguided reformers and those with a vested interest in limiting political communication. Spending limits do not address the proliferation of corporate and union soft money. They do not deal with independent expenditures which total tens of millions of dollars a year. They do not address the problem of tax-exempt groups influencing elections, central to the "Keating Scandal". There cannot be true reform until these issues are dealt with.

The perceived stench coming from the campaign finance system that is driving spending limits emanates not from the expenditures of candidates, but from the special interest source of funds. The bipartisan task force established by Senator MITCHELL and Senator DOLE recognized this distinction.

The bipartisan task force presented us with common ground on which to

agree to real reform of the campaign finance system. We should take this opportunity to restore confidence in our electoral process, not squander it on a partisan attempt to ensure a permanent majority in Congress. However, we have since found ourselves going over the same ground we did 2 years ago. Lines are being drawn by interest groups and legislators. The principal barrier to real reform of the campaign finance system is once again the notion that we can somehow limit campaign spending.

This obsession with spending limits ignores the intervening Presidential election since our last floor debate over this issue. The 1988 Presidential election, as has every Presidential election since spending limits were implemented in 1976, once again proved that limits are a facade for unrestrained spending by special interest groups and others outside of the channels reported and disclosed to the FEC.

Legions of scholars have examined, and rejected, the notion that equality can be legislated through spending limits. As this is a uniquely partisan issue in addition to the bipartisan concerns over tampering with our democratic election process, it is important to consider the academic examinations of spending limits.

HERBERT ALEXANDER, CITIZENS RESEARCH FOUNDATION, UNIVERSITY OF SOUTHERN CALIFORNIA

Limiting candidate speech gives an advantage to the institutionalized media which may not be favorable to one or another candidate, or may give advantage to the incumbent who has access to media forums. The White House and the Congress are public forums holding potential to give immense advantage to incumbents.

... expenditure limits have great and often deleterious impacts on campaigns. They work to the advantage of candidates who are better known, who have the backing of a superior party organization, or who have the ability to enlist volunteers; incumbents are usually in all three of these advantaged categories."

... all such formulas would, if adopted, have strikingly important, unintended impacts that have received very little attention. Over a period of years, these impacts would result in major changes in the allocation of power in Congress: differences in Senate seniority would result simply from differences in state size, and also differences in both Senate and House seniority would occur because of local variations in media costs and degrees of political competitiveness."

... unintended discrimination among states is wholly avoided only if there are no spending ceilings ...

States that usually have competitive general elections would be affected very differently from states that rarely have such races. Obviously, the more competitive a race, the more likely it will involve high spending.

Apart from differences in competitiveness, sheer population size differences would lead in differences in seniority.

Without public funding in the 1986 Senate elections, five challengers won despite spending less than their incumbent opponents who could spend unlimited amounts.

LARRY SABATO, UNIVERSITY OF VIRGINIA

*** the frequent call for spending ceilings in congressional races is a bad reform idea that sounds good. On the surface it is undeniably an attractive proposal. If we are concerned about the "obscene" levels of expenditure in House and Senate races, say the reformers, then let us set a maximum amount that can be spent to win each post.

But who would determine the ceilings? The Congress would, of course—a body composed of 535 incumbents who are fervently convinced of the worthiness of their own reelections. It is in their electoral interests to set the ceilings as low as possible. After all, the incumbents already have high name recognition, purchased with lavish spending during previous campaigns, and also achieved over their years in office with hundreds of thousands of dollars of taxpayers' money (via congressional staffs, mobile offices, constituency services, etc.) The average challenger, then begins his or her campaign perhaps millions of dollars behind the incumbent in overall real spending, and large challenger expenditures are necessary to compensate and to compete.

The fact is, therefore, expenditure ceilings, in most circumstances, will favor incumbents and make it even more difficult for challengers to defeat entrenched legislators. While electorally threatened congressmen may disagree, the American political and governmental system is heavily weighted toward incumbents—too much so, in fact. With more than 92 percent of incumbent U.S. House members who seek another term regularly reelected (98 percent in 1986 and 1988), discouraging competition ought to be the last thing we do.

Inevitably, ceilings will lead to creative accounting practices and other methods that will have the effect of "stretching" the ceilings. This has already occurred at the presidential level. The effect is to undermine respect for the campaign finance system generally. Why build into the law artificial devices that almost unavoidably lead to barely-legal cheating and encourage non-compliance?

Designed to reduce special interest influence on government, ceilings may actually increase the power of some interests at the expense of others. Ceilings would favor the large, organized interests which are in a position to contribute early in an election cycle, before the ceiling for a given candidate is reached. Smaller or later-organizing groups that lack capital early in the election cycle may be forbidden from contributing directly to a candidate. Since officeholders are especially likely to give access to those who have donated money to their election campaigns, spending ceilings may also have the unintended consequence of granting more access to the "haves" and less to the "have nots."

MICHAEL MALBIN, UNIVERSITY OF MARYLAND
SPENDING LIMITS STRONGLY FAVOR
INCUMBENTS

[1986 elections] *** all but one of the challengers who defeated sitting incumbents spent less than the incumbents they beat. That continues the pattern ever since public disclosure. Since 1976, all but four defeated Senate incumbents outspent the challengers who beat them.

Limits would apply to challengers and incumbents equally. That sounds like Anatole France's famous line about the laws forbidding rich and poor alike to sleep under the bridges of Paris. Incumbents are well known and the marginal utility of a dollar spent by a well known person is less important than a dollar spent by a less well known person. Incumbents are better known than challengers, with Senate challengers in much better shape, on the whole, than their counterparts in House races.

What separates the few close races from the rest is not the money raised by incumbents but the amount raised by challengers. Equalizing campaign funds would do nothing to help the vast majority of seriously underfunded challengers, but limits would prevent the best challengers from making their case against incumbents who start off with more than a \$1 million advantage in office account funds.

The evils of public financing do not begin to match the dangers of a system in which challengers cannot make their case.

It assumes that spending in a publicly funded race can be limited to the amount provided to the candidates by the Treasury. But the proponents know full well from the experience of presidential elections that full public funding, contribution limits and spending limits all tend to stimulate independent expenditures.

In response to proposals to deal with independent expenditures by triggering a public grant to the candidate whose opponent was favored:

It is so easy to circumvent as to be almost laughable.

But I would not even have to be this cynical. The Presidential system has taught us there are any number of activities in which a committee can engage that do not count under the law as independent expenditures. They can place issue advertising. They can work on voter registration and turnout. Etc., etc. The simple fact is that political professionals who run well heeled committees cannot be kept out of politics by whatever regulations you may write into law.

Regarding spending limits:

An idea whose time has come—for a decent burial.

RALPH K. WINTER, AMERICAN ENTERPRISE
INSTITUTE

In regard to limits proposed in the early 1970's:

Such limitations are as relevant to modern political campaigns as stagecoach speed limits to 747 pilots. Where the limitations are not anachronistic, they are unenforceable. Where they are enforceable, they are insufficiently comprehensive. And where they are comprehensive, they are usually not enforced. Corporations and unions may not contribute to candidates, but *** they may engage in "educational" activities which leave little doubt as to which candidate or candidates they are "educating" for. Prohibitions on direct contributions are frequently avoided, it is alleged, by providing "volunteers", by making contributions in kind rather than in money, or by diverting cash through various conduits to candidates.

When it comes to getting reelected, incumbents have a good track record. They have a staff, offices, access to the media, free mailing privileges, et cetera, all of which can be put to political use. They also have an established image in the minds of the voters. Finally, they often have access to money for campaign purposes. For this

last reason, many have argued that limiting campaign spending would not give an undue advantage to incumbents. But the contrary is clearly the case. Money is the resource that can be most easily converted to other campaign assets. Raising and spending money is usually the only way a challenger can overcome the advantages incumbents have. To limit the amount of money which a candidate may spend does not equalize political opportunity; it simply aggravates all other inequalities. In fact, since money is the most convertible resource, it seems arguably the least likely candidate for limitation in the name of equalization.

Since the other inequalities are most frequently the result of incumbency, a limitation on spending will in the long run work to the disadvantage of challengers and skew the political process severely. A study in the field of advertising supports this conclusion. It found that advertising is most effective in introducing new brands and new products. Heavy advertising is thus closely associated with industries in which there is a high turnover of brands. This study has important implications for those contemplating limitations on political spending in the media and for those concerned with the problem of the electoral advantage of incumbents. If we limit campaign spending on television and radio, we may well turn politics into an "industry" in which there is a low turnover of "products".

It is often alleged that limitation on campaign contributions and spending will reduce the influence of special interest groups. The contrary is the case, however, for they will merely discriminate against some in favor of others. Organized labor, for example, strongly supported the television bill vetoed by the President. Such statutes might limit the amount of direct contributions COPE now gives to candidates it favors. They would, however, give CPE a tremendous advantage because it engages in so many other political activities helpful to those candidates that the quantum of its influence would be relatively increased by a limit on direct spending. The political activities which COPE labels as "educational," for example, would be untouched. Registration drives, the maintenance of local organizations, news releases, pamphlets on political issues, the circulation of voting records, the organization of "volunteers," et cetera, are all activities which would be unaffected by any legislation now under consideration but which are plainly considered effective campaign tactics by all involved.

Limiting campaign expenditures, therefore, is hardly a technique that will equalize the influence of special interest groups. Quite the contrary, it is fully designed and intended to increase the power of some special groups at the expense of others.

Such legislation also discriminates against people with little free time who must limit their campaign activities to monetary contributions, and increases the political power of those who can contribute their time to the candidates they prefer.

A limitation on campaign expenditures may well affect the size of the vote adversely. To be sure, the amount of cash expenditures in a campaign is not the only variable affecting the number of people who vote. But, in the commercial world, the advertising of a particular brand product tends to increase the sales of that kind of product (as well as of the brand) relative to all other products in the economy. One might speculate that a reduction in political advertising, whether by one party or all parties, might

well reduce the size of the vote. Restrictions, moreover, will again have a discriminatory effect in that those who are contacted through political other than the forbidden media—e.g., registration drives or “educational” activities—may be more likely to vote than those who might have been induced to do so by forbidden television advertising.

The problems involved in limiting campaign expenditures and contributions are fully exposed when we turn to the question of what criteria should be employed to establish the limitations. Indeed, it appears that there are no “fair” criteria and that the limitations adopted will usually favor those in power.

If contributions and spending in the form of cash are to be limited, there is no logical reason why services donated should not be treated as “contribution” or “expenditure” at the fair value of those services. If a law professor works for a candidate, for example, the fair market value of his time should be treated as a “contribution” made by him and “expended” by the candidate calculated at the fair market value of those services. Third, money spent on “educational” activities with a political intent should also be limited since it is used for partisan purposes and is functionally indistinguishable from candidate’s campaign money. Because Congress is not about to enact truly comprehensive legislation, whatever legislation is passed will be arbitrarily limited to only certain kinds of political activities. One reason is that many of those who are most anxious for legislation benefit from the activities which are left unregulated. Another is that the First Amendment problems become vividly clear when these other activities are viewed, as they ought to be, as fungible with campaign money.

Many of the supporters of limitations on campaign expenditures and contributions style themselves as vigorous defenders of First Amendment rights. It is thus surprising to find that of the many problems raised by such legislation, the free speech issue is the least mentioned. A limit on the amount an individual may contribute to a political campaign is a limit on the amount of political activity in which he may engage. A limit on what a candidate may spend is a limit on his political speech as well as on the political speech of those who can no longer effectively contribute money to his campaign. In all of the debate surrounding the First Amendment, one point is agreed upon by everyone: no matter what else the rights of free speech and association do they protect explicit political activity. But limitations on campaign spending and contributing expressly set a maximum on the political activity in which persons may engage.

Such a law is indistinguishable in principle from laws forbidding people from engaging in other kinds of political activity. A law forbidding someone from contributing to a candidate’s campaign or restricting the use to which the candidate may put the money cannot be distinguished from a law forbidding speeches of over ten minutes in public parks.

Such legislation always discriminates in favor of one kind of candidate or group and against another. Many of those who favor such legislation stand to benefit from its passage. The inference that such legislation is the instrument of a political cartel is hard to resist. But even if incumbents do not realize the potential benefit to themselves and even if they are men of good will seeking only to further the public interest, the fact

is that the First Amendment forbids such regulation and for a good reason. We cannot always count on having men of good will and honest intent in office. Systematic regulation of political campaigns by Congress must inevitably lead to those in power regulating in favor of themselves. The reason the First Amendment takes matters of political speech and political activity out of the legislative process is precisely because we cannot rely on those in power to exercise that power on behalf of their political opponents.

Quantitative limitations on contributions or expenditures are particularly dangerous since they require periodic revision and reconsideration by Congress. Over time, sooner or later, limitations will be used to protect those who hold power from those who take it. Such laws, therefore, are fundamental threats to basic liberties.

The inevitable effect of an expenditure limit is to force candidates to go more and more to media image campaigns and more and more to avoid getting close to the voters through any kind of grassroots activity.

NELSON W. POLSBY, UNIVERSITY OF CALIFORNIA, BERKELEY

Anything that tends to prevent or to restrict political competition presumably tends to degrade the value of the vote—the fundamental instrument through which the political equality of citizens in a large polity is expressed. The intended effect of this set of regulations and incentives is to increase political competition by reducing the influence of money in the system. By providing matching subsidies, it helps serious candidates get in the game. By limiting expenditures, it seeks to make the chances of all candidates regardless of their economic standing more equal, and it arguably protects candidates against the inappropriate demands of heavy donors to their campaigns.

Ample experience now exists to call these benign expectations into serious question. Although it is true that money is used in election campaigns primarily to call voters’ attention to candidates, equalizing the money candidates can legally spend does not necessarily equalize the attention they get from the news media. Some candidates can be denounced—even defamed—by influential news organizations, as, for example, has been the regular custom of the Manchester Union Leader in connection with the overwhelmingly significant New Hampshire presidential primary election. Limitations on candidate expenditures materially hinder the capacity of candidates thus singled out to combat the effects of unfavorable publicity.

Inequalities in name recognition also exist by virtue of circumstances other than financial. Incumbents are the main beneficiaries of name recognition, but the advantage also accrues to celebrities of all sorts—preadvised candidates from the world of sports, for example, military heroes, and so on. When celebrities are competing with noncelebrities, or incumbents with nonincumbents, money—if it can be used legally by the disadvantaged candidate—may tend to equalize the competition rather than exaggerate the advantage of the more famous competitor. As Gary Jacobsen concludes from his authoritative study of congressional elections: These elections “are affected much more by what challengers spend than by what incumbents spend. The more spending by all candidates, the better challengers are likely to do.”

This may be true even if the more famous competitor raises and spends more than the less famous competitor, because the law of diminishing returns operates against the efficacy of extremely large amounts of money. It is, for example, impossible for a candidate to achieve name recognition higher than 100 percent. Frequent reminders over and above that may only be annoying. What is crucial is whether less well-known competitors get enough money to compete effectively so as to mitigate the effects of great initial differences in name recognition. Thus, the issue is whether restrictions on the raising and expenditure of money tend to help or hurt those who are less advantaged by other criteria.

Name recognition—the main electoral asset bought by many—may, to be sure, be a mixed blessing. Candidates can become unfavorably as well known as favorably known. This reminds us that there are uses for money beyond the achievement of 100 percent name recognition—such as countering unfavorable publicity. Therefore, empirical expectations about the point at which, diminishing returns set in for money as an electoral asset should be adjusted upward accordingly. This would strengthen an argument for no limitations on expenditures (as opposed to higher limits than currently exist) because it is difficult to anticipate far in advance of a given campaign various candidates’ needs for resources to counter negative publicity.

The empirical investigation that this argument requires has not frequently been pursued. It is much more common for advocates to favor public finance of elections, or to oppose public finance, on a priori grounds, and for those favoring public finance to argue that this is a suitable way to reduce the costs of elections overall because public financing of candidates requires them to limit their overall expenditures.

From the standpoint of an advocate of greater quality in the electoral process, however, this a priori approach is flawed, and the two elements of the usual public finance package—public subsidy and limitations on private fundraising and expenditures—actually point in opposite directions. The equalizing effects of public subsidies tend to be canceled out rather than enhanced by fund-raising and expenditure limitations, so instead of increasing the overall probability that candidates will play on a level playing field, the net effect of public finance plus limitations is to decrease that probability. Public financing of elections is not the culprit here; the limitations on further fund-raising and on expenditures are. Limitations neutralize the capacity of money to counteract other advantages that candidates may, indeed usually do, have. Thus the advocate of more equal political competition sought to be an opponent of these limitations, regardless of whether they advocate public subsidies for primary campaigns. Few, if any, are.

Regarding inequalities between incumbents and challengers:

Clearly, the most important of these is incumbency, the most pervasive example of name recognition generated by means other than the expenditure of money during a given campaign. Not every political contest involves an incumbent, although many do. And many political contests involving no incumbent do engage candidates vastly unequal in their fame. Consider the contest, for example, in 1982 for the U.S. Senate in New Jersey between long-time New Jersey Representative Millicent Fenwick, Doones-

bury's favorite politician, and a businessman named Frank Lautenberg who had not previously run for public office. It is hard to see how Lautenberg could have overcome his disadvantage in name recognition if he had been forbidden to spend heavily in New Jersey's fragmented and diverse media markets. So incumbency is only a subset—though no doubt a large one—of the general set of conditions in which one contestant is more famous than another before the election campaign proper begins.

Presumably, the capping of money has different effects in different electoral settings. In presidential elections a blanket grant is given to the major parties. Its main effect seems to be to centralize campaigns and reduce coalition building between presidential candidates and other politicians. In presidential primaries there is a complex matching scheme that does not seem to create a great barrier to entry. Expenditure limitations lead to elaborate evasive measures, for example, housing workers in the New Hampshire primary out of state. If public finance plus limitations were adopted for House races, one might guess that the benefits of incumbency, already overwhelming, would be further enhanced.

Thus, the causal relations between money and other electoral assets are complicated. One common assumption is that money buys all other assets and is therefore a major cause of electoral success. My argument requires that at least some other electoral assets (for example, incumbency) exist independently of money. Gary Jacobson suggests in his study of congressional races that money flows to nonincumbents—when it does—because they seem to be strong candidates for other reasons. In these cases, money can mitigate differences that arise on other grounds; lack of money can accentuate these differences. If money were the only factor that differentiated candidates, a case could be made for controlling the amounts of money that candidates spend. But this is an unrealistic assumption.

A fixation on neutralizing the impact of one among several resources frequently has the effect of adding to the impact of these other inequalities to influence outcomes.

Nonproblems: The amount of money spent on elections. This spending is justified by the number and complexity of choices made in American elections, by the inattentiveness of voters to politics. The amount of time spent on campaigns. America is the home of the long ballot and the loosely organized party. That means it takes time to organize our nominations more or less from scratch for every election.

JOHN R. LOTT, JR., STANFORD UNIVERSITY

[Spending limits] would make it harder for challengers to overcome the advantages incumbency provides and might end up making our representatives even less responsive to voters.

Incumbents have had their names advertised in previous elections. Also, they have had free media exposure and franking privileges during their tenure. This creates a great advantage, protecting them against newcomers who are potentially more representative and efficient. Unless challengers are free to solicit substantially larger contributions than the incumbents to offset this advantage, they may have little chance to win, leaving leaving less competent individuals in office.

For incumbents to claim that they are acting in the name of "fairness" when they are at the same time ensuring their future

employment in Congress is hypocritical. It is unfair to pretend that incumbents and challengers are starting on an equal footing.

If we were to introduce low, uniform spending limits on congressional races—not recognizing the need for challengers to be able to raise relatively large sums—we would see incumbents stay in office longer and become less responsive to voters' opinions. The immediate effect would be to lower the current expenditures of incumbents and challengers alike, while leaving the incumbents' large past investments unchanged.

GARY C. JACOBSON, UNIVERSITY OF CALIFORNIA, SAN DIEGO

Proposals to limit campaign spending rest, at least implicitly, on the assumption that some level of spending is "enough"—enough to inform voters sufficiently for them to have a real choice between known alternatives. Candidates (including unknown challengers) who spend that amount will be as competitive as the substance of their campaigns can make them; money spent beyond the limit makes little or no difference. Furthermore, the same level of campaign spending is assumed to be "enough" under a wide variety of electoral circumstance.

The real question is whether the limits typically proposed allow sufficient spending for competitive campaigns—specifically, challengers to incumbents—across the usual range of electoral circumstance.

The more nonincumbents (particularly those challenging incumbents) spend, the greater their share of the vote. The more the incumbents spend, the smaller their share of the vote. Incumbents do not lose votes by spending money, of course; they merely spend more the more strongly they are challenged, and the stronger the challenge, the worse for the incumbent. With the challenger's level of spending (the best measure of the strength of a challenge) controlled, the effect of the incumbent's spending is, in virtually every model or election year, very small and statistically indistinguishable from zero.

These findings indicate that, in general, any policy restricting campaign spending is likely to protect incumbents and diminish electoral competition.

A challenger's chances of winning seem to depend strongly on how much he spends on the campaign. Obviously, his prospects might also depend on what the incumbent spends. Certainly members of Congress believe so, for their campaign finance activity is sharply reactive; the more threatened they feel by a challenge, the more money they raise and spend. Few question the necessity for, and efficacy of, spending generously in response to a vigorous, well-financed challenge. But, as noted, extensive research has produced remarkably little evidence that spending by incumbents has any effect at all on the vote once other variables (including the challenger's spending) are taken into account.

Note also that it takes a substantial amount of money to have much chance to defeat even the most marginal incumbent.

That is, apparent "vulnerability" only translates into a serious risk of defeat if the challenger spends enough money to exploit it.

Proponents of spending limits often claim that the preoccupation with maintaining competition is misplaced because only a few seats are competitive in any event, and these few seats can be contested effectively by challengers with limited funds because they are inherently marginal. The evidence

here suggests the contrary. It takes a substantial amount of money to have much chance of defeating even a very marginal incumbent, and even ostensibly "safe" incumbents can be put at serious risk by a well-financed challenge.

Clearly, challengers have little chance to win unless they spend rather substantial amounts of money. Still, a few have managed to win with frugal campaigns. How did they do it? A case-by-case analysis reveals that scandal, good media markets, and unusually inept incumbents occasionally permit challengers to win on the cheap.

The public, Common Cause, and many members of Congress clearly regard what is objectively only "enough" money for a competitive campaign under many conditions as being "too much." But competitive campaigns are unavoidably expensive.

There is simply no way for most nonincumbent candidates to capture the attention of enough voters to make a contest of it without spending substantial sums of money.

A very large proportion of voters recognize the incumbent's name no matter what he spends on the campaign. Indeed, incumbent recognition rates are so high as to leave little room for improvement; familiarity on this level is one undeniable advantage of incumbency. For challengers, in contrast, campaign spending and recognition vary together strongly, so the more a challenger spends, the narrower the incumbent's advantage on this dimension. The gap between the proportion able to recall the names of the two candidates without being cued by a list also diminishes as spending increases. Both candidates improve their standing on this more stringent measure familiarity by spending more money, but the challenger gains relatively more than the incumbent.

These patterns help to explain the connection between campaign spending and the probability of a successful challenge. They also show how much money it takes to apprise voters of even the most elementary piece of information—the candidate's name. Again, a fully competitive campaign, in which most voters know enough about the candidates to make a minimally informed choice, is obviously an expensive campaign.

In aggregate, the evidence is overwhelming that ceilings on campaign spending at the levels commonly proposed would stifle competition and protect incumbents. . . . Competitive campaigns are not merely a product of structural factors—for example, a distribution of partisans that makes some districts inherently marginal—overlain by national forces. They are far more the result of vigorous, amply funded challenges. If the goal is to retain or enhance the benefits of electoral competition—keeping legislators responsive, letting voters change the direction of policy by replacing elected officials—limits on congressional campaign spending are a fundamentally bad idea.

STEPHEN HESS, BROOKINGS INSTITUTION

I do not think that the major reason that incumbents win is because they are better financed than their opponents. Incumbents win in part because they give themselves other advantages. But far more importantly, because they are better known, they have been active longer in public life, they have done more favors, they have made more speeches, and they have otherwise impressed themselves upon the voters before the campaigns begin.

NORMAN J. ORNSTEIN, AMERICAN ENTERPRISE INSTITUTE

Nearly everyone connected with the political process, from journalists to politicians to academics, understands these problems. But most move from them to a fatal misconception about their roots—and to faulty assumptions about what would cure them.

The fatal misconception? That the problem is too much money. The most common complaint about the campaign finance system is that it is awash in money—especially, of course, special interest money.

In a vast and heterogeneous society like the United States, elections cost a lot of money—and should. There is no way to communicate effectively and fully with the 550,000 people who make up a Congressional constituency, or the tens of millions of Americans affected in many Senate elections, without spending a lot of money.

McDonald's spends more money advertising its hamburgers than we do on our federal campaigns. As scholar Howard Penniman points out, contrary to conventional wisdom, the per-voter costs for campaigning in the U.S. are about the same as the average for Western democracies.

We happen to have a lot of voters, spread out over huge geographical expanses. This means that American elections are expensive—and have to be. Candidates need to raise lots of money to run effective campaigns—campaigns, in other words, that adequately reach voters.

What about capping campaign spending? Reformers who favor this approach believe it would reduce the obsession with money, give challengers more opportunity by reducing the huge leads that well-off incumbents have, and trim special interest influence by cutting the overall money in the process.

A cap on spending might reduce a candidate's ability to communicate with voters, but it would not reduce special interest influence—just rechannel it. And it would have the opposite effect of its intentions on incumbents and challengers.

Think of a Congressional election as the political equivalent of a 100-yard dash. Currently, most incumbents start out on the 50-yard line, with their challengers back in the starting blocks.

Capping campaigns expenditures is like shortening the race to 80 yards—but leaving the candidates where they were to start with.

This obviously would not make for a more competitive race; it would simply make it even more difficult for a challenger to find the wherewithal to overcome a huge incumbent lead.

Put another way, the problem for most challengers has not been how much an incumbent has, but rather how little the challenger can raise to overcome the overwhelming threshold of name recognition and issue communication required to reach a huge constituency.

Consider two alternatives: (1) Incumbent and challenger are each limited to \$100,000, or (2) incumbent gets \$1,000,000 and challenger gets \$400,000. Every savvy challenger would choose the second.

JOHN F. BIBBY, UNIVERSITY OF WISCONSIN-MILWAUKEE

From almost any perspective the most conspicuous aspect of congressional elections in the past two decades has been incumbents' high reelection rates, particularly in the House, where meaningful competition has become too often the exception rather than the norm. Meaningful competi-

tion and hard fought campaigns are more common in Senate contests. . . . More intense contests are waged for the Senate because (1) most states have genuine two-party competition for state-wide offices; (2) the media gives relatively high visibility to Senate races; (3) it is easier to recruit strong challengers for Senate races; (4) Senate challengers have a greater capacity to raise the funds necessary to conduct aggressive campaigns; and (5) political party organizations play a modest, but relatively significant, role in assisting their nominees.

Even with its generally more competitive elections, Senate incumbents had an overall reelection rate of 79.66% in the 1980s. High incumbent reelection rates reflect conscientious efforts by Members to maintain contact with their constituents, serve their needs, and represent their views. But we should also recognize that the Congress has been molded in a manner that serves the reelection needs of its Members.

A major advantage of incumbency is control of official resources for reaching and serving constituents as well as the media visibility and group access that goes with holding high public office. It is almost impossible to put a price tag on these advantages, but clearly they are sizable.

As a result of inherent incumbent advantages, challengers must spend a high level just to be competitive with incumbents. Political science research has demonstrated consistently that campaign expenditures are more important for nonincumbent candidates. How well challengers do is a direct function of how much they spend in their campaigns. By contrast, incumbent spending quickly reaches a point of diminishing returns and has much less effect on the vote than does challenger spending.

Reform proposals must be evaluated in light of these findings. Public policy should not add to the already significant and inherent advantages of incumbents and thereby depress inter-party competition.

Because challengers, not incumbents, benefit most from campaign spending, expenditure limits have an anti-challenger and anti-competition bias.

ROBERT CORN-REVERE, CATHOLIC UNIVERSITY

If groups of business people gather to establish rules to ensure "fair" or "equal" competition in the marketplace, some would call it restraint of trade. When Members of Congress do the same thing for their occupation, it is known as campaign reform.

It should surprise no one that those who play the political game would establish ground rules favorable to their cause. Indeed, incentives surrounding campaign reform measures were recognized before passage of the Federal Election Campaign Act of 1971 (FECA), the primary law regulating campaigns for federal office.

Generally, campaign reforms protect incumbents and stifle new political movements. The supposedly neutral limits on spending prevent challengers from mounting campaigns that are strong enough to overcome the officeholders' advantages. Public funding of campaigns reinforces the established political parties by erecting barriers to newcomers. Limits on campaign speech of independent committees allow candidates' staff to control the flow of political discourse and thus to monopolize the debate.

Much has been written about the spiraling cost of political campaigns. Undeniable as these figures are, the alarm often associated with the increases is explained more by

political hyperbole and media hype than by actual costs. When measured in real dollars, much of the increase is due to inflation.

Legislators often advocate such proposals by invoking images of the rich candidates buying congressional seats. Campaign spending limits or public funding, they say, would make elections more fair by placing candidates on equal footing. But some candidates, to paraphrase George Orwell, are more equal than others.

By virtue of their office, elected officials already enjoy brand-name familiarity among voters and need not spend money at the outset of a campaign to gain name recognition. Moreover, the staffs, travel benefits, offices, and communications allowances provided to representatives help maintain the built-in advantage. Over a two-year House term, these benefits plus salary have been estimated conservatively to amount to \$1 million, none of which would be affected by spending limits.

Along with inflation-driven campaign costs, the advantages of incumbency are on the rise. The personal staffs of Congress members doubled between 1960 and the mid-70s, as did the percentage of staff assigned to district offices. Allowable taxpayer-subsidized trips to the home district for representatives rose from three in 1960 to 33 in 1977, and in 1978 all limits on the number of trips were removed. By 1983, each senator was allocated 50 trips home, compliments of the U.S. Treasury.

Members of Congress also gave themselves unique access to the media. The most obvious benefit is the franking privilege, which allows members of Congress to blanket the home district with free, unsolicited mass mailings. There was better than a thirteenfold increase in franked mail from 1954 to 1982.

The adoption of congressional campaign spending limits, whether voluntary or not, would very probably hasten the trend toward permanent congressional government. Public funding proposals would produce a similar result, especially if combined with expenditure limits.

CONCLUSION

These are not my words, these are the nonpartisan, educated judgments of some of the most respected political scientists and observers in our Nation. They have no interest in campaign finance other than a shared commitment to objectively analyze its ramifications for our electoral process.

The evidence is in. Campaign spending limits are a fraud. They diminish our democratic process. They are the device of those looking for a superficial reform, knowing full well that it will accomplish none of the aims they are touted to. Moreover, they exacerbate the real problems with the electoral process by forcing spending into undisclosed channels. Under spending limits, these channels become all the more decisive because when one variable is reduced, all others necessarily increase in value.

Spending limits do not give power to the people. Spending limits give power to the special interests. Spending limits give power to anyone or any organization that is in a position to promote, or can afford to run ads in support of, or against, candidates. Spend-

ing limits give power to the Charles Keatings of the world who can afford to give hundreds of thousands of dollars to groups—not covered by spending limits—that target voters.

Spending limits assume that all other things are equal when, in fact, they are not. We cannot guarantee equality in political campaigns. However, we can foster the opportunity to overcome the inequities that exist. Spending limits diminish the opportunity for challengers to compete with incumbents. Spending limits impede the ability of lesser known people to compete with celebrities.

Several members of this body know this firsthand. They defeated incumbents, but they had to spend over S. 137's limits to do it. Senator HARKIN, for instance, defeated an incumbent in 1984 in a close race, but spent \$1 million over the S. 137 limit to do so. That same year, Senator SIMON also exceeded the S. 137 to defeat an incumbent.

The year 1986 was very good for Democrats. Senator DASCHLE spent over twice the S. 137 limit to defeat an incumbent. Senator BOB GRAHAM defeated an incumbent, and spent \$1 million more than S. 137 would allow any of his future opponents. Senator SHELBY spent well over the S. 137 limit to defeat an incumbent. In 1988, all three successful Democratic Senate challengers, Senator BRYAN, Senator KERREY, and Senator LIEBERMAN, spent well over the S. 137 limits that would constrain future challengers. Senator BRYAN spent nearly twice the S. 137 limit. Senator KERREY spent \$2 million more than the limit would allow his opponent in 1994. Senator LIEBERMAN spent, in 1986, almost $\frac{1}{2}$ million over the proposed 1992 limit.

Only two of these successful challengers spent more than the incumbent. Clearly, it is not necessary for a challenger to spend more money, or the same amount, as an incumbent. Myself, Senator SYMMS, Senator BURNS, and Senator RUDMAN all spent less than our incumbent opponents to win in the 1980's. However, it is absolutely essential to spend enough money to convey to voters why they should switch. It takes a substantial amount of money to achieve the critical mass of name recognition, issue identification, and organization that makes one a credible challenger to an entrenched incumbent. Usually, the amount it takes for challengers to win is more than spending limits allow.

How much money is sufficient is a function of several variables that differ by State size, population density, media markets, and myriad other factors. Voting age population [VAP], the criteria determining State-by-State limits in S. 137, is not an accurate reflection of the expense of campaigning.

A factor which has been largely overlooked in this debate is the extent to which the escalating costs of political campaigns has caused increased campaign spending by candidates. The single greatest cost component of a modern political campaign is television advertising. Television is the most effective and efficient means of reaching millions of voters. Television accounts for up to 80 percent of the cost of a campaign. While contribution limits have remained flat, the Consumer Price Index—cost of basic consumer goods—has increased over 300 percent in the last 20 years, and the cost of television advertising has increased even more. We have had wage controls—contribution limits—in political campaigns without price controls.

Congress recognized the importance of television in presenting information and ideas to a growing electorate nearly 20 years ago when it required broadcasters to provide the lowest advertising rate to Federal campaigns during the 45-day period before the primary election and 60 days before the general election. Enterprising broadcasters quickly created a loophole by designating different classes of advertising time. In practice, the lowest rate buys preemptible time that can be bumped in favor of another advertiser who purchases nonpreemptible time. Candidates now are virtually the only advertisers who purchase the most expensive class of time, nonpreemptible, because they must get their message out before election day. Fast-food restaurants and deodorant manufacturers have more leeway and thus purchase the cheaper preemptible advertising time.

In the last two Congresses, I have introduced legislation to require broadcasters to sell to candidates nonpreemptible time at the lowest rate for preemptible time. This would alleviate a tremendous financial strain on campaigns while affecting only three-quarters of 1 percent of broadcasters' revenues. Revenues made possible by the government grant of a Federal license to utilize a public resource: the airwaves.

There are many issues which both sides agree need to be addressed. Several of them are included in legislation that I recently introduced, with 33 cosponsors: S. 2595, the Comprehensive Campaign Finance Reform Act. This sweeping legislation bans political action committees [PAC's], cuts in half—to \$500—the contribution limit for out-of-State individuals; eliminates all soft money; protects union members from being forced to contribute to partisan political activities; provides a broadcast discount to reduce campaign costs; prohibits tax-exempt groups from engaging in partisan activities; bans using the franking privilege for mass mailings during an election year; strengthens election fraud laws; pro-

hibits bundling of contributions; provides new standards for gerrymandering congressional districts; mandates disclosure of independent expenditures; narrows the millionaire's loophole; restricts Federal activities by State PAC's created by Members of Congress; and promotes political competition by allowing political parties to provide challengers with seed money to get their campaigns off the ground.

These and other provisions of the Comprehensive Campaign Finance Reform Act would restore integrity and competitiveness to our electoral process while preserving constitutional rights and our 200-year-old tradition of democratic freedoms. The history of this debate is punctuated by spirited, often contentious debate, and rightly so. The electoral process is the essence of our democracy. It guarantees citizens a voice in their government and protects us all from tyranny. We must consider any changes very carefully, and openly discuss all the factors involved in campaigns and campaign financing.

Spending limits are a fraud being sold by a few groups, and some editorial boards, as reform. It is a travesty that insistence on this charade is blocking real, and needed, reform of our campaign finance system.

Mr. President, I am pleased to announce that this is the last speaker on this side of the aisle. We come to the close of this debate.

Mr. President, campaign finance reform is the rules of the game in our democracy. It is how we get here. There is really nothing more important in my view than the process in a democracy of reaching public office.

I have been interested in this for a long time. Back in the mid-seventies, I taught on a part-time basis at the University of Louisville, a course called "Political Parties and Elections." It happened to be about the time that we passed the current law.

Since that time, both from an academic point of view and also as a practical politician, I have had a consuming interest in the subject of the rules of the game in our democracy. As we conclude this debate, I must say I was hoping that I, along with some others who have been involved in this, would have our names attached to the landmark legislation. It would have for me been the culmination of a 15-year interest in this subject. But, alas, it appears that will not be the case, at least this year.

To understand how this debate has evolved, I think it is important to understand a couple of things about the differences between our parties. In the 1988 Democratic Convention, 52 percent of the delegates were on a public payroll somewhere in America; 27 percent of the delegates were members of labor unions.

So I think it is safe to say that as you look at the issues that come before this body, the majority, as understandably it would, tends to respond to those who are interested in the Government or getting something more from the Government.

So it has been a goal of the opposition for many years—I understand why. I respect the fact that they would like to do this—it has been the goal of the opposition for a long time to get an arbitrary limit on how many individuals can give both limited and fully disclosed contributions to the political process. It is not surprising that Republicans do not feel that is a good idea.

In addition to that, Mr. President, there is virtually no one in the academic community who feels that is a good idea.

I would like once again at this point to have printed in the RECORD a list of scholars that I have used in the past, most of them liberal Democrats, all of whom oppose spending limits.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SCHOLARS AND ACADEMICS WHO HAVE CRITICIZED SPENDING LIMITS AS BAD PUBLIC POLICY

Herbert Alexander: Professor, University of Southern California; Director, Citizens' Research Foundation; Director, President Kennedy's Commission on Campaign Costs.

Christopher Arterton: Dean, Graduate School of Political Management, New York; Chair, Campaign Finance Study Group, John F. Kennedy School of Government, Harvard University; Associate Professor of Political Science, Yale University; Member, Commission on the Presidential Nomination and Party Structure of the National Democratic Party.

John Bibby: Professor of Political Science, University of Wisconsin.

Joel Fleischman: Vice-Chancellor, Duke University; Chair, Department of Public Policy Studies, Duke University; Member, Committee on Election Reform and Voter Participation, American Bar Association.

Joel Gora: Associate Professor, Brooklyn Law School; Assistant Legal Director, American Civil Liberties Union; Winning Counsel, *Buckley v. Valeo*.

Gary Jacobson: Associate Professor, University of California, San Diego.

Kandra Kayden: Research Associate, John F. Kennedy School of Government, Harvard University; Director, Women's Advisory Council, McGovern-Shriver Campaign.

Susan King: Assistant to the Commissioner, Federal Election Commission; Chair, U.S. Consumer Product Safety Commission under President Carter.

Michael Malbin: Assistant Director, House Republican Conference Committee; Resident Scholar, American Enterprise Institute; Editor and Co-Author, *Money and Politics in the United States*.

Nicholas T. Mitropoulos: Assistant Director, Institute of Politics, Harvard University; Senior campaign staffer for George McGovern, Jimmy Carter and Charles Robb.

Jonathan Moore: Director, Institute of Politics, Harvard University.

Richard Neustadt: Lucius N. Littauer Professor, Harvard University; Founding Director, Institute of Politics, Harvard University; Consultant to Presidents Truman, Kennedy, and Johnson; Chair, Platform Committee, '72 Democratic National Convention.

Gary Orren: Professor, Institute of Politics, Harvard University; Member, Democratic Commission on Presidential Nominations; Director, Polling and Survey Research, Kennedy for President Committee, 1980.

Norman Ornstein: American Enterprise Institute.

Nelson Polsby: Professor, University of California, Berkeley.

Austin Ramsey: Professor, University of California, Berkeley.

Larry Sabato: Associate Professor of Government, University of Virginia.

Richard Scammon: Professor, American University.

Frank Sorauf: Professor, University of Minnesota.

Mr. MCCONNELL. Mr. President, the spending limits, the Supreme Court said in *Buckley versus Valeo*, are unconstitutional. It is possible to have an inducement of public money in order to get people to voluntarily subscribe to such a limitation on participation. But unfortunately the underlying bill does not include a voluntary inducement. It includes a sledge hammer which is designed to force compliance with arbitrary limits on the number of people who can be involved in politics. Even if this bill had become law, as it will not, it certainly would not have passed constitutional muster.

Having said all of that, the Senator from Kentucky is not a defender of the status quo. I am not satisfied with the current system. I think we can do better. This side produced a bill, a 34-point plan, with 35 Republican cosponsors, that included the following: A ban on PAC's, which has now been adopted by the other side, and I am proud to see that; a ban on sewer money, which unfortunately has not been done in the underlying bill; no taxpayers' money whatsoever, which unfortunately is not the case in the underlying bill; and of course no aggregate spending limits.

Another very important distinction between the Republican substitute and the underlying bill is whether or not a meaningful broadcast discount ought to be available as a matter of right. The underlying bill provides some kind of discount, but not as a matter of right. It is tied to the acceptance of the principle that there should be a limit on how many people can participate in a campaign in limited and fully disclosed ways.

That, of course, to us is not acceptable. But we have at least begun to make some movement in the direction of treating what Senator RUDMAN indicated earlier, and he is correct—Senator DANFORTH has been very involved in this area—the single most significant problem we have out there, Mr.

President, is the cost of radio and television.

If we address that in a way that provides a meaningful discount for those who run for public office, and my colleague, Senator ROTH, was even going to offer an amendment to provide free time, which I was inclined to support, then we have taken the pressure out of the system. And we have dealt with the real problem, which is the cost of campaigns.

So I think, Mr. President, there are some very obvious and deep-seated differences between the two approaches. I have said earlier, and I would like to again, just for continuity purposes, insert in the RECORD at this particular point that the President of the United States certainly will veto this bill.

I ask unanimous consent that this letter from the President to myself, dated May 24, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, May 24, 1990.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR MITCH: I write to express again my hope that we can achieve true campaign finance reform this year. Opportunity is ripe to pursue the fundamental goals of attacking special interest influence, promoting electoral competition, and increasing the voice of individual citizens and the political parties. I have proposed for some time the complete abolition of political action committees subsidized by corporations, unions, or trade associations; that critical step, coupled with proposals to reduce other unfair advantages upon which incumbents now rely, would go a long way toward improving the perception and realities of our political system.

I hope that Congress does not waste the chance for reform by attempting instead to increase the advantage of incumbent officeholders through limiting overall speech in campaigns to challenge them, and by devising new schemes to provide taxpayer subsidies for financing congressional campaigns.

The legislative initiative that you and numerous of your colleagues recently introduced would eliminate the problem of special interest PACs that is also addressed by the Administration package, and I am pleased to note several other similarities between our reform measures.

Spending limits, on the other hand, would simply entrench incumbents further while ironically enhancing the influence of specific political action committee contributions. It is my intention to veto any such counterproductive legislation should it reach my desk.

As you recognize, curbing the self-serving and divisive role of special interests is essential to good government, as is the political disinfectant provided by real electoral competition. I look forward to working with you and your colleagues to arrive at a meaningful reform consistent with these aims.

Sincerely,

GEORGE BUSH.

Mr. McCONNELL. In addition to that, I think it appropriate to note once again that I talked to Governor Sununu this morning. They want to make sure everybody understands that this bill is unacceptable to the President. It certainly, in its current form, will not become law.

Let me conclude by saying I hope this is not the end. I still think that we need campaign finance reform. We need to have the kind of campaign finance reform that does not tilt the playing field either way.

My colleague from Oklahoma and I have worked for quite some time trying to achieve something that was acceptable to both sides. I think we know what that is. I think we know what will not tilt the playing field either way. The problem is we are not yet ready to pass it. We are still trying to seek partisan advantage here. I hope that next year or maybe even, if some miracle occurs, somehow this year, that we can get around to do what we could have done 3 years ago when these discussions started, that was to pass a bipartisan campaign finance bill, one that does not tilt the playing field, one that does not push people out of the political process, one that deals with the cost of campaigns. When you talk about cost of campaigns these days, you are talking about radio and television.

In conclusion, Mr. President, I want to particularly thank the leader, Senator DOLE, for his confidence in allowing me to manage this bill, and my colleagues, Senators PACKWOOD, RUDMAN, NICKLES, all of us who served on the bipartisan negotiating team.

Mr. President, I would like to express my appreciation for the contributions of several staffers throughout the campaign finance debate this year and particularly this week: Niels Holch, Tamara Somerville, Neil Trautwein, Dave Huber, Dawn Riley, Victor Gallo, Matt Robey, M.J. Fingland, Kurt Branham, and my entire staff who have exemplified team spirit and dedication in working together to enact a real, comprehensive campaign finance reform.

I would also like to recognize Steven Law, whose years of hard work on this issue is reflected in the constructive, informative debate the Senate has engaged in this week.

In addition, several people outside of my office who are well versed in the issues before us today have been of enormous assistance during the past several months: Ben Ginsburg of the Republican National Committee; Bill Canfield of the Republican senatorial committee; Penny Schiller with Senator PACKWOOD; Peter Coyle with Senator BOSCHWITZ; Kevin Dempsey with Senator DANFORTH; Dennis Shea with Senator DOLE; Hal Breyman with Senator DOMENICI; Andy Hartsfield with Senator HELMS; Chris Koch with Sena-

tor McCain; Steve Settle with Senator HATCH; Evan Liddiard with Senator HATCH; Kevin McGuinness with Senator HATCH; Les Brorsen with Senator NICKLES; Eric Whitaker with Senator RUDMAN; Mike Tongour with Senator SIMPSON; Mark Mackey with Senator STEVENS; Cindy Blackburn with Senator THURMOND; Ira Goldman with Senator WILSON; Ted Van Der Meld with Representative MICHEL; Billy Pitts with Representative MICHEL; Fred Nelson with the White House; Tom Polgar with Senator RUDMAN; and Ken Cunningham with Senator GRASSLEY.

Let me conclude, Mr. President, by saying that this is not over. This bill may be over, but this issue is not over. We need to change the system. I think we all know what can and should be done and, hopefully, sometime next year we will be able to get that done. I yield the floor.

Mr. SPECTER addressed the Chair. The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I am advised by the manager that there is a program for back-to-back votes, which means after this vote, there will be a vote on final passage. I have sought recognition to make a few comments on the bill as a whole.

I think it is unfortunate that we have come to this point on a very important legislative subject, and it is going to lead to no constructive result for the American people. There is no doubt that there is a desperate need in this country for campaign finance reform. Of the 100 Members of the U.S. Senate, it is my judgment that vote would be 100 to nothing. But, unfortunately, as this legislative process has evolved, there has been an unmitigated effort for partisan advantage, which will lead to a stalemate.

There is no doubt that we should eliminate political action committees because of the public demand and the public view that special interests have too much effect. Mr. President, I do not think, in fact, that is the case. If you take my 1986 campaign and the maximum amount that a political action committee could contribute, \$5,000 in a primary and \$5,000 in a general election, it would be .0012 percent of my campaign cost. Political action committees, however, are perceived by the American public to have an undue influence on the political scene, and they ought to be eliminated.

Similarly, this bill provides for the end of honoraria. The distinguished Senator from Arkansas [Mr. BUMPER] has accurately characterized the situation as being not one of impropriety, but again there is a widespread public perception of impropriety. The honoraria, too, would be eliminated by this bill, if this bill were to become law. But I think the prognosis is clear. Just as there have been party line votes,

this bill is subject to a veto, as the distinguished manager on our side, Senator McCONNELL, has outlined. So the effect of eliminating honoraria and political action committees will come to no avail.

There ought to be a limit, Mr. President, on what you can spend in a political campaign, and there ought to be an end to the amount of time which incumbents and candidates spend on fundraising, but that is not going to come until there is fundamental reform in the nature of a constitutional amendment, which has been pending in the 100th Congress and the 101st Congress, introduced by the distinguished Senator from South Carolina [Mr. HOLLINGS] and myself; because under the existing decision of Buckley versus Valeo, an individual may spend as much of his or her money as he or she may choose. That has been an interpretation of the first amendment. So it requires a constitutional change.

There has been no effort, Mr. President, by the leadership to bring this constitutional amendment to the floor to really move to the heart of this kind of a problem. When an effort is made to impose spending limits by public financing, I say bluntly, Mr. President, that it is ridiculous, given the nature of the deficit and the principal problem facing the United States today, where we have been engaged in a summit meeting occupying the time of the President himself and the leadership of the Congress to no avail.

It has been announced publicly that we are about to recess, and there is no resolution of the deficit problem. Yet, this bill provides for public financing, which will cost in the range of \$150 million a year, which the U.S. taxpayers cannot afford.

There has been an effort on the other side of the aisle to shroud that issue by saying there will be no extra costs, and it will come out of the checkoff system. That lost by a 60-to-39 vote.

Then there was a sense-of-the-Senate resolution, which may provide some campaign cover, some rhetorical cover, but it does not mean a thing, because if this bill were to become law, which it will not, there is an additional burden on the American taxpayer, which is an absurdity, given the fiscal problems in our society today.

This bill contains further partisan advantage for the class of 1992, which will be up for election. That is the class by which the other side of the aisle gained control of the Senate. There was effort made to eliminate that partisan advantage, which came in a number of respects, which I shall not detail here. And that amendment offered by the distinguished Senator from Arizona. [Mr. McCain] was defeated.

So what we have had here is a piling on, I suggest, by the partisan efforts of the proponents of this legislation. The other side does not have any monopoly on hypocrisy and demagoguery; you can find ample on both sides. The majority leader has finally agreed with something I have had to say with an affirmative nod. But I think the majority of the partisanship has come from the other side of the aisle. Perhaps it might be accurate to say 55 percent, which would correspond with the 55 to 45 majority which the other side has. I am hesitant to identify the parties by name, because there are, presumably, some people watching on C-SPAN who belong to one party or the other, and they are not "party to the party," so to speak.

But it is unfortunate that a subject of this importance has been the subject of partisan political wrangling and at the conclusion will not be legislation which America needs on the way Senators and Members of the House of Representatives are elected, but a stalemate.

Our opponents have the votes to pass the bill, defeat the Dole substitute, to pass their legislation, and this side of the aisle has the votes to sustain a veto. So what we are going to put on the board is a big cipher. We will have answered the demands of the editorial writers, that the Senate and the House face up to campaign reform, in that it will have been called to the floor. There will be legislation, we will have passed something, but in the final analysis it will be a zero.

I conclude by congratulating Senator McCONNELL, who is an outstanding Senator generally, who has brought real perspicacity to bear on this subject.

I compliment the distinguished Senator from Oklahoma, chairman of the Intelligence Committee, a man with whom I serve, a man of great distinction, who labored valiantly, although I think not really in the straight as an arrow direction here. But he is an outstanding Senator, and as Senator McCONNELL has said, we will revisit this on another occasion. I think ultimately we will enact legislation for the benefit of the American people but not tonight.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma [Mr. Nickles].

Mr. NICKLES. Mr. President, I join my colleague Senator SPECTER in certainly complimenting Senator McCONNELL and Senator BOREN for leadership on this bill. It is unfortunate we are ending up with a resolution that the Republican substitute will not be adopted, the Democrat bill will be adopted. It will be vetoed; there is no if's, and's, and but's about it. It deserves to be vetoed.

There is a significant difference between the Republican and Democrat amendments; both ban PAC's and franks during the election year. This is significant reform. There is significant difference between the two bills.

The Democratic bill does have public financing of campaigns. I think we heard a lot of people say, "I am against that." But, flatly, the Democratic bill does have public financing of campaigns.

We stated at the outset when negotiating, that if it had public financing of campaigns we were going to oppose it. It was going to be a partisan bill.

The Republicans could not agree with that. The Senator from Kentucky [Mr. McCONNELL] had an amendment to strike public financing from campaigns, and unfortunately, it was defeated. It was defeated by three votes. It was a close vote, a partisan vote. That was unfortunate.

A lot of people do not realize how much public financing is in this campaign. I will give you an example of what it would mean in my State, because this Senator from Oklahoma does not really want to comply. They said it was voluntary. So I guess if it is voluntary, I do not have to comply. I do not want to comply because I do not want to take subsidized vouchers, I do not want the Federal Government subsidizing my TV time. I think that is an inappropriate use for tax dollars. There are tax dollars involved.

Actually, if I decided to comply, I would get over \$200,000 of TV and radio vouchers; food stamps for candidates, as my friend from Kentucky called it. I do not want that.

I would also get the mail. At one-fourth of the cost to the taxpayers in Oklahoma where they pay right now 25 cents, my cost would be around 6 cents. And if the cost goes to 30 cents, my cost would be 7 cents. They would subsidize my mail to the tune of about \$200,000. I think that is wrong. I do not think we should do it. That is in this bill.

When I decide that I do not want to participate, my opponents, if they raise \$110,000 they get \$1.1 million worth of cash.

I thought this was voluntary. If I say no. I heard it called a carrot; it is a hammer. My opponent gets \$1.1 million in cash, \$200,000 in vouchers, and gets about \$200,000 in mail. That is a subsidy from the taxpayers of \$1.5 million.

So anybody that says it does not have public financing or taxpayer financing for campaigns, they are wrong. It is in the bill. That is why I strenuously oppose the Democratic bill; that is why I strongly support the Republican bill, because we do not have that in our legislation.

One other big difference: the Democratic bill has spending limits. It did not have any. The Republican bill we

offered has the so-called flexible spending limits except we say that we should not limit individual contributions from a Member's State, from his constituents. I think that makes eminent good sense. A constituent should have the right and freedom to be able to participate in a Senator's election. We should not pass a law which says it would be against the law for them to contribute.

Those are significant gaps between the Democratic and Republican bill. The Democratic bill has public financing. My State, an average-size State, has a population of 3 million. My opponent would get \$1.5 million of subsidy from the Federal Government, from taxpayers if I opt out, since it is voluntary.

I think that is wrong. That is the reason I strongly oppose the Democratic package. I think it is unfortunate it came out. I was hopeful we would come up with a bipartisan package. That has not happened.

Again, I compliment Senator McCONNELL for his leadership, tenacity, and courage, because that has not been easy, and he did an outstanding job.

I also compliment my colleague, Senator BOREN, for his leadership.

Maybe in the future we can work out a bipartisan package, one that can be accepted by both parties and hopefully be signed by the President of the United States. Unfortunately, the Democratic package will not be signed by the President.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. GRAHAM. What is the pending business before the Senate.

The PRESIDING OFFICER. The pending business would be the Dole substitute amendment.

Mr. GRAHAM. Mr. President, is there a unanimous-consent agreement in effect?

The PRESIDING OFFICER. There is a unanimous-consent agreement but it does not limit general consideration of the bill.

Mr. GRAHAM. Will the Presiding Officer please repeat?

The PRESIDING OFFICER. If certain amendments are offered, there will be time limits previously agreed to with respect to those amendments.

Mr. GRAHAM. Mr. President, I have an amendment which I intend to offer at the conclusion of the business, which is currently the pending business. In order to accommodate Members of the Senate in an effort to have votes in a stacked basis, I ask of the Senator from Oklahoma and the Senator from Kentucky if it would be appropriate to offer my amendment,

which would be an amendment to the underlying bill at an appropriate time so that the vote on that amendment could take place concurrent with the vote on the amendment offered by the minority leader and the final passage?

Mr. BOREN. Mr. President, I would say to the Senator we had the plan to have about two votes, and that is a vote on the Dole substitute. We were in process of making our closing statements and had planned then to go immediately to a vote on the underlying bill in the event that the Dole substitute is not adopted.

If the Chair will give me the chance to express the hope that it will not be adopted, we will then go to the vote on a final passage of the underlying bill. The Dole amendment is pending. I would think it would be appropriate for us at this point to proceed to a final disposition of the Dole substitute.

Then, at that point in time, the Senator's amendment would be in order, if he wishes to offer it.

I have explored this matter with the other side of the aisle and there is no agreement on that side of the aisle that there would be a time agreement which they could enter.

In order to expedite final passage of the bill, and knowing there are 12 other amendments on the other side of the aisle that are in order to be offered that they have refrained from offering so we could get to final passage, I would feel obligated to move to table the amendment of the Senator from Florida in due course so that we might move on to a vote on final passage of the bill, which I hope will still occur yet tonight.

I ask my colleague that if he does offer his amendment, would he be willing to accept a limitation of 10 minutes to offer the amendment, at which time a motion to table would be in order, which I would propound with the understanding that if the motion to table fails, there would be no time limitation then on debate on the pending amendment as there can be no agreement on the other side of the aisle on a time agreement.

Mr. GRAHAM. Mr. President, I would be willing, if the time were extended to 15 minutes prior to the offering of the tabling motion.

Mr. BOREN. Mr. President, I ask unanimous consent that following the disposition of the Dole substitute, that the Senator from Florida be recognized to offer an amendment; that he be authorized 15 minutes for discussion of the amendment; at the termination of which a motion to table which I would offer would be in order; that we would proceed immediately to vote on a motion to table without intervening motion or amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The unanimous-consent request propounded by the Senator from Oklahoma [Mr. BOREN] is agreed to.

Mr. BOREN. Mr. President, I would further ask unanimous consent that no further amendments be in order, so that there would be a vote on the Dole substitute, there would be the motion in order on the Graham amendment that would be offered, and then we would move to final passage, and then no further amendments of the underlying substitute, the underlying bill, the Boren-Mitchell substitute, and there would be no further amendments in order.

Mr. GRAHAM. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. BOREN. Mr. President, I thought we locked in this Senator's right to offer his amendment.

Mr. GRAHAM. I wish to wait until the outcome of the disposition of the amendment which I intend to offer without precluding further action.

Mr. BOREN. Mr. President, let me ask a further unanimous-consent request that, on final passage of the underlying bill, the Boren-Mitchell substitute, when debate commences on final passage of the underlying bill that the time be limited—the distinguished minority leader has indicated he might want to say a few more words, I believe the distinguished floor manager and others on that side have completed their remarks—to 15 minutes for final discussion to this side of the aisle and 5 minutes for final discussion to the other side of the aisle.

Mr. NICKLES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. BOREN. I ask unanimous consent that there be 40 minutes equally divided on final passage of the legislation, to be under the control of the managers of the bill on each side.

Mr. BYRD. Mr. President, reserving the right to object. Has the distinguished managers of the bill provided against any other amendments being offered?

Mr. BOREN. As I understand, the Senator from Florida has objected to my unanimous-consent request that no other amendments be offered.

Mr. BYRD. Mr. President, I would not want to limit time on the debate on the bill unless there is a time limit on all amendments and we know what those amendments are. Because if we get a time limit on this bill, and no limit on amendments, and do not enumerate the remaining amendments that could be offered, it would be possible to offer any kind of amendment just prior to the vote on the bill, even though there be no time to debate on the amendment.

Maybe there will be a line-item veto amendment.

Mr. BOREN. Mr. President, the point of the distinguished President

pro tempore is well taken, and this Senator will withdraw that request.

Let me repeat, it would be our intention to go to a vote on passage now of the Dole substitute in just a moment.

No one has commented on this side of the aisle as we thought we were in the process of making closing statements. So I would just make a brief comment on the Dole substitute, and perhaps the majority leader will wish to do so too, then we will proceed to a discussion of the Graham amendment under the terms of the unanimous-consent request just entered into, and then following that we will have discussion on final passage if other amendments are not offered.

Mr. KASTEN. Will the distinguished manager of the bill yield?

Mr. BOREN. Yes.

Mr. KASTEN. I wish to speak in favor of the Dole substitute for a limited period of time, whatever time is convenient to managers of the bill.

Mr. BOREN. Mr. President, I ask unanimous consent that we might have 10 minutes of time equally divided remaining for discussion on the Dole substitute.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin [Mr. KASTEN] is recognized for not to exceed 5 minutes.

Mr. KASTEN. Mr. President, I rise at this time to lament the fact that this body did not see fit to undertake the necessary, meaningful reform regarding the partisan political activities of tax-exempt organizations that was offered by the Senator from Kentucky [Mr. McCONNELL], earlier this week.

Now we have another opportunity to clean up this difficult area, because the meaningful reform regarding partisan political activities of tax-exempt organizations is now included in the Dole substitute before us.

That amendment would have brought all tax-exempt organizations under the full letter and spirit of the Federal election and tax laws. Unfortunately, we chose then to continue a major exception to the concept of full disclosure and limits imposed by our campaign finance and tax systems.

The pending substitute deals with this problem.

Many candidates have been subjected to the improper partisan political activities to these organizations that are receiving tax-exempt contributions, and receiving preferential treatment under our tax laws, yet violating prohibitions against partisan involvement on behalf of candidates.

It makes no sense to worry about the soft money contributions of party activities, but ignore the problems presented by the in-kind contributions of 501 (c)(3) and (c)(4) organizations without any disclosure under the Federal election laws.

If we are going to limit a candidate's spending, then not address the activities of tax-exempt organizations, I think we will see the abuses in this area increase dramatically.

These groups operate absolutely beyond the rolls of their own membership, opening as any other political committee, but without the disclosure that we all feel should be one of the hallmarks of campaign finance reform.

Just so that the Record on this point might be as enlightening as possible regarding the abuses that many of us have seen in this area, I ask unanimous consent that some materials submitted to the Federal Election Commission be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of:

Citizen Action, Inc. a national political organization; Citizen Action Political Action Committee, Midwest Academy, Inc., Citizen Leadership Foundation, Inc., Citizen/Labor Energy Coalition, Inc., Citizen/Labor Energy Coalition Foundation, Inc., Citizen/Labor Energy Coalition PAC

And Its Affiliates and Allies:

Wisconsin Action Coalition, Inc., Wisconsin Action Coalition Political Action Committee, Wisconsin Citizen Education Fund, Inc., Washington Fair Share, Inc., Washington Fair Share for Citizen Action Political Action Committee, Washington Fair Education and Research Fund, Inc., Illinois Public Action Council, Inc., Citizen Action Nonpartisan Political Action Federal Campaign Committee, National Consumer Foundation, Inc., Pennsylvania Public Interest Coalition, Inc., Pennsylvania Public Interest Coalition Voters Alliance Federal Fund, Pennsylvania Public Interest Education Fund, Inc., Ohio Public Interest Campaign, Inc., Ohio Public Interest Campaign Political Action Committee, Industrial States Policy Center, Inc., Florida Consumers Federation, Inc., Florida Consumers Federation Foundation, Inc., Citizens Action Coalition of Indiana, Inc., Citizen Action Coalition Political Action Committee of Indiana, Citizen Energy Coalition Education Fund of Indiana, Inc., Maryland Citizen Action Coalition, Inc., Maryland Citizen Action Coalition Political Action Committee, Maryland Citizen Action Coalition Education Fund, Inc., Iowa Citizen Action Network, Inc., Iowa Citizen Action Network Voters Alliance, Inc., Iowa Citizen Action Network Political Action Committee,

Iowa Citizen Action Education Foundation, Inc., Campaign California, Inc., Campaign California Committee, Connecticut Citizen Action Group, Inc., Connecticut Citizen Action Group Political Action Committee, Connecticut Citizen Research Group, Inc., Idaho Fair Share, Inc., Idaho Fair Share Research and Education Foundation, Massachusetts Citizen Action, Inc., Massachusetts Citizen's Fund, Inc., Minnesota COACT, Inc., Minnesota COACT Political Action Committee, North Area Training and Resource Institute, Inc., New Hampshire Citizen Action, Inc., New Hampshire Citizen Action Political Action Committee, North Country Institute, Inc., New Jersey Citizen Action, Inc., New Jersey Citizen Policy Education Fund, Inc., Citizen Action of New

York Inc., Citizen Action of New York Political Action Committee, Citizen Action Fund of New York, Inc., Oregon Fair Share, Inc., Oregon Fair Share Non-Partisan Action Committee, Oregon Fair Share Research and Education Fund, Inc., Rhode Island Community Labor Coalition, Inc., Rhode Island Community Economic Education Center, Inc., Maine Peoples Alliance, Inc., Maine People's Alliance Campaign Vote, Maine People's Resource Center, Inc., Missouri Citizen/Labor Coalition, Inc., Missouri Coalition Education Foundation, Inc., North Carolina Fair Share, Inc., North Carolina Fair Share Education Fund, Inc., South Carolina Fair Share, Inc., South Carolina Fair Share Education Fund, Inc., and West Virginia Citizen Action Group, Inc.

And the Labor Union PAC's Which Illegally Fund the Citizen Action PACs:

Machinists Non-Partisan Political League, National Education Association Political Action Committee, United Auto Workers V-CAP PAC, AFSCME P.E.O.P.L.E., Communications Workers of America PAC, Engineers Political Education Committee.

And the Campaigns That Accepted Illegal Contributions:

Dukakis For President Committee, Inc., Wyche Fowler For Senate, Terry Sanford For U.S. Senate, A Lot Of People Supporting Tom Dashle, Garvey For Senate, Brock Adams Senate Committee, Friends Of Bob Graham Committee, Mikulski For Senate Committee, Dixon For Senate Committee, Bob Edgar For U.S. Senate, Citizens For Mike Lowry Committee, McMillen For Congress, Citizens For Reese Lindquist, Friends Of Lane Evans, Feighan For Congress Committee, Tom Sawyer Committee, Jim Jontz For Congress Committee, Nagel '88 Committee.

I. INTRODUCTION

The integrity of the system through which political campaigns in the United States are financed is based on the honest and complete disclosure of who contributes money and how it is spent.

This Complaint demonstrates that a network of corporate entities taking advantage of a preferential tax status to push a special interest social agenda has illegally injected the American political system with unreported "soft money" corporate contributions. Organized beneath the umbrella of the Chicago-based group Citizen Action (hereinafter referred to as "the Network"), these groups solicit tax exempt money by door-to-door canvassing among the general public. But adding political endorsement to their solicitation pitch and gathering information that benefits endorsed candidates, these groups are directly and illegally influencing federal elections while avoiding any public disclosure of their activities. This method is an attempt to evade the Federal Election Campaign Act and the Internal Revenue Code,¹ and allows this network of tax exempt organizations to funnel illegal undisclosed corporate contributions to endorsed candidates throughout the United States, Exhibit 1. It is a classic case of a "cause" believing its end is so right that anything justifies the means used to get there.

In reality, the actions of this network are an unreported scandal of American politics that the Federal Election Commission

("FEC") must investigate and rectify. These illegal activities took place during the 1986 elections, as this Complaint shows. Already there is evidence that these same groups have similar plans to circumvent the law and illegally influence the 1988 federal elections.

In three recent enforcement actions, the FEC has found illegal the standard operating procedures. Complainant believes all members of the network named herein use to circumvent the Act. In Matter Under Review 1937 the FEC fined the Illinois Public Action Council, Inc. \$5,000 for violating the Act; in MUR 1586 the FEC fined the Sierra Club \$5,000; and in MUR 2286 the FEC fined Charlotte SANE, Inc. \$1,000.

This Complaint demonstrates that these three cases revealed only a glimpse of this extensive "soft money" network that distorts federal elections in the United States. The facts show that Citizen Action and its network of affiliates have conducted (and plan again to conduct in 1988) an orchestrated series of illegal canvasses and solicitations among the general public. These activities constitute express advocacy under the Act. They result in illegal unreported contributions and expenditures aimed at influencing the election and defeat of selected federal candidates.

At the heart of the Network's method is its canvass/solicitation operations. Although Network officials admit that the purpose of the 501(c)(4)s' canvass is political near elections, the target of the activity at all times is the general public, not the members of the corporation. All the actions beyond the permissible class of the organizations' members that constitute express advocacy concerning a federal election are reportable expenditures and contributions under the Act. By ignoring these provisions of the Act, the members of the Network make illegal corporate contributions and expenditures that violate the law.

This network of incorporated special interest groups has violated federal election law by dispatching paid employees to assist endorsed federal candidates and by producing materials advocating the election or defeat of specific federal candidates. Since the actions of their employees and the content of their materials constitute express advocacy and make them reportable expenditures for the purpose of influencing federal elections, the expenditures are either subject to the Act's provisions governing independent expenditures, 2 U.S.C. 434(b), (c) (1982), or attributable to specific candidates and, therefore, contributions as defined in the Act, 2 U.S.C. 431(8)(A).

If the latter is true, the payments for these communications and personnel and the sources of the groups' funding are subject to the prohibitions and limitations of the Act. See 2 U.S.C. 441b, 434; FEC Advisory Opinion ("AO") 1984-24, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5771 (1984). By failing to report, Citizen Action and the members of its network have kept from public view the sources of the funds used to pay for their involvement in federal elections.

In some cases, the 501(c) corporations form separate segregated funds ("PACs") in an attempt to launder the corporate contributions. E.g., MUR 1937, MUR 1586. Each time the FEC has looked at the arrangement between a Network corporation and its PAC, it has found the PACs to be shells and the transactions to be shams constituting il-

¹ The violations of the Internal Revenue Code by the members of the 501(c) Network are the subject of Complaints being filed simultaneously with the appropriate offices of the Internal Revenue Service.

legal corporate expenditures and contributions. *Id.*²

The special interest groups that are the subject of this Complaint apparently feel their stated mission of reforming the United States for the better entitles them to play by a different set of rules from all others who spend money influencing federal elections. Although claiming their actions are not subject to the Act, the simple fact is that the members of this Network have found a way to evade the prohibitions of federal election laws and inject the political process with illegal corporate money.

In sum, these groups sit in a glass house constructed with tax exempt dollars and flaunt the law under the guise of "progressive" reform. The members of this network have refused to do what the law plainly requires—solicit and canvass within the Act and account to the public for the money they spend influencing elections.

The effort to evade federal election laws and inject the process with corporate soft money demands the quick attention of the FEC. Accordingly, the National Republican Senatorial Committee, 440 First Street, N.W., Suite 600, Washington, D.C. 20001 files this Complaint against the 501(c)(4) organizations that are the core of this Network, their shell PACs and the connected 501(c)(3) "foundations" through which they solicit tax deductible money to fund their other operations, as is described below. The complete list of defendants and their addresses is attached as Exhibit 2.

The following is a list of the known violations of federal election law by these groups during the 1986 election cycle. In addition, the FEC has the authority to investigate actions that are "about to occur." 11 C.F.R. 111.4 (1988); see 2 U.S.C. 437g(a)(2). The NRSC has reason to believe, as will be shown below, that the Citizen Action Network's activities in the 1986 elections (and planned for the 1988 elections) violate the following provisions of the law:

1. The defendants are not "membership organizations" as defined in the law. See *Federal Election Comm'n v. National Right to Work Comm.*, 459 U.S. 197 (1982); AO 1977-67, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5326 (1977); 11 C.F.R. 114.1(e);

2. Even if membership organizations, their canvassing constitutes unreported contacts beyond their permissible class that are illegal and undisclosed contributions to specific candidates. 2 U.S.C. 441b;

3. The groups use illegal corporate money to influence federal elections by directly paying for personnel, materials and facilities that aid the campaigns of federal candidates. 2 U.S.C. 441b(a); 11 C.F.R. 114.2(a)(2)(c), (d); 11 C.F.R. 114.10;

4. The defendants fail to report all their communications and use of personnel paid by the corporation as expenditures under the Act; 2 U.S.C. 431(9)(A), 434; 11 C.F.R. 106.1(a);

5. They refuse to report all their activities as either independent expenditures made to influence federal elections, 2 U.S.C. 431(17), 434(b)(6), (c), or as contributions to specific candidates subject to the Act's limits, 2 U.S.C. 431(8)(A), 441(a);

6. The Network's members hide from public scrutiny the sources of the funds used by the tax-exempt entities, see 2 U.S.C. 441b and 441f, through failure to properly register and report as political committees, 2 U.S.C. 431(4), 432, 433 and 434, so that the public cannot know if their sources of funds are corporations, labor unions, individuals giving above the limits allowed by the election laws or other forms of "soft money";

7. Labor PACs appear to be directing funds to Network PACs that then contribute to candidates to whom the PACs have already been given the legal maximum. The FEC must investigate whether these are illegally earmarked contributions in violation of 2 U.S.C. 441f;

8. The publication of help wanted ads by Network 501(c)(4) corporations expressly advocating the election or defeat of a specific candidate or political party violates the Act. 2 U.S.C. 441b; and

9. Campaigns which accept contributions from, or know of, the activities by the members of the Network which aid their campaigns violate the prohibitions against accepting corporate contributions. 2 U.S.C. 441b(a).

II. FACTS

A. Structure of the 501(c) Contribution Network

Citizen Action, Inc., a 501(c) corporation headquartered in Chicago, Illinois, and Washington, D.C. is the center of the web and the model for this corporate network. Describing itself as a "political organization", Exhibit 3, Citizen Action claims to have affiliate 501(c)s in 24 states with 75 offices, a total combined staff of 1200 and membership in excess of 1.75 million across the United States. Exhibit 4, Citizen Action refuses to make public its contributors, budget or expenditures. All the members of this Network are defendants in this Complaint.

Citizen Action also is closely tied to at least two 501(c)(3) foundations—the Midwest Academy, which according to its brochure trains "organizers" to carry out various projects for "progressive social change", and the Citizens Leadership Foundation, which claims it offers "training in all aspects of the democratic process."

The root of this corporate Network's ability to funnel unreported "soft money" into federal elections is obtaining preferred tax status as a 501(c)(4) organization. In most instances, the groups will also be connected to a 501(c)(3) organization that can accept tax deductible contributions and a PAC. The standard practice is for both groups (and their PAC) to be at the same location and, often, operate with the same officers, directors, and staff. On information and belief, it is these organizations which train (with tax deductible contributions) the individuals who go out and illegally canvass the general public on behalf of political candidates endorsed by the 501(c)(4). Exhibit 5. The PAC will have few assets of its own, and typically makes only minimal monetary contributions to candidates. Exhibit 6. The PAC, however, is often crucial to the fiction of the 501(c)(4)'s canvassing solicitation/contribution process, as described below.

B. Method

The method of funneling unreported corporate contributions to federal candidates begins with canvassers/fundraisers hired by the 501(c)(4) going door-to-door in neighborhoods across the United States. In a sworn affidavit in a recently closed FEC enforcement action, MUR 1937, an official of Citi-

zen Action's flagship Illinois organization, Illinois Public Action Council, Inc. ("Council"), described the method Complainant believes is the standard operating procedure for all members of the Network:

"Most of the Council's individual members are recruited by a door to door canvass operation that operates . . . every evening. These canvassers operate year in and year out. During periods that are near elections, we ask these canvassers to add to their normal duties. In addition to their job of recruiting members, renewing memberships and raising additional contributions, these canvassers are asked to inform our members of the endorsements made by our political committee. In addition, they distribute partisan literature to both members and others who do not become members.

"Our canvassers are not paid any additional remuneration for the conduct of these additional duties."

MUR 1937, Affidavit of Robert Creamer, Council Executive Director.

In response to FEC Interrogatories, Creamer stated that its connected PAC "contracted with the Council to have Council canvassers distribute literature to members and non-members of the Council," that the "costs of contacting Council members were paid directly by the Council," and that the "Council's costs of contacting non-members were billed to [its PAC]." *Id.*, In MURs 1937 and 1586, the FEC found this method an illegal use of corporate treasury money to influence federal elections. *Id.*

The organizations in the Network developed this scheme partly to overcome the federal election law provision permitting them to communicate a message of express advocacy only to their "members". But under the Act, the term "members" refers only to persons who have met specific requirements, and does not include persons who simply support or contribute to the 501(c)(4). See, *Federal Election Comm'n v. National Right to Work Comm.*, 459 U.S. 197 (1982); AO 1977-67, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5326 (1977). Thus, as discussed below, the 501(c) Network's scheme does not work since the canvassers/fundraisers are improperly soliciting persons outside the permissible class (i.e. they are contacting non-members).

(1)—Canvass

Creamer's affidavit and responses to interrogatories make it obvious that the aim of the 501(c)s' canvass is to reach the general public. As Creamer stated in his affidavit,

"It appears that often the 501(c)(4)'s canvassers/fundraisers are also hired by the connected 501(c)(3), which has a name similar to the 501(c)(4). See Exhibit 2. The 501(c)(3)s are generally funded by unreported grants and money received from door-to-door solicitations by the same people raising money for the 501(c)(4). These canvassers are instructed to tell potential donors that the 501(c)(4) social welfare organization also has a 501(c)(3) that is permitted to receive tax deductible contributions to conduct "research" and "educational training." Donors are more likely, obviously, to give a tax deductible contribution.

The money received as tax deductible contributions by the 501(c)(3) can then be given back to the 501(c)(4) in the form of payments for the services of the canvassers/fundraisers. The Illinois Citizen Action MUR 1937 demonstrates that the tax deductible 501(c)(3) donations then find their way into federal elections in the form of a loan or debt from the 501(c)(4) to its PAC, which passes it on as an in-kind contribution to a candidate. In some cases the PAC also "hires" the 501(c)(4)'s paid canvassers/fundraisers which allows still more resources to be funneled to the corporation for illegal political contact with the general public.

² The scarce resources collected by the PAC in an effort to pretend it is a legitimate organization come almost exclusively not from small grassroots contributors, but from a few labor unions. Labor union contributors include: The International Association of Machinists (five Network members), the United Auto Workers (two), the National Education Association (two), and the American Federation of State and County Municipal Employees (two).

there is no difference in a canvasser's solicitation method or target audience when he or she is also carrying a political endorsement. The only difference is the message.

Further evidence that the aim is reaching the general public (and not just the 501(c)(4) corporation's members or permissible class) is contained in the Illinois flagship organization's own description of its canvassing operation. Exhibit 7 is an article from the Illinois Public Action Council's Campaign Against Toxic Waste's newsletter. The lengthy description of a "Day in the Life of a Canvasser" includes note of the fact that a "hundred canvassers across the state * * * knock each evening on thousands of doors." There is the frank admission that: "Once in the neighborhood, the crew's field manager explains the canvasser's boundaries, usually the precinct lines, and sends them off with a few quick words of advice and encouragement." There is no instruction to contact only members if they are bearing a political message. Rather, the canvasser's aim is obviously to contact *everyone* in a neighborhood.

There is no evidence that the 501(c)'s solicitation plans call for repeat visits to individuals who are already members (i.e., the permissible class). Since, by definition, the 501(c)'s recruit their "members" door-to-door, the 501(c)'s canvass/solicitation in the overwhelmingly majority of instances is, by design, made to a non-member. Only after hearing the pitch (which includes the illegal political message concerning a federal candidate) and if the person gives money, could that person become a "member" even under the convenient and unsupportable definition used by the defendants herein. It is only by chance that an existing "member" of the 501(c)(4) corporation receives a visit from a canvasser/fundraiser.

Thus, any time there is contact with a non-member and the canvasser conveys a political message concerning a specific candidate, an illegal expenditure has been made by the 501(c)(4) corporation and an illegal contribution accepted by the candidate benefiting. Since, as Creamer admits, the political canvass is an integral part of this process "during periods near elections," the canvass is made as a matter of course way beyond the permissible class allowed under the Act. 11 C.F.R. 114.1(e).

The essence of the Network's method is that the 501(c)(4) (and maybe a connected 501(c)(3)) uses its tax exempt status illegally to canvass the general public and raise funds. The canvass itself is illegal under the Act. But, in addition, the funds raised are often spent as "soft money", usually to fund the canvass benefiting specific candidates, sometimes as direct or in-kind contributions to candidates and sometimes as a pass-through to candidates by way of the PAC.

(2)—USE OF A PAC

In some instances, such as MUR 1937, the 501(c)(4) activity involves a PAC. The PAC hires the 501(c)'s paid canvassers/fundraisers. In reality, these canvassers/fundraisers are paid to distribute the 501(c)(4)'s literature door-to-door and to solicit donations with a message extolling both social issues and endorsed federal candidates. (Political canvassing among non-members is a contribution under the election laws, and an illegal activity for an incorporated 501(c)(4).) The costs of contacting those they denominate "members" are paid by the 501(c)(4). The 501(c)(4) then uses an undisclosed formula to determine the cost of contacting the non-members (i.e., those who don't contribute to the 501(c)(4) or the 501(c)(3)). In

theory, these communications are then in-kind contributions by the PAC to the federal candidate. That amount is then billed to the PAC, generally after the 501(c)(4) has used its resources in the political process to contact the general public. Often the amount is not collected, as MUR 1937 demonstrates.

When it is collected, it is because Labor PACs have contributed money to the Citizen Action PACs in races where the Labor PAC has already given the legal maximum to the candidate benefiting. The truth of the matter is that the Citizen Action PACs are funded almost exclusively not by any grassroots contributions but by the big labor union PACs. The FEC reports of the Citizen Action PACs are the only bit of the Network web on the public record. And they show the Citizen Action PACs as nothing more than shells established by the labor unions to skirt the contribution limits.

This gives rise to questions of illegal earmarking by the Labor PACs. For example, take the Wisconsin Action Coalition ("WAC") and its Wisconsin Action Coalition Political Action Committee ("WAC-PAC"). Exhibit 8. Reports on file with the FEC show that for the 1986 election, WAC raised \$15,470, with a total of \$14,500 coming from four PACs. The Machinists contributed \$5,000 to WAC in May 1986. That was after they gave Democrat candidate Ed Garvey \$5,000 in December 1985 and another \$5,000 in March 1986.

The National Education Association's PAC found itself in the same position. It gave \$5,000 to Garvey on May 9 and again on September 24. But the NEA PAC was not done. On October 7, the NEA PAC gave \$5,000 each to both Citizen Action PAC and the Citizen/Labor Energy Coalition ("CLEC") PAC, which is housed in the same building as Citizen Action. And then on October 8, FEC reports show CLEC PAC sent \$5,000 to WAC and Citizen Action PAC sent \$2,200 to WAC. That's a total of \$12,200. What happened to the money? WAC had total disbursements for 1986 of \$14,823.94. And WAC reported spending \$14,371.19 on independent expenditures against Bob Kasten between October 16 and November 3, 1986. WAC provides an interesting model for what the Citizen Action network considers "grassroots" activities.

Under this scheme, the PAC is obviously a shell. It usually has little resources of its own, and instead passes through the resources of either a labor union PAC that has already given the legal maximum to a candidate or the 501(c)(4), as the FEC found in MUR 1937 and 1586. It is an attempt to allow the 501(c)(4) to use its resources to contact every resident in a neighborhood, whether the resident is a member or not.

Also under this scheme, anything the 501(c) wants to funnel into an election (e.g., printed materials, money, office space, etc.) is "loaned" to the PAC. As in MUR 1937, the PAC reports the illegal corporate contribution as a "debt" to the 501(c)(4). In turn, the PAC makes an in-kind contribution to the selected federal candidate. Since the full extent of what the 501(c)(4) gives the PAC in terms of personnel and administrative support is never reported (including the donors to the 501(c) and its other disbursements), it is impossible to know how much money is ever spent in federal elections and what the source of that money is. The PAC may or may not every repay the 501(c) corporation. If it does, it is often through a special fundraising held long after the election is over. *Id.*

C. Defendants

1—The Network

A complete list of the defendants, their affiliated 501(c)(3) research foundations eligible to receive tax deductible donations and their connected PACs appears as Exhibit 2. For purposes of this action, Complainant, on information and belief, charges all defendants with utilizing a method and structure that violates the Act. During 1986, a number of these groups engaged in specific violations of the Act that are chronicled below. The Citizen Action Network is gearing up to use this same illegal method to influence the 1988 election. Exhibits 4, 11, 12, 13.

2—Defendants: Specific Examples in 1986

Citizen Action, a corporation registered in the District of Columbia, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Midwest Academy, and a separate segregated fund, Citizen Action Political Action Committee. All are housed at the same address. On information and belief, the officers, directors and staff of all three organizations are essentially the same.

By its own admission, Citizen Action as a 501(c)(4) directly assisted in 1986 United States Senate races in the states of Georgia, North Carolina and South Dakota. Exhibit 9. A review of the relevant FEC reports for the PAC and the affected campaigns does not show these illegal unreported contributions by the 501(c)(4) for canvassing, phone banks, printed materials and professional staff assistance on behalf of the campaigns of Wyche Fowler, Terry Sanford and Tom Daschle. Nor do the costs of communications with Citizen Action members appear in the 1984-1985 FED Index of Communication Costs. Despite this admission that it advocated the election or defeat of these specific federal candidates and attempted to influence a federal election, the full value of these corporate soft money expenditures that amounted to contributions to the federal candidates are not reported on any FEC forms filed by the corporation (or a PAC) or the campaigns.

What does appear on the FED reports are \$5,000 contributions to the Citizens Action Political Action Committee from the Machinists Non-Partisan Political League ("Machinists") (which rents the Citizens Action space in its Washington, D.C. headquarters), the United Auto Workers V-Cap ("UAW"), the Engineers Political Education Committee, the Communications Workers of America's COPE-PAC, the Bakery, Confectionary & Tobacco Workers International Union PAC, the National Education Association ("NEA"), and \$3,450 from the Citizen/Labor Energy Coalition ("CLEC") PAC, which is registered as a separate PAC but is based in Citizens Action's Chicago offices as well. There is no indication that any candidates received direct contributions from Citizens Action PAC. But, according to its FEC reports, the group did spend more than \$10,400 in independent expenditures for Colorado Democrat Senate candidate Tim Wirth. The Machinists contributed \$9,550 to Wirth; the NEA contributed \$9,250 to Wirth, and the UAW contributed \$9,050 to Wirth. The FEC must investigate whether there was any illegal earmarking by these PACs of their contributions to Citizens Action PAC.

Also housed at Citizens Action's Chicago headquarters is the CLEC and its affiliated PAC. There appears to be little if any difference between the groups, although they do

have separate FEC contribution limits. The same Labor PACs provided virtually all the funding for both entities. Exhibit 6. CLEC-PAC received \$5,000 each from the Machinists and the NEA. They also received \$3,000 contributions from the Communications Workers of America PAC and \$3,000 from the Committee for Good Government in Detroit. This was all the money the CLEC PAC raised during 1986. CLEC PAC spent its money by giving money to WAC, PennPIC, the Citizens Action PAC and the CLEC 501(c)(4).

The same illegal earmarking inquiry should be made concerning the Wisconsin Senate race, where FED reports show that Citizens Action PAC contributed \$4,500 to Network member Wisconsin Action Coalition ("WAC"). By its own admission, see below, WAC's principle aim in the 1986 election was the defeat of Republican Senator Bob Kasten. The Machinists contributed \$9,900 to Garvey; NEA contributed \$10,000, and UAW contributed \$10,000. Exhibit 8.

Wisconsin Action Coalition (WAC), a corporation registered in the state of Wisconsin, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Wisconsin Citizen Education Fund, and a PAC, the Wisconsin Action Coalition PAC ("WAC-PAC"). All three share the same address. On information and belief, all three have interchangeable directors, officers and staff members. By its own admission, WAC as a 501(c)(4) corporation directly assisted in the 1986 United States Senate race when it "worked for Ed Garvey in a U.S. Senate race against incumbent Robert Kasten. WAC, which by itself was responsible for 24% of the Garvey vote, came extremely close to unseating Senator Kasten. WAC contacted more than 18% of the state's population, and worked in every Congressional district."

Exhibit 9. WAC claims 75,000 members. Eighteen percent of Wisconsin's 4,785,000 1986 population is 861,300 persons. Eighteen percent of its 3,515,000 1986 voting age population is 632,700 persons. That means WAC, by its own admission, contacted individuals on behalf of Garvey who were not its "members". In fact, WAC conducted a partisan political canvass among the general public on behalf of Garvey.

Despite this admission that it advocated the election or defeat of a specific federal candidate and attempted to influence a federal election, the value of its corporate soft money expenditures that amounted to contributions to the federal candidate are not fully reported on any FEC forms filed by the corporation, its PAC or the Garvey campaign. The FEC's Index of Communication Costs shows a \$15,239.86 expenditure on June 30, 1986 for door-to-door canvassing among WAC members. In addition, a letter to the FEC from WAC indicates a \$5,250 expenditure in communications with members between October 1 and October 15, 1986 through both door-to-door and phone canvassing, and direct mail. However, the reports do not indicate any similar costs for contacting non-members, despite WAC's declared contacting of at least 632,500 persons. The source of virtually all of WAC's funds were large labor union PACs that had already given the legal maximum to Garvey and other Citizen Action PACs. Exhibit 6.

In addition, a letter from WAC to the FEC explains a \$2,500 payment from WAC-PAC to WAC for "General Election Day membership contact services in support of candidate Ed Garvey in the Wisconsin Democratic primary election." [sic]. In light

of the illegality of its canvass among the general public, this activity must be investigated for its apparent contacts beyond WAC's permissible class.

Washington Fair Share, a corporation registered in the state of Washington, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Washington Fair Share Education and Research Fund, and a separate segregated fund, Washington Fair Share Political Action Committee. All are housed at the same address. On information and belief, all three also share directors, officers and staff. Indeed, the treasurer of the PAC who signed the 1986 FEC reports is also the president of the 501(c)(4) corporation.

By its own admission, Washington Fair Share as a 501(c)(4) corporation directly assisted in 1986 United States Senate race when it "worked on helping Democrat Brock Adams defeat Republican incumbent Slade Gorton for the U.S. Senate seat. WFS conducted a 13-city 'truth drive' on Social Security to call attention to Gorton's dismal record on the issue. The drive covered 1500 miles and made 17 stops around the State."

WFS also helped elect two U.S. Congressmen, *Reese Lindquist* [sic] and *Mike Lowry*."

Exhibit 9. Despite this admission that it advocated the election or defeat of a specific federal candidate and attempted to influence a federal election, the full value of these corporate soft money expenditures that amounted to contributions to the federal candidates are not reported on any FEC forms filed by the corporation, its PAC or the campaigns. The PAC reports show no expenses for staff, rent or other overhead. While a corporation may pay the administrative and solicitation costs of a PAC for contact with its permissible class, once the aim of the PAC becomes a violation of the Act, such as a canvass of the general public, the financial support by the corporation becomes an illegal contribution.

According to year-end FEC reports, on December 11, 1986, the PAC wrote a check to the 501(c)(4) "to cover the payroll taxes on checks written previously," according to the Year-end FEC report. But no previous checks appear on the FEC report. This disbursement lends credence to the illegal nature of the 501(c)(4)'s corporate support for the PAC.

In addition, the PAC made independent expenditures totaling more than \$20,000 in the last three weeks of the 1986 campaign against Slade Gorton. These expenditures coincided with October 27 contributions from both the Machinists and AFSCME. Both of these Labor PACs had given the maximum \$10,000 to Brock Adams. The FEC needs to investigate whether the Labor PACs exercised any illegal direction or earmarked these contributions.

Illinois Public Action Council, a corporation registered in the State of Illinois, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the National Consumer Foundation, and a separate segregated fund, Citizen Action Non-Partisan Political Action Committee. All three share the same address. On information and belief, all three also share the same directors, officers and staff.

By its own admission, Illinois Public Action Council as a 501(c)(4) directly assisted in 1986 elections:

"In the 1986 election, the Illinois Public Action Council (IPAC) endorsed 135 candidates for local, state, and national races; 99 won. . . . IPAC's notable victories included

re-electing U.S. House Member Lane Evans from the 17th District.

Exhibit 9. The full value of these expenditures by the corporation that amounted to contributions to the federal candidates are not reported on any FEC forms filed by the corporation, the PAC or the campaigns. The FEC's Index of Communication Costs lists no entry for this group. In addition, its FEC reports reveal some convoluted bookkeeping and contributions and disbursements during the 1986 cycle that occurred at the same time it was negotiating with the FEC to settle a case from the 1984 election on the very same tactics it employed in 1986. See MUR 1937. While IPAC was found guilty of violating the Act and paid a \$5,000 fine in MUR 1937, it apparently used the same tactics in 1986 to benefit congressional candidate Lane Evans and Senator Alan Dixon.

FEC reports for 1986 filed by the PAC show in-kind disbursements totaling \$2,122.81 to Evans and \$839.19 to Dixon. Their reports also show a loan from the 501(c)(4) totaling nearly \$13,000 that was not paid off until December 15, 1986. That occurred several months after the FEC reached its finding against the Council that such a loan was an illegal corporate contribution in the 1984 election. And it appears from the PAC's year-end 1986 FEC report that it had the money to repay the loan only because it received a December 8, 1986 contribution of \$20,000 from Lane Evans' campaign committee. The PAC reported the money as an "invoice for services" on Line 11a. This merits the FEC's attention since it means that either the PAC accepted a contribution in excess of the limits, or the PAC drastically undervalued its in-kind contributions to Evans during the campaign to escape the contribution limits, or the 501(c)(4) made large illegal contributions to Evans that were never disclosed.

Pennsylvania Public Interest Coalition, a corporation registered in the state of Pennsylvania, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Pennsylvania Public Interest Education Fund, and a separate segregated fund, Pennsylvania Public Interest Coalition Voters Alliance. All are housed in the same location. On information and belief, all three also share the same directors, officers and staff.

By its own admission, Pennsylvania Public Interest Coalition ("PennPIC") as a 501(c)(4) directly assisted in 1986 elections:

"The Pennsylvania Public Interest Coalition dedicated almost all of its electoral activities to the U.S. Senate Race between Bob Edgar and incumbent Arlen Specter. PennPIC contacted 325,000 people on behalf of Edgar, using the door-to-door canvass, phone banks, and literature distribution. Although Senator Specter held onto his seat, PennPIC made the race closer than had been anticipated."

Exhibit 9. Although admitting they canvassed beyond their permissible class, thereby making a contribution to Edgar, the value of these corporate contributions has never been fully reported or explained to the FEC. Nor did the Edgar campaign or the PAC fully report these illegal soft money corporate contributions.

As opposed to virtually all of the other members of the Network, PennPIC does report costs of communications to its "members". While its canvass/solicitation method fails to meet the test set forth in the law, it is noteworthy that this one Network group operates like the others but reports differently. However, PennPIC reports costs of

\$24,595 in contacting members for Edgar. While contacting 325,00 people for Edgar, they claim only \$3,014.15 in total costs of contacting non-members. The FEC needs to investigate these costs of contacting non-members in a door-to-door canvass among the general public.

The sources of PennPIC-PAC's money is instructive. Indeed, the PAC only reported raising and spending about \$11,000. Of that total, \$9,500 came from these PACs. They received \$5,000 from the Machinists (who gave the maximum to Edgar); \$2,000 from Citizen Action PAC in July (the Machinists gave Citizen Action PAC \$5,000 five months earlier); and Citizen/Labor Energy Coalition PAC (headquartered with Citizen Action) gave \$2,500 in October, two days after receiving a \$5,000 contribution from the NEA's PAC (which had given the maximum to Edgar by September).

PennPIC-PAC also made to the 501(c)(4) "advance payments for rent, phone, health insurance in support of", according to FEC reports. However, the advances appear to bear no resemblance to the amounts of in-kind contributions to candidates appearing on the FEC report. This discrepancy merits further inquiry to determine the adequacy of the method and amount of the reimbursements.

Ohio Public Interest Campaign, a corporation registered in the state of Ohio, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Industrial States Policy Center, and a separate segregated fund, Ohio Public Interest Campaign Political Action Committee. All three share the same address. On information and belief, all three also share officers, directors and staff.

By its own admission, Ohio Public Interest Campaign as a 501(c)(4) directly assisted in 1986 elections:

"The Ohio Public Interest Campaign won in all the races where it supported candidates. . . . U.S. Congressman Ed Feighan and Tom Sawyer were also elected with OPIC's help."

Exhibit 9. Despite this admission that it advocated the election or defeat of specific federal candidates and attempted to influence a federal election, these corporate soft money expenditures that amounted to contributions to the federal candidates are not fully reported on any FEC forms filed by the corporation, its PAC or the campaigns.

Florida Consumers Federation, a corporation registered in the state of Florida, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Florida Consumer Federation Foundation. Both are located at the same address. On information and belief, all three also share officers, directors and staff.

By its own admission, Florida Consumers Federation as a 501(c)(4) directly assisted in 1986 elections:

"Florida Consumers Federation focused most of its election efforts in Palm Beach and Broward Counties. . . . FCF also assisted the National Council of Senior Citizens to help elect Governor Bob Graham to the U.S. Senate."

Exhibit 9. Despite this admission that it advocated the election or defeat of a specific federal candidate and attempted to influence a federal election, these corporate soft money expenditures that amounted to contributions to the federal candidates are not fully reported on any FEC forms filed by the corporation or the campaign.

Citizens Action Coalition of Indiana, a corporation registered in the state of Indi-

ana, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Citizen Energy Coalition Education Fund, and a separate segregated fund, Citizen Action Coalition of Indiana Political Action Committee. All are located at the same address. On information and belief, all three also share officers, directors and staff.

By its own admission, Citizens Action Coalition of Indiana as a 501(c)(4) directly assisted in 1986 elections:

"Citizens Action Coalition of Indiana concentrated much of its attention on the race for U.S. House of Representatives in Indiana's Fifth District. With the incumbent Republican retiring, most people thought the new Republican candidate, who was identified with the Religious Right, would hold onto the seat. However, Democrat State Senator Jim Jontz, a long-time CAC leader, was elected to Congress with 52% of the vote."

Exhibit 9. Despite this admission that it advocated the election or defeat of a specific federal candidate and attempted to influence a federal election, these corporate soft money expenditures that amounted to contributions to a federal candidate are not fully reported on any FEC forms filed by the corporation, its PAC or the campaigns.

In addition, it appears that much of the PAC's activity was funded by one Labor PAC. The UAW sent the Indiana PAC a \$5,000 contribution on October 29, 1986. On October 31, the PAC gave congressional candidate Tom Ward (Indiana 3) an \$800 contribution. The UAW had already given Ward (and Senate candidate Jill Long) the legal maximum, according to FEC reports. The UAW contribution, plus \$500 from Lodge 2040 PAC in Evansville, amount to all the money the PAC raised in 1986. Those contributions allowed it to spend funds in the closing days of the campaign for printed materials. However, the PAC failed to indicate which, if any candidate, benefited from the expenditures.

Maryland Citizen Action Coalition, a corporation registered in the State of Maryland, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Maryland Citizen Action Coalition Education Fund, and a separate segregated fund, Maryland Citizen Action Coalition Political Action Committee. All three are located at the same address. On information and belief, all three also share officers, directors and staff.

By its own admission, Maryland Citizens Action Coalition as a 501(c)(4) directly assisted in 1986 elections:

"Maryland Citizen Action Coalition endorsed 25 candidates in the 1986 elections, and 24 won. In the Fourth U.S. Congressional District, Thomas McMillen was elected by less than 500 votes. MCAC worked on voter contact and education to help win that race. MCAC also helped to elect U.S. Congresswoman Barbara Mikulski to the U.S. Senate."

Exhibit 9. Despite this admission that it advocated the election or defeat of a specific federal candidate and attempted to influence a federal election, these corporate soft money expenditures that amounted to contributions to the federal candidate are not fully reported on any FEC forms filed by the corporation, its PAC or the campaigns.

The PAC's FEC reports show a \$300 contribution from AFSCME and a \$360 contribution from the congressional campaign committee of Stewart Bainum (Maryland 8). The loan disbursement appears to be \$360

to the 501(c)(4) for "salaries", probably for Bainum.

Iowa Citizen Action Network, a corporation registered in the state of Iowa, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a 501(c)(3), the Iowa Citizen Action Education Fund, and a separate segregated fund, Iowa Citizen Action Network Political Action Committee. All three are located at the same address. On information and belief, all three also share officers, directors and staff. Indeed, the same individual who signed the FEC reports for the PAC is the secretary for the 501(c)(3) corporation.

By its own admission, Iowa Citizen Action Network as a 501(c)(4) directly assisted in 1986 elections:

"Iowa Citizen Action Network was successful in electing eight board members to the Iowa State Legislature, and also contributed greatly to electing David Nagle to represent the Third District in the U.S. House of Representatives."

Exhibit 9. Despite this admission that it advocated the election or defeat of a specific federal candidate and attempted to influence a federal election, these corporate soft money expenditures that amounted to contributions to the federal candidate are not fully reported on any FEC forms filed by the corporation, its PAC or the campaigns.

Campaign California, a corporation registered in the state of California, enjoys preferred tax status as a 501(c)(4) organization. It is affiliated with a separate segregated fund, the Campaign California Committee. Both are located at the same address and, on information and belief, share many of the same officers, directors and staff members.

By its own admission, Campaign California, as a 501(c)(4) corporation wants to target a message to the general public that will help elect partisan political candidates. For example, in seeking a new Executive Director for the 501(c)(4), an advertisement in its 2nd Quarter 1987 newsletter, stated:

"Position: Executive Director for Campaign California, a political organization working to elect progressive candidates and pass initiatives at the local and state levels; to build local progressive governing coalitions, increase voter participation, and strengthen the Democratic Party base in California and the nation."

Exhibit 10 (emphasis added).

3. DEFENDANTS: SPECIFIC EXAMPLES IN THE 1988 ELECTION

The same tactic of reaching the general public, rather than its members, engaged in by the Network in support of its endorsed candidates in the 1986 elections is already visible as the 1988 elections near. It provides additional evidence that the groups' goal is to reach the general public with their partisan political message.

For example in Wisconsin in 1986, WAC ran an ad in a general circulation newspaper that included the words: ". . . learn political organizing and defeat Bob Kasten this summer with the Wisconsin Action Coalition." Exhibit 11. This ad, which contains express advocacy on behalf of a federal candidate, is by definition aimed beyond the permissible class.

Already in 1988 Citizen Action has engaged in similar tactics. The Washington Post on May 8, 9, 11, 16, 18, 22 and 25, 1988 carried an ad with the headline "Presidential Campaign." It goes on to say: "This summer, help elect a democrat to the White House. Citizen Action, the nation's largest

progressive organization, is fighting for affordable health care & working to defeat George Bush in November." Exhibit 12.

And the same group showed that the true aim of its canvassing work is the general public when it ran an ad seeking: "Political Work/Tele-fundraisers. Work on issues that make a difference. Citizen Action building grassroots support nationwide. Our 1988 agenda: * Lobby on national health care legislation. * Working on the democratic presidential campaign." Exhibit 13. Washington Post, June 5, 6, 7, May 31, 1988.

These ads aim a partisan political message at the general public. In the case of the Wisconsin ad, they benefited Ed Garvey. In the case of the Citizen Action ads, they benefit the Mike Dukakis for President Committee.

But the most blatant example of Citizens Action's fictional analysis of the Act and Internal Revenue Code is Exhibit 14. That newspaper article describes a joint venture between Citizen Action and the Democratic National Committee, which it appears is tied to the recruitment of tele-fundraisers described above. Exhibit 13. According to the April 22, 1988 Los Angeles Times: "When the phone rings at the homes of several hundred thousand voters registered as Democrats, it will be signaling a direct pitch for the Democratic presidential candidate. Ira Arlook, executive director of Citizen Action, said the phone call will be designed to touch the issues the individual voters believe are crucial to the country."

Citizen Action is utilizing by phone the same scheme it uses through door-to-door canvassing to reach the general public (rather than its "members") and to funnel illegal corporate resources to federal candidates. If Citizen Action was truly contacting only its members, it would not need the Democratic National Committee. Citizen Action, presumably, knows who its members are. Such egregious corporate contributions to the Dukakis for President Committee must be halted by the FEC. At the very least, the Dukakis for President Committee should put a stop to this circumvention of the spending limits imposed by the publicly-funded presidential campaign finance system. No amount of pious rhetoric about being "nonpartisan" and canvassing only members can hide the reality of these election law violations.

III. LEGAL ANALYSIS

A. The Solicitation/Canvassing Method Used by the Members of the 501(c) Network Violates the Act

The soliciting/canvassing method employed by the 501(c) network (described on pages 11-14) is illegal and violates the Act in two ways: 1) the 501(c)(4)s are not membership organizations as defined in the statute and under the holdings of the Supreme Court, and, 2) virtually all their canvassing is done to the general public and constitutes illegal corporate contributions and expenditures on behalf of endorsed candidates.

Under federal election law, a corporation or a PAC established by a corporation may solicit contributions to such a fund only from its permissible class. 2 U.S.C. 441b(b)(4)(A)(i). A corporation without capital stock, such as virtually all the "members" of the 501(c) network, may solicit contributions from members of the corporation without capital stock. 2 U.S.C. 441b(b)(4)(C). "The effect of this proviso is to limit solicitation by nonprofit corporations to those persons attached in some way to it by its corporate structure." *Federal Election Comm'n v. National Right to Work Comm.*, 459 U.S. 197, 202 (1982). The stand-

ard canvassing method of the 501(c) network violates this rule.

1. The 501(c)'s Fail the Test of "Membership Organizations"

A "member" is defined as any person who is currently satisfying the requirements for membership in a corporation without capital stock. 11 C.F.R. 114.1(e). A person is not considered a "member" if the only requirement for membership is a contribution. *Id.* Rather, as the Court held in *National Right to Work*, the key test to being a "member" is that the members have very specific obligations and rights to participate in the governance of the organization.

The Court has said that a determination that "members" include anyone who has responded to one of the corporation's essentially random mass mailings would, we think, open the door to all but unlimited corporate solicitation and thereby render meaningless the statutory limitation to "members." 459 U.S. at 204. By analogy, this would apply to the random door-to-door solicitation/canvassing employed by the 501(c) defendants in this case.

Interpreting this Supreme Court holding and its Regulations in a series of enforcement matters and MURs, the FEC has concluded that a person is a "member" of a corporation without capital stock if:

he or she has knowingly taken some affirmative steps to become a member of the organization, such as donating money and receiving a membership card;

the membership relationship is evidenced by the existence of rights and obligations toward the corporation, such as voting for officers, voting on the day-to-day affairs of the corporation, having the right to attend membership meetings, exercising formal control over the expenditure of the contributions or playing a part in the administration of the corporation. It is not sufficient to be asked to respond to polls, questionnaires, petitions and other fundraising/membership involvement techniques.

there is a predetermined minimum amount for annual dues or contributions that are assessed and collected on a regular basis.

See *Id.*; MUR 1860, General Counsel's Report.

In reaching its conclusion that the purported members of an organization were not sufficiently attached to the corporate structure, the Supreme Court reasoned that they played "no part in the operation or administration of the corporation," that they "elect no corporate officials, and indeed there are apparently no membership meetings," and that there "is no indication [the group's] asserted members exercise any control over the expenditure of their contributions." 459 U.S. at 206.

Although one of the factors in the Court's opinion was that the group's corporate documents disclaimed the existence of members, this was not the sole basis for the holding. Rather, all these factors in conjunction with one another were noted by the Court when it stated: "We think that under these circumstances, those solicited were insufficiently attached to the corporate structure of [the group] to qualify as 'members' under the statutory proviso." *Id.*

The canvass' objective of reaching the general public indicates that these required "circumstances" are not present within the 501(c) Network. Accordingly, the FEC needs to investigate.

2. The 502(c)'s Illegally Canvass the General Public on Behalf of Endorsed Candidates

Even if an FEC investigation somehow shows that some or all of the 501(c)(4)s meet the legal test of being membership organizations, their method of canvassing violates the Act. The aim of the 501(c)(4)s' canvass is to contact the general public, and not just their permissible class.

The 501(c)(4) method is to contact the general public in door-to-door solicitation/canvassing. After giving the illegal pitch for its endorsed federal candidate(s), the 501(c)(4) employee hopes the citizen will give a donation. Under their fiction, the giving of that donation conveys a retroactive status of "member" on the donor. This is a sham which allows Citizen Action and its affiliates to fulfill their stated mission as "a national citizens political organization . . . dedicated to increasing citizen participation in economic and political decision-making." Exhibit 3. (emphasis added).

To believe that the 501(c)(4)s' method is to contact their members, with some incidental contact with non-members, is to suspend belief in reality. To accept the 501(c)(4)s' analysis of proper contact with "members" is to believe that "membership" meeting the criteria of the law can be conferred on the stoop of a house. This is especially incredible since the canvassing that constitutes the illegal corporate contribution or expenditure takes place before the person even contributes any money, the preliminary step to becoming a "member".

In fact, the 501(c)(4) Network's entire method of political canvassing is geared to non-members. Their actions and methods belie their claim that they meet the definition of "membership organization". Only a minuscule number of solicitations and political endorsements are actually conveyed to individuals within the permissible class. That means virtually all the door-to-door work by the 501(c)(4)s' employees constitutes illegal contributions and expenditures from a corporation that evades public disclosure.

B. Cited Actions Influence Federal Elections

1. The 501(c) Members' Canvassing and Other Activities Constitute Express Advocacy Under the Act.

a. *The Act's Standards.*—The FEC has developed a test for whether certain activities such as the ones cited herein, are subject to the Act, its reporting requirements and its limitations. In its ruling, the FEC has consistently taken the position that expenditures are subject to the Act where they constitute express advocacy made for the purpose of influencing a federal election as judged by the act's proximity to an election. In other words, the FEC will examine whether the activity and message are clearly political (advocating the election or defeat of a specific candidate and whether there are clear connections between the organization and the candidate's campaign).

The actions described in this Complaint fall squarely within that articulated test. Citizen Action, its affiliates and the other members of its Network mentioned herein, perhaps because they feel they enjoy a position of moral superiority conferred by their preferred tax status, have chosen to ignore this legal test. Nonetheless, the actions of the 501(c) network are designed to influence federal elections under the FEC's test. Their expenditures are paid for by corporations. That is against the law. The FEC needs to enforce the law and make the de-

fendants in this matter play by the same rules as other groups attempting to influence federal elections.

A tenet of federal election law is that the expenditure of funds by corporations, or the use of corporate funds by any other entity, to influence a federal election is prohibited. 2 U.S.C. 441b. As their own words and actions demonstrate, Citizen Action and the members of its Network have violated this law. They cannot evade this prohibition by invoking their status as 501(c) entities dedicated to "social welfare" or "education" of the public. As the FEC found in MUR 1937, the prohibition on corporate expenditures and contributions does not distinguish between tax-exempt and other corporations. MUR 1937 (citing 2 U.S.C. 441b; 11 C.F.R. 114.1(a)(2)(iii), 114.3(a)(2), 114.4(a)(1)(ii), 114.5(b)-(i) and 114.7). Nor has such a distinction even been found by the courts. See AO 1987-7, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5889 (1987).

In conducting analyses similar to the one required in this case, the FEC has scrutinized an organization to determine whether its activities were covered by the Act. This analysis has included several factors, including consideration of the text of the message and activity prepared for the general public, the timing of those communications and other evidence bearing on "an election-connected or election-influencing purpose." AO 1984-41, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5787 (1984).

The FEC has reviewed the pre-election activities of an organization alleging an interest only in issues, not elections. AO 1980-106, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5582 (1980). By examining the circumstances surrounding the organization's activities, it found the distribution of certain materials "designed to influence the readers' choice in the 1980 presidential election, rather than simply to promote discussion of issues." *Id.*

The FEC has been particularly alert to whether a communication or activity is election-related if the expenditure could violate the Act's prohibition on corporate spending. See, e.g., AO 1986-26, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5866 (1986); AO 1984-24, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5771 (1984); accord *California Medical Ass'n v. FEC*, 453 U.S. 182, 200 (1981) ("the statute as a whole imposes far fewer restrictions on individuals and unincorporated associations than it does on corporations and unions") (emphasis in original). It has specifically noted that the Act "subjects corporations . . . to stricter standards than individuals when Federal elections are concerned." AO 1978-102, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5397 (1978).

Indeed, individual members of the Commission have publicly recognized the importance of this test in the case of a tax exempt entity. Expressing his own view in testimony last year before a House subcommittee, then FEC Chairman Scott Thomas said:

"[I]f it were determined that it was fairly clear what the purpose of the activities were, they would cross the line of being contributions or expenditures for the purpose of influencing the federal election, then of course yes, we would be in the posture of trying to determine whether the group should register, whether it has crossed the border in terms of being a corporation that made prohibited expenditures."

Thomas also stated: "[E]ven though a corporation or labor organization may be tax exempt, if it makes a contribution or expenditure in connection with a federal elec-

tion, the FEC is charged with the duty to regulate such activity. . . . For the most part, public electioneering activity by a 501(c)(3) or (4) tax exempt corporation will be a violation of election law and contrary to the rules for retaining tax-exempt status." Statement of Scott E. Thomas before Subcommittee on Oversight of the House Ways and Means Committee, March 12, 1987 (emphasis in original).

It is also clear that the attempts by some members of the Network to wash their 501(c) corporate funds through connected PACs cannot withstand legal scrutiny. The FEC dealt squarely with this issue in Advisory Opinion 1984-24. It noted: "Except for certain activities such as internal communications and nonpartisan activities, the act requires that a corporation or labor organization direct and finance its political activities solely through the use of the voluntary contributions in its separate segregated fund and not through the use of general treasury funds. 117 Cong. Rec. 43381 (Remarks of Rep. Hansen). . . . The regulations specifically provide that a corporation or labor organization may not use the establishment, administration, and solicitation process as a means of exchanging treasury monies for voluntary contributions. 11 C.F.R. 114.5(b)." *Id.* at 11,082.

That Advisory Opinion continues with the explicit warning that "Only the monies in the separate segregated fund may be disbursed for political purposes, and the corporation may not use its general treasury funds for such purpose." The opinion states:

"In this regard, the Act and regulations prohibit a corporation from using its general treasury funds to provide goods and services at no charge to candidates in any Federal election. A corporation's donation of the services of its employees and the use of its facilities incident to its employees' services qualifies as a gift of something of value to the candidate. Thus, the expenditure of corporate treasury funds to provide such services and facilities falls squarely within the prohibition of 2 U.S.C. 441b. Nothing in the Act or regulations excludes such corporate disbursements from the Act's prohibition. On the contrary, Commission regulations specifically define a contribution as the payment of compensation to a person who renders services to a candidate or political committee or the provision of goods or services at less than the usual and normal charge for them. . . . The prohibition of 2 U.S.C. 441b also includes advances by a corporation of its general treasury funds and the extension of credit which is not made in the ordinary course of the corporation's business and on terms similar to those extended to non-political debtors."

Id. at 11,083 (citations omitted) (emphasis added). It is clear from the 501(c)'s descriptions of their own canvassing and other election-related activities that they went far beyond the safe harbors provided by the Act, the FEC and the courts.

b. *Precedent on 501(c)s*—Within this legal framework, the FEC has three times examined the standard methods employed by members of the 501(c) corporate Network and found illegalities each time. The FEC found that the standard method that is the subject of this Complaint entails express advocacy by the 501(c)(4) corporation, which is attributed to the connected PAC as a debt. In some cases, the activity is reported to the campaign as an in-kind contribution from the PAC. As the FEC noted in MUR 1586, this method violates "2 U.S.C. 441b(a) by using corporate treasury money to make

expenditures to support federal candidates, which were later reimbursed by the [PAC]. These initial disbursements of corporate treasury money constituted corporate contributions and/or expenditures in violation of the Act." Conciliation Agreement at 4. The method employed in this MUR by the Council and CANPAC is an example of how the Network operates.

In reviewing the specific facts of MUR 1937 involving Illinois Public Action Council (Council) and the Citizen Action Non-Partisan Political Action League ("CANPAC"), the FEC found that the disbursements, even though reported by CANPAC, were "corporate in origin." In other words, they were in fact made by the Council, an incorporated 501(c)(4) organization. The FEC concluded that they constituted illegal corporate expenditures and contributions under 2 U.S.C. 441b. The FEC rejected the contention that the Council's disbursements were not expenditures, but merely "accounts receivable from CANPAC to the Council." Citing Advisory Opinion 1984-24, the General Counsel's Report to the FEC found that "the activities described involved initial disbursements of corporate funds for activities in furtherance of the election of federal candidates."

The FEC also rejected the argument that the Council-CANPAC arrangement was a legitimate extension of credit under 11 C.F.R. 114.10: "This regulation was not meant to apply to a situation such as the present matter where the political committee is connected to the corporation. As stated in AO 1984-24, 'section 114.10 is intended to apply to commercial transactions made in the ordinary course of a corporation's business, where it extends credit as part of such a transaction to a political purchaser on terms comparable to those for similar non-political purchasers.'" MUR 1937, General Counsel's Brief.

The 501(c)(4) defendant also argued that the Act's prohibition on corporate contributions did not apply to 501(c) groups. Citing the plain wording of the statute, the FEC said the prohibition applies to "any corporation" and that the statute does not distinguish (as the Council tried to maintain) between organizations with capital stock and other corporations. The FEC noted that its Regulations prohibiting corporate contributions explicitly extend to non-capital stock corporations and membership corporations. This is true for the definitional sections, e.g., 11 C.F.R. 114.1(a)(2)(iii) (applying to a "corporation, labor organization, membership organization, cooperative, or corporation without capital stock"); sections referring to communications to a restricted class, e.g., 11 C.F.R. 114.3(a)(2), 114.4(a)(ii) ("incorporated membership organization, incorporated trade association, incorporated cooperative or corporation without capital stock"), and sections referring specifically to the permissible activities of PACs, e.g., 11 C.F.R. 114.5(b)-(i), 114.7 ("corporations, labor organizations, membership organizations, cooperatives or corporations without capital stock"). Accord AO 1987-7, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5889 (1987) (finding 501(c)(4) corporation subject to prohibition of 2 U.S.C. 441b).

Thus, the FEC has held 501(c)s to the same standards as other corporations attempting to influence federal elections. The activities of these 501(c)s accordingly violate a series of the Act's prohibitions.

2. Specific Violations

a. *Illegal Corporate Expenditures and Contributions*.—A basic tenet of federal

election law is that contributions or expenditures by corporations are prohibited:

"It is unlawful for any national bank, or any corporation organized by authority of any law of Congress, to make a contribution or expenditure in connection with any election to any political office."

2 U.S.C. 441b(a). This prohibition applies whether the contribution is in the form of money, goods or services (including those provided by paid employees of the corporation). Neither candidates or political committees can accept such contributions, nor may officers and directors of corporations provide consent for such contributions or expenditures to be made on the incorporated entity's behalf. 11 C.F.R. 114.2(a)(2)(c),(d). These 501(c) defendants prefer to operate as if the laws do not apply to them. Either their actions constitute independent expenditures made with prohibited funds or the candidates who are benefiting from their expenditures are receiving illegal corporate contributions. The FEC must determine which and take the appropriate remedial action.

b. Failure to Report Activities as Expenditures Under the Act.—Under the FEC's analysis, any 501(c) defendant failing to report the costs of its activities as expenditures violates the Act. This applies to the costs of their illegal canvassing on behalf of endorsed federal candidates as well as contributions of employees, printed materials and other resources. Any actions by these groups that specifically call for either the election or defeat of a specific candidate are reportable.

These activities were paid for by 501(c)(4)s, all of which are corporations, for the purpose of influencing either the 1986 or 1988 federal elections. 2 U.S.C. 431(9)(A). These defendants violated the Act by failing to report their expenditures, 2 U.S.C. 434, and by failing to allocate the expenditures to the specific candidates who benefited. 11 C.F.R. 106.1(a). Even if the defendants claim they were only communicating with their members (which is absurd on its face), they have violated the Act if the 501(c)(4)s failed to report on Form 7 of the costs of communicating with their "members".

c. Failing to Report Ads as Independent Expenditures or Contributions.—Since the activities described herein are something of value given to influence a federal election, they constitute either independent expenditures by the 501(c) group involved or contributions by the group to the specific candidate opposing the candidate criticized or the candidate who was endorsed. In either case, the 501(c) corporation has chosen to cast itself as above the law and has failed to either register or report its activity fully. Since all these defendants are incorporated and not within the exception provided by *FEC v. Massachusetts Citizens For Life, Inc.*, 107 S. Ct. 616 (1986), the expenditures themselves are illegal. 2 U.S.C. 441b.

An "independent expenditure" is defined as an expenditure by a person or political committee "expressly advocating the election or defeat of a clearly identified candidate which is made without cooperation or consultation with any candidate, or any authorized committee or agent of such candidate, and which is not made in concert with, or at the request or suggestion of, any candidate, or any authorized committee or agent of such candidate." 2 U.S.C. 431(17). The law requires that such independent expenditures be fully reported. 2 U.S.C. 434(c). According to the Supreme Court in *Massachusetts Citizens for Life* at 630:

"[A]n independent expenditure of as little as \$250 . . . will trigger the disclosure provisions of section 434(c). As a result, [the organization] will be required to identify all contributions who annually provide in the aggregate \$200 in funds intended to influence elections, will have to specify all recipients of independent spending amounting to more than \$200, and will be bound to identify all persons making contributions over \$200 who request that the money be used for independent expenditures."

The 501(c) defendants have failed to report their independent expenditures, again preferring to hold themselves as above the law. The FEC must investigate whether these groups consulted with any leaders or agents of a national party committee in deciding which candidates to criticize or praise.

If the canvassing and other activities and materials are a contribution to a federal candidate, 2 U.S.C. 431(8)(A), they are subject to the contribution limits of the Act. None of the 501(c) defendants have qualified with the FEC as multi-candidate committees. 2 U.S.C. 441a(a)(4). That means that the 501(c) groups, if they were a legal source, would be limited to contributing \$1,000 for the primary election and \$1,000 for the general election. 2 U.S.C. 441a(a). The FEC must investigate whether this limit was exceeded by these activities.

d. The Members of the 501(c) Network Are "Political Committees" Which Have Violated Their Legal Obligation to Register With the FEC and Report Their Election Influencing Activities.—The members of the 501(c) Network that are defendants in this action are hiding from public scrutiny the sources of the money they are using to influence federal elections in which they are participating. The central theory behind the federal election laws is that the public must be able to scrutinize all the sources of funding in a federal election. It is only through this public knowledge that honest and above-board federal election campaigns will be conducted. Yet by refusing to register as a political committee making expenditures under the Act, these 501(c)(4) groups ignore this disclosure requirement. 2 U.S.C. 431(4), 432, 433, 434. The Act defines a political committee as "any committee, club, association, or other group of persons" which receives contributions or expenditures aggregating more than \$1,000 in a calendar year for the purpose of influencing a federal election. 2 U.S.C. 431(4)(A).

The FEC has found that where even a "loose association" of individuals makes "expenditures", as defined in the Act, in excess of \$1,000, it becomes a political committee. See AO 1980-106, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5582 (1980). In addition, the FEC has articulated standards under which an organization receiving contributions from others becomes a political committee subject to the Act's public disclosure requirements. AO 1986-38, 1 Fed. Elec. Camp. Fin. Guide (CCH) 5876 (1986). Under these rulings, the 501(c) defendants in this action come under the Act's registration and reporting standards.

Furthermore, according to the Court, "should [the organization's] independent spending become so extensive that the organizations major purpose may be regarded as campaign activity, the corporation would be classified as a political committee. [See *Buckley v. Valeo*, 424 U.S. 1, 79 (1976).] As such, it would automatically be subject to the obligations and restrictions applicable to those groups whose primary objective is to influence political campaigns."

Massachusetts Citizens for Life, 107 S. Ct. at 630. The campaign activity of each of these organizations is integral to their operations, thereby constituting a major purpose of the organizations. Thus, each of these organizations should be treated as a political committee subject to the Act's reporting requirements for political committees.

Each defendant member of the 501(c) Network, as their own words and actions demonstrate, far exceeded this threshold through their canvassing and expenditures on behalf of federal candidates. See Exhibits 3, 5-11.

The Act further requires all political committees to register with the FEC and file regular reports of their receipts and disbursements disclosing to the public their political activity. 2 U.S.C. 433-434. Thus, the 501(c) defendants are violating this law. The fact of the matter is that these 501(c) are very active at criticizing others who they feel are not adhering to the law and their social obligations. But the American people have the right to know that these special interest groups are engaging in express advocacy on behalf of their endorsed candidates. The public should be able to scrutinize the extent to which these groups are involved in federal elections, who they are supporting and with whose money.

e. Labor PAC Contributions to Network Members Cannot be Earmarked for Specific Candidates Under the Act.—The Labor PACs that provide the overwhelming majority of the funding for the "grassroots" Citizen Action Network PACs appear to be illegally earmarking contributions through the PACs to candidates to which they have already given the legal maximum. The center of the apparent laundering scheme is Citizen Action and the Citizen-Labor Energy Coalition, which are housed in the same Chicago office but claim different contribution limits. Under the Act, if the Labor PACs are directing the 501(c) Network PACs to contribute to candidates to whom they have given the maximum, it is an evasion of the campaign law limits and an illegally earmarked contribution. 2 U.S.C. 41f.

Specifically, the FEC should review the contributions of the Machinists PAC (Washington, Illinois, Pennsylvania, Wisconsin through Citizen Action and Idaho through Citizen Action, and Pennsylvania through CLEC); the NEA PAC (Wisconsin through Citizen Action and CLEC and Pennsylvania through CLEC); the UAW PAC (Indiana and Idaho through Citizen Action); AFSCME PAC (Washington), and the Communications Workers (Colorado through Citizen Action).

f. The Want Ads Recruiting Employees That Expressly Advocate the Election or Defeat of a Specific Candidate Violate the Act.—The want ads used to recruit employees for the defendant 501(c)s that expressly advocate the election or defeat of a specific candidate are illegal corporate contributions by the 501(c). These ads, which are described on pages 31-32, contain such words of express advocacy as "... help elect a democrat to the White House! Citizen Action, the nation's largest progressive organization, is fighting for affordable health care and working to defeat George Bush in November." Exhibit 12.

Because these ads appear in newspapers of general circulation, by definition they are communicated beyond the permissible class. 2 U.S.C. 441b(4)(c); 11 C.F.R. 114.3(a). Indeed, they are communications to the general public that contain words of express

advocacy either in support of or in opposition to a specific candidate for federal office. Since these ads all appear to be paid for by an incorporated 501(c) organization, they constitute violations of 2 U.S.C. 441b.

g. Violations by Individual Campaigns.—The election laws prohibit the knowing receipt or acceptance of corporate contributions by federal candidates. The FEC has argued that "knowing receipt or acceptance means knowledge of the facts that establish a violation of the statute, not knowledge that the receipt or acceptance was in violation of the law." MUR 1937 General Councils' Report at 4 (citing *FEC v. California Medical Association*, 502 F. Supp. 196 (N.D. Cal. 1980)). Accordingly, the FEC must investigate the campaigns of Wyche Fowler For Senate, Terry Sanford For U.S. Senate, A Lot Of People Supporting Tom Daschle, Garvey For Senate, Brock Adams Senate Committee, Friends of Bob Graham Committee, Mikulski for Senate Committee, Dixon for Senate Committee, Bob Edgar for U.S. Senate, Citizens for Mike Lowry Committee, McMillen for Congress, Citizens for Reese Lindquist, Friends of Lane Evans, Feighan for Congress Committee, Tom Sawyer Committee, Jim Jontz for Congress Committee, and Nagle '88 Committee for their receipt of illegal corporate contributions from members of the 501(c) Network. Since, as discussed below, all the canvassing on behalf of specific candidates was a sham, any campaigns that knew of this effort or helped the 501(c) coordinate their effort, are guilty of accepting and failing to report an illegal corporate contribution.

In some cases, it appears that the 501(c)(4) established a PAC, which in some instances later reimbursed the corporation for its illegal expenditure or showed the expenditure as a debt. In order to make this scheme work, the 501(c) and its PAC had to inform the campaigns which benefited from the work being done by the PAC. However, in discussing the canvassing work done by the 501(c)(4), the campaign had knowledge of the scheme and either knew or should have known that it was accepting a corporate contribution.

Since the FEC maintains that if a campaign is informed that it is receiving in-kind contributions and it is obvious, as it was here, that the contributions were really coming from a connected corporation, the campaign violated the law.

IV. CONCLUSION

The FEC must not delay in holding these 501(c) corporations and the campaigns which benefited from their activities to the same laws as all others attempting to influence federal elections. The amounts spent by these 501(c) corporations, especially on the illegal canvassing activities, should be declared as either illegal corporate independent expenditures by the groups or illegal corporate contributions to the benefiting candidates. In either case, this source of illegal expenditures must be halted.

There is already ample evidence that the 501(c) Network plans to replicate and increase its activity in 1988. See want ads. Accordingly, this case should be prosecuted on an expedited basis to ensure no additional illegal expenditures or contributions between now and Election Day 1988. Since the law is clear, the service on these 501(c) corporations and their PACs of this Complaint will operate as notice that their canvassing and other expenditures on behalf of federal candidates is accountable under the Act. From that day forward, any spending by any of these 501(c) corporations, their PACs, other

unnamed affiliates of Citizen Action and by other 501(c) groups employing a similar method to influence federal elections will be viewed by Complainant as a knowing and willful violation of the Act requiring FEC referral to the Justice Department or the imposition by the FEC of the remedial action proscribed in 2 U.S.C. 437g(d)(1). In addition, the filing of this Complaint will serve as notice to any federal campaigns that receive contributions (whether in-kind as goods and services or monetary) that they are knowingly and willfully violating the Act by accepting prohibited corporate contributions.

Respectfully submitted by Jann L. Olsten, Executive Director, National Republican Senatorial Committee.

WISCONSIN ACTION COALITION

ADVERTISEMENT, MILWAUKEE JOURNAL—1986

Students—Are you looking for a summer job that matters this year?

Develop your communications skills, learn political organizing, and defeat Bob Kasten this summer with the Wisconsin Action Coalition.

WAC has full time and summer staff positions available for articulate and motivated individuals.

Base salary \$180 per week plus bonus, benefits and coast to coast travel.

272-2562

[Ad from the Washington Post, May 15, 1988]

STUDENTS/PRESIDENTIAL CAMPAIGN \$260-\$400/wk

This summer, help elect a democrat to the White House. CITIZEN ACTION, the nation's largest progressive organization, is fighting for affordable health care & working to defeat George Bush in November. Summer & permanent positions are available with our community outreach staff. Gain valuable electoral and fundraising skills. Must be articulate & politically motivated. House 1:30-10:30 pm Mon.-Fri. Call 775-0370. EOE.

[Ad from the Washington Post, June 7, 1988]

POLITICAL WORK

TELE-FUNDRAISERS. Work on issues that make a difference. CITIZEN ACTION building grassroots support nationwide. Our 1988 agenda:

Lobby on national health care legislation. Working on the democratic presidential campaign.

Organize statewide affiliates to reform the insurance industry.

Hours 5:30-9:30p.m. Training provided. Salary \$6/hr. training; \$8/hr. after. 775-0370. EOE.

Mr. KASTEN. I hope that the Senate will see fit to adopt the Dole substitute and bring the tax-exempt organizations under the rules of campaigning that all other organizations must abide by, and extend the ban on partisan political activities under the tax laws to all 501(c) organizations.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BOREN. Mr. President, I will be very brief, very brief indeed.

Let me just say that I cannot in conscience support the Dole substitute. It does not contain the essence of reform. It does not have aggregate

limits which would bring spending under control. As I have said many times, 85 percent of the American people, in a recent poll, indicated that they think the number one reform issue is too much spending in campaigns; 85 percent favor placing of limits on overall spending of campaigns.

We have a money chase, with more and more money being pumped into campaigns. Something should be done about it. This money chase has made us into full-time fundraisers and part-time Senators. I do not believe we can really say we have crafted true reform until we have done something to finally end the competition for money, to put on some cap, to have a situation where the sky is no longer the limit.

I have one other concern, and I will just mention it briefly, about the Dole substitute. That is that it poses no aggregate cap on spending raised from out-of-State sources of contributions of \$250 or less.

Why does that concern me? I think we should all understand that is we are trying to raise funds in amounts of \$250 or less from people in States where we do not reside, people in States that do not know much about us, about the only way that significant amounts of money can be raised is by appealing to single-issue groups, by getting the right mailing lists, send them out across the country to single-issue groups and soliciting contributions of \$250 or less. Just because a contribution is less than \$250 does not mean that, with the right appeal to single-issue groups, you may not be able to raise millions of dollars.

The abortion issue alone, whether pro-life or pro-choice, would be one of those issues in which people with the right mailing list—and it has been known to happen in the United States Senate and elsewhere—could raise millions of dollars in national campaigns through direct mail. The last thing we need to encourage at this time is a fragmentation, which has been so well demonstrated over and over again on the floor of the Senate with so many issues all the time, when we need to come together as Americans, the last thing we need to do is to tilt the campaign financing system in a way that would encourage single-issue policy. With regret, I believe that the pending Dole substitute would do just that.

I urge my colleagues to reject his substitute and, when the opportunity arises to vote for a comprehensive reform proposal, the basic underlying bill which hopefully we will have an opportunity to vote on this evening.

The PRESIDING OFFICER. The Chair informs the majority floor manager there remains 2 minutes and 22 seconds.

Mr. BOREN. Mr. President, I yield back all remaining time on this side.

The PRESIDING OFFICER. And 2 minutes and 33 seconds under the control of the distinguished minority floor manager.

Mr. SIMPSON. Mr. President, I rise in support of the substitute amendment offered by our outstanding Republican leader and am proud and pleased to be listed as a cosponsor.

This amendment remedies some of the real problems with our current campaign finance laws.

The real problems are special interest PAC's that seek to buy access with their contributions while abandoning any semblance of political ideology. The real problems are groups that set up phone banks on the outskirts of town and engage in character assassinations of candidates, all funded by contributions that aren't even required to be disclosed to the Federal Election Commission. Those funds are called soft money, and its use is a terrible abuse of the system. The New York Times was correct to call it sewer money. Our proposal gets rid of non-party sewer money. Theirs doesn't even touch it.

A real problem is collecting huge sums of money from folks who live outside of your State who don't even vote for you and seek to influence your vote. Our bill would reduce that influence by reducing maximum contributions from individuals living out of State from \$1,000 to \$500.

Why should one individual from my State be entitled to contribute to my campaign and another be prohibited from contributing by virtue of an arbitrary limit? Our proposal would not limit the participation of in-State contributors to a congressional campaign—other than the current limits on a maximum contribution of \$1,000 per individual. It really makes no sense to provide a cap on collecting contributions from those folks who you represent. We're not talking about PAC's. We're not talking about soft money. We're talking about constituents. That is what the bipartisan panel of experts recommended in their report: The real evil in the system lies in the source of the money.

Our bill attacks the sources which the bipartisan panel found to be suspect. We eliminate nonparty soft money. We eliminate PAC's. We reduce the maximum out-of-State individual contribution.

In summary—we track closely the proposals of the bipartisan panel. We provide for flexible fundraising targets. Exempted from those targets would be in-state contributions and out-of-State contributions of \$250 or less. Acceptance of these targets will entitle the candidate to obtain reduced broadcast rates and reduced postal rates. We also encourage greater party participation. However, it should be noted that ultimately the parties must disclose their expenditures—unlike

some sewer money schemes concocted by associations, businesses, and unions.

We fully empower the individual in the election process—particularly the in-State voter. We eliminate PAC's and sewer money. We reduce the clout of those who can't even vote for us in our States.

What we do not do is to foist the cost of congressional elections on the backs of the American taxpayer. What we do not do is provide a form of incumbent protection plan by reducing the opportunities for challengers to beat entrenched incumbents.

What we do is follow the guidance of experts who were picked by the leaders on both sides of the aisle in order to assist us in achieving a fair, reasonable and sensible campaign finance reform bill. We have such a bill in this substitute.

Mr. MITCHELL. Mr. President, the Republican substitute is not a meaningful reform of the campaign finance system. It does not contain the essential element of campaign finance reform—spending limits on Senate campaigns. Therefore it does nothing at all to limit the unending pursuit of money by Senate candidates. No matter what other changes in current law are made, without spending limits there will be no difference in the fundamental nature of the Senate campaign finance system.

The Republican substitute is billed as a reform proposal that includes flexible limits but in fact it includes no meaningful limits at all. And contrary to what its authors claim, it does not reflect the recommendations of the Mitchell-Dole task force. It neither imposes aggregate limits on out-of-State contributions nor limits in any way in-State contributions. Furthermore, because it permits unlimited out-of-State contributions below \$250 it is a form of incumbent protection that is tailor-made for sitting Senators who have developed single issue national constituencies that can be easily called upon to raise substantial sums through direct mail solicitations.

Other features of the Republican proposal would introduce even more special interest money from wealthy individuals into the Federal election finance system. First, the proposal does nothing at all to remove political party soft money from the Federal election system. Wealthy individuals and corporations could continue to give unlimited amounts of money to State party organizations to fund activities that affect Federal elections. The practice that occurred in the 1988 elections, when publicly funded Presidential candidates raised upward of \$45 million in \$100,000 donations from individuals and corporations, would continue unabated.

Another means of introducing still more influence by wealthy individuals

into the system is proposed in the Republican provision to permit candidates to raise unlimited contributions from wealthy individuals if an opponent spends his own funds. If an opponent spends more than \$250,000 of his own money, the Republican alternative would permit the candidate to raise individual contributions of \$5,000 per election rather than the current law \$1,000 limit. If an opponent spends more than \$1 million of his own money, the Republican alternative would permit the candidate to raise unlimited contributions from individuals.

In other words, to deal with a problem of a candidate having an unfair advantage because of wealth, the Republicans propose to permit unlimited influence peddling by wealthy contributors. The existing millionaires' loophole would be addressed by opening a new loophole for millionaire contributors seeking to buy influence and access.

Again, this has nothing to do with campaign finance reform.

To make matters worse, the Republican proposal would repeal national party expenditure limits in Presidential campaigns for get-out-the-vote and voter registration activities, provisions which have been in the law since 1974. In the last election, the national party committees were permitted to spend about \$8.3 million to supplement the public funding provided the Presidential candidates. Under the Republican proposal, the national party committees could spend an unlimited amount for such activities. Combined with their proposed 1,600-percent increase in individual contributions to party committees, tens of millions of more special interest money would flow into the Presidential system.

Instead of dealing with the soft money problem where it exists—with State and national party committees—the Republican proposal would ban soft money expenditures by private organizations, including corporations, labor unions, trade associations, and tax-exempt organizations. This would be an unprecedented, and clearly unconstitutional, intrusion by the Federal Government into the free speech and association rights of the American people.

The proposed language is very broad and ambiguous. It simply bans the expenditure of soft money by any of these organizations to influence a Federal election. What that is intended to cover is highly uncertain. Many questions arise because soft money is obliquely defined as any amount solicited or received from a source prohibited under the act, in excess of contributions limits or not subject to disclosure and reporting under the act.

Churches would have much to fear if they spend any money to influence

a Federal election such as giving an employee time off to vote or supporting from the pulpit candidates who are opposed to abortion. The language is so brief and ambiguous that it is impossible to know what is intended; but certainly any organization in America that is not a corporation or political committee should fear its reach. Clearly the authors of this provision did not let the Constitution interfere with their work.

This proposal includes many provisions but they amount to little more than a reshuffling of current law. They do not represent a reform of the campaign finance system.

Mr. McCONNELL. Mr. President, I yield back any time remaining.

VOTE ON AMENDMENT NO. 2453

The PRESIDING OFFICER. All time having been yielded back, the question now is on agreeing to the Dole amendment, amendment No. 2452, which is a substitute to the Mitchell amendment No. 2432. The yeas and nays have not been ordered.

Mr. MITCHELL. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Kansas.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

The PRESIDING OFFICER (Mr. WIRTH). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 44, nays 55, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—44

Bond	Grassley	Murkowski
Boschwitz	Hatch	Nickles
Burns	Hatfield	Packwood
Chafee	Heinz	Pressler
Coats	Helms	Roth
Cochran	Humphrey	Rudman
Cohen	Jeffords	Simpson
D'Amato	Kassebaum	Specter
Danforth	Kasten	Stevens
Dole	Lott	Symms
Domenici	Lugar	Thurmond
Durenberger	Mack	Wallop
Garn	McCain	Warner
Gorton	McClure	Wilson
Gramm	McConnell	

NAYS—55

Adams	Cranston	Inouye
Akaka	Daschle	Johnston
Baucus	DeConcini	Kennedy
Bentsen	Dixon	Kerrey
Biden	Dodd	Kerry
Bingaman	Exon	Kohl
Boren	Ford	Lautenberg
Bradley	Fowler	Leahy
Breaux	Glenn	Levin
Bryan	Gore	Lieberman
Bumpers	Graham	Metzenbaum
Burdick	Harkin	Mikulski
Byrd	Heflin	Mitchell
Conrad	Hollings	Moynihan

Nunn
Pell
Pryor
Reid
Riegle

Robb
Rockefeller
Sanford
Sarbanes
Sasser

Shelby
Simon
Wirth

NOT VOTING—1

Armstrong

So the amendment (No. 2452) was rejected.

Mr. MITCHELL. Mr. President, I move to reconsider the vote.

Mr. BIDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. Mr. President, if I may have the attention of the Members of the Senate to describe the schedule for the remainder of the evening, momentarily Senator GRAHAM will be recognized to offer an amendment. Under a previous agreement, he will speak for 15 minutes in explanation of his amendment, immediately following which Senator BOREN will seek recognition and move to table the Graham amendment.

Upon the completion of that vote, if the amendment is tabled, we will then immediately move to a vote on final passage. That will be the last rollcall vote of the evening.

We will then proceed to take up the energy-water appropriations bill under a previous agreement. There will be no rollcall votes this evening. Any Senator who has an amendment to that bill under the previous agreement and wishes to offer that amendment must remain for that purpose.

Any votes ordered in connection with that bill or amendments thereto will be stacked to occur during the day tomorrow at a time later to be announced.

This evening, following completion of the debate on the energy-water appropriations bill, I will move to proceed to the Department of Defense authorization bill.

Opening statements will be made. There will be no rollcall votes this evening. We will proceed to that promptly upon the Senate's convening tomorrow morning.

I am pleased to invite the comment of the distinguished Republican leader.

Mr. DOLE. I share the hope that we can follow this program outlined by the majority leader. I think there is still a great deal of hope that we might be able to finish with nearly everything in the next couple of days. That is why we, in an effort to cooperate, are adopting this policy on this bill. We have had good debate. We have had enough time. We had a substitute, and we will have final passage.

Hopefully, we can at least have opening statements tonight on the DOD authorization bill. I assume, if we cannot get consent to do that, there are probably other ways it can be done tomorrow.

Mr. MITCHELL. That is correct.

Mr. COHEN. Will the Senator yield?

Mr. MITCHELL. I will yield momentarily.

I would like to say, since the distinguished Republican leader raised the issue, that I want to thank the Republican leader, Senator McCONNELL, Senator BOREN, and all those concerned with respect to the measure on which we are now about to conclude action.

Senator DOLE and I had discussed this matter over many months. We have tried very hard to reach agreement. We were unable to do so. But we narrowed the gap considerably. I remain hopeful that we are going to be able to come together on this matter before the matter is finally disposed of.

Senator DOLE asked me not to file cloture, to permit full and open debate and free amendment by Republicans to this bill. I agreed and complied. In exchange, I asked him and Senator McCONNELL not to delay or prevent final enactment on the bill. They complied fully. There has been absolutely no delay on this bill.

I commend the Senator from Kentucky and the Senator from Oklahoma. This bill was handled with dispatch, virtually no delay, and all amendments were considered fairly and disposed of. I want now to make clear my gratitude to all of them for their cooperation in this matter.

I will have further statements to make with respect to the substance of the bill following the vote. I think most Senators would prefer not to have to hear it prior to the vote. That is the sense I get here this evening.

I yield to the Senator from Maine.

Mr. COHEN. Is there a time set for the Defense authorization bill to be brought up this evening for opening statements? Does the majority leader contemplate any unanimous-consent agreements this evening?

Mr. MITCHELL. No. That is not my intention.

Mr. STEVENS. Mr. President, will the Senator yield? It is my understanding from the outline the majority leader just gave of the treatment of the appropriations bill, that the leader would like those who have amendments to stay and present them tonight. I understand that. Some of them are controversial and may not be accepted.

Frankly, since we are limited to 10 minutes already, I would urge the leader to carry over the controversial ones to tomorrow so those of us who want to raise them might have someone to listen. No one will even be in their offices if we raise the issue tonight on a controversial issue. I did not agree to the 10-minute limit. But I will seriously object to the 10-minute limit in the future if we are going to

have that 10 minutes occur at midnight when no one is around at all on a controversial issue if we want to have a vote in the Senate.

Mr. MITCHELL. The Senator from Alaska makes a valid point. I was under the impression that it was possible or likely that there were not going to be any votes, that everything would be accepted. I will be pleased to discuss that with the distinguished manager and the Republican leader before we get to that this evening.

Mr. BOREN. Mr. President, I wonder if we have ordered the yeas and nays on the underlying amendment, the Boren substitute.

The PRESIDING OFFICER. The yeas and nays have not been ordered.

Mr. MITCHELL. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. MITCHELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. Under the previous order the Senator from Florida [Mr. GRAHAM] is recognized to offer an amendment. He controls 15 minutes to explain the amendment. Following that, Senator BOREN, under the previous order, will be recognized to offer a motion to table. No other motions are in order.

The Chair recognizes the Senator from Florida.

Mr. GRAHAM. Thank you, Mr. President.

AMENDMENT NO. 2454 TO AMENDMENT NO. 2432
(Purpose: To require Presidential, Vice Presidential, and Senatorial candidates who receive public campaign funding to engage in debate)

Mr. GRAHAM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report;

The bill clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2454 to amendment No. 2432.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the amendment add the following:

SEC. 406. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are eligible under section 9003 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury shall not receive such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 4 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) be ineligible to receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section."

On page 9, line 25, strike "and".

On page 9, after line 25, add the following:

"(E) the candidate agrees to participate in at least 2 public debates or forums during the general election period, in which, in the case of a debate or forum in which only 1 candidate participates, the candidate is asked questions in a public forum conducted pursuant to regulations promulgated by the Commission; and

On page 10, line 1, strike "(E)" and insert "(F)".

On page 31, between lines 3 and 4, insert the following:

"(C) FAILURE TO PARTICIPATE IN DEBATES.—If the Commission determines that a candidate who is eligible to receive benefits under this title failed to participate in debates or forums as required by section 502(c)(1)(E), the Commission shall so notify the candidate, and the candidate shall—

"(1) pay to each broadcasting station that provided the candidate broadcast time at the lowest unit cost, pursuant to section 504(a)(1) of this Act and section 315(b)(3) of the Communications Act of 1934, the difference between the amount that the candidate paid the broadcasting station and the amount that the broadcasting station would have been entitled to charge a candidate who is not an eligible candidate; and

"(2) pay to the Secretary of the Treasury an amount equal to 200 percent of the value of the benefits received by the candidate pursuant to paragraphs (2), (3), and (4) of section 504(a)."

On page 30, line 23, strike "(c)" and insert "(d)".

On page 31, line 4, strike "(d)" and insert "(e)".

On page 32, line 1, strike "(e)" and insert "(f)".

On page 32, line 9, strike "(f)" and insert "(g)".

On page 32, line 13, strike "(g)" and insert "(h)".

Mr. GRAHAM. Mr. President, I wish to add my voice to those who have commended the Senator from Oklahoma, the Senator from Kentucky, our leaders, and others who have brought us to this point—

The PRESIDING OFFICER. The Senator will suspend. The Senate will be in order.

The Senator has an important amendment. The Senate will be in order.

The Senator from Florida.

Mr. GRAHAM. Who have brought us to this point in this very important legislation.

Mr. President, as we have debated and amended this legislation over the past several days and in the previous sessions of the Congress, I think there are several fundamental aspects of this legislation which have been repeatedly underscored. One of those is that political campaigns are fundamentally a public activity. One of the objectives of this forum is to reverse a practice which has increasingly made political campaigns privatized.

Second, we are concerned about a balance in the political process between incumbents and challengers. We want to have a level playing field in which the public can evaluate all candidates and make a reasoned judgment.

Third, Mr. President, we want to give a focus on the quality of the campaign as well as the restrictions on the excessive quantity, particularly the quantity of money which has recently dominated American political campaigns.

Mr. President, our people are crying out for this reform. They are crying out not with a voice but with silence. They are crying out with apathy. We are crying out about their failure to display interest and participate. We, as elected Federal officials, can make a difference in the way Federal campaigns are run.

If we can set an example for campaigns at all levels, we will have made a significant contribution. If we can remove from the election process those aspects which turn the public away, then we can begin to bring people back to the voting booths and to a full participation in their responsibilities as citizens.

First, we must assure them that they have a role in the process, and that they can make a difference. It is time for the reform on which we are about to vote.

Mr. President, Americans are fed up. An article which appeared in the Washington Post on May 6, written by Paul Taylor, cited an estimate that 110 to 120 million Americans, nearly two-thirds of the electorate, will not vote in 1990. If this projection comes true, it will be the largest group of nonvoters in the over 200-year history of America.

Let me repeat that. We are facing an election in the fall of 1990 which will have the largest group of nonvoters in the history of this nation.

It is in response to a dissatisfied electorate that I offer the amendment today which will improve the legislation that we have before us. My amendment establishes the principle that, if candidates receives taxpayers' dollars to run their campaign, they

must be willing to participate in public debates. If they fail to participate, they will be penalized.

The amendment has two sections. For Presidential candidates it provides that those who are eligible for public campaign finance funds during the general election must agree in writing to participate in at least four debates in order to receive that public financing.

Vice Presidential candidates who are eligible shall agree in writing to participate in at least one debate; and if either of the candidates fails to participate in the debates that the candidate be ineligible to receive public financing and that he pay back the amount of funds already received.

The amendment proceeds on to deal with the issue that is before us today, Mr. President—that is, Senate campaigns—by providing that candidates in the general election for the Senate must agree to participate in at least two public debates or forums or again suffer the requirement of returning the funds which they have collected.

This amendment institutionalizes debates and gives the electorate an educational tool which will help in determining which candidates can best serve them.

The current most utilized tool, a 30-second TV spot, is an unacceptable substitute. Even frequent press conferences or 30-second conversations at campaign events cannot provide the insight public substantive debates offer.

Without this insight, a voter is not fully informed, is detached, and at worst, unarmed in the war of propaganda.

The public needs more opportunities to size up the candidates, to hear about their views on issues, to learn about their political philosophies and to determine their ability to serve.

Mr. President, public debates can provide the public these opportunities, these tools, these weapons.

Public debates provide a forum for thoughtful exchange between candidates. The candidates are, often for the first time, given an opportunity to think their positions through: They must think, they must listen to their opponents reactions, they must synthesize the reactions and make intelligent responses.

Debates give the public a chance to watch the candidates in a spontaneous setting where the script has not been written nor the plot determined. Yes, there is some risk involved. It is the free flow of thought and confrontation that provides true insight into the ability of the candidates.

Mr. President, in September 1980, the minority leader, speaking in behalf of the proposition of debates and Presidential candidates, stated, "Public funds are not well spent by a candidate who fails to take his oppor-

tunity to let everyone know where he stands on the issues of the day, regardless of the impact he personally feels such a public hearing may have on his own political future."

But why institutionalize debates?

History has shown us that not every candidate wants to debate. History has shown us that uncertainty alone about whether debates will occur can destroy their effectiveness and purpose.

In 1924, the American public got their first in-house experience with political campaigns, for it was in that year that the conventions were broadcast over the radio. With the invention of television came the televising of the 1954 and 1956 conventions.

It was not until 1960, however, that the two major party Presidential candidates met in face-to-face debates. In September and October of 1960, the American electorate had four opportunities to view Senator Kennedy and Vice President Nixon debate the issues of the day.

Most of us in this Chamber can remember those debates between Vice President Nixon and Senator Kennedy that occurred in September and October 1960. They were a galvanizing political experience.

Although the debates of 1960 were very popular, having been viewed by an estimated 89.9 percent of American families—and they had a tremendous influence on the election and the relationship with the new President—the next Presidential debate did not occur until 16 years later, when President Ford and Governor Carter met in 1976 for three debates.

With all the pressing issues of the 16 intervening years—Vietnam, civil rights, Watergate—the public did not have the chance to hear Presidential candidates discuss then in public debates.

In 1980, President Carter and Governor Reagan appeared in only one debate and this debate took place only 1 week prior to the election.

In 1984, there were more opportunities. President Reagan and former Vice President Walter Mondale met in two debates, while their running mates, Vice President George Bush and Congresswoman Ferraro met in one Vice Presidential debate.

In 1988, Vice President George Bush and Governor Dukakis appeared in two debates and their running mates, Senators QUAYLE and BENTSEN, appeared in one.

All of these debates were viewed by an overwhelming amount of people. In 1988, an ABC exit poll of 20,000 people who voted showed that 37 percent cited the debates as "very important" in deciding how to cast their ballots.

Why is this legislation needed? Since 1976, there have been general election debates, leading some to question the need for legislation requiring debates. But in each of the races of the 1980's

the incumbents sought fewer debates while the challenger sought as many as possible.

As long as candidates are allowed to determine whether debates will occur, we risk campaigns void of debates. My amendment ensures the voters public debates to hear their candidates. This assures that the campaign will be, to at least this extent, a public not a privatized affair.

History has therefore established the need for legislating the principle of public debates. Without the certainty of debates and penalties for not appearing in debates we cannot meet the objectives of an election.

An election should build relationships between candidate and the public, educate both the candidate and the public, and place in office those best qualified to serve.

We have strayed from the purpose of elections and consequently, have disconnected our electorate from the process.

It is time for campaign reform. It is time to return campaigns to the people, to respect their ability to analyze, and their right to a thoughtful participation in the most important activity of a democratic nation.

Mr. President, I urge adoption of this important amendment.

THE PRESIDING OFFICER. Does the Senator yield back the remainder of his time?

Mr. GRAHAM. The Senator yields his time.

THE PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. BOREN. I move to table the amendment of the Senator from Florida.

THE PRESIDING OFFICER. The question is agreeing to the motion to table.

Mr. GRAHAM. Mr. President, I ask for the yeas and nays.

THE PRESIDING OFFICER. Is there a sufficient second. There is a sufficient second.

The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] is necessarily absent.

THE PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 73, nays 26, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—73

Akaka	Coats	Dole
Baucus	Cochran	Domenici
Biden	Cohen	Durenberger
Bond	Conrad	Exon
Boren	Cranston	Ford
Boschwitz	D'Amato	Garn
Breaux	Danforth	Glenn
Bumpers	Daschle	Gorton
Burns	DeConcini	Gramm
Byrd	Dixon	Grassley
Chafee	Dodd	Hatch

Hatfield	Mack	Roth
Heinz	McCain	Rudman
Helms	McClure	Sasser
Hollings	McConnell	Shelby
Humphrey	Metzenbaum	Simon
Inouye	Mitchell	Simpson
Jeffords	Moynihan	Specter
Johnston	Murkowski	Symms
Kassebaum	Nickles	Thurmond
Kasten	Packwood	Wallop
Kennedy	Pryor	Warner
Kerrey	Reid	Wilson
Lott	Riegle	
Lugar	Rockefeller	

NAYS—26

Adams	Harkin	Nunn
Bentsen	Heflin	Pell
Bingaman	Kerry	Pressler
Bradley	Kohl	Robb
Bryan	Lautenberg	Sanford
Burdick	Leahy	Sarbanes
Fowler	Levin	Stevens
Gore	Lieberman	Wirth
Graham	Mikulski	

NOT VOTING—1

Armstrong

So the motion to lay on the table the amendment (No. 2454) was agreed to.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the motion to table was agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, a moment ago I made a request for the yeas and nays on adoption of the substitute. It would be more appropriate to adopt the substitute by voice vote and then have the yeas and nays on final passage of the bill itself. It is the identical vote. I ask unanimous consent to vitiate the yeas and nays on the substitute and instead have the yeas and nays on the final passage of the bill itself.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

Are there further amendments? If not, the question is on agreeing to the amendment, in the nature of a substitute, as amended.

The amendment (No. 2432), as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, and was read the third time.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN, Mr. President, I ask for yeas and nays on final passage.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG], is necessarily absent.

The result was announced—yeas 59, nays 40, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—59

Adams	Durenberger	McCain
Akaka	Exon	Metzenbaum
Baucus	Ford	Mikulski
Bentsen	Fowler	Mitchell
Biden	Glenn	Moynihan
Bingaman	Gore	Nunn
Boren	Graham	Pell
Bradley	Harkin	Pressler
Breaux	Heflin	Pryor
Bryan	Inouye	Reid
Bumpers	Jeffords	Riegle
Burdick	Johnston	Robb
Byrd	Kennedy	Rockefeller
Cohen	Kerrey	Sanford
Conrad	Kerry	Sarbanes
Cranston	Kohl	Sasser
Daschle	Lautenberg	Shelby
DeConcini	Leahy	Simon
Dixon	Levin	Wirth
Dodd	Lieberman	

NAYS—40

Bond	Hatch	Nickles
Boschwitz	Hatfield	Packwood
Burns	Heinz	Roth
Chafee	Helms	Rudman
Coats	Hollings	Simpson
Cochran	Humphrey	Specter
D'Amato	Kassebaum	Stevens
Danforth	Kasten	Symms
Dole	Lott	Thurmond
Domenici	Lugar	Wallop
Garn	Mack	Warner
Gorton	McClure	Wilson
Gramm	McConnell	
Grassley	Murkowski	

NOT VOTING—1

Armstrong

So the bill (S. 137), as amended, was passed; as follows:

S. 137

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; AMENDMENT OF CAMPAIGN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Senate Election Campaign Ethics Act of 1990".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971.

(c) TABLE OF CONTENTS.—

Sec. 1. Short title; amendment of Campaign Act; table of contents.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

Sec. 101. Senate spending limits and public benefits.

Sec. 102. Ban on activities of political action committees in Federal elections.

Sec. 103. Broadcast rates.

Sec. 104. Preferential rates for mail.

Sec. 105. Disclosure by noneligible candidates.

Sec. 106. Reporting requirements.

Sec. 107. Other definitions.

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

Sec. 201. Cooperative expenditures not treated as independent expenditures.

Sec. 202. Equal broadcast time.

Sec. 203. Attribution of communications.

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

Sec. 211. Personal contributions and loans.

Sec. 212. Modifications of contribution limits on individuals.

Sec. 213. Extensions of credit.

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

Sec. 215. Limitations on contributions to State political party committees.

Sec. 216. Provisions relating to national, State, and local party committees.

Sec. 217. Restrictions on fundraising by candidates and officeholders.

Sec. 218. Reporting requirements.

Subtitle C—Contributions

Sec. 221. Limits on contributions by certain political committees to political parties.

Sec. 222. Contributions through intermediaries and conduits.

Sec. 223. Excess campaign funds.

Sec. 224. Contributions by dependents not of voting age.

Sec. 225. Contributions by foreign nationals.

Subtitle D—Reporting Requirements

Sec. 231. Reporting requirements.

TITLE III—FEDERAL ELECTION COMMISSION

Sec. 301. Use of candidates' names.

Sec. 302. Reporting requirements.

Sec. 303. Provisions relating to the general counsel of the commission.

Sec. 304. Retention of fees by the commission.

Sec. 305. Enforcement.

Sec. 306. Penalties.

Sec. 307. Random audits.

Sec. 308. Attribution of communications.

Sec. 309. Fraudulent solicitation of contributions.

TITLE IV—MISCELLANEOUS

SUBTITLE A—MISCELLANEOUS

Sec. 401. Restriction of control of certain types of political committees by incumbents in or candidates for Federal office.

Sec. 402. Polling data contributed to a senatorial candidate.

Sec. 403. Mass mailings.

Sec. 404. Payments to labor organizations in lieu of dues.

Sec. 405. Effective date.

Sec. 406. Amend Public Law 101-194.

Sec. 407. Sense of Senate regarding use of official funds.

Sec. 408. Uniform honoraria and income limitations for Congress.

Sec. 409. Appropriation limit.

Subtitle B—Provisions Relating to Congressional Mass Mailings

Sec. 411. Statement of costs and related expenses of congressional mass mailings.

Sec. 412. Restrictions on franked congressional mass mailings exceeding appropriated funds.

Sec. 413. Extension of time period when franked mass mailings are prohibited.

Sec. 414. Reporting and publication of franked mass mailings.

Sec. 415. Transfers of official mail costs.

Sec. 416. Use of official expense accounts and other sources of funds for mass mailings.

Sec. 417. Sense of Senate.

TITLE I—SENATE ELECTION CAMPAIGN SPENDING LIMITS AND BENEFITS

SEC. 101. SENATE SPENDING LIMITS AND PUBLIC BENEFITS.

(a) IN GENERAL.—FECA is amended by adding at the end thereof the following new title:

"TITLE V—SPENDING LIMITS AND PUBLIC BENEFITS FOR SENATE ELECTION CAMPAIGNS

"DEFINITIONS

"Sec. 501. For purposes of this title—

"(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of United States Senator;

"(2) the term 'eligible candidate' means a candidate who is eligible under section 502 to receive benefits under this title;

"(3) the terms 'Senate Election Campaign Fund' and 'Fund' mean the Senate Election Campaign Fund established under section 506;

"(4) the term 'general election' means any election which will directly result in the election of a person to the office of United States Senator, but does not include an open primary election;

"(5) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or

"(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(6) the term 'immediate family' means—

"(A) a candidate's spouse;

"(B) a child, stepchild, parent, grandparent, brother, half-brother, sister or half-sister of the candidate or the candidate's spouse; and

"(C) the spouse of any person described in subparagraph (B);

"(7) the term 'major party' has the meaning given such term in section 9002(6) of the Internal Revenue Code of 1986, except that if a candidate qualified under State law for the ballot in a general election in an open primary in which all the candidates for the office participated and which resulted in the candidate and at least one other candidate qualifying for the ballot in the general election, such candidate shall be treated as a candidate of a major party for purposes of this title;

"(8) the term 'primary election' means an election which may result in the selection of a candidate for the ballot in a general election for the office of United States Senator;

"(9) the term 'primary election period' means, with respect to any candidate, the period beginning on the day following the date of the last election for the specific office the candidate is seeking and ending on the earlier of—

"(A) the date of the first primary election for that office following the last general election for that office; or

"(B) the date on which the candidate withdraws from the election or otherwise ceases actively to seek election;

"(10) the term 'runoff election' means an election held after a primary election which is prescribed by applicable State law as the means for deciding which candidate will be on the ballot in the general election for the office of United States Senator;

"(11) the term 'runoff election period' means, with respect to any candidate, the period beginning on the day following the date of the last primary election for the specific office such candidate is seeking and ending on the date of the runoff election for such office;

"(12) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e); and

"(13) the term 'expenditure' has the meaning given such term by section 301(9), except that in determining any expenditures made by, or on behalf of, a candidate or candidate's authorized committees, section 301(9)(B) shall be applied without regard to clause (ii) or (vi) thereof.

"CANDIDATES ELIGIBLE TO RECEIVE BENEFITS

"Sec. 502. (a) IN GENERAL.—For purposes of this title, a candidate is an eligible candidate if the candidate—

"(1) meets the primary and general election filing requirements of subsections (b) and (c);

"(2) meets the primary and runoff election expenditure limits of subsection (d); and

"(3) meets the threshold contribution requirements of subsection (e).

"(b) PRIMARY FILING REQUIREMENTS.—(1) The requirements of this subsection are met if the candidate files with the Secretary of the Senate a declaration as to whether—

"(A) the candidate and the candidate's authorized committees—

"(i) will meet the primary and runoff election expenditure limits of subsection (d); and

"(ii) will only accept contributions for the primary and runoff elections which do not exceed such limits;

"(B) the candidate and the candidate's authorized committees will meet the general election expenditure limit under section 503(b); and

"(C) the candidate and the candidate's authorized committees will meet the limitation on expenditures from personal funds under section 503(a).

"(2) The declaration under paragraph (1) shall be filed on the date the candidate files as a candidate for the primary election.

"(c) GENERAL ELECTION FILING REQUIREMENT.—(1) The requirements of this subsection are met if the candidate files a certification with the Secretary of the Senate under penalty of perjury that—

"(A) the candidate and the candidate's authorized committees—

"(i) met the primary and runoff election expenditure limits under subsection (d); and

"(ii) did not accept contributions for the primary or runoff election in excess of the primary or runoff expenditure limit under subsection (d), whichever is applicable;

"(B) the candidate met the threshold contribution requirement under subsection (e), and that only allowable contributions were taken into account in meeting such requirement;

"(C) at least one other candidate has qualified for the same general election ballot under the law of the State involved;

"(D) such candidate and the authorized committees of such candidate—

"(i) except as otherwise provided by this title, will not make expenditures which exceed the general election expenditure limit under section 503(b);

"(ii) will not accept any contributions in violation of section 315;

"(iii) except as otherwise provided by this title, will not accept any contribution for

the general election involved to the extent that such contribution would cause the aggregate amount of such contributions to exceed the sum of—

"(I) the amount of the general election expenditure limit under section 503(b), reduced by the amount of voter communication vouchers issued to the candidate; plus

"(II) the amount of contributions from State residents which may be taken into account under section 503(b)(4) in increasing the general election expenditure limit; plus

"(III) the amount which may be maintained in a compliance and official expense fund under section 503(c);

"(iv) will deposit all payments received under this title in an account insured by the Federal Deposit Insurance Corporation from which funds may be withdrawn by check or similar means of payment to third parties;

"(v) will furnish campaign records, evidence of contributions, and other appropriate information to the Commission; and

"(vi) will cooperate in the case of any audit and examination by the Commission under section 507; and

"(E) the candidate intends to make use of the benefits provided under section 504.

"(2) The declaration under paragraph (1) shall be filed not later than 7 days after the earlier of—

"(A) the date the candidate qualifies for the general election ballot under State law; or

"(B) if, under State law, a primary or runoff election to qualify for the general election ballot occurs after September 1, the date the candidate wins the primary or runoff election.

"(d) PRIMARY AND RUNOFF EXPENDITURE LIMITS.—(1) The requirements of this subsection are met if:

"(A) The candidate or the candidate's authorized committees did not make expenditures for the primary election in excess of the lesser of—

"(i) 67 percent of the general election expenditure limit under section 503(b); or

"(ii) \$2,750,000.

"(B) The candidate and the candidate's authorized committees did not make expenditures for any runoff election in excess of 20 percent of the general election expenditure limit under section 503(b).

"(2) The limitations under subparagraphs (A) and (B) of paragraph (1) with respect to any candidate shall be increased by the aggregate amount of independent expenditures in opposition to, or on behalf of any opponent of, such candidate during the primary or runoff election period, whichever is applicable, which are required to be reported to the Secretary of the Senate or Commission with respect to such period under section 304A(b) (relating to independent expenditures in excess of \$10,000).

"(3)(A) If the contributions received by the candidate or the candidate's authorized committees for the primary election or runoff election exceed the expenditures for either such election, such excess contributions shall be treated as contributions for the general election and expenditures for the general election may be made from such excess contributions.

"(B) Subparagraph (A) shall not apply to the extent that such treatment of excess contributions—

"(i) would result in the violation of any limitation under section 315; or

"(ii) would cause the aggregate contributions received for the general election to

exceed the limits under subsection (c)(1)(D)(iii).

"(e) **THRESHOLD CONTRIBUTION REQUIREMENTS.**—(1) The requirements of this subsection are met if the candidate and the candidate's authorized committees have received allowable contributions during the applicable period in an amount at least equal to 10 percent of the general election expenditure limit under section 503(b).

"(2) For purposes of this section and section 504(b)—

"(A) The term 'allowable contributions' means contributions which are made as gifts of money by an individual pursuant to a written instrument identifying such individual as the contributor.

"(B) The term 'allowable contributions' shall not include—

"(i) contributions made directly or indirectly through an intermediary or conduit which are treated as made by such intermediary or conduit under section 315(a)(8)(B);

"(ii) contributions from any individual during the applicable period to the extent such contributions exceed \$250; or

"(iii) contributions from individuals residing outside the candidate's State to the extent such contributions exceed 50 percent of the aggregate allowable contributions (without regard to this clause) received by the candidate during the applicable period. Clauses (ii) and (iii) shall not apply for purposes of section 504(b).

"(3) For purposes of this subsection and section 504(b), the term 'applicable period' means—

"(A) the period beginning on January 1 of the calendar year preceding the calendar year of the general election involved and ending on—

"(i) the date on which the certification under subsection (c) is filed by the candidate; or

"(ii) for purposes of section 504(b), the date of such general election; or

"(B) in the case of a special election for the office of United States Senator, the period beginning on the date the vacancy in such office occurs and ending on the date of the general election involved.

"(f) **INDEXING.**—The \$2,750,000 amount under subsection (d)(1) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for purposes of subsection (d), the base period shall be the calendar year in which the first general election after the date of the enactment of this title occurs.

"LIMITATIONS ON EXPENDITURES

"**SEC. 503. (a) LIMITATION ON USE OF PERSONAL FUNDS.**—The aggregate amount of expenditures which may be made during an election cycle by an eligible candidate or such candidate's authorized committees from the following sources shall not exceed \$250,000:

"(1) The personal funds of the candidate and members of the candidate's immediate family.

"(2) Personal debt incurred by the candidate and members of the candidate's immediate family.

"(b) **GENERAL ELECTION EXPENDITURE LIMIT.**—(1) Except as otherwise provided in this title, the aggregate amount of expenditures for a general election by an eligible candidate and the candidate's authorized committees shall not exceed the lesser of—

"(A) \$5,500,000; or

"(B) the greater of—

"(i) \$950,000; or

"(ii) \$400,000; plus

"(I) 30 cents multiplied by the voting age population not in excess of 4,000,000; and

"(II) 25 cents multiplied by the voting age population in excess of 4,000,000.

"(2) In the case of an eligible candidate in a State which has no more than 1 transmitter for a commercial Very High Frequency (VHF) television station licensed to operate in that State, paragraph (1)(B)(ii) shall be applied by substituting—

"(A) '80 cents' for '30 cents' in subclause (I); and

"(B) '70 cents' for '25 cents' in subclause (II).

"(3) The amount otherwise determined under paragraph (1) for any calendar year shall be increased by the same percentage as the percentage increase for such calendar year under section 502(f) (relating to indexing).

"(4)(A) The limitation under this subsection (without regard to this paragraph) shall be increased by the lesser of—

"(i) 25 percent of such limitation; or

"(ii) the amount of contributions described in subparagraph (B).

"(B) Contributions are described in this subsection if such contributions—

"(i) are made after the time contributions have been received in an amount at least equal to the threshold contribution requirement under section 502(e);

"(ii) are in amounts of \$100 or less; and

"(iii) are made by an individual who was, at the time the contributions were made, a resident of the State in which the general election is held;

except that the total amount of contributions taken into account under subparagraph (A) with respect to any individual shall not exceed \$100.

"(C) Except as otherwise expressly provided, any reference in any provision of law to the general election expenditure limit under this subsection shall be treated as a reference to such limit computed without regard to this paragraph.

"(c) **COMPLIANCE AND OFFICIAL EXPENSE FUND.**—(1) The limitation under subsection (b) shall not apply to qualified legal and accounting expenditures or qualified official expenditures made by a candidate or the candidate's authorized committees or a Federal officeholder from a compliance and official expense fund meeting the requirements of paragraph (2).

"(2) A compliance and official expense fund meets the requirements of this paragraph if—

"(A) the only amounts transferred to the fund are amounts received in accordance with the limitations, prohibitions, and reporting requirements of this Act;

"(B) the aggregate amount transferred to, and expenditures made from, the fund do not exceed the sum of—

"(i) the lesser of—

"(I) 15 percent of the general election expenditure limit under subsection (b) for the general election for which the fund was established; or

"(II) \$300,000; plus

"(ii) the amount determined under paragraph (4); and

"(C) no funds received by the candidate pursuant to section 504(a)(3) may be transferred to the fund.

"(3) For purposes of this subsection—

"(A) The term 'qualified legal and accounting expenditures' means the following:

"(i) Any expenditures for costs of legal and accounting services provided in connection with—

"(I) any administrative or court proceeding initiated pursuant to this Act during the election cycle for such general election; or

"(II) the preparation of any documents or reports required by this Act or the Commission.

"(ii) Any expenditures for legal and accounting services provided after the general election for which the compliance and official expense fund was established to ensure compliance with this Act with respect to the election cycle for such general election.

"(iii) Expenditures for the extraordinary costs of legal and accounting services provided in connection with the candidate's activities as a holder of Federal office other than costs for the purpose of influencing the election of such candidate to Federal office.

"(B) The term 'qualified official expenditures' mean expenditures described in section 313(b).

"(4)(A) If, after a general election, a candidate determines that the qualified legal and accounting expenditures exceed the limitation under paragraph (2)(B), the candidate may petition the Commission by filing with the Secretary of the Senate for an increase in such limitation. The Commission shall authorize an increase in such limitation in the amount (if any) by which the Commission determines the qualified legal and accounting expenditures exceed such limitation, reduced by the amount of qualified official expenditures. Such determination shall be subject to judicial review under section 509.

"(B) Except as provided in section 315, any contribution received or expenditure made pursuant to this paragraph shall not be taken into account for any contribution or expenditure limit applicable to the candidate under this title.

"(5)(A) A candidate shall terminate a compliance and official expense fund as of the earlier of—

"(i) the date of the first primary election for the office following the general election for such office for which such fund was established; or

"(ii) the date specified by the candidate.

"(B) Any amounts remaining in a compliance and official expense fund as of the date determined under subparagraph (A) shall be transferred—

"(i) to a compliance and official expense fund for the election cycle for the next general election;

"(ii) to an authorized committee of the candidate as contributions allocable to the election cycle for the next general election; or

"(iii) to the Senate Election Campaign Fund.

"(d) **PAYMENT OF TAXES.**—The limitation under subsection (b) shall not apply to any expenditure by the candidate or the candidate's authorized committees for Federal, State, or local taxes on earnings allocable to contributions received by such candidates or committees.

"BENEFITS ELIGIBLE CANDIDATE ENTITLED TO RECEIVE

"**SEC. 504. (a) IN GENERAL.**—An eligible candidate shall be entitled to—

"(1) the broadcast media rates provided under section 315(b)(3) of the Communications Act of 1934;

"(2) the mailing rates provided in section 3629 of title 39, United States Code;

"(3) payments from the Senate Election Campaign Fund in the amounts determined under subsection (b); and

"(4) voter communication vouchers in the amount determined under subsection (c).

"(b) AMOUNT OF PAYMENTS.—(1) For purposes of subsection (a)(3), except as provided in section 506(d), the amounts determined under this subsection are—

"(A) the independent expenditure amount; and

"(B) in the case of an eligible candidate who has an opponent in the general election who receives contributions, or makes (or obligates to make) expenditures, for such election in excess of the general election expenditure limit under section 503(b), the excess expenditure amount.

"(2) For purposes of paragraph (1), the independent expenditure amount is the total amount of independent expenditures made, or obligated to be made, during the general election period by 1 or more persons in opposition to, or on behalf of an opponent of, an eligible candidate which are required to be reported by such persons under section 304A(b) with respect to the general election period and are certified by the Commission under section 304A(e).

"(3) For purposes of paragraph (1), the excess expenditure amount is the amount determined as follows:

"(A) In the case of a major party candidate, an amount equal to the sum of—

"(i) if the excess described in paragraph (1)(B) is not greater than 133 1/3 percent of the general election expenditure limit under section 503(b), an amount equal to two-thirds of such limit applicable to the eligible candidate for the election; plus

"(ii) if the excess described in paragraph (1)(B) equals or exceeds 133 1/3 percent of the general election expenditure limit under section 503(b), an amount equal to one-third of such limit applicable to the eligible candidate for the election.

"(B) In the case of an eligible candidate who is not a major party candidate, an amount equal to the lesser of—

"(i) the allowable contributions of the eligible candidate during the applicable period in excess of the threshold contribution requirement under section 502(e); or

"(ii) 50 percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(c) VOTER COMMUNICATION VOUCHERS.—(1) The Secretary of the Treasury shall issue nontransferable voter communication vouchers to eligible candidates as provided under section 506(b).

"(2) The aggregate amount of voter communication vouchers issued to an eligible candidate under paragraph (1) shall be equal to 20 percent of the general election expenditure limit under section 503(b) (10 percent of such limit if such candidate is not a major party candidate).

"(3) Voter communication vouchers shall be used by an eligible candidate to purchase broadcast time during the general election period subject to the same conditions and rates under section 315(b) of the Communications Act of 1934 as apply to other broadcast time a candidate may purchase, except that—

"(A) each such broadcast shall be at least 1 but not more than 5 minutes in length; and

"(B) each such broadcast shall be aired during the 5-week period preceding the general election.

"(d) WAIVER OF EXPENDITURE AND CONTRIBUTION LIMITS.—(1) An eligible candidate who receives payments under subsection (a)(3) which are allocable to the independent expenditure or excess expenditure

amounts described in paragraphs (2) and (3) of subsection (b) may make expenditures from such payments to defray expenditures for the general election without regard to the general election expenditure limit under section 503(b).

"(2) An eligible candidate who receives benefits under this section may make expenditures for the general election without regard to clause (i) of section 502(c)(1)(D) or subsection (a) or (b) of section 503 if any one of the eligible candidate's opponents who is not an eligible candidate either raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 133 1/3 percent of the general election expenditure limit applicable to the eligible candidate under section 503(b).

"(3) A candidate who receives benefits under this section may receive contributions for the general election without regard to clause (iii) of section 502(c)(1)(D) if—

"(A) a major party candidate in the same general election is not an eligible candidate; or

"(B) any other candidate in the same general election who is not an eligible candidate raises aggregate contributions, or makes or becomes obligated to make aggregate expenditures, for the general election that exceed 75 percent of the general election expenditure limit applicable to such other candidate under section 503(b).

"(e) USE OF PAYMENTS FROM FUND.—Payments received by a candidate under subsection (a)(3) shall be used to defray expenditures incurred with respect to the general election period for the candidate. Such payments shall not be used—

"(1) except as provided in paragraph (4), to make any payments, directly or indirectly, to such candidate or to any member of the immediate family of such candidate;

"(2) to make any expenditure other than expenditures to further the general election of such candidate;

"(3) to make any expenditures which constitute a violation of any law of the United States or of the State in which the expenditure is made; or

"(4) subject to the provisions of section 315(i), to repay any loan to any person except to the extent the proceeds of such loan were used to further the general election of such candidate.

"CERTIFICATION BY COMMISSION

"SEC. 505. (a) IN GENERAL.—(1) The Commission shall certify to any candidate meeting the requirements of section 502 that such candidate is an eligible candidate entitled to benefits under this title. The Commission shall revoke such certification if it determines a candidate fails to continue to meet such requirements.

"(2) No later than 48 hours after an eligible candidate files a request with the Secretary of the Senate to receive benefits under section 506, the Commission shall certify to the Secretary of the Treasury whether such candidate is eligible for payments under this title from the Senate Election Campaign Fund or to receive voter communication vouchers and the amount of such payments or vouchers to which such candidate is entitled. The request referred to in the preceding sentence shall contain—

"(A) such information and be made in accordance with such procedures as the Commission may provide by regulation; and

"(B) a verification signed by the candidate and the treasurer of the principal campaign committee of such candidate stating that the information furnished in support of the

request, to the best of their knowledge, is correct and fully satisfies the requirements of this title.

"(b) DETERMINATIONS BY COMMISSION.—All determinations (including certifications under subsection (a)) made by the Commission under this title shall be final and conclusive, except to the extent that they are subject to examination and audit by the Commission under section 507 and judicial review under section 509.

"PAYMENTS RELATING TO ELIGIBLE CANDIDATES

"SEC. 506. (a) ESTABLISHMENT OF CAMPAIGN FUND.—(1) There is hereby established on the books of the Treasury of the United States a special fund to be known as the 'Senate Election Campaign Fund'.

"(2)(A) There are appropriated to the Fund for each fiscal year, out of amounts in the general fund of the Treasury not otherwise appropriated, amounts equal to—

"(i) any contributions by persons which are specifically designated as being made to the Fund. It is the sense of the Senate that such fund will be established exclusively with money derived from income tax refunds due the person or additional amounts included with the person's return and not from any income tax liability owed by the person to the Treasury;

"(ii) amounts collected under sections 507(g) and 508(d)(3); and

"(iii) any other amounts which may be deposited into the Fund under this title.

"(B) The Secretary of the Treasury shall, from time to time, transfer to the Fund an amount not in excess of the amounts described in subparagraph (A).

"(C) Amounts in the Fund shall remain available without fiscal year limitation.

"(3) Amounts in the Fund shall be available only for the purposes of—

"(A) making payments required under this title; and

"(B) making expenditures in connection with the administration of the Fund.

"(4) The Secretary shall maintain such accounts in the Fund as may be required by this title or which the Secretary determines to be necessary to carry out the provisions of this title.

"(b) PAYMENTS UPON CERTIFICATION.—Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary shall promptly pay the amount certified by the Commission to the candidate out of the Senate Election Campaign Fund.

"(c) VOUCHERS.—(1) Upon receipt of a certification from the Commission under section 505, except as provided in subsection (d), the Secretary of the Treasury shall issue to an eligible candidate the amount of voter communication vouchers specified in such certification.

"(2) Upon receipt of a voter communication voucher from a licensee providing broadcast time to an eligible candidate, the Secretary of the Treasury shall pay to such licensee from the Senate Election Campaign Fund the face value of such voucher.

"(d) REDUCTIONS IN PAYMENTS IF FUNDS INSUFFICIENT.—(1) If, at the time of a certification by the Commission under section 505 for payment, or issuance of a voucher, to an eligible candidate, the Secretary determines that the monies in the Senate Election Campaign Fund are not, or may not be, sufficient to satisfy the full entitlement of all eligible candidates, the Secretary shall withhold from the amount of such payment or voucher such amount as the Secretary determines to be necessary to assure that each

eligible candidate will receive the same pro rata share of such candidate's full entitlement.

"(2) Amounts and vouchers withheld under subparagraph (A) shall be paid when the Secretary determines that there are sufficient monies in the Fund to pay all, or a portion thereof, to all eligible candidates from whom amounts have been withheld, except that if only a portion is to be paid, it shall be paid in such manner that each eligible candidate receives an equal pro rata share of such portion.

"(3)(A) Not later than December 31 of any calendar year preceding a calendar year in which there is a regularly scheduled general election, the Secretary, after consultation with the Commission, shall make an estimate of—

"(i) the amount of monies in the fund which will be available to make payments required by this title in the succeeding calendar year; and

"(ii) the amount of payments which will be required under this title in such calendar year.

"(B) If the Secretary determines that there will be insufficient monies in the fund to make the payments required by this title for any calendar year, the Secretary shall notify each candidate on January 1 of such calendar year (or, if later, the date on which an individual becomes a candidate) of the amount which the Secretary estimates will be the pro rata reduction in each eligible candidate's payments (including vouchers) under this subsection. Such notice shall be by registered mail.

"(C) The amount of the eligible candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of the estimated pro rata reduction.

"(4) The Secretary shall notify the Commission and each eligible candidate by registered mail of any actual reduction in the amount of any payment by reason of this subsection. If the amount of the reduction exceeds the amount estimated under paragraph (3), the candidate's contribution limit under section 502(c)(1)(D)(iii) shall be increased by the amount of such excess.

"EXAMINATION AND AUDITS; REPAYMENTS

"SEC. 507. (a) EXAMINATION AND AUDITS.—(1) After each general election, the Commission shall conduct an examination and audit of the campaign accounts of 10 percent of all candidates for the office of United States Senator to determine, among other things, whether such candidates have complied with the expenditure limits and conditions of eligibility of this title, and other requirements of this Act. Such candidates shall be designated by the Commission through the use of an appropriate statistical method of random selection.

"(2) The Commission may conduct an examination and audit of the campaign accounts of any candidate in a general election for the office of United States Senator if the Commission determines that there exists reason to believe that such candidate may have violated any provision of this title.

"(b) EXCESS PAYMENTS; REVOCATION OF STATUS.—(1) If the Commission determines that payments or vouchers were made to an eligible candidate under this title in excess of the aggregate amounts to which such candidate was entitled, the Commission shall so notify such candidate, and such candidate shall pay to the Secretary an amount equal to the excess.

"(2) If the Commission revokes the certification of a candidate as an eligible candi-

date under section 505(a)(1), the Commission shall notify the candidate, and the candidate shall pay to the Secretary an amount equal to the payments and vouchers received under this title.

"(c) MISUSE OF BENEFITS.—If the Commission determines that any amount of any benefit made available to an eligible candidate under this title was not used as provided for in this title, the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to 200 percent of the amount of such benefit.

"(d) EXCESS EXPENDITURES.—(1) If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed by 5 percent or less—

"(A) the primary or runoff expenditure limit under section 502(d); or

"(B) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to the amount of the excess expenditures.

"(2) If the Commission determines that any eligible candidate who has received benefits under this title has made expenditures which in the aggregate exceed by more than 5 percent—

"(A) the primary or runoff expenditure limit under section 502(d); or

"(B) the general election expenditure limit under section 503(b),

the Commission shall so notify such candidate and such candidate shall pay to the Secretary an amount equal to three times the amount of the excess expenditures.

"(e) UNEXPENDED FUNDS.—Any amount received by an eligible candidate under this title may be retained for a period not exceeding 120 days after the date of the general election for the liquidation of all obligations to pay expenditures for the general election incurred during the general election period. At the end of such 120-day period, any unexpended funds received under this title shall be promptly repaid to the Secretary.

"(f) LIMIT ON PERIOD FOR NOTIFICATION.—No notification shall be made by the Commission under this section with respect to an election more than three years after the date of such election.

"(g) DEPOSITS.—The Secretary shall deposit all payments received under this section into the Senate Election Campaign Fund.

"CRIMINAL PENALTIES

"SEC. 508. (a) VIOLATIONS.—(1) No person shall knowingly and willfully—

"(A) accept benefits under this title in excess of the aggregate benefits to which the candidate on whose behalf such benefits are accepted is entitled;

"(B) use such benefits for any purpose not provided for in this title; or

"(C) make expenditures in excess of—

"(i) the primary and runoff expenditure limits under section 502(d); or

"(ii) the general election expenditure limit under section 503(b).

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both. Any officer, employee, or agent of any political committee who knowingly consents to any expenditure in violation of the provisions of paragraph (1) shall be fined not more than \$25,000, or imprisoned not more than 5 years, or both.

"(b) USE OF BENEFITS.—(1) It is unlawful for any person who receives any benefit under this title, or to whom any portion of any such benefit is transferred, knowingly and willfully to use, or to authorize the use of, such benefit or such portion other than in the manner provided in this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

"(c) FALSE INFORMATION.—(1) It is unlawful for any person knowingly and willfully—

"(A) to furnish any false, fictitious, or fraudulent evidence, books, or information (including any certification, verification, notice, or report) to the Commission under this title, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this title; or

"(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this title.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

"(d) KICKBACKS AND ILLEGAL PAYMENTS.—

(1) It is unlawful for any person knowingly and willfully to give or to accept any kickback or any illegal payment in connection with any benefits received under this title by any eligible candidate or the authorized committees of such candidate.

"(2) Any person who violates the provisions of paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than 5 years, or both.

"(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal benefit in connection with any benefits received by any candidate pursuant to the provisions of this title, or received by the authorized committees of such candidate, shall pay to the Secretary, for deposit into the Senate Election Campaign Fund, an amount equal to 125 percent of the kickback or benefit received.

"JUDICIAL REVIEW

"SEC. 509. (a) JUDICIAL REVIEW.—Any agency action by the Commission made under the provisions of this title shall be subject to review by the United States Court of Appeals for the District of Columbia Circuit upon petition filed in such court within thirty days after the agency action by the Commission for which review is sought. It shall be the duty of the Court of Appeals, ahead of all matters not filed under this title, to advance on the docket and expeditiously take action on all petitions filed pursuant to this title.

"(b) APPLICATION OF TITLE 5.—The provisions of chapter 7 of title 5, United States Code, shall apply to judicial review of any agency action by the Commission.

"(c) AGENCY ACTION.—For purposes of this section, the term 'agency action' has the meaning given such term by section 551(13) of title 5, United States Code.

"PARTICIPATION BY COMMISSION IN JUDICIAL PROCEEDINGS

"SEC. 510. (a) APPEARANCES.—The Commission is authorized to appear in and defend against any action instituted under this section and under section 509 either by attorneys employed in its office or by counsel whom it may appoint without regard to the provisions of title 5, United States Code,

governing appointments in the competitive service, and whose compensation it may fix without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title.

"(b) **INSTITUTION OF ACTIONS.**—The Commission is authorized, through attorneys and counsel described in subsection (a), to institute actions in the district courts of the United States to seek recovery of any amounts determined under this title to be payable to the Secretary.

"(c) **INJUNCTIVE RELIEF.**—The Commission is authorized, through attorneys and counsel described in subsection (a), to petition the courts of the United States for such injunctive relief as is appropriate in order to implement any provision of this title.

"(d) **APPEALS.**—The Commission is authorized on behalf of the United States to appeal from, and to petition the Supreme Court for certiorari to review, judgments or decrees entered with respect to actions in which it appears pursuant to the authority provided in this section.

"REPORTS TO CONGRESS; REGULATIONS

"Sec. 511. (a) The Commission shall, as soon as practicable after each election, submit a full report to the Senate setting forth—

"(1) the expenditures (shown in such detail as the Commission determines appropriate) made by each eligible candidate and the authorized committees of such candidate;

"(2) the amounts certified by the Commission under section 505 as benefits available to each eligible candidate;

"(3) the amount of repayments, if any, required under section 507 or 506(d)(2), and the reasons for each repayment required; and

"(4) the balance in the Senate Election Campaign Fund, and the balance in any account maintained in the Fund.

Each report submitted pursuant to this section shall be printed as a Senate document.

"(b) **RULES AND REGULATIONS.**—The Commission is authorized to prescribe such rules and regulations, in accordance with the provisions of subsection (c), to conduct such examinations and investigations, and to require the keeping and submission of such books, records, and information, as it deems necessary to carry out the functions and duties imposed on it by this title.

"(c) **STATEMENT TO SENATE.**—Thirty days before prescribing any rules or regulation under subsection (b), the Commission shall transmit to the Senate a statement setting forth the proposed rule or regulation and containing a detailed explanation and justification of such rule or regulation.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 512. There are authorized to be appropriated to the Commission such sums as may be necessary for the purpose of carrying out its functions under this title."

(b) **EFFECTIVE DATES.**—(1) Except as provided in this subsection, the amendment made by subsection (a) shall apply to elections occurring after December 31, 1991.

(2) For purposes of any expenditure or contribution limit imposed by the amendment made by subsection (a)—

(A) no expenditure made before January 1, 1991, shall be taken into account, except that there shall be taken into account any such expenditure for goods or services to be provided after such date; and

(B) all cash, cash items, and Government securities on hand as of January 1, 1991, shall be taken into account in determining

whether the contribution limit is met, except that there shall not be taken into account amounts used during the 60-day period beginning on January 1, 1991, to pay for expenditures which were incurred (but unpaid) before such date.

(c) **EFFECT OF INVALIDITY ON OTHER PROVISIONS OF ACT.**—If title V of the Federal Election Campaign Act of 1971 (as added by this section), or any part thereof, is held to be invalid, all provisions of, and amendments made by, this Act shall be treated as invalid.

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) **IN GENERAL.**—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"Sec. 324. (a) Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office.

"(b) In the case of individuals who are executive or administrative personnel of an employer—

"(1) no contributions may be made by such individuals—

"(A) to any political committees established and maintained by any political party; or

"(B) to any candidate for election to the office of United States Senator or the candidate's authorized committees,

unless such individuals certify that such contributions are not being made at the direction of, or otherwise controlled or influenced by, the employer; and

"(2) the aggregate amount of such contributions by all such individuals in any calendar year shall not exceed—

"(A) \$20,000 in the case of such political committees; and

"(B) \$5,000 in the case of any such candidate and the candidate's authorized committees."

(b) **DEFINITION OF POLITICAL COMMITTEE.**—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof; and

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of \$5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of \$5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of \$1,000 during a calendar year."

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraph (C).

(c) **CANDIDATE'S COMMITTEES.**—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be

deemed to be an authorized committee of such candidate or officeholder."

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."

(d) **RULES APPLICABLE WHEN BAN NOT IN EFFECT.**—For purposes of the Federal Election Campaign Act of 1971, during any period beginning after the effective date in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a), (b), and (c) shall not be in effect;

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association, to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of \$1,000; and

(3) it shall be unlawful for a multicandidate political committee to make a contribution to a candidate or a candidate's authorized committee to the extent that the making of the contribution will cause the amount of contributions received by the candidate and the candidate's authorized committees from multicandidate political committees to exceed the lesser of—

(A) \$825,000; or

(B) the greater of—

(i) \$375,000; or

(ii) 20 percent of the sum of the general election spending limit under section 503(b) of FECA plus the primary election spending limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is an eligible candidate (as defined in section 501(2)) of FECA).

In the case of an election cycle in which there is a runoff election, the limit determined under paragraph (3) shall be increased by an amount equal to 20 percent of the runoff election expenditure limit under section 502(d)(1)(A) of FECA (without regard to whether the candidate is such an eligible candidate). The \$825,000 and \$375,000 amounts in paragraph (3) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c) of FECA, except that for purposes of paragraph (3), the base period shall be the calendar year in which the first general election after the date of the enactment of paragraph (3) occurs. A candidate or authorized committee that receives a contribution from a multicandidate political committee in excess of the amount allowed under paragraph (3) shall return the amount of such excess contribution to the contributor.

(e) **EFFECTIVE DATES.**—(1) Except as provided in paragraph (2), the amendments

made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1990.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 103. BROADCAST RATES.

(a) PROVISIONS RELATING TO LOWEST UNIT COST.—Section 315(b) of the Communications Act of 1934 (47 U.S.C. 315(b)) is amended by adding at the end thereof the following new paragraphs:

"(2) In the case of a candidate for Federal office (as defined in section 301(3) of the Federal Election Campaign Act of 1971)—

"(A) paragraph (1)(A) shall be applied without regard to the phrase 'class and'; and

"(B) if the broadcast time exceeds 30 seconds, the lowest unit cost for such time shall not be greater than the rates for broadcasts of 30 seconds.

"(3)(A) In the case of candidates for United States Senator in a general election (as defined in section 501(4) of such Act), this subsection (other than paragraph (2)(A)(iii)) shall apply to a broadcast of such candidate only if such candidate is an eligible candidate (as defined in section 501(2) of such Act).

"(B) In the case of any eligible candidate for United States Senator, the rates under paragraph (1)(A) shall apply to any broadcast during the general election period (as defined in section 501(5) of such Act) rather than the 60-day period referred to in such paragraph."

(b) PREEMPTION RULES; VOUCHERS.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended by redesignating subsections (c) and (d) as subsections (e) and (f) and by inserting after subsection (b) the following new subsections:

"(c)(1) In the case of a legally qualified candidate for Federal office (as defined in section 301(3) of the Federal Election Campaign Act of 1971), a licensee shall not preempt the use, during any period the rates under subsection (b)(1)(A) are in effect, of a broadcasting station by such candidate who has purchased such use pursuant to subsection (b).

"(2) Paragraph (1) shall not apply if the program during which the candidate's broadcast was to air is unavoidably preempted.

"(d) A licensee shall—

"(1) accept voter communications vouchers provided to an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act) under section 504(a) of such Act; and

"(2) shall, upon presentation of such vouchers, provide broadcast time to such candidate subject to the same conditions and rates as apply to other broadcast time such candidate may purchase, except that—

"(A) no time shall be required to be provided without at least 7 days advance notice; and

"(B) in the case of broadcast time in the licensee's prime time, the licensee shall be required to provide—

"(i) not more than 5 minutes of such time during each of the weeks in the 5-week period ending on the date of the general election; and

"(ii) only one broadcast per day per candidate in such time.

(c) CONFORMING AMENDMENT.—Section 315(b) of the Communications Act of 1934 is amended—

(1) by inserting "(1)" before "The charges"; and

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively.

SEC. 104. PREFERENTIAL RATES FOR MAIL.

(a) REDUCED RATES.—Subchapter II of chapter 36 of title 39, United States Code, is amended by adding at the end the following:

"§ 3629. Reduced rates for certain Senate candidates

"(a) The rates of postage for matter mailed with respect to a campaign by an eligible candidate (as defined in section 501(2) of the Federal Election Campaign Act of 1971) shall be—

"(1) in the case of first-class mail matter, one-fourth of the rate currently in effect; and

"(2) in the case of third-class mail matter, 2 cents per piece less than mail matter mailed pursuant to paragraph (1).

"(b) Subsection (a) shall cease to apply to any candidate for any campaign when the total amount paid by such candidate for all mail matter at the rates provided by paragraphs (1) and (2) of subsection (a) exceeds 5 percent of the amount of the general election expenditure limit applicable to such candidate under to section 503(b) of the Federal Election Campaign Act of 1971."

(b) AUTHORIZATION.—Section 2401(c) of title 39, United States Code, is amended by striking "and 3626(a)-(h)" and inserting "3626(a)-(h), and 3629".

(c) CONFORMING AMENDMENT.—The table of sections for chapter 36 of title 39, United States Code, is amended by inserting after the item relating to section 3628 the following new item:

"3629. Reduced rates for certain Senate candidates."

SEC. 105. DISCLOSURE BY NONELIGIBLE CANDIDATES.

Subparagraph (B) of section 318(a)(1) of FECA (2 U.S.C. 441d(a)(1)), as amended by section 308, is amended by—

(1) striking "and" at the end of clause (ii);

(2) striking out the period at the end of clause (iii) and inserting in lieu thereof "and"; and

(3) adding at the end thereof the following:

"(iv) if paid for or authorized by a candidate in the general election for the office of United States Senator who is not an eligible candidate (as defined in section 501(2)), or the authorized committee of such candidate, such communication shall contain the following sentence: 'This candidate has not agreed to abide by the spending limits for this Senate election campaign set forth in the Federal Election Campaign Act.'"

SEC. 106. REPORTING REQUIREMENTS.

Title III of FECA is amended by adding after section 304 the following new section:

"REPORTING REQUIREMENTS FOR SENATE CANDIDATES

"SEC. 304A. (a) CANDIDATE OTHER THAN ELIGIBLE CANDIDATE.—(1) Each candidate for the office of United States Senator who does not file a certification with the Secre-

tary of the Senate under section 502(c) shall file with the Secretary of the Senate a declaration as to whether such candidate intends to make expenditures for the general election in excess of the general election expenditure limit applicable to an eligible candidate under section 503(b). Such declaration shall be filed at the time provided in section 502(c)(2).

"(2) Any candidate for the United States Senate who qualifies for the ballot for a general election—

"(A) who is not an eligible candidate under section 502; and

"(B) who either raises aggregate contributions, or makes or obligates to make aggregate expenditures, for the general election which exceed 70 percent of the general election expenditure limit applicable to an eligible candidate under section 503(b), shall file a report with the Secretary of the Senate within 24 hours after such contributions have been raised or such expenditures have been made or obligated to be made (or, if later, within 24 hours after the date of qualification for the general election ballot), setting forth the candidate's total contributions and total expenditures for such election as of such date. Thereafter, such candidate shall file additional reports (until such contributions or expenditures exceed 133 1/3 percent of such limit) with the Secretary of the Senate within 24 hours after each time additional contributions are raised, or expenditures are made or are obligated to be made, which in the aggregate exceed an amount equal to 10 percent of such limit and after the total contributions or expenditures exceed 133 1/3 percent of such limit.

"(3) The Commission—

"(A) shall, within 24 hours of receipt of a declaration or report under paragraph (1) or (2), notify each eligible candidate in the election involved about such declaration or report; and

"(B) if an opposing candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in excess of the applicable general election expenditure limit under section 503(b), shall certify, pursuant to the provisions of subsection (e), such eligibility to the Secretary of the Treasury for payment of any amount to which such eligible candidate is entitled under section 504(a).

"(4) Notwithstanding the reporting requirements under this subsection, the Commission may make its own determination that a candidate in a general election who is not an eligible candidate has raised aggregate contributions, or made or has obligated to make aggregate expenditures, in the amounts which would require a report under paragraph (2). The Commission shall, within 24 hours after making each such determination, notify each eligible candidate in the general election involved about such determination, and shall, when such contributions or expenditures exceed the general election expenditure limit under section 503(b), certify (pursuant to the provisions of subsection (e)) to the Secretary of the Treasury such candidate's eligibility for payment of any amount under section 504(a).

"(b) INDEPENDENT EXPENDITURES.—(1)(A) Any person who makes, or obligates to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of \$10,000 shall report as provided in this subsection.

"(B) If 2 or more persons, in cooperation, consultation, or concert with each other,

make, or obligate to make, independent expenditures during any general, primary, or runoff election period for the office of United States Senator in excess of \$10,000, each such person shall report Secretary of the Senate as provided in this subsection with respect to the independent expenditures so made by all such persons.

"(2) Any person referred to in paragraph (1) shall report the amount of the independent expenditures made or obligated to be made not later than 24 hours after the aggregate amount of such expenditures incurred or obligated first exceeds \$10,000. Thereafter, such person shall report independent expenditures not later than 24 hours after each time the additional aggregate amount of such expenditures incurred or obligated (and not yet reported under this paragraph) exceeds \$10,000.

"(3) Each report under this subsection shall be filed with the Secretary of the Senate, or with the Commission in the case of political committees required to register and report to the Commission under other provisions of this Act and the Secretary of State for the State of the election involved and shall contain—

"(A) the information required by subsection (b)(6)(B)(iii) of section 304; and

"(B) a statement under penalty of perjury by the person making the independent expenditures, or by the person incurring the obligation to make such expenditures, as the case may be, that identifies the candidate whom the independent expenditures are actually intended to help elect or defeat.

"(4)(A) A person may file a complaint with the Commission if such person believes the statement under paragraph (3)(B) is false or incorrect.

"(B) The Commission, not later than 3 days after the filing of a complaint under subparagraph (A), shall make a determination with respect to such complaint.

"(5) The Commission shall, within 24 hours of receipt of a report under this subsection, notify each eligible candidate (as defined in section 501(2)) in the election involved about such report.

"(6) The Commission may make its own determination that a person has made, or has incurred obligations to make, independent expenditures with respect to any election for the United States Senate which in the aggregate exceed the applicable amounts under paragraph (2). The Commission shall notify each eligible candidate in such election of such determination within 24 hours of making it.

"(7) At the same time as a candidate is notified under paragraph (5) or (6) with respect to expenditures during a general election period, the Commission shall, pursuant to subsection (e), certify to the Secretary of the Treasury eligibility to receive benefits under section 504(a).

"(C) REPORTS ON PERSONAL FUNDS.—(1) Any candidate for the United States Senate who during the election cycle expends more than \$250,000 during the election cycle from his personal funds, the funds of his immediate family, and personal loans incurred by the candidate and the candidate's immediate family shall file a report with the Secretary of the Senate within 24 hours after such expenditures have been made or loans incurred.

"(2) The Commission within 24 hours after a report has been filed under paragraph (1) shall notify each eligible candidate in the election involved about each such report.

"(3) Notwithstanding the reporting requirements under this subsection, the Com-

mission may make its own determination that a candidate for the United States Senate has made expenditures in excess of the amount under paragraph (1). The Commission within 24 hours after making such determination shall notify each eligible candidate in the general election involved about each such determination.

"(d) CANDIDATES FOR OTHER OFFICES.—(1) Each individual—

"(A) who becomes a candidate for the office of United States Senator;

"(B) who, during the election cycle for such office, held any other Federal, State, or local office or was a candidate for such other office; and

"(C) who expended any amount during such election cycle before becoming a candidate for the office of United States Senator which would have been treated as an expenditure if such individual had been such a candidate, including amounts for activities to promote the image or name recognition of such individual,

shall, within 7 days of becoming a candidate for the office of United States Senator, report to the Secretary of the Senate the amount and nature of such expenditures.

"(2) Paragraph (1) shall not apply to any expenditures in connection with a Federal, State, or local election which has been held before the individual becomes a candidate for the office of United States Senator.

"(3) The Commission shall, as soon as practicable, make a determination as to whether the amounts included in the report under paragraph (1) were made for purposes of influencing the election of the individual to the office of United States Senator.

"(e) CERTIFICATIONS.—Notwithstanding section 505(a), the certification required by this section shall be made by the Commission on the basis of reports filed in accordance with the provisions of this Act, or on the basis of such Commission's own investigation or determination.

"(f) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this Act to the Commission as soon as possible (but no later than 4 working hours) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 438(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 438(a)(5).

"(g) DEFINITIONS.—For purposes of this section, any term used in this section which is used in title V shall have the same meaning as when used in title V."

SEC. 107. OTHER DEFINITIONS.

(a) ELECTION CYCLE DEFINED.—Section 301 of FECA (2 U.S.C. 431) is amended by adding at the end thereof the following:

"(20) The term 'election cycle' means—

"(A) in the case of a candidate or the authorized committees of a candidate, the term beginning on the day after the date of the most recent general election for the specific office or seat which such candidate seeks and ending on the date of the next general election for such office or seat; or

"(B) for all other persons, the term beginning on the first day following the date of the last general election and ending on the date of the next general election."

(b) IDENTIFICATION.—Section 301(13) of FECA (2 U.S.C. 431(13)) is amended by striking out "mailing address" and inserting in lieu thereof "permanent residence address".

TITLE II—EXPENDITURES AND CONTRIBUTIONS

Subtitle A—Independent Expenditures

SEC. 201. COOPERATIVE EXPENDITURES NOT TREATED AS INDEPENDENT EXPENDITURES.

(a) TREATMENT OF COOPERATIVE EXPENDITURES.—(1) Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended by adding at the end thereof the following new sentence: "The term 'independent expenditure' shall not include any cooperative expenditure."

(2) Paragraph (9) of section 301 of FECA (2 U.S.C. 431(9)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as an expenditure made by the candidate on whose behalf, or for whose benefit, the expenditure was made."

(3) Paragraph (8) of section 301 of FECA (2 U.S.C. 431(8)) is amended by adding at the end thereof the following new subparagraph:

"(C) A cooperative expenditure shall be treated as a contribution from the person making the expenditure to the candidate on whose behalf, or for whose benefit, the expenditure was made."

(b) COOPERATIVE EXPENDITURE DEFINED.—Section 301 of FECA (2 U.S.C. 431), as amended by section 107(a), is amended by adding at the end thereof the following new paragraph:

"(21)(A) The term 'cooperative expenditure' means any expenditure which is made—

"(i) with the cooperation of, or in consultation with, any candidate or any authorized committee or agent of such candidate; or

"(ii) in concert with, or at the request or suggestion of, any candidate or any authorized committee or agent of such candidate.

"(B) The term 'cooperative expenditure' includes an expenditure if—

"(i) there is any arrangement, coordination, or direction with respect to the expenditure between the candidate or the candidate's agent and the person making the expenditure;

"(ii) in the same election cycle, the person making the expenditure is or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees; or

"(II) serving as a member, employee, or agent of the candidate's authorized committees in an executive or policy-making position; or

"(iii) the person making the expenditure has advised or counseled the candidate or the candidate's agents at any time on the candidate's plans, projects, or needs relating to the candidate's pursuit of nomination for election, or election, to Federal office, in the same election cycle, including any advice relating to the candidate's decision to seek Federal office;

"(iv) the person making the expenditure retains the professional services of any individual or other person also providing those services in the same election cycle to the candidate in connection with the candidate's pursuit of nomination for election, or election, to Federal office, including any services relating to the candidate's decision to seek Federal office;

"(v) the person making the expenditure has consulted at any time during the same election cycle about the candidate's plans, projects, or needs relating to the candidate's

pursuit of nomination for election, or election, to Federal office, with—

"(I) any officer, director, employee or agent of a party committee that has made or intends to make expenditures or contributions, pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(II) any person whose professional services have been retained by a political party committee that has made or intends to make expenditures or contributions pursuant to subsections (a), (d), or (h) of section 315 in connection with the candidate's campaign; or

"(vi) the expenditure is based on information provided to the person making the expenditure directly or indirectly by the candidate or the candidate's agents about the candidate's plans, projects, or needs, provided that the candidate or the candidate's agent is aware that the other person has made or is planning to make expenditures expressly advocating the candidate's election.

For purposes of this subparagraph, the person making the expenditure shall include any officer, director, employee, or agent of such person.

"(C) The term 'cooperative expenditure' includes an expenditure if such expenditure—

"(i) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that is established, administered, controlled, or financially supported, directly or indirectly, by a connected organization that is required to register, or pays for the services of a person who is required to register, under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(ii) is made on behalf of, or for the benefit of, a candidate or authorized committee by a political committee that has made a contribution to the candidate or authorized committee."

SEC. 202. EQUAL BROADCAST TIME.

Section 315(a) of the Communications Act of 1934 (47 U.S.C. 315(a)) is amended to read as follows:

"(a)(1) If a licensee permits any person who is a legally qualified candidate for public office to use a broadcasting station other than any use required to be provided under paragraph (2), the licensee shall afford equal opportunities to all other such candidates for that office in the use of the broadcasting station.

"(2)(A) A person who reserves broadcast time the payment for which would constitute an independent expenditure within the meaning of section 301(17) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(17)) shall—

"(i) inform the licensee that payment for the broadcast time will constitute an independent expenditure;

"(ii) inform the licensee of the names of all candidates for the office to which the proposed broadcast relates; and

"(iii) provide the licensee a copy of the statement described in section 304A(b)(3)(B) of the Federal Election Campaign Act of 1971 (2 U.S.C. 434(d)(3)(B)).

"(B) A licensee who is informed as described in subparagraph (A) shall—

"(i) if any of the candidates described in subparagraph (A)(ii) has provided the licensee the name and address of a person to whom notification under this subparagraph is to be given—

"(I) notify such person of the proposed making of the independent expenditure; and

"(II) allow any such candidate (other than a candidate for whose benefit the independent expenditure is made) to purchase the same amount of broadcast time immediately after the broadcast time paid for by the independent expenditure; and

"(ii) in the case of an opponent of a candidate for whose benefit the independent expenditure is made who certifies to the licensee that the opponent is eligible to have the cost of response broadcast time paid out of the Federal Election Campaign Fund pursuant to section 504(a)(3) of the Federal Election Campaign Act of 1971, afford the opponent such broadcast time without requiring payment in advance and at the cost specified in subsection (b)."

"(3) A licensee shall have no power of censorship over the material broadcast under this section.

"(4) Except as provided in paragraph (2), no obligation is imposed under this subsection upon any licensee to allow the use of its station by any candidate.

"(5)(A) Appearance by a legally qualified candidate on a—

"(i) bona fide newscast;

"(ii) bona fide news interview;

"(iii) bona fide news documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

"(iv) on-the-spot coverage of bona fide news events (including political conventions and activities incidental thereto),

shall not be deemed to be use of a broadcasting station within the meaning of this subsection.

"(B) Nothing in subparagraph (A) shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, news documentaries, and on-the-spot coverage of news events, from their obligation under this Act to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

"(6)(A) A licensee that endorses a candidate for Federal office in an editorial shall, within the time stated in subparagraph (B), provide to all other candidates for election to the same office—

"(i) notice of the date and time of broadcast of the editorial;

"(ii) a taped or printed copy of the editorial; and

"(iii) a reasonable opportunity to broadcast a response using the licensee's facilities.

"(B) In the case of an editorial described in subparagraph (A) that—

"(i) is first broadcast 72 hours or more prior to the date of a primary, runoff, or general election, the notice and copy described in subparagraph (A) (i) and (ii) shall be provided not later than 24 hours after the time of the first broadcast of the editorial; and

"(ii) is first broadcast less than 72 hours before the date of an election, the notice and copy shall be provided at a time prior to the first broadcast that will be sufficient to enable candidates a reasonable opportunity to prepare and broadcast a response."

SEC. 203. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)), as amended by section 308, is further amended by adding at the end thereof the following new paragraph:

"(3) A communication described in paragraph (1) that is paid for through an independent expenditure—

"(A) in the case of a television broadcast, shall include during the entire length of the communication a clearly readable video statement covering at least 25 percent of the viewing area of a television screen stating the information required in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located;

"(B) in the case of any audio broadcast (including a television broadcast), shall include an audio statement at the conclusion of the broadcast stating the information described in paragraph (1)(B) and, if the independent expenditure is made by a political committee, stating the name of its connected organization (if any) and the city and State in which such organization is located; and

"(C) in the case of a newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising, shall include a statement of—

"(i) the information required in paragraph (1)(B);

"(ii) the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.'; and

"(iii) the name of the person who paid for the communication including, in the case of a political committee, the names of its president and its treasurer, and the name of its connected organization (if any) and the city and State in which located."

Subtitle B—Expenditures

PART I—PERSONAL LOANS; CREDIT

SEC. 211. PERSONAL CONTRIBUTIONS AND LOANS.

Section 315 of FECA (2 U.S.C. 441a) is amended by inserting at the end thereof the following new subsection:

"(i) LIMITATIONS ON PAYMENTS TO CANDIDATES.—(1) If a candidate or a member of the candidate's immediate family made any loans to the candidate or to the candidate's authorized committees during any election cycle no contributions after the date of the general election for such election cycle may be used to repay such loans.

"(2) No contribution by a candidate or member of the candidate's immediate family (as defined in section 501(6)) may be returned to the candidate or member other than as part of a pro rata distribution of excess contributions to all contributors."

SEC. 212. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) CHANGE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "\$1,000" and inserting "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 223(b), is amended by adding at the end thereof the following new paragraph:

"(10) for purposes of subsection (a)(1)(A) the term 'applicable amount' means—

"(i) \$1,000 in the case of contributions by a person to—

"(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

"(II) any other candidate or such candidate's authorized committees if, at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

"(ii) \$250 in the case of contributions

by any other person to a candidate described in clause (I)(II) or such candidate's authorized committees."

SEC. 213. EXTENSIONS OF CREDIT.

Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended—

(1) by striking "or" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; or"; and

(3) by inserting at the end thereof the following new clause:

"(iii) with respect to a candidate for the office of United States Senator and the candidate's authorized committees, any extension of credit for goods or services relating to advertising on broadcasting stations, in newspapers or magazines, or by mass mailings mail (including mass mail fund solicitations) or relating to other similar types of general public political advertising, if such extension of credit is—

"(I) in an amount of more than \$1,000; and

"(II) for a period greater than the period (not in excess of 60 days) for which credit is generally extended in the normal course of business after the date on which such goods or services are furnished (the date of the mailing in the case of advertising by a mass mailing)."

PART II—PROVISIONS RELATING TO SOFT MONEY OF POLITICAL PARTIES

SEC. 215. LIMITATIONS ON CONTRIBUTIONS TO STATE POLITICAL PARTY COMMITTEES.

(a) **INDIVIDUAL CONTRIBUTIONS TO STATE PARTY.**—Paragraph (1) of section 315(a) of FECA (2 U.S.C. 441a(a)(1)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to the political committee designated by a State committee of a political party in any calendar year which, in the aggregate, exceed \$20,000; or"

(b) **MULTICANDIDATE COMMITTEE CONTRIBUTIONS TO STATE PARTY.**—Paragraph (2) of section 315(a) of FECA (2 U.S.C. 441a(a)(2)) is amended by striking "or" at the end of subparagraph (B), by redesignating subparagraph (C) as subparagraph (D), and by inserting after subparagraph (B) the following new subparagraph:

"(C) to the political committee designated by a State committee of a political party in any calendar year which, in the aggregate, exceed \$15,000; or"

(c) **INCREASE IN OVERALL LIMIT.**—Paragraph (3) of section 315(a) of FECA (2 U.S.C. 441a(a)(3)) is amended by adding at the end thereof the following new sentence: "The limitation under this paragraph shall be increased (but not by more than \$5,000) by the amount of contributions made by an individual during a calendar year to political committees designated by State committees of a political party for purposes of paragraphs (1)(C) and (2)(C)."

SEC. 216. PROVISIONS RELATING TO NATIONAL, STATE, AND LOCAL PARTY COMMITTEES.

(a) **EXPENDITURES BY STATE COMMITTEES IN CONNECTION WITH PRESIDENTIAL CAMPAIGNS.**—Section 315(d) of FECA (2 U.S.C. 441a(d)) is amended by inserting at the end thereof the following new paragraph:

"(4) A State committee of a political party, including subordinate committees of that State committee, shall not make expenditures for activities described in section 325(b) (1) and (2) with respect to the gener-

al election campaign of a candidate for President of the United States who is affiliated with such party which, in the aggregate, exceed an amount equal to 4 cents multiplied by the voting age population of the State, as certified under subsection (e)."

(b) **CONTRIBUTION AND EXPENDITURE EXCEPTIONS.**—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clause (v) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;";

(B) in clause (xi)—

(i) by striking "direct mail" and inserting "mass mailing"; and

(ii) by striking the semicolon at the end thereof and inserting "and are not made from contributions designated to be spent on behalf of a particular candidate or particular candidates;"; and

(C) by repealing clauses (x) and (xii).

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clause (iv) by striking the semicolon at the end thereof and inserting "or with respect to a mass mailing of such a listing;"; and

(B) by repealing clauses (viii) and (ix).

(c) **SOFT MONEY OF COMMITTEES OF POLITICAL PARTIES.**—(1) Title III of FECA, as amended by section 102, is amended by inserting after section 324 the following new section:

"POLITICAL PARTY COMMITTEES

"SEC. 325. (a) Any amount solicited, received, or expended directly or indirectly by a national, State, district, or local committee of a political party (including any subordinate committee) with respect to an activity which, in whole or in part, is in connection with an election to Federal office shall be subject in its entirety to the limitations, prohibitions, and reporting requirements of this Act.

"(b) For purposes of subsection (a)—

"(1) Any activity which is solely for the purpose of influencing an election for Federal office is in connection with an election for Federal office.

"(2) Except as provided in paragraph (3), any of the following activities during a Federal election period shall be treated as in connection with an election for Federal office:

"(A) Voter registration and get-out-the-vote activities.

"(B) Campaign activities, including broadcasting, newspaper, magazine, billboard, mass mail, and newsletter communications, and similar kinds of communications or public advertising that—

"(i) are generic campaign activities; or

"(ii) identify a Federal candidate regardless of whether a State or local candidate is also identified.

"(C) The preparation and dissemination of campaign materials that are part of a generic campaign activity or that identify a Federal candidate, regardless of whether a State or local candidate is also identified.

"(D) Maintenance of voter files.

"(E) Any other activity affecting (in whole or in part) an election for Federal office.

"(3) The following shall not be treated as in connection with a Federal election:

"(A) Any amount described in section 301(8)(B)(viii).

"(B) Any amount contributed to a candidate for other than Federal office.

"(C) Any amount received or expended in connection with a State or local political convention.

"(D) Campaign activities, including broadcasting, newspaper, magazine, billboard,

mass mail, and newsletter communications, and similar kinds of communications or public advertising that are exclusively on behalf of State or local candidates and are not activities described in paragraph (2)(A).

"(E) Administrative expenses of a State or local committee of a political party, including expenses for—

"(i) overhead;

"(ii) staff (other than individuals devoting a substantial portion of their activities to elections for Federal office);

"(iii) meetings; and

"(iv) conducting party elections or caucus-

es.

"(F) Research pertaining solely to State and local candidates and issues.

"(G) Maintenance of voter files other than during a Federal election period.

"(H) Activities described in paragraph (2)(A) which are conducted other than during a Federal election period.

"(I) Any other activity which is solely for the purpose of influencing, and which solely affects, an election for non-Federal office.

"(4) For purposes of this subsection, the term 'Federal election period' means the period—

"(A) beginning on the date which is 60 days before the primary election for any regularly scheduled general election for Federal office; and

"(B) ending on the date of the general election.

"(c) **TRANSFERS BETWEEN COMMITTEES.**—(1) Except as provided in paragraph (2), the limitations on contributions contained in paragraphs (1) and (2) of section 315(a) shall apply to transfers between and among political committees described in subsection (a).

"(2)(A) A national committee may not solicit or accept contributions not subject to the limitations, prohibitions, and reporting requirements of this Act.

"(B) Subparagraph (A) and paragraph (1) shall not apply to contributions that—

"(i) are to be transferred to a State committee for use directly for activities described in subsection (b)(3); or

"(ii) are to be used by the committee primarily to support such activities."

(2) Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by subsection (a), is amended by adding at the end thereof the following new paragraph:

"(5) The national committee of a political party, the congressional campaign committees of a political party, and a State or local committee of a political party, including a subordinate committee of any of the preceding committees, shall not make expenditures during any calendar year for activities described in section 325(b) (1) and (2) with respect to such State which, in the aggregate, exceed an amount equal to 30 cents multiplied by the voting age population of the State (as certified under subsection (e)). This paragraph shall not authorize a committee to make expenditures to which paragraph (3) or (4) applies in excess of the limit applicable to such expenditures under paragraph (3) or (4). No adjustment to the limitation under this paragraph shall be made under subsection (c) before 1992 and the base period for purposes of any such adjustment shall be 1990."

(3) Paragraph (4) of section 315(a) (2 U.S.C. 441a(a)(4)) is amended by striking the first sentence thereof.

(d) **GENERIC ACTIVITIES.**—Section 301 of FECA (2 U.S.C. 431), as amended by section 201(b), is amended by adding at the end thereof the following new paragraph:

"(22) The term 'generic campaign activity' means a campaign activity the preponderant purpose or effect of which is to promote a political party rather than any particular Federal or non-Federal candidate."

SEC. 217. RESTRICTIONS ON FUNDRAISING BY CANDIDATES AND OFFICEHOLDERS.

(a) **STATE FUNDRAISING ACTIVITIES.**—Section 315 of FECA (2 U.S.C. 441a), as amended by section 211, is amended by adding at the end thereof the following new subsection:

"(j) **LIMITATIONS ON FUNDRAISING ACTIVITIES OF FEDERAL CANDIDATES AND OFFICEHOLDERS.**—(1) For purposes of this Act, a candidate for Federal office (or an individual holding Federal office) may not solicit funds to, or receive funds on behalf of, any Federal or non-Federal candidate or political committee—

"(A) which are to be expended in connection with any election for Federal office unless such funds are subject to the limitations, prohibitions, and requirements of this Act; or

"(B) which are to be expended in connection with any election for other than Federal office unless such funds are not in excess of amounts permitted with respect to Federal candidates and political committees under this Act, or are not from sources prohibited by this Act with respect to elections to Federal office.

"(2) The appearance or participation by a candidate or individual in any activity (including fundraising) conducted by a committee of a political party or a candidate for other than Federal office shall not be treated as a solicitation for purposes of paragraph (1) if—

"(A) such appearance or participation is otherwise permitted by law; and

"(B) such candidate or individual does not solicit or receive, or make expenditures from, any funds resulting from such activity.

"(3) Paragraph (1) shall not apply to the solicitation or receipt of funds, or disbursements, by an individual who is a candidate for other than Federal office if such activity is permitted under State law."

(b) **TAX-EXEMPT ORGANIZATIONS.**—Section 315 of FECA (2 U.S.C. 441a), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(k) **TAX-EXEMPT ORGANIZATIONS.**—(1) Except as provided in paragraph (2), if an individual—

"(A) established, maintains, or controls any organization described in section 501(c) of the Internal Revenue Code of 1986; and

"(B) is a candidate for, or holds, Federal office at any time during any calendar year, such individual may not solicit contributions to, or accept contributions on behalf of, such organization from any person during such calendar year which, in the aggregate, exceed \$5,000.

"(2) If during any period an individual is a candidate for, or holds, Federal office, such individual may not during such period solicit contributions to, or on behalf of, any organization which is described in section 501(c) of the Internal Revenue Code of 1986 if a significant portion of the activities of such organization include voter registration or get-out-the-vote campaigns."

SEC. 218. REPORTING REQUIREMENTS.

(a) **REPORTING REQUIREMENTS.**—Section 304 of FECA (2 U.S.C. 434) is amended by adding at the end thereof the following new subsection:

"(d) **POLITICAL COMMITTEES.**—(1) The national committee of a political party and

any congressional campaign committee, and any subordinate committee of either, shall report all receipts and disbursements during the reporting period, whether or not in connection with an election for Federal office.

"(2) A political committee (not described in paragraph (1)) to which section 325 applies shall report all receipts and disbursements in connection with a Federal election (as determined under section 325).

"(3) Any political committee to which section 325 applies shall include in its report under paragraph (1) or (2) the amount of any transfer described in section 325(c) and the reason for the transfer.

"(4) Any political committee to which paragraph (1) or (2) does not apply shall report any receipts or disbursements which are used in connection with a Federal election (as determined by the Commission).

"(5) If any receipt or disbursement to which this subsection applies exceeds \$200, the political committee shall include identification of the person from whom, or to whom, such receipt or disbursement was made.

"(6) Reports required to be filed by this subsection shall be filed for the same time periods required for political committees under subsection (a)."

(b) **REPORT OF EXEMPT CONTRIBUTIONS.**—Section 301(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(8)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraphs (v) and (viii) of subparagraph (B) shall not apply for purposes of any requirement to report contributions under this Act, and all such contributions in excess of \$200 shall be reported."

(c) **REPORTING OF EXEMPT EXPENDITURES.**—Section 301(9) of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(9)), as amended by section 201, is amended by inserting at the end thereof the following:

"(D) The exclusions provided in subparagraph (iv) of subparagraph (B) shall not apply for purposes of any requirement to report expenditures under this Act, and all such expenditures in excess of \$200 shall be reported."

(d) **CONTRIBUTIONS AND EXPENDITURES OF POLITICAL COMMITTEES.**—Section 301(4) of FECA (2 U.S.C. 431(4)) is amended by adding at the end thereof the following:

"For purposes of this paragraph, the receipt of contributions or the making of, or obligating to make, expenditures shall be determined by the Commission on the basis of facts and circumstances, in whatever combination, demonstrating a purpose of influencing any election for Federal office, including, but not limited to, the representations made by any person soliciting funds about their intended uses; the identification by name of individuals who are candidates for Federal office or of any political party, in general public political advertising; and the proximity to any primary, runoff, or general election of general public political advertising designed or reasonably calculated to influence voter choice in that election."

(e) **REPORTS BY STATE COMMITTEES.**—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (a), is amended by adding at the end thereof the following new subsection:

"(e) **FILING OF STATE REPORTS.**—In lieu of any report required to be filed by this Act, the Commission may allow a State committee of a political party to file with the Commission a report required to be filed under

State law if the Commission determines such reports contain substantially the same information."

(f) **REPORTS BY LARGE CONTRIBUTORS.**—Section 304 of FECA (2 U.S.C. 434), as amended by subsection (e), is amended by adding at the end thereof the following new subsection:

"(f) **REPORTS BY LARGE CONTRIBUTORS.**—(1) Any individual who makes contributions subject to the limitations of section 315(a)—

"(A) shall report to the Commission within 7 days after such contributor makes contributions aggregating \$10,000 or more during any calendar year; and

"(B) thereafter, shall report to the Commission within 7 days after each time such contributor makes contributions (not yet reported) aggregating \$5,000 or more.

Any report shall include identification of the contributor, the name of the candidate or committee to whom the contributions were made, and the amount of the contributions.

"(2) Any candidate for Federal office, any authorized committee of a candidate, or any political committee soliciting contributions subject to the limitations of section 315(a) shall include with such solicitation notice of—

"(A) the requirement to report under paragraph (1); and

"(B) the aggregate limitation on such contributions under section 315(a)(3)."

Subtitle C—Contributions

SEC. 221. LIMITS ON CONTRIBUTIONS BY CERTAIN POLITICAL COMMITTEES.

(a) **LIMITATION ON AMOUNT OF CONTRIBUTIONS THAT MAY BE ACCEPTED.**—Section 315(d) of FECA (2 U.S.C. 441a(d)), as amended by section 216, is amended—

(1) in paragraph (1) by striking "(2) and (3)" and inserting "(2), (3), (6), and (7)"; and

(2) by adding at the end thereof the following new paragraphs:

"(6) A congressional campaign committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed 30 percent of the total expenditures which such committee may make pursuant to section 315(d)(3) during that election cycle.

"(7) A national committee of a political party (including any subordinate committee thereof) shall not accept, during an election cycle, contributions from multicandidate political committees and separate segregated funds which, in the aggregate, exceed an amount equal to 2 cents multiplied by the voting age population of the United States, as certified under subsection (e).

"(8)(A)(i) Any expenditure made by a national or State committee of a political party, a congressional campaign committee, or any subordinate committee of the preceding committees, for general public political advertising which clearly identifies a candidate for Federal office by name shall be subject to the limitations of paragraphs (1) and (2).

"(ii) Clause (i) shall not apply to expenditures for mass mailings designed primarily for fundraising purposes which make only incidental reference to any one or more Federal candidates.

"(B) For purposes of paragraph (3), any expenditure by a committee described in subparagraph (A) for any solicitation of contributions which clearly identifies any candidate on whose behalf such contribu-

tions are being solicited shall be treated for purposes of this paragraph as an expenditure in connection with the general election campaign of such candidate, except that if more than 1 candidate is identified, such expenditure shall be allocated on a pro rata basis among such candidates."

(b) CONGRESSIONAL CAMPAIGN COMMITTEE.—Section 301 of FECA (2 U.S.C. 431), as amended by section 216(d), is amended by adding at the end thereof the following new paragraph:

"(23) The term 'congressional campaign committee' means the Democratic Senatorial Campaign Committee, the National Republican Senatorial Committee, the Democratic Congressional Campaign Committee, and the National Republican Congressional Committee."

(c) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by this section shall apply to elections (and the election cycles relating thereto) occurring after December 31, 1990.

(2) In applying the amendments made by this section, there shall not be taken into account—

(A) contributions made or received on or before the date of the enactment of this Act; or

(B) contributions made to, or received by, a candidate after such date, to the extent such contributions are not greater than the excess (if any) of—

(i) such contributions received by any opponent of the candidate on or before such date, over

(ii) such contributions received by the candidate on or before such date.

SEC. 222. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of FECA (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For the purposes of this subsection—
 "(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions that are in any way earmarked or otherwise directed through an intermediary or conduit to a candidate, shall be treated as contributions from the person to the candidate.

"(B) Contributions made directly or indirectly by a person to or on behalf of a particular candidate through an intermediary or conduit, including contributions made or arranged to be made by an intermediary or conduit, shall be treated as contributions from the intermediary or conduit to the candidate if—

"(i) the contributions made through the intermediary or conduit are in the form of a check or other negotiable instrument made payable to the conduit or intermediary rather than the intended recipient; or

"(ii) the conduit or intermediary is—

"(I) a political committee other than an authorized committee;

"(II) an officer, employee, or agent of such a political committee; or

"(III) a person required to register under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267) or the Foreign Agents Registration Act of 1938 (22 U.S.C. 611 et seq.); or

"(IV) an organization prohibited from making contributions under section 316, or an officer, employee, or agent of such an organization acting on the organization's behalf.

"(C) For purposes of this section—

"(i) the term 'contributions made or arranged to be made' includes—

"(I) contributions delivered to a particular candidate or the candidate's authorized committee or agent; and

"(II) contributions directly or indirectly arranged to be made to a particular candidate or the candidate's authorized committee or agent, including contributions arranged to be made in a manner that identifies directly or indirectly to the candidate or authorized committee or agent the person who arranged the making of the contributions or the person on whose behalf such person was acting; and

"(ii) the term 'acting on the organization's behalf' includes the following activities by an officer, employee or agent of a person described in subparagraph (B)(i)(IV):

"(I) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate in the name of, or by using the name of, such a person.

"(II) Soliciting or directly or indirectly arranging the making of a contribution to a particular candidate using other than incidental resources of such a person.

"(III) Soliciting contributions for a particular candidate by substantially directing the solicitations to other officers, employees, or agents of such a person.

"(D) Nothing in this paragraph shall prohibit—

"(i) bona fide joint fundraising efforts conducted solely for the purpose of sponsorship of a fundraising reception, dinner, or other similar event, in accordance with rules prescribed by the Commission, by—

"(I) 2 or more candidates;

"(II) 2 or more national, State, or local committees of a political party within the meaning of section 301(4) acting on their own behalf; or

"(III) a special committee formed by 2 or more candidates, or a candidate and a national, State, or local committee of a political party acting on their own behalf; or

"(ii) fundraising efforts for the benefit of a candidate that are conducted by another candidate.

When a contribution is made to a candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of the contribution to the Commission and to the intended recipient."

SEC. 223. EXCESS CAMPAIGN FUNDS.

(a) IN GENERAL.—Section 313 of FECA (2 U.S.C. 439a) is amended by inserting "(a)" before "Amounts", and by adding at the end thereof the following new subsection:

"(b)(1) Notwithstanding subsection (a), amounts described in subsection (a) that otherwise may be used to defray the costs of any ordinary and necessary expenses incurred in connection with an individual's duties as a holder of the office of United States Senator shall not be used to defray such costs which are expenditures with respect to such individual.

"(2) For purposes of subsection (a), ordinary and necessary expenses for the travel of the spouse or children of an individual holding the office of United States Senator between Washington, D.C. and the State from which such individual holds such office shall be treated as in connection with such individual's duties as a holder of Federal office unless such expenditures are expenditures with respect to such individual.

"(3) For purposes of this subsection, the term 'expenditure' has the meaning given such term by section 501(13)."

(b) CONTRIBUTIONS TO OFFICIAL OFFICE ACCOUNTS.—Section 315(a) of FECA (2 U.S.C.

441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) A political committee (other than the principal campaign committee of a holder of Federal office) shall not make any contribution, expenditure, or disbursement, or transfer any amount, for the purpose of defraying expenses incurred by the holder of Federal office in connection with the officeholder's official duties.

SEC. 224. CONTRIBUTIONS BY DEPENDENTS NOT OF VOTING AGE.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 217, is amended by adding at the end thereof the following new subsection:

"(1) For purposes of this section, any contribution by an individual who—

"(1) is a dependent of another individual; and

"(2) has not, as of the time of such contribution, attained the legal age for voting for elections to Federal office in the State in which such individual resides,

shall be treated as having been made by such other individual. If such individual is the dependent of another individual and such other individual's spouse, the contribution shall be allocated among such individuals in the manner determined by them."

SEC. 225. CONTRIBUTIONS BY FOREIGN NATIONALS.

Section 319 of FECA (2 U.S.C. 441e) is amended—

(1) in subsection (a) by inserting after "foreign national" the first place it appears the following: ", including any separate segregated fund or nonparty multicandidate political committee of a foreign national,";

(2) in subsection (b)(1) by inserting before the semicolon at the end the following: ", but shall include any partnership, association, corporation, or subsidiary corporation organized under or created by the laws of the United States, a State, or any other place subject to the jurisdiction of the United States if more than 50 percent of the entity is owned or controlled by a foreign principal".

Subtitle D—Reporting Requirements

SEC. 231. REPORTING REQUIREMENTS.

(a) PERIODS FOR REPORTING.—(1) Section 304(b)(2) of FECA (2 U.S.C. 434(b)(2)) is amended by striking "for the reporting period and calendar year," and inserting "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates."

(2) Section 304(b)(4) of FECA (2 U.S.C. 434(b)(4)) is amended by striking out "for the reporting period and calendar year," and inserting in lieu thereof "for the reporting period and calendar year in the case of committees other than authorized committees of a candidate, and for the reporting period and election cycle in the case of authorized committees of candidates."

(3) Section 304(b)(3) of FECA (2 U.S.C. 434(b)(3)) is amended by inserting "(within the election cycle in the case of authorized committees)" after "calendar year" in subparagraphs (A), (F), and (G) thereof.

(4) Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by inserting after "(within the election cycle in the case of authorized committees)" after "calendar year".

(5) Section 304(b)(6)(A) of FECA (2 U.S.C. 434(b)(6)(A)) is amended by striking out

"calendar year" and inserting in lieu thereof "election cycle".

(b) **PERSONAL AND CONSULTING SERVICES.**—Section 304(b)(5)(A) of FECA (2 U.S.C. 434(b)(5)(A)) is amended by adding before the semicolon at the end thereof the following: ", except that if a person to whom an expenditure is made is merely providing personal or consulting services and is in turn making expenditures to other persons (not including employees) who provide goods or services to the candidate or his authorized committees, the name and address of such other person, together with the date, amount and purpose of such expenditure shall also be disclosed".

TITLE III—FEDERAL ELECTION COMMISSION

SEC. 301. USE OF CANDIDATES' NAMES.

Section 302(e)(4) of FECA (2 U.S.C. 432(e)(4)) is amended to read as follows:

"(4)(A) The name of each authorized committee shall include the name of the candidate who authorized the committee under paragraph (1).

"(B) A political committee that is not an authorized committee shall not include the name of any candidate in its name in such a context as to suggest that the committee is an authorized committee of the candidate or that the use of the candidate's name has been authorized by the candidate."

SEC. 302. REPORTING REQUIREMENTS.

(a) **OPTION TO FILE MONTHLY REPORTS.**—Section 304(a)(2) of FECA (2 U.S.C. 434(a)(2)) is amended—

(1) in subparagraph (A) by striking "and" at the end thereof;

(2) in subparagraph (B) by striking the period at the end thereof and inserting "; and"; and

(3) by inserting the following new subparagraph at the end thereof:

"(C) In lieu of the reports required by subparagraphs (A) and (B), the treasurer may file monthly reports in all calendar years, which shall be filed no later than the 15th day after the last day of the month and shall be complete as of the last day of the month, except that, in lieu of filing the reports otherwise due in November and December of any year in which a regularly scheduled general election is held, a pre-general election report shall be filed in accordance with subparagraph (A)(i), a post-general election report shall be filed in accordance with subparagraph (A)(ii), and a year end report shall be filed no later than January 31 of the following calendar year."

(b) **FILING DATE.**—Section 304(a)(4)(B) of FECA (2 U.S.C. 434(a)(4)(B)) is amended by striking "20th" and inserting "15th".

SEC. 303. PROVISIONS RELATING TO THE GENERAL COUNSEL OF THE COMMISSION.

(a) **ACTION BY THE COMMISSION THROUGH ITS GENERAL COUNSEL.**—(1) Section 306(c) of FECA (2 U.S.C. 437c(c)) is amended to read as follows:

"(c)(1) Subject to paragraph (2), all decisions of the Commission with respect to the exercise of its duties and powers under this Act or under chapter 95 or 96 of the Internal Revenue Code of 1986 shall be made by the affirmative vote of 4 members of the Commission.

"(2) On questions relating to—

"(A) the exercise of the Commission's authority under sections 307(a) (3) and (4);

"(B) a determination under section 309(a)(2) concerning whether there is reason to believe that a person may have committed or may be about to commit a violation of law; and

"(C) a determination to initiate or proceed with an investigation,

the general counsel of the Commission shall make a recommendation for action by the Commission, and such action shall be taken upon the affirmative vote of 3 members of the Commission.

"(3) A member of the Commission may not delegate to any person the member's power to vote or any other decisionmaking authority or duty vested in the Commission."

(2) Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking ", by an affirmative vote of 4 of its members,".

(b) **VACANCY IN THE OFFICE OF GENERAL COUNSEL.**—Section 306(f) of FECA (2 U.S.C. 437c(f)) is amended by inserting at the end thereof the following new paragraph:

"(5) In the event of a vacancy in the office of general counsel, the next highest ranking enforcement official in the general counsel's office shall serve as acting general counsel with full powers of the general counsel until a successor is appointed."

(c) **PAY OF THE GENERAL COUNSEL.**—Section 306(f)(1) of FECA (2 U.S.C. 437c(f)(1)) is amended—

(1) by inserting "and the general counsel" after "staff director" in the second sentence thereof; and

(2) by striking the third sentence thereof.

SEC. 304. RETENTION OF FEES BY THE COMMISSION.

Section 306 of FECA (2 U.S.C. 437c) is amended by inserting at the end thereof the following new subsection:

"(g) Fees collected by the Commission for copying and certification of records and provision of other materials to the public shall not be covered into the general fund of the Treasury of the United States, but shall be kept in a separate account and shall be available to the Commission, without necessity of an appropriation, for use in carrying out this Act."

SEC. 305. ENFORCEMENT.

(a) **BASIS FOR ENFORCEMENT PROCEEDING.**—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended by striking "it has reason to believe that a person has committed, or is about to commit" and inserting "facts have been alleged or ascertained that, if true, give reason to believe that a person may have committed, or may be about to commit".

(b) **AUTHORITY TO SEEK INJUNCTION.**—(1) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13)(A) If, at any time in a proceeding described in paragraph (1), (2), (3), or (4), the Commission believes that—

"(i) there is a substantial likelihood that a violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction,

the Commission may initiate a civil action for a temporary restraining order or a temporary injunction pending the outcome of the proceedings described in paragraphs (1), (2), (3), and (4).

"(B) An action under subparagraph (A) shall be brought in the United States district court for the district in which the de-

fendant resides, transacts business, or may be found."

(2) Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended—

(A) in paragraph (7) by striking "(5) or (6)" and inserting "(5), (6), or (13)"; and

(B) in paragraph (11) by striking "(6)" and inserting "(6) or (13)".

SEC. 306. PENALTIES.

(a) **PENALTIES PRESCRIBED IN CONCILIATION AGREEMENTS.**—(1) Section 309(a)(5)(A) of FECA (2 U.S.C. 437g(a)(5)(A)) is amended by striking "which does not exceed the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than 50 percent of all contributions and expenditures involved in the violation (or such lesser amount as the Commission provides if necessary to ensure that the penalty is not unjustly disproportionate to the violation); and

"(ii) not greater than all contributions and expenditures involved in the violation."

(2) Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 150 percent of all contributions and expenditures involved in the violation."

(b) **PENALTIES WHEN VIOLATIONS ARE ADJUDICATED IN COURT.**—(1) Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)) is amended by striking all that follows "appropriate order" and inserting ", including an order for a civil penalty in the amount determined under subparagraph (A) or (B) in the district court of the United States for the district in which the defendant resides, transacts business, or may be found."

(2) Section 309(a)(6)(B) of FECA (2 U.S.C. 437g(a)(6)(B)) is amended by striking all that follows "other order" and inserting ", including an order for a civil penalty which is—

"(i) not less than all contributions and expenditures involved in the violation; and

"(ii) not greater than 200 percent of all contributions and expenditures involved in the violation,

upon a proper showing that the person involved has committed, or is about to commit (if the relief sought is a permanent or temporary injunction or a restraining order), a violation of this Act or chapter 95 of chapter 96 of the Internal Revenue Code of 1986."

(3) Section 309(a)(6)(C) of FECA (29 U.S.C. 437g(6)(C)) is amended by striking "a civil penalty" and all that follows and inserting "a civil penalty which is—

"(i) not less than 200 percent of all contributions and expenditures involved in the violation; and

"(ii) not greater than 250 percent of all contributions and expenditures involved in the violation."

(c) **TIME PERIODS FOR CONCILIATION.**—Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by striking "30 days" and inserting "15 days";

(2) in clause (i) by striking "90 days" and inserting "60 days"; and

(3) in clause (ii) by striking "at least 15 days" and inserting "no more than 30 days".

SEC. 307. RANDOM AUDITS.

Section 311(b) of FECA (2 U.S.C. 438(b)) is amended—

(1) by inserting "(1)" before "The Commission"; and

(2) by inserting at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1), and subject to the provisions of section 507, the Commission may from time to time conduct random audits and investigations to ensure voluntary compliance with this Act. The subjects of such audits and investigations shall be selected on the basis of criteria established by vote of at least 4 members of the Commission to ensure impartiality in the selection process."

SEC. 308. ATTRIBUTION OF COMMUNICATIONS.

Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended to read as follows:

"(a)(1)(A) Except as permitted under paragraph (2), if—

"(i) any person makes an expenditure or independent expenditure for the purpose of financing a communication expressly advocating the election or defeat of a clearly identified candidate, or solicits a contribution by a communication through a broadcasting station, newspaper, magazine, outdoor advertising facility, mass mailing, or other type of general public political advertising; or

"(ii) an authorized committee registered under section 303 makes a communication of any kind,

the requirements of subparagraph (B) shall be met with respect to such communication.

"(B) For purposes of subparagraph (A), the requirements of this subparagraph are as follows:

"(i) In the case of a broadcast paid for by the candidate, an authorized committee of the candidate, any agent of either, or any other person authorized to make such payment by such candidate or committee, the broadcast shall include a full screen personal appearance by the candidate (or in the case of a radio broadcast, an audio statement by the candidate) in which the candidate states:

"(I) 'I am a candidate for (the office the candidate is seeking) and I have approved the contents of this broadcast'; and

"(II) that the broadcast has been paid for by the candidate, the candidate's authorized committee, or the agent of either, or that the broadcast has been paid for by such other person and authorized by such candidate or committee.

"(ii) In the case of any other communication paid for and authorized by a candidate, an authorized committee of a candidate, or its agents, or any other person authorized by such candidate or committee, the communication shall clearly state that the communication has been paid for by such candidate or authorized committee or by such other person and authorized by such candidate or authorized committee.

"(iii) If the communication is paid for by an independent expenditure, the communication shall clearly state the name of the person who paid for the communication and state that the communication is not authorized by any candidate or candidate's authorized committee.

"(2) The Commission may waive the requirements of paragraph (1) in circumstances in which the inclusion of the required information in a communication would be impracticable."

SEC. 309. FRAUDULENT SOLICITATION OF CONTRIBUTIONS.

Section 322 of FECA (2 U.S.C. 441h) is amended—

(1) by inserting "(a)" before "No"; and

(2) by inserting at the end thereof the following new subsection:

"(b) No person shall—

"(1) make a fraudulent misrepresentation that the person is authorized to solicit or accept a contribution to a candidate or political committee; or

"(2) solicit or accept a contribution to a candidate or political committee unless the person—

"(A) intends to, and does, pay over to the candidate or political committee any contribution received; and

"(B) inform the candidate or political committee of the name of the contributor."

TITLE IV—MISCELLANEOUS

Subtitle A—Miscellaneous

SEC. 401. RESTRICTION OF CONTROL OF CERTAIN TYPES OF POLITICAL COMMITTEES BY INCUMBENTS IN OR CANDIDATES FOR FEDERAL OFFICE.

Section 302 of FECA (2 U.S.C. 432) is amended by adding at the end thereof the following new subsection:

"(j) An incumbent in or candidate for Federal office may not establish, maintain, or control a political committee, other than an authorized committee of the candidate or a committee of a political party."

SEC. 402. POLLING DATA CONTRIBUTED TO A SENATORIAL CANDIDATE.

Section 301(8) of FECA (2 U.S.C. 431(8)), as amended by section 218, is amended by inserting at the end thereof the following new subparagraph:

"(E) A contribution of polling data to a candidate for the office of United States Senator shall be valued at the fair market value of the data on the date the poll was completed, depreciated at a rate not more than 1 percent per day from such date to the date on which the contribution was made.

SEC. 403. MASS MAILINGS.

Section 301 of FECA (2 U.S.C. 431), as amended by section 221(c), is amended by adding at the end thereof the following new paragraph:

"(24) The term 'mass mailing' means newsletters and similar mailings of more than 100 pieces in which the content of the matter mailed is substantially identical, excluding—

"(A) mailings made in direct response to communications from persons to whom the matter is mailed;

"(B) mailings to Federal, State, or local government officials; and

"(C) news releases to the communications media."

SEC. 404. PAYMENTS TO LABOR ORGANIZATIONS IN LIEU OF DUES.

(a) IN GENERAL.—Section 316 of FECA (2 U.S.C. 441b) is amended by adding at the end thereof the following new subsection:

"(c)(1) A labor organization that receives payments, directly or indirectly (through any of its subsidiaries, branches, divisions, departments, or local units), pursuant to an agreement that requires covered employees who are members of the organization to make payments of dues to the organization and employees who are not members of the organization to make payments in lieu of dues to the organization shall establish the objection procedures described in paragraph (2).

"(2) The procedures under this paragraph are as follows:

"(A) The labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units, shall provide an employee who is not a member of the organization with—

"(i) an opportunity at least once in each yearly period to file an objection to making payments to fund the organization's expenses for political activities; and

"(ii) reasonable notice of the nature and extent of the organization's political activities and of the time, place, and manner for filing such an objection.

"(B) If an employee objects under the procedures described in subparagraph (A), any payment during the objection period by the employee to the labor organization in lieu of dues shall be reduced by an amount which bears the same ratio to such payment as the organization's expenses for political activities bears to the organization's total expenses.

"(C) The determination of the ratio under subparagraph (B) shall be based on a reasonable allocation of the labor organization's expenses using such allocation methods as are recognized by independent certified public accountants as generally acceptable with respect to nonprofit organizations, taking into consideration the special problems and functions of a labor organization.

"(D) The labor organization, directly or through its subsidiaries, branches, divisions, departments, or local units—

"(i) shall provide an employee who objects under the procedures described in subparagraph (A) with an adequate explanation of the organization's method of calculating the portion of the amounts payable by the employee during the objection period which are allocable to expenses for political activities (including an opinion of an independent certified public accountant on the organization's allocation of expenses);

"(ii) shall arrange for prompt arbitration before an impartial arbitrator of any challenges by such objecting employee to the organization's calculation described in clause (i); and

"(iii) shall, pending the arbitrator's decision under clause (ii), hold in escrow any amount, which is reasonably in dispute, paid by an employee who makes such a challenge.

"(3) An employee claiming to be aggrieved by a violation of this subsection may bring a civil action against the labor organization in any district court of the United States having jurisdiction over the parties. If the court finds that the labor organization has violated this subsection, the court may order the labor organization to refund the excess payments collected from the employee, and may grant such equitable relief as the court deems appropriate.

"(4)(A) The requirements of this subsection are in lieu of any requirement limiting the financial obligations of objecting employees under any other provision of Federal law (including the National Labor Relations Act, as amended, and the Railway Labor Act, as amended).

"(B) Nothing contained in this section shall limit the rights and remedies of employees of any State or political subdivision thereof under the laws of the State or political subdivision thereof.

"(5) As used in this subsection—

"(A) the term 'political activities' include any activities by a labor organization in connection with any Federal, State, or local election for public office, any partisan political cause, and any ideological cause that is not reasonably related to advancing the em-

ployment interests of employees the organization represents; and

"(B) the term 'labor organization' has the meaning given such term by subsection (b)(1)."

(b) **EFFECTIVE DATE.**—The amendment made by this section shall apply to periods after December 31, 1990.

SEC. 405. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by, and the provisions of, this Act shall take effect on the date of the enactment of this Act but shall not apply with respect to activities in connection with any election occurring before January 1, 1991.

SEC. 406. AMEND PUBLIC LAW 101-194

Section 501 of Public Law 101-194 is amended as follows—

(1) in paragraph (1) of section 501(a) add the words "or unearned" after the word "earned";

(2) in paragraph (2) of section 501(a) add the words "or unearned" after the word "earned".

SEC. 407. SENSE OF SENATE REGARDING USE OF OFFICIAL FUNDS.

It is the sense of the Senate that appropriate prohibitions and restrictions be placed on the use of employees of the Executive Office of the President, the official residence of the Vice President, and official travel of the President, Vice President, and other Executive branch officers and employees in connection with political fundraising and political campaigning.

SEC. 408. UNIFORM HONORARIA AND INCOME LIMITATIONS FOR CONGRESS.

(a) **ADMINISTRATION OF RULES AND REGULATIONS.**—Section 503 of the Ethics in Government Act of 1978 (as in effect on January 1, 1991) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) inserting after paragraph (1) the following:

"(2) and administered by the committee of the Senate assigned responsibility for administering the reporting requirements of title I with respect to Members, officers, and employees of the Senate."

(b) **DEFINITIONS.**—Section 505 of the Ethics in Government Act of 1978 is amended—

(1) in paragraph (1) by inserting "a Senator or" after "means"; and

(2) in paragraph (2) by striking "(A)" and all that follows through "(B)".

(c) **AMENDMENTS TO THE ETHICS REFORM ACT OF 1989.**—Section 1101(b) of the Ethics Reform Act of 1989 is repealed and section 1101(c) is redesignated as section 1101(b).

(d) **FEDERAL ELECTION CAMPAIGN ACT OF 1971.**—Section 323 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is repealed.

(e) **SUPPLEMENTAL APPROPRIATIONS ACT, 1983.**—Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(f) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on January 1, 1991.

SEC. 409. APPROPRIATION LIMIT.

Notwithstanding any other provision of this Act, no payments shall be made in any fiscal year from the Senate Election Campaign Fund in accordance with paragraph (3) or (4) of section 504(a) unless the amount appropriated to carry out section 509F of the Public Health Service Act (42 U.S.C. 290aa-13) exceeds \$100,000,000 in the fiscal year.

Subtitle B—Provisions Relating to Congressional Mass Mailings

SEC. 411. STATEMENT OF COSTS AND RELATED EXPENSES OF CONGRESSIONAL MASS MAILINGS.

(a) **SENATE.**—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the State. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. The summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and the cost of such mail divided by the total population of the State from which the Senator was elected.

(b) **HOUSE OF REPRESENTATIVES.**—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Commission on Congressional Mailing Standards of the House of Representatives shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the district from which such Member was elected. A compilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House. The summary tabulations shall set forth for each Member of the following information: the Member's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and cost of such mail divided by the total population of the district from which the Member was elected.

SEC. 412. RESTRICTIONS ON FRANKED CONGRESSIONAL MASS MAILINGS EXCEEDING APPROPRIATED FUNDS.

Section 3216(c) of title 39, United States Code, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2)(A) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the Senate during that year have exhausted the amount appropriated for use by the Senate, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the Senate during the remainder of that fiscal year, unless additional funds are appropriated for use by the Senate and paid to the Postal Service.

"(B) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the House of Representatives during that year have exhausted the amount appropriated for use by the House of Representatives, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the House of Representatives during the remainder of that fiscal year, unless additional funds are appropriated for use by the House of Representatives and paid to the Postal Service."

SEC. 413. EXTENSION OF TIME PERIOD WHEN FRANKED MASS MAILINGS ARE PROHIBITED.

AMENDMENT OF TITLE 39.—(1) Section 3210(a)(6)(A) of title 39, United States Code is amended—

(A) by striking clause (i) and inserting the following new clause:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II), by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(2) Section 3210(a)(6)(C) of title 39, United States Code, is amended by striking "fewer than 60 days immediately before the date" and inserting "during the year".

SEC. 414. REPORTING AND PUBLICATION OF FRANKED MASS MAILINGS.

Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of the group or groups of persons to whom the mass mailing was mailed.

"(ii) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register annually with the Clerk of the House of Representatives such mass mailings. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

SEC. 415. TRANSFERS OF OFFICIAL MAIL COSTS.

(a) **PROHIBITION OF TRANSFERS TO CANDIDATES.**—(1) During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the

Senate, no such office may transfer any of its allocation to the office of a Member of the Senate who is a candidate for Federal office.

(2) During any fiscal year in which appropriations for official mail costs of the House of Representatives are allocated among offices of the House of Representatives, no such office may transfer any of its allocation to the office of a Member of the House of Representatives who is a candidate for Federal office.

(b) **REPORTING AND PUBLICATION.**—(1)(A) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report to the Sergeant at Arms and Doorkeeper of the Senate—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

(2)(A) Each office of the House of Representatives that transfers or receives a transfer of an official mail cost allocation to or from another office of the House of Representatives shall report to the Commission on Congressional Mailing Standards of the House of Representatives—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Commission on Congressional Mailing Standards of the House of Representatives pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the quarterly report of the Clerk of the House of Representatives.

SEC. 416. USE OF OFFICIAL EXPENSE ACCOUNTS AND OTHER SOURCES OF FUNDS FOR MASS MAILINGS.

(a) **AMENDMENT OF SUPPLEMENTAL APPROPRIATIONS ACT.**—Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking subparagraph (A).

SEC. 417. SENSE OF SENATE.

It is the sense of the Senate that:

(a) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate

office shall report on the date of the transfer or receipt of such transfer to the Sergeant at Arms and Doorkeeper of the Senate—

(1) the name of the office to which the transfer is made or from which the transfer was received;

(2) the amount of the transfer;

(3) the amount of the allocation made to the office for the fiscal year;

(4) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(5) the amount of the allocation remaining available to the office for the fiscal year.

(b) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subsection (a) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(c) Not later than 30 days after the date of Senate passage of this resolution, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in subsection (a) with respect to such transfers, and such information shall be published in the Congressional Record.

Mr. BOREN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. MITCHELL. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. MITCHELL. Mr. President, I want to speak just briefly—

Mr. BYRD. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Senators will cease audible conversations.

Mr. BYRD. Mr. President, there is still not order in the Senate. Some Senators apparently did not hear the Chair.

The PRESIDING OFFICER. The Senate will be in order.

Mr. MITCHELL. Mr. President, I want to thank my colleagues for their cooperation in this matter. This will be slightly repetitious, but I want to pay special thanks to the distinguished Senator from Oklahoma, who, for several years, has been the leading spokesman and principal advocate of campaign reform, not only in the Senate but in the Nation.

It is, I believe, clear to each Member of the Senate that no progress would have been possible without his dedication, his tireless leadership, and the fair and balanced manner in which he approached this issue, this measure, and this debate. I and all Members of the Senate, and I believe all Americans, owe him a great deal of gratitude.

I want also to thank the distinguished Republican leader and the distinguished Republican manager of the bill, Senator McCONNELL, of Kentucky.

As I said earlier, they asked only that they be given the opportunity to offer whatever amendments they chose, to have full and free debate, and we complied. There was no effort to prevent amendments or debate; no amendments were subjected to second-degree amendments; no amendments offered by Republicans were tabled, or no effort was made to table them. We did have that full and free debate.

In turn, I asked only the bill be considered promptly without any delay, and they quite fully and faithfully fulfilled that request.

There was no delay in this bill. It was handled with dispatch. I commend the distinguished Republican leader and the Senator from Kentucky for that.

Thank all my colleagues. I believe this is an important day in the life of the Senate. I hope that this will lead to legislation, and I remain hopeful that it will be a bipartisan product yet worked out that will ultimately become law and improve not only the method by which Senators are elected, but the faith and trust which the American people have in all of their elected representatives.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. Mr. President, I thank my friend and colleague, the distinguished majority leader, for the comments which he has just made. I thank my colleagues on the other side of the aisle for the comments that were made earlier.

This is a historic moment for us in the Senate. It is the first time in almost 16 years that a major campaign financing reform bill has been passed out of the Senate of the United States.

I think when we consider what is in this bill, in the major provisions of this bill, it does deserve the title of being a major campaign reform bill. It bans all political action committees; it bans the improper use of mass mailings of newsletters by candidates who are up for reelection in their election year period; it provides a limit on overall campaign spending; it bans honoraria; it changes the nature of campaign advertising by requiring candidates to assume responsibility for that advertising; and it puts limits on the amount of funds that can be raised from an individual living outside the jurisdiction of the State of a Member.

In the course of putting together this bill, which contains so many of the elements that the American people have called true reform, including the honoraria ban, PAC limit, and other matters that I have mentioned just a moment ago, and spending limits which 85 percent of the American people have indicated in recent polls they want to see imposed, we have moved forward a process that I

hope will move on from here. If someone had said a month ago that we would pass this bill out of the Senate this year, I think most people would have shook their heads and said it was impossible. Yet we have been able to pass this bill tonight by a large majority, I might say with the help from some on the other side of the aisle who cast votes for its final passage. I appreciate the support on the other side of the aisle as well of those Senators who supported final passage.

I spoke this morning by telephone with Governor Sununu, the President's Chief of Staff, and I indicated to him we fully expect this bill to go to conference. We hope we will be able in conference to hammer out agreements that will make it possible for the President of the United States to sign this bill.

I likewise had discussions with the distinguished minority leader, the Senator from Kansas; and the Senator from Kentucky, the distinguished ranking Republican on the Rules Committee; Senator STEVENS, from Alaska; and others and have indicated that we are still very hopeful in the process of the conference to work toward compromise.

The debate we have had, while sometimes it has been disappointingly divided along party lines, I think has helped us identify areas where we still need to reach agreement and those areas where it is necessary for us to try to move if we are going to finally get a consensus, a bipartisan agreement that, hopefully, the President will sign.

So I do not think it has been lost time and effort. I appreciate the fact, I say to the distinguished Republican leader again, that he allowed this measure to come to final passage. No filibuster was utilized to prevent the Senate from working its will and passing this piece of legislation. So progress is made.

Senator Goldwater and I started in June 1983. People told us that it would never happen. We went through the S. 2 proposal a couple of years ago, and the distinguished President pro tempore was then the majority leader. In an effort to bring the measure to final passage, a record number—a record in the history of the Senate—of eight cloture votes were undertaken. I think all the debate we went through in that 2-year period on that piece of legislation, while we were not able to get as far as we have tonight, we were not able during this 16-year period to pass a bill as we have been able tonight, also contributed to our understanding of the issue and our ability to move forward.

Mr. President, I would just ask my colleagues to reflect on what is happening even as we meet tonight and have this discussion, and I will be very brief. A report was released just today

analyzing the expenditure reports in this election cycle. As of June 30, with 4 months left to go in this election, already incumbents had raised \$109 million, an average of \$3.4 million. Challengers, on the other hand, have raised \$23 million. When you put the figures together, you find that already in this election cycle incumbents have raised 4.6 times as much money as challengers.

We also find that PAC's this year, according to the election records as of June 30, have given 5.6 times as much money to incumbents as they have to challengers. In fact, 16 incumbents up for election this year have already, with 4 months yet to go in the campaign, spent more than the limits that would be imposed by this bill if it had already been signed into law by the President.

So, Mr. President, we have a system that is running out of control. The money chase has not slowed down. The evidence is here for this election cycle. The present system, as we have it, is obviously an incumbent's protection plan, with almost five times as much raised by incumbents as challengers as of June 30 with 4 months to go.

Mr. President, it is time we change the system. We cannot really look at ourselves in the mirror in the morning and say we have met our responsibility until we do something to change the system which has money continuing to flow in at a record rate and which is a system that really does not give challengers a chance because no constraint or limit is imposed upon spending. So we must move forward, Mr. President.

I simply want to close by thanking those who have worked so hard on this legislation: Bob Rosen of Senator MITCHELL's staff; Jack Sousa, Jim King, and Ron Hicks, of the Rules Committee staff; Rob Mangus, of Senator FORD's staff; and from my own staff Dan Webber, David Hoffman, John Deeken. I might mention on this occasion that there have been members of my staff and former members of my staff who have worked with me since the beginning on this issue. I would especially mention the work of Greg Kubiak, who joined my staff in 1983, coming with me to Washington in 1984 and has been here and worked with me for all action on the legislation since Senator Goldwater and I first introduced that piece of legislation in June 1983. He is young in years. He has now devoted approximately one-fourth of his own lifetime to this issue. So there are many people across the country—Dave Holliday, another member of my staff, has worked in the past. Scot Bunden and Tom Sliter, of Senator BYRD's staff, the Democratic policy staff at the time that Senator BYRD was majority leader. I thank all of these people. I thank my colleagues who have cared.

I thank the distinguished majority leader who time and time again has supported me in an effort to try to write a bill that would be bipartisan. When I urged and joined others in urging that we, for example, ban PAC's from this legislation, even though it was to our partisan disadvantage, the majority leader supported that decision and said we must strive to reach out to the other side and show that we really want a bill. He has provided courageous leadership every step of the way. I appreciate that kind of support. He has attempted to help us write a bill not for the sake of the Democratic Party but for the sake of the Nation. So I thank all of my colleagues for their patience.

I apologize for holding the Senate at this late hour, but I do think it is important for us to note we moved ahead and passed a bill for the first time in 16 years and that this Senator has not given up the effort. He is still determined to work with those on the other side as we move on with the process toward a conference with the House of Representatives to try to work toward a bill on which the President of the United States will decide to affix his signature.

Mr. BYRD. Mr. President, with the passage of this bill, we have come to the end of a long journey. It is a journey that led us through eight cloture votes in the 100th Congress. It is a journey that has led to a piece of legislation that will, hopefully, begin to restore public confidence in the elected leaders of this land who sit in the legislative branch.

This bill, I believe, will end the money chase. The voluntary spending limits contained in the legislation are the cornerstone of reform and will effectively stop the mindless spiral of the cost of running for a Senate seat. The ban on political action committees will restore balance to the system and an end to the undue influence of special-interest money.

The restrictions on soft money and bundling will close loopholes in current law. The reduced broadcast rates, lowered mailing costs, broadcast vouchers, and contingent public financing will encourage participation in this voluntary system of reforms. Most of the amendments—I do not say all—most of the amendments adopted to this measure have strengthened it. I am particularly pleased that this Senate overwhelmingly adopted the ban on honoraria, and I again congratulate the Senator from Connecticut [Mr. Donohoe] for leading that effort. This reform bill would not have been complete without a provision to eliminate the influence of honoraria from this body.

Campaign finance reform has been one of the toughest, most contentious of issues.

I commend the distinguished Senator from Oklahoma [Mr. BOREN], for his long and patient and indefatigable leadership on this issue. His mastery of the details of this legislation has truly been extraordinary. He has stood on this floor for three very difficult and long days.

Senator BOREN has invested years in this reform effort. He must be very gratified tonight to see that effort culminated in the passage of this legislation. I do congratulate him.

I also commend the distinguished majority leader, Senator MITCHELL. He conducted countless meetings on this matter, and his commitment, dedication, and determination concerning this bill are the major reasons that the Senate has come to this point tonight.

I thought that the debate was excellent. I commend the distinguished chairman of the Rules Committee, Mr. FORD. I commend the minority leader, too, Senator DOLE, who fought the good fight, who did not engage in a filibuster, and who kept his word as the majority leader has indicated; Senator McCONNELL, Senators on the other side of the aisle for their absence of rancor, and for their willingness to avoid delay.

I believe that most of the Members of this body, although not in total agreement on the details, arrived at the same conclusion—that the time has come for reform legislation.

I believe that the Senate has done something very important for ourselves, the institution itself, and for this Nation tonight. I believe we have taken a step toward restoring public confidence in the integrity of this representative democracy. There is little that we can achieve in this body that will be more significant for the Nation we all love than to restore that confidence.

I yield the floor.

Mr. KERRY. Mr. President, I know the hour is late. My colleagues want to move on to other business. I promise to be very brief indeed.

I would like to pay first tribute to the Senator from Oklahoma. I came to know him more than 25 years ago and together we debated issues such as this when we were undergraduates in college. Little would I have known that 25 years later we would be here working together for a change that is as important as I think this one can be to the American political process.

It is my sense, while obviously this Senator's full wishes with respect to this bill were not passed into law, that nevertheless this is indeed an historic piece of legislation. I believe that with the limits, that with the restriction on PAC's which reduces the size of contributions and the places from which they come, we have taken an extraordinary measure to distance ourselves from the current taint which is creat-

ing a problem for all of us in politics, and for our own political processes in this country.

I do not think there is a more important issue than that, of restoring the faith and confidence of our electorate in this institution, and in the way we do business. Perhaps a little more could have been done. I think what we are doing is a giant leap in that direction. Obviously there is a distance to travel.

This bill has only passed the Senate. There is some road yet to go. But I think it is a very, very important statement.

I commend the distinguished majority leader, Senator MITCHELL, without whose effort and leadership obviously this would not have happened.

I also want to thank Senator DOLE and Senator McCONNELL, because I think the Senate managed to conduct what is the most partisan debate without rancor, and made a serious discussion of what is obviously a very vital issue to all of us in political life.

But again, I particularly thank and commend Senator BOREN, who has been the driving force of our task force, who the very first year I arrived here brought the very first effort to the floor in which I engaged, which resulted in a filibuster and lack of success. He has continually come back again and again, and my hope is that the day will come this year when this will be enacted with both Houses of the Congress in concurrence and it will become the law of the country.

Mr. BOREN. Mr. President, I will not take much more of my colleagues' time. I want to thank my colleague from Massachusetts, and also I want to thank the distinguished President pro tempore for their work and encouragement.

Let me say that from the very beginning there were several senior Members of this body concerned about the Senate as an institution. And in the understanding of its history, for the service and inspiration to me in this cause, I especially would mention the name of the Senator from Arizona, Senator Barry Goldwater; the distinguished former Senator from Mississippi, Senator Stennis; and our current President pro tempore, Senator BYRD.

I want to take this opportunity before I close to also thank the distinguished chairman of the Rules Committee, Senator WENDELL FORD, of Kentucky, for his leadership on this matter.

If there is any real expert on the campaign laws of this country who is a Member of the U.S. Senate, it is Senator WENDELL FORD of Kentucky. He could have really tried to pass over this issue, a controversial issue like this. He could have really declined to have taken much jurisdiction or note of it in the Rules Committee. Instead again and again and again he has

spent hours and hours of hearings in the Rules Committee taking action on this legislation, brining this legislation to the floor, and helping shepherd it every step of the way.

I only say that there is no one with whom I would rather be engaged as an ally and a colleague in working on any cause than would be the case of the distinguished chairman of the Rules Committee for whom I have so much admiration.

I think my colleagues. I yield the floor.

Mr. DOLE. Again, I would say even though it seems not possible, it may be possible yet to arrive at a bill that the great majority in this body can support.

I congratulate Members on both sides. This has been, I think, for the most part a high level debate. There have been serious differences. We are going to continue to express those differences on both sides of the aisle. We did not touch soft money; we touched only hard money. There are a lot of areas that we could quarrel about. We have already done that. We have had the vote.

We congratulate the Senator from Oklahoma and others who have prevailed, and we will be looking forward to working with him and others with different views in the future on this issue.

Mr. JOHNSTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. There is nothing pending before the body at this time.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1991

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we proceed to the energy and water development appropriations bill, H.R. 5019, Calendar No. 701.

The PRESIDING OFFICER. The clerk will report.

The assistant clerk read as follows:

A bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Appropriations, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

H.R. 5019

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the

following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1991, for energy and water development, and for other purposes, namely:

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, **[\$167,847,000]** **\$153,335,000**, to remain available until expended: *Provided*, That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following items under General Investigations in fiscal year 1991 in the amounts specified:

[Casino Beach, Chicago, Illinois, \$220,000;]

McCook and Thornton Reservoirs (CUP), Illinois, [\$2,000,000] \$1,000,000;

[Lake George, Hobart, Indiana, \$125,000;]

Little Calumet River Basin (Cady Marsh Ditch), Indiana, [\$220,000] \$100,000;

Ste. Genevieve, Missouri, [\$600,000] \$300,000;

[Red River Waterway, Shreveport, Louisiana, to Daingerfield, Texas, \$1,900,000;

[Miami River Sediments, Florida, \$200,000;

[Monroe County Beach Erosion (Smathers Beach), Florida, \$193,000;

[Wyoming Valley Levee Raising, Pennsylvania, \$1,000,000;

[Taylorsville Lake (Routt Road Bridge), Kentucky, \$86,000;]

Provided further, That not to exceed \$30,700,000 shall be available for obligation for research and development activities: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and complete preconstruction engineering and design of the LaConner, Washington, project using funds appropriated for that purpose in the Energy and Water Development Appropriations Act, 1990, Public Law 101-101: *Provided further*, That the Secretary of the Army is authorized, in partnership with the Department of Transportation, and in coordination with other Federal agencies, including the Department of Energy, to conduct research and development associated with an advanced high speed magnetic levitation transportation system: *Provided further*, That notwithstanding any other provision of law, the funds appropriated to the Corps of Engineers in Public Law 101-101 for Magnetic Levitation Research and Development activities are hereby authorized for expenditure only in accordance with the directions contained in Senate Report 101-83 and House Report 101-235: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed

to use \$250,000 of the funds appropriated herein to complete the Los Angeles-Long Beach Harbors project feasibility study [and is further directed to use \$3,000,000 of the funds appropriated herein to initiate preconstruction engineering and design of that project upon release of the South Pacific Division Engineer's notice of completion of the feasibility report: *Provided further*, That with \$200,000 of the funds appropriated in the Energy and Water Development Appropriations Act, 1990, Public Law 101-101, together with \$300,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue preconstruction engineering and design of the Red River Waterway, Index, Arkansas, to Denison Dam, Texas, project: *Provided further*, That with \$800,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to accelerate preconstruction engineering and design for the Folly Beach, South Carolina, project and complete the General Design Memorandum by May 1992 so that project construction could begin in the fourth quarter of fiscal year 1992: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$300,000 of the funds appropriated herein to initiate and expedite a reconnaissance study to develop a recommended plan for flood damage prevention and other water resources problems along the Ohio River and its tributaries in Belmont and Jefferson Counties, Ohio: *Provided further*, That using \$270,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake engineering and design of the Bethel, Alaska bank stabilization project.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, alteration and removal of obstructive bridges, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), **[\$1,300,389,000]** **\$1,215,407,000**, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended: *Provided*, That with funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the following projects in fiscal year 1991 in the amounts specified:

O'Hare Reservoir, Illinois, \$4,300,000;

Red River Emergency Bank Protection, Arkansas and Louisiana, [\$4,100,000] \$2,000,000;

Hansen Dam, California, \$272,000;

Kissimmee River, Florida, [\$6,000,000] \$2,000,000;

[Wallisville Lake, Texas, \$9,200,000;

[Red River Basin Chloride Control, Texas and Oklahoma, \$5,000,000;]

Shinnecock Inlet, New York, \$3,000,000;

[Platte River Flood and Streambank Erosion Control Demonstration Project, Nebraska, \$1,500,000;

[San Diego River and Mission Bay, California, \$975,000;]

Tampa Bay (Port Sutton), Florida, \$500,000;

Provided further, That with \$7,500,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the levees/floodwalls and to undertake other structural and nonstructural work associated with the Barbourville, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367: *Provided further*, That with \$20,500,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue the work for the river diversion tunnels and to undertake other structural and nonstructural work associated with the Harlan, Kentucky, element of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project authorized by section 202 of Public Law 96-367 using continuing contracts: *Provided further*, That \$6,000,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the lower Mingo County, West Virginia element of the Levisa and Tug Forks of the Big Sandy and Upper Cumberland River project authorized by section 202 of Public Law 96-367, in accordance with the cost sharing principles of Public Law 99-662 using continuing contracts: *Provided further*, That no fully allocated funding policy shall apply to construction of the Barbourville, Kentucky, and Harlan, Kentucky, and lower Mingo County, West Virginia, elements of the Levisa and Tug Forks of the Big Sandy River and Upper Cumberland River project: *Provided further*, That the project for flood protection for the town of Matewan, West Virginia, shall include all incorporated units within the town of Matewan: *Provided further*, That with funds herein or hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to award continuing contracts until construction is complete in accordance with the terms and conditions of Public Law 101-101 for the O'Hare Reservoir, Illinois, [and Wallisville Lake, Texas, projects] project: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake the Kanawha River, Charleston, West Virginia, and Kanawha River, Saint Albans, West Virginia, projects using funds appropriated in the Energy and Water Development Appropriations Act, 1988, Public Law 100-202: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to permit the non-Federal sponsors for the Fort Toulouse, Elmore County, Alabama, and Mound State Park, Moundville, Alabama, projects to contribute, in lieu of cash, all or any portion of their share of the projects with work in-kind: *Provided further*, That using \$400,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to construct the Salyersville cut-through as authorized by Public Law 99-662, section 401(e)(1) in accordance with the Special Project Report for Salyersville, Kentucky, concurred in by the Ohio River Division Engineer on or about July 26, 1989: *Provided further*, That using \$500,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to complete engineering and design and proceed

with construction in fiscal year 1991 of river-berd gradient restoration facilities in the vicinity of mile 206 of the Sacramento River, California, pursuant to the authority provided in section 102 of Public Law 101-101, the Energy and Water Development Appropriations Act, 1990: *Provided further*, That with \$3,000,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to undertake construction of the Lower and Middle Rouge Rivers projects in Michigan, and the non-Federal share of these projects shall be 25 percent: *Provided further*, That with \$550,000 of the funds herein appropriated, the Secretary of the Army, acting through the Chief of Engineers, is directed to continue with planning, engineering, design, and construction of the Des Moines Recreational River and Greenbelt, Iowa, project in accordance with the terms and conditions for construction in Public Law 100-202: *Provided further*, That with \$3,000,000 of the funds herein appropriated the Secretary of the Army, acting through the Chief of Engineers, is directed to approve the remaining design memoranda and to continue land acquisition at Red Rock Lake and Dam, Iowa, in accordance with Public Law 99-190: *Provided further*, That using [\$300,000] \$975,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is [authorized and] directed to repair and restore to a safe condition the existing Tulsa and West Tulsa Local Protection Project, Oklahoma, authorized by the Flood Control Act approved August 18, 1941, Public Law 73-228, at an estimated cost of \$1,300,000. The non-Federal share of the project will be in accordance with the provisions of title I, section 103, of Public Law 99-662, for flood control purposes: *Provided further*, That using \$550,000 of funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is hereby directed to study, design and construct streambank protection measures along the east shoreline of McGregor Park in the city of Clarksville, Tennessee, on Lake Barkley, under the authority of section 14 of Public Law 79-526: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the San Timoteo feature of the Santa Ana River Mainstem flood control project by scheduling design and construction. The Secretary is further directed to initiate and complete design and to fund and award all construction contracts necessary for completion of the San Timoteo feature. Furthermore, the Corps of Engineers is directed to use \$1,000,000 of the funds appropriated herein to initiate the design; [and, in addition, \$61,636,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project] and, in addition, \$92,636,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project, and the Secretary is directed to continue the first phase of construction of Locks and Dams 4 and 5 that were initiated in 1990 and continue at an accelerated rate the design of the second phase contracts for Locks and Dams 4 and 5 in order to be prepared to initiate them in the second quarter of fiscal year 1992, to repair damages caused by the 1990 flood to project features that are complete or currently under construction, and to award

continuing contracts in fiscal year 1991 for construction of the following features of the Red River Waterway which are not to be considered fully funded: Grappe Capout, Fausse Capout, Socot Capout, Grappe Realignment, McDade Revetment, Moss Revetment, Elm Grove Revetment, Cecile Revetment.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), [\$342,731,000] \$338,993,000, to remain available until expended: *Provided*, That not less than \$250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist: *Provided further*, That the funds provided herein for operation and maintenance of Yazoo Basin Lakes shall be available for the maintenance of road and trail surfaces, alignments, widths, and drainage features: *Provided further*, That using \$236,000 of the funds appropriated herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate construction of the Horn Lake Creek and Tributaries (Including Cow Pen Creek), Tennessee and Mississippi, project: *Provided further*, That the Secretary of the Army is hereby directed to expedite the acquisition, in fee simple, of lands, excluding minerals, for public access in the Atchafalaya Basin Floodway System, Louisiana, as authorized by Public Laws 99-88, 99-662, and 100-202. The Secretary is authorized to include in any transfer of real property, in fee simple, excluding minerals, for public access pursuant to Public Laws 99-88, 99-662, and 100-202, language requiring the United States, in the event that the property is no longer required for public access and prior to any subsequent sale, exchange, or other transfer of the property acquired, to first offer such property to the vendors, their heirs, successors or assigns, at the same price then being offered by any third party, which price shall in no event be less than the current fair market value. This authority is effective July 1, 1989, and the Secretary is further authorized to correct and amend deeds executed and delivered prior to said date to incorporate this provision: *Provided further*, That with \$2,000,000 herein appropriated or with funds hereafter appropriated, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to award continuing contracts until construction is complete for the West Memphis and Vicinity, Arkansas, project authorized by section 401 (a) of the Water Resources Development Act of 1986 as modified by the General Design Memorandum 101, dated May 1990: *Provided further*, That using \$400,000 of the funds appropriated herein the Secretary of the Army, acting through the Chief of Engineers, is directed to proceed with the authorized Ouachita River Levees project in Louisiana and that rehabilitation or replacement of all deteriorated drainage structures which threaten the security of this crit-

ical urban protection is to be accomplish at Federal expenses; and, in addition, the Bayou Rapides Drainage Structure and Pumping Plant is to be included as a feature of the Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee project. Lower Red River, South Bank Levee.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, [\$1,457,488,000] \$1,408,791,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which \$20,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 4601): *Provided*, That [\$3,630,000] \$2,000,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, for the Long-Term Management Strategy for dredged material disposal in the San Francisco Bay, California, region: *Provided further*, That \$2,500,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the development of recreation facilities at Sepulveda Dam, California: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to use \$3,500,000 of the funds appropriated herein for the Federal share of construction of access facilities in the McAlpine Lock and Dam navigation pool. The non-Federal interests shall be credited for previous work related to access, including \$3,000,000 for 1,060 feet of the new downtown wharf. Non-Federal interests shall provide necessary easements to the Federal Government for construction of improvements at no cost to the Federal Government. Title for lands shall remain with non-Federal interests: *Provided further*, That \$100,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the Chief of Engineers, to continue the Sauk Lake, Minnesota, project: *Provided further*, That with \$350,000 of the funds herein appropriated to remain available until expended, the Secretary of the Army, acting through the Chief of Engineers, is directed to use continuing contracts to design and construct a riverfront park at Charleston, West Virginia, in accordance with the cost sharing principles of Public Law 99-662 and as generally described in the September 1989 Reconnaissance Report of the Huntington District entitled, Charleston Riverfront Park, Winfield Navigation Pool, Kanawha River: *Provided further*, That no fully allocated funding policy shall apply to construction of Charleston Riverfront Park, West Virginia: *Provided further*, That \$200,000 of the funds appropriated herein shall be used by the Secretary of the Army, acting through the

Chief of Engineers, for operation and maintenance of existing structures and facilities of the Missouri National Recreation River, Nebraska and South Dakota: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, using \$900,000 of the funds appropriated herein, is directed to undertake a major rehabilitation of the Johnstown, Pennsylvania, project to insure that the project will continue to provide the authorized level of protection in the future. The Secretary is further directed to investigate those non-federally owned buildings, embankments and walls which were included in the line of protection for the convenience of the Government and to perform needed repair, rehabilitation or replacement at Federal expense subject to the following terms: (1) The City of Johnstown secures needed rights of access to such structures; (2) the City of Johnstown agrees to hold and save the United States free from damages due to construction or operation and maintenance of the work on the non-Federal structures, except for damages due to the fault or negligence of the United States or its contractors: *Provided further*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to undertake improvements to roads, utilities, and other facilities at the Crowder Point East Recreation Area at Eufaula Lake, Oklahoma, using funds appropriated for that purpose in the Energy and Water Development Appropriations Act, 1989, Public Law 100-371: *Provided further*, That within funds available for the Eufaula Lake, Oklahoma, project, the Secretary of the Army, acting through the Chief of Engineers, is directed to make improvements and perform maintenance of Bugtussle Road at Lake Eufaula, Oklahoma: *Provided further*, That not to exceed \$8,000,000 shall be available for obligation for national emergency preparedness programs: *Provided further*, That of the funds appropriated herein, \$7,000,000 is for a new bridge over the Chesapeake and Delaware Canal at Saint Georges, Delaware, as proposed by the State of Delaware, and as authorized by laws.

REGULATORY PROGRAM

For expenses necessary for administration of laws pertaining to regulation of navigable waters, including bridges, and wetlands, \$71,100,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, [\$25,000,000] \$20,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, \$136,100,000, to remain available until expended: *Provided*, That the Secretary of the Army, acting through the Chief of Engineers, is directed to complete the conceptual study of potential field organization structures in accordance with Senate Report 101-83 and Conference Report 101-235 accompanying Public Law 101-101.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901-5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; not to exceed \$5,000 for official reception and representation expenses; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 170 for replacement only) and hire of passenger motor vehicles.

GENERAL PROVISIONS

CORPS OF ENGINEERS—CIVIL

SEC. 101. Section 4(t)(3)(F) of the Water Resources Development Act of 1988, Public Law 100-676, is amended by striking "September 30, 1989" and inserting in lieu thereof "on the date of transfer of OMR&R responsibility to the city".

SEC. 102. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct the Pennington Creek project with funds previously appropriated for dredging of Pennington Creek, Denison Dam-Lake Texoma, Texas, under Operations and Maintenance, General, and as outlined in the Tulsa District Engineer's report as submitted to the Chief of Engineers on February 22, 1989, at full Federal expense. Construction of this project is contingent upon a local sponsor signing an agreement to operate and maintain the project at non-Federal expense.

[SEC. 103. The Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to construct loading and related facilities at Boudinot Harbor, Oklahoma, River Mile 382.3 on the McClellan-Kerr Arkansas River Navigation System with funds available to the McClellan-Kerr Arkansas River Navigation System, at an estimated cost of \$400,000.]

SEC. [104.] 103. The project for flood control, Brush Creek and Tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168) is modified to authorize the Secretary of the Army to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1989, as revised on January 1990, at a total cost of \$26,200,000 with an estimated Federal first cost of \$16,090,000, and an estimated first non-Federal cost of \$10,110,000.

SEC. [105.] 104. Notwithstanding the provisions of section 215 of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a) the Secretary of the Army is directed to credit and/or reimburse the local sponsor of the Maumee Bay State Park project in Ohio for work completed by the local sponsor on the eastern segment of the authorized project before November 17, 1988, in an amount equal to the Federal share of the costs of such work. Such credit and/or reimbursement shall be applied to the local sponsor's share of the construction costs of the western segment of the authorized project.

SEC. 105. Section 228 of the Flood Control Act of 1970 (Public Law 91-611, 84 Stat. 1818, 1832), is modified to direct the Secretary of the Army to conclude a Local Cooperative Agreement for the facilities across

the Missouri River in the vicinity of Ft. Yates, North Dakota, at an estimated total cost of \$22,800,000. For Fiscal Year 1991 there is authorized and appropriated for planning, engineering, and design on this project, \$250,000. The non-Federal share of the cost of work directed by this section shall be 10 percent. Upon completion, non-Federal interests shall own, operate, and maintain such bridge and approach facilities.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

GENERAL INVESTIGATIONS

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, [\$12,926,000] \$12,521,000: *Provided*, That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended, [\$649,697,000] \$641,027,000, of which \$145,063,000 shall be available for transfer to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and [\$185,768,000] \$182,268,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further*, That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the

purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further*, That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further*, That no part of the funds herein approved shall be available for construction or operation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further*, That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further*, That all costs of the safety of dams modification work at Coolidge Dam, San Carlos Irrigation Project, Arizona, performed under the authority of the Reclamation Safety of Dams Act of 1978 (43 U.S.C. 506), as amended, are in addition to the amount authorized in section 5 of said Act: *Provided further*, That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further*, That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.).

OPERATION AND MAINTENANCE

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, \$231,516,000: *Provided*, That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund, and the amount for program activities which can be derived from the special fee account established pursuant to the Act of December 22, 1987 (16 U.S.C. 4601-6a, as amended), may be derived from that fund: *Provided further*, That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further*, That

funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same purpose and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further*, That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a-421d), and August 6, 1956, as amended (43 U.S.C. 422a-422i), including expenses necessary for carrying out the program, \$5,708,000, to remain available until expended: *Provided*, That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further*, That during fiscal year 1991 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed \$4,946,000: *Provided further*, That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and offices in the five regions of the Bureau of Reclamation, \$51,431,000, of which \$600,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided*, That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, \$1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For acquisition of computer capacity for the Business System Acquisition project, and other capital equipment and facilities, \$4,831,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571).

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund or special fee account are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391) or the Act of December 22, 1987 (16 U.S.C. 4601-6a, as amended), respectively. Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the

heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 17 passenger motor vehicles for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed \$500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archaeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461-467), and June 27, 1960 (16 U.S.C. 469): *Provided*, That no part of any appropriation made herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation and advance planning investigations under the head "General Investigations", and amounts provided for science and technology under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of 31 U.S.C. 1341.

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued

after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.). Notwithstanding the provisions of 5 U.S.C. 5901(a), as amended, the uniform allowance for each uniformed employee of the Bureau of Reclamation, Department of the Interior, shall not exceed \$400 annually.

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

Sec. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged, rendered inoperable, or destroyed by fire, flood, storm, drought, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

Sec. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

Sec. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided*, That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

Sec. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

[Sec. 205. (a) AUTHORIZATION.—The Secretary is authorized and directed to enter into a contract with the McGee Creek Authority, Oklahoma City, Oklahoma, accepting a payment of \$88,629,000.

[(b) CONTRACT TERMINATION.—Upon receipt of the payment specified in subsection (a), the McGee Creek Water Authority's obligation under contract between the Authority and the Secretary numbered 0-07-50-X0822, dated October 11, 1979, shall be terminated.

[(c) TITLE TO PROJECT FACILITIES.—Notwithstanding any payments made by the McGee Creek Water Authority pursuant to section 205 (a) and (b) of this language or pursuant to any contract with the Secretary, title to project facilities of the McGee Creek Project, Oklahoma shall remain with the United States.

[Sec. 206. (a) Except as provided in subsection (b) of this section, none of the funds appropriated in this or any other Act shall

be used to execute new long-term contracts for water supply from the Central Valley Project, California.

[(b)(1) The Secretary of the Interior is authorized and directed to enter into the following contracts: (A) a municipal and industrial water supply contract with the Sacramento County Water Agency, not to exceed 22,000 acre-feet annually, to meet the immediate needs of Sacramento County and a municipal and industrial water supply contract with the San Juan Suburban Water District, not to exceed 13,000 acre-feet annually, for diversion from Folsom Lake, with annual quantities delivered under these contracts to be determined by the Secretary based upon the quantity of water actually needed within the Sacramento County Water Agency service area and San Juan Suburban Water District after considering reasonable efforts to: (i) promote full utilization of existing water entitlements within Sacramento County, (ii) implement water conservation and metering programs within the areas served by the contract, and (iii) implement programs to maximize to the extent feasible conjunctive use of surface water and ground water; and (B) a municipal and industrial water supply contract with the El Dorado County Water Agency, not to exceed 15,000 acre-feet annually, for diversion from Folsom Lake or for exchange upstream on the Silver Fork or South Fork of the American River. The contracts required by this subsection are intended as the first phase of a contracting program to meet the long-term water supply needs of Sacramento and El Dorado Counties. The Secretary shall promptly initiate the necessary analysis for the long-term water supply contracts.

[(2) Prior to entering into the contracts specified in subsection (b)(1) of this section, the Secretary is directed to comply with the provisions of the National Environmental Policy Act by preparing joint Environmental Impact Statements and California Environmental Quality Act Environmental Impact Reports. The Sacramento County Water Agency shall be the joint lead agency with the Bureau of Reclamation in the preparation of the environmental documents required under (b)(1)(A) of this section and the El Dorado County Water Agency shall be the joint lead agency with the Bureau of Reclamation in the preparation of the environmental documents required under (b)(1)(B), with the Bureau of Reclamation cooperating in all aspects of the environmental review process, but not controlling that process.

[(3) Diversions from the American River under the contract for the Sacramento County Water Agency shall, to the maximum extent reasonable and feasible, take place at or near the mouth of the American River.]

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase

of passenger motor vehicles (not to exceed 21 for replacement only), [\$2,703,272,000] \$2,745,615,000, to remain available until expended, of which [\$4,000,000 shall be available only for the Hydrogen Energy Systems Program, as authorized under section 4(c)(1)(C) of the Renewable Energy and Energy Efficiency Technology Competitiveness Act of 1989], and of which \$44,842,500 shall be available only for the following facilities: Advanced Technology Center, Indiana State University; Center for Energy Resources Management, University of New Orleans; Biomedical Research Facility, University of Alabama at Birmingham; Biomedical Research Facility, Case Western Reserve University; and Energy Science Research Facility at Boston College] \$45,000,000 shall be available only for the following facilities: Center for Nuclear Medicine Research in Alzheimer's Disease and Related Disorders, Health Sciences Center, West Virginia University; Gazes Cardiac Research Institute, Medical University of South Carolina; Biomedical Research Institute, Louisiana State University Medical Center, Shreveport, Louisiana; the Neurosensory Research Center, Oregon Health Sciences University; and the Physical Sciences Center, Fort Hays State University, Fort Hays, Kansas.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of electricity to provide enrichment services; purchase of passenger motor vehicles (not to exceed 60, of which 46 are for replacement only), [\$1,406,018,000] \$1,340,018,000, to remain available until expended: *Provided*, That revenues received by the Department for the enrichment of uranium and estimated to total [\$1,530,500,000] \$1,450,400,000, in fiscal year 1991 shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1991 so as to result in a final fiscal year 1991 appropriation estimated at not more than \$0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10 for replacement only including one police-type vehicle), \$1,273,732,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

[For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$292,833,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appointed not to exceed \$5,000,000, may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to that Act: *Provided further*, That not more than \$5,000,000, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913.]

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, \$292,833,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) of said Act to issue obligations to the Secretary of the Treasury: *Provided*, That of the amount herein appropriated not to exceed \$4,000,000, may be provided to the State of Nevada, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, of which \$750,000 is to be available for the University of Nevada, Reno for infrastructure studies related to nuclear waste, and of which \$250,000 is to be available to the University of Nevada, Las Vegas, to carry out transportation studies related to nuclear waste: *Provided further*, That not more than \$5,900,000, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further*, That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913: *Provided further*, That none of the funds herein appropriated may be used for litigation expenses: *Provided further*, That of the amount appropriated herein, up to \$5,000,000 shall be available for infrastructure studies and other research and development work to be carried out by the University of Nevada, Las Vegas (UNLV) and the University of Nevada, Reno.

In paying the amounts determined to be appropriate as a result of the decision in Consolidated Edison Company of New York v. Department of Energy, 870 F.2d 694 (D.C. Cir. 1989), the Department of Energy shall pay interest at a rate to be determined by the Secretary of the Treasury and calculated from the date the amounts were deposited into the Nuclear Waste Fund. Such payments may be made by credits to future utility payments into the fund.

ISOTOPE PRODUCTION AND DISTRIBUTION PROGRAM FUND

Revenues received hereafter from the disposition of isotopes and related services shall be credited to this account, to be available for carrying out the purposes of the isotope production and distribution program without further appropriation: *Provided*, that such revenues and all funds provided under this head in Public Law 101-101 shall remain available until expended.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, [\$10,915,148,000] \$10,980,258,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 308 for replacement only including 20 police-type vehicles, and purchase of one fixed-wing and one rotary-wing aircraft, for replacement only): *Provided*, That no funds in this Act shall be available for the Plutonium Recovery Modification project until 30 days after the Secretary of Energy has provided to the Congress his review of the Department of Energy's modernization report, except for \$15,000,000 for nonsite specific design activities and activities in support of ongoing preparation of the Environmental Impact Statement, subject to authorization: *Provided further*, That no funds in this Act shall be available for Project 89-D-125, Plutonium Recovery Modification Project (PRMP), until authorizing legislation therefore is enacted into law.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000) \$375,095,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided*, That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further*, That moneys received by the Department for miscellaneous revenues estimated to total \$150,000,000 in fiscal year 1991 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further*, That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1991 so as to result in a final fiscal year 1991 appropriation estimated at not more than \$225,095,000: *Provided further*, That \$1,300,000 of the funds appropriated under this heading shall be used to carry out the Reduced Enrichment in Research and Test Reactors Program.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, \$28,421,000, to remain available until expended.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, \$3,233,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for expenses of the Yakima Basin Screen Facilities Phase II; and for official reception and representation expenses in an amount not to exceed \$2,500.

During fiscal year 1991, no new direct loan obligations may be made.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, \$9,285,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses, including official reception and representation expenses in an amount not to exceed \$1,500 connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, \$20,107,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed \$8,899,000 in reimbursements, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed \$1,500, the purchase, maintenance, and operation of one helicopter for replacement only, \$293,762,000, to remain available until expended, of which \$266,101,000 shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration \$4,702,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended: *Provided*, That in the oper-

ation of Shasta Dam, Central Valley Project, California, any increase in power purchase costs incurred by the Western Area Power Administration after January 1, 1986, resulting from bypass releases for temperature control purposes to preserve anadromous fisheries in the Sacramento River shall be nonreimbursable.

**FEDERAL ENERGY REGULATORY COMMISSION
SALARIES AND EXPENSES**

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed \$3,000); \$122,750,000, to remain available until expended: *Provided*, That hereafter and notwithstanding any other provision of law, not to exceed \$122,750,000 of revenues from fees and annual charges, and other services and collections in fiscal year 1991, shall be retained and used for necessary expenses in this account, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1991, so as to result in a final fiscal year 1991 appropriation estimated at not more than \$0.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, \$80,000, to remain available until expended: *Provided*, That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of \$500,000,000.

**GENERAL PROVISIONS—DEPARTMENT
OF ENERGY**

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFER OF FUNDS)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

**MINORITY PARTICIPATION IN THE
SUPERCONDUCTING SUPER COLLIDER**

SEC. 304. (a) **FEDERAL FUNDING.**—The Secretary of Energy shall, to the fullest extent possible, ensure that at least 10 per centum of Federal funding for the development, construction, and operation of the Superconducting Super Collider be made available to business concerns or other organizations owned or controlled by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))), including historically black colleges and universities and colleges and universities having a student body in which more than 20 percent of the students are Hispanic Americans or Native Americans. For purposes of this section, economically and socially disadvantaged individuals shall be deemed to include women.

(b) **OTHER PARTICIPATION.**—The Secretary of Energy shall, to the fullest extent possible, ensure significant participation, in addition to that described in subsection (a), in the development, construction, and operation of the Superconducting Super Collider by socially and economically disadvantaged individuals (within the meaning of section 8(a) (5) and (6) of the Small Business Act (15 U.S.C. 637(a) (5) and (6))) and economically disadvantaged women.

(ENVIRONMENTAL REMEDIATION AND RESTORATION OF HANFORD SITE, RICHLAND, WASHINGTON)

SEC. 305. (a)(1) The Secretary of Energy shall use the services of the Secretary of the Army, Corps of Engineers, Walla Walla District, on a reimbursable basis, to manage and carry out the environmental remediation activities and restoration of the Hanford Site, Richland, Washington, using funds appropriated to the Department of Energy by any appropriations Act.

[(2) Any funds heretofore, herein and hereafter appropriated to the Department of Energy for environmental remediation activities and restoration of the Hanford Site shall be available to reimburse the Secretary of the Army for services performed by the Department of the Army in connection with the environmental remediation activities and restoration of the Hanford Site.

[(b) The services of the Secretary of the Army referred to in subsection (a) shall include areas such as sampling and analysis investigations; investigations and associated planning, design, and construction activities related to the closure of active hazardous waste management units; remedial investigations and feasibility studies, design and construction activities related to hazardous waste release sites; procurement of design and construction services; design and construction contract management and design and construction contract oversight; program management activities; and research and development.]

SEC. 305. Not to exceed 6 per centum of funding received by Department of Energy laboratories may be used for laboratory directed research and development in accord-

ance with procedures established by the Secretary of Energy.

SEC. 306. Funds appropriated to the Department of Energy may be available to carry out programs, including the granting of equipment, to improve mathematics, science, and engineering education and skill levels in the United States in order to ensure that a continuing supply of technical and scientific workers is available to accomplish national and energy security missions.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, notwithstanding section 405 of said Act, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, **[\$150,000,000]** \$180,000,000.

**DEFENSE NUCLEAR FACILITIES SAFETY BOARD
SALARIES AND EXPENSES**

For necessary expenses of the Defense Nuclear Facilities Safety Board in carrying out activities authorized by the Atomic Energy Act of 1954, as amended by Public Law 100-456, section 1441, \$11,000,000, to remain available until expended.

**DELAWARE RIVER BASIN COMMISSION
SALARIES AND EXPENSES**

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), \$224,000.

**CONTRIBUTION TO DELAWARE RIVER BASIN
COMMISSION**

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), \$457,000.

**INTERSTATE COMMISSION ON THE POTOMAC
RIVER BASIN**

**CONTRIBUTION TO INTERSTATE COMMISSION
ON THE POTOMAC RIVER BASIN**

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), **[\$200,000]** \$538,000: *Provided*, That funds herein or hereafter appropriated may be used for the local sponsor's share of the study cost for the U.S. Army Corps of Engineers' Anacostia River and Tributaries study in Maryland and the District of Columbia.

**NUCLEAR REGULATORY COMMISSION
SALARIES AND EXPENSES**

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and

cleaning of uniforms, official representation expenses (not to exceed \$20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, \$471,320,000, to remain available until expended, of which \$19,650,000 shall be derived from the Nuclear Waste Fund: *Provided*, That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further*, That moneys received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, including criminal history checks under section 149 of the Atomic Energy Act of 1954, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That revenues from licensing fees, inspection services, and other services and collections estimated at \$156,750,000 in fiscal year 1991 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further*, That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1991 from licensing fees, inspection services and other services and collections, and from the Nuclear Waste Fund, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1991 appropriation estimated at not more than \$314,570,000.

OFFICE OF INSPECTOR GENERAL
(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, including services authorized by 5 U.S.C. 3109, \$3,680,000, to remain available until expended; and in addition, not to exceed 5 percent of this sum may be transferred from Salaries and Expenses, Nuclear Regulatory Commission: *Provided*, That notice of such transfers shall be given to the Committees on Appropriations of the House and Senate: *Provided further*, That from this appropriation, transfers of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred.

SUSQUEHANNA RIVER BASIN COMMISSION
SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), \$211,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Susquehanna

River Basin Commission, as authorized by law (84 Stat. 1530, 1531), \$290,000.

TENNESSEE VALLEY AUTHORITY
TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, [\$135,000,000] \$125,000,000, to remain available until expended: *Provided*, That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119 unless such report expressly provides otherwise.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most com-

petitive foreign bidder: *Provided*, That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further*, That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further*, That this section shall not apply to procurement of domestic end product as defined in 48 CFR sec. 25.101: *Provided further*, That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

SEC. 508. Such sums as may be necessary for fiscal year 1991 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 509. None of the funds appropriated by this Act may be used for the purposes of land acquisition on the Monks Hollow Dam and Reservoir, Upper Diamond Fork Pipeline, or Last Chance Powerplant of the Bonneville Unit of the Central Utah Project.

SEC. 510. Without fiscal year limitation and notwithstanding any other provision of law, no funds appropriated or made available under this or any other Act shall be used by the executive branch to change the employment levels determined by the Administrator of the Bonneville Power Administration to be necessary to carry out his responsibilities under the Bonneville Project Act (cite), the Federal Columbia River Transmission System Act (Public Law 93-454), and the Pacific Northwest Power Planning and Conservation Act (Public Law 96-501) and other related legislation.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1991".

MR. JOHNSTON. Mr. President, I am pleased to present to the Senate the energy and water development appropriation bill for the fiscal year beginning October 1, 1990. This bill, H.R. 5019, passed the House of Representatives on June 16. The Subcommittee on Energy and Water marked up this bill on July 18, and the full committee marked up and reported the bill on July 19.

Mr. President, at the outset I want to express my appreciation to the distinguished chairman of the full Appropriations Committee, Mr. BYRD of West Virginia, who has been stalwart in his leadership, and I want to commend again and thank the distinguished ranking minority member of both the Subcommittee on Energy and Water Development, Mr. HATFIELD, who is also the ranking minority member of the full committee and former chairman of the full committee. As usual, Mr. President, it is a great pleasure to work with him.

In addition, I thank all members of the subcommittee for their work on this bill. We marked up this bill as quickly as we could after receiving the bill from the House and receiving our 302(b) allocation.

PURPOSE OF THE BILL

The purpose of this bill is to provide appropriations for the fiscal year 1991 for energy and water development, and for other related purposes. It supplies funds for Water Resources Development Programs and related activities of the Department of the Army, civil functions—U.S. Army Corps of Engineers' Civil Works Program in title I; for the Department of the Interior's Bureau of Reclamation in title II; for the Department of Energy's energy research activities—except for fossil fuel programs and certain conservation and regulatory functions, including atomic energy defense activities in title III; and for related independent agencies and commissions, including the Appalachian Regional Commission and Appalachian Regional Development Programs, the Nuclear Regulatory Commission, and the Tennessee Valley Authority in title IV.

SUMMARY OF RECOMMENDATIONS

Mr. President, the fiscal year 1991 budget estimates for the bill total \$20,202,225,000. The recommendation of the committee provides \$20,782,405,000. This amount is \$580 million over the President's budget estimate, and \$6,800,000 more than the House passed bill. The bill, as recommended, fully uses the budget authority allocations and when scorekeeping differences and adjustments are taken into account, any amendments to this bill as far as dollars are concerned, will require an offset so as not to jeopardize the bill by making an increase above the current 302(b) allocation.

Mr. President, I will briefly summarize the major recommendations provided by the bill. All of the details and figures are, of course, included in the committee's report accompanying the bill and other than the major recommendations and bill highlights, I will not undertake to elaborate in detail on each of the appropriations we are recommending to the Senate and as are contained in the bill.

TITLE I—U.S. ARMY CORPS OF ENGINEERS

First, under title I of the bill which provides appropriations for the Department of the Army Civil Works Program, U.S. Army Corps of Engineers, we are recommending a total amount of new budget authority of \$3,436,000,000. These funds finance the activities of the corps for water resource development, including investigation and studies, planning and design, construction and operation and maintenance. The appropriation for all these functions is \$115 million more than the President's budget and \$126 million under the House bill. We

are recommending 15 new construction starts, which have a total estimated cost in the out years of approximately \$300 million. This committee action responds to most of the concerns of the Members of the Senate as expressed to the committee.

TITLE II—BUREAU OF RECLAMATION

For the Department of Interior's Bureau of Reclamation, which is title II of the bill, the committee has approved appropriations of \$949 million for Bureau activities in the 17 Western States. This amount is slightly over the budget proposal and about \$9 million less than the House bill.

TITLE III—DEPARTMENT OF ENERGY

Mr. President, the committee recommendation for the Department of Energy would provide \$15.8 billion in new budget obligational authority to carry out the mission and work of the Department of Energy. Of this amount, \$10.980 billion is for atomic energy defense activities, the Defense 050 function contained in this bill. As one can readily see, over one-half of the appropriations in this bill is for defense. I will briefly list the programs as follows:

ATOMIC ENERGY DEFENSE ACTIVITIES

Testing.....	\$487,160,000
Research and development	1,206,661,000
Production and surveillance	2,588,054,000
Nuclear materials production.....	2,341,900,000
Defense waste management and environmental restoration.....	2,680,616,000
Nuclear-directed energy weapons SDI.....	106,904,000
New production reactor.....	375,000,000

ENERGY SUPPLY, RESEARCH, AND DEVELOPMENT

The bill recommended by the committee provides a total of \$2,745,615,000 for energy supply, research, development and demonstration programs including:

Solar energy	\$129,673,000
Environmental restoration and waste management, (nondefense)	513,685,000
Nuclear fission R&D.....	330,490,000
Magnetic fusion	325,300,000
Basic energy sciences.....	721,275,000
Biological and environmental health	396,394,000

GENERAL SCIENCE AND RESEARCH

The committee recommendation would provide \$1,273,732,000 for high energy physics and nuclear physics, the committee is recommending a total of \$318,000,000 for the superconducting super collider.

TITLE IV—RELATED INDEPENDENT AGENCIES

A total of \$636 million is included under title IV for independent agencies, including \$180 million for the Appalachian Regional Commission, \$318 million for the Nuclear Regulatory Commission, and \$125 million for the Tennessee Valley Authority, among other accounts.

Mr. President, this is a brief summary of the major funding for the major

agencies contained in the bill. There is a lot of work remaining before this bill can be sent to the White House. Therefore, I hope that we can handle this measure on the floor in an expeditious manner so we can get to conference with the House of Representatives as soon as possible.

Mr. President, at this time I yield the floor to the Senator from Oregon.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. HATFIELD. Mr. President, I am grateful to the chairman of our subcommittee, Senator JOHNSTON. He has handled this matter in his typical professional and very able manner. I am always grateful to work with him.

Mr. President, I join my distinguished colleague from Louisiana in bringing to the floor the very first appropriations bill for fiscal year 1991, H.R. 5019, the Energy and Water Development Appropriations Act.

As the chairman has described, through the leadership of our full committee chairman, Senator BYRD, and with the bipartisan cooperation of the entire committee we are able to present a bill which meets the spending limits of the budget resolution and which addresses some very pressing needs around the country.

Mr. President, before we proceed to the bill, I would like to make just a couple observations about this appropriations measure.

Since I was first appointed to the Appropriations Committee in 1972, I don't think I have seen any appropriations bill go through such a drastic transformation as has the energy and water appropriations bill in the past 10 years. And by that I mean that, as the times have changed, so have the priorities of this bill.

The first major transformation came in the early 1980's when major Department of Energy construction programs had to be terminated because of spending limitations during the Reagan Revolution, the Clinch River Breeder Reactor and the Barnwell Reprocessing Facility are just two spending battles I am sure many of you recall.

The second major transition affecting this bill came in 1984 when this committee and the Congress imposed cost sharing on the Corps of Engineers water projects. With one fell swoop the Congress saved virtually billions of taxpayers dollars for projects that never were brought forward for funding and millions more that was saved through local financial participation of those projects which were found to be meritorious.

Mr. President, we are now well into our third major transition in this energy and water appropriations bill in just 10 years, and this period I would refer to as the era of environ-

mental consciousness and scientific advancement.

Again, as the needs of the country have changed, we have increased funds for global warming, environmental health affects, wetlands development, solar and renewable energy research, and nuclear waste cleanup.

Juxtaposed against this environmental agenda is another with equally compelling rationale, that is the continued development of our national scientific research base and our scientific educational base.

By this I do not mean just the superconducting super collider, but all the basic and applied research which is carried out by the Department of Energy and the math and science education initiatives which are a priority for this administration under the guidance of Energy Secretary James Watkins.

The environment—and math and science development and education—both are heavy priorities of this appropriations bill and are high on the national legislative policy agenda as well.

Again, I want to congratulate the chairman of the committee for his leadership, and just as importantly I want to thank the many other Members of the Senate whose letters and requests have helped shape the priorities of this bill over the past 10 years.

Mr. BYRD. Mr. President, H.R. 5019, the energy and water development appropriation bill for fiscal year 1991 provides funding for the critical programs of the Department of Energy, the civil works programs of the Corps of Engineers, the Bureau of Reclamation in the Department of Interior, and several independent agencies, including the Nuclear Regulatory Commission, the Tennessee Valley Authority, and the Appalachian Regional Commission.

The bill as recommended by the committee provides total obligational authority of \$20,782,405,000. This represents an increase of \$580,180,000 above the President's request and \$6,887,000 the House bill. The bill as recommended is within the subcommittee's 302(b) allocation for both budget authority and outlays.

I wish to commend Senator JOHNSTON, chairman of the subcommittee, and Senator HATFIELD, the ranking minority member of both the subcommittee and the full committee, for their excellent work in accommodating the priorities of the Senate within the constraints of the budget allocation. Their work was in no little part assisted by the cooperation of their colleagues on the subcommittee and on the full Committee on Appropriations.

Mr. President, I would also like to compliment both the majority and minority staff for their months of hard work in connection with this legislation: Proctor Jones, David Gwaltney,

Gary Barbour, Gloria Butland, and Dorothy Pastis.

The managers have explained in much greater detail the contents of the measure as recommended to you. I will not review again those highlights so that we can get down to the business of considering and passing this bill.

Mr. JOHNSTON. Mr. President, under the unanimous-consent agreement, some 165 amendments are in order with time limits set. One amendment which we had agreed to consider under the unanimous-consent agreement was an amendment by the Senator from Alaska [Mr. MURKOWSKI], but he had requested us to agree to a 20-minute time limit on that amendment, and the Senator from Oregon and I both agreed to that. But it did not find its way into the list. We have agreed to the amendment.

So at this time, Mr. President, I ask unanimous consent that an amendment by the Senator from Alaska [Mr. MURKOWSKI], be in order to be presented at this time, dealing with the access by Japan to foreign public works projects.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

AMENDMENT NO. 2455

Mr. JOHNSTON. Mr. President, I send an amendment to the desk on behalf of the Senator from Alaska [Mr. MURKOWSKI], and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana, [Mr. JOHNSTON], for Mr. MURKOWSKI, proposes an amendment numbered 2455.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:
 Sec. (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions

shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding, for construction projects that cost more than \$500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than \$500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole

or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

Mr. JOHNSTON. Mr. President, what this amendment does is prevent Japan from bidding on American public work projects until and unless they open up their markets to similar bidding by American firms, and we have agreed to this amendment.

Mr. MURKOWSKI. Mr. President, I offer an amendment that would prohibit foreign company participation in public works projects appropriated by this bill, if the U.S. Trade Representative rules that reciprocal access to foreign public works projects is not available.

The timing of this amendment is crucial. Today and tomorrow the United States and Japanese Governments enter talks which review a bilateral agreement on United States access to public works in Japan to determine if there has been progress in this arena and if the agreement is being adhered to.

Mr. President, there are serious allegations that our bilateral agreement has been violated on the first major contract awarded under that agreement, a part of the Kansai International Airport in Japan. The Japanese press is filled with story after story of illegal price fixing in the Japanese construction market. It even has a name: it is called dango in Japanese. We have just learned that the winner of that first major project at Kansai, the Niigata Engineering Co., is one of the 100 Japanese construction companies sentenced to pay damages to the United States this year for illegal price fixing at a United States naval base in Japan.

Mr. President, the second major contract at Kansai will be awarded any day. This is why we must now take a stand on this issue. We must begin the process today on this appropriations bill which includes funding for public works projects that foreign countries may participate in.

We can no longer afford to sit by and hope that our trading partners will offer us the benefits we offer to them so freely. We definitely cannot sit by and watch our bilateral agreements be brushed aside. We have to

have some sock behind our negotiations.

Mr. President, I urge that my colleagues adopt this amendment. Should we find in our bilateral talks carried out this week that access will undoubtedly be granted to U.S. companies, this amendment can be dealt with in conference. But the message today must be clear—we take our bilateral commitments seriously, and so must our partners.

Let me point out that the Japanese construction market is larger than the United States construction market, some \$50 billion larger. And yet the Japanese have around 2.5 billion dollars' worth of construction work in the United States annually, while the United States has done only 200 million dollars' worth of construction work in Japan, in total. Not annually, in total.

Mr. President, should the U.S. Government procure construction equipment and construction services of a foreign country for federally funded public works projects if that country does not allow U.S. firms reciprocal access to participate in their public works projects? We believe the answer is "No."

The amendment prohibits foreign construction firms and supplies from being utilized on projects funded by the energy and water appropriations bill if their country denies U.S. firms fair opportunities to participate in their public projects.

A similar amendment applying to all federally funded projects was included in the continuing resolution for fiscal year 1988. In addition, the amendment was passed by the Senate as part of the energy and water Appropriations bill for 1988.

The amendment to the continuing resolution, which expires at the end of this fiscal year, was enacted in response to barriers to United States construction services and supplies in Japan. It was effective in encouraging the Japanese Government to reach an agreement with the United States in May of this year to allow United States firms access to Japan's market for major projects.

The extending provision will allow for a consistent United States policy response to incidents such as discrimination experienced by United States firms in their efforts to participate in major projects in Japan and ensure that the agreement with Japan is implemented in good faith.

This is how the Murkowski amendment works:

First, The U.S. Trade Representative [USTR] shall determine which foreign countries deny "fair and equitable" market opportunities for U.S. firms seeking to participate in foreign-government-funded public works projects. The USTR already does this in compiling its annual report on foreign trade

barriers; the amendment would not require anything new from the USTR other than publication of listed nations in the Federal Register.

Second. Funds appropriated pursuant to this act shall not be used for any domestic projects using foreign services or supplies from countries listed by the USTR.

Third. Restrictions may be waived if the President or head of the agency administering the funds determines it is necessary for the public interest.

Fourth. Any country listed can again become eligible to participate in federally funded projects if its government removes barriers and submits to the President or the USTR evidence of such action. The USTR must independently verify before lifting restrictions.

The PRESIDING OFFICER. Is there further debate on the amendment? The question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 2455) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. I have a group of amendments here which I would like to describe individually and submit en bloc. They are agreed-to amendments and none of them are controversial.

The first is submitted on behalf of the Senator from Washington [Mr. ADAMS] dealing with the Wynnnochee Dam, and the amendment simply corrects language included in the House-passed bill, which created an ambiguity in legislation passed last year dealing with operation, maintenance, and repair of the Wynnnochee Dam in Washington.

The amendment agreed with language included in the House-passed bill, which we now understand creates an incorrect gap. The amendment is therefore needed to correct that situation.

The second amendment, Mr. President, is on behalf of Senator BUMPERS for Village Creek, Taylor Bay. The amendment merely earmarks \$60,000 for the Corps of Engineers to complete studies of siltation problems in Village Creek, Taylor Bay, AR. This matter came to our attention after the committee had been completed in its markup for the bill, and it is a very small amount and noncontroversial and acceptable to the committee.

The third amendment is on behalf of Senator SIMPSON and deals with Jackson Hole, and provides \$450,000 in funds appropriated in the bill to continue flood control studies at Jackson Hole, WY, which were begun last year. No funds were included in the Presi-

dent's budget for this critical work. The committee feels that it is important that the corps be able to continue necessary activities in fiscal year 1991.

The next amendment is on behalf of Senators WILSON and CRANSTON, with respect to the San Luis Rey River amendment. It raises the cost ceiling for the San Luis Rey River flood control project in California. The Corps of Engineers has informed the committee that activities planned for fiscal year 1991 cannot be carried out without raising the ceiling for the project. The project has been under construction for several years and will provide much needed flood protection for the area.

The next amendment is submitted on behalf of the Senator from Oregon [Mr. HATFIELD] and simply provides for \$150,000 for engineering, design, acquisition, and construction of a support structure in the Columbia River in cooperation with the city of Hammond, OR, and actually I think it provides for 2-for-1 matching funds for the city of Hammond, OR.

AMENDMENT NO. 2456

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. ADAMS, proposes an amendment numbered 2456.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 19, line 20, General Provisions, Corps of Engineers—Civil, section 101, delete lines 20 to 24 and insert the following:

Sec. 101. Section 4(t)(3)(F) of the Water Resources Development Act of 1988, Public Law 100-676, is amended by striking "September 30, 1989, provided that the total amount forgiven shall not exceed \$600,000," and inserting in lieu thereof "June 30, 1990."

Mr. ADAMS. Mr. President, I rise today to bring to the Senate's attention a funding problem regarding the transfer of operations and maintenance of the Wynoochee Lake project to the city of Aberdeen, WA.

Wynoochee Dam was authorized for construction in 1962 for the purpose of water storage, flood control, and potential future hydropower development. Under the legislation, the cost of operating and maintaining the dam was split between the city of Aberdeen and the Federal Government. Over the years the cost of operating the dam has escalated beyond the city's ability to pay. In the spring of 1988, the city informed the congressional delegation that it could no longer pay

its share of the costs and asked to have the operations and maintenance responsibility transferred to the city. The Water Resources Development Act of 1988 authorized this transfer from the Corps of Engineers to the city of Aberdeen.

Although the act authorized the transfer of operations and maintenance after September 30, 1988, transfer did not occur until July 1, 1990. As a result of the delay in transfer, the city of Aberdeen was obligated to pay operations and maintenance costs above Aberdeen's original understanding of such costs.

Last year, Congress provided debt relief for the unanticipated 1989 corps expenditures. The amendment that I offer today is intended to relieve the city of the balance of the unanticipated expenditures accumulated in preparation for the July 1, 1990 transfer. Mr. President, I appreciate your consideration of this very difficult situation and our attempt to assist the city and the Corps of Engineers with the furthering of this worthy project.

Mr. President, I would also like to take this opportunity to thank the distinguished Energy and Water Subcommittee Chairman BENNET JOHNSTON, ranking member MARK HATFIELD and their staffs for carrying this bill forward in a fair and expeditious manner. They have done an impressive job.

This bill provides funding for several important Federal programs—from the Department of Energy complex to dams and waterways across the United States. In the Department of Energy, this bill provides for a \$319 million increase in defense cleanup funding over the Presidential request. This increase is warranted in light of the recent, upward revision of DOE's estimates of just what it will take to clean up contaminated DOE installations. It is also needed to ensure that the DOE will be able to live up to any obligations entered into with States that host DOE facilities. The Hanford tripartite agreement, for example, will be bolstered by this funding increase.

In the DOE section of this bill, the committee has also continued operational funding of the Fast Flux Test Facility; a modern, class A test reactor. The Nation will be served well by the continuation of this program.

Not to be forgotten is the funding put forth in this bill for DOE's national laboratories—labs that will provide the means to treat and ultimately dispose of the nuclear wastes that have now been created.

I would also like to thank the committee for its cooperation in funding several Army Corps of Engineers projects of tremendous importance to my State. These projects include the Zintel Canyon Dam and the Tri-Cities rivershore enhancement study in eastern Washington, the Lower Columbia River channel improvement project,

the Columbia River fish bypass system and the Grays Harbor improvement project.

I recognize that it is often difficult to provide the funding for all the worthy projects demanding the attention of our Government. On behalf of the citizens of Washington, I would like to express my appreciation to the committee for its assistance in funding many of the worthy projects in my State.

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2456) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2457

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BUMPERS proposes an amendment numbered 2457.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 13, strike the period (.) and insert the following: "Provided further, That the Secretary of the Army acting through the Chief of Engineers, is directed to use \$60,000 of the funds appropriated herein to complete the Village Creek, Taylor Bay, Arkansas (Sec. 216) study."

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2457) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2458

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. SIMPSON (for himself and Mr. WALLOP), proposes an amendment numbered 2458.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert after line 13 on page 5 under General Investigations: "Provided further, That with \$450,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and expedite a mitigation study for the Jackson Hole Wyoming flood protection project (Public Law 51).

Mr. SIMPSON. Mr. President, I join my friend and colleague, MALCOLM WALLOP, in proposing this amendment today. It will provide the necessary funding for a most important environmental study concerning the Snake River levee system near Jackson Hole, WY. I appreciate the willingness of Senators JOHNSTON and HATFIELD to carefully hear our request and to accommodate this important need.

For years now we have been working with the Corps of Engineers regarding the operations and maintenance responsibilities for the Snake River levee system. In fact, my predecessor, Senator Cliff Hansen, worked long and hard on this very problem during his tenure in the U.S. Senate. Finally now—in this Wyoming centennial year will be the first year that the corps has agreed that it is their responsibility to maintain both the Federal and non-Federal levees in advance of the levee damage that is inevitably caused by spring flooding. In Wyoming, we now look forward to working with the corps toward a coordinated and efficient levee system that is prepared for the often dramatic spring runoffs, and one that will now be managed more properly than on an annual emergency basis.

There are also some very important impacts on the environment which have been caused by the levees—that too must be addressed. Certain sections of the Snake River have suffered stream bank and island erosion, loss of valuable trout habitat, and damage to important fish spawning areas. The damage to the Spring Creek area is especially apparent. Maintenance of the levees during certain times of the year will also impact the bald eagle population in the area, and this requires a special degree of planning and precaution. In order to begin the necessary work to address these areas of need, the Corps of Engineers and the Fish and Wildlife Service have recently entered into an agreement to determine the extent of their respective responsibilities in a formal mitigation study. Today, MALCOLM and I are thus seeking \$450,000 to fund this 1-year study.

This study was authorized by the Environment and Public Works Committee on June 12. The community of Jackson and Wyoming are very anx-

ious to begin to see the actual work begin which will protect and enhance this magnificent river. We do appreciate your consideration and acceptance of this amendment.

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2458) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2459

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. HATFIELD, proposes an amendment numbered 2459.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 11, line 21 add the following: "Provided further, That, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make available \$150,000 for engineering, design, acquisition and construction of a support structure to serve as the foundation for the Seafarers Memorial in the Columbia River, in cooperation with the City of Hammond, Oregon."

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2459) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2460

(Purpose: To preserve certain historic property)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. CHAFEE (for himself, and Mr. PELL), proposes an amendment numbered 2460.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 10, line 18 insert before the colon: "Provided further, That using \$970,000 of funds appropriated herein, the Secretary of the Army is directed to relocate the Southeast Light of Block Island, Rhode Island to a more suitable location, subject to enactment into law of authorizing legislation".

Mr. JOHNSTON. Mr. President, this amendment is on behalf of the Senators from Rhode Island, Messrs. CHAFEE and PELL and provides for \$970,000 within available funds to the Secretary of the Army to relocate the Southeast Light on Block Island, RI, to a more suitable location subject to the enactment into law of authorizing legislation.

Mr. CHAFEE. Mr. President, my amendment, cosponsored by Senator PELL, is straightforward. It merely appropriates \$970,000 to the Secretary of the Army to relocate the Southeast Light. It is a project of particular interest to those of us who are concerned about the preservation of an architectural treasure and a New England way of life.

The Southeast Lighthouse sits atop Mohegan Bluffs on Block Island, RI, and is in imminent danger of falling into the sea. Constructed in 1873, the light was illuminated as part of the Federal Government's effort to ensure safe navigation in Block Island Sound. The Southeast Light is a truly remarkable structure and unique among all lighthouses. This massive red brick structure, of Victorian Gothic Revival style, consists of a double cottage attached to an octagonal light tower. The light's Fresnel lens, imported from France, is large enough for six people to stand inside. To this day, the light is considered one of the primary beacons along the east coast. The Southeast Light has served its mission well and has long been a symbol of New England's maritime history.

This July, the U.S. Coast Guard retired the light and replaced it with a steel tower aid to navigation. According to geology experts, the bluff upon which the light sits has been eroding for over 100 years. The weakness of the clay sediment cliff in conjunction with rainfall and wave and tidal action constantly wear back the bluff, often at rates approaching 7 feet per year. At present, the lighthouse is approximately 60 feet from the near vertical cliff. The situation is particularly alarming in view of the fact that over 40 feet of land would be required to facilitate a relocation of the structure.

Since 1983, A group of Rhode Islanders has been working to save this magnificent landmark. In 1987, the group formed the Southeast Lighthouse Foundation. The primary goal of the private organization is to raise the necessary funds to relocate the light. Upon completion of the move, the

foundation envisions the establishment of permanent maritime and natural history exhibits on display and open to the general public at the light. The State of Rhode Island and private contributors already have expressed their interest in participating in a cost-sharing agreement to save the light.

We seek the Senate's support for this cooperative effort to preserve an historic Rhode Island landmark. According to recent engineering studies, the total cost of moving the light is approximately \$1,940,000. This amendment would appropriate \$970,000 to the U.S. Army Corps of Engineers in fiscal year 1991 to contract and oversee the Lighthouse move.

Why should the Army Corps of Engineers be involved in this project? Quite simply, as the Nation's engineer, the corps' possesses the necessary technical and engineering expertise to undertake the relocation.

The Southeast Lighthouse is the only light in the Nation facing immediate destruction. In fact, just 2 weeks ago it was placed on the National Trust for Historic Preservation's list of "America's Eleven Most Endangered Historic Places." It is because of the urgent nature of the situation that we offer this amendment. The Southeast Lighthouse is not just a local landmark but a Federal monument and a symbol of our Nation's coastal history.

I urge my colleagues to adopt this amendment.

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2460) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2461

(Purpose: To provide for flood control in Oceanside, CA)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. WILSON (for himself, and Mr. CRANSTON), proposes an amendment numbered 2461.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following:

Sec. . San Luis Rey River, California. The project for flood control, San Luis Rey

River, California, approved by resolutions of the Committee on Public Works, United States Senate, and the Committee on Public Works and Transportation, House of Representatives, on December 17, 1970 and December 15, 1970, respectively, in accordance with the provisions of section 201 of Flood Control Act of 1965 (Public Law 84-298) is modified substantially in accordance with the Supplemental Phase II General Design Memorandum dated December 1987, at an estimated total cost of \$60,400,000, with a Federal first cost of \$45,000,000, and a non-Federal first cost of \$15,300,000.

Mr. JOHNSTON. Mr. President, this amendment is on behalf of Mr. CRANSTON and Mr. WILSON. The amendment ensures that in the San Luis Rey project that the congressionally authorized cost ceiling is sufficient to ensure that the funds in the bill can be spent as they are authorized and appropriated to be spent.

Mr. WILSON. Mr. President, I am joined by my colleague Senator CRANSTON in offering this amendment on behalf of the city of Oceanside, CA. Let me assure my colleagues that this amendment is straightforward and noncontroversial. As well, it has no fiscal impact on this very important energy and water development appropriations bill.

Congress authorized the 7.2-mile San Luis Rey flood control project in 1965. Since that time, the Army Corps of Engineers and the city of Oceanside have worked very closely on the project. In this regard, I want to thank the managers of the bill, Senators JOHNSTON and HATFIELD, and their staffs for the attention and assistance they have given this project; the bill before us provides \$5.5 million for construction on the project.

This amendment does not change the amount of funds going to the project. What the amendment does is ensure that the project's congressionally authorized cost ceiling is sufficient to ensure that the funds in this bill can be spent—as they are authorized and appropriated to be spent—and allow work to proceed.

The city of Oceanside and members of the corps advise me that current cost estimates exceed the \$10 million Federal cost limit established under section 201 of the 1965 Flood Control Act. The estimated Federal cost in 1989 figures is \$60 million. If adjusted down to 1965 dollars, this represents a relatively small increase over the original ceiling allowance.

We cannot allow work to halt on the San Luis Rey River project as long as Oceanside's most heavily populated, vulnerable residential areas are at risk. This amendment accomplishes that goal.

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2461) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2462

(Purpose: To provide funding to the State of Nevada for oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, as amended)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

THE PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. REID (for himself and Mr. BRYAN), proposes an amendment numbered 2462.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

THE PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 39, line 19, after the word "appropriated" insert the following: ", within available funds,".

On page 39, line 20, strike "\$4,000,000" and insert "\$5,000,000".

On page 39, line 23, strike the words "of which".

On page 39, line 25, strike the words "of which".

Mr. JOHNSTON. Mr. President, this amendment is on behalf of Senators REID and BRYAN with respect to the nuclear waste fund in Nevada and it provides from a reallocation of moneys in the nuclear waste fundraising the amounts to the State of Nevada to \$5 million. That is as I say within available funds and it reallocates the other moneys so that the effect is budget neutral.

Mr. REID. Mr. President, the passage of this legislation today marks the culmination of a lengthy battle over funding for the State of Nevada through the nuclear waste disposal fund. This funding is necessary for the State to conduct oversight of site characterization as provided by the Nuclear Waste Policy Act of 1982.

Earlier this year, the State provided me with their requirements to conduct adequate oversight in fiscal year 1991. I fought hard for this amount. When the bill was before the Energy and Water Appropriations Subcommittee for consideration, I successfully fought to increase the amount available to the State from \$875,000 in unencumbered funds to \$2,875,000 in unencumbered funds. This represents a threefold increase in funding.

Everyone involved with the dump, however, realizes this funding level is insufficient to perform adequate oversight. The GAO, the National Re-

search Council and other scientists have all noted problems with the Yucca Mountain site or the site characterization process. In the face of the Department of Energy's determination to continue characterization despite these reservations, Nevada needs more funds for oversight.

The amount provided in the final version of H.R. 5019 to the State will enable it to conduct activities at last year's level. The State will receive \$5 million in unencumbered funds for its oversight activities in fiscal year 1991. This is nearly a sixfold increase over the amount originally provided by this legislation and represents a significant victory for the State of Nevada over the DOE.

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (no. 2462) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2462

(Purpose: To increase the amount of funds provided for the Verification and Control Technology Program of the Department of Energy and to reduce the amount of funds provided for nuclear weapons production and surveillance, nuclear weapons testing, and the B-90 nuclear depth/strike bomb)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. BINGHAM (for himself, Mr. DOMENICI, and Mr. CRANSTON), proposes an amendment numbered 2463.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On Page 42, line 8, after "law", insert "":
Provided further, That of the amount appropriated to the Department of Energy in this paragraph, \$194,684,000 may be obligated only for verification and control technology operating expenses, \$10,000,000 may be obligated only for Project 90-D-186, Center for National Security and Arms Control, \$2,592,000 may be obligated only for Project 91-D-192, Foreign Technology Assessment Center, no funds may be obligated for Project 90-D-122, Production Capabilities for the Nuclear Depth/Strike Bomb, no more than \$2,131,311,000 may be obligated for production and surveillance operating expenses, and no more than \$437,268,000 may be obligated for weapons testing operating expenses."

Mr. JOHNSTON. Mr. President, this amendment is proposed on behalf of Senators BINGAMAN, DOMENICI, and CRANSTON; and it provides for increasing the amount of funds provided for the Verification and Control Technology Program of the Department of Energy and to reduce the amount of funds provided for nuclear weapons production and surveillance for nuclear testing and the B-90 nuclear depth/strike bomb.

Mr. BINGAMAN. Mr. President, the amendment I am offering together with Senators DOMENICI and CRANSTON would increase funding for arms control verification and control technology in the Department of Energy to a total of \$217.2 million, as proposed by the Armed Services Committee in S. 2884, the fiscal year 1991 Defense Authorization Act.

It would add \$13.2 million to verification and control technology operating expenses for a total of \$194,648,000.

It would fully fund the \$10 million request for the Center for National Security and Arms Control at Sandia National Laboratories, an addition of \$7 million.

It would fully fund the \$2.592 million request for the Foreign Technology Assessment Center at Lawrence Livermore National Laboratory, which is not funded in the appropriations bill at present.

All of this funding is authorized for appropriation in S. 2884, which we'll be debating next week.

Mr. President, more than offsetting this increase in arms control verification funding would be three reductions:

First, the amendment would zero funding for production capabilities for B-90 nuclear depth/strike bomb, a reduction of \$13.7 million. This project is terminated in S. 2884.

Second, it would reduce funding for nuclear weapons testing operating expenses by \$5 million in connection with termination of the Follow on to Lance warhead. This was also done by the Armed Services Committee.

Third, it would reduce production and surveillance operating expenses by \$29,869,000 to the level authorized for appropriations in S. 2884. The lower level is consistent with various warhead program terminations and reductions the Armed Services Committee has made in the B-61, B-83, B-90, W-82, and Follow on to Lance programs.

All of the reductions would simply reduce the amounts in the energy and water development appropriations bill to the levels authorized for appropriations in the fiscal year 1991 Defense Authorization Act proposed by the Armed Services Committee.

Mr. President, let me briefly explain why this amendment is needed. First of all, I would like to commend the Senator from Louisiana [Mr. JOHN-

STON] and the Senator from Oregon [Mr. HATFIELD] for increasing verification funding in the bill before us. We are totally in agreement on the need for additional funding in this area. The Department of Energy national laboratories have long been involved in the research and development of arms control verification and control technologies. Many of the technologies now in use for arms control verification were developed at the national laboratories, and others developed at these labs are under consideration for use in verifying the results of ongoing arms control talks. However, the Department of Energy budget submission for fiscal year 1991 fails to adequately support the arms control verification efforts of its laboratories.

This strikes me as exactly the opposite direction from that in which we should be moving. Earlier this year President Bush and Soviet President Gorbachev signed a chemical weapons agreement and two nuclear testing protocols, as well as discussing the ongoing START and CFE talks. Verification is at the heart of these negotiations, and much of the verification technology under consideration, such as the tagging of weapons and the monitoring of missile production facilities, has been developed at the DOE laboratories.

Mr. President, during an Armed Services Committee hearing on May 23, we received strong testimony from the directors of the national laboratories on the need for increased funding for verification technology. Under Secretary of Energy John Tuck, also testifying before us that day, testified that the Department of Energy Budget submission did not include sufficient funding for the DOE verification programs. Earlier this month, I was informed by Under Secretary Tuck that an additional \$43.2 million above the request would be required to maintain a stable and productive program in verification technology at the national laboratories.

Under Secretary Tuck indicated to me that, at the time of the DOE budget submission, the outcome of ongoing arms control talks was not yet known, but that in light of recent and anticipated progress in a number of arms control areas, in a reassessment of verification technology funding on a program-by-program basis, has resulted in the conclusion that an additional \$43.2 million above the request would be required.

Mr. President, we have reached arms control agreements in a number of areas this year, with progress continuing on others. The continued verification of such agreements is a critical national security issue, and the development of effective verification technologies for future agreements is critical to the success of ongoing talks. Un-

fortunately, there have been few advocates for developing new verification technologies and strategies, and those few wield little influence compared to advocates for developing new weapons technologies. I hope that in this watershed year in our relations with the Soviet Union the Senate will support an increase in funding in this area.

The House Appropriations Committee did not include this funding in its version of the bill. The committee's report reduced verification technology funding by \$9,592 million from the Department's request, stating that this funding was reduced pending a review of the future missions of the national laboratories. The national laboratories have been involved in verification and control technology R&D for almost 30 years. Last year, Congress highlighted this mission in particular in the fiscal year 1990 Defense authorization bill. We have consistently received testimony indicating that this is a key mission of the national laboratories. Yesterday, Senator JOHNSTON held a hearing in the Energy and Natural Resources Committee on the issue of the future of the national laboratories, and we again received testimony on the importance of this mission. Earlier this year Senators BOREN, COHEN, and GLENN wrote a letter on behalf of the Intelligence Committee which also pointed up the importance of the national laboratories' work in verification. In this decade of growing detente and rapid progress on arms control, I do not believe that we should be looking for a new home for this mission. The national laboratories have the expertise and decades of experience, and their work in verification and control technology should be supported now more than ever.

As I stated earlier, the reductions I am proposing more than offset the increase. The reductions are in areas in which the Armed Services Committee has recommended lower funding levels in the fiscal year 1991 Defense Authorization Act, and I do not anticipate these areas being increased during debate on that bill next week. These offsets were not available to the Appropriations Committee when they marked up this bill. They are available now and, in my view, should be allocated to arms control verification research.

I urge the adoption of my amendment.

Mr. DOMENICI. Mr. President, I come to the floor to support the fiscal year 1991 energy and water development appropriations bill as reported by the Senate Appropriations Committee.

I commend the distinguished chairman, Senator JOHNSTON, and the distinguished ranking member, Senator HATFIELD, for the fine work they have done in crafting a bill that meets important national needs.

It has been my pleasure to serve with my good friends on the subcommittee.

Mr. President, the amendment offered by my colleague from New Mexico, Senator BINGAMAN, myself, and Senator CRANSTON provides a total of \$217.2 million for Department of Energy arms control verification and control technology activities.

The proposed funding includes \$194.6 million for operating expenses, \$10 million for the continued construction of the Center for National Security and Arms Control at Sandia National Laboratory in New Mexico, and \$2.6 million for the Foreign Technology Assessment Center at Lawrence Livermore Laboratory in California, in addition to \$9.9 million for capital equipment already in the bill.

In all, this amendment shifts \$22.8 million into DOE's Arms Control Verification and Control Technology Program from other DOE atomic energy defense programs.

These offsetting reductions come in three areas, which Senator BINGAMAN has outlined.

These changes essentially conform these programs to the levels authorized by the Armed Services Committee in the fiscal year 1991 Defense authorization bill (S. 2884) it reported on July 20.

Mr. President, I concur with Senator BINGAMAN's concern about the funding level in the pending bill for DOE arms control verification and control technology activities.

One has only to consider the significant arms control negotiations in which the United States is currently engaged to highlight the extreme importance of these activities:

The Strategic Arms Reduction Treaty [START], expected to be signed by the end of this year;

The Conventional Forces in Europe Treaty [CFE], expected to be completed early next year;

The Chemical Arms Treaty, signed at the Bush-Gorbachev May-June 1990 summit in Washington, DC; and

The verification protocols to the Threshold Test Ban Treaty, signed in 1974; and the Peaceful Nuclear Explosions Treaty, signed in 1976. These protocols were signed at the Bush-Gorbachev summit this past May and June.

A significant portion of these funds are used for detection technology, which is crucial to the implementation of these historic treaties.

Mr. President, I believe that the Department of Energy can certainly utilize the additional \$22.8 million in arms control verification and control technology funding that the pending amendment provides.

The sponsor of the amendment has the opportunity of hindsight in crafting this amendment in that we now know what the Armed Services Com-

mittee recommends for these programs.

When the pending energy and water appropriations bill was considered by the Senate Appropriations Committee, that committee did not have the benefits of full information on the Armed Services recommendations.

The energy and water bill was reported by the Appropriations Committee on July 19; the Defense authorization bill was reported by the Armed Services Committee on July 20.

But, I note that the Senate Appropriations Committee recommendation for these activities is fully \$30 million above what the House has provided in its version of the bill, and \$20.4 million above the President's fiscal year 1991 budget request.

The chairman and ranking member have made a significant commitment to providing sufficient funding for the verification and control program in their bill.

This amendment simply conforms the funding in this bill to the authorization bill recently reported. I urge the adoption of this amendment.

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2463) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2464

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. GORE, proposes an amendment numbered 2464.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 42, after line 8, insert the following: "Provided further, That (a) \$500,000 of the amount appropriated herein for environmental restoration and waste management shall be transferred to the Tennessee Valley Authority for the purpose of assisting the Department of Energy in assessing and monitoring areas and activities within or adjacent to Watts Bar Reservoir, Tennessee, which may be adversely affected by radioactive, mercury, or other contaminants resulting from runoff from Department of Energy facilities within the State of Tennessee; and (b) The Tennessee Valley Authority shall determine the scope of assessment and monitoring activities to be undertaken and shall make available to the Department

of Energy, the Environmental Protection Agency, the Army Corps of Engineers, and the State of Tennessee, all findings and information related to the activities taken under this provision."

Mr. JOHNSTON. Mr. President, this amendment is on behalf of Senator GORE and provides for \$500,000 for a study of an environmental restoration and waste management for the TVA in the Watts Bar Reservoir, and this is the first part of a study to determine how best to deal with that problem.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2464) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2465

(Purpose: To direct the Federal Energy Regulatory Commission to solicit competitive bids for its stenographic reporter contract)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. METZENBAUM, proposes an amendment numbered 2465.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert on page 46, line 21, after the numeral: "Provided further, That the Commission shall, upon the expiration of the one-year contract entered into as a result of Solicitation No. DE-FB89-RC-00001, exercise its right under such contract not to renew the contract. The Commission shall solicit new bids, allowing for the submission of bids offering to pay the Government to perform stenographic services, that is, bonus bids, and shall accept, in accordance with Federal acquisition laws and regulations, the bid of a qualified contractor that is financially most advantageous to the Government."

Mr. JOHNSTON. Mr. President, this amendment is on behalf of the Senator from Ohio [Mr. METZENBAUM], and provides that the FERC, the Federal Energy Regulatory Commission, must solicit competitive bids for its stenographic reporter services when the current contract term ends.

Mr. METZENBAUM. Mr. President, this amendment directs the Federal Energy Regulatory Commission to solicit competitive bids for its stenographic reporter services when the current contract term ends. This

amendment will not cost the Treasury 1 cent. In fact, it will in all likelihood bring the Government \$1 million or more, as I will explain.

Why is this amendment necessary? It is necessary because last winter the Federal Energy Regulatory Commission, also known as FERC, rejected a bid offering to pay the Government \$1,250,000 for the privilege of transcribing its proceedings. It rejected the bid—apparently, because it found it inconvenient to collect the bonus bid.

The proceedings of the FERC are transcribed by a private contractor and sold to parties appearing before it and to the public. When the contractor's contract expired last year, the FERC solicited bids for the right to transcribe and sell its transcripts. That is a lucrative business: every business day there are numerous proceedings ongoing before the Commission's administrative law judges. It is not unusual for dozens of parties to intervene in the Commission's interstate gas pipeline and other proceedings. These parties purchase copies of each day's transcripts—at rates as high as \$6.30 a page. Daily transcripts can go to 100 pages in length or more. Proceedings can go on for weeks. One contractor estimated that it would sell 806,450 pages over 5 years. It offered to pay FERC 5 cents per page—about \$39,000. FERC refused to take a bonus bid—it would only consider zero bids, involving no return to the Government but offering free transcripts to the Government. The same contractor then offered to pay \$1.55 per page—that's \$1,250,000. The Commission refused to take a bonus bid.

FERC's procurement director was quoted in the Washington Post as saying that the money that Ace proposed to pay for the lucrative contract was "no inducement" because FERC could not retain the funds but must turn the funds over to the U.S. Treasury.

The procurement director also cited the administrative burdens of accepting money from a contractor as being too great to justify accepting the \$1,250,000.

A FERC press officer was quoted as stating that these burdens would include: "Contacting Treasury, setting up an account, auditing the contract, assuring compliance. This would require a clerk, either a new hire or new duties for an existing clerk."

The stenographic contractor's attorney was quoted in February in the Washington Post as stating: "I never thought I'd see the day that I'd have to sue the government to force them to take money."

I shared the same sentiment then as I do now.

I would like to enter into the RECORD the article that brought the situation to my attention. The article is entitled, "The Government's Not Like You

or Me." It appeared on the Federal page of the Washington Post on February 15, 1990. There was a followup article that appeared on April 19, 1990, will entitled, "A License to Print Money, Part II." I will ask that this article also be entered into the RECORD.

Mr. President, with the Federal budget deficit over \$200 billion, it is unconscionable that an agency of the Government would refuse to accept a payment in excess of \$1 million. The reaction of many Americans to this situation is outrage; \$1¼ million may not seem like much to some people in Government, but I assure you, it matters as much to this U.S. Senator. We need every dollar we can get to reduce the deficit. Every million helps.

If a contractor is otherwise qualified, and is willing to pay the Government over \$1 million for the privilege of transcribing FERC proceedings, it is beyond my comprehension why FERC should not accept the contractor's bid.

The Commission solicited two rounds of bids. After a protest proceeding before the General Accounting Office, the U.S. District Court for the District of Columbia directed FERC to determine the most favorable of the original bids. Accordingly, FERC accepted the \$39,000 bid. Because the court found that FERC had abused its discretion in canceling the original solicitation, it did not address the \$1.25 million bid which the Commission had rejected because it contained a bonus provision.

While we are considering this bill that would appropriate \$122,750,000 to FERC, this amendment directs FERC to correct a situation that has already unnecessarily cost taxpayers a quarter of a million dollars.

Because of the Commission's administration of the bidding process, the Treasury lost approximately \$242,000 in bonus payments during the last year. The Commission now has an opportunity to rectify that situation.

Mr. President, on September 30, 1990, FERC's 1-year stenographic contract comes to the end of its term. Under the terms of the contract, the Government has the exclusive right to renew or not renew the contract. Indeed, the contract further provides that the Government may terminate the contract "for convenience" at any time.

All the Commission need do is not renew the transcription contract and to solicit new bids for this obviously undervalued contract. Mr. President, Congress need not delegate this authority to the FERC. No particular agency expertise is required.

In two simple sentences, the amendment does two things. First, it directs FERC to exercise the Government's right under its contract not to renew the Commission's current stenographic contract. Second, it directs FERC to

solicit new bids that more accurately reflect the true market value of the contract, including bids that offer to pay the Government for the right to transcribe and sell transcripts, that is, bonus bids.

The exact language is: "Provided further, That the Commission shall, upon the expiration of the one-year contract entered into as a result of Solicitation No. DE-FB89-RC-00001, exercise its right under such contract not to renew the contract. The Commission shall solicit new bids, allowing for the submission of bids offering to pay the Government to perform stenographic services, that is, bonus bids, and shall accept, in accordance with Federal acquisition laws and regulations, the bid of a qualified contractor that is financially most advantageous to the Government".

This amendment will direct the Commission to do the right thing. Do not renew the contract. Solicit new bids to obtain better terms. Do not prohibit bonus bids.

This appropriations bill allocates \$122,750,000 to FERC. This amendment encourages FERC to make back about \$1,250,000 of that. Every little bit helps.

This is a dollars and cents amendment and it is a common sense amendment. I hope my colleagues will agree and adopt it.

I ask unanimous consent that the Washington Post articles be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

THE GOVERNMENT'S NOT LIKE YOU OR ME

(By Dale Russakoff)

Let's say you solicit bids to have your house painted. To your amazement, a number of painters propose to do it for free, explaining that the job would pay for itself by drawing loads of business from your neighbors.

To make the deal sweeter, let's suppose that one painter is so certain of reaping a bonanza that he wants to pay you for the privilege of painting your house. The amount? More than \$1 million over five years.

Before dismissing this as fantasy, consider that this very scenario unfolded the other day for the Federal Energy Regulatory Commission when it solicited bids from court reporters to transcribe its sleep-inducing hearings on the legitimacy of gas price increases, electricity rate hikes and the like.

As it turns out, the hearings feature so many lawyers, representing so many parties—typically with hundreds of millions of dollars at stake—that there is always a flood of orders for transcripts, often as thick as a small telephone directory, at rates of up to \$6.30 a page.

Not surprisingly, the word is out in the small world of Washington court reporters that the FERC job is a gold mine. By transcribing hearings for FERC at no charge, one can still make a small fortune selling copies to other parties clamoring for them.

So it was that three companies bid zero at the FERC bid-opening last week, each in

hopes of offering the lowest price. A fourth company, Ace-Federal Reporters Inc., which has had the contract for eight years and knows exactly how lucrative it is, proposed the equivalent of the hypothetical house-painting deal: *It would pay FERC \$1,250,000 (\$1.55 for each of the 806,450 pages it would expect to transcribe for FERC over the five-year life of the contract) purely for the privilege of performing the service.*

Now, back to the hypothetical paint job. A cash-conscious home-owner, certainly one whose family was running a deficit of \$140 billion, likely would give the job to the painter who offered to pay more than \$1 million.

That's where the federal government is not like you and me. It has its own notion of what it means to get one's house in order.

FERC disqualified the Ace bid for reasons perhaps best understood by the bureaucrats who did it. No regulation prohibits FERC from taking such bids, known in the business as "bonus bids," so the decision was left to what is known in Washington as "administrative discretion."

FERC procurement director James E. Thompson said the money Ace proposed to pay was "no inducement" because FERC couldn't keep the \$1.25 million for itself. Federal law, he observed in a letter responding to a protest filed by Ace, would require it to go into the U.S. Treasury.

He also said, in a declaration filed after the protest, that the administrative burdens of accepting money from a contractor were too great.

A reporter's calls to Thompson's office were not returned, but FERC press officer Ron Harris said these burdens would include: "Contacting Treasury, setting up an account, auditing the contract, assuring compliance. This would require a clerk, either a new hire or new duties for an existing clerk."

Harris said Thompson also feared that Ace would recoup the \$1.25 million by hiking its prices to the public. "Somebody is going to pay," said Harris, "and if it's the public, then we have a mandate to protect their interest."

Harris was asked whether, by this logic, FERC should insist on paying for the service since a zero bid would result in a company reaping profits from transcript sales to the public, while the government got a free ride.

"I hadn't thought of it that way," he said.

Anyone who has dropped in on a FERC hearing, which resembles a lawyer's convention, can see why stenographers so covet this contract—particularly in a Washington where regulatory agencies are doing less and less regulating, a process they have for decades been hired to transcribe.

FERC, unlike other agencies, remains very much in business, since it is required by law to regulate a range of energy market issues. Moreover, a typical FERC case has many parties—utilities, large customers, competitors—each with its own lawyers, most of whom order transcripts. One pending case, expected to last four months, has so many parties that the presiding judge organized them into groups. Now there are 15 groups.

"Most of the companies that appear before FERC are very large, and they're passing all the legal fees and the transcript costs to ratepayers anyway, so everybody orders transcripts," said Martin Lobell, an attorney who appears before FERC.

Ace officials declined to reveal the full value of the contract, but they have not sur-

prisingly gone to federal court to fight for it. Their lawyer, Ronald K. Henry, observed: "I never thought I'd see the day that I'd have to sue the government to force them to take money."

A LICENSE TO PRINT MONEY, PART II

(By Dale Russakoff)

A couple of months ago, a Washington parable was outlined in this space about the Federal Energy Regulatory Commission, which found itself in a most enviable position. The FERC, as it is known to intimates, had just received a bid on a contract from a firm that actually wanted to pay to do business with it.

We weren't talking peanuts. The offer, from the court-reporting firm of Ace-Federal Reporters Inc., was for a cool \$1.25 million over five years.

The FERC's response, readers may recall, was to disqualify the bid for reasons confounding to those accustomed to life in the private sector. The agency's procurement director observed in a letter that the money was "no inducement" because the FERC couldn't keep it anyway: Federal law would require it to go into the U.S. Treasury.

As often happens in Washington parables, this one took a surprise detour, and here the tale resumes. Ace wanted the contract badly enough that, in addition to bidding the moon and stars, it hired a law firm, Baker & Botts, to plead its case in U.S. District Court.

Volumes of pleadings, memoranda, affidavits, declarations and even a Statement of Material Facts As To Which There Is No Genuine Issue (a real heading) poured into the file of Civil Action No. 90-0287, which was assigned to U.S. District Judge John Garrett Penn.

With corporate America always complaining of headaches from doing business with the government, it may seem odd that anyone would go to such lengths. Nor would one who has attended a FERC hearing—a seemingly endless day of arcana about such matters as utility mergers, gas pipeline transmissions and electricity rates—believe that anyone would pay to sit through them.

And with many regulatory agencies virtually out of business since the early 1980s, there isn't much for court reporters to transcribe for the feds anymore.

But at the FERC, court reporting is something of a license to print money. Hearing transcripts tend to be voluminous, and there are so many parties—energy companies, utilities, pipelines, industrial customers, environmentalists, states and countless lawyers—that one can make a killing on outside sales. Moreover, the contractor has a monopoly on the transcripts, at prices of up to \$6.30 a page.

Ace had been winning the FERC contract ever since 1981 on a zero bid, meaning the company gave FERC a free transcript, then recouped its losses by selling copies to the public. But no one knew what gold lay in those FERC hills until this year, when Ace faced three competitors who all were bidding zero, and responded with its whopping \$1.25 million bid.

"It really forced us to make a lot of business decisions," Jerry Meholic, a vice president of Ace, said of the bid. "We had a whole plan on how to reduce overhead and expenses" to recoup costs.

As luck would have it, none of this was necessary. Judge Penn uncovered some missteps in the contract process. In his March 30 ruling, he noted that FERC had adver-

tised the contract twice. The first time, Ace proposed to pay only \$39,500, while all its competitors bid zero. Unhappy with the cash offer—a FERC spokesman said the money would be burdensome to administer—the agency canceled that solicitation and advertised again, indicating that no so-called “bonus bids” would be allowed.

Defying the FERC's intentions (Ace said the agency's wording was ambiguous), Ace came back with its megabid of \$1.25 million, or \$1.55 a page for each of the 806,450 pages of original FERC transcripts over the next five years—a bid intended to insure victory.

Penn concluded that FERC procurement director James E. Thompson had abused his discretion in canceling the first solicitation. He ordered the Agency to go back to the original bids—when Ace bid a paltry 5 cents a page—and evaluate them on price alone.

If the FERC had designs on appealing this ruling, there was also the fear of further embarrassment. The agency took quite a drubbing for rejecting money in a time of 12-digit deficits. Sen. Howard M. Metzenbaum (D-Ohio), chairman of a subcommittee that oversees the agency, was among those calling the move “stupid.” He told the FERC that he “could see no logical reason for turning down money for something that otherwise you're giving away,” an aide recalled.

Following Penn's order, FERC informed Ace last Friday that it had in fact won the contract—for \$39,500. “We were excited, obviously,” said Ace's Meholic.

FERC officials referred all questions on the contract to press officer Ron Harris, who declined to say whether the agency regretted not having taken the \$1.25 million, and run. For all the earlier concerns about the burden of accepting money, he said Ace's \$39,500 would cover any costs.

Mr. JOHNSTON. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2465) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

AMENDMENT NO. 2466

(Purpose: To make funds available to the boron neutron capture therapy research program and the power burst facility at the Idaho National Engineering Laboratory)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana [Mr. JOHNSTON], for Mr. McCURE, proposes an amendment numbered 2466.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 37, strike the period at the end of line 2 and insert “: Provided further, That of

the amount appropriated herein, \$6,000,000 shall be available only for the Boron Neutron Capture Therapy research program at the Idaho National Engineering Laboratory and \$7,500,000 shall be available only for the modification and operation of the Power Burst Facility at the Idaho National Engineering Laboratory, and the Secretary of Energy is directed to obligate and expend funds for these activities prior to the end of fiscal year 1991.”

Mr. JOHNSTON. Mr. President, this amendment is on behalf of the Senator from Idaho [Mr. McCURE] that puts in statutory language what has already been included in report language to provide that \$6 million shall be available only for the boron neutron capture therapy research program at the Idaho National Engineering Laboratory and \$7.5 million shall be available only for the modification and operation of the power burst facility at the Idaho National Engineering Lab and the Secretary of Energy is directed to obligate and expend funds for these activities prior to end of fiscal year 1991.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2466) was agreed to.

Mr. JOHNSTON. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

ANTICIPATED WATER SUPPLY SHORTAGES IN ATLANTA

Mr. NUNN. Mr. President, I would like to bring to the chairman's attention an issue of vital importance to the Metropolitan Atlanta area, and to the economic health of the entire State of Georgia.

Although the Southeast is an area that has historically been blessed with abundant water resources, a long series of droughts and an unprecedented growth trend have resulted in annual water supply shortages throughout our State. The Georgia General Assembly and Metropolitan Atlanta governments have responded by enacting short- and long-term water conservation measures, but many regions continue to suffer the consequences of another drought situation.

Senator FOWLER and I are extremely concerned about the anticipated water supply shortages facing the Metropolitan Atlanta area, which has doubled in population over the past 20 years and is expected to grow by another million over the next 20 years. However, we are also concerned about any potentially negative environmental or economic impacts that might result from modifications of the surface water withdrawal patterns in the region. For example, we are aware that down-

stream water users in Georgia, Alabama, and Florida remain concerned about the quantity and quality of the water they receive from the Chattahoochee River Basin. In addition, we also understand that lake property owners are interested in maintaining water levels so that they can continue to be used for recreational purposes.

Based on the results of a Metropolitan Atlanta Water Resources Management Study authorized by Congress in 1972, the corps initially recommended the construction of a reregulation dam below Lake Lanier to accommodate Atlanta's burgeoning growth. Although the project was approved as part of the Water Resources Development Act of 1986, opposition to the plan ultimately arose because of budgetary and environmental concerns.

In response, the corps' Mobile district office released a draft report, the post authorization change [PAC] report, in October 1989 which recommended that 207,000 acre-feet of storage in Lake Lanier be reallocated from hydropower storage to water supply storage for domestic, municipal, and industrial purposes. According to the report, such a proposal would meet the water supply needs of the Atlanta region to the year 2010, with insignificant impacts. The proposed reallocation at Lake Lanier would ultimately require congressional authorization and would be contingent on the results of an ongoing environmental impact assessment.

Since the release of the draft post authorization change report, the corps has been requested to undertake a comprehensive study to address the long-term water supply needs within both the Alabama-Coosa and the Apalachicola-Chattahoochee-Flint River basins. I support this effort. In my view, I believe that it is important to determine these long-term needs. However, it is my understanding that the comprehensive study is scheduled to take at least 4 years to complete. Unfortunately, our water needs in Georgia are not compatible to that timeframe.

There is some concern in Georgia that the comprehensive study will delay completion of the corps' PAC report and obstruct discussions among the States of Alabama, Florida, and Georgia about how to adequately meet the short-term water needs of all three States. I have been assured that the corps intends to complete its post authorization change report for Lake Lanier independent of other corps studies. In a letter dated April 13, 1990, Gen. R.M. Bunker, division engineer of the South Atlantic Division of the corps, assured me that “the proposed reallocation of a portion of Lake Lanier for water supply needs for the Atlanta area will proceed independent of the comprehensive study and will

not be tied to the timetable for that study."

I ask unanimous consent that a copy of that letter be printed in the RECORD. This has since been confirmed by a letter sent to me on July 27 by Gen. Patrick Kelly, Director of Civil Works, U.S. Army. I also ask unanimous consent that a copy of this letter be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

DEPARTMENT OF THE ARMY,
Atlanta Ga, April 13, 1990.

HON. SAM NUNN,
Committee on Armed Services,
Washington, DC.

DEAR SENATOR NUNN: This is in response to your letter of March 29, 1990 concerning our earlier discussion of the Comprehensive Study for the Alabama-Coosa and Apalachicola-Chattahoochee-Flint River Basins.

You are correct that the analysis of the proposed reallocation of a portion of Lake Lanier for water supply needs for the Atlanta area will proceed independent of the Comprehensive Study and will not be tied to the timetable for that study. In making the analysis, all existing information, including that developed by the Savannah District in studies for the reregulation dam, is being utilized. Mobile District has yet to make a decision on the need for an environmental impact statement. As we discussed, this reallocation will ultimately require Congressional authorization and it is imperative that the States of Alabama, Georgia, and Florida be given an opportunity to resolve water rights issues associated with the reallocation before the study is submitted for authorization. While I still believe that the 4-12 month period for completing the technical portion of our analysis is valid, finalization of the Post Authorization Change Report for Lake Lanier cannot be scheduled until the states have been provided this opportunity.

Reallocation reports for minor reallocations of storage at Lake Allatoona and Carters Lake to meet short-term demands from the Cities of Chatsworth, Cartersville and the Cobb County-Marietta Water Authority are also in process independent of the Comprehensive Study. The amounts proposed for reallocation are a reduction from those presented at the public meetings to meet 2010 needs but are sufficient to meet the immediate water supply needs of the areas. The time frames noted in your letter are for preparation of the draft reallocation reports. The reports will be provided to the Assistant Secretary of the Army for Civil Works for a decision under his discretionary authority pursuant to the Water Supply Act of 1958. The interim three-year contracts with the Atlanta Regional Commission, the City of Cumming, and the City of Gainesville for water from Lake Lanier are being finalized and should be executed by June 1990. The contracts do contain payment provisions such that the payments will be credited toward the final reallocation cost.

All of the above actions are reflected in the conceptual plan prepared for the Comprehensive Study of the Alabama-Coosa and Apalachicola-Chattahoochee-Flint River Basins. While they will become an integral part of the solution to the water supply needs for the basins, they are being processed independent of the Comprehensive Study. The reallocation studies are being

conducted at Federal expense. I expect the Comprehensive Study to also be conducted by the Federal Government without cost sharing by the local and State governments. However, it will be necessary for the States of Alabama, Georgia and Florida to establish and support a mechanism to openly discuss and resolve water rights issues associated with further reallocations. This will be a major feature of the Comprehensive Study.

I trust that this information is sufficient for your needs. Please do not hesitate to call on me if I can be of further assistance. This letter has been coordinated with my Washington Headquarters.

Sincerely,

R.M. BUNKER,
Major General, U.S. Army,
Division Engineer.

DEPARTMENT OF THE ARMY,
Washington, DC, July 27, 1990.

HON. SAM NUNN,
U.S. Senate,
Washington, DC.

DEAR SENATOR NUNN: Thank you for your letter of July 2, 1990, concerning the Post Authorization Change (PAC) Report for Lake Lanier. Indeed, the PAC will be handled separately from the comprehensive study mentioned in your letter. As outlined in the conceptual plan for the comprehensive study, the PAC will not be submitted to this office or considered for congressional authorization until the States of Georgia, Alabama, and Florida have had an opportunity to resolve water rights issues associated with the proposed reallocation. The processing of the PAC is further complicated by the recent lawsuit filed by the State of Alabama. This raises the possibility of court ordered restraints. In connection with the lawsuit, we have reached an agreement with Alabama that we will not process the PAC or execute interim water supply agreements at Lake Lanier before November 13, 1990, unless a suitable agreement involving all parties is worked out prior to that date.

I'm sure you can appreciate the sensitivity of the issues involved and the need for the involvement of the Governors in this process. We intend to work with the States of Georgia, Alabama and Florida to assist them in reaching a fair and equitable resolution of issues involving water supply.

I hope the above has clarified the status of the PAC.

Sincerely,

PATRICK J. KELLY,
Major General, U.S. Army,
for Director of Civil Works.

Mr. NUNN. Mr. President, although we will reserve judgment on the feasibility and desirability of reallocation pending completion of the Corps' post authorization change report for Lake Lanier, we would like to encourage continued negotiations between the States of Georgia, Alabama, and Florida on this issue. We are also anxious to reconfirm our understanding that the completion of the post authorization change report for Lake Lanier will in no way be bound by the comprehensive study of the Alabama-Coosa and Apalachicola-Chattahoochee-Flint River Basins.

Mr. FOWLER. Mr. President, I would like to join the senior Senator from Georgia in posing a question on this issue to the distinguished chairman of the Subcommittee on Energy

and Water Development, Mr. JOHNSTON.

Mr. President, it is our understanding that the House has included language in its 1991 energy and water appropriations measure providing \$1 million for a comprehensive water resources study of the Alabama-Coosa and Apalachicola-Chattahoochee-Flint River Basins. If the conference agrees to this figure, are we correct in assuming that nothing in this language would prevent the Corps from completing its post authorization change report for Lake Lanier?

Mr. JOHNSTON. I understand the concerns of the Senators from Georgia. Clearly, the post authorization change report and the comprehensive study should proceed independently. The House report language relates specifically to the comprehensive study and would not delay the post authorization change report or the negotiations among the affected States.

Mr. NUNN. Mr. President, we would like to reiterate our commitment to working with all interested parties toward a mutually acceptable long-term management plan for our shared water resources. Given the impending water supply crisis in the metropolitan Atlanta area and in several other municipalities, we must also cooperate in crafting workable, short-term management strategies. I appreciate the chairman's commitment to assuring that discussions on possible short-term solutions will not be jeopardized by the comprehensive study.

BONNE CARRE PROJECT

Mr. COCHRAN. Mr. President, I rise today to discuss a project that is not included in this bill, but has been supported by this committee for many years. The Mississippi-Louisiana estuarine area freshwater diversion project, also known as Bonne Carre, has been in the planning and design process for nearly 20 years. My colleague from Mississippi, Senator TRENT LOTT, and I both came to Congress in 1972, and this was one of the first public works issues we addressed as members of the other body.

The project, when completed, will divert fresh water from the Mississippi River through Lake Ponchartrain, and into the Gulf of Mississippi. This, coupled with two similar projects in Louisiana, Caernavron and Davis Pond, will enhance the breeding and development of marine life off the coasts of Louisiana and Mississippi.

The project report was transmitted to Congress last September, with OMB approval subject to a 25 percent local cost sharing agreement. On July 20 of this year, the Governor of Louisiana notified the Corps of Engineers of his State's willingness to fund its share. The State of Mississippi earlier had agreed to participate in cost sharing.

I would like to ask the chairman of the subcommittee if he would give consideration to adding language to the statement of managers during conference on this bill, which would permit the corps to continue the process of obtaining the cost-sharing agreement and final preparations for construction.

Mr. JOHNSTON. Mr. President, I agree with the senior Senator from Mississippi on the need for this project. The revitalization of the shellfish breeding grounds is both environmentally and economically sound, and the committee has many times gone on record as supporting the Bonne Carre project. We will give his request full consideration during conference, and I am hopeful that we can enable this project to move toward completion.

DESALTING TECHNOLOGIES

Mr. CRANSTON. Mr. President, it is my understanding that the committee has recognized the need for the Bureau of Reclamation to investigate and demonstrate the use of desalting technologies to improve groundwater quality using wellhead treatment. Indeed, it is my understanding that the committee has directed the Bureau to use up to \$200,000 of available funds to participate in ongoing comprehensive planning studies leading up to possible participation in a pilot project. Is that correct?

Mr. JOHNSTON. The Senator is correct.

Mr. CRANSTON. Groundwater desalinization is a major opportunity for us in southern California. Roughly 20 percent of the groundwater in the west coast basin is too saline for municipal and industrial uses. In order to investigate the opportunities that may exist to treat and use this saline groundwater, several of the water agencies in the Los Angeles area, including the Los Angeles County Department of Public Works, the Metropolitan Water District of Southern California, the Central and West Coast Water Replenishment District and the West Basin Municipal Water District, recently agreed to fund a comprehensive study of the saline plume in the area and to develop a mitigation plan. These agencies are hopeful that the Bureau of Reclamation might participate both financially and technically in this study. Does the manager of the bill believe that the Bureau's participation in this study would be an appropriate use of the funds made available in this bill?

Mr. JOHNSTON. The committee is familiar with the effort described by the Senator from California which should be considered by the Bureau of Reclamation. The committee also believes that the Bureau should be involved in this cooperative effort in order to assess the role of the Federal Government in this area. However, the

committee feels that a comprehensive plan which addresses a broad range of technologies, conditions, and geographical areas should be developed. In addition, other questions such as program authorization, costs, and appropriate level of cost sharing by the Federal Government and non-Federal interests must be answered and resolved before committing to a pilot or demonstration program. The effort recommended by the committee in the report accompanying H.R. 5019 is intended to start the process of answering these questions.

Mr. CRANSTON. I thank the distinguished Senator from Louisiana for this clarification.

OPERATIONS AND MAINTENANCE OF NORTH CAROLINA CORPS OF ENGINEERS PROJECTS

Mr. SANFORD. Mr. President, I would like to engage the distinguished manager of the bill, the senior Senator from Louisiana, in a colloquy regarding committee report language on the operation and maintenance of two North Carolina Corps of Engineers projects.

Mr. JOHNSTON. I would be happy to engage in a colloquy with the Senator from North Carolina.

Mr. SANFORD. The committee report directs the attention of the Corps of Engineers toward two North Carolina projects, "in need of maintenance or review and for which the committee has received requests." These projects are additional dredging at Wilmington Harbor, NC, and dredging and repair of the north jetty at Masonboro Inlet, NC.

Mr. JOHNSTON. The need for Corps of Engineers attention to these North Carolina projects is noted in the committee report.

Mr. SANFORD. The House bill provided \$6,453,000 for Wilmington Harbor, an increase of \$1,841,000 above the budget request. The additional appropriation would be used to dredge the bar channel, the anchorage basin, and the turning basin. Over the past few years, the State of North Carolina has been involved in a significant expansion of the Port of Wilmington. Tonnage is increasing and larger vessels are moving through the port. The additional dredging will facilitate the growth of the port and ease the navigation for larger vessels. As you know, the Port of Wilmington is of crucial importance to North Carolina and provides a major transport point for goods going in and out of the State.

The House bill also provided \$1,965,000 for Masonboro Inlet and Connecting Channel. These funds would be used to dredge the inlet and bypass sand to Masonboro Island, as well as to begin work on the north jetty. The inlet is important for local fishing, industry, and recreational uses, and it is the base of a large Coast Guard vessel. The dredging and repair

work is crucial to the stabilization of the inlet.

As I understand it, the committee report language for the Senate bill directs the attention of the Corps of Engineers to these projects to determine what dredging or repair may be needed at the two sites.

Mr. JOHNSTON. That is correct.

Mr. SANFORD. I thank the distinguished manager of the bill. I recognize the difficulty in setting out specific appropriation figures for individual operations and maintenance projects due to the time elapsed since the corps has estimated the needs for these projects. However, I hope that the committee will take a careful look at these projects during conference on the bill and look favorably upon the appropriations provided by the other body.

Mr. JOHNSTON. I will be happy to take a close look at these projects during the conference.

Mr. SANFORD. Thank you, Mr. President.

MANASQUAN RIVER FEASIBILITY STUDY AND SHREWSBURY RIVER MAINTENANCE FUNDS

Mr. LAUTENBERG. Mr. President, I would like to ask the distinguished manager of the bill about two provisions contained in the House bill. Under general investigations, the House provided \$300,000 for a feasibility study of flood control measures along the Manasquan River in New Jersey. The area in question suffered serious flooding in 1987 and 1989, and there is strong local interest in seeing the necessary steps taken to prevent more flooding in the future. The House also included \$1 million under operation and maintenance for upkeep of navigation channels in the Shrewsbury River in New Jersey.

I sought inclusion of these funds in the Senate bill. Due to budgetary constraints, the distinguished chairman of the subcommittee was unable to provide those funds. The Senator from Louisiana will soon lead the Senate conferees in working out differences, such as these projects, between the House and Senate bills. I would like to get the assurance of the subcommittee chairman that he will give these worthwhile projects every possible consideration in conference with the House.

Mr. JOHNSTON. The distinguished Senator from New Jersey, as always, has made a strong case for his State. Unfortunately, as the Senator knows the committee has not been able to fund all of the items included in the House-passed bill. This includes the Manasquan River feasibility study the Senator referred to, as well as the Shrewsbury River maintenance.

We will be going to conference with the House, and I give my colleague my assurances that we will look very closely at these projects, keeping in

mind this very strong interest in seeing this work go forward.

Mr. LAUTENBERG. Mr. President, I thank my colleague from Louisiana, and look forward to continuing to work with him on these important matters.

NEBRASKA WATER PROJECTS

Mr. EXON. Mr. President I rise in support of the fiscal year 1991 energy and water appropriations bill. In light of the budgetary constraints facing the committee I think they did very well.

There are a number of important projects for Nebraska included in this appropriation bill. Among them is continued funding for the North Loup project in central Nebraska. The administration attempted to zero out the Davis Creek component of the North Loup project last year. I strongly opposed that move and the North Loup project is now back on track toward successful completion with this funding.

I would also like to point out and thank the committee for funding the Missouri River mitigation project. This project will help restore habitat and recreation opportunities along the Missouri River in four States.

The committee has also seen fit to support the Platte River bank stabilization project. I strongly support this effort which will be used to demonstrate and test various streambank stabilization concepts.

Water is critically important to arid States like Nebraska and I am an ardent supporter of responsibly developing our water resources.

There are variety of other items funded in this bill and each of them is important to Nebraska. There are drainage assistance, flood control and basic irrigation benefits included in the bill. I have long supported these worthy kind of water development efforts and thank the committee for their work.

SUPERCONDUCTING SUPER COLLIDER

Mr. BENTSON. Mr. President, the superconducting super collider will be the most sophisticated scientific instrument in the world. The SSC is a critical component of our Nation's commitment to scientific and technological leadership. It also represents a model collaborative effort between Federal and State government. With the strong State of Texas support coupled with Federal resources, the SSC will not only put the United States on the leading edge of technological advances gained from knowledge of the basic forces in the universe, but will allow us to translate this knowledge into commercial manufacturing.

Our country must make scientific investments calculated to spur American high-technology producers to commercial success in world markets. History has shown that countless benefits will accrue in manufacturing technology

due to knowledge developed through advances in physics. Already, advances in particle accelerators are all around us. Television sets contain a particle accelerator. Manufacturing of the basic building blocks of all high-technology products, integrated circuits, are manufactured using accelerators. Leaps forward in medical diagnosis and treatment including CAT scans and MRI technology owe their existence to particle accelerators.

Equally significant advances are expected to be won from our ambitious and farsighted investment that we are making today. However, the immediate benefits from the investment in the SSC will be derived from the technological advances gained from building the machine and its detectors. For instance, constructing the large superconducting magnets will aid American industries in the development of magnetic levitation high speed rail systems. Constructing the machine's detectors will require advances in new computer simulation technology. It is these breakthroughs that make the SSC the high-priority project that it is.

The SSC, besides the major scientific discoveries expected, will greatly enhance the Nation's pool of scientific talent. An immediate impact will be felt in American math and science education. The SSC is already expanding university research which is critical to sustain our economic growth. Over 40 universities in 25 States are participating in SSC-related research and development. The SSC has become a key element in a comprehensive program for scientific excellence.

The SSC also represents an effective example of what Federal and State governments can accomplish when we work together. The State of Texas has committed a total of \$1 billion to fund the SSC. The State's resources will be used to defray the cost of civil works required for the SSC including the infrastructure, campus, and collider ring and experimental facilities. Texas will also provide the land necessary for the project. Texas' commitment to the SSC is overwhelming and it deserves to be recognized.

For these reasons, I am especially proud of the effort that went into securing congressional approval of the \$318 million. Land acquisition, onsite construction, and basic research can now proceed on schedule. I commend the leadership effort that Senator JOHNSTON has shown on this issue as chairman of the Energy and Water Development Appropriations Subcommittee. His commitment to the SSC and its associated benefits to American manufacturing have been outstanding.

DOE GLOBAL CHANGE RESEARCH

Mr. WIRTH. I would like to inquire of the bill manager about a situation of great interest to me regarding

global change research at the Department of Energy.

The Department of Energy will play an important role in the development of policy initiatives related to the threat of global warming. During the past 2 years, the Department's global change research program has more than tripled to \$66 million in this year's budget request from the \$20.2 million appropriated in fiscal 1989. These increases track with the explosion of interest and concern here in the United States and around the world about global warming.

Unfortunately, the Department's global warming research plan has not been without criticism. Last year, the DOE program was rejected by the Committee on Earth Sciences, an interagency panel tasked with overseeing the Nation's global change research. Concerns have also been expressed in the scientific community about the Department's spirit of cooperation in the interagency process. In fact, some scientists believe that some of DOE's research programs may be outside the Department's purview and that they tread close to the responsibilities of other agencies. With this as background, it is clear that the Department of Energy surely needs to do all that it can to reassure the public about the credibility of its global change research programs.

In light of this, I have been trying for more than a year to encourage DOE to work with the National Center for Atmospheric Research, which is probably the Nation's premier institution for atmospheric research. One of the highest priorities at DOE and throughout the government is to develop advanced computer models that will accelerate our understanding of the regional and local implications of global warming. The scientific community has told us loud and clear that it is not a question of if the Earth will warm, but rather how much it will warm, how fast it will warm and where the warming will have the most acute effects. The only way to answer these questions with any degree of reliability is in the development of advanced computer models.

The United States has four major centers working on computer modeling of our atmosphere. They are: the NOAA labs in Princeton, NJ; NASA's Goddard Institute for Space Studies in New York; one at Oregon State University; and a world-renowned team at the National Center for Atmospheric Research [NCAR]. NCAR greatly needs additional resources to continue its progress in modeling the global climate, and I firmly believe that both DOE and NCAR would benefit greatly from cooperative research in this area.

Most recently, I considered offering an amendment to this bill to mandate

a cooperative program between the two institutions. I will not offer that amendment but I do want to ask the distinguished manager if he would agree that the Department should engage in this kind of cooperative program?

Mr. JOHNSTON. I heartily agree with the Senator from Colorado. We need to encourage more of this kind of cooperative research. I believe there is a great deal of merit to the suggestions that have been put forth by my colleague. You can be assured that I will do all that I can to encourage the Department to undertake this kind of cooperative research with NCAR. If no progress is made in the coming year, I would be glad to join my colleague in revisiting this issue next year.

The Department of Energy must play a leading role in the development of policy responses to this concern. As the Senator from Colorado knows, the Senate Energy and Natural Resources Committee recently reported out a bill that will strengthen DOE's efforts to examine the policy alternatives for addressing this problem and accelerate the development of technologies that will help reduce the generation of the greenhouse gases. We hope to have that bill on the floor as soon as possible. So much of this issue is related to the way we use energy and, again, the Department of Energy needs to be out in front.

Mr. WIRTH. I thank my friend from Louisiana and once again reiterate that the interests of good science, the interests of the Department of Energy and the interests of NCAR can all be enhanced by these cooperative programs.

Clearly the Department of Energy is going to be at the forefront of policy development in response to the global warming threat. And just as clearly, the Department is going to need the help of institutions like NCAR. Again, I thank my friend and I yield the floor.

WASHINGTON WATER PROJECTS

Mr. GORTON. Mr. President, shortly we will vote on final passage of the energy and water development appropriations bill for fiscal year 1991. I am particularly pleased to note the funding of important projects in my home State of Washington.

I commend the Appropriations chairman and the leadership of the subcommittee, Senator JOHNSTON and Senator HATFIELD for their expeditious and insightful work on this funding package. The near \$21 billion will fund various energy research, water projects, fish protection measures, national defense site cleanup, and more, across the country.

I would like to take a few moments to share my support for some of the major projects included in this package. The Fast Flux Test Facility [FFTF] located on the Hanford site in

Washington State is the Department of Energy's [DOE] newest and most advanced reactor, and the only DOE reactor built to modern nuclear standards. The included funds provide the entire Washington delegation the needed time to join the ongoing efforts in obtaining commercialization interests and private investments in the reactor. FFTF should be a part of an energy research foundation both nationally and internationally. At a time when the United States is facing criticism for our lack of leadership in math and science, we should not terminate one of our leading test reactors. I am inspired by the committee's acknowledgment of FFTF's importance and will work with Congress to ensure further accomplishments.

Further enhancing our research programs in Washington State is the environmental and molecular sciences laboratory. The environmental and molecular sciences research programs are currently focusing on developing cost-effective and innovative technologies that will be applied to waste remediation problems at Hanford and other Government sites. Challenges that are impacting our environment today require scientific-based solutions. The focus of PNL's research efforts on our global environmental change and hazardous waste remediation problems will be enhanced by the capabilities provided by EMSL.

Both of these facilities will aid our efforts to improve the methods of cleanup and environmental restoration of our Nation's defense sites. We have seen the risks surrounding contaminated defense sites, and Congress must maintain the cleanup of these sites as a top priority. I am pleased to see the committee's commitment to ensure that the DOE continues its efforts in cleaning up our defense sites. In my home State, the DOE and the Environmental Protection Agency signed a tripartite agreement with the State of Washington in April 1988. This agreement set a 30-year timetable for cleanup and stabilization of a portion of the defense waste contamination at the Hanford site. The increased funding for environmental restoration and cleanup of our defense sites will ensure that the DOE keeps its obligation to clean up Hanford and other national defense sites. I have been particularly concerned with the cleanup schedule met by DOE, and am pleased to see the committee include language requiring DOE to make periodic reports to Congress regarding their progress on this importance issue.

Mr. President, I support the efforts of the Appropriations Committee in crafting the bill that lies before us today. Although I have noted only a few of the important projects in Washington State, the bill includes many others that will benefit our region of the country. I thank the

committee for their support, and know the Pacific Northwest and the Nation will profit from the many facilities and projects funded under this bill.

ANIMAS-LA PLATA, CO

Mr. HATFIELD. Mr. President, as ranking member of the Appropriations Committee for the Bureau of Reclamation budget I have a strong interest in addressing all the national needs that are presented in this agency's budget, and we therefore have recommended funding for construction of the Animas-La Plata water project in the State of Colorado.

Mr. President, I want to applaud the States of Colorado and New Mexico for their sensitivity to these conflicts and for working toward a regional solution that balances the needs for this water project and the needs to protect endangered species. As one of my colleagues stated about this project, we should be able to protect both the project and the fish.

The point I would like to make here, Mr. President, is simple. Colorado is not the only State which is confronted with major environmental controversies. The spotted owl listing in my State is the largest and most far reaching action ever taken under the Endangered Species Act, to date, and there is another pending in the region which might be even larger involving at least five runs of Columbia and Snake River salmon.

Like the Animas-La Plata project in Colorado, we too, are seeking a regional resolution of these conflicts and hope to accomplish the same goal as that of my colleagues from Colorado—we believe we can protect the primary habitat for spotted owls and preserve jobs in the region.

Unfortunately, Mr. President, in today's political climate, this seemingly simple and obvious goals has become increasingly difficult to achieve. In the past few months we have seen some interesting votes take place here in the Senate—let's just take the Clean Air Act as one example—if you were to closely analyze the votes on those amendments to the Clean Air Act you would see that some Senators supported limits on auto emissions and therefore could call themselves environmentally oriented, and others opposed auto emissions but voted to limit use of high-sulphur coal, yet they too could call themselves environmental supporters.

There has developed a great distinct trend to seek balance on environmental issues confronting one's own State, but to assume extremist, factually insupportable, positions on those topical and highly publicized environmental questions affecting other parts of the country.

Although these are very difficult issues that are impossible to compare, in the case of the Animas-La Plata

project, we have some startling similarities in Colorado with what is happening in my State of Oregon.

Notwithstanding the fact that the U.S. Fish and Wildlife Service has issued an option that the Animas-La Plata project could jeopardize the habitat of an endangered squawfish species, I am willing to support funds for construction of the project because I am confident that the conflicts can be resolved within the region and that to do so is in the broader public interest. The project addresses critical Indian treaty rights. It resolves State water rights issues. It alleviates economic considerations that are raised by the endangered species listing. And yes, I am confident that appropriate measures can be taken to protect the squawfish.

Mr. President, the point I am trying to make is that there needs to be a recognition that if the Senate is going to support balance in one region of the country, we should also strive toward balanced solutions in other regions, as well. Particularly when they are regional issues which have sweeping national implications.

Mr. President, I applaud the States of Colorado and New Mexico, and am encouraged to see that my colleagues from the Southwest are striving to attain balance in their region just as I will continue to achieve such a balance in my region, as well.

BRUSH CREEK FLOOD CONTROL

Mr. BOND. Mr. President, I commend the members of the Energy and Water Appropriations Subcommittee and the Appropriations Committee for their fine work on this legislation. They have worked hard and fast to get this important bill to the Senate floor so we can complete action on it before the August recess.

I am very pleased that the subcommittee included \$1.2 million to begin construction of the Brush Creek flood control project in Kansas City. Senators DOLE and KASSEBAUM joined Senator DANFORTH and myself in requesting this funding because areas along Brush Creek in both Kansas and Missouri have endured flooding for many years, resulting in loss of life and serious damage to residential and commercial property.

The subcommittee also responded favorably to our request for an increase in the project's authorization. It was originally authorized in 1986 at \$16 million. However, two improvements in the project's design increased the total Federal cost to \$26.2 million. As a result of this increase, the project was deauthorized under the 1986 Water Resources Act because the increase was greater than 20 percent of the initial authorization level. This was a significant setback to Brush Creek because the corps cannot begin construction until a new authorization level is approved by Congress. The

Corps of Engineers strongly supports this increase.

Thanks to action by the subcommittee and full committee, I am now optimistic that the construction of this project, which is vital to the Kansas City area, will stay on track.

MERAMEC RIVER BASIN/VALLEY PARK

Mr. DANFORTH. I would like to direct a question to the distinguished Republican manager of H.R. 5019, the energy and water development appropriations bill of 1991, Senator HATFIELD.

The Meramec River Basin/Valley Park Levee flood control project is essential to protect the residents of Valley Park from the devastating floods which hit this community almost annually.

One particularly severe flood, in 1982, wreaked havoc in this small community, causing damage totaling over \$25 million. School buildings were swamped with 6 to 9 feet of water, and the Valley Park School District was forced to close its schools for 2 weeks. Families lost their homes; businesses were destroyed. I have visited Valley Park, and I can attest to the critical need for this project.

Public Law 97-128 authorized this flood control project to ensure that Valley Park would not be subjected to such tragedy again. The engineering and design phase of the project is completed and construction is ready to begin.

The House of Representatives designated \$500,000 to begin this construction. With this appropriation, the U.S. Army Corps of Engineers will be able to begin construction of a levee 3 miles long and 15 to 20 feet high, including ponding areas, recreation areas, and fishing lakes. The corps has assigned this project a benefit/cost ratio of 1.2 to 1.0.

Valley Park is ready to fund its \$3.5 million share of this \$12.5 million project.

It is my hope that the Senate will agree with the House on this matter to ensure that Valley Park gets the necessary \$500,000.

Mr. HATFIELD. I have spoken with the Senator from Missouri about the Valley Park project, and I understand that the project is very important to the State of Missouri. I assure the Senator that I will do my best to resolve this in conference to the Senator's satisfaction.

KANSAS-BOSTWICK

Mr. DOLE. Mr. President, I want to take a few minutes to call your attention to the ongoing difficulties of the Kansas-Bostwick Irrigation District. The Kansas Irrigation District has been successful in providing water to 500 landholders, who irrigated 41,888 acres in 1989. However, this district's resources have been strained by the Bureau of Reclamation's bill for \$8,314,000 in additional drainage

funds. Because of these charges, the current assessments are now \$29.17 per acre—higher than any other district in the Nebraska-Kansas area.

I was disappointed that the Energy and Water Subcommittee was not able to provide some relief to the Kansas-Bostwick Irrigation District this year, but as a member of the ongoing budget summit, I understand very well the severe funding constraints you and the other subcommittee members faced in drafting this bill. I hope that in fiscal year 1992 your subcommittee will take another look at this situation and consider declaring at least a portion of the \$8,314,000 in the additional drainage funds nonreimbursable.

Mr. HATFIELD. Mr. President, the ongoing difficulties of the Kansas-Bostwick Irrigation District are all too familiar with this Member who represents a Western State which, like Kansas, relies heavily on the Federal Government for operation of flood control and irrigation projects.

What we are struggling with here are not communities that are unwilling or unable to pay, but communities which have the rules changed by the Federal Government in the middle of the game, or which, because of fluctuations in the local economy, cannot meet the increased payments in a timely manner.

Unfortunately, under our rules of the Senate, these changes in payment are not under the jurisdiction of the Appropriations Committee but are questions that must be brought before the authorizing committee before we can act.

I want to assure the Republican leader that within the limitations that are placed on us by the authorization process, this subcommittee will review this situation again next year.

ARMY CORPS OF ENGINEERS BACKLOG OF PERMITS

Mr. COHEN. Mr. President, I commend the members of the Appropriations Committee for bringing attention to a problem that is quite significant in Maine. In the committee's report, concern is expressed about the backlog of permits in Army Corps of Engineers field offices. It is my understanding that this backlog is a serious problem in many areas of the country. It certainly is causing concern in Maine.

The corps' field office in Augusta, ME, is staffed by three technical field personnel. There is no support staff, no secretary answering telephone calls or answering correspondence. The three field staff are responsible for reviewing and investigating all corps' permits, including wetlands permits, in the entire state of Maine as well as a portion of New Hampshire. In addition, they must review all State-issued wetlands permits to ensure that they comply with Federal regulations.

To say that this office is overworked is an understatement. Not only is this workload impossible for the corps' staff, the situation is very frustrating for applicants and anyone just wanting to obtain information about the regulatory process. It takes days, sometimes weeks, before the corps can return a phone call.

I hope that we will be able to obtain more staff in areas like Maine, so that the regulatory process is not filled with delays. I want to join with the committee in expressing my concern about this problem and my support for their efforts to improve the existing situation.

RED RIVER/CORPS PROBLEM

Mr. BUMPERS. Mr. President, I raise an issue related to a provision of the 1990 supplemental appropriations language as reported in Public Law 101-302. This year's spring flooding has caused unprecedented damage to the areas of the Red, Arkansas, and Trinity Rivers in Arkansas, Louisiana, Texas, and Oklahoma. In response to this natural disaster, the Congress provided \$40 million in the 1990 supplemental appropriations bill for repair or rehabilitation of flood control facilities along these major rivers.

In Arkansas, for example, revetments, bank realignments, and other major facilities along the Red River, which were constructed at Federal cost, have been completely destroyed and threaten continued bank stabilization and flood control protection. Estimates by the corps project the cost of construction for replacement of these facilities to approach \$5 million. Clearly, this is a Federal investment that must be preserved. Unless action is taken immediately to construct new facilities, continued erosion will greatly increase the ultimate cost of stabilization and flood control.

The specific language of Public Law 101-302 provides that the \$40 million appropriated be placed in the operation and maintenance, general account for repair or rehabilitation of Federal facilities. The language provides further that the conferees urge the corps to use "existing emergency and other project authorities to repair or rehabilitate damaged flood control facilities." While we could debate whether or not the facilities of which I speak should be included under the authority of the conference language, the point is that Federal facilities have been destroyed and new ones must be constructed.

These facilities, located above Shreveport, have been, and would continue to be part, of an ongoing effort at bank stabilization and flood control in this upstream area. Because of the immediate need for bank protection, I strongly urge the Corps of Engineers to closely review this problem and reprogram such funds as may be necessary within the 1990 construction, gen-

eral account to provide for construction of new protective works within the existing authority of the Red River emergency bank protection project.

I would further make reference to funds available for this purpose in fiscal year 1991. The House provision relating to the Red River emergency bank protection project contains funding of \$4.1 million. I know that the chairman is aware of the crucial need for added funding to meet protection needs along the Red River and I would hope that he will give strong consideration to receding to the House provision in this instance as a manner in which to provide desperately needed Federal assistance.

Mr. JOHNSTON. I recognize the problem as described by my friend, Senator BUMPERS. I wholly support the use of 1990 funds as outlined by the senior Senator from Arkansas. While we cannot agree with all items of the House-passed bill, we will closely review the matter based on the information he has now provided us. I thank the Senator from Arkansas for bringing this matter to our attention.

Mr. President, we have for consideration tomorrow an amendment by Senator McCLURE with respect to hydro in Idaho and an amendment on behalf of Senator STEVENS, which may be offered, on a computer program at DOE. I believe Senator WIRTH is not going to offer his amendment with respect to global research. I think that has already been covered under a colloquy.

There is an amendment by Senator HATFIELD in order with respect to BPA. Will that be offered?

AMENDMENT NO. 2467

Mr. HATFIELD. Mr. President, I send to the desk a technical amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:
The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 2467.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

On page 59 delete section 510 and insert the following new text:

"Sec. 510. Without fiscal year limitation and notwithstanding any other provision of law, no funds appropriated or made available under this or any other Act shall be used by the executive branch to change the employment levels determined by the Administrator of the Bonneville Power Administration to be necessary to carry out his responsibilities under the Bonneville Project Act, the Federal Columbia River Transmission Act, and the Pacific Northwest Power Planning and Conservation Act and other related legislation."

Mr. JOHNSTON. Mr. President, the amendment has been cleared on this side.

Mr. HATFIELD. I thank the chairman.

Mr. President, this technical amendment attempts to resolve a matter of the personnel at Bonneville Power Administration that regrettably has not been resolved through previous legislation and written agreement with OMB and the Department of Energy. So this is a matter to clarify that.

Mr. President, I just wanted to confirm that this amendment is technical in nature and add a few words assuring my colleagues that this has no budget impact and is intended to resolve a long standing problem which regrettably has not been resolved through previous legislation, or written agreements.

As always, Mr. President, the employment levels at BPA are supported by ratepayers not by Federal appropriations and as such should not have to compete against other U.S. Government entities, for the personnel resources required to carry out their mission.

In particular, Mr. President, this authority should not adversely impact the ability of the Secretary of Energy to carry out his other responsibilities of the department.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 2467) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JOHNSTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I believe that is all of the amendments which are to be proposed which are in order, save an amendment by Senator STEVENS and an amendment by Senator McCLURE.

In addition, Mr. President, the Senator from Minnesota asked the Senator from Oregon and me, I believe it was last night—I think he had a hold on the bill—if he could submit an amendment and have a time agreement, and we said yes, he could—I believe it was the same 20 minutes—but it was not included in the unanimous consent.

I think this would be an amendment to cut across the board. I think it is one of those amendments that ought to be considered tomorrow because we are putting off until tomorrow the controversial amendments, that is the one by the Senator from Idaho, Mr. McCLURE, and one by Senator STEVENS from Alaska. So I think it would be more appropriate to do that tomorrow when Senators are around. I think

that is what the distinguished chairman of the full committee desires we do.

Mr. BYRD. I do not know what the agreement was. If that amendment was not included in the agreement, I would be constrained to object to its being called up. As I say, I do not know what the agreement was or whether or not there was some miscommunication or something.

Mr. HATFIELD. May I clarify?

Mr. BYRD. Yes.

Mr. HATFIELD. If I may clarify, last evening, while we were trying to get a unanimous-consent agreement, there were a number of holds that had been placed on the bill. The Senator from Minnesota, Mr. BOSCHWITZ, had been one such person. As we conferred with the Senator from Minnesota, he did not have a copy of his amendment in hand and indicated he would like to have a right to raise an amendment at the time this bill was taken up.

It was my understanding that the chairman of the committee and I, at least on my behalf—I speak only on my behalf—assured the Senator from Minnesota that he would have that opportunity, as any Senator would have, to offer an amendment. He wanted something like half an hour, rather than 20 minutes. I urged him to take the 20 minutes and, if necessary, if he would have to have additional time I would assist in getting unanimous consent perhaps to get that additional time, again, I emphasize, not having the amendment in hand, it was clearly understood on my part that he would have a right as a part of his willingness to lift a hold on the bill. Unfortunately, without the amendment in hand, we did not have the opportunity to incorporate it in the unanimous-consent agreement.

I do believe the Senator from Minnesota's rights should have been preserved more directly in the unanimous consent than they were and I would urge the the Senator to give him that consideration.

Mr. BYRD. With that explanation from Senator HATFIELD, I certainly will not interpose an objection. As I indicated, I did not know what the agreement was, but I am certainly willing to take the word of my ranking member on the full committee. When he says that is the case, well, that is the case. I have no objection.

I am sorry to hear that the Senator from Minnesota plans to offer an amendment, however, to make a 2 percent across-the-board cut. Is that what it is?

Mr. BOSCHWITZ. It is 2.79.

Mr. BYRD. Perhaps we ought to hold off debate on that until tomorrow. How much time is there for debate on this?

Mr. JOHNSTON. Mr. President, since the amendment was not included in the unanimous consent, we did not

specify a time. I think the Senator from Oregon correctly stated the arrangement between us. I am sure that you and the Senator from Minnesota could work out a time agreement which would be suitable to us. If you would like to suggest what that amount of time should be right now, we could do it by unanimous consent.

Mr. BOSCHWITZ. The time agreement we agreed yesterday, that would be agreeable to me.

Mr. HATFIELD. That was 20 minutes.

Mr. BYRD. Twenty minutes.

Mr. HATFIELD. Ten minutes a side.

Mr. BYRD. I would like to have 10 minutes on this.

Mr. JOHNSTON. Why do we not have 30 minutes equally divided?

Mr. President, I intend to ask for unanimous consent that on tomorrow it be in order for Mr. BOSCHWITZ to bring up an amendment for an across-the-board cut, and that there be 30 minutes of time on the amendment, divided 10 minutes for the Senator from Minnesota, 10 minutes for the Senator from West Virginia, 5 minutes under the control of Mr. HATFIELD from Oregon, and 5 minutes for myself.

The PRESIDING OFFICER. Is there objection?

Mr. HATFIELD. Reserving the right to object, may I ask the Senator a question? It would preserve the opportunity to provide an amendment in the second degree to the across-the-board amendment of the Senator from Minnesota? Would it not preserve the right? I would like to have the right preserved to have an amendment in the second degree, perhaps.

Mr. JOHNSTON. I have really not put the request yet. But the Senator would like that right. How much time would the Senator want on that?

Mr. HATFIELD. It would not take me very long to express my second degree—10 minutes.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that, on tomorrow, it be in order for Mr. BOSCHWITZ to put in an amendment relating to an across-the-board cut; that the time be allocated 10 minutes to Mr. BYRD, 10 minutes to Mr. BOSCHWITZ, 5 minutes to Mr. HATFIELD, 5 minutes for myself; that one germane second-degree amendment be in order with a time limit of 10 minutes allocated equally divided between Mr. HATFIELD and Mr. BOSCHWITZ.

The PRESIDING OFFICER. Is there objection?

Mr. BOSCHWITZ. I object. What is the nature of the second-degree amendment, I would ask? Without knowing the nature of the second-degree amendment—

The PRESIDING OFFICER. Objection is heard.

Mr. JOHNSTON. Mr. President, we will try to work this out on tomorrow.

Mr. BYRD. May I ask the distinguished chairman, did he know the nature of the amendment by the distinguished Senator from Minnesota when it was agreed that it would be 20 minutes? Did the Senator from Minnesota inform the chairman and the ranking member of the nature of his amendment, the amendment by the Senator from Minnesota—

Mr. HATFIELD. No. We just found out about it.

Mr. BYRD. At the time he wanted 20 minutes on it?

Mr. JOHNSTON. I do not believe so. I think it was said, stated, it was a germane amendment, as I recall.

Mr. HATFIELD. We just got a copy of the amendment about 10 minutes ago.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, it appears my friend from Oregon would offer an amendment to extract from the bill the things that apply to my State in order to satisfy the 2.79 percent, from what I gather.

In that case, I would not be agreeable to that kind of amendment. That is an amendment I would want to spend a little bit more time on. I want to be cooperative. I do not expect my amendment will carry, but I want to make the point that we are in the midst of budget negotiations, and that at least I want to return this bill to the level of the President's request, which is how the 2.79 percent comes in.

If the Senator is going to offer an amendment, I suppose he puts in jeopardy the amount of moneys allocated to the State under an appropriations bill, and I suppose I need to consider that. But that is a pretty tough way to do business.

In the event that is going to be the approach, then I would have to consider what other options I have.

I did not know there was going to be a second-degree amendment. I have tried to be straightforward in presenting the amendment. There was some confusion; my staff did not realize that the amendment was still in order because it was not included in the unanimous-consent request.

It is my intention to act in good faith in this matter.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I would like to have a brief dialog with the floor manager, and particularly with the chairman of the Appropriations Committee and the ranking member.

Mr. President, I will make this as short as possible because I know the hour is late and I know all of our colleagues would like to depart. We still are trying to get the defense bill up this evening.

Mr. President, the Armed Services Committee has been put in a very difficult position this year. The committee has attempted to do the difficult job of shaping a coherent defense policy in a rapidly changing world that reflects the changes in the threat, implements a revised strategy, and recognizes the fiscal realities. At the same time here in the Congress we have a rapidly changing set of procedures under which the budget process is operating this year.

Normally, we have a budget resolution brought to the floor that allows the Senate to vote on some allocation of resources. These allocations by function are included in the bill the Budget Committee reports. The Senate has a chance to debate those allocations, and we all have some understanding about how much will be allocated to each area.

Only after this process has been completed does the Appropriations Committee, like all the other committees, receive an allocation consistent with this budget resolution that can be divided among subcommittees. While the functional allocations in the budget resolution are not binding on the Appropriations Committee, once the Senate has spoken—especially if a particular function has been debated—these functional allocations are generally changed only at the margins.

Therefore, under a normal process, by this time in the session the Senate would have already agreed to the allocation of funds between defense, agriculture, and so on before the Appropriations Committee made its allocations among those areas.

However, the process this year has been very different. With limited debate, we have had a temporary budget resolution with no functional allocation in the Senate, which the House Budget Committee has refused to conference on. That was followed by another resolution passed without debate that provided the Appropriations Committee with an allocation, again with no functional content, without even an explanation of how much was for discretionary programs and how much for entitlements.

Mr. President, we are now in the situation where for all practical purposes the allocations for defense spending, for foreign aid, for NASA, for education and agriculture, will be set in the Senate according to whatever arrangements are made within the Appropriations Committee, without any chance for the Senate to debate that allocation.

Let me explain why the situation today is troubling to me as chairman of the Armed Services Committee.

The Appropriations Committee is now beginning the process of marking up and reporting out appropriations bills. I can fully understand why the distinguished chairman of the Appropria-

tions Committee wants to start moving his bills through the Senate. It would put him and his committee in a very difficult position if we were to come back in September without having any of the 13 appropriation bills marked up, or reported out, or passed in the Senate.

But my concern is that while all the other appropriation bills will move forward, since the House has already passed ten, the defense appropriations bill will not. We still do not know when, or if, the budget summit will produce an agreement. But in the meantime, we will be filling up the bucket of available spending so that every other area of the budget has been taken care of. Many of these domestic bills do not reduce the deficit relative to the CBO baseline, even though the projected deficit is much higher than it was when the request was submitted in January.

If we come to the end of the year and the only appropriation bill that has not already been concluded is the defense bill, then all the pressure will be on defense to make the immediate outlay savings. And there is only one area where we can go to get immediate outlay savings in defense. That is to the readiness accounts that pay our military personnel and the civilian work force in the Department of Defense.

The Armed Services Committee has recommended reductions in defense programs that would lead to \$10 billion in deficit reduction in outlays from defense in fiscal year 1991. The Armed Services Committee unanimously supported making reductions of that magnitude and rejected several other options for making deeper cuts. But the defense spending levels recommended by our committee are severely disadvantaged by the current allocation process. Also, we made reductions of \$27 billion in budget authority. Both these numbers come from the CBO baseline.

I understand the position the Appropriations Committee is in because they have an obligation to begin moving appropriations bills. All of us are caught in a dilemma because we do not have a real budget resolution. So I am not complaining about their moving forward on the bills. I want to make that point clear. If I were the chairman of the Appropriations Committee, I would be following the procedure that the chairman is following in terms of trying to move forward the appropriations bills.

My concern is that we will wind up at the end of the session with large portions of the Federal budget off the table. This is particularly true if we do not reach a summit agreement, with many of the domestic appropriations bills already finished and with national defense appropriations bill left as

the only one still in the game of musical chairs when the music stops.

I would like to discuss the Appropriations Committee 302(b) allocation for just a few minutes this evening. I know the Appropriations Committee does not generally focus on the budget functions that are in the budget resolution.

However, in the case of the national defense function, that is the total spending level we focus on in the Armed Services Committee. Of course, the Budget Committee also focuses on a single national defense function budget authority and outlay figure.

Focusing on the budget authority for the moment, and I will be going through a series of calculations, and I would add these may not be correct, but this is the best calculations our staff has been able to come up with, working with the Appropriations Committee staff. If we are in error on this, I would like to be corrected either this evening or after the Appropriations Committee leadership has a chance to check this out.

Focusing on the budget authority for the moment, the 302(b) allocation by the Appropriations Committee to the defense subcommittee is \$263.5 billion, and to the military construction subcommittee it is \$8 billion.

The third major piece of the national defense function is in the energy water development appropriation bill. The total for national defense program in this bill is \$11 billion in budget authority.

Now the remaining two small pieces of the national defense function in the Commerce State, judiciary bill and the HUD-VA-Independent Agencies bill total about \$600 million. Adding all these pieces together yields the total of \$283 billion in national defense budget authority under the 302(b) allocation in the Appropriations Committee.

However, there are offsetting receipts not allocated to the Appropriations Committee or the Armed Services Committee that reduce the budget authority totals for the national defense function by about \$800 million.

So this offset would result in a total national defense level, as a result of the Appropriations Committee 302(b) allocations, of \$282.2 billion in budget authority. That is compared to the Armed Services Committee number of \$289 billion.

Mr. President, that is the figure that causes me real problems. It may be we end up at that point at the summit conference. I am not sure where that is going to end up.

But this figure is \$6.3 billion below the budget authority level in the fiscal year 1991 Authorization Act we reported out of our committee.

I understand full well there is nothing binding on the Appropriations

Committee about our number, and I understand we are a ceiling and not a floor. But I do believe in this unique set of circumstances, where the Senate has never really spoken to the defense number in any meaningful way, that all of our colleagues should understand where we are and what is happening.

This number is, if I am correct, not only \$6.3 billion below the budget authority of the Defense Authorization Act reported to the Senate, it is \$3.4 billion below the budget authority number reported by the Senate Budget Committee. And it is \$800 million in budget authority below the Budget Resolution passed by the House.

It is also, as I understand it—and again I would like to be corrected on this if I am wrong—it is the lowest budget authority defense number in the Congress right now by any committee, including the Budget Committees on both the House and Senate side, and including the authorizing committees at this point in time.

I do not think the Defense Appropriations Committee on the House side has yet arrived at their numbers. I may be wrong on that.

I could go through the same discussion to show the effect the Appropriations Committee 302(b) allocation on national defense outlays, and of course that is well below the level we are about to debate in the defense authorization bill. It is my understanding that there has been a reduction of \$11.9 billion in outlays, approximately, from the CBO baseline.

So, Mr. President, these are numbers that I have, and that is based on my staff's analysis. There are very complicated crosswalks involved here.

I would, either this evening or at a later point, like to pose the question to the leadership of the Appropriations Committee, if these numbers are correct, and I know it is late in the evening to try to reconcile all of this, but if we do not come to some understanding of where we are wrong—if we are wrong—tonight, then I would like to ask my colleague from West Virginia if he would have his staff work with my staff tomorrow or the next day for an apples-to-apples comparison so we can all understand where we are in this process.

Mr. BURDICK assumed the chair.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. NUNN. I will be glad to yield.

Mr. BYRD. Mr. President, I will be happy to have my staff work with the Senator's staff to see where the figures can be reconciled. At the moment, I do not think that we have numbers that are in agreement.

As to the total budget authority for the 050 function, it is \$283,629 million. In outlays, that was \$11.5 billion. I do not believe those are the figures that

the chairman of the Armed Services Committee stated. Apparently, we have to see where our disagreements lie. I will be happy to have the staff work with the Senator's staff.

May I say that the Appropriations Committee—the Senator has the floor.

Mr. NUNN. I will be glad to yield. I yield the floor, Mr. President.

Mr. BYRD. Mr. President, the Appropriations Committee, pursuant to Senate Resolution 308, received a 302(a) allocation for fiscal year 1991. The committee met and agreed to the 302(b) allocations for each of our 13 subcommittees. A table setting forth the 302(b) allocations was filed with the Senate on July 17. This enabled the Appropriations Committee, in the absence of a budget resolution conference agreement, to proceed with its markup to the fiscal year 1991 appropriations bills.

The House has passed and sent to the Senate 10 of the 13 appropriations bills. Prior to today, the Senate Appropriations Committee has reported to the Senate three bills—energy and water, transportation, and D.C. Today we marked up and reported two more bills, Treasury, postal, and military construction.

For function 050 in defense, the committee's allocation is, as I have indicated a moment ago, \$11.5 billion below the Senate Budget Committee baseline. This is the same amount as the House Appropriations Committee's allocations for defense, \$11.5 billion. It should be pointed out that the summit, if an agreement is reached and adopted by the Congress, will result in a budget resolution conference agreement which will ultimately set the 302(a) allocations for the Appropriations Committees. That agreement may or may not give the Appropriations Committees a higher 302(a) allocation. In any case, the committee will meet and distribute the increase or the decrease among its subcommittees.

There are many pressing domestic needs that cannot be adequately met with the allocations that the committee is presently working under. We do not have enough funds within the present 302 allocations for infrastructure, research, education, child care, law enforcement, the war on drugs, agriculture, and so on. So we need a higher allocation.

As far as defense is concerned, I would only point out that the allocation that the committee had made is the best that could be done within the overall constraints placed on the committee.

The defense allocation is a split between that recommended by the Senate committee's reported budget resolution and that of the Senate Armed Services Committee. I think the Budget Committee recommended \$13 billion. The Armed Services Com-

mittee, I believe, recommended \$10 billion, and this was a split ending up at \$11.5 billion, which was the same figure as the House figure.

I certainly appreciate what the distinguished Senator, the chairman of the Armed Services Committee, said. It probably will be the last in line. None of us can possibly know what the outcome of the budget summit is going to be. Until we know what that outcome is, we are all walking on land that we cannot see, really. So what we are doing in the Appropriations Committee is proceeding as best we can with the bobtail resolution that was passed here in the Senate, knowing full well that in the final analysis, depending upon the summit's agreement, we may have to adjust all these upward or we may have to adjust them downward.

So the Senator's defense committee is in the same position that my subcommittee is in and everybody else on the full committee. I do not know what is going to happen in agriculture or any other committees which make up the 13 when it is all over. We are all, I think, looking, as it were, through a veil.

I cannot answer the Senator's concerns, but as to the figures and the discrepancies, I will be glad to try to work those out, or at least talking about apples and apples and not apples and oranges. Whether the Senate votes to increase the level in the defense appropriations remains to be seen. Whether the Senate will agree to the constraint levels in the domestic discretionary programs that will be necessary under the allocations we have presently made, as I say, also remains to be seen.

There will be 60 votes on points of order under the Budget Act against any appropriations bill which exceeds its 302(b) allocation, and thus far none of our subcommittees have exceeded their 302(b) allocation, as well as to any floor amendments that can cause any bill to go over its 302(b) allocation.

I may not have been able to shed much light on the situation that the distinguished Senator brings to our attention, but it is at least apparent that our figures do not agree.

Mr. NUNN. Mr. President, I ask the Senator if he will yield for a brief moment?

Mr. BYRD. Yes.

Mr. NUNN. I say to my friend from West Virginia, I appreciate his remarks, and I know the dilemma the committee is in. I understand the time constraints and the reason for proceeding. I only ask, and we are not going to be able to resolve the policy any time in the near future without a summit conference, but what I hope is that we can direct both our staffs to get together with a detailed apples-to-apples comparison so we will vote no

and all of us will know exactly where we stand. There is a difference in our interpretation in numbers and those cited by the chairman tonight. I make no claim that we are 100 percent accurate, but I would like to know where we are.

Mr. BYRD. Mr. President, the Senator is entitled to know that. I think we all want to be sure that our figures are such as we understand them to be, that the staffs will not be in disagreement. I want this as much as the distinguished chairman does. We will certainly do whatever we can to work with the Senator's staff and see what the figures are so we will all have an understanding, we will all be singing out of the same hymn book in that regard.

Mr. NUNN. I thank the Senator.

Mr. BYRD. I thank the Senator.

Mr. JOHNSTON. Mr. President, according to the unanimous-consent agreement, there are four amendments in order: One by Mr. BAUCUS relative to improvements on the upper Mississippi River. That will not be submitted. One by Mr. GORE relative to report language on super computers. The amendment, I believe, will not be submitted, but we are trying to work out a colloquy. That leaves the amendment by Mr. McCURE and Mr. STEVENS, which will be debated tomorrow, along with an amendment by the Senator from Minnesota, if there is a unanimous-consent request agreed to at a later date. I believe that is, therefore, all we can do tonight.

Mr. HATFIELD. Mr. President, if the Senator will yield, that is my understanding. He is precisely correct in his résumé of the amendments that were not acted upon.

Mr. BOSCHWITZ. Mr. President, the distinguished senior Senators from both Oregon and Louisiana have talked to me. My concern is that we will come back from the budget summit with very high appropriations figures and that we would then have to go about the business of reconciling the whole matter so that we can, indeed, make it conform to the budget summit. I am concerned, not only on this bill but on other bills, that that will be quite a challenge.

So I will try to work out something with the distinguished manager of the bill and the ranking minority member with respect to that, and perhaps that will make it not necessary to offer my amendment tomorrow, although I reserve the right to do that according to the agreements I had made with the managers at an earlier date. I yield the floor.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that H.R. 5019 be laid aside until 9:30 a.m. tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JOHNSTON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to calendar No. 707, S. 2884, the fiscal year 1991 Defense Authorization bill.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 2884) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate proceeded to consider the bill.

Mr. NUNN. Mr. President, I am pleased to bring before the Senate S. 2884, the National Defense Authorization Act for fiscal year 1991. This bill provides the authorization required in law for almost all of the major functions under the jurisdiction of the Committee on Armed Services, including the programs and activities of the Department of Defense; the Department of Energy nuclear weapons programs; and civil defense.

This is the most far-reaching defense authorization bill since I came to the Senate in 1972. It is based on a careful assessment of the dramatic changes in the threat to our national security that have taken place in the last year, and the changes that are needed in our military strategy in light of this changed threat. The beginning of the committee's report accompanying this bill provides a summary of our analysis of the changes in threat, our views on the necessary revisions in our military strategy, and the budget decisions the committee made to implement this revised strategy.

The bill puts the Defense Department on a responsible and manageable glide path toward a smaller and restructured defense establishment over the next 5 years. As preparation for the decisions made during our week-long markup, the committee conducted 64 hearings and received testimony from more than 220 witnesses.

CHANGES IN THE THREAT

Last March, Mr. President, I outlined in detail my views on the changed threat environment of the 1990's. In those remarks I gave my overall assessment of the changes in the threats to our national security. I do not intend to repeat my earlier comments, but I do want to mention briefly my views on what further changes have taken place in the threat since my original remarks.

STRATEGIC FORCES

At the level of strategic forces, there have been no significant changes in the trends I previously outlined. The Soviets continue to modernize their strategic nuclear forces, and Soviet strategic offensive forces remain the paramount threat to United States national security interests. The Soviets continue to produce and deploy new SS-18, SS-24, and SS-25 ICBM's, new Bear H and Blackjack bombers, and new Delta IV ballistic missile submarines. They also continue to develop follow-on ICBM's and SLBM's.

On a more positive note, though, the Soviets have begun to dismantle the Krasnoyarsk radar. They have not resumed Yankee ballistic missile submarine patrols off our coasts. Furthermore, as the threat of conventional war in Europe decreases, the risk of strategic nuclear deterrence failing has been assessed by the Joint Chiefs of Staff as low and decreasing.

This more confident attitude about the sufficiency of U.S. nuclear deterrent capabilities has been reflected in a number of developments in recent months:

The Air Force recommended in its program objective memorandum, POM, submission for fiscal year 1992-97 that the rebasing of the MX from silos to rails be scrapped and that the road-mobile Midgetman ICBM Program not be advanced to full-scale development.

The Navy recommended in its fiscal year 1992-97 POM that the Trident ballistic missile submarine force be stopped at 18 ships.

The administration decided to terminate the requirement for continuous airborne orbiting by the Strategic Air Command's "Looking Glass" flying command post.

CONVENTIONAL FORCES

At the conventional level, in recent months we have witnessed a series of additional positive—and indeed dramatic—developments that have even further eroded what was once the formidable threat of a short-warning Warsaw Pact attack against NATO:

On June 1, President Bush and President Gorbachev signed a bilateral agreement under which the Soviet Union will be required to destroy approximately 90 percent of its stockpile of chemical weapons.

On July 6, NATO heads of state issued a declaration in London in which they invited President Gorbachev and representatives of the nations of Central and Eastern Europe to address the North Atlantic Council and to establish regular diplomatic liaison with NATO. The NATO leaders also proposed that the Warsaw Pact member states join with NATO in a joint declaration affirming that we are no longer adversaries and will refrain from the threat or use of force against the territorial integrity or political independence of any state.

On July 16, President Gorbachev formally accepted NATO's position that a united Germany must be permitted to remain in NATO. The Soviet President also pledged to remove all Soviet forces from what is now the German Democratic Republic in 3 to 4 years.

The implications of these historic breakthroughs are profound. For the first time since the end of World War II, we can look ahead in the near future to the day in which all Soviet forces will be out of Eastern Europe. This withdrawal will not be easy for the Soviet Union to achieve, but the way is now clear for a fundamental restructuring of the cold war arrangements in Europe. Furthermore, with the recent breakthroughs on the German unification issues, we can reasonably expect that the way has been opened for the resumption of the unilateral withdrawal of Soviet troops from Europe and an early conclusion of the CFE negotiations.

These developments must remain in the category of hopes until they become a reality however. At this time, as we are debating this bill tonight, the Soviets still have over 400,000 forces in Eastern Europe, including tens of thousands of tanks.

REGIONAL THREATS

In my March 29 remarks, I noted that we must also assess the status of threats to United States and allied security in other regions of the world. Foremost among these is the threat of hostilities in the Persian Gulf or elsewhere in the Middle East. This point has been forcefully underscored by the recent developments in Iraq, where President Hussein has massed some 100,000 troops on the Kuwaiti border in a dispute over oil pricing and production rates.

Also, as we start that bill here tonight, there are wire reports that indicate the Iraqis have invaded Kuwait. I do not have any information beyond what I read on the wire reports, but we have noted during the entire debate on this bill this year that the Middle East is still a very dangerous place, very unpredictable place, and if these initial reports are correct, I think it shows the dangers in that part of the world are becoming more than

just dangers and becoming direct assaults and actual war.

The President of the United States will have to consider that situation very carefully in the immediate hours to come, determining what our position is, determining if there is a possibility of stopping this invasion before it goes further, through diplomatic means.

THE FISCAL THREAT

Finally, it is important to note that in my March 29 threat assessment, I emphasized the economic component of security and discussed the genuine threat posed by our inability to get our fiscal house in order. In this area, the threat today is even worse than that outlined in my previous remarks.

On July 25, Comptroller General Charles Bowsher testified that the projected deficit for fiscal year 1991 could be as much as \$104.8 billion above the Gramm-Rudman targets. If a sequester takes effect, said Mr. Bowsher, military accounts would have to be reduced by \$96.3 billion in budget authority to achieve a fiscal year 1991 outlay savings of \$52.4 billion, assuming military personnel is exempted from the reductions. The \$52.4 billion is the amount that would represent the Defense Department's half of the Gramm-Rudman automatic deficit reduction.

Mr. President, I would suggest that if the admirals and the generals at the Pentagon were to conjure up their worst nightmares about threats to our national security, the threat of a \$96.3 billion cut in budget authority for fiscal year 1991 would have to rank very high on their list.

BUDGET IMPACT OF THE COMMITTEE BILL

Mr. President, the committee did not receive any specific guidance on what overall level of funding we should meet in this bill. The fiscal year 1991 budget resolution adopted by the Senate did not contain any specific functional totals. In fact, it was described by the chairman of the Budget Committee as a bobtail resolution. The budget summit negotiators have likewise not provided any specific figures for us to meet.

The committee decided to make our best judgments on what defense programs we thought made the most sense for the Nation in light of the changes in the threat, the need to revise our military strategy, and the fiscal constraints we face now and in the future. I believe that is the same process the budget summit negotiators should follow as well. The defense budget should be based on the threat, our strategy, and fiscal reality, and not just on some numbers drill.

The result of our process is a bill that authorizes national defense programs totaling \$289 billion in budget authority and \$297 billion in outlays for fiscal year 1991. This level represents savings of \$27 billion in budget

authority and \$10 billion in outlays from the Congressional Budget Office baseline for fiscal year 1991, and \$18 billion in budget authority and \$7 billion in outlay savings compared to the administration's fiscal year 1991 budget request.

Mr. President, for some time the Armed Services Committee has stressed that defense programs must be considered on a multiyear basis. Large, immediate reductions in the defense budget to achieve significant outlay savings in 1 year result in severe disruptions to personnel programs and operating activities, and do not get at the large capital investment programs that drive up outlays in the future. Reducing the appetite for budget authority in the near-term by cutting back on the large investment programs and by reducing the size of the military forces in an orderly fashion is the key to reducing defense outlays over the long term.

The committee has been very mindful of the need to look at the long-term consequences of the decisions in this bill. We believe that the committee's recommendations and adjustments to defense programs will result in savings of \$225 to \$255 billion in budget authority and \$180 to \$190 billion in outlays from the CBO baseline over the next 5 years.

MAJOR THEMES OF THE COMMITTEE BILL

The committee's recommendations in the bill can be grouped under five major themes:

First, maintaining nuclear deterrence with forces lower in level and more stable in structure than those currently proposed at the START negotiations;

Second, shifting to a reinforcement strategy in which the United States would reduce its forward-deployed forces, encourage specialization with its allies, and emphasize a reinforcement capability, including the use of reserves to augment the remaining forward-deployed forces;

Third, making greater and more innovative use of National Guard and Reserve Forces;

Fourth, adjusting the readiness of certain forces to reflect the threat; the amount of warning time; the likelihood that the forces will go into action; and the availability of airlift and sealift to transport the forces to the battle; and

Finally, developing a stable, effective resource strategy around the theme suggested by former Ambassador David Abshire: "think smarter, not richer." This resource strategy includes an emphasis on "fly before buy" for new weapons systems; improving existing platforms and reducing new starts; and encouraging innovative research to preserve our technological superiority.

Mr. President, in preparation for our markup the Armed Services Committee adopted a set of specific markup guidelines designed to carry out these major themes. I ask unanimous consent that a copy of the markup guidelines be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered (See exhibit 1.)

Mr. NUNN. Last week I gave a series of speeches on this defense authorization bill in an effort to inform members of the committee's major initiatives and recommendations. I described the comprehensive approach to military manpower in the bill, including the transition package or safety net of provisions for those personnel who will be involuntarily separated as the size of the military services is reduced. I indicated that at the level of personnel authorized in the committee bill, Defense Department witnesses have indicated that the number of involuntary separations of career military personnel will be minimal.

I also spoke about the committee's "think smarter, not richer" theme, and outlined the programs to which we applied the "fly before buy" principle; those programs where we favored improvements of existing weapons over new starts; those programs that were reduced in light of the future reductions in the size of the military force structure; and those programs that the committee terminated. Finally, I outlined the committee's major initiative to increase our reliance on the National Guard and Reserve Forces.

I ask unanimous consent that my earlier remarks on this bill be inserted in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered. (See exhibit 2.)

Mr. NUNN. Both the bill and Senate Report 101-384, which describes the committee's actions in detail, have been available for members to review. In the interests of time today, I do not intend to repeat my earlier remarks on the bill. What I would like to do is briefly describe the full scope of the reductions to defense programs contained in the committee bill, both in fiscal year 1991 and over the next 5 years.

MAJOR REDUCTIONS IN DEFENSE PROGRAMS IN THE COMMITTEE BILL

I pointed out earlier that the \$289 billion in budget authority in the committee bill represents a \$27 billion reduction to the CBO baseline and an \$18 billion reduction to the administration's request for fiscal year 1991. Over the next 5 years, we believe the committee's recommendations will result in savings of \$225 to \$255 billion in budget authority from the CBO

baseline. Overall, this would result in a real decline in defense budget authority of approximately 20 percent over the next 5 years.

Let me put this level of defense spending in perspective:

The committee bill makes a real reduction of 8.7 percent in national defense budget authority from the current fiscal year 1990 level, the largest real decrease in defense budget authority in 20 years. In fact, this bill represents the largest 1-year real decline in defense budget authority of the post-World War II period that does not involve a mass demobilization following a major conventional conflict.

The committee bill reduces national defense budget authority 5 percent of GNP, the lowest level in 42 years.

This bill also begins the process of substantially reducing the size of our active duty Military Establishment. The active duty end strength of 1,976,400 authorized in this bill for fiscal year 1991 represents the first time in 40 years that active duty military strength has dropped below 2 million personnel. The 1.6 million active duty military personnel authorized for fiscal year 1995 puts the military services' active duty strength back to the level of the late 1940's.

Other areas of Defense manpower are cut back in the committee bill:

DOD civilian manpower is reduced by 47,107 from the fiscal year 1991 budget.

There is a provision mandating a 20-percent reduction in the Defense Department acquisition workforce over the next 5 years.

A similar provision requires a 20-percent reduction in all DOD headquarters over the same 5-year period.

Another provision requires a 25-percent reduction in the number of personnel in intelligence-related organizations over a 5-year period beginning in fiscal year 1992.

Finally, the bill contains a 20 percent reduction in senior officers and in senior civilian positions in the Defense Department over the next 5 years.

The committee also made major reductions in the military services' hardware investment programs.

Strategic programs were cut back consistent with the committee's goal to maintain nuclear deterrence at lower levels and with greater stability:

The committee denied all procurement funds, \$1.3 billion, requested for the rail garrison MX missile because of excessive overlap between testing and production of the missile trains.

SDI funding is frozen at the current fiscal year 1990 level, a savings of \$972 million from the request.

The committee terminated the Milstar Satellite Program for a savings of \$1.1 billion in fiscal year 1991.

The committee also terminated the follow-on-to-lance tactical missile pro-

gram, as well as production of all binary chemical weapons, for savings of \$300 million in fiscal year 1991.

The committee also took a very hard look at major new conventional weapons programs, and subjected all of them to a rigorous "fly before buy" test. The result is the delay of a number of major new weapon programs requested in fiscal year 1991. For example:

The committee denied all procurement funds, \$1.5 billion, for the Navy's A-12 attack aircraft because of excessive concurrency between development and procurement.

All procurement funds for the C-17, \$1.8 billion, were deferred because of continued development and testing delays.

Procurement funds for 2 new SSN-21 attack submarines were deferred pending further progress in testing and development on the lead ship. The committee recommends procurement of 2 additional 688 class submarines instead, for a net savings of \$1.5 billion.

The committee directed the Air Force not to enter full scale development on the new advanced tactical fighter but to continue the prototype phase instead, saving \$177 million in fiscal year 1991.

We also directed the Army to develop and fly a prototype of their new light helicopter before entering full scale development, saving \$150 million in fiscal year 1991.

All together, the committee recommended reductions of nearly \$8 billion to the fiscal year 1991 budget request by applying this fly before buy test to ongoing weapons programs.

Several major weapons programs were cut back to reflect the lower force structure in the military services in the future. Procurement of the Air Force's F-16 fighter was reduced from 150 to 108, saving \$400 million. Procurement of the Navy's F-18 fighter was reduced from 66 to 42, savings \$500 million.

Finally, the committee terminated a large number of weapons programs that had technical problems or were no longer needed. Secretary Cheney in his budget request recommended that 13 programs be terminated in fiscal year 1991. The committee reviewed these 13 programs carefully, and agreed with Secretary Cheney on 11 of the proposed terminations. The committee examined all of the programs in the fiscal year 1991 defense budget and recommended that an additional 15 programs be terminated. Terminating these additional 15 programs will save \$2.3 billion in fiscal year 1991, and between \$45 and \$50 billion over the projected lifetime of these programs.

Mr. President, I have gone into some detail to outline the reductions contained in the committee bill in order

to illustrate for my colleagues the extent to which this bill begins the process of reducing the size of our Defense Establishment in fiscal year 1991 and over the next 5 years.

CONCLUSION

Mr. President, it is very important that we complete action on this bill before the August recess. The Appropriations Committees are anxious to get to work on the Defense appropriations bill. The House will act on this authorization bill early in September, and I hope we will be able to reach a conference agreement to guide the appropriations process in September.

Before closing, I want to thank all of the members of the Armed Services Committee for their hard work in bringing this bill to the Senate floor. The committee disagreed on some of the individual provisions in this bill, but the bill as a whole was unanimously supported by every member of the committee. I think this is an indication of the strong sense of bipartisanship and cooperation with which our committee approached our work and the difficult decisions that were required this year.

A great deal of credit for this spirit of bipartisanship and cooperation goes to the ranking minority member of the committee, Senator WARNER. He is a true leader in our committee and in the Senate on national security issues. I want to thank him for his help in getting the bill to this point.

Mr. President, this National Defense Authorization Act for fiscal year 1991 represents the culmination of a great deal of hard work by the members and staff of our committee. Hugh Evans and Greg Scott of the Legislative Counsel's Office also made an indispensable contribution in preparing this bill. This is a good bill which begins the process of reducing and restructuring our Defense Establishment in an orderly process. I urge my colleagues to support it.

EXHIBIT 1

GUIDELINES FOR THE SENATE ARMED SERVICES COMMITTEE'S MARKUP OF THE FISCAL YEAR 1991 DEFENSE AUTHORIZATION BILL

Reflect changes in the threat.

Emphasize five-year approach: stress long-term; and identify follow-on assumptions and budget implications for recommended changes.

Frame adjustments in terms of broad strategic goals and objectives, such as: maintain nuclear deterrence with forces lower in level and more stable in structure than those currently proposed at START; adjusted readiness of selected forces; emphasize lighter, more lethal, more mobile forces; retire older, single purpose combat systems; and maintain technological superiority.

Minimize impact of the transition to lower force levels on military members and their families.

Enhance utilization of the National Guard and Reserve components.

Encourage constructive competition for roles and missions.

Improve management of defense programs: endorse as much as possible of DoD's Management Improvement Act; fly before buy; product improvements; and streamline headquarters and consolidate organizations.

Avoid micromanagement of defense programs: eliminate reporting requirements on DoD; and minimize line item adjustments to the DoD budget.

EXHIBIT 2

THE FISCAL YEAR 1991 DEFENSE AUTHORIZATION BILL (S. 2884)

Mr. President, on Thursday, July 12, the Armed Services Committee voted unanimously to report S. 2884, the Fiscal Year 1991 Defense Authorization Bill, to the Senate. The bill was filed last Friday, and the bill and report are available to all Members.

The Majority Leader has indicated that he intends to call up this bill next week. In anticipation of the Senate's debate on this important bill, I will be making several speeches over the next few days highlighting what I consider to be some of the major features of the bill.

MAJOR THEMES OF THE COMMITTEE BILL

The Fiscal Year 1991 Defense Authorization Bill reported by the Armed Services Committee is the most far-reaching defense bill since I came to the Senate in 1972. It is based on a careful assessment of the dramatic changes in the threat to our national security that have taken place in the last year, and the changes that are needed in our military strategy in light of this changed threat.

The bill puts the Defense Department on a responsible and manageable glide path toward a smaller and restructured defense establishment over the next five years. As preparation for the decisions made during our week-long mark-up, the Committee conducted 64 hearings and received testimony from more than 220 witnesses.

The Committee's recommendations can be grouped under five major themes:

First, maintaining nuclear deterrence with forces lower in level and more stable in structure than those currently proposed at the START negotiations;

Second, shifting to a reinforcement strategy in which the United States would reduce its forward-deployed forces, encourage specialization with its allies, and emphasize a reinforcement capability, including the use of reserves to augment the remaining forward-deployed forces;

Third, making greater and more innovative use of National Guard and Reserve Forces;

Fourth, adjusting the readiness of certain forces to reflect the threat; the amount of warning time; the likelihood that the forces will go into action; and the availability of airlift and sealift to transport the forces to the battle; and

Finally, developing a stable, effective resource strategy around the theme suggested by former Ambassador David Abshire: "think smarter, not richer".

Mr. President, in preparation for our markup the Armed Services Committee adopted a set of specific markup guidelines designed to carry out these major themes. I ask unanimous consent that a copy of the markup guidelines be inserted in the Record at this point.

DEFENSE MANPOWER

In my view, the Committee's recommendations in the area of manpower and personnel are some of the most important in the

bill. One of the Committee's highest priorities throughout our markup was to sustain and, where possible, enhance the well-being and combat effectiveness of our military personnel as the overall size of the military services is reduced over the next five years. With the direction and authority provided in this bill, the military services can begin planning now for the military force structure they will have at the end of the next five years.

PERSONNEL STRENGTH LEVELS

Mr. President, the Committee authorized an end strength for each of the military services for fiscal year 1991 and for fiscal year 1995, the last year of the current Five Year Defense Program. We took this unusual step of looking down the road five years in order to give each of the military services a clear indication of what we thought their strength should be. In this way, the military service can begin planning now to meet this long-term strength level instead of managing on a year-to-year, ad hoc basis.

The fiscal year 1995 end strengths for the military services are based on the reduced threat and the changes in mission and force structure that the Committee expects the military services to make in response to this changed threat.

For the Army, the FY 1995 authorized strength is 510,000, which is 32 percent or 234,200 below the current fiscal year 1990 authorized level.

For the Navy, the FY 1995 authorized strength is 500,000, which is 15 percent, or 90,500 below the current level.

For the Marine Corps, the FY 1995 authorized strength is 177,000, which is 10 percent or 19,700 below the current level.

For the Air Force, the FY1995 authorized strength is 415,000, which is 24% or 130,000 below the current level. The Air Force strength, in particular, reflects the Committee decisions to shift certain missions to the National Guard and Reserve.

These proposed FY1995 strength levels are generally in line with the 25 percent reduction in force structure which Secretary Cheney recently outlined for the Budget Summit. These reductions assume—but do not necessarily require—force structure reductions in the Army of at least six active divisions; a reduction of at least 111 Navy ships, including two aircraft carriers; two carrier air wings; and the deactivation of at least 11 active air wings in the Air Force.

The strengths authorized in the bill for fiscal year 1991 put the military services on a guide path to achieving the strengths authorized for fiscal year 1995. The FY1991 strengths for the military services are 100,000 below the FY1990 level:

The Army's FY1991 strength is 704,170, which is 40,000 below the current level.

The Navy's FY1991 strength is 568,500, which is 22,000 below the current level.

The Marine Corps' FY1991 strength is 193,735, which is 3,000 below the current level.

The Air Force's FY1991 strength is 510,000, which is 35,000 below the current level.

Based on the information we have received in our hearings, the military services should be able to achieve these reductions in active duty end strength without involuntarily separating career personnel short of retirement.

For the National Guard and Reserve, the bill freezes fiscal year 1991 end strengths for each of the components at the fiscal year 1990 levels. This recommendation is

part of a larger initiative taken by the Committee to increase our reliance on National Guard and Reserve forces. I will have more to say on this larger initiative in the next several days.

The overall civilian personnel strength authorized for the Defense Department in Fiscal year 1991 is 1,048,634, which is 47,107 below the Administration's request. A large portion of this reduction is the result of the hiring freeze which Secretary Cheney put in place for the Defense Department last January.

REGULATED STRENGTH REDUCTION PROCEDURES

As the overall size of the military services is reduced, it is very important that the military services retain the essential cadre of experienced career enlisted and officer personnel which are the backbone of the military services.

The Committee approved legislation requested by the Defense Department to allow the military services to reduce senior officer strength over the next five years. These authorities include more liberal selected early retirement and voluntary retirement measures.

However, the Committee also made it clear that as the force is reduced, the mid-career officer and enlisted force must be the last segment of the force to be cut. The bill contains a provision specifying the order in which the military services should make strength reductions over the next five years.

First, the military services must set accession levels for new recruits at the level necessary to sustain the reduced fiscal year 1995 strength levels authorized in this bill.

Second, the military services must reduce the retirement eligible population consistent with the requirement for senior grade officers and enlisted personnel at the fiscal year 1995 strength levels.

Third, the military services must reduce the first-term, non-career population consistent with the requirement for junior officer and enlisted personnel at the fiscal year 1995 strength levels.

And fourth, only after going through the first three steps will the services be able to reduce the mid-career personnel to reach the authorized strength levels for any given year.

Mr. President, this process ensures that the valuable and experienced mid-career segment of the military services is the last place that will be affected by the reduction in the size of the military services. It also ensures that the Defense Department will not hollow out the segment of the force most crucial to maintaining the fighting ability of the military services.

INVOLUNTARY SEPARATION COMPENSATION AND TRANSITION INITIATIVES

Even with this carefully regulated process for strength reductions, the reduction in the size of the military services over the next five years will require some involuntary separation of career military personnel short of retirement. It is impossible at this point to say how widespread these involuntary separations will be. We hope they will not involve large numbers of mid-career personnel.

The Committee is very mindful that the people serving in the All Volunteer Force today volunteered for service and are in uniform because they want to be. This is particularly true of career military members, who have made a commitment to serve their country in a dangerous profession for a full career. It is especially painful for the Committee that some of these mid-career per-

sonnel will be asked to leave their service over the next five years before becoming eligible for retirement benefits.

In recognition of this fact, the Committee bill contains a package of new compensation and benefits for military personnel who are involuntarily separated from active duty due to reductions in strength levels over the next five years. This package increases the current level of separation pay for officers, and for the first time authorizes separation pay for enlisted personnel. This separation pay will be provided to officers and enlisted personnel who are involuntarily separated with more than five but less than twenty years of service. This transition package also provides affected military members with medical transition benefits; unemployment compensation equal to that provided in the civilian sector; vesting in education benefits under the Montgomery G.I. Bill; transition and job search services; and transportation benefits for resettlement to any location within the United States.

Mr. President, this package of compensation and transition benefits is an important effort to keep faith with military members. It provides a safety net for those military personnel who have planned on a career in the military but who may now be required to leave active duty through no fault of their own before they become eligible to retire.

REDUCTIONS IN OVERHEAD

As the size of the military services is reduced, it is important that the overall administrative structure of the services is also reduced. The Committee bill includes a ceiling on officer strength in the military services that is consistent with the current ratio of officers to enlisted personnel. The bill also requires a 20% reduction in flag and general officers and in senior civilian personnel in the Defense Department over the next five years.

There are several other initiatives in the bill to reduce overhead in the Defense Department. In an effort to simplify and streamline the acquisition process, the Committee recommends a 20 percent reduction in the Defense acquisition workforce over the next five years. There is a similar five year, 20 percent reduction in management headquarters staffing. This reduction should be carried out by eliminating entire headquarters functions, not by simply reducing each and every function by a uniform percentage. Finally, the Committee bill directs a 25 percent reduction in the number of personnel in intelligence-related organizations over a five-year period, beginning in fiscal year 1992.

SENIOR OFFICER POSITIONS FOR THE JOINT STAFF

A final manpower and personnel issue I want to highlight is the provision in the bill that would authorize the President to designate up to six positions within the Joint Staff to be exempt from the overall ceiling on the number of 3- and 4-star officers in the military services.

This provision is based on a request from the Secretary of Defense and the Chairman of the Joint Chiefs of Staff for this authority. The Committee believes that this provision will encourage the military services to nominate their best officers to fill the key positions on the Joint Staff, and will also provide the Chairman of the JCS greater flexibility in selecting officers recommended by the military services to fill these key positions.

CONCLUSION

Mr. President, the Fiscal Year 1991 Defense Authorization Bill marks a watershed. It sets the military services on a glide path to a smaller defense establishment based on the changes in the threat and a revised military strategy.

In the area of defense manpower, the Committee worked very hard to establish clear guidelines for managing personnel programs not just in fiscal year 1991, but over the next five years. I think it is very important that military members and their families understand that the reductions in the defense budget are not directed at them personally. The American people understand and appreciate the fact that the sacrifices and dedication of a generation of men and women in uniform have helped hasten the end of the Cold War and reduced the likelihood of superpower confrontation. It was in recognition of this service that the Committee worked very hard to minimize the impact of force reductions on military members and their families. I want to congratulate the Chairman and Ranking Minority Member of the Manpower and Personnel Subcommittee, Senator Glenn and Senator McCain, for their excellent and tireless work in this area.

Mr. President, I will have more to say on other areas of the Fiscal Year 1991 Defense Authorization Bill in the days ahead.

THINK SMARTER, NOT RICHER

Mr. President, yesterday I delivered some preliminary remarks about the defense authorization bill that the Armed Services Committee has reported to the Senate and which we expect to take up shortly in the Senate. Because of the limited time that is likely to be available, I am taking this opportunity to explain several of the key themes and initiatives the Committee incorporated in the bill. In my remarks yesterday, I outlined the important manpower and personnel initiatives. This morning I want to highlight a second major theme of the bill, and that is, "think smarter, not richer."

To my knowledge, that expression was first coined by former Ambassador David Abshire when he was the U.S. Ambassador to NATO. Many of the problems we are experiencing today come from the early 1980s when the military services were thinking "richer." Consistently the services started more programs than could reasonably be afforded. It was clear to some of us at the time that we were going to have a massive "bow wave" problem in procurement in which the bills would come due for the new starts, but budget levels would not accommodate them. The Department of Defense, however, "masked" that bow wave with unrealistic out-year budget projections that had soaring funding levels projected for the foreseeable future. Even before the threat changed, we could not afford all the programs that were launched in the early 1980s because of the fiscal constraints we face.

Now we have to adjust the defense program to both the changes in the threat and the budget constraints. The Committee adopted three broad elements in its effort to think smarter, not richer.

FLY BEFORE BUY

The first of these three elements is the long-standing idea of "fly before buy." David Packard, when he was Deputy Secretary of Defense in the early 1970's, adopted the "fly before buy" concept. The idea is simple: build a representative prototype and

fly it to determine if it works as advertised and is affordable. If it meets those standards, then the system would be permitted to go into production.

In the 1980's, the Department of Defense virtually abandoned this principle. The services feared the pace of Soviet weapons developments and felt an urgency to field technologically superior weapons to counter numerically superior Soviet/Warsaw Pact forces. This resulted in excessive concurrency—starting procurement in most major weapon systems before all the bugs were worked out in development. Excessive concurrency led to many costly mistakes.

The B-1 bomber is a classic example. All 100 B-1 bombers were under construction in some form before initial operational test and evaluation was started. The sad results are testimony as to how not to do business. The taxpayers will have to spend nearly \$1 billion for "fixes" required for the B-1 which, if they work (and we are not assured of that yet), won't even meet the originally advertised capabilities.

The reduction of the Soviet/Warsaw Pact threat means we do not have to rush to buy a weapon system before we know it will work. We now have time to get it right the first time.

The Armed Services Committee applied this "fly before buy" principle to a number of programs requested in the fiscal year 1991 budget request. The defense authorization bill we have reported to the Senate makes the following recommendations:

B-2 bomber.—The Committee recommends that only two aircraft be procured in fiscal year 1991 so that additional testing can be completed before the B-2 is slated to go into low-rate initial production. This recommendation saved \$888 million. In addition, the Committee required the B-2 to pass through a number of testing "gates" before any new money could be obligated.

Light Helicopter.—The Army has been conducting a so-called "paper" competition for this new light scout and attack helicopter. The Army was proposing to initiate full scale development in fiscal year 1991 of the winning design. The Committee deferred full scale development, reduced the fiscal year 1991 budget request by \$150 million, and recommended that the Army build a prototype of the winning design and test it before we initiate full scale development.

A-12 attack aircraft.—The Navy's A-12 is a new-design attack aircraft that will replace the old A-6. Because this is a highly classified program, we can't discuss all the details in a public session. In brief, however, the program is suffering serious technical difficulties and is behind schedule. The Committee felt that these problems were so serious that we could not recommend any production aircraft in fiscal year 1991. Future production will depend on solutions to the technical problems.

SSN-21 submarine.—The Navy's new attack submarine—the SSN-21 *Seawolf*—is also suffering technical difficulties and has excessive concurrency. The Committee recommends that we defer production in fiscal year 1991 to permit progress on the lead ship. In its place, the Committee recommends that the Navy procure two SSN-688 submarines. Taken together, these actions resulted in a net savings of \$1.5 billion in fiscal year 1991.

C-17.—Technical problems and delays in the C-17 program were such that the Air Force could not obligate funds to procure aircraft unless they violated their own acquisition strategy. The Committee recom-

mends such funds as are required to sustain the production aspects of the program, but that no aircraft be authorized and appropriated in fiscal year 1991. This resulted in savings totalling \$1.8 billion.

Rail Garrison MX.—Excessive concurrency in the rail garrison MX program led the Committee unanimously to recommend deferral of production funds for the trains requested for the program in fiscal year 1991, saving \$1.3 billion this year.

Advanced Tactical Fighter.—The Air Force proposed to initiate full scale development of its new advanced tactical fighter (ATF). The Committee found, however, that the Department of Defense did not adequately examine all alternatives when it conducted the Major Aircraft Review. The Committee is recommending that full scale development be deferred until a more comprehensive evaluation is conducted. This generated a savings of \$177 million in fiscal year 1991. This time will also permit greater testing of the winning ATF design to better understand the value of the ATF itself.

Advanced Medium Range Air-to-Air Missile.—The Air Force's Advanced Medium Range Air-to-Air Missile (AMRAAM), while performing well in its tests, suffers from serious reliability shortcomings. The Committee felt that it could not recommend full rate production of the AMRAAM missile until reliability problems are fixed. Holding production to last year's level saved \$500 million.

Airborne Self Protection Jammer.—The Committee removed \$113 million, which is all production funds for the Airborne Self Protection Jammer program. The program will not have completed operational testing in time to obligate production funds in fiscal year 1991. The Committee did recommend authorization of non-recurring costs for this program while testing is conducted.

These are the major instances where the Committee recommends we limit investment in programs until we demonstrate the hardware will work as advertised. All together, the Committee recommended reductions of nearly \$8 billion dollars by adopting this fly before buy strategy.

EMPHASIZE PRODUCT IMPROVEMENTS OVER NEW STARTS

The second element of the "think smarter, not richer" strategy is to emphasize product improvements over new start programs. In many instances, it is possible to upgrade existing systems for substantially less than required to build a new program and, with a reduced threat, to meet a substantial portion of the requirements.

The bill we are reporting recommends the following major efforts to improve existing programs.

F-15XX aircraft.—The Air Force has proposed to build an expensive new Advanced Tactical Fighter (ATF) to replace the F-15. Yet the existing F-15 can be upgraded at one-fourth to one-third the cost of the ATF. The Committee included sufficient funds to protect an option to proceed with an upgraded F-15 as an alternative to the ATF, and directed the Department of Defense to evaluate this option.

AH-64 and OH-58 Helicopters.—The Army is proposing to proceed with a \$4 billion dollar development effort to build a new light helicopter. The Committee recommends that \$18 million be made available to identify improvements to the existing AH-64 and OH-58 helicopters as an alternative to the light helicopter program.

M1 tank.—The Army is proposing to launch a major new program to develop a

next generation tank. The Committee directed the Army not to proceed with the lead element of that new tank, and instead directed the Army to initiate an upgrade program for older model M1 tanks. Installing a larger cannon and improved electronics on the first generation M1 tanks will boost their combat effectiveness by 250 percent.

Phoenix missile.—The Navy had already developed an improved guidance set for its Phoenix air-to-air missile, but when they terminated the Phoenix missile they had no way to take advantage of the improved guidance set. The Committee directed the Navy to initiate a retrofit program so that early model Phoenix missiles can have state-of-the-art accuracy and range.

C-130J aircraft.—The Air Force has no plans to modernize its aging fleet of C-130 transport aircraft.

The Military Airlift Command had initiated efforts for an upgraded C-130, called the "J" model, but did not have funds to start it. The Committee recommends that the Air Force initiate the J program this year.

All of these existing systems have substantial growth potential, and can be updated at a fraction of the cost it would take to develop an entirely new replacement capability. The funding constraints the Department of Defense will be facing in coming years require us to consider product improvements first and new production programs second.

RETIRE OBSOLETE FORCE STRUCTURE

The third element of the "think smarter, not richer" approach involves older weapon systems. The military services received a great deal of new and modernized equipment and weapon systems during the 1980s. Yet, there are still substantial numbers of units that are forced to operate older, high-maintenance, single-purpose and in some instances tactically obsolete combat systems. While some of these systems have continuing usefulness, many offer questionable capability.

The Committee decided that the following list of older combat systems should be carefully examined to determine whether or not they should be eliminated or retired earlier than planned. I ask unanimous consent to include at this point in the record a list of older weapon systems that should be evaluated and considered for retirement.

Army systems: OH-58 helicopters, UH-1 helicopters, CH-54 helicopters, M-60 tanks, M901 Improved TOW vehicles, 8 inch howitzers, Vulcan air defense guns, and OV-1 surveillance aircraft.

Navy/Marine Corps systems: F-4 aircraft, A-4 aircraft, KA-6 tankers, OA-4 observation aircraft, A-7 strike aircraft, RF-4 reconnaissance aircraft, OV-10 observation aircraft, CH-53A model helicopters, nuclear guided missile cruisers, P-3B model patrol aircraft, and SH-3H helicopters.

Air Force systems: F-4 fighter aircraft, RF-4 reconnaissance aircraft, OA-37B observation aircraft, OV-10 observation aircraft, C-22 transports, C-140 transports, HH-1 helicopters, CH-3 helicopters, B-52 bombers, and Minuteman II missiles.

While many of these systems could be retired, the Committee believes that only the military services can decide which systems offer the least amount of capability and cannot be justified in the future restricted funding environment. In determining which systems should be retained and which should be retired, the Department of De-

fense should examine them in light of the following key questions:

Is the mission essential or merely marginal?

Is the system still responsive to the projected threat?

Does the system need to be updated to meet the projected threat and are such modifications feasible and cost effective?

If the system is deactivated, how will the mission be accomplished?

As active force structure is reduced, will more modern replacements become available?

Is a replacement system or approach more or less cost effective than continuing to operate the older systems?

With regard to strategic systems, will the system have to be eliminated under the terms of the START treaty?

Each system will have to be evaluated on a case by case basis. Nevertheless, the Committee is convinced that the Department of Defense should accelerate the retirement of obsolete forces in fiscal year 1991. Anticipating that many of these systems are no longer needed, the Committee eliminated nearly \$300 million of modification funds and operating funds requested for these older weapons in the fiscal year 1991 budget. Savings in the future will be much greater.

CONCLUSION

Mr. President, the Committee used these three approaches extensively during markup of the authorization bill, and over \$8 billion was cut from the budget request. Frankly, we should have been more insistent on these approaches in previous years when defense budgets were increasing or held relatively steady. But while we should have "bought smarter" in the past, it is essential that we do so today.

PROGRAM TERMINATIONS

Mr. President, I have been taking a few minutes each morning this week to highlight the fiscal year 1991 defense authorization bill our Committee has reported to the Senate and is expected to be debated next week. On Tuesday I outlined the manpower and personnel provisions included in the bill. Yesterday I outlined the important initiatives we took on major weapon systems, and specifically our across-the-board recommendations to fly before you buy. This morning I want to outline the actions our committee took to terminate troubled or unneeded programs.

Secretary Cheney recommended that 13 programs be terminated in fiscal year 1991. The Committee closely reviewed all the programs and agreed with the Secretary on 11 of the proposed terminations. This is consistent with our Committee action last year to terminate all programs he proposed to terminate, except the V-22. Again this year the committee recommends additional research and development funding on the V-22. We believe the V-22 program has a great deal of promise and its development should be completed.

Of the new termination recommendations, the committee agreed with all except two. The Committee recommended that the Sea Lance program be continued because the Navy continues to have a requirement for the system, and operational testing to date has been quite positive. Since there are no alternatives at this point to Sea Lance, the Committee decided that termination was unwise.

The other program that the Committee decided not to terminate was the Mark 19

grenade launcher. The Army initiated a five year multiyear procurement and proposed to terminate it in the third year, just when the savings were greatest. The Army needs over 11,000 launchers, and has procured only 4,100. The Committee decided it made sense to complete the multiyear contract, which would still leave the Army with less than half of its requirement.

These were the two instances where the Committee did not agree with Secretary's termination recommendations. But the Committee went beyond the Pentagon's list. We examined all programs to determine which programs would be terminated, and are recommending that an additional 15 programs be terminated. I ask unanimous consent to list at this point the programs the Committee has recommended be terminated in addition to those which the Secretary recommended:

Fiscal year 1991 savings

(BA in millions of dollars)

Terminated program:	
Milstar satellite	\$1,063
National aerospace plane (DOD)	158
AF over the horizon backscatter radar	265
NBC reconnaissance vehicle	37
Follow on to Lance Missile	112
155mm nuclear artillery shell	(¹)
155mm binary chemical artillery shell	74
MLRS binary chemical munition	28
Navy Bigeye chemical bomb	9
Air Force Bigeye chemical bomb	58
ADATS air defense system	438
Small unit support vehicle	27
Armored combat earthmove M-9	44
Battlegroup Passive Horizon Extension	(¹)
Plutonium Recovery Modification Project	65
Total	2,350

¹ Classified.

Terminating these additional programs in fiscal year 1991 will save \$2.3 billion, but over the lifetime of the programs, these terminations will save between \$45 and \$50 billion.

Mr. President, I do not intend to discuss each of these items this morning, but several of them do need to be discussed in more detail.

MILSTAR SATELLITE PROGRAM

The committee decided to terminate the Milstar satellite program because it is far behind schedule, enormously expensive, and designed for an increasingly improbable threat. Milstar was conceived in a period of intense United States-Soviet strategic competition, when the threat of global war arising from a confrontation in the heart of Europe dominated U.S. military planning. In the early 1980s, people in the Reagan Administration started talking about "protracted nuclear warfighting". Proponents of protracted nuclear warfighting envisioned nuclear wars lasting weeks and months. Wave after wave of missiles and bombers would be sent against each other, even after the initial laydown of several thousand weapons on both sides. Such a concept of war would require a command and control capability of enormous complexity and sophistication.

I want to make it clear we are not talking about Milstar in the traditional sense of deterrence. We already have sufficient redundancy in command and control systems to allow us to survive and then command our forces to retaliate. That is the essence of de-

terrence. We have to have that on a continuing basis. But planners went much further than that with Milstar.

Planners saw the need for a communication system that would permit senior military commanders to conduct electronic conferences and make on-the-spot decisions about prosecuting nuclear exchanges. The Air Force envisioned the need to monitor the success of a missile attack on the Soviet Union, evaluate additional requirements and assign new targets to attacking U.S. bombers while they flew on their way over the North Pole. And all of this would have to occur while Soviet missiles were raining thousands of nuclear warheads on the United States. And were this not enough, planners envisioned these exchanges going on for weeks and months.

From this thinking emerged the Milstar satellite program.

We asked a lot of questions about the program. Is this still what we require to deter nuclear war with the Soviet Union? Is prolonged nuclear warfighting essential for deterrence? We have to have communications systems that can survive and that can communicate so that we can retaliate. That is the essence of deterrence. Reliable command, control, and communications is a necessary prerequisite for deterrence. But does deterrence still spring from the notion that we must be able to wage a protracted nuclear war over a period of months? What does this kind of nuclear war mean?

If we have an all out nuclear exchange between the United States and the Soviet Union, our policy of deterrence has failed. The United States would lose, the Soviet Union would lose, and the world would lose. I think our basic policy has to remain deterrence rather than protracted nuclear warfighting.

The Committee decided that Milstar was far too expensive and designed for a requirement that is not plausible. The Committee examined in detail the alternative methods of command and control, and concluded that there are reliable and survivable methods of communication with our nuclear forces and that deterrence is solid with the command and control systems currently in place or in procurement.

I will not review all the arguments associated with the Committee's decision. We will have a detailed debate on the floor, I believe, and I will go into detail at that time on the reasons why the Committee decided we could live without Milstar. This decision, if confirmed by the Senate, will save \$1 billion in fiscal year 1991, and \$23 to 40 billion in lifecycle cost terms.

NATIONAL AEROSPACE PLANE

The Committee decided to terminate Defense Department participation in the National Aerospace Plane. While the National Aerospace Plane poses challenges and offers long range promise, there are far more important near-term requirements. There are serious deficiencies in meeting today's needs for putting payloads in orbit. The committee decided that those needs had a substantially higher priority than does the National Aerospace Plane.

OVER THE HORIZON BACKSCATTER RADAR

The committee reviewed the Department's request for a central sector over-the-horizon backscatter radar, sometimes called the OTH-B radar. The OTH-B radar is a large radar that can cover very large geographical areas from a single location. We have built OTH-B radars on the east and

west coast to detect enemy bombers and cruise missiles.

The Defense Department was requesting funds to build an OTH-B radar facing south. The committee found that the military requirement for the radar had largely disappeared, and that it was being pursued now almost exclusively for the drug interdiction mission. While the Committee has encouraged the Defense Department to become involved in the war on drugs, the Committee found this system to be redundant and unnecessary for this effort.

FOLLOW ON TO LANCE

The Committee recommended that we terminate the Follow on to Lance program. As my colleagues know, Lance is the current short range nuclear missile used by the United States in Europe. Follow on the Lance was the Department's program to replace the Lance system with a new short range missile carrying a nuclear warhead.

This could have been a major issue this year, but it was not because President Bush recommended that the program be terminated. Had the President not made that recommendation, I believe we would have had a long debate during markup, and I also believe we would have terminated the program.

CHEMICAL WEAPONS

The Committee also terminated the various programs that were requested for binary chemical weapons. After the budget request was submitted, President Bush and President Gorbachev signed a bilateral agreement that would ban further chemical weapon production by either nation upon entry into force of the accord. In early June the committee was advised that in light of that agreement, Secretary Cheney had decided that production funding for chemical weapons was no longer needed. This included the 155mm binary artillery round, the multiple launch rocket binary round, and the Bigeye chemical bomb in the Navy and the Air Force. Consequently, the committee recommended that these programs be terminated.

ADATS AIR DEFENSE SYSTEM

The Committee recommended that the Army's ADATS Air Defense System be terminated. ADATS is the Army's latest air defense missile system designed to shoot down enemy fighters and helicopters. It was initiated after the Division Air Defense (DIVAD) program was terminated.

Congress directed the Army to conduct comprehensive tests to determine how well the ADATS system would work in combat conditions. That operational testing of prototype vehicles revealed substantial reliability problems. Acknowledging those problems, the Army restructured the program and deferred procurement for at least two years. Under this revised schedule, production units would not get to Europe until 1995 or 1996. By that time U.S. combat units will likely be out of Europe.

The Committee decided it was not prudent to spend \$190 million to mark time while the contractor fixed the problems, only to have the ADATS system fielded after the requirement had largely disappeared. In its place, the Committee initiated a substantially less expensive alternative using the very effective Stinger missile.

SMALL UNIT SUPPORT VEHICLE

The Committee also recommends that an Army's Small Unit Support Vehicle, or SUSV, should be terminated. The SUSV is designed to transport troops and equipment

through deep snow and over rugged terrain. The committee concluded that Army has enough SUSVs to equip most of its units which need these vehicles.

ARMORED COMBAT EARTHMOVER

Another program the Committee believes should be terminated is the Army's Armored Combat Earthmover. In the event of a war, combat engineering units will use the earthmover, which is basically an armored bulldozer, to build barriers and protective positions for U.S. combat forces. The Army is going to cut out at least 6 heavy divisions and their associated combat engineering units. Consequently, the Army will need fewer earthmovers. The committee decided that only a fraction of the numbers requested would be sufficient to meet all remaining requirements.

PLUTONIUM RECOVERY MODIFICATION PROJECT

The committee eliminated funds for the Plutonium Recovery Modification Project at the Department of Energy's Rocky Flats Plant in Colorado. The Rocky Flats Plant (RFP) manufactures plutonium components of nuclear warheads and has been shut down for safety and other improvements since December 1989. The Plutonium Recovery Modification Project would recycle and reclaim plutonium from retired warheads and from material generated during the manufacturing process.

Last Year Congress directed the Department of Energy to submit a five year budget plan that would have addressed the future of the weapons complex including the Rocky Flats Plant. The Department of Energy prepared a report, but subsequently disavowed it. At this stage, the Energy Department doesn't have a masterplan, and the role for the Plutonium Recovery Modification Project is unclear. Consequently, the committee recommended termination of the program, though we are open to reconsider this decision once a comprehensive plan is developed.

CONCLUSION

Mr. President, I have not tried to discuss all of the terminated programs, or all of the reasons why the Committee decided to terminate them. But I believe it is clear that the Committee conducted a careful and detailed review of all the programs and acted incisively to terminate programs that were no longer needed or justified.

I don't believe we have seen the end of the terminations. As budgets decline further and force structure shrinks, there could well be additional programs that are no longer justified.

Terminating programs is a painful process for all involved. It requires the courage of conviction to tell constituents and colleagues that programs must be ended. I am pleased that our committee made progress on that challenge, and I hope our recommendations will be sustained by the full Senate.

GREATER RELIANCE ON THE NATIONAL GUARD AND RESERVE COMPONENTS

Mr. President, one of the major initiatives in the Fiscal Year 1991 Defense Authorization Bill recently reported to the Senate by the Armed Services Committee is a plan to make greater and more innovative use of the National Guard and Reserve Components. I want to take a few moments this morning to outline the Committee's extensive recommendations in this area before the Senate begins debating the defense authorization bill next week.

CHANGES IN THE THREAT

The events of the past year have fundamentally altered some of the basic premises of the national security policies that we have followed over the last 40 years. The introduction to our Committee report provides an overall assessment of the changes in the threats to our national security, and is available for all Senators to review.

The most profound change in the threat has been the virtual elimination of the threat of a large-scale Warsaw Pact attack against Western Europe and the NATO Alliance. If the emerging NATO/Warsaw Pact arms reduction agreement on Conventional Armed Forces in Europe is successfully concluded, it will make the threat of a Soviet attack on Western Europe even more remote.

While the changes in the Soviet conventional threat have been most dramatic in Europe, there have also been some changes in Soviet naval activity. Submarine and surface deployments have been scaled back. Naval aviation activity has also been curtailed. These changes have led Admiral Kelso, the Chief of Naval Operations, to conclude that the Soviet fleet has adopted a defensive doctrine.

I think it is important for us to understand that the Soviets continue to have very large production lines for conventional weapons, including naval capabilities. We are not talking about disregarding this military capability. We are talking about the changes that have occurred that can be reversed. We will need to watch this situation very carefully.

When we were facing a huge Warsaw Pact conventional threat and a short warning of an attack, most of the "tooth" of our combat capability was appropriately kept in the active components because we felt we had to be ready to go to war in a matter of days. To lower overall costs, much of the support or "tail" was put in National Guard and Reserve units.

We face a very different world today. The substantially greater warning time of a large conventional conflict, coupled with the need to preserve as much combat capability as possible as the overall size of our military forces is reduced, require that we place much greater reliance on National Guard and Reserve forces than we have in the past.

National Guard and Reserve forces have repeatedly demonstrated that they are capable of assuming a greater role in our overall military strategy, and at a much lower cost than similar capability in the active components. For this reason, the Armed Services Committee recommends a comprehensive set of proposals to strengthen the National Guard and Reserve components in order to enhance our utilization of these forces. These proposals fall into the general categories of force structure; management of reserve forces; and equipment modernization.

FORCE STRUCTURE

The Fiscal Year 1991 Defense budget request and the Defense Department's current Five Year Defense Plan were not based on a fundamental reassessment of the threat and the development of a new military strategy. Instead the military services seem to have adopted a "share the pain" approach to the problem of meeting lower funding levels. The defense budget that we have examined this year is a fiscally driven budget, not a threat driven budget. Current DOD plans call for reductions in Reserve

Component forces nearly proportionate to reductions in Active Component forces. The Committee concluded that this proportionate reduction approach was not justified in light of the current threat and the changes that are necessary in our military strategy.

The Administration's FY 1991 budget request called for reductions in the end strength of several of the Reserve Components. The Committee rejected these reductions, and authorized FY 1991 strengths for all of the Reserve Components at the current FY 1990 level. In addition the Committee bill includes a provision requiring the Secretary of Defense to maintain the Reserve Component force structure at the current level through fiscal year 1991. These actions will stabilize the current strength and force structure of the Reserve Components pending the outcome of the Defense Department's study of the Total Force that is required to be submitted to the Congress by December 31 of this year.

Mr. President, I think it is important to emphasize that we are not locking in this force structure for an indefinite timeframe. We are saying: hold what we have with the National Guard and Reserve until we get the study that should be based on the changes in the threat and in our strategy. The Total Force Policy study will be very, very important, and I hope that everyone working on this study in the Defense Department understands the importance of it.

I think it is also important for us to understand that we are not talking about an inflexible kind of policy in regard to force structure. We are saying that the Secretary of Defense shall ensure that the force structure of the Selected Reserve of the reserve components of the armed services during fiscal year 1991 is equivalent to the force structure of those components on January 1, 1990. We provide explicitly in section 1411 of the Committee bill that "the Secretary may make changes in the force structure of the Selected Reserve of the reserve components only to the extent that the Secretary determines that such changes enhance the capability of reserve units in the interests of national security." The Secretary of Defense has flexibility here, but we are saying we want to preserve the overall structure for one year.

INCREASED RESERVE COMPONENT PARTICIPATION IN CERTAIN MISSION AREAS

Even in the absence of the important Total Force Policy study, there are several mission areas where the Committee concluded that the Reserve Components could assume a greater role.

Within the Defense Department, the Air Force has been a leader in the effective utilization of the Reserve Components. However, the Air Force has consistently assigned fewer aircraft to reserve squadrons than to active duty squadrons. For the most part, this practice reflects the Air Force's decision to maintain an artificial balance between active and reserve forces.

The Committee concluded that existing Air National Guard and Air Force Reserve units could operate an additional 270 fighter, airlift and tanker aircraft within their existing force structure. The Committee believes that this so-called "robusting" concept is a very cost-effective way of preserving combat force structure as the overall size of the military services is reduced. For this reason, the Committee bill includes a provision directing the Secretary of the Air Force to transfer aircraft from the active Air Force to National Guard and Reserve units to bring these units to full strength.

This "robusting" initiative could save over \$1 billion over the next five years.

TACTICAL AIRLIFT

Although over half of the Air Force's tactical airlift capabilities are in the Air National Guard and Air Force Reserve, the active Air Force considers the tactical airlift mission to be a second- or third-level priority. The Air Force has no plans to modernize its tactical airlift fleet until well into the next century, despite the fact that its current inventory averages 25 years in age.

By contrast, the Air National Guard and Air Force Reserve consider tactical airlift one of their premier missions. Air Force reservists fly tactical airlift missions every week of the year. They routinely support overseas deployments, and have consistently worked to update and modernize their tactical airlift fleet.

Since the Air Reserve Components are the principal proponents of the tactical airlift mission, the Committee adopted a provision directing the Secretary of Defense to assign the entire tactical airlift mission to the Air Force Reserve and Air National Guard. The Committee is confident that the Air Reserve Components will be able to carry out this demanding mission.

NAVY RESERVE

The Committee devoted special attention to the need to strengthen the Navy Reserve. While the problems confronting the Navy in the use of reservists are perhaps greater than those for other services, in my opinion the Navy has not devoted sufficient attention and resources to its Reserve component.

In his recent confirmation hearing, Admiral Kelso, the Chief of Naval Operations, said that he intended to find ways to increase reserves which will be trained and available after mobilization. Admiral Kelso pointed out that with greater warning time, the Navy will have more time to bring ships out of Reserve status. He went on to describe what some have called a "nesting" concept which would have several ships partially manned by active crews to train reservists, but not the level of manning needed to take the ships to sea on short notice. The Committee will be following the Navy's work in this area in the coming year. I am pleased that Admiral Kelso appears to have an open and inquiring mind on this important subject.

On the naval aviation side, the Committee concluded that the Navy Reserve could increase their contribution to the maritime patrol mission. The Committee bill contains a provision that directs the Secretary of the Navy to issue the same number of P-3 anti-submarine aircraft to Navy Reserve squadrons as to active duty squadrons, and to transfer 80 of the newer P-3 aircraft from active to Reserve squadrons by September 30, 1996.

MANAGEMENT OF THE RESERVE COMPONENTS

The Committee bill includes several provisions to improve the management of the Reserve Components. A key objective of these provisions is to enhance the integration of the active and reserve components. In the past, reserve forces have generally had a better understanding of and appreciation for active duty forces than the reverse case. I believe that the military services must find ways to improve active component understanding of and appreciation for reserve components.

To that end, the Committee bill includes a provision to initiate a three-year phased process of introducing active duty military

personnel into the full-time administration and support of reserve component units. At the end of three years, approximately 30 percent of the full-time manning positions currently manned by National Guardsmen and Reservists will be manned by active component personnel. To insure that high quality personnel are assigned to the Reserve Component units, the Committee directed the Secretary of Defense to report next year on the desirability of requiring 2 years of active duty in support of the reserves as a prerequisite for promotion above the grades of lieutenant colonel or commander in the active forces.

CALL-UP AUTHORITY

The Committee also pointed out that the President's current authority to mobilize up to 200,000 members of the Selected reserve for operational missions for up to 90 days has never been used. Presidents have been reluctant to use this authority, and the Defense Department and the military services have been reluctant to recommend that he exercise this authority. I believe this is a fundamental error. The political reluctance to selectively mobilize the reserves has led military planners to question the accessibility of forces that depend on Reserve component units and personnel.

As we place greater reliance on the Reserve components, I believe it is imperative that the Defense Department demonstrate its willingness and ability to ask for and use the existing presidential authority to call up members of the National Guard and Reservists. The Committee directed the Secretary of Defense to develop a scenario of operational missions during fiscal year 1991 under which this authority could be exercised on a routine basis.

We are never going to make the conversion that we need to make from active to reserve forces, and we are never going to save the billions of dollars we can save and preserve a lot of capability we otherwise will not have unless we have leadership in the Department of Defense and in the White House willing to call up reserves when they are needed. I think the National Guard and Reserve units that I have talked to understand this and understand it well.

I believe that these provisions will strengthen the integration of the active and reserve components as the overall size of the military services is reduced over the next five years.

EQUIPMENT MODERNIZATION

In the past, National Guard and Reserve units have often been given older, less capable weapons systems and equipment. In some cases, equipment operated by the Reserve Components is tactically obsolete. For a number of years, the Committee has authorized funds specifically to purchase new equipment and weapons to equip Reserve Component units because inevitably these requests are not made by the active military services.

This year the Committee authorized a total of \$2.6 billion for National Guard and Reserve procurement programs, \$863 million above the amount requested in the budget. The major programs added by the Committee include:

\$60 million to purchase 27 Multiple Launch Rocket Systems to accelerate the modernization of artillery units in the Army National Guard;

\$141 million for 24 remanufactured CH-47 helicopters for the Army National Guard;

\$156 million for 24 UH-60 helicopters for the Army National Guard;

\$220 million for 10 C-130 transports for the Air National Guard;

\$282 million for 12 MH-53 minesweeper helicopters for the Navy Reserve; and

\$35 million to buy night vision devices for the Army National Guard.

In addition to authorizing procurement of this new equipment for the Reserve Components, the Committee directed the Defense Department to report to Congress with next year's budget on the plans to redistribute equipment from active units to reserve units over the next six years.

CONCLUSION

Mr. President, today our National Guard and Reserve forces are highly motivated and well-led. From tactical airlift missions to anti-submarine warfare patrols to standing air defense and strategic alert, National Guardsmen and Reservists make an important contribution to the day-to-day peacetime operations of our military forces. From Grenada to Lebanon to Operation Just Cause, they have shown that they can be counted on in times of crisis.

The Armed Services Committee is convinced that placing greater emphasis on our National Guard and Reserve forces should be a key element of our military strategy in light of the changes in the threats to our national security. The increase in warning time of any large-scale conventional war allows us to place more missions in the Reserve Components. At the same time, assigning more missions to the Reserve Components means that we will be able to preserve more of our current combat capability in the face of the fiscal pressures on the defense budget and the reductions in the size of our defense establishment.

The Armed Services Committee's recommendations in the Fiscal Year 1991 Defense Authorization Bill emphasize the expanded role that our National Guard and Reserve forces can play in our military strategy, and begin to allocate the necessary resources to the Reserve Components to allow them to assume a greater role in our overall national security posture.

Mr. WARNER. Mr. President, I first want to acknowledge my personal appreciation for the hard work performed by the chairman on this bill, together with the other members of the committee and the staff. We have made the best of a difficult situation, having not received as yet the final defense figure, presumably which will be forthcoming at some point in time from the budget summit.

Mr. President, I want to join the chairman in abbreviating my remarks to accommodate the Chair and other Members and the staff of the Senate. I will give my opening statement, or submit it, as the case may be, tomorrow morning.

At this time, the chairman and I have agreed upon a procedure which is necessary to accommodate an agreement which has early been reached by the leadership of the Senate, together with another Member of the Senate.

AMENDMENT NO. 2482

(Purpose: To maintain strong, effective, and ready reserve forces)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for himself and Mr. NUNN, proposes an amendment numbered 2482.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 239, strike out line 9 and all that follows through line 6 on page 241, and insert in lieu thereof the following:

PART A—UTILIZATION OF RESERVE COMPONENTS

SEC. 1401. SENSE OF THE CONGRESS ON GREATER UTILIZATION OF THE RESERVE COMPONENTS OF THE ARMED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) The reserve components of the Armed Forces are an essential element of the national security establishment of the United States.

(2) The overall reduction in the threat and the likelihood of continued fiscal constraints require the United States to increase utilization of the reserve components of the Armed Forces.

(3) The Department of Defense has not adequately implemented the Total Force Policy since its inception.

(4) The Department of Defense should shift a greater share of force structure and budgetary resources to the reserve components of the Armed Forces.

(5) Expanding the reserve components is the most effective way to retain quality personnel as the force structure of the active components is reduced over the next five years.

(6) The United States should recommit itself to the concept of the citizen soldier as a cornerstone of national defense policy for the future.

(7) The President and the Secretary of Defense should take note of and be willing to exercise current reserve call-up authority for the purpose of using reserve component forces to perform operational missions without the necessity for declaring a national emergency.

(b) CONGRESSIONAL DECLARATION.—In view of the findings expressed in subsection (a), Congress declares that—

(1) the structure and strength of the current reserve components should be preserved;

(2) the equipment levels in existing reserve component units should be increased to match their active duty counterparts;

(3) selected missions of the active components of the Armed Forces should be increasingly transferred to the reserve components;

(4) the equipment available to the units of the reserve components should be modernized; and

(5) the integration of active component and reserve component units should be promoted as a means of achieving the Total Force Policy of the Department of Defense.

AMENDMENT NO. 2483 TO AMENDMENT NO. 2482

(Purpose: To maintain strong, effective, and ready reserve forces)

Mr. NUNN. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for himself and Mr. WARNER proposes an amendment numbered 2483 to amendment numbered 2482.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out everything after "PART A—" and insert in lieu thereof the following:

UTILIZATION OF RESERVE COMPONENTS

SEC. 1401. SENSE OF THE CONGRESS ON GREATER UTILIZATION OF THE RESERVE COMPONENTS OF THE ARMED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) The reserve components of the Armed Forces are an essential element of the national security establishment of the United States.

(2) The overall reduction in the threat and the likelihood of continued fiscal constraints require the United States to increase utilization of the reserve components of the Armed Forces.

(3) The Department of Defense has not adequately implemented the Total Force Policy since its inception in 1973.

(4) The Department of Defense should shift a greater share of force structure and budgetary resources to the reserve components of the Armed Forces.

(5) Expanding the reserve components is the most effective way to retain quality personnel as the force structure of the active components is reduced over the next five years.

(6) The United States should recommit itself to the concept of the citizen soldier as a cornerstone of national defense policy for the future.

(7) The President and the Secretary of Defense should take note of and be willing to exercise current reserve call-up authority for the purpose of using reserve component forces to perform operational missions without the necessity for declaring a national emergency.

(b) CONGRESSIONAL DECLARATION.—In view of the findings expressed in subsection (a), Congress declares that—

(1) the structure and strength of the current reserve components should be preserved;

(2) the equipment levels in existing reserve component units should be increased to match their active duty counterparts;

(3) selected missions of the active components of the Armed Forces should be increasingly transferred to the reserve components;

(4) the equipment available to the units of the reserve components should be modernized; and

(5) the integration of active component and reserve component units should be promoted as a means of achieving the Total Force Policy.

Mr. NUNN. Mr. President, very briefly, this is an amendment that touches on one of the principal elements of the changed military strategy that our committee used in marking up this bill, and that is to put more focus on the Guard and Reserve. We

will I hope pass this amendment at a later point in time. It would be my hope we could set this amendment aside and proceed tomorrow morning early with an amendment on the B-2. It is my hope that we can complete three amendments on the B-2 tomorrow which I hope will be all the amendments on the B-2.

We do not have specific time agreements at this time. I will not seek those tonight because so many Senators are not here. But it is my hope that the Senator from Virginia and I will join in an amendment on the B-2 that we will present in approximately an hour in the morning.

Mr. WARNER. That being the first amendment, Mr. President, to be considered.

Mr. NUNN. Then I would hope we would also take up an amendment by the Senator from California [Mr. CRANSTON] and the Senator from Maine [Mr. COHEN].

I yield.

Mr. WARNER. Mr. President, I am of the opinion that Mr. COHEN's amendment would follow the amendment by the Senator from Georgia, and the Senator from Virginia, then to be followed by the presentation of the amendment by the Senator from California, and the Senator from Vermont.

Mr. NUNN. I would certainly defer to the Senator from Virginia on that. I do not know the order of the amendments. But we will have two amendments that will be sponsored by Senator CRANSTON from California, Senator LEAHY from Vermont, and Senator COHEN from Maine.

Those two amendments in whatever order they may appear, plus the Nunn-Warner amendment, will hopefully be all the amendments on the B-2, at least that we know about.

Then it would be my hope although there are other amendments and Senators will have every right to seek the floor that we will be able to also sometime tomorrow take up the SDI amendments. There probably will be more than one of those.

If we can put in a full day tomorrow, and get started, it would be my hope that we could complete the SDI amendments and the B-2 amendments, which are two of the major points of contention in this bill, and that we will be in a position as of tomorrow night to have completed those amendments. Then it would be my hope that we will be able to put in a very good large number of hours on this bill on Friday, and that we will make enough progress then to finish the bill on Saturday.

Mr. President, having conversed with my colleague, we will shortly ask that we lay aside the pending amendment and move to the Nunn-Warner amendment on the B-2 which will hopefully be the pending business tomorrow evening.

Mr. President, I ask unanimous consent that the pending underlying amendment be temporarily laid aside, and that the amendment we will send to the desk be the pending business tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2484

(Purpose: To provide an additional restriction on the obligation of funds for the B-2 aircraft program)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], proposes an amendment numbered 2484.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 8, between lines 3 and 4, insert the following new subsection:

(c) ADDITIONAL RESTRICTION ON OBLIGATION OF FUNDS FOR B-2 AIRCRAFT.—The funds referred to in subsection (b) may not be obligated for the procurement of the two new production B-2 aircraft authorized by this Act until—

(1) the Secretary of Defense submits to the congressional defense committees a report containing—

(A) a certification that the conditions referred to in subsection (b)(1) have been met; and

(B) the certifications required by section 111(c)(2)(B) and 112 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1371); and

(2) a period of 30 calendar days expires after the date on which such report is received by the congressional defense committees.

AMENDMENT NO. 2485 TO AMENDMENT NO. 2484

(Purpose: To express the sense of Congress regarding the B-2 aircraft program and to add additional restrictions on the obligation of funds for such program)

Mr. NUNN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN], for himself, Mr. WARNER, Mr. EXON and Mr. THURMOND proposes an amendment numbered 2485 to amendment No. 2484.

Mr. NUNN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out everything after the subsection designation "(c)" and insert in lieu thereof the following: FINDINGS.—Congress makes the following findings:

(1) The United States has devoted substantial resources over the past several decades to the strategic bomber force, including substantial resources for—

(A) significant upgrades to B-52 aircraft; (B) research, development, and procurement of B-1 aircraft; and

(C) research, development, and procurement of air-launched cruise missiles.

(2) The United States has currently invested a total of \$26,700,000,000 in research and development and low-rate initial production in connection with the B-2 bomber aircraft program.

(3) Funds have been approved for the procurement of 15 production B-2 aircraft through fiscal year 1990, but Congress has made no determination as to the total number of such aircraft that should be produced.

(4) Congress has established, in accordance with the "fly before you buy" principle, a series of rigorous test and evaluation requirements, most of which have not yet been completed, to assess the efficiency, effectiveness, and cost of the B-2 aircraft.

(5) Serious questions have been raised about the ability of the B-2 program to meet cost, schedule, performance, and financial integrity requirements.

(6) Fiscal year 1991 will constitute the sixth consecutive fiscal year for which the amount appropriated for national defense functions of the Government declined (after adjusting for inflation) from the preceding fiscal year.

(7) Expected limitations on future defense budgets make it essential that the Nation's defense priorities be carefully analyzed so as to obtain the most efficient and effective funding of the Armed Forces, including the various elements of the Nation's strategic forces.

(d) SENSE OF CONGRESS.—In light of the findings in subsection (c), it is the sense of Congress that—

(1) it is not prudent or possible at this time to commit to production of B-2 aircraft beyond the number of aircraft authorized by this and prior Acts;

(2) before a commitment is made to proceed with procurement of B-2 aircraft beyond the number of aircraft authorized by this and prior Acts, the Secretary of Defense must resolve those issues associated with cost, schedule, performance and financial integrity of the program and submit to the congressional defense committees the certifications required by subsection (e)(3).

(e) ADDITIONAL RESTRICTIONS ON OBLIGATION OF FUNDS FOR NEW B-2 AIRCRAFT.—The funds described in subsection (b) may not be obligated for the procurement of the two new production B-2 aircraft authorized by this Act until each of the following conditions has been met:

(1) The panel of the Defense Science Board known as the Low-Observables Panel conducts an independent review of the test data resulting from the early Block 2 flight testing and submits to the Secretary of Defense a report on the results of that review, together with the panel's findings and conclusions.

(2) The Director of Operational Test and Evaluation submits to the Secretary of Defense the Director's evaluation of the results of the Block 2 flight testing to the date of the report of the Defense Science Board referred to in paragraph (1).

(3) The Secretary of Defense certifies to the congressional defense committees each of the following:

(A) The conditions described in subsection (b)(1) have been met.

(B) The conditions in subsections (e)(1) and (e)(2) have been met.

(C) The results of early Block 2 flight testing of the B-2 aircraft (including testing of low-observables and flying qualities and performance) are satisfactory.

(D) No significant technical or operational problems have been identified during early Block 2 flight testing.

(E) The performance milestones for the B-2 aircraft for the previous fiscal year for both developmental test and evaluation and operational test and evaluation (as contained in the latest full performance matrix for the B-2 aircraft program established under section 232(a) of Public Law 100-456 and section 121 of Public Law 100-180) have been met.

(F) The B-2 aircraft has a high probability of being able to perform its intended missions.

(G) Any proposed modification to the performance matrix referred to in subparagraph (E) will be provided in writing in advance to the congressional defense committees.

(H) The cost reduction initiatives established for the B-2 program can be achieved (such certification to be submitted together with details for the savings to be realized).

(I) The quality assurance practices and fiscal management controls of the prime contractor and major subcontractors associated with the B-2 program meet or exceed accepted United States Government standards.

(4) A period of 30 calendar days expires after the date on which the certification required by paragraph (3) is received.

(f) FULL PERFORMANCE MATRIX REQUIREMENTS.—(1) Of the amounts made available for fiscal year 1991 for the procurement of two new production B-2 aircraft, not more than 15 percent may be expended until the Secretary of Defense certifies to Congress that—

(A) the coherent map mode operation of the B-2 aircraft is demonstrated successfully on the B-2 test aircraft as required in section 3(f)(2) of the Full Performance Matrix;

(B) a preliminary measure of vehicle-to-vehicle signature consistency has been accomplished successfully in the manner required by section 4(a)(2) of the Full Performance Matrix; and

(C) an initial infrared and visual signature evaluation has been completed successfully in the manner required by section 4(a)(2) of the Full Performance Matrix.

(2) As used in this section, the term "Full Performance Matrix" means the "Advanced Technology Bomber B-2 Systems Maturity Matrix (SMM)" dated January 31, 1990, transmitted to Congress by the Department of Defense on February 28, 1990.

Mr. NUNN. Mr. President, unless there are others who have opening statements this evening, I will invite our subcommittee chairman to make opening statements tomorrow on that respective subcommittee.

We will begin debating the B-2 amendment that is now the pending business tomorrow morning, at whatever time the leader decides to come in.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. Mr. President, I am pleased to rise today in support of S. 2884, the Defense Authorization Act for fiscal year 1991; 1990 has been a year of tremendous change. In just a few short months we have seen the demise of the Warsaw Pact, significant progress toward German reunification, and a new attitude in the Soviet Union that no one could have predicted just 1 year ago.

Along with this welcome change comes the difficult problem of recharting the Nation's defense strategy, and preparing for an uncertain future in rapidly changing times. I would like to commend the chairman of the Senate Armed Services Committee, Senator NUNN on accepting this challenge and establishing the framework, delivered in the speeches he gave earlier this year, which the committee, the Congress, and the administration can use to begin restructuring America's defense policy and to address the major issues now facing the Nation.

Mr. President, I believe that Chairman NUNN and the ranking member, Senator WARNER, have done an outstanding job in putting together S. 2884, the National Defense Authorization bill for fiscal year 1991. I urge my colleagues to support it. I also wish to congratulate both the chairman and the ranking member for their able leadership throughout the difficult process of preparing this bill for floor debate. The committee has had to make many difficult choices, often without complete information to help guide their deliberations. In March of this year, Senator NUNN pointed out five "blanks" in the administration's fiscal year 1991 defense budget. Most of those blanks still exist today. The Armed Services Committee bill provides a sound basis upon which to proceed to fill in these blanks. It is responsive to the broad range of issues facing our Nation in these turbulent times and it deserves our support.

Mr. President, as chairman of the Subcommittee on Defense Industry and Technology, I would now like to briefly describe my subcommittee's recommendations for the areas that are under its jurisdiction. In preparing for this year's defense authorization bill markup, the subcommittee held 13 hearings which addressed a variety of research and technology, industrial base, defense trade, acquisition policy and work force issues. The subcommittee obtained testimony at these hearings that I believe reflects a growing national concern about our Nation's future and which makes clear the United States is, at best, only holding its own in technology and manufacturing. Indeed, the DOD critical technol-

ogies plan we received in March placed Japan ahead of us in 5 of 20 critical defense technologies. A May report from the Commerce Department placed the United States behind Japan in 5 of 12 emerging technologies of greatest economic potential and behind Europe in 1 of the 12. More ominously, the Commerce report finds that the trends in development in 10 of the 12 technologies favor Japan and in 3 of the 12 favor Europe.

I believe the United States must continue to maintain its technological superiority by keeping a viable technology base, by reinvigorating our defense laboratories and by continuing to fund research in our universities and colleges. The clear evidence is, however, that the Department's technology base programs are not receiving adequate attention or funding. They lack a clear focus, and they fail to show evidence of long-term planning.

Mr. President, even in this time of severe budget constraints and a declining defense budget, there has been bipartisan support in the Armed Services Committee for maintaining a robust defense technology base. The committee's proposed defense technology base authorization for fiscal year 1991 provides a 6-percent increase over the 1990 levels for non-SDI advanced technology projects. The committee has specifically increased funding for a number of critical technologies that the administration's budget request either underfunded, or did not fund at all. The committee provided strong support to advanced materials technology, adding \$32 million to the administration's request. The committee also gave a strong boost to the administration's high performance computing initiative, adding \$30 million in funding. Funding for several other technologies such as advanced propulsion, microelectronics and photonics was also increased.

Mr. President, I am also pleased to report that a bill I recently introduced to strengthen the Department's manufacturing technology program, S. 2825, has been fully incorporated into the committee's proposed fiscal year 1991 defense authorization bill. Management of all man technology activities is to be consolidated in a joint program office and funding is increased over the administration's budget request to bring it back to the amount the Congress provided last year. The committee gave special emphasis to support of the smaller, lower tier, defense manufacturers through the use of manufacturing extension programs.

In last year's Defense Authorization Act, the Congress included a provision directing the Office of Science and Technology policy to identify up to 30 technologies critical to the Nation. The National Critical Technologies Panels held its first meeting on

Monday and Tuesday of this week and I am optimistic that they will help us define needed actions by government and industry to maintain this Nation's competitiveness in the key technologies important to our future security and prosperity. However, during the past year it has become apparent that the OSTP needs additional staff to properly support this initiative. The committee's proposed bill provides this support by directing that a small non-profit, federally funded research and development center be established to help prepare the OSTP critical technologies report and to support other similar efforts. Former science adviser Ed David had suggested this approach several years ago in a speech at the University of Virginia. The proposed defense authorization bill provides \$5 million for first year funding of this center.

Mr. President, I believe it is clear that the quality of our science and technical work force is a key element in maintaining our national security and our economic competitiveness. DOD can do a better job of promoting science, mathematics and technical education at all levels and already has many of the resources needed in its laboratories and research and development centers. Programs such as educational partnerships and personnel exchange agreements hold great promise to reach younger students barely in the "educational pipeline" where the decision is effectively made whether or not they will later pursue scientific or technical careers.

Our proposed legislation includes provisions directing the Defense Department and the Department of Energy's Defense Program laboratories to take a more active role in promoting science and engineering education at all grade levels. The committee specifically proposes that DOD establish a single office responsible for all DOD science and engineering education programs. It grants defense labs greater flexibility in managing cooperative education programs; and it encourages the Department to expand its New Careers in Education Program which promotes second careers as teachers and administrators for military personnel about to retire.

In addition, the committee elected to increase this year's funding for the Nunn-Hatfield National Defense Graduate Fellowship Program to \$20 million, and to establish United States-Japan management training programs funded at \$10 million in fiscal year 1991. This latter initiative is aimed at training far more American scientists, engineers, and managers in the Japanese language so that they can better interact throughout their careers with the Nation which has become the second technological superpower. I see this as an absolute prerequisite to improved R&D cooperation with Japan.

Such cooperation is going to become increasingly important to our national security and economic well-being in the years ahead.

One of the recommendations made most often by the experts in technology and manufacturing is to somehow encourage more cooperation between government, industry and academia in the early stages of development. The committee has initiated a new program intended to accomplish this using the authority the Congress gave DARPA last year to enter into cooperative agreements and other types of transactions. This new program builds on DARPA's proven abilities and helps DOD leverage its research and development resources through participating with the private sector in such programs. The committee's bill would give DARPA \$100 million in funding this year to enter cooperative agreements, or to help form consortia, to develop generic technologies at a precompetitive stage of development that are critical to both our national defense and our global competitiveness.

Mr. President, I would like to take this opportunity to comment on the enthusiasm with which the Secretary of Energy and the Department of Energy's laboratories have pursued implementing the technology transfer legislation that the Congress passed as a part of last year's defense authorization act. There are some remaining roadblocks in the implementation of last year's provisions which I hope will soon be resolved. In addition, it has been my concern that small businesses could get cut out of the action when competing with major industries to enter into these cooperative agreements with the labs. A provision in this year's defense bill will develop the mechanisms to ensure that these small businesses, which are the backbone of America's defense industrial base, are able to take advantage of the technologies available at the national labs.

As a follow-on to the National Competitiveness Technology Transfer Act included in last year's defense authorization act, the committee has also included a provision in this year's bill directing the Secretary of Defense to work with the Secretary of Energy and the Secretary of Commerce to develop model programs of cooperation between small businesses, State and local government-sponsored intermediaries, and the national defense laboratories.

Mr. President, another area of the committee bill that is of special interest to the Defense Industry and Technology Subcommittee is its provisions on international defense trade and cooperation. The subcommittee has had a longstanding interest in promoting reciprocal, effective arms cooperation between the United States and its allies.

In a hearing that it held on this issue, the subcommittee examined technological cooperation with Japan, the Korean Fighter Program, offsets in military exports, and the role of commercial considerations in defense trade negotiations. I would like to mention just two initiatives in the defense authorization bill that arose from the subcommittee's work in this area.

The first would further expand the role of the Commerce Department in the review of arms cooperation agreements. Beginning in 1988 with a provision that I sponsored, the Department of Commerce has been contributing its commercial expertise to the negotiation of international agreements on the research, development, and production of defense equipment. I might point out that the Korean Fighter Program has benefited from excellent cooperation between the Defense and Commerce Departments.

The second initiative would make \$10 million available for technological cooperation with Japan. After extensive study and three trips to Japan, I am convinced that the United States and, in particular, the Defense Department needs to treat Japan as the technological superpower that it has become. A provision in the committee bill would establish the funding and framework with which the Pentagon could pursue cooperative opportunities with Japan on technologies at the component and subsystem level.

Mr. President, I would now like to describe the acquisition policy provisions included in this bill. The Defense Industry and Technology Subcommittee conducted detailed hearings into defense acquisition practices, including the areas of proposed reform under Secretary Cheney's defense management report or the DMR. Our hearings focused on efforts to streamline and simplify the defense acquisition process and to improve the quality of the acquisition workforce.

The DMR is an important first step in the conduct of a thorough review of these matters. At this stage, the DMR has primarily been concerned with identification of issues and conduct of studies. I believe that the actual impact of these changes on the acquisition of equipment and services will occur only if there is a cultural change within DOD and this in turn will require clear statements of policy, effective regulatory guidance, and sustained high-level management attention. The subcommittee will continue its oversight hearings to ensure that the reform initiatives identified by the Department receive the commitment of DOD's senior management necessary to ensure their successful implementation.

The primary responsibility for streamlining the acquisition system

rests with the DOD. As David Packard recently advised the subcommittee, "it is premature to legislate broadly in this area when the defense management review process has yet to be fully implemented. Ideally, we hope that much will be accomplished without requiring major new legislation."

The committee has heeded this advice in reviewing the Defense Department's legislative proposals to ensure that they will make a focused, positive contribution to the twin goals of streamlining the acquisition process and enhancing the quality of the workforce. This year, after careful review, analysis, and revision, we took positive action on 24 out of the 30 acquisition policy and acquisition workforce enhancement proposals that DOD submitted.

The subcommittee authorized DOD to establish a pilot program to test innovative strategies to streamline the acquisition of major defense systems. The bill would allow DOD to test simplified acquisition procedures and waive current statutory requirements for six major acquisition programs selected by the Department provided the waivers are approved by Congress in future statutes. We gave further impetus to the goal of simplifying the acquisition process by promoting the use of commercial, or off-the-shelf, products without requiring complex military specifications or burdensome procurement procedures. To further reduce administrative burdens, the bill raised the threshold for mandatory submission of cost and pricing data from \$100,000 to \$500,000, a measure designed to broaden the defense industrial base by removing a major disincentive that inhibits commercial sector firms from entering the defense industrial base.

Another disincentive to participation in the defense industrial base stems from the uneven application to the contracting process of various statutory preferences and requirements, which currently have thresholds ranging from \$2,000 to \$25,000. The bill establishes a uniform \$25,000 threshold for a number of these requirements to ensure that small firms are not discouraged from participating in defense procurement by the administrative requirements of these programs.

Multiyear procurement is a proven acquisition strategy that can produce significant savings when properly used in stable, low risk programs. To expand the potential for savings, the committee has eliminated the current statutory requirement that savings exceed a specific threshold before a program may be funded on a multiyear basis.

The committee has also simplified the contracting process by making it clear that DOD may make an award without discussions with the offerors either when acceptance of the initial

offer is based upon lowest price or when the award is based upon the lowest life cycle costs.

The overall success of the foregoing acquisition reform initiatives requested by DOD rests largely on the quality of the acquisition work force. To enhance the Government's ability to attract and retain quality personnel, the committee approved a number of initiatives, including authority to waive the penalty against further government service by military and civilian retirees who can fill critical positions, to test a program for student loan forgiveness as a recruiting incentive, and to provide the opportunity for advancement in the acquisition work force through programs to obtain advanced education. In addition, I will be joining with Senator GLENN, who chairs both the Governmental Affairs Committee and the Manpower Services Committee of the Armed Services Committee, in proposing an amendment to provide special pay authority for persons in critical scientific and engineering positions.

Perhaps one of the most important initiatives in our bill is the establishment of a congressional advisory panel to prepare a streamlined, unified acquisition code. Both the Packard Commission and the defense management report emphasized the importance of simplifying and consolidating the acquisition laws. To date, however, the administration has submitted only relatively modest legislative proposals. Our bill would establish a distinguished advisory panel to review the acquisition laws and prepare a detailed analysis and draft code for consideration by the Congress.

Mr. President, this is a brief overview of the issues that we have addressed in this year's legislative process. I believe that we continue to make significant progress in dealing with the very difficult problems we face, but much remains to be done. We live in a rapidly changing world where yesterday's advantage can quickly disappear and tomorrow's opportunity must be recognized and exploited before it too disappears. It is important that the administration and the Congress work together to maintain our technology lead and exploit it wherever possible.

In closing I would first like to recognize the hard work of Senator WALLOP, the ranking member on the subcommittee, and thank him for the support that he has given the subcommittee during this year's activities. The issues that the subcommittee must address are broad ranging, complex and often controversial. Finding an acceptable position that all can support can be tremendously challenging. Senator WALLOP has made many significant contributions and I truly appreciate his advice, always offered with grace

and candor, and his hard work and able assistance.

In addition to the important contributions made by all members of our subcommittee to this bill, I would also like to express my gratitude to Senator LEVIN and Senator COHEN for their leadership in developing a governmentwide statute on commercial product acquisition.

I would also like to thank the Armed Services Committee staff including Bill Smith, Andy Effron, Geary Burton, Rick Finn, David Lyles, Jon Etherton, Les Brownlee, Missy Ramsey, and Barb Braucht on the outstanding job they have done over the past several months. I appreciate their dedication and their hard work. I would also like to thank the members of my personal staff, Ed McGaffigan, John Gerhart, and Patrick von Bargen, who also have provided me with outstanding support and counsel on this bill.

Again, Mr. President, I wish to express my appreciation and admiration for the outstanding work done by our distinguished chairman, Senator NUNN, and the distinguished ranking member, Senator WARNER, in bringing this legislation forward. I believe we have a good bill, one that every Senator can support. It addresses vital security interests in a way that will strengthen our national defense posture. I urge my colleagues to support this bill.

Mr. President, I yield the floor.

Mr. SPECTER. Mr. President, this year marks a watershed as Congress and the administration begin consideration of changes in U.S. military force structure necessary to meet future national security needs. Since World War II, analysts have largely evaluated the sufficiency of our force by the extent to which our commitments correspond with our capabilities. A more appropriate assessment today should include consideration of the degree to which quality, size, and utility of U.S. forces parallel a more realistic evaluation of future threats.

Today's military threat is far different than it was a decade ago when Ronald Reagan was elected to the presidency on a campaign emphasizing the need to rebuild U.S. defense forces. Today's threat is also different than it was 2 years ago before the signing of the INF Treaty and the dramatic changes in Eastern Europe affecting the Warsaw Pact.

Washington has recently witnessed a successful summit with the signing of an important agreement to make significant cuts in strategic arms in the near future. But caution is required in determining our future defense needs because of the uncertainty of President Gorbachev's tenure and the possibility that major changes in Soviet policy could, given U.S.S.R.'s great

military strength, again pose an immediate security threat.

In addition, it is difficult to carry out major, abrupt shifts in defense appropriations. These factors, plus the growing public expectation of a peace dividend, present a real challenge in drafting a defense appropriations bill for fiscal year 1991.

The Senate must make the hard decisions on the defense budget for fiscal year 1991. I take this opportunity to present my views on the challenge confronting us in devising an effective, cost-efficient defense budget plan that is responsive to the rapidly evolving threat environment.

The need for a comprehensive defense strategy that takes into account the dynamic nature of the international threat environment is particularly evident in the aftermath of the recent superpower summit. While the START agreement and the agreement on chemical weapons mark significant progress in reducing the most destabilizing elements of our arsenals, much uncertainty still exists given the significant differences remaining over how to reduce conventional forces and how to reconcile a unified Germany with a new strategic order in Europe. In fact, at the news conference following the summit, President Gorbachev intimated that if Germany's membership in NATO were "imposed" upon the Soviet Union, that he would reconsider Soviet positions at the conventional arms talks in Vienna. These questions become even more daunting as we attempt to take into account the degree to which the myriad challenges facing President Gorbachev at home will affect his foreign policy objectives. Perhaps, his seemingly single-minded obsession with extracting a trade commitment from us indicates more than anything what his future priorities will be. Therefore, Mr. President, as we embark on the task of re-ordering our own security commitments to reflect the changing threat environment, I believe we should consider very carefully how our economic objectives should be incorporated into a new defense strategy.

PRIORITIZING OUR COMMITMENTS

Much of the analysis contained in this statement is based on testimony provided this year before the Defense Subcommittee on Appropriations. Throughout the course of these hearings it has concerned me that a clear articulation of how we should prioritize our commitments while building down our defense has not been forthcoming. In fact, when asked specifically about how certain program reductions would affect our defense strategy, many witnesses were either unable to respond or suggested instead that we must reexamine our commitments.

What we as appropriators require are answers to questions concerning which programs should be reduced

and which programs should be preserved as part of a new strategy to fulfill our commitments in a changing threat environment. Otherwise, absent any framework by which to evaluate the effect of program reductions and cancellations on our global commitments, it is very difficult for the appropriators to assess the viability of various spending options.

ZERO-BASED REVIEW OF DEFENSE

Perhaps what is required is what the Chairman of the Joint Chiefs of Staff, General Colin Powell, has recommended—a zero-based review of all defense programs to enable us to develop a plan for modifying and eliminating programs and operational procedures that are no longer tenable in the current threat environment. Such a review is necessary if we are to be confident that future strategic plans are consistent with our ability to implement them.

Testimony during a recent hearing on land warfare before the Appropriations Subcommittee on Defense offered another example of why such a review is necessary. When comparing the mission statements of the Army and the Marine Corps as presented in prepared testimony at this hearing, I found no less than nine mission areas claimed by both services. The following excerpts illustrate this point.

Army—Forcible entry capabilities.
Marines—Enter forcibly when uninvited.
Army—Need for a mix of contingency forces.
Marines—Contingency forces must be built.
Army—Counter narcotics missions.
Marines—Support for counter-narcotics operations.
Army—Projection of land forces.
Marines—Power projection.
Army—Assistance to friendly nations.
Marines—Assist friendly or allied governments.
Army—Regional peacekeeping.
Marines—Peacekeeping operations.
Army—Regional security.
Marines—Security operations.
Army—Special operations forces.
Marines—Special operations capable.
Army—Evacuation/protection of U.S. citizens.
Marines—Noncombatant evacuation operations.

While this mission overlap between the Army and the Marine Corps may actually be far less in practice than indicated by their mission statements, this example does suggest that the review the Chairman spoke of is most definitely required.

In addition to reviewing the missions of the various services and other deployment and operational procedures, a zero-based review could also address our current approach to the development and fielding of costly weapon systems. I am particularly concerned about how Congress views weapons system unit costs. At present, Congress calculates unit costs of a weapon system as the total of research and de-

velopment and production costs divided by the number of production units to be procured. While such a calculation is valid when determining whether to initiate a weapon system research and development program, it represents a misleading unit cost calculation when determining whether to enter production once research and development has been completed. Since research and development costs have already been expended at this point, the only relevant cost to be considered when debating whether to enter production is the unit cost of production. A change in congressional unit cost accounting procedures when considering production decisions will help eliminate distortions in production unit cost figures and allow for a more informed budget debate.

In the final analysis, a zero-based review should consider the efficacy of delaying full-scale production of certain costly strategic weapon systems until they have been fully tested and a determination has been made as to whether or not they are redundant of current systems in operation. Such an approach will allow us to continue modernizing our forces without forsaking the option to cancel programs which cannot meet cost-effectiveness criteria and/or fail to satisfy testing requirements.

NEW INTERNATIONAL ENVIRONMENT

Today, we cannot help but recognize that the post-war strategic order, in which power has been arrayed in a bipolar configuration between Western democracies and Eastern European and Asian Communist regimes, has undergone fundamental change. Whereas once we felt comfortable that our security needs were met if we could stalemate the Warsaw Pact forces in Central Europe, now we are faced with the daunting task of assessing the relative threat posed by resurgent nationalism in Eastern Europe and the possible dissolution of the Soviet empire. I do not suggest that significant elements of the traditional East-West conflict do not still remain, but instead that a much more complex global security structure has emerged, one in which power is diffused through a number of key strategic regions. This security structure is made even more complex by the increasing availability of sophisticated military equipment.

Mr. President, the most likely conflict scenario, today, is one in which U.S. forces will be used to respond to non-traditional threats in other regions. Examples of such threats are the proliferation of missiles and other high-tech weapons in the Middle East, and Asia, the expanding drug war in Latin America, and the unending problem of international terrorism.

In addition to these changes, today we also recognize that military power

may not wield the same amount of influence it did in earlier times. Instead, the relative power of countries is now determined by an increasingly complex interplay of economic and military factors which together are impacted by the fragile disposition of modern domestic political systems. The emerging democracies in Eastern Europe, Latin America, and elsewhere will only add stability to their respective regions if they are seen as capable of tackling their severe domestic problems. Likewise, the Soviet Union will remain a formidable threat as long as domestic instability threatens the prospect of a return to a more authoritarian, possibly military dominated, regime in which external conflict could be seen to serve the purpose of legitimizing the non-democratic leadership. These changes in the global power structure necessitate a reassessment of the threat and new thinking in planning our future defense forces.

DEVELOPMENTS AFFECTING U.S. NATIONAL SECURITY

Before I describe my recommendations for fiscal year 1991, I would like to highlight three key developments that affect the way we evaluate our defense needs. The first development, as I have already briefly described, is a change in the international threat environment due primarily to the sweeping transformations taking place in Eastern Europe and the Soviet Union. This new threat environment is characterized by several regional developments: missile proliferation—primarily in the Middle East, heightened tensions on the subcontinent, the drug war in Latin America, and the requirement for a continued presence in Asia.

A second development relates to efforts to forge a new approach toward devising strategies to meet our national security objectives. The administration's advocacy of a competitive strategies concept, in which U.S. economic and technological strengths would be optimized to take advantage of perceived weaknesses in Soviet defense forces and doctrine is an example of movement beyond traditional security concerns. Likewise, increased focus on regional trade and economic problems in Eastern Europe and Latin America indicates an acceptance of these issues as central to our security concerns. Economic developments, for example, while traditionally considered to be an important factor in determining our national interests, have today taken on new significance as states struggle to protect markets and access to resources vital to their domestic economies.

Mr. President, I would like to remind my colleagues of the vulnerability of our own economy to developments in regions such as the Middle East. Interruptions in the flow of oil out of the Persian Gulf could again precipitate an oil crisis. Such interruptions could

result from regional conflicts such as a resumption of the Iran-Iraq conflict, or a heightening of tensions between Kuwait and Iraq. The resurgence of Islamic Fundamentalism could also prove to be very destabilizing.

I am not suggesting that the United States should plan forces to intervene in the Middle East and Asia every time our economic interests are threatened, instead I am attempting to illustrate the requirement for a force which could help deter and, in some cases, respond to regional conflicts which directly threaten our vital economic interests. Therefore, without discounting the need for a capability to conduct a forward defense in Central Europe, in considering budgetary options we must take into account the need for new requirements to respond to more likely threats in other regions.

The third development involves the need to respond to these changes within the parameters of a shrinking defense budget. I would like to remind my colleagues, at this juncture, that despite the real decline in our defense spending, the latest figures available from the Pentagon indicate the U.S. defense budget is nearly 1½ times that of the defense budgets of all other NATO members and Japan combined. In monetary terms, the United States in 1988 spent \$293 billion on defense while the combined expenditures of its NATO allies and Japan amounted to only \$196 billion. In fact, U.S. defense expenditures in 1988 were nearly 10 times larger than the \$36 billion spent by France, which maintained the largest defense budget of our allies. The following figures from 1988 illustrate the differences in defense spending for some of the key NATO members, Japan and the United States:

(In billions of dollars)

	Defense spending	Percent of GDP
Canada.....	10.0	2.1
Italy.....	20.4	2.2
Japan.....	28.9	1.2
Great Britain.....	34.7	4.2
West Germany.....	35.1	2.9
France.....	36.1	3.8
United States.....	293.1	6.1

Given the relatively austere defense budgets sustained by our allies, it is becoming increasingly difficult to justify the magnitude of U.S. defense expenditures.

THE NEW THREAT

Mr. President, the sweeping changes taking place in Eastern Europe, coupled with progress in strategic and conventional arms reduction negotiations are very difficult to gauge in terms of their collective impact on the global threat environment.

The uncertainty surrounding what strategic nuclear balance will result from the conclusion of a START agreement is particularly daunting, es-

pecially as we attempt to predict the effect reduced Soviet military spending will have on the Soviet nuclear threat. According to recent Defense Intelligence Agency estimates the Soviets have deployed a total of 13,322 nuclear warheads, 6,560 of which are deployed on land-based missiles, 4,242 on 70 ballistic missile submarines, and 2,520 on strategic bombers. By contrast the United States has a total of about 12,570 nuclear warheads on 1,000 ICBM's, 608 submarine-launched missiles and 291 bombers. Of particular concern regarding the Soviet force was the deployment last year of additional SS24 and SS25 mobile missiles.

Mr. President, I believe it would be imprudent to plan our future strategic forces based on assumptions about what the START outcome may provide. While the reduction to 4,900 ICBM's and SLBM's in each arsenal represents a significant achievement, it does not necessarily foreshadow large-scale changes in relative nuclear capabilities. Instead, the significance of such an accord would be that it demonstrates a commitment to actually reduce the number of deployable systems; namely, warheads, and move beyond the SALT approach, which merely set upper bounds on the deployment of certain weapons systems.

If we are to plan our forces in the near-term based on a diminished Soviet strategic threat, it can only be done realistically by identifying actual reductions in Soviet forces. Unlike conventional warfare, where warning time can increase dramatically due to changes in deployment of forces and assumptions regarding the reliability of Soviet allies, the nuclear balance is much more tenuous since actual warning time will not change significantly, even if substantial reductions in forces are made on both sides. The simple fact of the matter is that disposition of nuclear forces can only be perceived as less threatening if a Soviet first strike is less credible. This, of course, is the fundamental purpose of arms control negotiations—to reduce as much as possible the likelihood that the Soviets could ever realistically contemplate a first-strike.

This does not mean, however, that in the face of such uncertainty we must continue to modernize all systems in our nuclear triad until we are confident the Soviets will be willing to simultaneously cut their forces because they realize the futility in challenging our technological superiority. Instead it suggests that any decisions to slow down development of future U.S. strategic forces must be weighed against the back-drop of ongoing arms reduction talks. In this vein, certain strategic programs, such as the B-2, could be cancelled with respect to procurement while R&D and testing are completed

to demonstrate future capability should it be required.

We simply cannot afford to continue into full production on programs such as the B-2 without a better understanding as to what utility it will provide in the future strategic environment. As an appropriator, it is especially difficult to justify production costs for the B-2 when the current single integrated operating plan [SIOP], officially designated SIOP-6F, although extensively revised as recently as October 1, 1989, must again be reviewed to reflect new strategic requirements. Secretary Cheney, in justifying revised plans to procure only 75 B-2's instead of the 132 that the Air Force had initially requested, stated before the House Armed Services Committee on April 27, 1990 that "to the extent you used to be concerned about targeting military targets in the Warsaw Pact, and the old Warsaw Pact goes away, you've got new requirements." Mr. Cheney further stated that targeting requirements were just now being reviewed.

Mr. President, this review of the current SIOP, in my estimation, is critical in order to determine the degree to which present targeting demands on our strategic forces should be relaxed. Therefore, in the interim, there would appear no logical justification for basing continued procurement decisions on a SIOP which is simply out-of-date. In fact, as Desmond Ball writes in the most recent edition of *National Security, SIOP-6F*—

Threatens to be wasteful and dangerous in key respects. In particular, the new emphasis on targeting Soviet political leadership and Soviet mobile missiles promises to be ineffective as well as destabilizing to the nuclear balance.

Obviously, strategic targeting is a very sensitive subject, therefore, we must have faith in the ability of the joint strategic planning staff to select target sets which satisfy realistic targeting requirements. This does not mean, however, that we should search for targets in order to justify a program's existence. The far more sensible thing to do would be to delay procurement of very many of the B-2 until a new SIOP, which takes into account the evolving nature of the threat, is available. I shall await the specific debate in the B-2 to decide my own position of even limited procurement of this plane.

Mr. President, recently I received the joint military net assessment for 1990 conducted by the Joint Chiefs of Staff. This document lays out in detail the changes to the threat environment which have taken place as a result of developments in Eastern Europe and in other regions. It is interesting to note that with respect to conventional forces, the net assessment describes Soviet capability to accomplish theater strategic objectives as being signifi-

cantly decreased and the probability of a global conventional war with the Soviets as low. The report attributes this diminished Soviet conventional threat to unilateral force reductions by the Warsaw Pact countries and reduced reliability of non-Soviet Warsaw Pact forces. Recent DIA estimates have also indicated that domestic economic problems have resulted in a 4- to 5-percent reduction in Kremlin defense spending. The CIA in its testimony has described estimates of reductions in defense procurement outlays of as much as 7 percent. Estimates such as these suggest that unambiguous warning time could increase significantly as the Soviet Union requires increased preparation time to deploy forces for operations in Central Europe.

The diminished European threat will, however, require a hedge against reversals in Soviet reforms which may bring about a more aggressive leadership. Such a hedge would require the capability to rapidly deploy conventional forces in Europe, albeit at a slower rate and lesser number than the traditional requirement, for ten divisions in 14 days.

With respect to non-Soviet crises, the net assessment cites Third World debt, poverty, fragile democracies, and internecine struggles as contributing to conditions of continued instability in other regions. Furthermore, it mentions that in the Third World, terrorism, insurgencies, and drug trafficking will demand increased attention and resources. With respect to risk, the assessment states that the future combination of less favorable basing rights, decreased forward-based forces, declining sealift assets, and aging airlift fleets will result in a greater threat when considering the requirement for a rapid application of power to handle most regional contingencies, not to mention what would result if the United States faced two or more contingencies simultaneously.

Mr. President, I am particularly concerned about recent developments in the Middle East. Earlier this year, I met with President Saddam Hussein of Iraq and had a detailed discussion with him about security issues in the Persian Gulf and the Middle East Peace process. My impression of him is that he is a formidable personality who should be taken very seriously. He will obviously play a significant role in future discussions pertaining to regional stability. The recent testing of Iraq's Tamouz 1 three-stage rocket, with a range of over 1,800 kilometers, coupled with President Hussein's demonstrated willingness to use chemical weapons, highlights the potential volatility of any crisis in the region.

Additionally, Iraq maintains by far the most sophisticated conventional force in the Middle East, and, according to General H. Norman Schwarz-

kopf, Commander in Chief, U.S. Central Command, in testimony before the Senate Appropriations Committee earlier this year, the most advanced [domestic arms industry] in the region. In 1986, Iraq acquired the Su-25 Frogfoot ground attack aircraft and the most modern version of the Soviet T-72 tank. In 1987 the Iraqis received the first export squadron of MiG-29 fighters. These systems, combined with the multitude of other arms Iraq receives from China, France, Brazil, and various other arms suppliers, are making Kuwait and Saudi Arabia increasingly anxious about Iraq's intentions and capabilities. Therefore, I believe it must be unwise to dismiss lightly President Hussein's capacity to initiate conflict at any time, but we should also be wary of attempts to isolate him.

Other conflict scenarios exist in the Middle East that also could lead to direct U.S. involvement. Libya still poses a significant threat to U.S. security interests, especially given the amount of sophisticated military equipment at their disposal. Of course, I am also very concerned with the lingering threat of terrorism and how it could upset future progress on a Middle East peace settlement. In order to deter future terrorist acts and respond in a quick and effective manner, the United States will continue to require a strong presence in the region. As the recent release of Robert Polhill and Frank Reed demonstrate, only by showing strength and determination can we persevere in our effort to secure the release of the remaining hostages on our terms.

The subcontinent is another area which could prove volatile in the near future. The Commission on Integrated Long-Term Strategy estimates that the total "military capital stock" of India is expected to rise from \$42 billion to \$130 billion by the year 2010. Heightened tensions between Pakistan and India over territorial disputes in the Kashmir region could once again lead to conflict. This time, however, the nascent nuclear capabilities of both countries portend a far more serious consequence. I am not suggesting that the United States should ever contemplate becoming directly involved in such dispute, but I do believe a strong presence in the Indian Ocean would help to demonstrate our interest in seeing these countries resolve their differences peacefully.

Despite recent advances by many regional powers in missile technology, the immediate threat posed by missile proliferation is to our allies. The recent appearance of such weapons in the arsenals of states such as Iraq, India, Israel, Pakistan, Syria, and North Korea adds a new dimension to regional security balances in the Middle East and Asia. Many of these

countries also are on the verge of developing a nuclear capability which could be even more destabilizing. The U.S. Commission on Long-Term Strategy in 1988 estimated that by the year 2000 as many as 40 countries would have the technical capacity to manufacture nuclear weapons. Mr. President, in crisis situations, where our direct interests are threatened, a strong U.S. military presence will be necessary to deter use of such systems and, when needed, provide the capability to perform surgical strikes on certain missile sites if escalation appears likely.

In Latin America, the threat posed by the seemingly endemic struggle between elite military backed regimes and Marxist-Leninist forces is also diminishing as we witness the emergence of freely elected governments in Nicaragua, Panama, and Chile. Nevertheless, many of these governments are fragile and susceptible to military pressure which could very rapidly change their political disposition. The Sandinistas, of course, are still a formidable military force in Nicaragua and could threaten to seize power in the future if the opportunity arises.

Apart from the potentially volatile situation in Central America, I perceive the most direct threat to U.S. interests in the Western Hemisphere to be the continued flow of illegal drugs across our borders. To respond to this threat, the capability to perform a variety of nontraditional military missions is required. For example, drug interdiction operations require the ability to track and apprehend smugglers flying a variety of cargo aircraft with different radar signatures at a range of speeds and altitudes. Other missions require the rapid deployment of special operations forces to assist in capturing drug lords in Central and Latin America. Accordingly, I believe that in planning our future force structure, we must pay special attention to the need to develop a force which can perform the drug interdiction mission as effectively as possible.

FUTURE DEFENSE CONSIDERATIONS

Mr. President, my recommendation for a future defense force to respond to the threat environment I have just described emphasizes three fundamental requirements: flexibility, efficiency, economy of force, and technological superiority.

FLEXIBILITY

First, our forces must be sufficiently flexible to respond to a variety of different medium- and low-intensity conflict scenarios. For example, Marine Corps and Army light divisions may be required to respond to a variety of threats in Central America ranging from amphibious assault, as in the invasion of Panama, to drug interdiction operations and special operations contingencies. Weapons systems suitable for these missions must combine a va-

riety of characteristics including speed, range, payload, survivability, maneuverability, and increased combat effectiveness.

In other regions such as Asia, Africa, and the Middle East we must maintain capabilities again that are necessary to respond to a range of different threats. One of our greatest difficulties in maintaining a presence in these areas, however, is compensating for our shrinking number of foreign military bases. I am not very hopeful that in the future we will be able to replace many of these bases. As a result, our force structure must be flexible enough to deploy forces throughout these areas either from sea-based platforms already in the region or from continental bases with fast-deploy airlift and sealift assets. I would also like to call to the attention of my colleagues recent testimony by Admiral Trost, Chief of Naval Operations, before the Defense Appropriations Subcommittee in which he cited the fact that U.S. naval forces acted as many as 50 times during the 1980's to respond to direct and indirect military threats, most of which occurred in the Middle East. Reference list of 1980's naval operations attached.

EFFICIENCY

Second, we must emphasize forces that provide the greatest amount of military utility at an affordable cost. This does not imply that we should sacrifice technological superiority in order to maximize our savings; instead we should be thinking in terms of how we can curtail programs which are redundant or unnecessary given the current threat environment. Indeed in many instances we should be able to retire older programs and even cut new ones as we identify missions that can be performed most effectively by one system, instead of several. Air-launched cruise missiles [ALCM's], for example, provide a standoff penetration capability which could eliminate the need for conventional long-range bombers.

I am pleased with many of the recommendations made by Secretary Cheney as a result of the aircraft review. The \$35 billion in savings over the next 8 years represents considerable progress. However, I believe the proposals to slow down procurement of the Air Force's version of the Advanced Tactical Aircraft illustrates an area where additional redundancies could be eliminated. The land-based long-range interdiction mission can currently be performed by the F-111, the F-15E, and F-117. I see no reason why we cannot delay production of this aircraft further, beyond 1997, until it has been fully tested and there is a pressing requirement.

Another area where greater efficiencies could be achieved is our current airlift capabilities. Maintaining current levels of air transport assets, Sec-

retary Cheney's recommendation to reduce the purchase of C-17's to 120 aircraft notwithstanding, may not be necessary now that intelligence estimates indicate that real warning time to respond to a Soviet invasion in Eastern Europe has increased to as much as 60 days. Moreover, as Navy Secretary Garrett indicated in prepared testimony before the Appropriations Subcommittee on Defense, "in any scenario involving large scale deployments of forces, more than 95 percent of equipment and resupply material must move by sea." This would seem to justify continued funding of fast sealift programs and closer examination of methods for improving the wartime reliability of our merchant marine fleet, but not full funding of strategic airlift programs as well. Furthermore, the number of active Army divisions necessary in this new threat environment should also be rethought.

Mr. President, I am confident that if we think intelligently about how we can build down our forces we can achieve our goal of reduced defense spending without sacrificing our security interests.

TECHNOLOGICAL SUPERIORITY

Third, we must emphasize the use of superior technology in our military weapon system development. Due to time required to develop and produce a modern weapon system, technology employed must push the state-of-the-art to ensure that weapon systems are current when produced and deployed. Additionally, with the increasing distribution of near state of the art equipment to a burgeoning number of countries via worldwide commercial arms sales, technical superiority of U.S. weapons will be necessary if not critical to ensuring our national security in the future. Funding for the development of new technologies should continue to be a priority in our defense planning.

FISCAL YEAR 1991 DEFENSE BUDGET RECOMMENDATIONS

Having closely followed the defense debate as a member of the Appropriations Subcommittee on Defense, I would now like to set forth recommendations for six important issues affecting the fiscal year 1991 defense budget:

1—NUCLEAR DETERRENCE

Despite several treaties designed to limit nuclear weapons, this country has witnessed a large scale expansion of nuclear weapon systems in recent years. When originally conceived, the nuclear triad constituted long-range bombers, land-based ballistic missiles, and submarine launched ballistic missiles. While the treaties negotiated with the Soviets over the last 20 years were intended to limit the number of nuclear weapons, the number and type of nuclear delivery systems increased significantly during this period. When

a treaty acted to limit one type of nuclear weapon, resources no longer required for the affected weapon were redirected to the development of new or improved weapon systems. I make this point because I feel we are again proceeding down this path. While on the verge of concluding a treaty to reduce nuclear warheads and delivery systems, the fiscal year 1991 defense budget provides funding for no less than six new or modified nuclear weapon systems. These systems include the B-2 Stealth bomber, the rail basing of the MX missile, development of the Midgetman and tactical air-to-surface missiles, and procurement of the advanced cruise—Stealth—and Trident II missiles.

Mr. President, it now appears appropriate to ask the question—how much is enough? Given the current schedule, by the mid-nineties we will have three nuclear bombers—B-52, B-1B, B-2—two ballistic missile submarines—Trident, Poseidon—ship launched nuclear cruise missiles, air-launched nuclear cruise missiles, submarine-launched nuclear cruise missiles, two silo-based ballistic missiles, one rail-based ballistic missile, a short-range ballistic missile, a tactical nuclear air-to-surface missile, and a truck-based ballistic missile under development.

Mr. President, it is time to reconsider these expensive nuclear weapon purchases. If ballistic missile submarines are as invulnerable to attack as Mr. Cheney and many others have stated, developing additional nuclear weapon delivery systems or basing modes does little to enhance our existing nuclear deterrent capabilities. As such, I would like to make the following recommendations with regard to future funding for our strategic programs.

MX missile rail basing. First, funds for procurement and construction of the first seven MX railcars should be deleted from the fiscal year 1991 request. Supporting this recommendation is the fact that a ban on this type of weapon has recently been proposed by the administration for consideration at future START negotiations. While I recommend deleting funds for the construction of these railcars, I feel that development and testing of this system should continue until such time that the Soviets were to agree to eliminate this class of weapon. This approach, while greatly reducing near-term expenditures, will provide the United States with a START negotiating position and, if an agreement with the Soviets cannot be reached to ban mobile MIRV'd missiles, allow the United States to deploy a proven, reliable mobile system in the not too distant future. In support of this position, RDT&E funding required to continue development and testing of a prototype railcar should be provided

in the fiscal year 1991 Defense appropriation.

Midgetman Missile. Second, I recommend that funds requested in the amount of \$202 million for the continued development of the Midgetman mobile missile also be provided in the fiscal year 1991 Defense budget. As you may know, the Soviets have already begun to deploy the SSA-25 single warhead mobile ballistic missile. To provide the United States with a similar capability in the future, or to provide this Nation with a position from which to negotiate a ban of this type weapon should that be desired, it is necessary that we demonstrate a resolve to match Soviet nuclear initiatives with those of our own. The comparatively low level of funding necessary to continue to development of this missile system until the direction of future arms negotiations becomes clear offers a great deal of flexibility and may prove to be a thoughtful investment.

B-2 Bomber. Third, I have several concerns about continuing the production of this aircraft at this time. This program has experienced technical problems, quality control problems, and substantial cost overruns. GAO reported in February that labor hours required to build the first three planes were 90 percent higher than estimated and that only 1 percent of the planned test program had been completed. Despite procuring 15 planes to date, we still do not know how well this plane can perform and whether it will be able to elude the radar defense it was designed to penetrate. In fact, Vice Adm. John W. Nyquist, Assistant Chief of Naval Operations for Surface Warfare, appearing before the Appropriations Subcommittee on Defense, testified that Aegis radar is capable of detecting Stealth aircraft.

I am also concerned about the high cost of the B-2. In attempting to reduce our deficit spending we must consider both the military and domestic tradeoffs to be made when procuring such an expensive system. For example, for the price of one B-2 bomber we could pay for: The operation and support costs for an entire carrier battle group for 1 year; the procurement of 200 advanced (stealth) cruise missiles; the procurement of 35 V-22 Ospreys; the yearly salaries and support costs for 25,000 Marines or Army Special Operations Forces; the annual United States foreign assistance budget (\$652 million) for all Latin America and the Caribbean nations including the Andean Narcotics Initiative; and the entire 1991 budget (\$700 million) for the Drug Enforcement Agency.

For the price of two B-2 bombers we could nearly double the 1991 budget of the Federal Prison System—\$1.756 billion—or the U.S. Customs Service—\$1.647 billion—two agencies that play

different, yet increasingly important, roles in the war on drugs. The question we must ask ourselves is whether the B-2 is really worth that much? As noted earlier, I intend to listen closely to the debate on the B-2 before reaching a final conclusion.

Advanced cruise missile. Fourth, I recommend that funds in the amount of \$473 million to procure 100 advanced cruise missiles [ACM] in fiscal year 1991 and provide advance procurement funds for the fiscal year 1992 purchase of additional missiles be included in the fiscal year 1991 defense budget. The advanced cruise missile represents a relatively inexpensive, yet credible, deterrent for the air leg of our nuclear defense. Reports indicate that the low observable characteristics designed into the missile make it extremely hard to detect and, therefore, minimize the ability of Soviet radar defenses to intercept and destroy the missile prior to reaching its target. Additionally, the fairly long range of the ACM allows it to reach targets deep in the Soviet Union without the need for penetrating Soviet airspace and air defense systems. The ACM, which can be fired from existing B-52 bombers, represents an extremely capable yet cost effective alternative to developing and maintaining a fleet of new penetrating bombers.

Tactical nuclear weapons. Finally, I support the administration's decision to cancel development of the Follow-on Lance short-range nuclear missile. But, I again must caution against automatically redirecting our attention to the development of other, similar nuclear weapon systems.

It is my understanding that the Department of Defense plans to continue development of new nuclear gravity bombs and both short- and medium-range tactical nuclear air-to-surface missiles. While appearing to facilitate nuclear arms reduction in Europe by foregoing the development of the Follow-on Lance missile, the development and deployment of short- and medium-range nuclear capable air launched missiles will actually be more destabilizing than fielding the relatively short-range Follow-on Lance.

Further, developing a medium-range missile capable of striking Soviet territory from Central Europe may be counter to the intent of the INF treaty we reached with the Soviets. This treaty banned the deployment of medium range ballistic and cruise missiles—300 to 3,400 mile range—in Europe. It is important to note that the decision to initiate the development of these missiles was made prior to the major changes that have occurred in Eastern Europe. As such, I recommend that the decision to continue the development of these weapons also be reconsidered.

Strategic defense initiative. While I cannot at this time support all the procurement requests for offensive nuclear weapons, I do support the administration's request for \$4.6 billion for the strategic defense initiative in fiscal year 1991. While SDI is also considered to be a nuclear deterrent system, it offers a unique capability system not found in the systems discussed above. While offensive nuclear weapons deter through the threat of retaliation, SDI provides the more stabilizing capability of deterring by denial—specifically, by intercepting incoming missiles before they strike their targets. The first phase of SDI, which includes surveillance and tracking systems, a command and control system and the Brilliant Pebbles space-based interceptor system, could be deployed as early as the mid-nineties. Although SDI in this initial configuration will not be able to repel a full scale attack by the Soviets, it will deter such an attack by making the success of a first strike on our land based ballistic missiles highly unlikely.

Aside from its deterrent capability, SDI can perform other important functions. It will offer a measure of safety against a limited unauthorized or accidental launch of ballistic missiles, provide protection against potential Third World or rogue terrorist ballistic missile attacks, and will act as an inducement for nuclear arms reductions by lessening the risk of entering into such agreements.

The strategic defense initiative may also prove to be a cost-effective solution for deterring nuclear aggression. When compared to the cost of deploying additional offensive nuclear weapon systems, SDI fares very well. For example, the cost to deploy 500 Midgetman truck-based missiles is estimated at approximately \$40 million, 75 B-2 bombers at over \$60 billion and rail basing of the MX missile at about \$10 billion. In addition to the cost of the weapons systems is the cost of producing the nuclear warheads: Funds required by the Department of Energy for this purpose in fiscal year 1991 are \$11 billion.

While the United States will almost certainly continue to maintain an offensive nuclear capability even if an SDI system is deployed, phase 1 SDI would reduce the need for the number of offensive nuclear systems currently deployed or under development. Not only would SDI be less costly than developing and producing additional offensive systems, it would provide the United States with a defensive capability we currently do not have.

2—FORCE PROJECTION

Aircraft carrier battle groups. With the likelihood of reduced foreign deployments of U.S. troops, the ability to project power, that is, the ability to conduct military operations at distant locations, will become increasingly im-

portant. The Navy with aircraft carriers, carrier based aircraft, surface warships and Marine Corps assault forces and equipment offers the mobility, versatility, and firepower necessary to strike at virtually any location worldwide. Adm. C.A.H. Trost appropriately illustrated this country's long-term reliance on the Navy and its carrier battle groups when stating, "When a crisis breaks out, the first question asked is—where are the carriers and when can they be on the scene?"

The deployment of U.S. carriers also acts to enhance international stability and deter aggression against American citizens and our allies. The presence of a carrier group in and around the Persian Gulf in 1986 during the Iran and Iraq war helped bring an end to the indiscriminate attacks against neutral shipping. Furthermore, the deployment and use of a United States carrier group off the coast of Libya proved to be useful in curtailing the aggressive actions of Colonel Qadhafi.

The ability to maintain carrier group presence in each of the four major deployment areas on a uninterrupted basis has proved to be invaluable. To continue such coverage, it is necessary that carrier group strength be maintained at the current level of 14.

Although I support the continuation of the 14-carrier Navy, I also recognize the need to trim the cost of naval operations as part of our overall spending reductions in defense. Carrier group operation and support costs can be lowered by reducing the number of support vessels that accompany the carriers. For example, reducing a national carrier battle group of the 1990's—excluding the underway replenishment group—by one *Ticonderoga* class guided missile cruiser, one *Arleigh Burke* class guided missile destroyer and one *Spruance* class destroyer, would reduce the annual operation and support costs of this carrier battle group by approximately 15 percent. This brief example illustrates that it is possible to maintain current carrier strength yet still reduce costs. I recommend that other, similar cost-saving measures be investigated before we dismantle our existing carrier force.

Army light infantry/C-17 airlift aircraft. The Army, with its mobile light infantry, supported by Air Force airlift aircraft is also capable of projecting forces and equipment to distant locations and trouble spots. The Army and Air Force successfully demonstrated this force projection capability during operation Just Cause where, within a matter of hours, they were able to accomplish the airlift of more than 8,000 paratroopers and infantrymen to Panama.

The ability to airlift troops and equipment prior to or during the early stages of a conflict is often critical to

overall mission success. To maintain their force projection capability, the Army requires adequate airlift support. The C-17 airlifter has been developed by the Air Force to address this need. While some consider this aircraft to be expensive, it does offer a number of advantages over previously deployed airlift aircraft and is necessary to replace the aging C-141 fleet. Therefore, I support the continued production of the C-17. But, in today's environment I believe we can afford to proceed with C-17 production at a much slower rate. As such, I recommend that annual rate of production be reduced to approximately one-half of the current projected rate. If necessary, production rate increases can be considered in future defense budget requests.

V-22 Osprey. The remaining element of force projection I would like to discuss involves aircraft requirements for the Marine Corps and Special Operations Forces. The Marine Corps and Special Operations Forces represent the most qualified forces to perform quick reaction, relatively small scale military actions around the globe.

Critical to their mission is the ability to rapidly deploy troops and equipment. The Marine Corps Commander and the Commander and Chief of the Special Operations Forces have strongly supported the use of the V-22 Osprey tiltrotor aircraft in the performance of their mission on numerous occasions—only to see the program terminated by the Secretary of Defense.

Although this termination was based on cost concerns, the results of a cost and operational effectiveness analysis of the V-22 and conventional helicopter alternatives requested by Mr. Cheney are highly favorable to the V-22 as the most cost-effective solution to addressing these aircraft requirements. In fact, Lieutenant General Pitman, Deputy Chief of Staff for Aviation for the Marine Corps, stated before the Appropriations Subcommittee on Defense that the cost and operational effectiveness analysis I referred to, "was quite favorable in all categories" to the V-22.

In consideration of this fact and the continued support for the program by the Marine Corps and Army Special Operations Forces, I recommend that the V-22 program be reinstated and that RDT&E funding in the amount of approximately \$403 million be included in the fiscal year 1991 Defense appropriation to allow for continued development, testing, and advanced procurement of the V-22 tiltrotor aircraft. Additionally, fiscal year 1989 advanced procurement funds currently deferred by the DOD should be released.

Flexible weapon systems. Rather than develop expensive weapons sys-

terms with capabilities designed for a single type of conflict, the United States should seek to develop and procure weapons systems which can be used in both low intensity and high intensity type conflicts or for multiple purposes. The stinger missile, for example, is a weapon which is light enough to be used for force projection, incursion type conflicts yet capable enough to be used in larger scale warfare. The Air Force plans for use of a variant of the F-16 in the close air support mission is an example of a multipurpose weapon system. The proposed LH helicopter, which is designed to perform both the attack and observation missions now performed by two separate helicopters, also illustrates the use of multipurpose weapons systems. Adhering to this weapon system development strategy will provide equipment suitable for force projection missions yet flexible enough to respond to a variety of combat scenarios and result in cost savings associated with economies of scale and commonality of equipment. The aircraft carrier groups, the C-17 airlift aircraft, the V-22 tiltrotor, the F-16, LH helicopter and stinger missile are just some of the weapons systems that offer the flexibility we require to maintain a capable yet affordable force. These systems and others that offer mission flexibility should, therefore, receive funding necessary to allow for continued development or production. Equipments that do not offer such flexibility should be scaled back accordingly in order to make funds available for these more flexible systems.

3—OVERSEAS DEPLOYMENTS

Europe. With regard to the overseas deployment of U.S. forces, I believe that the new military and political realities of Central Europe justify a reduction of U.S. forces below the 195,000 proposed by the administration. The disintegration of the Warsaw Pact as a military alliance greatly increased warning time of an impending Soviet attack and the heavy financial burden to the United States of maintaining such a large military presence in Europe all contribute to this recommendation.

Far East. While I agree that United States forces stationed in Korea have been a stabilizing influence on the North Korean/South Korean military situation, changing times may also dictate a further reduction of United States troops in this area. In 1989, South Korean expenditures on defense in the amount of \$7 billion were nearly double the \$4.4 billion spent by North Korea. South Korea has a population twice that of North Korea and a gross national product seven times larger.

With significant economic and manpower advantages over the North, South Korea now appears to be in the position to provide the personnel and

material resources for a majority of their national security needs. While I advocate a continued United States presence in South Korea, I believe that our forces can gradually be reduced to a level equal to approximately one-half of those currently deployed. I would also like to state that further reductions to the approximately 50,000 United States troops now stationed in Japan should also be considered.

4—FORCE LEVEL REDUCTIONS

Military reductions. While force level reductions beyond those associated with overseas deployments may be warranted and desirable, we must insure that any such reductions be made in an orderly manner. Excessive single year cutbacks in uniformed personnel will be disruptive to our defense posture and cause severe hardship on those who are forced out of the service or denied reenlistment opportunities. Year-to-year personnel reductions should not exceed a rate that can be attained through a combination of natural attrition and reduced recruiting. This method, while accomplishing the goal of reducing our Armed Forces commensurate with a reduced national security threat, will cause minimal disruption to military personnel and their families allowing for an orderly downsizing of our armed forces.

DOD civilian reductions. Much like their military counterparts, many DOD civilians entered Government service with the expectation of making it their career. Civilian personnel reductions, therefore, must also be handled with care to ensure that career civilian employees are not forced from Government service. The military services must also ensure that personnel reductions do not exceed the rate of natural attrition for civilian employees. The attrition rate for DOD civilians has, in recent times, average between 6 and 7 percent. This rate could be increased by utilizing an early out retirement program and should be more than adequate process to accomplish any adjustment to civilian personnel levels required by defense budget reductions.

5—CONVENTIONAL WEAPON PURCHASES

As I review the fiscal year 1991 Defense budget request I am concerned by the size of our conventional weapon purchases. During the past year as this budget was being developed, many of the sweeping changes that have taken place in Eastern Europe had yet to occur. Additionally, this budget was submitted prior to the administration's proposal to reduce central European troop levels to 195,000, and overall European troop levels to 225,000.

Many of our conventional weapons were designed to support a large scale land war in Europe against the Warsaw Pact. Weapons such as the Patriot missile, which would provide

an effective defense against overwhelming numbers of Soviet aircraft, would serve little purpose in a Panama type conflict.

Force level reductions over the next 5 years, particularly those to European based forces, will greatly affect the level and type of conventional weapon purchases in fiscal year 1991 and beyond. Other than the Army, who recently announced a 50-percent reduction in the number of Bradley Fighting Vehicles to be procured in fiscal year 1991, part of a total reduction of 2,000 vehicles, in anticipation of a reduced force level in Europe, the military services, in general, have been slow to respond to events that postdated their fiscal year 1991 budget submission. Planned fiscal year 1991 purchases of aircraft, artillery, missiles, ammunition, and other conventional weapons and support equipment, therefore, must be carefully reviewed, in light of recent developments and probable, future force level reductions, and reduced or eliminated where excessive or no longer necessary.

6—ACQUISITION PRACTICES

Finally, there are several areas regarding DOD acquisition practices that I would also like to discuss.

Limited production of new systems. First, is the concept of limited production of new weapon systems. The Army has proposed this acquisition procedure for its M1A2 tank. Under this concept, the Army plans develop and finalize the design of the vehicle, produce a limited number to demonstrate its producibility, refine production procedures and test the production model, then shut down the production line. Although the M1A2 represents an improvement over existing tanks, the Army already with a formidable tank force, requires no additional vehicles at this time. In the event of a crisis, the Army would be in a position to initiate production of a modern tank without encountering the delays associated with designing, developing and testing a new tracked vehicle.

This procedure could apply to other weapons that are currently under development. For example, while there will be a need in the 21st century for improved fighter aircraft, the Air Force and Navy currently have fairly substantial forces of F-16 and F-14 fighter aircraft, respectively. While it is currently proposed to enter full scale production of the Advanced Tactical Fighter in 1996, the procedure described above could be implemented instead. This procedure would save billions of dollars by delaying full scale production of a new aircraft until circumstances dictate, yet provide the military with a modern aircraft design which has been tested and validated for immediate production.

Concurrent development and production. Last, I would like to address

the practice of entering into the production of new weapon systems before the design is stable and testing has been completed. Concurrent development and production, while a necessary evil during wartime, is at best a questionable practice during peacetime. At present, one can identify several high dollar weapon programs, including the B-2 bomber, the SSN-21 submarine and the AMRAAM missile, that have suffered due to concurrency. Incorporating design changes after production has commenced often necessitates the modification or remanufacture of affected components or subsystem. These actions, in turn, typically result in increased production costs and delayed production schedules. Reduced tensions with the Soviets offer us a welcome opportunity to once again utilize a more sequential approach to weapon system development and production. I suggest we take advantage of this opportunity.

CONCLUSION

Through implementation of both the specific and general recommendations I have just presented, I believe it is possible to reduce the budget authority of the Department of Defense Research and Development and Procurement accounts by \$10 to \$12 billion in fiscal year 1991. A smaller force structure, reduced requirements for equipment and a more orderly approach to major weapons system acquisition should allow us to make additional reductions in military spending in the future without jeopardizing our national security.

MORNING BUSINESS

Mr. NUNN. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE 10TH ANNIVERSARY OF MOTHERS AGAINST DRUNK DRIVING

Mr. LAUTENBERG. Mr. President, today we are celebrating a special anniversary—the 10th anniversary of Mothers Against Drunk Driving [MADD].

I would like to congratulate MADD President Mickey Sadoff and all the people at that fine organization for the tremendous job they do.

This is an occasion I am proud to be associated with. My affiliation with MADD goes back for much of its 10 years. In 1984, I teamed up with MADD to pass the national uniform minimum drinking age law, which encouraged States to adopt a drinking age of 21.

Not many people had heard of MADD then. But, it did not take long for MADD to become a household

word. The members of MADD were not slick lobbyists. They were concerned parents who had suffered a terrible loss.

As a father of four wonderful children, I can imagine no greater loss than seeing a child go off for the evening, never to return. The founders of MADD turned their loss into a tremendous positive force. With their unflagging support, we passed the 21 bill, in spite of some major obstacles, and a lot of reluctance. Then we withstood a challenge that went all the way to the Supreme Court.

The results are worth every bit of effort we have put into fighting drunk driving over the years. The 21 law is saving almost 1,100 young lives, each and every year.

That is 1,100 families spared the tragedy of a late night knock on the door, or a call from the police, saying that their child will not be coming home.

It is results like that that bring us together to celebrate the anniversary of MADD.

We celebrate the accomplishments, and look forward to more. MADD has set a goal of reducing drunk driving fatalities by 20 percent by the year 2000. We are working together to try to reach that goal.

In 1988, again with MADD's strong support, we passed the Drunk Driving Prevention Act. That act provides incentive grants to States to adopt laws like administrative revocation of licenses of drunk drivers. That means getting drunk drivers off the road, quickly and effectively.

We are going to keep working, until we have done everything we can to stop drunk driving. Today, we celebrate the accomplishments of the past 10 years.

Tomorrow, we get back to work, to the job of getting drunk drivers off of our roads.

SALTY BRINE STATE BEACH

Mr. PELL. Mr. President, I am delighted to report to my colleagues that Rhode Island has dedicated a newly named recreational area—the Salty Brine State Beach—in honor of one of our favorite people.

Walter "Salty" Brine, 71, the "cap'n of Rhode Island's radio waves," has been wake-up man for five generations of Rhode Islanders. Now in his 49th year on WPRO-Radio, Salty is a source of unpretentious inspiration to his listeners.

When he is off the air, Salty continues to be a source of comfort and inspiration. He lost his leg in an accident when he was 9 years old and, for many years, he has visited hospitals to comfort patients, especially amputees.

Salty also has worked for years with organizations that assist the retarded. He has helped Save the Bay, and he

has worked with national and State commissions for hiring the handicapped.

The Rhode Island General Assembly voted unanimously to change the name of the former Galilee State Beach to the Salty Brine State Beach. It is a fitting tribute to a fine and gentle man.

I ask unanimous consent that an article from the Providence Sunday Journal, entitled "Salty Brine Brightens Ceremony To Rename Beach in His Honor," be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Providence Journal, June 24, 1990]

SALTY BRINE BRIGHTENS CEREMONY TO RENAME BEACH IN HIS HONOR

(By Gerald S. Goldstein)

NARRAGANSETT.—There was no school in Foster-Glocester yesterday, and there was no sunshine at Salty Brine State Beach.

But the beach's new namesake, Salty himself, brightened up an overcast waterfront with his personality while a bevy of officials renamed the former Galilee State Beach in his honor.

More than 200 of his admirers, from Governor DiPrete to jewelry toolmaker Bob Medeiros of Warwick, turned out for the 11 a.m. ceremony. Brine, in his 49th year of broadcasting at WPRO radio, tugged on a rope to unveil a new blue-and-white sign bearing his name.

Known to generations of Rhode Islanders for his early-morning no-school announcements and his fatherly advice to "brush your teeth and say your prayers," Brine, 71, did not disappoint yesterday's gathering.

Even though summer hung heavy in the air, Brine—whose given name is Walter—trotted out his famous line and announced: "No school in Foster-Glocester." It got him an ovation from a casually dressed crowd gathered beside the Galilee breachway, where cabin cruisers thumped their way in and out of Point Judith Harbor.

It was a day of accolades for Brine, who twice during his remarks choked up and burst into tears.

Later, Narragansett Town Councilwoman Anne Hoxsie said, "I'm glad he cried. It just shows that he cares, that he was born to help other people."

Sen. William C. O'Neill, D-Narragansett, who earlier this year introduced legislation renaming the beach, said Brine never became embittered after losing a leg in a train accident when he was 9. Instead, O'Neill said, Brine turned to helping others—especially the handicapped and disadvantaged.

DiPrete put Brine in some excellent Rhode Island company when he said, "We have Roger Williams, the Independent Man, and Salty Brine."

Medeiros, 46, said he is a fan of the radio show and also recalled Brine's popular television program of years ago, *Salty's Shack*. He said he decided to attend the ceremony to show his appreciation for all those hours of entertainment.

Medeiros wore a custom-made sweat shirt that read: "Waikiki Beach, Malibu Beach, Miami Beach, Salty Brine State Beach."

Renaming the beach was the idea of Lt. Gov. Roger N. Begin. After yesterday's cere-

mony, the 37-year-old Begin recalled exulting as a child whenever he heard Brine announce, "No school in Woonsocket."

"There's a special relationship between Salty and this state," Begin said.

Alluding to the renaming of the beach and his upcoming 27th wedding anniversary with his wife, Mickey, Brine broke down briefly, then recovered his composure to say, "I could conclude with, 'Brush your teeth and say your prayers,' but I think I'm the luckiest guy in Rhode Island."

RESIGNATION OF JUSTICE WILLIAM BRENNAN AND THE APPOINTMENT OF DAVID SOUTER AS ASSOCIATE JUSTICE OF THE SUPREME COURT

Mr. SIMPSON. Mr. President, I rise to comment on the resignation of Associate Justice William Brennan from the U.S. Supreme Court, and the nomination of Judge David Souter to take his place.

Let me begin by sincerely commending Justice Brennan for 34 years of dedicated public service. While I have disagreed with some of Justice Brennan's decisions, I salute him for the force of his intellect, the vigor with which he has advanced his beliefs, and the personal, warm, human qualities he possesses which helped to make him one of the most influential Supreme Court Justices of our time. Anyone who has taken a constitutional law class knows that Justice Brennan is one of the true legal giants of the last 30 years. I wish him all the best for a healthy and happy retirement. He has been very kind to me in my time here. A most interested observer of my activities on illegal immigration reform. A delightful man. This action will give him and his very steady and pleasant helpmate, Mary, the time to enjoy retirement as much as they enjoy each other. Ann and I wish them well. They are very special people.

Now we must focus on the nomination and confirmation of his successor, Judge David H. Souter. Even before his name was announced by President Bush, all of us could see the various pressure groups drawing their battle lines over the views of Justice Brennan's successor—but only on specific issues. I can only imagine how many hundreds of Senate staffers, interest groups, and other advocates are at this moment sedulously studying the correspondence, memoranda, hearing transcripts, and legal opinions of Judge Souter, seeking evidence of some gross failure of one of their various litmus tests. I have read and seen the news accounts of activists warning us all in dire terms that the balance of the Court is in jeopardy, and that if another conservative is appointed to the Supreme Court, it will be a tragedy not only for the Court, but for the entire Nation. Whew!

Mr. President, I would like to share with my colleagues my views about this idea of balance on the Court.

Balance, referring to political ideology, is unimportant if the Justices have the appropriate "judicial philosophy." If their judicial philosophy is proper, then the members of the Court will preserve every essence of the balance that is most important to the maintenance of democratic government: the balance between the Supreme Court and the elected branches of Government.

The only legitimate reason for the Supreme Court to overrule the actions of the elected representatives of the people is that such actions are inconsistent with the Constitution—a much more authoritative expression of the will of the people.

Ideally, the Supreme Court should not contain one single justice who believes himself or herself able to know how the people should be governed—any better than their own elected representatives. A judge must look only to the Constitution for direction in determining the validity of a statute. It has been said, "in a constitutional democracy, the moral content of the law must be given by the morality of the framers or the legislator, never the morality of the judge. The sole task of the latter—and it is a task large enough for anyone's wisdom, skill, and virtue—is to translate the framer's or the legislator's morality into a rule to govern unforeseen circumstances."

A Justice's political ideology is not in any manner determinative if he or she shares the judicial philosophy that I describe. Courts are required to accept the value choices and judgments of the legislature, and they must not decide cases in a fashion in any way favorable to their own individual ideological preferences.

The ideal nominee, in my own view, is a person of integrity, rectitude, intelligence, superior legal scholarship, and proper judicial temperament; and in addition to this legal competence, and equally as important, is the nominee's judicial philosophy.

We will know much more about David Souter after the hearings which have been scheduled for September 13—but from what I have been able to discern in these last few days, Judge Souter is a person who, in the performance of his duties as a judge, has always done his very level best to follow the law, and not press on others his own personal policy preferences—isn't this what we all really want—conservatives and liberals alike?

I certainly appreciate the President's expeditious selection of a nominee, and I trust that we will be expeditious in acting upon the nomination. As a member of the Senate Judiciary Committee, I am looking forward to the process.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nomination received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1:18 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolutions, each without amendment:

S.J. Res. 256. Joint resolution to designate the week of October 7, 1990, through October 13, 1990, as "Mental Illness Awareness Week"; and

S.J. Res. 316. Joint resolution to designate the second Sunday in October of 1990 as "National Children's Day."

The message also announced that the House has agreed to the concurrent resolution (S. Con. Res. 142) to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31, without amendment.

The message further announced that the House has passed the bill (S. 1230) to authorize the acquisition of additional lands for inclusion in the Knife River Indian Villages National Historic Site, and for other purposes; with an amendment, in which it requests the concurrence of the Senate.

The message also announced that the House has passed the bill (S. 2461) to reauthorize appropriations to provide for and improve the drug treatment waiting period reduction grant program under the Public Health Service Act, and for other purposes; with amendments, in which it requests the concurrence of the Senate.

The message further announced that the House has passed the following bills and joint resolutions, in which it requests the concurrence of the Senate:

H.R. 2921. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes;

H.R. 2949. An act to authorize a study of nationally significant places in American Labor History;

H.R. 4983. An act to amend title 5, United States Code, with respect to certain pro-

grams under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes;

H.R. 5084. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House National Historic Site, and for other purposes;

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day";

H.J. Res. 515. Joint resolution designating the week beginning September 16, 1990, as "National Give Kids a Fighting Chance Week"; and

H.J. Res. 625. Joint resolution designating August 6, 1990, as "Voting Rights Celebration Day."

ENROLLED BILL SIGNED

The message further announced that the Speaker has signed the following enrolled bill:

H.R. 4872. An act to establish the National Advisory Council on the Public Service.

The enrolled bill was subsequently signed by the President pro tempore [Mr. BYRD].

At 4:46 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2575. An act to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941, to provide for the striking of medals in commemoration of the centennial of Yosemite National Park, and for other purposes;

H.R. 4487. An act to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States; and

H.R. 4498. An act to amend the Colorado River Storage Project Act, to direct the Secretary of the Interior to establish and implement emergency interim operational criteria at Glen Canyon Dam, and for other purposes.

MEASURES REFERRED

The following bills and joint resolutions were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2921. An act to amend the Communications Act of 1934 to prohibit certain practices involving the use of telephone equipment for advertising and solicitation purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 2949. An act to authorize a study of nationally significant places in American labor history; to the Committee on Energy and Natural Resources.

H.R. 4983. An act to amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes; to the Committee on Governmental Affairs.

H.R. 5084. An act to authorize the National Park Service to acquire and manage the Mary McLeod Bethune Council House Na-

tional Historic Site, and for other purposes; to the Committee on Energy and Natural Resources.

H.J. Res. 469. Joint resolution to designate October 6, 1990, as "German-American Day"; to the Committee on the Judiciary.

H.J. Res. 515. Joint resolution designating the week beginning September 16, 1990, as "National Give Kids a Fighting Chance Week"; to the Committee on the Judiciary.

MEASURES PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2575. An act to establish a congressional commemorative medal for members of the Armed Forces who were present during the attack on Pearl Harbor on December 7, 1941, to provide for the striking of medals in commemoration of the centennial of Yosemite National Park, and for other purposes.

H.R. 4487. An act to amend the Public Health Service Act to revise and extend the program for the National Health Service Corps, and to establish certain programs of grants to the States for improving health services in the States.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs:

Special Report entitled "Federal Government's Use of the RICO Statute and Other Efforts Against Organized Crime" (Report of the Permanent Subcommittee on Investigations) (Rept. No. 101-407).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

H.R. 94. A bill to amend the Federal Fire Prevention and Control Act of 1974 to allow for the development and issuance of guidelines concerning the use and installation of automatic sprinkler systems and smoke detectors in places of public accommodation affecting commerce, and for other purposes (Rept. No. 101-408).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 2154. A bill to amend the provisions of the Occupational Safety and Health Act of 1970 relating to criminal penalties, and for other purposes (Rept. No. 101-409).

By Mr. SASSER, from the Committee on Appropriations, with amendments:

H.R. 5313. A bill making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-410).

By Mr. DeCONCINI, from the Committee on Appropriations, with amendments:

H.R. 5241. A bill making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1991, and for other purposes (Rept. No. 101-411).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute and an amendment to the title:

S. 2114. A bill to promote excellence in American mathematics, science, and engineering education; enhance the scientific and technical literacy of the American public; stimulate the professional development of scientists and engineers; provide for education, training, and retraining of the Nation's technologists; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes (Rept. No. 101-412).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 1913. A bill to require the use of child restraint systems on commercial aircraft.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. Res. 317. A resolution to commend Mr. Erich Bloch for his dedicated Service as Director of the National Science Foundation.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources:

Julian W. De La Rosa, of Texas, to be Inspector General, Department of Labor;

Arden L. Bement, Jr., of Ohio, to be a Member of the National Science Board, National Science Foundation, for a term expiring May 10, 1994;

Richard V. Bertain, of California, to be Associate Director of the ACTION Agency;

John N. Rauderbaugh, of Georgia, to be a Member of the National Labor Relations Board for the remainder of the term expiring December 16, 1992;

Elmer B. Staats, of the District of Columbia, to be a Member of the Board of Trustees of the Harry S. Truman Scholarship Foundation for a term expiring December 10, 1995; and

Kimberly A. Madigan, of Illinois, to be a Member of the National Mediation Board for the term expiring July 1, 1993.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTION

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BOSCHWITZ:

S. 2947. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for a portion of residential telephone expenses of day care facilities; to the Committee on Finance.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2948. A bill to designate certain public lands in the State of Illinois as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. GORTON (for himself and Mr. ADAMS):

S. 2949. A bill to require the Secretary of Energy to establish the Fast Flux Test Fa-

cility as an international research and development center to be known as the International Research Reactor User Complex; to the Committee on Energy and Natural Resources.

By Mr. MITCHELL (for himself and Mr. CHAFFEE):

S. 2950. A bill to provide for 2 demonstration projects to study the effect of allowing states to extend medicaid coverage to certain low-income families not otherwise qualified to receive medicaid benefits; to the Committee on Finance.

By Mr. GLENN:

S. 2951. A bill to amend title 31 of the United States Code to more effectively control the availability of appropriations accounts; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SIMON (for himself and Mr. HATFIELD):

S. Con. Res. 143. Concurrent resolution to express the sense of the Congress concerning the public health implications of marketing campaigns and petitions by cigarette manufacturers to remove barriers to cigarette sales and advertising; to the Committee on Finance.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BOSCHWITZ:

S. 2947. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for a portion of residential telephone expenses of day care facilities; to the Committee on Finance.

TELEPHONE TAX CREDIT FOR FAMILY CHILD CARE PROVIDERS

Mr. BOSCHWITZ. Mr. President, I rise today to introduce legislation to allow family child care providers to deduct the expenses of telephones they are required to have by State law.

Mr. President, can you imagine a family child care provider caring for children without having a telephone? A provider would not be able to quickly call for assistance in case of an emergency, or call a parent if the child became ill. I could go on and list any number of instances of why providers must have a telephone.

Mr. President, the telephone is necessary and no licensed or certified family provider would operate without one. I have traveled throughout Minnesota and talked with family providers. They are entrepreneurs who love children and in many instances have modified their homes to better care for children. Their home is their office. I believe that the monthly phone bill is a business expense and providers should be allowed to deduct it as such.

My proposal is very simple. It states that if a provider is required under State law to have a telephone, the cost becomes a tax deduction. I invite my

colleagues to join me in supporting the "ultimate entrepreneur the essence of small business" the family child care provider.

Mr. President, I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2947

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RESIDENTIAL TELEPHONE EXPENSES.

(a) IN GENERAL.—Section 280A(c)(4) of the Internal Revenue Code of 1986 (relating to exceptions for certain business on rental use; limitation on deductions for such use) is amended by adding at the end the following new subparagraph:

"(D) TELEPHONE EXPENSES.—No provision of this title prohibiting the deduction for costs of a telephone in a personal residence of a taxpayer shall apply for purposes of this paragraph, if the taxpayer is required under applicable State law to have a telephone in connection with the purposes described in subparagraph (A)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1990.

By Mr. DIXON (for himself and Mr. SIMON):

S. 2948. A bill to designate certain public lands in the State of Illinois as wilderness, and for other purposes; to the Committee on Energy and Natural Resources.

ILLINOIS WILDERNESS ACT OF 1990

Mr. DIXON. Mr. President, I would like to introduce today, along with my friend and colleague, Senator PAUL SIMON, a bill to include seven areas in the Shawnee National Forest in the National Wilderness Preservation System.

The Shawnee National Forest spans some 260,000 acres across the southern tip of Illinois. It is the part of the Midwest where the glaciers ended their leveling advance, and left a jewel of remarkable beauty. Over 503 species of wildlife, and 156 species of flora, many of which are rare and endangered, make the Shawnee Forest their home.

The Shawnee is so unique, that visitors to the region are amazed to find the variety of land forms it offers. Indeed, even many folks from northern Illinois are not aware that the State of sweeping corn and soy fields also has steep-sided cliffs for rock climbers, valleys and canyons full of caves to be explored, high scenic river bluffs, bayou-like swamps, crystal clear streams, and old growth hardwood forests.

The bill that we are introducing today selects seven areas in the forest for wilderness designation, and two areas for special management designation, totaling just under 30,000 acres. These areas exhibit the pristine beauty and unusual characteristics of

the region, and will preserve them in perpetuity. These areas have been recommended by the U.S. Forest Service for wilderness designation, and are currently being managed by the service as such. The Service's forest management plan does not include harvesting timber in the proposed wilderness areas, and therefore the local communities will not experience a loss of timber receipts from wilderness designation. There will be no displacement of miners resulting from this bill either, because there is no active mining occurring in the proposed wilderness areas.

We have included a provision that will set aside the nearly 2,800 acres designated for special management for fluorspar mining. Fluorspar has been classified as having "Compelling Domestic Significance," and southern Illinois has most of the domestic supply of fluorspar. Mining of fluorspar, however, is fairly innocuous environmentally. The shafts disturb only a 2- to 3-acre area, and the area around them can be restored very effectively when the mines are closed. Furthermore, the Forest Service has indicated that this type of mining activity will not rule out a wilderness designation for these areas in the future.

The seven areas this bill proposes to designate as wilderness are known as Clear Springs, Bald Knob, Panther's Den, Burden Falls, Garden of the Gods, Lusk Creek, and Bay Creek. Illinois presently can boast of only 5,000 acres of wilderness—a rather paltry sum for a State of its size. Adding 30,000 acres promises to diversify the local economy by drawing tourism to the area in the form of family vacationing, camping, fishing, hiking, climbing, canoeing, and hunting. Moreover, the Shawnee National Forest wilderness areas will preserve the rich cultural heritage of extreme southern Illinois.

There may be some who would ask why it is necessary to set aside areas for wilderness, making them off limits for development. Well, Mr. President, in my part of the country, in southern Illinois, the answer to that question goes well beyond the obvious environmental reasons for preserving nature. In the Shawnee, folks recognize that developing some of the last bits of remaining wilderness would not be progress. They like to have reminders around of the vast wilderness the interior of the country once was; and of how through industriousness and courage they conquered the often inhospitable surroundings, and with which they ultimately learned to live in harmony. To preserve wild areas in southern Illinois is to save a piece of midwestern history as a living testament to the strength and fortitude of the people who settled it.

Perhaps the reason for preserving wilderness is best explained by reading from its definition. In possibly the most poetic language ever written into legislation, the 1964 Wilderness Act describes wilderness as being "in contrast with those areas where man and his own works dominate the landscape." Rather, wilderness is an "area where the Earth and its community of life are untrammelled by man, where man himself is a visitor who does not remain."

Mr. President, I ask that the Congress end the long battle that many dedicated folks in Illinois have fought to bring wilderness to the Shawnee National Forest. It was 1973 when the first proposal for wilderness study areas in the Shawnee were considered. Now that all concerned parties have reached consensus on which areas are properly suited for wilderness, it is time for the Congress to make it official by passing the Illinois Wilderness Act of 1989.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Illinois Wilderness Act of 1990".

SEC. 2. FINDINGS.

In designating wilderness areas in the Shawnee National Forest pursuant to this Act, the Congress finds, as provided in the Wilderness Act, that such areas—

- (1) generally appear to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable;
- (2) have outstanding opportunities for solitude or a primitive and unconfined type of recreation; and
- (3) contain ecological, geological, and other features of scientific, educational, and scenic value.

SEC. 3. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), the following lands in the Shawnee National Forest in the State of Illinois are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System—

- (1) certain lands comprising approximately 5,918 acres, as generally depicted on a map entitled "Bald Knob Wilderness—Proposed", dated July 1990, and which shall be known as the Bald Knob Wilderness;
- (2) certain lands comprising approximately 2,866 acres, as generally depicted on a map entitled "Bay Creek Wilderness—Proposed", dated July 1990, and which shall be known as the Bay Creek Wilderness;
- (3) certain lands comprising approximately 3,723 acres, as generally depicted on a map entitled "Burden Falls Wilderness—Proposed", dated July 1990, and which shall be known as Burden Falls Wilderness;
- (4) certain lands comprising approximately 4,730 acres, as generally depicted on a

map entitled "Clear Springs Wilderness—Proposed", dated July 1990, and which shall be known as the Clear Springs Wilderness;

(5) certain lands comprising approximately 3,293 acres, as generally depicted on a map entitled "Garden of the Gods Wilderness—Proposed", dated July 1990, and which shall be known as the Garden of the Gods Wilderness;

(6) certain lands comprising approximately 4,796 acres, as generally depicted on a map entitled "Lusk Creek Wilderness—Proposed", dated July 1990, and which shall be known as the Lusk Creek Wilderness; and

(7) certain lands comprising approximately 940 acres, as generally depicted on a map entitled "Panther Den Wilderness—Proposed", dated July 1990, and which shall be known as Panther Den Wilderness.

SEC. 4. DESCRIPTION AND MAPS.

As soon as practicable after the enactment of this Act, the Secretary of Agriculture (hereafter in this Act referred to as the "Secretary") shall file maps and legal descriptions of each wilderness area designated by this Act with the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. ADMINISTRATION OF WILDERNESS AREAS.

Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Secretary in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 6. ADJACENT AREAS.

Congress does not intend that designation of wilderness areas in the State of Illinois lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness areas.

SEC. 7. HUNTING, FISHING, AND TRAPPING.

As provided in section 4(d)(7) of the Wilderness Act, nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Illinois with respect to wildlife and fish in the national forests in Illinois.

SEC. 8. FIRE, INSECTS, AND DISEASE CONTROL.

As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within any area designated by this Act.

SEC. 9. CEMETERY ACCESS.

The Secretary shall permit relatives and descendants of those interred in cemeteries located within the wilderness areas designated by this Act, and those accompanying such relatives and descendants, to access and maintain such cemeteries. The Secretary shall regulate such appropriate access and maintenance to minimize any detrimental effects on the wilderness resource or any uses incompatible with the provisions of the Wilderness Act.

SEC. 10. DESIGNATION OF SPECIAL MANAGEMENT AREAS.

(a) AREA DESIGNATIONS.—(1) Mining and prospecting for fluorspar and associated minerals shall be permitted in the lands in the Shawnee National Forest described in paragraph (2) in accordance with this section and other applicable law. These lands shall also be managed, to the extent practicable, to preserve their potential for future inclusion in the National Wilderness Preservation System.

(2) The lands described in this paragraph are—

(A) certain lands comprising approximately 2,042 acres as generally depicted on a map entitled "East Fork Area—Proposed", dated July 1990, and which shall be known as the East Fork Area; and

(B) certain lands comprising approximately 722 acres, as generally depicted on a map entitled "Eagle Creek Area—Proposed", dated July 1990, and which shall be known as Eagle Creek Area.

(b) TIME LIMITATION.—Prospecting for fluorspar and associated minerals in the lands described in subsection (a)(2) may be allowed for a period of not more than 8 years beginning on the date of enactment of this Act. If significant deposits of fluorspar and associated minerals are found to exist in parts or all of such lands, then mining for those minerals may be allowed for a 20-year period beginning on the date of enactment of this Act.

(c) MINERAL RIGHTS.—Nothing in this section shall be construed to change in any way the process by which mining and prospecting permits and rights are granted on National Forest System lands.

(d) CESSATION OF CERTAIN USES.—Twenty years following the date of enactment of this Act (or 8 years following enactment if no prospecting for fluorspar and associated minerals has been done, as determined by the Secretary), such lands described in subsection (a)(2) shall be designated as wilderness and components of the National Wilderness Preservation System, in furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.).

Mr. SIMON. Mr. President, I am delighted to join my colleague, Senator Dixon, today in introducing legislation to protect one of the most beautiful natural areas in this country, the Shawnee National Forest in southern Illinois. The Illinois Wilderness Act of 1990 designates seven areas in the Shawnee as national wilderness areas and protects those areas for the benefit of current and future generations.

The Illinois Wilderness Act is a great opportunity to save part of our natural heritage. We in Illinois have already lost much of our native wildlife and most of our natural areas. The vast diversity of wildlife that once lived in Illinois has dwindled. This legislation would help preserve the natural habitat for hundreds of native species of plants and animals.

The areas designated in the bill are to be set aside for the use and enjoyment of the public. This bill does not lock the public out. The wilderness areas will offer increased opportunities for hiking, camping, hunting, and fishing. The old growth forests associated with the wilderness areas make

an excellent outdoor classroom for students, young and old, to learn first hand about biology and ecology and the importance of conserving the natural environment.

The Illinois Wilderness Act is the product of discussions, debates, and studies going back over a decade. It is the outcome of a cooperative effort involving hundreds of individuals and organizations in southern Illinois representing local communities, business, industry, government at the State, local, and Federal level, and environmental interests.

Mr. President, I wish my colleagues could experience the beauty and wonder of the Shawnee National Forest first hand. Most Americans would be surprised to learn that Illinois contains large remnants of a vast old growth forest with rocky cliffs, fast running streams, and tranquil ponds. The value of the wilderness is immeasurable to our increasingly urban society. We owe it to our grandchildren to set aside these last remaining wilderness areas. I am proud to be a cosponsor of this bill and I am hopeful for quick action.

By Mr. GORTON (for himself and Mr. ADAMS):

S. 2949. A bill to require the Secretary of Energy to establish the fast flux test facility as an international research and development center to be known as the International Research Reactor User Complex; to the Committee on Energy and Natural Resources.

INTERNATIONAL RESEARCH REACTOR USER COMPLEX ESTABLISHMENT ACT

Mr. GORTON. Mr. President, today I have the pleasure of introducing the fast flux test facility commercialization bill. This legislation establishes the FFTF as a multimission international center for research and development on isotopes and energy. The legislation provides that the FFTF be operated by the Department of Energy in partnership with international and domestic user organizations.

FFTF is a topnotch facility, leading the Nation in nuclear research. It is the Nation's most modern reactor and the only existing Federal facility which meets the environmental and safety standards required of commercial reactors. Originally designed to test fuels and materials for advanced nuclear powerplants, it has repeatedly set records for performance and excellence.

The FFTF possesses vast research potential which will be available to domestic and international users. This legislation provides the needed vehicle to promote commercial participation in this country's leading test reactor. The partnership formed by this bill between DOE and potential FFTF customers will increase the reactors utilization, opening many doors to the re-

search arena. FFTF has the capacity to support many missions and has frequently shown its versatility by performing experiments far beyond the original intent of its designers. Experiments within the reactor have ranged from highly enriched uranium fuel assemblies to tests of special alloy materials. Other experiments include: Medical and industrial isotope production, space reactor testing, fusion materials testing, production of space isotopes such as Pu²³⁸ and liquid metal and safety fuel testing. The fast flux test facility has also proven its ability to transmute radioactive waste to nonradioactive, which can then be burned, increasing our methods to clean the waste contaminating Hanford and other sites.

Mr. President, I am gratified by the broad support for the FFTF which exists in Congress. The \$84 million for the facility already approved by the House of Representatives and the Senate Appropriations Committee is a strong indication of the vast interest in FFTF and its potential as a world leading test reactor. The legislation we are introducing will enhance the availability of FFTF to both domestic and international research interests and encourage the marketing effort by directing the DOE to provide facilities, equipment, utility services, fire protection and other services to potential users. At the same time DOE will be allowed to charge these customers for the facility use.

I hope my colleagues will join me in cosponsoring this important legislation. Mr. President, I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was order to be printed in the RECORD, as follows:

S. 2949

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INTERNATIONAL RESEARCH REACTOR USER COMPLEX.

(a) PURPOSE.—The purpose of this section is to establish the Fast Flux Test Facility as a multi-mission international center for the purpose of conducting research and development on isotopes and energy, to be operated by the Department of Energy in partnership with international and domestic user organizations.

(b) ESTABLISHMENT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Energy shall establish an international research, development, and production center at the Hanford Reservation in Richland, Washington, to be known as the "International Research Reactor User Complex" (hereinafter in this section referred to as the "IRRC").

(c) AGREEMENTS; AUTHORIZED USES.—In establishing the IRRC, the Secretary shall provide that the Department of Energy, and any contractors under contract with the Department of Energy to operate the IRRC, may enter into agreements or contracts with non-Federal entities (including foreign governments and foreign entities) or a consor-

um of such entities to use the IRRC for any of the following purposes:

(1) The production of industrial and medical isotopes for use or sale (or both) by the non-Federal entities who have entered into the agreement.

(2) Irradiation services to support research or commercial objectives (or both).

(3) The production of steam to be used or sold (or both) by the non-Federal entities who have entered into the agreement.

(d) CHARGES.—The Secretary of Energy may assess such charges from non-Federal entities under an agreement entered into pursuant to subsection (c) as the Secretary determines may be necessary or appropriate to implement the purpose of this section.

(e) PERIOD OF AGREEMENT.—The Secretary of Energy may enter into an agreement pursuant to subsection (c) for a period of time not exceeding 25 years.

(f) TERMINATION PROVISIONS.—Under an agreement entered into pursuant to subsection (c), the Secretary of Energy may include a termination provision that requires the Department of Energy to pay for the unamortized balance of any special facilities acquired or constructed by the non-Federal entities who have entered into the agreement if both of the following conditions are met:

(A) The IRRC is shut down for lack of Federal appropriations.

(B) The acquisition or construction of the special facilities constitutes a significant portion of the investment by the non-Federal entities under the agreement.

(2) The termination provision may authorize the use, for the purpose of paying such unamortized balance and any other costs resulting from termination, of any Federal funds available at the time of termination or thereafter made available for operating expenses.

(3) For purposes of this subsection, the term "special facilities" means any depreciable buildings, structures, utilities, machinery, equipment, materials, or services not made available to non-Federal entities by the Department of Energy.

(g) OTHER AGREEMENT PROVISIONS.—Under an agreement entered into pursuant to subsection (c), the Secretary of Energy may—

(1) make available to non-Federal entities facilities, equipment, utility services, fire protection, and other similar services;

(2) lease real or personal property to non-Federal entities to carry out the purpose of this section;

(3) include an appropriate indemnification pursuant to section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210); and

(4) include such other terms and conditions as the Secretary determines will implement the purpose of this section.

(h) PROVISIONS RELATING TO DEPARTMENT OF ENERGY CONTRACTOR.—(1) Any contractor under contract with the Department of Energy to operate the IRRC shall—

(A) maintain and operate the Fast Flux Test Facility pursuant to the Atomic Energy Act (42 U.S.C. 2011 et seq.);

(B) ensure that all experiments meet applicable safety requirements and acceptance criteria; and

(C) provide necessary support services to the non-Federal entities that have entered into agreements pursuant to subsection (c).

(2) In entering into a contract for the operation and management of the IRRC or entering into contracts with non-Federal entities pursuant to Sub. C., the Secretary of Energy may use procedures other than competitive procedures as described in section

303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

(i) **EXEMPTION FROM LICENSING.**—None of the activities authorized by this section shall be subject to licensing or regulation by the Nuclear Regulatory Commission.

(j) **IRRC FUND.**—(1) There is established in the Treasury of the United States a separate fund to be known as the "IRRC Fund". The IRRC Fund shall consist of all amounts received by the Secretary of Energy from charges assessed under subsection (d).

(2) Subject to appropriations, the Secretary of Energy may make expenditures from the IRRC Fund each fiscal year to offset the cost of operating the International Reactor Research User Complex in such fiscal year. Amounts in the IRRC Fund not needed for operations shall be invested in U.S. securities, the proceeds of which shall accrue to the Fund.

Mr. ADAMS. Mr. President, today, the Washington State delegation is introducing legislation that will help the United States maintain its technological edge in the world.

Within Washington State, we are privileged to have the world's largest, most modern test reactor. The Fast Flux Test Facility is a reactor that is clean, safe, and capable of conducting substantial irradiation testing and isotope production into the next century. The facility has been widely acclaimed. In fact, when the Department of Energy's tiger team reviewed Hanford's facilities, they noted that the Fast Flux Test Facility was among the best run installations on site.

With all of the technological backsliding going on in the United States today, the owner of the FFTF should be rejoicing that it owns and operates a world-class, high-technology facility.

Unfortunately, the owner, the Department of Energy, is doing just the opposite. They are eager to shut this reactor down, to phase it out. And that is why the Washington delegation is introducing this piece of legislation today.

The purpose of this legislation is to establish the Fast Flux Test Facility as a research and development center, to be operated by the Department of Energy with other commercial users. The bill allows non-Federal agents, including foreign countries, to invest in the Fast Flux Test Facility with the assurance that they can recoup their investments should this reactor be phased out by DOE. The bill also sets up a fund, consisting of all charges to non-Federal users of the FFTF, from which DOE may offset operating costs of the reactor.

Mr. President, I regret that it may take this legislation to allow the United States to continue operating its newest class A reactor. Preliminary scoping out of potential bidders, though, indicates that there is substantial commercial interest in keeping this reactor operational. Perhaps this legislative effort will highlight the fact that the Fast Flux Test Facility

is a national asset that we ought not just let crumble away.

By Mr. MITCHELL (for himself and Mr. CHAFEE):

S. 2950. A bill to provide for two demonstration projects to study the effect of allowing States to extend Medicaid coverage to certain low-income families not otherwise qualified to receive Medicaid benefits; to the Committee on Finance.

MEDICAID DEMONSTRATION FOR THE UNINSURED

Mr. MITCHELL. Mr. President, there are between 31 and 37 million people in this country without any health insurance, public or private; 12 million of them are children. Almost two-thirds are poor. In Maine, approximately 130,000 of the State's slightly over 1 million citizens are uninsured or underinsured.

Two-thirds of the uninsured are employed or their dependents. Many of them do not have the opportunity to purchase health insurance plans where they work because their employers do not provide them. Still others, at the lowest end of the salary scale, cannot afford to purchase insurance plans even when they are available.

We must act to help the many young families with one or both parents employed, struggling to make ends meet, who do not have, and cannot buy, health insurance.

Last year 1 million Americans lost their health insurance coverage. Clearly this is an unacceptable situation which cannot be allowed to continue.

Our Nation's health care system is a mixed one which relies primarily on employer-based insurance for workers and Medicaid coverage for the very poor. Unfortunately, that system leaves many persons without coverage. Medicaid covers only about half of all children living below the poverty level.

The time has come to develop a comprehensive bipartisan proposal to address the uninsured which will rely upon more comprehensive employer-based coverage and an expanded public program.

As we work to develop a comprehensive proposal, I believe we must also support innovative demonstrations which are designed to provide information about the impact of expanded access to health insurance for specific populations.

The legislation I am introducing today will establish a Medicaid demonstration to allow States to develop and carry out innovative programs to extend health insurance coverage to low-income individuals and families who are now uninsured.

This proposal is intended to demonstrate the effect of eliminating the categorical eligibility for Medicaid benefits, both in fiscal terms and in terms of evaluating the degree to

which the uninsured population would be reduced.

My bill would encourage persons earning up to 150 percent of the poverty level to obtain health insurance coverage for themselves and their dependents. Under the plan States would be authorized to provide medical assistance to eligible individuals who have no access to employer-based health insurance coverage and to persons who are employed but are not currently enrolled in employer-sponsored plans.

The program would establish a minimum benefit package identical to the Medicaid benefits currently being offered in a State. All costs would be covered by the Medicaid Program for those beneficiaries up to 100 percent of the poverty level. For beneficiaries from 100 to 150 percent of poverty a premium will be imposed on a sliding scale based on family income, limited to 3 percent of gross income for eligible beneficiaries. A copayment will also be levied upon this income group.

For eligible persons who are employed and have access to employer-based health insurance, the program will purchase the employee share of the plan. The Medicaid Program will serve as a wrap around to the employer plan's benefits if the Medicaid benefit plan is more generous.

This demonstration will be authorized for 3 years with a Federal commitment of not more than \$10 million in each year. Eligibility will be limited to those States which have demonstrated reasonable efforts to authorize legislation and appropriate State funding for an expansion of access to health care. The Federal Government will provide a match equal to each state's Medicaid matching level.

During the last few years the Congress has expanded Medicaid coverage to pregnant women and children and the elderly. Last year's budget reconciliation bill included a Medicaid demonstration to further expand access for pregnant women and children.

While these vulnerable populations have been, and must continue to be our priority, I believe that the legislation I am introducing today is an important step toward gathering information about the impact of further Medicaid expansion to poor and low-income persons not previously eligible for Medicaid.

I am particularly interested in the impact such an expansion may have on persons seeking and maintaining employment. We know that one of the most significant disincentives for women leaving welfare rolls is the loss of health insurance. While the recently enacted welfare reform legislation has, in part, addressed that issue, this demonstration may provide an incentive for poor women which may help

them from ever becoming dependent upon welfare programs.

I encourage my colleagues to support this legislation in an effort to continue to examine innovative programs which may help move us toward comprehensive health care coverage for all Americans.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2950

Be enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEMONSTRATION PROJECTS TO STUDY THE EFFECT OF ALLOWING STATES TO EXTEND MEDICAID COVERAGE TO CERTAIN LOW-INCOME FAMILIES NOT OTHERWISE QUALIFIED TO RECEIVE MEDICAID BENEFITS.

(a) DEMONSTRATION PROJECTS.—

(A) IN GENERAL.—The Secretary of Health and Human Services shall enter into agreements with 2 States for the purpose of conducting demonstration projects to study the effect on access to, and costs of, health care of eliminating the categorical eligibility requirement for medical benefits for certain low-income individuals.

(2) REQUIREMENTS.—The Secretary may not enter into an agreement with a State to conduct a project unless the Secretary determines that—

(A) the project can reasonably be expected to improve access to health insurance coverage for the uninsured;

(B) the State provides, under its plan under title XIX of the Social Security Act, for eligibility for medical assistance for all individuals described in paragraph (1) of section 1902(I) of such Act (based on the State's election of the highest income standards and, for children, highest ages permitted under such section and based on the State's waiver of the application of any resource standard);

(C) eligibility for benefits under the project is limited to individuals in families with income below 150 percent of the income official poverty line;

(D) if the Secretary determines that it is cost-effective for the project to utilize employer coverage (as described in section 1925(b)(4)(D) of the Social Security Act), the project must require an employer contribution and benefits under the State plan under title XIX of such Act will continue to be made available to the extent they are not available under the employer coverage;

(E) the project provides for coverage of benefits consistent with subsection (b); and

(F) the project only imposes premiums, coinsurance, and other cost-sharing consistent with subsection (c).

(3) PERMISSIBLE RESTRICTIONS.—A project may limit eligibility to individuals whose assets are valued below a level specified by the State. For this purpose, any evaluation of such assets shall be made in a manner consistent with the standards for valuation of assets under the State plan under title XIX of the Social Security Act for individuals entitled to assistance under part A of title IV of such Act. Nothing in this section shall be construed as requiring a State to provide for eligibility for individuals for months before the month in which such eligibility is first established.

(4) EXTENSION OF ELIGIBILITY.—A project may provide for extension of eligibility for medical assistance for individuals covered under the project in a manner similar to that provided under section 1925 of the Social Security Act to certain families receiving aid pursuant to a plan of the State approved under part A of title IV of such Act.

(5) WAIVER OF REQUIREMENTS.—

(A) IN GENERAL.—Subject to subparagraph (b), the Secretary may waive such requirements of title XIX of the Social Security Act as may be required to provide for additional coverage of individuals under projects under this section.

(B) NONWAIVABLE PROVISIONS.—The Secretary may not waive, under subparagraph (A), the statewideness requirement of section 1902(a)(1) of the Social Security Act or the Federal medical assistance percentage specified in section 1905(b) of such Act.

(b) BENEFITS.—

(1) IN GENERAL.—Except as provided in this subsection, the amount, duration, and scope of medical assistance made available under a project shall be the same as the amount, duration, and scope of such assistance made available to individuals entitled to medical assistance under the State plan under section 1902(a)(10)(A)(i) of the Social Security Act.

(2) LIMITS ON BENEFITS.—

(A) REQUIRED.—No medical assistance shall be made available under a project for nursing facility services or other long-term care services (as defined by the Secretary) or for pregnancy-related services. No medical assistance shall be made available under a project to individuals confined to a State correctional facility, county jail, local or county detention center, or other State institution.

(B) PERMISSIBLE.—A State, with the approval of the Secretary, may limit or otherwise deny medical assistance under the project for items and services, other than early and periodic screening, diagnostic, and treatment services for children under 18 years of age.

(3) USE OF UTILIZATION CONTROLS.—Nothing in this subsection shall be construed as limiting a State's authority to impose controls over utilization of services, including preadmission requirements, managed care provisions, use of preferred providers, and use of second opinions before surgical procedures.

(c) PREMIUMS AND COST-SHARING.—

(1) NONE FOR THOSE WITH INCOME BELOW THE POVERTY LINE.—Under a project, there shall be no premiums, coinsurance, or other cost-sharing for individuals whose family income level does not exceed 100 percent of the income official poverty line (as defined in subsection (g)(1)) applicable to a family of the size involved.

(2) LIMIT FOR THOSE WITH INCOME ABOVE THE POVERTY LINE.—Under a project, for individuals whose family income level exceeds 100 percent, but is less than 150 percent, of the income official poverty line applicable to a family of the size involved, the monthly average amount of premiums, coinsurance, and other cost-sharing for covered items and services shall not exceed 3 percent of the family's average gross monthly earnings.

(3) INCOME DETERMINATION.—Each project shall provide for determinations of income in a manner consistent with the methodology used for determinations of income under title XIX of the Social Security Act for individuals entitled to benefits under part A of title IV of such Act.

(d) DURATION.—Each project under this section shall commence not later than July 1, 1991 and shall be conducted for a 3-year period; except that the Secretary may terminate such a project if the Secretary determines that the project is not in substantial compliance with the requirements of this section.

(e) LIMITS ON EXPENDITURES AND FUNDING.—

(1) IN GENERAL.—The Secretary in conducting projects shall limit the total amount of the Federal share of benefits paid and expenses incurred under title XIX of the Social Security Act to no more than \$10,000,000 in each of fiscal years 1991, 1992, and 1993, and to no more than \$2,000,000 in fiscal year 1994.

(2) NO FUNDING OF CURRENT BENEFICIARIES.—No funding shall be available under a project with respect to medical assistance provided to individuals who are otherwise eligible for medical assistance under the plan without regard to the project.

(3) NO INCREASE IN FEDERAL MEDICAL ASSISTANCE PERCENTAGE.—Payments to a State under a project with respect to expenditures made for medical assistance made available under the project may not exceed the Federal medical assistance percentage (as defined in section 1905(b) of the Social Security Act) of such expenditures.

(f) EVALUATION AND REPORT.—

(1) EVALUATIONS.—For each project the Secretary shall provide for an evaluation to determine the effect of the project with respect to—

(A) access to, and costs of, health care,

(B) private health care insurance coverage, and

(C) premiums and cost-sharing.

(2) REPORTS.—The Secretary shall prepare and submit to Congress an interim report containing a summary of the evaluations under paragraph (1) not later than January 1, 1993, and a final report containing such summary together with such further recommendations as the Secretary may determine appropriate not later than January 1, 1995.

(g) DEFINITIONS.—In this section:

(1) The term "income official poverty line" means such line as defined by the Office of Management and Budget and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(2) The term "project" refers to a demonstration project under subsection (a).

(3) The term "Secretary" means the Secretary of Health and Human Services.

By Mr. GLENN:

S. 2951. A bill to amend title 31 of the United States Code to more effectively control the availability of appropriations accounts; to the Committee on Governmental Affairs.

CONTROLLING EXPIRED APPROPRIATIONS ACCOUNTS

Mr. GLENN. Mr. President, I suspect that most Senators have always assumed that if budget authority expires without being spent, the funds revert back to the Treasury and U.S. taxpayers benefit. Alas, once appropriated, authority to spend money never goes away. To paraphrase Douglas MacArthur, old appropriations never die—nor do they fade away. They

retire in the merged accounts to be used for a rainy day.

At the outset, I want to point out that M accounts are not just a Department of Defense problem, even though its been most recently discussed in that regard. Actually, while M account use applies in every department of government, most of my examples in this statement involve DOD.

I rise today to introduce a bill that is intended to correct a 34-year-old accounting practice that has gone awry.

The M accounts were established in 1956 to enable agencies to pay valid bills after the appropriations had expired. Before, the General Accounting Office used to review some 50,000 or more bills before they were paid, a process Congress eventually determined was too burdensome and for the most part unnecessary. Congress's solution was to allow expired budget authority to remain available to pay obligations.

Let me try to explain these accounts. When Congress authorizes appropriations for a program, it ordinarily makes the spending authority available for a set period of time. For example, operations and maintenance is available for obligation for 1 year; research and development, 2 years; procurement, 3 years; shipbuilding, 5 years. Take a procurement program. The Defense Department must obligate the funds within the 3 year period of availability. What happens if the contract takes, say, 6 or 7 years to perform? How do bills get paid after year 3? Congress met that problem with what are called "expired accounts." They contain obligated funds and stay open for 2 years after the period of availability ends so that agencies, like DOD, can pay bills. In the expired accounts, the funds keep their fiscal year and line item identity; this gives Congress a certain degree of control over their use. More on that later.

What happens after this 2 year period if the contract hasn't been closed yet? These obligated funds are transferred into the M account, where in it loses its fiscal year identity and merges with all the obligated balances from that particular account going back many years. DOD's M accounts contain over \$17 Billion. Once there, the authority remains available to pay the bills related to an existing obligation whenever it comes in.

Any unobligated balances from the same account, meanwhile, also merge after years into the merged surplus account. There too it loses its fiscal year identity. But, according to DOD, they continue to be segregated by line item. DOD has more than \$30 billion of budget authority in its merged surplus accounts.

The central purpose of this unobligated pool of expired budget authority is to be available to fund upward ad-

justments in programs in any account. In other words, it acts as an overdraft account for the M account. And it covers increases to these obligations without having to go through the normal appropriations or reprogramming processes. This is most often accomplished by changes within the scope of the contract.

The Air Force used this device to pay for \$500 million in extra work on the B-1B program. In fact, it was this specific move, about which I asked questions in a hearing, that illuminated the M account procedures and resulted in this legislative proposal.

I should note that recent changes require agency head approval for upward adjustments over \$4 million and notice to Congress for adjustments over \$25 million.

Reform legislation is needed for several important reasons.

First, the public can't help but think that these accounts are "slush funds." Calling them this might be an overstatement. Or maybe it's even erroneous. But try explaining to your constituents that \$50 billion worth of expired spending authority that can actually be tapped to pay for cost overruns—like on the B-1B program—is not a slush fund.

Second, Congress has less control over the use of these funds, recent reforms notwithstanding. Specifically, DOD can issue changes increasing the cost of a program above what Congress originally authorized and avoid coming back to Congress for approval by paying for them out of these accounts.

On top of that, the M account contains leftover funds from all the programs within the same appropriations account—for example, Navy aircraft procurement—going back many years. That means that DOD can use funds from one program to pay for cost overruns on another program. In an Armed Services hearing last spring, I discovered this use of funds and thought then, as I do now, that this just isn't right.

Perhaps the most important reason to reform these accounts is that their financial management is completely inadequate and there's little hope for improvement.

Over the years the financial management of the unliquidated—or unpaid—obligations in these lapsed accounts has left much to be desired. Far too many items languish in the accounts for too many years without any real management attention. What sort of items? Amounts set aside to settle contract bills that never materialize, erroneous obligations that result from uncorrected computer coding errors, and discrepancies in bills between agencies that are never reconciled and float together forever in the M account.

As the years pass, records are often lost, misplaced or sent to storage. This

makes it even harder to tell if the obligations are still needed.

Keep in mind: this enormous pool of unneeded obligations is also a pot of reserve spending authority that can be tapped at any time to fund any requirement from previous fiscal year programs. This is done simply by canceling an old and unneeded obligation and using the budget authority that comes free for the new requirement. While agency procedures generally require that items in these accounts be reviewed annually to be sure they are still needed, in practice, often these reviews are not done or not done well.

Recent reports by the Department of Defense and Agency for International Development inspectors general demonstrated very serious shortcomings in the financial management of the M accounts. The DOD IG noted systemic problems in the areas of reconciliation and validation, oversight and policy. Accounting data was found inadequate because of weak internal controls and poor record maintenance. An especially alarming conclusion of the IG was that weak controls make the M account vulnerable to misuse, particularly in the payment of old bills for which proper documentation has not been maintained. A House Appropriations Committee investigation found the same kind of problems in 1986.

The AID inspector general reported many of the same problems concerning that agency's unliquidated obligations. The inspector general found questionable certifications of unliquidated obligations by AID financial managers. Many obligations were included in the accounts that related to long expired loans, contracts and grants. Some had had no disbursements for more than 5 years. Many of the items tested had little supporting documentation to verify their accuracy and validity.

My bill addresses all of these issues by eliminating the M accounts and the merged surplus accounts. To some people, this would mean no more slush funds. To me, it means a lot less financial management headaches and a lot more congressional control over spending.

Our bill would also extend the current 2-year expired accounts period—which starts right after appropriations expire and are no longer available—to 5 years. These funds, which are kept by fiscal year and thus ensure a certain degree of control, will enable agencies to pay bills on multiyear programs. After 5 years are up, both the remaining obligated funds and unpaid obligated funds are rescinded. They are no longer available for any purpose.

The bill also requires that the accounts during this 5-year period be treated with the same level of scrutiny

and oversight and subject to the same limitations as current accounts.

The bill introduced today will also go a long way toward improving the integrity of these unliquidated obligation accounts. I believe this change will have a healthy effect on the management of these accounts. Agency managers and their contractors should be energized to get the old outstanding bills in and paid. Old invalid items will no longer remain in the accounts the way they now do today since the related budget authority will expire after 5 years. I believe the vast majority of obligations can with sound management be settled within 5 years. The bill does provide that items which come in after the 5-year period can, if otherwise proper, be paid from then current appropriations with certain limitations.

The Governmental Affairs Committee has scheduled a hearing on August 2, to hear from the GAO, OMB, and DOD witnesses on this and several other proposed solutions. I urge my colleagues to cosponsor my bill.

I ask unanimous consent that the text of my bill be printed in the RECORD at the end of my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2951

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 31.

Subchapter IV of chapter 15 of subtitle 2 of title 31, United States Code, is amended by striking sections 1552 through 1556 and inserting the following:

"§ 1552. Procedure for appropriation accounts available for definite periods

"(a) On September 30th of the 5th fiscal year after the period of availability of an appropriation account available for obligation for a definite period ends, the account is closed and any remaining obligated and unobligated balance is rescinded and thereafter shall not be available for obligation or expenditure for any purpose.

"(b) Collections authorized to be credited to an appropriation, but not received before closing of the account under subsection (a) or section 1555 of this title shall be deposited in the Treasury as miscellaneous receipts.

"§ 1553. Availability of appropriation accounts to pay obligations

"(a) After the end of the period of availability of an appropriation account available for a definite period and prior to closing of that account under section 1552(a) of this title, the account shall remain available for recording, adjusting, and liquidating obligations properly chargeable to that account.

"(b)(1) Subject to the provisions of paragraph (2), after closing of an account under section 1552(a) or section 1555 of this title, obligations and adjustments to obligations that would have been chargeable to that account prior to closing and that are not otherwise chargeable to current appropriations of the agency may be charged to current appropriations of the agency available for the same purpose.

"(2) The total of charges to any current account under paragraph (1) shall not exceed one percent of the total appropriations for that current account.

"(c)(1) Obligations under this section may be paid without prior action of the Comptroller General under regulations prescribed by the Comptroller General.

"(2) This subchapter does not—

"(A) relieve the Comptroller General of the duty to make decisions requested under law; or

"(B) affect the authority of the Comptroller General to settle claims and accounts.

"§ 1554. Audit, control, and reporting

"Any audit requirement, limitation on obligations, or reporting requirement that is applicable to an appropriation account shall remain applicable to that account after the end of the period of availability of that account.

"§ 1555. Closing of appropriation accounts available for indefinite periods

"An appropriation account available for an indefinite period shall be closed and any remaining obligated or unobligated balance shall be rescinded and thereafter shall not be available for obligation of expenditure for any purpose—

"(1) when the head of the agency concerned decided that the purposes for which the appropriation was made have been carried out; and

"(2) when no disbursement is made against the appropriation for 2 consecutive fiscal years.

"§ 1556. Comptroller General reports on appropriation accounts

"(a) In carrying out audit responsibilities, the Comptroller General shall report on operations under this subchapter to—

"(1) the head of the agency concerned;

"(2) the Secretary of the Treasury; and

"(3) the President.

"(b) A report under this section shall include an appraisal of unpaid obligations under appropriation accounts the period of availability of which has ended."

SEC. 2. EFFECTIVE DATE.

(a) APPLICATION OF AMENDMENTS.—The amendments made by section 1 of this Act shall apply to any appropriation account the obligated balance of which, on the date of enactment of this act, has not been transferred under section 1552(a)(1) of title 31, United States Code, in effect prior to enactment of this Act.

(b) RESTORATION OF CERTAIN UNOBLIGATED AMOUNTS.—On the date of enactment of this Act, the balance of any unobligated amount withdrawn under section 1552(a)(2) of title 31, United States Code, in effect prior to enactment of this Act, from an account the obligated balance of which has not been transferred under section 1552(a)(1) of title 31, United States Code, in effect prior to enactment of this Act, is hereby restored to that account.

(c) RESCISSION OF UNOBLIGATED BALANCES.—Thirty days after enactment of this Act, all balances of unobligated funds withdrawn from any account under subsection 1552(a)(2) of title 31, United States Code, in effect prior to enactment of this Act, (other than funds restored under subsection (b) of this section) are rescinded.

(d) RESCISSION OF OBLIGATED BALANCES.—On the 3rd September 30th after enactment of this Act, all obligated balances transferred under subsection 1552(a)(1) of title 31, United States Code, in effect prior to enactment of this Act, are rescinded.

(e) OBLIGATIONS AND ADJUSTMENT OF OBLIGATIONS.—(1) After rescission of unobligated balances under subsection (c) of this section or rescission of obligated balances under subsection (d) of this section and subject to the provisions of paragraph (2), obligations and adjustments to obligations that would have been chargeable to those balances prior to such rescissions and that are not otherwise chargeable to current appropriations of the agency may be charged to current appropriations of the agency available for the same purpose.

(2) Any charge made pursuant to paragraph (1) shall be subject to the maximum amount chargeable under subsection 1553(b) of title 31, United States Code, as amended by this Act, and shall be included in the calculation of the total amount charged to any account under that subsection.

ADDITIONAL COSPONSORS

S. 289

At the request of Mr. HARKIN, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 289, a bill to provide for the registration of foreign interests in U.S. property, and for other purposes.

S. 416

At the request of Mr. DOMENICI, the name of the Senator from Oklahoma [Mr. NICKLES] was added as a cosponsor of S. 416, a bill to provide that all Federal civilian and military retirees shall receive the full cost of living adjustment in annuities payable under Federal retirement systems for fiscal years 1990 and 1991, and for other purposes.

S. 543

At the request of Mr. SIMON, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 543, a bill to amend the Job Training Partnership Act to strengthen the program of employment and training assistance under that act, and for other purposes.

S. 994

At the request of Mr. METZENBAUM, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 994, a bill to amend the Clayton Act regarding interlocking directorates and officers.

S. 1224

At the request of Mr. BRYAN, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 1224, a bill to amend the Motor Vehicle Information and Cost Savings Act to require new standards for corporate average fuel economy, and for other purposes.

S. 1400

At the request of Mr. KASTEN, the name of the Senator from New Hampshire [Mr. HUMPHREY] was added as a cosponsor of S. 1400, a bill to regulate interstate commerce by providing for a uniform product liability law, and for other purposes.

S. 1651

At the request of Mr. McCAIN, the name of the Senator from New Mexico [Mr. DOMENICI] was added as a cosponsor of S. 1651, a bill to require the Secretary of the Treasury to mint coins in commemoration of the 50th anniversary of the U.N. organization.

S. 1808

At the request of Mr. BREAUX, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 1808, a bill to provide to amend section 468A of the Internal Revenue Code of 1986 with respect to deductions for decommissioning costs of nuclear powerplants.

S. 1812

At the request of Mr. COHEN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 1812, a bill to require the Secretary of Health and Human Services to conduct a study concerning the area health education center program and submit recommendations for the improvement of such program, and for other purposes.

S. 2009

At the request of Mr. CRANSTON, the name of the Senator from Maryland [Mr. MIKULSKI] was added as a cosponsor of S. 2009, a bill to limit the use of appropriated funds for the B-2 advanced technology bomber aircraft program.

S. 2039

At the request of Mr. COCHRAN, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 2039, a bill to improve the quality of student writing and learning, and the teaching of writing as a learning process in the Nation's classrooms.

S. 2044

At the request of Mr. BIDEN, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2044, a bill to require tuna products to be labeled respecting the method used to catch the tuna, and for other purposes.

S. 2209

At the request of Mr. HEINZ, the name of the Senator from Pennsylvania [Mr. SPECTER] was added as a cosponsor of S. 2209, a bill to amend the Internal Revenue Code of 1986 to provide that small life insurance companies need not amortize acquisition expenses for purposes of the minimum tax.

S. 2256

At the request of Mr. HARKIN, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from South Dakota [Mr. DASCHLE], the Senator from Montana [Mr. BURNS], and the Senator from North Carolina [Mr. SANFORD] were added as cosponsors of S. 2256, a bill to amend title XIX of the Public Health Service Act to clarify the provisions of the allotment for-

mula relating to urban and rural areas, and for other purposes.

S. 2590

At the request of Mr. THURMOND, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of S. 2590, a bill to amend title 10, United States Code, to authorize the appointment of chiropractors as commissioned officers in the Armed Forces to provide chiropractic care, and to amend title 37, United States Code, to provide special pay for chiropractic officers in the Armed Forces.

S. 2629

At the request of Mr. KENNEDY, the name of the Senator from Michigan [Mr. LEVIN] was added as a cosponsor of S. 2629, a bill to amend the Public Health Service Act to extend the immunization program for vaccine-preventable diseases, and for other purposes.

S. 2672

At the request of Mr. THURMOND, the names of the Senator from Missouri [Mr. BOND], the Senator from New Jersey [Mr. BRADLEY], and the Senator from Oklahoma [Mr. NICKLES] were added as cosponsors of S. 2672, a bill to establish a U.S. Marshals Foundation.

S. 2754

At the request of Mr. BIDEN, the names of the Senator from California [Mr. CRANSTON] and the Senator from Oregon [Mr. PACKWOOD] were added as cosponsors of S. 2754, a bill to combat violence and crimes against women on the streets and in homes.

S. 2762

At the request of Mr. HATFIELD, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 2762, a bill to facilitate the implementation of National Forest land and resource management plans and for other purposes.

S. 2806

At the request of Mr. HEINZ, the names of the Senator from Utah [Mr. GARN] and the Senator from Minnesota [Mr. BOSCHWITZ] were added as cosponsors of S. 2806, a bill to redesignate the Interstate Highway System as the Dwight D. Eisenhower Interstate Highway System.

S. 2809

At the request of Mr. SIMON, the names of the Senator from Arizona [Mr. DECONCINI], the Senator from Maryland [Ms. MIKULSKI], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 2809, a bill to amend the National Trails System Act to provide for the study and designation of the Underground Railroad Historic Trail.

S. 2813

At the request of Mr. GRAHAM, the names of the Senator from Oklahoma [Mr. BOREN] and the Senator from Vermont [Mr. JEFFORDS] were added as

cosponsors of S. 2813, a bill to authorize the minting of commemorative coins to support the training of American athletes participating in the 1992 Olympic games.

S. 2863

At the request of Mr. KENNEDY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2863, a bill to amend the Stewart B. McKinney Homeless Assistance Act and the Public Health Service Act to reauthorize certain health, education, training, and community services programs, and for other purposes.

S. 2946

At the request of Mr. KENNEDY, the names of the Senator from Illinois [Mr. SIMON] the Senator from Kansas [Mrs. KASSEBAUM], and the Senator from Wisconsin [Mr. KOHL] were added as cosponsors of S. 2946, a bill to amend the Public Health Service Act to revise and extend the program establishing the National Bone Marrow Donor Registry and for other purposes.

SENATE JOINT RESOLUTION 195

At the request of Mr. D'AMATO, the name of the Senator from Oklahoma [Mr. BOREN] was added as a cosponsor of Senate Joint Resolution 195, a joint resolution proclaiming Christopher Columbus to be an honorary citizen of the United States.

SENATE JOINT RESOLUTION 288

At the request of Mr. KASTEN, the names of the Senator from Alaska [Mr. STEVENS] the Senator from North Carolina [Mr. HELMS], and the Senator from Texas [Mr. BENTSEN] were added as cosponsors of Senate Joint Resolution 288, a joint resolution designating January 6, 1991, through January 12, 1991, as "National Law Enforcement Training Week."

SENATE JOINT RESOLUTION 298

At the request of Mr. THURMOND, the names of the Senator from Hawaii [Mr. AKAKA] and the Senator from Nebraska [Mr. EXON] were added as cosponsors of Senate Joint Resolution 298, a joint resolution to provide for the erection of a memorial in the Arlington National Cemetery to honor U.S. combat glider pilots of World War II.

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the name of the Senator from New Jersey [Mr. BRADLEY] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 327

At the request of Mr. MURKOWSKI, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of Senate Joint Resolution 327, a joint resolution designating September 21,

1990, as "National POW/MIA Recognition Day," and recognizing the National League of Families POW/MIA flag.

SENATE JOINT RESOLUTION 345

At the request of Mr. D'AMATO, the name of the Senator from Maryland [Ms. MIKULSKI] was added as a cosponsor of Senate Joint Resolution 345, a joint resolution designating August 20 through 26, 1990, as "National Headache and Jaw Disorders Week."

SENATE JOINT RESOLUTION 354

At the request of Mr. GLENN, the names of the Senator from New York [Mr. MOYNIHAN], the Senator from Illinois [Mr. DIXON], and the Senator from Delaware [Mr. BIDEN] were added as cosponsors of Senate Joint Resolution 354, a joint resolution designating November 18-24, 1990, and November 17-23, 1991, as "National Family Caregivers Week."

SENATE CONCURRENT RESOLUTION 141

At the request of Mr. KENNEDY, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of Senate Concurrent Resolution 141, a concurrent resolution expressing the sense of the Congress regarding the deteriorating human rights situation in Kenya.

SENATE RESOLUTION 317

At the request of Mr. KENNEDY, the names of the Senator from Oregon [Mr. HATFIELD], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Tennessee [Mr. SASSER], the Senator from Maryland [Ms. MIKULSKI], and the Senator from West Virginia [Mr. BYRD] were added as cosponsors of Senate Resolution 317, a resolution to commend Mr. Erich Bloch for his dedicated service as Director of the National Science Foundation.

At the request of Mr. DOMENICI, his name was added as a cosponsor of Senate Resolution 317, supra.

SENATE CONCURRENT RESOLUTION 143—RELATIVE TO CIGARETTE MARKETING

Mr. SIMON (for himself and Mr. HATFIELD) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. CON. RES. 143

Whereas the United States Government is a world leader in the promotion of international health;

Whereas the United States Government has recognized the health hazards of tobacco use and has implemented regulations to control tobacco use in the United States;

Whereas regulations to control tobacco use in the United States include a prohibition on radio and television advertising, an excise tax on tobacco products, health warnings on cigarette packages, and a ban on smoking on domestic airline flights;

Whereas tobacco products are the only known products that, if used as intended,

result in death for at least 25 percent of users;

Whereas each year 2,500,000 deaths worldwide are attributable to illnesses and injuries related to smoking;

Whereas the United States tobacco industry has responded to declining tobacco use in the United States with aggressive marketing practices abroad, leading to a doubling of United States cigarette exports since 1983 and making the United States the leading cigarette exporter in the world;

Whereas the United States Cigarette Export Association has filed petitions with the United States Trade Representative to force other countries to allow sales practices that are not permitted in the United States for public health reasons;

Whereas the United States Trade Representative has responded to these petitions by successfully negotiating with South Korea and Taiwan to accept the importation of United States cigarettes and the introduction of mass marketing, including television advertising;

Whereas a report by the General Accounting Office has attributed increased smoking rates in South Korea and Taiwan in part to "increased advertising since the introduction of United States cigarettes";

Whereas the most recent petition of the United States Cigarette Export Association has been filed against Thailand;

Whereas Thailand has been engaged in an anti-smoking campaign for the last 15 years to improve the public health of the people of Thailand;

Whereas the anti-smoking campaign in Thailand has led to a 6 percent decrease in smoking rates since 1981;

Whereas the anti-smoking campaign in Thailand has received broad support from Thai citizens, as demonstrated by the collection of 6,000,000 signatures on an anti-smoking petition in 1987, a figure that is equivalent to 10 percent of the total population of Thailand;

Whereas Thailand banned all direct or indirect forms of cigarette advertising on television, radio, and billboards and in newspapers, magazines, and all other printed material in 1988;

Whereas the advertising ban in Thailand predates United States Government efforts to force open the Thai cigarette market;

Whereas the United States Trade Representative asserts that the advertising ban in Thailand constitutes an unfair trade practice; and

Whereas efforts by the United States Trade Representative to force the Government of Thailand to repeal restrictions on the import of cigarettes would undermine the anti-smoking campaign and have a negative effect on the public health of the Thai people: Now therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the export of tobacco products from the United States is an international health issue rather than an international trade issue;

(2) the United States Government should not engage in negotiations to force Thailand to allow the importation of foreign cigarettes;

(3) the United States Government should not engage in negotiations to force Thailand to rescind laws banning the advertisement of cigarettes; and

(4) the United States Trade Representative should reject the current petition of the United States Cigarette Export Association

against Thailand and any future petition to require any other nation to accept practices regarding the sale of cigarettes that are not permitted in the United States.

● Mr. SIMON. Mr. President, I rise today to submit a concurrent resolution that requests the U.S. Trade Representative [USTR] to refrain from any further attempts to force open foreign markets to American cigarettes and overturn laws banning the advertisement of cigarettes. It is time that we recognize this is an issue of international health.

The U.S. Cigarette Export Association [USCEA] has petitioned the USTR to use its leverage to pressure the Thai Government to lift import restrictions on American cigarettes. The USTR has in the past successfully forced Japan, Taiwan, and South Korea to open their markets to American cigarettes. The USCEA wants our Trade Representatives to force other countries to allow sales practices that, for health reasons, are not permitted in the United States. The introduction of American cigarettes and cigarette advertising in Thailand would increase smoking and smoking related deaths, especially among women and youths.

As a recent GAO report found, the pressure placed on the Thai Government has resulted in a conflict in policy between United States trade policy and United States health objectives. The United States is a world leader in international health initiatives, but it is also the world's leading exporter of cigarettes. As the rate of smoking has declined within this country, cigarette companies have sought to replace American smokers with foreign customers. In the 1980's the smoking rate in industrialized countries has declined 1 percent per year, while the rate of smoking in developing countries has risen 2 percent per year.

In the Thailand case, the USCEA has convinced the Trade Representatives that the Thais' comprehensive ban on cigarette advertising should be rescinded. At a time when our Government is backing a huge antismoking campaign, it should not be pushing cigarettes on other nations, especially ones who are pursuing their own anti-smoking campaigns.

For these reasons, the increased export of cigarettes should be properly regarded as an issue of international health. While 2.5 million people die each year from smoking related causes, cigarette companies earn over \$2.5 billion per year from the export of their products. The U.S. Government should not be aggravating this health problem by using its formidable trade leverage on behalf of cigarette companies against countries such as Thailand.

I urge you to support this resolution that asks for our trade policy to be consistent with health objectives.●

AMENDMENTS SUBMITTED

SENATORIAL ELECTION CAMPAIGN ACT

DODD AMENDMENT NO. 2445

Mr. DODD (for himself, Mr. BYRD, Mr. SANFORD, Mr. LEAHY, Mr. DECONCINI, Mr. ROCKEFELLER, Mr. WIRTH, Mr. HEFLIN, Mr. LIEBERMAN, Mr. ROBB, Mr. ADAMS, Mr. KOHL, Mr. HARKIN, Mr. BRYAN, Mr. KERRY, Mr. KEVIN, Mr. LAUTENBERG, Mr. BINGAMAN, Mr. REID, Mr. SANFORD, Mr. HUMPHREY, Mr. PRESSLER, Mrs. KASSEBAUM, and Mr. GLENN) proposed an amendment, which was subsequently modified, to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill (S. 137) to amend the Federal Election Campaign Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes, as follows:

On page 107, line 25, strike the word "campaigning" and insert the following:

SEC. . UNIFORM HONORARIA AND INCOME LIMITATIONS FOR CONGRESS.

(a) ADMINISTRATION OF RULES AND REGULATIONS.—Section 503 of the Ethics in Government Act of 1978 (as in effect on January 1, 1991) is amended by—

(1) redesignating paragraphs (2) and (3) as paragraphs (3) and (4); and

(2) inserting after paragraph (1) the following:

"(2) and administered by the committee of the Senate assigned responsibility for administering the reporting requirements of title I with respect to Members, officers, and employees of the Senate;"

(b) DEFINITIONS.—Section 505 of the Ethics in Government Act of 1978 is amended—

(1) in paragraph (1) by inserting "a Senator or" after "means"; and

(2) in paragraph (2) by striking "(A)" and all that follows through "(B)".

(c) AMENDMENTS TO THE ETHICS REFORM ACT OF 1989.—Section 1101(b) of the Ethics Reform Act of 1989 is repealed and section 1101(c) is redesignated as section 1101(b).

(d) FEDERAL ELECTION CAMPAIGN ACT OF 1971.—Section 323 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441i) is repealed.

(e) SUPPLEMENTAL APPROPRIATIONS ACT, 1983.—Section 908 of the Supplemental Appropriations Act, 1983 (2 U.S.C. 31-1) is repealed.

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1991.

MOYNIHAN AMENDMENT NO. 2446

Mr. MOYNIHAN proposed an amendment to amendment No. 2432

(in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

On page 107, line 17, of the amendment strike "January 1, 1991" and insert the following: "January 1, 1991".

Section 501 of Public Law 101-194 is amended as follows:

In paragraph (1) of section 501(a) add the words "or unearned" after the word "earned".

In paragraph 2 of section 501(a) add the words "or unearned" after the word "earned".

WILSON AMENDMENT NO. 2447

Mr. WILSON proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

At the appropriate place, insert the following new section:

SEC. . APPROPRIATION LIMIT.

Notwithstanding any other provision of this Act, no payments shall be made in any fiscal year from the Senate Election Campaign Fund in accordance with paragraph (3) or (4) of section 504(a) unless the amount appropriated to carry out section 509F of the Public Health Service Act (42 U.S.C. 290aa-13) exceeds \$100,000,000 in the fiscal year.

EXON (AND OTHERS) AMENDMENT NO. 2448

Mr. EXON (for himself, Mr. KERREY, Mr. KOHL, and Mr. LEVIN) proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

On page 26, line 12, after the word "fund" strike the ";" and insert: " provided such fund will be established exclusively with monies derived from income tax refunds due the person or additional amounts included with the person's return and not from any income tax liability owed by the person to the Treasury;"

BOREN AMENDMENT NO. 2449

Mr. BOREN proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

On page 26, line 12, after the word "fund" strike the ";" and insert: " it is the sense of the Senate that such fund will be established exclusively with moneys derived from income tax refunds due the person or additional amounts included with the person's return and not from any income tax liability owed by the person to the Treasury;"

MCCAIN AMENDMENT NO. 2450

Mr. MCCAIN proposed an amendment, which was subsequently modified, to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

On page 9, strike lines 12 through 14.

On page 16, beginning with line 6, strike all through page 19, line 20.

On page 38, strike lines 5 through 20, and insert:

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to elections occurring after the date of the enactment of this Act.

DOMENICI AMENDMENT NO. 2451

Mr. DOMENICI proposed an amendment, which was subsequently modified, to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

On page 68, after line 19, add the following, and renumber subsequent sections accordingly.

SEC. 212. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) CHANGE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "\$1,000" and inserting "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 223(b), is amended by adding at the end thereof the following new paragraph:

"(10) For purposes of subsection (a)(1)(A) the term 'applicable amount' means—

"(i) \$1,000 in the case of contributions by a person to—

"(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

"(II) any other candidate or such candidate's authorized committees if at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

"(ii) \$250 in the case of contributions by any other person to a candidate described in clause (i)(II) or such candidate's authorized committees."

DOLE (AND SIMPSON) AMENDMENT NO. 2452

Mr. DOLE (for himself and Mr. SIMPSON) proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, supra, as follows:

In lieu of the matter proposed to be inserted, insert:

SECTION 1. SHORT TITLE; AMENDMENT OF FECA.

(a) SHORT TITLE.—This Act may be cited as the "Comprehensive Campaign Finance Reform Act of 1990".

(b) AMENDMENT OF FECA.—When used in this Act, the term "FECA" means the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.).

TITLE I—REDUCTION OF SPECIAL INTEREST INFLUENCE

Subtitle A—Senate Election Fundraising Targets

SEC. 101. SENATE ELECTION FUNDRAISING TARGETS.

FECA is amended by adding at the end thereof the following new title:

"TITLE V—SENATE ELECTION FUNDRAISING TARGETS

"DEFINITIONS

"Sec. 501. For purposes of this title—

"(1) except as otherwise provided in this title, the definitions under section 301 shall apply for purposes of this title insofar as such definitions relate to elections to the office of United States Senator;

"(2) the term 'bipartisan commission' means the commission appointed pursuant to section 506;

"(3) the term 'eligible candidate' means a candidate for the Senate who has made a filing under section 502 and who has not exceeded the limitations described in section 504;

"(4) the term 'general election period' means, with respect to any candidate, the period beginning on the day after the date of the primary or runoff election for the specific office the candidate is seeking, whichever is later, and ending on the earlier of—

"(A) the date of such general election; or
 "(B) the date on which the candidate withdraws from the campaign or otherwise ceases actively to seek election;

"(5) the term 'voting age population' means the resident population, 18 years of age or older, as certified pursuant to section 315(e).

"VOLUNTARY ACCEPTANCE OF TARGETS

"SEC. 502. A candidate for the Senate shall be eligible to receive the benefits described in section 503 if the candidate files with the Commission, at any time prior to the date of the general election, a statement that the candidate has not exceeded the fundraising targets under section 504 for any primary or runoff election and will not exceed such targets for the general election.

"BENEFITS TO ELIGIBLE CANDIDATES

"SEC. 503. REDUCED BROADCAST RATES.—An eligible candidate shall be entitled to the reduced broadcast rates under section 315(b) of the Communications Act of 1934.

"FUNDRAISING TARGETS

"SEC. 504. (a) GENERAL ELECTION TARGET.—An eligible candidate shall not accept contributions for a general election in excess of the lesser of—

- "(1) \$5,500,000; or
- "(2) the greater of—
- "(A) \$950,000; or
- "(B) \$400,000 plus

"(i) 30 cents multiplied by the voting age population in the candidate's State not in excess of 4,000,000; and

"(ii) 25 cents multiplied by the voting age population of the candidate's State in excess of 4,000,000.

"(b) PRIMARY ELECTION TARGET.—An eligible candidate shall not accept contributions for a primary election in excess of the lesser of—

- "(1) 67 percent of the general election target under subsection (a); or
- "(2) \$2,750,000.

"(c) RUNOFF ELECTION TARGET.—An eligible candidate shall not accept contributions for a runoff election in excess of 20 percent of the general election target under subsection (a).

"(d) EXEMPT CONTRIBUTIONS.—There shall not be counted against the fundraising targets of an eligible candidate contributions by—

- "(1) an individual who at the time a contribution is made is a resident of the candidate's State; or
- "(2) an individual not described in paragraph (1) who makes contributions of no more than \$250 in the aggregate to any one candidate per election.

"(e) INDEXING.—The amount otherwise determined under subsection (a) shall be increased as of the beginning of each calendar year based on the increase in the price index determined under section 315(c), except that for the purposes of this section, the base period shall be the calendar year in which the first general election after the date of enactment of this Act occurs.

"(c) During any period specified in subsection (b)(1)—

"ACTION BY THE COMMISSION

"SEC. 505. The Commission shall—

"(1) issue regulations implementing this title not later than 120 days after the date of enactment of this title; and

"(2) thereafter, provide to an eligible candidate an advisory opinion concerning the application of this title within 30 days after the date on which the eligible candidate submits a request for an advisory opinion.

"REPORT BY BIPARTISAN COMMISSION

"SEC. 506. (a) APPOINTMENT.—The majority leader and minority leader of the House of Representatives and the majority leader and minority leader of the Senate shall each appoint 2 persons to serve on a bipartisan commission to conduct the study and make the report required by subsection (b).

"(b) STUDY AND REPORT.—The bipartisan commission shall—

"(1) study the effects of this title on Senate election campaign spending and the cost of campaigns during the 2 general elections for the Senate following the date of enactment of this title; and

"(2) report its findings to the majority leader and minority leader of the House of Representatives and the majority leader and minority leader of the Senate on or before the date that is 5 years after the date of enactment of this Act.

"EFFECTIVE DATES

"SEC. 508. (a) IN GENERAL.—This title shall be effective with respect to Senate election campaigns beginning on the day after the date of the general election in 1990 and ending on the date of the general election in 1996.

"(b) CONTRIBUTIONS RECEIVED PRIOR TO DATE OF ENACTMENT.—Contributions made to or received by an eligible candidate on or prior to the date of enactment of this title shall not be counted against the targets specified in section 504.

"(c) RELATIONSHIP TO OTHER TITLES.—The provisions of titles 1 through 4 shall remain in effect with respect to Senate election campaigns affected by this title except to the extent that those provisions are inconsistent with this title."

(b) AMENDMENT OF COMMUNICATIONS ACT.—Section 315 of the Communications Act of 1934 (47 U.S.C. 315) is amended—

(1) in subsection (b)—

(A) by inserting "(1)" before "The charges";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end thereof the following new paragraph:

"(2) In the case of a candidate for the Senate who is an eligible candidate (as defined in section 501(3) of the Federal Election Campaign Act of 1971), during a general election period (as defined in section 501(4) of the Federal Election Campaign Act of 1971), paragraph (1)(A) shall be applied without regard to the phrase 'class and';"

(2) by redesignating subsections (c) and (d) as subsections (e) and (f), respectively; and

(3) by inserting after subsection (b) the following new subsections:

"(c) During any period specified in subsection (b)(1)—

"(1) a licensee shall not preempt the use of a broadcasting station by an eligible candidate (as defined in section 501(3) of the Federal Election Campaign Act of 1971) who has purchased such use pursuant to subsection (b)(1);

"(2) a licensee shall not deny the use of a broadcasting station by an eligible candidate (as defined in section 501(3) of the Federal Election Campaign Act of 1971) who seeks to purchase reasonable amounts of time in, around, or adjacent to any programs aired by the station; and

"(3) a licensee shall certify, under penalty of perjury, that the charges made for the use of a broadcasting station by an eligible candidate (as defined in section 501(3) of the Federal Election Campaign Act of 1971) are at the lowest unit charge of the station for the same amount of time for the same period.

"(d) The Commission shall monitor compliance with this section with timely auditing of licensees' records relating to use, and requests for use, of broadcast stations by candidates."

Subtitle B—Ban on Political Action Committees

SEC. 102. BAN ON ACTIVITIES OF POLITICAL ACTION COMMITTEES IN FEDERAL ELECTIONS.

(a) IN GENERAL.—Title III of FECA (2 U.S.C. 301 et seq.) is amended by adding at the end thereof the following new section:

"BAN ON FEDERAL ELECTION ACTIVITIES BY POLITICAL ACTION COMMITTEES

"SEC. 324. Notwithstanding any other provision of this Act, no person other than an individual or a political committee may make contributions, solicit or receive contributions, or make expenditures for the purpose of influencing an election for Federal office."

(b) DEFINITION OF POLITICAL COMMITTEE.—(1) Paragraph (4) of section 301 of FECA (2 U.S.C. 431(4)) is amended to read as follows:

"(4) The term 'political committee' means—

"(A) the principal campaign committee of a candidate;

"(B) any national, State, or district committee of a political party, including any subordinate committee thereof;

"(C) any local committee of a political party which—

"(i) receives contributions aggregating in excess of \$5,000 during a calendar year;

"(ii) makes payments exempted from the definition of contribution or expenditure under paragraph (8) or (9) aggregating in excess of \$5,000 during a calendar year; or

"(iii) makes contributions or expenditures aggregating in excess of \$1,000 during a calendar year; and

"(D) any committee jointly established by a principal campaign committee and any committee described in subparagraph (B) or (C) for the purpose of conducting joint fundraising activities."

(2) Section 316(b)(2) of FECA (2 U.S.C. 441b(b)(2)) is amended by striking subparagraphs (B) and (C).

(c) CANDIDATE'S COMMITTEES.—(1) Section 315(a) of FECA (2 U.S.C. 441a(a)) is amended by adding at the end thereof the following new paragraph:

"(9) For the purposes of the limitations provided by paragraphs (1) and (2), any political committee which is established or financed or maintained or controlled by any candidate or Federal officeholder shall be

deemed to be an authorized committee of such candidate or officeholder."

(2) Section 302(e)(3) of FECA (2 U.S.C. 432) is amended to read as follows:

"(3) No political committee that supports or has supported more than one candidate may be designated as an authorized committee, except that—

"(A) a candidate for the office of President nominated by a political party may designate the national committee of such political party as the candidate's principal campaign committee, but only if that national committee maintains separate books of account with respect to its functions as a principal campaign committee; and

"(B) a candidate may designate a political committee established solely for the purpose of joint fundraising by such candidates as an authorized committee."

(d) RULES APPLICABLE WHEN BAN NOT IN EFFECT.—For purposes of the Federal Election Campaign Act of 1971, during any period in which the limitation under section 324 of such Act (as added by subsection (a)) is not in effect—

(1) the amendments made by subsections (a) and (b) shall not be in effect; and

(2) it shall be unlawful for any person that—

(A) is treated as a political committee by reason of paragraph (1); and

(B) is not directly or indirectly established, administered, or supported by a connected organization which is a corporation, labor organization, or trade association,

to make contributions to any candidate or the candidate's authorized committee for any election aggregating in excess of \$1,000.

(3) it shall be unlawful for a multicandidate political committee to make a contribution with respect to any election to the candidate, or the candidate's authorized committees to the extent such contribution would cause the aggregate amount of such contribution * * *

Subtitle C—Ban on Soft Money in Federal Elections

SEC. 111. BAN ON SOFT MONEY.

Section 315 of FECA (2 U.S.C. 441a) is amended by adding at the end thereof the following new subsection:

"(1) BAN ON SOFT MONEY.—(1) It shall be unlawful for the purpose of influencing any election to Federal office—

"(A) to solicit or receive any soft money;

or

"(B) to make any payments from soft money.

"(2) For purposes of paragraph (1), the term 'soft money' means any amount—

"(A) solicited or received from a source which is prohibited under section 316(a);

"(B) contributed, solicited, or received in excess of the contribution limits under section 315; or

"(C) not subject to the recordkeeping, reporting, or disclosure requirements under section 304 or any other provision of this Act."

SEC. 112. RESTRICTIONS ON PARTY COMMITTEES.

(a) DISCLOSURE OF INFORMATION BY POLITICAL COMMITTEE.—(1) Subsection (c) of section 302 of FECA (2 U.S.C. 432(c)) is amended by striking "and" at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(6) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account."

(2) Subsection (b) of section 304 of FECA (2 U.S.C. 434(b)) is amended by striking "and" at the end of paragraph (7), by striking the period at the end of paragraph (8) and inserting "; and", and by adding at the end thereof the following new paragraph:

"(9) each account maintained by a political committee of a political party (including Federal and non-Federal accounts), and deposits into, and disbursements from, each such account."

(b) ALLOCATION OF EXPENDITURES FOR MIXED ACTIVITIES.—Title III of FECA, as amended by section 101(a), is amended by adding at the end thereof the following new section:

"REQUIRED ALLOCATION OF CONTRIBUTIONS AND EXPENDITURES FOR MIXED ACTIVITIES BY POLITICAL PARTY COMMITTEES

"SEC. 325. (a) REGULATIONS REQUIRING ALLOCATION FOR MIXED ACTIVITIES.—Not later than 180 days after the date of the enactment of this section, the Commission shall issue regulations providing for a method for allocating the contributions and expenditures for any mixed activity between Federal and non-Federal accounts.

"(b) GUIDELINES FOR ALLOCATION.—(1) The regulations issued under subsection (a) shall—

"(A) provide for the allocation of contributions and expenditures in accordance with this subsection; and

"(B) require reporting under this Act of expenditures in connection with a mixed activity to disclose—

"(i) the method and rationale used in allocating the cost of the mixed activity to Federal and non-Federal accounts; and

"(ii) the amount and percentage of the cost of the mixed activity allocated to such accounts.

"(2) In the case of a mixed activity that consists of a voter registration drive, get-out-the-vote drive, or other activity designed to contact voters (other than an activity to which paragraph (3) or (4) applies), amounts shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than—

"(A) 33 1/3 percent of the total amount in the case of the national committee of a political party; or

"(B) 25 percent of the total amount in the case of a State or local committee of a political party or any subordinate committee thereof.

"(3) In the case of a mixed activity that consists of preparing and distributing brochures, handbills, slate cards, or other printed materials identifying or seeking support of (or opposition to) candidates for both Federal offices and non-Federal offices, amounts shall be allocated on the basis of total space devoted to such candidates, except that in no event shall the amounts allocated to the Federal account be less than the percentages under subparagraph (A) or (B) of paragraph (2).

"(4)(A) In the case of a mixed activity by a national committee of a political party that consists of broadcast media advertising (or any portion thereof) that promotes (or is in opposition to) a political party without mentioning the name of any individual candidate for Federal office or non-Federal office, amounts allocated to the Federal account shall not be less than—

"(i) 50 percent of the total amount in the case of advertising in the national media market; and

"(ii) 40 percent in the case of advertising in other than the national media market.

"(B) In the case of a mixed activity by a State or local committee of a political party or any subordinate committee thereof that consists of broadcast media advertising (or any portion thereof) described in subparagraph (A), costs shall be allocated on the basis of the composition of the ballot for the political jurisdiction in which the activity occurs, except that in no event shall the amounts allocated to the Federal account be less than 33 1/3 percent of the total amount.

"(5) Overhead and fundraising costs of a political committee of a political party for each 2-calendar year period ending with the calendar year in which a regularly scheduled election for Federal office occurs shall be allocated to the Federal account on the basis of the same ratio which—

"(A) the aggregate amount of receipts and disbursements of such political committee during such period in connection with elections for Federal office, bears to

"(B) the aggregate amount of receipts and disbursements of such political committee during such period.

"(c) MIXED ACTIVITY.—(1) For purposes of this section, the term 'mixed activity' means an activity the expenditures in connection with which are required under this Act to be allocated between Federal and non-Federal accounts because such activity affects 1 or more elections for Federal office and 1 or more non-Federal elections.

"(2) Activities under paragraph (1) include—

"(A) voter registration drives, get-out-the-vote drives, telephone banks, and membership communications in connection with elections for Federal offices and elections for non-Federal offices;

"(B) general political advertising, brochures, or other materials that include any reference (however incidental) to both a candidate for Federal office and a candidate for non-Federal office, or that urge support for or opposition to a political party or to all the candidates of a political party;

"(C) overhead expenses; and

"(D) activities described in clauses (v), (x), and (xii) of section 301(8)(B).

"(d) ACCOUNTS.—For purposes of this section—

"(1) the term 'Federal account' means an account to which receipts and disbursements are allocated to elections for Federal offices; and

"(2) the term 'non-Federal account' means an account to which receipts and disbursements are allocated to elections other than non-Federal offices."

SEC. 113. PROTECTION FOR EMPLOYEES.

(a) CONTRIBUTIONS TO ALL POLITICAL COMMITTEES INCLUDED.—Paragraph (2) of section 316(b) of FECA (2 U.S.C. 441b(b)(2)) is amended by inserting "political committee," after "campaign committee."

(b) APPLICABILITY OF REQUIREMENTS TO LABOR ORGANIZATIONS.—Section 316(b) of FECA (2 U.S.C. 441b(b)) is amended by adding at the end thereof the following new paragraph:

"(8)(A) Subparagraphs (A), (B), and (C) of paragraph (2) shall not apply to a labor organization unless the organization meets the requirements of subparagraphs (B), (C), and (D).

"(B) The requirements of this subparagraph are met only if the labor organization provides, at least once annually, to all employees within the labor organization's bargaining unit or units (and to new employees

within 30 days after commencement of their employment) written notification presented in a manner to inform any such employee—

"(i) that an employee cannot be obligated to pay, through union dues or any other mandatory payment to a labor organization, for the political activities of the labor organization, including, but not limited to, the maintenance and operation of, or solicitation of contributions to, a political committee, political communications to members, and voter registration and get-out-the-vote campaigns;

"(ii) that no employee may be required actually to join any labor organization, but if a collective bargaining agreement covering an employee purports to require membership or payment of dues or other fees to a labor organization as a condition of employment, the employee may elect instead to pay an agency fee to the labor organization;

"(iii) that the amount of the agency fee shall be limited to the employee's pro rata share of the cost of the labor organization's exclusive representation services to the employee's collective bargaining unit, including collective bargaining, contract administration, and grievance adjustment;

"(iv) that an employee who elects to be a full member of the labor organization and pay membership dues is entitled to a reduction of those dues by the employee's pro rata share of the total spending by the labor organization for political activities;

"(v) that the cost of the labor organization's exclusive representation services, and the amount of spending by such organization for political activities, shall be computed on the basis of such cost and spending for the immediately preceding fiscal year of such organization; and

"(vi) of the amount of the labor organization's full membership dues, initiation fees, and assessments for the current year; the amount of the reduced membership dues, subtracting the employee's pro rata share of the organization's spending for political activities, for the current year; and the amount of the agency fee for the current year.

"(C) The requirements of this subparagraph are met only if, for purposes of verifying the cost of such labor organization's exclusive representation services, the labor organization provides all represented employees an annual examination by an independent certified public accountant of financial statements supplied by such organization which verify the cost of such services; except that such examination shall, at a minimum, constitute a 'special report' as interpreted by the Association of Independent Certified Public Accountants.

"(D) The requirements of this subparagraph are met only if the labor organization—

"(i) maintains procedures to promptly determine the costs that may properly be charged to agency fee payors as costs of exclusive representation, and explains such procedures in the written notification required under subparagraph (B); and

"(ii) if any person challenges the costs which may be properly charged as costs of exclusive representation—

"(I) provides a mutually selected impartial decisionmaker to hear and decide such challenge pursuant to rules of discovery and evidence and subject to de novo review by the National Labor Relations Board or an applicable court; and

"(II) places in escrow amounts reasonably in dispute pending the outcome of the challenge.

"(E)(i) A labor organization that does not satisfy the requirements of subparagraphs (B), (C), and (D) shall finance any expenditures specified in subparagraphs (A), (B), or (C) of paragraph (2) only with funds legally collected under this Act for its separate segregated fund.

"(ii) For purposes of this paragraph, subparagraph (A) of paragraph (2) shall apply only with respect to communications expressly advocating the election or defeat of any clearly identified candidate for elective public office."

SEC. 114. RESTRICTIONS ON SOFT MONEY ACTIVITIES OF TAX-EXEMPT ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax) is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following new subsection:

"(n) DENIAL OF TAX-EXEMPT STATUS FOR ACTIVITIES TO INFLUENCE A FEDERAL ELECTION.—An organization shall not be treated as exempt from tax under subsection (a) if such organization participates or intervenes in any political campaign on behalf of or in opposition to any candidate for Federal office."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any participation or intervention by an organization on or after September 1, 1990.

SEC. 115. DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.

(a) IN GENERAL.—Section 501 of the Internal Revenue Code of 1986 (relating to exemption from tax), as amended by section 114, is amended by redesignating subsection (o) as subsection (p) and by inserting after subsection (n) the following new subsection:

"(o) DENIAL OF TAX-EXEMPT STATUS FOR CERTAIN POLITICALLY ACTIVE ORGANIZATIONS.—

"(1) IN GENERAL.—An organization shall not be treated as exempt from tax under subsection (a) if—

"(A) such organization devotes any of its operating budget to—

"(i) voter registration or get-out-the-vote campaigns; or

"(ii) participation or intervention in any political campaign on behalf of or in opposition to any candidate for public office; and

"(B) a candidate, or an authorized committee of a candidate, has—

"(i) solicited contributions to, or on behalf of, such organization; and

"(ii) the solicitation is made in cooperation, consultation, or concert with, or at the request or suggestion of, such organization.

"(2) CANDIDATE DEFINED.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'candidate' has the meaning given such term by paragraph (2) of section 301 of the Federal Election Campaign Act of 1971 (2 U.S.C. 431(2)).

"(B) MEMBERS OF CONGRESS.—The term 'candidate' shall include any Senator or Representative in, or Delegate or Resident Commissioner to, the Congress unless—

"(i) the date for filing for nomination, or election to, such office has passed and such individual has not so filed; and

"(ii) such individual is not otherwise a candidate described in subparagraph (A)."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after the date of enactment of this Act, but only with respect to solicitations or suggestions by candidates made after the date of the enactment of this Act.

SEC. 116. CONTRIBUTIONS TO CERTAIN POLITICAL ORGANIZATIONS MAINTAINED BY A CANDIDATE.

(a) CONTRIBUTIONS BY PERSONS IN GENERAL AND BY MULTICANDIDATE POLITICAL COMMITTEES.—(1) Section 315(a)(1)(A) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "candidate and his authorized political committees" and inserting "candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,".

(2) Section 315(a)(2)(A) of FECA (2 U.S.C. 441a(a)(2)(A)) is amended by striking "candidate and his authorized political committees" and inserting "candidate, a candidate's authorized political committees, and any political organizations (other than authorized committees) maintained by a candidate,".

(3) Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 101(c), is amended by inserting at the end thereof the following new paragraph:

"(10) For the purposes of paragraphs (1)(A) and (2)(A), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

"(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

"(B) for which that candidate has solicited a contribution."

(b) CONTRIBUTIONS BY NATIONAL BANKS, CORPORATIONS, AND LABOR ORGANIZATIONS.—

(1) Section 316(b)(2) of the FECA (2 U.S.C. 441b(b)(2)) is amended by striking "candidate, campaign committee" and inserting "candidate, political organization (other than an authorized committee) maintained by a candidate, campaign committee,".

(2) Section 316(b) of FECA (2 U.S.C. 441b(b)), as amended by section 113(b), is amended by inserting at the end thereof the following new paragraph:

"(9) For the purposes of paragraph (2), the term 'political organization maintained by a candidate' means any non-Federal political action committee, non-Federal multicandidate political committee, or any other form of political organization regulated under State law which is not a political committee of a national, State, or local political party—

"(A) that is set up by or on behalf of a candidate and engages in political activity which directly influences Federal elections; and

"(B) for which that candidate has solicited a contribution."

(c) DATE OF APPLICATION.—The amendments made by subsections (a) and (b) shall apply to contributions described in sections 315 and 316 of FECA (2 U.S.C. 441a and 441b) made in response to solicitations made after January 24, 1990.

Subtitle D—Other Activities

SEC. 121. MODIFICATIONS OF CONTRIBUTION LIMITS ON INDIVIDUALS.

(a) INCREASE IN CANDIDATE LIMIT.—Subparagraph (A) of section 315(a)(1) of FECA (2 U.S.C. 441a(a)(1)(A)) is amended by striking "\$1,000" and inserting "the applicable amount".

(b) APPLICABLE AMOUNT DEFINED.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by section 116(a)(3), is amended by

adding at the end thereof the following new paragraph:

"(11) For purposes of subsection (a)(1)(A)—

"(A) The term 'applicable amount' means—

"(i) \$1,000 in the case of contributions by a person to—

"(I) a candidate for the office of President or Vice President or such candidate's authorized committees; or

"(II) any other candidate or such candidate's authorized committees if, at the time such contributions are made, such person is a resident of the State with respect to which such candidate seeks Federal office; and

"(ii) \$500 in the case of contributions by any other person to a candidate described in clause (i)(II) or such candidate's authorized committees.

"(B) At the beginning of 1991 and each odd-numbered calendar year thereafter, the Secretary of Labor shall certify in the same manner as under subsection (c)(1) the percent difference between the price index for the preceding calendar year and the price index for calendar year 1989. Each of the dollar limits under subparagraph (A) shall be increased by such percent difference and rounded to the nearest \$100. Each amount so increased shall be the amount in effect for the calendar year for which determined and the succeeding calendar year."

SEC. 122. POLITICAL PARTIES.

(a) ITEMS NOT TREATED AS CONTRIBUTIONS OR EXPENDITURES.—(1) Section 301(8)(B) of FECA (2 U.S.C. 431(8)(B)) is amended—

(A) in clauses (x) and (xii), by inserting "national," after "the payment by a"; and

(B) in clause (xii), by inserting "general research activities," after "the costs of".

(2) Section 301(9)(B) of FECA (2 U.S.C. 431(9)(B)) is amended—

(A) in clauses (viii) and (ix), by inserting "national," after "the payment by a"; and

(B) in clause (ix), by inserting "general research activities," after "the costs of".

(b) AGGREGATE LIMITS NOT TO APPLY TO PARTY COMMITTEES.—Section 315(a)(3) of FECA (2 U.S.C. 441a(a)(3)) is amended by inserting "to political committees which are not established and maintained by a national, State, or local political party" after "\$25,000 in any calendar year".

SEC. 123. CONTRIBUTIONS THROUGH INTERMEDIARIES AND CONDUITS.

Section 315(a)(8) of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a(a)(8)) is amended to read as follows:

"(8) For purposes of this subsection—

"(A) Contributions made by a person, either directly or indirectly, to or on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate.

"(B) If a contribution is made by a person either directly or indirectly to or on behalf of a particular candidate through an intermediary or conduit, the intermediary or conduit shall report the original source and the intended recipient of such contribution to the Commission and to the intended recipient.

"(C) No conduit or intermediary shall deliver or arrange to have delivered contributions from more than 2 persons who are employees of the same employer or who are members of the same trade association, membership organization, or labor organization.

"(D) No person required to register with the Clerk of the House of Representatives or the Secretary of the Senate under section 308 of the Federal Regulation of Lobbying Act (2 U.S.C. 267), or an officer, employee or agent of such a person, may act as an intermediary or conduit with respect to a contribution to a candidate for Federal office."

SEC. 124. INDEPENDENT EXPENDITURES.

(a) ATTRIBUTION OF COMMUNICATIONS; REPORTS.—(1) Section 318 of FECA (2 U.S.C. 441d) is amended by adding at the end thereof the following new subsection:

"(c)(1) If any person makes an independent expenditure through a broadcast communication on any television or radio station, the broadcast communication shall include a statement—

"(A) in such television broadcast, that is clearly readable to the viewer and appears continuously during the entire length of such communication; or

"(B) in such radio broadcast, that is clearly audible to the viewer and is aired at the beginning and ending of such broadcast,

setting forth the name of such person and, in the case of a political committee, the name of any connected or affiliated organization.

"(2) If any person makes an independent expenditure through a newspaper, magazine, outdoor advertising facility, direct mailing, or other type of general public political advertising, the communication shall include, in addition to the other information required by this section—

"(A) the following sentence: 'The cost of presenting this communication is not subject to any campaign contribution limits.'; and

"(B) a statement setting forth the name of the person who paid for the communication and, in the case of a political committee, the name of any connected or affiliated organization, and the name of the president or treasurer of such organization.

"(3) Any person making an independent expenditure described in paragraph (1) or (2) shall furnish, by certified mail, return receipt requested, the following information, to each candidate and to the Commission, not later than the date and time of the first public transmission of the communication:

"(A) Effective notice that the person plans to make an independent expenditure for the purpose of financing a communication which expressly advocates the election or defeat of a clearly identified candidate.

"(B) An exact copy of the intended communication, or a complete description of the contents of the intended communication, including the entirety of any texts to be used in conjunction with such communication, and a complete description of any photographs, films, or any other visual devices to be used in conjunction with such communication.

"(C) All dates and times when such communication will be publicly transmitted."

(2) Section 318(a) of FECA (2 U.S.C. 441d(a)) is amended by striking "Whenever" and inserting "Except as provided in subsection (c), whenever".

(b) DEFINITION OF INDEPENDENT EXPENDITURE.—Paragraph (17) of section 301 of FECA (2 U.S.C. 431(17)) is amended—

(1) by striking "(17) The term" and inserting "(17)(A) The term"; and

(2) by adding at the end thereof the following new subparagraph:

"(B) For the purpose of subparagraph (A), an expenditure shall be considered to be made in cooperation, consultation, or con-

cert with, or at the request or suggestion of, a candidate, authorized committee, or agent, if there is any arrangement, coordination, or direction by the candidate or the candidate's agent prior to the publication, distribution, display, or broadcast of a communication, and it shall be presumed to be so made when it is—

"(i) based on information about the candidate's plans, projects, or needs provided to the person making the expenditure by the candidate, or by the candidate's agents, with a view toward having an expenditure made; or

"(ii) made by or through any person who is, or has been—

"(I) authorized to raise or expend funds on behalf of the candidate or the candidate's authorized committees;

"(II) serving as an officer of the candidate's authorized committees; or

"(III) providing professional services to, or receiving any form of compensation or reimbursement from, the candidate, the candidate's committee, or agent."

(c) HEARINGS ON COMPLAINTS.—Section 309(a) of FECA (2 U.S.C. 437g(a)) is amended by adding at the end thereof the following new paragraph:

"(13) Within 3 days after the Commission receives a complaint filed pursuant to this section which alleges that an independent expenditure was made with the cooperation or consultation of a candidate, or an authorized committee or agent of such candidate, or was made in concert with or at the request or suggestion of an authorized committee or agent of such candidate, the Commission shall provide for a hearing to determine such matter."

(d) EXPEDITED JUDICIAL REVIEW.—Section 310 of the FECA (2 U.S.C. 437h) is amended by adding at the end thereof the following new sentence: "It shall be the duty of the courts to advance on the docket and to expedite to the greatest possible extent the disposition of any matter relating to the making or alleged making of an independent expenditure."

TITLE II—INCREASE OF COMPETITION IN POLITICS

SEC. 201. SEED MONEY FOR CHALLENGERS.

Section 315 of FECA (2 U.S.C. 441a), as amended by section 111, is amended by adding at the end thereof the following new subsection:

"(j)(1) Notwithstanding subsection (a)(2), the congressional campaign committee or the senatorial campaign committee of a national political party, whichever is applicable, may make contributions to an eligible candidate (and the candidate's authorized committees) which in the aggregate do not exceed the lesser of—

"(A) \$100,000; or

"(B) the aggregate qualified matching contributions received by such candidate and the candidate's authorized committees.

"(2) Any contribution under paragraph (1) shall not be treated as an expenditure for purposes of subsection (d)(3).

"(3) For purposes of this subsection, the term 'qualified matching contributions' means contributions made during the period of the election cycle preceding the primary election by an individual who, at the time such contributions are made, is a resident of the State in which the election with respect to which such contributions are made is to be held.

"(4) For purposes of this subsection, the term 'eligible candidate' means a candidate for Federal office (other than President or

Vice President) who does not hold Federal office."

SEC. 202. USE OF CAMPAIGN FUNDS.

Section 313 of FECA (2 U.S.C. 439a) is amended by inserting "(a)" before "Amounts" and inserting at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), a holder of Federal office may not transfer any amounts received as contributions or other campaign funds to any account maintained for purposes of defraying ordinary and necessary expenses in connection with the duties of such Federal office."

SEC. 203. CANDIDATE EXPENDITURES FROM PERSONAL FUNDS.

(a) Section 315 of FECA (2 U.S.C. 441a), as amended by section 201, is amended by adding at the end thereof the following new subsection:

"(k)(1)(A) Not less than 15 days after a candidate qualifies for a primary election ballot under State law, the candidate shall file with the Commission, and each other candidate who has qualified for that ballot, a declaration stating whether the candidate intends to expend for the primary and general election an amount exceeding \$250,000 from—

"(i) the candidate's personal funds;
 "(ii) the funds of the candidate's immediate family; and
 "(iii) personal loans incurred by the candidate and the candidate's immediate family in connection with the candidate's election campaign.

"(B) The declaration required by subparagraph (A) shall be in such form and contain such information as the Commission may require by regulation.

"(2) Notwithstanding subsection (a), if a candidate—

"(A) declares under paragraph (1) that the candidate intends to expend for the primary and general election funds described in such paragraph an amount exceeding \$250,000;

"(B) expends such funds in the primary and general election an amount exceeding \$250,000; or

"(C) fails to file the declaration required by paragraph (1),

the limitations on contributions under subsection (a), and the limitations on expenditures under subsection (d), shall be modified as provided under paragraph (3) with respect to other candidates for the same office who are not described in subparagraph (A), (B), or (C).

"(3) For purposes of paragraph (2)—
 "(A) the limitation under subsection (a)(1)(A) shall be increased to \$5,000; and
 "(B) if a candidate described in paragraph (2)(B) expends more than \$1,000,000 of funds described in paragraph (1) in the primary and general election—

"(i) the limitation under subsection (a)(1)(A) shall not apply;

"(ii) the limitation under subsection (a)(2) shall not apply to any political committee of a political party; and
 "(iii) the limitation under subsection (d)(3) shall not apply.

The \$5,000 amount under subparagraph (A) shall be adjusted each calendar year in the same manner as amounts are adjusted under subsection (a)(11)(B).

"(4) If—
 "(A) the modifications under paragraph (3) apply for a convention or a primary election by reason of 1 or more candidates taking (or failing to take) any action described in subparagraph (A), (B), or (C) of paragraph (2); and

"(B) such candidates are not candidates in any subsequent election in the same election campaign, including the general election,

paragraph (3) shall cease to apply to the other candidates in such campaign.

"(5) A candidate who—
 "(A) declares, pursuant to paragraph (1), that the candidate does not intend to expend funds described in paragraph (1) in excess of \$250,000; and
 "(B) subsequently changes such declaration or expends such funds in excess of that amount,

shall file an amended declaration with the Commission and notify all other candidates for the same office within 24 hours after changing such declaration or exceeding such limits, whichever first occurs, by sending a notice by certified mail, return receipt requested.

"(6) Contributions to a candidate or a candidate's authorized committees may be used to repay any expenditure or personal loan incurred in connection with the candidate's election to Federal office by a candidate or a member of the candidate's immediate family only to the extent that such repayment—
 "(A) is limited to the amount of such expenditure or the principal amount of such loan (and no interest is paid); and
 "(B) is not made from any such contributions received after the date of the general election to which such expenditure or loan relates.

"(7) For purposes of this subsection, the term 'immediate family' means—
 "(A) a candidate's spouse;
 "(B) any child, stepchild, parent, grandparent, brother, half-brother, sister, or half-sister of the candidate or the candidate's spouse; and
 "(C) the spouse of a person described in subparagraph (B).

"(8) The Commission shall take such action as it deems necessary under the enforcement provisions of this Act to ensure compliance with this subsection."

SEC. 204. FRANKED COMMUNICATIONS.

(a) AMENDMENT OF TITLE 39, UNITED STATES CODE.—(1) Section 3210(a)(6)(A) of title 39, United States Code is amended—

(A) by striking clause (i) and inserting the following new clause:

"(i) if the mass mailing is mailed during the calendar year of any primary or general election (whether regular or runoff) in which the Member is a candidate for reelection; or"; and

(B) in clause (ii)(II), by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(2) Section 3210(a)(6)(C) of title 39, United States Code, is amended by striking "fewer than 60 days immediately before the date" and inserting "during the year".

(3) Section 3210(a)(6) of title 39, United States Code, is amended—

(A) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (G), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i)(I) When a Member of the Senate disseminates information under the frank by a mass mailing, the Member shall register annually with the Secretary of the Senate such mass mailings. Such registration shall be made by filing with the Secretary of the Senate a copy of the matter mailed and providing, on a form supplied by the Secretary of the Senate, a description of

the group or groups of persons to whom the mass mailing was mailed.

"(II) The Secretary of the Senate shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

"(ii)(I) When a Member of the House of Representatives disseminates information under the frank by a mass mailing, the Member shall register annually with the Clerk of the House of Representatives such mass mailings. Such registration shall be made by filing with the Clerk of the House of Representatives a copy of the matter mailed and providing, on a form supplied by the Clerk of the House of Representatives, a description of the group or groups of persons to whom the mass mailing was mailed.

"(II) The Clerk of the House of Representatives shall promptly make available for public inspection and copying a copy of the mail matter registered and a description of the group or groups of persons to whom the mass mailing was mailed."

(b) AMENDMENT OF STANDING RULES OF THE SENATE.—(1) Paragraph 1 of Rule XL of the Standing Rules of the Senate is amended by striking "less than sixty days immediately before the date" and inserting "during the year".

(2) This subsection is enacted—
 (A) as an exercise of the rulemaking power of the Senate; and

(B) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

SEC. 205. LIMITATIONS ON GERRYMANDERING.

(a) REAPPORTIONMENT OF REPRESENTATIVES.—Section 22 of the Act entitled "An Act to provide for the fifteenth and subsequent decennial censuses and to provide for apportionment of Representatives in Congress," approved June 18, 1929 (2 U.S.C. 2a), is amended—

(1) by striking subsection (c); and
 (2) by adding at the end thereof the following new subsections:

"(c)(1) In each State entitled in the One Hundred Third Congress or in any subsequent Congress to more than one Representative under an apportionment made pursuant to the second paragraph of the Act entitled 'An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting', approved December 14, 1967 (2 U.S.C. 2c), as in effect prior to the date of enactment of this subsection, there shall be established in the manner provided by the law of the State a number of districts equal to the number of Representatives to which such State is so entitled, and Representatives shall be elected only by eligible voters from districts so established, no district to elect more than 1 Representative.

"(2) Such districts shall be established in accordance with the provisions of this Act as soon as practicable after the decennial census date established in section 141(a) of title 13, United States Code, but in no case later than such time as is reasonably sufficient for their use in the elections for the One Hundred Third Congress and in each fifth Congress thereafter.

"(d)(1) The number of persons in congressional districts within each State shall be as nearly equal as is practicable, as determined under the then most recent decennial census.

"(2) The enumeration established according to the Federal decennial census pursuant to article I, section II, United States Constitution, shall be the sole basis of population for the establishment of congressional districts.

"(e) Congressional districts shall be comprised of contiguous territory, including adjoining insular territory.

"(f) Congressional districts shall not be established with the intent or effect of diluting the voting strength of any person, group of persons, or members of any political party.

"(g) Congressional districts shall be compact in form. In establishing such districts, nearby population shall not be bypassed in favor of more distant population.

"(h) Congressional district boundaries shall avoid the unnecessary division of counties or their equivalent in any State.

"(i) Congressional district boundaries shall be established in such a manner so as to minimize the division of cities, towns, villages, and other political subdivisions.

"(j)(1) It is the intent of the Congress that congressional districts established pursuant to this section be subject to reasonable public scrutiny and comment prior to their establishment.

"(2) At the same time that Federal decennial census tabulations data, reports, maps, or other material or information produced or obtained using Federal funds and associated with the congressional reapportionment and redistricting process are made available to any officer or public body in any State, those materials shall be made available by the State at the cost of duplication to any person from that State meeting the qualifications for voting in an election of a Member of the House of Representatives.

"(k) Nothing in this section shall be construed to supersede any provision of the Voting Rights Act of 1965 (42 U.S.C. 1973 et seq.).

"(l)(1) A State may establish by law criteria for implementing the standards set forth in this section.

"(2) Nothing in this section shall be construed as limiting the power of a State to strengthen or add to the standards set forth in this section, or to interpret those standards in a manner consistent with the law of the State, to the extent that any additional criteria or interpretations are not in conflict with this section."

"(m)(1) The district courts of the United States shall have exclusive jurisdiction to hear and determine any action to enforce subsections (c) through (l).

"(2) A person who meets a State's qualifications for voting in an election of a Member of the House of Representatives from the State may bring an action in the district court for the district in which the person resides to enforce subsections (c) through (l) with regard to the State in which the person resides.

"(3) Notwithstanding any other provision of this section, the district courts of the United States shall have authority to issue all judgments, orders, and decrees necessary to ensure that any criteria established by State law pursuant to this section are not in conflict with this section.

"(4) With the exception of actions brought for the relief described in paragraph (3), the district court for the purposes of this section shall be a three-judge district court pursuant to section 2284 of title 28, United States Code.

"(5) On motion of any party in accordance with section 1657 of title 28, United States

Code, it shall be the duty of the district court to assign the case for briefing and hearing at the earliest practicable date, and to cause the case to be in every way expedited. The district court shall have authority to enter all judgments, orders and decrees necessary to bring a State into compliance with this Act.

"(6) An action to challenge the establishment of a congressional district in a State after a Federal decennial census may not be brought after the end of the 9-month period beginning on the date on which the last such district is so established.

"(7) For the purposes of this section, an order dismissing a complaint for failure to state a cause of action shall be appealable in accordance with section 1253 of title 28, United States Code.

"(8) If a district court fails to establish a briefing and hearing schedule that will permit resolution of the case prior to the next general election, any party may seek a writ of mandamus from the United States Court of Appeals for the circuit in which the district court sits. The court of appeals shall have jurisdiction over the motion for a writ of mandamus and shall establish an expedited briefing and hearing schedule for resolution of the motion. Such a motion shall not stay proceedings in the district court.

"(9) If a district court determines that the congressional districts established by a State's redistricting authority pursuant to this Act are not in compliance with this Act, the court shall remand the plan to the State's redistricting authority to establish new districts consistent with subsections (c) through (l). The district court shall retain jurisdiction over the case after remand.

"(10) If, after a remand under paragraph (9), the district court determines that the congressional districts established by a State's redistricting authority under the remand order are not consistent with subsections (c) through (l), the district court shall enter an order establishing districts that are consistent with subsections (c) through (l) for the next general congressional election.

"(11) If any question of State law arises in a case under this section that would require abstention, the district court shall not abstain. However, in any State permitting certification of such questions, the district court shall certify the question to the highest court of the State whose law is in question. Such certification shall not stay the proceedings in the district court or delay the court's determination of the question of State law.

"(12) With the exception of actions brought for the relief described in paragraph (3), an appeal from a decision of the district court under this section shall be taken in accordance with section 1253 of title 28, United States Code. An appeal under this paragraph shall be noticed in the district court and perfected by docketing in the Supreme Court within thirty days of the entry of judgment below. Appeals brought to the Supreme Court under this paragraph shall be heard as soon as practicable.

"(13) For purposes of this section, the term "redistricting authority" means the officer or public body having initial responsibility for the congressional redistricting of a State."

(b) CONFORMING AMENDMENTS AND REPEAL.—(1) The first sentence of section 1657 of title 28, United States Code, is amended by striking "chapter 153 or" and inserting

"chapter 153, any action under subsection (m) through (l) of section 22 of the Act entitled 'An Act to provide for the fifteenth and subsequent censuses and to provide for apportionment of Representatives in Congress,' approved June 18, 1929 (2 U.S.C. 2a), or".

(2) Section 141(c) of title 13, United States Code, is amended by adding at the end thereof the following: "In circumstances in which this subsection requires that the Secretary provide criteria to, consult with, or report tabulations of population to (or if the Secretary for any reason provides material or information to) the public bodies having responsibility for the legislative apportionment or districting of a State, the Secretary shall provide, without cost, such criteria, consultations, tabulations, or other material or information simultaneously to the leadership of each political party represented on such public bodies. For purposes of this subsection, the term 'political party' means any political party whose candidates for Representatives to Congress received, as the candidates of such party, 5 percent or more of the total number of votes received statewide by all candidates for such office in any of the 5 most recent general congressional elections. Such materials may include those developed by the Census Bureau for redistricting purposes for the 1990 Census."

(3) The second paragraph of the Act entitled "An Act for the relief of Doctor Ricardo Vallejo Samala and to provide for congressional redistricting", approved December 14, 1967 (2 U.S.C. 2c), is repealed.

SEC. 206. ELECTION FRAUD, OTHER PUBLIC CORRUPTION, AND FRAUD IN INTERSTATE COMMERCE.

(a) ELECTION FRAUD AND OTHER PUBLIC CORRUPTION.—(1) Chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 225. Public corruption

"(a) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the honest services of an official or employee of such State, political subdivision, or Indian tribal government shall be fined under this title, or imprisoned for not more than 10 years, or both.

"(b) Whoever, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of a fair and impartially conducted election process in any primary, runoff, special, or general election—

"(1) through the procurement, casting, or tabulation of ballots that are materially false, fictitious, or fraudulent or that are invalid, under the laws of the State in which the election is held;

"(2) through paying or offering to pay any person for voting;

"(3) through the procurement or submission of voter registrations that contain false material information, or omit material information; or

"(4) through the filing of any report required to be filed under State law regarding an election campaign that contains false material information or omits material information,

shall be fined under this title or imprisoned for not more than 10 years, or both.

"(c) Whoever, being a public official or an official or employee of a State, political subdivision of a State, or Indian tribal government, in a circumstance described in subsection (d), deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of a State or political subdivision of a State of the right to have the affairs of the State, political subdivision, or Indian tribal government conducted on the basis of complete, true, and accurate material information, shall be fined under this title or imprisoned for not more than 10 years, or both.

"(d) The circumstances referred to in subsections (a), (b), and (c) are that—

"(1) for the purpose of executing or concealing such scheme or artifice or attempting to do so, the person so doing—

"(A) places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing;

"(B) transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce any writings, signs, signals, pictures, or sounds;

"(C) transports or causes to be transported any person or thing, or induces any person to travel in or to be transported in, interstate or foreign commerce; or

"(D) uses or causes to use of any facility of interstate or foreign commerce;

"(2) the scheme or artifice affects or constitutes an attempt to affect in any manner or degree, or would if executed or concealed so affect, interstate or foreign commerce; or

"(3) as applied to an offense under subsection (b), an objective of the scheme or artifice is to secure the election of an official who, if elected, would have some authority over the administration of funds derived from an Act of Congress totaling \$10,000 or more during the twelve-month period immediately preceding or following the election or date of the offense.

"(e) Whoever deprives or defrauds, or endeavors to deprive or to defraud, by any scheme or artifice, the inhabitants of the United States of the honest services of a public official or person who has been selected to be a public official shall be fined under this title or imprisoned for not more than 10 years, or both.

"(f) Whoever, being an official, public official, or person who has been selected to be a public official, directly or indirectly discharges, demotes, suspends, threatens, harasses, or in any manner discriminates against an employee or official of the United States or any State or political subdivision of a State, or endeavors to do so, in order to carry out or to conceal any scheme or artifice described in this section, shall be fined under this title or subject to imprisonment of up to 5 years or both.

"(g)(1) An employee or official of the United States or any State or political subdivision of such State who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against because of lawful acts done by the employee as a result of a violation of subsection (e) or because of actions by the employee or official on behalf of himself or others in furtherance of a prosecution under this section (including investigation for, initiation of,

testimony for, or assistance in such a prosecution) may bring a civil action and shall be entitled to all relief necessary to make such employee or official whole. Such relief shall include reinstatement with the same seniority status that the employee or official would have had but for the discrimination, 3 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including reasonable litigation costs and reasonable attorney's fees.

"(2) An individual shall not be entitled to relief under paragraph (1) if the individual participated in the violation of this section with respect to which relief is sought.

"(3) A civil action brought under paragraph (1) shall be stayed by a court upon the certification of an attorney for the Government, stating that the action may adversely affect the interests of the Government in a current criminal investigation or proceeding. The attorney for the Government shall promptly notify the court when the stay may be lifted without such adverse effects.

"(h) For purposes of this section—

"(1) the term 'State' means a State of the United States, the District of Columbia, Puerto Rico, and any other commonwealth, territory, or possession of the United States;

"(2) the terms 'public official' and 'person who has been selected to be a public official' have the meaning set forth in section 201 and shall also include any person acting or pretending to act under color of official authority;

"(3) the term 'official' includes—

"(A) any person employed by, exercising any authority derived from, or holding any position in an Indian tribal government or the government of a State or any subdivision of the executive, legislative, judicial, or other branch of government thereof, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established and subject to control by a government or governments for the execution of a governmental or intergovernmental program;

"(B) any person acting or pretending to act under color of official authority; and

"(C) includes any person who has been nominated, appointed or selected to be an official or who has been officially informed that he or she will be so nominated, appointed or selected;

"(4) the term 'under color of official authority' includes any person who represents that the person controls, is an agent of, or otherwise acts on behalf of an official, public official, and person who has been selected to be a public official; and

"(5) the term 'uses any facility of interstate or foreign commerce' includes the intrastate use of any facility that may also be used in interstate or foreign commerce."

"(2)(A) The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end thereof the following item:

"225. Public Corruption."

"(B) Section 1961(1) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (relating to sports bribery)."

"(C) Section 2516(1)(c) of title 18, United States Code, is amended by inserting "section 225 (relating to public corruption)," after "section 224 (bribery in sporting contests)."

(b) FRAUD IN INTERSTATE COMMERCE.—(1) Section 1343 of title 18, United States Code, is amended—

(A) by striking "transmits or causes to be transmitted by means of wire, radio, or television communication in interstate or foreign commerce, any writings, signs, signals, pictures, or sounds" and inserting "uses or causes to be used any facility of interstate or foreign commerce"; and

(B) by inserting "or attempting to do so" after "for the purpose of executing such scheme or artifice".

"(2)(A) The heading of section 1343 of title 18, United States Code, is amended to read as follows:

"§ 1343. Fraud by use of facility of interstate commerce."

(B) The chapter analysis for chapter 63 of title 18, United States Code, is amended by striking the analysis for section 1343 and inserting the following:

"1343. Fraud by use of facility of interstate commerce."

TITLE III—MISCELLANEOUS PROVISIONS

Subtitle A—Federal Election Commission Enforcement Authority

SEC. 301. ELIMINATION OF REASON TO BELIEVE STANDARD.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)) is amended—

(1) by inserting "(A)" after "(2)"; and

(2) by striking the first sentence and inserting the following: "Except as otherwise provided in subparagraph (B), if the Commission, upon receiving a complaint under paragraph (1) or on the basis of information ascertained in the normal course of carrying out its supervisory responsibilities determines, by an affirmative vote of 4 of its members, that an allegation of a violation or from pending violation of this Act or chapter 95 or 96 of the Internal Revenue Code of 1986 states a claim of violation that would be sufficient under the standard applicable to a motion under rule 12(b)(6) of the Federal Rules of Civil Procedure, the Commission shall, through its chairman or vice chairman, notify the person of the alleged violation. Such vote shall occur within 90 days after receipt of such complaint."

SEC. 302. INJUNCTIVE AUTHORITY.

Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 401, is amended by adding at the end thereof the following new subparagraph:

"(B) The Commission may petition the appropriate court for an injunction if—

"(i) the Commission believes that there is a substantial likelihood that a violation of this Act or of chapter 95 or 96 of the Internal Revenue Code of 1986 is occurring or is about to occur;

"(ii) the failure to act expeditiously will result in irreparable harm to a party affected by the potential violation;

"(iii) such expeditious action will not cause undue harm or prejudice to the interests of others; and

"(iv) the public interest would be best served by the issuance of an injunction."

SEC. 303. TIME PERIODS.

Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended—

(1) in clause (i) by—

(A) striking "for a period of at least 30 days," and

(B) striking "90 days" and inserting "60 days"; and

(2) in clause (ii) by striking "at least" and inserting "no more than".

SEC. 304. KNOWING VIOLATION PENALTIES.

Section 309(a)(5)(B) of FECA (2 U.S.C. 437g(a)(5)(B)) is amended by striking "may require that the person involved in such conciliation agreement shall pay a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of \$5,000 or an amount equal to any contribution or expenditure involved in such violation, except that if the Commission believes that a knowing and willful violation of this Act or of chapter 95 or chapter 96 of the Internal Revenue Code of 1986 has been committed during the 15-day period immediately preceding any election, a conciliation agreement entered into by the Commission under paragraph (4)(A) shall require that the person involved in such conciliation agreement shall pay a civil penalty which is not less than the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation."

SEC. 305. COURT RESOLVED VIOLATIONS AND PENALTIES.

Section 309(a)(6) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(6)) is amended—

- (1) in subparagraph (A) by—
 - (A) striking "Commission may" and inserting "Commission shall";
 - (B) striking "including" and inserting "which shall include"; and
 - (C) striking "which does not exceed the greater of \$5,000 or an amount equal to any" and inserting "which equals the greater of \$10,000 or an amount equal to 200 percent of any"; and
- (2) in subparagraph (B) by—
 - (A) striking "court may" and inserting "court shall"; and
 - (B) striking "including" and inserting "which shall include"; and
 - (C) striking "which does not exceed the greater of \$5,000 or an amount equal to any" and inserting "which equals the greater of \$10,000 or an amount equal to 200 percent of any".

SEC. 306. PRIVATE CIVIL ACTIONS.

Section 309(a)(6)(A) of FECA (2 U.S.C. 437g(a)(6)(A)), as amended by section 405, is amended—

- (1) by inserting "(i)" after "(6)(A)"; and
- (2) by adding at the end thereof the following new clause:

"(ii) If, by a tie vote, the Commission does not vote to institute a civil action pursuant to clause (i), the candidate involved in such election, or an individual authorized to act on behalf of such candidate, may file an action for appropriate relief in the district court for the district in which the respondent is found, resides, or transacts business. If the court determines that a violation has occurred, the court shall impose the appropriate civil penalty. Any such award of a civil penalty made under this paragraph shall be made in favor of the United States. In addition to any such civil penalty, the court shall award to the prevailing party in any action under this paragraph, all attorneys' fees and actual costs reasonably incurred in the investigation and pursuit of any such action, including those attorneys' fees and costs reasonably incurred in bringing or defending the proceeding before the Commission."

SEC. 307. KNOWING VIOLATIONS RESOLVED IN COURT.

Section 309(a)(6)(C) of FECA (2 U.S.C. 437g(a)(6)(C)) is amended by striking "may impose a civil penalty which does not exceed the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation" and inserting "shall impose a civil penalty which is not less than the greater of \$10,000 or an amount equal to 200 percent of any contribution or expenditure involved in such violation, except that if such violation was committed during the 15-day period immediately preceding the election, the court shall impose a civil penalty which is not less than the greater of \$15,000 or an amount equal to 300 percent of any contribution or expenditure involved in such violation".

SEC. 308. ACTION ON COMPLAINT BY COMMISSION.

Section 309(a)(8)(A) of FECA (2 U.S.C. 437g(a)(8)(A)) is amended—

- (1) by striking "act on" and inserting "reasonably pursue";
- (2) by striking "120-day" and inserting "60-day"; and
- (3) by striking "United States District Court for the District of Columbia" and inserting "appropriate court".

SEC. 309. VIOLATION OF CONFIDENTIALITY REQUIREMENT.

Section 309(a)(12)(B) of FECA (2 U.S.C. 437g(a)(12)(B)) is amended—

- (1) by striking "\$2,000" and inserting "\$5,000"; and
- (2) by striking "\$5,000" and inserting "\$10,000".

SEC. 310. PENALTY IN ATTORNEY GENERAL ACTIONS.

Section 309(d)(1)(A) of FECA (2 U.S.C. 437g(d)(1)(A)) is amended by striking "exceed" and inserting "be less than".

SEC. 311. AMENDMENTS RELATING TO ENFORCEMENT AND JUDICIAL REVIEW.

(a) TIME LIMITATIONS FOR AND INDEX OF INVESTIGATIONS.—Section 309(a) of FECA (2 U.S.C. 437g(a)), as amended by section 124, is amended by adding at the end thereof the following new paragraphs:

"(14) The Commission shall establish time limitations for investigations under this subsection.

"(15) The Commission shall publish an index of all investigations under this section and shall update the index quarterly."

(b) PROCEDURE ON INITIAL DETERMINATION.—Section 309(a)(2) of FECA (2 U.S.C. 437g(a)(2)), as amended by section 402, is amended by adding at the end thereof the following: "Before a vote based on information ascertained in the normal course of carrying out supervisory responsibilities, the person alleged to have committed the violation shall be notified of the allegation and shall have the opportunity to demonstrate, in writing, to the Commission within 15 days after notification that no action should be taken against such person on the basis of the information. Prior to any determination, the Commission may request voluntary responses to questions from any person who may become the subject of an investigation. A determination under this paragraph shall be accompanied by a written statement of the reasons for the determination."

(c) PROCEDURE ON PROBABLE CAUSE DETERMINATION.—(1) Section 309(a)(3) of FECA (2 U.S.C. 437g(a)(3)) is amended by adding at the end thereof the following: "The Commission shall make available to a respondent any documentary or other evidence relied on by the general counsel in making a recommendation under this subsection. Any brief or report by the general counsel that

replies to the respondent's brief shall be provided to the respondent."

(2) Section 309(a)(4)(A) of FECA (2 U.S.C. 437g(a)(4)(A)) is amended by adding at the end thereof the following new clauses:

"(iii) A determination under clause (i) shall be made only after opportunity for a hearing upon request of the respondent and shall be accompanied by a statement of the reasons for the determination.

"(iv) The Commission shall not require that any conciliation agreement under this paragraph contain an admission by the respondent of a violation of this Act or any other law."

(d) ELIMINATION OF EN BANC HEARING REQUIREMENT.—Section 310 of FECA (2 U.S.C. 437h), as amended by section 124(d), is amended by striking "which shall hear the matter sitting en banc".

SEC. 312. TIGHTENING ENFORCEMENT.

(a) REPEAL OF PERIOD OF LIMITATION.—Section 406 of FECA (2 U.S.C. 455) is repealed.

(b) SUPPLYING OF INFORMATION TO THE ATTORNEY GENERAL.—Section 309(a)(12) of the Federal Election Campaign Act of 1971 (2 U.S.C. 437g(a)(12)(A)) is amended by adding at the end thereof the following new subparagraph:

"(C) Nothing in this section shall be deemed to prohibit or prevent the Commission from making information contained in compliance files available to the Attorney General, at the Attorney General's request, in connection with an investigation or trial."

Subtitle B—Other Provisions

SEC. 321. DISCLOSURE OF DEBT SETTLEMENT AND LOAN SECURITY AGREEMENTS.

Section 304(b) of FECA (2 U.S.C. 434(b)), as amended by section 112, is amended by striking "and" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting a semicolon, and by adding at the end thereof the following new paragraphs:

"(10) for the reporting period, the terms of any settlement agreement entered into with respect to a loan or other debt, as evidenced by a copy of such agreement filed as part of the report; and

"(11) for the reporting period, the terms of any security or collateral agreement entered into with respect to a loan, as evidenced by a copy of such agreement filed as part of the report."

SEC. 322. CONTRIBUTIONS FOR DRAFT AND ENCOURAGEMENT PURPOSES WITH RESPECT TO ELECTIONS FOR FEDERAL OFFICE.

(a) DEFINITION.—Section 301(8)(A) of FECA (2 U.S.C. 431(8)(A)) is amended by striking "or" after the semicolon at the end of clause (i), by striking the period at the end of clause (ii) and inserting "; and", and by adding at the end thereof the following new clause:

"(iii) any gift, subscription, loan, advance, or deposit of money or anything of value made by any person for the purpose of drafting a clearly identified individual as a candidate for Federal office or encouraging a clearly identified individual to become a candidate for Federal office."

(b) DRAFT AND ENCOURAGEMENT CONTRIBUTIONS TO BE TREATED AS CANDIDATE CONTRIBUTIONS.—Section 315(a) of FECA (2 U.S.C. 441a(a)), as amended by this Act, is amended by adding at the end thereof the following new paragraph:

"(12) For purposes of paragraph (1)(A) and paragraph (2)(A), any contribution described in section 301(8)(A)(iii) shall be treated, with respect to the individual in-

volved, as a contribution to a candidate, whether or not the individual becomes a candidate."

SEC. 323. SEVERABILITY.

If any provision of this Act or any amendment made by this Act, or the application of any such provision to any person or circumstance is held invalid, the validity of any other such provision, and the application of such provision to other persons and circumstances shall not be affected thereby.

SEC. 324. EFFECTIVE DATE.

Except as otherwise provided in this Act, this Act and the amendments made by this Act shall become effective on November 7, 1990 and shall apply to all contributions and expenditures made after that date.

SEC. 325. STATEMENT OF COSTS AND RELATED EXPENSES OF CONGRESSIONAL MASS MAILINGS.

(a) **SENATE.**—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Sergeant at Arms and Doorkeeper of the Senate shall send to each Senator a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Senator during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the Senate. A compilation of all such statements shall be sent to the Committee on Rules and Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the semiannual Report of the Secretary of the Senate. The summary tabulation shall set forth for each Senator the following information: the Senator's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and the cost of such mail divided by the total population of the State from which the Senator was elected.

(b) **HOUSE OF REPRESENTATIVES.**—Two weeks after the close of each calendar quarter, or as soon as practicable thereafter, the Commission on Congressional Mailing Standards of the House of Representatives shall send to each Member of the House of Representatives a statement of the cost of postage and paper and of the other operating expenses incurred as a result of mass mailings processed for such Member during such quarter. The statement shall separately identify the cost of postage and paper and other costs, and shall distinguish the costs attributable to newsletters and all other mass mailings. The statement shall also include the total cost per capita in the district from which such Member was elected. A compilation of all such statements shall be sent to the House Committee on House Administration. A summary tabulation of such information shall be published quarterly in the Congressional Record and included in the quarterly Report of the Clerk of the House. The summary tabulations shall set forth for each Member of the following information: the Member's name, the total number of pieces of mass-mail mailed during the quarter, the total cost of such mail, and the number of pieces and cost of such mail divided by the total population of the district from which the Member was elected.

SEC. 326. RESTRICTIONS ON FRANKED CONGRESSIONAL MASS MAILINGS EXCEEDING APPROPRIATED FUNDS.

Section 3216(c) of title 39, United States Code, is amended by inserting "(1)" after "(c)" and by adding at the end thereof the following new paragraph:

"(2)(A) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the Senate during that year have exhausted the amount appropriated for use by the Senate, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the Senate during the remainder of that fiscal year, unless additional funds are appropriated for use by the Senate and paid to the Postal Service.

"(B) If, at any time during a fiscal year, the Postal Service determines that the postage on and fees and charges in connection with matter mailed under the frank by the House of Representatives during that year have exhausted the amount appropriated for use by the House of Representatives, then no more mass mailings (as defined in section 3210(a)(6)(E)) may be mailed by any Member of the House of Representatives during the remainder of that fiscal year, unless additional funds are appropriated for use by the House of Representatives and paid to the Postal Service."

SEC. 327. TRANSFERS OF OFFICIAL MAIL COSTS.

(a) **PROHIBITION OF TRANSFERS TO CANDIDATES.**—(1) During any fiscal year in which appropriations for official mail costs of the Senate are allocated among offices of the Senate, no such office may transfer any of its allocation to the office of a Member of the Senate who is a candidate for Federal office.

(2) During any fiscal year in which appropriations for official mail costs of the House of Representatives are allocated among offices of the House of Representatives, no such office may transfer any of its allocation to the office of a Member of the House of Representatives who is a candidate for Federal office.

(b) **REPORTING AND PUBLICATION.**—(1)(A) Each office of the Senate that transfers or receives a transfer of an official mail cost allocation to or from another Senate office shall report to the Sergeant at Arms and Doorkeeper of the Senate—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Sergeant at Arms and Doorkeeper of the Senate pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the semiannual report of the Secretary of the Senate.

(C) Not later than 30 days after the date of enactment of this Act, all offices of the Senate that have transferred or received a transfer of official mail cost allocations to or from another office of the Senate during fiscal year 1990 shall report to the Sergeant at Arms and Doorkeeper of the Senate the information described in paragraph (A) with respect to such transfers, and such information shall be published in the Congressional Record.

(2)(A) Each office of the House of Representatives that transfers or receives a transfer of an official mail cost allocation to or from another office of the House of Representatives shall report to the Commission on Congressional Mailing Standards of the House of Representatives—

(i) the name of the office to which the transfer is made or from which the transfer was received;

(ii) the amount of the transfer;

(iii) the amount of the allocation made to the office for the fiscal year;

(iv) the total amount of allocations that have been transferred by and to the office to date during the fiscal year; and

(v) the amount of the allocation remaining available to the office for the fiscal year.

(B) The information reported to the Commission on Congressional Mailing Standards of the House of Representatives pursuant to subparagraph (A) shall be published quarterly in the Congressional Record and included in the quarterly report of the Clerk of the House of Representatives.

SEC. 328. USE OF OFFICIAL EXPENSE ACCOUNTS AND OTHER SOURCES OF FUNDS FOR MASS MAILINGS.

(a) **AMENDMENT OF SUPPLEMENTAL APPROPRIATIONS ACT.**—Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by striking subparagraph

FORD AMENDMENT NO. 2453

Mr. FORD proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, *supra*, as follows:

On page 7, line 3, strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 7, line 22, strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 11, line 4, before "Commission" insert "Secretary of the Senate" in lieu thereof.

On page 18, line 14, after "Commission" insert "by filing with the Secretary of the Senate".

On page 25, line 4, strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 50, lines 5 and 6, strike "Commission" each place it appears and insert "Secretary of the Senate" in lieu thereof.

On page 50, line 20, strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 51, line 3, strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 52, line 16, strike "to the Commission".

On page 52, line 23, strike "to the Commission".

On page 53, line 11, strike "Commission" and insert the following "the Secretary of the Senate, or with the Commission in the case of political committees required to register and report to the Commission under other provisions of this Act."

On page 55, line 2, strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 56, line 6, strike "Commission" and insert "Secretary of the Senate" in lieu thereof.

On page 56, line 19 and 20, strike "with such Commission."

On page 56, strike line 23, through page 57, line 2 and insert in lieu thereof the following:

"(f) COPIES OF REPORTS AND PUBLIC INSPECTION.—The Secretary of the Senate shall transmit a copy of any report or filing received under this Act to the Commission as soon as possible (but no later than 4 working hours) after receipt of such report or filing, and shall make such report or filing available for public inspection and copying in the same manner as the Commission under section 438(a)(4), and shall preserve such reports and filings in the same manner as the Commission under section 438(a)(5)."

GRAHAM AMENDMENT NO. 2454

Mr. GRAHAM proposed an amendment to amendment No. 2432 (in the nature of a substitute), as modified, proposed by Mr. BOREN (and others) to the bill S. 137, *supra*, as follows:

At the end of the amendment add the following:

SEC. 406. DEBATES BY GENERAL ELECTION CANDIDATES WHO RECEIVE AMOUNTS FROM THE PRESIDENTIAL ELECTION CAMPAIGN FUND.

Section 315(b) of FECA (2 U.S.C. 441a(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The candidates of a political party for the offices of President and Vice President who are eligible under section 9003 of the Internal Revenue Code of 1986 to receive payments from the Secretary of the Treasury shall not receive such payments unless both of such candidates agree in writing—

"(i) that the candidate for the office of President will participate in at least 4 debates, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section; and

"(ii) that the candidate of the party for the office of Vice President will participate in at least 1 debate, sponsored by a nonpartisan or bipartisan organization, with all other candidates for that office who are eligible under that section.

"(B) If the Commission determines that either of the candidates of a political party failed to participate in a debate under subparagraph (A) and was responsible at least in part for such failure, the candidate of the party involved shall—

"(i) be ineligible to receive payments under section 9006 of the Internal Revenue Code of 1986; and

"(ii) pay to the Secretary of the Treasury an amount equal to the amount of the payments made to the candidate under that section."

On page 9, line 25, strike "and".

On page 9, after line 25, add the following:

"(E) the candidate agrees to participate in at least 2 public debates or forums during the general election period, in which, in the case of a debate or forum in which only 1 candidate participates, the candidate is asked questions in a public forum conducted pursuant to regulations promulgated by the Commission; and

On page 10, line 1, strike "(E)" and insert "(F)".

On page 31, between lines 3 and 4, insert the following:

"(C) FAILURE TO PARTICIPATE IN DEBATES.—If the Commission determines that a candidate who is eligible to receive benefits under this title failed to participate in debates or forums as required by section 502(c)(1)(E),

the Commission shall so notify the candidate, and the candidate shall—

"(1) pay to each broadcasting station that provided the candidate broadcast time at the lowest unit cost, pursuant to section 504(a)(1) of this Act and section 315(b)(3) of the Communications Act of 1934, the difference between the amount that the candidate paid the broadcasting station and the amount that the broadcasting station would have been entitled to charge a candidate who is not an eligible candidate; and

"(2) pay to the Secretary of the Treasury an amount equal to 200 percent of the value of the benefits received by the candidate pursuant to paragraphs (2), (3), and (4) of section 504(a)."

On page 30, line 23, strike "(c)" and insert "(d)".

On page 31, line 4, strike "(d)" and insert "(e)".

On page 32, line 1, strike "(e)" and insert "(f)".

On page 32, line 9, strike "(f)" and insert "(g)".

On page 32, line 13, strike "(g)" and insert "(h)".

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS, FISCAL YEAR 1991

MURKOWSKI AMENDMENT NO. 2455

Mr. JOHNSTON (for Mr. MURKOWSKI) proposed an amendment to the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the end of the bill, add the following:

Sec. . (a)(1) None of the funds appropriated by this Act may be obligated or expended to enter into any contract for the construction, alteration, or repair of any public building or public work in the United States or any territory or possession of the United States with any contractor or subcontractor of a foreign country, or any supplier of products of a foreign country, during any period in which such foreign country is listed by the United States Trade Representative under subsection (c) of this section.

(2) The President or the head of a Federal agency administering the funds for the construction, alteration, or repair may waive the restrictions of paragraph (1) of this subsection with respect to an individual contract if the President or the head of such agency determines that such action is necessary for the public interest. The authority of the President or the head of a Federal agency under this paragraph may not be delegated. The President or the head of a Federal agency waiving such restrictions shall, within 10 days, publish a notice thereof in the Federal Register describing in detail the contract involved and the reason for granting the waiver.

(b)(1) Not later than 30 days after the date of enactment of this Act, the United States Trade Representative shall make a determination with respect to each foreign country of whether such foreign country—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding, for construction projects that cost more than \$500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) In making determinations under paragraph (1), the United States Trade Representative shall take into account information obtained in preparing the report submitted under section 181(b) of the Trade Act of 1974 and such other information or evidence concerning discrimination in construction projects against United States products and services that are available.

(c)(1) The United States Trade Representative shall maintain a list of each foreign country which—

(A) denies fair and equitable market opportunities for products and services of the United States in procurement, or

(B) denies fair and equitable market opportunities for products and services of the United States in bidding,

for construction projects that cost more than \$500,000 and are funded (in whole or in part) by the government of such foreign country or by an entity controlled directly or indirectly by such foreign country.

(2) Any foreign country that is initially listed or that is added to the list maintained under paragraph (1) shall remain on the list until—

(A) such country removes the barriers in construction projects to United States products and services;

(B) such country submits to the United States Trade Representative evidence demonstrating that such barriers have been removed; and

(C) the United States Trade Representative conducts an investigation to verify independently that such barriers have been removed and submits, at least 30 days before granting any such waiver, a report to each House of the Congress identifying the barriers and describing the actions taken to remove them.

(3) The United States Trade Representative shall publish in the Federal Register the entire list required under paragraph (1) and shall publish in the Federal Register any modifications to such list that are made after publication of the original list.

(d) For purposes of this section—

(1) The term "foreign country" includes any foreign instrumentality. Each territory or possession of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

(2) Any contractor or subcontractor that is a citizen or national of a foreign country, or is controlled directly or indirectly by citizens or nationals of a foreign country, shall be considered to be a contractor or subcontractor of such foreign country.

(3) Subject to paragraph (4), any product that is produced or manufactured (in whole or in substantial part) in a foreign country shall be considered to be a product of such foreign country.

(4) The restrictions of subsection (a)(1) shall not prohibit the use, in the construction, alteration, or repair of a public building or public work, of vehicles or construction equipment of a foreign country.

(5) The terms "contractor" and "subcontractor" includes any person performing any architectural, engineering, or other services directly related to the preparation

for or performance of the construction, alteration, or repair.

(e) Paragraph (a)(1) of this section shall not apply to contracts entered into prior to the date of enactment of this Act.

(f) The provisions of this section are in addition to, and do not limit or supersede, any other restrictions contained in any other Federal law.

ADAMS AMENDMENT NO. 2456

Mr. JOHNSTON (for Mr. ADAMS) proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 19, line 20, General Provisions, Corps of Engineer Civil, Section 101, delete lines 20 to 24 and insert the following:

Sec. 101. Section 4(t)(3)(F) of the Water Resources Development Act of 1988, Public Law 100-676, is amended by striking "September 30, 1989, *Provided*, That the total amount forgiven shall not exceed \$600,000." and inserting in lieu thereof "June 30, 1990."

BUMPERS AMENDMENT NO. 2457

Mr. JOHNSTON (for Mr. BUMPERS) proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 5, line 13, strike the period (.) and insert the following: " *Provided further*, That the Secretary of the Army acting through the Chief of Engineers, is directed to use \$60,000 of the funds appropriated herein to complete the Village Creek, Taylor Bay, Arkansas (Sec. 216) study."

SIMPSON (AND WALLOP) AMENDMENT NO. 2458

Mr. JOHNSTON (for Mr. SIMPSON, for himself and Mr. WALLOP) proposed an amendment to the bill H.R. 5019, supra, as follows:

Insert after line 13, on page 5, under General Investigations: " *Provided further*, That with \$450,000 of the funds provided herein, the Secretary of the Army, acting through the Chief of Engineers, is directed to initiate and expedite a mitigation study for the Jackson Hole Wyoming Flood Protection project (Public Law 51)."

HATFIELD AMENDMENT NO. 2459

Mr. JOHNSTON (for Mr. HATFIELD) proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 11, line 21, add the following: " *Provided further*, That, the Secretary of the Army, acting through the Chief of Engineers, is authorized and directed to make available \$150,000 for engineering, design, acquisition and construction of a support structure to serve as the foundation for the Seafarers Memorial in the Columbia River, in cooperation with the City of Hammond, Oregon."

CHAFEE (AND PELL) AMENDMENT NO. 2460

Mr. JOHNSTON (for Mr. CHAFEE, for himself and Mr. PELL) proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 10, line 18, insert before the colon " *Provided further*, That using \$970,000 of funds appropriated herein, the

Secretary of the Army is directed to relocate the Southeast Light on Block Island, Rhode Island to a more suitable location, subject to enactment into law of authorizing legislation."

WILSON (AND CRANSTON) AMENDMENT NO. 2461

Mr. JOHNSTON (for Mr. WILSON, for himself, and Mr. CRANSTON) proposed an amendment to the bill H.R. 5019, supra, as follows:

At the appropriate place in the bill, add the following:

Sec. . San Luis Rey River, California. The project for flood control, San Luis Rey River, California, approved by resolutions of the Committee on Public Works, United States Senate, and the Committee on Public Works and Transportation, House of Representatives, on December 17, 1970 and December 15, 1970, respectively, in accordance with the provisions of section 201 of Flood Control Act of 1965 (Public Law 84-298) is modified substantially in accordance with the Supplemental Phase II General Design Memorandum dated December 1987, at an estimated total cost of \$60,400,000, with a Federal first cost of \$45,000,000 and a non-Federal first cost of \$15,300,000.

REID (AND BRYAN) AMENDMENT NO. 2462

Mr. JOHNSTON (for Mr. REID, for himself, and Mr. BRYAN) proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 39, line 19, after the word "appropriated" insert the following: " , within available funds,"

On page 39, line 20, strike "\$4,000,000" and insert "\$5,000,000"

On page 39, line 23, strike the words "of which" and

On page 39, line 25, strike the words "of which".

BINGAMAN (AND OTHERS) AMENDMENT NO. 2463

Mr. JOHNSTON (for Mr. BINGAMAN, for himself, Mr. DOMENICI, and Mr. CRANSTON) proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 42, line 8, after "law", insert " *Provided further*, That of the amount appropriated to the Department of Energy in this paragraph, \$194,684,000 may be obligated only for verification and control technology operating expenses, \$10,000,000 may be obligated only for Project 90-D-188, Center for National Security and Arms Control, \$2,592,000 may be obligated only for Project 91-D-192, Foreign Technology Assessment Center, no funds may be obligated for Project 90-D-122, Production Capabilities for the Nuclear Depth/Strike Bomb, no more than \$2,131,311,000 may be obligated for production and surveillance operating expenses, and no more than \$437,268,000 may be obligated for weapons testing operating expenses".

GORE AMENDMENT NO. 2464

Mr. JOHNSTON (for Mr. GORE) proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 42, after line 8, insert the following: " *Provided further*, That (a) \$500,000 of

the amount appropriated herein for environmental restoration and waste management shall be transferred to the Tennessee Valley Authority for the purpose of assisting the Department of Energy in assessing and monitoring areas and activities within or adjacent to Watts Bar Reservoir, Tennessee, which may be adversely affected by radioactive, mercury, or other contaminants resulting from runoff from Department of Energy facilities within the State of Tennessee; and (b) The Tennessee Valley Authority shall determine the scope of assessment and monitoring activities to be undertaken and shall make available to the Department of Energy, the Environmental Protection Agency, the Army Corps of Engineers, and the State of Tennessee, all findings and information related to the activities taken under this provision."

METZENBAUM AMENDMENT NO. 2465

Mr. JOHNSTON (for Mr. METZENBAUM) proposed an amendment to the bill H.R. 5019, supra, as follows:

Insert on page 46, line 21, after the numeral: " *Provided further*, That the Commission shall, upon the expiration of the one-year contract entered into as a result of solicitation No. DE-FB89-RC-00001, exercise its right under such contract not to renew the contract. The Commission shall solicit new bids, allowing for the submission of bids offering to pay the government to perform stenographic services, i.e., bonus bids, and shall accept, in accordance with federal acquisition laws and regulations, the bid of a qualified contractor that is financially most advantageous to the government".

McCLURE AMENDMENT NO. 2466

Mr. JOHNSTON (for Mr. McCLURE) proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 37, strike the period at the end of line 2 and insert " *Provided further*, That of the amount appropriated herein, \$6,000,000 shall be available only for the Boron Neutron Capture Therapy research program at the Idaho National Engineering Laboratory and \$7,500,000 shall be available only for the modification and operation of the Power Burst Facility at the Idaho National Engineering Laboratory, and the Secretary of Energy is directed to obligate and expend funds for these activities prior to the end of fiscal year 1991."

HATFIELD AMENDMENT NO. 2467

Mr. HATFIELD proposed an amendment to the bill H.R. 5019, supra, as follows:

On page 59, delete section 510 and insert the following new text:

"Sec. 510. Without fiscal year limitation and notwithstanding any other provision of law, no funds appropriated or made available under this or any other Act shall be used by the executive branch to change the employment levels determined by the Administrator of the Bonneville Power Administration to be necessary to carry out his responsibilities under the Bonneville Project Act, the Federal Columbia River Transmission Act, and the Pacific Northwest Power Planning and Conservation Act and other related legislation."

NATIONAL DEFENSE AUTHORIZATION ACT, FISCAL YEAR 1991

HUMPHREY AMENDMENTS NOS. 2468 THROUGH 2481

(Ordered to lie on the table)

Mr. HUMPHREY submitted 14 amendments intended to be proposed by him to the bill (S. 2884) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, as follows:

AMENDMENT No. 2468

At the end of the pending question, add the following:

SAVINGS AND LOAN FRAUD

SECTION 1. SHORT TITLE.

This Act may be cited as the "Savings and Loan Corruption Act of 1990."

SEC. 2. FINDINGS.

(a) Congress finds—

(1) that the savings and loan debacle is the largest financial crisis in our Nation's history, and that the cost to the American taxpayer of that debacle may be in excess of one trillion dollars;

(2) that fraud and other criminal activity—including criminal activity by federal officials and officeholders—may have contributed significantly to the savings and loan industry's losses and will cost taxpayers billions of dollars;

(3) that Attorney General Richard Thornburgh recently spoke of an "epidemic of fraud" in the savings and loan industry and indicated that at least 25 to 30 percent of savings and loan failures can be attributed to criminal activity by the institution's officers and management;

(4) that at least some of those fraudulent officers and managers attempted to perpetuate their fraudulent activities through the application of political influence on the appropriate regulatory authorities;

(5) that officials at the Resolution Trust Corporation indicate that an estimated 60 percent of the institutions the corporation has seized "have been victimized by serious criminal activity";

(6) that investigating and prosecuting criminal activity related to the savings and loan crisis—including unlawful efforts to exert political influence on regulatory authorities—will help send an important message of "never again" to those involved in the financial industry;

(7) that the passage of time makes investigation more difficult and expiring statutes of limitation could allow serious crimes to go unpunished if investigation and prosecution is delayed; and

(8) that the current level of resources devoted to investigating the prosecuting fraud and criminal activity within the financial services industry is inadequate to address the crimes that contributed to the losses of savings and loan associations.

(b) PURPOSE.—It is therefore the purpose of this Act to make increased resources available to the investigation and prosecution of persons who used their political offices to stymie the effective regulation of troubled financial institutions.

SECTION 3. ENFORCEMENT.

(a) Subsection (b) of section 591 of title 28, United States Code, is amended as follows:

(1) by striking the word "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) by inserting at the end thereof the following new paragraph:

"(9) any member of the Senate or the House of Representatives or any former member of the Senate or House of Representatives."

AMENDMENT No. 2469

At the appropriate place, add the following new section:

"Sec. . As used in this Act, the term "reproductive health service" shall not include procedures to change a person's gender, to augment or reduce a person's breasts, or to perform any procedure for which federal funds may not be made available pursuant to section 1093 of title 10, United States Code."

AMENDMENT No. 2470

On page 51, strike lines 14 to 21, and insert in lieu thereof the following:

(a) Section 2005(a)(3) of title 10 of the United States Code is amended to read as follows:

"(3) that if such person, except for the convenience of the government or by reason of hardship or medical disqualification, fails either to complete the period of active duty specified in the agreement or to fulfill any term or condition prescribed pursuant to clause (4), such person will reimburse the United States in an amount that bears the same ratio to the total cost of advanced education provided such person as the unserved portion of active duty bears to the total period of active duty such person agreed to serve; and"

(b) Section 2005(f)(1) of title 10, United States Code, is amended by inserting "or fails to fulfill any term or condition prescribed pursuant to clause (4) of such subsection," after "agreement."

AMENDMENT No. 2471

At the appropriate place, add the following:

Section 152 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new subsection:

"() EXCEPTION.—For purposes of subsection (a), the term "dependent" does not include any individual in any taxable year

"(1) in which an abortion was attempted with respect to such individual;

"(2) such abortion was unsuccessful;

"(3) the taxpayer claiming such individual as a dependent consented to such abortion; and

"(4) such individual died within forty-eight hours of birth."

AMENDMENT No. 2472

The Wirth amendment is amended:

At the end of subsection (a)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 20 or more weeks pregnant".

At the end of subsection (b)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 20 or more weeks pregnant".

AMENDMENT No. 2473

At the end of subsection (a)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 36 or more weeks pregnant".

At the end of subsection (b)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 36 or more weeks pregnant".

AMENDMENT No. 2474

At the end of subsection (a)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 32 or more weeks pregnant".

At the end of subsection (b)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 32 or more weeks pregnant".

AMENDMENT No. 2475

At the end of subsection (a)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 28 or more weeks pregnant".

At the end of subsection (b)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 28 or more weeks pregnant".

AMENDMENT No. 2476

The Wirth amendment is amended:

At the end of subsection (a)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 24 or more weeks pregnant".

At the end of subsection (b)(d)(1) after "under United States law" add the following: ", except that a facility may not provide an abortion to woman who is 24 or more weeks pregnant".

AMENDMENT No. 2477

At the appropriate place, add the following new section:

SEC. . CONSENT REQUIREMENT.—

(a) Section 1074 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"() (1) No physician shall perform an abortion on any woman, except as provided in paragraph (2), unless such physician shall have received from the woman upon whom the abortion is to be performed written consent, on a form published by the Secretary pursuant to paragraphs (3) and (4), at least 24 hours prior to performing such abortion.

"(2) The requirements of paragraph (1) shall not apply in any case where the life of the mother would be endangered if the fetus were carried to term.

"(3) The Secretary shall publish forms to be utilized for the purpose of providing written consent required by paragraph (1) and shall cause these forms to be distributed to facilities of the uniformed services outside the United States.

"(4) The forms published pursuant to paragraph (3) shall include medical information on fetal development from fertilization to full term. Such information shall be objective, nonjudgmental and designed to convey only accurate scientific information about the unborn child at the various gesta-

tional ages, and may include pictures representing the development of unborn children so long as any such depictions contain the dimensions of the fetus and are realistic and appropriate for the woman's stage of pregnancy. The forms shall also contain objective information describing the method of abortion that would be performed on the woman and its effect on the fetus.

"(5) Any physician who violates the provisions of this subsection shall be subject to such penalties as the Secretary may prescribe."

(b) Section 1077 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(1) No physician shall perform an abortion on any woman, except as provided in paragraph (2), unless such physician shall have received from the woman upon whom the abortion is to be performed written consent, on a form published by the Secretary pursuant to paragraphs (3) and (4), at least 24 hours prior to performing such abortion.

"(2) The requirements of paragraph (1) shall not apply in any case where the life of the mother would be endangered if the fetus were carried to term.

"(3) The Secretary shall publish forms to be utilized for the purpose of providing written consent required by paragraph (1) and shall cause these forms to be distributed to facilities of the uniformed services outside the United States.

"(4) The forms published pursuant to paragraph (3) shall include medical information on fetal development from fertilization to full term. Such information shall be objective, nonjudgmental and designed to convey only accurate scientific information about the unborn child at the various gestational ages, and may include pictures representing the development of unborn children so long as any such depictions contain the dimensions of the fetus and are realistic and appropriate for the woman's stage of pregnancy. The forms shall also contain objective information describing the method of abortion that would be performed on the woman and its effect on the fetus.

"(5) Any physician who violates the provisions of this subsection shall be subject to such penalties as the Secretary may prescribe."

AMENDMENT NO. 2478

The Wirth amendment is amended by adding at the end thereof the following new subsection:

"(c) **RULE OF CONSTRUCTION.**—As used in this Act, the phrase "entitled to the provision of any reproductive health service" shall not be construed to create a right to abortion in any facility of the uniformed services or to require the performance of any abortion in any facility of the uniformed services."

AMENDMENT NO. 2479

At the end of the matter being proposed add the following:

() **TO PROTECT THE FETUS FROM UNDUE PAIN.**—If an abortion is provided under Sec. 705 of this Act, the medical officer must use the procedures which would cause the least amount of pain to the fetus.

AMENDMENT NO. 2480

At the appropriate place, add the following new section:

"Sec. . . Notwithstanding any other provision of this Act, any amounts paid for provisions of a reproductive health service to a

member of the uniformed services or to a dependent of such a member in a facility of the uniformed services shall revert to the Treasury of the United States."

AMENDMENT NO. 2481

The Wirth amendment is amended by adding at the end thereof the following new subsection:

"(c)(1) Section 1074 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) No physician shall perform an abortion on a married woman, except as provided in paragraphs (2) and (3), unless such physician shall have received from the woman upon whom the abortion is to be performed a signed statement, which need not be notarized, that she has notified her spouse, at least 48 hours prior to a scheduled abortion, that she is about to undergo an abortion. The statement shall bear a notice that any false statement made therein is punishable by such penalties as the Secretary may prescribe.

"(2) The statement certifying that the notice required by paragraph (1) has been given need not be furnished where the woman provides the physician a signed statement certifying that:

"(A) Her spouse is not the father of the unborn child;

"(B) Her spouse, after diligent effort, could not be located;

"(C) The pregnancy is the result of spousal sexual assault which has been reported to such authorities as the Secretary may prescribe; or

"(D) The woman has reason to believe that the furnishing of notice to her spouse is likely to result in the infliction of bodily injury upon her by her spouse or by another individual.

Such statement need not be notarized, but shall bear a notice that any false statements made therein are punishable by such penalties as the Secretary may prescribe.

"(3) The requirements of paragraph (1) shall not apply in any case where the life of the mother would be endangered if the fetus were carried to term.

"(4) The Secretary shall publish forms which may be utilized for purposes of providing the signed statements required by paragraphs (1) and (2), and shall cause these forms to be distributed to facilities of the uniformed services outside the United States.

"(5) Any physician who violates the provisions of this subsection shall be subject to such penalties as the Secretary may prescribe."

(2) Section 1077 of title 10, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) No physician shall perform an abortion on a married woman, except as provided in paragraphs (2) and (3), unless such physician shall have received from the woman upon whom the abortion is to be performed a signed statement, which need not be notarized, that she has notified her spouse, at least 48 hours prior to a scheduled abortion, that she is about to undergo an abortion. The statement shall bear a notice that any false statement made therein is punishable by such penalties as the Secretary may prescribe.

"(2) The statement certifying that the notice required by paragraph (1) has been given need not be furnished where the woman provides the physician a signed statement certifying that:

"(A) Her spouse is not the father of the unborn child;

"(B) Her spouse, after diligent effort, could not be located;

"(C) The pregnancy is the result of spousal sexual assault which has been reported to such authorities as the Secretary may prescribe; or

"(D) The woman has reason to believe that the furnishing of notice to her spouse is likely to result in the infliction of bodily injury upon her by her spouse or by another individual.

Such statement need not be notarized, but shall bear a notice that any false statements made therein are punishable by such penalties as the Secretary may prescribe.

"(3) The requirements of paragraph (1) shall not apply in any case where the life of the mother could be endangered if the fetus were carried to term.

"(4) The Secretary shall publish forms which may be utilized for purposes of providing the signed statements required by paragraphs (1) and (2), and shall cause these forms to be distributed to facilities of the uniformed services outside the United States.

"(5) Any physician who violates the provisions of this subsection shall be subject to such penalties as the Secretary may prescribe."

WARNER (AND NUNN) AMENDMENT NO. 2482

Mr. WARNER (for himself and Mr. NUNN) proposed an amendment to the bill S. 2884, supra, as follows:

On page 239, strike out line 9 and all that follows through line 6 on page 241, and insert in lieu thereof the following:

PART A—UTILIZATION OF RESERVE COMPONENTS

SEC. 1401. SENSE OF THE CONGRESS ON GREATER UTILIZATION OF THE RESERVE COMPONENTS OF THE ARMED FORCES

(a) **FINDINGS.**—Congress makes the following findings:

(1) The reserve components of the Armed Forces are an essential element of the national security establishment of the United States.

(2) The overall reduction in the threat and the likelihood of continued fiscal constraints require the United States to increase utilization of the reserve components of the Armed Forces.

(3) The Department of Defense has not adequately implemented the Total Force Policy since its inception.

(4) The Department of Defense should shift a greater share of force structure and budgetary resources to the reserve components of the Armed Forces.

(5) Expanding the reserve components is the most effective way to retain quality personnel as the force structure of the active components is reduced over the next five years.

(6) The United States should recommit itself to the concept of the citizen soldier as a cornerstone of national defense policy for the future.

(7) The President and the Secretary of Defense should take note of and be willing to exercise current reserve call-up authority for the purpose of using reserve component forces to perform operational missions without the necessity for declaring a national emergency.

(b) **CONGRESSIONAL DECLARATION.**—In view of the findings expressed in subsection (a), Congress declares that—

(1) the structure and strength of the current reserve components should be preserved;

(2) the equipment levels in existing reserve component units should be increased to match their active duty counterparts;

(3) selected missions of the active components of the Armed Forces should be increasingly transferred to the reserve components;

(4) the equipment available to the units of the reserve components should be modernized; and

(5) the integration of active component and reserve component units should be promoted as a means of achieving the Total Force Policy of the Department of Defense.

NUNN (AND WARNER) AMENDMENT NO. 2483

Mr. NUNN (for himself and Mr. WARNER) proposed an amendment to amendment No. 2482 proposed by Mr. WARNER (and NUNN) to the bill S. 2884, supra, as follows:

Strike out everything after "PART A—" and insert in lieu thereof the following

UTILIZATION OF RESERVE COMPONENTS

SEC. 1401. SENSE OF THE CONGRESS ON GREATER UTILIZATION OF THE RESERVE COMPONENTS OF THE ARMED FORCES

(a) FINDINGS.—Congress makes the following findings:

(1) The reserve components of the Armed Forces are an essential element of the national security establishment of the United States.

(2) The overall reduction in the threat and the likelihood of continued fiscal constraints require the United States to increase utilization of the reserve components of the Armed Forces.

(3) The Department of Defense has not adequately implemented the Total Force Policy since its inception in 1973.

(4) The Department of Defense should shift a greater share of force structure and budgetary resources to the reserve components of the Armed Forces.

(5) Expanding the reserve components is the most effective way to retain quality personnel as the force structure of the active components is reduced over the next five years.

(6) The United States should recommit itself to the concept of the citizen soldier as a cornerstone of national defense policy for the future.

(7) The President and the Secretary of Defense should take not of and be willing to exercise current reserve call-up authority for the purpose of using reserve component force to perform operational missions without the necessity for declaring a national emergency.

(b) CONGRESSIONAL DECLARATION.—In view of the findings expressed in subsection (a), Congress declares that—

(1) the structure and strength of the current reserve components should be preserved;

(2) the equipment levels in existing reserve component units should be increased to match their active duty counterparts;

(3) selected missions of the active components of the Armed Forces should be increasingly transferred to the reserve components;

(4) the equipment available to the units of the reserve components should be modernized; and

(5) the integration of active component and reserve component units should be promoted as a means of achieving the Total Force Policy.

WARNER (AND NUNN) AMENDMENT NO. 2484

Mr. WARNER (for himself and Mr. NUNN) proposed an amendment to the bill S. 2884, supra, as follows:

On page 8, between lines 3 and 4, insert the following new subsection:

(c) ADDITIONAL RESTRICTION ON OBLIGATION OF FUNDS FOR B-2 AIRCRAFT.—The funds referred to in subsection (b) may not be obligated for the procurement of the two new production B-2 aircraft authorized by this Act until—

(1) The Secretary of Defense submits to the congressional defense committees a report containing—

(A) a certification that the conditions referred to in subsection (b)(1) have been met; and

(B) the certifications required by section 111(c)(2)(B) and 112 of the National Defense Authorization Act for Fiscal Years 1990 and 1991 (Public Law 101-189; 103 Stat. 1371); and

(2) a period of 30 calendar days expires after the date on which such report is received by the congressional defense committees.

NUNN AMENDMENT NO. 2485

Mr. NUNN (for himself, Mr. WARNER, Mr. EXON, and Mr. THURMOND) proposed an amendment to amendment No. 2484 proposed by Mr. WARNER to the bill S. 2884, supra, as follows:

Strike out everything after the subsection designation "(c)" and insert in lieu thereof the following: FINDINGS.—Congress makes the following findings:

(1) The United States has devoted substantial resources over the past several decades to the strategic bomber force, including substantial resources for—

(A) significant upgrades to B-52 aircraft;

(B) research, development, and procurement of B-1 aircraft; and

(C) research, development, and procurement of air-launched cruise missiles.

(2) The United States has currently invested a total of \$26,700,000,000 in research and development and low-rate initial production in connection with the B-2 bomber aircraft program.

(3) Funds have been approved for the procurement of 15 production B-2 aircraft through fiscal year 1990, but Congress has made no determination as to the total number of such aircraft that should be produced.

(4) Congress has established, in accordance with the "fly before you buy" principle, a series of rigorous test and evaluation requirements, most of which have not yet been completed, to assess the efficiency, effectiveness, and cost of the B-2 aircraft.

(5) Serious questions have been raised about the ability of the B-2 program to meet cost, schedule, performance, and financial integrity requirements.

(6) Fiscal year 1991 will constitute the sixth consecutive fiscal year for which the amount appropriated for national defense functions of the Government declined (after adjusting for inflation) from the preceding fiscal year.

(7) Expected limitations on future defense budgets make it essential that the Nation's defense priorities be carefully analyzed so as to obtain the most efficient and effective funding of the Armed Forces, including the various elements of the Nation's strategic forces.

(d) SENSE OF CONGRESS.—In light of the findings in subsection (c), it is the sense of Congress that—

(1) it is not prudent or possible at this time to commit to production of B-2 aircraft beyond the number of aircraft authorized by this and prior Acts;

(2) before a commitment is made to proceed with procurement of B-2 aircraft beyond the number of aircraft authorized by this and prior Acts, the Secretary of Defense must resolve those issues associated with cost, schedule, performance and financial integrity of the program and submit to the congressional defense committees the certifications required by subsection (e)(3).

(e) ADDITIONAL RESTRICTIONS ON OBLIGATION OF FUNDS FOR NEW B-2 AIRCRAFT.—The funds described in subsection (b) may not be obligated for the procurement of the two new production B-2 aircraft authorized by this Act until each of the following conditions has been met:

(1) The panel of the Defense Science Board known as the Low-Observables Panel conducts an independent review of the test data resulting from the early Block 2 flight testing and submits to the Secretary of Defense a report on the results of that review, together with the panel's findings and conclusions.

(2) The Director of Operational Test and Evaluation submits to the Secretary of Defense the Director's evaluation of the results of the Block 2 flight testing to the date of the report of the Defense Science Board referred to in paragraph (1).

(3) The Secretary of Defense certifies to the congressional defense committees each of the following:

(A) The conditions described in subsection (b)(1) have been met.

(B) The conditions in subsections (e)(1) and (e)(2) have been met.

(C) The results of early Block 2 flight testing of the B-2 aircraft (including testing of low-observables and flying qualities and performance) are satisfactory.

(D) No significant technical or operational problems have been identified during early Block 2 flight testing.

(E) The performance milestones for the B-2 aircraft for the previous fiscal year for both developmental test and evaluation and operational test and evaluation (as contained in the latest full performance matrix for the B-2 aircraft program established under section 232(a) of Public Law 100-456 and section 121 of Public Law 100-180) have been met.

(F) The B-2 aircraft has a high probability of being able to perform its intended missions.

(G) Any proposed modification to the performance matrix referred to in subparagraph (E) will be provided in writing in advance to the congressional defense committees.

(H) The cost reduction initiatives established for the B-2 program can be achieved (such certification to be submitted together with details for the savings to be realized).

(I) The quality assurance practices and fiscal management controls of the prime contractor and major subcontractors associated with the B-2 program meet or exceed

accepted United States Government standards.

(4) A period of 30 calendar days expires after the date on which the certification required by paragraph (3) is received.

(f) **FULL PERFORMANCE MATRIX REQUIREMENTS.**—(1) Of the amounts made available for fiscal year 1991 for the procurement of two new production B-2 aircraft, not more than 15 percent may be expended until the Secretary of Defense certifies to Congress that—

(A) the coherent map mode operation of the B-2 aircraft is demonstrated successfully on the B-2 test aircraft as required in section 3(f)(2) of the Full Performance Matrix;

(B) a preliminary measure of vehicle-to-vehicle signature consistency has been accomplished successfully in the manner required by section 4(a)(2) of the Full Performance Matrix; and

(C) an initial infrared and visual signature evaluation has been completed successfully in the manner required by section 4(a)(2) of the Full Performance Matrix.

(2) As used in this section, the term "Full Performance Matrix" means the "Advanced Technology Bomber B-2 Systems Maturity Matrix (SMM)" dated January 31, 1990, transmitted to Congress by the Department of Defense on February 28, 1990.

RADIATION EXPOSURE COMPENSATION ACT

HATCH (AND OTHERS) AMENDMENT NO. 2486

Mr. HATFIELD (for Mr. HATCH, for himself, Mr. KENNEDY, Mr. GARN, Mr. DeCONCINI, Mr. REID, Mr. BRYAN, Mr. BINGAMAN, Mr. DOMENICI, Mr. PELL, Mr. WIRTH, Mr. McCAIN, Mr. INOUE, and Mr. GORE) proposed an amendment to the bill (H.R. 2372) to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation Exposure Compensation Act".

SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.

(a) **FINDINGS.**—The Congress finds that—

(1) fallout emitted during the Government's above-ground nuclear tests in Nevada exposed individuals who lived in the downwind affected area in Nevada, Utah, and Arizona to radiation that is presumed to have generated an excess of cancers among these individuals;

(2) the health of the individuals who were unwitting participants in these tests was put at risk to serve the national security interests of the United States;

(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the United States Government exposed miners to large doses of radiation and other airborne hazards in the mine environment that together are presumed to have produced an increased incidence of lung cancer and respiratory diseases among these miners;

(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

(5) the Congress recognizes that the lives and health of uranium miners and of innocent individuals who lived downwind from the Nevada tests were involuntarily subjected to increased risk of injury and disease to serve the national security interests of the United States.

(b) **PURPOSE.**—It is the purpose of this Act to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

(c) **APOLOGY.**—The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and their families for the hardships they have endured.

SEC. 3. TRUST FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States, a trust fund to be known as the "Radiation Exposure Compensation Trust Fund" (hereinafter in this Act referred to as the "Fund"), which shall be administered by the Secretary of the Treasury.

(b) **INVESTMENT OF AMOUNTS IN THE FUND.**—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

(c) **AVAILABILITY OF THE FUND.**—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

(d) **TERMINATION.**—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 22 years after the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of that 22-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund \$100,000,000. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 4. CLAIMS RELATING TO OPEN AIR NUCLEAR TESTING.

(a)(1) **CLAIMS RELATING TO CHILDHOOD LEUKEMIA.**—Any individual who was physically present in the affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence and between 2 and 30 years of first exposure to the fallout, contracted leukemia (other than chronic lymphocytic leukemia), shall receive \$50,000 if—

(A) initial exposure occurred prior to age 21,

(B) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

(2) **CLAIMS RELATING TO SPECIFIED DISEASES.**—Any individual who was physically present in the affected area for a period of at least 2 years during the period beginning

on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence, contracted a specified disease, shall receive \$50,000 if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) **DEFINITIONS.**—For purposes of this section, the term—

(1) "affected area" means—

(A) in the State of Utah, the counties of Washington, Iron, Kane, Garfield, Sevier, Beaver, Millard, and Plute;

(B) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

(C) that part of Arizona that is north of the Grand Canyon and west of the Colorado River; and

(2) "specified disease" means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and the onset of the disease was between 2 and 30 years of first exposure, and the following diseases, provided onset was at least 5 years after first exposure: multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of: the thyroid (provided initial exposure occurred by the age of 20), female breast (provided initial exposure occurred prior to age 40), esophagus (provided low alcohol consumption and not a heavy smoker), stomach (provided initial exposure occurred before age 30), pharynx (provided not a heavy smoker), small intestine, pancreas (provided not a heavy smoker and low coffee consumption), bile ducts, gall bladder, or liver (except if cirrhosis or hepatitis B is indicated).

SEC. 5. CLAIMS RELATING TO URANIUM MINING.

(a) **ELIGIBILITY OF INDIVIDUALS.**—Any individual who was employed in a uranium mine located in Colorado, New Mexico, Arizona, Wyoming, or Utah at any time during the period beginning on January 1, 1947, and ending on December 31, 1971, and who, in the course of such employment—

(1)(a) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed lung cancer, or

(b) if a smoker, was exposed to 300 or more working level months of radiation and cancer incidence occurred before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of cancer incidence, and submits written medical documentation that he or she, after such exposure, developed lung cancer; or

(2)(a) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease, or

(b) if a smoker, was exposed to 300 or more working level months of radiation and the nonmalignant respiratory disease developed before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of disease incidence, and sub-

mits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease, shall receive \$100,000, if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "working level month of radiation" means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

(2) the term "working level" means the concentration of the short half-life daughters of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air;

(3) the term "nonmalignant respiratory disease" means fibrosis of the lung, pulmonary fibrosis, and cor pulmonale related to fibrosis of the lung; and if the claimant whether Indian or non-Indian, worked in an uranium mine located on or within an Indian Reservation, the term shall also include moderate or severe silicosis or pneumoconiosis; and

(4) the term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians.

SEC. 6. DETERMINATION AND PAYMENT OF CLAIMS.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall establish procedures whereby individuals may submit claims for payments under this Act.

(b) DETERMINATION OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act meets the requirements of this Act.

(2) CONSULTATION.—The Attorney General shall—

(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted a specified disease under section 4 or other disease specified in section 5; and

(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for determining what constitutes documentation that an individual was exposed to the working level months of radiation under section 5.

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines issued under subparagraph (A), and with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B).

(c) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund, claims filed under this Act which the Attorney General determines meet the requirements of this Act.

(2) OFFSET FOR CERTAIN PAYMENTS.—A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4 or 5 shall be offset by

the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

(A) exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period specified in section 4(a), or

(B) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(3) RIGHT OF SUBROGATION.—Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

(4) PAYMENTS IN THE CASE OF DECEASED PERSONS.—

(A) IN GENERAL.—In the case of an individual who is deceased at the time of payment under this section, such payment may be made only as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

(B) INDIVIDUALS WHO ARE SURVIVORS.—If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act, a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) the "spouse" of an individual means a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

(ii) a "child" includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

(iii) a "parent" includes fathers and mothers through adoption;

(iv) a "grandchild" of an individual is a child of a child of that individual; and

(v) a "grandparent" of an individual is a parent of a parent of that individual.

(d) ACTION ON CLAIMS.—The Attorney General shall complete the determination on each claim filed in accordance with the

procedures established under subsection (a) not later than twelve months after the claim is so filed.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an individual under this section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period described in section 4(a), or exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(f) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

(h) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and resources available to the Attorney General to carry out his or her functions under this Act.

(j) REGULATORY AUTHORITY.—The Attorney General may issue such regulations as are necessary to carry out this Act.

(k) ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—Regulations, guidelines, and procedures to carry out this Act shall be issued not later than 180 days after the date of the enactment of this Act.

SEC. 7. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; CHOICE OF REMEDIES.

(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No claim cognizable under this Act shall be assignable or transferable.

(b) CHOICE OF REMEDIES.—No individual may receive payment under both sections 4 and 5 of this Act.

SEC. 8. LIMITATIONS ON CLAIMS.

A claim to which this Act applies shall be barred unless the claim is filed within 20 years after the date of the enactment of this Act.

SEC. 9. ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than 10 per centum of a payment made under this Act on such claim. Any such representative who violates this section shall be fined not more than \$5,000.

SEC. 10. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.

A payment made under this Act shall not be considered as any form of compensation of reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for in-

insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 11. BUDGET ACT.

No authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year except to such extent or in such amounts as are provided in advance in appropriations Acts.

SEC. 12. REPORT.

(a) The Secretary of Health and Human Services shall submit a report on the incidence of radiation related moderate or severe silicosis and pneumoconiosis in uranium miners employed in the uranium mines that are defined in section 5 and are located off of Indian reservations.

(b) Such report shall be completed not later than September 30, 1992.

CONSERVATION AND DEVELOPMENT OF WATER ACT

BURDICK AMENDMENT NO. 2487

Mr. NUNN (for Mr. BURDICK) proposed an amendment to the bill (S. 2740) to provide for the conservation and development of water and related resources, to authorize the U.S. Army Corps of Civil Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes as follows:

In Section 101(f) delete the period following "\$5,550,000" and the last sentence and insert in lieu thereof the following: ", and an average annual cost of \$472,300 for periodic nourishment over the fifty year life of the project, with an estimated annual Federal cost of \$193,600, and an estimated annual non-Federal cost of \$278,700."

In Section 101 (p) delete the period following "\$20,910,000" and the last sentence and insert in lieu thereof the following: ", and an average annual cost of \$1,215,000 for period nourishment over the fifty-year life of the project, with an estimated annual Federal cost of \$790,000, and an estimated annual non-Federal cost of \$425,000."

Add the following new subsections to Section 101 following line six on page eight of the bill as reported:

(t) Oceanside, California: The project for navigation for Oceanside, California: Report of the Chief of Engineers, dated May 21, 1990, at a total cost of \$5,100,000, with an estimated first Federal cost of \$3,350,000, and an estimated first non-Federal cost of \$1,750,000.

(u) Ventura, California: The project for navigation for Ventura, California: Report of the Chief of Engineers, dated June 5, 1990, at a total cost of \$6,445,000, with an estimated first Federal cost of \$5,175,000, and an estimated first non-Federal cost of \$1,280,000.

(v) Homer Spit, Alaska: The project for storm damage reduction, Homer Spit, Alaska: Report of the Chief of Engineers, dated June 28, 1990, at a total cost of \$4,700,000, with an estimated first Federal cost of \$3,050,000, and an estimated first non-Federal cost of \$1,650,000, and an average annual cost of \$242,000 for periodic nourishment over the fifty-year life of the

project, with an estimated annual Federal cost of \$157,000, and an estimated annual non-Federal cost of \$85,000.

(w) Petersburg, West Virginia: The project for flood control, Petersburg, West Virginia: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of \$17,904,000, with an estimated first Federal cost of \$10,044,000, and an estimated first non-Federal cost of \$7,860,000.

(x) Moorefield, West Virginia: The project for flood control, Moorefield, West Virginia: Report of the Chief of Engineers dated July 23, 1990, at a total cost of \$16,260,000, with an estimated first Federal cost of \$11,675,000, and an estimated first non-Federal cost of \$4,585,000.

Section 102(a)(2) is amended as follows: delete the phrase "dams 2 and 3" where they appear in the provision and insert in lieu thereof the phrase "dams 2, 3, and 4" where appropriate.

Section 213 of S. 2740 is amended as follows:

(a) delete the first four lines of the section beginning with "(a)" and insert in lieu thereof "On or before January 1, 1994, or as soon thereafter as reasonably practicable, as part of the Joint Systems Operations Review by the Army Corps of Engineers, the Bonneville Power Administration and the Bureau of Reclamation, the Chief of Engineers, the Secretary, the Administrator of the Bonneville Power Administration shall make a joint report to the Congress on the regulation of the Dworshak Dam, Idaho, including:"

(b) delete all of subsection (a)(3) and insert in lieu thereof the following: "Recommendations for achieving to the greatest degree the Corps of Engineers' project purposes and suggestions for mitigating any adverse impacts on recreational and transportation usage of the Dworshak reservoir."

(c) delete all of subsection (b) and insert in lieu thereof the following: "The Secretary shall, in cooperation with the Administrator of the Bonneville Power Administration, conduct public processes in the vicinity of Dworshak Dam, Idaho, for the purpose of keeping the public informed about projected drawdowns of Dworshak Reservoir and the reasons for such drawdowns, as necessitated by regional needs."

Section 217 of S. 2740 is amended as follows: On line 12 delete \$112,000,000 and insert \$112,600,000.

Add the following new sections to Title II of the bill as reported beginning after the end of Section 222 on page 32 of the bill as reported:

Sec. 223. The project for flood control, West Columbus, Ohio, authorized by section 3(a)(11) of the Water Resources Development Act of 1988 (Public Law 100-676), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated February 9, 1988, as modified by the Phase II West Columbus Local Protection Project Re-evaluation Report, dated May, 1990, at a total cost of \$89,600,000, with an estimated first Federal cost of \$63,700,000, and an estimated first non-Federal cost of \$25,900,000.

Sec. 224. Subject to the provisions of section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary is directed to develop and implement a plan for modifying the Arkansas Post Navigation Canal of the McClellan-Kerr Arkansas River Navigation System for the purpose of improving environmental quality. Such plan shall include, subject to

approval of final plans by the Secretary, construction of a closure structure at the downstream end of the Morgan Point Bendway and related work. Sources of material for such structure may include dredged material obtained from the Arkansas Post Canal.

Sec. 225. The San Luis Rey River flood control project, authorized pursuant to section 201 of Public Law 89-298 is modified to authorize the Secretary to construct the project at a total cost of \$60,000,000, with an estimated first Federal cost of \$41,000,000, and an estimated first non-Federal cost of \$19,000,000.

Sec. 226. The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168) is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April, 1989, as revised on January, 1990, at a total cost of \$26,200,000, with an estimated first Federal cost of \$16,090,000, and an estimated first non-Federal cost of \$10,110,000.

Sec. 227. (a) Upon approval of a Local Cooperation Agreement between the Assistant Secretary of the Army for Civil Works and the City of Virginia Beach, Virginia, for beach nourishment in accordance with Section 934 of the Water Resources Development Act of 1986 (P.L. 99-662) the Local Cooperation Agreement shall be effective from February 6, 1987.

(b) The Assistant Secretary of the Army for Civil Works is hereby authorized to reimburse the City of Virginia Beach for the Federal share of beach nourishment in accordance with Section 103(c)(5) of the Water Resources Development Act of 1986.

Sec. 228. (a) Title II of Public Law 97-137 is amended to authorize the Secretary to participate with the State of Indiana and other non-Federal interests in the design and construction of an interpretive center for the Falls of the Ohio National Wildlife Conservation Area, at a total cost of \$3,200,000. Design and construction of this center are to be cost-shared in accord with Section 1039c(4) of Public Law 99-662.

(b) Sections 204 and 205 of Public Law 97-137 are amended to authorize the Secretary to acquire additional real estate interests sufficient to include the visitor center facility in the National Wildlife Conservation Area and to enter into an agreement with non-Federal interests to provide for non-Federal operation and maintenance of the facility upon completion.

(c) The non-Federal share of construction costs of the visitor facility shall be reduced by the value of real estate acquired by non-Federal interests and provided without cost to the Federal Government for the interpretive center facilities. Credit shall be given for the market value of the real estate at the time of construction of the facility.

Sec. 229. Subject to the provisions of section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary is directed to develop and implement a plan for modifying the channel bypass element of the Levisa Fork, Kentucky project for the purpose of water quality improvement in and restoration of Pikeville Lake, Kentucky. Such plan shall include, subject to approval of final plans by the Secretary, design and construction of a sewage collection system and related infrastructure, lake restoration, including elimination of stagnant water, and other meas-

ures necessary for water quality improvement.

SEC. 230. (a) Subject to the condition stated in subsection (b) and notwithstanding the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.) and section 108 of the River and Harbor Act of 1960 (33 U.S.C. 578), the Secretary of the Army shall release to Clay County, Georgia, without reimbursement, the reversionary interest of the United States in approximately 50 acres of land in the deed described in subsection (c).

(b)(1) The condition referred to in subsection (a) is that Clay County, Georgia, agree to an amendment of the deed described in subsection (c) by which the reversionary interest that is released pursuant to subsection (a) is replaced with a reversionary interest as described in paragraph (2).

(2) The deed described in subsection (c) shall be amended to provide that the property conveyed by the deed is subject to the condition and restriction that it is to be used and enjoyed solely for the development of a retirement community, as that term may be defined by the parties in the instrument described in subsection (d), operated on a nonprofit basis by Clay County, Georgia, and its successors and assigns, or under a lease arrangement between the County and the South Georgia Methodist Home for the Aging, Inc., and that if the property is used for any other purpose, title to the property, including any improvements, shall revert to the United States.

(c) The deed referred to in subsections (a) and (b) is the quitclaim deed dated October 22, 1963, by which the United States conveyed to Clay County, Georgia, the parcel of land lying in land lots 263 and 264, Seventh Land District, Clay County, Georgia.

(d) The Secretary of the Army and Clay County, Georgia, shall execute and file in the appropriate office an amendment of deed, amended deed, deed of release, or other appropriate form of instrument or instruments effecting the substitution of reversionary interest authorized by this section.

Section 321 is amended as follows: (a) Delete the period at the end of Subsection (a)(2) and add the phrase, and appropriate States." (b) Renumber subsection (a)(3) as subsection (a)(4) and insert the following replacement subsection (a)(3): "The Director shall enter into a planning period during which he shall consult with such Federal agencies and States to develop a framework for the study. The framework for the study shall be completed within 120 days following the date of the enactment of this Act." (c) on line 10 delete October 31, and replace with December 31.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended by inserting "Columbiana," after "Carroll, Clermont."

Delete all of section 312 and renumber the remaining sections accordingly.

WATER RESOURCES RESEARCH AUTHORIZATION

CHAFEE (AND DOMENICI) AMENDMENT NO. 2488

Mr. HATFIELD (for Mr. CHAFEE and Mr. DOMENICI) proposed an amendment to the act (H.R. 1101) to extend the authorization of appropriations for the Water Resources Research Act

of 1984 through the end of fiscal year 1994, as follows:

On page 1, line 3, strike all after "1." through page 7, line 17, and insert in lieu thereof the following:

WATER RESEARCH INSTITUTES

(a) Section 103(5) of the Water Resources Research Act of 1984 (42 U.S.C. 10302(5)) is amended by deleting "coordinate more effectively" and inserting in lieu thereof: "to promote more effective coordination of".

(b) Section 104(a) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(a)) is amended by changing "Trust Territory of the Pacific Islands" to "Federated States of Micronesia".

(c) Section 104(b) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)) is amended by inserting in the last sentence after the phrase "for the purpose of" the following "promoting".

(d) Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)(1)) is amended to read as follows:

"(1) plan, conduct, or otherwise arrange for competent research that fosters (A) the entry of new research scientists into the water resources fields, (B) the training and education of future water scientists, engineers, and technicians, (C) the preliminary exploration of new ideas that address water problems or expand understanding of water and water-related phenomena, and (D) the dissemination of research results to water managers and the public, and".

(e) Section 104(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(c)) is amended by deleting the period at the end thereof and inserting in lieu thereof "and thereafter, such sums to be used only for the reimbursement of the direct cost expenditures incurred for the conduct of the water resources research program."

(f) Section 104(e) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(e)) is amended to read as follows:

"(e) The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine that the quality and relevance of its water resources research and its effectiveness as an institution for planning, conducting, and arranging for research warrants its continued support under this section. If, as a result of any such evaluation, the Secretary determines that an institute does not qualify for further support under this section, then no further grants to the institute may be made until the institute's qualifications are reestablished to the satisfaction of the Secretary."

(g) Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by deleting "September 30, 1985, through September 30, 1989" and inserting in lieu thereof "September 30, 1989, through September 30, 1995."

(h) Section 104(f)(2) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(2)) is amended by deleting "section 106 of this Act" and inserting in lieu thereof "section 104(g) of this Act".

(i) Section 105(a)(3) of the Water Resources Research Act of 1984 (42 U.S.C. 10304(a)(3)) is repealed.

(j) Section 105(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10304(c)) is amended by:

(1) striking "\$20,000,000" and inserting in lieu thereof, "\$10,000,000"; and

(2) striking "1989" and inserting in lieu thereof, "1995".

(k) Section 108(6) of the Water Resources Research Act of 1984 (42 U.S.C. 10307(6)) is

amended by inserting immediately after "depletion" a comma and the word "contamination,".

(l) Section 108(8) of the Water Resources Research Act of 1984 (42 U.S.C. 10307(8)) is amended by inserting immediately after "water" the words "quality and quantity".

(m) Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by adding the following:

"(g)(1) There is further authorized to be appropriated to the Secretary of the Interior the sum of \$5,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 only for reimbursement of the direct cost expenses of additional research or synthesis of the results of research by institutes which focuses on water problems and issues of a regional or interstate nature beyond those of concern only to a single State and which relate to specific program priorities identified jointly by the Secretary and the institutes. Such funds when appropriated shall be matched on a not less than dollar-for-dollar basis by funds made available to institutes or groups of institutes, by States or other non-Federal sources. Funds made available under this subsection shall remain available until expended.

"(2) Research funds made available under this subsection shall be made on a competitive basis subject to the merit of the proposal, the need for the information to be produced, and the opportunity such funds will provide for training of water resources scientists or professionals."

(n) Section 106 of the Water Resources Research Act of 1984 (42 U.S.C. 10305) is amended to read as follows:

"Sec. 106. (a)(1) The Secretary shall make grants in addition to those authorized under sections 104 and 105 for technology development concerning any aspect of water resources including water-related technology which the Secretary may deem to be of State, regional, or national importance. Activities funded under this section may be carried out by educational institutions, private firms, foundations, individuals, or agencies of State or local government. Care shall be taken to protect proprietary information of private individuals or firms associated with the technology.

"(2) The Secretary may establish any condition for the matching of funds by the recipient of any grant or contract under this section which the Secretary considers to be in the best interest of the Nation considering the information transfer and technology needs of the Nation. However, in the case of institutes established by section 104 of this Act no match greater than that required under section 104 may be required.

"(b) Each application for a grant under this section shall state the nature of the project to be undertaken, the qualifications of the personnel who will direct and conduct it, facilities of the organization performing any technology development, the importance of the project to the Nation, region, and State concerned, and the potential benefit to be accrued.

"(c) There is authorized to be appropriated to the Secretary the sum of \$6,000,000 for the purpose of carrying out this section for each of the fiscal years ending September 30, 1990, through September 30, 1995; such sums to remain available until expended."

(o) Section 309a of the Water Resources Research Act of 1984 (42 U.S.C. 10301 et al.), as amended, is further amended by deleting "1991" and inserting in lieu thereof "1995".

SEC. 2. (a) The Secretary of Interior, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, is authorized to enter into contracts or cooperative agreements, as the Secretary deems appropriate, with national laboratories (including Los Alamos National Laboratory) to carry out water resources research, development, and demonstration projects within the authorities of Public Law 98-242 (including the effects of potential climate changes on surface and ground water quality and quantity and the elimination of contamination of ground water aquifers.)

(b) The water resources research authorized in this section shall be undertaken under such rules and regulations as the Secretary deems appropriate and shall be carried out in close consultation and collaboration with the institutes established pursuant to Public Law 98-242, to the extent such research work affects the State in which the institute exists, and to the extent such institute agrees to consult and collaborate.

(c) For the purposes of carrying out this section, there is authorized to be appropriated to the Secretary of the Interior the sum of \$10,000,000 for each of the fiscal years 1991 and through 1995.

ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

HATFIELD AMENDMENT NO. 2489

Mr. HATFIELD proposed an amendment to Senate concurrent resolution (S. Con. Res. 122), a concurrent resolution to establish authority for the minority leaders of the House of Representatives and of the Senate to appoint persons to House and Senate fellowship, respectively, as follows:

In section 1(a), strike "joint resolution" each place it appears and insert "concurrent resolution".

In section 2(b)(1)—

(1) strike ", in consultation with the Minority Leader of the House and with" and insert "and the Minority Leader of the House, in consultation with"; and

(2) strike "select the" and insert "each select one of the".

In section 2(b)(2)—

(1) strike ", in consultation with the Minority Leader of the Senate" and insert "and the Minority Leader of the Senate, in consultation with"; and

(2) strike "select the" and insert "each select one of the".

In section 2(c)(1), strike "(c)(1)" and insert "(b)(1)".

In section 2(c)(2), strike "(c)(2)" and insert "(b)(2)".

CIVIL WAR SITES STUDY ACT OF 1990

BUMPERS AMENDMENT NO. 2490

Mr. NUNN (for Mr. BUMPERS) proposed an amendment to the bill (S. 1770) to assess the suitability and feasibility of including certain Shenandoah Valley Civil War sites in the National Park System, and for other purposes, as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil War Sites Study Act of 1990".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(a) the term "Commission" means the Civil War Sites Advisory Commission established in section 5 of this Act;

(b) the term "Secretary" means the Secretary of the Interior; and

(c) the term "Shenandoah Valley Civil War sites" means those sites and structures situated in the Shenandoah Valley in the Commonwealth of Virginia which are thematically tied with the nationally significant events that occurred in the region during the Civil War, including, but not limited to, General Thomas "Stonewall" Jackson's 1862 "Valley Campaign" and General Philip Sheridan's 1864 campaign culminating in the battle of Cedar Creek on October 19, 1864.

SEC. 3. FINDINGS.

The Congress finds that—

(1) many sites and structures associated with the Civil War are located in regions which are undergoing rapid urban and suburban development;

(2) such sites and structures represent important means by which the Civil War may continue to be understood and interpreted by the public; and

(3) it is important to obtain current information on the significance of such sites, threats to their integrity, and alternatives for their preservation and interpretation for the benefit of the Nation.

SEC. 4. SHENANDOAH VALLEY CIVIL WAR SITES STUDY.

(a) STUDY.—(1) The Secretary is authorized and directed to prepare a study of Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but need not be limited to, designation as units of the National Park System or as affiliated areas.

(2) The study shall contain an analysis of the economic effect that protection of Shenandoah Valley Civil War sites would have on the economy in the Shenandoah Valley.

(3) The study shall include the views and recommendations of the National Park System Advisory Board.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 5. ESTABLISHMENT OF CIVIL WAR SITES ADVISORY COMMISSION

(a) IN GENERAL.—There is hereby established the Civil War Sites Advisory Commission. The Commission shall consist of thirteen members appointed as follows:

(1) five citizens who are nationally recognized as experts and authorities in the history of the Civil War, appointed by the Secretary;

(2) the Director of the National Park Service or his or her designee;

(3) the Chairman of the Advisory Council on Historic Preservation, or his or her designee;

(4) three citizens appointed by the President Pro Tempore of the United States Senate in consultation with the Chairman and Ranking Minority Member of the Committee on Energy and Natural Resources; and

(5) three citizens appointed by the Speaker of the United States House of Representatives in consultation with the Chairman and Ranking Minority Member of the Committee on Interior and Insular Affairs.

(b) CHAIRMAN.—The Commission shall elect a chairman from among its members.

(c) VACANCIES.—Vacancies occurring on the Commission shall not affect the authority of the remaining members of the Commission to carry out the functions of the Commission. Any vacancy in the Commission shall be promptly filled in the same manner in which the original appointment was made.

(d) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(e) MEETINGS.—The Commission shall meet at least quarterly or upon the call of the Chairman or a majority of the members of the Commission.

(f) COMPENSATION.—Members of the Commission shall serve without compensation. Members of the Commission, when engaged in official Commission business, shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) TERMINATION.—The Commission established pursuant to this section shall terminate 180 days after the transmittal of the report to Congress as provided in section 8(c).

SEC. 6. STAFF OF THE COMMISSION.

(a) EXECUTIVE DIRECTOR.—The Director of the National Park Service, or his or her designee, shall serve as the Executive Director of the Commission.

(b) STAFF.—The Director of the National Park Service shall, on a reimbursable basis, detail such staff as the Commission may require to carry out its duties.

(c) STAFF OF OTHER AGENCIES.—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(d) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

SEC. 7. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission, may for the purpose of carrying out this Act hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) BYLAWS.—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out its functions under this Act.

(c) DELEGATION.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) **DONATIONS.**—Notwithstanding any other provision of law, the Commission may seek and accept donation of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 8. DUTIES OF THE COMMISSION.

(a) **PREPARATION OF STUDY.**—The Commission shall prepare a study of historically significant sites and structures in the United States associated with military action during the Civil War, other than Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but need not be limited to, designation as units of the National Park System or as affiliated areas. The study may include existing units of the National Park System.

(b) **CONSULTATION.**—During the preparation of the study referred to in subsection (a), the Commission shall consult with the Governors of affected States, affected units of local government, State and local historic preservation organizations, and such other interested parties as the Commission deems advisable.

(c) **TRANSMITTAL TO THE SECRETARY AND CONGRESS.**—Not later than 2 years after the date that funds are made available for the study referred to in subsection (a), the Commission shall transmit such study to the Secretary and the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) **NO PRIOR REVIEW.**—No officer or agency of the United States shall have any authority to require the Commission to submit the study referred to in subsection (a), or any other recommendations or testimony the Commission may provide, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such study, recommendations, or testimony to the Congress. In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its study, recommendations, or testimony which it transmits to the Congress.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums not to exceed \$2,000,000 to carry out the purposes of this Act.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FINANCE

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on August 1, 1990, at 10 a.m. to mark up S. 712, Puerto Rico Status Referendum Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, August 1, at 9 a.m., room SD-430, for an executive session to consider the attached agenda.

AGENDA

S. , Reauthorization of the National Institutes of Health Act of 1990; S. 2649, Omnibus Drug Treatment and Prevention Act;

S. , The Transplant Amendments of 1990;

S. 930, Construction Safety, Health and Education Improvement Act of 1989;

S. 2793, to amend the United States Institute of Peace Act to honor the memory of the late Spark M. Matsunaga, U.S. Senator from the State of Hawaii; and

S. Res. , to commend Mr. Erich Bloch for his 6 years of dedicated service as Director of the National Science Foundation.

Nominations:

Richard V. Bertain to be the Associate Director of the ACTION agency;

Elmer B. Staats to be a member of the Board of Trustees of the Harry S. Truman Scholarship Foundation; and Julian W. De La Rosa, to be Inspector General, Department of Labor.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, August 1, at 10 a.m. to hold a nomination hearing on Edwin D. Williamson, to be Legal Advisor of the Department of State.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON URBAN AND MINORITY-OWNED BUSINESS DEVELOPMENT

Mr. NUNN. Mr. President, I ask unanimous consent that the Small Business Committee's Subcommittee on Urban and Minority-Owned Business Development be authorized to meet during the session of the Senate on Wednesday, August 1, 1990, at 9:30 a.m., in SR-428A. The Committee will hold a hearing to examine last year's Supreme Court decision in City of Richmond versus J.A. Croson Co., and the rulings' impact on minority-owned small business.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Select Committee on Indian Affairs be authorized to meet on August 1, 1990, beginning at 2 p.m., in 485 Russell Senate

Office Building, to consider for report to the Senate S. 1980, the Native American Repatriation of Cultural Patrimony Act; S. 2451, to establish in the Department of the Interior a Trust Counsel for Indian Assets; S. 2850, the Innovative Indian Health Facilities and Delivery System Demonstration Project Act and S. 2645, the Urban Indian Health Equity Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, August 1, at 9:30 a.m. for a hearing on the subject: Collecting Unpaid Taxes; Why Can't the IRS Do Better?

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Wednesday, August 1, at 2 p.m., for a hearing on the following nominations: Stephen D. Potts, to be Director, Office of Government Ethics; Wallace E. Stickney, to be Director, Federal Emergency Management Agency; and Russell F. Miller, to be Inspector General, Federal Emergency Management Agency.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. NUNN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, August 1, 1990, at 10 a.m. to conduct a hearing on bank and thrift fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN COMMERCE AND TOURISM SUBCOMMITTEE

Mr. NUNN. Mr. President, I ask unanimous consent that the Foreign Commerce and Tourism Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 1, 1990, at 2 p.m. on United States chemical exports to Latin America.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUCLEAR REGULATION, COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. NUNN. Mr. President, I ask unanimous consent that the Subcommittee on Nuclear Regulation, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on Wednesday, August 1, beginning at 9:30 a.m., to conduct a hearing on the role of nuclear energy in meeting future electricity demand.

The PRESIDING OFFICER. Without objection, it is so ordered.

SCIENCE, TECHNOLOGY, AND SPACE
SUBCOMMITTEE

Mr. NUNN. Mr. President, I ask unanimous consent that the Science, Technology, and Space Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 1, 1990, at 9:30 a.m. on the U.S. electronics industry.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

ANDY THE TAILOR OF BANGOR

● Mr. COHEN. Mr. President, although Bangor, ME, may not automatically jump to mind as a world fashion center, it does boast a world-class tailor named Andy Karageorgiou.

For the last 11 years, Bangor residents have entered Andy's shop on Broadway under a sign that reads, "Andy the Professional Tailor . . . Good Quality—Low Price" and have found just that.

They have had the benefit of his professionalism and skill developed through 37 years in the business.

A native of Greece, Andy entered the tailoring trade at age 13 as an apprentice on the Isle of Rhodes. After a stint in the merchant marine, he came to New York, where, in 1966, Bangor clothier Henry Segal asked Andy to come work for him.

Andy's shop attracts customers from all over the State. "The people want a professional," he said in a recent Bangor Daily News article.

No matter what you do, if you do good work and give a reasonable price, people will come to you. They come to me from everywhere in Maine. From Falmouth, Fort Kent, Machias, Jackman, everywhere. I always wanted to succeed, and I did.

The man who keeps Bangor residents well-dressed has indeed become a success, and we are glad he chose Maine as his home.

I congratulate Andy Karageorgiou on the professionalism and skill that have made him a business success, and I ask that the article about Andy that appeared in the Bangor Daily News be placed in the RECORD.

The article follows:

[From the Bangor Daily News, June 9-10, 1990]

ANDY THE TAILOR HAS BANGOR IN STITCHES
(By Tom Weber)

For Andy Karageorgiou, better known in Bangor as Andy the Tailor, life has never been the same since ready-made killed off custom-made. He estimates the demise at roughly the same time that fast food began to do in homecooking—somewhere in the early 1970s. Before that, there was still a market for the suits Karageorgiou sewed from scratch in his native Greece and New York City.

He would make all of the precise measurements on his customer and guide him in the choice of material. Then he would cut the cloth and stitch up the shell of a suit for the first fitting. Two fittings later, with the lining, collar and sleeves finally in place, the suit would erase every unsightly bump on the man's body. Fat men, tall men, short men, even stooped men would walk out of the shop knowing that they would never find an off-the-rack suit that fit as well.

But most people don't ask for custom-made suits anymore, at least not in Bangor, where Karageorgiou has run his busy tailor shop on Broadway since 1969. Custom suits cost too much, for one thing, and styles are constantly changing in these trendy times. So he does alterations instead—nipping and tucking mountains of off-the-rack goods.

"A yard of good suit material can cost \$80, and you'd need two and a half to three yards for a suit," says Karageorgiou, a trim-figured man of 50. "Then, I'd have to work three days on it. A custom suit would cost \$600 or more, and who is going to pay that?"

Karageorgiou sees some good and a lot of bad clothing in a day. He sees cheap material and poor fits. He sees good material cut in ugly styles. He sees sleeves that reveal too much wrist, cuffs that hang in folds around the ankles or hover comically above the anklebone. He sees polyester concoctions that could make a self-respecting tailor reach for the shears in disgust.

"I want you to make these fit," says a man who enters the shop with three suits that someone has given him.

Karageorgiou asks the man to put on one of the jackets. The sleeves are a least 2 inches too short, which leads the men to confer about the indelible crease.

"The crease will never come out," Karageorgiou tells him. "I can lengthen the sleeve if you want, but you will see the worn crease."

The customer then puts on another jacket.

"Cheap suit," Karageorgiou says flatly. "Everything's glued together."

Karageorgiou decides that he can work with the third suit.

"You've got to have pride in what you do," he says when the customer leaves. "I could have lengthened those sleeves, but then he'd put on the jacket and see that crease and wonder why I didn't tell him. He trusts my judgment as a professional. People are out to cheat you all the time. I cannot. It's against my nature."

Karageorgiou was born in 1940 in a small village in Greece. World War II brought Germans, bombing raids and destruction in those first years of his life. Karageorgiou's mother died when he was 5, leaving his father, a farmer, to support the family in the war-ravaged village.

At 13, Karageorgiou finished grade school and went to work as a tailor's apprentice in a shop on the Isle of Rhodes.

"I could have gone on to high school, but I wanted to work," he says. "I wanted to make a buck. I wanted to succeed at something, and I knew that no one was going to do it for me."

The shop, owned by a family friend, was the biggest and busiest on the island. The Greek tailors were fast and good. They placed a thimble on the young Karageorgiou's middle finger and tied the finger down to his palm. Holding, a needle between his index finger and thumb, the boy practiced his stitches for hours. For speed, he learned to push the needle through the

cloth with only the nail-side of his anchored middle finger.

In two years, Karageorgiou was fast and good. He mastered the fitting of sleeves, the most exacting part of a suit's construction. The more custom suits he made, the more he began to think about owning his own shop one day. It would not be in Greece, he decided.

He joined the Merchant Marine and roamed among the capitals of Europe. At 24, he left the shipping business and got a job as a tailor in New York's garment district, across from Macy's department store.

"We did everything there," he recalls. "We had businessmen who came in and ordered three or four custom suits at a time. They wanted to look good. Nothing off the racks for them. The suits cost maybe \$100 or \$125 then. They all had money."

Karageorgiou worked many nights until 10 or 11 o'clock. He stitched clothes in his apartment after work. One day in 1966, Henry Segal, a Bangor clothier, walked into the shop where Karageorgiou worked. Segal needed a tailor, and he asked Karageorgiou if he would consider working in Maine.

"I always wanted to live in a small town," Karageorgiou says. "I had been in New York for a couple of years, and I had been to all the big cities in Europe. So I came to Bangor. No problem."

He worked for 4½ years in Segal's downtown store, and then went to Sleeper's clothing store for the next 12 years. After marrying and divorcing a local woman, Karageorgiou raised his children, George and Nikki, by himself.

In 1969, he bought the house on Broadway where he lives and works today. He fashioned a narrow entryway—4 feet by 8 feet—into a tiny tailor's shop without windows or heat. On two old sewing machines he did alterations at nights, days off, and weekends.

"It was a struggle, sure," he says with a shrug. "But when you want to be somebody you keep going. I never had a thought that I would fail."

Occasionally someone would ask for a custom-made suit in those early years of his business. Karageorgiou would take all the measurements and send them to a factory in Baltimore to have the suit made.

In 1975, he began buying real estate, and now owns seven rental houses and 22 apartments throughout the city. That year, he also expanded his shop to its present size, which is still small. Bluish clothing fuzz lies an inch thick on the spools of thread hanging over his ancient black machine. "Andy the Professional Tailor . . . Good Quality—Low Price," reads the sign by the door.

The days of custom-made are gone, but he has no regrets. Andy the Tailor's business can be measured these days in the rows of pants that hang against the wall and the heaps of clothing that accumulate daily on his counter.

"I need you to fix these again, Andy," says a young man carrying a pair of blue wool pants. One side of the crotch is worn to a see-through thinness. Karageorgiou knows the pants. He replaced the other side of the crotch last year.

A young woman comes in with a pair of fashion blue jeans. The leather inserts are cracked and dry and have pulled away from the waistband.

"You put them through the wash, right? OK. I can fix them," Karageorgiou assures her with a smile.

"Volume," Karageorgiou says when she leaves. "I do everything here. The people

want a professional. No matter what you do, if you do good work and give a reasonable price, people will come to you. They come to me from everywhere in Maine. From Falmouth, Fort Kent, Machias, Jackman, everywhere. I always wanted to succeed, and I did."●

PRESIDENT BUSH SALUTES OREGON MOTHER AS "DAILY POINT OF LIGHT"

● Mr. PACKWOOD. Mr. President, I would like to take this opportunity to recognize the outstanding efforts of a 23-year-old Oregonian who is a shining example of how to meet a challenging circumstance head on, deal with it, and then turn around and help others do the same.

Six years ago, Connie Harris of Springfield, OR, became a mother at the age of 17. Instead of crumbling under what could have been a burden too heavy to bear, Connie rose above her challenge. Using her own experience as a teenage mother as a springboard, Connie has done a remarkable job helping other young mothers learn how to be responsible parents.

After her child was born, seeking help and guidance with motherhood, Connie joined a local support group, called Birth to Three. While an active member of the support group, she completed high school and obtained a full-time job.

When the leader of her Birth to Three support group left 3 years ago, Connie stepped in to take over in order to ensure that the group continued meeting. Connie continues to lead this group today, helping other teenage mothers tackle the same challenges and thrive like she has.

Now the mother of two young boys, Connie works full time each day and volunteers an additional 10 to 15 hours per week at Birth to Three. Her work involves developing close relationships with other mothers in her group, encouraging them to continue their education, and helping them develop good parental skills.

In recognition of her outstanding community service, President Bush has saluted Connie Harris as the 202d "Daily Point of Light." The Daily Point of Light recognition is intended to call every individual and group in America to claim society's problems as their own by taking direct and consequential action, like the efforts taken by Connie Harris.

To Connie Harris: Thank you for your hard work; you are doing a fabulous job.●

THE LIBERIAN DISASTER

● Mr. SIMON. Mr. President, Gordon C. Thomasson, professor at Marlboro College in Marlboro, VT, who heads the Liberian Studies Association, recently had a comment on the editorial

pages of the New York Times about the Liberian disaster.

His comments are worth reading, but I particularly want to call attention to the point he makes at the end of his article about our propensity to send military equipment.

That tendency is a worldwide tendency, not just for Africa or any other region of the world.

American weapons have not aided stability or democracy in far too many cases.

What is happening in Cambodia today is another illustration of our folly in supplying weapons.

Because I chair the Subcommittee on Africa, the other day I was asked to respond to two administration initiatives. Because the information given to me was classified, I will not disclose the countries involved. In one case, it was a matter of supplying weapons to a country, and in the other, it was to provide money for a military hospital.

I favor taking care of wounded and injured people, whether they are in the military or not, but my question to the administration was simply, "Why provide help for a military hospital when the need, I am certain, is great for a hospital that will serve everyone?"

For reasons I cannot fathom, getting military aid to a country is always much easier than getting economic aid.

Military aid rarely serves the causes this country professes as much as economic aid does.

I hope that one of these days, we will try to provide a more balanced foreign assistance program, one that is geared more toward economic aid and less toward military aid.

I ask that Professor Thomasson's article appear in the RECORD at this point.

The article follows:

[From the New York Times, July 14, 1990]

LIBERIAN DISASTER: MADE IN THE U.S.A.

(By Gordon C. Thomasson)

MARLBORO, VT.—The State Department often refers to a "special relationship" between Liberia and the U.S., even though it has been decidedly one-sided, to our advantage. What's really special about Liberia is U.S. strategic interests there. That is Washington's main concern and why, through the 10 years of the Doe regime, we have been willing to support a dictator.

Liberia is the base for more American military and intelligence arrangements than any other sub-Saharan African country. They include Voice of America transmitters for broadcasting to all sub-Saharan Africa; hundreds of receiving and rebroadcasting antennas and signal-boosting amplifiers for C.I.A. and diplomatic radio traffic; an Omega navigation system transmitter (one of eight worldwide) that serves as a backup system for underwater navigational guidance of U.S. missile-launching submarines.

Then, too, there is a longstanding mutual defense treaty, and agreements that President Samuel K. Doe modified to permit Rapid Deployment Force basing and staging

facilities. (These facilities have been used to trans-ship materials to U.S. clients such as the Unita guerrillas in Angola.)

The U.S. Coast Guard sited and maintains Liberia's Omega station on the country's main highway. But it neglected to warn the public about the dangers of extremely high levels of pulsed very-low-frequency electromagnetic radiation emitted by the transmitter.

By contrast, Adm. Paul A. Yost refused to allow an interstate highway to be built near the Coast Guard's Kaneohe, Hawaii, Omega facility in Haku Valley, unless Hawaii could first determine "that no harmful radiation or shock hazards exist" and accepted "full liability for any problems, injuries or long-term health effects during construction or use of the highway because of the proximity of the Omega station." The highway was not built.

Liberia, in the early 1980's, became the largest per capita recipient of U.S. aid in sub-Saharan Africa, even though the U.S. was fully aware that millions were being siphoned off by Mr. Doe and his cronies.

In late 1987, the U.S. put the virtually bankrupt and loan-defaulting Government into "receivership," sending a team of 17 experts to control spending and stop corruption. In November 1988, the team gave up in disgust. By then, the U.S. had pumped more than a half billion dollars into the regime.

Since 1987, the Drug Enforcement Administration and State Department have refused to follow up evidence of a drug-money banking industry that has sprung up: five new banking corporations have been created in Liberia since 1987. Although the economy is a disaster, the use of U.S. dollars as legal tender makes Liberia the perfect country to replace Panama as an international drug-money laundry.

Is Charles Taylor, the most prominent leader of the rebellion, an improvement over Samuel K. Doe? Probably not. Mr. Taylor has wasted ample opportunities, during the rebellion, to address the issues of human rights, a return to civilian government and democratic elections, corruption and economic reconstruction.

Mr. Doe had appointed Mr. Taylor—a rehabilitated member of the regime he had overthrown in 1980—as chief of the Government Services Administration. Later, in 1983, Mr. Taylor fled to America following allegations that he had embezzled \$900,000. The Government attempted to extradite him from Ghana in May 1987. So far, he and his undisciplined forces, bearing down on Monrovia, the capital, seem to promise only a mirror image of what Mr. Doe brought to Liberia, also through force of arms.

What options exist for the U.S. in what appear to be the final days of the Doe regime? We can support the Economic Community of West African States' initiative for an interim civilian government that excludes the combatants and prepares for free elections. And we can provide incentives to create a democratically elected, civilian representative government that can build a balanced relationship with the U.S. This is the only way our best long-term interests can be preserved.

We should not support a Liberian government that comes to power by force and that creates animosities that lead to mass killing. The U.S. at long last, has protested to the Government about the abusive behavior of its troops toward unarmed civilians; five other Western embassies have urged the rebels to stop killing civilians in ethnic

groups thought to be loyal to the Government.

Wars of revenge, however, may be the lesser of two horrors Liberia faces. The planting season is past for most of the country, and in many combat areas no crops have been sown and no harvest can be expected before October or November 1991.

Liberia is thus facing widespread famine. But food aid should be given only to a civilian interim government that quickly prepares for free and fair elections.

Food should never be a weapon—but it can be a gift of peace. With U.S. economic assistance, a U.N. peacekeeping force could aid a caretaker civilian government in exchanging the soldiers' weapons for food supplies, tools, seed for planting the 1991 crop and return transportation to home villages. This is far better than having soldiers try to survive as armed bandits while the people starve, and in the short term this would help avoid postwar massacres and famine.

From 1980 to 1990, \$52 million in U.S. military aid created a heavily armed force—and for what? Unless Liberia's future is to be a succession of insurgencies and bloodbaths, the damage the U.S. has created must be undone by strongly encouraging the immediate conservation to a democratic, civilian government, with incentives to disarm the current combatants. A permanent moratorium should be imposed on all aid to any new military government. An impoverished irregular military force cannot run, let alone rebuild, a bankrupt country. Democracy can.●

IN RECOGNITION OF INSPECTOR THOMAS McNAMARA AND SPECIAL AGENT DEBORAH MITCHELL

● Mr. DIXON. Mr. President, I would like to take this opportunity to recognize the outstanding services of two law enforcement officers in Illinois. A Federal grand jury, in East St. Louis, IL, recently awarded Inspector Thomas McNamara of the Illinois State Police Division of Criminal Investigation, and Special Agent Deborah Mitchell of the Metropolitan Enforcement Group of Southern Illinois, certificates for outstanding performance in the line of duty.

These two law enforcement officers were honored for exceptionally meritorious service to the people of East St. Louis in their performance of duty that brought about a dawn raid at Fort Apache, the headquarters for a notorious motorcycle gang, on Thursday, April 16, 1990.

The motorcycle gang dealt in murder for hire, drug dealing, unlawful use of firearms, and the production of explosives, as well as other acts of criminal activity. Inspector McNamara and Special Agent Mitchell displayed great courage by placing service to their fellow citizens above regard for their own lives. They infiltrated the inner sanctum of the infamous organization, and after a 2-year investigation, brought about the collapse of Fort Apache and the arrest of the gang's violent members.

Mr. President, Inspector McNamara and Special Agent Mitchell are on the front lines in the war against drugs and crime. They put their lives at risk on a daily basis, helping rid our State and Nation of violent criminals. The people of East St. Louis, as well as Americans across the country, are indebted to these and other brave law enforcement officers. On behalf of the people of Illinois, I would like to express our deep gratitude to Inspector Thomas McNamara and Special Agent Deborah Mitchell for service above and beyond the call of duty.●

CONGRATULATIONS TO BERRYVILLE, AR, RESIDENT BOB L. WEATHERS ON HIS RETIREMENT

● Mr. PRYOR. Mr. President, I rise today to congratulate Mr. Bob L. Weathers of Berryville, AR, who will be retiring from Carroll Electric Cooperative Corp. on October 1, 1990.

Mr. Weathers is well-known throughout the United States for his contribution to the State of Arkansas and the rural electrification movement spanning a career of 40 years. He served as manager of Carroll Electric Cooperative Corp. for 17 years. During his tenure with Carroll Electric, the cooperative doubled in size, now serving over 42,000 accounts.

He served on numerous State, regional, and national organizations. He was director, past chairman and secretary-treasurer of Arkansas Electric Cooperative Corp., director and past chairman of Arkansas Electric Cooperative, Inc., director of Electric Research and Manufacturing Cooperative, past president of Arkansas Electrification Council, and past vice president of Action Committee for Rural Electrification. Weathers served on the management advisory committee and resolutions committee of the National Rural Electric Cooperative Association.

Mr. Weathers is also actively involved in his community. He is a member of the Berryville Chamber of Commerce, member of the Berryville Industrial Parks Commission, and former mayor of Salem, AR. He is a member of the Berryville Methodist Church.

Bob Weathers is a native Arkansan. He and his wife, Donna, have three daughters, and three grandchildren.

Mr. President, Arkansas is fortunate to have such a dedicated citizen as Bob Weathers, and I applaud this achievement.●

HONORING ROGER AND MARY JANE JACOBI

● Mr. RIEGLE. Mr. President, on August 11, 1990, the Interlochen Center for the Arts is hosting the 30th Anniversary Van Cliburn Benefit Con-

cert and honoring two very special friends of Interlochen, President Emeritus Roger Jacobi and his wife, Mary Jane Jacobi. I would like to take this opportunity to congratulate and thank both of them for their dedication to the enrichment and promotion of the arts.

The Interlochen Center for the Arts is nestled in a pineland along the shores of Green Lake in northwestern Lower Michigan. In the past 18 years, under the leadership of Roger Jacobi, the center has grown to become one of our Nation's premier arts education centers. The Interlochen facility operates year round as an academy during the school year and as a camp and music festival during the summer. Both the camp and the academy are committed to the artistic training of children gifted in the arts. The school also helps bring the arts to northwestern Michigan through its international concert series and its radio station, WIAA-FM.

This summer 2,200 students, aged 8 to 18, will come from all 50 States, the District of Columbia, and 36 countries to participate in the programs, workshops, lectures, and master classes at the summer camp. This program, which is in its 63d season, affords young artists the opportunity to work with some of our world's renowned performers.

This month's celebration acknowledges Roger Jacobi's 18 years of service to the Interlochen Center of the Arts as well as the contributions of his wife, Mary Jane, Interlochen's "first lady." Roger E. Jacobi, who retired from his position as president of Interlochen last December, has made tremendous contributions to Interlochen and to the arts community as a whole in Michigan.

During his career, Roger Jacobi has served enthusiastically as both an administrator and educator. He spent 17 years in the public school system in Ann Arbor as a teacher and as an administrator. He also served on the faculty and later as an associate dean of the School of Music at the University of Michigan.

He gave of his time and expertise as management secretary of the Michigan School Band and Orchestra Association for 7 years and served 13 years as chairman of the Midwestern Conference of School and Vocal Instrumental Music and has worked with many other important arts organizations. He brought his considerable talent to Interlochen in 1971.

Mr. Jacobi's accomplishments on behalf of the arts at Interlochen are truly impressive. He has increased and revitalized the staff and faculty while expanding the campus through various gifts and grants. As a direct result of these efforts, enrollment has increased, especially that of minority

students. He has worked to broaden both the academic and artistic curriculum, and has helped attract an exceptional faculty and staff, enhancing the overall quality of the educational program. He conceived and developed the Interlochen Arts Festival, which brings major artists to northern Michigan. Financially, Mr. Jacobi established an endowment fund and brought the organization to fiscal stability, eliminated its long-term debt, and, with others, developed a long-term plan for Interlochen.

Through all of the efforts of Mr. Jacobi and his wife, talented young people have been able to enrich their talents and become some of the most successful artists in the world. Interlochen is indeed a unique community due in large part to the contributions of Mr. Jacobi.

It is my pleasure to join with the extended Interlochen family in recognizing Roger and Mary Jane Jacobi. Because of their commitment and dedication, the Interlochen Center for the Arts will continue to help many young artists develop their talents contributing to the richness of our culture and promoting world friendship through the universal language of the arts.●

REGARDING THE CONFIRMATION OF DR. JAMES W. HOLSINGER, JR.

● Mr. MURKOWSKI. Mr. President, I speak out today concerning a matter which is seriously jeopardizing the well-being of our country's military veterans. I am referring to the delay in the confirmation of Dr. James W. Holsinger, Jr., to be Chief Medical Director of the Department of Veterans Affairs [VA].

We do a disservice to our veterans by keeping Dr. Holsinger from carrying out his desperately required responsibilities in the VA health care area, especially at this critical time for the VA.

At this moment, the VA is formulating its needs for the fiscal year 1992 budget, and it is doing so without the input of the one official whose absence constitutes an invitation to health management instability. Dr. Holsinger will literally be overseeing the health care of millions of veterans and hundreds of medical facilities. He is obviously an integral part of the VA budget formulation process; yet, he remains silent, his wealth of experience and medical expertise of no value, because his nomination has been withheld from full Senate consideration.

Mr. President, I urge my colleagues from both sides of the aisle to join me in bringing about a vote to confirm Dr. Holsinger as quickly as possible. The health needs of our veterans are simply too important to permit further delay.●

NATIONAL JTPA ALUMNI WEEK

● Mr. RIEGLE. Mr. President, I rise today in observance of National JTPA Alumni Week, August 27 through September 3. On this occasion I would like to give special recognition to the impact that the Job Training Partnership Act has had on Macomb and St. Clair Counties in Michigan.

On October 1, 1983, the Job Training Partnership Act became law. Cooperation between private industry and government has led to the great success of this program, as eligible participants have been placed in unsubsidized, permanent employment. The Macomb/St. Clair Private Industry Council, administering the second largest JTPA program in the State of Michigan and the 19th largest in the Nation, is representative of the hundreds of private industry councils throughout the country which share a common goal: to provide employment and training programs for economically disadvantaged youth and unskilled adults. Participants become contributing members of the economy and provide the business community with a trained, productive workforce.

The JTPA has been particularly valuable in providing assistance to displaced workers. In the spring of 1988, 15-year veteran Phillip Bانشaw lost his job, along with 90 other employees, when Vlasic's Memphis, MI plant permanently closed. The Macomb/St. Clair Private Industry Council, utilizing a grant from the Governor's Office for Job Training, made the soon-to-be-displaced workers aware of retraining opportunities available to them at the Vlasic facility before their employment was terminated. This early intervention enabled Phillip to make a quick transition into a new position. Phillip is just 1 of over 2,000 people who enrolled in the Macomb/St. Clair program for the 1988-89 fiscal year.

Other successful people in this program include Alexandria Asselin and Kara Cuellar. While receiving public assistance and supporting a disabled husband and two children, Alexandria Asselin graduated with honors from a JTPA-sponsored secretarial training program, landed a job with a major corporation, and doubled her salary over the past 4 years. Kara Cuellar was a high school dropout who graduated with her high school diploma from an alternative high school program supported by JTPA funds. A speaker at the school's commencement ceremonies, she received an achievement award and is now a student at a local community college.

These are just a few examples of how the Job Training Partnership Act helps real people. I am proud of the accomplishment of these and other individuals who strive to improve their lot in life. I am equally proud of the hard working staff of the Macomb/St. Clair Private Industry Council for

their continued dedication to this successful program.●

VOTING RIGHTS CELEBRATION DAY

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of House Joint Resolution 625, designating "Voting Rights Celebration Day" just received from the House.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A joint resolution (H.J.Res. 625) Designating August 6th, 1990 as "Voting Rights Celebration Day."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the joint resolution?

There being no objection, the Senate proceeded to consider the joint resolution.

The PRESIDING OFFICER. The question is on passage of the joint resolution.

The joint resolution was passed.

The preamble was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the joint resolution was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RADIATION EXPOSURE COMPENSATION ACT

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 588.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2372) to provide jurisdiction and procedures for claims for compassionate payments for injuries due to exposure to radiation from nuclear testing.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2486

(Purpose: To provide for a substitute amendment)

Mr. HATFIELD. On behalf of Senator HATCH, Senator KENNEDY, and others, I send a substitute amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD], for Mr. HATCH (for himself, Mr. KENNEDY, Mr. GARN, Mr. DECONCINI, Mr. REID, Mr. BRYAN, Mr. BINGAMAN, Mr. DOMENICI, Mr.

PELL, Mr. WIRTH, Mr. McCAIN, Mr. INOUE, and Mr. GORE), proposes an amendment numbered 2486.

Mr. HATFIELD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Radiation Exposure Compensation Act".

SEC. 2. FINDINGS, PURPOSE, AND APOLOGY.

(a) FINDINGS.—The Congress finds that—

(1) fallout emitted during the Government's above-ground nuclear tests in Nevada exposed individuals who lived in the downwind affected area in Nevada, Utah, and Arizona to radiation that is presumed to have generated an excess of cancers among these individuals;

(2) the health of the individuals who were unwitting participants in these tests was put at risk to serve the national security interests of the United States;

(3) radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program of the United States Government exposed miners to large doses of radiation and other airborne hazards in the mine environment that together are presumed to have produced an increased incidence of lung cancer and respiratory diseases among these miners;

(4) the United States should recognize and assume responsibility for the harm done to these individuals; and

(5) the Congress recognizes that the lives and health of uranium miners and of innocent individuals who lived downwind from the Nevada tests were involuntarily subjected to increased risk of injury and disease to serve the national security interests of the United States.

(b) PURPOSE.—It is the purpose of this Act to establish a procedure to make partial restitution to the individuals described in subsection (a) for the burdens they have borne for the Nation as a whole.

(c) APOLOGY.—The Congress apologizes on behalf of the Nation to the individuals described in subsection (a) and their families for the hardships they have endured.

SEC. 3. TRUST FUND.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States, a trust fund to be known as the "Radiation Exposure Compensation Trust Fund" (hereinafter in this Act referred to as the "Fund"), which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code, and any interest on, and proceeds from any such investment shall be credited to and become a part of the Fund.

(c) AVAILABILITY OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 6.

(d) TERMINATION.—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 22 years after the date of the enactment of this Act. If all

of the amounts in the Fund have not been expended by the end of that 22-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund \$100,000,000. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 4. CLAIMS RELATING TO OPEN AIR NUCLEAR TESTING.

(a)(1) CLAIMS RELATING TO CHILDHOOD LEUKEMIA.—Any individual who was physically present in the affected area for a period of at least 1 year during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence and between 2 and 30 years of first exposure to the fallout, contracted leukemia (other than chronic lymphocytic leukemia), shall receive \$50,000 if—

(A) initial exposure occurred prior to age 21,

(B) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(C) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

(2) CLAIMS RELATING TO SPECIFIED DISEASES.—Any individual who was physically present in the affected area for a period of at least 2 years during the period beginning on January 21, 1951, and ending on October 31, 1958, or was physically present in the affected area for the period beginning on June 30, 1962, and ending on July 31, 1962, and who submits written medical documentation that he or she, after such period of physical presence, contracted a specified disease, shall receive \$50,000 if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section, the term—

(1) "affected area" means—

(A) in the State of Utah, the counties of Washington, Iron, Kane, Garfield, Sevier, Beaver, Millard, and Piute;

(B) in the State of Nevada, the counties of White Pine, Nye, Lander, Lincoln, Eureka, and that portion of Clark County that consists of townships 13 through 16 at ranges 63 through 71; and

(C) that part of Arizona that is north of the Grand Canyon and west of the Colorado River; and

(2) "specified disease" means leukemia (other than chronic lymphocytic leukemia), provided that initial exposure occurred after the age of 20 and the onset of the disease was between 2 and 30 years of first exposure, and the following diseases, provided onset was at least 5 years after first exposure: multiple myeloma, lymphomas (other than Hodgkin's disease), and primary cancer of: the thyroid (provided initial exposure occurred by the age of 20), female breast (provided initial exposure occurred prior to age 40), esophagus (provided low alcohol con-

sumption and not a heavy smoker), stomach (provided initial exposure occurred before age 30), pharynx (provided not a heavy smoker), small intestine, pancreas (provided not a heavy smoker and low coffee consumption), bile ducts, gall bladder, or liver (except if cirrhosis or hepatitis B is indicated).

SEC. 5. CLAIMS RELATING TO URANIUM MINING.

(a) ELIGIBILITY OF INDIVIDUALS.—Any individual who was employed in a uranium mine located in Colorado, New Mexico, Arizona, Wyoming, or Utah at any time during the period beginning on January 1, 1947, and ending on December 31, 1971, and who, in the course of such employment—

(1)(a) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed lung cancer, or

(b) if a smoker, was exposed to 300 or more working level months of radiation and cancer incidence occurred before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of cancer incidence, and submits written medical documentation that he or she, after such exposure, developed lung cancer; or

(2)(a) if a nonsmoker, was exposed to 200 or more working level months of radiation and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease, or

(b) if a smoker, was exposed to 300 or more working level months of radiation and the nonmalignant respiratory disease developed before age 45 or was exposed to 500 or more working level months of radiation, regardless of age of disease incidence, and submits written medical documentation that he or she, after such exposure, developed a nonmalignant respiratory disease, shall receive \$100,000, if—

(A) the claim for such payment is filed with the Attorney General by or on behalf of such individual, and

(B) the Attorney General determines, in accordance with section 6, that the claim meets the requirements of this Act.

Payments under this section may be made only in accordance with section 6.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "working level month of radiation" means radiation exposure at the level of one working level every work day for a month, or an equivalent exposure over a greater or lesser amount of time;

(2) the term "working level" means the concentration of the short half-life daughters of radon that will release (1.3×10^5) million electron volts of alpha energy per liter of air;

(3) the term "nonmalignant respiratory disease" means fibrosis of the lung, pulmonary fibrosis, and cor pulmonale related to fibrosis of the lung; and if the claimant whether Indian or non-Indian, worked in a uranium mine located on or within an Indian Reservation, the term shall also include moderate or severe silicosis or pneumoconiosis; and

(4) the term "Indian tribe" means any Indian tribe, band, nation, pueblo, or other organized group or community, that is recognized as eligible for special programs and services provided by the United States to Indian tribes because of their status as Indians.

SEC. 6. DETERMINATION AND PAYMENT OF CLAIMS.

(a) ESTABLISHMENT OF FILING PROCEDURES.—The Attorney General shall estab-

lish procedures whereby individuals may submit claims for payments under this Act.

(b) DETERMINATION OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall, in accordance with this subsection, determine whether each claim filed under this Act meets the requirements of this Act.

(2) CONSULTATION.—The Attorney General shall—

(A) in consultation with the Surgeon General, establish guidelines for determining what constitutes written medical documentation that an individual contracted a specified disease under section 4 or other disease specified in section 5; and

(B) in consultation with the Director of the National Institute for Occupational Safety and Health, establish guidelines for determining what constitutes documentation that an individual was exposed to the working level months of radiation under section 5.

The Attorney General may consult with the Surgeon General with respect to making determinations pursuant to the guidelines issued under subparagraph (A), and with the Director of the National Institute for Occupational Safety and Health with respect to making determinations pursuant to the guidelines issued under subparagraph (B).

(c) PAYMENT OF CLAIMS.—

(1) IN GENERAL.—The Attorney General shall pay, from amounts available in the Fund, claims filed under this Act which the Attorney General determines meet the requirements of this Act.

(2) OFFSET FOR CERTAIN PAYMENTS.—A payment to an individual, or to a survivor of that individual, under this section on a claim under section 4 or 5 shall be offset by the amount of any payment made pursuant to a final award or settlement on a claim (other than a claim for worker's compensation), against any person, that is based on injuries incurred by that individual on account of—

(A) exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period specified in section 4(a), or

(B) exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(3) RIGHT OF SUBROGATION.—Upon payment of a claim under this section, the United States Government is subrogated for the amount of the payment to a right or claim that the individual to whom the payment was made may have against any person on account of injuries referred to in paragraph (2).

(4) PAYMENTS IN THE CASE OF DECEASED PERSONS.—

(A) IN GENERAL.—In the case of an individual who is deceased at the time of payment under this section, such payment may be made only as follows:

(i) If the individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the individual who are living at the time of payment.

(iv) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii) or parents described in clause (iii), such payment shall be made in equal shares to all grandchildren of the individual who are living at the time of payment.

(v) If there is no surviving spouse described in clause (i), and if there are no children described in clause (ii), parents described in clause (iii), or grandchildren described in clause (iv), then such payment shall be made in equal shares to the grandparents of the individual who are living at the time of payment.

(B) INDIVIDUALS WHO ARE SURVIVORS.—If an individual eligible for payment under section 4 or 5 dies before filing a claim under this Act, a survivor of that individual who may receive payment under subparagraph (A) may file a claim for such payment under this Act.

(C) DEFINITIONS.—For purposes of this paragraph—

(i) the "spouse" of an individual means a wife or husband of that individual who was married to that individual for at least one year immediately before the death of that individual;

(ii) a "child" includes a recognized natural child, a stepchild who lived with an individual in a regular parent-child relationship, and an adopted child;

(iii) a "parent" includes fathers and mothers through adoption;

(iv) a "grandchild" of an individual is a child of a child of that individual; and

(v) a "grandparent" of an individual is a parent of a parent of that individual.

(d) ACTION ON CLAIMS.—The Attorney General shall complete the determination on each claim filed in accordance with the procedures established under subsection (a) not later than twelve months after the claim is so filed.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an individual under this section shall be in full satisfaction of all claims of or on behalf of that individual against the United States, or against any person with respect to that person's performance of a contract with the United States, that arise out of exposure to radiation, from open air nuclear testing, in the affected area (as defined in section 4(b)(1)) at any time during any period described in section 4(a), or exposure to radiation in a uranium mine at any time during the period described in section 5(a).

(f) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any individual.

(g) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

(h) CERTIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(i) USE OF EXISTING RESOURCES.—The Attorney General should use funds and re-

sources available to the Attorney General to carry out his or her functions under this Act.

(j) REGULATORY AUTHORITY.—The Attorney General may issue such regulations as are necessary to carry out this Act.

(k) ISSUANCE OF REGULATIONS, GUIDELINES, AND PROCEDURES.—Regulations, guidelines, and procedures to carry out this Act shall be issued not later than 180 days after the date of the enactment of this Act.

SEC. 7. CLAIMS NOT ASSIGNABLE OR TRANSFERABLE; CHOICE OF REMEDIES.

(a) CLAIMS NOT ASSIGNABLE OR TRANSFERABLE.—No claim cognizable under this Act shall be assignable or transferable.

(b) CHOICE OF REMEDIES.—No individual may receive payment under both sections 4 and 5 of this Act.

SEC. 8. LIMITATIONS ON CLAIMS.

A claim to which this Act applies shall be barred unless the claim is filed within 20 years after the date of the enactment of this Act.

SEC. 9. ATTORNEY FEES.

Notwithstanding any contract, the representative of an individual may not receive, for services rendered in connection with the claim of an individual under this Act, more than 10 per centum of a payment made under this Act on such claim. Any such representative who violates this section shall be fined not more than \$5,000.

SEC. 10. CERTAIN CLAIMS NOT AFFECTED BY AWARDS OF DAMAGES.

A payment made under this Act shall not be considered as any form of compensation of reimbursement for a loss for purposes of imposing liability on any individual receiving such payment, on the basis of such receipt, to repay any insurance carrier for insurance payments, or to repay any person on account of worker's compensation payments; and a payment under this Act shall not affect any claim against an insurance carrier with respect to insurance or against any person with respect to worker's compensation.

SEC. 11. BUDGET ACT.

No authority under this Act to enter into contracts or to make payments shall be effective in any fiscal year except to such extent or in such amounts as are provided in advance in appropriations Acts.

SEC. 12. REPORT.

(a) The Secretary of Health and Human Services shall submit a report on the incidence of radiation related moderate or severe silicosis and pneumoconiosis in uranium miners employed in the uranium mines that are defined in section 5 and are located off of Indian reservations.

(b) Such report shall be completed not later than September 30, 1992.

Mr. HATCH. Mr. President, I rise today in support of providing a measure of justice for two groups of deserving victims. First, are the citizens who lived downwind from and were harmed as a result of their exposure to the open air atomic testing at the Nevada test site in the 1950's and 1960's. Second are the uranium miners who were unknowingly exposed to harmful doses of ionizing radiation from 1947-71.

The amendment now at the desk is a substitute to the House bill, H.R. 2372. In a few minutes, I will explain the

changes that we have proposed to that bill.

The case for this bill has grown steadily since 1977 when it was first reported that there was a surprisingly high incidence of childhood leukemia in southern Utah—several times the normal rate for such cancer. Congress has now spent well over a decade investigating and hearing evidence on the effects of the fallout from open air atomic testing and the effects of high levels of radon in early uranium mines. This process has also included an extensive review of the findings of the Federal courts which have heard cases involving these issues. Based on all of the evidence, it is my view, and that of many of my colleagues, that fallout emitted during the Government's above-ground nuclear tests in Nevada exposed civilians who lived in the downwind affected area in Nevada, Utah, and Arizona to radiation that generated an excess of cancers among these civilians. In addition, the radiation released in underground uranium mines that were providing uranium for the primary use and benefit of the nuclear weapons program exposed miners to massive doses of radiation that produced an epidemic of lung cancer and respiratory diseases among these miners.

The Atomic Energy Acts of 1946 and 1954, under which the Atomic Energy Commission operated during the production of the Nation's nuclear arsenal, mandated the protection of the public health and safety during research and production activities. The Federal Government, as charged by the Congress, had a duty to exercise due care in protecting the downwind citizens and the uranium miners from the invisible dangers of radiation, dangers that in the 1950's were well known to Government officials but largely unknown to the American people. Yet, the Government did not adequately warn, protect, or even monitor the downwind population during the nuclear bombardment at the Nevada test site. The Government monitored the uranium mines and knew that they were being operated under conditions that resulted in high levels of radiation being present in the air. It failed, however, to warn the miners of the significant health risks that had been established through previous observations in Europe and scientific research conducted both in the United States and abroad.

With respect to the fallout victims, the public information program and the monitoring of the downwind population were woefully inadequate. The Government knew of the possible long-term consequences of exposure to radiation, yet it failed adequately to inform persons at risk. It is particularly telling that the Government was careful not to conduct a test if the winds were not blowing in the "right

direction." Test explosions were canceled if the winds were blowing toward the Los Angeles or Las Vegas areas but carried out when the wind was heading into Utah.

The Government was aware of measures which could have been used by citizens to minimize the risk of exposure. It knew how to monitor the population to determine the levels of radiation, as exemplified by its concern with the monitoring of test site personnel. It knew of the increased risks of radiation to children, infants, and pregnant mothers and of the risk of feeding farm animals with forage dusted with radioactive fallout. It knew of the dangers of fallout entering the food chain and the potential long-term biological risks involved in eating of such food—particularly to children. In the primary court case on this issue, *Allen v. United States*, 588 F.Supp. 247 (1984), after hearing countless witnesses and sifting through thousands of pages of evidence, the judge found that the Government "failed to adequately, intensively and periodically advise persons at risk to do the simple things learned in prior Pacific experiments and laboratory practice, namely to stay indoors and under cover, shower, wash clothes, scrub and clean food, and if deeply worried, to evacuate or leave the area for other locations of less potential contamination."

The Americans who lived in the arid environs of the Nevada test site were patriotic. If they had been told the dangers of the fallout, straight out—they would have still supported their government. But they would have also gotten indoors during the blasts and their aftermath. They would have kept their children indoors. They would have washed themselves and their clothes more often during the fallout. They would have tried to avoid contamination of the food they provided their families. While there may not have been any malicious intent on the part of the responsible Federal officials, their failure to care properly for the downwinders was unconscionable.

For this failure alone—for this negligence—there should be recompense; but the Federal Tort Claims Act, which governs actions brought against the Government, requires more than a demonstration of egregious dereliction. The law also requires a demonstration through a preponderance of the evidence that the nuclear fallout was the proximate cause of the cancers in question.

In the *Allen* case, the court, aware of the scope and implications of the Federal Government's negligence in this matter, reviewed the extensive record, found that the fallout had caused some of the cancers, ruled in favor of some of the downwind victims, and

made awards to 10 of 24 plaintiffs in test cases.

The Department of Justice, however, successfully appealed the *Allen* decision to the 10th Circuit Court of Appeals. While the lower court's ruling of causation and liability was not overturned, the appeals court ruled that the Federal Government was immune from liability under the Federal Tort Claims Act because the nuclear testing was a discretionary governmental function, for which the act provides a liability exemption. In other words, a technicality removed responsibility from the Government. The Supreme Court has since refused to hear the case on appeal.

Though the requirements of justice should mean success for the plaintiffs, the letter of the law in these cases was against them. Significantly, one judge on the appeals panel specifically emphasized the great sympathy the court had for the individual cancer victims who had alone borne the costs of the government's choices. He concluded, however, that "their plight is a matter for Congress."

The Government's duty of care and its negligence were also clear in the case of the uranium miners. Prior to the mining of uranium in the United States, it was known that high levels of radiation in European mines had been responsible for excessive cases of lung cancer in miners. Scientific studies, both abroad and in the United States, revealed that the radon gas in the mines would break down into radioactive particles which became attached to dust particles that were subsequently inhaled into the lungs, exposing the miners to several thousand rems in a few years.

Almost as soon as the U.S. mines began operating, the Public Health Service began monitoring the radon level in the mines and found that in some cases the levels were even higher than those found in the European mines. By the early 1950's, the Public Health Service was convinced that the radon levels were much too high and warned the Atomic Energy Commission that the levels must be reduced or excessive levels of lung cancer would result. Despite the mandate in the Atomic Energy Acts to protect health and safety, the Commission disclaimed responsibility for regulating the radiation levels in the mines. In order to stimulate regulatory action, the Public Health Service established a monitoring study. The Atomic Energy Commission, however, withheld any information from miners regarding the hazards to which they were being exposed while the Public Health Service conducted their studies.

These studies confirmed what the Public Health Service had already known. The lung cancers contracted by the miners were greater than would

be expected in the general population. According to recent testimony by Dr. Victor Archer, the principal investigator for the Public Health Service's epidemiological study of miners from 1956 to 1979, about half of the uranium miners who worked in the mines have an increased risk of lung cancer due to overexposure to radiation. Yet the Government failed to provide any type of warning to these workers. In his testimony, Dr. Archer reported that when some Public Health Service employees attempted to speak out against the danger, they were prohibited from traveling to the mining areas.

Of particular importance to those miners who were Native Americans is the Federal Government's longstanding special relationship with Native Americans—the trust responsibility. This higher level of responsibility includes a fiduciary duty to protect the health of Native Americans and to provide for their health care. Both the legislative and executive branches had full responsibility for the management of tribal natural resources, mine safety, and the health of the miners during the time the miners worked in the uranium mines. As with all of the uranium miners, the Government violated its duty to the Native American uranium miners because it failed to warn them or protect them from the risks associated with uranium mining and did not ensure mine safety standards, despite being fully aware of the risks.

In their legal battles, the uranium miners met a fate similar to that of the downwinders. For technical, legal reasons, most of the miners with radiogenic cancer do not have a claim against either the mining companies or the State workers compensation boards. They have also met essentially the same result as the downwinders in their legal battles to secure relief.

REQUIREMENTS FOR COMPENSATION

In recognition of the fact that legal avenues are closed because of the Tort Claims Act and the fact that the Government's failure to monitor the downwind areas has made a case by case determination on the issue extremely difficult, the legislation now before us has been designed to provide compensation to those victims whose cancers were most likely to have been caused by their prolonged exposure to radiation. In order to qualify for compensation under this bill, the fallout victims must have lived in the designated area long enough to have been exposed to repeated doses of fallout. Furthermore, they must have developed a cancer for which there is evidence that exposure to radiation increases the probability of the onset of the disease a principle that we established in legislation to compensate military veterans who were exposed in Japan and at the Nevada test site.

Uranium miners must have worked in mines during those time when there were minimum efforts to reduce the levels of radon in the air and they must have been exposed to levels of radiation of at least 200 working level months, a mining measure of the length of exposure to certain amounts of radiation in the air.

CHANGES IN THE SUBSTITUTE AMENDMENT

Let me now take a few minutes to indicate the changes that this substitute amendment makes to the House version of the bill. It incorporates some parts of Senate bill 2466, an original bill reported by the Senate Committee on Labor and Human Resources, and includes a couple of changes that have been suggested by some of our colleagues, including the Senator from Wyoming, since the Labor Committee reported the bill.

The first change has been made in response to concerns raised by the Department of Justice regarding the procedures by which the Radiation Compensation Program would have been carried out. Under the Senate bill, as originally reported, the program would have been administered by a special master of the U.S. Claims Court. When this measure was considered in the House, the Justice Department urged that this function be placed in the executive branch. In order to avoid administration concerns in this regard we have modified the bill to place the administration of the program with the Department of Justice.

The second change to the Senate bill involves the inclusion of uranium miners from Wyoming as eligible claimants. When we first introduced this bill, we had included coverage of uranium miners in the States of Colorado, New Mexico, Arizona, and Utah. It only recently came to our attention that there were also mines in Wyoming from which the government obtained uranium for its nuclear programs. I know that my friend from Wyoming, Senator SIMPSON, feels strongly about this issue and that is one of the reasons why we have amended the bill to include those miners as well.

In addition, at the request of the Senator from Wyoming, we have incorporated additional changes in the uranium miner sections of the bill to insure that the lung cancers and respiratory diseases for which compensation is provided are those which are most likely to have been caused by the radiation in the mines. Distinctions have been made with respect to exposure levels and whether or not the miners were smokers.

Similar changes have also been included with respect to the downwinders to take into account factors such as age, duration of exposure, and personal habits which might have in-

fluenced the onset of each individual's disease.

The Senate bill also differs from the House bill with respect to the termination of the trust fund from which compensation awards would be made. As originally introduced, both bills provided for a 20-year trust fund. The House Judiciary Committee reduced the fund to 6 years. It is, however, the view of many supporters of this legislation, that given the latency periods of some of the diseases which are covered by this legislation that the twenty year time period is more realistic. We have therefore included the Senate time periods in the substitute amendment.

Finally, at the request of several of the cosponsors to this measure, I have included two additional uranium mining related diseases for which compensation will be available, if the miners worked in uranium mines that were located on or within an Indian reservation. As I have noted several times before, many of the uranium miners involved in the production of uranium were Native Americans from some of the southwestern Indian tribes. Furthermore, many of the mines were located within their reservations. Given the special trust responsibility of the United States government over the activities of these tribal members, it is only fair that we also include compensation for these diseases. These mines were some of the earliest and consequently most contaminated mines. In addition, they were not subject to any form of state regulation.

I believe that these changes are important and will improve the administration and fairness of this bill. I would also note that this amendment is cosponsored by Senators KENNEDY, GARN, DeCONCINI, REID, BRYAN, BINGAMAN, DOMENICI, PELL, WIRTH, McCAIN, INOUE, and GORE.

The provision of compassionate awards in cases such as these where causation and liability are difficult is not new. In 1985, Congress passed and the President signed into law an administrative trust fund remedy for the radiation damage claims of the Marshall Islanders. Micronesia was the other place that the Federal Government tested its nuclear weapons in the atmosphere. Sixty-six nuclear explosions were set off in the vicinity of Enewetak and Bikini Islands. As with the Nevada tests, these sites were selected because the areas around them were almost without people. Almost but not quite. In both cases people were there. Under the Compact of Free Association, which the United States signed, a \$150 million trust fund was established to settle all radiation damages claims by the Marshall Islanders against our Federal Government. The fund is held in American se-

curities and administered by commissioners appointed by the Marshall Islanders. The fund has been used to pay damages to individuals and to restore property and to provide a variety of health services.

During the 100th Congress, we also overwhelmingly approved a measure to provide assistance to the veterans who were exposed to the harmful effects of atomic radiation while in the line of duty. Under the provisions of that law, those veterans who develop any of several listed cancers and who can establish that they participated in nuclear weapons tests or in the occupation of Hiroshima or Nagasaki are presumed to have developed the disease as a result of their service. These veterans are then entitled to Veterans' Administration assistance. Thus the congressional action proposed in this bill are not without precedent.

Moreover, several of the factors involving the test site downwinders indicate an even more compelling case for and greater need to provide for some form of compensation. Many of the downwinders were young children, still in their developmental years and highly susceptible to the damaging effects of the radiation, as opposed to the military population which generally consisted of healthy, young adult males. The average time of exposure for those in the military varied from a few weeks to a few months, while the average downwinder was exposed anywhere from slightly less than a year to more than 20 years, resulting in a much larger cumulative lifetime exposure rate. Residents in the Utah, Nevada, and Arizona downwind locations were more likely to have consumed locally grown food and dairy products that were affected by fallout for long periods of time. Such a diet would produce an even greater chance for internal exposure.

Clearly, if the Federal Government had a responsibility to compensate the Marshall Islanders and the Atomic Veterans, it also has a responsibility to compensate the test site downwinders.

It is high time that the U.S. recognize and assume equitable and compassionate responsibility for the damages sustained by these civilians and make partial restitution to these individuals for the burdens they have borne for the Nation as a whole.

Mr. President, I would now like to take a few minutes to thank those who have been so helpful in bringing about the enactment of this legislation.

First, I would thank my colleagues in the Utah delegation for their assistance. The Radiation Compensation Act has been a long time in the making and I want to personally thank my good friend Senator GARN for his leadership and support. He and I have worked side by side for nearly 14 years on this issue. He has played an important role in helping to com-

pile the voluminous record in support of this legislation.

I must also congratulate my Utah colleagues in the House. They have also done a tremendous job. Last Congress, shortly after the Supreme Court denied the downwinders the right to appeal the overturning of their case, Congressman HANSEN called the delegation together to renew our legislative efforts which we had placed on hold pending the outcome of the court cases. Congressman NIELSON participated in the hearings and town meetings and raising Republican support.

And I want to recognize the fine work of Congressman OWENS in shepherding this bill through the House. He has been a key player in this process.

I would also offer a special thanks to my good friend from Massachusetts, Senator KENNEDY. He has been invaluable in moving this legislation through the Labor Committee and the Senate. I also thank the members of the Labor Committee. But for their cooperation and support, this important health issue would not have been addressed.

I would also commend Stewart Udall, the former Secretary of the Interior, who has labored tirelessly on behalf of the downwinders and the uranium miners for many years.

Finally, I want to thank my good friend from Wyoming, Senator SIMPSON, for his cooperation in working out compromise language that is acceptable to both sides. I understand his concerns with this bill. He has been fair throughout the negotiation process and I believe that he would agree with me that language that has now been incorporated in the bill provides reasonable compensation to those cancer victims who were most likely to have been affected by the radiation. I thank him for his assistance.

NAVAJO URANIUM MINERS

Mr. DOMENICI. Mr. President, I would like to ask the Senator from Utah [Mr. HATCH], if he would yield for the purpose of a brief colloquy.

Mr. HATCH. I will gladly yield to my friend, the Senator from New Mexico [Mr. DOMENICI].

Mr. DOMENICI. Mr. President, I became involved in this issue when the problem of lung cancer and other respiratory diseases among uranium miners was brought to my attention 12 years ago and I introduced the first bill to provide compensation to uranium miners. Since then, I have taken an active role in an effort to obtain compensation for the Navajo and other uranium miners. I am proud to be a cosponsor of the Atmospheric Nuclear Testing Compensation Act, which I think is long overdue. I would like to pose a question to my good friend and distinguished colleague, Senator HATCH. Does this legislation address the special circumstances of the Navajo uranium miners and the

Federal Government's trust responsibilities to them?

Mr. HATCH. Yes it does. The legislation recognizes that the Federal Government owes a special fiduciary duty to Native Americans, which it breached, and, therefore, gives them special treatment. Any former uranium miner that meets the requirements of the act, but who is also a member of an Indian tribe, and has developed moderate or severe silicosis or pneumoconiosis will be eligible for compensation under the act.

Mr. DOMENICI. Mr. President, I would like to especially mention the contribution that this special group of victims has made. Many of the uranium miners were Native Americans—primarily members of the Navajo Nation—to whom the Federal Government owes a special duty of care. The Federal Government has a longstanding trust relationship with Native Americans that is based on the treaties and agreements that we, as a nation, have with their tribes. This higher level of responsibility includes a duty to protect the health of Native Americans and to provide for their health care. In addition, the Federal Government had responsibility for the management of tribal natural resources and mine safety as well as the health of the miners during the time the miners worked in the uranium mines.

All of the uranium miners performed a service for our Nation, and our Nation owed them a special obligation to protect their health. We did not adequately fulfill that duty, and I believe we must make special efforts to compensate them for that error. I commend the Senator from Utah for amending this legislation to provide compensation to the Navajo for the serious respiratory diseases—moderate or severe silicosis and pneumoconiosis—that they contracted.

Mr. DECONCINI. Would the Senator from New Mexico yield so that I may join in this colloquy?

Mr. DOMENICI. I gladly yield to my good friend, the Senator from Arizona.

Mr. DECONCINI. Mr. President, I also became aware of this issue many years ago and am proud to cosponsor this legislation. The uranium miners labored, and the "downwinders" unwittingly served, to protect the national security interests of this country. Their case presents a moral question for the Congress: what is the appropriate response when the Federal Government knowingly subjects innocent people to severe health hazards, but the courts lack authority to provide an adequate remedy? The Atmospheric Nuclear Testing Compensation Act is the appropriate, compassionate response.

Many of my Navajo constituents worked in uranium mines near Camer-

on and Tuba City, AZ. From my perspective as a member of the Select Committee on Indian Affairs, the treatment of these Native American uranium miners strikes me as a blatant disregard of the trust responsibility.

The Federal Government has a historic and unique legal relationship with Native Americans under which it accepted the responsibility to provide for and protect the health of Native Americans. Most Native Americans are completely dependent upon the Indian Health Service for their health care. The Native American miners depended on the IHS doctors to warn them and protect them from the harmful effects of employment in the mines. While it is tragic that the Federal Government placed the national security interests above the health of the miners—Native Americans and non-Native Americans—it is shameful that the IHS did not fulfill its special obligations to Native Americans by warning them of the risks or effectively implementing mine safety standards.

I agree that this legislation should compensate Native Americans for the serious respiratory diseases that stemmed from the Federal Government's negligent acts. As I understand it, the respiratory diseases that are most prevalent among these Native American miners are silicosis or pneumoconiosis. There is a requirement in the act that those eligible for compensation have a moderate or severe case because the intent of this legislation is to compensate those individuals with "serious respiratory diseases."

These Native Americans lived in very remote areas of Utah, New Mexico and Arizona. Unfortunately, some of these people had great difficulty even getting to the IHS treatment facilities and may therefore have few, if any, medical records. In addition, even if they could reach IHS very few pulmonary specialists have been available to treat them. Consequently, the diagnosis contained in their records are often ambiguous.

In light of the breach of the Federal Government's trust responsibilities to Native Americans and the consequent difficulties they and their families will have in proving their claims, I believe those that review these claims should review them liberally. Where there is an ambiguity, evidence should be considered in a light most favorable to the Native American claimants. I ask the Senator from Utah if this is the intent of the committee?

Mr. HATCH. Yes it is.

Mr. McCain. Would the Senator from Utah yield so that I may join this colloquy on the issues of the injuries suffered by Indian people?

Mr. HATCH. I am delighted to yield to my friend from Arizona.

Mr. McCain. Mr. President, I rise today in support of the Atmospheric

Nuclear Testing Compensation Act. This legislation provides a long overdue remedy to victims who have been denied redress by a judicial system that is not equipped to provide them a remedy. I would like to commend Senator HATCH and Senator KENNEDY for their efforts to provide relief to those who have suffered from mistakes of the Federal Government. I would also like to voice my agreement with Senators HATCH, DOMENICI and DeCONCINI that the claims of Native Americans should be reviewed liberally.

The Federal Government does indeed owe special obligations to Indian nations. In exchange for lands ceded to the United States by Indian tribes under the provisions of treaties, executive orders, and various acts of the Congress, the Federal Government has assumed various fiduciary duties. The Snyder Act of 1921 provided the formal legislative authorization for Federal health care for Indians by authorizing the Secretary of the Interior to expend funds for the "relief of distress and conservation of the health of Indians." The Federal Government has provided health care to Native Americans since the early nineteenth century and our most recent declaration regarding Indian health care is in the 1988 amendments to the Indian Health Care Improvement Act of 1976.

As vice chairman of the Select Committee on Indian Affairs, I know what medical care is available to Native Americans. Unfortunately, the situation today is not very different from that which gave rise to the Indian Health Care Improvement Act of 1976, where the Congress found, "the unmet health needs of the American Indian people are severe and the health status of the Indians is far below that of the general population of the United States." Some of the reasons cited in the 1976 act included, inadequate, outdated, and undermanned facilities; shortages of personnel; insufficient laboratory and hospital services; lack of access to health services due to remote residences, undeveloped communication and transportation systems; and lack of safe water and sanitary waste disposal services.

Although improvements have been made since 1976, I know that many of these problems still exist. Conditions, for example, on the Navajo reservation are such that it is often difficult for these very ill people to reach IHS treatment centers. Therefore, you are quite right, Senator DeCONCINI, many of these may have incomplete medical records because of the inaccessibility of treatment centers. Moreover, because medical specialists have not been readily available, the examining physicians may not have had the expertise to diagnose some of the diseases covered in this legislation. I fear that this may unfairly penalize some deserving victims.

The intent of this legislation is to be compassionate. I share your belief, Senator DeCONCINI, that when the claims of Native American uranium miners are reviewed, they should be reviewed with liberality. If there are any grey areas, claims should be reviewed in favor of granting compensation to Indian claimants.

In addition, I believe that Indians should be compensated for other diseases contracted as a result of the Government's breach of its trust responsibilities, namely moderate or severe silicosis and pneumoconiosis. It is my understanding that S. 994 provides for such compensation and I am therefore pleased to cosponsor this bill.

Mr. INOUE. Would the Senator from Utah yield so that I might join in this colloquy?

Mr. HATCH. I gladly yield to my distinguished colleague, Mr. INOUE, the chairman of the Select Committee on Indian Affairs.

Mr. INOUE. Mr. President, as a cosponsor of the Atmospheric Nuclear Testing Compensation Act I am proud that this body is preparing to right a longstanding injustice, and as chairman of the Select Committee on Indian Affairs, I would like to underscore some of the statements that my colleagues have just made.

The Federal Government certainly has a unique political relationship with Native Americans. In this circumstance, the Native American miners could not speak English—and as I understand it there is no word in the Navajo language for "radiation"—and thus these miners had no understanding of the dangers presented by their employment. They looked to the only doctors available, the Indian Health Service, who examined them and studied them, to inform and protect them from those hazards. By failing to inform them of the dangers, the Federal Government violated its obligations to them. By failing to ensure mine safety standards, when it knew that ventilation of the mines would alleviate the problem, it violated its obligation to them. I agree that the Federal Government should compensate Native American uranium miners for the consequences of its negligent acts.

With the enactment of the Indian Health Care Improvement Act of 1976 the Congress declared "that it is the policy of this Nation, in fulfillment of its special responsibilities and legal obligation to the American Indian people, to meet the National goal of providing the highest possible health status to Indians and to provide existing Indian health services with all resources necessary to effect that policy." With that act, we recognized that our Nation has fallen short of meeting our obligations to Native Americans. As my colleague, Senator

McCain, pointed out, although provision of health care to Native Americans has improved, problems persist. Because of the inadequacy and inaccessibility of treatment facilities, and shortages of specialists during the time period covered by the act, as well as up to the present, I am sure that Native Americans who will be eligible under this act will have difficulties proving their claims. Therefore, I agree that the Native American claims should be reviewed with liberality.

Mr. HATCH. I would like to point out that such special treatment of Native American claims would not be racially motivated or discriminatory. The relationship between the federal government and Indian tribes is a political one and therefore, this would be politically based and not racially based. I ask the Senator from Arizona if this is the truth?

Mr. McCain. Yes, The Senator is correct. The Federal Government accords Indian nations special status because of the government-to-government relationship. The Supreme Court has ruled that such special status is not discriminatory because the classification is based on a political relationship and not race. Examples of our special treatment of Indian and Native peoples can be found in the Indian Reorganization Act of 1934 which accords employment preferences for qualified Indians in the Bureau of Indian Affairs, and the Buy Indian Act, enacted in 1910, which provides for Indian preferences in federal contracting. The Atmospheric Nuclear Testing Compensation Act is, in my view, entirely consistent with 200 years of Federal law and policy relating to Indian and native peoples.

GORDON ELIOT WHITE—A WRITER CONCERNED WITH RADIATION FALLOUT VICTIMS

Mr. HATCH. Mr. President, for a dozen years, residents of Nevada, northern Arizona, and my home State of Utah watched the United States Government set off hundreds of atom bombs at the test site in Nevada. We were told that these residents were safe, that no harm would come to those who participated in the tests, or to those off-site who watched them, or those over whose heads the atomic clouds floated.

Almost from the start, there were fears of the tests. Unfortunately, many of those suspicions were not well expressed and were easily shot down by officials of the old Atomic Energy Commission. Some people claimed their water wells went dry, some that their cows didn't give as much milk after the tests. There were claims that people nowhere near the fallout area were harmed. Some claims were generated by "ban the bomb" fanatics and were not based on scientific fact.

In 1962, the Government studied students in St. George for thyroid nodules, with inconclusive results.

It was not until 1977 that a reporter for the Deseret News, the afternoon newspaper in Salt Lake City, discovered in the open literature of the National Cancer Institutes scientific proof that well over twice as many people in the fallout path across southwestern Utah were dying of potentially radiogenic diseases as elsewhere in the State.

Gordon White, in an article published in his newspaper on August 12, 1977, provided the evidence that had been lacking to prove that downwind from the tests there were unusual levels of leukemia and other illnesses typical of radiation exposure. That article, which gave substance to the work of the late Paul Jacobs and other writers, alerted mainstream scientists to the fact that a real problem existed among downwind civilians.

Dr. Joseph L. Lyon, a respected epidemiologist at the University of Utah, took White's figures and attempted to disprove them. The result was Lyon's noted study of childhood leukemia, published in the New England Journal of Medicine in February 1979, that established that, in fact, there were more leukemia cases in the fallout area than could be explained by anything other than radioactive fallout from the atomic tests.

After breaking the story in 1977, White continued to dig into the record of the atomic tests. He visited Oak Ridge, Los Alamos, and Las Vegas, where he had been based in 1958 when he witnessed atomic tests himself. He dug into records in the old AEC at Germantown, Maryland, and of the National Institutes of Health, as well as material at the then brand new Department of Energy.

Stuart Udall, who had known White earlier when Udall was Secretary of the Interior, helped him unearth a telling Executive order by President Truman, who in 1950 directed tests be started in 30 days, with minimal safeguards, in order that the United States might be prepared for a threatened Soviet military move in Europe.

White brought out a flood of stories detailing the Government's negligence: How, at first, the AEC did not know how the tests were spreading radioactivity downwind; then how monitoring efforts failed to pick up the dangerous fallout fragments, and when milk was tested, how the test procedures themselves destroyed the very radioactivity they were supposed to be measuring.

His investigating reportage brought back to public attention forgotten reports written by men such as the late Dr. Harold Knapp, who was disciplined by the AEC for his work on fallout.

Gordon is a reporter of the old school—he believes in reporting the facts in order that his readers may make up their own minds. His writing

is generally not emotional; as far as a reporter is able, he attempts to be objective.

He was twice nominated for the Pulitzer Prize but saw that honor go to much larger papers for stories now long-forgotten. He did receive, from President Jimmy Carter in 1979, the Raymond Clapper Award, given annually by the Standing Committee of Correspondents in the Congressional Press Galleries. He won other awards, including a first prize for White House coverage from the National Press Club and for investigative reporting from Sigma Delta Chi.

Due in large measure to White's reporting, Gov. Scott Matheson of Utah became involved in the fallout case, as did I. House and Senate committees held hearings in Washington, DC, Salt Lake City, and Las Vegas. Legislation was introduced. Victims in the downwind area went to court in Salt Lake City and indeed won their cases at the district court level.

An interagency task force reported to President Carter that fallout from the tests had caused injury, and even death, among downwind civilians. Unfortunately, no medical process existed that would identify specific victims, though White's reporting left it clear that there were indeed many victims.

Mr. President, I now ask unanimous consent to include the following articles written by Mr. White during the last 13 years. This is a cross-section of his work and will provide fascinating reading. The articles will highlight the problems which have faced the victims of the radiation fallout. The victims, known as the "Downwinders," now have little success to compensate for years of failure with the Federal Government.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Salt Lake City (UT) Deseret News, Aug. 12, 1977]

CANCER REPORT ON NEVADA A-TEST—DEATHS HIGH IN UTAH FALLOUT AREA

(By Gordon Eliot White)

WASHINGTON.—A farmer working in a field in southern Utah may have the seeds of cancer in his veins as a result of radioactive fallout which drifted across the region many years ago.

He is one of thousands of rural residents in five Utah counties who lived downwind from atomic testing carried out in Nevada during the 1950s and who may be reaping a long-delayed harvest from that exposure.

A nearly-forgotten U.S. cancer study completed in 1970 and unearthed by the Deseret News shows that leukemia deaths over a 20-year period were nearly twice the state and national average in one county and significantly higher than average in the others.

The survey by the National Cancer Institute, part of a nationwide county-by-county examination of deaths between 1950-1969, indicated that leukemia deaths of males in Iron, Washington, Garfield, San Juan and

Kane counties were at least 143 percent of the state average.

Questions about Utahns exposed to fallout arose after several former U.S. soldiers who watched a nuclear blast, code-named "Smokey," during military maneuvers in 1957, came down recently with leukemia and blamed it on that long-ago test.

A move is afoot to track down all 2,232 soldiers and civilians who watched the Smokey test to find out if a higher than normal rate of leukemia has turned up among them—a finding that could have significance for Utahns.

The Deseret News questioned scientists, doctors and statisticians in an effort to find out how Utahns might have been affected by fallout from repeated tests in the 1950s, and discovered the previously unpublished 1970 National Cancer Institute survey.

That survey showed that the Utah leukemia death rate per 100,000 white males averaged 8.17, or less than the U.S. average of 8.81. But in Iron County, in the fallout path, the death rate for males was 15.7.

The death rate for white females in Iron County was 9.3, compared to a statewide average of 5.49 and a national figure of 5.74. Non-white death rates for leukemia are considered unreliable in most Utah counties.

Iron County, according to figures from the National Oceanic and Atmospheric Administration (NOAA), probably received the heaviest fallout from the Nevada testing in the 1950s.

Winds from southern Nevada would carry debris from the nuclear test site across Cedar City. Dust from the blast would be lifted high in the air and drift back to earth as the cloud moved northeast over parts of Utah.

According to this hypothesis, the nearby Nevada area would tend to be cleaner than some Utah areas downwind. Nye County, Nev., where the tests were carried out, showed a leukemia death rate of 9.4 per 100,000, compared to the state average of 8.45.

Across the Utah line, Washington County showed a white male mortality rate of 10.8 and a female rate of 9.5. In Garfield County the rate for men and women was 12.4 and 9.9 respectively and in San Juan County they were 10.4 and 3.1. In Kane County, 9.0 males per 100,000 population died and no report was available on females.

Medical experts in Washington, D.C., suggested that as high as the rates were, they may not reflect the whole story because patients with acute leukemia were likely to go to major metropolitan centers, such as Salt Lake City, for treatment.

If they died there, their deaths would not be certified to their home counties. For example, Sgt. Paul Cooper, who blames his leukemia on the 1957 Smokey test, is an Idahoan, but is being treated at the Veterans Administration Hospital in Salt Lake City.

Comparing the southern Utah rate with Cache County, which has similar population and geography, but lies outside the fallout area, showed a leukemia rate of 7.7 for males, about six percent below the state average.

No comparable study has been done since the survey ended in 1969 and the proposed examination of those at the Smokey test will give a more recent picture of cancer rates among those who were exposed to radiation.

Dr. Glen Caldwell of the Public Health Service Communicable Disease Center in Atlanta, Ga., told the Deseret News this week he is going to try to find everyone who was at the Smokey test in 1957.

He expects to trace more than 2,000 persons, or nearly 90 percent, and to prove, if possible, whether being at the test significantly increased the chances of developing leukemia.

If that higher leukemia rate is found it will come as a surprise to most medical scientists who have discounted the hazard because of the low level of radiation from the test.

Although there was discussion 10 years ago of possible thyroid cancer caused by fallout in southern Utah, the results of studies were inconclusive and federal funds eventually were exhausted.

Although some thyroid nodules were found in children in southern Utah, they eventually were attributed to a benign hereditary factor in several closely related communities.

Dr. Caldwell said that among the approximately 500 participants in the Smokey test he has traced so far, he has found two certain, one probable, and one suspect leukemia case. Statistically there should be 1.5 cases for a sample of 2,232 persons of that age.

Using probability theory, he said zero to four cases would be in the ordinary range for that size sample. Finding a fifth would be ambiguous and six or more would be significant.

If two or more leukemia victims show up among the remaining 1,732 participants from the Smokey test, the Public Health Service is likely to conclude that they were exposed to radiation which contributed to their developing the diseases.

The exact process by which radioactive fallout might produce leukemia is not clear, Dr. Caldwell said. While Strontium 90 and similar calcium-like isotopes tend to concentrate in the bones where the blood is produced, there has been no prior experience that low exposure produces cancers.

Iodine 131 is picked up by cows and transmitted by their milk to concentrate in the thyroid, where in heavy doses, it is a proven carcinogen. But there is "no evidence of a similar event causing leukemia," Dr. Caldwell said.

He postulated that radioactive iron particles might be concentrated in red blood cells, but he admitted that he does not have any proof of that idea.

The Smokey test was fired atop a 700-foot tall steel tower to prevent the fireball from picking up dust which would become radioactive. The tower was vaporized into iron molecules. Did some of them fall to earth at ground zero to contaminate the troops who marched through the area?

There were dozens of tower-mounted atomic tests in those years that could have generated iron fallout particles. Right now no one knows what happened, or if indeed anything happened to those who lived downwind.

In the Pacific tests, islanders developed radiation diseases far earlier, but they received larger doses. More recently, those exposed to lower level radiation have begun to fall ill.

In Japan, radiation illness peaked nine years after Hiroshima and Nagasaki, but this might be because there was less iron in the bomb bursts over the two cities.

There have been few studies of low-dose radiation on large populations over long periods. If Dr. Caldwell is successful, the Smokey study will be definitive.

He is searching Army, VA, and Social Security records, death records of U.S. hospitals and Army graves registration data to

find as many of the Smokey people as can be traced 20 years later. It is a slow and difficult task.

A failure to find all of the cancer-caused deaths among the participants would skew the results in a negative direction. Privacy legislation prevents medical experts going directly to people traced through Social Security numbers.

Anyone who was at Smokey should contact Dr. Caldwell at the Communicable Disease Center in Atlanta and give the Public Health Service an outline of his medical history. All such data will be helpful to the scientific study.

[From the Deseret News, Jan. 28, 1978]

A-TESTS BLAMED IN UTAH CANCER

(By Gordon Eliot White)

WASHINGTON.—The "Smokey" test and other open-air atomic explosions in Nevada probably caused cancer among civilian populations downwind in Utah, an expert on the medical effects of nuclear radiation told a House subcommittee Tuesday.

Dr. Martin Sperling testified that low-level radiation was spread over most of Utah by the 1957 and 1958 test series, particularly in the southwest portion of the state. He estimated that children in the state received from 50 to 120 rads of radiation, enough to cause damage to the thyroid gland, which tends to concentrate one of the fallout products, Iodine-131.

A scare over radioactive iodine 15 years ago led to special testing of children in Washington County, but medical experts decided that a few enlarged thyroids found then were due more to hereditary factors than fallout. The current investigation has renewed those fears because of a belief by some scientists that even very low radiation doses can cause cancer over long periods of time.

No documented cases of fallout-caused cancer have been identified in the state, but federal cancer-incidence charts show measurable cancer rates in some southern counties that are sharply above expected levels. That evidence is inconclusive because of the small populations involved, federal scientists have said.

Sperling, Dr. Karl Z. Morgan, former director of health physics at Oak Ridge National Laboratory, and Dr. Arthur Tamplin of National Resources Defense Council, an environmental group, testified before the House Subcommittee on Health and the Environment that in their opinion there is no "safe" level below which atomic radiation is harmless.

At today's session Dr. Glyn Caldwell, an epidemiologist with the Public Health Service in Atlanta, said eight cases of leukemia have now been positively identified among the troops who participated in the test. "If the ages of the participants average 22 and no other exposures for those individuals are found, then eight is a statistically significant number," Caldwell said. He emphasized that the study is incomplete but he said the expected number of cases in such a group would be two.

Most of Tuesday's hearing was taken up with the exposition of the argument that existing "threshold" levels for radiation safety are wrong and that the hazard is reduced but not eliminated as exposure levels decline. Most radiation experts, including the American Association of Radiologists and federal radiation safety officials, believe that a safety "threshold" does exist, and

present safety regulations are based upon that theory.

The hearings resumed today with testimony from participants in the "Smoky" troop test of Aug. 31, 1957. That test has been under investigation for more than a year because two participants, Paul Cooper of Salt Lake City and Donald Coe of Kentucky, developed leukemia that they believe was caused by their exposure to radiation at the Smoky test.

Morgan, Sperling and Tamplan all testified Tuesday that in their opinion, there is no doubt that Smoky could have caused leukemia or other forms of cancer.

"It was one of the dirtiest tests we had," Morgan said. He told the panel the fallout was so "hot" that some of the radiation detection equipment used could not be retrieved after the shot. (Army sources noted that some equipment used in the A-test was unintentionally located so close to ground zero that it was expected to be destroyed or contaminated. Morgan did not explain where the equipment he described was placed.)

Morgan told the subcommittee he opposes any avoidable potential radiation exposure, including the small amount of an ionizing isotope in some smoke detectors and the radiation from color television sets. He said he is "amazed and appalled" at scientists who dispute his no-threshold theory.

Tamplan said the present exposure limits are "10 times too high" and suggested new, tighter radiation exposure rules be written.

The present five rem industry limit is probably acceptable in scientific work, Morgan said, because very few scientists actually accumulate that much radiation in a year. In industry, he charged, some workers are exposed to five rems or more a year, which he called a hazard.

All three scientists said they had been subjected to pressures to conform to the prevailing "threshold" theory, pressures ranging from questioning to censorship of their scientific paper and isolation at their jobs.

After testimony Tuesday, the subcommittee saw Army promotional films of the Smoky test which was touted as proving the worth of the 1950-on "pentomic" Army structure.

The film showed troops being briefed on the safety of the test and then moved into the test area behind teams of radiation-safety monitors. The clip clearly showed dust being whirled from the desert floor by big "flying banana" helicopters used to airlift the troops to the "objective." The amount of dust inhaled by the men is a key item in investigation of their exposure to fallout after the test.

[From the Deseret News, Dec. 8, 1978]

NEVADA A-SITE PICKED IN A HURRY

(By Gordon Eliot White),

WASHINGTON.—Just-declassified information obtained this week by the Deseret News indicates that in 1950 the United States rushed into selection of the Las Vegas-Tonopah bombing and gunnery range in Nevada as an atomic test site despite questions about possible radiological contamination up to 125 miles downwind.

Under pressure of the Chinese entry into the Korean War, President Harry S. Truman approved use of the Nevada site just 34 days after the National Security Council directed the Atomic Energy Commission to make a selection study and recommendations. Truman signed the order on Dec. 18, 1950, even before a Corps of Engi-

neers survey of the Nevada site was complete and without specific examination or radiological safety factors.

In its public announcement of the selection, however, the Truman administration glossed over safety questions the secret documents made clear were still unanswered.

Over the next 12 years, at least 26 test explosions resulted in measurable radioactive fallout in southwestern Utah. In the same area, raw figures from the National Cancer Institute have shown double or triple the expected incidence of types of cancer that have been associated with radiation exposure.

The newly uncovered documents include minutes of AEC meetings in late 1950, and National Security Council memoranda that until this week have remained top secret. Reading them, it is clear that the Truman government felt that World War III was a looming threat that overruled the unknown factors of safety. In fact, the papers make clear, top U.S. officials were preparing for the possible denial by enemy action of the two existing U.S. test sites, one in the Pacific and the other in the Aleutian Islands off Alaska.

To set the scene, in the fall of 1950 the United Nations command under Gen. Douglas MacArthur was sweeping the North Korean Communists back toward the Yalu River border with China. MacArthur told his troops they would be "home by Christmas."

Peking radio had threatened Chinese intervention, but few believed they would enter a war already lost. On Oct. 16, the first Chinese units crossed the Yalu, but they were not positively identified by U.N. intelligence until 10 days later. Within another week, the Chinese trickle became a flood. By Nov. 7, the Chinese were attacking the First Marine Division in overwhelming numbers at the Chosin Reservoir.

The joint chiefs, Truman later wrote, thought that possibility would mean Soviet entry and World War III, with fighting extending to every point of contact between East and West.

On Nov. 14, citing the possible denial by an enemy of U.S. access to atomic test areas at Eniwetok and Amchitka, the NSC ordered that a secure test site within U.S. continental boundaries be found.

In less than a month, on Dec. 12, the AEC sent its recommendation to the president, who signed it six days later. The first detonation was set off in Nevada on Jan. 27, 1951. Although AEC officials noted that safety of the civilian population was important, that consideration was judged only "adequate" at the Nevada site, while other factors were found to be "good" or excellent. The only safety study cited in the NSC papers was a safety conference report made Aug. 1, 1950, before the Nevada site was considered.

The end of 1950 was a dark time. President Truman, with access to secret intelligence reports, probably saw more peril in the situation than most Americans outside the top level of government realized.

By December 3, Korean commander General Douglas MacArthur cabled the Joint Chiefs of Staff that he was faced with "the entire Chinese nation in an undeclared war" in which "steady attrition leading to final destruction" of his United Nations command "can reasonably be contemplated." Secret reports reached Truman indicating that if the U.S. bombed Chinese bases in Manchuria, the Soviet air force would strike back in force.

"We had reached a point," Truman said later, "where grave decisions had to be made."

One of those decisions was to set up as rapidly as possible, a location where atomic weapons could be tested.

In choosing the Nevada site, the AEC considered and rejected four others, including Dugway Proving Grounds, Utah; the Alamogordo-White Sands guided missile range in New Mexico; the Fallon-Eureka area in Nevada; and the Pamlico Sound-Camp LeJune area in North Carolina.

Safety was considered, chiefly as a function of population density.

"A comparison of total populations in a base area site plus a 90-degree fallout sector to a radius of 125 miles downwind from site, shows the Las Vegas site as involving the fewest people, the AEC reported on Dec. 23. Dugway was eliminated because, being upwind from Salt Lake City, it would threaten the largest population of those locations under study."

There seems to be no doubt among experts, the study noted, "that a continental site can be used safely for atomic testing of shots of relatively low-order yields."

"Not only must high safety factors be established in fact, but the acceptance of these factors by the general public must be insured by judicious handling of the public information program," the recommendation added.

Questions of radiological contamination "may be answered satisfactorily as test knowledge increases through experiments . . . but they are not satisfactorily answered at present," the AEC noted in its secret report to the NSC.

In the public announcement by the AEC, made on Jan. 11, 1951, the commission sought to allay public fears, saying "radiological safety and security conditions incident to the type of tests to be undertaken have been carefully reviewed by authorities in the fields involved."

Between Jan. 1951 and June 1953, 31 weapons and experimental devices were fired at Frenchman's Flats and Yucca Flats, Nev. In that period, the highest yield was 100 kilotons, or twice the "probable" safe limit anticipated in 1950. Tests are resumed in 1955, and 1958, with several series of explosions until the test ban treaty was signed in 1962.

That debris, which later falls out as the cloud drifts with the wind, was judged more hazardous than expected by the AEC, particularly during the 1953 tests, and subsequent shots were fired.

MacArthur was relieved by Turman in April, for advocating an attack on China, and his successor, Gen. Matthew B. Ridgway, forced the Chinese and North Koreans into a stalemate that ended in a military truce which remains in effect today.

[From the Salt Lake City (UT) Deseret News, Dec. 23, 1978]

ATTORNEY CALLS CANCER VICTIMS WAR CASUALTIES

(By Gordon Eliot White)

WASHINGTON.—The United States should pay the claims of cancer victims in fallout areas "because these people were war casualties," according to attorney Stewart L. Udall.

Claims for possibly fallout-induced cancers in southern Utah, Nevada and Arizona could rise to more than \$1 billion. Udall, an attorney for the cancer victims, indicated.

He filed 100 claims totalling "well over \$100 million" with the Department of Energy Thursday afternoon and said there may be as many as 1,000 claims filed on behalf of victims before the process is completed. The claims filed Thursday averaged more than \$1 million apiece.

Actual settlement figures probably would be sharply lower than the total claims, Udall said, since the filings this week involved "outside figures" that may be larger than amounts that might actually be claimed in court.

The 100 claims cover between 80 and 90 individuals, he added, since some are overlapping claims, as by a child and by a mother for the death of a father and husband.

Joseph Distefano, assistant general counsel for the Department of Energy, accepted the blue cardboard box of claim forms from Udall and said the department is already consulting with the Department of Health, Education and Welfare about the fallout question. Distefano said DOE legal officials will discuss the claims cases with Udall next week.

Udall told reporters on a windswept terrace outside the Forrestal Building that he now expects DOE to deny the claims initially because there is not yet sufficient legal evidence to support them.

Udall said he is convinced "on the basis of the raw evidence"—including reports in this newspaper and "weeks of interviews" he did in southern Utah—that these claims are well-founded. "What is needed now," he added, is statistical evidence from medical and epidemiological studies, some now under way.

"When we get to the end of this process," he said, "and it will only take a few months if they work hard on it, then I believe there will be solid evidence that will back up these claims."

The Department of Energy has six months to process Thursday's claims. If it denies them, the cancer victims can file suit then in federal court. Even if it decided to admit liability, DOE could not pay more than \$25,000 per claim without special authority from the Department of Justice. To pay claims of the magnitude that Udall indicted might be filed, Congress would probably have to vote a special appropriation, much as it did for the victims of the Teton Dam collapse in Idaho.

Udall said he hopes that settlement might begin as early as next year, but he added that they might still be in court 10 years from now.

Certain kinds of cancers will probably be eliminated from the fallout cases, Udall said. Some types of cancer are believed not to be the result of fallout, such as skin cancer, a common type, and other varieties of the disease that statistically have not appeared to increase in fallout areas. A range of cancer types, however, probably will be found to be associated with fallout, Udall said.

A still-unpublished study of childhood leukemia by Dr. Joseph L. Lyon of the University of Utah should be sufficient proof by itself of the connection between fallout and childhood leukemia, Udall predicted.

"All we need to do now is pull out of the Utah Cancer Registry the data on cancer deaths in the affected counties," he said. "Though there will probably be studies in greater detail that will go on for years."

Udall said that before August 1977, when he became interested, lawyers in the areas surrounding the Nevada Test Site had

almost given up filing claims against the U.S. for atomic test damages. He said a few claims had been filed sporadically, but that aside from glass damage in Las Vegas, almost all had been turned down by the Atomic Energy Commission or the courts.

"Really what got people out there believing there was a legal case was some of the articles that appeared," he added.

He said some of the stories about soldiers exposed in atomic tests, including the "smoky" shot, had rekindled interest in the area.

So far all of the case that Udall, Tucson attorney Dale Haralson, and St. George lawyer MacArthur Wright have filed have come from an area within a 90 degree arc downwind from the test area in Nevada, and within a 200-mile radius of the atomic explosions. Udall said his group has not accepted cases from Las Vegas, which was not within the fallout zone, or from the Uinta Mountain areas of fallout may have dusted the higher elevations during the test series.

"We may take a look at" the Uinta cases, Udall told the News. The attorneys have limited the area they will take cases from to strengthen their legal position and to eliminate the possibility they might be charged with taking a grab-bag of cancer cases with little connection to atomic testing.

Udall said he was very pleased with President Carter's position on the fallout question, as stated by the President in Salt Lake City Nov. 27.

"He's said, 'Let's know the truth, get the facts out,'" Udall noted.

[From the Deseret News, Jan. 10, 1979]

THREE CLUSTERS OF LEUKEMIA DETECTED

(By Gordon Eliot White)

Public Health Service investigators found clusters of unexplained leukemia cases in Fredonia, Ariz.; Pleasant Grove; and South Salt Lake in the late 1960s, the Deseret News has learned.

Although the reports have been available in files to anyone who asked for them, they have not surfaced in nearly 10 years.

Center for Disease Control investigators from Atlanta, Ga., looked at the clusters, which were brought to their attention by the University of Utah Department of Hematology and Oncology. Dr. Clark Heath of the Center for Disease Control said records of blood diseases in Utah, maintained by Dr. Maxwell M. Wintrobe, who headed the Hematology Department then, were the most sophisticated in the world.

The federal scientists were not looking for a connection between fallout and cancer and, in fact, suspected a virus. However, no cause was found, Heath said.

Heath has studied the possible link between cancer and fallout in Utah since he was a consultant on a death certificate review in Iron and Washington counties in 1961. He also evaluated the report done in 1965 by Dr. Edward Weiss.

The Weiss report, done in 1965 by the U.S. Public Health Service, found "excess" leukemia deaths in Washington and Iron counties between 1950 and 1964 that the PHS could not explain. The only link was the coincidence that the victims lived in the area affected by low levels of radiation from atomic test fallout.

The Weiss study was never published and was considered "equivocal" by the medical community, although it showed an excess of leukemias that had no other pattern except coincidence of area of residence at the time of the Nevada atomic tests.

[From the Deseret News, Jan. 27, 1979]

PROTECTION WAS POSSIBLE

(By Gordon Eliot White)

WASHINGTON.—If federal officials had told civilians of hazards in atomic test fallout clouds, they could have taken steps to protect themselves, Dr. Robert C. Pendleton of the University of Utah told the Deseret News Friday.

Relatively low levels of fallout are now suspected of causing cancer in Iron and Washington counties, and possibly other areas of the state.

Pendleton, head of the university's Radiological Health Department, said he was hushed up or ignored when he sought to point out the potential danger of fallout.

Pendleton, Dr. C.W. Mays, R.D. Lloyd, and A.L. Brooks of the Departments of Radiological Health and Anatomy of the university studied fallout from the "Sedan" nuclear explosion in July 1962, under a Public Health Service grant.

Radioactive iodine-131, cesium-37 and strontium-90 in Utah milk supplies went up "very markedly," after Sedan, Pendleton said.

"We told Gov. George D. Clyde there was a risk, but the Public Health Service was telling the State Division of Public Health a different story," he said. When the state did nothing, Pendleton said, he personally went to the most threatened farms and told them himself how to reduce the effect in their milk:

"First, don't drink the milk for a while," he said. "Take cattle off the meadows where the fallout lands. Put them on green chop, or silage that was harvested before the fallout arrived."

He found dust which had accumulated on farm equipment contained radioactive ruthenium, a weapons product. Farm hands, he said, undoubtedly inhaled the dust while they worked, and people in the open received an "immersion dose" from the air.

Merely wearing dust masks or a handkerchief over the mouth would have reduced much of the intake. Skin protection could have been provided if people had known to do it, or they could have stayed indoors until the fallout "shower" was over. Children and pregnant women could have been put on canned milk for a week or two until the radioactivity subsided.

"Public relations statements that there was no harm in the fallout clouds were reprehensible," Pendleton said. "There could have been precautions taken if people had been told."

"Had they been honest with people then, 'a considerable reduction in exposure could have been achieved. Posters and publications could have been distributed to tell people in Utah that they might be subject to extra doses of radioactivity, and the implications of that,'" he said.

"There should have been thorough examinations of everyone who was at risk, including a thyroid checkup, because the thyroid is one of the places radioactive products concentrate."

[From the Deseret News, Jan. 29, 1979]

AEC PUT LID ON LEUKEMIA STUDY

(By Gordon Eliot White)

WASHINGTON.—The White House and the Atomic Energy Commission apparently blocked the release in 1965 of a report of suspicious "excess" leukemia deaths in Utah, documents obtained by the Deseret News indicate.

Dr. Edward S. Weiss studied leukemia cases occurring in southwestern Utah between 1950 and 1964. He completed his work in the late summer of 1965 and reported finding more cases of the disease than would normally be expected in the population investigated.

The Public Health Service, which funded Weiss' work, recommended that his findings be released. But the AEC and at least one White House aide objected, and the results were never published.

Portions of Weiss' study were found in Utah by the *Deseret News* early in January, and his findings were reported Jan. 6 by the *Deseret News* and the *Washington Post*.

The White House role in controlling data released by scientists monitoring the fallout and its health consequences in Utah, Nevada and Arizona was confirmed last week by Dr. John C. Villforth, director of the Bureau of Radiological Health.

Villforth told the *Deseret News* that during the atmospheric testing, the White House insisted upon clearing all of his agency's releases before publication. Documents obtained under the Freedom of Information Law confirm that by 1965 clearance by the White House and the AEC of Public Health Service data on fallout was customarily required.

PHS documents indicate that on Sept. 1, 1965, Dr. Peter Bing, of President Lyndon B. Johnson's Science Advisor's Office, called Dr. Donald R. Chadwick, then chief of the PHS Division of Radiological Health, and asked him, "What would be the federal government's liability for any clinical effects possibly due to radiation, which might be discovered" in a proposed follow-up to Weiss' work.

"After considerable discussion," a Sept. 2 memo related, Chadwick agreed to meet the next day with Bing; Dr. Charles Dunham, chief of the PHS Division of Biology and Medicine; Assistant Surgeon General Allen M. Pond; three lawyers from the Department of Health, Education and Welfare; Gordon Dunning, senior scientist of the AEC Division of Operational Safety; Assistant General Manager Dwight Ink of the AEC.

According to the PHS memo, "Dunning attacked the scientific validity of the leukemia paper, and the choice of Safford, Ariz., rather than another Utah community, as the control population" for a planned study of thyroid cancer.

Ink said the AEC "wanted to suggest certain changes in the release (on leukemia), and were 'quite concerned about the present version of the report.'"

Ink, for the AEC, commented that the number of subjects involved in the PHS studies "is so exceedingly small . . . that results can be statistically suspect even before obtaining them."

He objected to a statement in the study that the relatively high concentration of fallout debris in the air in southwestern Utah constituted evidence of high external radiation exposure, a connection, he said, that "has not been established."

Ink objected as well to methods of estimating thyroid radiation doses to St. George children and claimed that levels of Strontium-90 in foodstuffs in the Nevada-Utah environs "are among the lowest in the country."

Prodded by the AEC, one of the Weiss' PHS colleagues wrote after the meeting, "A few minor changes might be made in the report that would be consistent" with the AEC view and would not degrade the re-

sults. I'm sure Ed Weiss would not object to those."

The report prepared by Weiss for the Public Health Service examined leukemia deaths in Washington and Iron counties between 1950 and 1964. As reported in the *Deseret News* Jan. 8, Weiss found 28 cases of leukemia, of which seven had their onset in 1959-60. Weiss reported no causal factor other than the coincidence that the victims had all lived for extended periods in the fallout area.

The AEC said of the Weiss report in an internal memo, "We have a number of problems with it, and serious reservations . . . that the proposed follow-up studies will produce unequivocal data."

In fact, a Public Health Service reviewing officer described the Weiss study as "very mild" in tone and commented that the report did not point out "the high numbers of (leukemia) cases that were found" in the time period six to eight years after the peak 1953 fallout, which coincides closely with the latent period of leukemia.

Weiss did not note, the PHS memo continued, "the coincidence that in these particular counties (where the higher number of leukemia cases were seen to occur), which were in the path of the fallout, many of the residents drink fresh, unpasteurized milk."

Weiss used the word "cluster" to describe the cases he found, the PHS comment continued, and did not state his chief finding, that excessive leukemia was "clearly demonstrated."

The version finally submitted said in its conclusions, beyond the fact of extended residence in the area, "there is no evidence to associate these cases with fallout exposure, other environmental contaminants, or familial disabilities."

A review of PHS files indicates that no press release was issued on the Weiss report, nor was it published in scientific literature. HEW did put out releases on Sept. 16 and Oct. 28, 1965, announcing studies of dental, eye and thyroid characteristics of 2,000 Washington County school children, without mention of the Weiss work except to note that an examination of leukemia deaths had been started in Utah in 1959.

[From the *Deseret News*, Jan. 30, 1979]
1965 NODULE REPORT RELEASED ONLY AFTER
A FIGHT

(By George Eliot White)

WASHINGTON.—The Public Health Service had to fight all the way to the White House in 1965 to make public its study of thyroid nodules in St. George, Utah, documents obtained by the *Deseret News* Monday indicate.

The PHS, which lost a request in September 1965 to release data on a leukemia study in Utah, asked for a decision by President Lyndon B. Johnson the following month on releasing news of the discovery of releasing news of the discovery of thyroid nodules in 70 St. George school children.

Internal government memos show that Secretary of Health, Education and Welfare John W. Gardner wrote to the White House to urge release to the Utah thyroid data. The Gardner memo was addressed to Douglas Cater, special assistant to the president, after Dr. Donald R. Chadwick, chief of the PHS Division of Radiological Health has suggested "the President be informed so he can decide how this information can best be made public with due regard for its effect on rational policies related to international relations, defense and peaceful uses of nuclear energy."

The memos underline the extraordinary importance the Public Health Service placed on its data and the strength with which the Atomic Energy Commission opposed its publication.

Gardner wrote that the thyroid findings, still incomplete then, were "suggestive" of nodules of a kind that had been attributed to radiation effects from fallout.

Although the fact that thyroid studies were being made had been publicized in Utah, federal officials and the State Department of Public Health had kept the early findings secret, Gardner noted.

"Although this evidence still is not entirely clear," Gardner wrote, "I seriously doubt that it is wise to delay further some sort of public statement. The facts are already known to a fair number of people, and if they begin to receive circulation as rumors, the nature of the problem will be considerably magnified. In addition to the anxiety of the parents and the children, we have to consider the possible charge that we have been withholding from the parents and the public information that they have a right to know."

"Clearly," Gardner added, this matter has such broad implications for public policy that the White House, and the AEC, and possibly the State Department, will wish to be aware of it and to comment on how it should be handled publicly."

In his memo to outgoing Surgeon General Luther L. Terry which mentioned several attempts to draw conclusions about health effects of fallout thyroid and leukemia studies, Chadwick wrote that "any real or apparent attempt to 'cover up' the results of these studies would result in great damage to the reputation of the federal government."

Despite such strong language from HEW, a press release on thyroid studies was drafted Oct. 22 and redrafted finally appearing in a third version Oct. 28 with reference to the leukemia studies again deleted.

Where the first two drafts referred to "an examination of leukemia deaths occurring in Utah and Nevada since 1959," the final version mentioned only a "long-term investigation to determine whether a statistically meaningful relationship might exist between certain health defects which may occur naturally, and exposures to radiation."

The release did spell out in general a progress report on thyroid studies that Utah State Health Director G.D.C. Thompson had given at a regular meeting of the State Board of Health the day before, and which could not have been kept secret.

When the thyroid studies were completed, over the next two years, scientists found "inconclusive" indications of thyroid nodules in children in the fallout areas.

Apparently children in a control group in Graham County, Ariz., had almost as many nodules as did children in St. George. The nodules were not cancerous at the time.

[From the *Deseret News*, Feb. 1, 1979]

BADGES AT N-TEST FAULTY?

(By Gordon Eliot White)

WASHINGTON.—A \$15 million Pentagon effort to identify military personnel involved in atomic weapons tests has found evidence that film badges the men wore recorded only part of the radiation doses they received.

The Defense Nuclear Agency has contracted with several Washington area research firms to try to find more than

200,000 military participants in the entire U.S. weapons test program and determine how much radiation they actually received.

Science Applications Inc. of Arlington, Va., has estimated that GI's at the Smoky test in August 1957 probably received twice as much radiation as their badges indicated.

Working under a \$391,000 contract with Defense Nuclear Agency, the company has tried to determine whether the troops picked up radiation from dust they inhaled or from direct neutron exposure.

Testimony at a House hearing on the tests last year suggested that the soldiers might have gotten many times the amount of radiation their badges showed, but defense officials said they were relieved at the preliminary findings, which showed badge errors about half the actual dose.

Decisions on disability payments for veterans who subsequently developed cancer have been based on film badge data, which has showed that few troops received amounts of radiation that exceeded accepted guidelines.

Science Applications has also been attempting to assign "realistic" dosage numbers to soldiers who did not carry badges or who lost them. That work is based upon where the men were in relation to the blast and what they did afterward.

The company found that, at the time of most of the explosions, the soldiers were facing away from the weapon, following orders not to look directly at it. Direct radiation thus would have been partially shielded from badges worn on the shirt front. In addition, the badges were not designed to accurately measure neutron particles.

[From the Deseret News, Feb. 7, 1979]

FALLOUT LEVELS UNDERSTATED, DATA INDICATE (By Gordon Eliot White)

WASHINGTON.—A previously secret report of atomic test fallout, just made available to the Deseret News, indicates that charts published by the Atomic Energy Commission have seriously understated the amount of radiation that Washington County communities received between 1951 and 1959.

A report of the Public Health Service off-site monitoring activities during the spring of 1953 shows that just four tests between March 17 and May 19 dropped nearly four times the radiation in the St. George area as the AEC has maintained that St. George received in the whole first eight years and four months of the program.

The AEC chart for January 1951 through May 1959 was reproduced by the Deseret News Jan. 10, 1979. It shows estimated cumulative external gamma exposures of 2.5 roentgens for most of Washington County, with a small area of 5.0 roentgen dose.

The PHS chart covering March 17 through May 19, 1953, and marked for official use only, shows a 9.0 roentgen exposure contour reaching as far east as Springdale, Washington County, and a 3.0 roentgen line reaching as far north as Pintura, Washington County, and as far east as Kanab, Kane County.

Cumulative figures for all 26 blasts that dropped fallout in Utah would necessarily show higher doses, government scientists told the Deseret News, although the 1953 shots were apparently the dirtiest of the entire program in terms of effect on the state.

One of the 1953 shots alone, code-named Harry, deposited enough radioactivity at Hurricane and St. George, 5.2 roentgens, to more than double the figure of 2.5 roent-

gens at those communities on the AEC 1951-59 chart.

Harry was a 32 kiloton explosion fired May 19, 1953. It also left 4.0 roentgen at Springdale and 3.0 roentgen at Kanab, Orderville and Rockville. Other fallout-producing tests that spring were Annie on March 17, Nancy on March 24 and Simon on April 25.

The PHS figures now back up another government report, one made by Dr. Harold A. Knapp for the AEC itself in 1962, that took issue with the commission's public position that there were no hazards in the radioactive doses being received by Utahns downwind from the Nevada test site.

A Lawrence Radiation Laboratory report, previously reported by the Deseret News, also indicated relatively high radiation levels of 120 rads in St. George that exceeded AEC published figures.

Neither Knapp nor Arthur R. Tamplin and H. Leonard Fisher, who did the Lawrence study, appear to have had access to the PHS fallout figures. Tamplin and Fisher do not cite the document in their paper, and Knapp told the Deseret News he had not seen the PHS data. In his paper he cites the official AEC chart, prepared by a commission group headed by Dr. A. Van Shelton and reported by Gordon M. Dunning, range safety scientist at the Nevada site.

Sources here indicated that the PHS work was considered restricted information and was never published. A notation on page 68 of the work states that, since "the degree of biological hazard with such amounts of air contamination over short periods of time is, however, extremely difficult to evaluate; and in the absence of specific information indicating existence of hazard, the panel of experts advising the Atomic Energy Commission on these matters now recommends that air concentrations be measured for purposes of record only."

The question of the doses received by off-site civilians is important because the official figures are below levels that scientists accept as dangerous.

From Dunning's AEC data, Knapp estimated that 120,000 people within 200 miles of the Nevada test site were exposed to an average of 700 milliroentgens, and 10,000 people in the area immediately adjoining the site received between three and five roentgens. The PHS data indicates that Dunning's figures are seriously underestimated.

Based upon Dunning's published figures, Knapp estimated iodine 131 exposures to the thyroid as high as 60 to 240 times the external doses, because of the concentrated effect of the milk chain, where a cow eats contaminated foliage, converts it into milk, which is consumed and reconcentrated in the human thyroid.

Knapp was bitterly attacked within the AEC and his paper was threatened with suppression in 1962. It was finally published with changes that masked its findings.

Knapp told the Deseret News that the commission censored examples of his findings, including an estimate of I-131 doses ranging from 110 to 440 rads at St. George. Tamplin and Fisher estimated a range of 30 to 240 rads at St. George in their 1966 paper, and Charles Mays of the University of Utah gave a 68 rad figure in his 1963 testimony before the Joint Committee on Atomic Energy all based on Dunning's roentgen figures. If Dunning's figures are revised upward, the rad exposure in southwestern Utah could be multiplied sharply.

The Deseret News reported Knapp's findings and his difficulties with the AEC eight

years ago, but nothing was done to follow them up, apparently because no link to disease had been found and thyroid studies had been inconclusive in 1965-67.

At the same time that Knapp was making his estimates, following not only Dunning's figures but also his formula used in another context to estimate the effect of an atomic war, the AEC was telling the public:

"The data and their evaluations clearly indicate that nuclear weapons testing over a span of ten years has not resulted in radiation exposures approaching the Federal Radiation Council guides established for normal peacetime operations."

Federal Radiation Council guides for normal peacetime operations in 1962 indicated an annual thyroid dose of 0.5 rads to "A suitable sample of the population" and 1.5 rads to individuals.

Dunning pleaded, in an exchange of memos, that reaction from the press and the public might be adverse if the commission, in effect, admitted that it had permitted the Utah and Nevada population to be exposed to the I-131 levels high enough to put a ten-year's allowance of I-181 into a single quart of milk in some communities.

"We have spent years of hard, patient effort to establish good and calm relations with the public around NTS," Dunning wrote. "Such action as the author's has been harmful."

Knapp related that he attempted to get data from Dunning's office at NTS on shots other than the 1962 smallboy test, but was told that no data existed. Dunning, Knapp said, was the only one who had the reports from off-site radiological safety organizations. According to Knapp, Utah health officials at the time were forced to set up duplicate monitoring facilities because the AEC would not give the state its figures.

Applying his data to available information on preceding shots, Knapp estimated that there may have been "at least several" shots in Nevada that produced off-site exposures as great as the 1957 Windscale accident in England that caused milk levels to reach 1,300,000 picocuries of I-131 per liter and led to a major health crisis there. He noted that at Windscale, .16 kiloton equivalent of I-131 was released, and that through 1962, more than 1,000 kiloton equivalent had been released in Nevada.

[From the Deseret News, Feb. 7, 1979]

FALLOUT TERMINOLOGY

WASHINGTON.—Nuclear scientists and radiologists use the terms "roentgen," "rad," "rem" and "picocurie" to describe various aspects of radioactivity.

The roentgen is the standard for exposure in air. An ordinary chest X-ray exposes the skin to about .02 roentgen.

The rad is a measure of absorption of radiation by the body. For soft tissue, one roentgen of gamma radiation produces about .9 rad. One roentgen of alpha produces 20 rads, and one roentgen of neutron radiation produces 10 rads, according to the Bureau of Radiological Health.

Rem is the amount of radiation that produces the same effect as one roentgen of beta, gamma and X-ray radiation.

A curie is the amount of radioactivity equal to that given off by one gram of radium and is a very large quantity. A picocurie is one millionth of a millionth of a curie.

[From the Deseret News, Feb. 8, 1979]

FALLOUT WASHED FROM UTAH CARS

(By Gordon Eliot White)

WASHINGTON.—A restricted federal report just provided to the Deseret News has confirmed the recollection of scores of Utahns that their cars were washed down to remove radioactive fallout during the Nevada atomic tests.

Department of Energy information officers in Las Vegas told the Deseret News in December they could find no record that vehicles were washed, but residents of Alamo, Nev., and St. George insisted that vehicles were scrubbed to remove potentially dangerous levels of fallout.

A report of the public health service activities in the off-site monitoring program of the Nevada proving ground shows that the first of possibly several vehicle washing incidents occurred after shot "Simon," a 43 kiloton blast on April 25, 1953.

Simon, fired at 5:30 a.m., MST atop a 300-foot tower, created a cloud whose top reached to 45,000 feet, highest of the 11 1953 detonations.

Fallout was heavy, with a peak of 16 roentgens measured 20 miles northwest of Glendale Junction, Nev. A fallout path about 5 miles wide followed the forecast winds at the 27,500-foot altitude. It deposited radiation in excess of 400 milliroentgens per hour as far as the Nevada-Arizona border.

At 12:15 p.m. a PHS mobile monitoring unit at Glendale Junction found two private trucks contaminated.

The NPG test director ordered roadblocks set up at St. George, Alamo, and Las Vegas to screen vehicles leaving the fallout area. In all, 390 private vehicles were checked. Forty-five, including a Greyhound bus, were found to be contaminated with fallout above 7 milliroentgens per hour and were washed down with water and detergents at the roadblocks before being allowed to continue.

The Las Vegas and Alamo roadblocks were removed at 5:18 p.m., and the one at St. George lifted at 7:19 p.m., after the AEC decided there was no longer a hazard.

Based on the experience, the test organization prepared a plan for use in what the PH called "possible future emergency situation of this sort."

There was no mention of other car-washing incidents in the PHS report for 1953. Although the Harry test on May 19 created heavier measured radiation doses in the St. George area. The Nancy and Annie shots, earlier in the year, appear to have dropped fallout at least as heavy as Simon's on some roads, but the levels did not trigger vehicle decontamination.

[From the Deseret News (Salt Lake City, UT), Feb. 13, 1979]

UNIVERSITY STUDY CONFIRMS FALLOUT CAUSED LEUKEMIA DEATHS—THE RATE DOUBLES IN RADIATION AREA

(By Gordon Eliot White)

[Editor's note.—The information in this story was obtained Dec. 12, 1978, from a briefing Dr. Joseph L. Lyon of the University of Utah gave a group of government officials in Washington. The Deseret News has withheld publication until it could be prepared for publication in a scientific journal. The study is scheduled to be published in New England next week.]

WASHINGTON.—The tragic suspicion that fallout from atomic weapons testing in Nevada, more than 20 years ago, caused leukemia deaths in Utah, has been confirmed by a University of Utah study. A scientist who has seen the data described the connection between leukemia and fallout as "quite certain."

A year-long examination of children born in the fallout area during the most concentrated period of nuclear weapons testing shows a leukemia death rate nearly two and one half times that of children born before, and after, the Nevada detonations.

Dr. Joseph L. Lyon, codirector of the Utah Cancer Registry, who did the study, briefed a group of government aides here on his findings. He said mortality rates for leukemia among children under 15 years old were below those in the northern part of the state in the early 1950s.

The tests began in 1951, and the dirtiest shots came in 1953.

Lyon's data shows that the death rates began to rise, in 1959, at the time leukemia would be expected, about six years after the 1953 test series.

The deaths peaked in 1967, and as the testing was reduced and finally moved underground, the rate declined to approximately its pre-testing level.

The number of children in the exposed area, mercifully was small. Lyon has estimated that 15 to 20 more youngsters developed leukemia because of the tests than would have if there had been no fallout. He told several cancer investigators here he found no excess of other childhood malignancies.

Lyon, in his Washington briefing, said the impetus for his investigation was a story that appeared in the Deseret News, Aug. 12, 1977, noting that leukemia death rates in Iron and Washington counties were significantly higher after the Nevada tests than the overall Utah leukemia fatality rate.

Additional studies, based on Lyon's work, are planned. Dr. Chase Peterson, chairman of Gov. Scott M. Matheson's Fallout Committee, told the Deseret News that the final work "will be the definitive study in the history of civilization, to tell us how to live with radiation."

"We have a unique situation," Peterson added, "where 200,000 people were dosed with fallout. Because of the unique thoroughness of LDS Church records, we will be able to learn what happens to people, their children and their grandchildren from low doses of radiation."

Although the Soviet Union has had a major nuclear accident, and the Chinese and other nations have had atomic tests, U. of U. researchers believe no other country has such data as is available here to make such a study.

The group Lyon studied did not extend beyond the age of 15, but he said one of his charts showed the death rate rising for ages beyond 15. "It gives you pause," he said, "because you wonder what would happen if you plotted them for the next five years."

Lyon said he began the study skeptical that any connection could be demonstrated between fallout and cancer, but became convinced by his data that fallout was the cause of the increase he found in leukemia deaths.

"There is no logical thing that we know of to attribute the excess deaths to," he said, except the "obvious one"—fallout.

Lyon and his colleagues, Melville R. Klauber and Dee Wayne West, are the first researchers in 18 years of sporadic effort to demonstrate an apparently clear linkage between fallout and malignant disease. Their paper is scheduled to be published this month in an eastern medical journal. An abstract has already appeared in the American Journal of Epidemiology.

CONTROVERSY LIKELY

The study is likely to be controversial and to add fuel to the long-running debate over the safety of nuclear energy. President Jimmy Carter has already ordered two new studies of the fallout areas and Dr. Ralph Lapp, a noted physicist and writer on radiation safety, told the Deseret News last week that Lyon's work will cause "a major" furor.

The Lyon study divided Utah into areas of high and low fallout exposure. He labelled 17 southern counties as "high," and the 12 northern counties as "low," exposure.

Children born between 1944 and 1950, before testing began, were taken as a control group. Those born during the testing peak, 1951-1958, were described as high exposure subjects and those born later, between 1959 and 1975, when there were only four tests, were a minimal exposure group.

MORTALITY COMPARED

Lyon compared leukemia mortality among children under 15 born during the different time periods.

He took the experience of the unexposed and minimal, exposure groups as a base number of expected leukemia deaths. Mortality ratios were determined for the high-exposure group by dividing the observed number of leukemia deaths by the expected number. A ratio of one would indicate there was no excess. Any higher figure suggests that there is more leukemia than expected.

By plotting mortality ratios for the state, the northern counties and those in the south, he was able to show that the area that received more fallout had markedly more deaths than less exposed areas.

He also plotted the ratios to compare northern and southern Utah experience by time. Lyon said the increase in deaths in the 1951-1958 group was "rather striking" and "gives reason for concern."

FINDINGS CONSERVATIVE

He called his findings conservative and said they were probably skewed to the low side. The southern counties, he said, had a relatively high birth rate during the period studied, but the population totals remained stable, or declined, indicating that many young people migrated out of the area.

Those who left, and who may have developed leukemia, would not have shown up in his data.

The figures show the highest risk was to males born in southern Utah between 1951 and 1958, with the death rate 2.88 times that of the pre-1951 group. Females had a 2.12 rate.

According to the date for all Utah children there were 184 leukemia deaths among those born in the high-risk years, when the expected number would have been 132.

Leukemia is a form of cancer in which the white blood cells increase uncontrollably. It is the disease that has been most strongly associated with radiation exposure in other studies.

The two largest studies of the disease are those of the Japanese survivors of the 1945 Hiroshima and Nagasaki bombings in Japan, and of victims of spinal arthritis in England who were treated with radiation therapy.

The Lyon study brings into question the assumptions those studies generated, on the numbers of leukemias to be expected from the radiation doses involved.

Statistics on the actual amounts of radiation that fell in Utah during the entire test

period, 1951-62, are in controversy. They may, however, be better documented than in the atomic bombings in Japan, where there were no monitoring stations at all at the time of the blasts.

The Atomic Energy Commission has stated that most of Washington County received 2.5 roentgens, approximately 2.25 Rem, but Public Health Service monitoring in 1953 alone has shown up to nine roentgens external dose in the St. George area from only four of the 97 Nevada tests.

Lyon estimated here that the dosage may have been close to six to 10 rad, or Rem, internally, to the bone marrow, among people in the southern counties. Other investigators have said that some children got 120 rad or more because of the concentrating effect of iodine-131 in milk production.

DOSAGE DATA MISSING

The question of dosages of radiation is not answered in the Lyon paper, because, he said, he was not able to get accurate dosimetry data.

Dr. Harold Knapp, an AEC scientist during the testing period, has estimated that southern Utah residents received internal radiation doses many times the external doses stated by the Commission. Knapp was severely criticized within his own agency, and finally resigned, after his statement of radio * * * describing his work.

(The AEC was reorganized as the Energy Research and Development Administration in January, 1975; ERDA was merged into the Department of Energy on Oct. 1, 1977.)

Two scientists at the Lawrence Radiation Laboratory, Arthur R. Tamplin and H. Leonard Fisher; and Dr. Charles Mays and Dr. Robert C. Pendleton, of the U. of U., also found, or predicted, internal radiation levels in the range of from 60 to several hundred rads.

BEYOND REASONABLE DOUBT

Although the Lyon study does not establish an absolute cause and effect relationship between leukemia and fallout, in the view of people who have seen the paper it makes the case beyond a reasonable doubt.

Scientists in Utah and in the U.S. Public Health Service have searched for such a link, or proof that there was none, since May 1961 when an upswing in leukemia deaths was first noted in the southern counties.

The question of dosage, and of what other cancers may have been caused by fallout, now await the new investigations which have already been proposed, or begun.

The Bureau of Radiological Health has started to reexamine records of students examined in the 1960's for thyroid cancer.

The University of Utah is seeking a \$2.8 million, five-year study of the entire Utah fallout situation. The university will try to find those who migrated from the area and determine if they have developed suspicious malignancies.

At the same time, two groups of legal claims are moving through Department of Energy channels. They seem designed to go to lengthy court tests to determine what compensation civilian cancer victims in the fallout area can receive from the government.

CONGRESS SHOULD PROBE UTAH'S FALLOUT PROBLEM

(By Gordon Eliot White)

Congress ought to mount a full-scale investigation into the effects of atomic fallout in Utah and other western states, and how

well the government dealt with the problem.

If the need for such an investigation was not clear before, it should be obvious now in light of two major new developments this week.

On Tuesday, Gov. Matheson released state and U.S. documents indicating that fallout from Nevada nuclear tests was at least a contributing factor in the deaths of 4,200 Utah sheep in 1953. The same documents also show the government repeatedly resisted anything approximating a thorough investigation of the cause of the sheep deaths.

On Tuesday, the Deseret News reported on the results of a recent study by Dr. Joseph L. Lyon, co-director of the Utah Cancer Registry. His findings strongly strengthen suspicions that fallout from the Nevada tests more than 20 years ago contributed to the deaths of leukemia victims in southern Utah.

Bit by progressive bit, then, the link between fallout and one or more forms of cancer in humans looks increasingly solid.

Likewise, bit by damaging bit, the government's reaction to this danger looks like anything but alert and vigorous.

Even though these documents and studies concern the aftermath of episodes that occurred more than two decades ago, the issue involved is anything but ancient history.

Rather, it's a matter of continuing concern because the government could easily have an obligation to help fallout victims and their families no matter how belated such help would be.

Moreover, the fallout issue bears directly on how much the government can be trusted to protect the public from other potential health hazards that are still with us.

For example, how safe is the operation of nuclear power plants, how good a job is done of locating them in the least hazardous sites, and are radioactive wastes disposed of with a minimum of danger to man and the environment?

Ordinarily, the average American would be disposed to take Washington at its word when it declares the public has little or nothing to worry about on such scores. But there's room for wondering in view of the Atomic Energy Commission's handling of the fallout problem in the 1950's.

As a matter of fact, there's room for wondering how far Washington can be trusted on other matters to which the government puts its hand. The U.S. government has never before been as big and pervasive as it is now. Could it be that other bureaucrats are sweeping other things under the rug now as the AEC did in the 1950's?

The AEC looks particularly callous and short-sighted. Though Utah State University did a follow-up study on the 1953 sheep deaths, Governor Matheson's presentation this week notes, the AEC specified that the USU research not focus on fallout as a possible cause. Rather, the researchers were told to concentrate on malnutrition as the cause.

The AEC, then, comes off looking like it was less concerned with people than with animals as well as like a prime example of the tendency to believe only what one wishes to believe.

Though the AEC is no longer in operation in its original form and though individual bureaucrats come and go, the inclination of government agencies to protect themselves even if it involves misleading the public lingers on.

If nothing else comes from this week's significant developments regarding fallout,

they should at least add impetus to a proposal in the Legislature to fund a state study of nuclear radiation effects in Utah. The University of Utah, for one, wants to undertake a particularly ambitious study of the entire Utah fallout situation.

As more is learned about the federal government's reaction to the fallout problem, the clearer it becomes that Utah had better not rely solely on others to look out for Utah's interests.

[From the Deseret News, Feb. 15, 1979]

AEC SUPPRESSED FALLOUT STUDIES IN UTAH SHEEP DEATHS

(By G.E. White)

The Atomic Energy Commission suppressed studies that indicated high levels of fallout in Utah and Nevada, Dr. Stephen L. Brower, the former Iron County Agricultural Agent, said Thursday.

Brower was county agent in 1953 when thousands of sheep were killed, mysteriously, near Cedar City and in eastern Nevada following atomic test blasts.

He told the Deseret News that several AEC scientists sent in to Iron County to investigate the sheep kills promised him copies of their findings. Later, he said, they all apologized to him for not sending him their reports.

One Los Alamos scientist, Brower said, described radiation levels on the dead sheep as "hotter than a firecracker" and as high as any he had seen, even on laboratory animals under test for radiation.

The scientist, believed to be Dr. Robert Thompsett, a veterinarian, later called Brower and told him that he had been reprimanded by his superiors and all copies of his report had been "picked up." The Los Alamos man was ordered, Brower said, to rewrite the report, deleting all reference to possible radiation effects.

Brower said he has summarized his recollection of the sheep case in a letter to Gov. Scott M. Matheson, following the Governor's release, from the State archives, of a stack of papers relating to the sheep incident.

Brower said that he was warned in 1953 by Paul B. Pearson, of the AEC Division of Biology and Medicine in Washington, that "under no circumstances could the AEC allow a case be established showing human or animal damage."

"It wasn't going to happen," Brower said Pearson, a former Utahn, told him in a conversation Pearson said he would deny.

Brower said he finally decided that the AEC had a "game plan"—an official policy—of controlling all data on radiation and confusing and diverting the sheepmen. That policy including offering to pay for university studies of sheep nutrition, as long as no radiation investigations were made outside of the AEC itself.

If local officials persisted, or got too close to the truth, Brower said, they would be attacked personally. He said he saw the late Douglas Clark, chairman of the Iron County Commission, "viciously berated" by an Army colonel after Clark brought up some technical data that seemed to bother the AEC officials.

"The colonel called Clark a 'dumb farmer,'" Brower said. After the argument, which Brower described as extremely heated, he said Clark had a heart attack and died.

"I have no evidence that the AEC ever outright lied," Brower said.

"They didn't have to lie. They controlled the radiation evidence themselves, and they confused and diverted us."

He said he was "terribly frustrated" by the case, in which he tried to help sheepmen get some compensation for losses which they suffered through no fault of their own.

"It was a major economic crisis for those families," Brower said. "Many of them were forced to sell out because of their losses."

Brower is now a professor at Brigham Young University.

[From the Deseret News, Feb. 15, 1979]

NEVER LOST A FALLOUT LAWSUIT, AEC SAID

(By Gordon Eliot White)

Despite 17 years of atmospheric atomic testing, the Atomic Energy Commission said it never lost a lawsuit seeking damages related to radioactive fallout.

The commission's public relations officers will admit they had to pay for some storefront glass breakage in Las Vegas, but never a case involving human or animal health.

However, other information available to the Deseret News indicates the AEC paid a few hundred dollars to the owners of some horses that suffered beta ray burns in one fallout incident.

Even when people reported what seemed to be typical radiation burns, the AEC would deny that radiation was the cause.

A rancher in Ely, Nev., reported in 1953 that his people received very heavy fallout from one shot in 1953 and that three of his hands "sustained minor facial burns that extended up under their hats and had terrific headaches that lasted 2½ days from fallout radiation."

The rancher report seeing the fallout cloud and jet planes tracking it overhead, and he said forest rangers reported heavy fallout in the area, particularly at Murphy's Canyon.

"We told Mr. (deleted) that our experts have assured us that this sort of thing can't happen," Paul H. Pearson of the AEC reported.

During 28 years of open and underground testing, the AEC's successor agency, the Department of Energy, says it managed to fight off nearly a thousand claims, some frivolous, but many that its own scientists felt had merit.

Papers just released by Gov. Scott M. Matheson show that two AEC researchers, in separate studies, found evidence that sheep that died in Utah in 1953 had burns much like those they caused experimentally on laboratory animals.

Despite that and other evidence, the commission prepared a statement which said its data "present a preponderance of evidence to support the conclusions that the lesions were not produced by radioactive fallout."

The Deseret News has learned that the AEC maintained two fallout monitoring teams, one that also had the assignment to maintain good public relations with civilians surrounding the test site and another that only met civilians when extra-heavy fallout led the test site officials to order an evacuation.

The public, radiation-safe teams almost never wore the protective coveralls and hoods they were issued, Henry Rechen, a Public Health Service technician told the Deseret News in Washington.

The other group, many of them Army personnel detailed to the AEC, would don the protective clothes, taping their sleeves and pants cuffs to keep out the radioactive dust that fell from the reddish bomb clouds.

Sheepmen and others who blundered into the teams with the protective clothing described them as "men from Mars," and reported that their attitude was far more brusque than that of the more casually dressed rad-safe men.

Rechen, who was one of those who did not wear the coveralls, said they made him sweat profusely. The other group occasionally found areas that were "as hot as a \$2 pistol," and used that phrase frequently during the 1953 test period.

Rechen, who apparently did not get close to the hottest spots after the 11 tests in 1953, said all he saw indicated that the sheep that died had been severely undernourished because of a poor rainfall on the Nevada ranges that year, but he admitted he was not told all of the facts in the case.

Rechen testified in the 1955-56 federal court case in which rancher David C. Bullock lost his attempt to get compensation for loss of his sheep.

The state of Utah realized at the time that it was not getting all of the AEC fallout data and moved to set up its own monitoring network, which included a sampling station atop the State Capitol.

The results of the state monitoring are apparently still in the Utah archives. Mike Zimmerman, Matheson's legal aide, said Tuesday that those records might be brought out in the next batch of papers the governor's office brings to light.

The sheep papers clearly show that the AEC could ignore adverse findings, even among its own people.

Los Alamos Lab researchers C.E. Lushbaugh, J.F. Spaulding and D.B. Hale wrote in their sheep report that "the skin lesion was remarkably similar, histologically, to severe beta ray burns, as demonstrated experimentally."

"It would appear from these gross observations," they wrote, "that this and similar lesions seen in the field by Dr. Robert Thompson and others conform well enough to a presumptive diagnosis of a radiation-produced lesion."

Thompson, an AEC veterinarian, had reported earlier that the lesions he saw on the affected sheep were typical beta lesions and that the AEC had contributed to the loss of the sheep.

The AEC was equally adept at playing down fallout readings. In the final sheep statement, the AEC said "the general amounts of fallout in the areas under question have been determined. These quantities of radiation dosage are not known to be sufficient to produce the lesions noted."

An AEC investigation team had found that the affected sheep were themselves radioactive, long after the incident began, at a level similar to those found on horses in Lincoln County, Nev., near Papoose Lake. That area, the AEC admitted in classified documents, could have suffered an accumulated dose of 100 roentgens, a heavy dose which top AEC scientists had said should not be permitted.

[From the Deseret News, Feb. 27, 1979]

UTAH THYROID CANCERS PEAKED, TOO

(By Gordon Eliot White)

WASHINGTON.—A U.S. Public Health Service study has shown that thyroid cancer cases in Utah for the 15 years from 1948 to 1962 increased to a peak in 1962, 120 percent above the rate experienced by three control populations.

That high point coincides within a year with the 1963 peak in childhood leukemia found by Dr. Joseph L. Lyon of the Univer-

sity of Utah Department of Family and Community Medicine.

The PHS study was done by Edward S. Weiss as a preliminary to more intensive work that was planned but not carried out on a statewide basis.

Weiss considered all thyroid cancers among young people in the state, whether the victim lived in a higher or low fallout area.

For the first period considered, 1948-52, Weiss found 12 cancers, 33 percent above the expected nine. For 1952-58, he found 19, 36 percent above the rates elsewhere. For the last five years, 1958-62, the cancers jumped to 38, 129 percent above the 17 predicted. No data was taken for years after 1962.

Weiss told the Deseret News this week he considered the 1967 findings "significant" and "one more bit of evidence" in the continuing investigation of the suspected link between atomic test fallout and cancer.

He suggested that the thyroid cancers were more likely fallout-related than leukemia cases on which he reported in 1965. That study was not published after the White House barred its release at the insistence of the Atomic Energy Commission. The thyroid population work was published in the American Journal of Public Health, but it did not receive notice in the general press.

Thyroid cancer is believed to be one of the most likely effects of fallout because the thyroid concentrates radioactive iodine, one of the most plentiful isotopes produced by atomic fission.

Overall, Weiss found 70 cancers, double the 35 predicted from control populations in New York, Connecticut and 10 U.S. cities surveyed by the PHS in 1947-48. Most of the excess was in the age group 20-29, but some extra cancers were found consistently among both males and females up to age 19 as well as from ages to 20 to 29 in the 1958-62 period.

Radiation-caused thyroid disease is believed likely to develop about 10 years after exposure, but it may appear up to 20 years later, according to evidence from the experience of Utrik Islanders exposed to fallout in 1954. A 10-year latent period would coincide with suspected exposure in 1953, when the dirtiest of the atomic tests were conducted. Exposures of as much as 400 RAD to children's thyroids in St. George were estimated by Dr. Harold A. Knapp, an AEC scientist in a 1962 study.

A follow-up survey of cancer records for possible additional thyroid cases is now under way by the Bureau of Radiological Health.

Review of the Weiss thyroid study—with its findings of the largest number of cancers in the 20-29 age group, who were between 11 and 24 years old in the peak fallout year—suggests that infants may be less at risk than older children. One U. of U. doctor questioned earlier this month whether infants might be protected from radioactivity in raw milk by the use of commercial formulas or breast feeding.

Between 1965 and 1974, several studies were done of school children in St. George, but no conclusive findings resulted. Some scientists have since suggested that those projects were flawed by poor data on the source of milk the children drank as infants, when they were believed exposed to radioactive iodine 131.

The 1967 Weiss study also hints that the investigation of teen-age thyroid nodules in St. George could have missed the peak years

of risk. High school seniors in 1970 would have been infants in 1953.

In assessing his data, Weiss noted that among females, toxic goiter, a non-radiation associated condition, dropped by 50 percent between his first study period and the 1958-62 years, while cancer increased by a factor of four and thyroiditis doubled.

He cautioned that increases in thyroid cancers had been reported in other areas, apparently not affected by fallout, in the period 1948-58, and as much as an 80 percent jump in such cancers occurred in New York in the same period.

His conclusion, however, was that there was a marked that may also be radiation related peaked in Washington and Iron counties in 1958, at 50 percent above the state average, and in Juab, Beaver and Millard counties at 128 percent above the state average in 1962, when fallout was still being measured in those counties.

[From the Deseret News, Mar. 2, 1979]

AEC KEPT QUIET ON MILK HAZARDS

(By Gordon Eliot White)

WASHINGTON.—Documents just released by the Department of Health, Education and Welfare show that the Atomic Energy Commission knew in 1953 that radioactivity could get into milk in amounts large enough to be disturbing.

The milk hazard was not made public and was kept even from most AEC scientists for nearly nine years. It was not until Dr. Harold Knapp of the commission followed up the Sedan and Smallboy shots that year that the danger became understood, even by many researchers.

A monitoring report of the May 19, 1953 test, code-named Harry, indicates that radiological safety officers picked up milk samples from St. George, Mesquite and Las Vegas for testing. No findings were included in the report, but the safety officer indicated that if St. George residents had known of the potential risk it might have created "a disturbance."

The milk hazard involves radioactive Iodine 131 which cows may pick up from their pastures. The iodine is concentrated in the milk. When people drink the milk, the iodine is again concentrated in the thyroid. One government scientist estimated that in 1953 in St. George, children may have gotten thyroid doses as high as 1,110 rad, a level almost as high as those suffered by natives on Rongelap after a 1954 thermonuclear test.

One of the newly released documents adds to the story of the 1953 test shots that dumped heavy fallout on St. George. As the Deseret News reported in December and again on Feb. 8, the radioactive dust from shots on April 25 and May 19 was so heavy in the Nevada-Utah border area that AEC radiological safety officers ordered cars washed down to remove as much of the fallout as possible.

In a conference at the headquarters of the Bureau of Radiological Safety of the Public Health Service in December 1965, three months after his leukemia study was suppressed, scientist Edward Weiss described the Harry test as background for scientists who may not have known details of the fallout picture.

Reading from the commission's test managers' report, Weiss said Harry was a dirty shot, large, of 32 kilotons, fired from a 300 foot tower which allowed the fireball to reach the ground and pick up large masses of earth and sand.

About 3 hours and 40 minutes after the 5:05 a.m. explosion, the report states, monitors began to find readings of 300 to 320 millicuries in and out of cars on U.S. 91 near St. George.

By 9:15 a.m. the fallout levels as measured at Dixie College were still rising. The monitors halted their decontamination work and orders went out to the St. George road check point to stop monitoring and have motorists halted from 20 minutes to an hour.

At 9:25 a.m. the Washington County sheriff was notified to tell St. George residents to take cover. That announcement was broadcast over the Cedar City radio station. School principals were notified to keep children inside during their morning recess period. By 9:40, the report said, the bulk of the population in St. George was under cover.

At that time, about 200 cars had backed up at the roadblock and 28 cars and trucks were being washed down at local service stations.

"Everything was at a standstill," the report said.

At 10:15 the reading in St. George equaled those that had been found on the most contaminated of the cars tested at the edge of town.

An AEC representative called from the test command post landed at the St. George airport at 11:35. Other commission officials arrived shortly later "to look over the situation."

Two days later the commission flew in a set of uncontaminated monitoring instruments to replace those that had been so doused with fallout as to make their readings meaningless.

On May 23 the safety officers discussed, privately, the "milk situation."

"Everyone in St. George was a little concerned," the report added, and "it would not take much to start wild rumors."

The officers obtained the names of the county agent and the president of the County Dairymen's Association, but noted "it was just as well that neither was available, since I was afraid it would cause a disturbance."

"It was agreed that the direct approach for the collection of milk samples would not be pursued further at this time."

The official purchased a quart of local milk, and, without stating his reason for the inquiry, located the producer and discussed with him when it had come from his cows.

[From the Deseret News, Mar. 6, 1980]

TAKE FALLOUT RESPONSIBILITY, TASK FORCE URGES PRESIDENT

(By Gordon Eliot White)

WASHINGTON.—Radioactive fallout from Nevada Atomic Testing "in all probability caused a small number of cases of death or disease for which the government should accept responsibility," a task force has told the White House.

The federal interagency task force, set up last year by President Carter, recommended legislation be developed that would provide a compensation program to resolve claims of the downwind residents.

The report is the first official government finding of responsibility for fallout health effects in the 29 years since nuclear weapons testing began in Nevada on Jan. 27, 1951.

The group did not, however, recommend ways of dealing with the difficult administrative and policy issues that it noted must

be addressed in preparing a specific compensation proposal.

The task force report, submitted to the White House on Feb. 1, has been closely held by the administration. The Deseret News obtained a copy of the 57-page working paper, marked "sensitive" and "official use only." The report appeared to contain no classified security information.

A White House aide refused to comment on the report other than to indicate that the Feb. 1 document was the final draft and that it is "under active consideration."

The president is expected to review recommendations contained in the paper and announce a decision this spring on his administration's policy toward compensation for fallout victims.

Sen. Edward M. Kennedy, D-Mass., has announced Senate hearings will be held April 28 on a compensation bill he has cosponsored with Sen. Orrin Hatch, R-Utah. Hearings before the House Judiciary Committee have been promised by Chairman George Danielson, D-Calif.

The Hatch-Kennedy bill, and a similar measure introduced earlier in the House by Rep. Gunn McKay, D-Utah, would concede U.S. liability for radiogenic cancers among people who lived in the fallout areas during the test period and direct the courts to set the amount of damages to be paid.

The task force recommended that the administration oppose the Hatch-Kennedy and McKay bills. The report said both measures "are unwarranted by the facts, (are) exorbitantly expensive, and would set a very damaging precedent." The task force suggested instead that an administrative solution be worked out under more restrictive legislation.

The report repeated the contention that there is no way to identify which individuals in the population may have received large enough doses to have caused cancer.

As of Feb. 1, the report noted, 965 claims for damages from fallout have been filed with the Department of Energy, seeking damages in excess of \$2 billion. Some of the claims, the task force said, involve types of cancer not known to be caused by radiation.

Under an administrative remedy eligibility for compensation could be determined by setting a minimum probability requirement that a particular cancer was caused by fallout, based on the type of cancer and an individual's probable dose of radiation.

Using such a selective procedure for assessing government liability, the report noted, the potential numbers of beneficiaries would be relatively small and total program costs would also be small. The more important impact on the government, the report warned, would be in the precedent it would set for other programs such as veterans benefits and toxic chemical damage claims.

Under virtually any program, the report said, many claimants would get more than could be expected under the present litigation system, while some would get less than the full measure of legal damages they might otherwise have gotten, but such inequities could be minimized under an administrative solution.

The task force recognized that federal employees and veterans who may have been subjected to test radiation can take advantage of existing benefit programs not available to the downwind civilians.

"Given the nature of the illnesses, and the underlying national security reasons for the nuclear tests, resolution of these claims in a non-adversarial context is very much in the

public interest," the report said. Such an administrative solution would provide "substantial parity" for downwind residents with veterans and federal employees.

The report warned the president that allowing fallout cases to go to court, either under the existing federal Tort Claims Act or under legislation that admits U.S. liability could risk setting a damaging precedent, with potentially great financial liability for the United States, along with major expenses for litigation.

The report noted a serious drawback to litigation would be that, in defending itself, the government would have to focus on whether the federal agencies and officials involved in the test program behaved properly.

In light of last year's report of alleged failures in test monitoring and protection of the downwind population, the paper noted "such emphasis on allegations of negligence and wrongdoing of federal officials tends to obscure what the task force believes to be the most important issue—the actual health impact of the test program (even if conducted flawlessly) and the government's present responsibility to the population affected."

The task force was headed by Deputy Assistant Attorney General William Schaffer and included representatives from the White House, the Department of Health and Welfare, the Veterans Administration, the Defense Department, the Department of Energy, the Labor Department, and the Office of Management and Budget.

A dissent from portions of the report has been prepared within the Department of Health and Welfare and is awaiting review by Secretary Pat Harris before it is transmitted to the White House Domestic Council. Other agencies apparently have already submitted separate views on portions of the report.

The task force study estimated radiation doses to the downwind population, using a survey of previously published Atomic Energy Commission fallout data prepared by the Public Health Service.

While admitting there is uncertainty about the fallout measurements, the report said between 18 and 96 cancer might be expected to have occurred due to fallout among 172,000 downwind residents, of which between six and 32 cases would be fatal. The report said 20,000 cancers would be expected in a lifetime from natural causes.

Scientists in and out of government who have read the report criticized the size of the death estimates. John Villforth, director of the Bureau of Radiological Health, noted that the study "almost completely ignored internal emitters," or radioactivity taken into the body in food or air. Villforth read portions of the study to a Deseret News reporter commenting that the task force exceeded its original charter by making dose and disease incidence calculation based upon existing incomplete data.

Dr. Harold Knapp, who did fallout studies for the Atomic Energy Commission 20 years ago, noted that the report failed to take into account known doses of radioactive IODINE 131 which several government studies have estimated at from 120 to 1,000 rad to the thyroids of people, particularly children, who drank milk from cows grazing in the fallout zone.

The task force dose estimates did not appear to take into account all of the questions about the accuracy of the fallout monitoring raised since the test period by the Deseret News from a number of sources, in-

cluding previously classified reports of the PHS monitors and AEC personnel. The task force did adopt an uncertainty factor of 2:1 for average exposure, and 5:1 for individuals.

The group pointed out that the dose uncertainties are unique to the fallout situation and are not applicable to other dose monitoring efforts.

The task force reported that, in its opinion, a study by Edward Weiss of the Public Health Service, which found excess leukemia deaths in Washington and Iron counties; suffered from technical flaws that "appear to justify the decision (by the AEC and the White House) not to submit a manuscript which has been prepared for publication." The Deseret News reported last year that Weiss' paper was suppressed with White House knowledge in 1965 because of his findings.

The group also found that reports of several "clusters" of leukemia in Fredonia, Ariz., and Monticello, Parowan, and Panguitch, Utah, remain inconclusive.

The report called Dr. Joseph L. Lyon's 1979 examination of childhood leukemias in the fallout area "the primary study suggesting a link between the atmospheric test program and illness in downwind residents."

Copies of two charts prepared by Lyon for the New England Journal of Medicine were reprinted in the report. The report also noted that the Lyon study has received much criticism for its methodology and selection of population cohorts, or statistical groups.

[From the Deseret News]

JUSTICE FOR FALLOUT VICTIMS

The question is no longer whether or not some Utahns were killed or injured by fallout from atomic tests in Nevada 20 years ago.

Rather, the question is how much the government should compensate the victims or their families.

At least that ought to be the case now that a presidential task force finally has concurred with what Utahns have been saying for several years—that the Nevada tests "in all probability" caused a small number of cases of death or disease for which the government should accept responsibility.

The task force report obtained by the Deseret News recommends that the government opt for a standard of compensation less generous than that contemplated in bills being pushed in Congress by Utah Sen. Orrin Hatch and Utah Rep. Gunn McKay.

Up to a point, the task force's philosophy is understandable. When the above-ground tests were conducted fallout was considered to be much less dangerous than it later turned out to be. Besides, Utahns shouldn't expect a blank check but only simple justice.

But the task force's thinking doesn't give sufficient weight to several important factors. For starters Utahns were involuntarily exposed to this hazard and then not informed of its dangers. Even when the government started to learn how serious fallout could be, officials sat on their hands.

If those considerations aren't enough Washington should keep in mind that the right kind of compensation could save many years and millions of dollars in court and other legal expenses.

Let's not try to raid the U.S. Treasury. But let's also make sure that the injustice already done some Utahns is not compound-

ed by compensation that's niggardly as well as tardy.

[From the Deseret News, Mar. 21, 1979]

FALLOUT SAMPLING CRUDE, MONITORS UNRELIABLE

(By Gordon Eliot White)

WASHINGTON.—Before the United States began to test nuclear weapons in Nevada, the Atomic Energy Commission promised, in a Jan. 11, 1951, news release, to take "all necessary precautions, including radiation surveys and patrolling of the surrounding territory."

Formerly classified reports made in 1952 and 1953, obtained by the Deseret News, and interviews with the men who ran those surveys, indicate that fallout sampling for at least two years was crude, that personnel were often entirely untrained, that their instruments were unreliable and that no one was sure exactly what it was they were looking for.

There had been fallout, including hot spots of as much as 50 roentgens, at the 1945 Trinity test at Alamogordo, N.M. Atomic scientists knew of the long-range radioactive hazard of substances like radium.

One scientist says, however, "It is true that we knew about radium, but we weren't dealing with long-lived materials like that. We thought most of the fission products had much shorter half-lives than radium. No one suspected there was much danger from fallout radiation."

Harry F. Schulte headed a fallout advisory group from the Los Alamos Atomic Weapons Laboratory during the first three test series. He told the Deseret News in a telephone interview that he didn't think there was a great deal more actual radiation exposure than the sampling teams measured, but added "there might have been."

"We may have missed a few of the hottest places," he said. "We didn't get the iodine then."

Test series Ranger began on Jan. 27, 1951, 34 days after President Harry S. Truman gave the go-ahead to use the Nevada site. Under pressure of the Chinese invasion of Korea and fears of a Soviet move in Europe, there was little time to fulfill the AEC's promise of precautions.

Ranger consisted of five shots, totaling 40 kilotons of atomic yield. All of the weapons were dropped from aircraft and exploded between 1,100 and 1,435 feet above the desert floor. The final test, Fox, was a relatively large one of 22 kilotons.

"No one had air-sampled for fallout before," Schulte said. "They weren't even sure it could be done."

"The Ranger series was scheduled so quickly that we didn't have time to establish any network of fixed stations, and we had, I think, four men to cover an immense amount of territory."

"We set up a crude lab near the Nevada site and went out to see what we could get," Schulte said. "We had one portable sampling station on a truck that we could move about and one mobile outfit on a trailer pulled by a jeep. We would get predictions from the weather people where the cloud might go, and then we would run out and try to catch something."

"We were always told that the readings we found were 'within the standards,'" he added, although his group was not told just what the standards were.

The test officials assigned the off-site monitors to cover everything from 10 to 200 miles from the test site, but in 1951 the Los

Alamos team never got beyond Glendale Junction, Nev., about 85 miles away, Schulte said.

The second series of Nevada tests was Buster-Jangle, in October and November 1951. Seven explosions, totaling 72 kilotons were detonated, one of them on a 100-foot tower, one on the surface and one underground.

Schulte said he recruited about 100 scientists and technicians from government laboratories, universities and contractors such as the General Electric Co. to monitor these tests.

"We had many more trucks then. We would send them out in a pattern ahead of where we thought the fallout track might go. We used sticky paper mounted on fenceposts and at the little towns. We had some air samplers, and some background recorders that weren't very sensitive. The clouds didn't always go where they were predicted.

"It was obvious we couldn't do things that way again, recruiting people from all over the United States," Schulte said. "Most of those people had projects of their own and just didn't want to be sent out to Nevada on short notice to live in barracks."

The next series, code-named Tumbler-Snapper, began in Nevada on Jan. 4, 1952. Eight blasts, totaling 104 kilotons were fired, the largest 31 kilotons. The first four were air drops, and the last four were fired from 300-foot towers.

Radiological safety for Tumbler-Snapper was made a responsibility of the military. Schulte and three other Los Alamos scientists were assigned as advisers who were to be returned to their laboratory work after the first few tests.

According to the advisers' classified report, they found the monitoring in the hands of the 216th Army Chemical Service Co. from Rocky Mountain Arsenal in Denver; two members of a chemical technical intelligence detachment; two signal corps non-coms; and a few Air Force weather personnel.

The chemical corps unit was divided into at least three groups. The largest number was assigned, under their own officers, to police the area near the explosion sites. Others were used to monitor surface radiation for fallout under the direction of the "Rad-safe" off-site operations officer. The third group did the air and particle sampling under the direction of the four Los Alamos advisers.

None of the military personnel "had ever received any previous training in any of the procedures associated with a fallout study," the advisers reported. There was no time to train them properly, and the report noted, "an air sampling program cannot be expected to be entirely satisfactory when included as an afterthought."

"We were just plain mad," Schulte said. "We were out there, at first, to advise them on getting started, but we found out just how badly prepared they were just a few hours before the first shot, and we had to stay on for the whole four-month test period."

Not only were the soldiers untrained, but as fast as they became experienced, their officers would move them somewhere else.

"Each test brought a new group of operators inexperienced in the proper techniques. Little use was made of the experience gained on previous tests. They were often assigned only a few hours before it was necessary to dispatch them to their respective stations to perform duties in which they had been only briefly indoctrinated," the Los Alamos group reported.

The instruments the soldiers had to use were crude. Samples were taken with Electrolux vacuum cleaners, drawing air through four-inch dust respirator filters made to be used by coal miners.

The air sample filters often became clogged with surface dust and thereafter failed to draw in fallout particles.

Pumps for more sophisticated cascade impactors were in short supply, and as a result only four to six measurements could be taken at each station for each test. Worse, they had to be placed in the predicted fallout path ahead of time.

"Since the path usually changed considerably . . . not all impactors received enough activity to make a significant particle-size analysis," the report noted.

Recording geiger counters were not sensitive enough to show any except the most intense fallout, leaving "considerable questions as to the validity" of their data. Often they would record only background radiation, while nearby sticky trays collected heavy fallout. Since the trays were only changed on a 24-hour schedule, fallout arrival times, vital to interpreting the radiation levels, were not known.

Tray samples were often not counted for as long as 36 hours, resulting in considerable decay in the radioactivity levels. The Los Alamos team tried having trays picked up by aircraft, but the short range of the assigned light planes and the lack of prepared landing sites forced them to abandon the experiment.

Some of the samples collected contained radioactivity greater than the counting limits of the lab equipment, the report noted.

Portable generators used to power the equipment often failed. The Crystal Springs station was particularly troublesome. Power difficulties put the stations at Tonopah and Warm Springs out of action on two occasions. On another shot, no one notified the Crystal Springs operator to turn on his equipment until three hours after the detonation, when the greatest part of the fallout had already passed.

Later, the Crystal Springs filters failed to show any particles after the cloud passed overhead, and the advisers decided the equipment had been improperly operated. At Pioche, the equipment was turned off before one slow-moving fallout cloud arrived.

Once, mispredicted winds sent a fallout cloud over Pahrump, Nev., which was not covered by a mobile unit. The unit, mounted on a truck, was out of radio contact and could not be found. The cloud continued southwest at least as far as Baker, Calif., with only sketchy monitoring reports.

On the same test shot, two station operators disregarded monitoring readings on arrival of the cloud because they believed them to be negligible and not worth recording. Occasionally the soldiers forgot to apply adhesive to the sample trays.

The mobile unit entirely missed the fallout track of shot three of the Tumbler-Snapper series, though the explosion was much larger than the first two tests. The report stated the "fallout was not found."

After a 12 kiloton shot on May 7, 1952, "high winds blew away aluminum sample trays at Currant, Indian Springs, Warm Springs, and Tonopah," the report said. Other stations reported hot spots—"a few scattered surface concentrations which remain unexplainable."

The May 7, shot, fired from a 300-foot tower, released a "relatively large amount of

air and surface contamination." High-velocity winds carried the fallout to off-site areas quickly, before radioactive decay could reduce the intensities.

"Distinct surface contamination apparently did occur outside the path of predicted fallout," Schulte's report said. The incident dumped heavy fallout at one location, but the Los Alamos group did not learn details.

"The extensive radioactive hazard at Lincoln Mine was studied in considerable detail by another off-site agency, but unfortunately this information is not available for this report," the advisory group noted.

The overall results, according to the report, "are not intended to report quantitative data," but were indications only of relative fallout levels. Their measurements were "not a real measure of external hazard" but were "all that time permits."

In his recommendations after the Tumbler-Snapper series, Schulte suggested that before any more tests were scheduled, a monitoring group be organized and trained, with better procedures and equipment. Above all, he noted, continuity of personnel from shot to shot was necessary. He suggested a three-month preparatory period to get equipment set up and tested.

Number 10 on his recommendation list was that public relations should be given more importance in the future. Rad-safe officers later made calming public fears their prime responsibility, as AEC documents have shown.

The Public Health Service was tapped for technicians to man the 1953 test series, named Upshot-Knothole, with PHA officers detailed to the AEC.

Editor's note: In any study of atomic test fallout and its effect on people downwind in Utah, Nevada and Arizona, the question of radiation dosage is vitally important. If there were no exposure, "excess" leukemia and other cancer deaths are merely a statistical aberration. If there were radiation exposure to the people there, how heavy was it? The Atomic Energy Commission has stated with apparent certainty that, with a handful of exceptions, no one received more radiation than conservative guidelines permitted.

If the AEC dose figures are correct, the excess deaths may indicate that far lower radiation levels are harmful than has generally been believed.

If the fallout intensities were higher than reported, the cancer rates in the area may be closer to those already widely accepted as radiation-induced.

This is the first of two stories on the early fallout measurements, based upon formerly classified reports made by government scientists in the first two years of the test program. The reports appear to call into question the validity of the government's published figures and its claim that radiation guidelines virtually were never exceeded.

[From the Deseret News, Apr. 16, 1979]

DESERET NEWS BARES FALLOUT STORY

(By Gordon Eliot White)

WASHINGTON.—Two mining engineers who were struck by one of the heaviest doses of atomic test fallout in Nevada in the 1950s were told by the Atomic Energy Commission's test operations office to take showers and go home.

Today one of the men is dead of prostate cancer he believed was caused by radiation, and the other still suffers from lung damage he attributes to the fallout exposure.

They were never allowed to file claims against the government, despite a doctor's statement that they suffered identical lung disease following the exposure.

The incident was originally reported by the *Deseret News* on May 1, 1953:

"Two miners who were on the desert 110 miles from last Saturday's atomic blast have been found to be radio-active. The two, Owen D. Atkins and Clarence F. Terry, are under a doctor's observation in San Bernadino, Calif."

The 26-year-old story turned up in January during a search of *Deseret News* files for fallout data. The *Deseret News* asked the Department of Energy if the government had any record of the pair, or what had happened to them.

In a letter dated April 9, 1979, a DOE spokesman wrote, "A thorough search of our records has not turned up any information on the possible exposure to Owen D. Atkins or Clarence F. Terry from a nuclear test called 'Simon' which was detonated on April 24, 1953. We have no information on them or their present whereabouts."

There is apparently no way of determining now whether either man was made ill by radiation alone.

Government documents obtained by the *Deseret News* indicate, however, that both men sought for years to file claims against the government and that off-site radiological safety officers tried to talk them out of their belief that they had been harmed by fallout.

A Public Health Service letter marked "classified" indicates that a doctor at the Henderson, Nev., clinic told the safety officers that both men were suffering from emphysema, which began shortly after the fallout exposure. The physical findings on both Terry and Atkins "were exactly the same" and, the doctor said, "could not be a coincidence."

After the doctor told the safety officers that he wanted "to be sure Atkins got a fair shake," one of the government men told the other privately that he thought the doctor was biased against the government because of a "rough" tour of duty in the Air Force. Although the doctor said he had had some experience with radiation hazards, one safety officer told the other that Atkins' case was weak because his doctor had a "lack of knowledge of radiation effect on human tissue."

The *Deseret News* sought the two men and located Terry at his home in California. Atkins' one, Garrold Atkins, was interviewed by telephone at his Nevada residence. This is their story:

The men were looking over a possible columbium ore strike along the crest of the Bunkerville Mountains in Nevada on the morning of April 24, 1953, when the dust cloud from test shot Simon struck them. Terry said they did not realize it was fallout, but Atkins' son said his father related that their Geiger counters went off-scale.

"They thought they had a real uranium strike at first," he said. Then they realized that they were in a fallout cloud. Neither man apparently thought then that they had been harmed. But, according to Terry Atkins changed his work clothes that night. Terry hadn't brought any other clothes along, so he had to go for a second day in the same dusty shirt and pants.

Two days later, on their way to Boulder, Terry said they ran into a Bureau of Mines worker named Shank. "He had a Geiger counter with him, and when he got near us it started to buzz," Terry said. "He backed

way off and told us to go to see the AEC in Las Vegas."

At Mesquite they were stopped by a Public Health Service mobile monitoring unit which had been checking vehicles on Route 91. The monitors found that Atkins' red Ford pickup was heavily contaminated, and they ordered it steam-cleaned to wash off some of the radioactivity.

Army rad-safe men checked the pair with counting instruments. Terry said the Army monitors told him he had "a reading of 18,000. If it gets to 22,000 it'll kill you." He never learned what the readings meant.

In Las Vegas, Terry and Atkins said the AEC sent them to a hotel at the corner of Fremont and Main streets to take showers and change clothes. Their old clothes were taken away and replaced with new ones by the test officials.

Atkins' son said his father visited his home in San Bernadino, Calif., the next day and was still so radioactive that the couch on which he sat would send a Geiger counter off-scale for days afterward.

"His fingertips and his hair were still radioactive," Atkins said. A tarpaulin in the back of the truck was heavily radioactive, and Atkins burned it, hoping to get rid of the fallout dust. The truck remained "hot" for three weeks.

"A geiger counter would go off-scale if it got within 50 feet of it," Atkins' son recalled.

According to Terry, the men began to feel ill and asked the AEC for help. They were sent to Westwood Hospital in Los Angeles, where there was a "crew" of "AEC doctors." They were examined and told to go home.

When the bills arrived, Terry said, the AEC paid part of them, but he has never received any compensation for his subsequent illness. According to Atkins, Terry's hair fell out after the incident.

The Bunkerville Mountains were directly in the path of the heaviest fallout from "Simon," according to previously secret monitoring reports obtained by the *Deseret News* earlier this year.

The fallout cloud caused intensities of 760 milliroentgens per hour on Route 93 northwest of Glendale. At Riverside Cabins, the nearest monitoring station to where Terry and Atkins were that morning, the total dose was estimated by the Public Health Service as 15,000 milliroentgens, with most of that coming in the first several days after the cloud passed. The AEC guideline at the time was 3,900 milliroentgens per year for off-site civilians.

Since Atkins and Terry left the area after two days and washed and changed clothes, they received less exposure than the total dose, but the available data does not show whether they received more or less than the Riverside reading, or how much radioactivity remained with them.

The evidence indicates that they probably exceeded the guideline exposure.

The documents obtained in Washington indicated that Atkins told Nevada radiological safety officers on Dec. 22, 1960, that X-rays showed "numerous spots on his lungs which he directly associated with and attributed to the radiation exposure."

Atkins visited the Las Vegas headquarters again on Dec. 29, 1960, but the government men advised him "there was no basis for a claim."

On Feb. 19, 1961, the safety officers visited the Henderson clinic doctor who offered to give the AEC X-rays he took, of Atkins' lungs and all other records of the case. He told the officers he wanted the gov-

ernment to have "a complete evaluation of the patient."

The officers countered that the levels of fallout they believed Terry and Atkins received, although not measured by their own PHS staff, "raised considerable doubt" that radiation had harmed the men.

Later one of the officers said in a memo to his chief that he recommended that the government not examine Atkins to substantiate his claim.

UNITED STATES KEPT MUM ON 1958 FALLOUT CRISIS IN L.A.

(By Gordon Elliot White)

WASHINGTON.—Ten days after U.S. officials told the public in Los Angeles that a 1958 fallout episode was "harmless," the National Advisory Committee on Radiation concluded here that the incident had been "an emergency," government documents obtained by the *Deseret News* show.

Members of the committee noted at the same time that Salt Lake City had suffered fallout of fresh fission products at levels as high or higher in 1957. At the time, Atomic Energy Commission aides told Utahns that their exposure to fallout was a fraction of the extra radiation they would receive naturally by taking a vacation in the mountains.

The Nov. 10, 1958, meeting of the committee was secret and remained closed to public knowledge until the transcript turned up in 35,000 pages of documents released as a result of Freedom of Information Act requests by the *Deseret News* and other papers.

After a discussion of the Los Angeles fallout, Lauriston S. Taylor, chief of the Atomic Radiation Physics Division of the National Bureau of Standards, a committee member, said, "If you ever let these numbers get out to the public, you have had it."

Another member, Dr. Edward B. Lewis, a biology professor at the California Institute of Technology, said, "This is certainly a confidential memo."

Lewis described the Los Angeles incident as a nuclear "accident" that occurred over several days late in October 1958. On Oct. 30, he said, Los Angeles received the highest radiation levels ever measured in eight years of atomic testing. The fallout came from detonations in Nevada that were fired in rapid succession in order to get them in before the Nov. 1, 1958, testing moratorium. In all, 37 tests were announced, 20 of them set off during the final two weeks of October.

Not only was the testing done in rapid-fire order, but the weather was unusual. Several of the clouds drifted west, rather than along the usual eastward trajectory. At the end of October, after the fallout clouds passed over Los Angeles, contrary winds brought them back in from the ocean and they hung in the natural bowl that traps Los Angeles smog for much of the year.

FALLOUT ESTIMATES UNDERSTATED

Lewis told the committee that published estimates that the fallout amounted to only perhaps 1 or 2 percent above natural radiation "would no longer be true."

"This would amount to at least 20 to 30 percent of the intense gamma ray exposure for those who either live out of doors or who live in one-story houses," he said.

Russian tests a week or two earlier than those in Nevada, he said, also contributed to the Los Angeles doses because winds coincidentally brought the Soviet fallout clouds over the city at the time of light rain showers that brought down the radioactivity.

Similar "hot spots" have been detected in the Southwest and Northeast U.S. at other times. Lewis said areas up and down the coast from Los Angeles escaped both the United States and the Soviet fallout.

Another committee member, Dr. Hardin B. Jones, of the Division of Medical Physics at the University of California, predicted that the doses would show up as genetic changes in the Los Angeles population in later years. He noted that the male-female sex ratio changed at Hiroshima and Nagasaki, where a few thousand parents were exposed to a few hundred roentgens of radiation.

"It seems reasonable," he said, "that we should be able to pair such effects in ordinary populations if the effect is proportionate to radiation exposure if we have somewhere between 100,000 and a million births."

DOSAGE NEAR MAXIMUM LEVEL

Lewis said the average dosage at Los Angeles was at or near the maximum permissible level. Elsewhere in the documents, committee members observed that if the average is "permissible," some individuals inevitably got more than the allowable doses.

"The fortunate thing," Lewis said, "was that the testing stopped and the level quickly fell in Los Angeles."

Even though the U.S. testing ended, the Russian tests brought in more fallout for another week, consisting of longer-lived fission products.

Lewis called the problem of the U.S. tests, which dumped short-lived radioactivity on Los Angeles, primarily one of public relations, concerned with permissible levels, "rather than an actual public health damage that is involved." The Soviet fallout, he said, was potentially "more serious," consisting of "long-range strontium 90 and cesium 137 isotopes that are insidiously irradiating at very low dose-levels" for years.

The permissible level, he added, was "quite provisional" because "we are dealing with mixed fission products, which pose a particularly acute problem in estimating their health effects."

"Great numbers of people are (not) going to suffer by comparison with the overall picture," he concluded.

The permissible levels, Taylor said, "carry the implication that we know what we are talking about when we set them. But in actual fact, they really represent the best judgment we would exercise now in the total absence of any real knowledge as to whether they are correct or not."

The AEC's Dr. Gordon Dunning, chief of the commission's Weapons Radiation Effects branch had said that the Los Angeles exposure was a few tenths of a milliroentgen at most—an amount received every day or two from naturally occurring radioactive substances in our environment."

U.S. Surgeon General Dr. LeRoy Burney observed. "If I were in Los Angeles, I would consider, I was insulted for somebody in the federal government . . . to say, 'That is nothing to be alarmed about.'"

Burney asked group members what they could recommend to do about such fallout levels.

"You might tell the AEC to call off its tests, but you might find a little difficulty getting very far," said Dr. Russell H. Morgan, the committee chairman.

"Or, the hardest thing, ask the Russians to call theirs off," Dr. Abel Wolman, of Johns Hopkins University chimed in.

RADIATION SAMPLES HIGH

The final report of the 1958 Hardtack II series, published in April 1959, said "Air samples were collected which indicated greater amounts of airborne radioactivity than have ever been observed at populated places during prior test periods at the Nevada Test Site." The report added that readings after the clouds passed returned to "background" levels surprisingly quickly.

The previous heaviest fallout had been measured in southern Utah in the spring of 1953, when St. George received what the AEC called the "heaviest fallout ever measured in a populated location," and that included depositions of Iodine 131 and other fission products that took days or weeks to decay.

Readings at Los Angeles in 1958 ranged up to 1,000 picocuries with doses estimated at 15 milliroentgens overall, most of which Jones estimated had already been absorbed by the local residents by the time of the Nov. 10 meeting.

Lewis said he had a feeling this could all have been stopped if some of the Cabinet and higher members of the government were aware that there is a problem, because there has been strong pressure at high levels to ignore the small levels of radiation that are involved here."

TESTING STARTED UNDER IKE

The Eisenhower Administration instituted the 1958 test moratorium which temporarily ended atmospheric explosions. The moratorium lasted until the Soviets resumed testing in September 1961. The Kennedy Administration ordered new U.S. tests the following year. Appeals to the White House about U.S. fallout, however, were not highly successful.

When high levels of fallout showed up in Utah milk in 1962, the Kennedy administration was upset by precautions Utah Health Director Dr. G. D. Carlyle Thompson ordered. The Kennedy White House responded by ordering the public health service to clear its radiation reports through the White House press office.

Thirteen years later, after Edward Weiss of the Public Health Service found "excess" leukemia cases in the fallout-struck counties of Utah, the Johnson Administration used the clearance rule to suppress the Weiss study.

PHS leukemia studies had already been started at the time of the 1958 committee meeting, but funds were not available for a big program within that agency. Lewis suggested that the American Cancer Society might be able to channel funds into such work. But there is no indication that the society did so.

Dr. Victor P. Bond, of the Medical Department of the AEC's Brookhaven, N.Y., laboratory noted that the committee "generally agreed that a number of studies have been done in a half-hearted or inefficient manner, and that in the future they either should be done well, or not at all."

[From the Deseret News, Apr. 17, 1979]

S.L. READING EXCEEDED L.A. LEVEL BY 20 PERCENT

WASHINGTON.—Radiation levels in Salt Lake City during the 1957 Nevada atomic tests reached 7,090 picocuries per cubic meter of air for a 2½-hour period on July 16, the Atomic Energy Commission reported at the time. The commission described the levels as inconsequential.

Top U.S. radiation scientists, however, described levels of about 1,000 picocuries

measured in Los Angeles 15 months later as "emergency" in which maximum permissible levels of fallout were very nearly reached.

Again, in September 1957, Salt Lake City had readings of 1,200 picocuries, at least 20 percent above the Los Angeles figures.

"That was a tough period," Dr. Russell Morgan, chairman of the Federal Advisory Committee on Radiation, said in a transcript obtained by the Deseret News.

According to standards of "permissible" radiation at that time, scientists believed that exposure to 1,000 picocuries of radiation over a prolonged period would cause definite harm to human health. The high level in Salt Lake City on July 16, 1957, was far above that standard, but was apparently high for only a brief period.

New reports in 1957 note fallout in Utah from a succession of blast. Cedar City received its highest levels ever, the AEC said it was 3 milliroentgens, but later indications are that it was higher—in Sept. 1, 1957, Salt Lake City readings topped 1,244 picocuries on Aug. 19. On Oct. 8, radiation jumped from 7.6 picocuries to 328 picocuries in less than a day.

[From the Deseret News, Apr. 18, 1979]

HATCH SAYS SOUTH UTAH DEATHS A CRIME

(By Dorothy See)

ST. GEORGE.—"A million dollars can't replace loved ones," Kay Millett, Cedar City, said Tuesday night, describing her 13-year-old daughter's leukemia death. "Those responsible should be brought to trial as murderers."

She was one of more than 30 people who related their experiences to Sen. Orrin Hatch, R-Utah, in a four-hour hearing, telling in graphic detail of cancer or leukemia in their families or themselves.

Hatch was gathering information from southern Utah residents to take back to the Thursday fallout hearings in Salt Lake City to be conducted by Congressional committees.

"A crime has been committed within our state," Hatch said. "There is no smoking gun, no group of outlaws."

Testimony that followed pinpointed responsibility for deaths by cancer and leukemia in poignant stories.

Pat Walter, St. George, said that as a child she leaped from the mantelpiece into her father's arms, and the never failed to catch her. "I feel the government let me fall," she said.

Mrs. Walter survived breast and thyroid surgery several years ago. She attributed her illness to excessive exposure to radiation during the atomic tests in Nevada from 1952 to 1963.

Several parents broke down as they related their children's leukemia deaths. Elaine Prisbrey said her late son had played outside a lot and she told of hearing on the radio that cars were being washed down for radiation fallout. She said children were in their gym clothes on the school ground at the same time.

Darrell Nisson paused for control of his emotions, telling of his 13-year-old son, Sheldon's death from acute leukemia. Nisson said his brother, as mayor of Washington, a small community five miles east of St. George, had been invited to the test site to see the blasts several times.

"The government was very careful to always have the wind this way. We were just guinea pigs. I know we were expendable," Nisson said.

Cedar City resident Mario Stones told how his only son had died of cancer and recalled that the 15-year-old boy had a leg amputated for bone cancer, which spread to the lungs. Stones said that while taking his son to the bathroom one night the other leg snapped, and he knew the cancer had spread. "Don't let this happen any more," the father begged.

Visibly moved by the stories, Hatch said, "I'm only sorry we haven't had these hearings before."

Kimball Young, assistant to Sen. Jake Garn, R-Utah, said Three Mile Island is the object of national focus now, but the major disaster occurred downwind from the Nevada test site 20 years ago.

Ruby Matheson, Parowan, described her husband's leukemia death and said her father's death certificate had read, "radiation exposure."

At the end of the long hearing, in which several people told of losing more than one family member to cancer, Hatch said, "I am impressed and depressed." His closing comment was, "I wish we could do more."

[From the Deseret News, Apr. 19, 1979]

FALLOUT EVIDENCE HID, WITNESS SAYS: "AEC FELT PUBLIC COULDN'T BE TRUSTED"

(By Gordon Elliot White and Joe Bauman)

As federal officials became aware of possible dangers connected with fallout from Nevada atomic tests, they hid the evidence "because the American people could not be trusted," a witness told a joint committee of Congress Thursday.

Testifying at a public hearing in the Salt Palace, Peter Libassi, general counsel for the Department of Health, Education and Welfare, said officials were concerned with security in the 1950s and did not release data on health dangers from fallout.

Despite growing evidence of radioactive dangers, the general attitude in the Atomic Energy Commission was that "the American people could not be trusted to deal with the uncertainties and make the right decisions," he said.

This comment brought a quick response from Sen. Edward Kennedy, D-Mass., co-chairman of the committee hearing, that such AEC reasoning "is basically wrong."

Libassi was one of several state and federal officials who testified before the committee in a jammed hearing room at the Salt Palace. National movie and television cameras were focused on the one-day hearing, one of a series held in Utah and Nevada.

Kennedy asked Libassi to comment on 4,300 Utah sheep allegedly killed by radiation in 1953 and also on studies linking radiation with thyroid cancer and leukemia.

The HEW official said early studies of the sheep situation turned up evidence of high dosages of radiation and caused serious concern among Public Health Service experts.

"There is no question that those levels (of radiation) were almost 1,000 times the permissible levels for human beings in the thyroid and 50 times the permissible level for bone marrows, he said.

In a meeting with AEC officials, the public health people voiced their concerns, but the AEC concluded that radiation was not responsible for the sheep deaths, Libassi said.

A subsequent news release by the AEC made it appear that the Public Health Service people had concurred in this opinion and did not note their serious concerns, said Don Frederickson, director of the National Institute of Health.

In opening the hearing, Kennedy said it represented "the federal government's last chance to set the record straight and regain the trust" of Utahns.

"We are just now beginning to understand the health implications of exposure to low-level radiation. Tests conducted in the 1950s may well result in cancers of the 1960s and 1970s," he said.

Emphasizing that much remains to be done in research into the problem, Kennedy said it is wrong to allow the government agency responsible for development of nuclear energy to also be responsible for research into health implications.

"That is what got us into trouble here in Utah," he said.

Rep. Bob Eckhardt, D-Texas, co-chairman of the committee, said Congress is poking into the dust of what happened 25 years ago "because America needs to take a new look at atomic energy."

He said possible health problems caused by atomic testing were a tragedy and bemoaned the lack of accurate records of the amount of fallout in Utah from the Nevada tests.

Rep. Gunn McKay, D-Utah, and Sen. Orrin Hatch, R-Utah, praised the news media for helping to expose the fallout situation. Clippings of Deseret News stories on fallout were placed in the record and Deseret News Washington Correspondent Gordon Elliot White was commended for his investigative work.

Rep. Norman Lent, R-N.Y., also quoted from Deseret News stories on how fallout had drifted all the way to the northeast part of the nation.

Gov. Scott Matheson was the first witness at the hearing and showed up with 1,100 pages of testimony, statements and reports—11 pounds worth. He said an investigation into atomic fallout was long overdue.

He said atomic testing began in 1951 and "an all-out public relations campaign was mounted by the Atomic Energy Commission to assure those who lived close to the test sites that there was no danger."

A reassuring statement was used over the radio, particularly in southern Utah, on each day after a test, the governor said. Once in a while residents were warned to stay indoors for an hour or two, but officials always were quick to claim there was no danger, he said.

Utahns believed the AEC then, but today they "are not nearly so accepting," Matheson said.

In the Three Mile Island nuclear accident in Pennsylvania, pregnant women and young children were advised to evacuate a five-mile area around the plant where radiation doses were 2 to 25 millirems per hour, he said.

"No one warned those of us in Utah and Nevada who received 1,000 millirems per hour after a single test in 1953—a dose 40 to 500 times higher than that which triggered the Three Mile Island," he said.

Matheson said there had been a severe failure by the federal government to deal responsibly and candidly with health dangers "and we have seriously underestimated the true geographical scope of the fallout."

He said evidence shows a "willful refusal to estimate threats to human health" as well as a "conscious suppression of important information related to health."

The governor said most of the responsibility was on the AEC, but others helped.

Kennedy asked the governor why he thought Utahns were seriously misled on fallout dangers. "What was the purpose?"

Matheson replied that when testing began, the United States was involved in the Korean War and the commitment to national security was very strong.

Testing was done in good faith at the beginning. Eventually, people began to have worries, but nobody really knew what the dangers were, and finally, "intentional disregard for health crept in a little bit at . . . today there is some reason to question federal pronouncements on radiation. He said one reading from a plane over Three Mile Island found 1,200 millirems of radiation, hundreds of times greater than Department of Energy figures.

Hatch said a Sept. 2, 1965, meeting of the AEC discussed a draft report by a Dr. Weiss that seemed to directly link radiation and cancer. Much of the meeting was devoted to attacking the report and it was not published "and in fact remained hidden until only last month when enterprising reporters dug it out."

Matheson said he could personally vouch that the AEC did not warn southern Utahns of the danger from atomic testing. He said he lived in Iron County at the time and "went out of the house and watched the mushroom" but was never told of any danger.

Dr. Joseph L. Lyon of the University of Utah, co-director of the Utah Cancer Registry, found in a study completed late last year that the incidence of leukemia in the fallout-affected counties was more than twice the rate expected under normal circumstances. Medical experts, however, have said it is impossible to separate possible radiation-caused cancer from that which might have occurred naturally from other causes.

Nearly 600 claims have been filed on behalf of cancer victims by a team of lawyers headed by former Interior Secretary Stewart L. Udall and Dale Harralson, a Tucson, Ariz., lawyer.

Other hearing witnesses included F. Peter Libassi, general counsel of the Department of Health, Education and Welfare; Dr. Donald S. Frederickson, director of the National Institutes of Health; and panels of suspected fallout victims, sheep ranchers, and scientists who have knowledge of fallout and its effects.

The scientists included Dr. Harold A. Knapp, who as an AEC physicist first found that high levels of radioactive iodine were being deposited in dangerous amounts from fallout clouds. Knapp later quit the AEC after a dispute on the release of his findings.

[From the Deseret News, Apr. 19, 1979]

NOTHING TO HAMPER N-TESTS, AEC SAID

(By Gordon Elliot White)

It was emphasized in a secret 1955 Atomic Energy Commission meeting that nothing was to hamper scheduled atomic blasts in Nevada, according to previously secret minutes read into the record Thursday morning by Sen. Edward M. Kennedy, D-Mass.

"We must not let anything interfere with this series of tests—nothing," Commissioner Thomas E. Murray was quoted as saying.

Kennedy read through the transcript of the secret commission meeting of Feb. 23, 1955, as part of the joint Senate-House hearing on health effects of radiation fallout from nuclear tests in the 1950s. The hearing is being conducted in the Salt Palace.

Kennedy said at that 1955 meeting, Commissioner Chairman Lewis Strauss questioned the safety of the Nevada test site.

"If I were asked whether the two large shots should be made, and it were left to my sole decision, I would say load them on a ship and go out to Eniwetok and put them on a raft and set them off" Strauss had said.

Murray asked how long it would take and Strauss estimated 60-90 days. Commissioner Willard Libby said, "It is a serious decision."

Libby added, "Maybe the furor will die down as we go through the series, after we have had the bomb on Monday or Tuesday." A few minutes later in the 1955 meeting, Libby said he was disappointed to learn that AEC scientists had been talking about canceling the next shot, code named Dixie.

Libby said the scheduling problem, including the time involved, the cost and the time of scientists working on the bombs, was "an awfully serious thing."

"I think we ought to talk about this," Libby said. "I don't want radioactivity falling on people's necks."

There followed a discussion between Strauss and Libby on fallout patterns from the bomb test. Strauss said there were to optimum areas, one more or less west of a line perpendicular to the north and another almost due south. Their northern path was over a group of people who worked in some mines near the test site. As fallout approached them, the women and children were sent out on buses.

Strauss said the unusual wind patterns was east over Pioche, Nev., and over "St. George, which they apparently always blasted."

He added that, "south of those two places is a very narrow corridor, where, if the wind shifts 10 degrees in either direction, they are in trouble again. Of course, they never really paid much attention to that before."

Strauss said, "At that time they did not have on them what they described now as hot spots." The hot spots were those not on the fallout charts.

Libby said, "A fluke of weather or winds causing local precipitation" were responsible for the hot spots.

Scientists for the commission wanted to continue to use the Nevada test site for tests as large as 75 kilotons, Strauss said, because "it is so easy to do things out there, because you can do them one a day, practically."

Strauss went on, "I have always been frightened that something would happen that would set us back with the public for a long period of time."

[From the Deseret News, Apr. 30, 1979]

DESNEWS REPORTER WINS TOP HONOR

WASHINGTON.—Gordon Eliot White, Deseret News Washington reporter, has received the coveted Raymond Clapper Memorial Award for "exceptionally meritorious" reporting during 1978. The award, presented annually by the White House Correspondents Association, is, along with the Pulitzer Prize, journalism's most prestigious recognition.

President Carter presented the veteran newsmen the \$1,000 check accompanying the award at the association's 65th annual dinner Saturday. More than 1,800 persons, including members of Congress, the Cabinet and Supreme Court, attended the black-tie affair.

White's reporting brought to national attention the possibility that U.S. nuclear tests may have caused cancer in citizens downwind from the Nevada test site.

His first story, appearing Aug. 12, 1977, in the Deseret News, was the initial indication there was a civilian problem associated with fallout from the above-ground atomic explosions in Nevada. White obtained cancer rates of residents of Washington and Iron counties, compared them with the rest of the state and nation and found they were nearly double.

The report touched off a furor, which eventually resulted in the scientific report of Dr. Joseph L. Lyon, co-director of the Utah Cancer Registry, showing the number of children who died of leukemia in the testing period was 2½ times the normal rate.

Through White's subsequent investigations and those of Gov. Scott M. Matheson, many details of AEC test policy have come under public scrutiny for the first time.

Last week joint congressional hearings were held in Salt Lake City and Las Vegas on the possible link between radiation fallout and cancer in residents of the area.

Aldo Beckman, of the Chicago Tribune News service and outgoing president of the White House Correspondents Association, announced White as winner of the award.

"This story was a team effort that involved everyone on the Deseret News," White said. "I think almost all of the editors and the city desk staff had a hand in it."

"The Ray Clapper award is, after the Pulitzers, the oldest and most-honored prize for national reporting. I am particularly honored to receive an award that is given by the Washington correspondents with whom I have worked for more than 21 years."

"I think that it indicates the high significance of the fallout story, and the way we told it, for the Clapper Award to go to the Deseret News."

John Wallach of Hearst Newspapers was named second place winner and received a \$500 check for his breaking stories of major developments from the Camp David Summit and the Egyptian-Israeli peace treaty.

The awards are given annually to honor the memory of Washington correspondent Raymond Clapper of Scripps Howard, who died in a South Pacific plane crash during World War II. The awards have been presented since 1944 and are designed to inspire newsmen to Clapper's high professional ideals.

The Clapper award was first presented in 1944 to Raymond P. Brandt of the St. Louis Post-Dispatch. Other winners have included James Reston of the New York Times, Thomas L. Stokes of United Features Syndicate, John Hightower of Associated Press, Clark Mollenhoff of the Minneapolis Star and Tribune, Chalmers Roberts of the Washington Post, Edward T. Follard of the Washington Post, Stuard Loory and David Kraslow of the Los Angeles Times, and James R. Polk of the Washington Star.

The New York Times Magazine said on April 22, 1979:

"Gordon Eliot White of Salt Lake City's Deseret News wondered whether Utahns might also have something to worry about. His was a suspicion first raised in the 1950s by journalist Paul Jacobs, who followed the story for two decades and who died last year from leukemia."

"White compared leukemia death rates with newly declassified fallout pattern data and found a rate in southern Utah twice the statewide average. Through his subsequent investigations, and those of Utah's Gov. Scott M. Matheson, many details of AEC test policy have come under public scrutiny for the first time."

White has been a full-time correspondent for the Deseret News since 1961. Before that he worked for the News and the Chicago-American as a member of the Munroe News Bureau.

He went to the South Pole for Operation Deep Freeze in 1959, to Berlin in 1959 and was at Guantanamo Bay during the Cuban Missile Crisis. He covers all the congressional activities in Washington and national political conventions and has witnessed several space launches at Cape Kennedy.

White was born in Glen Ridge, N.J., and was raised in Freeport, N.Y. He was graduated from Cornell University in 1955 and the Graduate School of Journalism at Columbia in 1957. He worked at the Paterson, N.J., Evening News before going to Washington. He won a Sigma Delta Chi first place award in 1954 for spot news photography.

He resides in Alexandria, Va., with his wife and three children.

[From the Deseret News, Oct. 30, 1979]

SENATE RECEIVES FALLOUT LEGISLATION

(By Gordon Eliot White)

WASHINGTON.—Sen. Orrin Hatch, R-Utah, and Sen. Edward M. Kennedy, D-Mass., introduced legislation in the Senate Tuesday to compensate victims of radioactive fallout from atomic weapons tests in Nevada.

The Senate bill was similar to one introduced in the House July 12 by Rep. Gunn McKay, D-Utah, but it drew slightly different boundaries of the area affected by the weapons tests more than 20 years ago. The Kennedy-Hatch bill also provides \$10 million for studies of the health effects of fallout.

The Senate bill would acknowledge federal responsibility for types of cancer found to be caused by radioactivity occurring among people who lived in the affected area between Jan. 1, 1951, and Oct. 31, 1958, plus the June 30 to June 31, 1962, period, when open air testing was conducted in Nevada.

The Kennedy-Hatch measure covers the Utah counties of Millard, Sevier, Beaver, Iron, Washington, Kane, Garfield, Piute, Wayne, San Juan, Grand, Carbon, Emery, Duchesne, Uintah, Sanpete, and Jaub; the Nevada counties of White Pine, Nye, Lander, Lincoln, and Eureka; and the northwestern corner of Arizona, to the Colorado River. The McKay bill covers a slightly smaller area, bounded on the north by latitude 39 degrees, on the east by longitude 112 degrees, on the south by latitude 36 degrees 30 minutes, and on the west by longitude 11 degrees 30 minutes.

The Kennedy-Hatch bill would set up an advisory panel within the National Cancer Institute to determine which types of cancer are caused to a significant degree by radiation. The bill specifies that leukemia, bone cancer and thyroid cancer are known to result from radiation and that others may be radiogenic.

The Senate measure would also strip all radiation health research from the Department of Energy and place it in the Department of Health, Education and Welfare.

In addition to fallout compensation, the Senate bill, like the House version, offers compensation to uranium miners who breathed radon gas in poorly ventilated mines and to ranchers who lost several thousand sheep in two 1953 fallout incidents.

Neither the House nor the Senate bill is expected to be passed in the waning weeks of the current session of Congress. The

Carter administration's compensation policy deliberations have been delayed until after Nov. 15, when a task force report is due, and congressional action probably will await a White House policy decision on how Carter will handle the fallout cases.

The administration must decide how it wants to deal with fallout victims or risk a court decision on the cases. A number of federal damage suits have already been filed on behalf of fallout victims in U.S. District Court in Salt Lake City. They presumably will go to trial next year, even if the administration and Congress do not act.

Co-sponsors of the bill include Sen. Jake Garn, R-Utah; Sen. Howard M. Metzenbaum, D-Ohio; Sen. Howard W. Cannon, D-Nev.; Sen. Jacob Javits, R-N.Y.; Sen. Richard Schweiker, R-Pa.; Sen. Donald W. Riegle Jr., D-Mich.; and Sen. Jennings Randolph, D-W.Va.

In a statement, Hatch said the bill would provide a process for compensating victims and their families for illness caused by low level ionizing radiation from the Nevada tests. He said the lack of health and safety measures for off-site civilians during the tests, was "atrocious." Federal negligence, combined with ignorance about the enormity of radiation's effects, were the twin killers, Hatch concluded.

Citizens of the three states, he said, were "victimized without their knowledge or consent."

[From the Deseret News, Oct. 9, 1979]

VICTIM COMPENSATION; FALLOUT BILL SET TO GO

(By Gordon Eliot White)

WASHINGTON.—Sen. Orrin Hatch, R-Utah, and Sen. Edward M. Kennedy, D-Mass. were to introduce legislation in the Senate Tuesday to compensate victims of radioactive fallout from atomic weapons tests in Nevada.

The Senate bill was similar to one introduced in the House July 12 by Rep. Gunn McKay, D-Utah, but drew slightly different boundaries of the area affected by the weapons tests more than 20 years ago. The Kennedy-Hatch bill also provides \$10 million for studies of the health effects of fallout.

The Senate bill would acknowledge federal responsibility for types of cancer found to be caused by radioactivity occurring among people who lived in the affected area between Jan. 1, 1951, and Oct. 31, 1958, plus the June 30 to June 31, 1962, period, when open air testing was conducted in Nevada.

The Kennedy-Hatch measure covers the Utah counties of Millard, Sevier, Beaver, Iron, Washington, Kane, Garfield, Piute, Wayne, San Juan, Grand, Carbon, Emery, Duchesne, Uintah, Sanpete and Juab; the Nevada counties of White Pine, Nye, Lander, Lincoln and Eureka; and the southwestern corner of Arizona, to the Colorado border. The McKay bill covers a slightly smaller area, bounded on the north by latitude 39 degrees, on the east by longitude 112 degrees, on the south by latitude 36 degrees 30 minutes, and on the west by longitude 11 degrees 30 minutes.

The Kennedy-Hatch bill would set up an advisory panel within the National Cancer Institute to determine which types of cancer are caused to a significant degree by radiation. The bill specifies that leukemia, bone cancer and thyroid cancer are known to result from radiation and that others may be radiogenic.

The Senate measure would also strip all radiation health research from the Depart-

ment of Energy and place it in the Department of Health, Education and Welfare.

In addition to fallout compensation, the Senate bill, like the House version, offers compensation to uranium miners who breathed radon gas in poorly ventilated mines and to ranchers who lost several thousand sheep in two 1953 fallout incidents.

Neither the House nor the Senate bill is expected to be passed in the waning weeks of the current session of Congress. The Carter administration's compensation policy deliberations have been delayed until after Nov. 15, when a task force report is due, and congressional action probably will await a White House policy decision on how Carter will handle the fallout cases.

The administration must decide how it wants to deal with fallout victims or risk court decision on the cases. A number of federal damage suits have already been filed on behalf of fallout victims in U.S. District Court in Salt Lake City. They presumably will go to trial next year, even if the administration and Congress do not act.

Co-sponsors of the bill include Sen. Jake Garn, R-Utah; Sen. Howard M. Metzenbaum, D-Ohio; Sen. Howard W. Cannon, D-Nev.; Sen. Jacob Javits, R-N.Y.; Sen. Richard Schweiker, R-Pa.; Sen. Donald W. Riegle Jr., D-Mich.; and Sen. Jennings Randolph, D-W.Va.

In a statement, Hatch said the bill would provide a process for compensating victims and their families for illness caused by low level ionizing radiation from the Nevada tests. He said the lack of health and safety measures for off-site civilians during the tests, was "atrocious." Federal negligence, combined with ignorance about the enormity of radiation's effects, were the twin killers, Hatch concluded.

Citizens of the three states, he said, were "victimized without their knowledge or consent, within their own farms, homes and communities."

The bill would make it possible for federal courts to accept U.S. responsibility for cancer among the exposed population, with the amount of damages set by the court.

Mr. SIMPSON. Mr. President, I have only a few brief comments on this successfully negotiated piece of legislation. I want to first sincerely thank the Senator from Utah for his flexibility and for his hard work on this bill. My Wyoming colleague, Senator MALCOLM WALLOP and Congressman CRAIG THOMAS have been of immense help.

This legislation is the culmination of an 8-year arduous effort by the Senator from Utah. I do so admire his dedication, his perseverance and his tenacity in pursuing an issue of extreme importance to the citizens of Utah.

In the past I have had great difficulty with similar such measures. I have never been comfortable with what appeared to me to be a blanket giveaway of a great deal of Federal funds which seemed to be based solely on fear, emotion, and supposition about the effects of our atmospheric nuclear testing program. Many people around our Nation have been misled and actually frightened into believing that they could die at any minute, solely as a result of those testing years.

I would agree fully with the sponsors of the bill that those years repre-

sent a time of extreme strain and sacrifice by the people who worked at the facilities and those who lived nearby. The real tragedy, as we are only now learning, is that the citizens of the surrounding areas often made their sacrifice unknowingly and involuntarily. Evidence now shows us that much of the later suffering could possibly have been either avoided or reduced if the Federal Government had but behaved more responsibly.

Now, the Congress is finally going to compensate these people. My objections to the compensation proposals in the past have always been that there were no controls, no real method of ensuring that only the truly deserving were compensated. Frankly speaking, some of those earlier bills were not well targeted to the victims, were terribly broad and often had no limitations whatsoever.

However, this bill is now much different. My friend, the Senator from Utah, has been very open, candid and forthright these past few months in working closely with me in order to relieve my concerns.

With respect to the downwinders provision of this bill, we have now included a rigid, but realistic, cap on the amount of money the Federal Government will provide as compensation. This is fair, and it is adequate.

There is also a limit on attorney fees available for attorneys who represent claimants. This is something I took very seriously. I just could never accept a victims compensation bill that really just compensated lawyers. I am very pleased to see this limitation in the final bill.

There are some fairly rigid residency requirements in this bill—2 years of actual physical presence in the impacted areas. This too will go a long way toward ensuring that only those people who were really honestly, actually affected by fallout will be compensated.

So I sincerely thank the Senator from Utah for his hard work and honest attempts at putting to rest my concerns about the downwinders provision of the bill.

But, more importantly, I want to thank the Senator for his swift accommodation of my request to include Wyoming uranium miners in the provisions of this bill that will compensate underground uranium miners and their families for their losses.

America's uranium miners played a critical role in the development of our Nation's defenses during, and before, the cold war years. These men went underground to mine uranium ore in the most dangerous of conditions. Because these early mines were not required to be ventilated, the miners literally breathed, ate, and drank radioactive dust. Many died. Still more suffer even today from the serious and

debilitating effects of radiation caused diseases.

This is a good bill; this is not some automatic giveaway of Federal funds. These people must still prove their case—present evidence that they are eligible for compensation under this act. Uranium miners who were allowed and permitted to work in the dirtiest of mines for a specified period of time will be eligible for compensation.

There are sensible and reasonable controls in this bill.

There are also limits established on Federal expenditures and there are appropriate limits on the amount that can be obtained by people other than the victims.

Those who can prove their cases will receive compensation. That is what was asked. That is what we have crafted.

So I heartily thank the Senator from Utah for his extremely hard work and for his steady cooperation—and a very sincere thanks to Warren Schaeffer and Kitty Dragonette of my staff for their unstinting work and skillful and tactful negotiating efforts.

Mr. DOMENICI. Mr. President, earlier this year, I traveled to Shiprock, NM, on the Navajo Nation Indian Reservation. I went there for a hearing on the health problems of the Navajo who worked in the uranium mines of the Southwest from the 1940's to the 1970's.

Approximately 600 Navajo showed up for the hearing. I especially recall the testimony of Raymond Joe, who worked in the mines for 15 years. He told the committee through an interpreter: "Thirty minutes after blasting the mine with dynamite to loosen the ore, we would go into the mine, where it was smoky and difficult to breathe. There were no jobs on the reservation, so we would just go in there." Now, Mr. Joe says, "Uranium is in my body. It is in my lungs."

And now Raymond Joe has lung cancer. His doctor says that the cancer is a result of his work in the uranium mines.

At the same hearing, Pearl Nahkai testified about the life of a uranium miner. "We lived in a one-room house at the camp located 200 to 500 feet from the mine shaft and tailings," she said. "Our children played in the uranium tailings and therefore were exposed to radiation. Our husbands at lunch in the mines and drank the water that was underground. The majority of the men worked over 20 years or more in uranium mining. At the present, most of them have died of cancer."

One of the miners who died of cancer was Pearl Nahkai's husband, who worked in the uranium mines of 22 years.

Mr. President, for the past 12 years I have sought to obtain compensation for the Navajo uranium miners and

other who worked in the uranium mines.

Although mine conditions improved greatly after Federal regulation of the mines was imposed in 1971, many miners who worked in the uranium mines prior to that time were exposed to unacceptably high levels of ionizing radiation.

As I looked into the issue, I discovered that many uranium miners, both Indian and non-Indian, suffered from lung cancer and other illnesses that could be related to their exposure to ionizing radiation in the uranium mines.

Ionizing radiation is an invisible poison that can cause cancer many years after exposure to it. Because the cancer appears years after the exposure and there are many other substances that also cause cancer, it is extremely difficult to prove that exposure to ionizing radiation caused cancer in a particular individual. However, the uranium miners suffer from higher than expected rates of cancer, which in all probability is due to their exposure to ionizing radiation in the mines.

Mr. President, the U.S. Government has an obligation to provide compensation to the uranium mines. During the time that these miners worked in the uranium mines, the U.S. controlled all aspects of the production of uranium and was the sole purchaser of uranium in this country. In effect, the miners were producing uranium for the U.S. Government.

The Government had adequate warning to the radiation hazards involved in uranium mining. Yet, until Federal mine safety standards were fully implemented in 1971, the miners were sent into inadequately ventilated mines with virtually no instruction regarding the dangers of radiation.

The U.S. Government has a special obligation to provide compensation to Navajo uranium miners. This obligation arises from the trust relationship between the U.S. Government and the Indian people. Under this trust relationship, the U.S. Government has a special duty of care to protect Native Americans and provide for their health care.

The uranium miners performed a service for our Nation. Now many of them have become ill because of that service. It is not time for the U.S. Government to perform a service for the miners.

In 1978, I introduced the Uranium Miners Compensation Act, the first bill to attempt to provide compensation for uranium miners who contracted radiation-related illnesses. This bill was S. 3199 in the 95th Congress.

S. 3199 would have created a presumption that miners afflicted with lung cancer after 10 or more years in the mines contracted the disease as a result of their employment in the

mines. It would have required miners to first seek workers compensation for claims for benefits for death or total disability due to lung disease as a result of employment in a uranium mine. In States with workers' compensation systems that provided inadequate coverage for uranium miners, the mine operators would have had to purchase insurance to provide benefits to their miners.

In August 1979, I held a field hearing in Grants, NM, on the health problems on uranium miners.

The next month, I introduced a revised version of the Uranium Miners Compensation Act. This bill was S. 1827 in the 96th Congress.

S. 1827 would have provided compensation and medical benefits through the Social Security Administration to uranium miners who worked for 3 years or more in the mines prior to the implementation of Federal regulation of the mines in mid-1971 and who contracted lung cancer, bronchial cancer, lymphatic cancer, pulmonary fibrosis, silicosis, or any other radiation-related illness specified by the Social Security Administration. Survivors of such miners also would have been eligible for benefits.

The bill also would have established a program for the notification of individuals eligible for compensation and medical benefits.

Subsequently, because New Mexico is the birthplace of the atomic bomb and its national laboratories have long been involved in the program of developing and testing nuclear weapons, I became interested in attempts to compensate individuals who contracted radiation-related illnesses as a result of the atmospheric atomic testing program of the U.S. Government.

In 1985, I voted in favor of the Hatch amendment to the Compact of Free Association with Micronesia. The Hatch amendment would have established a trust fund for individuals who lived downwind of atmospheric atomic testing sites and who developed radiation-related illnesses.

In 1986, I introduced S. 2898, the Atomic Veterans Relief Act. The bill would have allowed veterans who participated in the atomic testing program and who are entitled to receive medical care for radiation-related diseases also to receive disability compensation for those diseases, unless the VA, Veterans Administration, could demonstrate that the disability was not related to the atomic veterans' exposure to radiation.

S. 2898 also would have allowed the atomic veterans to sue the Federal Government directly for their radiation-related injuries.

In the 100th Congress, I joined with Senator MURKOWSKI in introducing S. 453, the Veterans' Ionizing Radiation

Compensation Improvement Act of 1987.

S. 453 would have added three radiation-related diseases to the VA's list of presumptive diseases and would have allowed atomic veterans with those diseases to receive compensation through the existing VA compensation system. It also would have adjusted the radiation exposure estimates that the VA uses in evaluating other radiation-related claims.

S. 453 established the framework for the Atomic Veterans Compensation Act, Public Law 100-321, which finally provided compensation to the atomic veterans. The Atomic Veterans Compensation Act provides disability payments through the VA to atomic veterans and survivor's benefits to their families by creating a presumption of service connection for 13 diseases. This means an atomic veteran need only prove that he is, in fact, an atomic veteran and he is at least 10 percent disabled as a result of 1 of the 13 diseases in order to obtain disability compensation from the VA for his illness. The VA may deny the claim only if it can prove that the disease is not service connected.

I strongly supported the enactment of the Atomic Veterans Compensation Act and went to the White House to urge President Reagan to sign the bill.

While I have been seeking to provide compensation to the uranium miners and atomic veterans, my distinguished colleague from Utah, Senator HATCH, has sought to obtain compensation for those citizens who were exposed to radiation because they lived downwind of the atmospheric atomic testing sites. Senator HATCH is to be commended for his diligence in working to remedy the wrong that was inflicted on these people.

Senator HATCH authored the bill now before the Senate, the National Atmospheric Nuclear Testing Compensation Act, which would provide long-overdue compensation to both uranium miners and downwind victims of the atmospheric atomic testing program.

I am proud to be a cosponsor of this bill, which is the product of many years of effort to provide compensation to individuals who were injured as a result of the atomic weapons program of the United States.

The National Atmospheric Nuclear Testing Compensation Act includes findings that uranium miners were exposed to radiation that produced lung cancer and other respiratory diseases. The bill includes an apology from the Congress to the uranium miners and their families.

Under the bill, a \$100 million trust fund would be established to provide compensation.

Miners, or their survivors, would be entitled to \$100,000 in compensation if they: First, worked in the uranium

mines in New Mexico, Arizona, Colorado, Utah or Wyoming between 1947 and 1971; second, were exposed to 200 or more working level months of radiation; and third, contracted lung cancer or a "radiation-caused respiratory disease," meaning fibrosis of the lung, pulmonary fibrosis, and cor pulmonale related to fibrosis of the lung.

Miners who smoked would have to prove that they were exposed to greater levels of radiation—300 working level months for smokers who became ill before the age of 45, 500 working level months for smokers who became ill at 45 or later.

Native American uranium miners would be entitled to compensation for additional diseases—moderate or severe silicosis or pneumoconiosis. The reason for providing compensation for these illnesses for Native Americans arises from the Federal Government's trust relationship with Indians. The trust relationship includes a special duty to protect the health of Native Americans and provide for their health care.

I would have preferred the bill to compensate all miners—Indian and non-Indian—for these additional diseases. Unfortunately, that would have led the Justice Department to recommend a veto of the bill. I hope we can expand the coverage in the future.

Individuals who lived downwind of the atmospheric atomic testing sites, or their survivors, would receive \$50,000 if they: First, lived at least 2 years in a downwind area during the times of the atmospheric testing programs or were present in the downwind area between June 30 and July 31, 1962; and second, developed leukemia—except chronic lymphatic leukemia; multiple myeloma; lymphoma—except Hodgkin's disease; or cancer of the bile duct, breast, esophagus, gall bladder, liver—except where cirrhosis or hepatitis B is present, pancreas, pharynx, small intestine, stomach, or thyroid.

The Attorney General would evaluate claims and award compensation under the National Atmospheric Nuclear Testing Compensation Act. Claims must be filed within 2 years of enactment or within 2 years of the onset of the disease, whichever is later. The trust fund would terminate after 22 years.

An estimated 800 to 1,000 downwinders and 350 to 550 uranium miners or their beneficiaries would receive compensation under this bill.

Mr. President, I support compensation for the uranium miners because they performed a service for our Nation. In the course of that service, a number of them suffered grievous injury. Our Government has an obligation to these people, an obligation that it has yet to fulfill. It is time that we recognized that fact and set to work righting the wrong that began

over 40 years ago. These men served this Nation well, and its time for this Nation to serve them well.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the committee amendment and third reading of the bill.

The amendment was ordered to be engrossed, and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 2372), as amended, was passed.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WATER RESOURCES AND DEVELOPMENT ACT OF 1990

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 636, S. 2740, the Water Resources and Development Act of 1990.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2740) to provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers civil works program to construct various projects for improvements to the Nation's infrastructure, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. MOYNIHAN. Mr. President, it is my great pleasure to once again bring to the floor a water resources bill. The last such legislation was enacted in 1988, and before that in 1986. It is our hope that this bill will similarly be enacted, and that we will continue this pattern of biennial authorizations for the Civil Works Program of the Army Corps of Engineers.

The bill before the Senate follows in every respect the cost sharing, user fee and environmental policies established for the corps in 1986 and continued in 1988. We have included the authorization of 22 projects for construction, which are of three types: dredging for the purpose of commercial navigation; flood control; and beach erosion control.

Since some Senators may not be aware of the recent history of the corps' Civil Works Program, I will take a few minutes of the Senate's time to review it. The Water Resources Development Act of 1986, signed into law on November 17, 1986, marked the end of a 16-year deadlock in the Congress and the Executive over the corps' Water Resources Program. In addition to authorizing 377 projects, this act resolved longstanding disputes regarding cost-sharing, user fees, and environmental requirements. Disputes over these matters had prevented the enactment of any legislation to authorize corps water projects since 1970. Between 1947 and 1970, civil works authorization bills were enacted each 2 to 3 years. This regular schedule worked well, and the corps was provided with a steady source of projects.

Nevertheless, this system broke down in the 1970's. There was no bill enacted between 1970 and 1986 to authorize civil works projects for construction. The Water Resources Development Act 1976, Public Law 94-587, made some changes to corps policies, but authorized no projects.

In the 97th, 98th, and 99th Congresses, our committee reported legislation, and our colleagues on the House Committee on Public Works and Transportation did so as well. None of these was enacted. In the 99th Congress, a House-Senate conference committee produced a conference report which was passed by the House and the Senate and signed into law on November 17, 1986. The Water Resources Development Act of 1986 was the largest and most comprehensive authorization of the corps' Civil Works Program since the predecessor of our committee, the Senate Committee on Public Works, was created in 1947.

This bill made many substantial changes to the corps' methodology. Cost-sharing formulas were established for deep draft harbor dredging, flood control, shoreline protection, and stream bank erosion control. Local cooperation agreements were required for all of these projects. Work for the enhancement of fish and wildlife resources was allowed to be carried out at 100 percent Federal expense.

In addition, the harbor maintenance trust fund was established to pay the non-Federal share of the cost of maintaining federally-authorized deep draft navigation channels. This trust fund was funded by the harbor maintenance fee, a 0.04 percent ad valorem fee on cargo passing through U.S. ports. The administration has proposed an increase in the fee to 0.12 percent, and legislation is pending in the Finance Committee.

Projects authorized prior to 1986 that are incomplete are to be deauthorized without congressional action if no money is spent for a period of 10

years; projects authorized in 1986 or thereafter are to be deauthorized if no money is spent within 5 years. Other changes were made, but these were those of the greatest importance.

The committee applied these policies to all projects contained in the Water Resources Development Act of 1988, signed into law on November 17, 1988, and is applying them to all projects contained in the legislation now before the Senate.

But not all of the reforms achieved in 1986 were contained in statute. Much of what was accomplished consisted of changes to the process followed by the Congress in authorizing civil works projects. These changes have allowed us to resume a regular, biennial schedule of authorization for civil works projects. In the interest of putting the Senate on notice as to the nature of these policies, I refer all with an interest in these matters to the statement of committee policy contained in the committee report for our bill, Senate Report 101-333, beginning on page 4. I shall briefly summarize our position on these matters.

Since 1986 it has been the policy of the committee to authorize for construction projects that conform with cost-sharing and other policies established in the Water Resources Development Act of 1986. The committee has not supported the authorization of projects that have yet to finish full engineering, environmental and economic review by the chief of engineers.

As a matter of general practice, Corps of Engineers water resources projects are initiated when either our committee or the House Committee on Public Works and Transportation approves a committee resolution requesting that the study of a project be studied. Once such a resolution is approved, the corps is authorized to proceed with a reconnaissance study of the proposed project at 100 percent Federal cost.

When this is complete, the corps approaches potential local sponsors of the project regarding a feasibility study for the project. In accordance with section 105 of the Water Resources Development Act of 1986, feasibility studies are funded at 50 percent Federal cost, 50 percent local cost. If a local sponsor agrees to provide this cost share, the corps proceeds with the study.

When this is completed, the corps' district engineer reviews the results and forwards a report to the appropriate corps division headquarters for review. The district engineer's report describes the proposed project in detail, and includes various engineering options, estimates of the costs and benefits of each option, and a preliminary estimate of the environmental impacts.

If the district engineer's report is approved by the division commander, it

is forwarded to the officer of the chief of engineers in Washington for final review. The report is brought before the Board on Rivers and Harbors, and if approved, is forwarded to the chief of engineers who issues a final chief of engineers report. For a project to receive a chief of engineers report, it must have a positive benefit-to-cost ratio and a favorable statement of environmental impact.

As is stated in our committee report, at this stage the committee feels that projects have received sufficient technical, environmental and economic scrutiny, and that consideration of these projects by the Congress for authorization is appropriate. The committee has also stated that it considers authorization of projects that have not completed this process to be premature.

Independent of review by Congress, all projects approved by the chief of engineers are forwarded to the Assistant Secretary of the Army for Civil Works. Some of these make it through the administration's policy review process, and are forwarded officially to the Congress with a recommendation that construction be authorized. While our committee recognizes the prerogative of the administration to make recommendations, we have not felt in any way bound by these recommendations. The decision to authorize a project is properly within the jurisdiction of the Congress.

It is the committee's view that adherence to this policy is necessary to assure long term stability in the authorization of corps projects. However, I should make clear that the committee considers matters of policy regarding the type of projects the corps should pursue as independent of matters of technical review. As in all such cases, the Congress reserves the right to recommend projects for authorization that do not fall within the traditional role of the corps or which are for purposes not supported by the executive branch.

So far we have been confident that the review of projects by the chief of engineers is technical in nature and has not involved political or policy judgment. The Environment and Public Works Committee does not have the resources to review the technical aspects of each project, and has therefore chosen to rely on the corps for this. I should make clear that such a practice does not represent a pre-clearance of projects with the administration. If the nonpolitical nature of the chief of engineers review process changes in future, the committee would have to reevaluate its present practice.

Mr. President, I hope this has allowed my colleagues a greater understanding of the Civil Works Program, and of the practices of the Committee

on Environment and Public Works with regard to it. If this bill is enacted, as I hope it will be, the Congress will have reaffirmed its commitment to a regular biennial authorization of water projects. This is a worthy goal, and I urge my colleagues to help achieve it.

Mr. STEVENS. Mr. President, the storm damage reduction project included in the chairman's amendment at my request will protect a beautiful and unique landmark in southeast Alaska—the Homer Spit.

The Spit is a narrow body of land 4½ miles long which extends into Kachemak Bay. It is a large part of the history of Homer, and as a commercial and economic centerpiece, it will be a cornerstone of future growth for the city.

The Spit is home to a large boat harbor, several fishing charters, art shops, a beach camp, seafood processors, restaurants, a hotel, and several other commercial establishments. Thousands of tourists visit the Spit each year, many of whom hook world class halibut from Port of Homer fishing charters.

Access to all of these small businesses and visitor opportunities located on the narrow Spit would be seriously threatened if my amendment authorizing the project were not adopted in this bill.

The existing battered wall that now offers little protection to the only road access to the area has taken serious abuse in several storms that have breached the wall and washed out sections of the road.

The storm damage reduction project will protect 1,100 feet of the most vulnerable section to storm damage and the most critical to access.

It is important to me to authorize the Homer project this year. Without the help of Senators MOYNIHAN, BURDICK, and SYMMS, we would not have been able to orchestrate authorization this year. I thank each of them. In addition, I also extend my thanks to the staff members who worked to line up the chief's report needed for authorization. Tom Skirbunt and Donald Bowlden deserve special thanks for their work. Last, I want to thank the corps personnel at the Alaska district office, Washington Level Review Center, and the chief's office for expeditiously evaluating this important project.

Mr. CHAFEE. Mr. President, today I am pleased to join with my colleagues on the Committee on Environment and Public Works in taking up S. 2740, the Water Resources Development Act of 1990. Passage of this bill represents a continuation of the commitment to approve authorizing legislation for the U.S. Army Corps of Engineers Civil Works Program every 2 years.

As you know, Mr. President, the 1970's and early 1980's saw a departure

from the previous practice of approving omnibus bills and predictable appropriations to fund the construction of water projects. In 1986, however, we broke the logjam. After years of legislative-executive policy confrontations over the role of the Federal Government in water policy, the 99th Congress approved the Water Resources Development Act of 1986.

The 1986 act was truly landmark legislation in the area of water policy and formed the basis of the Water Resources Development Act of 1988 and the bill we are debating today. Most importantly, the 1986 act contains a number of provisions for increased local cost sharing for beneficiaries of Army Corps projects. I support those provisions wholeheartedly. The intent of cost sharing, I might add, is not to prevent the construction of a particular project but rather to recognize our limited Federal resources and the financial responsibility of local project sponsors.

I would like to thank our chairman, Senator BURDICK and the chairman and ranking member of the Subcommittee on Water Resources, Transportation and Infrastructure, Senators MOYNIHAN and SYMMS, for their work on this legislation. The subcommittee held 2 days of hearings on the bill and heard testimony from the Army Corps of Engineers, port and waterway users, flood control agencies and local water project sponsors. The testimony was informative and underscored the need to keep the 2-year authorization schedule on track.

The bill as reported is straightforward. Title I's section 101 authorizes 19 water resources projects from across the country at a cost of \$1.8 billion, with an estimated first Federal cost of \$1.2 billion and an estimated first non-Federal cost of \$600 million. Twelve projects would provide flood control, four entail navigation improvements, two provide for storm damage reduction and one for the purpose of recreation. All of the projects have completed the corps planning process and are subject to the cost sharing, cost ceiling, automatic deauthorization and other policies of the 1986 Water Resources Development Act. Furthermore, the chief of engineers has determined that the projects are both economically and environmentally sound.

Title I contains three additional projects. With respect to inland navigation, the committee has chosen to authorize two lock and dam replacements on a contingent basis: the McAlpine Lock and Dam on the Ohio River in Indiana and Kentucky and Lock and Dam Nos. 2, 3 and 4 on the Monongahela River in Pennsylvania. The projects require approval by the Secretary of the Army or the chief of engineers's report prior to full authorization. Although it is not normal com-

mittee procedure to authorize projects on a contingent basis, the situation in these instances is especially critical. Locks and dams are an integral part of the transportation system that the Federal Government bears the principal responsibility for maintaining. Unfortunately, McAlpine and Lock and Dam Nos. 2, 3 and 4 have deteriorated to the point of possible failure. Authorization at this point puts the projects on a fast track and may very well prevent an interruption in navigation traffic. Both of these projects are authorized in accord with the 1986 cost sharing policy, with 50 percent of the cost of construction to come from the Inland Waterways Trust Fund and 50 percent from general revenues.

Finally, title I includes authorization for the restoration of the Kissimmee River in Florida. As you may know, Mr. President, the dechannelization of the Kissimmee, the main river feeding Lake Okeechobee and the headwaters of the Everglades, has seriously disrupted the river-floodplain ecosystem. This project would address the resulting adverse environmental effects by restoring a major portion of the river's original flow path.

Title II of the legislation includes 22 project-related provisions. Four provisions provide for necessary cost-ceiling increases for previously authorized flood control projects in accordance with section 902 of the 1986 act. Title II also authorizes three water resources studies, one each for: the Red River Valley in Minnesota and North Dakota, the six headwater reservoirs of the Mississippi River in Minnesota, and Lake Winnibigoshish in Minnesota.

As part of the effort to increase the Army Corps' role in environmental engineering, the committee has chosen—in title II—to authorize two environmental enhancement projects under section 1135 of the 1986 act. One will provide for the protection of the endangered Lui-ui fish and threatened Lahontan cutthroat trout in Nevada and the other will expedite the restoration of the west fork of Mill Creek Lake in Ohio. In addition, the committee directs the corps to establish a management conference for the clean-up of Onondaga Lake in New York, acquire additional mitigation lands on the Red River Waterway in Louisiana, design and construct an innovative water quality project in Cranston, RI, deauthorize the controversial cross Florida barge canal project, extend the authorization of the Upper Mississippi River plan and relocate an historic lighthouse. These are the types of projects the corps should participate in as the Nation's engineer. The time has come for the corps to harness their resources for the preservation and enhancement of the environment.

Finally, title II authorizes, a much-needed flood control project for the town of Belen, NM, the transfer of four locks and dams on the Kentucky River to the State of Kentucky, financial reimbursement to the Roanoke, VA hospital for completed flood control work, the extension of the Rio Grande American canal, a report on the operation of Dworshak Dam in Idaho, and the construction of Anchorage in Norfolk Harbor.

Title III of the bill contains 23 general provisions relating to the operation of corps policy and modifications to the 1986 and 1988 Water Resources Development Acts. The primary thrust of this title is to fine tune the reforms of prior water resources legislation and provide the corps with new and expanded missions.

For example, section 309 authorizes the Secretary to undertake research and development activities in connection with so-called Maglev Trains. In addition, the corps is provided with the authority to plan and prepare for any natural disaster. Currently, the corps may plan for flood disaster responses only. The corps superior performance in the aftermath of Hurricane Hugo and the San Francisco earthquake underscore their ability to tackle any situation. This provision will provide for an enhancement of that disaster relief role. Further, section 322 makes permanent the corps authority to undertake modifications in the structures and operations of water resources projects which would improve the quality of the environment. Again, the issue is one of allowing the corps to utilize its engineering expertise in nontraditional areas. Certainly, the corps has the capability to go beyond the construction of locks, dams, and navigation improvements.

The final title of the bill deals with the problem of the quick breeding zebra mussel. Believed to have arrived in North America in the ballast water of a ship from Europe in 1986, the zebra mussel has infested U.S. freshwater navigation channels and ports. The tiny mollusk is clogging intake and outflow pipes of refineries, powerplants and boat engines. This title directs the corps to design a research and technology development program for the control of zebra mussels in and around public infrastructure facilities.

As you know Mr. President, the goal of this legislation is to authorize a steady flow of sound projects for the Army Corps of Engineers. As my former colleague Senator Stafford said in 1988, if the water bill "becomes a magnet for *** ill conceived policy initiatives, the experiment will have been a failure and we will have learned something about Congress' ability to successfully regularize the corps of engineers authorizing process." The key is to remain faithful to the provisions of the 1986 act.

Mr. President, I know the administration has concerns with some of the provisions of this bill, as do I, but I intend to work closely with my colleagues here and in the House to present an economically sound and environmentally sensitive piece of legislation to the President.

Mr. DANFORTH. Mr. President, I am very pleased that the Water Resources Development Act of 1990 includes a reauthorization for the Brush Creek, Kansas City flood control project. The construction of this project is of vital importance to the Kansas City region. Brush Creek drains a 29-square mile area in the heart of Kansas City. When this Creek floods, as it often does, the effect is devastating: a 1977 Brush Creek flood caused 12 deaths and over \$66 million in damages.

Kansas City and the U.S. Army Corps of Engineers have proposed a flood control project which will deepen the channel and remove and replace several bridges. The project was authorized in 1986. Since that time, however, the design of the project has changed in order to improve its flood control capacity. These proposed changes have resulted in an increased cost estimate for the Brush Creek project which required a reauthorization by Congress. I am pleased that we have been able to provide the corps with this reauthorization, and I look forward to the construction of this worthwhile project.

Mr. BOSCHWITZ. Mr. President, I rise today to thank the Committee on Environment and Public Works for accepting my Mississippi Water Quality Act as an amendment to S. 2740, the Water Resources Development Act of 1990.

I had originally planned to offer this bill as an amendment to the Clean Air Act, but the floor managers, Senators BAUCUS and CHAFFEE, persuaded me that my proposal would be better placed on a bill dealing more with water issues. I am pleased that the Environment and Public Works Committee attached it to S. 2740, which authorizes the U.S. Army Corps of Engineers Civil Works Program to construct various projects for improvements to the Nation's infrastructure.

Just recently, Colonel Baldwin, the St. Paul District U.S. Army Corps engineer, and Louis Kowalski, the chief of the planning division, were in my office to review the various corps projects in Minnesota. I was pleased to extend my congratulations to the St. Paul district corps on receiving the "1989 Award of Excellence," the top engineering award of the corps.

The St. Paul district designed a Project using dredge placement site material to build islands in weaver bottom backwaters. These islands provide waterfowl nesting habitat and reduce wave action, which leads to

more productive marsh habitat by increasing aquatic plant growth, and provides additional capacity for dredge material. In addition, the dredge material provides closures and partial closures along the existing navigational channel, which should improve sediment transport efficiency and reduce maintenance dredging.

Mr. President, when I introduced my Mississippi River Water Quality Study Act I outlined the importance of this great river. About 70 cities in the 10 States that border it derive their water from the Mississippi. Additionally, each year millions of people use the Mississippi for recreation, swimming, boating, fishing, and hunting. The Upper Mississippi River alone—that portion above the Mississippi-Ohio River junction—has a total recreation value of approximately \$700 million.

My amendment instructs the U.S. Geological Survey [USGS] to carry out a study in consultation with three other Federal agencies, the Fish and Wildlife Service, the Environmental Protection Agency, and the U.S. Army Corps of Engineers, and the appropriate States. Now is the time to begin this study because the USGS has recently been refining techniques for data collection and laboratory analysis designed for just such an assessment. The study proposed by this bill would extend the work of the USGS to include the entire river from the headwaters at Lake Itasca in Minnesota to the Gulf of Mexico, and would lead to an overall assessment document in December, 1992.

Mr. President, the issue of water quality in the Mississippi River is of the greatest importance to our Nation. If we are to make the right choices about improving the quality of this valuable resource, we must have an accurate assessment of its present status. My proposal will provide the framework to start this assessment.

Again, I want to thank the managers for accepting my Mississippi River Water Quality Act.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I wish to express my support for S. 2740, and in particular that provision in the bill that authorizes the Army Corps of Engineers to construct a flood control project to protect the community of Belen, NM, from the serious runoff danger that now faces that city.

When thunderstorms rip across the mesas and watershed west of town, flood waters have poured into the City of Belen on several occasions—most notably in 1969 and again in 1980. In places, I am told, the flood waters reached depths exceeding 15 feet following the 1969 storm.

Belen's problem is that it sits in a bowl. Mesas and high ground stand to the west. The Rio Grande runs east of

the city. And the bed of the Rio Grande, according to calculations by the corps, is actually higher than some adjacent portions of Belen.

Under this bill, as well as S. 923 which I introduced last year, the corps is authorized to construct a project that captures that mesa runoff, then diverts the water safely around the city to the Rio Grande.

The project would widen and deepen an existing irrigation canal, known as the Highline Canal, which is owned by the Middle Rio Grande Conservancy District. With an enlarged capacity, the canal would capture all the mesa runoff, preventing it from overtopping the canal and flooding Belen.

Because of the topography that I have described, the project will have to move that runoff water about six miles downriver before it can be dumped into the Rio Grande. This lengthy diversion is what makes this project relatively expensive.

One of the most interesting aspects of this provision is the cost-sharing. All Federal flood control projects, as the members of this body know, now require at least a 25 percent contribution from non-Federal interests.

But because of the unusual topography of Belen, which I have mentioned, the corps has been unable to design a project at Belen that can be justified on strict economic terms. In fact, the benefits of the project we are authorizing in this bill are estimated to be about 80 percent of the project's costs.

Yet, I certainly am convinced—and the officials of Belen are convinced—that this project is critical to the city's future.

Therefore, S. 923 and this bill were written in accordance with Section 903(c) of the 1986 Water Resources Development Act. Under that provision, projects that appear uneconomic may still be considered and approved by the Congress if non-Federal interests agree to pay all the costs of the project over and the sum equalling the benefits of the project.

This legislation, as well as S. 923, calls for the standard 25 percent non-Federal cost sharing on that portion of the project's costs that equal the benefits of the project, with non-Federal interests paying the remainder.

Belen is not a wealthy community. But I believe the willingness of the citizens of Belen to bear this added responsibility should demonstrate to the Senate the absolute validity of the project.

They recognize that dire problems confront their community that they are willing to commit to an expenditure of \$7,446,000 toward the full cost of the project: \$19,576,000.

Mr. President, let me restate that. The citizens of Belen are willing to contribute 38 percent of the cost of the project, instead of the standard 25 percent.

That is how important this project is to the people and the future of that wonderful community.

I hope this Senate joins me in commending Belen for this forward-looking commitment.

Once this project is authorized, I certainly will do everything that I can, as I have said before, to assist the citizens and the officials of Belen obtain financial assistance from other non-Federal sources.

Mr. HEFLIN. Mr. President, S. 2740, the Water Resources Development Act of 1990, is an important piece of legislation. The Senators from North Dakota and New York, Mr. BURDICK and Mr. MOYNIHAN, chairman of the committee and subcommittee, have done an excellent job in moving this bill to the floor in a timely fashion.

One provision of this bill, section 308, responds to concerns that have arisen in my State as well as others. This provision intends to impose much-needed discipline on the management of Federal multi-purpose water projects by the Corps of Engineers. Moreover, and as importantly, it restores to the Congress the role of decisionmaker with respect to these water projects.

Mr. President, as you are probably aware, the States of Georgia, Alabama, and Florida have recently been embroiled in a dispute over the use of the waters of Lake Lanier, the Chattahoochee and the Coosa Rivers. The State of Alabama has just announced its decision to sue the State of Georgia and the Army Corps of Engineers for the corps proposal to make an interim reallocation of water for municipal and industrial purposes to a number of Georgia water systems near Atlanta. It is unfortunate that these States have been unable to resolve this disagreement outside of litigation. However, I truly believe that if section 308 had been enacted prior to the eruption of this dispute, the States would have had a more meaningful opportunity, in the context of an administrative proceeding, to present their viewpoints and to try to work out a fair accommodation of all interests. In light of the long-term need for the States in my region to work together to resolve water resource allocation issues and the obvious lack of an administration process to achieve this, I strongly support this provision.

Mr. President, this year, we in Alabama have had to deal with disastrous floods. In past years, our problem has been the opposite: the southeast has had too little rainfall.

From 1981 through the first half of 1989, our region suffered a severe drought. During this time period, tension developed among the various groups dependent upon water projects for water supply, navigation, and power, or to simply enjoy recreational benefits of stored water. This tension

has created real conflict with respect to the corps' management and operation of the series of Federal projects that we call the Georgia-Alabama System.

These projects were authorized by Congress and built and managed by the Corps of Engineers specifically to provide quantified and assigned flood control, navigation, and hydropower benefits. Congress based its authorization of these projects upon analysis of the potential benefits achieved balanced against the cost of construction, operation, and maintenance of the proposed projects. Congress relied upon the sales of hydropower to provide receipts to the Treasury to justify project construction. Hydropower customers agreed to enter into long-term power contracts to repay roughly 80 percent of project investments.

The Southeastern Power Administration sells the power from these projects to customers in Alabama, Georgia, Mississippi, and the Carolinas. In addition, millions of people throughout the region, and in my State in particular, depend upon the Georgia-Alabama system for flood control, navigation, downstream water supply and water quality, and other uses.

Since construction, however, certain projects have become major recreation areas. At several reservoirs, recreation users demand that the corps hold lake levels high to maintain adequate water for recreation during periods of drought.

In response to these demands, without notice, opportunity for comment, or consultation with Congress, the Corps of Engineers has adopted interim, recreation dictated, management plans for the two river basins of the Georgia-Alabama system. These plans maintain higher lake levels than have been the corps' historical practice at the several reservoirs where recreation is big business.

Of course, holding lake levels high means less water passing through turbines to generate power; less water for navigation, water supply, downstream recreation, maintaining water quality, fish and wildlife, and other important uses. And, of course, it means less available storage to hold back spring floods.

Thus, in adopting these interim operation plans, the corps fundamentally altered the use of the projects authorized by Congress. The implementation of these management plans have caused serious economic harm to power users and others. Although the drought in the Southeast appears to be over, at least for the present, these new management plans remain on the books, to be implemented again whenever precipitation levels fall.

The experience of our region alone justified enactment of section 308 of

this bill. The corps must understand that it cannot alter the fundamental uses of projects without a fair, open and public process preceding such changes, and without congressional authorization of these changes.

I think that the decisional standards and process set forth in section 308 will help all regions address the question of allocation of the benefits from Federal projects. This provision will require the corps to revisit its interim drought management plans for the Georgia-Alabama System to provide notice, opportunity for comment, and to make a thorough analysis of its legal authority before making proposed changes.

I think that the Southeast and the Nation as a whole will be well served by this approach. I commend the committee for its work on this important bill and this vital provision.

AMENDMENT NO. 2487

Mr. NUNN. On behalf of Senator BURDICK, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. BURDICK, proposes an amendment numbered 2487.

Mr. NUNN. Mr. President, I ask that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In Section 101(f) delete the period following "\$5,550,000" and the last sentence and insert in lieu thereof the following: ", and an average annual cost of \$472,300 for periodic nourishment over the fifty-year life of the project, with an estimated annual Federal cost of \$193,600, and an estimated annual non-Federal cost of \$278,700."

In Section 101(p) delete the period following "\$20,910,000" and the last sentence and insert in lieu thereof the following: ", and an average annual cost of \$1,215,000 for period nourishment over the fifty-year life of the project, with an estimated annual Federal cost of \$790,000, and an estimated annual non-Federal cost of \$425,000."

Add the following new subsections to Section 101 following line six on page eight of the bill as reported:

(t) Oceanside, California. The project for navigation for Oceanside, California: Report of the Chief of Engineers, dated May 21, 1990, at a total cost of \$5,100,000, with an estimated first Federal cost of \$3,350,000, and an estimated first non-Federal cost of \$1,750,000.

(u) Ventura, California. The project for navigation for Ventura, California: Report of the Chief of Engineers, dated June 5, 1990, at a total cost of \$6,445,000, with an estimated first Federal cost of \$5,175,000, and an estimated first non-Federal cost of \$1,280,000.

(v) Homer Spit, Alaska. The project for storm damage reduction, Homer Spit, Alaska: Report of the Chief of Engineers, dated June 28, 1990, at a total cost of \$4,700,000, with an estimated first Federal cost of \$3,050,000, and an estimated first

non-Federal cost of \$1,650,000, and an average annual cost of \$242,000 for periodic nourishment over the fifty-year life of the project, with an estimated annual Federal cost of \$157,000, and an estimated annual non-Federal cost of \$85,000.

(w) Petersburg, West Virginia. The project for flood control, Petersburg, West Virginia: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of \$17,904,000, with an estimated first Federal cost of \$10,044,000, and an estimated first non-Federal cost of \$7,860,000.

(x) Moorefield, West Virginia. The project for flood control, Moorefield, West Virginia: Report of the Chief of Engineers, dated July 23, 1990, at a total cost of \$16,260,000, with an estimated first Federal cost of \$11,675,000 and an estimated first non-Federal cost of \$4,585,000.

Section 102(a)(2) is amended as follows: delete the phrase "dams 2 and 3" where they appear in the provision and insert in lieu thereof the phrase "dams 2, 3 and 4" where appropriate.

Section 213 of S. 2740 is amended as follows:

(a) delete the first four lines of the section beginning with "(a)" and insert in lieu thereof "On or before January 1, 1994, or as soon thereafter as reasonably practicable, as part of the joint Systems Operations Review by the Army Corps of Engineers, the Bonneville Power Administration and the Bureau of Reclamation, the Chief of Engineers, the Secretary, the Administrator of the Bonneville Power Administration shall make a joint report to the Congress on the regulation of the Dworshak Dam, Idaho, including:"

(b) delete all of subsection (a)(3) and insert in lieu thereof the following: "Recommendations for achieving to the greatest degree the Corps of Engineers' project purposes and suggestions for mitigating any adverse impacts on recreational and transportation usage of the Dworshak reservoir"

(c) delete all of subsection (b) and insert in lieu thereof the following: "The Secretary shall, in cooperation with the Administrator of the Bonneville Power Administration, conduct public processes in the vicinity of Dworshak Dam, Idaho, for the purpose of keeping the public informed about projected drawdowns of Dworshak Reservoir and the reasons for such drawdowns, as necessitated by regional needs."

Section 217 of S. 2740 is amended as follows: On line 12 delete \$112,000,000 and insert \$112,600,000.

Add the following new sections to Title II of the bill as reported beginning after the end of Section 222 on page 32 of the bill as reported:

Sec. 223. The project for flood control, West Columbus, Ohio, authorized by section 3(a)(11) of the Water Resources Development Act of 1988 (Public Law 100-676), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated February 9, 1988, as modified the Phase II West Columbus Local Protection Project Re-evaluation Report, dated May, 1990, at a total cost of \$89,600,000, with an estimated first Federal cost of \$63,700,000, and an estimated first non-Federal cost of \$25,900,000.

Sec. 224. Subject to the provisions of section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary is directed to develop and implement a plan for modifying the Arkansas Post Navigation Canal of the McClellan-

Kerr Arkansas River Navigation System for the purpose of improving environmental quality. Such plan shall include, subject to approval of final plans by the Secretary, construction of a closure structure at the downstream end of the Morgan Point Bendway and related work. Sources of material for such structure may include dredged material obtained from the Arkansas Post Canal.

Sec. 225. The San Luis Rey River flood control project, authorized pursuant to section 201 of Public Law 89-298 is modified to authorize the Secretary to construct the project at a total cost of \$60,000,000, with an estimated first Federal cost of \$41,000,000, and an estimated first non-Federal cost of \$19,000,000.

Sec. 226. The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168) is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April, 1989, as revised on January, 1990, at a total cost of \$26,200,000, with an estimated first Federal cost of \$16,090,000, and an estimated first non-Federal cost of \$10,110,000.

Sec. 227. (a) Upon approval of a Local Cooperation Agreement between the Assistant Secretary of the Army for Civil Works and the City of Virginia Beach, Virginia, for beach nourishment in accordance with Section 934 of the Water Resources Development Act of 1986 (P.L. 99-662), the Local Cooperation Agreement shall be effective from February 6, 1987.

(b) The Assistant Secretary of the Army for Civil Works is hereby authorized to reimburse the City of Virginia Beach for the Federal share of beach nourishment in accordance with Section 103(c)(5) of the Water Resources Development Act of 1986.

Sec. 228. (a) Title II of Public Law 97-137 is amended to authorize the Secretary to participate with the State of Indiana and other non-Federal interests in the design and construction of an interpretive center for the Falls of the Ohio National Wildlife Conservation Area, at a total cost of \$3,200,000. Design and construction of this center are to be cost-shared in accord with Section 103(c)(4) of the Public Law 99-662.

(b) Sections 204 and 205 of Public Law 97-137 are amended to authorize the Secretary to acquire additional real estate interests sufficient to include the visitor center facility in the National Wildlife Conservation Area and to enter into an agreement with non-Federal interests to provide for non-Federal operation and maintenance of the facility upon completion.

(c) The non-Federal share of construction costs of the visitor facility shall be reduced by the value of real estate acquired by non-Federal interests and provided without cost to the Federal Government for the interpretive center facilities. Credit shall be given for the market value of the real estate at the time of construction of the facility.

Sec. 229. Subject to the provisions of section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary is directed to develop and implement a plan for modifying the channel bypass element of the Levisa Fork, Kentucky project for the purpose of water quality improvement in and restoration of Pikeville Lake, Kentucky. Such plan shall include, subject to approval of final plans by the Secretary, design and construction of a sewage collection system and related infra-

structure, lake restoration, including elimination of stagnant water, and other measures necessary for water quality improvement.

Sec. 230 (a) Subject to the condition stated in subsection (b) and notwithstanding the Federal Property and Administrative Services Act 1949 (40 U.S.C. 471 et seq.) and section 108 of the River and Harbor Act of 1960 (33 U.S.C. 578), the Secretary of the Army shall release to Clay County, Georgia, without reimbursement, the reversionary interest of the United States in approximately 50 acres of land in the deed described in subsection (c).

(b)(1) The condition referred to in subsection (a) is that Clay County, Georgia, agree to an amendment of the deed described in subsection (c) by which the reversionary interest that is released pursuant to subsection (a) is replaced with a reversionary interest as described in paragraph (2).

(2) The deed described in subsection (c) shall be amended to provide that the property conveyed by the deed is subject to the condition and restriction that it is to be used and enjoyed solely for the development of a retirement community, as that term may be defined by the parties in the instrument described in subsection (d), operated on a nonprofit basis by Clay County, Georgia, and its successors and assigns, or under a lease arrangement between the County and the South Georgia Methodist Home for the Aging, Inc., and that if the property is used for any other purpose, title to the property, including any improvements, shall revert to the United States.

(c) The deed referred to in subsections (a) and (b) is the quitclaim deed dated October 22, 1963, by which the United States conveyed to Clay County, Georgia, the parcel of land lying in land lots 263 and 264, Seventh Land District, Clay County, Georgia.

(d) The Secretary of the Army and Clay County, Georgia, shall execute and file in the appropriate office an amendment of deed, amended deed, deed of release, or other appropriate form of instrument or instruments effecting the substitution of reversionary interest authorized by this section.

Section 321 is amended as follows: (a) Delete the period at the end of Subsection (a)(2) and add the phrase, "and appropriate States." (b) Renumber subsection (a)(3) as subsection (a)(4) and insert the following replacement subsection (a)(3): "The Director shall enter into a planning period during which he shall consult with such Federal agencies and States to develop a framework for the study. The framework for the study shall be completed within 120 days following the date of the enactment of this Act." (c) on line 10 delete October 31, and replace with December 31.

Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended by inserting "Columbiana," after "Carroll, Clermont."

Delete all of section 312 and renumber the remaining sections accordingly.

Mr. BURDICK. Mr. President, today the Senate takes up S. 2740, the Water Resources Development Act of 1990.

S. 2740 provides authorization for the U.S. Army Corps of Engineers Civil Works Program. It includes authorization of 22 water resources development projects, modifications of a number of existing project authorities, general and technical provisions, and a

research and grant program for the control of zebra mussels.

This measure reconfirms the commitment of the Committee on Environment and Public Works to resume the regular authorization schedule for the corps' Civil Works Program which was abandoned in the 1970's and the first part of the 1980's. Enactment of the landmark Water Resources Development Act of 1986, which contained substantial reforms to the Civil Works Program, principally cost sharing, paved the way for the return to the practice of biennial authorization bills. The committee approved, and the Congress passed, a bill very similar to S. 2740 in 1988. It is my intent, as chairman of the committee, to continue this process in coming years.

Mr. President, I intend to offer a committee amendment which contains a number of noncontroversial technical changes and other items, including several projects which have received favorable review from the Chief of Engineers since S. 2740 was ordered reported. Two of these projects are in Petersburg and Moorefield, WV. They will provide much needed flood protection to these areas. These projects have been included at the request of our former majority leader and esteemed colleague, Senator ROBERT C. BYRD.

I urge the Senate to pass this measure expeditiously. I look forward to working with the House to produce a final bill which continues the innovative and responsible policies initiated by the Water Resources Development Act of 1986, and which will be signed by the President.

Mr. President, I ask unanimous consent to print in the RECORD an explanation of the chairman's amendment.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

EXPLANATION OF THE CHAIRMAN'S AMENDMENT TO S. 2740

Section 101(f) and Section 101(p) for committee:

Technical changes to the authorizing language for storm damage prevention projects giving more precise information on the future cost of periodic nourishment of the beach for these projects. (This new language was added to Martin County, Florida project and to Myrtle Beach, South Carolina project.)

Section 101(t) through 101(x) for Cranston/Wilson (California); Stevens (Alaska); Byrd (W. Va.):

Addition of five project authorizations, all have received approval from the Chief of Engineers. They are: Oceanside, California; Ventura, California; Homer Spit, Alaska; Petersburg, West Virginia; and Mirefield, West Virginia.

Section 101(a)(2) for committee:

Technical change to language authorizing Monongahela Lock project necessary because actual area of study includes lock and dam 4 as well as lock and dam 2 and 3. The potential solution being studied is to remove lock and dam three and expand locks two and four. The amendment adds no cost to

the project, it just accurately reflects the project under study.

Section 213 for Symms:

Technical changes to section 213 regarding the operations of Dworshak Dam in Idaho.

Section 224 (new section) for Bumpers: Environmental modification of Arkansas Post Canal, Arkansas subject to the provisions of section 1135 of the 1986 Water Resources Development Act.

Sections 223, 225, and 226 (new section) for committee:

Increases to the cost ceiling for the following previously authorized projects: West Columbus, Ohio; San Luis Rey, California; and Brush Creek, Missouri.

Section 227 (new section) for Warner:

Directive on beach nourishment at Virginia Beach, Virginia.

Section 228 (new section) for Lugar:

Authorization for construction of interpretive center for the falls of the Ohio River to be constructed under the cost sharing provisions of the 1986 Water Resources Development Act.

Section 229 (new section) for Ford:

Pikeville, Kentucky environmental clean-up provision under section 1135 authority.

Section 230 (new section) for Fowler:

Clay County, Georgia land transfer.

Section 321 modification for committee:

Technical change to section 321 relating to geologic survey study of Mississippi River.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2487) was agreed to.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I rise in support of S. 2740, the Water Resources Development Act of 1990.

I would like to commend the distinguished chairman of the Water Resources, Transportation, and Infrastructure Subcommittee for bringing this bill to the Senate floor so quickly.

This bill provides a way to address a major threat to residents in the northern part of my State who reside in the Passaic River basin. The provision I'm referring to would authorize construction of a major flood control project along the Passaic River basin in New Jersey.

The Passaic River basin is a densely populated area, with a population of about 2 million people. It is also an area that is highly flood-prone. The Army Corps estimates that each year, floods cause almost \$100 million in damages.

In 1984, the area suffered a 25-year flood. That flood killed 3 people. It forced the evacuation of 9,400 residents. And it resulted in \$390 million in damages.

It is estimated that a 100-year flood, like the one that occurred in 1903, would cause \$1.9 billion in damages.

Earlier this spring, we saw the devastation of floods in Texas and Arkansas. At the same time, we had serious flooding in Passaic River basin in New Jersey, with only a fraction of the rain they have gotten in those areas. In an area of more than 2 million people, flooding like that experienced in the South would be disastrous. That is what we need to prevent.

The project that this bill would authorize would attack flooding in the Passaic River basin on a number of fronts. It would acquire and preserve 5,000 acres for retention of flood waters. It would stabilize river and stream banks throughout the region. A major component of the project would be a tunnel underneath the Passaic River, that would take on flood waters and divert them to an area downriver.

As proposed by the Army Corps, the tunnel would have its outfall near a town called Nutley. Residents in that area have had concerns about the impacts of the release of flood waters there. I appreciate their concerns. We should not risk shifting flooding problems from one area to another.

Because of that, I offered an amendment at the committee markup of S. 2740 to extend the tunnel outlet south, to Newark Bay. I'm pleased that the Environment and Public Works Committee shared my concerns, and adopted the amendment.

Of course, Mr. President, the State of New Jersey must ultimately decide that this major undertaking is the way to go. The State must confront the matter and reach its own conclusion about how best to deal with the threat of disastrous floods in the Passaic River basin. The bill preserves for New Jersey the option to divert those flood waters through this comprehensive flood control project.

Mr. President, flooding is a serious and continuing threat to the Passaic River basin. We cannot allow lives and property to continue to be lost. This project provides a way to protect the 2 million residents of the basin.

I urge my colleagues to support this legislation.

Mr. HARKIN. Mr. President, the Water Resources Development Act contains a provision concerning ability to pay, which has to do with the ability of local jurisdictions to pay to the Army Corps of Engineers the 5 percent flood control cash payment that is required of them under the 1986 Water Resources Act.

I am concerned that the existing corps rule, which allows the corps to waive the 5 percent payment, is too narrowly drawn and was written without thorough consideration of many important factors. Further, the rule is, in my view, too complex. I am pleased that the Environment and Public Works Committee has decided to require that the corps redraft its formu-

la and the committee has provided direction to the corps as to what factors should be considered in the redrafting process.

I believe that the taxable base of a jurisdiction relative to the size of a project is a most important factor. It is a factor which relates to a community's ability to raise bonds to pay for an expensive project. Unfortunately, the taxable base of a city may prove difficult to determine in different States since methods of valuation vary a great deal. Since home values are relatively well known and comparable from State to State, it might be appropriate to rely on this variable as a measure of taxable base.

The entire direct cost to the local government for land purchases, relocation, easements and other traditional expenses should also be figured into the formula. On average, about 20 percent of a project's costs are covered by the local government. I believe that when a city's share climbs to over 30 percent, this added burden should be weighted in the corps formula. In Iowa, one of our communities is covering over 35 percent of the costs of a flood control project. This level of burden needs to be taken into account by the corps.

Last, I would like to clarify a point that might not be sufficiently clear in the report language. The report language notes that the policy should not be biased toward either rural or urban areas. I believe that it is the intent of this phrase to address a problem that was discussed at a meeting between Sioux City officials, corps officials, committee staff and my staff in early May. At that meeting, we discussed the very significant income and property tax disparity which exists between urban and rural areas. Costs of living are different between metropolitan areas and rural areas. In rural areas where population numbers are low, the income and property tax bases are small. Some corps officials took the view that they should simply start at the lowest county according to the formula and go up the line until a certain point is reached. But, because of the metropolitan/rural disparity, that effectively discriminates against metropolitan areas.

Mr. BURDICK. Mr. President, I appreciate the remarks of the Senator from Iowa. And, I agree with the points that he has made about the considerations which should be factored into the formula used to determine which local jurisdictions should be exempt from the 5 percent payment because of a limited ability to pay.

The Senator from Iowa has been very concerned that the added 5 percent cash payment burdens localities which are struggling to manage the costs of flood control projects—and especially those communities which are

shouldering an especially high percentage of the total cost of a project. I appreciate the Senator's concern and I commend his efforts. Many of the factors which the Senator has brought to our attention would not likely have been included in the committee report without his help.

The Senator accurately describes the committee's intent concerning the metropolitan/rural disparity issue. It is the committee's view that there needs to be a separate calculation or an added factor developed in the formula to account for this very real difference between urban and rural areas.

I also agree with the Senator's view on the possibility of using home values in the ability to pay formula. Statistics on assessed value of property may prove to be difficult to develop on a nationwide basis.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 2740), as amended, was passed, as follows:

S. 2740

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Water Resources Development Act of 1990".

SEC. 2. For purposes of this Act, the term "Secretary" means the Secretary of the Army.

TITLE I—PROJECT AUTHORIZATIONS

SEC. 101. The following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans, and subject to the conditions, recommended in the respective reports designated in this section:

(a) Bayou La Batre, Alabama. The project for navigation for Bayou La Batre, Alabama: Report of the Chief of Engineers, dated August 3, 1989, at a total cost of \$16,230,000, with an estimated first Federal cost of \$4,490,000, and an estimated first non-Federal cost of \$11,740,000.

(b) Clifton, San Francisco River, Arizona. The project for flood control, Clifton, San Francisco River, Arizona, authorized by section 401(d) of the Water Resources Development Act of 1986, is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated September 6, 1988, at a total cost of \$12,510,000, with an estimated first Federal cost of \$9,150,000, and an estimated first non-Federal cost of \$3,360,000.

(c) Nogales Wash and Tributaries, Arizona. The project for flood control, Nogales Wash and Tributaries, Arizona: Report of the Chief of Engineers, dated February 28,

1989, at a total cost of \$7,260,000, with an estimated first Federal cost of \$5,440,000, and an estimated first non-Federal cost of \$1,820,000. The Secretary shall cooperate with the Government of Mexico as necessary to provide for flood warning gauges in Mexico.

(d) Coyote and Berryessa Creeks, California. The project for flood control, Coyote and Berryessa Creeks, California: Report of the Chief of Engineers, dated February 7, 1989, at a total cost of \$56,300,000, with an estimated first Federal cost of \$39,000,000, and an estimated first non-Federal cost of \$17,300,000.

(e) Miami Harbor Channel, Florida. The project for navigation, Miami Harbor Channel, Florida: Report of the Chief of Engineers dated September 25, 1989, at a total cost of \$65,700,000, with an estimated first Federal cost of \$41,920,000, and an estimated first non-Federal cost of \$23,780,000.

(f) Martin County, Florida. The project for storm damage reduction, Martin County, Florida: Report of the Chief of Engineers dated November 20, 1989, at a total first cost of \$9,400,000, with an estimated first Federal cost of \$3,850,000, and an estimated first non-Federal cost of \$5,550,000, and an average annual cost of \$472,300 for periodic nourishment over the fifty year life of the project, with an estimated annual Federal cost of \$193,600, and an estimated annual non-Federal cost of \$278,700.

(g) Fort Wayne, St. Mary's and Maumee Rivers, Indiana. The project for flood control, Fort Wayne, St. Mary's and Maumee Rivers, Indiana: Report of the Chief of Engineers, dated May 1, 1989, at a total cost of \$16,300,000, with an estimated first Federal cost of \$12,100,000, and an estimated first non-Federal cost of \$4,200,000.

(h) Aloha-Rigolette, Louisiana. The project for flood control, Aloha-Rigolette Area, Louisiana: Report of the Chief of Engineers dated April 11, 1990, at a total cost of \$8,283,000, with an estimated first Federal cost of \$6,212,000, and an estimated first non-Federal cost of \$2,071,000.

(i) Boston Harbor, Massachusetts. The project for navigation, Boston Harbor, Massachusetts: Report of the Chief of Engineers, dated May 11, 1989, at a total cost of \$27,215,000, with an estimated first Federal cost of \$16,854,000, and an estimated first non-Federal cost of \$10,361,000.

(j) Ecorse Creek, Wayne County, Michigan. The project for flood control, Ecorse Creek, Wayne County, Michigan: Report of the Chief of Engineers, dated August 8, 1989, at a total cost of \$7,280,000, with an estimated first Federal cost of \$4,560,000, and an estimated first non-Federal cost of \$2,720,000.

(k) Great Lakes Connecting Channels and Harbors, Michigan and Minnesota. The project for navigation, Great Lakes Connecting Channels, Michigan and Minnesota: Report of the Chief of Engineers, dated January 30, 1990, at a total cost of \$7,489,100, with an estimated first Federal cost of \$5,037,500, and an estimated first non-Federal cost of \$2,451,600.

(l) Coldwater Creek, Missouri. The project for flood control, Coldwater Creek, Missouri: Report of the Chief of Engineers, dated August 9, 1988, at a total cost of \$22,380,000, with an estimated first Federal cost of \$15,500,000, and an estimated first non-Federal cost of \$6,880,000.

(m) River Des Peres, Missouri. The project for flood control, River Des Peres, Missouri: Report of the Chief of Engineers, dated May 23, 1989, at a total cost of

\$20,550,000, with an estimated first Federal cost of \$15,270,000, and an estimated first non-Federal cost of \$5,280,000.

(n) Passaic River Main Stem, New Jersey and New York. The project for flood control, Passaic River Main Stem, New Jersey and New York: Report of the Chief of Engineers, dated February 3, 1989, except that the main diversion tunnel shall be extended to outlet in Newark Bay, New Jersey, at a total cost of \$1,200,000,000, with an estimated first Federal cost of \$890,000,000, and an estimated first non-Federal cost of \$310,000,000. The Secretary shall design and construct the project in accordance with the Newark Bay tunnel outlet alternative described in the Phase I General Design Memorandum of the District Engineer dated December 1987. The total project, including the extension to Newark Bay, shall be cost shared in accordance with the provisions of section 103 of Public Law 99-662.

(o) Rio De La Plata, Puerto Rico. The project for flood control, Rio De La Plata, Puerto Rico: Report of the Chief of Engineers, dated January 3, 1989, at a total cost of \$56,990,000, with an estimated first Federal cost of \$34,780,000, and an estimated first non-Federal cost of \$22,210,000.

(p) Myrtle Beach, South Carolina. The project for storm damage reduction, Myrtle Beach, South Carolina: Report of the Chief of Engineers, dated March 2, 1989, at a total cost of \$59,730,000, with an estimated first Federal cost of \$38,820,000, and an estimated first non-Federal cost of \$20,910,000, and an average annual cost of \$1,215,000 for periodic nourishment over the fifty-year life of the project, with an estimated annual Federal cost of \$790,000, and an estimated annual non-Federal cost of \$425,000.

(q) Buffalo Bayou and Tributaries, Texas. The project for flood control, Buffalo Bayou and Tributaries, Texas: Report of the Chief of Engineers, dated February 12, 1990, at a total cost of \$544,604,000, with an estimated first Federal cost of \$309,313,000, and an estimated first non-Federal cost of \$235,291,000.

(r) Ray Roberts Lake, Greenbelt, Texas. The multiple purpose project, Ray Roberts Lake, Greenbelt, Texas, authorized by section 301 of the Rivers and Harbors Act of 1965, is modified to authorize the Secretary to construct recreation features substantially in accordance with the Report of the Chief of Engineers, dated December 24, 1987, at a total cost of \$4,620,000, with an estimated first Federal cost of \$1,730,000, and an estimated first non-Federal cost of \$2,890,000.

(s) Upper Jordan River, Utah. The project for flood control, Upper Jordan River, Utah: Report of the Chief of Engineers, dated November 16, 1988, at a total cost of \$7,900,000, with an estimated first Federal cost of \$5,200,000, and an estimated first non-Federal cost of \$2,700,000.

(t) Oceanside, California. The project for navigation for Oceanside, California: Report of the Chief of Engineers, dated May 21, 1990, at a total cost of \$5,100,000, with an estimated first Federal cost of \$3,350,000, and an estimated first non-Federal cost of \$1,750,000.

(u) Ventura, California. The project for navigation for Ventura, California: Report of the Chief of Engineers, dated June 5, 1990, at a total cost of \$6,445,000, with an estimated first Federal cost of \$5,175,000, and an estimated first non-Federal cost of \$1,280,000.

(v) Homer Spit, Alaska. The project for storm damage reduction, Homer Spit,

Alaska: Report of the Chief of Engineers, dated June 28, 1990, at a total cost of \$4,700,000, with an estimated first Federal cost of \$3,050,000, and an estimated first non-Federal cost of \$1,650,000, and an average annual cost of \$242,000 for periodic nourishment over the fifty-year life of the project, with an estimated annual Federal cost of \$157,000, and an estimated annual non-Federal cost of \$85,000.

(w) Petersburg, West Virginia. The project for flood control, Petersburg, West Virginia: Report of the Chief of Engineers, dated June 29, 1990, at a total cost of \$17,904,000, with an estimated first Federal cost of \$10,044,000, and an estimated first non-Federal cost of \$7,860,000.

(x) Moorefield, West Virginia. The project for flood control, Moorefield, West Virginia: Report of the Chief of Engineers, dated July 23, 1990, at a total cost of \$16,260,000, with an estimated first Federal cost of \$11,675,000, and an estimated first non-Federal cost of \$4,585,000.

SEC. 102. (a) The following projects are authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such report is issued and approved by the Secretary:

(1) McAlpine Lock and Dam, Indiana and Kentucky. The project for navigation, McAlpine Lock and Dam, Indiana and Kentucky: Report of the Ohio River Division Engineer, dated January 1990, at a total cost of \$219,400,000, with a first Federal cost of \$219,400,000.

(2) Construction of improvements to Locks and Dams 2, 3, and 4, Monongahela River, Pennsylvania. The project for navigation, Locks and Dams 2, 3, and 4, Monongahela River, Pennsylvania, to include replacement of locks and dams and related improvements as appropriate, at a total cost of \$450,000,000, with a first Federal cost of \$450,000,000.

(b) Costs of construction of the projects authorized in subsection (a) of this section are to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(c) The following project is authorized to be prosecuted by the Secretary in accordance with a final report of the Chief of Engineers, and with such modifications as are recommended by the Secretary, and no construction on such project may be initiated until such report is issued and approved by the Secretary.

(1) The project for Central and Southern Florida, authorized by the Flood Control Act of June 30, 1948, as amended, is modified to provide for restoration of the Kissimmee River for environmental purposes. Such restoration shall include, but not be limited to, filling of Canal C-38, removal of spillway structures and locks, and increasing the storage in the upper Kissimmee basin and shall minimize to the fullest extent possible any effect on the project's flood control and navigation purposes.

(2) The Secretary is authorized to undertake restoration of the Kissimmee River in accordance with a final report of the Chief of Engineers and with such modifications as he may recommend at an estimated total cost of \$270,000,000. The report of the Chief of Engineers shall be based on the Level II Backfilling plan recommended by the South Florida Water Management District in the

report entitled "Kissimmee River Restoration, Alternative Plan Evaluation and Preliminary Design Report". Non-Federal interests shall provide without cost to the United States all lands, easements, rights-of-way, relocations, and dredged material disposal areas necessary for the project: *Provided*, That the aggregate non-Federal share shall not exceed 50 percent of the total cost of the project: *And provided further*, That, in the event that the value of lands, easements, rights-of-way, relocations, and disposal areas is less than 25 percent of the total first cost of the project, non-Federal interests shall pay during the period of construction such amounts as are necessary to make the total non-Federal contribution equal 25 percent. The non-Federal interests shall provide 100 percent of the operation, maintenance, repair, replacement, and rehabilitation costs of the project. In addition, the non-Federal interests shall hold and save the United States free from damages due to the construction or operation and maintenance of the project, except for damages due to the fault or negligence of the United States or its contractors.

(3) The Secretary shall credit any non-Federal contribution which exceeds the required non-Federal share of the project modification authorized in subsection (1) toward the non-Federal contribution of the project authorized in subsection (2).

(4) The Secretary's is authorized to use funds allocated to the Kissimmee River and appropriated prior to enactment of this Act and such additional funds as may be appropriated for the Kissimmee River project to implement this section.

TITLE II—PROJECT RELATED PROVISIONS

SEC. 201. (a) The Congress finds that the historic community of Belen, New Mexico, and its population suffer chronic flooding problems that originate in the watershed and mesa west of Belen.

(b) The Congress finds further than a major canal, the Belen Highline Canal, is located immediately adjacent to Belen, New Mexico, and that a serious danger exists to life and property in the event that flood waters breach the canal.

(c) The Congress, therefore, authorizes a project for flood protection for the city of Belen, New Mexico. Such project shall include measures to increase the capacity of the Belen Highline Canal so that it will function as a conveyance system to divert flood waters safely around the city of Belen, as well as an irrigation facility.

(d) Subject to the provisions of section 903(c) of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary is directed to undertake the flood control measures described within subsection (c) of this section in order to protect the Belen, New Mexico, and its residents, at a total cost of \$19,576,000, with an estimated first Federal cost of \$12,130,000, and an estimated first non-Federal cost of \$7,446,000 including lands, easements, rights-of-way, and relocations.

SEC. 202. Section 1114 of the Water Resources Development Act of 1986 (Public Law 99-662), is amended to read as follows: "SEC. 1114. CROSS FLORIDA BARGE CANAL.

"(a) DEAUTHORIZATION. —The barge canal project located between the Gulf of Mexico and the Atlantic Ocean (hereinafter referred to as the 'Project'), as described in the Act of July 23, 1942 (56 Stat. 703), shall be deauthorized by operation of law immediately upon the Governor and Cabinet of the State of Florida adopting a resolution

specifically agreeing on behalf of the State of Florida (hereinafter referred to as the 'State') to all of the terms of agreement prescribed in subsection (b).

"(b) TRANSFER OF PROJECT LANDS.—Notwithstanding section 203 of the Federal Property and Administrative Services Act of 1949 and any other provision of law, the Secretary is, subject to the provisions of subsections (d) and (e), directed to transfer all lands and interests in lands acquired by the Secretary and facilities completed for the project referenced in subsection (a) to the State, without consideration, if the State agrees to each of the following:

"(1) The State shall agree to hold the United States harmless from all claims arising from or through the operations of the lands and facilities conveyed by the United States.

"(2) The State shall agree to preserve and maintain a greenway corridor which shall be open to the public for compatible recreation and conservation activities and which shall be continuous, except for areas referred to in subparagraphs (A) and (C) of this paragraph, along the project route over lands acquired by the Secretary or by the State or State Canal Authority, or lands acquired along the project route in the future by the State or State Canal Authority, to the maximum width possible, as determined in the management plan to be developed by the State for former project lands. Such greenway corridor shall not be less than 300 yards wide, except for the following areas:

"(A) Any area of the project corridor where, as of the date of enactment of this subparagraph, no land is owned by the State or State Canal Authority.

"(B) Any area of the project corridor where, as of the date of enactment of this subparagraph, the land owned by the State or State Canal Authority is less than 300 yards wide.

"(C) Any area of the project corridor where a road or bridge crosses the project corridor.

"(3) Consistent with paragraph (2) of this subsection, the State shall create a State park or conservation/recreation area in the lands and interests in lands acquired for the project lying between the Atlantic Ocean and the western boundaries of sections 20 and 29, township 15 south, range 23 east.

"(4) The State shall agree, consistent with paragraphs (2), (5), and (6) of this subsection, to preserve, enhance, interpret, and manage the water and related land resources of the area containing cultural, fish and wildlife, scenic, and recreational values in the remaining lands and interests in land acquired for the project, lying west of sections 20 and 29, township 15 south, range 23 east, as determined by the State, for the benefit and enjoyment of present and future generations of people and the development of outdoor recreation.

"(5) The State shall agree to pay, from the assets of the State Canal Authority and the Cross Florida Canal Navigation District, including revenues from the sale of former project lands declared surplus by the State management plan, to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam a minimum aggregate sum of \$32,000,000 in cash, or, at the option of the counties, payment to be made by conveyance of surplus former project lands selected by the State at current appraised values.

"(6) The State shall agree to provide that after repayment of all sums due to the counties of Citrus, Clay, Duval, Levy, Marion, and Putnam, the State may use any

remaining funds generated from the sale of former project lands declared surplus by the State to acquire the fee title to lands along the project route as to which less than fee title was obtained, or to purchase privately owned lands, or easements over such privately owned lands, lying within the proposed project route, consistent with paragraphs (2) (3), and (4) of this subsection, according to such priorities as are determined in the management plan to be developed by the State for former project lands. Any remaining funds generated from the sale of former project lands declared surplus by the State shall be used for the improvement and management of the greenway corridor consistent with paragraphs (2), (3), and (4) of this subsection.

"(c) ENFORCEMENT.—(1) The United States is directed to vigorously enforce the agreement referred to in subsections (a) and (b) in the courts of the United States and shall be entitled to any remedies in equity or law, including, without limitation, injunctive relief. The court, in issuing any final order in any suit brought pursuant to this subsection, may, in its discretion, award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing party. The United States district courts shall have original and exclusive jurisdiction of any action under this subsection.

"(2) The State shall be entitled to the same remedies listed in paragraph (1) of this subsection in the courts of the State or of the United States.

"(d) TIME OF TRANSFER.—Actual transfer of lands and management responsibilities under this section shall not occur on the constructed portions of the project lying between the Atlantic Ocean and the Eureka Lock and Dam, inclusive, and between the Gulf of Mexico and the Inglis Lock and Dam, inclusive, until 24 months following the enactment of this Act.

"(e) MANAGEMENT PENDING TRANSFER.—In the intervening 24 months following enactment of this Act, the Secretary shall carry out any and all programmed maintenance on the portions of the project outlined in subsection (d).

"(f) SURVEY.—The exact acreage and legal description of the real property to be transferred pursuant to this section shall be determined by a survey which is satisfactory to the Secretary and to the State. The cost of such survey shall be borne by the State."

SEC. 203. (a) Subject to the provisions of sections 906(e) and 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary, in consultation with the Pyramid Lake Indian Tribe and the Secretary of the Interior, is authorized and directed to develop a plan for a project with a total cost of \$25,000,000 to rehabilitate the Lower Truckee River.

(b) The plan of the project authorized in subsection (a) shall include designs to—

(1) restore the riparian habitat and vegetative cover;

(2) stabilize the course of the lower Truckee River and minimize erosion damage;

(3) provide the best possible spawning habitat for the cui-ui fish; and

(4) provide improved spawning habitat for the Lahontan cutthroat trout to the extent deemed feasible.

(c) Subject to the provisions of sections 906(e) and 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary, in consultation with the Pyramid Lake Indian Tribe and the Secretary of the Interior, is authorized to develop a plan for facilities with a total cost of

\$20,000,000 to enable the efficient passage of cui-oi and Lahontan cutthroat trout through or around the delta at the mouth of the Lower Truckee River to obtain access to their upstream spawning grounds.

Sec. 204. The Secretary of the Army shall not proceed with the divestiture of locks and dams numbered 5 through 14 of the Kentucky River, Kentucky, pursuant to section 301(a) of the Water Development Act of 1986 (Public Law 99-662), until he has complied with the terms of the Memorandum of Understanding between the United States Army Corps of Engineers and the Commonwealth of Kentucky, as approved by the Louisville District Engineer on February 22, 1985, at a total cost of \$3,500,000.

Sec. 205. (a) The Assistant Secretary of the Army of Civil Works and the Administrator of the Environmental Protection Agency, and the Governor of the State of New York, acting jointly, shall convene a management conference for the restoration, conservation, and management of Onondaga Lake. The purpose of the management conference shall include but not be limited to—

(1) developing, within the 180-day period following the date of the enactment of this Act, a comprehensive restoration, conservation, and management plan that recommends priority corrective actions and compliance schedules for the cleanup of Onondaga Lake; and

(2) coordinating implementation of the plan by the State of New York, the Army Corps of Engineers, the Environmental Protection Agency and all local agencies, governments, and other groups participating in the conference.

(b)(1) The members of the management conference shall include, at a minimum, the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, the Governor of the State of New York, and a representative of—

(A) the Attorney General of the State of New York;

(B) Onondaga, County, New York;

(C) The city of Syracuse, New York;

(2) The members of the management conference may designate a permanent representative to attend meetings of the management conference and otherwise represent and vote on their behalf on the management conference.

(3) The management conference shall include the following ex officio members:

(A) the United States Senators from the State of New York; and

(B) the member(s) of the United States House of Representatives within whose congressional district(s) lies Onondaga Lake.

(4) There shall be two standing committees of the management conference:

(A) the Citizens Advisory Committee; and

(B) the Technical Review Committee.

(c)(1) Not later than 120 days after the completion of a plan and after providing for public review and comment, the Assistant Secretary of the Army for Civil Works and the Administrator shall approve such plan if the plan meets the requirements of this section, and the Governor of the State of New York concurs in such approval.

(2) Upon approval of the plan under this section, such plan shall be implemented.

(d)(1) The management conference, with the approval of the Assistant Secretary of the Army for Civil Works, the Administrator of the Environmental Protection Agency, and the Governor of the State of New York, is authorized to make grants to the State of New York and public or non-

profit private agencies, institutions, organizations, and individuals.

(2) Grants under this subsection may be made for—

(A) research, surveys, and studies necessary for the development of the plan under this section, except that grants to any person under this paragraph shall not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources;

(B) conducting activities identified in the plan developed pursuant to this section, except that grants to any person under this paragraph shall not exceed 70 percent of the costs of such work and that the non-Federal share of such costs are provided from non-Federal sources; and

(C) gathering data and retaining expert consultants in support of litigation undertaken by the State of New York to compel clean up or obtain clean up and damage cost from parties responsible for the pollution of Onondaga Lake.

(3) In-kind payments shall qualify for the purpose of meeting the non-Federal matching requirements of this subsection.

(e) There are authorized to be appropriated to the Assistant Secretary of the Army for Civil Works and the Administrator of the Environmental Protection Agency such sums as may be necessary to carry out this section.

Sec. 206. (a) The Secretary of the Army, in consultation with the Administrator of the Environmental Protection Agency, shall provide plans for the design and construction of a wastewater treatment project in Cranston, Rhode Island. In developing such plans, the Secretary shall, among other things, focus on the prevention of groundwater contamination.

(b) Prior to the expiration of the 180-day period following the date of the enactment of this Act, the Secretary shall submit a copy of such plans to the appropriate committees of Congress. Upon the expiration of the 60-day period following the date of the submission of such plans to Congress, the Secretary shall construct, in accordance with such plans, a wastewater treatment project in Cranston, Rhode Island.

(c) There are authorized to be appropriated to the Secretary of the Army such sums as necessary to carry out this section. Sums appropriated pursuant to this authorization shall remain available until expended.

Sec. 207. Notwithstanding the provisions of section 215 of Public Law 90-483, the Secretary of the Army is directed to include in the local cooperation agreement for the Roanoke River Upper Basin, Virginia, flood control project (1) work completed by non-Federal interests on flood protection measures at Roanoke Memorial Hospital and (2) reimbursement to the non-Federal sponsor of \$976,400, an amount equal to the Federal share of the costs of such work completed by the non-Federal sponsor. Such reimbursement may be applied to the non-Federal sponsor's share of the Roanoke River Upper Basin project.

Sec. 208. The project for deepening of three navigation anchorages at Norfolk Harbor, Virginia, authorized by section 301 of the River and Harbor Act of 1965 (79 Stat. 1090), shall be deemed to be authorized for construction the last day of the 5-year period beginning on the date of enactment of this Act.

Sec. 209. (a) This section may be cited as the "Rio Grande American Canal Extension Act of 1990".

(b) Congress finds the following:

(1) The Riverside Dam on the international reach of the Rio Grande River at El Paso, Texas, provides the water used to irrigate nearly 32,000 acres of farmland in the United States.

(2) In June 1987, the Riverside Dam failed, and the temporary replacement structure now in place on the river cannot be relied upon to guarantee the continued provision of these waters to the United States.

(3) Building a permanent structure in an international reach of the Rio Grande would require the conditional approval of the Government of Mexico through an action of the International Boundary and Water Commission, United States and Mexico, and Mexico could use such structure to divert waters to its own land.

(4) The United States constructed the American Dam completely in United States territory to ensure that waters from the American Canal would be completely retained within the United States up to a point below Mexico's diversion at the International Dam.

(5) Potentially disruptive international issues might arise from the commingling of the waters of the United States and the waters of Mexico in this reach of the Rio Grande, while such issues would not arise if a canal extension were constructed and operated wholly on the American side of the river.

(6) The construction and operation of an extension of the American Canal which would lie wholly in the United States would provide for a more equitable distribution of waters between the United States and Mexico, reduce water losses, and eliminate many hazards to public safety.

(c)(1) The Secretary of State (hereafter in this section referred to as the "Secretary"), acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (hereafter in this Act referred to as the "Commissioner"), shall construct an extension of the Rio Grande American Canal constructed pursuant to the Act of August 29, 1935 (49 Stat. 961), together with pumping plants, wasteways, and other facilities needed to connect such extension with existing irrigation systems, and, except as provided in subsection (b), shall operate and maintain such extension. Such extension shall lie wholly in the United States, and shall be approximately 13 miles in length, beginning at the downstream end of the current American Canal in El Paso, Texas, and extending to Riverside Heading.

(2) The Secretary, acting through the Commissioner, may enter into an agreement with the El Paso County Water Improvement District Number 1 under which the District shall operate and maintain the Rio Grande American Canal.

(3) The entity operating and maintaining the American Canal may enter into an agreement with the City of El Paso under which the City may use the Canal as a conveyance channel.

(4) Title IV of Public Law 94-423 (90 Stat. 1327; 43 U.S.C. 391 note) is hereby repealed.

(d) The Secretary, acting through the Commissioner, shall conduct a study to determine the likelihood and extent of any damage to property adjacent to the American Canal which would be caused by subsidence related to the Canal extension referred to in section 3(a), and shall submit a report to Congress detailing his findings not later

than 1 year after the date of the enactment of this Act.

(e) There are authorized to be appropriated—

(1) \$42,000,000 to construct the extension referred to in section 3(a); and

(2) such sums as may be necessary to operate and maintain the extension referred to in section 3(a) and to conduct the study referred to in section 4.

SEC. 210. (a) The Secretary of the Army is authorized to transfer to the city of Aberdeen, Washington, by quitclaim deed, all rights, interests, and title of the United States in the approximately 570.5 acres of land under the administrative jurisdiction of the Department of the Army acquired for the purposes of the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), together with any improvements thereon. Any such transfer shall be subject to the following conditions:

(1) The city shall operate, maintain, repair, replace, and rehabilitate the project in accordance with regulations prescribed by the Secretary of the Army which are consistent with the project's authorized purposes including fish and wildlife mitigation.

(2) The city shall hold and save the United States free from any claims or damages resulting from the operation, maintenance, repair, or rehabilitation of the project by the city or its contractors.

(b) The Secretary of Agriculture shall enter into agreements with the city of Aberdeen to provide the city any required rights of entry over lands under the administrative jurisdiction of the Department of Agriculture for the purposes of operating, maintaining, repairing, or rehabilitating the project.

(c) No transfer under subsection (a) of this section may be made until the Secretary has determined that the city can operate, maintain, repair, replace, and rehabilitate the project.

(d) Nothing in this section shall be construed to relieve the city of its obligations under the project contract to repay the capital costs of the project allocated to water supply, or to repay any of its obligations for operations and maintenance costs incurred prior to the effective date of the transfer of the project. The Secretary may negotiate a cash settlement to allow the city to prepay the present value of the payments for capital costs due under the contract.

SEC. 211. The project for mitigation of fish and wildlife losses, Red River Waterway, Louisiana, is hereby modified to include that the Secretary of the Army, acting through the Chief of Engineers, is authorized to acquire an additional 12,000 acres adjacent to or close to the Bayou Bodcau Wildlife Management Area.

SEC. 212. The project for flood control, Alenaio Stream, Hawaii, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4114), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated August 15, 1983, as modified by the General Design Memorandum and Environmental Assessment, dated March 1990, at a total cost of \$12,060,000, with an estimated first Federal cost of \$7,730,000 and an estimated first non-Federal cost of \$4,330,000.

SEC. 213. (a) On or before January 1, 1994, or as soon thereafter as reasonably practicable, as part of the joint Systems Operations Review by the Army Corps of Engineers,

the Bonneville Power Administration and the Bureau of Reclamation, the Chief of Engineers, the Secretary, the Administrator of the Bonneville Power Administration shall make a joint report to the Congress on the regulation of the Dworshak Dam, Idaho, including:

(1) An analysis of the current recreation and transportation usage of Dworshak Reservoir, and the potential for such usage given differing operating criteria for the dam;

(2) Identification of the annual time period during which the operating criteria for Dworshak Dam has the greatest impact on recreational and transportation usage of the reservoir;

(3) Recommendations for achieving to the greatest degree the Corps of Engineers' project purposes and suggestions for mitigating any adverse impacts on recreational and transportation usage of the Dworshak Reservoir.

(b) The Secretary shall, in cooperation with the Administrator of the Bonneville Power Administration, conduct public processes in the vicinity of Dworshak Dam, Idaho, for the purpose of keeping the public informed about projected drawdowns of Dworshak Reservoir and the reasons for such drawdowns, as necessitated by regional needs.

(c) There are authorized to be appropriated to the Secretary such sums as necessary to carry out this section.

SEC. 214. Subject to the provisions of section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary is directed to develop and implement a plan for modifying the West Fork Mill Creek Lake, Ohio, project for the purpose of improving environmental quality. Such plan shall include, subject to approval of final plans by the Secretary, removal of sediments, construction of sediment traps, and related work.

SEC. 215. Upper Mississippi River Plan. Section 1103 of the Water Resources Development Act of 1986 (Public Law 99-662), is amended—

(A) in paragraph (e)(2) by striking out ten and inserting fifteen;

(B) in paragraph (e)(3) by striking out eight and inserting thirteen;

(C) in paragraph (e)(4) by striking out nine and inserting fourteen;

(D) in paragraph (e)(5) by striking out seven and inserting twelve; and

(E) in paragraph (f)(2)(A) by striking out ten and inserting fifteen.

SEC. 216. The Secretary of the Army is authorized and directed to conduct a drought contingency study for the State of Minnesota and that part of North Dakota which is within the Red River basin for the purposes of providing plans for utilization and conservation of water within the area. The study should include appropriate consideration for protection of the nation's water resources as well as the needs of the area for water management and water availability, identify alternative courses of action during drought conditions, address such issues as system capabilities, regulatory actions, water quality, treaty constraints, institutional arrangements and recommend short and long term approaches to resolving water supply and use problems, including those that occur outside the area.

SEC. 217. The project for flood control, South Fork Zumbro Watershed at Rochester, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662), is modified to au-

thorize the Secretary to construct the project substantially in accordance with the General Design memorandum, dated September 1982, at a total cost of \$112,600,000, with an estimated first Federal cost of \$82,900,000, and an estimated first non-Federal cost of \$29,700,000.

SEC. 218. The project for flood control, Mississippi River at St. Paul, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (Public Law 99-662), is modified to authorize the Secretary to construct the project substantially in accordance with the Design Memorandum, dated March 1990, and the Recreational Supplement, dated April 1990, at a total cost of \$18,021,000, with an estimated first cost of \$10,226,000 and an estimated first non-Federal cost of \$7,795,000.

SEC. 219. Section 4(k) of the Water Resources Development Act of 1988 (Public Law 100-676), is amended: by striking out "\$6,900,000" and inserting "\$9,632,000"; by striking out "\$5,000,000" and inserting "\$7,823,000"; and by striking "\$1,900,000" and inserting "1,809,000."

SEC. 220. Notwithstanding any other provision of law, the Secretary is authorized to expand his jurisdiction above the pool regulation levels at Lake Winnibigoshish, Minnesota, for the purpose of planning and constructing, bank stabilization and/or preservation measures needed due to lake level regulation and to participate with the United States Forest Service in the funding of structural stabilization measures along the shoreline for erosion control, reduction of sedimentation, water quality, environmental considerations and fishery management.

SEC. 221. The Secretary is directed to conduct two studies on each of the six headwaters reservoirs of the Mississippi River in Minnesota as follows: one study of lake currents and the resulting siltation behavior; and a second study of the impact of lake levels on fish habitat and spawning success, especially as the lake levels are a result of the operating plan for each reservoir.

SEC. 222. The Secretary is directed to relocate the Southeast Light on Block Island, Rhode Island, to a more suitable location. There is authorized to be appropriated to the Secretary the lesser of \$970,000 or 50 per centum of the total cost of relocating the structure.

SEC. 223. The project for flood control, West Columbus, Ohio, authorized by section 3(a)(11) of the Water Resources Development Act of 1988 (Public Law 100-676), is modified to authorize the Secretary to construct the project substantially in accordance with the report of the Chief of Engineers, dated February 9, 1988, as modified by the Phase II West Columbus Local Protection Project Reevaluation Report, dated May 1990, at a total cost of \$89,600,000, with an estimated first Federal cost of \$63,700,000, and an estimated first non-Federal cost of \$25,900,000.

SEC. 224. Subject to the provisions of section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary is directed to develop and implement a plan for modifying the Arkansas Post Navigation Canal of the McClellan-Kerr Arkansas River Navigation System for the purpose of improving environmental quality. Such plan shall include, subject to approval of final plans by the Secretary, construction of a closure structure at the downstream end of the Morgan Point Bendway and related work. Sources of material for such structure may include dredged ma-

terial obtained from the Arkansas Post Canal.

Sec. 225. The San Luis Rey River flood control project, authorized pursuant to section 201 of Public Law 89-298 is modified to authorize the Secretary to construct the project at a total cost of \$60,000,000, with an estimated first Federal cost of \$41,000,000, and an estimated first non-Federal cost of \$19,000,000.

Sec. 226. The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4168) is modified to authorize the Secretary to construct the project substantially in accordance with the Post Authorization Change Report, dated April 1989, as revised on January 1990, at a total cost of \$26,200,000, with an estimated first Federal cost of \$16,090,000, and an estimated first non-Federal cost of \$10,110,000.

Sec. 227. (a) Upon approval of a Local Cooperative Agreement between the Assistant Secretary of the Army for Civil Works and the City of Virginia Beach, Virginia, for beach nourishment in accordance with section 934 of the Water Resources Development Act of 1986 (Public Law 99-662), the Local Cooperation Agreement shall be effective from February 6, 1987.

(b) The Assistant Secretary of the Army for Civil Works is hereby authorized to reimburse the City of Virginia Beach for the Federal share of beach nourishment in accordance with section 103(c)(5) of the Water Resources Development Act of 1986.

Sec. 228. (a) Title II of Public Law 97-137 is amended to authorize the Secretary to participate with the State of Indiana and other non-Federal interests in the design and construction of an interpretive center for the Falls of Ohio National Wildlife Conservation Area, at a total cost of \$3,200,000. Design and construction of this center are to be cost-shared in accord with section 103(c)(4) of Public Law 99-662.

(b) Sections 204 and 205 of Public Law 97-137 are amended to authorize the Secretary to acquire additional real estate interests sufficient to include the visitor center facility in National Wildlife Conservation Area and to enter into an agreement with non-Federal interests to provide for non-Federal operation and maintenance of the facility upon completion.

(c) The non-Federal share of construction costs of the visitor facility shall be reduced by the value of real estate acquired by non-Federal interests and provided without cost to the Federal Government for the interpretive center facilities. Credit shall be given for the market value of the real estate at the time of construction of the facility.

Sec. 229. Subject to the provisions of section 1135 of the Water Resources Development Act of 1986 (Public Law 99-662), the Secretary is directed to develop and implement a plan for Secretary is directed to develop and implement a plan for modifying the channel by-pass element of the Levisa Fork, Kentucky project for the purpose of water quality improvement in and restoration of Pikeville Lake, Kentucky. Such plan shall include, subject to approval of final plans by the Secretary, design and construction of a sewage collection system and related infrastructure, lake restoration, including elimination of stagnant water, and other measures necessary for water quality improvement.

Sec. 230(a) Subject to the condition stated in subsection (b) and notwithstanding the Federal Property and Administrative Serv-

ices Act 1949 (40 U.S.C. 471 et seq.) and section 108 of the River and Harbor Act of 1960 (33 U.S.C. 578), the Secretary of the Army shall release to Clay County, Georgia, without reimbursement, the reversionary interest of the United States in approximately 50 acres of land in the deed described in subsection (c).

(b)(1) The condition referred to in subsection (a) is that Clay County, Georgia, agree to an amendment of the deed described in subsection (c) by which the reversionary interest that is released pursuant to subsection (a) is replaced with a reversionary interest as described in paragraph (2).

(2) The deed described in subsection (c) shall be amended to provide that the property conveyed by the deed is subject to the condition and restriction that it is to be used and enjoyed solely for the development of a retirement community, as that term may be defined by the parties in the instrument described in subsection (d), operated on a nonprofit basis by Clay County, Georgia, and its successors and assigns, or under a lease arrangement between the County and the South Georgia Methodist Home for the Aging, Inc., and that if the property is used for any other purpose, title to the property, including any improvement, shall revert to the United States.

(c) The deed referred to in subsections (a) and (b) is the quitclaim deed dated October 22, 1963, by which the United States conveyed to Clay County, Georgia, the parcel of land lying in land lots 263 and 264, Seventh Land District, Clay County, Georgia.

(d) The Secretary of the Army and Clay County, Georgia, shall execute and file in the appropriate office an amendment of deed, amended deed, deed of release, or other appropriate form of instrument or instruments effecting the substitution of reversionary interest authorized by this section.

TITLE III—GENERAL PROVISIONS

Sec. 301. (a) Prior to implementing any proposed change in the criteria used by the Secretary in determining whether to proceed with activities associated with the study, design, construction, or operation of a water resources development project, the Secretary shall make the proposed change available for review by interested members of the public for a period of not less than forty-five days. Following such period, the Secretary shall transmit the proposed change, along with any comments received on the proposal resulting from such review, for informational purposes for a period of not less than thirty days to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.

(b) The provisions of subsection (a) of this section shall apply to all Corps of Engineer "Engineer Regulations" and Project Operation Plans.

(c) The Secretary shall not implement changes in criteria on any activity associated with the study, design, or construction of a water resources development project (provided the criteria itself would preclude further Federal participation on such activity) if, prior to final issuance of such criteria, a non-Federal sponsor has entered into an agreement with the Secretary which includes a requirement for a non-Federal cash contribution toward the study, design, or construction of such project pursuant to title I of the Water Resources Development Act of 1986 (Public Law 99-662).

Sec. 302. (a) Whenever the Secretary reviews a water resource development project of the Corps of Engineers pursuant to Engineer Regulation 1165-2-123 dated August 31, 1989, the Secretary shall transmit to the project sponsor an economic analysis of the national economic development benefits used to develop the project benefit to cost ratio which have been found to accrue to a "single owner" or "single entity". Such analysis shall include at a minimum the average annual benefits which will pass to such "single owner" or "single entity", the percentage of total national economic development benefits which will accrue to such "single owner" or "single entity", and a monetary accounting of how such "single owner" or "single entity" will aggrandize these national economic development benefits to itself.

(b) No public use or publicly owned facility is deemed to be a "single owner" or "single entity" for purposes of Engineer Regulation 1165-2-123 dated August 31, 1989.

(c) Whenever project benefits are deemed to accrue to project beneficiaries in an unacceptable manner by the Secretary pursuant to any Engineer Regulation or provision of law the Secretary shall provide to the project sponsor an economic analysis of this condition identical in scope to that outlined in subsection (a) of this section.

Sec. 303. Section 105(b) of the Water Resources Development Act of 1986 (Public Law 99-662), is amended by adding at the end thereof the following: "This subsection shall not apply to planning and engineering of projects for which the non-Federal interests contributed fifty percent of the cost of the feasibility study."

Sec. 304. Section 402 of the Water Resources Development Act of 1986 (Public Law 99-662), is amended by adding at the end thereof the following sentence at the end of the section: "The recommended level of protection for a Corps of Engineers flood control project shall be that level of protection which maximizes national economic development benefits or the 100-year level of protection if the benefits of providing the 100-year level of protection exceed its costs, whichever provides the greater level of protection."

Sec. 305. Section 101 of the Water Resources Development Act of 1986 (Public Law 99-662), is amended by adding at the end thereof the following new subsection:

"(f) MILITARY BENEFITS.—The Secretary shall reduce proportionally the percentage share of navigation project costs required of the non-Federal sponsor of such project equivalent to the percentage of direct benefits of the navigation improvements which are credited to agencies of the Armed Forces of the United States."

Sec. 306. Section 33 of the Water Resources Development Act of 1988 is amended by inserting "acquisition of real property and associated improvements (from willing sellers), and monetary compensation to affected landowners" after "including maintenance and rehabilitation of existing structures."

Sec. 307. (a) The Secretary is directed, within one year of the date of enactment of this Act, to establish procedures to determine the ability of a non-Federal interest to pay the required cash contribution under a cost sharing agreement for a flood control or agricultural water supply project pursuant to section 103(m) of the Water Resources Development Act of 1986 (Public Law 99-662).

(b) The procedures established pursuant to subsection (a) shall determine the eligibility of a project sponsor for a reduction in the cash contribution required on the basis of local and not Statewide economic data such as, but not necessarily limited to, per capita county income.

(c) The procedures established pursuant to subsection (a) shall determine the degree to which a project sponsor shall receive a reduction in the cash contribution required on the basis of the sponsor's financial capacity.

(d) Nothing in this subsection shall be deemed to diminish the requirements of a non-Federal interest to contribute all necessary lands, easements, rights-of-way and relocations required for such project.

(e) All existing rules, regulations, and management procedures relating to the determination of the ability-to-pay of a non-Federal interest pursuant to section 103(m) of the 1986 Water Resources Development Act are hereby declared to be null and void.

Sec. 308. (a) For purposes of this section—
(1) the term "water control manual" shall refer to all multi-year, master operating manuals for management of projects and project systems. This term shall include drought management plans developed for implementation during periods of low water flows, but shall not include any emergency plans implemented pursuant to a Presidentially declared drought emergency.

(2) the terms "authorized purposes" and "congressional authorization" shall refer to the specific project purposes to which benefits were assigned in the cost-benefit analysis upon which Congress based its authorization of the project.

(3) the term "cost-benefit analysis" shall refer to the analysis of costs and benefits relied upon by Congress in authorizing each project, or any subsequent analysis upon which repayment of reimbursable benefits/costs has been established, and to any analysis of costs and benefits required by this Act.

(4) the term "non-authorized uses" shall refer to all project uses not assigned a dollar value in the original cost-benefit analysis relied upon by Congress in authorizing such project or in subsequent congressional review of project cost responsibility.

(5) the term "project" shall refer to a federally authorized water resource development project undertaken or to be undertaken under the supervision and direction of the Secretary.

(b) In developing a proposal to change the operation of a project from the operation established in accordance with existing congressional project authorization in the then existing water control manual, in addition to the requirements of the National Environmental Policy Act, as amended (42 U.S.C. 4321 et seq.) the Secretary shall—

(1) solicit comments from the appropriate Federal, State, local, and regional agencies in States affected by such change, and from interested persons who are or could be impacted by project regulation. Copies of such comments shall be made a part of the comprehensive statement required by paragraph (2), shall be made available to the public as provided by section 552 of title 5, United States Code, and shall accompany the proposed change through the existing agency review process; and

(2) prepare a comprehensive statement prior to implementation of the proposed change which sets forth—

(A) the justification for such proposed change, including the research, analysis and the information in support of the need for;

and the probable effect of, the proposed change;

(B) the authority to make such a proposed change pursuant to such project's congressional authorization;

(C) all reasonable alternatives to the proposed change;

(D) any changes in or impacts upon the authorized project purposes caused by the proposed change, or any of the alternatives available to accomplish the intended result; *Provided*, That for purposes of determining the impact of the proposed change on hydropower generation, the Secretary shall consult with the Administrator of the appropriate power marketing administration, and shall include in such statement the Administrator's calculation of the impact of the proposed change on power customers' rates, contracts, and replacement power requirements;

(E) the cost-benefit analysis of the proposed change computed in accordance with the then applicable guidelines establishing standards and procedures for use by Federal agencies in formulating and evaluating alternative plans for water and related resources implementation studies, in comparison to the cost-benefit analysis upon which Congress authorized the project; and

(F) the effect of the proposed change on the then-current project repayment schedule, including an identification of the source of the revenue for any new or additional repayment and a recommendation for appropriate compensation for losses of project benefits by authorized reimbursable project purposes; provided that for purposes of determining the impact of the proposed change on repayment by hydropower customers and the value of losses of hydropower benefits the Secretary shall consult with the Administrator of the appropriate power marketing agency and shall adopt such Administrator's calculation of such impact and value of losses.

(c)(1) Upon completion of the detailed statement, if the Secretary determines to implement the proposed change, the Secretary, prior to such implementation, shall submit a report to Congress, which shall include the detailed statement and a recommendation for legislation to amend the project authorization to permit the Corps to undertake the proposed change to project operations, if the proposed change will—

(A) affect any of the authorized purposes of the project; or

(B) alter the benefits and/or the payment responsibility upon which the project was authorized by Congress.

(2) A proposed change shall be deemed to affect an authorized purpose if such change will not be fully compensated without cost to the Federal Treasury or if there will be any loss of project benefits by the authorized project beneficiaries.

(d) If the Secretary finds that a report to Congress on the proposed change is not required, he must publish this decision in the Federal Register and shall include a statement as to the basis for the decision, and a report detailing that (1) the proposed change does not impact authorized project purposes, and (2) there will be no loss of project benefits by the authorized beneficiaries.

(e) The Secretary shall—

(1) review administrative regulations, and current policies and procedures for the purpose of determining whether there are any deficiencies or inconsistencies therein which prohibit full compliance with the purposes and provisions of this Act, and not later

than one year from the date of enactment of this Act shall adopt administrative regulations, policies, and procedures as may be necessary to bring its authority and policies into conformity with the intent, purposes, and procedures set forth in this Act; and

(2) review existing water control plans and provide a report detailing the consistency of such plans with the project's authorizing statutes, as amended, not later than five years from the date of enactment of this Act, except for the plans which have reduced or will reduce the benefits of current contracts, for which such review and report shall be made within two years.

(f) Nothing in this Act shall permit the Secretary to make changes in project operations which extend beyond each project's specific congressional authorization.

Sec. 309. (a) Notwithstanding any other provision of law, it shall be the role of the Secretary to—

(1) undertake research and development on such technology, or provide for such; and
(2) design, construct, test and evaluate various prototypes, including a full-scale prototype system which, after final testing, shall be converted to a commercial system, or provide for such.

(b) The Secretary is authorized, in partnership with the Department of Transportation, and in coordination with the Department of Energy, the Environmental Protection Agency, and other interested Federal agencies, to conduct research and development associated with the development and implementation of a pilot program for an advanced Magnetic Levitation High Speed Transportation System (MAGLEV).

(c) To develop concept designs for such systems, the Secretary is authorized to collaborate with non-Federal entities, including State and local governments, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under laws of any of the several States of the United States or the District of Columbia.

(d) In carrying out this action, the Secretary may enter into contracts or cooperative research and development agreement as defined by section 12 of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3710a), except that the Secretary may fund up to 75 percent of the cost of each collaborative research and development project undertaken.

(e) The research, development and use of any technology developed under an agreement pursuant to this section, including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wylder Technology Innovation Act of 1980 (15 U.S.C. 3701-3714). In addition, the Secretary may require the non-Federal entity to certify that such research and development shall be performed substantially in the United States, and that products embodying inventions made under an agreement pursuant to this section or produced through the use of inventions will be manufactured substantially in the United States.

(f) The Secretary shall prepare periodic reports on the progress made pursuant to this section, and shall submit such reports to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives within one year of the date of enactment of this Act and each year thereafter.

(g) There are hereby authorized to be appropriated such sums as may be necessary to carry out this section.

Sec. 310. For the purpose of providing flood control benefits in the United States, the Secretary, on behalf of the United States and in consultation with the Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico, (hereinafter the Commission) is authorized to cooperate with the Government of Mexico and to transfer to the Commission the funds necessary to provide for associated construction, operation, and maintenance of flood warning gages in Mexico as may be allowed under such international agreements as may be concluded between the United States and Mexico.

Sec. 311. Section 3036(d)(2) of title 10, United States Code, is amended by striking it in its entirety and replacing it with the following:

"(2) Under the supervision of the Secretary, the Chief of Engineers may accept orders to provide services to another department, agency, or instrumentality of the United States or, on a reimbursable basis, to a State or political subdivision of a State, an Indian tribe, a territory or possession of the United States, or the Commonwealths of Puerto Rico and the Northern Mariana Islands. The Chief of Engineers may provide any part of those services by contract. Services may be provided to a State or a political subdivision of a State, an Indian tribe, a territory or possession of the United States, or the Commonwealths of Puerto Rico and the Northern Mariana Islands only if—

"(A) the services are consistent with the missions of the Chief of Engineers; and,

"(B) if the work to be undertaken on behalf of non-Federal interest involves Federal assistance, the head of the department or agency providing Federal assistance for the work does not object to the provision of services by the Chief of Engineers."

Sec. 312. The Secretary is authorized to accept orders to provide work or services to corporations, partnerships, limited partnerships, consortia, public, and private foundations, or non-profit organizations operating within the United States, a territory or possession of the United States, or the Commonwealths of Puerto Rico and the Northern Mariana Islands: *Provided*, That such entities furnish in advance of fiscal obligation by the United States such funds as are necessary to cover any and all costs of such work or services: *And provided further*, That, prior to providing any such work or services, the Secretary, must first determine that the work or services to be provided are within the Civil Works mission of the Corps of Engineers and are in the public interest. The Secretary may provide such work or services, or any part thereof, by contract; however, prior to the Secretary providing any such work or services to any such entity, the entity must—

(1) certify to the Secretary that provision of such work or services is not otherwise reasonably and expeditiously obtainable from the private sector; and

(2) agree to hold and save the United States free from any damages due to any planning, design, construction, operation, or maintenance activities related to the work or services.

Sec. 313. (a) The Secretary is authorized to prepare a report on the implementation of cost recovery mechanisms at Corps of Engineers recreation areas and is directed to provide such report to the Committee on

Environment and Public Works of the Senate and to the Committee on Public Works and Transportation of the House within six months of the day of enactment of this Act.

(b) The report authorized in the preceding subsection shall include:

(1) A determination of all recreation areas where cost recovery user charges will be made; and

(2) A determination of the type and size of the user charge at each recreation area.

Sec. 314. Section 22 of the Water Resources Development Act of 1974, Public Law 93-251, as amended (42 U.S.C. 2952d-16), is further amended by—

(1) redesignating subsections (b) and (c) as (c) and (d), respectively; and

(2) inserting a new subsection (b) as follows:

"(b) For the purpose of recovering 50 percent of the total cost of providing assistance pursuant to this section, the Secretary of the Army is authorized to establish appropriate fees, as determined by the Secretary, and to collect such fees from States or other non-Federal public bodies designated by the States. The Secretary shall phase in the cost sharing program by recovering approximately (1) 10 percent of the total cost of providing assistance in the fiscal year 1991; (2) 30 percent of the total cost in the fiscal year 1992; and (3) 50 percent of the total cost in the fiscal year 1993 and each of the succeeding fiscal years. The fees shall be deposited into the Federal account entitled, 'Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)' and shall be available until expended to carry out this section."

Sec. 315. Section 206 of the Flood Control Act of 1960, Public Law 86-645, as amended (33 U.S.C. 709a), is further amended by—

(1) redesignating subsection (b) as (c); and

(2) inserting new subsection (b) as follows:

"(b) The Secretary of the Army is authorized to establish and collect fees from Federal agencies and private individuals, including individuals for the purpose of recovering the cost of providing services pursuant to this section. Funds collected pursuant to this section shall be deposited into the Federal account entitled 'Contributions and Advances, Rivers and Harbors, Corps of Engineers (8862)' and shall be available until expended to carry out this section. No fees shall be collected from State, regional or local governments or other non-Federal public agencies for services provided pursuant to this section."

Sec. 316. Section 210 of the Water Resources Development Act of 1986 (Public Law 99-662), is amended by deleting all of subsection (a)(2) from "not more than" through "United States", and inserting in lieu thereof the following: "not more than one hundred percent of the eligible operation and maintenance costs assigned to commercial navigation of all harbors and inland harbors within the United States. The eligible operation and maintenance costs of such harbors includes all necessary dredged material management and disposal costs, including studies, monitoring, structures required for disposal, and any alternative method of disposal."

Sec. 317. Section 5(a) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941, as amended (33 U.S.C. 701n), is further amended by striking "flood emergency preparation" in the first sentence and inserting in lieu thereof "preparation for emergency response to any national disaster".

aration for emergency response to any national disaster".

Sec. 318. (a) Section 204(c) of the Water Resources Development Act of 1986 (Public Law 99-662), is amended by adding after the first sentence the following new sentence: "The Secretary is further authorized to complete and transmit to the appropriate non-Federal interest any study for improvement to harbors or inland harbors of the United States that is initiated pursuant to section 107 of the River and Harbor Act of 1960 (Public Law 86-645), as amended, or, upon request of such non-Federal interest, to terminate such study and transmit such partially completed study to the non-Federal interest."

(b) Section 204(e)(1) (under "REIMBURSEMENT.—") of the Water Resources Development Act of 1986 (Public Law 99-662), is amended by—

(1) adding "including any small navigation project approved pursuant to section 107 of the River and Harbor Act of 1960 (Public Law 86-645), as amended," after "or separable element thereof," and

(2) adding "(or, in the case of a small navigation project, after completion of a favorable project report by the Corps of Engineers)" after "authorization of the project" in subsection (A).

Sec. 319. (a) The New York Harbor collection and removal of drift project is modified to authorize the Secretary to collect and remove all floating material whenever the Secretary is collecting and removing debris which is an obstruction to navigation.

(b) There are hereby authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

Sec. 320. (a)(1) The Director of the Geological Survey (hereinafter referred to in this section as the "Director") shall conduct a study of the water quality of the Mississippi River.

(2) In conducting such study, the Director is authorized to consult with, and request the assistance of, the Fish and Wildlife Service, the Environmental Protection Agency, and the United States Army Corps of Engineers and appropriate States.

(3) The Director shall enter into a planning period during which he shall consult with such Federal agencies and States to develop a framework for the study. The framework for the study shall be completed within 120 days following the date of the enactment of this Act.

(4) The Director shall report the results of such study, together with his findings and recommendations, to the Congress on or before December 31, 1992.

(b) There is authorized to be appropriated \$2,000,000 to carry out the study authorized by this section.

Sec. 321. (a) Section 1135(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note), is amended by deleting "before the date of enactment of this Act".

(b) Section 1135(b) of such Act as amended is further amended by (1) deleting "demonstration program in the five-year period beginning on the date of enactment of this Act" and inserting in lieu thereof "program" and (2) deleting "before the date of enactment of this Act".

(c) Section 1135(d) of such Act as amended is deleted in its entirety and replaced with the following: "(d) Beginning in 1992 and every two years thereafter, the Secretary shall transmit to Congress a report on the results of reviews conducted under subsection (a) and on the program conducted under subsection (b)".

(d) Section 1135(e) of such Act as amended is further amended by deleting "\$25,000,000 to carry out this section." and inserting in lieu thereof "\$15,000,000 annually to carry out this section."

SEC. 322. The Flood Control Act of 1941, as amended (33 App. U.S.C. 701n), is further amended by deleting the period at the end of the first sentence of subsection (a)(1) and inserting the following: "or for emergency dredging for restoration of authorized project depths for Federal navigable channels and waterways made necessary by flood, drought, earthquake, or other natural disaster."

SEC. 323. Section 403 of the Appalachian Regional Development Act of 1965 (40 U.S.C. App. 403) is amended by inserting "Columbiana," after "Carroll, Clermont,".

TITLE IV—ZEBRA MUSSEL CONTROL ACT

SECTION 401. SHORT TITLE.

This title may be cited as the "Zebra Mussel Control Act of 1990".

SEC. 402. DEFINITIONS.

For the purpose of this Act—(a) The term "Secretary" means the Assistant Secretary of the Army for Civil Works.

(b) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(d) The term "Zebra Mussel" means the species *Dreissena polymorpha*.

SEC. 403. FINDINGS.

The Congress finds that—

(1) the Zebra Mussel is a filter feeding mollusk that reproduces rapidly, and can attach itself in large numbers to fixed objects including ships, pipes, buoys, and canals;

(2) the Zebra Mussel is native to temperate freshwater habitats of the Black, Caspian, and Azov Seas in Southern Asia; canals built during the late 18th century allowed the species to expand in to Western Europe, covering much of Western Europe by the 1830's;

(3) the Zebra Mussel is believed to have arrived in North America in the ballast water of a ship arriving from Europe in the summer of 1986, and the first sightings were in Lake St. Clair and the St. Clair River which connects Lake Erie and Lake Huron;

(4) By 1990 the infestation had spread eastward through Lakes Erie and Ontario and into the St. Lawrence River, and westward into Green Bay and Lake Michigan;

(5) it is likely that within the coming two decades, the Zebra Mussel will have infested the entire surface water system of the United States and Canada; and that this migration is irreversible and cannot be quarantined;

(6) the initial effect of the Zebra Mussel will be on fisheries, and its larger impact will be on water supply systems and power generating plants;

(7) new facility designs and new maintenance practices will be required to limit Zebra Mussels and prevent the species from reducing the performance of many types of public and private facilities; and

(8) the United States Fish and Wildlife Service has estimated that the Zebra Mussels in the Great Lakes will cost \$5 billion over the next ten years.

SEC. 404. PURPOSE.

The purpose of this Act is to establish a program of research and technology development for the management and removal of Zebra Mussels from public infrastructure facilities.

SEC. 405. RESEARCH AND DEVELOPMENT.

(a) The Secretary, in consultation with the Director of the United States Fish and Wildlife Service, and the Administrator of the Environmental Protection Agency, shall develop a program of research and technology development for the control of Zebra Mussels in and around public infrastructure facilities.

(b) The Secretary shall collect and make available, through publications and other appropriate means, information pertaining to management practices and implementation methods for reducing Zebra Mussel accumulation and infestation in public infrastructure facilities.

(c) The Secretary shall report as necessary to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Environment and Public Works of the Senate on work undertaken pursuant to this subsection. The Secretary shall submit to such Committees a final report on the results of such research and design, along with recommendations for further measures.

SEC. 406. ZEBRA MUSSEL MANAGEMENT PROGRAM.

(a) The Governor of each State may, after notice and opportunity for public comment, prepare and submit to the Secretary for approval a management plan which identifies those public infrastructure facilities which need financial and technical assistance in order to maintain operations.

(b) Each such plan shall, to the extent possible, identify the management practices and measures which will be undertaken to reduce Zebra Mussel infestation and shall include—

(1) a description of the process, including intergovernmental coordination and public participation, for identifying best management practices and measures;

(2) an identification and description of State and local programs for controlling and eradicating Zebra Mussels; and

(3) a schedule containing annual milestones for utilization of the program.

(c) In developing and implementing a management plan pursuant to this Act, a State shall, to the maximum extent practicable, involve local public and private agencies and organizations which have expertise in control of Zebra Mussels.

(d) Upon request of a State, the Secretary may provide technical assistance to such State in developing a management plan.

SEC. 407. GRANT PROGRAM.

(a) Upon application of a State for which a plan submitted under subsection 406 has been approved by the Secretary, the Secretary may make grants to such State for the purpose of assisting the State in implementing such management program.

(b) An application for a grant under this subsection in any fiscal year shall be in such form and shall contain such information as the Secretary may require, including an identification and description of the best management practices and measures which the State proposes to assist, encourage, or require in such year with the Federal assistance to be provided under the grant.

(c) The Federal share of the cost of each management program implemented with Federal assistance under this section in any fiscal year shall not exceed 50 percent of the cost incurred by the State in implementing such management program and the non-Federal share of such costs shall be provided from non-Federal sources.

(d) For purposes of this Act, administrative costs in the form of salaries, overhead, or indirect costs for services provided and

charged against activities and programs carried out with a grant under this Act shall not exceed in any fiscal year 5 per centum of the amount of the grant in such year.

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

(a) For the purposes of carrying out section 405 of this Act, there is authorized to be appropriated to the Secretary of the Army \$2,500,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995. Such sums shall remain available until expended.

(b) For the purpose of carrying out section 407 of this Act, there is authorized to be appropriated to the Secretary of the Army \$5,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995. Such sums shall remain available until expended.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WATER RESOURCES RESEARCH ACT

Mr. NUNN. I ask unanimous consent that the Environment and Public Works Committee be discharged from further consideration of H.R. 1101, to extend the authorization for the Water Resources Research Act, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1101) to extend the authorization of appropriations for the Water Resources Research Act of 1984 through the end of fiscal year 1994.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2488

(Purpose: To extend the act through 1995, and for other purposes)

Mr. HATFIELD. Mr. President, on behalf of Senators CHAFFEE and DOMENICI, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] for Mr. CHAFFEE (for himself and Mr. DOMENICI) proposes an amendment numbered 2488.

Mr. HATFIELD. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 3, strike all after "1." through page 7, line 17, and insert in lieu thereof the following:

WATER RESEARCH INSTITUTES

(a) Section 103(5) of the Water Resources Research Act of 1984 (42 U.S.C. 10302(5)) is amended by deleting "coordinate more ef-

fectively" and inserting in lieu thereof: "to promote more effective coordination of".

(b) Section 104(a) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(a)) is amended by changing "Trust Territory of the Pacific Islands" to "Federated States of Micronesia".

(c) Section 104(b) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)) is amended by inserting in the last sentence after the phrase "for the purpose of" the following "promoting".

(d) Section 104(b)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(b)(1)) is amended to read as follows:

"(1) plan, conduct, or otherwise arrange for competent research that fosters (A) the entry of new research scientists into the water resources fields, (B) the training and education of future water scientists, engineers, and technicians, (C) the preliminary exploration of new ideas that address water problems or expand understanding of water and water-related phenomena, and (D) the dissemination of research results to water managers and the public, and".

(e) Section 104(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(c)) is amended by deleting the period at the end thereof and inserting in lieu thereof "and thereafter, such sums to be used only for the reimbursement of the direct cost expenditures incurred for the conduct of the water resources research program."

(f) Section 104(e) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(e)) is amended to read as follows:

"(e) The Secretary shall conduct a careful and detailed evaluation of each institute at least once every 5 years to determine that the quality and relevance of its water resources research and its effectiveness as an institution for planning, conducting, and arranging for research warrants its continued support under this section. If, as a result of any such evaluation, the Secretary determines that an institute does not qualify for further support under this section, then no further grants to the institute may be made until the institute's qualifications are re-established to the satisfaction of the Secretary."

(g) Section 104(f)(1) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(1)) is amended by deleting "September 30, 1985, through September 30, 1989" and inserting in lieu thereof "September 30, 1989, through September 30, 1995."

(h) Section 104(f)(2) of the Water Resources Research Act of 1984 (42 U.S.C. 10303(f)(2)) is amended by deleting "section 106 of this Act" and inserting in lieu thereof "section 104(g) of this Act".

(i) Section 105(a)(3) of the Water Resources Research Act of 1984 (42 U.S.C. 10304(a)(3)) is repealed.

(j) Section 105(c) of the Water Resources Research Act of 1984 (42 U.S.C. 10304(c)) is amended by:

(1) striking "\$20,000,000" and inserting in lieu thereof, "\$10,000,000"; and

(2) striking "1989" and inserting in lieu thereof, "1995".

(k) Section 108(6) of the Water Resources Research Act of 1984 (42 U.S.C. 10307(6)) is amended by inserting immediately after "depletion" a comma and the word "contamination".

(l) Section 108(8) of the Water Resources Research Act of 1984 (42 U.S.C. 10307(8)) is amended by inserting immediately after "water" the words "quality and quantity".

(m) Section 104 of the Water Resources Research Act of 1984 (42 U.S.C. 10303) is amended by adding the following:

"(g)(1) There is further authorized to be appropriated to the Secretary of the Interior the sum of \$5,000,000 for each of the fiscal years 1991, 1992, 1993, 1994, and 1995 only for reimbursement of the direct cost expenses of additional research or synthesis of the results of research by institutes which focuses on water problems and issues of a regional or interstate nature beyond those of concern only to a single State and which relate to specific program priorities identified jointly by the Secretary and the institutes. Such funds when appropriated shall be matched on a not less than dollar-for-dollar basis by funds made available to institutes or groups of institutes, by States or other non-Federal sources. Funds made available under this subsection shall remain available until expended.

"(2) Research funds made available under this subsection shall be made on a competitive basis subject to the merit of the proposal, the need for the information to be produced, and the opportunity such funds will provide for training of water resources scientists or professionals."

(n) Section 106 of the Water Resources Research Act of 1984 (42 U.S.C. 10305) is amended to read as follows:

"SEC. 106. (a)(1) The Secretary shall make grants in addition to those authorized under sections 104 and 105 for technology development concerning any aspect of water resources including water-related technology which the Secretary may deem to be of State, regional, or national importance. Activities funded under this section may be carried out by educational institutions, private firms, foundations, individuals, or agencies of State or local government. Care shall be taken to protect proprietary information of private individuals or firms associated with the technology.

"(2) The Secretary may establish any condition for the matching of funds by the recipient of any grant or contract under this section which the Secretary considers to be in the best interest of the Nation considering the information transfer and technology needs of the Nation. However, in the case of institutes established by section 104 of this Act no match greater than that required under section 104 may be required.

"(b) Each application for a grant under this section shall state the nature of the project to be undertaken, the qualifications of the personnel who will direct and conduct it, facilities of the organization performing any technology development, the importance of the project to the Nation, region, and State concerned, and the potential benefit to be accrued.

"(c) There is authorized to be appropriated to the Secretary the sum of \$6,000,000 for the purpose of carrying out this section for each of the fiscal years ending September 30, 1990, through September 30, 1995; such sums to remain available until expended."

(o) Section 309(a) of the Water Resources Research Act of 1984 (42 U.S.C. 10301 et al.), as amended, is further amended by deleting "1991" and inserting in lieu thereof "1995".

SEC. 2. (a) The Secretary of the Interior, in consultation with the Secretary of Agriculture and the Administrator of the Environmental Protection Agency, is authorized to enter into contracts or cooperative agreements, as the Secretary deems appropriate, with national laboratories (including Los Alamos National Laboratory) to carry out water resources research, development, and demonstration projects within the authori-

ties of Public Law 98-242 (including the effects of potential climate changes on surface and ground water quality and quantity and the elimination of contamination of ground water aquifers.)

(b) The water resources research authorized in this section shall be undertaken under such rules and regulations as the Secretary deems appropriate and shall be carried out in close consultation and collaboration with the institutes established pursuant to Public Law 98-242, to the extent such research work affects the State in which the institute exists, and to the extent such institute agrees to consult and collaborate.

(c) For the purposes of carrying out this section, there is authorized to be appropriated to the Secretary of the Interior the sum of \$10,000,000 for each of the fiscal years 1991 and through 1995.

Mr. CHAFEE. Mr. President, I am pleased to join with Senator DOMENICI in offering this substitute amendment to H.R. 1101, a bill to extend the authorization of the Water Resources Research Program. The program, as you know, is managed by the U.S. Geological Survey and provides grants to water research institutes across the country.

Institute sponsored research covers the full spectrum of water issues from surface to ground water quality to water supply as well. In my home State, the Research Act has supported research proposals from individual researchers, the University of Rhode Island, Brown University, and Providence College. Surface water quality is a topic of special interest in Rhode Island as a majority of the State's water is supplied by a single reservoir in scituate.

Mr. President, it is imperative that the Federal Government participate with States in water research. At a time when cities and towns across the country face drought situations and contamination of water resources, there must be a decentralized network in place to coordinate water research and examine long range water planning solutions. The Institutes Program does just that.

Our amendment is straightforward and reauthorizes the Institutes Program through fiscal year 1995. The program was originally authorized for 5 years when it was approved over the President's veto in 1984. That authorization, however, expired in September 1989.

Specifically, the amendment provides \$10 million for each fiscal year to the water institutes on a 2-for-1 local/Federal match. The amendment, thus, continues the current matching requirements in contrast to the House approved bill which authorized a 1-for-1 funding mechanism. I might add that the administration supports maintaining the current law's matching requirements for these noncompetitive grants. In addition, the amendment continues the Competitive Grant Program which is open to the

institutes as well as other qualified educational institutions, private foundations, firms and individuals. The amendment also continues a \$6 million per fiscal year Technology Development Program and authorizes a new \$5 million per year program for the study of interstate and regional water problems by the institutes. Finally, the amendment includes a new section authorizing a \$10 million a year program involving the national laboratories in the study of water resources problems, including the effects of potential climate changes on surface and ground water quality. It is critical that we utilize these national resources in the research effort.

Mr. President, this amendment reauthorizes a worthwhile program benefiting not just one State or region, but the whole country. I thank my colleague Senator DOMENICI for his work on this amendment and urge my colleagues to support it.

Mr. DOMENICI. Mr. President, I am proud to join with my good friend, the distinguished Senator from Rhode Island [Mr. CHAFEE], in supporting this important amendment to reauthorize the Federal Water Resources Research Program through 1995.

While small in dollars, this is an important program, one on which I have had the honor to work since I first came to the Senate in 1973.

Let me describe some of the specifics of this legislation, which I believe is so very important.

The key component of the program is section 104 of the existing act, which authorizes Federal assistance to the water resources institutes established in each of the States.

This amendment and bill continues this support at the same dollar level and the same matching level as existing law authorizes during the present fiscal year.

The current match is two non-Federal dollars for each Federal dollar contributed. I know that many leaders within the institute community have urged a return to the 1-for-1 match, which existed in the early years of this program.

But I would point out three distinct advantages to adoption of the 2-for-1 match, which this bill does:

It attracts additional funds into an important program for the same level of Federal commitment.

The 2-for-1 match is supported strongly by the administration. In fact, in its "Statement of Administration Policy," issued on June 1, 1989, the White House very specifically urged the Congress to "maintain the current law's non-Federal matching requirement for section 104 noncompetitive university water research institute grants."

The agreement to move gradually from a 1-to-1 match to the present 2-for-1 match was very important, in my

view, in the decision by the Congress in 1984 to override President Reagan's veto of the reauthorization of this program.

I believe it is fair to say that without this gradual phasing down of the Federal level of institute assistance, the Congress would have not been able to muster the votes to override the veto, and this program simply would not exist today.

Therefore, this provision continuing the existing cost sharing under section 104, while different from the House bill, may be vital to continuation of the program into the 1990's.

The other aspects of the Chafee-Domenici amendment are quite similar to provisions already passed by the House in H.R. 1101.

These include the \$20 million per year authorized for continuation of the section 105 competitive research grants, open to the institutes as well as others. The match for these grants continues to be 1-for-1.

The bill also includes a \$6 million-a-year Technology Development Program, the same as existing law.

The bill includes a new \$5 million-a-year program, at a 1-for-1 match to enable the institutes to study regional and interstate problems. This is a House proposal, and I endorse it.

Finally, the amendment includes a new provision, section 2 of the amendment, which I endorse with enthusiasm. This section authorizes major new water resource studies of a regional, even national scope.

The purpose of this section is to involve the national laboratories of the U.S. Government in the work of the Water Resources Program: I should point out to my colleagues that the Los Alamos National Laboratory has created an expertise that fits in well with the basic thrust of the Water Resources Research Act.

The House version of this legislation, H.R. 1101, has passed with a provision similar in intent to this section. The House version authorizes two very specific studies:

An examination of global warming in relation to water quantity and river flows.

A study of ground water contamination and methods that could be tested to prevent further spread of the contamination, and ways that might be employed to recover existing polluted aquifers.

The language of section 2 is less precise. It authorizes the work of the national labs, but it does so within the context of the types of other water research authorities within the basic act. I believe that is a wise modification.

Unlike other portions of the bill, section 2 would be fully funded by the Federal Government because it is seen as an opportunity to involve the great scientists working in our national laboratories in these and other vital water resources studies.

Another difference with the House bill is the addition of language that ensures cooperation between the laboratories and the water resource institutes in those States where the actual research would take place. I am confident that this was the intent of the House bill, but our language simply clarifies that intent.

In addition, the bill extends through 1995 the authority for studies, under the Water Resources Research Act, of water problems in the High Plains States.

Mr. President, I urge the Senate's approval of this important amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2488) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCURE. Mr. President, I rise in support of H.R. 1101, which extends the authorization of appropriations for the Water Resources Research Act of 1984 for 5 more years.

This bill passed the House last year unopposed but the Senate failed to vote on it prior to adjournment. It is critical that we delay no longer, because the authorization for the Water Resources Research Program expired on September 30, 1989.

This is a good program, one which deserves our support, and one in which each of us has a vital interest on behalf of our constituents. The institutes are a focal point for the cooperative efforts necessary to deal with the ground water quality issues before us. These issues appear in our newspapers and in letters from our constituents with increasing frequency, and there is clearly broad support for more information about the water on which our lives and our future depends.

The U.S. Department of Agriculture is the lead agency in researching surface and ground water quality and quantity in rural areas of this country. USDA efforts to gather data on ground water quality are enhanced by the research institutes reauthorized by H.R. 1101. Each land grant university in each State has a water resource research institute housed on its campus. The institutes are responsible to assure that well-trained water resources professionals are available in the future. The institutes also work to assure funding for well-planned research programs to provide practical solutions to the Nation's water and water-related problems. They do this

using competitive national program grants.

In Idaho, these grants have been used for diverse and productive research programs. Grant funds were used to complete a study of heavy mineral loading of one of our most beautiful water bodies, Lake Coeur D'Alene. Program funds were used to help gather water quality studies data in south-central Idaho watersheds. Many useful scientific models have resulted from research efforts funded through the water resource research institute located at the University of Idaho. I want to see this research continued.

I would like to thank my distinguished colleagues Senator MOYNIHAN and Senator BYRD for their valuable help in bringing this legislation to the floor, and I thank the 60 Senators who have cosponsored my efforts to reauthorize the water research institutes.

I urge my colleagues to speedily pass H.R. 1101 and continue a valuable program which has proved its worth to our Nation and promises to continue doing so.

Mr. President, will the senior Senator from New Mexico enter into a colloquy for the purpose of clarifying my understanding of H.R. 1101, the Water Resources Research Act of 1984?

Mr. DOMENICI. I would be pleased to do so.

Mr. McCLURE. Mr. President, it is my understanding that section 2(a), the Chafee-Domenici amendment to H.R. 1101 which extends the authorization of appropriations for the Water Resources Research Act of 1984, authorizes the Secretary of the Interior to enter into agreements or contracts for research, development, and demonstration projects with any of our national laboratories. I understand that the awarding of such contracts or agreements is not limited to Los Alamos National Laboratory, but may also include other national laboratories such as the Idaho National Engineering Laboratory.

Mr. DOMENICI. The senior Senator from Idaho is correct, and I thank my colleague for this clarification.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 1101) as amended, was passed.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. HATFIELD. Mr. President, I ask unanimous consent that the Rules Committee be discharged from further consideration of Senate Concurrent Resolution 122, relating to the Einstein Fellowship program, and I ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 122), to establish an Albert Einstein Congressional Fellowship Program.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the concurrent resolution?

There being no objection, the Senate proceeded to consider the concurrent resolution.

AMENDMENT NO. 2489

(Purpose: To establish authority for the minority leader of the House of Representatives and of the Senate to appoint persons to House and Senate fellowships, respectively.)

Mr. HATFIELD. Mr. President, I send a technical amendment to the desk at this time and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Oregon [Mr. HATFIELD] proposes an amendment numbered 2489.

Mr. HATFIELD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 1(a), strike "joint resolution" each place it appears and insert "concurrent resolution".

In section 2(b)(1)—

(1) strike ", in consultation with the Minority Leader of the House and with" and insert "and the Minority Leader of the House, in consultation with"; and

(2) strike "select the" and insert "each select one of the".

In section 2(b)(2)—

(1) strike ", in consultation with the Minority Leader of the Senate" and insert "and the Minority Leader of the Senate, in consultation with"; and

(2) strike "select the" and insert "each select one of the".

In section 2(c)(1), strike "(c)(1)" and insert "(b)(1)".

In section 2(c)(2), strike "(c)(2)" and insert "(b)(2)".

Mr. HATFIELD. I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 2489) was agreed to.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ALBERT EINSTEIN CONGRESSIONAL FELLOWSHIP PROGRAM

Mr. HATFIELD. Albert Einstein once said, "The most beautiful thing we can experience is the mysterious. It is the source of all art and science."

It was mystery that defined Einstein's legacy. He captivated our minds and our hearts with the potential of discovery and examination of the mysterious in our everyday world. With this rich tradition in mind, I am delighted that today we honor Einstein's accomplishments with a small but significant piece of legislation.

Senate Concurrent Resolution 122 establishes the Albert Einstein Congressional Fellowship Program to honor secondary teachers of mathematics and science. This legislation provides for two fellowships in the Senate and two fellowships in the House of Representatives for the 1991 fiscal year to allow teachers to serve on congressional committees involved with education and science.

Mr. President, my colleagues are undoubtedly aware of my deep interest in the improvement of mathematics and science education. I have sponsored and supported many legislative efforts regarding these issues over the past 3 years. I remain concerned, however, that the action we take at the Federal level be appropriate and responsive to the needs of our local and State educators.

The success of our efforts to improve mathematics and science education in this country will not be measured in Washington. It will be measured in rural Oregon, in urban New York, and in every city and town in between. We cannot legislate in isolation. We need input from the footsoldiers on the frontlines, our teachers. It is our responsibility to facilitate better understanding, communication, and cooperation between the scientific education community and Congress.

Teachers and other educators are the true heroes of our impending revolution. These individuals represent a body of experience and knowledge from which Congress can and should draw. Not only do we need their insight on effective programs, we need their experience on what works in our classrooms. We will benefit from their perspective on policies that will promote national progress to meet the recent goal set by the President, and re-enforced by S. 2114, to assist our youth in making substantial gains in mathematics and science achievement by the year 2000.

Mr. President, this small effort will enhance our legislative process and will unlock some of the "mystery" of mathematics and science in our Na-

tion's classrooms. It has the strong support of the National Science Teachers Association and the National Council of Teachers of Mathematics.

I encourage the Senate to recognize the need for active participation by our educators in the legislative efforts formulated at the Federal level. Given the magnitude of the emerging crisis in mathematics and science education, this need cannot be overstated. I know we all look forward to welcoming the Einstein fellows in the fall.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 122), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, as amended with its preamble, is as follows:

S. CON. RES. 122

Whereas a need exists to facilitate understanding, communication, and cooperation between Congress and the scientific education community;

Whereas the scientific education community includes a cadre of nationally recognized outstanding secondary school science and mathematics teachers; and

Whereas secondary school science and mathematics teachers can provide insight into education programs that work effectively in the classroom: Now, therefore, be it.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FELLOWSHIP PROGRAM.

(a) IN GENERAL.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate are authorized to enter into an agreement with the Triangle Coalition for Science and Technology Education to establish an Albert Einstein Congressional Fellowship Program (referred to in this concurrent resolution as the "fellowship program"), which provides for each fiscal year, beginning with fiscal year 1991, two fellowships within the House of Representatives (referred to in this concurrent resolution as the "House fellowships") and two fellowships within the Senate (referred to in this concurrent resolution as the "Senate fellowships").

(b) RESPONSIBILITIES.—The Speaker of the House of Representatives and the President Pro Tempore of the Senate may enter into the agreement described in subsection (a), and fund fellowship as specified in section 4(a), only if the Triangle Coalition for Science and Technology Education—

(1) undertakes the application responsibilities referred to in section 2(a);

(2) participates in the evaluation referred to in section 3; and

(3) provides the funding for administration and evaluation costs referred to in section 4(b).

SEC. 2. SELECTION PROCESS.

(a) APPLICATION.—The Triangle Coalition for Science and Technology Education shall—

(1) publicize the fellowship program;

(2) develop and administer an application process; and

(3) conduct an initial screening of applicants for the fellowship program.

(d) SELECTION.—

(1) HOUSE FELLOWSHIPS.—The Speaker of the House of Representatives, and the Minority Leader of the House, in consultation with the chairmen and ranking minority party members of the Committee on Education and Labor of the House of Representatives and the Committee on Science, Space, and Technology of the House of Representatives, shall each select one of the recipients of the House fellowships.

(2) SENATE FELLOWSHIPS.—The President Pro Tempore of the Senate and the Minority Leader of the Senate, in consultation with the chairman and ranking minority party members of the Committee on Labor and Human Resources of the Senate and the Committee on Commerce, Science, and Transportation of the Senate, shall each select one of the recipients of the Senate fellowships.

(c) PLACEMENT OF FELLOWSHIPS.—

(1) HOUSE FELLOWSHIPS.—The Speaker of the House of Representatives, in consultation with the Members referred to in subsection (b)(1), shall place one fellowship recipient on the staff of the Committee on Education Labor of the House of Representatives, and one recipient on the staff of the Committee on Science, Space, and Technology of the House of Representatives. Either or both of these recipients may instead serve on the personal staff of a member of the House of Representatives.

(2) SENATE FELLOWSHIPS.—The President Pro Tempore of the Senate, in consultation with the Member referred to in subsection (b)(2), shall place one fellowship recipient on the staff of the Committee on Labor and Human Resources, and one recipient on the staff of the Committee on Commerce, Science, and Transportation. Either of both of these recipients may instead serve on the personal staff of a member of the Senate.

(d) ELIGIBLE RECIPIENTS.—Recipients shall be selected from a pool of nationally recognized outstanding secondary school science and mathematics teachers. The pool shall include teachers who have received Presidential Awards for Excellence in Science and Mathematics Teaching, as established by section 117(a) of the National Science Foundation Authorization Act of 1988 (42 U.S.C. 1881b), or other similar recognition of their skills, experience, and ability as science or mathematics teachers.

(e) COMPENSATION.—

(1) HOUSE FELLOWSHIPS.—The Speaker of the House of Representatives shall fix the compensation of each recipient of a House fellowship.

(2) SENATE FELLOWSHIPS.—The President Pro Tempore of the Senate shall fix the compensation of each recipient of a Senate fellowship.

(f) LENGTH OF TERM.—Each fellowship recipient shall serve for a period of up to 1 year.

SEC. 3. EVALUATION.

The Chairman of each committee referred to in section 2(b) and the Executive Director of the Triangle Coalition for Science and Technology Education shall submit to the Speaker of the House of Representatives and the President Pro Tempore of the Senate, as appropriate, an annual report evaluating the fellowship program, and shall make recommendations concerning the continuation of the program.

SEC. 4. FUNDING.

(a) FELLOWSHIPS.—

(1) HOUSE FELLOWSHIPS.—For fiscal year 1991, the funds necessary to provide any House fellowships shall be paid from the contingent fund of the House of Represent-

atives, but not to exceed a total \$37,500 for the House fellowships.

(2) SENATE FELLOWSHIPS.—For fiscal year 1991, the funds necessary to provide any Senate fellowships shall be paid from the contingent fund of the Senate, but not to exceed a total of \$37,500 for the Senate fellowships.

(b) ADMINISTRATION AND EVALUATION.—The Triangle Coalition for Science and Technology Education shall provide the funds necessary for the administration of the fellowship program and for the evaluation referred to in section 3.

Mr. HATFIELD. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

SHENANDOAH VALLEY CIVIL WAR SITES STUDY ACT

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 606, S. 1770, the Shenandoah Valley Civil War Sites Study Act of 1990.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1770) to assess the suitability and feasibility of including certain Shenandoah Valley Civil War sites in the National Park System, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceed to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may cited as the "Civil War Sites Study Act of 1990."

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(a) the term "Commission" means the Civil War Sites Advisory Commission established in section 5 of this Act;

(b) the term "Secretary" means the Secretary of the Interior; and

(c) the term "Shenandoah Valley Civil War sites" means those sites and structures situated in the Shenandoah Valley in the Commonwealth of Virginia which are thematically tied with the nationally significant events that occurred in the region during the Civil War, including, but not limited to, General Thomas "Stonewall" Jackson's 1862 "Valley Campaign" and General Philip Sheridan's 1864 campaign culminating in the Battle of Cedar Creek on October 19, 1864.

SEC. 3. FINDINGS.

The Congress finds that—

(1) many sites and structures associated with the Civil War are located in regions which are undergoing rapid urban and suburban development;

(2) such sites and structures represent important means by which the Civil War may

continue to be understood and interpreted by the public; and

(3) it is important to obtain current information on the significance of such sites, threats to their integrity, and alternatives for their prevention and interpretation for the benefit of the Nation.

SEC. 4. SHENANDOAH VALLEY CIVIL WAR SITES STUDY.

(a) **STUDY.**—(1) The Secretary is authorized and directed to prepare a study of Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short- and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State, and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but need not be limited to, designation as units of the National Park System or as affiliated areas.

(2) The study shall contain an analysis of the economic effect that protection of Shenandoah Valley Civil War sites would have on the economy in the Shenandoah Valley.

(3) The study shall include the views and recommendations of the National Park System Advisory Board.

(b) **TRANSMITTAL TO CONGRESS.**—Not later than one year after the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 5. ESTABLISHMENT OF CIVIL WAR SITES ADVISORY COMMISSION.

(a) **IN GENERAL.**—There is hereby established the Civil War Sites Advisory Commission. The Commission shall consist of thirteen members appointed as follows:

(1) five citizens who are nationally recognized as experts and authorities in the history of the Civil War, appointed by the President;

(2) the Director of the National Park Service or his designate;

(3) the Chairman of the Advisory Council on Historic Preservation;

(4) three citizens appointed by the President pro tempore of the United States Senate in consultation with the chairman and ranking minority member of the Committee on Energy and Natural Resources; and

(5) three citizens appointed by the Speaker of the United States House of Representatives in consultation with the chairman and ranking minority member of the Committee on Interior and Insular Affairs.

(b) **CHAIRMAN.**—The Commission shall elect a chairman from among its members.

(c) **VACANCIES.**—Vacancies occurring on the Commission shall not affect the authority of the remaining members of the Commission to carry out the functions of the Commission. Any vacancy in the Commission shall be promptly filled in the same manner in which the original appointment was made.

(d) **QUORUM.**—A simple majority of Commission members shall constitute a quorum.

(e) **MEETINGS.**—The Commission shall meet at least quarterly or upon the call of the Chairman or a majority of the members of the Commission.

(f) **COMPENSATION.**—Members of the Commission shall serve without compensation as such. Members of the Commission, when en-

gaged in official Commission business, shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service under section 5703 of title 5, United States Code.

(g) **TERMINATION.**—The Commission established pursuant to this section shall terminate one hundred and eighty days after the transmittal of the report to Congress as provided in section 8(c).

SEC. 6. STAFF OF THE COMMISSION.

(a) **STAFF.**—The Commission is authorized, without regard to the civil service laws and regulations, to appoint and fix the compensation of an Executive Director and such additional professional personnel as may be necessary to enable it to carry out its functions: Provided, That any Federal employee subject to the civil service laws and regulations who may be assigned or detailed to the Commission shall retain civil service status, without interruption or loss of status or privilege.

(b) **STAFF OF OTHER AGENCIES.**—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(c) **EXPERTS AND CONSULTANTS.**—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(d) **ADMINISTRATOR SUPPORT.**—The Administrator of the General Services Administration shall, on a reimbursable basis, provide such administrative support services as the Commission may request.

SEC. 7. POWERS OF THE COMMISSION.

(a) **IN GENERAL.**—The Commission, may for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) **BYLAWS.**—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out its functions under this Act.

(c) **DELEGATION.**—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) **DONATIONS.**—Notwithstanding any other provision of law, the Commission may seek and accept donation of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) **FUNDS FROM OTHER SOURCES.**—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) **MAILS.**—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(g) **PROPERTY.**—The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties except that the Commission may not acquire any real property or interest in real property.

SEC. 8. DUTIES OF THE COMMISSION.

(a) **PREPARATION OF STUDY.**—The Commission shall prepare a study of historically significant sites and structures in the United States associated with military action during the Civil War, other than Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short- and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State, and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but need not be limited to, designation as units of the National Park System or as affiliated areas. The study may include existing units of the National Park System.

(b) **CONSULTATION.**—During the preparation of the study referred to in subsection (a), the Commission shall consult with the Governors of affected States, affected units of local government, State and local historic preservation organizations, and such other interested parties as the Commission deems advisable.

(c) **TRANSMITTAL TO THE PRESIDENT AND CONGRESS.**—Not later than two years after the date that funds are made available for the study referred to in subsection (a), the Commission shall transmit such study to the President and the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums not to exceed \$2,000,000 to carry out the purposes of this Act.

AMENDMENT NO. 2490

Mr. NUNN. Mr. President, I offer the substitute amendment on behalf of Mr. BUMPERS.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Georgia [Mr. NUNN] for Mr. BUMPERS, proposes an amendment numbered 2490.

Mr. NUNN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil War Sites Study Act of 1990".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(a) the term "Commission" means the Civil War Sites Advisory Commission established in section 5 of this Act;

(b) the term "Secretary" means the Secretary of the Interior; and

(c) the term "Shenandoah Valley Civil War sites" means those sites and structures situated in the Shenandoah Valley in the Commonwealth of Virginia which are thematically tied with the nationally significant events that occurred in the region during the Civil War, including, but not limited to, General Thomas "Stonewall" Jackson's 1862 "Valley Campaign" and General Philip Sheridan's 1864 campaign culminat-

ing in the battle of Cedar Creek on October 19, 1864.

SEC. 3. FINDINGS.

The Congress finds that—

(1) many sites and structures associated with the Civil War are located in regions which are undergoing rapid urban and suburban development;

(2) such sites and structures represent important means by which the Civil War may continue to be understood and interpreted by the public; and

(3) it is important to obtain current information on the significance of such sites, threats to their integrity, and alternatives for their preservation and interpretation for the benefit of the Nation.

SEC. 4. SHENANDOAH VALLEY CIVIL WAR SITES STUDY.

(a) **STUDY.**—(1) The Secretary is authorized and directed to prepare a study of Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short- and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but need not be limited to, designation as units of the National Park System or as affiliated areas.

(2) The study shall contain an analysis of the economic effect that protection of Shenandoah Valley Civil War sites would have on the economy in the Shenandoah Valley.

(3) The study shall include the views and recommendations of the National Park System Advisory Board.

(b) **TRANSMITTAL TO CONGRESS.**—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 5. ESTABLISHMENT OF CIVIL WAR SITES ADVISORY COMMISSION

(a) **IN GENERAL.**—There is hereby established the Civil War Sites Advisory Commission. The Commission shall consist of thirteen members appointed as follows:

(1) five citizens who are nationally recognized as experts and authorities in the history of the Civil War, appointed by the Secretary;

(2) the Director of the National Park Service or his or her designee;

(3) the Chairman of the Advisory Council on Historic Preservation, or his or her designee;

(4) three citizens appointed by the President Pro Tempore of the United States Senate in consultation with the Chairman and Ranking Minority Member of the Committee on Energy and Natural Resources; and

(5) three citizens appointed by the Speaker of the United States House of Representatives in consultation with the Chairman and Ranking Minority Member of the Committee on Interior and Insular Affairs.

(b) **CHAIRMAN.**—The Commission shall elect a chairman from among its members.

(c) **VACANCIES.**—Vacancies occurring on the Commission shall not affect the authority of the remaining members of the Commission to carry out the functions of the Commission. Any vacancy in the Commission shall be promptly filled in the same

manner in which the original appointment was made.

(d) **QUORUM.**—A simple majority of Commission members shall constitute a quorum.

(e) **MEETINGS.**—The Commission shall meet at least quarterly or upon the call of the Chairman or a majority of the members of the Commission.

(f) **COMPENSATION.**—Members of the Commission shall serve without compensation. Members of the Commission, when engaged in official Commission business, shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) **TERMINATION.**—The Commission established pursuant to this section shall terminate 180 days after the transmittal of the report to Congress as provided in section 8(c).

SEC. 6. STAFF OF THE COMMISSION.

(a) **EXECUTIVE DIRECTOR.**—The Director of the National Park Service, or his or her designee, shall serve as the Executive Director of the Commission.

(b) **STAFF.**—The Director of the National Park Service shall, on a reimbursable basis, detail such staff as the Commission may require to carry out its duties.

(c) **STAFF OF OTHER AGENCIES.**—Upon the request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(d) **EXPERTS AND CONSULTANTS.**—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

SEC. 7. POWERS OF THE COMMISSION.

(a) **IN GENERAL.**—The Commission, may for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) **BYLAWS.**—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out its functions under this Act.

(c) **DELEGATION.**—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) **DONATIONS.**—Notwithstanding any other provision of law, the Commission may seek and accept donation of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 8. DUTIES OF THE COMMISSION.

(a) **PREPARATION OF STUDY.**—The Commission shall prepare a study of historically significant sites and structures in the United States associated with military action during the Civil War, other than Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal,

State and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but need not be limited to, designation as units of the National Park System or as affiliated areas. The study may include existing units of the National Park System.

(b) **CONSULTATION.**—During the preparation of the study referred to in subsection (a), the Commission shall consult with the Governors of affected States, affected units of local government, State and local historic preservation organizations, and such other interested parties as the Commission deems advisable.

(c) **TRANSMITTAL TO THE SECRETARY AND CONGRESS.**—Not later than 2 years after the date that funds are made available for the study referred to in subsection (a), the Commission shall transmit such study to the Secretary and the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) **NO PRIOR REVIEW.**—No officer or agency of the United States shall have any authority to require the Commission to submit the study referred to in subsection (a), or any other recommendations or testimony the Commission may provide, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such study, recommendations, or testimony to the Congress. In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its study, recommendations, or testimony which it transmits to the Congress.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums not to exceed \$2,000,000 to carry out the purposes of this Act.

Mr. BUMPERS. Mr. President, this amendment, which is in the nature of a substitute to S. 1770, as reported by the Committee on Energy and Natural Resources, addresses concerns that were raised both during the committee markup and in discussions I have had with Secretary of the Interior Lujan.

Under this amendment, the Secretary of the Interior would appoint five members of the Commission, instead of the President. In addition, the Director of the National Park Service would serve as the Commission's Executive Director, as well as a Commission member. The Park Service also would be directed to provide the staff for the Commission, on a reimbursable basis. Finally, the Commission would submit its report to both the Congress and the Secretary.

The amendment also provides that the Commission shall not be required to submit its report for any prior review or clearance by any official of the administration. This language is similar to current authority provided for the Advisory Council on Historic Preservation.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2490) was agreed to.

Mr. NUNN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to table was agreed to.

Mr. BUMPERS. Mr. President, it is my pleasure to come before the Senate today in support of S. 1770, legislation which my colleagues Senators JEFFORDS, WARNER, ROBB and LEAHY have introduced to preserve and protect Civil War battlefields in Virginia's Shenandoah Valley.

One of my passions in life has been the study of Civil War history, and I've always been particularly moved and fascinated by the Union and Confederate campaigns in the Shenandoah Valley, which during two distinct periods, played a crucial role in the outcome of the war.

Confederate General Thomas J. "Stonewall" Jackson's victorious 1862 summer campaign in the valley, where his vastly outnumbered troops temporarily drove the Union Army out of the valley, disrupting the North's attempt to take Richmond, is still regarded by historians as one of the classic examples of any army overcoming a numerical disadvantage in troop size through a combination of speed of movement and knowledge of the local terrain.

Equally important in the outcome of the war was Union General Phil Sheridan's 1864 fall campaign, which proved devastating for the Confederates. Under orders from General Grant, Sheridan's men destroyed barns, houses, crops, livestock and anything else of value they could find in their march through the valley. The campaign ended in the battle of Cedar Creek, where Sheridan rallied his men from an initial setback and turned the battle into one of the more decisive Union victories in the war, driving the Confederate Army out of the valley in the process.

The legislation which my Virginia and Vermont colleagues have introduced would direct the Secretary of the Interior to study these Civil War sites and report back to Congress within 1 year on preservation needs for these threatened battle sites within the Shenandoah Valley and recommendations for protection alternatives. This study is long overdue, and I commend them for their contribution to this much needed legislation.

During the consideration of the bill in the Committee on Energy and Natural Resources, I offered an amendment, which the committee adopted, to build and expand upon the Shenandoah study. As chairman of the committee's Subcommittee on Public Lands, National Parks and Forests, which has jurisdiction over the protection of Civil War sites, I have long be-

lieved that we need to develop protection and interpretation alternatives for Civil War battlefields within a comprehensive national perspective, instead of acting on an ad hoc basis. My amendment adopted by the committee would, in addition to the Shenandoah Valley study, establish the Civil War Sites Advisory Commission to conduct a comprehensive study to identify other, equally threatened Civil War sites throughout the Nation, and make recommendations for the protection and interpretation alternatives of these sites, at the Federal, State, and local levels. The Commission would consist of nationally recognized historians appointed by the President and the Congress.

Subsequent to the committee reporting S. 1770 with my amendment, I've had several discussions with Secretary of the Interior Manuel Lujan, historian James McPherson, and other people interested in this issue. I am prepared today to offer an amendment to this bill which makes several changes from the bill as reported by the committee, but retains the basic thrust of the legislation—that is, a comprehensive, nationwide study, conducted by a Commission able to make truly objective recommendations to the Congress.

My proposed amendment makes a few changes to the structure and staffing of the Commission, to enable it to function more efficiently within the Department of the Interior. With respect to the appointment of Commission members, the Secretary of the Interior, instead of the President would appoint five members. The President pro tempore of the Senate would still appoint three members, as would the Speaker of the House of Representatives. In addition, the Director of the National Park Service would serve as the Executive Director of the Commission. Under this proposed amendment, the Park Service would also provide the professional staff for the Commission, instead of having the Commission hire its own staff, as provided in the committee amendment.

I believe it is important that the Commission's report be completely objective, with recommendations of threatened Civil War sites made on the basis of need, and not budgetary impact. Therefore, I have included in my amendment a provision allowing the Commission to present its report to Congress without prior review of clearance by OMB or any other administration official. This provision is similar to current authority already provided for the Advisory Council on Historic Preservation. The Commission would still be required to complete its report within 2 years after the date funding is made available, and submit the report to the Secretary of the Interior and the Congress.

Mr. President, this amendment does not authorize the Federal Government to acquire a single acre of property. Any recommendations made by either the Shenandoah Valley or nationwide study could only be implemented through additional congressional action. This amendment will, however, allow us to better understand the role of these important sites both within the scope of the Civil War itself and our Nation's history, and will enable the Congress to make future battlefield preservation decisions with knowledge of the site's respective importance and historical significance within a national perspective, knowledge that is important not only in understanding the events of specific Civil War battles, but also in better understanding our history, our nation and ourselves.

Mr. President, I urge my colleagues to adopt this amendment and to pass this important legislation.

Mr. ROBB. Mr. President, I rise today in support of S. 1770, the Shenandoah Valley Civil War Sites Study Act, a bill which I cosponsored along with Senators JEFFORDS, LEAHY, and WARNER.

A century and a quarter ago, the Shenandoah Valley proved to be an extremely important strategic location during the Civil War for both the North and the South. Although many Virginia battle sites have already been preserved, several sites within the Shenandoah Valley are now being threatened. The bill addresses my original concern about getting a quick but thorough study of sites in the Shenandoah Valley.

Additionally, I am pleased that the chairman of the Subcommittee on Public Lands, Senator BUMPERS, appears to have reached an agreement with the minority members of the committee to provide for a comprehensive way of evaluating the importance and suitability of preserving Civil War sites, the lion's share of which are in the home State of Virginia. This measure now sets up a general process by which we may review the need for preserving civil war sites nationwide. I fully support this systematic assessment; no one benefits when we wait until the bulldozers have arrived and emotions are running high.

For both these reasons, I fully support passage of this legislation.

Mr. JEFFORDS. Mr. President, I simply want to thank my colleagues for considering this important piece of legislation and to thank those involved for their efforts in bringing the bill to this point.

I introduced S. 1770, the Shenandoah Valley Civil War Sites Study Act, with the senior Senator from Vermont, Mr. LEAHY, and my two distinguished colleagues from Virginia, Mr. WARNER and Mr. ROBB, on October 19,

1989, the 125th anniversary of the Battle of Cedar Creek. That battle was one of the most significant and dramatic of the Civil War, where the Union won the victory which guaranteed Abraham Lincoln's election in 1864.

Included in the bill's study would also be the battles of "Stonewall" Jackson's great "Valley Campaign" of 1862, a wondrous Confederate victory. The battles of Kernstown, Port Republic, and Cross Keys helped establish Mr. Jackson as one of the most prominent military leaders in this Nation's history.

The Shenandoah Valley and this study offer a unique opportunity for representatives from the North and South to cooperate in preserving an important piece of this Nation's history. In so doing, we commemorate the courage and sacrifice on both sides.

Mr. President, we must seize this opportunity now to preserve our heritage while it is still possible and economically feasible. It is important to offer our citizens the opportunity to walk the very ground where extraordinary events of our Nation's history took place, to travel from battlefield to battlefield and retrace the great campaigns of the war. Imagine reliving Jackson's 1862 campaign or the Union campaign of 1864 amidst the rural beauty of one of this Nation's most lovely places, the Shenandoah Valley.

Of all the battle theaters, the Shenandoah Valley constitutes the largest unprotected area of significant Civil War heritage. Long ago the names Winchester, Kernstown, Fishers Hill, Tom's Brook, and New Market were written in blood upon the pages of our national history. Yet, not a single acre of these fields is protected in the Federal Park System.

My interest reflects the sacrifice Vermonters made at the Battle of Cedar Creek. The State's 8th Regiment was pivotal in stopping the overwhelming predawn surprise attack by Jubal Early's Confederates, and in helping the great counterattack led by Phil Sheridan that turned Union defeat into victory. Mr. President, over 400 Vermonters were shot in the course of their valiant effort.

The Vermont Legislature has recognized the bravery of their predecessors and has taken a number of steps to ensure it would not be forgotten. In 1870, just 6 years after the battle, the legislature commissioned Julian Scott to paint a mural to commemorate the role of Vermont soldiers in the war. That painting still hangs in the statehouse.

Last year, the legislature passed a resolution urging congressional action to save the Virginia battlefields. This followed a previous allocation of \$20,000 to maintain Civil War battlefield monuments commemorating actions by Vermonters. The money is

destined mainly toward 13 such monuments at Gettysburg. However, one monument located on private property at the Cedar Creek Battlefield has already been restored at a cost of \$2,000.

Twenty thousand dollars may not seem like a lot of money to those of us in Washington who speak in terms of millions, billions, and trillions, but it is a significant amount of money for Vermonters to choose to spend to maintain property in other States.

I mention this so that the record will reflect the sincerity of Vermonters in regard to this legislation. Just as Vermonters were ready to join the cause of preserving the Union during the last century, so are we willing to help maintain the memory of this grave event throughout the coming centuries.

During consideration by the Committee on Energy and Natural Resources, the bill was expanded to include the creation of a Civil War Sites Advisory Commission to study and determine the historical significance of Civil War sites throughout this country and assess the threats facing those sites. The proposal for the Commission was introduced by Senator BUMPERS, and I want to applaud his efforts and leadership in recognizing the importance of beginning the process of preserving perhaps the most significant chapter of this country's history.

More recently, Secretary of the Interior, Manual Lujan, announced a plan for the National Park Service to study Civil War sites throughout the Nation. It is clear that he, too, recognizes the need for protection of these sites, and I want to commend his leadership and insight as well.

With this bill I feel we are making a significant step toward preserving the battlefields for future generations. When the study is submitted to Congress, as provided, we will have, perhaps, the last opportunity to ensure that development in the Shenandoah Valley and at other significant sites is not at the expense of our heritage. At a minimum, we owe ourselves and our descendants the legacy of that option.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1770), as amended, was passed, as follows:

S. 1770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil War Sites Study Act of 1990".

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(a) the term "Commission" means the Civil War Sites Advisory Commission established in section 5 of this Act;

(b) the term "Secretary" means the Secretary of the Interior; and

(c) the term "Shenandoah Valley Civil War sites" means those sites and structures situated in the Shenandoah Valley in the Commonwealth of Virginia which are thematically tied with the nationally significant events that occurred in the region during the Civil War, including, but not limited to, General Thomas "Stonewall" Jackson's 1862 "Valley Campaign" and General Philip Sheridan's 1864 campaign culminating in the battle of Cedar Creek on October 19, 1864.

SEC. 3. FINDINGS.

The Congress finds that—

(1) many sites and structures associated with the Civil War are located in regions which are undergoing rapid urban and suburban development;

(2) such sites and structures represent important means by which the Civil War may continue to be understood and interpreted by the public; and

(3) it is important to obtain current information on the significance of such sites, threats to their integrity, and alternatives for their preservation and interpretation for the benefit of the Nation.

SEC. 4. SHENANDOAH VALLEY CIVIL WAR SITES STUDY.

(a) STUDY.—The Secretary is authorized and directed to prepare a study of the Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but need not be limited to, designation as units of the National Bank System or as affiliated areas.

(2) The study shall contain an analysis of the economic effect that protection of Shenandoah Valley Civil War sites would have on the economy in the Shenandoah Valley.

(3) The study shall include the views and recommendations of the National Park System Advisory Board.

(b) TRANSMITTAL TO CONGRESS.—Not later than 1 year after the date that funds are made available for the study referred to in subsection (a), the Secretary shall transmit such study to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives.

SEC. 5. ESTABLISHMENT OF CIVIL WAR SITES ADVISORY COMMISSION.

(a) IN GENERAL.—There is hereby established the Civil War Sites Advisory Commission. The Commission shall consist of thirteen members appointed as follows:

(1) five citizens who are nationally recognized as experts and authorities in the history of the Civil War, appointed by the Secretary;

(2) the Director of the National Park Service or his or her designee;

(3) the Chairman of the Advisory Council on Historic Preservation, or his or her designee;

(4) three citizens appointed by the President Pro Tempore of the United States Senate in consultation with the Chairman and Ranking Minority Member of the Committee on Energy and Natural Resources; and

(6) three citizens appointed by the Speaker of the United States House of Representatives in consultation with the Chairman and Ranking Minority Member of the Committee on Interior and Insular Affairs.

(b) **CHAIRMAN.**—The Commission shall elect a chairman from among its members.

(c) **VACANCIES.**—Vacancies occurring on the Commission shall not affect the authority of the remaining members of the Commission to carry out the functions of the Commission. Any vacancy in the Commission shall be promptly filled in the same manner in which the original appointment was made.

(d) **QUORUM.**—A simple majority of Commission members shall constitute a quorum.

(e) **MEETINGS.**—The Commission shall meet at least quarterly or upon the call of the Chairman or a majority of the members of the Commission.

(f) **COMPENSATION.**—Members of the Commission shall serve without compensation. Members of the Commission, when engaged in official Commission business, shall be entitled to travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in government service under section 5703 of title 5, United States Code.

(g) **TERMINATION.**—The Commission established pursuant to this section shall terminate 180 days after the transmittal of the report to Congress as provided in section 8(c).

SEC. 6. STAFF OF THE COMMISSION.

(a) **EXECUTIVE DIRECTOR.**—The Director of the National Park Service, or his or her designee, shall serve as the Executive Director of the Commission.

(b) **STAFF.**—The Director of the National Park Service shall, on a reimbursable basis, detail such staff as the Commission may require to carry out its duties.

(c) **STAFF OF OTHER AGENCIES.**—Upon the request of the Commission, the head of any Federal agency may detail on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties.

(d) **EXPERTS AND CONSULTANTS.**—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

SEC. 7. POWERS OF THE COMMISSION.

(a) **IN GENERAL.**—The Commission, may for the purpose of carrying out this Act hold such hearings, sit and act at such time and places, take such testimony, and receive such evidence as the Commission may deem advisable.

(b) **BYLAWS.**—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out its functions under this Act.

(c) **DELEGATION.**—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) **DONATIONS.**—Notwithstanding any other provision of law, the Commission may seek and accept donation of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(e) **MAILS.**—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

SEC. 8. DUTIES OF THE COMMISSION.

(a) **PREPARATION OF STUDY.**—The Commission shall prepare a study of historically significant sites and structures in the United States associated with military action during the Civil War, other than Shenandoah Valley Civil War sites. Such study shall identify the sites, determine the relative significance of such sites, assess short- and long-term threats to their integrity, and provide alternatives for the preservation and interpretation of such sites by Federal, State and local governments, or other public or private entities, as may be appropriate. Such alternatives may include, but need not be limited to, designation as units of the National Park System or as affiliated areas. The study may include existing units of the National Park System.

(b) **CONSULTATION.**—During the preparation of the study referred to in subsection (a), the Commission shall consult with the Governors of affected States, affected units of local government, State and local historic preservation organizations, and such other interested parties as the Commission deems advisable.

(c) **TRANSMITTAL TO THE SECRETARY AND CONGRESS.**—Not later than 2 years after the date that funds are made available for the study referred to in subsection (a), the Commission shall transmit such study to the Secretary and the Committee on Energy and Natural Resources of the United States and the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) **NO PRIOR REVIEW.**—No officer or agency of the United States shall have any authority to require the Commission to submit the study referred to in subsection (a), or any other recommendations or testimony the Commission may provide, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such study, recommendations, or testimony to the Congress. In instances in which the Commission voluntarily seeks to obtain the comments or review of any officer or agency of the United States, the Commission shall include a description of such actions in its study, recommendations, or testimony which it transmits to the Congress.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums not to exceed \$2,000,000 to carry out the purposes of this Act.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

WETLANDS CONSERVATION ACT

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consider-

ation of Calendar No. 696, S. 1731, the wetlands protection bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 1731) to provide for the creation, restoration, protection, enhancement, and conservation of coastal wetlands, and to conserve North American wetlands ecosystems and waterfowl and the other migratory birds and fish and wildlife that depend upon such habitats, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Environment and Public Works, with an amendment to strike all after enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Wetlands Planning, Protection and Restoration Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) *wetlands provide multiple benefits and are vital to the Nation's environmental and economic health;*

(2) *the environmental benefits of wetlands include, among others, providing critical habitat to avian, terrestrial, and aquatic species, maintaining water quality, forming barriers to waves and erosion, helping to reduce flood damage, nurturing valuable commercial and recreational fisheries, and providing habitat for rare and endangered species;*

(3) *scientists estimate that since European settlement began in the United States, more than 50 per centum of the wetlands in the forty-eight coterminous States have been lost due to manmade and natural causes;*

(4) *the State of Louisiana contains a significant portion of the Nation's wetlands including 40 per centum of the Nation's coastal wetlands;*

(5) *the coastal wetlands of Louisiana are of particular value to the Nation for they contribute 46 per centum of the Nation's annual shrimp harvest, contain the wintering grounds of millions of migratory birds and are crucial to meeting the United States international migratory bird treaty obligations with Canada, Mexico, Japan, and the Soviet Union, contribute 40 per centum of the Nation's wild fur and hide harvest, contribute 16 per centum of the Nation's total production of petroleum and 20 per centum of the Nation's total production of natural gas, and buffer the destructive effects of hurricanes, storms, and floods;*

(6) *Louisiana is losing up to fifty square miles of these valuable coastal wetlands per year which is 80 per centum of the total loss of the Nation's coastal wetlands; at this rate of loss, between now and the year 2040, it is estimated that nearly one million additional acres of coastal wetlands will be lost—an area one and one-third times larger than the State of Rhode Island—bringing the total loss of such wetlands to an estimated two million four hundred thousand acres by the year 2040;*

(7) *the loss of coastal wetlands in Louisiana will result in a loss of valuable fish, shellfish, migratory bird, and fur resources*

and will jeopardize valuable public investments including one hundred miles of Federal and State highways, fifty-five miles of hurricane protection levees and floodwalls, twenty-seven miles of railroad tracks, one thousand five hundred and seventy miles of oil and gas pipelines, and three hundred and eighty-three miles of gas, water, electric power, and telephone lines;

(8) an estimated 75 per centum of coastal wetlands in Louisiana are privately owned, and the loss of such wetlands adversely affects landowners;

(9) the Mississippi River drains 40 per centum of the United States and has been developed by the Federal Government to provide navigation and flood control benefits to the entire Nation, including construction and maintenance of three of the largest deepwater ports in the country that service producers nationwide, development of an extensive inland navigation system that helps connect producers with the ports and world markets, and the construction of flood control levees that have prevented an estimated \$111,300,000,000 of flood damages;

(10) development of the Mississippi River has resulted in the transportation of wetlands-building sediments to the edge of the Outer Continental Shelf where they are being discharged to the deep waters of the Gulf of Mexico;

(11) navigation, access, and pipeline canals and other activities related to the exploration, development, and production of oil and gas along the Gulf coast and on the Outer Continental Shelf, have had adverse effects on many of the coastal wetlands of the Gulf coast region;

(12) in order for the citizens of the United States to continue to reap the environmental benefits from the coastal wetlands of Louisiana, efforts must be made to significantly reduce the rapid rate of loss;

(13) a coastal wetlands restoration plan that includes engineering solutions to restore and conserve coastal wetlands is critical to arrest the loss of wetlands;

(14) in addition to the need for a plan to restore wetlands, a program to conserve coastal wetlands in the State of Louisiana to achieve a goal of no net loss of wetlands as a result of development activities would be beneficial; and

(15) because of the large portion of the Nation's coastal wetlands located within the State of Louisiana, the disproportionate rate of loss of these wetlands, and the unique causes of the loss, there needs to be a unique solution to address the rapid rate of loss of coastal wetlands in the State.

SEC. 3. STATEMENT OF PURPOSES.

The purposes of this Act are to—

(1) provide for the planning, identification, and implementation of priority coastal wetlands restoration projects in Louisiana;

(2) encourage the State of Louisiana to develop a plan with the goal of achieving no net loss of coastal wetlands as a result of future development activities; and

(3) provide for grants to coastal States to implement coastal wetlands conservation projects.

SEC. 4. DEFINITIONS.

As used in this Act, the term—

(1) "Secretary" means the Secretary of the Army;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydro-

logic regime, bottom contour, or the type, distribution, or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;

(4) "State" means the State of Louisiana;

(5) "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes; for the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, the Trust Territories of the Pacific Islands, and American Samoa;

(6) "coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this Act or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or ongoing projects, individual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects; the primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits;

(7) "coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon;

(8) "Governor" means the Governor of Louisiana; and

(9) "Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the Administrator, the Governor, the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Commerce.

SEC. 5. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

(a) PRIORITY PROJECT LIST.—

(1) PREPARATION OF LIST.—Within forty-five days after the date of enactment of this Act, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) TASK FORCE PROCEDURES.—The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list

is produced and transmitted annually to the Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting; Provided, however, that no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member responsible for carrying out such project.

(3) TRANSMITTAL OF LIST.—No later than one year after the date of enactment of this Act, the Secretary shall transmit to the Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to the Congress as part of the President's annual budget submission. Annual transmittals of the list to the Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure from a wetlands fund established to carry out this Act.

(4) LIST CONTENTS.—(A) The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a five-year period commencing on the date the project is placed on the list.

(C) Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.—The Secretary shall, with the funds made available in accordance with section 8 of this Act, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from the date of enactment of this Act.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore, and prevent the loss of, coastal wetlands in Louisiana. Such

plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) **INTEGRATION OF EXISTING PLANS.**—In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary of the Army and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the State of Louisiana's Wetlands Conservation and Restoration Task Force.

(4) **ELEMENTS OF THE PLAN.**—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B);

(D) a listing of such coastal wetlands restoration project, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(K) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(L) consultation with the public and provision for public review during development of the plan; and

(M) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) **PLAN MODIFICATION.**—The Task force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) **PLAN SUBMISSION.**—Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) **PLAN EVALUATION.**—Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting and enhancing coastal wetlands in Louisiana.

(c) **COASTAL WETLANDS RESTORATION PROJECT BENEFITS.**—Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to con-

tribute significantly to wetlands restoration.

(d) **CONSISTENCY.**—In implementing, maintaining, modifying, or rehabilitating navigation, flood control or irrigation projects, other than emergency actions, under other authorities, the Secretary shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(e) **FUNDING OF WETLANDS RESTORATION PROJECTS.**—The Secretary shall, with the funds made available in accordance with section 8 of this Act, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section.

(f) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—Amounts made available from the Wetlands Fund to carry out coastal wetlands restoration projects under this Act shall provide 75 per centum of the cost of such projects.

(2) **FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.**—Notwithstanding the previous paragraph, if the State develops a Coastal Wetlands Conservation Plan pursuant to section 6 of this Act, and such conservation plan is approved pursuant to that section, amounts made available from the Wetlands Fund for any coastal wetlands restoration project under this section shall be 85 per centum of the cost of the project. In the event that the Secretary and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to section 6 of this Act, amounts made available from the Wetlands Fund for any coastal wetlands restoration project shall revert to 75 per centum of the cost of the project: Provided, however, that such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary and Administrator, and the State has been given ninety days from such notice or hearing to take corrective action.

(3) **FORM OF STATE SHARE.**—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 per centum of the cost of the project. The balance of such State share may take the form of lands, easements, or right-of-way, or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 6. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

(a) **DEVELOPMENT OF CONSERVATION PLAN.**—

(1) The Secretary and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) **TERMS OF AGREEMENT.**—

(A) Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary and the Administrator shall promptly enter into an agreement (hereinafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than three years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) **GRANTS AND ASSISTANCE.**—Upon the date of signing the agreement—

(A) the Administrator shall, with the funds made available in accordance with section 8 of this Act, make grants during the development of the conservation plan to assist the designated State agency in developing such plan; and

(B) the Secretary and the Administrator shall provide technical assistance to the State to assist it in the development of the plan.

(b) **CONSERVATION PLAN GOAL.**—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of section 5 of this Act.

(c) **ELEMENTS OF CONSERVATION PLAN.**—The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the Plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of section 5 of this Act;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the Plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

(d) **APPROVAL OF CONSERVATION PLAN.**—

(1) **IN GENERAL.**—If the Governor submits a conservation plan to the Secretary and the

Administrator for their approval, the Secretary and the Administrator shall, within one hundred and eighty days following receipt of such plan, approve or disapprove it.

(2) **APPROVAL CRITERIA.**—The Secretary and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the Plan was developed in accordance with the terms of the agreement set forth in subsection (a) of this section.

(e) **MODIFICATION OF CONSERVATION PLAN.**—

(1) **Noncompliance.**—If the Secretary and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) **RECONSIDERATION.**—If the Governor submits a modified conservation plan to the Secretary and the Administrator for their reconsideration, the Secretary and Administrator shall have ninety days to determine whether the modifications are sufficient to bring the plan into compliance with the requirements of subsection (d) of this section.

(3) **APPROVAL OF MODIFIED PLAN.**—If the Secretary and the Administrator fail to approve or disapprove the conservation plan, as modified, within the ninety-day period following the date on which it was submitted to them by the Governor, such Plan, as modified, shall be deemed to be approved effective upon the expiration of such ninety-day period.

(f) **AMENDMENTS TO CONSERVATION PLAN.**—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section; Provided, however, That minor changes to such plan shall not be subject to the requirements of this section.

(g) **IMPLEMENTATION OF CONSERVATION PLAN.**—A conservation plan approved under this section shall be implemented as provided therein.

(h) **FEDERAL OVERSIGHT.**—

(1) **INITIAL REPORT TO CONGRESS.**—Within one hundred and eighty days after entering into the agreement required under subsection (a) of this section, the Secretary and the Administrator shall report to the Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including an accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) **REPORTS TO CONGRESS.**—Twenty-four months after the initial one hundred and eighty day period set forth in paragraph (1), and at the end of each twenty-four-month period thereafter, the Secretary and the Administrator shall, in consultation with the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, report to the Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 7. NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

(a) **MATCHING GRANTS.**—The Secretary of the Interior shall, with the funds made available in accordance with section 8 of this Act, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) **PRIORITY.**—Subject to the cost-sharing requirements of this section, the Secretary of the Interior may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Secretary of the Interior shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces.

(c) **CONDITIONS.**—The Secretary of the Interior may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—Grants to coastal States off matching moneys by the Secretary of the Interior for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 per centum of the total costs of such projects: Provided, however, That such matching moneys may be used for payment of not to exceed 75 per centum of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) **FORM OF STATE SHARE.**—The matching moneys required of a coastal State to carry out a coastal wetlands conservation project shall be derived from a non-Federal source.

(e) **PARTIAL PAYMENTS.**—

(1) The Secretary of the Interior may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) The Secretary of the Interior may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

(f) **WETLANDS ASSESSMENT.**—The Secretary of the Interior shall, with the funds made available in accordance with section 8 of this Act, direct the U.S. Fish and Wildlife Service's National Wetland Inventory to update and digitize wetlands maps in the State of Texas and to conduct an assessment

of the status, condition, and trends of wetlands in that State.

SEC. 8. AUTHORIZED USES OF A WETLANDS FUND.

(a) **IN GENERAL.**—The amounts appropriated or credited to a wetlands fund established to carry out this Act shall be available, as provided in appropriation Acts, to carry out this Act through fiscal year 1999.

(b) **PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.**—Of the total amount deposited during a given fiscal year in a wetlands fund established to carry out this Act, 75 per centum, not to exceed \$75,000,000, shall be available, and shall remain available until expended, for purposes of making expenditures—

(1) not to exceed the aggregate amount of \$5,000,000 annually to assist the Task Force in the preparation of the list required under section 5(a) of this Act and the plan required under section 5(b) of this Act, including preparation of—

(A) preliminary assessments;

(B) general or site-specific inventories;

(C) reconnaissance, engineering or other studies;

(D) preliminary design work; and

(E) such other studies as may be necessary to identify and evaluate the feasibility of coastal wetlands restoration projects;

(2) to carry out coastal wetlands restoration projects in accordance with the priorities set forth on the list prepared under section 5(a) of this Act;

(3) to carry out wetlands restoration projects in accordance with the priorities set forth in the restoration plan prepared under section 5(b) of this Act;

(4) to make grants not to exceed \$2,500,000 annually or \$10,000,000 in total, to assist the agency designated by the State in development of the Coastal Wetlands Conservation Plan pursuant to section 6 of this Act.

(b) **COASTAL WETLANDS CONSERVATION GRANTS.**—Of the total amount deposited during a given fiscal year in a wetland fund established to carry out this Act, 10 per centum, not to exceed \$10,000,000, shall be available, and shall remain available, to the Secretary of the Interior, for purposes of making grants—

(1) to any coastal State to carry out coastal wetlands conservation projects in accordance with subtitle C of this title; and

(2) in the amount of \$2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) **NORTH AMERICAN WETLANDS CONSERVATION.**—Of the total amount deposited during a given fiscal year in a wetlands fund during a given fiscal year, 15 per centum, not to exceed \$15,000,000, shall be available, and shall remain available, to the Secretary of the Interior for allocation under section 8 of the North American Wetlands Conservation Act (Public Law 101-233, 103 Stat. 1968, December 13, 1989).

SEC. 9. GENERAL PROVISIONS.

(a) **ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.**—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an in-

crease in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

Mr. CHAFEE. Mr. President, I support S. 1731 and believe that it provides a reasonable program to restore wetlands and prevent wetlands loss in Louisiana and to conserve important coastal and inland wetlands throughout the Nation.

The State of Louisiana's coastal wetlands have suffered as a result of intensive management of the Mississippi River and construction of thousands of miles of canals to support oil and gas exploration. In order to stem the tremendous rate of wetlands loss in coastal Louisiana, significant efforts, expertise, and expenditures will be required at all levels—Federal, State, local, and private. This legislation seeks to integrate ongoing planning and restoration projects into a long-term conservation plan.

S. 1731 establishes a task force comprised of five Federal agencies and the Governor of Louisiana which will develop and implement a long-term coastal restoration plan. As well as participating in planning activities, the State is required to provide 25 percent of the cost of coastal restoration projects. If the State develops a federally approved plan to achieve no net loss of coastal wetlands as a result of development activities, it will receive a 10 percent break on the cost-sharing requirement.

Mr. President, considerable resources have already been expended at the Federal and State level in order to determine the causes of coastal wetlands loss and to develop a comprehensive solution to restore Louisiana's coastal marshes and swamps. In particular, the Army Corps of Engineers has already initiated the "Louisiana comprehensive coastal wetlands feasibility study" and the State has recently endorsed a "coastal wetlands conservation and restoration plan." These ongoing studies and planning efforts provide an important springboard which will facilitate the development of a priority list of projects and a long-term restoration plan by the task force.

Development pressures threaten wetlands along all our coastlines. Thus, a portion of a new wetlands fund would be provided to coastal States through a grant program administered by the Secretary of the Interior. These coastal grants would go toward permanent protection of important wetland habitat in all coastal States. Projects authorized under the recently-enacted North American Wetlands Conservation Act would also receive a share of expenditures from a new wetlands fund.

It should be noted that the planning, projects and grants authorized in S. 1731 require a new source of fund-

ing. Thus, establishment of a wetlands fund in separate legislation is necessary in order to carry out the bulk of this act.

Nationwide, valuable wetlands are disappearing at a rate exceeding 400,000 acres per year. This trend has led to increasing scepticism as to the adequacy of our Nation's laws and regulations in regard to protection and restoration of coastal and inland wetlands. While it appears likely that Congress will consider legislation to address wetlands loss and degradation on a national level in the future, this legislation is primarily aimed at the unique and dramatic problem in coastal Louisiana.

Mr. President, on balance, I believe this legislation provides a fair and workable program to restore coastal Louisiana. I am pleased to support this legislation.

The PRESIDING OFFICER. The bill is open to amendment. If there be no amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall it pass?

So the bill (S. 1731) as amended, was passed, as follows:

S. 1731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coastal Wetlands Planning, Protection and Restoration Act".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) wetlands provide multiple benefits and are vital to the Nation's environmental and economic health;

(2) the environmental benefits of wetlands include, among others, providing critical habitat to avian, terrestrial, and aquatic species, maintaining water quality, forming barriers to waves and erosion, helping to reduce flood damage, nurturing valuable commercial and recreational fisheries, and providing habitat for rare and endangered species;

(3) scientists estimate that since European settlement began in the United States, more than 50 per centum of the wetlands in the forty-eight coterminous States have been lost due to manmade and natural causes;

(4) the State of Louisiana contains a significant portion of the Nation's wetlands including 40 per centum of the Nation's coastal wetlands;

(5) the coastal wetlands of Louisiana are of particular value to the Nation for they contribute 46 per centum of the Nation's annual shrimp harvest, contain the wintering grounds of millions of migratory birds and are crucial to meeting the United States international migratory bird treaty obligations with Canada, Mexico, Japan, and the Soviet Union, contribute 40 per centum of the Nation's wild fur and hide harvest, con-

tribute 16 per centum of the Nation's total production of petroleum and 20 per centum of the Nation's total production of natural gas, and buffer the destructive effects of hurricanes, storms, and floods;

(6) Louisiana is losing up to fifty square miles of these valuable coastal wetlands per year which is 80 per centum of the total loss of the Nation's coastal wetlands; at this rate of loss, between now and the year 2040, it is estimated that nearly one million additional acres of coastal wetlands will be lost—an area one and one-third times larger than the State of Rhode Island—bringing the total loss of such wetlands to an estimated two million four hundred thousand acres by the year 2040;

(7) the loss of coastal wetlands in Louisiana will result in a loss of valuable fish, shellfish, migratory bird, and fur resources and will jeopardize valuable public investments including one hundred miles of Federal and State highways, fifty-five miles of hurricane protection levees and floodwalls, twenty-seven miles of railroad tracks, one thousand five hundred and seventy miles of oil and gas pipelines, and three hundred and eighty-three miles of gas, water, electric power, and telephone lines;

(8) an estimated 75 per centum of coastal wetlands in Louisiana are privately owned, and the loss of such wetlands adversely affects landowners;

(9) the Mississippi River drains 40 per centum of the United States and has been developed by the Federal Government to provide navigation and flood control benefits to the entire Nation, including construction and maintenance of three of the largest deepwater ports in the country that service producers nationwide, development of an extensive inland navigation system that helps connect producers with the ports and world markets, and the construction of flood control levees that have prevented an estimated \$111,300,000,000 of flood damages;

(10) development of the Mississippi River has resulted in the transportation of wetlands-building sediments to the edge of the Outer Continental Shelf where they are being discharged to the deep waters of the Gulf of Mexico;

(11) navigation, access, and pipeline canals and other activities related to the exploration, development, and production of oil and gas along the Gulf coast and on the Outer Continental Shelf, have had adverse effects on many of the coastal wetlands of the Gulf coast region;

(12) in order for the citizens of the United States to continue to reap the environmental benefits from the coastal wetlands of Louisiana, efforts must be made to significantly reduce the rapid rate of loss;

(13) a coastal wetlands restoration plan that includes engineering solutions to restore and conserve coastal wetlands is critical to arrest the loss of wetlands;

(14) in addition to the need for a plan to restore wetlands, a program to conserve coastal wetlands in the State of Louisiana to achieve a goal of no net loss of wetlands as a result of development activities would be beneficial; and

(15) because of the large portion of the Nation's coastal wetlands located within the State of Louisiana, the disproportionate rate of loss of these wetlands, and the unique causes of the loss, there needs to be a unique solution to address the rapid rate of loss of coastal wetlands in the State.

SEC. 3. STATEMENT OF PURPOSES.

The purposes of this Act are to—

(1) provide for the planning, identification, and implementation of priority coastal wetlands restoration projects in Louisiana;

(2) encourage the State of Louisiana to develop a plan with the goal of achieving no net loss of coastal wetlands as a result of future development activities; and

(3) provide for grants to coastal States to implement coastal wetlands conservation projects.

SEC. 4. DEFINITIONS.

As used in this Act, the term—

(1) "Secretary" means the Secretary of the Army;

(2) "Administrator" means the Administrator of the Environmental Protection Agency;

(3) "development activities" means any activity, including the discharge of dredged or fill material, which results directly in a more than de minimus change in the hydrologic regime, bottom contour, or the type, distribution or diversity of hydrophytic vegetation, or which impairs the flow, reach, or circulation of surface water within wetlands or other waters;

(4) "State" means the State of Louisiana;

(5) "coastal State" means a State of the United States in, or bordering on, the Atlantic, Pacific, or Arctic Ocean, the Gulf of Mexico, Long Island Sound, or one or more of the Great Lakes; for the purposes of this title, the term also includes Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territories of the Pacific Islands, and American Samoa;

(6) "coastal wetlands restoration project" means any technically feasible activity to create, restore, protect, or enhance coastal wetlands through sediment and freshwater diversion, water management, or other measures that the Task Force finds will significantly contribute to the long-term restoration or protection of the physical, chemical and biological integrity of coastal wetlands in the State of Louisiana, and includes any such activity authorized under this Act or under any other provision of law, including, but not limited to, new projects, completion or expansion of existing or on-going projects, individual phases, portions, or components of projects and operation, maintenance and rehabilitation of completed projects; the primary purpose of a "coastal wetlands restoration project" shall not be to provide navigation, irrigation or flood control benefits;

(7) "coastal wetlands conservation project" means—

(A) the obtaining of a real property interest in coastal lands or waters, if the obtaining of such interest is subject to terms and conditions that will ensure that the real property will be administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon; and

(B) the restoration, management, or enhancement of coastal wetlands ecosystems if such restoration, management, or enhancement is conducted on coastal lands and waters that are administered for the long-term conservation of such lands and waters and the hydrology, water quality and fish and wildlife dependent thereon;

(8) "Governor" means the Governor of Louisiana; and

(9) "Task Force" means the Louisiana Coastal Wetlands Conservation and Restoration Task Force which shall consist of the Secretary, who shall serve as chairman, the

Administrator, the Governor, the Secretary of the Interior, the Secretary of Agriculture and the Secretary of Commerce.

SEC. 5. PRIORITY LOUISIANA COASTAL WETLANDS RESTORATION PROJECTS.

(a) PRIORITY PROJECT LIST.—

(1) PREPARATION OF LIST.—Within forty-five days after the date of enactment of this Act, the Secretary shall convene the Task Force to initiate a process to identify and prepare a list of coastal wetlands restoration projects in Louisiana in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration.

(2) TASK FORCE PROCEDURES.—The Secretary shall convene meetings of the Task Force as appropriate to ensure that the list is produced and transmitted annually to the Congress as required by this subsection. If necessary to ensure transmittal of the list on a timely basis, the Task Force shall produce the list by a majority vote of those Task Force members who are present and voting: *Provided, however,* That no coastal wetlands restoration project shall be placed on the list without the concurrence of the lead Task Force member responsible for carrying out such project.

(3) TRANSMITTAL OF LIST.—No later than one year after the date of enactment of this Act, the Secretary shall transmit to the Congress the list of priority coastal wetlands restoration projects required by paragraph (1) of this subsection. Thereafter, the list shall be updated annually by the Task Force members and transmitted by the Secretary to the Congress as part of the President's annual budget submission. Annual transmittals of the list to the Congress shall include a status report on each project and a statement from the Secretary of the Treasury indicating the amounts available for expenditure from a wetlands fund established to carry out this Act.

(4) LIST CONTENTS.—(A) The list of priority coastal wetlands restoration projects shall include, but not be limited to—

(i) identification, by map or other means, of the coastal area to be covered by the coastal wetlands restoration project; and

(ii) a detailed description of each proposed coastal wetlands restoration project including a justification for including such project on the list, the proposed activities to be carried out pursuant to each coastal wetlands restoration project, the benefits to be realized by such project, the identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project, an estimated timetable for the completion of each coastal wetlands restoration project, and the estimated cost of each project.

(B) Prior to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that can be substantially completed during a five-year period commencing on the date the project is placed on the list.

(C) Subsequent to the date on which the plan required by subsection (b) of this section becomes effective, such list shall include only those coastal wetlands restoration projects that have been identified in such plan.

(5) FUNDING.—The Secretary shall, with the funds made available in accordance with

section 8 of this Act, allocate funds among the members of the Task Force based on the need for such funds and such other factors as the Task Force deems appropriate to carry out the purposes of this subsection.

(b) FEDERAL AND STATE PROJECT PLANNING.—

(1) PLAN PREPARATION.—The Task Force shall prepare a plan to identify coastal wetlands restoration projects, in order of priority, based on the cost-effectiveness of such projects in creating, restoring, protecting, or enhancing coastal wetlands, taking into account the quality of such coastal wetlands, with due allowance for small-scale projects necessary to demonstrate the use of new techniques or materials for coastal wetlands restoration. Such restoration plan shall be completed within three years from the date of enactment of this Act.

(2) PURPOSE OF THE PLAN.—The purpose of the restoration plan is to develop a comprehensive approach to restore, and prevent the loss of, coastal wetlands in Louisiana. Such plan shall coordinate and integrate coastal wetlands restoration projects in a manner that will ensure the long-term conservation of the coastal wetlands of Louisiana.

(3) INTEGRATION OF EXISTING PLANS.—In developing the restoration plan, the Task Force shall seek to integrate the "Louisiana Comprehensive Coastal Wetlands Feasibility Study" conducted by the Secretary of the Army and the "Coastal Wetlands Conservation and Restoration Plan" prepared by the State of Louisiana's Wetlands Conservation and Restoration Task Force.

(4) ELEMENTS OF THE PLAN.—The restoration plan developed pursuant to this subsection shall include—

(A) identification of the entire area in the State that contains coastal wetlands;

(B) identification, by map or other means, of coastal areas in Louisiana in need of coastal wetlands restoration projects;

(C) identification of high priority coastal wetlands restoration projects in Louisiana needed to address the areas identified in subparagraph (B);

(D) a listing of such coastal wetlands restoration project, in order of priority, to be submitted annually, incorporating any project identified previously in lists produced and submitted under subsection (a) of this section;

(E) a detailed description of each proposed coastal wetlands restoration project, including a justification for including such project on the list;

(F) the proposed activities to be carried out pursuant to each coastal wetlands restoration project;

(G) the benefits to be realized by each such project;

(H) an estimated timetable for completion of each coastal wetlands restoration project;

(I) an estimate of the cost of each coastal wetlands restoration project;

(K) identification of a lead Task Force member to undertake each proposed coastal wetlands restoration project listed in the plan;

(L) consultation with the public and provision for public review during development of the plan; and

(M) evaluation of the effectiveness of each coastal wetlands restoration project in achieving long-term solutions to arresting coastal wetlands loss in Louisiana.

(5) PLAN MODIFICATION.—The Task force may modify the restoration plan from time to time as necessary to carry out the purposes of this section.

(6) **PLAN SUBMISSION.**—Upon completion of the restoration plan, the Secretary shall submit the plan to the Congress. The restoration plan shall become effective ninety days after the date of its submission to the Congress.

(7) **PLAN EVALUATION.**—Not less than three years after the completion and submission of the restoration plan required by this subsection and at least every three years thereafter, the Task force shall provide a report to the Congress containing a scientific evaluation of the effectiveness of the coastal wetlands restoration projects carried out under the plan in creating, restoring, protecting and enhancing coastal wetlands in Louisiana.

(c) **COASTAL WETLANDS RESTORATION PROJECT BENEFITS.**—Where such a determination is required under applicable law, the net ecological, aesthetic, and cultural benefits, together with the economic benefits, shall be deemed to exceed the costs of any coastal wetlands restoration project within the State which the Task Force finds to contribute significantly to wetlands restoration.

(d) **CONSISTENCY.**—In implementing, maintaining, modifying, or rehabilitating navigation, flood control or irrigation projects, other than emergency actions, under other authorities, the Secretary shall ensure that such actions are consistent with the purposes of the restoration plan submitted pursuant to this section.

(e) **FUNDING OF WETLANDS RESTORATION PROJECTS.**—The Secretary shall, with the funds made available in accordance with section 8 of this Act, allocate such funds among the members of the Task Force to carry out coastal wetlands restoration projects in accordance with the priorities set forth in the list transmitted in accordance with this section.

(f) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—Amounts made available from the Wetlands Fund to carry out coastal wetlands restoration projects under this Act shall provide 75 per centum of the cost of such projects.

(2) **FEDERAL SHARE UPON CONSERVATION PLAN APPROVAL.**—Notwithstanding the previous paragraph, if the State develops a Coastal Wetlands Conservation Plan pursuant to section 6 of this Act, and such conservation plan is approved pursuant to that section, amounts made available from the Wetlands Fund for any coastal wetlands restoration project under this section shall be 85 per centum of the cost of the project. In the event that the Secretary and the Administrator jointly determine that the State is not taking reasonable steps to implement and administer a conservation plan developed and approved pursuant to section 6 of this Act, amounts made available from the Wetlands Fund for any coastal wetlands restoration project shall revert to 75 per centum of the cost of the project: *Provided, however,* That such reversion to the lower cost share level shall not occur until the Governor has been provided notice of, and opportunity for hearing on, any such determination by the Secretary and Administrator, and the State has been given ninety days from such notice or hearing to take corrective action.

(3) **FORM OF STATE SHARE.**—The share of the cost required of the State shall be from a non-Federal source. Such State share shall consist of a cash contribution of not less than 5 per centum of the cost of the project. The balance of such State share may take the form of lands, easements, or

right-of-way, or any other form of in-kind contribution determined to be appropriate by the lead Task Force member.

(4) Paragraphs (1), (2), and (3) of this subsection shall not affect the existing cost-sharing agreements for the following projects: Caernarvon Freshwater Diversion, Davis Pond Freshwater Diversion, and Bonnet Carre Freshwater Diversion.

SEC. 6. LOUISIANA COASTAL WETLANDS CONSERVATION PLANNING.

(a) **DEVELOPMENT OF CONSERVATION PLAN.**—

(1) The Secretary and the Administrator are directed to enter into an agreement with the Governor, as set forth in paragraph (2) of this subsection, upon notification of the Governor's willingness to enter into such agreement.

(2) **TERMS OF AGREEMENT.**—

(A) Upon receiving notification pursuant to paragraph (1) of this subsection, the Secretary and the Administrator shall promptly enter into an agreement (hereinafter in this section referred to as the "agreement") with the State under the terms set forth in subparagraph (B) of this paragraph.

(B) The agreement shall—

(i) set forth a process by which the State agrees to develop, in accordance with this section, a coastal wetlands conservation plan (hereafter in this section referred to as the "conservation plan");

(ii) designate a single agency of the State to develop the conservation plan;

(iii) assure an opportunity for participation in the development of the conservation plan, during the planning period, by the public and by Federal and State agencies;

(iv) obligate the State, not later than three years after the date of signing the agreement, unless extended by the parties thereto, to submit the conservation plan to the Secretary and the Administrator for their approval; and

(v) upon approval of the conservation plan, obligate the State to implement the conservation plan.

(3) **GRANTS AND ASSISTANCE.**—Upon the date of signing the agreement—

(A) the Administrator shall, with the funds made available in accordance with section 8 of this Act, make grants during the development of the conservation plan to assist the designated State agency in developing such plan; and

(B) the Secretary and the Administrator shall provide technical assistance to the State to assist it in the development of the Plan.

(b) **CONSERVATION PLAN GOAL.**—If a conservation plan is developed pursuant to this section, it shall have a goal of achieving no net loss of wetlands in the coastal areas of Louisiana as a result of development activities initiated subsequent to approval of the plan, exclusive of any wetlands gains achieved through implementation of section 5 of this Act.

(c) **ELEMENTS OF CONSERVATION PLAN.**—The conservation plan authorized by this section shall include—

(1) identification of the entire coastal area in the State that contains coastal wetlands;

(2) designation of a single State agency with the responsibility for implementing and enforcing the Plan;

(3) identification of measures that the State shall take in addition to existing Federal authority to achieve a goal of no net loss of wetlands as a result of development activities, exclusive of any wetlands gains achieved through implementation of section 5 of this Act;

(4) a system that the State shall implement to account for gains and losses of coastal wetlands within coastal areas for purposes of evaluating the degree to which the goal of no net loss of wetlands as a result of development activities in such wetlands or other waters has been attained;

(5) satisfactory assurances that the State will have adequate personnel, funding, and authority to implement the Plan;

(6) a program to be carried out by the State for the purpose of educating the public concerning the necessity to conserve wetlands;

(7) a program to encourage the use of technology by persons engaged in development activities that will result in negligible impact on wetlands; and

(8) a program for the review, evaluation, and identification of regulatory and nonregulatory options that will be adopted by the State to encourage and assist private owners of wetlands to continue to maintain those lands as wetlands.

(d) **APPROVAL OF CONSERVATION PLAN.**—

(1) **IN GENERAL.**—If the Governor submits a conservation plan to the Secretary and the Administrator for their approval, the Secretary and the Administrator shall, within one hundred and eighty days following receipt of such plan, approve or disapprove it.

(2) **APPROVAL CRITERIA.**—The Secretary and the Administrator shall approve a conservation plan submitted by the Governor, if they determine that—

(A) the State has adequate authority to fully implement all provisions of such a plan;

(B) such a plan is adequate to attain the goal of no net loss of coastal wetlands as a result of development activities and complies with the other requirements of this section; and

(C) the Plan was developed in accordance with the terms of the agreement set forth in subsection (a) of this section.

(e) **MODIFICATION OF CONSERVATION PLAN.**—

(1) **NONCOMPLIANCE.**—If the Secretary and the Administrator determine that a conservation plan submitted by the Governor does not comply with the requirements of subsection (d) of this section, they shall submit to the Governor a statement explaining why the plan is not in compliance and how the plan should be changed to be in compliance.

(2) **RECONSIDERATION.**—If the Governor submits a modified conservation plan to the Secretary and the Administrator for their reconsideration, the Secretary and Administrator shall have ninety days to determine whether the modifications are sufficient to bring the plan into compliance with the requirements of subsection (d) of this section.

(3) **APPROVAL OF MODIFIED PLAN.**—If the Secretary and the Administrator fail to approve or disapprove the conservation plan, as modified, within the ninety-day period following the date on which it was submitted to them by the Governor, such Plan, as modified, shall be deemed to be approved effective upon the expiration of such ninety-day period.

(f) **AMENDMENTS TO CONSERVATION PLAN.**—If the Governor amends the conservation plan approved under this section, any such amended plan shall be considered a new plan and shall be subject to the requirements of this section: *Provided, however,* That minor changes to such plan shall not be subject to the requirements of this section.

(g) **IMPLEMENTATION OF CONSERVATION PLAN.**—A conservation plan approved under

this section shall be implemented as provided therein.

(h) **FEDERAL OVERSIGHT.**—

(1) **INITIAL REPORT TO CONGRESS.**—Within one hundred and eighty days after entering into the agreement required under subsection (a) of this section, the Secretary and the Administrator shall report to the Congress as to the status of a conservation plan approved under this section and the progress of the State in carrying out such a plan, including an accounting, as required under subsection (c) of this section, of the gains and losses of coastal wetlands as a result of development activities.

(2) **REPORTS TO CONGRESS.**—Twenty-four months after the initial one hundred and eighty day period set forth in paragraph (1), and at the end of each twenty-four-month period thereafter, the Secretary and the Administrator shall, in consultation with the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, report to the Congress on the status of the conservation plan and provide an evaluation of the effectiveness of the plan in meeting the goal of this section.

SEC. 7. NATIONAL COASTAL WETLANDS CONSERVATION GRANTS.

(a) **MATCHING GRANTS.**—The Secretary of the Interior shall, with the funds made available in accordance with section 8 of this Act, make matching grants to any coastal State to carry out coastal wetlands conservation projects from funds made available for that purpose.

(b) **PRIORITY.**—Subject to the cost-sharing requirements of this section, the Secretary of the Interior may grant or otherwise provide any matching moneys to any coastal State which submits a proposal substantial in character and design to carry out a coastal wetlands conservation project. In awarding such matching grants, the Secretary of the Interior shall give priority to coastal wetlands conservation projects that are—

(1) consistent with the National Wetlands Priority Conservation Plan developed under section 301 of the Emergency Wetlands Resources Act (16 U.S.C. 3921); and

(2) in coastal States that have established dedicated funding for programs to acquire coastal wetlands, natural areas and open spaces.

(c) **CONDITIONS.**—The Secretary of the Interior may only grant or otherwise provide matching moneys to a coastal State for purposes of carrying out a coastal wetlands conservation project if the grant or provision is subject to terms and conditions that will ensure that any real property interest acquired in whole or in part, or enhanced, managed, or restored with such moneys will be administered for the long-term conservation of such lands and waters and the fish and wildlife dependent thereon.

(d) **COST-SHARING.**—

(1) **FEDERAL SHARE.**—Grants to coastal States of matching moneys by the Secretary of the Interior for any fiscal year to carry out coastal wetlands conservation projects shall be used for the payment of not to exceed 50 per centum of the total costs of such projects: *Provided, however,* That such matching moneys may be used for payment of not to exceed 75 per centum of the costs of such projects if a coastal State has established a trust fund, from which the principal is not spent, for the purpose of acquiring coastal wetlands, other natural area or open spaces.

(2) **FORM OF STATE SHARE.**—The matching moneys required of a coastal State to carry

out a coastal wetlands conservation project shall be derived from a non-Federal source.

(e) **PARTIAL PAYMENTS.**—

(1) The Secretary of the Interior may from time to time make matching payments to carry out coastal wetlands conservation projects as such projects progress, but such payments, including previous payments, if any, shall not be more than the Federal pro rata share of any such project in conformity with subsection (d) of this section.

(2) The Secretary of the Interior may enter into agreements to make matching payments on an initial portion of a coastal wetlands conservation project and to agree to make payments on the remaining Federal share of the costs of such project from subsequent moneys if and when they become available. The liability of the United States under such an agreement is contingent upon the continued availability of funds for the purpose of this section.

(f) **WETLANDS ASSESSMENT.**—The Secretary of the Interior shall, with the funds made available in accordance with section 8 of this Act, direct the U.S. Fish and Wildlife Service's National Wetland Inventory to update and digitize wetlands maps in the State of Texas and to conduct an assessment of the status, condition, and trends of wetlands in that State.

SEC. 8. AUTHORIZED USES OF A WETLANDS FUND.

(a) **IN GENERAL.**—The amounts appropriated or credited to a wetlands fund established to carry out this Act shall be available, as provided in appropriation Acts, to carry out this Act through fiscal year 1999.

(b) **PRIORITY PROJECT AND CONSERVATION PLANNING EXPENDITURES.**—Of the total amount deposited during a given fiscal year in a wetlands fund established to carry out this Act, 75 per centum, not to exceed \$75,000,000, shall be available, and shall remain available until expended, for purposes of making expenditures—

(1) not to exceed the aggregate amount of \$5,000,000 annually to assist the Task Force in the preparation of the list required under section 5(a) of this Act and the plan required under section 5(b) of this Act, including preparation of—

(A) preliminary assessments;
(B) general or site-specific inventories;
(C) reconnaissance, engineering or other studies;
(D) preliminary design work; and
(E) such other studies as may be necessary to identify and evaluate the feasibility of coastal wetlands restoration projects;

(2) to carry out coastal wetlands restoration projects in accordance with the priorities set forth on the list prepared under section 5(a) of this Act;

(3) to carry out wetlands restoration projects in accordance with the priorities set forth in the restoration plan prepared under section 5(b) of this Act;

(4) to make grants not to exceed \$2,500,000 annually or \$10,000,000 in total, to assist the agency designated by the State in development of the Coastal Wetlands Conservation Plan pursuant to section 6 of this Act.

(b) **COASTAL WETLANDS CONSERVATION GRANTS.**—Of the total amount deposited during a given fiscal year in a wetland fund established to carry out this Act, 10 per centum, not to exceed \$10,000,000, shall be available, and shall remain available, to the Secretary of the Interior, for purposes of making grants—

(1) to any coastal State to carry out coastal wetlands conservation projects in accordance with subtitle C of this title; and

(2) in the amount of \$2,500,000 in total for an assessment of the status, condition, and trends of wetlands in the State of Texas.

(c) **NORTH AMERICAN WETLANDS CONSERVATION.**—Of the total amount deposited during a given fiscal year in a wetlands fund during a given fiscal year, 15 per centum, not to exceed \$15,000,000, shall be available, and shall remain available, to the Secretary of the Interior for allocation under section 8 of the North American Wetlands Conservation Act (Public Law 101-233, 103 Stat. 1968, December 13, 1989).

SEC. 9. GENERAL PROVISIONS.

(a) **ADDITIONAL AUTHORITY FOR THE CORPS OF ENGINEERS.**—The Secretary is authorized to carry out projects for the protection, restoration, or enhancement of aquatic and associated ecosystems, including projects for the protection, restoration, or creation of wetlands and coastal ecosystems. In carrying out such projects, the Secretary shall give such projects equal consideration with projects relating to irrigation, navigation, or flood control.

(b) The Secretary is hereby authorized and directed to study the feasibility of modifying the operation of existing navigation and flood control projects to allow for an increase in the share of the Mississippi River flows and sediment sent down the Atchafalaya River for purposes of land building and wetlands nourishment.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

COMMENDING ERICH BLOCH

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 317, a resolution to commend Mr. Erich Bloch just reported by the Labor Committee.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:
A resolution (S. Res. 317) to commend Mr. Erich Bloch for his dedicated service as Director of the National Science Foundation.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 317) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 317

Whereas Erich Bloch has raised the stature of the National Science Foundation as it has assumed increasingly important responsibilities in basic research, science education, global warming research, competitiveness, and other key issues in science and technology policy;

Whereas Erich Bloch has strengthened the National Science Foundation's support for critical research areas by establishing

the Directorate for Engineering and the Directorate for Computer and Information Science and Engineering;

Whereas Erich Bloch revitalized the National Science Foundation's support for science, mathematics, and engineering education at all grade levels, including special programs to attract and retain women, minorities, and other groups historically underrepresented in the sciences;

Whereas Erich Bloch has instituted a number of important programs to establish interdisciplinary research centers, including the Engineering Research Centers, the National Supercomputer Centers, and the Science and Technology Centers;

Whereas under Erich Bloch the National Foundation has increasingly and effectively leveraged industrial, State, and other non-Federal resources to increase collaboration in research and education and to maximize the effectiveness of each Federal research dollar;

Whereas Erich Bloch provided both leadership regarding, and factual justification for, the planned growth in the budget of the National Science Foundation to further National Science Foundation support of high-quality research and education programs; and

Whereas Erich Bloch lifetime contributions to the advancement of science and technology, including a full 6-year term as Director of the National Science Foundation, have earned him the National Medal of Technology, membership in the National Academy of Engineering and other prominent scientific organizations, and numerous other awards and honors: Now, therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, That—

(1) the Senate commends Erich Bloch for his leadership of the National Science Foundation during this critical period and for his outstanding contributions to the advancement of science and technology in the United States; and

(2) the Senate expresses its gratitude to Erich Bloch for his years of public service and for the wise counsel he has provided to the Congress, the President, and the Nation.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NEW MEXICO LAND EXCHANGE

Mr. NUNN. Mr. President, I ask unanimous consent that the Energy Committee be discharged from further consideration of S. 2597, New Mexico land exchange, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 2597) to amend the Act of June 20, 1910, to clarify in the State of New Mexico authority to exchange lands granted by the United States in trust, and to validate prior land exchanges.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

Their being no objection, the Senate proceeded to consider the bill.

Mr. DOMENICI. Mr. President, I rise in support of S. 2597. This bill, which I introduced, would grant the consent of Congress to an amendment to the New Mexico Enabling Act.

The amendment that would be ratified by S. 2597 would permit the State of New Mexico to exchange for beneficial purposes lands granted or confirmed to it by the United States when New Mexico was admitted to the Union.

In 1910, Congress passed the Enabling Act that led to statehood for New Mexico. Subsequently, the people of New Mexico consented to the Enabling Act, and it became a part of New Mexico's fundamental law as if it had been incorporated directly into the New Mexico Constitution.

Pursuant to the Enabling Act and other acts, the Federal Government transferred approximately 13.4 million acres of land to the State of New Mexico to be held in trust for certain specific purposes. These lands are managed and administered by the State Commissioner of Public Lands.

Congress placed very strict limits on the disposal of the trust lands granted under the Enabling Act to New Mexico. These limits were stricter than those placed on any other State except Arizona, which had similar restrictions.

Under the Enabling Act, the Public Lands Commissioner can only dispose of trust lands by sale or lease to the highest bidder at a public auction, which must be advertised for 10 weeks. Prior to the auction, the lands must be appraised, and no sale or lease can be made for less than the appraised fair market value of the land. Any sale or lease of trust lands that does not conform with the requirements of the Enabling Act is null and void.

New Mexico has not amended its Enabling Act to permit such exchanges, except for the limited purposes of exchanging trust lands for National Forest lands.

The New Mexico attorney general has issued a written opinion that the Public Lands Commissioner lacks the authority to exchange trust lands for other lands—except for national forest lands—because of the Enabling Act's requirements of appraisal and public auction.

The Public Lands Commissioner seeks to conduct land exchanges with the Anthony, Los Lunas, and Moriarty School Districts for school sites, with the city of Roswell for an airport expansion, with the Bureau of Land Management for wilderness areas, and with other Federal and State agencies, cities, Indian tribes, and other groups for a multitude of beneficial purposes.

The New Mexico attorney general and the Public Lands Commissioner have determined that the only way to

permit such exchanges is to amend the Enabling Act.

Amendment of the New Mexico Enabling Act requires the consent of the Congress and the New Mexico State Legislature, and the approval of the voters of New Mexico. The New Mexico State Legislature has approved an amendment to the Enabling Act to permit land exchanges.

S. 2597 would grant the consent of Congress to the amendment of the Enabling Act. The amendment would permit the State of New Mexico to exchange State trust lands with the Federal Government, State agencies, city governments, Indian tribes, institutions for whom the lands are held in trust, and private entities.

Exchanges would be permitted only where: First, the land that the State is to receive is of equal or greater value than the land that the State is to convey; and second, the exchange is beneficial to the interest of the institution for whom the land is held in trust.

In order to assure that exchanges that have been conducted in good faith since 1910 are not invalidated, the bill makes the Enabling Act amendment retroactive to 1910.

The Subcommittee on Public Lands, National Parks and Forests held a hearing on S. 2597 last Friday. The administration testified in support of the amendment, as did the New Mexico Commissioner of Public Lands and a representative of New Mexico conservation organizations.

Mr. President, I ask unanimous consent that the testimony of the Honorable William R. Humphries, the Commissioner of Public Lands of the State of New Mexico, explaining the need for this legislation be printed in the RECORD immediately following my remarks.

Mr. President, at the hearing, Commissioner Humphries informed the Subcommittee that the New Mexico Secretary of State had announced that, in order for the amendment to be submitted to the voters this fall, the President must sign the bill granting Congress' consent by September 11.

Obviously, we must approve this bill very quickly in order to get the amendment before the voters this year.

Mr. President, I want to thank the chairman of the Committee on Energy and Natural Resources, Senator JOHNSTON, and the ranking Republican member, Senator McCLURE, for their assistance in bringing this to the floor. Given the September 11 deadline, we had to move very rapidly on this bill, and I am grateful to the chairman and ranking Republican member and their staffs for their assistance. As always, they were most accommodating to this Senator.

I also want to thank Senator BINGAMAN, who cosponsored the bill, and Representative JOE SKEEN, who introduced the bill in the House and is working to obtain approval of the measure by the Chamber by the September deadline.

Mr. President, this amendment to the New Mexico Enabling Act is long overdue. I hope that the Senate will endorse this measure so that we can get it signed into law by the President by September 11.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF W.R. HUMPHRIES ON S. 2597

Mr. Chairman, my name is Bill Humphries. I am the Commissioner of Public Lands for New Mexico. I am a constitutional officer of the State, elected by the voters to carry out the constitutional responsibilities and obligations as a trustee for the State's trust lands.

Through this written statement and verbal testimony, I wish to provide some background information and the reasons we requested a change in our Enabling Act. New Mexico received territorial grants for public schools and other beneficiary institutions in 1898 and again at statehood in 1912. Congress made the grants to New Mexico to be held in trust specifically and exclusively for those beneficiary institutions named. These grants charge New Mexico with a very strict obligation of protection for our State trust lands in order to prevent the losses and mismanagement that Congress had previously witnessed in other State grants. The New Mexico Constitution and the Enabling Act combine to create a very strict and protective trust for the control and disposition of these State lands. The commissioner's constitutional obligations are to maximize revenues from these trust lands for the exclusive use of the designated beneficiary institutions and to protect the assets and resources of the trust in a fashion that will provide for continuous income into the future.

The total territorial and statehood grants amounted to approximately 13.4 million acres. Presently there are approximately 9 million surface acres and 13 million acres of minerals. There have been approximately 4 million acres of surface sold and some minor adjustments in ownership of minerals through condemnation action by the Federal Government. Annual income provided to New Mexico public schools, universities, and other beneficiary institutions is over 350 million dollars. The surface ownership in New Mexico is approximately 45 percent private, 12 percent State trust lands, 10 percent Indian land and the balance, approximately 33 percent, Federal. The majority of the Federal land is the Bureau of Land Management followed by the U.S. Forest Service, and military lands.

The results of the grants by granting numbered sections 16 and 36 and 2 and 32 plus approximately 3 million acres of institutional and indemnity grants combined with the various methods of establishing private ownership resulted in what is recognizable as the checkerboard pattern of hopelessly intermingled land ownership. Consequently, in many cases all land owners' property rights and responsibilities are limited by other ownerships. Although neither this proposed constitutional amendment and change to our Enabling Act nor

land exchanges themselves will completely change this pattern, they will provide significant improvement in both solving problems and realizing the intended purposes of New Mexico's State trust lands.

Congress recently enacted the Federal Land Exchange Facilitation Act of 1988, indicating congressional awareness of the need for land exchanges. Other States conduct land exchanges under a variety of authorities and/or interpretations of their statutes and enabling acts. In New Mexico we have been conducting exchanges since statehood. Since numbered sections often fell within Indian lands and private lands the State was allowed to select other Federal lands. For all practical purposes, this was an exchange although not so described in our Enabling Act.

In 1987, the University of New Mexico (a beneficiary), requested to exchange some trust lands where they are the designated beneficiary for some fee land that they own. Although the Land Office had conducted one such prior exchange with the University of New Mexico, I was uncertain of the legal authority to proceed with this exchange. Subsequently, I requested an opinion from our State attorney general as to whether the commissioner of public lands could exchange with private entities, beneficiary institutions, State and local government subdivisions, and other Federal agencies other than the Department of Interior. The attorney general stated that the commissioner *did not* have the authority to conduct such exchanges and raised questions about the commissioner's authority to exchange with the Secretary of Interior.

There were several important questions raised by the attorney general's opinion and after an extended period of time analyzing the opinion and our options it was concluded by the attorney general and myself to proceed with the process to amend our Enabling Act.

Other important background information indicates that in 1926 the Congress authorized an amendment to our Enabling Act to allow the State to exchange State lands in the National Forest for United States land. Subsequently, a joint resolution from the New Mexico legislature proposing an amendment to the constitution was voted on in 1927 and failed. In 1929, the New Mexico legislature again proposed an amendment arising from the same congressional act and presented it to the voters. This second attempt also failed. In 1931, the New Mexico legislature passed a third resolution to put this same constitutional amendment on the ballot. Finally, the amendment passed. In 1935, the New Mexico legislature passed a joint resolution proposing another amendment for more extensive authorization of land exchanges between the state of New Mexico and the United States (subject to the approval of Congress and the voters) similar to what we now propose. The New Mexico voters again rejected the amendment. It does not appear that congressional consent was sought or granted for this amendment. However, history clearly reveals that the people of New Mexico have acted upon several exchange amendments and have clearly limited the commissioner's authority to exchange.

The reasons for land exchanges have been mentioned previously, but some additional information may be useful. There are approximately 7,500 separate tracts of state trust land larger than 40 acres, and approximately 500 separate tracts of state land smaller than 40 acres. This requires no fur-

ther description as to what kind of problem that presents for resource management. There are significant conflicts between various ownerships adjacent to, within or surrounding state trust land. These are often with the Federal Government, Indian tribes, and private landowners. This occasionally causes a very significant problem to the beneficiaries of the trust and other state and local government entities.

The New Mexico Legislature in 1990 passed a joint resolution and memorial asking that Congress authorize an amendment to our Enabling Act and authorizing a constitutional amendment to be on the ballot in the November 1990 general election. The intent of the New Mexico Legislature and S. 2597 are to set forth the terms that clarify the authority to exchange lands and to validate prior land exchanges.

S. 2597 would clarify the commissioner's authority to exchange any land granted and confirmed by our Enabling Act. This authorization would include any land of the United States or an agency thereof, state agency or political subdivision, beneficiary of the lands granted or confirmed by this act, any Indian Tribe or Pueblo, or private entity. When the commissioner finds, after consultation with the chief administrative officer of the affected beneficiary of the land in question, that based upon appraisals, the true value of the land to be received by the state is equal to or greater than the land exchanged by the state and that the proposed exchange is beneficial to the affected beneficiaries then an exchange could be made. The proposal also provides retroactive validation and ratification of land exchanges made prior to the effective date of this amendment and will not prejudice the interest of any person and will benefit the interest of the parties to such exchanges.

The advantages of the proposed amendment are many. Predominantly, the ability to consolidate land ownership and reduce the problems of checkerboard ownership. It can reduce conflict between other land ownerships, allow the opportunity to adjust ownership boundaries, and also allow the commissioner, in many instances, to help beneficiary institutions directly.

In closing, I believe that the voters of New Mexico will support this proposed amendment. Subsequently, the state of New Mexico and the beneficiary institutions can continue to realize the full benefits of these state trust lands. This also will allow the completion of certain exchanges to realize the intent of federal law and policies regarding wilderness areas, wildlife refuges, national parks, and other special and unique areas without defeating the intent and purpose of the state trust lands.

The PRESIDING OFFICER. The bill is before the Senate and open to amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 2597) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2597

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO EXCHANGE LAND.

Section 10 of the Act of June 20, 1910 (36 Stat. 563), is amended by inserting after the

ninth paragraph thereof the following new paragraph:

"The State commissioner of public lands may exchange any land granted or confirmed by this Act for any land of the United States or an agency thereof, a State agency or political subdivision, a beneficiary of lands granted or confirmed by this Act, an Indian tribe or pueblo, or a private entity when the commissioner finds, after consultation with the chief administrative officer of the affected beneficiary of lands granted or confirmed by this Act, that—

"(1) based upon appraisals of the true value thereof, the value of the land to be received by the State is equal to or greater than the land to be conveyed by the State; and

"(2) the proposed exchange is beneficial to the interests of the affected beneficiary."

SEC. 2. EFFECTIVE DATE.

(a) FINDING.—The Congress finds that the retroactive application of the amendment made in section 1 to approve, validate, and ratify land exchanges made prior to the effective date of the amendment will not prejudice the interests of any person and will benefit the interests of the parties to such exchanges, the beneficiaries of land granted or confirmed under the Act of June 20, 1910, and the public.

(b) RETROACTIVE APPLICATION.—On the date that the Secretary of State of the State of New Mexico certifies that the people of the State of New Mexico have consented to this Act by amendment of article XXI of the constitution of the State of New Mexico, the amendment made in section 1 shall be effective as of June 20, 1910, so as to approve, validate, and ratify all exchanges made after that date of lands granted or confirmed to the State of New Mexico after that date.

SEC. 3. CONSENT TO CONSTITUTIONAL AMENDMENTS.

The consent of Congress is given to amendments to article XXI of the Constitution of the State of New Mexico to consent to the amendment made in section 1, to become effective as of June 20, 1910, as provided in section 2.

Mr. NUNN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

APPOINTMENT BY THE MAJORITY LEADER

The PRESIDING OFFICER. The Chair, on behalf of the majority leader, pursuant to Public Law 101-194, announces the following appointments to the President's Commission on the Federal Appointment Process: Mrs. C. Abbott Saffold, secretary for the majority; and Mr. Ron Klain, chief counsel, Committee on the Judiciary.

ORDERS FOR THURSDAY, AUGUST 2, 1990

Mr. NUNN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stands in recess until 9 a.m. on Thursday, August 2. I further ask unanimous consent that the time for the two leaders be reserved for their use later in the day; that the Journal of the proceedings be deemed approved to date; and that there be a period for morning business not to extend beyond 9:30 a.m. with Senators permitted to speak therein, during which Senator ROCKEFELLER will be recognized to speak for up to 20 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. NUNN. Mr. President, I ask unanimous consent that the Senate stand in recess under the previous order, until 9 o'clock tomorrow morning.

There being no objection, the Senate, at 12:10 a.m., recessed until Thursday, August 2, 1990, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate August 1, 1990:

DEPARTMENT OF JUSTICE

ROBERT S. MUELLER III, OF MASSACHUSETTS, TO BE AN ASSISTANT ATTORNEY GENERAL, VICE EDWARD S. G. DENNIS, JR., RESIGNED.

INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA

ROBERT F. GOODWIN, OF MARYLAND, TO BE A COMMISSIONER ON THE PART OF THE UNITED STATES ON THE INTERNATIONAL JOINT COMMISSION, UNITED STATES AND CANADA, VICE DONALD L. TOTTON, RESIGNED.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

CAROLYN D. LEAVENS, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1990, VICE ALLIE C. FELDER, JR., TERM EXPIRED.

CAROLYN D. LEAVENS, OF CALIFORNIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 1993. (REAPPOINTMENT.)

MISSISSIPPI RIVER COMMISSION

THE FOLLOWING NAMED OFFICER TO A MEMBER OF THE MISSISSIPPI RIVER COMMISSION, UNDER THE PROVISIONS OF SECTION 2 OF AN ACT OF CONGRESS, APPROVED 28 JUNE 1879 (21 STAT. 37) (33 U.S.C. 642):

To be a member of the Mississippi River Commission

BRIG. GEN. PAUL Y. CHINEN, ~~xxx-xx-xxxx~~ U.S. ARMY

HARRY S. TRUMAN SCHOLARSHIP FOUNDATION

HOLLAND H. COORS, OF COLORADO, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE HARRY S. TRUMAN SCHOLARSHIP FOUNDATION FOR A TERM EXPIRING DECEMBER 10, 1995, VICE ANITA M. MILLER, TERM EXPIRED.

NATIONAL SCIENCE FOUNDATION

THE FOLLOWING NAMED PERSONS TO BE MEMBERS OF THE NATIONAL SCIENCE BOARD, NATIONAL SCIENCE FOUNDATION, FOR THE TERMS INDICATED: FOR THE REMAINDER OF THE TERM EXPIRING MAY 10, 1994:

W. GLENN CAMPBELL, OF CALIFORNIA, VICE D. ALLAN BROMLEY, RESIGNED.

FOR A TERM EXPIRING MAY 10, 1996: PERRY L. ADKISSON, OF TEXAS. (REAPPOINTMENT.) BERNARD F. BURKE, OF MASSACHUSETTS, VICE KENNETH LEON NORDTVEIT, JR., TERM EXPIRED. THOMAS B. DAY, OF CALIFORNIA. (REAPPOINTMENT.)

JAMES JOHNSON DUDERSTADT, OF MICHIGAN. (REAPPOINTMENT.)

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE REGULAR ARMY OF THE UNITED STATES TO THE GRADE INDICATED, UNDER THE PROVISIONS OF TITLE 10, UNITED STATES CODE, SECTION 611(A) AND 624:

To be permanent brigadier general

COL. DONALD W. SHEA, ~~xxx-xx-xxxx~~ U.S. ARMY.

HOUSE OF REPRESENTATIVES—Wednesday, August 1, 1990

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray, O gracious God, for those we know who have great need in body, mind, or spirit and whose hearts are open to the power of Your presence. In the depths of our own hearts we place their names before You and we pray that You will meet their special needs with Your boundless grace. May Your peace, O God, that passes all human understanding, bless all Your people now and evermore. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from South Carolina [Mr. TALLON] please come forward and lead the House in the Pledge of Allegiance.

Mr. TALLON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the House to the amendment of the Senate to the bill (H.R. 1594) entitled "An Act to extend nondiscriminatory treatment to the products of the People's Republic of Hungary for 3 years".

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 142. Concurrent resolution to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31.

SPEAKER FOLEY CONDEMNS
TERRORIST TACTICS OF THE
IRA

(Mr. FOLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOLEY. Mr. Speaker, it is with a sense of outrage and great sadness that I break with custom to take the floor.

On Monday, Mr. Ian Gow, a conservative member of the British Parliament, was murdered by a bomb planted in his car.

Mr. Gow was known as a strong supporter of Prime Minister Thatcher, a critic of the Anglo-Irish Agreement, and a knowledgeable conservative spokesman on Northern Ireland. His name appeared on an IRA hit list discovered in 1988, and on Monday the IRA assassinated him.

The clear and despicable purpose of this callous act was intimidation through terror—just as the motivation behind the recent killings of three policemen and a nun in Northern Ireland, the assassination of two Australian tourists in Holland, and the killing of the wife of a British soldier in Germany were intended to frighten the British out of Northern Ireland.

I am a supporter of the Anglo-Irish Agreement. I disagreed with Mr. Gow on a number of Irish issues. But I recognize, as do responsible political leaders in Northern Ireland and in the Republic of Ireland, that the only lasting resolution of the problems in the North will come through a peaceful political process. Reconciliation and necessary economic change cannot be purchased with the gun and the bomb.

The IRA's guns and bombs have not brought independence for Northern Ireland, nor will they.

They haven't brought jobs or the elimination of sectarian discrimination, nor will they.

What they have brought—in the years since British troops were sent to Northern Ireland in 1972—is the deaths of many more civilian bystanders than of soliders or policemen. The IRA pretends to be the protector of the Catholic minority, yet it is responsible for the deaths of many more Catholics than Protestants, in fact, many more deaths than can be attributed to conflict with the British forces or the police.

And what they have not brought, Mr. Speaker, and what they will not bring—in Parliament, in this House, or in any free legislature—is the cessation or diminution of open discourse

and the pursuit of peaceful political agreement among freely elected governments and legislatures.

Mr. Speaker, I believe I speak for the Members of this House when I express the very deepest sympathy for the family of Mr. Gow, absolute condemnation for his cowardly murder, and strong solidarity for our sister House in Westminster in its time of duress and sorrow.

I trust we all join in urging that, whatever the governments of Ireland and of the United Kingdom may resolve with respect to Northern Ireland, they do so without any reference, and in common defiance, to the terror tactics of the IRA.

□ 1010

BANNING "LEADERSHIP PACS"
AND "PAC TRANSFERS"

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, I rise here today to discuss an issue on which every Member of Congress needs to stand up and be counted. That issue is campaign reform. Specifically, I'd like to talk about banning so-called leadership PAC's and PAC transfers. While not often discussed, leadership PAC's and PAC transfers are unethical and are proliferating at an alarming rate. A decade ago, there were only a handful of "leadership PACs." They now number about 50 and collect in the tens of millions of dollars every year.

Leadership PACs—which are separate and distinct from a members authorized campaign committee—and resulting PAC transfers can only be described as legalized "laundering" of campaign contributions. Most recently, concerns have been raised about the role of members' PACs in elections for floor leadership positions. I side with the President of the United States when I say that the prospect of extending the influence of campaign contributions into internal House politics is despicable. The President has proposed that candidates be limited to one campaign committee and that transfers between those committees be prohibited. I support the President wholeheartedly in urging the Congress to eliminate leadership PAC's and PAC transfers.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TALLON). At the direction of the Speaker, the Chair has been advised that not more than 15 Members from each side will be recognized for 1 minute.

WAIVING PROVISIONS OF LEGISLATIVE REORGANIZATION ACT OF 1970 REQUIRING ADJOURNMENT OF THE HOUSE AND SENATE BY JULY 31

Mr. MURTHA. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate concurrent resolution (S. Con. Res. 142) to waive the provisions of the Legislative Reorganization Act of 1970 which require the adjournment of the House and Senate by July 31 and ask for its immediate consideration in the House.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

Mr. WALKER. Mr. Speaker, reserving the right to object, I do so largely to inquire of the Chair about the announcement with regard to the number of speakers.

Mr. Speaker, did I understand the Chair was going to allow 15 Members on each side to speak today?

The SPEAKER pro tempore. That was the indication given to the Chair from the Speaker, and supposedly this had been worked out.

Mr. WALKER. It was not 15 in total, it was 15 on each side that would be permitted to speak?

The SPEAKER pro tempore. The gentleman is correct, 15 on each side.

Mr. WALKER. Mr. Speaker, I thank the Chair and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

The Clerk read the Senate concurrent resolution, as follows:

S. CON. RES. 142

Resolved by the Senate (the House of Representatives concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the Senate and the House of Representatives shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses of Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain, or for adjournment sine die.

The Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

CAPITAL GAINS TAX REDUCTION SHOULD BE FLATLY REJECTED

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, much has been said and written during the last few weeks about what proposals will or will not be included in a budget package. In particular, some of my colleagues have argued that two proposals—a cut in the capital gains rate and the elimination of the bubble—should be considered together as part of a trade. They argue that this trade is fair because it represents a give and take on those taxes that affect only the wealthiest taxpayers. They are wrong. This is not a fair trade.

In determining the fairness of the budget package, we need to look at the effect that all of the revenue proposals will have on everyone's tax liability. The capital gains bubble tradeoff will raise only \$32 billion of the target amount of \$250 billion over 5 years. Where will the other \$218 billion come from? Why, from excise taxes; alcohol, cigarette, and gasoline excise taxes and the imposition of an energy tax have all been mentioned. Thus, the package would be severely regressive. That is why a capital gains tax cut should be rejected.

A reduction in the capital gains tax rate should be considered separate from the elimination of the bubble and it should be flatly rejected. On the other hand, the elimination of the bubble must be included because it collects revenue from those who have received the benefits of the Reagan-Bush tax cuts of the last 10 years and puts a small measure of fairness back into our tax system.

PERMISSION FOR PERMANENT SELECT COMMITTEE ON INTELLIGENCE TO SIT TOMORROW, AUGUST 2, 1990, DURING 5-MINUTE RULE

Mr. BEILENSON. Mr. Speaker, I ask unanimous consent that the Permanent Select Committee on Intelligence be permitted to sit for the purpose of marking up the fiscal year 1991 intelligence authorization bill on Thursday, August 2, 1990, while the House is proceeding under the 5-minute rule. This request has been discussed with the committee's ranking Republican, Mr. HYDE, and he has no objection to it.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ADDRESSING CAMPAIGN FINANCE ABUSE

(Mr. BALLENGER asked and was given permission to address the House

for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, if we are really serious about campaign finance reform, we will address the most egregious campaign finance abuse of all—use of compulsory union fees for political purposes. If we pass any campaign finance reform package that does not address this problem, we have done more harm than good. Certainly we will not have succeeded in creating a level playing field.

To properly address this campaign finance abuse, it is imperative for us to include provisions that would enforce the Supreme Court's decision in the Beck case.

What would such provisions do? They would require first that labor unions give written notice to dues and fee-payers at least once a year explaining their rights, and that these include—but are not limited to:

That no employee is required to join a labor organization, but that he may instead pay a fee to the union, that is, reduced dues, in an amount only to cover the costs of collective bargaining.

The amount of such reduced dues for the current year, and the amount of full dues for that year.

That the amount of reduced dues—the agency fee—for nonmembers is limited to the cost of collective bargaining services, and that this amount is verified by an independent CPA.

Mr. Speaker, these provisions and more are found in legislation that has already been introduced in the House, and I will support no campaign reform bill that does not also include all of them.

A MESSAGE TO BUDGET SUMMITTEERS

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, I read in the paper this morning that the budget summiteers have given the go ahead to politicize the failure of the budget summit.

As far as I know that is the only directive that has come or even will come from this summit, of the chosen few around here.

I have news for you summiteers, both Republican and Democrat, the rest of America thinks you are acting like children.

We are at a crisis point in so many areas that need addressing immediately and we are sick of budget bickering.

People are falling through the cracks and they are not the lazy ones either. Every day, hard working Americans come into my district office because they have been ripped off by the health insurance industry or because

the Government is not giving them their earned veteran or Social Security benefits.

I have a message from the people of the sixth district of South Carolina to the summiteers—shut up. Get back to work. Suck it up. Get it done.

□ 1020

WHITE HOUSE URGED TO EXERCISE VETO POWER

(Mr. DOUGLAS asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. DOUGLAS. Mr. Speaker, I want to talk about this summit too, I think that what happened is very clear: The President came to the summit in good faith, and he has not been met with good faith on the other side of the aisle.

It is time to veto, Mr. President. It is time to break the backs of this Democratic free spending Congress.

Monday is a good example of the problem we face as a nation. We had the military construction bill for \$8.3 billion, and a 2-percent cut was offered, a lousy 2 percent, and do you know what the result was? Democrats, 3 to 1, "Don't cut it." Republicans, 2 to 1, "Cut it."

A cut of eight-tenths of 1 percent was tried, less than 1 percent, \$70 million. By 3 to 1, the Democrats said, "Don't cut it;" by 3 to 1, the Republicans said, "We'll vote to cut it."

We have seen the problem, Mr. President. It is right here in this building. Come and get us, take the gloves off, take the case to the American people, and get that veto pen out and use it every single day.

A PLEA FOR PEACE NEGOTIATIONS FOR LIBERIA

(Mr. FLAKE asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, today, I come to stand before this House at a moment of great crisis in the nation of Liberia. Several days ago, troops representing the government of Samuel Doe decided to go into a church which has been the historical sanctuary of people who have found themselves in the midst of war and strife.

Mr. Speaker, I believe that it is time for the United States of America not to invade but to somehow create the mechanisms by which peace might be able to come to this Nation. I believe that it is time for us to use our influence with this nation which has been one of our allies to bring to the table Prince Johnson, Charles Taylor, and Samuel Doe and say to them that we can no longer afford the cost of losing lives of men, women, and children who are innocent victims of persons who

are trying to get control of the nation of Liberia.

Mr. President, I call upon you to use the valuable resources of this Nation to get NATO, the United Nations, and all other sources involved in this peace process.

A TRIBUTE TO DR. EMIL HOFMAN OF THE UNIVERSITY OF NOTRE DAME

(Mr. HILER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HILER. Mr. Speaker, today, I rise to pay tribute to an outstanding educator, role model, and citizen, who for the past 40 years has been a faculty member of a prestigious university in my district, the University of Notre Dame. Dr. Emil Hofman retires today from his position as professor of chemistry and dean of freshman. He will be sorely missed from this institution of higher learning by his colleagues and students alike.

Dr. Hofman has enjoyed much success in all facets of academic life—as a research chemist, as a teacher, and as an administrator. From the time he entered Notre Dame as a graduate student teaching assistant in 1950, he has consistently proven himself as a positive force in the field of education. The freshman chemistry classes, which he taught with unending enthusiasm, led Dr. Hofman to be selected as the first recipient of the Thomas P. Madden Award for Excellence in teaching freshman at Notre Dame. Apart from the many lectures and tests he gave to increase the knowledge of his students, Dr. Hofman took a keen interest in his students' well-being. It was common knowledge at Notre Dame that Dr. Hofman's door was always open.

In 1971, he was appointed dean of the freshman year of studies, enabling him to supervise revision of the first year curriculum, as well as organize and implement a highly effective counseling program. Dr. Hofman's efforts have reduced the total attrition rate in the freshman year to no more than 1 percent.

There is no doubt that Notre Dame will be a different place without Dr. Hofman. He will not be forgotten, though. His outstanding work at Notre Dame has made the university, and therefore the community a better place. Indeed, he is an inspiration not only to educators and students, but to all people.

BOGUS MAIL ON SOCIAL SECURITY

(Mr. HUBBARD asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUBBARD. Mr. Speaker, the envelopes look official. The envelopes are imprinted with buzz words like "Social Security Alert" and "Medicare Update."

An August update is probably being prepared now by the National Committee To Preserve Social Security and Medicare and other mail-order solicitation groups which attempt to frighten elderly Americans with bogus threats about Social Security.

The mailouts are designed to confuse and scare senior citizens into sending money. The mailouts indicate that an all-out effort needs to be made immediately to prevent Congress from either reducing Social Security checks or preventing Congress from abandoning plans for a cost-of-living increase for Social Security recipients.

Last weekend, an elderly couple at Hopkinsville, KY, said to me: Congressman HUBBARD, please fight for us senior citizens like former Congressman James Roosevelt and his National Committee To Preserve Social Security and Medicare do. The couple had just mailed Mr. Roosevelt's organization another \$100.

I then told the elderly couple that during my 16 years in Congress I've never seen Mr. Roosevelt. I cannot recall any personal contacts from his organization.

I urged the couple to believe that their \$100 would be used to pay salaries at the organization and for postage to send out another national round of mail.

I resent the shameful scare tactics used by these money raising organizations against our country's senior citizens. I always have, and will continue, to urge elderly Americans not to patronize these organizations.

THE CAMPAIGN REFORM BILL OR THE "INCUMBENT PROTECTION ACT"

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, the Democrat campaign reform bill, H.R. 5400 should be called the "Incumbent Protection Act." Why do I say that? Well, here is one reason: Spending limits.

Spending limits are nothing more than an incumbent protection device. "The Price of Admission," a study by the nonpartisan, nonprofit Center for Responsible Politics, illustrated how spending limits disadvantage challengers.

It stated:

There was a direct correlation (in the 1988 election) between the amount of money spent by challengers and their share of the total votes on election day. Sufficient campaign funds are particularly important to challengers, as they must buy the kind of

media exposure that candidates need to make an impression on voters.

Moreover, spending limits ignore the geographic differences between congressional districts. For example, should there logically be the same limit for someone campaigning in rural Alaska or North Dakota as someone who campaigns in urban Brooklyn or Los Angeles?

Spending limits illustrate what the Democrats really want to do. They want to protect their majority. They want to prevent challengers from spending enough money to get over that magic percent to kick out the incumbents.

RESPONSIBLE CITIZENS

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, last year I paid income taxes. I supported my family, I supported my grandchildren, I worked very hard here, I voted every day, and I consider myself to be a responsible citizen.

In the paper today, a gentleman from Georgia was quoted as saying:

We goofed. We attempted to deal with Democrats as they were responsible citizens. Democrats are going to be picking up their fair share of the S&L loan debacle and the HUD debacle.

Mr. Speaker, I put that in the same category as a skunk saying Chanel No. 5 stinks.

A CHARGE OF ABSENCE OF LEADERSHIP AT THE BUDGET SUMMIT

(Mr. PAXON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAXON. Mr. Speaker, for months now the President has worked diligently and aggressively to address our Nation's budgetary problems and our Nation's deficits. His goals have been clear: Continued economic growth, expanding America's competitiveness, and creating new jobs for the people of our Nation.

While I have not agreed with every suggestion the President has put forth, I have agreed, and all Americans, I think, should agree, that the President has exhibited leadership. Unfortunately leadership has not been evident from our colleagues across the political aisle. They have failed the test of responsibility and the test of leadership.

It has been clear to the American people, whether it has been the outrageous spending increases we have seen here on the House floor, whether it has been no real proposals at the budgetary summit, or whether it has been the carping in the press, at every

turn our colleagues on the Democratic side of the aisle have failed the test of leadership. It is time for congressional Democrats to put aside partisanship and put forth real concern for the future of the country at that summit.

SEPARATE VOTE TO BE SOUGHT ON MADIGAN AMENDMENT TO THE FARM BILL

(Mr. VOLKMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VOLKMER. Mr. Speaker, later on today we will return after we complete the housing bill to the farm bill, and when we complete the farm bill and after the Committee rises, I want to alert the House to the fact that I will demand a separate vote on the Madigan amendment which cuts farm income for our grain producers, our feed grain producers, and our wheat producers out in the Midwest. That will help to destroy many more family farms. That will mean that we will continue to see the demise of many of the family farmers in my district, not only in Missouri but also throughout the Midwest.

We have seen many of those family farmers leave since 1980, many more than ever before, and again, through this type of amendment, by reducing income to our producers and transferring that income to the major processors, we will see a demise in the family farm.

Therefore, Mr. Speaker, I am going to ask the House to reverse the vote on the Madigan amendment. I will ask the Members to vote "no" when I have made my request for a new vote on the Madigan amendment.

REGULATION OF THE CABLE TV INDUSTRY

(Mr. DUNCAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DUNCAN. Mr. Speaker, many people across this Nation are upset about great increases in cable TV rates. Very soon we will be called upon to deal with legislation to reregulate the cable TV industry.

The blame for higher cable prices has wrongly been placed on something called deregulation. Actually the problem is not deregulation but still too much regulation.

What we really need is more competition within the cable TV industry. We especially need to allow more small, independent companies into the market. We need to do away with all the government-approved monopolies in this area, whether that approval is from the local government or the Federal Government.

The regulations that remain should be handled by the local governments, rather than the Federal Government, because the local governments are closer to the people and can more easily adapt rules to fit local situations.

More competition in the cable TV industry will do more to bring down prices and improve service than anything the Congress can do.

Mr. Speaker, we need to do more than just pay lip service to the free enterprise system that made this Nation great.

□ 1030

NATIVE HAWAIIAN HOUSING PROVISIONS

(Mrs. SAIKI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SAIKI. Mr. Speaker, today we shall vote on a comprehensive housing bill. It is "an historical occasion for the people of Hawaii," because it renews a Federal commitment to the native Hawaiian people. An unintentional side effect of our civil rights laws has made them ineligible for Federal housing assistance. The bill before us will correct that injustice.

The 18,000 native Hawaiians on waiting lists want to live on their Hawaiian home land, but they need the infrastructure, the roads, water, and sewage systems. They need the seed money to finance and build their homes. This bill will help provide both.

They will be eligible to receive part of \$15 million in community development block grant funds given annually to Hawaii. They can qualify for elderly and handicapped housing programs. They will be eligible for multifamily mortgage assistance, and for those unfortunate homeless individuals, this bill will provide funds to build and operate shelters.

I commend my colleagues on the Housing Subcommittee and the Banking Committee for their sensitivity to the native Hawaiian people's needs.

RECESS SCANDAL

(Mr. CONTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONTE. Mr. Speaker, it is a scandal that this Congress will adjourn for the August recess before taking even the first step to address the mounting Federal deficit; \$168 billion and counting; \$104 billion over the sequester threshold. We are staring down the barrel of a 38-percent sequester. One million fewer children getting vaccinations; 208,000 children shut out of Head Start.

And the Democratic side of the aisle will not even lift a finger, does not bat an eyelash. No solutions in the wings. Not even any proposals on the horizon. What is it hoping for, a miracle? I will tell you what we are walking into—a crisis. Remember the "Black Tuesday" crash of 1987. Is that what they want? Crisis? Chaos?

The world is waiting and watching for some leadership. And the Democratic leadership around here is sending us home for a recess. That is a scandal.

Have a nice vacation.

CAMPAIGN REFORM

(Mr. EDWARDS of Oklahoma asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EDWARDS of Oklahoma. Mr. Speaker, do you want to hear a great irony? You and the Democratic Party are claiming to be for reform, and you want to bring a so-called reform bill to the floor under the rules that limit debate and prohibit amendments. What are you afraid of?

When we House Republicans unveiled a campaign reform package last September, we included 25 separate proposals to improve campaign practices. Many of our 25 proposals would receive support of a majority of House Members. Those that did not would at least be debated on their own merits, but you will not even allow them to be considered.

What are you afraid of, Mr. Speaker? Is it a tax credit to encourage individuals to contribute to candidates in their own States? Is it our proposal to require a candidate to raise most of his or her money from local sources rather than from Washington special interests? Is it because of our initiative to give union members a greater say over the use of their money for political activity?

Campaign reform legislation should not pit a Republican plan against a Democrat plan, but should encourage a free exchange of ideas. Give us an open rule and let the people decide.

A PLEA TO CONTINUE BUDGET SUMMIT NEGOTIATIONS

(Ms. SNOWE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SNOWE. Mr. Speaker, let me pose a question this morning.

If those at the budget summit are called negotiators, should they not be negotiating? And should they not continue to do so until a budget summit is reached?

I believe the answer is "yes"—and that the August recess is not a reason for the negotiations to discontinue. Frankly, if keeping the budget talks

going means that the House cannot adjourn for August, count me as one Member who is willing to stay, even if it does mean missing part of our gorgeous Maine summer.

The President cannot negotiate with himself, Mr. Speaker. He has offered specific proposals, but all the Democrats have offered is criticism. That is utterly irresponsible.

The prospect of failure on the budget front has been making the markets skittish, and has contributed to a sense of foreboding in the country over future economic fortunes. By taking the steps necessary to reach an agreement, Congress and the President will send a signal to the Nation that deficit reduction is our highest priority, and that it is being treated with the utmost seriousness.

So, Mr. Speaker, I would make two pleas: one is that, for a change, let us set aside partisan interests for the good of the country; and, second, get the negotiations rolling, even if it means keeping the House in session.

CAMPAIGN FINANCE REFORM

(Mr. VANDER JAGT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. VANDER JAGT. Mr. Speaker, to call the Democrat campaign package reform is a total and absolute joke.

This Congress began with the resignation of a Speaker, awash in campaign money from corrupt S&L's carrying the legislative baggage for those institutions.

When the No. 3 Democrat resigned in disgrace, he protested, "I am not corrupt," but we are part of a corrupting system. To reform that system we need: First, to reduce the flow of special interest PAC money in the campaigns; second, enhance the role of the individual voter and the political party; and third, balance the playing field between incumbent and challenger.

The Democrat campaign package does exactly the opposite. It does not decrease, it increases the role of special interest PAC money. It cuts in half what an individual voter can contribute and it does not even acknowledge, let alone address, the imbalance between incumbent and challenger.

It is a perfect example of the arrogant abuse of power by one party in power too long.

GENUINE CAMPAIGN FINANCE REFORM NEEDS AN OPEN RULE

(Mrs. VUCANOVICH asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. VUCANOVICH. Mr. Speaker, the U.S. House of Representatives is under indictment by the American

people for campaign finance fraud and corruption. There is a deep and broad-based dissatisfaction among our fellow citizens with the congressional status quo. This outrage is the product of criminal campaign finance laws. The reform that is desperately needed must be open if it is to be genuine. Only an open rule will provide a forum in which the American people can deliver a fair and informed judgment in this vital case.

At long last the campaign finance trial date is upon us. The citizens of this Nation sit anxiously in the jury box. They will tolerate no more adjournments, recesses, or mistrials. They are entitled to fair, evenhanded and open cross-examination. Only cross-examination will expose the chief components of the incumbent advantage—PAC's which serve only as an incumbents' protection racket and a monstrous franking budget shockingly void of responsible and ethical restrictions.

Mr. Speaker, the jury is entitled to more than tired rhetoric and outright deception. Most importantly, the jury is entitled to an open rule. The American people must not let the Democrats serve as judge, jury, and finally executioner in their own trial over campaign finance. Only an open rule will permit the enactment of genuine campaign finance reform.

CAMPAIGN REFORM JUNK MAIL

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, if the American public does not like junk mail, wait until they see what happens if the so-called campaign reform bill of the Democratic Party gets passed. Instead of seeing Ed McMahon smiling at them through the slot, they are going to see the face of every congressional and senatorial candidate. "Won't that be a wonderful day?"

And wait until they see the price tag, \$400 million for general elections, \$200 million for primary elections, and that does not even include the LaRouches, the Libertarian candidates, the Socialist candidates. "Won't that be wonderful?"

A billion dollars they are going to get to pay for our campaign reform. Let us have an open rule, not an open mailbox. Do not let the taxpayers pay for what is an incumbent protection reform bill.

Reform? Let us get rid of the junk mail. Let us have an open rule and get rid of the junk proposals.

Mr. Speaker, you owe it to us, you owe it to the taxpayers, and you owe it to the people delivering the mail.

□ 1040

FUNDING URGED FOR CROP INSURANCE PROGRAM PENDING REFORM

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLLOWAY. Mr. Speaker, I rise today to stress the importance of the Federal Crop Insurance Program to America's farmers and to voice my concern about the program's funding status.

Crop insurance is important to farmers, not only in my congressional district, but all across America. Despite problems with the program, it is relied upon year in and year out by agricultural producers to protect against catastrophic losses.

I am very concerned that Congress has failed to provide funding for crop insurance in the 1991 agriculture appropriations bill, and now I understand that we may not address the issue today during the conclusion of debate on the 1990 farm bill.

Mr. Speaker, the crop insurance program needs reform, there is no question. But this is not a responsible way to approach the issue. Failing to fund the program pulls the rug out from under the thousands of farmers and insurance agents who rely on it.

The Agriculture Committee has been working on proposals to reform crop insurance. Mr. Speaker, we need to let that process work. Crop insurance is a complicated issue which deserves our attention.

Let's not ignore our responsibility to American agriculture. Let us keep the program in place until workable solutions can be found.

BRING UP CAMPAIGN REFORM UNDER AN OPEN RULE

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, I just wanted to express my concern about reports that campaign reform might be brought up under a closed rule.

It seems to me that with all the concern about the savings and loan scandals, with all the concerns about political action committees, with everything that has been expressed by the American people about the campaign system, that the House owes its Members on both sides of the aisle an opportunity to offer amendments to work their will.

I would ask the Democratic leadership to agree to bring campaign reform up under an open rule, and I would have to report that I believe on our side of the aisle the Republicans would fight very aggressively against the closed rule, because it would,

frankly, undermine the whole concept of reform if we were to seal off and gag debate on something as important as campaign reform.

LET US SEE THE REPUBLICAN PROPOSAL

(Mr. HOAGLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOAGLAND. Mr. Speaker, I understand there has been some controversy this morning and some reference to a proposal, a former proposal, on deficit reduction that has been made by the Republicans, by our colleagues on the other side of the aisle.

Let me tell the Members I have never seen such a proposal, and to my knowledge no such proposal has been made available to anybody in writing, in the Democratic Party, even in the Republican Party. As a matter of fact, my understanding is that one of the Republican Members of the Senate inadvertently leaked some of the general concepts of this proposal over breakfast yesterday or the day before, and that is it, that it was an inadvertent leaking by the Republicans that did nothing by way of any kind of formal document. Nothing even by way of any kind of formal oral presentation has been made to the budget summit negotiators as a group. So there is no proposal that we know anything about except some vague concepts that have been leaked to the press inadvertently.

So, Mr. Speaker, if there is a proposal, I for one would like to see it.

HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1990

The SPEAKER pro tempore (Mr. TORRES). Pursuant to House Resolution 435 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1180.

□ 1043

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 1180) to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes, with Mr. MURTHA in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Tuesday, July 31, 1990, the amendment offered by the gentleman from Delaware [Mr. CARPER], had been disposed of and title VIII was open for amendment at any point.

Are there further amendments to title VIII?

AMENDMENT OFFERED BY MR. FRANK

Mr. FRANK. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. FRANK: Page 512, strike lines 11 through 20, and insert the following:

"(a) PREPAYMENT LIMITATION.—An owner of eligible low income housing may prepay a mortgage on such housing or terminate an insurance contract on such housing pursuant to section 229 of the National Housing Act only in accordance with the provisions of this subtitle and pursuant to filing notices of intent to prepay with the Secretary, the applicable unit of local government, the mortgagee, and any tenants of the housing, as required under sections 222 and 223.

Page 514, line 13, after "housing" and insert the following: "or receive incentives under section 224".

Page 517, line 20, before the comma insert "or receive incentives under section 224".

Page 519, line 19, before the semicolon insert "for the remaining useful life of the housing".

Page 521, line 3, strike "remaining term of the mortgage on the housing" and insert "projected remaining useful life of the housing".

Page 522, lines 17 and 18, strike "date on which the first mortgage on the housing matures" and insert "projected date of the termination of the useful life of the property".

Page 523, strike lines 4 through 8, and insert the following:

"(c) RESTRICTIONS REGARDING INCENTIVES.—

"(1) LIMITATION ON PREPAYMENT OR TERMINATION.—If the incentives offered under this section to an owner of eligible low income housing will yield an annual return equal to or greater than 8 percent of equity, the owner may not prepay the mortgage on the housing or terminate the insurance contract with respect to the housing, the Secretary shall provide such incentives for the housing, and the housing shall be subject to the requirements of subsection (d) (notwithstanding any lack of making any binding commitments under such subsection).

"(2) EQUITY.—For purposes of this subsection, equity in an eligible low income housing project shall be the value of the project, as determined under subsection (a)(1)(B), less any outstanding indebtedness secured by the project.

"(3) REQUIRED INCENTIVES.—In offering and providing incentives under this section, the Secretary shall offer incentives with the maximum value practicable, taking into account the cost-effectiveness of the incentives with respect to the number of units in the housing that will be retained as affordable for very low, lower, and moderate income families or persons.

"(4) MAXIMUM VALUE OF INCENTIVES.—The Secretary may not offer or provide incentives under this section for any eligible low income housing the total value of which exceeds the value of the owner's equity in the housing.

"(5) TIMING.—The Secretary shall make the incentives under this section available to the owner not later than the date determined under section 222(b).

Page 523, line 16, strike "terms of the mortgage" and insert "useful life of the property".

Page 523, lines 23 and 24, strike "terms of the mortgage" and insert "useful life of the property".

Page 534, lines 21, strike "terms of the mortgage" and insert "useful life of the property".

Page 536, line 7, before the period insert "subject to the requirements under this subtitle".

Mr. FRANK (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. FRANK. Mr. Chairman, this is the amendment that was much discussed yesterday, but I do not see my friends from North Carolina and Delaware here. I have had some conversations.

As I have had a chance over the evening and into the morning to read their amendment, it appears to me that the differences between their amendment and the amendment I was to offer are less than I thought. Our friends had said that one of the issues was the right of contract. The gentleman from Texas had said we were talking about the right of contract. But as I read their amendment, it seems to say the following, and I have had some analysis done by some experts in the field who know it better than I. As I understand it, to the extent that I have been able to clarify it, it says this with regard to the right of prepayment: An owner who has one of these properties with the right to prepay may not prepay until he or she gives two notices. The first is 18 months before the prepayment date would arrive and where the prepayment date had already arrived, I assume that is 18 months from now, and then 6 months before the actual date a second notice must be given.

As I now read this, and as I have been advised as to it, the second 6 months triggers a period which is an essential before the owner can prepay. The owner may not prepay without having given the second 6-month notice, and that 6-month notice, as I understand the amendment, triggers the right of a nonprofit group prepared to keep this as low- and moderate-income housing with the same terms as we have had before, that they have an absolute right to come in and make an offer, and if they make an offer which meets the appraised price, the appraised price being what would be set forth in the method the amendment offered by the gentleman from Texas puts forward, the owner would have to sell effectively to that group. If that is, in fact, the case, if we have a situation where there is a 6-month window which is an essential point before there can be a prepayment, during that 6-month period, and

that might not come at the end of 20 years, it might come at the end of 25 or might come at the end of 28, but whenever the man or woman owning that property decides to prepay, if that triggers a 6-month period during which a nonprofit institution may come in and with the various incentives we provide elsewhere makes an offer and that offer has to be accepted as a condition of allowing prepayment, then I think our differences are not quite so great.

The alternative, of course, would be that the owner would not prepay but an owner who does not prepay would then have to continue to maintain the property as it had been before.

That being the case, Mr. Chairman, I do not think that the differences are worth taking further time of the House, and I would yield back at this point, but that would be my intention having stated the understanding as I have it.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I am happy to yield to the gentleman from Texas, who knows a great deal about this, to comment on what I said.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

If the gentleman is saying that the Carper-Price compromise was, indeed, quite significant, it does provide HUD with an option to purchase any of these properties in which the owner has chosen to opt out of the low-income use; the only requirement is the purchase has to be at the highest and best use.

Mr. FRANK. Mr. Chairman, could I ask the gentleman a question? If HUD chooses to take that option using a nonprofit, the owner would have to accept if the price was fair or else not prepay? Is that correct?

Mr. BARTLETT. If the gentleman will yield further, that is correct. The owner would have to sell at the highest and best use or the market value.

Mr. SERRANO. Mr. Chairman, I rise today in support of the amendment offered by my colleague from Massachusetts, Mr. FRANK. We are facing a crisis in affordable housing that must be addressed adequately and effectively. Our housing stock has been severely depleted, and we must move to protect the affordable housing we have.

The amendment before us is the product of a bipartisan coalition of Banking Committee members; these Democrats and Republicans, including the distinguished committee chairman, are not satisfied that the voluntary prepayment provisions in the bill serve the housing policy goals of this body.

Mr. GONZALEZ and Mr. WYLIE have spent months working tirelessly with our colleagues on the Banking Committee to prepare this omnibus housing authorization bill. We must honor their hard work by passing a bill that goes to the heart of our housing problems.

The number of privately owned, federally subsidized housing units at risk in New York

City is overwhelming. More than 90,000 units in 500 New York City projects are at risk; well over one half of these would be protected by the Frank amendment. In my district of the Bronx alone, 25,681 units are at risk. These are frightening numbers, and the numbers represent frightened people; families who need our help to keep their homes.

If we allow voluntary prepayment of all mortgages when they reach the 20-year mark, where will the thousands of tenants go when their homes are sold, or converted into condominiums, or rented at full market value? These people, most of them elderly and minority residents, have struggled to stay where they are. They will not be able to afford to stay in their communities, where, for the most part, property values have increased substantially due to gentrification.

These communities are racially, ethnically, and economically mixed because we have maintained affordable housing. If we do not place restrictions on prepayment, we will force a movement of low-income minorities out of these communities. I know that downward mobility is not a housing policy goal of this body.

We only need to look around us to see that the housing crisis in this country is severe. Homeless people are everywhere. Our cities' parks, street benches, heating grates, and railroad and subway tunnels have become homes for our fellow citizens. If we allow this bill to stand as amended by my distinguished colleagues, Mr. BARTLETT and Mr. BARNARD, we will add thousands to our homeless population.

Mr. Chairman, by adopting this measure to preserve our low-income housing, we will not only save thousands from eviction and homelessness, we will also send a strong message to the American people. A message saying: this Government has not abandoned you. We in Washington are not indifferent to your problems. We know that you do not want to take your children and leave your home. We know that it will be difficult, if not impossible for you to find another place to live. That is why we are here. That is why we are working on a housing bill today, debating how we can best carry out our responsibility to provide decent affordable housing for all Americans.

Mr. Chairman, the amendment offered by Mr. FRANK strikes a fair and equitable balance between the interests of tenants and owners. Owners will be adequately compensated for helping the government to maintain affordable housing; tenants will be saved from the threat of imminent eviction and displacement. We in Congress represent both the owners and the tenants, and the housing legislation we pass must reflect this.

This bill includes so much that will ease our housing problems. The effort we are making today to reach out to those who need affordable housing is weakened by the voluntary prepayment provisions in the bill. I urge my colleagues to support this amendment.

Mr. HOAGLAND. Mr. Chairman, I am pleased that my colleague from Massachusetts, Mr. FRANK, has chosen to withdraw his amendment.

But let me tell you why the policy stated in the amendment we adopted last night is the better approach, and why it is a wise decision

to preserve that language. The Carper-Price-Patterson-Hoagland amendment represents a careful balancing of the contractual rights of the owners of these properties with the rights of tenants residing in these properties. The Frank-Martin amendment would upset that balance.

Let me begin by stating the nature of the problem.

As you know, we are dealing with low-income housing units built by private developers 15-25 years ago with government incentives. Generally these projects were built with 40-year mortgages. In many of the contractual agreements with the government, developers were promised the opportunity to prepay these 40-year mortgages after 20 years, become owners of the multi-unit buildings without restrictions, with the ability to rent the apartments out at market rates or convert the building or land to a different use if they chose to do so.

Many of these buildings have appreciated considerably in value in the last 20 years. Most have not. In many cases, market rate rents are much higher than the low-income rental rates. In some cases, the highest and best use of the building or land would be a commercial development like a shopping center.

The question we wrestled with in committee, and let me tell you it was one of the hardest issues we have ever confronted in the Housing Subcommittee, was whether we should abrogate the contractual right of the private developer to prepay the mortgage and own the property after 20 years or whether, as Mr. FRANK suggests, we should condemn the property to guarantee its continued use as low-income housing.

The consensus of the committee was to honor the contractual rights of the owners, while making provisions to protect the tenants who may be displaced.

The reasons to uphold this decision are twofold:

First, it is not in the interests of the Federal Government to tell people who were willing to work with us 20 years ago that the deal has changed, and you lose. This would not only be unethical, it would also send a signal to the private sector not to deal with the Federal Government again.

Second, were we to abrogate these contracts, we would be penalizing the owners for mistakes made by Republican administrations through the 1980's, when housing budgets were cut from the range of \$40 to \$45 billion to under \$10 billion. Back in the late 1960's and early 1970's when these contracts were entered into, no one anticipated the shortage of new low-income units which confronts the Nation today. No one anticipated that if the owners were allowed to prepay, there might not be other low-income units in Mr. FRANK's district or Mr. KENNEDY's district to which tenants could easily move.

Instead, with housing programs being cut every year, the new housing units that everyone expected to be built in the 1980's did not materialize. So we have the problem today.

It is not fair to penalize either the tenants or owners for 10 years of mistaken housing policy. We need to do what we can to honor

the needs of both. The Carper-Price-Patterson-Hoagland amendment did just that.

The Frank-Martin amendment would have excessively penalized private developers by stripping from them their legitimate expectations of private use of the property after 20 years at their option. I believe our central obligation here in Congress is to uphold the 20-year obligation and do as best we can to accommodate the rights of the tenants in every way we can. And I believe the original Bartlett proposal, as now modified, does that in a variety of ways by offering rent subsidies to the tenants and incentives to the private developers to maintain their property in low-income use.

It's a difficult balancing act we are being asked to perform. We need to do the best we can to accommodate the interests of the developers and the tenants, without being punitive to either. I believe the committee bill as now amended does as good a job as can be done.

Mr. FRANK. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The amendment offered by the gentleman from Massachusetts [Mr. FRANK] is withdrawn.

Are there other amendments to title VIII?

Mr. GONZALEZ. Mr. Chairman, I move to strike the last word.

Mr. Chairman, for those present and those colleagues who may be viewing this on closed circuit, what they just heard may sound like the lawyers' fine-honed argumentation. But let me tell you what it means to thousands of moderate- and low-income Americans, and I say thousands, it means that we still are facing no less than 150,000 families being thrown out under the provisos that have been accepted on prepayment.

What is prepayment? What we are talking about is programs that were instituted in the early 1960's technically known as section 236 and 223, 221(d)(3).

The builders, the promoters got a great big piece of pie from the Government, 3 percent, and in some cases even slightly under 3-percent loans with the proviso that these were 40-year mortgages and that at the end of 20, and in some cases 22, years, the owners could come in, prepay that mortgage, paint a few buckets of paint on these rental apartments, jack up the rates of the rental 400, 500 percent, as we had witness after witness in hearings that the Subcommittee on Housing has held since 1984 and 1985 when these first came across the horizon on the market.

□ 1050

So I want everybody to understand that as far as we have gotten, it is fine. But we are going to be looking at the

possibility of adding to the list of homelessness, at least not less than 150,000.

Mr. LEVINE of California. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to ask the gentleman from Massachusetts [Mr. FRANK] whose amendment was just enacted to engage in a colloquy with me with regard to the amendment of his that was just enacted.

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, my amendment was withdrawn, and it was withdrawn because the amendment enacted yesterday seemed to me to have been better than I originally realized.

Mr. LEVINE of California. On that issue, Mr. Chairman, I would like to commend the gentleman from Massachusetts for his work on this issue. I think that the result that was achieved is a significant improvement in the legislation and may make great strides in preserving the prepayment moratorium.

I would like to raise a question with the gentleman from Massachusetts because of a concern that I have about the application of this to the housing market in my area of Southern California as well as in other California cities. In these areas the incentives that HUD is authorized to offer would be inadequate, from what I can see, in terms of meeting the mandated 8 percent return on equity, and projects in these areas could be vulnerable to prepayment. Specifically, Mr. Chairman, I am concerned that HUD does not have sufficient flexibility even under this improved language to offer more substantial incentives to owners of projects in high cost areas, and I would like to ask the gentleman from Massachusetts if he has had the opportunity to consider this issue that affects not only my area but I think several other areas in the country, and if he has any suggestions that he would like to make for remedying this problem.

Mr. FRANK. If the gentleman would yield, I appreciate his concern. He has been an important part of the coalition that I think is bringing us closer.

Let me say I withdrew my amendment because I think between the amendment offered by our friends here as interpreted by the gentleman from Texas [Mr. BARTLETT], and where we are in the Senate, we can now go to conference, and I think we will do better.

I would say two things to the gentleman. First, some of us will in conference seek to give HUD even greater flexibility so that we can deal with it. As I understand it, there are projects

in California and also in Illinois, and that is why the gentlewoman from Illinois has been such an important member of our coalition as well. Our information is it is projects in various parts of California and in Chicago where we might have the greatest problem.

There are two things we can do. I will personally be in favor of some increase, but beyond that we have a situation here where we may be going to the States, and I would be in favor of doing this in conference, and I have talked to various people about it, and saying to the States look, the Federal Government is prepared to provide incentives to maintain these low-income tenancies at more than 10 percent of usual maximum, maybe 110 percent as we have in the bill, maybe we can get it up to 115 percent as I would favor. Here is what we would be prepared to do, and I think this would make a sensible thing in conference, we would allow the States, if they wanted to, to throw some combination State-local funding to add to that pot. The point is that for the States that would be a relatively small marginal amount per unit. In other words, if the State were given or if the units were offered up to 110 percent, or perhaps 115 if we raise it, of fair market rent, and it took 118 or 120 or 121, the States would be given the option if they wanted to of adding to the money. That is an option I believe that would be open to us in conference. It would be up to the States, and what you would then have would be the State legislatures in a position to make a relatively simple expenditure, and by that leverage a large amount of Federal expenditure. So that would be my approach in conference.

Mr. LEVINE of California. Mr. Chairman, I would like to thank the gentleman for his suggestions. I think they are constructive. I hope very much we will be able to find an effective way to get to the 120 percent. Whether it is through this combination of methods or some other creative approach, I think that this is a creative approach.

Mr. FRANK. Obviously the OMB would be skeptical about our using too much above the 110 percent ourselves. I do not think there would be any objection to the States, however, adding to it. And it does seem to me it would be a reasonable amount, the State-Federal contribution and, in fact, on a per-unit basis it would give States the ability in California, Illinois, and elsewhere, because we cannot foresee what the real estate market might be 4 or 5 years down the road, we would give the States a relatively high per-unit contribution to save those properties.

Mr. LEVINE of California. I would say given the unique needs of the area represented by the gentlewoman from

Illinois as well as my own area, these would be very helpful approaches in these areas. I commend the gentleman from Massachusetts, and would encourage him to pursue these approaches in conference, and thank him for his leadership on this issue.

Mrs. MARTIN of Illinois. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I am happy to yield to the gentlewoman from Illinois.

Mrs. MARTIN of Illinois. Mr. Chairman, although the areas are not specifically in my area, the problem does exist, and it is in California and in Illinois. It is not party lines or conservative-liberal, it is looking to maintain housing stock in neighborhoods, because one of the things is that the people are wonderful neighbors, and what we are looking for are these creative ideas that can make it happen.

The gentleman from Texas, the gentleman from North Carolina, the gentleman from Delaware, all have been working toward this same end, and when there can be this kind of cooperation, what happens at the end is people whose lives would have been destroyed, literally destroyed, will be spared, and at the same time we hope for further developments so that neighborhoods can be maintained.

I thank the gentleman from California for yielding.

Mr. LEVINE of California. These are precisely the objectives, and I thank the gentlewoman from Illinois.

The CHAIRMAN. The time of the gentleman from California [Mr. LEVINE] has expired.

(On request of Mr. BARTLETT and by unanimous consent Mr. LEVINE of California was allowed to proceed for 2 additional minutes.)

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I am happy to yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding and thank him for his statement.

Just by way of clarification for our colleagues on the House floor, first I do want to be sure that the gentleman understands that there is no—and the gentleman from Massachusetts would confirm this—there is no extension of the moratorium. This is a package that is in a title of the bill that replaces the moratorium with a package of incentives, and an option to purchase at the full market value in those rare cases that the incentives do not work with a guarantee for the tenants.

Second, under the current compromise the States do have the option to sweeten the pot. If we need to strengthen that in the conference we will, but I think the States need to have the option. If a State or locality wants to add to the incentives with

their own money, then I think that would be welcomed.

Third, the 110 percent of fair market value, if the Federal Government is paying for it does cost real money, and that may be a problem in conference, because the total size of the bill has to come down to the affordable amount. But I want to indicate that 110 percent is probably the ceiling, and there may be some difficulties in even holding that in conference from the Federal perspective. But the States do have the option, and if it needs to be we can strengthen it and do have the options and should have the options to sweeten the pot.

Last, I would just make one other comment, and I want all the Members to understand, that there are several hundred thousand, perhaps as many as half a million units who are in this who have 20-year mortgages that are expiring. No one in this Chamber is unique in thinking that they are the only ones. Sometimes people think they are the only ones with a unit or a complex in their district. They are all over the country and they are virtually in every congressional district, every town and county and State in the country. They are all private property. They all have federally insured mortgages, and those mortgages expire. With this compromise which the gentleman from Massachusetts has agreed to, we are making plans to deal with those mortgages.

The CHAIRMAN. The time of the gentleman from California [Mr. LEVINE] has again expired.

(On request of Mr. FRANK and by unanimous consent Mr. LEVINE of California was allowed to proceed for 2 additional minutes.)

Mr. FRANK. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I thank my friend from Texas. As I said, I think we have established the principles. We have work to do in conference. I am not totally satisfied with this, but I think in the position we are in and given the Senate position, we can go to conference and establish what I think will be the principle. Where we are prepared to offer the owner a fair market price, we then have a right to keep these as low-income and moderate-income units with the numerous owners' full economic rights protected. And I think we are very close to that. There are still several differences, but I think we will fight that more in conference.

But as I said, this is an amendment in that direction, and the principle is not that we take or diminish any existing property rights, but we fully compensate for them. And if we do that, we have flexibility.

There may be one difference. The gentleman from Texas, and I appreciate when he went to 110 percent, and that was something of a compromise, and some of us may want to go to 115 percent, and some will not, and of course we will have the OMB threatening to veto the bill, and they have already vetoed it once. They already vetoed it on four other occasions for other reasons.

□ 1100

And we do it over a period, we have agreement. They said that we can set that aside as one of the things we will conference about. I am pleased that the gentleman from Texas agrees with the principle, as I understand it, that offering the States the right to come in as part of this package is in everybody's interest, landlords, tenants, the Federal Government. I believe with this we could almost be certain that that option for the State will be part of the final package.

Mr. LEVINE of California. I thank the gentleman for that clarification.

Mr. YATES. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Illinois [Mr. YATES].

Mr. YATES. I thank the gentleman for yielding.

Mr. Chairman, the gentleman from Massachusetts raised one point that I did not find the gentleman from Texas addressing last night. The gentleman from Texas, all during his statements last night, and perhaps I did not hear any variation from that or deviation from that, but I was here all the time, the gentleman from Massachusetts used the phrase "middle-income" as well as "low-income subsidized units." I thought the gentleman from Texas last night referred to his amendment as taking care of low-income subsidized units. I like what the gentleman from Massachusetts was saying.

Mr. FRANK. Mr. Chairman, will the gentleman yield to me?

Mr. LEVINE of California. I yield to the gentleman from Massachusetts.

Mr. FRANK. I thank the gentleman for yielding. We get into the housing area, and every area of work has its jargon. We talk about low and moderate.

The CHAIRMAN. The time of the gentleman from California [Mr. LEVINE] has again expired.

(On request of Mr. YATES and by unanimous consent, Mr. LEVINE of California was allowed to proceed for 5 additional minutes.)

Mr. LEVINE of California. I continue to yield to the gentleman from Massachusetts.

Mr. FRANK. We were talking about low and moderate; there are three ranges here. You have low income or very low, below 50 percent of the median; moderate, which is 50 percent

to 80 percent of the median; and then you have some people in some of these buildings who are in the middle-income category.

All of them, we believe, would be protected. There was, in fact, language in the amendment that says, even with those who are not currently in either the low or moderate categories, there are limitations, I believe, in the amendment as to how rapidly their rent increases could go up. There would be a 30-percent cap.

So, in fact, there are protections for all categories appropriate to their income status.

Mr. YATES. Mr. Chairman, will the gentleman yield further?

Mr. LEVINE of California. I yield to the gentleman from Illinois.

Mr. YATES. I thank the gentleman for yielding further.

As I understand what the gentleman is saying, and I understand this has the agreement as well of the gentleman from Texas, this will be written in conference, the gentleman's amendment which I supported and which he withdrew. I was prepared to support the gentleman's amendment and hoped to be able to take it through the House.

As I understand it, the gentleman believes that you can do as well or even better in conference in protecting the interests not only of the landlords and the property owners as well, but for those people who are now protected by the moratoriums that expire in September.

Mr. FRANK. The gentleman is mostly correct. His support for our amendment was one of the things that helped us move to what seems to me a better situation than we might have had, certainly better than we had certainly when we got to committee.

I do not want to overstate. I am not going to claim we can do better in conference or even that we will be able to do everything in conference.

The Senate version is by far the stronger from the standpoint of the tenants, and even the amendment that I had offered was not going to go to the Senate. As I was saying, we are now in a position where the bottom level is a significant degree of protection that the bill now has, thanks to the amendment adopted first in committee, which was an improvement over what it would have been in its absence, and then the further amendment offered by our friends on this side, the gentleman from North Carolina, the gentleman from Delaware, the gentleman from South Carolina. We will end up somewhere between the two.

My point is, if we take the Senate on the one hand and this amendment as we now have it on the other, if we add to what would appear to be in the agreement, the right of the States to come in, I believe we will wind up with

a situation in which you will be able to save virtually all of these units. Only a handful might turn out to be in such an expensive area that they could not be saved. But I believe we would be saving in the very high nineties in a way that will also protect middle-income tenants from exorbitant rent increases.

Mr. YATES. Is that the understanding of the gentleman from Texas as well?

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. LEVINE of California. I yield to the gentleman from Texas.

Mr. BARTLETT. I thank the gentleman for yielding.

Mr. Chairman, I would suggest that I think we have a good compromise at this point. I think that a majority of the House are satisfied with this. I know Mr. CARPER and I, Mr. PRICE and I have discussed that this is the compromise we would go to conference with.

I know Mr. GONZALEZ, chairman of the committee, while we have had differences on it, he will go to conference defending the House position. So I would not want the gentleman from Illinois to misunderstand. I think the House has done its work. The other body, by and large, extend the moratorium. They did a few other things which does not handle it.

Now, there will be some suggestions for improvements in conference, obviously, that is what conferences are for. But I think what you see in this compromise is basically what we will get, although additional suggestions for improvements obviously will be considered.

I think, by and large, the idea of providing volunteer incentives to owners to keep most of the units as low income and then to guarantee rental assistance to low-income tenants will essentially be the package.

There may be some modest variations, but I think that essentially will be the package. And I think it is a good package.

I appreciate the gentleman from Massachusetts accepting the Carper compromise from last night so that we can get on with it.

Mr. LEVINE of California. Mr. Chairman, I would simply say that I think the gentleman from Illinois, the gentleman from Illinois, and those of us from California—two of whom would like to speak on their own time—want to commend the gentleman from Massachusetts for the direction in which he wants to move. We support how far it has gone and hope we will be able to go further to accommodate these concerns.

Mr. YATES. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I came over this morning prepared to support strongly the amendment that was filed by the gentleman from Massachusetts [Mr. FRANK] and I must say that I am a little concerned with the fact that that amendment has been withdrawn, leaving us with the understanding in the colloquy that has taken place on the floor.

I was concerned last night with the amendment that the House accepted, sponsored by the gentleman from North Carolina, and the gentleman from Texas, because it was pointed out that that was the best that we could get at that particular time.

I had been in discussions and negotiations with the gentleman from Texas [Mr. GONZALEZ], the distinguished chairman of the committee, and I want to commend him for the very strong effort that he has made throughout these months in an effort to protect the rights of those who are living in critical concern throughout most of the cities of this country.

There are about half a million people in this country who live in the cities who do not know where they are going to find housing. There just is no affordable housing in the big cities of this country.

In my district, there are 22 buildings which are eligible for mortgage prepayments sometime within the next decade, 4,000 units. There are approximately 15,000 people in my district who may be forced out of their homes if the moratorium expires in September.

So it is of vital importance that something be done not only to protect those who own the properties but as well for those who live in these properties and can find no other housing.

For example, Mr. Chairman, in one of the buildings in my district, the mortgage was prepaid and the rents immediately shot up by 230 percent; 160 senior citizens were displaced from their homes.

I know that one constituent of mine who lived there had her rental increased from \$234 a month to \$800 a month.

The men and women who rely on pension and Social Security funds, what are they to do?

My feeling is that I would hope that Mr. GONZALEZ finds himself in a position to take the Senate position on this. I think the Senate has a much stronger position in protection of the rights of those who can find no housing, and this bill proposes to establish housing for the people of this country. I would hope that he is in a position to try to find a way to include the strength of the Senate's position with the amendments that have been entered in the House.

I would urge the gentleman from Texas to do so.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. YATES. I yield to the gentleman from Texas [Mr. GONZALEZ], the chairman of the committee.

Mr. GONZALEZ. Mr. Chairman I thank the gentleman for yielding.

Mr. Chairman, the gentleman is assured, we have had almost 2 years of dealings on this issue, and I know the impact on the gentleman's district.

But let me say this: For the moment, if we could just get this out of the House, we will worry about a conference when we get there.

Mr. YATES. Well, I will worry before we get there.

Mr. GONZALEZ. But we first have to get there. I would like to abbreviate this because there is no amendment pending. Let's go ahead and close out the title and go on and get it out of the House so we can have a conference.

Mr. YATES. Is the gentleman suggesting that he wants me not to continue my speech so that he can get over to the Senate?

Mr. GONZALEZ. Well, I would never, never infer that I would want anybody to not have the opportunity to speak at length. But at this point, if it can be abbreviated, it would be very much appreciated.

Mr. YATES. I know the gentleman's tendencies in favor of protecting those with limited incomes in this country.

Mr. GONZALEZ. I thank the gentleman.

Mr. YATES. Mr. Chairman, I just wanted to close my remarks by urging the gentleman to continue that kind of pressure when he goes to the conference, and I will help him get out of the House and into the conference.

Mr. Chairman, I rise in support of the amendment offered by the gentleman from Massachusetts. It offers a much needed solution to an explosive situation in our Nation's cities.

There is no affordable housing in Chicago, and in many urban centers.

We have a potential crisis threatening to oust an estimated 560,000 individuals from their homes nationwide. The Frank amendment offers a fair solution to accommodate the thousands of subsidized units with pending mortgage prepayment dates.

In my district, 22 buildings are eligible for mortgage prepayment sometime within the next decade—4,255 units—14,467 people in my district, who may be forced out of their homes unless we act to protect their interests.

In one building that was prepared in my district in Chicago, IL, the tenants of this building reluctantly gained notoriety by being among the first to have their building mortgage prepaid, that took place before the Congress acted to impose the current moratorium.

The mortgage was prepaid and the rents shot up by 230 percent; 160

senior citizens were displaced from their homes. One woman's monthly rent went from \$234 to \$800. Landlords can get rentals like these in the Lakeview area, where many are willing and able to pay this amount and higher. Yes, but what happens to those who cannot afford to keep up with the rising costs of gentrification? The men and women who, for example, rely on pension and Social Security funds to provide for their modest retirement.

Five subsidized units in my district have applications pending for exorbitant rent increases. One owner has asked for a 52-percent increase. Owners are bold in light of tight markets and unknown legislative solutions.

I fight daily to get HUD to act on applications for creative solutions submitted to address these problems in my district—to bring in owners willing to assume the commitment to affordable housing. But despite the pretty rhetoric of "Project Hope," the answer is "project no hope." The problem gets worse by the day. We must act.

We must encourage the retention of these units for low- and moderate-income persons. It is not too much to believe some of these people might become homeless.

The amendment before us now is a fair solution and I congratulate the gentleman for his ability to craft this compromise.

The gentleman's amendment changes the committee bill in two important ways. If the Government is able to offer incentives enabling an 8-percent annual return on the property's top dollar equity, then the owner must maintain the property as a low-income building. The committee's definition of market value is maintained. The owner may sell the building to another party to recoup his investment providing the new owner agrees to honor the commitment to subsidized housing.

Second, if the owner accepts the incentives offered or sells to another agreeable owner, then he must also agree to maintain the building for subsidized housing for the remaining useful life of the property.

This compromise recognizes and protects both the owner's financial interests and the tenant's need for affordable housing.

In a case involving the 833 W. Buena building in my district, the courts have held that the temporary moratoria on prepayment did not constitute a taking and was a constitutional approach to this extreme problem.

But we can no longer live year to year with temporary moratoria; 14,467 of my constituents live day to day in fear that they will have no alternative. For me, without the compromise offered today, the only alternative is a

permanent moratorium with which most would disagree.

In 1965 we began a commitment to ensure the availability of affordable housing and we must honor this commitment today. The gentleman's compromise does so, and does so fairly to all involved. I urge you to vote in favor of the Frank amendment.

Mr. TORRES. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I share the same concerns as the gentleman from Illinois has so eloquently stated, the concern that we also have in California with the large number of units that would be lost in this way.

□ 1110

I came this morning prepared to support the Frank amendment, and I see that now the gentleman from Massachusetts [Mr. FRANK] has withdrawn it in favor of the Carper-Price-Patterson-Hoagland, and others. I certainly hope that the gentleman from Massachusetts [Mr. FRANK] will pursue his objectives in conference.

I share, along with the gentleman from California [Mr. LEVINE], as he well stated, the great concern that we had in the State of California.

Mr. Chairman, as a member of the House Banking Subcommittee on Housing and Community Development, I rise in support of my colleague's amendment to save our Nation's stock of affordable housing.

The amendment, offered by Congressman BARNEY FRANK, of Massachusetts, honors the contractual agreement between the Federal Government and low-income housing landlords. Yet, this legislation calls for the preservation of the more than 300,000 units of affordable low-income housing in America.

At a time when we are facing an ever-increasing amount of homelessness due in large part to the lack of affordable housing, it would be tantamount to a crime to allow owners of federally subsidized properties to indiscriminately prepay their mortgages. My fellow colleagues, I submit, there is no guarantee that prepayment will not cause random displacement, rent increases, condo conversion, or further homelessness.

By adopting the Frank amendment, we will keep housing within the financial reach of America's low-income and working poor for the useful life of the property.

Useful life of the property. That may seem like infinity. Yet for thousands of Americans, useful life of the property translates into housing security.

Over 20 years ago, Congress authorized the Department of Housing and Urban Development to offer low-interest loans to developers to build affordable housing. This agreement, between HUD and developers, has been lucrative for the private owners. They have enjoyed numerous incentives like federally subsidized mortgage insurance, interest subsidies, tax deductions, rent subsidies, and more.

Today, private owners wish to exercise what they term their contractual agreement to prepay their federally insured mortgages. While they may have a right to prepay their

mortgages, what Mr. FRANK's amendment proposes to do is to insure that prepayment does not translate into displacement and homelessness for the many Americans who will be affected by this transaction.

Congress must act to keep housing affordable for the millions of low-income and working poor. We must fulfill our commitment to safe, decent, and affordable housing for all Americans while honoring our contractual agreement to private owners.

Let us pass the Frank amendment and fulfill our responsibility to the American people.

Ms. PELOSI. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I will submit a full statement for the RECORD, but I do know many Members have worked many, many long hours on this issue. I am very disappointed that the Frank coalition amendment has been withdrawn. If the gentleman is satisfied with the Carper-Price-Patterson-Hoagland language, and I do believe it was a very welcome addition to the legislation which was passed last night, then I want to make a couple of points to emphasize when they go to conference how important some other considerations that were in the Frank amendment that are not included are to some Members.

Mr. FRANK. Mr. Chairman, will the gentlewoman yield?

Ms. PELOSI. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Chairman, I want to emphasize I was satisfied with it as the best we were going to do as a basis to go to conference. It is not exactly what I would have written, but as a basis to go to conference. Given what is in the other body's bill, it is a pretty good basis because she and I share a lot of concerns that we have to work on further in conference.

Ms. PELOSI. I thank the gentleman for his clarification. Mr. Chairman, the prepayment of HUD-subsidized mortgages and the termination of HUD low income housing subsidies threaten over 310,000 low income families nationwide with homelessness over the next few years. In the city of San Francisco, the 1,400 low income families that are in real danger of losing their homes now will grow to a number of 5,525 by the year 2000 if no action is taken.

As I said, I will be brief in the interest of time, but I do want to note that this prepayment issue occurred because I believe that when section 221(d)(3) and 236 programs were created with 15- and 20-year ending dates, it must have been assumed within that timeframe any affordable housing initiatives would have been developed to address the potential loss when the expirations occur. No one envisioned that only would new programs not be developed, but that also 9 of those years would see the virtual dismantling of affordable housing programs by an administration that actively

worked against the public's interests as far as affordable housing is concerned.

Therefore, I am disappointed that the Frank coalition amendment has been withdrawn. I am supportive of the provisions of the Carper-Price-Patterson-Hoagland amendment. I frankly would like to see the program be mandatory on the owners, but this legislation will take a positive step to preserving the stock of affordable housing and to prevent thousands of people across the country from becoming hopeless.

I again wish to commend the chairman, the gentleman from Texas [Mr. GONZALEZ] for his hard work on this.

Mr. Chairman, I rise today in support of the Frank coalition amendment to H.R. 5157, the omnibus housing bill.

During committee consideration of the housing bill, the original provisions designed to address the problem of prepayment were stricken and replaced with the Bartlett-Barnard language which would endanger hundreds of thousands of tenants across the Nation. The Bartlett-Barnard amendment established a voluntary program, meaning that owners can prepay their mortgages and evict their tenants regardless of how many incentives the Government offers. The Carper-Price-Patterson-Hoagland amendment is a vast improvement.

Frankly, I believe that participation should be mandatory and not voluntary. Preserving this Nation's stock of affordable housing is our first line of defense against dramatically increasing numbers of Americans living on our streets. The Bartlett-Barnard provision contained in this bill will not preserve affordable housing. Our housing crisis will become much worse if the owners participating in this program are allowed to prepay.

While I was a cosponsor of the Frank coalition amendment, I must state that I wish that it implemented a mandatory program for all owners. I understand that some of our colleagues have concerns about the implementation of such a program and would not support it. The Frank amendment therefore strikes a balance by making participation mandatory for owners to keep the buildings for affordable housing only where the Government fairly compensates the owners for doing so. If the Federal Government's incentives would not produce an 8-percent return on an owner's equity, the owner would be able to get out of the program. The amendment thus provide an escape hatch for very high value properties. While the owners of the properties would benefit, the tenants are still endangered. The Frank coalition amendment, however, does protect some tenants.

The prepayment of HUD subsidized mortgages and the termination of HUD low-income housing subsidies threaten over 310,000 low-income families nationwide with homelessness over the next few years. In the city of San Francisco alone, over 1,400 low-income families are in real danger of losing their homes within the next 3 years. By the year 2,000 that number will be over 5,525 if no action is taken. We simply cannot afford for this loss of affordable housing to occur.

I am pleased to note that H.R. 5157 contains provisions from H.R. 1057, the Low Income Housing Preservation Act, introduced jointly by Congressman DON EDWARDS, the dean of the California Congressional Delegation and me, to establish a pool of funds for assisting nonprofit organizations and State and local housing finance agencies in the acquisition of threatened properties. I believe that we must promote the acquisition of these properties by groups who we know are committed to long-term affordability.

When the section 221(d)(3) and section 236 programs were created with 15- and 20-year ending dates, it must have been assumed that within that timeframe, new affordable housing initiatives would be developed to address the potential loss when the expirations occurred. No one envisioned that not only would new programs not be developed, but that also 9 of those years would see the virtual dismantling of affordable housing programs by an administration that actively worked against the public interest.

We must take steps to preserve the stock of affordable housing and to prevent thousands of people across the country from being made homeless.

Mr. CARPER. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I just want to express my gratitude to the gentleman from Massachusetts [Mr. FRANK] for his decision to withdraw this amendment. Over the last couple of months of debate, this particular issue has been the thorniest and most difficult issue we have faced in trying to craft this housing bill.

Several months ago, there really were two polar positions on the issue of prepayment, the issue of preservation. On the one hand, we had those who said a deal is a deal. An agreement was struck 20 years ago with builders, and that agreement should be honored. The tenants, for the most part, be damned. The second point of view was that we in the Federal Government break agreements all the time and should do so in this instance to protect tenants. And, for the most part, the owners be damned.

It is clear from the debate last night, and I think here today, that our differences have narrowed dramatically in recent months. The original Bernard-Bartlett proposal was amended by Mr. PRICE and me in full committee last month. I believe Members took another step in the right direction last night with the adoption of the amendment offered by myself, the gentleman from South Carolina [Mrs. PATTERSON], the gentleman from North Carolina [Mr. PRICE], and the gentleman from Nebraska [Mr. HOAGLAND]. It was overwhelmingly adopted, and with its adoption, we moved another big step toward a consensus on this admittedly difficult issue.

By the same token, the original positions offered by the gentlemen from Massachusetts [Mr. KENNEDY] and

[Mr. FRANK] have been modified so, indeed, the differences have narrowed.

I believe a key question now has been answered with the withdrawal of the Frank-Martin amendment. Does the committee print, as amended, strike an appropriate balance between the rights of the tenants, particularly those of low-income tenants, and the contractual rights of owners? I believe, with the decision to withdraw this amendment, we have answered the question that, yes, the appropriate balance has been struck. I believe the committee print, as amended to protect rights of tenants, comes close to breaking, but does not break, the spirit and letter of the agreement that we struck 20 years ago with the builders of the rental housing in question. The Frank amendment, I believe, had it been offered, would have gone the extra mile for the tenants, but would have violated the spirit, if not the letter, of the agreement we reached 20 years ago.

So finally, let me conclude by saying, we do not have enough money in the Federal treasury to pay for all the housing that we need for low-income people. We need to build new private housing public partnerships to help provide that housing. We clearly need the full participation of the private sector. The adoption of the language now in this bill sends a message that, once we make a deal with those in the private sector to encourage the construction of affordable rental housing, we intend to keep that deal. By the same token, we do not plan to throw the tenants to the wolves, while are endeavoring to honor the contractual obligations we have made.

Mr. PRICE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I, too, want to commend the gentleman from Massachusetts [Mr. FRANK] for withdrawing this amendment, and also commend him for his relentless efforts to make certain that we preserve the maximum of low-income housing stock in this country, that we protect the interests of tenants in low-income housing.

He has been a tireless advocate of that position. I am sure he will continue to do so. However, I do think it is a wise course to withdraw this amendment at this time.

One thing that the discussion this morning does bear out is that the amendment that we passed last night, the Carper-Price-Hoagland-Patterson amendment, is indeed a serious effort to address the problem of affordable housing. We extended the low-income use restriction on these properties, at least 10 years beyond the current 40-year mortgage. We have given nonprofits and others who intend to keep this property for low-income use a right to first refusal if an owner exercises rights. We have clarified, to make sure local zoning and local laws are

not overridden, and granted the continued program to these properties for low-income residents.

This is a major achievement. We will take it to conference with confidence.

Mr. KENNEDY. Mr. Chairman, I move to strike the requisite number of words.

I regret but respect the gentleman from Massachusetts, Mr. FRANK's, decision to withdraw his amendment, and I agree with the gentleman from Illinois [Mr. YATES] and the chairman, the gentleman from Texas [Mr. GONZALEZ] and others that we have a lot of work to do in the conference. I look forward to working with the conferees from the Senate, where the rights of the poor are as much of a concern as the rights of a few landlords.

I also want to point out that it is the same coalition of people that put forth this amendment in the full committee that were responsible, certainly, for gutting the language that was part of the committee print. As a result, they can come back into the House floor and pretend they are protecting the rights of the tenant when, in fact, they are the very ones that were responsible for gutting the committee print that the chairman had put into the initial bill that would have provided very significant tenant protections.

Let Members just step back for a moment and look at the history of these projects. The Government paid for the buildings, and for 20 years the Government has subsidized the rents, subsidized the mortgages, and subsidized capital improvements. Now, we are asked to give the projects to the owners at their whim, when the country is in the midst of a housing crisis. That is just not bad social policy. It is a mini S&L bailout for a few S&L owners.

Now, the gentleman from Texas [Mr. BARTLETT] told Members under his proposal that tenants are protected with vouchers. But of course, the money for those vouchers is subject to appropriations. So if there is not enough money, there are not enough vouchers when owners send the eviction notices. And in places where the housing crisis is the worst, vouchers will not pay the rent. Try telling a 70-year-old widow on Social Security that a voucher will protect her. It will not.

The gentleman from Texas [Mr. BARTLETT] would have also told Members that some fancy studies show that most owners will opt not to prepay. However, GAO did a study, not of income streams and net operating income, but of owner's aptitudes. What GAO found after talking to them was that in cities with least affordable housing, 9 out of 10 owners will pay if they get the chance.

Even if I agreed with the gentleman from Texas [Mr. BARTLETT] that most owners will not prepay, what is the

harm in giving tenants some certainty that they are not about to be thrown out on the street? Surely, after all the subsidies, and after all the guaranteed profits that owners receive from the taxpayers, it is not too much to ask that tenants receive some piece of mind that their homes are secure.

□ 1120

Others are concerned that by placing modest limits on owners' freedom of choice, we violate the contracts between them and the Government. I share their concerns, and I support contract rights as much as anyone. But let us be clear: A long line of Supreme Court precedents say that the Federal Government has not just the right but the duty to modify regulations, if necessary, to protect the common good.

Homelessness is one of the most serious problems we face as a nation. Taking steps to prevent it is well within the bounds of permissible legislation. In fact, the legislation in place now to protect tenants has been repeatedly upheld by the Federal courts. Just last week the Fourth Circuit Court of Appeals in a class action suit by owners said that the existing limits are constitutional.

This amendment would have balanced the urgent need to protect tenants with the rights of owners to receive a fair return on their investments. It would protect tenants, preserve affordable housing, and keep the moral scandal of homelessness from worsening.

Mr. Chairman, I would have urged my fellow colleagues to support the amendment. I regret the fact that the amendment is not going to be offered, and I hope that we will continue our efforts to protect the tenants in the conference.

Mr. BARTLETT. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from Texas.

Mr. BARTLETT. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we do have a disagreement about this section of the bill which I recognize. I have just one factual correction. Federal vouchers and certificates do pay the monthly rent for approximately 5.1 million American families and individuals today, compared with 3 million American families and individuals in 1981.

Mr. KENNEDY. Mr. Chairman, I appreciate the gentleman's point. I would also point out to the gentleman that vouchers in many cities around this country simply do not meet the needs of either the landlords or the tenants. That is particularly true in the Northeast, in California, and in many other places throughout the country, where the vouchers simply do not meet the needs.

Mr. CARPER. Mr. Chairman, will the gentleman yield?

Mr. KENNEDY. I yield to the gentleman from Delaware.

Mr. CARPER. Mr. Chairman, let me just try to clarify one point. That is that the agreement that was struck 20 years ago between the Government and the builders is not that the Government would build these projects. The idea was that the Government, under section 236, would guarantee a loan.

The builder would have to go out and get the loan, the builder would have to make the principal payments on that loan, the builder would have to make most of the interest payments on the loan, the builder would have to build the project, the builder would have to operate the project, and the builder would have to maintain the project. The Government would guarantee the loan.

Mr. KENNEDY. Mr. Chairman, the fact remains that with all those very tough tasks the gentleman has outlined, the Government guaranteed the rents from the buildings to the landlords. A building that has a guaranteed rental stream is not a very difficult building to get a loan for. The internal rates of return, as estimated by HUD, have been between 16 and 27½ percent. These owners have done very, very well, I say to the gentleman from Delaware [Mr. CARPER].

AMENDMENT OFFERED BY MR. CAMPBELL OF CALIFORNIA

Mr. CAMPBELL of California. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CAMPBELL of California: Page 554, strike line 14 and all that follows through page 555, line 2, and insert the following new section (and conform the table of contents, accordingly):

SEC. 816. PREFERENCE IN HOUSING OPPORTUNITY ZONE DESIGNATIONS FOR STATES LIMITING LIABILITY REGARDING FOOD DONATIONS FOR HOMELESS SHELTERS AND PROVIDERS.

(a) PREFERENCE.—In selecting application for designation of housing opportunity zones under section 364 of this Act, the Secretary shall give preference to any application for a zone located in a State that has in effect a law that provides the following:

(1) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals, except that this paragraph shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(2) COLLECTION OR GLEANING OF DONATIONS.—A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to

needy individuals shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this paragraph shall not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(3) PARTIAL COMPLIANCE.—If some or all of the donated food and grocery products do not meet all quality and labeling standards imposed by Federal, State, and local laws and regulations, the person or gleaner who donates the food and grocery products shall not be subject to civil or criminal liability in accordance with this subsection if the nonprofit organization that receives the donated food or grocery products—

(A) is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(B) agrees to recondition the donated food or grocery products to comply with all the quality and labeling standards prior to distribution; and

(C) is knowledgeable of the standards to properly recondition the donated food or grocery product.

(b) DEFINITIONS.—As used in this section:

(1) APPARENTLY FIT GROCERY PRODUCT.—The term "apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other condition.

(2) APPARENTLY WHOLESOME FOOD.—The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other condition.

(3) DONATE.—The term "donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

(4) FOOD.—The term "food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(5) GLEANER.—The term "gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(6) GROCERY PRODUCT.—The term "grocery product" means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(7) GROSS NEGLIGENCE.—The term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(8) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(9) **NONPROFIT ORGANIZATION.**—The term "nonprofit organization" means an incorporated or unincorporated entity that—

(A) is operating for religious, charitable, or educational purposes; and

(B) does not provide net earnings to, or operate in any other manner that inures to the benefit of, any officer, employee, or shareholder of the entity.

(10) **PERSON.**—The term "person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler, hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.

(C) **CONSTRUCTION.**—This section shall not be construed to create a liability.

Mr. CAMPBELL of California (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. CAMPBELL of California. Mr. Chairman, I rise to present an amendment that is important and, I trust, not controversial, an amendment that will be agreed to by all. This issue deals with the people who wish to give food to the needy and the homeless, those people who have no food.

We have people of good will who would like to distribute excess food from restaurants and excess food from grocery stores but who are worried that when they do so, they may end up on the wrong side of a lawsuit. The provision that I introduced today would say that those states which have adopted laws taking care of this problem ought to be given preference under the housing opportunity zone provision of this bill. We use an incentive rather than a punitive measure, so that we encourage those States that have not done so to pass laws to protect those who in good faith gather food and give food to the homeless.

Only six States at the present time, Mr. Chairman, have laws that adequately protect the donors of food, including food service organizations and restaurants. It is the intent of this amendment, through an inducement, to suggest that the remaining 44 States and other jurisdictions provide that kind of model law.

In providing for this, I suggest that we follow the approach of encouragement rather than mandates, and that we thereby harness the strength of the private sector, of those people who are willing to give. In every State of the Union, in every major city, there are people who go to bed hungry. We wish to take steps to eliminate that. When somebody wants to give food,

wholesome food, they should not have to fear a lawsuit. We're speaking of good food, except that perhaps it was a meal returned at a restaurant or perhaps it was a can of food that had had its label removed. We should not intimidate those people because of the prospect of liability lawsuits. On the other hand, if there is conduct of a malicious kind, if there is intentional wrongdoing, then, of course, the law should apply as it presently does.

I suggest that we should not have the rule of strict liability for those who give food to the hungry. We should be able to tell the people who are offering this food that they do not have to face a lawsuit just to do what is good.

I conclude by noting that this amendment to the bill has been endorsed by the National Restaurant Association, the National Coalition for the Homeless, the Community for Creative Nonviolence, the St. Francis Catholic Worker, the Prince Georges County Family Shelter, the Pierce Shelter, Mitch Snyder's organization, and many, many other organizations that have been involved with the homeless and know what this problem is.

I would also like, in conclusion, before I yield to the distinguished chairman of the relevant committee, to say that I wish to give a special note of thanks to my colleague, the gentleman from Florida [Mr. McCOLLUM]. But for his assistance, I would not have been able to bring this to the floor, but for his advice it would have been a much poorer amendment. But for his constant encouragement the amendment would not be on the floor today, so that we can say to those people who wish to give, who wish to fulfill the fundamental commandment, to care for your neighbor, that you need not be intimidated. So I add a note of thanks to my colleague, the gentleman from Florida [Mr. McCOLLUM].

The commandment that inspires our action today is one of which we are all aware; it is very important; it is very simple. It is that "When I was hungry, you gave me to eat." And if, at the end of our days in Congress, we have abided by the commandment and considered that our obligation, it will be more important than any other rule, or any other bill we might have abided by.

Mr. Chairman, I now yield to my colleague, the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I thank the gentleman for yielding.

Let me ask the gentleman this: This is a sense of Congress, is it not?

Mr. CAMPBELL of California. It is not exactly that, Mr. Chairman. It is, rather, to include a provision in the housing opportunity zones section of the bill that those States that have

adopted this form of liability law should be entitled to additional preference in deciding which States shall receive housing zone treatment.

Mr. GONZALEZ. In other words, it is in slightly different language, then.

Mr. Chairman, will the gentleman continue to yield to me?

Mr. CAMPBELL of California. I yield to the chairman of the committee.

Mr. GONZALEZ. What the gentleman is doing is actually requiring HUD in selecting more applications for designations of housing opportunity zones to give preference to zones located in States that have laws limiting liability from deaths and injuries resulting from donated food?

Mr. CAMPBELL of California. That is correct. There is a series of preferences in the bill right now in deciding who shall receive housing zone preference, and I add to that list by suggesting that an additional factor ought to be whether a State has this kind of liability law.

Mr. GONZALEZ. Mr. Chairman, I have no objection to the amendment.

Mr. McCOLLUM. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California [Mr. CAMPBELL].

The gentleman was gracious enough to say nice things about me, but in reality a piece of legislation that he crafted was the origin of the whole concept to try to get something in the law this year that would encourage States to remove liability so that food could be donated more readily for the homeless and for charitable causes. I happened to take a spinoff of that because I serve on this committee and offered a sense-of-the-Congress resolution in our committee that was adopted to encourage that. The gentleman from California [Mr. CAMPBELL] has now come back with this amendment today, which I think is a very fine one, that does a little bit more than the sense-of-the-Congress resolution.

Unfortunately, around here we sometimes fail to realize that it does take a little nudging to get States to look at things at least and particularly to get legislators in States who are busy with many projects to take a chance and review their liability laws. That is what this would require. This will make a better provision to encourage in this case the giving of food to those who are needy. That is all it does.

The chairman of the committee has acquiesced in the amendment. We are adding an additional preference to a number of those types of things that are in this legislation already, saying to HUD, "You have to go out and look first for the States that have changed their liability laws, or at least those that are willing to change them if they have already done so in this respect,

before you award them housing opportunity zones."

□ 1130

Mr. Chairman, I think it is a very fine amendment. It will encourage more giving of food. It would encourage more receiving of food, and, hopefully, it will encourage the proliferation of more charitable organizations to help the homeless in this country, and it does not cost the taxpayers anything to do this.

So, it is one of the more noble amendments, and I do commend the gentleman from California [Mr. CAMPBELL] and encourage my colleagues to support it.

Mr. MFUME. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I will not use the entire allotment of time. I do want to extend my congratulations to the gentleman from California [Mr. CAMPBELL] for his insight in this matter and to the gentleman from Florida [Mr. McCOLLUM] for his assistance in helping to move this to the floor.

As my colleagues, know, oftentimes we think that, to be in our glory around here, we have to find something that is extremely technical, extremely deliberative, that we have got to have lights, and flashing signs and horns to be accurate.

However, Mr. Chairman, this particular amendment, as small as it may seem in its approach, is gigantic, I think, in helping to move us to what we are actually here for, and that is to find ways to make life easier, and simpler and better for a lot of people, and those people who are homeless, and who are hungry, who need food, are not necessarily looking for the lights, and the whistles and the horns, or the technicalities that we often bring to legislation. What they are looking for, quite frankly, is help, and I agree with the gentleman from Florida. I would certainly hope that States who are watching this particular discussion on this issue understand that, if I understand the gentleman correctly, there are still some 44 States in the Union that have not made provisions such as this to take advantage of this, that we might be able to move them in our own individual ways to do so.

Mr. Chairman, as someone who has worked long and hard with the Maryland Food Committee and with the homeless and the hungry around this Nation, I again think that this is the correct approach. It is just one of many approaches that I believe that this Congress ought to find ways of coming up with. It is creative, and it is so simple, my dear colleague, that most of us have overlooked it.

However, Mr. Chairman, I commend the gentleman from California [Mr. CAMPBELL] for this amendment. I

would hope that we would move quickly to adopt it.

Mr. CONDIT. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California [Mr. CAMPBELL].

Mr. Chairman, I would just like to agree with my distinguished colleagues, the gentleman from California [Mr. CAMPBELL] and the gentleman from Florida [Mr. McCOLLUM] on this amendment.

I will be brief, if I may. I would like to speak in favor of the amendment, if I may. I will not take the full 5 minutes.

Mr. Chairman, I just simply want to say that it is an outstanding amendment, as was earlier mentioned. It does not have a lot of flash and glitter.

We did this a couple of years ago in the State of California in the California Legislature, and I want to tell my colleagues that it improved the system there in terms of food organizations, people receiving donations and people who were giving donations. The liability question played heavily on a lot of people's minds when they donated food to organizations, and passing such a law simply created an environment where people were willing to give, and give generously, and improve the organizational structure for people who passed out and donated food considerably. In addition, Mr. Chairman, it increased the amounts that they give, and it is working very, very well in California.

Mr. Chairman, this is a fabulous amendment. I congratulate the gentleman from California [Mr. CAMPBELL] for coming up with it. I think it will go a long way in helping food programs around the country, and I want to add my support to the amendment.

Mr. Chairman, today I join with my distinguished colleagues, Mr. CAMPBELL of California and Mr. McCOLLUM of Florida, in offering this amendment.

This amendment, simply put, would modify current food liability laws to protect organizations, who in good faith, receive, and distribute donated food. Additionally, our amendment urges States to make it clear that organizations, who in good faith, provide, or distribute food to charitable organizations not be held liable for any injury or death resulting from the food, unless it is a direct result of the gross negligence, recklessness, or intentional misconduct of the organization.

Each and every day grocery stores, restaurants, and hotels around the United States throw away literally tons of good food. This food is desperately needed and would be greatly appreciated by countless numbers of needy Americans. Yet it is thrown away for fear that if such food is donated, the organization may face unwarranted lawsuits.

Two years ago, as a member of the California State Legislature, I had the pleasure of supporting a similar measure. I am pleased to report to you that in California, this legislation has had an extremely positive effect and has

resulted in considerable increases in food donations.

I am convinced that the California program is a success—this amendment will extend this successful program to the entire Nation.

There are rarely instances here in Congress where we can assist individuals without incurring any costs. This is one of those rare opportunities. I urge my colleagues to reflect on the countless Americans who are in need and support this amendment.

Mr. CAMPBELL of California. Mr. Chairman, will the gentleman yield?

Mr. CONDIT. I yield to the gentleman from California.

Mr. CAMPBELL of California. Mr. Chairman, I appreciate the gentleman from California [Mr. CONDIT] yielding.

Mr. Chairman, I should have remarked at the opening, and please forgive the oversight, that it was the leadership of the gentleman from California [Mr. CONDIT] in the California Assembly that inspired this concept in our State. I observed what was happening in California. I saw his leadership there. It was my privilege to try to bring this concept to the Nation.

Forgive me for not having mentioned that in my opening remarks, but the gentleman from California [Mr. CONDIT] deserves a lot of recognition in this.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. CAMPBELL].

The amendment was agreed to.

The CHAIRMAN. Are there further amendments to title VIII?

Mrs. COLLINS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise in support of H.R. 1180, the Omnibus Housing Authorization Act. For a decade, the Federal Government retreated from its previous commitments to low income and public housing. While the demand was growing, the Government increasingly turned a cold shoulder to families and individuals in need of housing and housing assistance. And as the malicious neglect of health care, education, and social services has exacerbated problems in these areas to crisis proportions, such has been the case in Federal housing assistance: There is simply not enough to go around.

H.R. 1180 would go a long way toward reversing the trend of the past 10 years. The bill earmarks funding for badly needed construction of new public housing units. In addition, moneys are made available for the repair and improvement of existing public housing structures which have been neglected for years, in many cases because there was simply no money to fix them up. The crisis in housing is not just limited to those in need of rental assistance, but also those trying to purchase their first home, therefore this measure is helpful in that it makes available assist-

ance for downpayments and closing costs.

While there are many laudable features of this bill, there is one provision which I cannot support and that is the prepayment provision added as an amendment at the committee. The Bartlett-Barnard amendment would allow owners of low-income rental housing to pay off their federally subsidized mortgages early and convert the properties into other uses. The Bartlett-Barnard amendment is a carryover from the kind of policy we endured under the Reagan administration. It has no place in a bill that otherwise seeks to begin correcting the wrongs done by that administration's housing policy. If enacted as is, this provision will almost assuredly mean a reduction in the number of low-income rental units.

The last thing we need to do is to reduce the existing supply. We should be doing all that we can to increase the number. There are already far too many families living in shelters and temporary housing.

Forty-six buildings in Chicago alone, containing about 5,000 units and housing more than 20,000 persons, are eligible for prepayment; 39 of them between now and 1994. The CBO estimates that the owners of more than two-thirds of these units would exercise their rights to prepay and convert the buildings to market rate rental units.

In an attempt to ameliorate the provision's impact, the Bartlett amendment says the Government will guarantee that tenants displaced by a building conversion, after a mortgage prepayment, will have a place to live. But where? The waiting lists for public housing in Chicago is already outrageously long: for a row house, the most preferred type of public housing available, the wait can be 5 or more years. For a hi-rise building, probably the least preferred low income housing option, the wait is anywhere from many days to several months. For space in low-rise apartment buildings, another preferred choice, the wait is about 2 to 3 years. I can only imagine what will happen to these numbers if owners are allowed to pull existing units off the market. I sincerely hope those who will work in the Conference Committee will come up with something like the Frank amendment.

Mr. McDERMOTT. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I want to commend Chairman GONZALEZ on his tremendous work on this housing bill. He has done an outstanding job on this legislation. His commitment to housing is unmatched and is reflected by the comprehensive nature of this bill. I especially appreciate his help and support for provisions I offered to assist people with AIDS.

In 1987, President Reagan appointed a National Commission on AIDS for the purpose of

studying this epidemic and making recommendations about how our Government should deal with it. Their first report to the President came out in 1988. Among the 600 recommendations in this report was Federal housing assistance for people with AIDS.

In April of this year, the Commission came out with its second report. This time, AIDS housing was one of five recommendations. Yet, the President and his staff have chosen to ignore the Commission on this one. In its report, the Commission says that: "The Federal Government must take the lead in providing the dollars needed to respond to this overwhelming, indeed catastrophic, problem."

The Commission recognizes that people with AIDS are at special risk of becoming homeless. They easily lose their jobs, their medical insurance, their assets, and their housing. And, because AIDS shatters the immune system, people with AIDS are at critical risk of contracting life-threatening communicable diseases in homeless shelters and on the streets. Yet, many of them live out their lives in these conditions. On average, an HIV-infected person lives 18 months after contracting full blown AIDS—often not enough time to survive a waiting list for housing.

Today there are more than 30,000 people with AIDS and their dependents who are homeless. Existing programs cannot and do not meet their needs. AIDS has already overwhelmed our health care system—homelessness among AIDS patients has strained it even more. Many hospitals do not discharge people with AIDS if they have no place to go, particularly if they have Medicaid. One public hospital has said that it could discharge 30 percent of its AIDS patients if appropriate housing were available. But instead, this hospital and many others continue to provide expensive care to people who could care for themselves or who could live independently with moderate assistance. Precious hospital beds are filled with people who do not need them. And we, as a government, continue to pay the costly Medicaid bills for hospitalization instead of housing. It makes no sense for the Federal Government to spend \$650 a day to keep a person with AIDS confined to a hospital bed when we could be paying \$60 a day for supportive housing.

Both the American Hospital Association and the National Association of Public Hospitals support the AIDS housing proposal. Over 60 other national organizations, including the major homeless groups, also support it. Homelessness among people with AIDS is overwhelming their shelters and draining their resources too. Unless we do something to relieve this crisis, AIDS will continue to increase the rolls of the homeless and make their jobs that much more difficult.

Our Government has been shamefully slow in responding to the AIDS crisis. Thousands of people died before anything was done. This country waited too long to acknowledge the epidemic, too long to provide funds for research, too long to issue AZT, and too long to educate the public. We have already waited too long to address the problem of homelessness. An epidemic of this magnitude requires a concerted effort by all appropriate agencies—including the Department of Housing and Urban Development.

I am pleased this assistance has been included in the bill, and I want to thank my colleagues Congresswoman PELOSI and Congressman SCHUMER for their invaluable support.

The CHAIRMAN. Are there further amendments to title VIII?

If not, the gentleman from California [Mr. DANNEMEYER] is recognized for an amendment to add title IX.

AMENDMENT OFFERED BY MR. DANNEMEYER

Mr. DANNEMEYER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DANNEMEYER: Page 594, after line 2, insert the following new title (and conform the table of contents accordingly):

TITLE IX—GENERAL PROVISIONS

SEC. 901. AUTHORIZATION LEVELS.

(a) IN GENERAL.—To the extent that the aggregate amount of budget authority for fiscal year 1991 for programs and activities that is authorized in this Act and the amendments made by this Act exceeds the aggregate amount of budget authority authorized for any such programs and activities for fiscal year 1990, the amount of budget authority authorized for each program and activity by this Act and the amendments made by this Act for fiscal year 1991 shall be reduced on a pro rata basis by the amount necessary to provide that the aggregate amount of such budget authority under this Act for fiscal year 1991 is equal to the aggregate amount of such budget authority authorized for fiscal year 1990 plus 4.8 percent of such amount.

(b) DEFINITION.—For purposes of this section, the term "budget authority" has the meaning given such term in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

Mr. DANNEMEYER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read are printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. DANNEMEYER. Mr. Chairman and Members, I am not privileged to serve on the Committee on Banking, Finance and Urban Affairs, and it is not often that I would take the well to be involved in a major bill of interest to all Americans, and I have been impressed by the compassion and interest that I have sensed coming from the members of the committee on both sides of the aisle, each striving to improve the lot of the American people with respect to housing and the ability to have decent housing. No greater interest could be exhibited by any of us.

Mr. Chairman, I happen to have with me this morning a government bonds yields, the latest publication, and it shows where this compassion has led us as a society. I want to compare what it costs for money in this country for the Government of the United States to issue its long-term

bonds, 10-plus years in duration; that is, 8.66 percent, with what that interest rate on such a bond demands in Japan, one of our major competitors, and that is 6.65 percent. The Japanese today have a 2-percentage point lower cost of credit on long-term bonds or mortgages than we have in America. With respect to short-term money, 1 to 3 years in Japan, it is 7 percent. Here in the United States, 1 to 3 years, it is 8.1 percent.

Mr. Chairman, we should not be surprised as Americans that our competitiveness in world markets is having difficulty, because the cost of production of goods in this country is significantly impacted by the cost of credit, and so long as we go down this road of attempting to evidence compassion for other people with taxpayers' money, we are going to be deeper in the hole in which we find ourselves today.

I rise to offer an amendment to this bill in the form of a new title that would limit budget authority that is appropriated in this bill to not greater than the increase in the CPI year 1991 over 1990, and I would remind my colleagues that in 1990 the budget authority which was appropriated by this legislation provided for spending \$17.041 billion. In the bill that is before us we propose to spend \$28.527 billion, an increase of 65 percent.

□ 1140

I just have difficulty in understanding this. Compassion is a laudable goal, but I believe given the fiscal straits in which this Government finds itself that policywise any authorization or appropriation bill that gets out of this House should be limited to not greater than the CPI increase, fiscal year 1991 over 1990. For that reason, this is what my amendment would do.

I also want to express a certain befuddlement, I guess it is the best word. I have always believed as a Member of the House that we cannot spend more money than is authorized. For example, in 1988, there was budget authority of \$9.698 billion, and the outlays were \$13.906 billion.

In 1989, there was budget authority of \$9.568 billion, and outlays of \$14.715 billion. I do not understand that.

Now, the rationale may be that there is unexpended budget authority lying around in the cubbyholes of the Department of Housing which can justify in any one of these years that outlays exceed budget authority. I do not know about that, and maybe I will ask the committee chairman.

May I ask the gentleman from Texas [Mr. GONZALEZ], is there unexpended budget authority currently in the drawers or reposing in the hands of the HUD agency today? Does the gentleman follow this?

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. DANNEMEYER. I yield to the gentleman from Texas.

Mr. GONZALEZ. Not any that I would know of.

I would like to point out to the gentleman that today's front-page story in the Post is, "50,000 Wait Years For Housing Help." Now, that is not in Japan. That is in the United States.

I am delighted to hear from the gentleman that he is for low interest rates.

Mr. DANNEMEYER. Mr. Chairman, I will reclaim my time if there is no answer to it.

I, too, am for improving the housing lot of the American people.

The CHAIRMAN. The time of the gentleman from California has expired.

(By unanimous consent, Mr. DANNEMEYER was allowed to proceed for 2 additional minutes.)

Mr. DANNEMEYER. I happen to believe, Mr. Chairman, that we get there by lowering the cost of credit in America across the board for all Americans, and the way we do that is by establishing a policy in this House of not letting a bill get out of here whereby the authority or the appropriation for fiscal year 1991 is greater than the increase of the CPI over what we expended in 1990.

In fact, some of us, and I am one of them, have been advising the President of the United States in order to bring some discipline to this House and to Congress that any appropriation measure that is sent to his desk for signature that does not conform to what I have described should be vetoed.

Somewhere, somehow along the line, we have got to have a measure of discipline in this House. It was interesting to me that just yesterday when we had all these speeches on increasing the national debt, which we authorized to go up to \$3.44 trillion, many statements were made on the floor that we have got to do something about this runaway spending, and here the next day we come up with this budget authority in this bill that provides for an increase of 65 percent over what was budget authority in this existing year.

I just do not understand that. Perhaps it is a mistake to ever attempt to define what we do around here based on logic. It might have a little bit to do with our politics. I understand we have to have concern for the needs of the public in housing, but I think, as I say, we get there in the short term and the long term by lowering the cost of credit for all of us. That is the reason for my amendment, and I ask for your support.

Mr. GONZALEZ. I rise in opposition to the amendment, Mr. Chairman.

I will not dignify it by any extended argumentation. You cannot argue against bad facts.

I think everyone has the right to his opinion, but I do not think any one of us has a right to be wrong in his facts. The gentleman from California [Mr. DANNEMEYER] is just way off.

I cannot help it if he concludes that there is a 65-percent increase. That just is not true.

Second, I would like to point out to the Members that this is within the budget resolution. It is within the President's and the Secretary of HUD's I think very realistic estimate of what the country needs in response to the basic need for shelter. There is no question about it. There is no loose money around here for sheltering Americans who need shelter, so I would urge a vote against this amendment.

Mr. WYLIE. Mr. Chairman, I move to strike the last word. I rise in opposition to the amendment.

Mr. Chairman, I favor increased funding for the housing programs, of course within the bounds of fiscal responsibility. I think my concerns were demonstrated a little earlier when I introduced my amendment which said that the housing bill, whatever form it takes, must meet the budget compliance agreement.

I understand and agree with the gentleman from California's intent that we need to do that; however, I feel compelled to oppose the Dannemeyer amendment because his amendment would suggest that the \$16.7 billion, which was authorized for housing in fiscal year 1990, would be increased to only \$17.5 billion for fiscal year 1991.

Now, I am sure the gentleman is not aware that there are almost \$7 billion worth of expiring section 8 contracts. This amendment of his might force as many as 250,000 families out on the streets because of these expiring section 8 housing subsidies. The families would not be able to afford the rent.

The President made a commitment in his budget to renew these subsidies, which he recognizes as necessary, and this bill follows suit on the President's recommendation.

So from the \$16.7 billion which was authorized last year, \$7 billion of it, which would take us to \$23.7 billion, is accounted for by these renewal contracts.

There are some new program initiatives in here, the HOPE proposal and so forth.

I think this is a reasonable request in the amount of the authorization. Therefore, I must oppose the amendment.

Mr. VENTO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise, obviously, in opposition to the Dannemeyer amendment. I think it is not a well-conceived amendment or well thought out.

The chairman and ranking member have spoken appropriately on opposition and they have worked very hard this year and are to be commended for the programs and the initiatives in the bill before the House, along with the Department of Housing and Urban Development.

Many of the dollars in this measure do not represent new housing. As is indicated, a substantial portion, \$7.7 billion, is for the expiring section 8 contracts.

Many of the dollars in this bill go for maintenance of existing buildings. We are not really meeting some of the basic needs in terms of maintaining the existing housing stock. We have virtually been at a standstill in terms of new, public, and assisted housing stock in this country for the past 10 years. If not for the actions of the 1970's, frankly there is little or no additional housing for low-income Americans.

Frankly, earlier in laws we made broad pronouncements reflecting the values and the concerns of the American people for providing a minimal and adequate, sanitary and safe housing, for all Americans, but we fall far short of that in so many of the areas we represent. Today we are really plagued with the problem of homelessness, which has, I think, reached dimensions that none of us would have thought possible in this country. While there may be housing stock available, it is not available to low- and middle-income Americans in key parts of our Nation.

□ 1150

This bill really is a modest effort, a beginning at trying to rebuild and address ourselves to the human needs in our society. This is the authorization. We have a long way to go in getting the appropriations and the dollars signed into law to meet the need and to make that commitment real.

Budget agreements and other matters tend to have the potential to thwart such objective. I think that the committee in working on housing legislation is fighting for many Americans who do not have a voice in this Nation. I commend the chairman and others who have, through the 1980's, championed this role and gave voice to such need that is so significant in our country. It is one of the few areas where we do not provide a benefit on an entitlement basis, and I think we have to face up to the fact that meeting the housing needs of America and the shelter needs is expensive. It costs money.

I think that local and State governments need a reliable partner in terms of the national Government, something that all too often has not been the case the past decade and they are left to work alone.

I hope we will reject this amendment overwhelmingly. I think it is unworthy of the House, unworthy for the representation of those who have little voice, little power in our society, which in essence would deny the right to shelter the poorest of the poor in our society.

Mr. Chairman, I ask for rejection of this pending amendment, and I support the position of the chairman and the ranking member.

Mr. Chairman, furthermore I must join my colleagues in reiterating the importance of achieving a solid and workable solution to the crisis we are facing with the expiration of the moratorium on the prepayment of mortgages of multifamily homes. As everyone is aware, there is no simple solution to balancing the contractual rights of the owners with the rights and needs of the tenants. The debate here and in our committee bear this out.

I am pleased that we passed the Carper-Price amendment last evening. That amendment addressed a number of issues including adding a right of first refusal for nonprofits and others should an owner decide to prepay and extending the low-income use restrictions for at least 10 years beyond the current 40-year mortgage.

I am not sure, however, that that amendment went far enough in assuring that we maintain as much of the prepayment eligible assisted housing for low-income families as possible. I am not sure that a future Congress will be put in the position of responding to yet another prepayment crisis in 20 or 30 years when we should design a long-range solution today. I fully understand the rights of owners and their desire to earn a profit or remove equity from their investments. I would hasten to add however that Federal subsidies have been awarded and that Members of Congress, have a responsibility to maintain and preserve such needed low-income housing. We cannot afford to add to the ranks of the homeless and our efforts must focus on maximizing our Federal dollars for the housing of low-income citizens. I hope that the House-Senate conference on this housing legislation, we can continue to work for an acceptable solution.

Mr. Chairman, the committee bill, the Carper-Price amendment and finally the Frank amendment which was withdrawn, collectively represent a great deal of labor, of work product by the committees, my colleagues and by all of us who represent both the owners and tenants. The magnitude of the problem across this Nation regarding prepayment is significant. As I said on Friday, in my own State of Minnesota, some 39 projects have been labeled "at risk" regarding prepayment jeopardizing the over 5,200 units of housing, that is nearly 50 percent of the 11,000 units in 99 developments in Minnesota have special vulnerability but indeed any and all will be affected by the new policy we write. This, of course, translates into real people, with real human impact for them and their families. I entreat all my colleagues to keep that fact in mind as we work in conference to finally resolve this new policy on prepayment.

The CHAIRMAN. The question is on the amendment offered by the gentle-

man from California [Mr. DANNEMEYER].

The question was taken; and the Chairman announced that the yeas appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 62, yeas 354, not voting 16, as follows:

[Roll No. 293]

AYES—62

Archer	Gradison	Quillen
Army	Hancock	Ravenel
Ballenger	Hefley	Roberts
Barton	Herger	Rohrabacher
Bliley	Holloway	Roth
Broomfield	Hopkins	Schaefer
Brown (CO)	Hunter	Schulze
Burton	Hyde	Sensenbrenner
Callahan	Inhofe	Shuster
Coble	Kolbe	Slaughter (VA)
Combest	Kyl	Smith (NE)
Cox	Lightfoot	Smith, Denny
Craig	Livingston	(OR)
Crane	Madigan	Smith, Robert
Dannemeyer	McCollum	(NH)
DeLay	Miller (OH)	Stearns
Dickinson	Moorhead	Stump
Dornan (CA)	Nielson	Thomas (WY)
Douglas	Oxley	Walker
Dreier	Petri	Young (AK)
Duncan	Porter	
Fields	Pursell	

NOES—354

Ackerman	Conte	Gillmor
Alexander	Conyers	Gilman
Anderson	Cooper	Gingrich
Andrews	Costello	Glickman
Annunzio	Coughlin	Gonzalez
Anthony	Courter	Goodling
Applegate	Coyne	Gordon
Aspin	Darden	Goss
Atkins	Davis	Grandy
AuCoin	de la Garza	Gray
Baker	DeFazio	Green
Barnard	Dellums	Guarini
Bartlett	Derrick	Gunderson
Bateman	DeWine	Hall (OH)
Bates	Dicks	Hamilton
Beilenson	Dingell	Hammerschmidt
Bennett	Dixon	Hansen
Bentley	Donnelly	Harris
Bereuter	Dorgan (ND)	Hastert
Berman	Downey	Hatcher
Bevill	Durbin	Hawkins
Bilbray	Dwyer	Hayes (IL)
Boehlert	Dymally	Hayes (LA)
Boggs	Dyson	Hefner
Bonior	Early	Henry
Borski	Eckart	Hertel
Bosco	Edwards (CA)	Hiler
Boucher	Edwards (OK)	Hoagland
Boxer	Emerson	Hochbrueckner
Brennan	Engel	Horton
Brooks	English	Houghton
Browder	Erdreich	Hoyer
Brown (CA)	Espy	Hubbard
Bruce	Evans	Huckaby
Bryant	Fascell	Hughes
Buechner	Fazio	Hutto
Bunning	Feighan	Jacobs
Bustamante	Fish	James
Byron	Flake	Jenkins
Campbell (CA)	Foglietta	Johnson (CT)
Campbell (CO)	Ford (MI)	Johnson (SD)
Cardin	Frank	Johnston
Carper	Frenzel	Jones (GA)
Carr	Frost	Jones (NC)
Chandler	Gallegly	Jontz
Chapman	Gallo	Kanjorski
Clay	Gaydos	Kaptur
Clement	Gejdenson	Kasich
Clinger	Gekas	Kastenmeier
Coleman (TX)	Gephardt	Kennedy
Collins	Geren	Kennelly
Condit	Gibbons	Kildee

Klecza	Oakar	Slattery
Kolter	Oberstar	Slaughter (NY)
Kostmayer	Obey	Smith (FL)
LaFalce	Olin	Smith (IA)
Lagomarsino	Ortiz	Smith (NJ)
Lancaster	Owens (NY)	Smith (TX)
Lantos	Owens (UT)	Smith (VT)
Laughlin	Packard	Smith, Robert
Leach (IA)	Pallone	(OR)
Lehman (CA)	Panetta	Snowe
Lehman (FL)	Parker	Solomon
Lent	Parris	Spence
Levin (MI)	Pashayan	Spratt
Levine (CA)	Patterson	Staggers
Lewis (CA)	Paxon	Stallings
Lewis (GA)	Payne (NJ)	Stangeland
Lipinski	Payne (VA)	Stark
Lloyd	Pease	Stenholm
Long	Pelosi	Stokes
Lowery (CA)	Penny	Studds
Lowe (NY)	Perkins	Sundquist
Luken, Thomas	Pickett	Swift
Lukens, Donald	Pickle	Synar
Machtley	Poshard	Tallon
Manton	Price	Tanner
Markey	Rahall	Tauke
Marlenee	Rangel	Tauzin
Martin (IL)	Ray	Taylor
Martin (NY)	Regula	Thomas (CA)
Martinez	Rhodes	Thomas (GA)
Matsui	Richardson	Torres
Mavroules	Ridge	Torricelli
Mazzoli	Rinaldo	Towns
McCandless	Ritter	Trafficant
McCloskey	Robinson	Traxler
McCrery	Roe	Udall
McCurdy	Rogers	Unsoeld
McDade	Ros-Lehtinen	Upton
McDermott	Rose	Valentine
McEwen	Rostenkowski	Vander Jagt
McGrath	Rowland (CT)	Vento
McHugh	Rowland (GA)	Visclosky
McMillan (NC)	Roybal	Volkmer
McMillen (MD)	Russo	Vucanovich
McNulty	Sabo	Walgren
Meyers	Saiki	Walsh
Mfume	Sangmeister	Washington
Michel	Sarpalius	Watkins
Miller (CA)	Savage	Waxman
Miller (WA)	Sawyer	Weber
Mineta	Saxton	Weiss
Moakley	Scheuer	Weldon
Molinari	Schiff	Wheat
Mollohan	Schneider	Whittaker
Montgomery	Schroeder	Whitten
Moody	Schuetz	Williams
Morella	Schumer	Wilson
Morrison (CT)	Serrano	Wise
Morrison (WA)	Sharp	Wolf
Murphy	Shaw	Wolpe
Murtha	Shays	Wyden
Myers	Shumway	Wyllie
Nagle	Sikorski	Yates
Natcher	Sisisky	Yatron
Neal (MA)	Skaggs	Young (FL)
Neal (NC)	Skeen	
Nowak	Skelton	

NOT VOTING—16

Bilirakis	Ford (TN)	Mrazek
Clarke	Grant	Nelson
Coleman (MO)	Hall (TX)	Roukema
Crockett	Ireland	Solarz
Fawell	Leath (TX)	
Flippo	Lewis (FL)	

□ 1211

Mrs. VUCANOVICH, Mrs. MEYERS of Kansas, and Messrs. ORTIZ, VANDER JAGT, BUECHNER, McMILLAN of North Carolina, KILDEE, BERMAN, FRANK, and LEWIS of California changed their vote from "aye" to "no."

Mr. McCOLLUM changed his vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT OFFERED BY MR. BARTLETT
Mr. BARTLETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTLETT:

Page 594, after line 2, insert the following new section (and conform the table of contents, accordingly):

SEC. 902. SENSE OF CONGRESS REGARDING MORTGAGE INTEREST DEDUCTION.

(a) FINDINGS.—The Congress finds that—

(1) homeownership is a fundamental American ideal, which promotes social and economic benefits beyond the benefits that accrue to the occupant of the home;

(2) homeownership is an important factor in promoting economic security and stability for American families;

(3) it is proper that the policy of the Federal Government is, and should continue to be, to encourage homeownership;

(4) for the first time in 50 years, the percentage of people in the United States owning their own homes has declined;

(5) the percentage of people in the United States between the ages of 25 and 29 who own their own home has declined from 43 percent in 1976 to 38 percent in 1987;

(6) the current Federal income tax deduction for interest paid on debt secured by first and second homes is of crucial importance to the economies of many communities; and

(7) the continued deductibility of interest paid on debt secured by a first or second home has particular importance in promoting other desirable social goals, such as education of young people.

(b) SENSE OF CONGRESS.—It is the sense of the Congress, therefore, that the current Federal income tax deduction for interest paid on debt secured by a first or second home should be preserved.

Mr. BARTLETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] reserves a point of order on the amendment.

Mr. BARTLETT. Mr. Chairman, I offer this amendment on behalf of the gentlewoman from New Jersey [Mrs. ROUKEMA], who had offered this amendment on behalf of a number of Members of Congress. I intend to submit her statement for the RECORD as the author of the amendment.

Mr. Chairman, I offer this amendment as an amendment to the housing bill which is currently before us. The housing bill would seek to provide improvements in housing and home ownership and neighborhood stabilization for the country as a whole. Mrs. ROUKEMA's amendment states very, very clearly that an essential part of housing is to maintain the income tax deduction that is currently available on

interest paid on the first or second lien home mortgage.

The fact is that one of the items, one of the principal ingredients that makes the cities of America livable today is home ownership. One of the principal ingredients of availability of home ownership is the availability of a mortgage interest deduction for the first or second home for a first lien. The gentlewoman from New Jersey [Mrs. ROUKEMA] correctly points out that whatever we do in housing, whether we spend \$17 billion, or \$23 billion, or \$27 billion in a so-called housing bill, whatever else we do in housing it will all go for naught unless we also preserve the housing deduction for interest on a first lien mortgage, and the gentlewoman from New Jersey is absolutely correct.

This is a sense of Congress. It is within the jurisdiction of the Committee of the Whole. It is a sense of Congress that is not binding as a part of the housing bill. But it does state clearly we believe that home ownership is an essential part of housing and the mortgage rate deduction is an essential part of home ownership.

Mrs. ROUKEMA. Mr. Chairman, I hope my colleagues will join me in supporting this sense-of-Congress resolution which is designed to simply send a message that we must retain the mortgage interest deduction and, thereby, the American family's quest for homeownership.

My colleagues know that the budget summit is working under the direction that everything is on the table. Yet some have told us, "There is no threat to this deduction, why are you so concerned?"

I am concerned because I wasn't born yesterday. There are plenty of people who would like to go after the deduction.

The housing industry is crucial to the Nation's economic health, and the mortgage interest deduction is the most important assistance we have for construction and home ownership.

Unfortunately, for the first time in half a century, the percentage of people in the United States owning their own homes has declined. Young families trying to capture their share of the American dream are particularly hard hit. The percentage of people in the United States between the ages of 25 and 29 who own their own home has declined from 43 percent in 1976 to only 38 percent in 1987.

Mr. Chairman, home ownership is a fundamental American ideal;

The policy of the Federal Government is and should be to encourage home ownership;

Home ownership has social and economic benefits beyond those enjoyed by the occupant of that home and which extend to the community at large;

The increase in the cost of housing over the last 10 years has been greater than the increase in family income; and

The Federal income tax deduction for mortgage interest has already been limited for the first time since its inception;

Therefore, I offer this amendment that it is the sense of the Congress that the current Federal deduction for interest paid on residential mortgages should not be altered.

We need to build support now for the deduction to hold off any efforts that might be mounted to eliminate or severely restrict the deduction.

If you would like to go on record in support of the American homeowner, please support this amendment.

POINT OF ORDER

Mr. ROSTENKOWSKI. Mr. Chairman, I make a point of order against the amendment.

The CHAIRMAN. The gentleman will state his point of order.

Mr. ROSTENKOWSKI. Mr. Chairman, mortgage interest is not debatable here and not within the context of this bill.

Mr. Chairman, I make a point of order against the amendment on the ground that it is not germane to the legislation and is in violation of clause 7 of House rule XVI. This amendment would express the sense of Congress on matters not within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, and I therefore make the point of order that the amendment is not germane to the bill.

The CHAIRMAN. Does the gentleman from Texas [Mr. BARTLETT] wish to be heard on the point of order?

Mr. BARTLETT. Mr. Chairman, I seek to be heard on the point of order.

Mr. Chairman, I think this is a very serious ruling and a very serious issue before this committee.

First, this amendment, a sense of the Congress with regard to housing, is clearly germane to a housing bill. It is germane under clause 6, rule XVI in that the housing bill itself would seek to extend and amend certain laws related to housing, community and neighborhood development and preservation and related programs. This is a 600-page piece of legislation that relates to housing.

The home mortgage deduction relates to housing. It is clearly germane to the bill.

It is clearly within the jurisdiction of the full House to consider a sense of the Congress on virtually any subject. It is within the jurisdiction of the Committee of the Whole to consider a sense of the Congress amendment as an amendment to a housing bill if the amendment relates to housing.

So first, it is germane. It does not direct another committee to do anything at all. It states that this Committee of the Whole believes that a mortgage interest deduction is an essential part of housing, and this is a housing bill.

Second, while an argument was made at the committee level in the Committee on Banking, Finance and Urban Affairs that it was not germane to it, that it was not within the jurisdiction of the Banking Committee,

and I think that at least has some validity to it, although I do not think it is correct with regard to a sense of the Congress. The fact is that this is not the Banking Committee. Mr. Chairman, we are convened as a Committee of the Whole House. Four hundred thirty-five Members of this Committee of the Whole House has jurisdiction over a sense of the Congress with regard to this particular housing policy.

This is not the Committee on Ways and Means and it is not the Committee on Banking, Finance and Urban Affairs. It is the Committee of the Whole House.

Third, the bill, this sense of Congress does not provide for a tax or tariff measure. It is a sense of Congress.

Fourth, it is not a bill providing for revenue losses.

Fifth, it is not a bill that exceeds the budget.

So, it is germane and it is within the jurisdiction of the full House.

The CHAIRMAN. Does the gentleman from New York [Mr. FLAKE] desire to be heard on the point of order?

Mr. FLAKE. Yes, Mr. Chairman.

The CHAIRMAN. The gentleman from New York is recognized.

Mr. FLAKE. Mr. Chairman, as it relates to the germaneness of the sense of Congress resolution, pursuant to the discussion between the gentleman from Texas [Mr. BARTLETT] and myself, our concern is how do we get to a point where we begin to prioritize what is a critical problem here in America?

□ 1220

Mr. Chairman, today we raise a question about whether or not the issue is germane for this body. The reality is that as we consider the many problems in housing, I think the question that ought to be asked is whether or not this Congress is ready to move to some degree of priority for what is one of the most critical problems facing this society in which we live.

Our questions have to do with how do we move to a point where we give some emphasis to those resources that are available and necessary if in fact we are to do housing? We are not mandating any committee to do anything. We are merely asking a sense of Congress that we would see the necessity of prioritizing housing, that we would see the necessity of trying to put into some priority the means by which we can use our IRA's, create enterprise zones while at the same time making sure we extend the low-income tax credit.

I think it is an appropriate part of this housing legislation and would hope that this body would see it the same way.

Mr. FRENZEL. Mr. Chairman, I wish to be heard on the point of order.

Mr. Chairman, the amendment which has just been raised by the gentleman from Texas is a sense-of-Congress resolution which relates to material under jurisdiction of another committee. It expresses a pious hope which many of us may share, but it has nothing to do with the bill in question. It is as if the House should make a resolution or a sense-of-Congress resolution that would say the Agriculture Department should plant more trees. That too would relate to housing, but in a very—in a manner such as is not acceptable under our rules.

The amendment is clearly out of order. If it were to be ruled in order, we would be subjected to the same kind of anarchy that is allowed under the Senate rules.

The CHAIRMAN. Are there any other Members to be heard on the point of order?

Mr. ROSTENKOWSKI. Mr. Chairman, I insist on my point of order.

The CHAIRMAN (Mr. MURTHA). The gentleman insists on his point of order.

Is there any other Member who wishes to be heard on the point of order?

The Chair is prepared to rule.

The gentleman from Illinois makes the point of order that the amendment offered by the gentleman from Texas is not germane to the bill. The bill comprehensively addresses the general subject of public housing and community development. The amendment offered by the gentleman from Texas adds to the bill an expression of the sense of Congress concerning tax deductions. Although the topic is conceptually related to the topic of public housing, it addresses questions of tax policy, matters within the jurisdiction of the Committee on Ways and Means.

The Chair is guided by the precedent of February 9, 1984, cited in Dechler-Broran Procedure, Chapter 28, section 4.47 to a bill reported from the Committee on Science and Technology, authorizing environmental research and development activities of an agency, an amendment expressing the sense of Congress with respect to that agency's regulatory and enforcement authority, matters within the jurisdiction of the Committee on Energy and Commerce was held not germane.

Likewise to the pending bill addressing public housing and community development within the jurisdiction of the Committee on Banking, Finance and Urban Affairs, an amendment expressing the sense of Congress on matters of tax policy is not germane. The point of order is, therefore, sustained.

Are there any other amendments to the bill?

Mr. WYLIE. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I rise to urge an "aye" vote on final passage of this bill, especially with respect to Members on our side of the aisle. I do so even though I think we need a better proposal on the FHA mutual mortgage insurance fund, even though I am not enthusiastic about the rental housing production program, even though the community housing partnership program moves from low-income housing to non-poor housing contrary to the general thrust of the bill, and even though the bill would establish new programs and set-asides which, while well-intentioned, these provisions would override preferences for families who are homeless or live in severely inadequate housing.

The bill also would create more than 10 new HUD programs and would impose additional requirements on HUD, and there are no program terminations.

Having said that, as I say, I suggest an "aye" vote to keep the process going. In this regard, the President would like to have a housing bill. As a matter of fact, he called a meeting in the Oval Office with Chairman GONZALEZ and Secretary Kemp and myself, indicating his strong desire for meaningful housing legislation this year. Secretary Kemp wants a housing bill. Mr. Chairman, while there are many provisions which I do not like, there are provisions in the bill which I strongly support. Secretary Kemp and the administration got 90 percent of their co-called HOPE initiative. And I want to compliment the chairman for his understanding and assistance in that regard.

The House has worked its will. This bill is a credit to the President and Secretary Kemp and to Chairman GONZALEZ, and we have all worked very hard together.

I voted to report the bill out of committee in June to keep the process going. I still maintain that the process should move quickly so that we can have a meaningful housing bill.

So I urge an "aye" vote with the caution that if the bill comes back from conference in its present form, the President's advisers will recommend a veto. I have the assurance of the leadership on our side of the aisle that we would work to sustain the President's veto.

Mr. Chairman, we have had a good debate on the housing bill. The House has worked its will.

In that connection, I would observe that we have had excellent staff work on this bill, and I would mention: Kelsay Meek, Frank DeStefano, Danna Fisher, Tony Cole, Joe Ventrone, Bill Warfield, Kyle Lundstedt, Vince Morelli. Paul Callen, of the Office of Legislative Counsel, was particularly helpful. Brent Shipp, Carla Pedone, and Marge Miller, we received extraordinary help from them, who

were on the Congressional Budget Office staff.

Majority: Kelsay Meek, full committee staff director.

Housing Subcommittee: Frank DeStefano, staff director; Danna Fisher, counsel; professional staff: Wink Twyman, Nancy Libson, John Valencia, Anne Mavity, and Deborah Carr.

Minority: Tony Cole, staff director and general counsel; Joe Ventrone, staff director for housing; Housing Subcommittee: professional staff: Bill Warfield, Kyle Lundstedt, Vince Morelli; staff assistants: Faith Corson and Marilyn Donahue.

Office of Legislative Counsel: Paul Callen.

Congressional Budget Office: Brent Shipp, Carla Pedone, and Marge Miller.

So I urge my colleagues to vote "aye" on final passage in order to continue the process, and, hopefully, we will send the President a bill that he can sign into law and we can all support and be proud of.

Mr. GONZALEZ. Mr. Chairman, I move to strike the penultimate word.

Mr. Chairman, I rise first to acknowledge my gratitude to the gentleman from Ohio [Mr. WYLIE] for his kind and generous remarks.

We are on the verge of completing action on an omnibus housing bill for the first time in quite a number of years. As I have said before, on and off the floor, in committee room and off the committee room, that this administration, President Bush, in his budget message, clearly indicated that we were in a new era in which his leadership would be committed to a housing policy of some nature.

Secretary Kemp, as well, who certainly I think by all accounts has assumed the position as Secretary of HUD in a most competent manner, direct, forthright, and polished the President's roughly sketched budget message portion on housing.

The rest is history, because this represents a bipartisan effort. I said it before, I wish to recognize the fact now, that the gentleman from Ohio [Mr. WYLIE] and the gentlewoman from New Jersey [Mrs. ROUKEMA], the ranking member of the Subcommittee on Housing, were absolutely indispensable.

Let me say for the record that Mr. WYLIE earlier this year said to me—and even since last year—that he felt that, given my long-time expressed interest in housing, that he felt the time had come for us to get together and produce a housing authorization bill.

So on February 21, thanks to his leadership, he arranged the meeting with the President of the United States and Secretary Kemp, he and I. We had an understanding as a result of that that we would in good faith and in all honesty pursue every effort within proper budgetary limits and

even with the administration relaxing on their own budget recommendation, that we would, on a bipartisan basis, produce this.

So today I think we should recognize what made it possible for us to reach this terminal point and completing point of this omnibus housing bill.

□ 1230

AMENDMENT OFFERED BY MR. BARTLETT

Mr. BARTLETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BARTLETT: Page 594, after line 2, insert the following new title (and conform the table of contents, accordingly):

TITLE IX—GENERAL PROVISIONS

SEC. 901. SENSE OF CONGRESS REGARDING HOUSING TAX POLICY.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that tax policy is an integral component of effective housing and neighborhood revitalization policy.

(b) SENSE OF CONGRESS.—It is, therefore, the sense of the Congress that the Congress should enact legislation during the 101st Congress providing a viable enterprise zone program, an individual retirement account program for homeownership, and an extension of the low-income housing tax credit.

Mr. BARTLETT (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. ROSTENKOWSKI. Mr. Chairman, I reserve a point of order against the amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. ROSTENKOWSKI] reserves a point of order on the amendment.

The gentleman from Texas [Mr. BARTLETT] is recognized for 5 minutes.

Mr. BARTLETT. Mr. Chairman, I yield to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, I strongly support the Bartlett-Flake amendment to the housing bill. It is well past time for this Congress to consider a long-term extension to the Mortgage Revenue Bond Program and the low-income housing tax credit. We also need to consider enterprise zones and the use of independent retirement accounts for downpayments on housing. And while this subject is addressed in a separate amendment, we must not reduce the tax deduction for mortgage interest payments.

Like much of the Nation, New Jersey's housing market has been depressed due to the problems of traditional housing lenders and the uncertainty over tax laws. Housing is a major component of our national economy, and this Congress must quickly resolve the housing tax issues.

Mortgage revenue bonds assist moderate income families to purchase homes. In New Jersey, many first-time home buyers would be

unable to afford their first homes without mortgage assistance through the New Jersey Mortgage Finance Agency. These low interest mortgages, funded by mortgage revenue bonds, have already helped more than 46,000 home buyers in New Jersey.

The popularity of the federally and State assisted housing mortgage plans for home buyers was dramatically illustrated last year when the New Jersey Mortgage Finance Agency was deluged with requests for no down payment, no closing costs mortgage applications. To qualify for the special mortgages, applicants could earn no more than 80 percent of the median income in the region where they were purchasing a home.

The Low-Income Housing Tax Credit Program also expires this year, and it must be renewed. The program enables various State aid programs and local community development projects to use Federal tax credits to spur rental housing construction. The credits apply only to the lower income rental units that must remain rent controlled for 15 years in order to qualify.

This year the program has generated \$9.5 million in loans for the construction and rehabilitation of 1,889 New Jersey apartments for lower income families. It is the quickest and least expensive method of encouraging the construction and rehabilitation of low-income housing.

If and when housing prices and interest rates decline, thousands of young families are expected to flood into the housing market, looking for homes they can afford. These two programs will help to ensure that there will be housing available for them.

The construction resulting from these federally funded programs would not only help provide housing but would contribute to the businesses of builders, realtors, supply companies, and even restaurants and retail stores. However, unless these two housing programs are extended, these new units will not be built or sold.

Another way that this Congress can assist our communities would be to finally establish enterprise zones to rehabilitate central city areas. I am very proud of New Jersey's Urban Enterprise Zone Program, which includes two cities in my district, Elizabeth and Plainfield.

New Jersey's State program was first implemented in late 1984, and involves State tax credits, tax exemptions, and other incentives for business growth. Currently, it operates in 10 cities across the State.

A recent study indicates that through June of next year, the program will have been directly responsible for 29,609 new full-time jobs and increased private investment in the 10 cities of \$2.15 billion. Almost 1,000 businesses have chosen to take part in the program.

When the indirect impact is considered, almost 43,000 jobs will have been created and State and local tax collections will have increased by \$267 million. Other similar New Jersey cities without enterprise zones showed that job creation and tax collections remained stagnant.

The New Jersey experience shows that enterprise zones do work, and can be a major help in eliminating urban poverty and unemployment. It is well past time for this Congress

to approve a Federal enterprise zone program.

It is also time for this Congress to allow the use of independent retirement accounts for a downpayment on housing. The problems faced by housing lenders, the FHA reforms passed by this House yesterday, and the rising cost of housing means that young families will have to come up with ever higher downpayments if they want to buy a house.

IRA's have proven to be a safe and effective way to encourage and assist families who want to save. I strongly support broadening the use of IRA's to include housing downpayments.

Finally, I want to express support for another amendment to this bill by Representative ROUKEMA, my colleague from New Jersey. The recent budget summit has spawned a host of rumored tax changes, including speculation that the mortgage interest deduction will be changed.

I can think of few tax changes that would be more damaging to our economy. The last thing that this Congress should consider is changing the mortgage interest deduction at a time when the housing market is already depressed.

It may well be that those participating in the budget summit have no intention of recommending such a tax change, but this House should also make it very clear that it would reject such a recommendation. There are enough rumors about proposed tax changes sweeping through the financial markets, and we should lay this one to rest once and for all. The House of Representatives should make it clear today that it will not support any change in the mortgage interest deduction.

Mr. BARTLETT. Mr. Chairman, I yield to the gentleman from California [Mr. LAGOMARSINO].

(Mr. LAGOMARSINO asked and was given permission to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the amendment and urge my colleagues to vote in favor of it.

By calling for congressional action on enterprise zones, the use of IRA's for home purchase, and extension of the low-income housing tax credit, the amendment takes a positive step forward.

An issue I have been involved in for many years is the use of IRA accounts for the purchase of a first home. At the outset of the 1980's, I introduced legislation that would help Americans reach the American dream of home ownership. My legislation permitted first-time home buyers to make penalty free withdrawals from their IRA's to cover the costs of a downpayment. In the 101st Congress, I re-introduced my first-time home buyers legislation as H.R. 243. Since then, President Bush and Secretary Kemp have both endorsed the idea of IRA's use for first home purchase.

First-time home buyers face a tremendous obstacle in the cost of a downpayment for a home. During 1989, in California, the median price of a home purchased by a first-time buyer was \$162,500. That is a 16-percent increase over what first-time buyers were paying in 1988.

Clearly, home ownership will continue to play a central part in the American Dream,

and the ability for first-time home buyers to make penalty free withdrawals from IRA accounts will increase the opportunity for Americans to reach that dream.

I urge my colleagues to support this amendment which calls for action on an IRA program for home ownership, and on other key tax matters pertaining to America's housing needs.

Mr. BARTLETT. Mr. Chairman, I will not take the entire 5 minutes. This amendment would state a sense of Congress that it is essential for housing policy in this country, what we all in this Congress and the country know to be essential, but we continue to ignore, and that is the establishment at long last of viable enterprise zones, and establishment of individual retirement accounts to be used in home mortgage loans, and the low-income tax credits. The fact is that we cannot have a housing policy that works for low and moderate and middle income Americans without enterprise zones, without down payments using IRA's, and without low-income housing type policies. We all know that to be correct.

We can hide behind jurisdictional debates, we can hide behind germaneness to questions as far as points of order, but we cannot hide behind the fact that Americans in the cities and in the rural areas are hurting for good housing. They want to pay for it themselves. The Federal Government in the view of Congress, owes it to Americans at all income levels to make these tax changes as a part of a housing policy.

Now, this amendment was turned down at the subcommittee. It was turned down at the full committee. And it appears on a point of order which I do not concur with, that it will be turned down here on the floor. I will concur, and I want to say with the gentleman from Ohio [Mr. WYLIE] and following his leadership and the leadership of Secretary Kemp, and the gentleman from Texas [Mr. GONZALEZ], I plan to vote for this bill also. I think the bill takes Members a step forward into good housing policy of the 1990's, to emphasize home ownership, neighborhood stability, and freedom of choice for tenants. However, without enterprise zones, without home ownership down payments from IRA's, and without low income housing tax credits, housing policy will be absolutely inconsequential as contained in this bill.

At some point the Congress needs to recognize that and to include the elements of the housing policy in this legislation. I do think as the gentleman from Ohio [Mr. WYLIE] concluded, that the bill will not become law unless we make some additional changes in conference. We do have to bring it back to within the deficit summit numbers, whatever those

numbers are. I think the bill spends much more money than the country can or wants to afford today. We can and must change that before we bring it back to the House floor. I think we have to delete the rental production in title III and make some other changes, but I think we are on the right track, and if we are to continue down the track, I think it is more likely than not we will have a housing bill back to this floor that will take Members in a new and positive direction for housing policies for the 1990's.

If we are ever going to do that, enterprise zones, down payments using IRA's, and low income housing tax credits are a must.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Illinois [Mr. ROSTENKOWSKI] insist on his point of order?

Mr. ROSTENKOWSKI. Mr. Chairman, yes. I make the point of order on the amendment on the ground that it is not germane to the legislation and is in violation of clause 7 of House rule XVI.

This amendment, like the previous amendment, would express the sense of the Congress on matters not within the jurisdiction of the Committee on Banking, Finance and Urban Affairs. I therefore make a point of order that the amendment is not germane to the bill.

The CHAIRMAN. Does any other Member wish to be heard on the point of order?

Mr. FRENZEL. Mr. Chairman, I wish to be heard on the point of order. I make the claim and argumentation that I did in the last point of order, that the point of order of the gentleman from Illinois [Mr. ROSTENKOWSKI] be sustained.

Mr. BARTLETT. Mr. Chairman, as I said on the last point of order on the sense of Congress, housing policy is germane to a housing bill, and it is within the jurisdiction of the Committee of the Whole, which is the Committee that is considering this bill.

The CHAIRMAN (Mr. MURTHA). The Chair is prepared to rule.

An expression of the sense of Congress that there should be enacted in this Congress a viable enterprise zone program, individual retirement accounts, and extension of low income housing tax credits addresses matter of tax policy under the jurisdiction of the Committee on Ways and Means, and, therefore, the Chair sustains the point of order based on the prior ruling. The germaneness rule applies in the Committee of the Whole.

Are there other amendments?

If not, the question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute as amended, agreed to.

Mrs. ROUKEMA. Mr. Chairman, I rise in support of Secretary Kemp's approach to FHA

reform which will ensure the long-term safety and soundness of the FHA's mutual mortgage insurance fund [MMI].

Almost 2 months ago, HUD announced the findings of an actuarial study of the MMI fund by the accounting firm of Price Waterhouse.

That study made two things clear:

First, the fund has been losing money for the last 10 years, and its capital has been reduced from 5 percent of insurance in force in 1980 to 1 percent at the end of 1989.

Second, the fund has been managed in an actuarially unsound manner, and it is losing \$350 million annually. At the rate it is going, the fund that insures the mortgages of more than 600,000 families a year, most of them first-time homebuyers, will be insolvent in 6 or 7 years.

If this sounds vaguely familiar to the savings and loan debate we went through, I say to my colleagues, it is.

I reject the position of those who do not share my concern that the crisis in the FHA is not like the crisis in the S&L industry.

My friends, just as we had a Federal insurance fund known as the FSLIC which went bankrupt, we have an insurance fund in the FHA program which is going bankrupt. Those that deny any correlation to the S&L problem are wrong and none of you should be hoodwinked into thinking otherwise.

Today's headlines are screaming that the S&L bailout will require an additional \$100 billion for 1991 alone. That's a dramatic jump from original estimates.

That's serious money and another shock for the taxpayers.

Wouldn't you think that a Congress staring down into this particular black hole into the abyss would sober up and say "Never again."

But apparently not this House.

In the housing bill we debate today, our colleagues are facing intense pressure from the special interests—much like the S&L lobbyists that haunted the halls of Congress that blocked legislation in the 1980's that could have stemmed the tide of red ink.

Secretary Jack Kemp—armed with extensive actuarial studies—has sounded the alarm and warned Congress that insolvency for the FHA insurance fund lies ahead and another raid on the taxpayers.

Still, many of our colleagues only have ears for the special interests.

Today, we will have Members putting forward a plan they say will protect the low-income homebuyer. They will give you dubious estimates, funny numbers, and claim that they will meet the standard of actuarial soundness.

Don't you believe it. Voting for Vento-Ridge will be the vote that may go down the same road that led to the S&L disaster.

And this time, you can't plead ignorance or innocence. You have heard the alarm. You now know the facts.

Vote "no" on Vento-Ridge.

Say "yes" to Secretary Kemp.

My colleagues, we have a potential for disaster here and unless you are prepared to answer to your constituents about yet another Government goof and taxpayer bailout, you will support the strongest possible remedy we can develop to address this potential problem.

HUD Secretary Kemp responded quickly and responsibly to the Price Waterhouse

study by proposing a series of reforms to restore the financial integrity of the FHA fund and to ensure that it would be able to continue to serve the needs of low- and moderate-income homebuyers. Those reforms are based on a series of principles which provide the foundation for the amendment we are offering.

First, as we did with the S&Ls, we need to achieve absolute minimum levels of capital as quickly as possible. Not tomorrow but today.

Second, the fund must be maintained in an actuarially sound manner.

Third, defaults, and there were 80,000 last year, must be reduced.

Finally, FHA must continue to serve low- and moderate-income homebuyers.

The HUD alternative would have achieved these principles:

It would achieve minimum capital requirements of 1.25 percent to meet the normal adverse business conditions—as recommended by Price Waterhouse—by 1992, and a 2-percent capital requirement within 10 years.

It would establish a risk-based premium structure that modestly increases the cost of FHA insurance above the current 3.8 percent premium only for high-risk borrowers.

It would require that half of all closing costs be financed in the mortgage and requires homebuyers to have real equity in the house at the time they buy it. We all know, that the more equity a borrower has invested in his home, the lower the default rate.

It would discontinue the practice of paying distributive shares on past and future business, so the fund can build up cash reserves and accomplish actuarial soundness more quickly.

Finally, the HUD option keeps low- and moderate-income focus of FHA by maintaining the maximum mortgage amount at its current level and allowing lower downpayments for lower value homes.

Mr. Chairman, we all know that there is an alternative proposal that is advertised to achieve the same goals for FHA. But that alternative fails to satisfy the fundamental principles of FHA reform in two key areas.

First and foremost, is the question of capital. As I stated before, the HUD option meets the 1.25 percent capital within 2 years. The Vento-Ridge alternative fails to achieve the 1.25 percent standard until 1994 at the earliest, and would not meet the 2.0 percent capital target until after the year 2000.

For those Members who believe that we should compromise on the issue of capital, I ask them to remember what the failure to impose minimum capital standards on the S&L industry brought us.

Second, is the question of default rates. The only way to run an actuarially sound insurance program—and to help keep homeowners in their homes—is to impose requirements that reduce the risk of default. In 1989, while some 450,000 citizens realized the dream of home ownership, some 80,000 persons experienced the nightmare of default and foreclosure. No one seriously questions the fact that the greater equity a person has in a home when he or she buys it, the less likely is default.

The HUD option would require that the buyer of a typical \$70,000 home have 2.8 percent real equity in that home. The Vento-Ridge alternative allows a buyer of the same \$70,000 home to have only \$74 in equity—practically nothing—in that home at the time of purchase.

That is even less equity than current policy allows. Secretary Kemp's proposal, according to Price Waterhouse, would lower the current annual FHA default rate from about 11.6 to 11.3 percent. The Vento-Ridge alternative would raise the default rate in the first 2 years to more than 12 percent.

For Members who are told that the default rate is a bogus one, let me remind them that this difference in default rates is a difference in actual numbers of more than 7,000 annual defaults. That's 7,000 American families who are less likely to lose their homes under our proposal than the Vento-Ridge alternative.

Those who support the Vento-Ridge alternative believe a family should be able to get into a home with the same amount of cash as before—and with less real equity.

I understand the concern about the impact of higher cash requirements on new home buyers. However, under any alternative, potential home buyers will be affected. But I reject the industry's doom and gloom predictions that hundreds of thousands of families would become ineligible for FHA loans. I cannot believe that the realtors believe that under our proposal, nearly one-third of FHA's business will be lost.

However, in the interest of achieving greater equity we have to draw the line somewhere, and Kemp's proposal will, indeed, increase the up-front cash requirement. There will clearly be an impact on some potential home buyers. But, we don't help that relatively small number of families if we raise their hopes and expectations and get their limited resources into homes which are then taken away through default and foreclosure. It does indeed turn the dream of home ownership into a nightmare, and we deplete the reserves of the FHA insurance fund.

Let me make it very clear that there are substantial differences between the FHA reform alternatives you will consider. Secretary Kemp's restores FHA to actuarial soundness quickly, and it makes programmatic changes to ensure that the problems of FHA will stay fixed over the long term. The Vento-Ridge alternative delays the achievement of actuarial soundness and fails to provide the types of programmatic changes that are necessary to keep FHA insurance available to low- and moderate-income home buyers.

Those are the fundamental choices. Today, it might be easier politically to do less than we will need to do in the long run. But over time, as we found to our great displeasure when we bailed out the S&L industry, we are all answerable to the taxpayer who has to pay for our mistakes.

The FHA and the S&L industry are by no means the same, but unless we act wisely today, we may well have yet another insolvent Government-backed insurance fund to bail out.

I urge support for the Kemp alternative.

Mr. BRENNAN. Mr. Chairman, I rise in strong support of the legislation before us, the

Housing and Community Development Act of 1990. Though I am not a member of the Banking Committee which has worked to develop this measure, I have worked with my colleagues to emphasize areas of housing policy in which I am particularly interested. This bill goes a long way toward helping more American families afford decent homes.

Over the past decade, we have all witnessed the startling decline of the Federal Government's commitment to Housing America's low- to middle-income families, first-time home buyers, the elderly, people with special needs—in short, those most in need of housing assistance. I think we have all seen the effects of the drastic cuts of the 1980's. The number of homeless people, increasingly families with children, in our city streets and our rural areas are a constant reminder that the Federal assistance which helped house past generations is no longer available. I have also met with and heard from many eligible first-time home buyers who are experiencing great difficulties in making that all-important first purchase.

H.R. 1180 establishes new programs which address some of the most pressing problems for would-be homeowners. The National Housing Trust Demonstration and the Homeownership Made Easier [HOME] Demonstration would assist moderate-income first-time home buyers with mortgage payments. The Community Housing Partnership Act will assist low- to moderate-income families through grants to cities, States, and nonprofit organizations for the acquisition and maintenance of rental and home-ownership units. Both of these targeted groups will greatly benefit from these innovative programs.

In addition, the bill addresses the needs of our elderly and disabled. The Congregate Housing Services Program is reauthorized in the bill. This program has been extremely successful in my home State of Maine, helping our frail elderly avoid costly and unnecessary institutionalization. The bill also contains the AIDS Housing Opportunity Act, which will help provide needed shelter for people who are suffering from that disease but have nowhere to stay on a long-term basis.

In short, I feel that the bill before us is a timely, badly needed piece of legislation which helps to fill the gap left by the policies of the past decade in creative and beneficial ways. I look forward to watching the programs contained in this bill help those who stand to benefit so greatly from its enactment. I am pleased with this sign of a renewed Federal commitment to housing, and I urge my colleagues to pass H.R. 1180.

Mr. McDADE. Mr. Chairman, I rise today to express my appreciation to this House and to the Committee on Banking, Finance and Urban Affairs, for including my bill, H.R. 2388, the Rural Housing Improvement Act of 1989, in title VI of H.R. 1180, the housing and community development authorization.

I introduced the Rural Housing Improvement Act to provide encouragement for home ownership through mortgage loans made by private lenders and guaranteed by the Farmers Home Administration for low- and moderate-income home buyers residing in rural areas and small towns who have not been adequately served by existing Federal Housing

Administration and Veterans' Administration loan guarantee programs. Similar support is also provided to improve and upgrade existing and substandard rural housing suitable for homeownership.

There has been a tendency in this House to overlook the growing critical shortage of affordable and available housing in rural America. More and more young Americans are leaving the towns where they were born and raised to seek the opportunity of home ownership in larger metropolitan areas. This migration has an adverse impact on their families and the growth potential of rural areas.

Mr. Chairman, I was proud to be the original sponsor of this legislation and I believe it is an important contribution in filling the gap in our present mortgage delivery system.

I wish to express my appreciation to my legislative assistant, Carol Granahan, who spent countless hours shepherding this bill through the legislative process.

Mr. LAFALCE. Mr. Chairman, while there are many controversies left to settle, I want to direct my remarks to a small but significant section of the housing bill that was agreed to on a bipartisan basis, the mortgage servicing transfer disclosure provisions.

If buying a house is one of the most important financial decisions a person will ever make, then trouble with your mortgage servicing company has to be one of the most nerve-racking and frustrating experiences a person can have.

By way of background, I should explain that not only are mortgages now sold to secondary purchasers. But in our increasingly sophisticated financial markets, the servicing—the collection of monthly payments and disbursement of escrow funds in return for a monthly fee—is often packaged separately and sold as well.

Consider people who pass up the absolutely best mortgage deals—in terms of interest rate and points—because they prefer doing business with a particular local bank. The borrower needs and expects to receive individualized, personal attention from the bank he has chosen.

Imagine how that borrower feels when he receives a notice directing him to send the next payment to some unknown bank that does not have the same incentive to offer good service.

In the most common scenario, the borrower suddenly receives a notice from the purchaser of the servicing directing him to send the next mortgage payment to some unknown bank in some other State. This unanticipated transfer of servicing not only treats the borrower unfairly, but also increases the borrower's risks.

There have been many instances of fraud in which consumers do not receive timely notification that they should send payments to a different servicer, and in some cases, as I described, foreclosures have been initiated in the confusion that ensues.

Questions go unanswered when consumers are given no one to contact at the new servicing institution. Payments unaccountably rise and insurance terms change when new servicers are unable to service the loan under the same terms as the originating institution. Taxes or insurance premiums may go unpaid.

Two years ago, after receiving numerous complaints from my constituents, I asked the General Accounting Office [GAO] to study the problems consumers were experiencing as a result of the transfer of their mortgage servicing. The scope of this new transfer business is truly staggering: In 1985, the servicing on about \$80 billion in mortgages was transferred. By 1988, that number nearly doubled, to \$150 billion. Unfortunately, management systems have not kept up with this astronomical growth, resulting in the many complaints I have received. But worst of all, the near doubling of the transferring business has taken place without the informed consent of the borrower.

The GAO study states that "evidence of the problem [with transferred mortgage servicing] is compelling." Citing hundreds of letters with over 1,500 complaints to my office, the GAO conclusion confirms my contention that the transferring of mortgage servicing has created numerous headaches and serious financial problems for uninformed consumers.

These letters came into my office after newspapers and magazines across the country, including *USA Today* and *Consumer Reports* reported on my pending legislation to more closely regulate and monitor the transfer of mortgage servicing. The letters and phone calls have continued to come in in a steady stream to this day.

The GAO also uncovered newspaper, magazine, and trade journal articles, written without reference to my bill, that depict the problems and frustrations servicing transfers cause the consumer. Furthermore, several regulatory agencies such as the FTC and Federal home loan banks, and real estate attorneys from around the country added their experiences to the mounting evidence of such problems.

The GAO concludes that—

The provisions of [the Mortgage Servicing Transfer Disclosure provisions of H.R. 1180] appear to be a step toward dealing with the problems associated with mortgage servicing transfers on a wider basis than currently provided by State laws, regulations, and policies of entities concerned with servicing.

The GAO study categorized wide-ranging complaints, including escrow accounts being mishandled, taxes and insurance going unpaid, consumers misinformed or uninformed about whom to pay and when, yet being charged late fees even in these circumstances.

In sum, the most common complaint was about changes in escrow accounts. Consumers are forced, often without explanation or justification, to pay higher monthly bills to increase escrow account balances. Oftentimes, it seems that those accounts have been depleted because mortgage servicers pay taxes late, even though borrowers' payments to them were timely, and are then forced to pay late penalties. Mortgage servicers already get free use of escrow moneys—they are not required by Federal statute to pay interest on these accounts. These servicers should at least make the required payments on time. In several cases, mistakes made by the servicing companies led to default of the home.

Equally prevalent is the problem of indifference and unresponsiveness. One member of my staff, for example, was put on hold for

over an hour before she was able to talk to anyone about a mortgage problem she had. Some companies do not respond to written requests at all. Others refuse to put things in writing, such as corrections to escrow accounts when the servicing company does admit to error.

Let me conclude this litany with a quotation from a letter from one of the attorneys who wrote to me:

I have yet to see a transfer of mortgages between two institutions be handled without an administrative snafu in connection therewith and in each occurrence such snafus have always been to the detriment of the borrower.

To address these problems my bill will:

First, require that the lending institution disclose to the borrower at the time of the application that a transfer of servicing may occur;

Second, require that the lending institution advise the borrower at the time of application as to the percentage of servicing transferred on loans originated in the last 3 years;

Third, require timely notification of any changes in the terms of the contract, including notification of a contact person should questions arise;

Fourth, preclude imposition of late fees for 60 days after the transfer if payment is sent to the wrong servicer;

Fifth, require the servicer to make all escrow payments in a timely fashion;

Sixth, require written notification of changes in escrow accounts;

Seventh, require that late notices specify which month's payment is late;

Eighth, impose appropriate penalties for failure to comply, including allowing class action suits and punitive damages in cases where servicers show a pattern and practice of abuse.

The bill also requires an annual accounting of escrow balances and prompt responses to written inquiries. Servicing companies must also supply a toll-free or collect telephone number.

In a speech I made to the Mortgage Bankers Association [MBA] last year, I said:

No market can be considered a fair or efficient market if it works on the principle that consumers should be kept ignorant. This bill will help ensure that homebuyers are informed before making any decisions.

By now, most of the people in the business have been persuaded by that logic. It is in nobody's interest—not mortgage bankers, thrift officers, secondary market investors or purchasers, or consumers—to protect the bad actors in the servicing field. As a result, I have received widespread support for this legislation, including the endorsement of the Mortgage Bankers' Association of America.

While this legislation cannot solve past problems, it will certainly, as the GAO makes clear, go a long way toward preventing these problems from happening in the future.

I thank the chairman for his support in this matter, and look forward to seeing this passed into law.

As you can imagine, this is a formula for frustration and disaster. I have received thousands of letters and phone calls from people victimized by mistakes made in the process of transferring servicing. Late charges were as-

essed even though payments were made on time. Escrow moneys were missing. Insurance policies duplicated. In some cases, failure of the servicer to pay taxes resulted in default of homes. And what remedy was there? How could a homeowner in Buffalo get redress from a banker in Los Angeles? The answer is, he didn't.

The mortgage servicing transfer disclosure provisions of this bill are an important first step toward correcting the abuses presently occurring.

Mr. ENGEL. Mr. Chairman, I rise in support of the AIDS housing provisions included in the housing bill we are currently considering. As a cosponsor of the AIDS Housing Opportunities Act, I was pleased that this legislation was included in H.R. 1180.

AIDS attacks the immune system and therefore makes people susceptible to illness. The homeless are exposed to more diseases than most people because they live on the street or in shelters. Because of the nature of the disease, homeless AIDS victims are much more likely to come down with a serious illness.

This bill addresses the housing problems for people with AIDS by providing \$150 million a year in fiscal year 1991 and fiscal year 1992 for AIDS housing. Homelessness for people with AIDS has reached crisis proportions. A recent survey by the partnership for the homeless showed that there are at least 30,000 homeless people with AIDS. In New York City alone, there are between 8,000 and 10,000 homeless AIDS victims.

Providing housing for people with AIDS is cost-effective. Many times, hospitals do not discharge homeless people with AIDS because they have no place to go. Hospitalizing people who do not need to be there drives up health care costs for everyone. It is much cheaper and more comfortable for AIDS victims to be placed in housing designed to help them.

Mr. Chairman, it is time for us to stop the hysteria and help AIDS victims. The AIDS housing provisions in this bill are excellent and should be maintained. I urge my colleagues to keep the AIDS housing provisions already in this bill.

Mr. TORRES. Mr. Chairman, as a member of the House Banking Subcommittee on Housing and Community Development, I rise today in support of H.R. 1180, the Housing and Community Development Act of 1990.

H.R. 1180, the omnibus housing authorization bill now before us represents years of work, commitment, and dedication by all my colleagues on the subcommittee, the full committee, and the full House of Representatives. I would, however, like to extend my sincere admiration for Chairman GONZALEZ for his perseverance, tenacity, and endurance in bringing this massive legislation to the House floor.

H.R. 1180, represents a turning point with the Federal housing policies and programs of the 1980's. This housing bill embodies the true spirit of the American dream of home ownership. H.R. 1180 reaffirms our commitment to safe, decent, and affordable housing for the majority of America's workers and young first-time home buyers.

Mr. Chairman, some may say that H.R. 1180 calls for too much in authorization. Let me remind the skeptical that during the 1980's, the Federal Government's commitment to housing the poor, the unemployed, the young aspiring home buyer, the worker, and the homeless dwindled by 75 percent. In fact, during the 1980's if you did not own a home or property, you missed out on the Reagan tax breaks, the real estate boom market, and were considered abnormal.

What H.R. 1180 purports to do, Mr. Chairman is to inject some sanity into our Federal housing policy. This bill, while not perfect, calls for \$28 billion in authorization for existing housing programs and for the creation of additional ones.

It is a 1-year authorization for fiscal year 1991, for many of the existing programs under the Department of Housing and Urban Development [HUD] and the Farmer's Home Administration [FmHA] as well as community development programs. H.R. 1180 also has some controversial measures, ones that I trust we will humanize today as we consider amendments to the bill.

H.R. 1180, also creates new housing programs designed to increase home ownership among the young first-time home buyers as well as the working poor.

Mr. Chairman, I ask that my colleagues support passage of H.R. 1180, let us send a clear unequivocal message to the President, and the public, that we support housing for the majority not only for the minority.

Mr. VENTO. Mr. Chairman, the following materials are being submitted for the RECORD because they reflect the basis for the outstanding support this week for the Vento/Ridge amendment. Obviously saving the FHA will be an important issue. Restoring its viability is clearly mandated by the strong action of the House.

SUPPORT VENTO-RIDGE AMENDMENT TO RESTRUCTURE FHA PROGRAM

DEAR REPRESENTATIVE: When the housing reauthorization bill (H.R. 1180) goes to the floor this week, you will be asked to choose between two amendments that will establish new rules under which first-time homebuyers can finance their homes under the FHA program. Both the Vento-Ridge amendment, and the amendment sponsored by the Administration, are actuarially sound. However, the Administration's proposal would unnecessarily put homeownership beyond the reach of thousands of homebuyers by raising the amount of cash required at closing. We urge your whole-hearted support for the Vento-Ridge amendment because it achieves actuarial soundness in a way that is least burdensome to first-time homebuyers.

According to a recent Price Waterhouse report on the FHA single-family Mutual Mortgage Insurance program, FHA should attain a 1.25 percent capital ratio in order to remain solvent during the coming decade. It is estimated that this amount of capital would be sufficient to enable the fund to remain solvent even in the face of moderately severe economic conditions in the future.

According to Price Waterhouse, both the Vento-Ridge amendment and the amendment supported by the Administration will achieve this capital standard. Indeed, the Vento-Ridge alternative requires the FHA to achieve a 2-percent capital standard within 10 years.

The difference between the two proposals is the amount of cash they require FHA borrowers to bring to the closing:

The Administration's proposal attempts to lower the risk of default associated with FHA loans by requiring borrowers to pay two-thirds of their closing costs in cash. The Administration, however, would still require borrowers to pay an up-front mortgage insurance premium of 3.8 percent, in addition to a new 0.5 percent annual premium for most borrowers. As is currently allowed, the Administration's proposal would allow borrowers to finance the 3.8 percent initial premium amount, which would still allow loan-to-value ratios to exceed 100 percent.

The Vento-Ridge proposal attempts to lower the risk of default by lowering the 3.8 percent up-front premium to 1.35 percent, and capping the maximum permissible loan-to-value ratio at 100 percent. This would allow most borrowers to continue to finance all of their closing costs. Rather than paying a hefty upfront premium, borrowers would pay an annual premium of 0.6 percent, only one-tenth of 1 percent more than the Administration would require. (Despite this slightly higher annual premium amount, the Vento-Ridge proposal would still result in lower monthly payment requirements than the Administration's proposal because the lower upfront insurance premium would produce a lower mortgage balance.)

The bottom line is clear from the attached table. Borrowers hoping to purchase a \$100,000 home would have to pay up to \$2,000 more in cash up-front under the Administration's proposal than under the Vento-Ridge proposal. This would place a serious new burden on FHA borrowers without producing lower permissible loan-to-value ratios than those produced under the Vento-Ridge alternative.

True, by maintaining the current 3.8 percent up-front premium, the Administration's proposal will better mask the federal deficit over the short term. However, the decreased federal revenues produced by lowering the up-front premium under the Vento-Ridge proposal is only a short term effect. The annual premiums will compensate for this decrease in only a few years.

FHA borrowers are already required to pay thousands of dollars in cash for a downpayment and pre-paid escrow. The minimum amount of cash required to purchase a \$100,000 home is already approximately \$5,650. Adding thousands of dollars to this already sizeable cash requirement will simply make it impossible for thousands of families to ever achieve the American dream.

As you and your constituents are painfully aware, high home prices and interest rates have already made homeownership an impossible dream for many hard working families. Homeownership rates among households under 50 years of age have declined in all regions of the country during the eighties. First-time homebuyers as a percent of all home purchasers have also declined in all regions of the country.

Congress must not create additional obstacles to homeownership unnecessarily. It would be unforgivable to foreclose thousands of Americans from the dream of homeownership simply to mask the federal deficit. Please support the Vento-Ridge amendment.

ACORN, Consumer Federation of America, Consumers Union, Local Initiatives Support Corporation (LISC), National Council of State Housing Fi-

nance Agencies, The Enterprise Foundation.

LOAN FINANCING ANALYSIS OF VARIOUS FHA OPTIONS

	Current law	HUD proposal	Vento/Ridge (after phase-in)
A. Selling price	100,000	100,000	100,000
B. Financeable closing costs ¹	3,000	1,000	3,000
C. Acquisition cost	103,000	101,000	103,000
D. Downpayment	4,650	4,550	4,650
(Cash for closing)		2,000	
E. Loan amount before MIP	98,350	96,450	98,350
F. MIP	3,737	3,665	1,328
G. Total financed	102,087	100,115	99,678
H. FHA LTV ²	95.5	95.5	95.5
I. True LTV ³	102.1	100.1	99.7
J. Initial cash required	4,650	6,550	4,650
K. Additional closing costs ⁴	1,000	1,000	1,000
L. Up-front cash required of borrower	5,650	7,550	5,650

¹ Assumes 3 percent total closing costs, excluding prepaid escrow.

² Loan amount before MIP amount divided by acquisition cost (line E divided by line C).

³ Total financed divided by selling price (line G divided by line A).

⁴ One point for prepaid escrow (currently cannot be financed). (Total closing costs of 4 percent).

AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS,

Washington, DC, July 27, 1990.

DEAR REPRESENTATIVE: On behalf of the AFL-CIO, I urge your support for H.R. 1180, the Housing and Community Development Act of 1990, with the addition of three important amendments—the Frank amendment on mortgage prepayment, the Oakar amendment on manufactured housing and the Vento-Ridge amendment on the Federal Housing Administration.

H.R. 1180 reauthorizes and improves many of the existing housing programs administered by the Department of Housing and Urban Development (HUD) and the Farmers Home Administration (FmHA). It also provides for new programs to assist first-time home buyers, and programs to increase use of federal property for low- and moderate-income persons. Above all, H.R. 1180 recognizes the federal government's role in providing decent and affordable housing by including new construction programs. This legislation takes a critical step forward in addressing this nation's housing needs, needs which have gone unmet through a decade of neglect.

There will be three amendments offered to H.R. 1180 of critical importance to the AFL-CIO. One is the Frank amendment on the issue of mortgage prepayment to replace the Bartlett/Barnard amendment contained in the bill and reported by the Committee on Banking, Housing and Urban Affairs. The Frank amendment is needed to prevent current tenants from being evicted from privately owned but publicly subsidized housing units under the essentially voluntary prepayment program now in the Committee bill. The Frank amendment would also commit owners to maintaining their subsidized affordable housing for the remaining useful life of the property as opposed to the limited time period of twenty years.

Second, we urge your support for the Oakar amendment to assure the safety and sound construction of manufactured housing. The language of the bill as reported by the Banking Committee removes the term "permanent chassis" from the definition of a manufactured home. This definitional change would result in the extension to modular housing of the preemption of state and local codes now governing mobile homes. The Oakar amendment would pre-

vent this federal preemption of structural, electrical, and plumbing codes, assuring that state and local authorities continue to implement construction safety regulations appropriate to local needs.

Finally, we urge your support for the Vento-Ridge amendment to alter the Federal Housing Administration housing program and to assure its continued solvency. Among other things, the amendment would phase out the current up-front insurance premium of 3.8 percent of the loan amount, requiring instead that 1.35 percent be paid up front, and 0.6 percent be paid annually over the life of the loan. The amendment also would prohibit the issuance of FHA mortgages that exceed the market value of a property, thus reducing homeowner defaults and insurance losses and improving the financial condition of the FHA fund. The amendment requires the attainment of specific capital standards within a specified period of time.

I urge your support for these amendments.

Sincerely,

ROBERT M. MCGLOTTEN,
Director, Department of Legislation.

THE U.S. CONFERENCE OF MAYORS,
Washington DC, July 30, 1990.

HON. BRUCE F. VENTO,

U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR REPRESENTATIVE VENTO: When H.R. 1180 is considered on the House floor this week, The U.S. Conference of Mayors urges your support of the following amendments:

(1) The Frank/Martin amendment that will ensure that thousands of low-income properties will not be lost because owners are eligible to prepay mortgages. Financial incentives would be offered—not required—which would ensure that owners receive a fair value for their property.

(2) The Vento/Ridge amendment that would make the Federal Housing Administration's (FHA) single-family insurance fund financially sound. The amendment is far more kinder to the first-time homebuyer than that proposed by the Administration.

(3) An amendment that opposes language requiring removal of barriers to affordable housing as a precondition to designation of a Housing Opportunity Zone.

The U.S. Conference of Mayors also strongly supports the Rental Housing Production and Community Housing Partnership programs, and the Homeless Prevention Housing program for persons with AIDS as reported by the House Banking Committee. We ask for your continued support of these programs as well.

We thank you for your consideration.

Sincerely,

J. THOMAS COCHRAN,
Executive Director.

VENTO-RIDGE FACTSHEET ADVERSE SELECTION

Adverse selection arises when less risky borrowers choose to use another source of financing and insurance, because of pricing or inconvenience, leaving borrowers more likely to default in the Fund.

This occurs to some extent in FHA now, because it is more expensive than private mortgage insurance, but considerably less than would be expected, because of the much lower up front costs of FHA, the less rigid underwriting, the assumability of FHA loans, all of which make FHA and attractive alternative.

Vento/Ridge maintains the attractive features of FHA, especially the control on up

front costs, which remain the same as current practice. The Administration proposal, on the other hand significantly increase up front costs, by as much as \$1,400 for a \$70,000 loan, thus weakening FHA's competitive position. Borrowers who can afford the extra funds (i.e., the less risky borrowers), especially those with between 5 percent and 10 percent downpayments, will have to look at a serious increase in up front costs, and almost a doubling of their mortgage insurance premium.

The Administration asserts that Vento/Ridge will suffer adverse selection because lower risk borrowers (over 10 percent downpayment) will have increased mortgage insurance premiums. However, such borrowers will be faced with a choice of paying \$2,000-3,000 less up front cash, as opposed to paying about \$30 per month more. Although FHA will be a little less attractive than it is at present, the substantial difference in up front costs will remain, and will minimize the market loss.

The question of adverse selection is a difficult one, but there are reasons to believe that it will cut as severely against the Administration or Senate proposals as Vento/Ridge. In point of fact, however, Price Waterhouse did no market study on the impact of the proposals, so assertions about adverse impact can only be subjected judgments.

DEFAULTS

According to Price Waterhouse, "default is most likely to occur when a borrower has negative equity position in the property—normally because the value of the property has fallen below the loan balance."

In this regard, it is important to note that the Vento/Ridge proposal prohibits the loan balance from exceeding the value of the property after the second year. Neither the Administration nor the Senate proposal would prevent loans in excess of the sales price of the home. In fact, the financing of the 3.8 percent premium virtually guarantees that those proposals will always have loans above 100 percent loan-to-value (LTV).

The Administration gets around this by insisting on treating the 3.8 percent up front premium as equity, because part of it is refundable if the loan is repaid. However, none of the up front premium is refundable if the loan defaults, and, in fact, FHA will get no premium in such situations, because it must pay it back to the lender. According to Price Waterhouse, "the fact that FHA finances virtually the entire premium means that little is collected from borrowers who default."

The Administration has had Price Waterhouse do its runs on probable default treating the 3.8 percent up front premium as equity. This is how it is able to come up with slightly lower default rates than Vento/Ridge, even though the Administration's true loan-to-value ratios, as Price Waterhouse calculates them, are higher. This is an inappropriate way to treat the up front premium, which runs completely against normal operations of the mortgage lending industry. Equity, in normal business practice, is the difference between the sales price of a home and the loan balance.

Mr. NEAL of Massachusetts. Mr. Chairman, I want to thank my colleague from Massachusetts for this opportunity to speak on a matter of vital importance to my area, my State, and the entire country. I also want to commend Mr. FRANK, Mr. KENNEDY, Mr. CONTE, Chairman GONZALEZ, and many others from around the country who have worked so hard to find

ways to preserve these units as affordable housing.

It has not been easy to craft a compromise involving the Federal Government, the tenants, and the owners. I believe the Frank coalition amendment will keep the vast majority of these units in the pool of affordable housing. After 10 years of very little activity by HUD, we cannot afford to lose any more low- and moderate-income housing units. The homeless rate in this country is soaring and if we do not preserve these units, thousands more will be added to those already on the street.

This is a fair amendment. The affordable housing units will be preserved and the owners and developers will receive a healthy return on their investment. That financial return will be based on fair market rates and their is an escape clause for properties in very high value areas.

This language, coupled with the \$200 million fund already in the bill, will help most owners stay in the affordable housing market. For those owners who do want out, the fund will help communities and nonprofit agencies buy these properties and keep them affordable.

From the beginning of this situation I have felt that we have had two goals: to try and preserve each and every unit of affordable housing threatened by prepayment and to fairly compensate the owners—this language meets both of those goals.

Mr. Chairman, without this preservation language, the State of Massachusetts stands to lose up to 18,000 affordable units; nearly 2,000 are in my district. Nationwide, more than 300,000 units could be lost. We are talking about nearly 1 million people. It is not enough to give a displaced tenant a voucher for another unit in the area. In my area there is simply no other place for these people to go—there are no available low- and moderate income units out there. These people will end up on the street. It is vital that this preservation language be included in the final housing bill for this year. With the withdrawal of the Frank coalition amendment, this is now a top priority for the conference committee. I urge the conferees to adopt this preservation language and save these vital housing units.

Mr. BORSKI. Mr. Chairman, I rise today in strong support of the omnibus housing authorization, H.R. 1180. Specifically, I support the goal of keeping the Federal Housing Administration [FHA] Mutual Mortgage Insurance [MMI] fund solvent for future generations of first time home buyers.

In 1988, over 3 million, or 70.4 percent of Pennsylvania's households owned their homes. However, the rate of homeownership in the Commonwealth has had an increase of only one-half of 1 percent since 1980.

Nationally, the percentage of families who own their homes continues to drop from a high of 65.6 percent in 1980 to 63.9 percent today. This slippage, as well as the small increase in Pennsylvania, is particularly acute among young families in the 25 to 34 age group, with the national homeownership rate among the 25 to 29 age group dropping from 42.3 percent in 1989 to 35.2 percent in 1989 and the rate among 30 to 34 age group dropping from 61.6 to 53.2 percent.

Although home ownership is difficult hardship for many working people, first time home buyers face the greatest obstacles. High rents claim large portions of the potential first time home buyer's income, leaving little money left over to save for downpayment and closing costs. At the same time, in many areas of Pennsylvania the cost of housing is escalating rapidly, increasing both downpayment requirements and monthly mortgage obligations.

Last year, 690,000 families realized the dream of home ownership through the FHA; 450,000 of those families were first time home buyers.

The good news is that the MMI fund of FHA, which insures mortgages in every State, is now solvent and has capital reserves of \$2.6 billion. In addition, now that H.R. 1180 has made permanent the increase in the FHA maximum mortgage amount to \$124,875, more homes are expected to be within the purchasing range of potential home buyers using FHA insured loans.

The bad news is, the MMI fund is losing \$350 million a year on its current business. At this rate, it will be bankrupt before the decade is out.

The omnibus housing authorization considered in the House today, seeks to restore actuarial soundness to the FHA insurance fund and increase from 1 percent to the Price Waterhouse recommended 1.25 percent capital ratio. As you know, capital is used to cover unexpected losses.

Central to this reform is a return to pay-as-you-go financing that was in effect prior to 1983, along with a reduced up front charge. Together, they will provide a steady flow of money into the insurance fund and counteract the depletion that has occurred.

It should be noted that a primary reason the FHA insurance fund began to lose its actuarially sound footing was because of a budget gimmick implemented by the administration, which permitted the FHA to finance over 100 percent of the value of the homes being sold.

At the beginning of 1980, FHA had capital equaling 5 percent of insurance in force. (Pretty good when you consider that, currently, Congress requires that savings and loans must achieve 3 percent capital.) By the end of 1989, FHA's capital had shrunk to about 1 percent of insurance in force. Even private mortgage insurers must have 4 percent capital.

The whole structuring of this mortgage insurance premium relates to the budget gimmick measures enacted back in 1982. Prior to 1982, the FHA insurance premium was collected on a pay-as-you-go basis. As part of the 1983 Budget Reconciliation Act, this policy was changed to a 3.8-percent up front payment.

The reasons for this policy change had nothing to do with helping home buyers: It was a form of budgetary smoke and mirrors to give the illusion of reducing the size of the Federal deficit. This budget gimmick has had a serious negative impact on the financial health of the FHA fund.

Fortunately, H.R. 1180 would phase out the current upfront insurance premium of 3.8 percent of the loan amount, requiring instead that 1.35 percent be paid up front, and 0.6 percent be paid annually over the life of the loan. The

act also would prohibit the issuance of FHA mortgages that exceed the market value of a property, thus reducing homeowner defaults and insurance losses and improving the financial condition of the FHA fund.

Mr. MACHTELEY. Mr. Chairman, I rise today to urge my colleagues not to weaken the family unification provisions to H.R. 1180, the omnibus housing bill.

The news is full of horror stories regarding the breakup of the family unit. Scholars theorize that our social structure, based on family groups, is crumbling, leading to a deterioration of morals and values. No one can argue that society today is without major afflictions: abandoned children, growing up on the streets; families torn apart by drugs, alcohol, and abuse.

The initiative we offer today is certainly not an all-encompassing panacea. The family unification initiative is, however, a step toward preserving the foundation of our society—the family. This provision, currently part of H.R. 1180, passed by voice vote in subcommittee where most Members could do nothing but extol the virtues of this program. Its goal is to keep together families currently separated or threatened with separation by the foster care system. An otherwise loving family may currently be forced apart due to lack of housing.

Obviously, children must not be brought up in the streets or brought up calling a cardboard box home. Instead of forced separation, the Family Unification Act would provide a section 8 certificate to families at risk of forced separation. This rental subsidy will provide a family with the opportunity to remain as a cohesive, nurturing unit. An extra helping hand may be the catalyst to help the family begin to help themselves. By keeping these families together, perhaps we can begin to rebuild the influence and importance that the family once had in this country. The funding authorization for this initiative is contained in the fiscal 1991 house budget resolution, and the cost is minimal when measured against the potential benefits—saving and rebuilding our society.

So I urge my colleagues—please put the money where your mouth is, and do something good for your constituents and the country as a whole.

Ms. PELOSI. Mr. Chairman, I would like to commend chairman GONZALEZ for his dedication and commitment to solving the Nation's housing crisis. A casual walk down virtually any street in most of our cities illustrates the serious problem we have with homelessness in this country. Adding to this serious problem is a growing crisis of homelessness among people with AIDS. A 46-city survey by the Partnership for the Homeless estimates that there are already at least 30,000 people with AIDS and their dependents who are homeless. Without decisive, comprehensive action on our part, this problem will increase exponentially as the numbers of people with AIDS increases dramatically.

I am pleased that H.R. 5157, the bill before us today, contains the elements necessary to establish a decisive, comprehensive program to address homelessness among people with AIDS. Included in H.R. 5157 are the provisions of H.R. 3423, the AIDS Housing Oppor-

tunities Act, which I introduced with representatives JIM McDERMOTT and CHUCK SCHUMER.

The Housing Subcommittee held a hearing on housing problems of people with AIDS. During that hearing, we heard compelling testimony from a range of individuals who found themselves homeless because they had AIDS. It is impossible to listen to their stories, knowing that they represent tens of thousands of other Americans, without feeling compelled to do something to help. The full Banking Committee clearly agreed with us. During full committee consideration of the housing bill, an amendment to strike the AIDS housing program was soundly defeated with bipartisan support.

Establishing a new housing program is not something which I take lightly, especially in these days of a massive Federal budget deficit. I am convinced, however, that implementation of the AIDS housing bill is not only the right thing to do for humanitarian reasons, but it is also the right thing to do for fiscal reasons.

The American Hospital Association supports the AIDS housing provisions because frequently hospitals are unable to discharge people with AIDS because they have no place to go. In one public hospital, 30 percent of the people with AIDS could otherwise be discharged. It costs roughly \$850 a day for inpatient care for one AIDS patient in San Francisco. At the same time, it can cost as little as \$40 a day for a person with AIDS in an independent living environment.

People with AIDS who are able to live in residential alternatives, like other ill people who are able to retain some degree of independence, stay more productive, more active and healthier. In San Francisco, we have several successful models of housing programs for people with AIDS, including the Peter Claver House run by Catholic Charities and Shanti Housing run by the Shanti project. The success of these programs illustrates the benefits of residential alternatives. The projects do an excellent job with limited resources, but they cannot keep up with the growing need.

Some of my colleagues may question why we should establish a program for homeless people with AIDS, when we do not have similar programs for people with other diseases. AIDS is an epidemic which has created a clearly established need for a special response. Responding to the AIDS epidemic requires us to go beyond the "business as usual" mentality in all areas, be it health care delivery, research, or housing.

The stresses placed on our society in terms of scientific research, health care delivery, and financing and compassion are redefining how we frame many of our national debates. People with AIDS face a whole spectrum of problems. Not only must they face the demands of their illness, they must also face harsh economic realities and discrimination. One thing that is clear is that we need to develop new ways of thinking and new ways to approach the challenges presented by the AIDS epidemic.

Because the AIDS virus works by destroying the immune system, people with AIDS are at exceptional risk of contracting life-threatening infections and contagious diseases which are

endemic in shelters and on the streets. Without adequate housing, these people become even more ill, causing additional hospital stays often at taxpayers' expense.

At the same time, it is clear that a continuum of care is a vital component in addressing the needs of people with AIDS. Housing is an integral part of this continuum of care and the AIDS housing provisions reflect that.

The AIDS housing provisions in this bill are designed to address the special housing needs of people with AIDS and related illnesses at several levels. The provisions would authorize programs to prevent homelessness; provide short-term housing with supportive services for homeless people with AIDS, and provide permanent housing. These programs would enhance the quality of life for persons with AIDS and at the same time provide residential alternatives that reduce the cost of institutional care, thus lessening the cost burden of this tragic disease.

The National Commission on AIDS made five major recommendations to the President and Congress in April. One of the five recommendations was Federal housing assistance for people with AIDS. The AIDS housing provisions contained in H.R. 5157 are supported by the U.S. Conference of Mayors, the National Coalition for the Homeless, and dozens of housing, health care, and AIDS organizations. I urge my colleagues to support these provisions and oppose any weakening amendments.

THE CHAIRMAN. Under the rules, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. TRAXLER] having assumed the chair, Mr. MURTHA, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1180) to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes pursuant to House Resolution 435, be reported the bill back to the House with an amendment, adopted by the Committee of the Whole.

THE SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the committee of a whole? If not, the question is on the amendment.

The amendment was agreed to.

THE SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was order to be engrossed and read a third time, and was read the third time.

THE SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and **THE SPEAKER pro tempore.** announced that the ayes appeared to have it.

RECORDED VOTE

Mr. DANNEMEYER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 378, noes 43, not voting 11, as follows:

[Roll No. 294]

AYES—378

Ackerman	Dymally	Kildee
Alexander	Dyson	Kleczka
Anderson	Early	Kolbe
Andrews	Eckart	Kolter
Annunzio	Edwards (CA)	Kostmayer
Anthony	Edwards (OK)	LaFalce
Applegate	Emerson	Lagomarsino
Aspin	Engel	Lancaster
Atkins	English	Lantos
AuCoin	Erdreich	Lauphlin
Baker	Espy	Leach (IA)
Barnard	Evans	Lehman (CA)
Bartlett	Fascell	Lehman (FL)
Barton	Fazio	Lent
Bateman	Feighan	Levin (MI)
Bates	Fish	Levine (CA)
Beilenson	Flake	Lewis (CA)
Bennett	Foglietta	Lewis (FL)
Bentley	Ford (MI)	Lewis (GA)
Bereuter	Frank	Lightfoot
Berman	Frenzel	Lipinski
Bevill	Frost	Livingston
Bilbray	Galleghy	Lloyd
Bliley	Gallo	Long
Boehlert	Gaydos	Lowery (CA)
Boggs	Gejdenson	Lowey (NY)
Bonior	Gephardt	Lukens, Thomas
Borski	Geren	Machtley
Bosco	Gibbons	Madigan
Boucher	Gillmor	Manton
Boxer	Gilman	Markey
Brennan	Gingrich	Martin (IL)
Brooks	Glickman	Martin (NY)
Broomfield	Gonzalez	Martinez
Browder	Goodling	Matsui
Brown (CA)	Gordon	Mavroules
Bruce	Goss	Mazzoli
Bryant	Grandy	McCandless
Buechner	Grant	McCloskey
Bunning	Gray	McCrery
Bustamante	Green	McCurdy
Byron	Guarini	McDade
Callahan	Gunderson	McDermott
Campbell (CA)	Hall (OH)	McEwen
Campbell (CO)	Hamilton	McGrath
Cardin	Hammerschmidt	McHugh
Carper	Harris	McMillan (NC)
Carr	Hastert	McMillen (MD)
Chandler	Hatcher	McNulty
Chapman	Hawkins	Meyers
Clarke	Hayes (IL)	Mfume
Clay	Hayes (LA)	Michel
Clement	Hefner	Miller (CA)
Clinger	Henry	Miller (OH)
Coble	Hertel	Miller (WA)
Coleman (MO)	Hiler	Mineta
Coleman (TX)	Hoagland	Moakley
Collins	Hochbrueckner	Molinari
Condit	Holloway	Mollohan
Conte	Horton	Montgomery
Conyers	Houghton	Moody
Cooper	Hubbard	Morella
Costello	Huckaby	Morrison (CT)
Coughlin	Hughes	Morrison (WA)
Courter	Hunter	Murphy
Coyne	Hutto	Murtha
Crockett	Hyde	Myers
Darden	Inhofe	Nagle
Davis	Jacobs	Natcher
de la Garza	James	Neal (MA)
DeFazio	Jenkins	Neal (NC)
Dellums	Johnson (CT)	Nowak
Derrick	Johnson (SD)	Oakar
DeWine	Johnston	Oberstar
Dickinson	Jones (GA)	Obey
Dingell	Jones (NC)	Olin
Dixon	Jontz	Ortiz
Donnelly	Kanjorski	Owens (NY)
Dorgan (ND)	Kaptur	Owens (UT)
Downey	Kasich	Oxley
Dreier	Kastenmeier	Packard
Durbin	Kennedy	Pallone
Dwyer	Kennelly	Panetta

Parker	Scheuer	Tanner
Pashayan	Schiff	Tauke
Patterson	Schneider	Tauzin
Paxon	Schroeder	Taylor
Payne (NJ)	Schuetz	Thomas (CA)
Payne (VA)	Schulze	Thomas (GA)
Pease	Schumer	Thomas (WY)
Pelosi	Serrano	Torres
Perkins	Sharp	Torricelli
Pickett	Shaw	Towns
Pickle	Shays	Trafficant
Porter	Sikorski	Traxler
Poshard	Sisisky	Udall
Price	Skaggs	Unsoeld
Pursell	Skeen	Upton
Quillen	Skelton	Valentine
Rahall	Slattery	Vander Jagt
Rangel	Slaughter (NY)	Vento
Ravenel	Slaughter (VA)	Visclosky
Ray	Smith (FL)	Volkmer
Regula	Smith (IA)	Vucanovich
Rhodes	Smith (NJ)	Walgren
Richardson	Smith (TX)	Walsh
Ridge	Smith (VT)	Washington
Rinaldo	Smith, Denny	Watkins
Ritter	(OR)	Waxman
Robinson	Smith, Robert	Weber
Roe	(OR)	Weiss
Rogers	Snowe	Weldon
Ros-Lehtinen	Solomon	Wheat
Rose	Spence	Whittaker
Rostenkowski	Spratt	Whitten
Roth	Staggers	Williams
Rowland (CT)	Stallings	Wilson
Rowland (GA)	Stangeland	Wise
Roybal	Stark	Wolf
Russo	Stearns	Wolpe
Sabo	Stenholm	Wyden
Salki	Stokes	Wylie
Sangmeister	Studds	Yates
Sarpalius	Sundquist	Yatron
Savage	Swift	Young (AK)
Sawyer	Synar	Young (FL)
Saxton	Tallon	

NOES—43

Archer	Fields	Parris
Armey	Gekas	Penny
Ballenger	Gradison	Petri
Brown (CO)	Hancock	Roberts
Burton	Hansen	Rohrabacher
Combest	Hefley	Schaefer
Cox	Herger	Sensenbrenner
Craig	Hopkins	Shumway
Crane	Ireland	Shuster
Dannemeyer	Kyl	Smith (NE)
DeLay	Lukens, Donald	Smith, Robert
Dornan (CA)	Marlenee	(NH)
Douglas	McCollum	Stump
Duncan	Moorhead	Walker
Fawell	Nielson	

NOT VOTING—11

Bilirakis	Hall (TX)	Nelson
Dicks	Hoyer	Roukema
Flippo	Leath (TX)	Solarz
Ford (TN)	Mrazek	

□ 1254

Mr. FAWELL changed his vote from "aye" to "no."

Mr. ESPY changed his vote from "no" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 566) to authorize a new Housing Opportunities Partnerships Program to support State and local strategies for achieving more affordable housing; to increase home ownership; and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore (Mr. TRAXLER). Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 566

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the "National Affordable Housing Act".

TABLE OF CONTENTS

Sec. 1. Short title.

TITLE I—GENERAL PROVISIONS AND POLICIES

Sec. 101. The national housing goal.

Sec. 102. Objective of national housing policy.

Sec. 103. Purposes of the National Affordable Housing Act.

Sec. 104. Definitions.

Sec. 105. State and local housing strategies.

Sec. 106. Certification.

Sec. 107. Citizen participation.

Sec. 108. Compliance.

Sec. 109. Energy efficiency standards.

Sec. 110. Tax and Housing Coordinating Council.

Sec. 111. Capacity study.

TITLE II—HOMEOWNERSHIP

Sec. 201. FHA ceiling.

Sec. 202. Delegation of processing.

Sec. 203. Reverse mortgage insurance.

Sec. 204. First-time homebuyers.

Sec. 205. Uniform mortgage financing plan for energy efficiency.

Sec. 206. Report to Congress.

Sec. 207. Actuarial soundness for the mutual mortgage insurance fund.

Sec. 208. Risk-based periodic mortgage insurance premium.

Sec. 209. Mortgagor equity in the basic FHA home mortgage insurance program.

Sec. 210. Mutual mortgage insurance fund distributions.

Sec. 211. Sense of the Senate regarding use of IRA's for first-time home purchases.

TITLE III—INVESTMENT IN AFFORDABLE HOUSING

Sec. 301. Short title.

Sec. 302. Purposes.

Sec. 303. Coordinated Federal support for housing strategies.

Sec. 304. Establishment of Housing Opportunities Partnerships Advisory Board.

Sec. 305. Authorization.

Sec. 306. Notice.

Subtitle A—Housing Opportunity Partnerships (HOP)

Sec. 311. Authority.

Sec. 312. Eligible uses of investment.

Sec. 313. Development of model programs.

Sec. 314. Income targeting.

Sec. 315. Qualification as affordable housing.

Sec. 316. Participation by States and local governments.

Sec. 317. Allocation of resources.

Sec. 318. Housing investment trust funds.

Sec. 319. Repayment of investment.

Sec. 320. Matching requirements.

Sec. 321. Private-public partnership.

Sec. 322. Distribution of assistance.

Sec. 323. Set-aside for community housing development organizations.

Sec. 324. Penalties for misuse of funds.

Sec. 325. Limitation on jurisdictions under court order.

Sec. 326. Tenant and participant protections.

Sec. 327. Monitoring of compliance.

Sec. 328. Transition rule for rental rehabilitation program.

Sec. 329. Equal opportunity.

Subtitle B—Mortgage Credit Enhancement

Sec. 331. Establishment of Commission on Credit Enhancement.

Sec. 332. Composition of the Commission.

Subtitle C—Other Support for State and Local Housing Strategies

Sec. 351. Authority.

Sec. 352. Priorities for capacity development.

Sec. 353. Conditions of contracts.

Sec. 354. Research in housing affordability.

Subtitle D—Specified Model Programs

Sec. 361. In general.

Sec. 362. Rental rehabilitation.

Sec. 363. Rehabilitation loans.

Sec. 364. Sweat equity model program.

Subtitle E—General Provisions

Sec. 381. Nondiscrimination.

Sec. 382. Annual audits and accountability.

Sec. 383. Uniform recordkeeping and reports to the Congress.

Sec. 384. Citizen participation.

Sec. 385. Labor.

Sec. 386. Interstate agreements.

Sec. 387. Environmental review.

TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY THROUGH HOPE

Subtitle A—HOPE Grants for Public and Indian Housing Homeownership

Sec. 401. HOPE for public and Indian housing homeownership.

Sec. 402. Related amendments to section 18, demolition and disposition of public housing.

Sec. 403. Related amendment to section 8.

Sec. 404. Related CIAP amendments.

Sec. 405. Related amendment to resident management.

Sec. 406. Related amendment to section 9, public housing operating subsidies.

Sec. 407. Implementation.

Sec. 408. Applicability.

Subtitle B—HOPE for HUD Multifamily Homeownership

Sec. 411. Program authority.

Sec. 412. Technical assistance grants.

Sec. 413. Planning grants.

Sec. 414. Implementation grants.

Sec. 415. Other program requirements and limitations.

Sec. 416. Section 8 assistance.

Sec. 417. Definitions.

Sec. 418. Annual report.

Sec. 419. Limitation.

Sec. 420. Exemption.

Sec. 421. Related National Housing Act amendment.

Sec. 422. Related section 8 amendment.

Sec. 423. Implementation.

Subtitle C—HOPE for Homeownership Through Nonprofit Organizations

Sec. 431. Program authority.

Sec. 432. Implementation grants.

Sec. 433. Other program requirements and limitations.

Sec. 434. Exception to section 8 preference.

Sec. 435. Definitions.

Sec. 436. Implementation.

TITLE V—AFFORDABLE RENTAL HOUSING

Subtitle A—Preservation of Affordable Rental Housing

Sec. 501. Management and preservation of federally assisted housing.

Sec. 502. Flexible subsidy program.

Sec. 503. Preservation of low-income housing and resident homeownership.

Sec. 504. Related National Housing Act amendments.

Sec. 505. Related United States Housing Act of 1937 amendments.

Sec. 506. Extension of prior law until effective date of this Act.

Sec. 507. Transition.

Sec. 508. Effective date.

Subtitle B—Low-Income Rental Assistance

Sec. 521. Section 8 revisions.

Sec. 522. Authorizations.

Sec. 523. Housing assistance to prevent unnecessary foster care placement.

Sec. 524. Study of public housing funding system.

Sec. 525. Study of prospective payment system for public housing.

Sec. 526. Department of Housing and Urban Development study.

Subtitle C—Operation Bootstrap

Sec. 531. Operation Bootstrap program.

Sec. 532. GAO study on linking Federal housing assistance to economic self-sufficiency programs.

TITLE VI—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A—Supportive Housing for the Elderly

Sec. 601. Supportive housing for the elderly.

Sec. 602. Project retrofit.

Sec. 603. HOPE for elderly independence.

Subtitle B—Supportive Housing for Persons with Disabilities

Sec. 611. Supportive housing for persons with disabilities.

Subtitle C—Supportive Housing for the Homeless

Sec. 621. Amendment to McKinney Act.

Sec. 622. Definition of "homeless person".

Sec. 623. Transitional rule.

Sec. 624. Conforming amendment.

Sec. 625. Strategy to assist homeless persons with acquired immunodeficiency syndrome and related diseases.

Subtitle D—White House Conference on Homelessness

Sec. 631. Short title.

Sec. 632. Authorization of conference.

Sec. 633. Purposes of conference.

Sec. 634. Conference participants.

Sec. 635. Planning and administration of conference.

Sec. 636. Reports required.

Sec. 637. Followup actions.

Sec. 638. Availability of funds.

Sec. 639. Authorization of appropriations.

TITLE VII—PUBLIC AND INDIAN HOUSING

Sec. 701. Purposes.

Subtitle A—Public Housing Revisions

Sec. 711. Public housing revisions.

Sec. 712. Replacement housing.

Sec. 713. Reform of public housing management.

Sec. 714. Termination of tenancy in public housing.

Sec. 715. Energy efficiency demonstration.
 Sec. 716. Preference rules.
 Sec. 717. Public housing replacement.
 Sec. 718. Public Housing Advisory Board.
 Sec. 719. Eviction for criminal activity.
 Sec. 720. Performance funding system.

Subtitle B—Authorizations

Sec. 721. Authorization of operating subsidies.
 Sec. 722. Authorization of the comprehensive improvement assistance program and public housing resident management.

Subtitle C—Project Independence

Sec. 731. Purpose.
 Sec. 732. Project independence.
 Sec. 733. Conforming amendments.

Subtitle D—Indian Housing

Sec. 741. Disposition of interests on Indian land.
 Sec. 742. Authorizations.
 Sec. 743. Waiver of matching funds requirements in Indian housing programs.
 Sec. 744. Eligibility of Indian mutual help housing for comprehensive improvement assistance.
 Sec. 745. Adjustment in authorization levels.
 Sec. 746. Payments with respect to Indian housing.

Subtitle E—Public and Assisted Housing Drug Elimination

Sec. 751. Reauthorization of the Public Housing Drug Elimination Act.

TITLE VIII—RURAL HOUSING

Sec. 801. Purposes.
 Sec. 802. Program authorizations.
 Sec. 803. Section 502 deferred repayment.
 Sec. 804. Housing in underserved areas.
 Sec. 805. Housing preservation grants.
 Sec. 806. Transfer of section 502 inventory for use under section 515.
 Sec. 807. Reuse of section 515 loan authority.
 Sec. 808. Rights of appeal.
 Sec. 809. Equity takeout incentive for new rural housing loans.
 Sec. 810. Escrow accounts.
 Sec. 811. Set aside of rural rental housing funds.
 Sec. 812. Assistance to reduce rent overburden.

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS

Subtitle A—Community Development

Sec. 901. Community development authorizations.
 Sec. 902. City and county classifications.
 Sec. 903. CDBG sanctions.
 Sec. 904. Protection of individuals engaging in nonviolent civil rights demonstrations.

Subtitle B—Miscellaneous Programs

Sec. 911. Research and development.
 Sec. 912. Fair housing initiatives program.
 Sec. 913. Allocation formula in cases of annexation.
 Sec. 914. Allocation of funds under title I of the Housing and Community Development Act of 1974.
 Sec. 915. Hawaiian home lands.

TITLE X—CONFORMING AMENDMENTS AND MISCELLANEOUS PROVISIONS

Sec. 1001. Amendment to title I of the Housing and Community Development Act of 1974.
 Sec. 1002. Report on residual receipts accounts in section 8 and section 202 housing.

Sec. 1003. Minimum State share for certain housing programs.

Sec. 1004. Termination of existing housing programs.

Sec. 1005. Study of pension fund financing of housing.

Sec. 1006. Exemption from Davis-Bacon Act requirements of volunteers under housing programs.

Sec. 1007. Clarification of the term "area".

Sec. 1008. GAO study.

Sec. 1009. Amendment relating to Expedited Funds Availability Act.

Sec. 1010. Study of use of certified mail.

TITLE XI—FEDERAL GOVERNMENT COOPERATIVE PROGRAM WITH THE ADVANCED BUILDING CONSORTIUM

Sec. 1101. Short title.

Sec. 1102. Findings.

Sec. 1103. Consortium authorization.

Sec. 1104. Consortium functions and responsibilities.

Sec. 1105. Federal participation.

Sec. 1106. Authorization.

Sec. 1107. Annual report.

TITLE XII—COINAGE DESIGNS

Sec. 1201. Denominations, specifications, and design of coins.

Sec. 1202. Design changes required for certain coins.

Sec. 1203. Design on obverse side of coins.

Sec. 1204. Selection of designs.

Sec. 1205. Reduction of the national debt.

TITLE XIII—PROVISION OF COMPREHENSIVE SERVICES TO FAMILIES AND INDIVIDUALS WITH SPECIAL NEEDS

Sec. 1301. Short title.

Sec. 1302. Purpose.

Subtitle A—Family Support Centers

Sec. 1311. Definitions.

Sec. 1312. General grants for the provision of services.

Sec. 1313. Planning grants.

Sec. 1314. Training and retention.

Sec. 1315. Amounts of grants.

Sec. 1316. Family case managers.

Sec. 1317. Evaluations.

Sec. 1318. Report.

Sec. 1319. Construction.

Sec. 1320. Authorization of appropriations.

Subtitle B—Provision of Services to Elderly Individuals and Individuals with Chronic and Debilitating Illnesses and Conditions

Sec. 1331. Establishment of program.

Subtitle C—Projects to Aid the Transition from Homelessness

Sec. 1341. Projects to aid the transition from homelessness.

Subtitle D—Community Development Corporation Improvement Grants

Sec. 1351. Community Development Corporation improvement grants.

Subtitle E—Public Housing Gateway

Sec. 1361. Short title.

Sec. 1362. Statement of purpose.

Sec. 1363. Grant program.

Sec. 1364. Gateway program established under grant program.

Sec. 1365. Limitations on gateway programs.

Sec. 1366. Effect of gateway programs.

Sec. 1367. Review and sanctions.

Sec. 1368. Reports.

Sec. 1369. Definitions.

Sec. 1370. Regulations.

Sec. 1371. Authorization of appropriations.

Subtitle F—Homeless Youth Demonstration Projects

Sec. 1381. Short title.

Sec. 1382. Demonstration projects.

Subtitle G—Plan for Cooperation

Sec. 1391. Plan for cooperation.

TITLE XIV—DEPOSITOR PROTECTION AND ANTI-FRAUD ACT

Sec. 1401. Short title.

Sec. 1402. Limitations on certain nondeposit marketing activities in retail branches of FDIC-insured depository institutions.

Sec. 1403. Limitations on certain nondeposit marketing activities in retail branches of federally insured credit unions.

TITLE XV—GENERAL ACCOUNTING OFFICE STUDY

Sec. 1501. Extent to which Federal assistance programs discourages individuals from leaving such programs.

TITLE XVI—GENERAL PROVISIONS

Sec. 1601. Old-Age, Survivors and Disability Insurance.

Sec. 1602. Video equipment use in detecting persons driving under influence of alcohol or controlled substance.

Sec. 1603. Study on Enterprise Zones Development Corps.

Sec. 1604. Study on turning drug zones into opportunity zones.

Sec. 1605. Deficit reduction recommendations.

TITLE I—GENERAL PROVISIONS AND POLICIES

SEC. 101. THE NATIONAL HOUSING GOAL.

The Congress affirms the national goal that every American family be able to afford a decent home in a suitable environment.

SEC. 102. OBJECTIVE OF NATIONAL HOUSING POLICY.

The objective of national housing policy shall be to strengthen a nationwide partnership of public and private institutions able—
 (1) to ensure that no resident of the United States is without either access to decent shelter or assistance in avoiding homelessness;

(2) to increase the Nation's supply of decent housing that is affordable to low-income and moderate-income families and accessible to job opportunities;

(3) to improve housing opportunities for all residents of the United States, particularly members of disadvantaged minorities, on a nondiscriminatory basis;

(4) to help make neighborhoods safe and livable;

(5) to expand opportunities for homeownership;

(6) to provide every American community with a reliable, readily available supply of mortgage finance at the lowest possible interest rates; and

(7) to encourage tenant empowerment and reduce generational poverty in federally assisted and public housing by improving the means by which self-sufficiency may be achieved.

SEC. 103. PURPOSES OF THE NATIONAL AFFORDABLE HOUSING ACT.

The purposes of this Act are—

(1) to help families not owning a home to save for a down payment for the purchase of a home;

(2) to retain wherever feasible as housing affordable to low-income families those dwelling units produced for such purpose with Federal assistance;

(3) to extend and strengthen partnerships among all levels of government and the private sector, including for-profit and non-profit organizations, in the production and operation of housing affordable to low-income and moderate-income families;

(4) to expand and improve Federal rental assistance for very low-income families; and

(5) to increase the supply of supportive housing, which combines structural features and services needed to enable persons with special needs to live with dignity and independence.

SEC. 104. DEFINITIONS.

As used in this Act—

(1) The term "unit of general local government" means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 316(2)(B) of this Act; and any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

(2) The term "State" means any State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The term "jurisdiction" means a State or unit of general local government.

(4) The term "participating jurisdiction" means any State or unit of general local government whose comprehensive affordable housing strategy has been approved by the Secretary in accordance with section 105 of this Act.

(5) The term "nonprofit organization" means any private, nonprofit organization that—

(A) is organized under State or local laws, (B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual,

(C) complies with standards of financial accountability acceptable to the Secretary, and

(D) has among its purposes significant activities related to the provision of decent housing that is affordable to low-income and moderate-income persons.

(6) The term "community housing development organization" means a nonprofit organization, within the definition of paragraph (5), that—

(A) has among its purposes the provision of decent housing that is affordable to low-income and moderate-income persons;

(B) maintains, through significant representation on the organization's governing board and otherwise, accountability to low-income beneficiaries and low-income community residents with regard to decisions on the design, siting, development, and management of affordable housing;

(C) has a demonstrated capacity for carrying out activities assisted under this Act; and

(D) has a history of serving the local community or communities within which housing to be assisted under this Act is to be located.

(7) The term "government-sponsored mortgage finance corporations" means the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and the Federal Agricultural Mortgage Corporation.

(8) The term "very low-income families" means low-income families whose incomes do not exceed 50 percent of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(9) The term "low-income families" means families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(10) The term "moderate-income families" means families whose incomes do not exceed the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes.

(11) The term "families" includes families consisting of a single person in the case of (A) a person who is at least 62 years of age, or is a person with disabilities within the meaning of section 521(j)(2) of this Act, (B) a displaced person, (C) the remaining member of a tenant family, and (D) other single persons in circumstances described in regulations of the Secretary.

(12) The term "security" has the same meaning as in section 2 of the Securities Act of 1933.

(13) The term "first-time homebuyer" means (A) an individual and his or her spouse who have had no ownership interest in a residence during the previous 3-year period, or (B) a person who, during the previous 3-year period, has become a displaced homemaker, which means an individual who may have had an ownership interest in a principle home and whose marriage has resulted in a legal separation, divorce, or death.

(14) The term "Secretary" means the Secretary of Housing and Urban Development, unless otherwise specified in this Act.

(15) The term "substantial rehabilitation" means the rehabilitation of residential property at an average cost in excess of \$25,000 per dwelling unit.

SEC. 105. STATE AND LOCAL HOUSING STRATEGIES.

(a) IN GENERAL.—The Secretary shall provide assistance directly to a jurisdiction only if—

(1) the jurisdiction submits to the Secretary a comprehensive housing affordability strategy (hereafter in this section referred to as the "housing strategy");

(2) the jurisdiction submits annual updates of the housing strategy; and

(3) the housing strategy, and any annual update of such strategy, is approved by the Secretary.

The Secretary shall establish such dates and manner for the submission and approval of housing strategies under this section

that the Secretary determines will facilitate orderly program management by jurisdictions and provide for timely investment or other use of funds made available under this Act. If the Secretary finds there is good cause, the Secretary may provide reasonable extensions of any deadlines for submission of a jurisdiction's housing strategy.

(b) CONTENTS.—A housing strategy submitted under this section shall be in a form that the Secretary determines to be appropriate for the assistance the jurisdiction may be provided under this Act and shall—

(1) describe the jurisdiction's estimated housing needs projected for the ensuing 5-year period, and the jurisdiction's need for assistance for low-income and moderate-income persons under this Act, specifying such needs for different types of tenure and for different categories of residents, such as very low-income, low-income, and moderate-income persons, the elderly, single persons, large families, residents of nonmetropolitan areas, and other categories of residents that the Secretary determines to be appropriate;

(2) describe the nature and extent of homelessness within the jurisdiction, providing an estimate of the special needs of various categories of persons who are homeless or threatened with homelessness, and a description of the jurisdiction's strategy for (A) helping very low-income families avoid becoming homeless; (B) addressing the emergency shelter and transitional housing needs of homeless persons (including a brief inventory of facilities and services that meet such needs within that jurisdiction); and (C) helping homeless persons make the transition to permanent housing and independent living;

(3) describe the significant characteristics of the jurisdiction's housing market, indicating how those characteristics will influence the use of funds made available under this Act for rental assistance, production of new units, rehabilitation of old units, or acquisition of existing units;

(4) explain how the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction are affected by public policies, particularly by policies of the jurisdiction, including tax policies affecting land and other property, land use controls, zoning ordinances, building codes, fees and charges, growth limits, and policies that affect the return on residential investment, and describe the jurisdiction's strategy to remove or ameliorate any negative effects of such policies;

(5) explain the institutional structure, including private industry, nonprofit organizations, and public institutions, through which the jurisdiction will carry out its housing strategy, assessing the strengths and gaps in that delivery system and describing what the jurisdiction will do to overcome those gaps;

(6) indicate resources from private and public sources other than this Act that are reasonably expected to be made available to carry out the purposes of this Act, explaining how funds made available under this Act will leverage those additional resources and identifying, where the jurisdiction deems it appropriate, publicly owned land or property located within the jurisdiction that may be utilized to carry out the purposes of this Act;

(7) set forth the jurisdiction's plan for investment or other use of housing funds made available under this Act, the United States Housing Act of 1937, the Housing and Community Development Act of 1974,

and the Stuart B. McKinney Homeless Assistance Act, during the ensuing year or such longer period as the Secretary determines to be appropriate, indicating the general priorities for allocating investment geographically within the jurisdiction and among different activities and housing needs;

(8) describe the means of cooperation and coordination among the State and any participating units of general local government in the development, submission, and implementation of their housing strategies;

(9) describe the number of public housing units in the jurisdiction, the physical condition of such units, and how they fit into the jurisdiction's housing strategy;

(10) describe the standards and procedures according to which the jurisdiction will monitor activities authorized under this Act and ensure long-term compliance with the provisions of this Act;

(11) include a certification that the jurisdiction will affirmatively further fair housing; and

(12) include the number of families the jurisdiction will provide affordable housing as defined in section 315 using funds made available under this Act.

The Secretary may provide for the submission of abbreviated housing strategies by jurisdictions that are not otherwise expected to be participating jurisdictions under this Act. Such an abbreviated housing strategy shall be appropriate to the types and amounts of assistance the jurisdiction is to receive as determined by the Secretary.

(c) APPROVAL.—

(1) **IN GENERAL.**—The Secretary shall review the housing strategy upon receipt. Not later than 60 days after receipt by the Secretary, the housing strategy shall be approved unless the Secretary determines before that date that (A) the housing strategy is inconsistent with the purposes of this Act, or (B) the information described in subsection (b) has not been provided in a substantially complete manner. For the purpose of the preceding sentence, the adoption or continuation of a public policy identified pursuant to subsection (b)(4) shall not be a basis for the Secretary's disapproval of a housing strategy. During the 18-month period following enactment of this Act, the Secretary may extend the review period to not longer than 90 days.

(2) **ACTIONS IN CASE OF DISAPPROVAL.**—If the Secretary disapproves the housing strategy, the Secretary shall immediately notify the jurisdiction of such disapproval. Not later than 15 days after the Secretary's disapproval, the Secretary shall inform the jurisdiction in writing of (A) the reasons for disapproval, and (B) actions that the jurisdiction could take to meet the criteria for approval. If the Secretary fails to inform the jurisdiction of the reasons for disapproval within such 15-day period, the housing strategy shall be deemed to have been approved.

(3) **AMENDMENTS AND RESUBMISSION.**—The Secretary shall, for a period of not less than 45 days following the date of first disapproval, permit amendments to, or the resubmission of, any housing strategy that is disapproved. The Secretary shall approve or disapprove a housing strategy not less than 30 days after receipt of such amendments or resubmission.

(d) **COORDINATION OF STATE AND LOCAL HOUSING STRATEGIES.**—The Secretary may establish such requirements as the Secretary deems appropriate to encourage coordination between and among the housing

strategies of a State and any participating jurisdictions within the State, except that a unit of general local government shall not be required to have elements of its housing strategy approved by the State.

(e) **CONSULTATION WITH SOCIAL SERVICE AGENCIES.**—When preparing a housing strategy for submission under this section, a jurisdiction shall make reasonable efforts to confer with appropriate social service agencies regarding the housing needs of children, elderly persons, persons with disabilities, homeless persons, and other persons served by such agencies.

(f) **BARRIER REMOVAL.**—Not later than 4 months after completion of the final report of the Secretary's Advisory Commission on Regulatory Barriers to Affordable Housing, the Secretary shall submit to the Congress a written report outlining the Secretary's recommendations for legislative and administrative actions to facilitate the removal or modification of excessive, duplicative, or unnecessary regulations or other requirements of Federal, State, or local governments that (1) inflate the costs of or otherwise inhibit the construction, rehabilitation, or management of housing, particularly housing that otherwise could be affordable to low-income and moderate-income families, or (2) contribute to economic or racial discrimination.

SEC. 106. CERTIFICATION.

The Secretary shall, by regulation or otherwise, as deemed by the Secretary to be appropriate, require any application for housing assistance under this Act, the Housing and Community Development Act of 1974, or the Stuart B. McKinney Homeless Assistance Act, to contain or be accompanied by a certification by an appropriate State or local public official that the proposed housing activities are consistent with the housing strategy of the jurisdiction to be served.

SEC. 107. CITIZEN PARTICIPATION.

(a) **IN GENERAL.**—Before submitting a housing strategy under this section, a jurisdiction shall—

(1) make available to its citizens, public agencies, and other interested parties with information concerning the amount of assistance the jurisdiction expects to receive under this Act and the range of investment or other uses of such assistance that the jurisdiction may undertake;

(2) publish a proposed housing strategy in a manner that, in the determination of the Secretary, affords affected citizens, public agencies, and other interested parties a reasonable opportunity to examine its content and to submit comments on the proposed housing strategy;

(3) hold one or more public hearings to obtain the views of citizens, public agencies, and other interested parties on the housing needs of the jurisdiction; and

(4) provide citizens, public agencies, and other interested parties with reasonable access to records regarding any past uses of any assistance the jurisdiction may have received under this Act.

(b) **NOTICE AND COMMENT.**—Before submitting any performance report or substantial amendment to a housing strategy under this section, a participating jurisdiction shall provide citizens with reasonable notice of, and opportunity to comment on, such performance report or substantial amendment prior to its submission.

(c) **CONSIDERATION OF COMMENTS.**—A participating jurisdiction shall consider any comments or views of citizens in preparing a final housing strategy, amendment to a housing strategy or performance report for submission. A summary of such com-

ments or views shall be attached when a housing strategy, amendment to a housing strategy or performance report is submitted. The submitted housing strategy, amendment, or report shall be made available to the public.

(d) **REGULATIONS.**—The Secretary shall by regulation establish procedures appropriate and practicable for providing a fair hearing and timely resolution of citizen complaints related to housing strategies or performance reports.

SEC. 108. COMPLIANCE.

(a) **PERFORMANCE REPORTS.**—(1) Each participating jurisdiction shall annually review and report, in a form acceptable to the Secretary, on the progress it has made in carrying out its housing strategy, which report shall include an evaluation of the jurisdiction's progress in meeting its goal established in section 105(b)(12) of this Act, and information on the number and types of households served, including the number of very low-income, low-income, and moderate-income persons served and the racial and ethnic status of persons served that will be assisted with funds made available under this Act.

(2) The Secretary shall (A) establish dates for submission of reports under this subsection, and (B) review such reports and make such recommendations as the Secretary deems appropriate to carry out the purposes of this Act.

(3) If a jurisdiction fails to submit a report satisfactory to the Secretary in a timely manner, assistance to the jurisdiction under this Act may be—

(A) suspended until a report satisfactory to the Secretary is submitted; or

(B) withdrawn and reallocated among participating jurisdictions in accordance with section 316(5) of this Act if the Secretary finds, after notice and opportunity for a hearing, that the jurisdiction will not submit a satisfactory report.

(b) **PERFORMANCE REVIEW BY SECRETARY.**—(1) The Secretary shall ensure that activities of each participating jurisdiction are reviewed for compliance with the provisions of this Act not less frequently than annually. Such review shall include, insofar as practicable, on-site visits by employees of the Department of Housing and Urban Development and shall include an assessment of the participating jurisdiction's—

(A) management of funds made available under programs administered by the Secretary;

(B) compliance with its housing strategy;

(C) accuracy in the preparation of performance reports under subsection (h); and

(D) efforts to ensure that housing assisted under programs administered by the Secretary are in compliance with contractual agreements and the requirements of law.

(2) The Secretary shall report on the performance review in writing. The Secretary shall give the participating jurisdiction not less than 30 days to review and comment on the report. After taking into consideration the comments of the participating jurisdiction, the Secretary may revise the report and shall make the jurisdiction's comments and the report, with any revisions, readily available to the public within 30 days after receipt of the jurisdiction's comments.

(c) **REVIEW BY COURTS.**—The adequacy of information submitted under subsection (b)(4) shall not be reviewable by any Federal, State, or other court. Review of a housing strategy by any Federal, State, or other court shall be limited to determining wheth-

er the process of development and the content of the strategy are in substantial compliance with the requirements of this Act. During the pendency of any action challenging the adequacy of a housing strategy or the action of the Secretary in approving a strategy, the court shall not have the authority to enjoin activities taken by the jurisdiction to implement an approved housing strategy. Any housing assisted during the pendency of such action shall not be subject to any order of the court resulting from such action.

SEC. 109. ENERGY EFFICIENCY STANDARDS.

The Secretary of Housing and Urban Development shall, not later than one year after the date of enactment of this Act, promulgate energy efficiency standards for new construction of public and assisted housing. Such standards shall meet or exceed the provisions of the Model Energy Code of the Council of American Building Officials. The Secretary shall develop such standards through a Task Force composed of homebuilders, National, State, and local housing agencies (including public housing agencies), energy agencies and building code organizations and agencies, energy efficiency organizations, utility organizations, low-income housing organizations, and other parties designated by the Secretary.

SEC. 110. TAX AND HOUSING COORDINATING COUNCIL.

(a) **ESTABLISHMENT.**—There is created a Tax and Housing Coordinating Council that shall consist of the Secretary of the Treasury, the Secretary of Housing and Urban Development, the Secretary of Agriculture, and the President's Chief Domestic Policy Advisor.

(b) **DUTIES.**—The Council shall (1) advise the President regarding the consistency among existing and proposed Federal housing policies and tax policies; (2) comment on tax legislation proposed in Congress or by the Administration; and (3) submit to both Houses of the Congress within the first 90 days of each Congress a report on the state of the Nation's housing, including a section considering Federal housing policies, their tax component, and the relationship between tax and housing policies.

(c) **ASSISTANCE FROM FEDERAL AGENCIES.**—The Council may secure directly from any department or agency of the United States such data and information as the Council may require for the purpose of this subtitle. Upon request of the Council, any such department or agency shall furnish such data or information.

SEC. 111. CAPACITY STUDY.

(a) **IN GENERAL.**—The Secretary shall ensure that the Department of Housing and Urban Development has adequate capacity and resources, including staff and training programs, to carry out its mission and responsibilities, and to implement the provisions of this Act.

(b) **REPORT.**—Not later than 60 days after the date of enactment of this Act, and annually thereafter, the Secretary shall prepare and submit to the Committee on B. H. and UA of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a study detailing the Department's plan to maintain such capacity, together with any recommendations for legislative and administrative action as the Secretary determines to be appropriate.

TITLE II—HOMEOWNERSHIP

SEC. 201. FHA CEILING.

Section 203(b)(2) of the National Housing Act is amended by striking "during fiscal

year 1990" and inserting "until September 30, 1992".

SEC. 202. DELEGATION OF PROCESSING.

Section 202 of the National Housing Act is amended by adding at the end the following:

"(s)(1) Not later than the expiration of the 60-day period beginning on the date of enactment of the National Affordable Housing Act, the Secretary shall implement a system of mortgage insurance for mortgages insured under this section or section 221, 223, 232, or 241 that delegates processing functions to selected approved mortgagees. Under such system, the Secretary shall retain the authority to approve rents, expenses, property appraisals, and mortgage amounts and to execute a firm commitment.

"(2) Notwithstanding paragraph (1), the Secretary shall maintain a viable system for full insurance programs under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development."

SEC. 203. REVERSE MORTGAGE INSURANCE.

(a) **LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED.**—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "1991" and inserting "1993", and by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000."

(b) **TYPES OF LOANS.**—Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based on a line of credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that for fixed rate mortgages, the Secretary may prescribe regulations limiting convertibility under this paragraph."

(c) **LIMITATION ON LIABILITY OF MORTGAGOR.**—Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or"

SEC. 204. FIRST-TIME HOMEBUYERS.

The Secretary shall undertake a study to determine the actuarial soundness of implementing a program to guarantee downpay-

ments for first-time homebuyers based on a system of downpayment savings accounts and payment schedules that require monthly or other periodic payments over a specified period of time in an amount equal to a specified percentage of the value of housing at the time of purchase in a specified housing market area or census tract.

SEC. 205. UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.

Section 203 of the National Housing Act is amended by adding at the end thereof the following new subsection:

"(v) **DEVELOP A UNIFORM MORTGAGE FINANCING PLAN FOR ENERGY EFFICIENCY.**—

"(1) The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall within 2 years of the passage of the National Affordable Housing Act (NAHA), promulgate a uniform plan to make housing more affordable through mortgage financing incentives for energy efficiency.

"(2) To develop this plan, the Secretary shall form a task force to make recommendation on financing energy efficiency in private mortgages, through the policies of Federal agencies and federally chartered financial institutions, mortgage bankers, homebuilders, real estate brokers, private mortgage insurers, energy suppliers, and nonprofit housing and energy organizations."

SEC. 206. REPORT TO CONGRESS.

(a) Before the end of the 60-day period beginning on the date of the enactment of the National Affordable Housing Act the Department of Housing and Urban Development shall submit to the Congress a report containing a description of the strategy and action plan developed to assist in the disposition of foreclosed properties in the HUD stock, paying particular attention to those properties which have been in the HUD inventory for more than 12 months. HUD will solicit recommendations from State and local governments, nonprofit organizations, housing finance authorities, and community housing development organizations in its preparation of the report.

(b)(1) The report shall contain, without limitation, provisions regarding mechanisms to facilitate units of local government, nonprofit organizations, housing finance authorities, and community housing development organizations efforts to work with eligible families to purchase these homes. The report shall also include, without limitation, recommendations for innovative approaches for (A) evaluating the rehabilitation costs of the properties necessary to achieve the minimum standards, (B) involving non-Federal entities in the sale and rehabilitation of the properties and (C) providing the means to make the older stock readily attainable.

(2) The report shall also include, without limitation, proposals directed toward very-low income, low-income and moderate-income families, who seek to be first-time homebuyers, and the assistance the aforementioned entities may provide to foster purchase.

SEC. 207. ACTUARIAL SOUNDNESS FOR THE MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act is amended by adding the following new subsections at the end thereof:

"(e)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of at least 1.25 percent within 18 months of the date of enactment of this subsection, and shall ensure that at least this ratio is maintained at all times

thereafter. If the Secretary determines that the Fund does not have a capital ratio of at least 1.25 percent at any time from the date of enactment of this subsection, the Secretary shall, at least annually, report to the Congress on the financial status of the Fund, advise the Congress of any administrative measures being taken to attain and maintain a capital ratio of at least 1.25 percent, and make any legislative recommendations that the Secretary deems appropriate.

"(2) The Secretary shall endeavor to ensure that the Mutual Mortgage Insurance Fund attains and maintains a capital ratio of at least 2 percent. Beginning 3 years from the date of enactment of this subsection, the Secretary shall report annually to the Congress on the financial status of the Mutual Mortgage Insurance Fund and efforts to meet the capital ratio goal of at least 2 percent.

"(3) For purposes of this subsection—

"(A) the term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required by section 538 of this Act;

"(B) the term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund;

"(C) the term 'capital ratio' means the ratio of capital to unamortized insurance-in-force; and

"(D) the term 'unamortized insurance-in-force' means the Secretary's estimate of the remaining obligation on outstanding mortgages which are obligations of the Mutual Mortgage Insurance Fund.

"(f) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund.

"(g) If the independent annual actuarial study of the Mutual Mortgage Insurance Fund required under subsection (f) shows that the Mutual Mortgage Insurance Fund is not meeting the following principles of operation:

"(1) maintaining an adequate capital ratio as defined in subsections (e)(1) and (e)(2); and

"(2) Meeting the needs of first-time homebuyers by providing access to mortgage credit; and

"(3) Avoiding the problems of adverse selection by establishing premiums related to the probability of homeowner default; and

"(4) Minimizing the risk to the Fund and to homeowners from homeowner default;

then the Secretary may propose through regulation and implement any adjustments to the insurance premiums referred to in section 203(c), or any other program requirements established by the Secretary, as is necessary to achieve these principles. As soon as the Secretary determines that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for it. Such premium change shall take effect not earlier than 90 days following such notification, unless Congress acts during such time to prevent it."

SEC. 208. RISK-BASED PERIODIC MORTGAGE INSURANCE PREMIUM.

Section 203(c) of the National Housing Act is amended by adding the following at the end thereof:

"Notwithstanding any other provision of law, the Secretary may require payment on mortgages which are obligations of the Mutual Mortgage Insurance Fund of an ad-

ditional premium charge on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice and taking into account high loan-to-value ratios. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments, and may be required (A) for up to 15 years if the initial loan-to-value ratio of the mortgage is greater than 95 percent, (B) for up to 10 years if the initial loan-to-value ratio is equal to or less than 95 percent but equal to or greater than 93 percent, and (C) for up to 4 years if the initial loan-to-value ratio is less than 93 percent but greater than or equal to 90 percent. The Secretary may establish a periodic premium rate higher than that referred to in the preceding sentence if necessary to achieve actuarial soundness. The Secretary shall not require payment of an additional premium charge where the initial loan-to-value ratio of the mortgage is less than 90 percent. For purposes of this paragraph, the premium charges shall not be included in the determination of the initial loan-to-value ratio of the mortgage."

SEC. 209. MORTGAGOR EQUITY IN THE BASIC FHA HOME MORTGAGE INSURANCE PROGRAM.

Section 203(b)(2) of the National Housing Act is amended by inserting at the end thereof the following new paragraph:

"Notwithstanding any other provision of this paragraph, a mortgage may not have a principal obligation in excess of 98 percent of the appraised value of the property (97 percent, in the case of a mortgage with an appraised value in excess of \$50,000), plus the amount of the mortgage insurance premium paid at the time the mortgage is insured. For purposes of the preceding sentence, 'appraised value' shall be the amount set forth in the written statement required by section 226, or a similar amount determined by the Secretary if section 226 does not apply."

SEC. 210. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act is amended by adding at the end the following:

"(g) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund."

SEC. 211. SENSE OF THE SENATE REGARDING USE OF IRA'S FOR FIRST-TIME HOME PURCHASES.

(a) FINDINGS.—The Senate finds that—

(1) the national rate of homeownership has been declining,

(2) average housing prices and, therefore, down payment requirements have risen above the means of many first-time homebuyers,

(3) homeownership promotes self-sufficiency and individual prosperity, and

(4) parents and grandparents are more likely to have sufficient financial resources to assist in first-time home purchases.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) an owner of an individual retirement account should be allowed to make withdrawals from an account for the purpose of

a first-time home purchase, without incurring a penalty, and

(2) the appropriate changes in law should be considered as part of tax legislation during this session of Congress.

TITLE III—INVESTMENT IN AFFORDABLE HOUSING

SEC. 301. SHORT TITLE.

This title may be cited as the "Housing Opportunities Partnerships Act".

SEC. 302. PURPOSES.

The purposes of this title are—

(1) to expand the capacity of States and units of general local government throughout the United States to design and implement strategies for achieving an adequate supply of affordable housing for low-income and moderate-income Americans;

(2) to provide participating jurisdictions, to the extent feasible on a one-stop basis, the various forms of Federal housing assistance needed to promote the development of partnerships among the Federal Government, States, and units of general local government, private industry, and nonprofit organizations able to utilize effectively all available resources for affordable housing;

(3) to develop and refine, on an ongoing basis, a selection of model programs incorporating the most effective methods for providing affordable housing, and accelerate the application of such methods where appropriate throughout the United States to achieve the prudent and efficient use of funds made available under this title;

(4) to increase the investment of private capital and the use of private sector resources in the provision of affordable housing;

(5) to allocate Federal funds for investment in affordable housing among participating jurisdictions by formula and incentive allocation;

(6) to leverage those funds insofar as practicable with State and local matching contributions and private investment;

(7) to establish for each participating jurisdiction a housing investment trust fund with a line of credit for investment in affordable housing, with repayments back to the housing investment trust fund being made available for reinvestment by the jurisdiction; and

(8) to provide credit enhancement for affordable housing by utilizing the capacities of existing agencies and mortgage finance institutions when most efficient and supplementing their activities when appropriate.

SEC. 303. COORDINATED FEDERAL SUPPORT FOR HOUSING STRATEGIES.

To the maximum extent practicable, the Secretary shall make assistance under this title, together with mortgage insurance, rental assistance, and other housing assistance provided by the Secretary, available to participating jurisdictions on a coordinated basis with respect to housing assisted under this title.

SEC. 304. ESTABLISHMENT OF HOUSING OPPORTUNITIES PARTNERSHIPS ADVISORY BOARD.

(a) IN GENERAL.—There is created a Housing Opportunities Partnerships Advisory Board, which shall continue to exist until dissolved by Act of Congress. The members of the Advisory Board shall represent the public interest in the achievement of the purposes of this title. The Advisory Board shall periodically review the activities under this title and provide advice to the Secretary with respect to the formulation of general policies related to the Housing Opportunities Partnerships and such other mat-

ters as the Secretary may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act.

(b) **COMPOSITION.**—The Advisory Board shall be composed of 18 members to be appointed from among individuals who have expertise and broad experience related to the purposes of the Housing Opportunities Partnerships program, of whom—

(1) 10 shall be appointed by the Secretary;

(2) 4 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(3) 4 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

(c) **QUALIFICATIONS.**—Membership of the Advisory Board shall include—

(1) not less than 3 persons who have had distinguished, private sector careers in housing finance, management or development industries;

(2) not less than 2 persons from State government and 2 persons from local government who have made outstanding achievements in housing finance or development;

(3) not less than 3 persons who have backgrounds of leadership in representing the interests of low-income tenants; and

(4) not less than 3 persons who have achieved excellence in nonprofit housing development.

(d) **POLITICAL AFFILIATION.**—Not more than 10 members of the Advisory Board may be from any one political party.

(e) **TERMS.**—Of the members of the Advisory Board first appointed, 6 shall have terms of 1 year, and 6 shall have terms of 2 years. Their successors and all other appointees shall have 3-year terms.

(f) **AUTHORITY.**—The Advisory Board shall have power to confer with, request information of, and make recommendations to the Secretary. The Secretary shall promptly provide the Advisory Board with information that the Advisory Board determines is needed to carry out its review of the activities and policies related to the Housing Opportunities Partnerships program.

(g) **REPORT.**—The Advisory Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the activities under this title and its recommendations for improvement. Such report shall include any minority views.

(h) **MEETINGS.**—The Advisory Board shall meet at Washington, District of Columbia, not less than twice a year, or more frequently if requested by the Secretary or approved by a majority of the members. The Advisory Board may select its chairman, vice chairman and secretary, and adopt methods of procedure.

(i) **COMPENSATION.**—Subject to the provisions of section 7 of the Federal Advisory Committee Act, all members of the Advisory Board may be compensated, and shall be entitled to reimbursement from the Secretary for traveling expenses incurred in attendance at meetings of the Advisory Board.

SEC. 305. AUTHORIZATION.

There are authorized to be appropriated to carry out this title \$2,000,000,000 for fiscal year 1991, \$2,500,000,000 for fiscal year 1992, and \$3,000,000,000 for fiscal year 1993, of which—

(1) \$25,000,000 for fiscal year 1991, \$25,000,000 for fiscal year 1992, and \$25,000,000 for fiscal year 1993 shall be for activities authorized under subtitle C, and

(2) an amount equal to the amount appropriated for the fiscal year in which this Act is enacted to carry out section 17 of United States Housing Act of 1937 shall be for grants under such section.

Any funds appropriated under this section shall remain available until expended.

SEC. 306. NOTICE.

The Secretary shall establish standards to implement the provisions of this title by notice published in the Federal Register not later than 180 days after the date of enactment of this Act.

Subtitle A—Housing Opportunity Partnerships (HOP)

SEC. 311. AUTHORITY.

The Secretary is authorized to make funds available to participating jurisdictions for investment to expand the supply of affordable housing and increase the number of families served with affordable housing in accordance with provisions of this subtitle.

SEC. 312. ELIGIBLE USES OF INVESTMENT.

(a) HOUSING USES.—

(1) **IN GENERAL.**—Funds made available under this subtitle may be used by participating jurisdictions to provide incentives to support rental housing and homeownership affordability through the acquisition, construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, including real property acquisition, site improvement, conversion, demolition, and other expenses, including relocation expenses of any displaced persons, families, businesses, or organizations, and to provide tenant-based rental assistance.

(2) **PREFERENCE TO REHABILITATION.**—A participating jurisdiction shall give preference to rehabilitation of substandard housing unless the jurisdiction determines that such rehabilitation is not the most cost effective way to meet the jurisdiction's need to expand the supply of affordable housing.

(3) RESTRICTION ON NEW CONSTRUCTION.—

(A) **IN GENERAL.**—Funds made available under this subtitle may not be used for construction of housing in a local area unless the participating jurisdiction certifies to the Secretary that—

(i) the local market area has an inadequate supply of housing at rentals below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and

(ii) there is a severe shortage of structures in the jurisdiction that are suitable for rehabilitation as rental housing.

(B) **CRITERIA FOR CERTIFICATIONS.**—The Secretary shall establish criteria to determine whether a jurisdiction's housing supply is sufficiently inadequate to permit new construction pursuant to subparagraph (A). Such criteria shall permit new construction by not less than 30 percent of the jurisdictions eligible to participate in the program under this subtitle. Such criteria shall include objective data on housing market conditions such as low vacancy rates, low turnover of units with rents below fair market rents, and a high proportion of substandard housing.

(C) **NEIGHBORHOOD REVITALIZATION.**—Notwithstanding subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of affordable housing if the participating jurisdiction certifies that—

(i) the program of construction is needed to facilitate a neighborhood revitalization program for an area designated by the jurisdiction that emphasizes rehabilitation of substandard housing for rental or homeownership opportunities by low-income and moderate-income families;

(ii) the project is located in a low- or moderate-income neighborhood, as defined in section 10(j)(13) of the Federal Home Loan Bank Act;

(iii) the number of units to be constructed with assistance under this subtitle does not exceed 20 percent of the total number of units in the neighborhood revitalization program that are assisted with funds under this subtitle; and

(iv) the housing is to be produced by a community housing development organization, as defined in section 104(6), or a public agency.

Clause (iii) of the preceding sentence shall not apply in the case of severely distressed areas with large tracts of vacant land and abandoned buildings.

(D) **SPECIAL NEEDS HOUSING.**—Notwithstanding the restriction provided in subparagraph (A), a participating jurisdiction may use funds made available under this subtitle for construction of—

(i) affordable housing for large families;

(ii) supportive housing for persons with disabilities;

(iii) single room occupancy housing; and

(iv) other categories of affordable housing for persons with special needs that the Secretary may designate;

if the participating jurisdiction certifies on the basis of objective data in its annual housing strategy that a high priority need for such housing exists in the jurisdiction, and that there is not a supply of vacant, habitable, public housing units in excess of normal vacancies resulting from turnovers that could meet the specified need.

(E) **AUDIT.**—The Secretary is authorized by audit to determine the validity of certifications under this subsection.

(4) **TENANT-BASED RENTAL ASSISTANCE.**—(A) A participating jurisdiction may use funds provided under this subtitle for tenant-based rental assistance only if—

(i) the jurisdiction certifies that the use of funds under this subtitle for tenant-based rental assistance is an essential element of the jurisdiction's annual housing strategy for expanding the supply of decent, affordable housing, and specifies the local market conditions that lead to the choice of this option; and

(ii) the tenant-based rental assistance is provided to persons eligible for section 8 assistance in accordance with the applicable preferences from the waiting lists.

(B) The jurisdiction's section 8 fair share allocation shall be unaffected by the use of assistance under this subtitle.

(C) Rental assistance contracts made available with assistance under this subtitle shall be for not more than 24 months, except that assistance to a family may be renewed.

(D) In any case where assistance under section 8 of the United States Housing Act of 1937 becomes available to a participating jurisdiction, recipients of rental assistance under this subtitle shall qualify for tenant selection preferences to the same extent as when they received the rental assistance under this subtitle. A rental assistance program under this subtitle shall meet minimum criteria prescribed by the Secretary,

such as housing quality standards and rent reasonableness.

(b) **INVESTMENTS.**—Participating jurisdictions shall have discretion to invest funds made available under this subtitle as equity investments, interest-bearing loans, noninterest-bearing loans or advances, interest subsidies or other forms of assistance that the Secretary has determined to be consistent with the purposes of this subtitle. Each participating jurisdiction shall have the right to establish the terms of assistance.

(c) **PROHIBITED USES.**—Funds made available under this subtitle may not be used to—

(1) defray any administrative cost of a participating jurisdiction,

(2) provide tenant-based rental assistance for the special purposes of the existing section 8 program, including replacing public housing that is demolished or disposed of preserving federally assisted housing, assisting in the disposition of HUD-owned and HUD-held housing, preventing displacement from rental rehabilitation projects, or extending or renewing tenant-based assistance under section 8 of the United States Housing Act of 1937,

(3) provide non-Federal matching contributions required under any other Federal program,

(4) provide assistance authorized under section 9 of the United States Housing Act of 1937,

(5) carry out activities authorized under section 14 of the Housing Act of 1937, or

(6) provide assistance to eligible low-income housing under the Emergency Low Income Housing Preservation Act of 1987 or the Low-Income Housing Preservation and Resident Homeownership Act of 1990.

(d) **COST LIMITS.**—

(1) **IN GENERAL.**—The Secretary shall establish limits on the amount of funds under this subtitle that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms. Adjustments shall be made annually to reflect inflation. Separate limits may be set for different eligible activities.

(2) **CRITERIA.**—In calculating per unit limits, the Secretary shall take into account that assistance under this subtitle is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions; and

(C) facilitate mixed-income housing.

(3) **CONSULTATION.**—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

(e) **CERTIFICATION OF COMPLIANCE.**—The requirements of section 102(d) of the Department of Housing and Urban Development Reform Act of 1989 shall be satisfied by a certification by a participating jurisdiction to the Secretary that the combination of Federal assistance provided to any housing project shall not be any more than is necessary to provide affordable housing.

(f) **MANUFACTURED HOUSING.**—For purposes of this subtitle, the term "housing" includes manufactured housing and manufactured housing lots.

SEC. 313. DEVELOPMENT OF MODEL PROGRAMS.

(a) **IN GENERAL.**—The Secretary shall—

(1) in cooperation with participating jurisdictions, government-sponsored mortgage finance corporations, nonprofit organizations, the private sector, and other appropriate parties, develop, test, evaluate, refine, and, as necessary, replace a selection of model programs designed to carry out the purposes of this title;

(2) make available to participating jurisdictions alternative model programs, which shall include suggested guidelines, procedures, forms, legal documents and such other elements as the Secretary determines to be appropriate;

(3) assure, insofar as is feasible, the availability of an appropriate variety of model programs designed for local market conditions, housing problems, project characteristics, and managerial capacities as they differ among participating jurisdictions;

(4) negotiate and enter into agreements with agencies of the Federal Government, participating jurisdictions, private financial institutions, government-sponsored mortgage finance corporations, nonprofit organizations, and other entities to provide such services, products, or financing as may be required for the implementation of a model program;

(5) provide detailed information on model programs as requested by participating jurisdictions, private financial institutions, developers, nonprofit organizations, and other interested parties; and

(6) encourage the use of such model programs to achieve efficiency, economies of scale, and effectiveness in the investment of funds made available under this subtitle through third-party training, printed materials, and such other means of support as the Secretary determines will achieve the purpose of this subtitle.

(b) **ADOPTION OF PROGRAMS.**—Except as provided in section 324(2), each participating jurisdiction shall have the discretion to adopt one or more model programs, adapt one or more model programs to its own requirements, design additional forms of assistance by itself or in cooperation with other participating jurisdictions, and suggest additional model programs for adoption by the Secretary as the participating jurisdiction may deem appropriate, and the Secretary may assist a participating jurisdiction in adopting, adapting, or designing one or more model programs.

(c) **SUBTITLE D PROGRAMS.**—The selection of model programs shall include programs meeting the objectives set forth in subtitle D.

SEC. 314. INCOME TARGETING.

Each participating jurisdiction shall invest funds made available under this subtitle within each fiscal year so that—

(1) with respect to rental assistance and rental units, not less than 90 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as very low-income families at the time of occupancy or at the time funds are invested, whichever is later, and the remainder of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families (other than very low-income families) at the time of occupancy or at the time funds are invested, whichever is later;

(2) with respect to homeownership assistance, 100 percent of such funds are invested with respect to dwelling units that are occupied by households that qualify as low-income families at the time of occupancy or

at the time funds are invested, whichever is later; and

(3) all such funds are invested with respect to housing that qualifies as affordable housing under section 315.

SEC. 315. QUALIFICATION AS AFFORDABLE HOUSING.

(a) **RENTAL HOUSING.**—

(1) **QUALIFICATION.**—Housing that is for rental shall qualify as affordable housing under this title only if the housing—

(A) bears rents not greater than the lesser of (i) the existing fair market rent for comparable units in the area as established by the Secretary under section 8 of the United States Housing Act of 1937, or (ii) a rent that does not exceed 30 percent of the adjusted income of a family whose income equals 65 percent of the median income for the area, as determined by the Secretary, with adjustment for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 65 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or fair market rents, or unusually high or low family incomes;

(B) has not less than 20 percent of the units (i) occupied by very low-income families who pay as a contribution toward rent (excluding any Federal or State rental subsidy provided on behalf of the family) not more than 30 percent of the family's monthly adjusted income as determined by the Secretary, or (ii) occupied by very low-income families and bearing rents not greater than the gross rent for rent-restricted residential units as determined under section 42(g)(2) of the Internal Revenue Code of 1986;

(C) is occupied only by households that qualify as low-income families;

(D) is not refused for leasing to a holder of a voucher or certificate of eligibility under section 8 of the United States Housing Act of 1937 because of the status of the prospective tenant as a holder of such rental credit, voucher, or certificate of eligibility;

(E) will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property, as determined by the Secretary, without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics, the purposes of this title, and the objective of this Act; and

(F) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

(2) **ADJUSTMENT OF QUALIFYING RENT.**—The Secretary may adjust the qualifying rent established for a project under subparagraph (A) of paragraph (1), if the Secretary finds that such adjustment is necessary to support the continued financial viability of the project.

(3) **INCREASES IN TENANT INCOME.**—Housing shall qualify as affordable housing despite a temporary noncompliance with subparagraph (B) or (C) of paragraph (1) if such noncompliance is caused by increases in the incomes of existing tenants and if actions satisfactory to the Secretary are being taken to ensure that all vacancies are filled in accordance with paragraph (1) until such noncompliance is corrected. Tenants who no

longer qualify as low-income families shall pay as rent not less than 30 percent of the family's adjusted monthly income, as recertified annually.

(4) **MIXED-INCOME PROJECT.**—Housing that accounts for less than 100 percent of the dwelling units in a project shall qualify as affordable housing if such housing meets the criteria of this section.

(5) **MIXED-USE PROJECT.**—Housing in a project that is designed in part for uses other than residential use shall qualify as affordable housing if such housing meets the criteria of this section.

(b) **HOMEOWNERSHIP.**—Housing that is for homeownership shall qualify as affordable housing under this title only if the housing—

(1) has an initial purchase price that does not exceed 95 percent of the median purchase price for the area, as determined by the Secretary with such adjustments for differences in structure and for new and old housing as the Secretary determines to be appropriate;

(2) is the principal residence of an owner whose family qualifies as a low-income family at the time of purchase;

(3) is made available for initial purchase only to first-time homebuyers;

(4) is made available for subsequent purchase only—

(A) to persons who meet the qualifications specified under paragraph (2), and

(B) at a price consistent with guidelines that are established by the participating jurisdiction and determined by the Secretary to be appropriate to provide the owner with a fair return on investment, including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low income homebuyers; and

(5) if newly constructed, meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of this Act.

SEC. 316. PARTICIPATION BY STATES AND LOCAL GOVERNMENTS.

The Secretary shall designate a State or unit of general local government to be a participating jurisdiction when it complies with procedures that the Secretary shall establish by regulation, which procedures shall provide for the following:

(1) **ALLOCATION.**—Not later than 20 days after funds to carry out this subtitle become available (or, during the first year after enactment of this Act, not later than 20 days after (A) funds to carry out this subtitle are provided in an appropriation Act, or (B) regulations to implement this subtitle are promulgated, whichever is later), the Secretary shall allocate funds in accordance with section 317 and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a jurisdiction is not already a participating jurisdiction, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become a participating jurisdiction.

(2) **ELIGIBILITY.**—A jurisdiction receiving a formula allocation under section 317 shall be eligible to become a participating jurisdiction if its formula allocation is \$2,000,000 or greater, or if—

(A) the Secretary finds that—

(i) the jurisdiction is the city with the largest population in a metropolitan area, has a local housing authority, and has demonstrated a capacity to carry out provisions of this subtitle, and

(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or

greater than the difference between the jurisdiction's formula allocation and \$2,000,000, or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of this subtitle; or

(B) geographically contiguous units of general local government have formed a consortium that, in the determination of the Secretary—

(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the purposes of this Act,

(ii) will, according to a written certification by the State (or States, if the consortium includes jurisdictions in more than one State), direct its activities to alleviation of the State's or the States' most severe housing problems, and

(iii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year. Such a consortium shall be deemed to be a unit of general local government for purposes of this subtitle.

(C) If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under section 317(a)(1) and the amount made available to the jurisdiction under paragraph (A)(ii). The formula allocation for a consortium that has met the requirements under subparagraph (B) shall equal the total of the formula allocations of its member jurisdictions.

(3) **NOTIFICATION.**—If an eligible jurisdiction notifies the Secretary in writing, not later than 30 days after receiving notification under paragraph (1), of its intention to become a participating jurisdiction, the Secretary shall reserve an amount equal to the jurisdiction's allocation (plus any reallocations for which the jurisdiction is eligible under section 317(d)(1)) pending the jurisdiction's designation as a participating jurisdiction. The Secretary shall reallocate, by formula in accordance with section 317(d), any funds reserved under the previous sentence if the Secretary determines that the jurisdiction will not meet the requirements for designation as a participating jurisdiction within a reasonable period of time.

(4) **SUBMISSION OF STRATEGY.**—Not later than 90 days after providing notification under paragraph (3), an eligible jurisdiction shall submit to the Secretary a comprehensive housing affordability strategy in accordance with section 105.

(5) **REALLOCATION.**—If the Secretary determines that a jurisdiction has failed to meet the requirements of the previous 3 paragraphs or if the Secretary, after providing for amendments and resubmissions in accordance with section 105(c)(3), disapproves the jurisdiction's comprehensive housing affordability strategy, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

(A) **STATE.**—If a State has failed to meet the requirements, the Secretary shall—

(i) make any funds reserved for the State available by incentive allocation among applications submitted by units of general local government within the State or consortia that include units of general local government within the State, insofar as approvable applications meeting the selection criteria under section 317(c) are received within 12 months after the funds become available for the incentive allocation, and

(ii) reallocate the remainder by formula in accordance with section 317(d).

(B) **LOCAL.**—If a unit of general local government has failed to meet the requirements and is located in a State that is a participating jurisdiction, the Secretary shall reallocate to the State any funds reserved for the locality.

(C) **DIRECT REALLOCATION.**—If a unit of general local government has failed to meet the requirements and is located in a State that is not a participating jurisdiction, the Secretary shall—

(i) make any funds reserved for the locality available for use within the State by incentive allocation among units of general local government and community housing development organizations, insofar as approvable applications meeting the selection criteria under section 317(c) are received within 12 months after the funds become available for the incentive allocation with priority going to applications for affordable housing within the locality, and

(ii) reallocate the remainder in accordance with section 317(d).

(D) **CERTAIN JURISDICTIONS DEEMED TO BE PARTICIPATING JURISDICTIONS.**—If a State or unit of general local government is meeting the requirements of paragraphs (2), (3), and (4), it shall be deemed to be a participating jurisdiction for purposes of reallocation under this paragraph.

(6) **DESIGNATION.**—The Secretary shall designate an eligible jurisdiction to be a participating jurisdiction as soon as its comprehensive housing affordability strategy is approved in accordance with section 105.

(7) **CONTINUOUS DESIGNATION.**—Once a State or unit of general local government is designated a participating jurisdiction, it shall remain a participating jurisdiction for subsequent fiscal years, except as provided in paragraph (8). The provisions of paragraphs (2) through (5) shall not apply to participating jurisdictions.

(8) **REVOCATION.**—The Secretary may revoke a jurisdiction's designation as a participating jurisdiction if—

(A) the Secretary finds, after reasonable notice and opportunity for hearing, that the jurisdiction is unwilling or unable to carry out the provisions of this title, or

(B) the jurisdiction's allocation falls below \$2,000,000 for 3 consecutive years, below \$1,750,000 for 2 consecutive years, or the jurisdiction does not receive a formula allocation of \$1,500,000 or more in any 1 year.

If a jurisdiction's designation as a participating jurisdiction is revoked, any remaining line of credit in the jurisdiction's housing investment trust fund established under section 318 shall be reallocated by formula in accordance with section 317(d).

SEC. 317. ALLOCATION OF RESOURCES.

(a) **IN GENERAL.**—(1) After reserving such amounts for Indian tribes as required under paragraph (2) of this subsection, the Secretary shall allocate among participating jurisdictions such funds as are approved in an appropriations Act to carry out this subtitle as follows:

(A) 80 percent of the funds approved in an appropriations Act shall be allocated according to a formula established under subsection (b). Of the funds made available under the previous sentence, the Secretary shall (i) for fiscal years 1991 and 1992, allocate 60 percent among units of general local government and 40 percent among States, and (ii) for subsequent fiscal years, allocate such percentage among units of general local government and such percentage among States as are determined under subsection (e).

(B) 20 percent of the funds approved in an appropriations Act shall be allocated according to an incentive allocation as provided in subsection (c).

(2) For each fiscal year, of the amount approved in an appropriations Act to carry out this subtitle, the Secretary shall reserve for grants to Indian tribes not less than 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment.

(b) FORMULA ALLOCATION.—

(1) **IN GENERAL.**—The Secretary shall issue regulations establishing an allocation formula that reflects each jurisdiction's share of the Nation's need for an increased supply of affordable housing for low-income and moderate-income families of differing size, as identified by objective measures of tightness in the housing market, inadequate housing, poverty, unemployment, and the costs of producing housing. This formula shall be used for all formula allocations and reallocations provided for in this subtitle. The data to be used for allocation of funds within a fiscal year shall be those that are available to the Secretary 90 days prior to the beginning of that fiscal year.

(2) MINIMUM STATE ALLOCATION.—

(A) If the formula, when applied to funds approved under this section in appropriations Acts for a fiscal year, would allocate less than \$3,000,000 to any State, the allocation for such State shall be \$3,000,000, and the increase shall be deducted pro rata from the allocations of other States.

(B) If no unit of general local government within a State receives an allocation under paragraph (3), the State's allocation shall be increased by \$1,500,000. Priority for use of such increased allocation shall go to the provision of affordable housing within the boundaries of cities within the State that are the largest city within a metropolitan area. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government in all States.

(3) **MINIMUM LOCAL ALLOCATION.**—The Secretary shall allocate funds available for formula allocation to units of general local government so that, when all such funds are allocated by the formula, only those jurisdictions that are allocated an amount of \$1,500,000 or greater shall receive an allocation.

(4) **MAXIMUM ALLOCATIONS.**—No State shall be allocated an amount greater than 15 percent of the total allocated under subsection (a)(1) among States, and no unit of general local government shall be allocated an amount greater than 15 percent of the total allocated under subsection (a)(1) among units of general local government.

(c) **INCENTIVE ALLOCATION.**—The Secretary shall make an incentive allocation among participating jurisdictions for funds made available under subsection (a)(1)(B). A jurisdiction shall be eligible for an incentive allocation under this paragraph only if the jurisdiction demonstrates to the satisfaction of the Secretary that the jurisdiction is engaged, or has made good faith efforts to engage, in cooperative efforts between the State and appropriate participating jurisdictions within the State to develop, coordinate, and implement housing strategies

under this title. The Secretary shall by regulation establish selection criteria for such incentive allocations, which criteria shall take into account—

(1) the applicant's demonstrated commitment to expand the supply of affordable housing through actions that—

(A) direct funds made available under this subtitle to benefit very low-income families, with a range of incomes, in amounts that exceed the income targeting requirements of section 314, with extra consideration given for activities that expand the supply of affordable housing for very low-income families whose incomes do not exceed 30 percent of the median family income for the area, as determined by the Secretary;

(B) apply the tenant selection preference categories applicable under section 8 of the United States Housing Act of 1937 to the selection of tenants for housing assisted under this subtitle;

(C) provide matching resources in excess of funds required under section 320; and

(D) stimulate a high degree of investment and participation in development by the private sector, including nonprofit organizations;

(2) the degree to which the applicant is pursuing policies that—

(A) make existing housing more affordable;

(B) remove or ameliorate any negative effects that public policies identified by the applicant pursuant to section 105(b)(4) may have on the cost of housing or the incentives to develop, maintain, or improve affordable housing in the jurisdiction;

(C) preserve the affordability of privately-owned housing that is vulnerable to conversion, demolition, disinvestment, or abandonment;

(D) increase the supply of housing that is affordable to very low-income, low-income, and moderate-income persons, particularly in areas that are accessible to expanding job opportunities; and

(E) remedy the effects of discrimination and improve housing opportunities for disadvantaged minorities; and

(3) the degree to which the applicant needs an allocation under this section to carry out an approved housing affordability strategy that, in the determination of the Secretary, will—

(A) serve as a national model,

(B) demonstrate promising new methods for expanding the supply of affordable housing,

(C) ease a severe regional shortage in one or more categories of affordable housing, or

(D) respond to particularly difficult housing problems.

The total amount allocated to a jurisdiction under this subsection in any fiscal year shall not exceed the jurisdiction's allocation under subsection (b) in that fiscal year.

(d) REALLOCATIONS.—

(1) **IN GENERAL.**—The Secretary shall make any reallocations under this subtitle periodically throughout each fiscal year so as to ensure that all funds to be reallocated are made available to eligible jurisdictions as soon as possible, consistent with orderly program administration. Jurisdictions eligible for such reallocations shall include participating jurisdictions and jurisdictions meeting the requirements of paragraphs (2), (3), and (4) of section 316.

(2) **COMMITMENTS.**—The Secretary shall establish procedures according to which participating jurisdictions may make commitments to invest funds made available under this section. Such procedures shall provide

for appropriate stages of commitment of funds to a project from initial reservation through binding commitment. Notwithstanding any other provision of this section, funds that the Secretary determines are needed to fulfill binding commitments shall not be available for reallocation.

(3) **LIMITATION.**—Unless otherwise specified in this subtitle, any reallocation of funds from a State shall be made only among all participating States, and any reallocation of funds from units of general local government shall be made only among all participating units of general local government.

(e) REVIEW OF ALLOCATION PERCENTAGE.—

(1) **IN GENERAL.**—For fiscal years that begin later than 18 months after the enactment of this Act, the Secretary shall provide annually for an independent study of the participation under this title of States and eligible units of general local government to determine the appropriate percentage allocation among units of general local government and among States under subsection (a)(1). Such study shall consider—

(A) the percentage of States and of eligible units of general local government that have become participating jurisdictions;

(B) the extent to which participating States and units of general local government exceed the income targeting requirements under section 314; and

(C) the extent to which participating States and units of local government exceed the matching requirements under section 320, after taking into account differences in fiscal capacity among jurisdictions.

(2) **RECOMMENDATIONS.**—After consulting with the Housing Opportunity Partnerships Advisory Board on the results of the independent study, the Secretary shall submit to Congress any recommendation for change in the percentage allocation among States and among units of general local government under subsection (a)(1) that the Secretary deems to be appropriate.

(3) **CONTINUITY.**—Notwithstanding other provisions of this section, if a percentage allocation among States and among units of general local government has not been specified in statute for a fiscal year prior to the beginning of the fiscal year, such percentage allocation for the fiscal year shall be the same as the percentage allocation for the previous fiscal year.

SEC. 318. HOUSING INVESTMENT TRUST FUNDS.

(a) **ESTABLISHMENT.**—The Secretary shall establish for each participating jurisdiction a housing investment trust fund, which shall be an account (or accounts as provided in section 319(c)) for use solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subtitle.

(b) **LINE OF CREDIT.**—The Secretary shall establish a line of credit in the housing investment trust fund of each participating jurisdiction, which line of credit shall include—

(1) funds allocated or reallocated to the participating jurisdiction under section 317, and

(2) any payment or repayment made pursuant to section 319.

(c) **REDUCTIONS.**—A participating jurisdiction's line of credit shall be reduced by—

(1) funds drawn from the housing investment trust fund by the participating jurisdiction,

(2) funds expiring under subsection (g), and

(3) any penalties assessed by the Secretary under section 324.

(d) **CERTIFICATION.**—A participating jurisdiction may draw funds from its housing investment trust fund, but not to exceed the remaining line of credit, only after providing certification, in a form satisfactory to the Secretary, that the funds shall be used pursuant to the participating jurisdiction's approved housing strategy and in compliance with all requirements of this title. When such certification is received, such funds shall be immediately disbursed in accordance with the form of the assistance determined by the participating jurisdiction.

(e) **INVESTMENT WITHIN 15 DAYS.**—The participating jurisdiction shall, not later than 15 days after funds are drawn from the jurisdiction's housing investment trust fund, invest such funds, together with any interest earned thereon, in the affordable housing for which the funds were withdrawn.

(f) **NO INTEREST OR FEES.**—The Secretary shall not charge any interest or levy any other fee with regard to funds in a housing investment trust fund.

(g) **EXPIRATION OF RIGHT TO DRAW FUNDS.**—If any funds becoming available to a participating jurisdiction under this title are not placed under binding commitment to affordable housing within 24 months after the last day of the month in which such funds are deposited in the jurisdiction's housing investment trust fund, the jurisdiction's right to draw such funds from the housing investment trust fund shall expire. The Secretary shall reduce the line of credit in the participating jurisdiction's housing investment trust fund by the expiring amount and shall reallocate the funds by formula in accordance with section 317(d).

(h) **ADMINISTRATIVE PROVISION.**—The Secretary shall keep each participating jurisdiction informed of the status of its housing investment trust fund, including the status of amounts under various stages of commitment.

SEC. 319. REPAYMENT OF INVESTMENT.

(a) **IN GENERAL.**—Any repayment of funds drawn from a jurisdiction's housing investment trust fund, and any payment of interest or other return on the investment of such funds, shall be deposited in such jurisdiction's housing investment trust fund, except that, if the jurisdiction is not a participating jurisdiction when such payment or repayment is made, the amount of such payment or repayment shall be reallocated in accordance with section 317(d). Repayments of funds under this subsection are not receipts of the Federal Government.

(b) **ASSURANCE OF REPAYMENT.**—Each participating jurisdiction shall enter into an agreement with the Secretary ensuring that funds invested in affordable housing under this subtitle are repayable when the housing no longer qualifies as affordable housing. Any repayment under the previous sentence shall be for deposit in the housing investment trust fund of the jurisdiction making the investment; except that if such jurisdiction is not a participating jurisdiction when such repayment is made, the amount of such repayment shall be reallocated in accordance with section 317(d).

(c) **AVAILABILITY.**—The Secretary shall take such actions as are necessary to ensure that any repayments deposited in a housing investment trust fund in accordance with this section shall be immediately available to the participating jurisdiction for investment subject to the provisions of this subtitle that apply to funds that are allocated

under section 317. Actions authorized under the preceding sentence may include the establishment for a participating jurisdiction of a housing investment trust fund account outside of the Federal Government that, under arrangements satisfactory to the Secretary, shall be used solely to invest in affordable housing within the participating jurisdiction's boundaries in accordance with the provisions of this subtitle.

SEC. 320. MATCHING REQUIREMENTS.

(a) **CONTRIBUTION.**—Each participating jurisdiction shall make contributions to affordable housing assisted under this subtitle that total, throughout a fiscal year, not less than—

(1) 25 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to rental assistance and housing rehabilitation;

(2) 33 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to substantial rehabilitation; and

(3) 50 percent of the total funds drawn from the jurisdiction's housing investment trust fund in that fiscal year with respect to new construction.

Such contributions shall be in addition to any amounts made available under section 316(2)(A)(ii).

(b) **RECOGNITION.**—A contribution shall be recognized for purposes of subsection (a) only if it is made with respect to housing that qualifies as affordable housing under section 315.

(2) **ADMINISTRATIVE EXPENSES.**—Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of funds provided for investment under this title.

(c) **FORM.**—Such contributions may be in the form of—

(1) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(2) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(3) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that achieves affordability of housing assisted under this title;

(4) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(5) the value of sweat equity invested in the housing as determined by the Secretary;

(6) the value of investment in on-site and off-site infrastructure required for affordable housing assisted under this subtitle, or

(7) such other in-kind contributions as the Secretary may approve.

(d) **REDUCTION OF REQUIREMENT.**—If a jurisdiction demonstrates to the satisfaction of the Secretary that a reduction of the matching requirement specified in subsection (a) is necessary to permit the jurisdiction to carry out the purposes of this title, the Secretary may reduce the matching requirement during a period not to exceed 3 years after the jurisdiction is first designated as a participating jurisdiction. Such reduction shall be not more than 75 percent in the first year, not more than 50 percent in the second year, and not more than 25 percent in the third year.

SEC. 321. PRIVATE-PUBLIC PARTNERSHIP.

Each participating jurisdiction shall make all reasonable efforts, consistent with the purposes of this title, to maximize participation by the private sector, including non-profit organizations and for-profit entities, in the implementation of the jurisdiction's housing strategy, including participation in the financing, development, rehabilitation and management of affordable housing. Nothing in the previous sentence shall preclude public housing authorities from fully participating in the implementation of a jurisdiction's housing strategy.

SEC. 322. DISTRIBUTION OF ASSISTANCE.

(a) **LOCAL.**—Each participating jurisdiction shall, insofar as is feasible, distribute assistance under this subtitle geographically within its boundaries and among different categories of housing need, according to the priorities of housing need identified in the jurisdiction's approved housing strategy.

(b) **STATE.**—Participating States shall be responsible for distributing assistance throughout the State according to the State's assessment of the geographical distribution of the housing need within the State, as identified in the State's approved housing strategy. Participating States shall distribute assistance to rural areas in amounts that take into account the nonmetropolitan share of the State's total population and objective measures of rural housing need, such as poverty and substandard housing, as set forth in the State's housing strategy approved under section 105 of this Act. To the extent the need is within the boundaries of a participating unit of general local government, the State and the unit of general local government shall coordinate activities to address that need.

SEC. 323. SET-ASIDE FOR COMMUNITY HOUSING DEVELOPMENT ORGANIZATIONS.

(a) **IN GENERAL.**—Each participating jurisdiction, for a period of 18 months after funds under this subtitle are made available to the jurisdiction, shall reserve not less than 10 percent of such funds for investment only in housing to be developed, sponsored, or owned by community housing development organizations. Following the third year after a jurisdiction first becomes a participating jurisdiction, the share to be reserved under the previous sentence shall increase to 15 percent, unless the jurisdiction annually demonstrates to the satisfaction of the Secretary that such amounts cannot be used effectively by qualified community housing development organizations. Each participating jurisdiction shall make reasonable efforts to identify community housing development organizations that are capable of carrying out elements of the jurisdiction's housing strategy and to encourage such community housing development organizations to do so. A participating jurisdiction is authorized to enter into contracts with community housing development organizations to carry out this section.

(b) **RECAPTURE AND REUSE.**—If any reserved funds remain uninvested for a period of 18 months and the participating jurisdiction demonstrates to the satisfaction of the Secretary that it has complied with subsection (a) but such funds cannot be used effectively within the participating jurisdiction by qualified community housing development organizations, then the participating jurisdiction shall, for a period not to exceed 12 months, have the right to invest not more than 50 percent of such funds without regard to the requirements of subsection (a), and the Secretary shall, to the extent

deemed appropriate by the Secretary, make the remainder of such funds available by incentive allocation (1) among community housing development organizations to achieve the purposes of this title, or (2) among eligible organizations to carry out capacity development of community housing development organizations consistent with section 352(3), with preference to community housing development organizations serving the jurisdiction.

(c) **RECAPTURE AND DEDUCTION.**—If any reserved funds remain uninvested for a period of 18 months and the participating jurisdiction has not demonstrated to the satisfaction of the Secretary that it has complied with subsection (a), the Secretary shall deduct such funds from the line of credit in the participating jurisdiction's housing investment trust fund and make such funds available by incentive allocation among community housing development organizations giving preference to approvable applications from qualified community housing development organizations for affordable housing within the boundaries of the jurisdiction.

(d) **INCENTIVE ALLOCATION CRITERIA.**—Insofar as practicable, incentive allocations under this section shall be made according to the selection criteria established under section 317(c).

SEC. 324. PENALTIES FOR MISUSE OF FUNDS.

If the Secretary finds after reasonable notice and opportunity for hearing that a participating jurisdiction has failed to comply substantially with any provision of this subtitle and until the Secretary is satisfied that there is no longer any such failure to comply, the Secretary shall reduce the line of credit in the participating jurisdiction's housing investment trust fund by the amount of any expenditures that were not in accordance with the requirements of this subtitle, and the Secretary may—

(1) prevent withdrawals from the participating jurisdiction's housing investment trust fund for activities affected by such failure to comply;

(2) restrict the participating jurisdiction's activities under this title to activities that conform to one or more model programs made available under section 313; or

(3) remove the participating jurisdiction from participation in allocations or reallocations of funds made available under this subtitle.

SEC. 325. LIMITATION ON JURISDICTIONS UNDER COURT ORDER.

Notwithstanding any other provision of this Act, if a participating jurisdiction has been adjudicated, by a Federal, State, or local court, to be in violation of title VI of the Civil Rights Act of 1964, the Fair Housing Act, or any other Federal, State, or local law promoting fair housing or prohibiting discrimination, or if a settlement has been entered into in any case where claims of such violations have been asserted against a participating jurisdiction, the Secretary shall ensure that funds provided under this subtitle shall be employed to carry out all housing remedies, other than fines or penalties, required by such judgment or settlement until the Secretary is satisfied that all such housing remedies have been carried out.

SEC. 326. TENANT AND PARTICIPANT PROTECTIONS.

(a) **LEASE.**—(1) The lease between a tenant and an owner of affordable housing assisted under this title for rental shall be for not less than one year, unless by mutual agreement between the tenant and the owner, and shall contain such terms and conditions

as the Secretary shall determine to be appropriate.

(2) Each lease shall provide that the tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in activity that adversely affects the health, safety, or right to quiet enjoyment of the premises of other tenants, and shall not engage in criminal activity, including drug-related criminal activity, that threatens the health or safety of, or right to quiet enjoyment by, the other tenants of the premises, and such criminal activity shall be cause for termination of tenancy.

(b) **TERMINATION OF TENANCY.**—An owner shall not terminate the tenancy or refuse to renew the lease of a tenant of rental housing assisted under this title except for serious or repeated violation of the terms and conditions of the lease, for violation of applicable Federal, State, or local law, or for other good cause. Any termination or refusal to renew must be preceded by the owner's service upon the tenant of a written notice specifying the grounds for the action.

(c) **MAINTENANCE AND REPLACEMENT.**—The owner of rental housing assisted under this title shall maintain the premises in compliance with all applicable housing quality standards and local code requirements.

(d) **TENANT SELECTION.**—The owner of rental housing assisted under this title shall adopt written tenant selection policies and criteria that are (1) consistent with the purpose of providing housing for very low-income and low-income families, and (2) reasonably related to program eligibility and the applicants' ability to perform the obligations of the lease. Tenants shall be selected from a written waiting list in the chronological order of their application, insofar as is practicable. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

SEC. 327. MONITORING OF COMPLIANCE.

(a) **ENFORCEABLE AGREEMENTS.**—Each participating jurisdiction, through binding contractual agreements with owners and otherwise, shall ensure long-term compliance with the provisions of this title. Such measures shall provide for (1) enforcement of the provisions of this title by the jurisdiction or by the intended beneficiaries, and (2) remedies for the breach of such provisions.

(b) **PERIODIC MONITORING.**—Each participating jurisdiction, not less frequently than annually, shall review the activities of owners of affordable housing assisted under this title for rental to assess compliance with the requirements of this title. The results of each review shall be included in the jurisdiction's performance report submitted to the Secretary under section 108(a) and made available to the public.

SEC. 328. TRANSITION RULE FOR RENTAL REHABILITATION PROGRAM.

Notwithstanding any other provision of this title, the Secretary shall, during fiscal years 1991 and 1992, set aside such portion of the funds made available under section 317(a)(1)(A) that is equal to the amount appropriated in fiscal year 1990 under section 17(a) of the United States Housing Act of 1937 to carry out a transitional rental rehabilitation program. The Secretary shall administer such program in accordance with the rules and regulations promulgated pursuant to sections 17(a), (b) and (c) of the United States Housing Act of 1937 that were in effect on the date of enactment of this Act.

SEC. 329. EQUAL OPPORTUNITY.

(a) **SOLICITATION OF CONTRACTS.**—Each participating jurisdiction shall prescribe procedures acceptable to the Secretary to establish and oversee a minority outreach program within each such jurisdiction to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, including, without limitation, real estate firms, construction firms, appraisal firms, management firms, financial institutions, investment banking firms, underwriters, accountants, and providers of legal services, in all contracts, entered into by the participating jurisdiction with such persons or entities, public and private, in order to facilitate the activities of the participating jurisdiction to provide affordable housing authorized under this Act or any other Federal housing law applicable to such jurisdiction.

(b) REPORT TO CONGRESS.

(1) **IN GENERAL.**—Before the end of the 180-day period beginning on the date regulations are promulgated under this title, the Secretary shall submit to the Congress a report containing a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as the Department may determine to be appropriate to carry out the purposes of such subsection.

(2) **REPORT.**—The Secretary shall include in each annual report required under section 383 a description of the actions taken by each participating jurisdiction pursuant to subsection (a) and such recommendations for administrative and legislative action as may be appropriate to carry out the purposes of such subsection.

Subtitle B—Mortgage Credit Enhancement

SEC. 331. ESTABLISHMENT OF COMMISSION ON CREDIT ENHANCEMENT.

There is created a Commission on Credit Enhancements ("Commission"), which shall exist for 9 months after the appointment of the members. The Commission shall carry out a study of ways in which financing for affordable housing may be made available to assist in the most efficient implementation of comprehensive housing affordability strategies of participating jurisdictions. In conducting the study, the Commission shall draw upon the expertise of such representatives of State and local government, State and local housing finance agencies, agencies of the United States, government-sponsored mortgage finance corporations, for-profit and nonprofit housing developers, private financial institutions, and sources of long-term mortgage investment, as the Commission determines to be appropriate. The Commission shall, in all other respects, be subject to the provision of the Federal Advisory Committee Act.

SEC. 332. COMPOSITION OF THE COMMISSION.

(a) **APPOINTMENTS.**—The Commission shall be composed of 15 members to be appointed from among individuals who have expertise and broad experience related to the purposes of the Commission, of whom—

(1) 5 shall be appointed by the Secretary;

(2) 5 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs of the Senate; and

(3) 5 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking,

Finance and Urban Affairs of the House of Representatives.

(b) **QUALIFICATIONS.**—Membership of the Commission shall include—

(1) not less than 3 persons who have had distinguished, private sector careers in the housing finance, management, or development industries;

(2) not less than 3 persons from State government who have made outstanding achievements in housing finance or development;

(3) not less than 3 persons from local government who have made outstanding achievements in housing finance or development;

(4) not less than 3 persons who have backgrounds of leadership in representing the interests of low-income tenants; and

(5) not less than 3 persons who have achieved excellence in nonprofit housing development.

(c) **POLITICAL AFFILIATION.**—Not more than 8 members of the Commission may be from any one political party. All members shall be appointed within 6 months of the enactment of the National Affordable Housing Act.

(d) **REPORT.**—The Commission shall submit to the Secretary and the Congress its final report containing any recommendations for legislative or administrative actions needed to improve the availability of mortgage finance for affordable housing. Such report shall include any minority views. The study shall include, but need not be limited to, an assessment of—

(1) the need for the Department of Housing and Urban Development, government sponsored mortgage finance corporations, or other agencies of the United States to provide partial credit enhancement to make financing for affordable housing available efficiently and at the lowest possible cost; and

(2) alternative ways in which—

(A) the Department could provide any needed credit enhancement on a one-stop basis for participating jurisdictions, in coordination with other forms of assistance under this subtitle;

(B) the Department or other agencies of the Federal Government could assist government-sponsored mortgage finance corporations in the financing of mortgages on affordable housing through the development of mortgage-backed securities that are more standardized and readily traded in the capital markets;

(C) the capacities of existing agencies of the United States could be used to provide mortgage finance more efficiently for affordable housing through government-sponsored mortgage finance corporations; and

(D) the interests of the Federal Government could be protected and any risks of loss could be minimized through requirements for fees, mortgage insurance, risk-sharing, secure collateral, and guarantees by other parties, and through standards relating to minimum capital and prior experience with underwriting, origination and servicing.

(e) **ADMINISTRATION.**—The Commission shall meet at Washington, District of Columbia, as requested by the Secretary or approved by a majority of the members. The Commission shall select its chairman, vice chairman and secretary, and adopt methods of procedure.

(f) **COMPENSATION.**—Subject to the provision of section 7 of the Federal Advisory Committee Act, all members of the Commission may be compensated, and shall be entitled to reimbursement from HUD for travel-

ing expenses incurred in attendance at meetings of the Commission.

Subtitle C—Other Support for State and Local Housing Strategies

SEC. 351. AUTHORITY.

The Secretary shall, insofar as is feasible through contract with eligible organizations, develop the capacity of participating jurisdictions, State and local housing finance agencies, nonprofit organizations and for-profit corporations, working in partnership, to identify and meet needs for an increased supply of decent, affordable housing.

SEC. 352. PRIORITIES FOR CAPACITY DEVELOPMENT.

To carry out section 351, the Secretary shall provide assistance under this subtitle to—

(1) facilitate the exchange of information that would help participating jurisdictions carry out the purposes of this title, including information on program design, housing finance, land use controls, and building construction techniques;

(2) improve the ability of States and units of general local government to design and implement comprehensive housing affordability strategies, particularly those States and units of general local government that are relatively inexperienced in the development of affordable housing;

(3) increase the ability of community housing development organizations to maintain, rehabilitate or construct housing for low-income and moderate-income families, particularly in areas with substantial need for such housing and inadequate resources to produce such housing;

(4) encourage private lenders and for-profit developers of low-income housing to participate in public-private partnerships to achieve the purposes of this title;

(5) increase the investment of private capital in housing for very low-income families, particularly by encouraging the establishment of benevolent loan funds through which private financial institutions will accept deposits at below-market interest rates and make those funds available at favorable rates to developers of low-income housing and to low-income home buyers;

(6) support locally initiated efforts to establish privately owned, local community development banks and credit unions to finance affordable housing;

(7) improve the ability of States and units of general local government, community housing development organizations, private lenders, and for-profit developers of low-income housing to incorporate energy efficiency into the planning, design, financing, construction, and operation of affordable housing; and

(8) facilitate the establishment and efficient operation of employer-assisted housing programs through research, technical assistance and demonstration projects.

SEC. 353. CONDITIONS OF CONTRACTS.

(a) **ELIGIBLE ORGANIZATIONS.**—The Secretary shall carry out this subtitle insofar as is practicable through contract with—

(1) a participating jurisdiction or agency thereof;

(2) a public purpose organization established pursuant to State or local legislation and responsible to the chief elected official of a participating jurisdiction;

(3) an agency or authority established by two or more participating jurisdictions to carry out activities consistent with the purposes of this title;

(4) a national or regional nonprofit organization that has a membership comprised

predominantly of entities or officials of entities that qualify under paragraph (1), (2), or (3); or

(5) a nonprofit organization that—

(A) customarily provides in more than one State services related to the provision of decent housing that is affordable to low-income and moderate-income persons or the revitalization of deteriorating neighborhoods;

(B) has demonstrated experience in providing a range of assistance, such as financing, grants, technical assistance, construction and property management assistance, capacity building and training, to community housing development organizations or similar organizations that engage in community revitalization; and

(C) has a demonstrated ability to provide technical assistance and training for local developers of affordable housing.

(b) **CONTRACT TERMS.**—Contracts under this section shall be for not more than 3 years and shall provide not more than 20 percent of the operating budget of the contracting organization in any one year. Within any fiscal year, contracts with any one organization may not be entered into for a total of more than 20 percent of the funds appropriated under this subtitle in that fiscal year.

(c) MATCHING REQUIREMENT FOR TECHNICAL ASSISTANCE.—

(1) **IN GENERAL.**—The Secretary shall not enter into contracts pursuant to paragraph (3) of section 352 for amounts that exceed 50 percent of the projected costs that the Secretary determines to be appropriately related to a project in preparation for approval of an application for assistance under this Act and insurance under the National Housing Act.

(2) **ELIGIBLE USES OF FUNDS UNDER THIS SECTION.**—Funds made available under paragraph (3) of section 352 may be used only for costs that the Secretary determines to be customary and reasonable project preparation costs, including but not limited to—

(A) assessment of market and financial feasibility;

(B) engagement of a development team;

(C) preliminary design and engineering costs;

(D) site control and title clearance;

(E) cost estimation; and

(F) other professional costs related to the development of the housing, including committed staff.

(3) **ELIGIBLE MATCHING CONTRIBUTIONS.**—An organization entering into a contract with the Secretary under this section shall make matching contributions to project preparation costs from non-Federal resources in amounts not less than 50 percent of the project preparation costs, as determined by the Secretary under paragraph (1), which contributions may include but not necessarily be limited to—

(A) costs that are eligible under paragraph (2);

(B) identification, screening, and counseling of prospective residents; and

(C) administrative and planning costs that the Secretary determines are appropriately related to the project and the ongoing provision of affordable housing in the area to be served by the project.

(4) **ADJUSTMENTS OF OTHER ASSISTANCE.**—The Secretary shall take account of assistance provided to a project under paragraph (3) of section 352 when adjusting other assistance to be provided to the project as required by section 102(d) of the Department

of Housing and Urban Development, Reform Act of 1989.

SEC. 354. RESEARCH IN HOUSING AFFORDABILITY.

The Secretary is authorized to support, through contracts with eligible organizations and otherwise, such research and publishing such reports as will assist in the achievement of the purposes of this title. Activities authorized by the previous sentence may include an ongoing analysis of the impact of public policies at the Federal, State, and local levels, both individually and in the aggregate, on the incentives to expand and maintain the supply of energy-efficient affordable housing in the United States, particularly in areas with severe problems of housing affordability. For purposes of this section, agencies of the United States, government-sponsored mortgage finance corporations, and qualified research organizations shall be included as eligible organizations in addition to eligible organizations specified under section 353.

Subtitle D—Specified Model Programs

SEC. 361. IN GENERAL.

Among the alternative model programs that the Secretary shall make available for use by participating jurisdictions under the provisions of section 313 shall be model programs specified in this subtitle.

SEC. 362. RENTAL REHABILITATION.

(a) IN GENERAL.—The Secretary shall make available a model program to support the rehabilitation of privately owned rental housing located in neighborhoods where the median income does not exceed 80 percent of the area median as determined by the Secretary and where rents can reasonably be expected not to change materially over an extended period of time.

(b) AMOUNT OF SUBSIDY.—The amount of the rehabilitation subsidy shall be moderate and shall generally not exceed 50 percent of the total costs associated with the rehabilitation of the housing.

(c) OWNER AGREEMENTS.—Owners of assisted housing shall agree not to discriminate against prospective tenants on the basis of their receipt of or eligibility for housing assistance under any Federal, State or local housing assistance program for at least 10 years beginning on the date on which the rehabilitated units in the housing are made available for occupancy. For the purposes of activities under such model program, the Secretary may determine, under section 315(a)(1)(E) of this Act, that a period of 10 years is the longest feasible period of time consistent with sound economics.

(d) ADDITIONAL RESTRICTIONS.—The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 17(c) of the United States Housing Act of 1937.

SEC. 363. REHABILITATION LOANS.

(a) IN GENERAL.—The Secretary shall make available a model program to provide direct loans to finance the rehabilitation of low and moderate income single family and multifamily residential properties.

(b) CONDITION OF LOANS.—The Secretary shall establish terms and conditions to ensure that such loans are acceptable risks, taking into consideration the need for rehabilitation, the security for the loan and the ability of the borrower to repay the loan. The Secretary may establish the interest rate for loans under the model program, which shall include special interest rates for loans to borrowers with incomes below 80 percent of the area median income.

(c) ADDITIONAL RESTRICTIONS.—Guidelines for the model program may require that the property—

(1) be located in an area that contains a substantial number of dwellings in need of rehabilitation;

(2) the property is residential and owner-occupied; and

(3) the property is in need of rehabilitation or concentrated code enforcement within a reasonable time, and the rehabilitation of such property is consistent with a local plan for rehabilitation or code enforcement.

Additional guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 312 of the Housing Act of 1964.

SEC. 364. SWEAT EQUITY MODEL PROGRAM.

(a) IN GENERAL.—The Secretary shall make available to participating jurisdictions as described in section 313 a model program to provide grants to public and private non-profit organizations and community housing development organizations to provide technical and supervisory assistance to low-income and very low-income families, including the homeless, in acquiring, rehabilitating, and constructing housing by the self-help housing method.

(b) REHABILITATION OF PROPERTIES.—The program shall target for rehabilitation properties which have been acquired by the Federal, State, or local governments.

(c) HOMEOWNERSHIP OPPORTUNITIES THROUGH SWEAT EQUITY.—

(1) The program shall utilize the skilled or unskilled labor of eligible families in exchange for acquisition of the property.

(2) Basic training shall be provided to eligible families in home maintenance skills and homeownership counseling.

(d) RENTAL OPPORTUNITIES THROUGH SWEAT EQUITY.—(1) The program shall include rental opportunities for eligible families which will help expand the stock of affordable housing which is most appropriate for the target group.

(2) The use of the tenant's skilled or unskilled labor shall be encouraged in lieu of or as a supplement to rent payments by the tenant.

(e) DEFINITION.—The term "self-help housing" means the same as in section 523 of the Housing Act of 1949.

(f) ADDITIONAL RESTRICTIONS.—The guidelines of the model program shall generally comport with the additional protections and restrictions specified under section 523 of the Housing Act of 1949.

Subtitle E—General Provisions

SEC. 381. NONDISCRIMINATION.

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 or with respect to an otherwise qualified handicapped individual as provided in section 504 of the Rehabilitation Act of 1973 shall also apply to any such program or activity.

SEC. 382. ANNUAL AUDITS AND ACCOUNTABILITY.

(a) INDEPENDENT AUDITS.—The Secretary, except as provided in paragraph (b)(1), shall contract annually with an independent accounting firm to provide for a full financial audit of the records of the Housing Opportunities Partnerships program for each

fiscal year. Each audit shall be performed as soon as practicable after the close of the fiscal year and in accordance with generally accepted Government auditing standards approved by the Comptroller General of the United States ("Comptroller General"), and shall be consistent with the requirements of sections 9105 and 9106 of title 31, United States Code. The Secretary shall promptly submit the report of the independent accounting firm to the Congress, consistent with the requirements of section 9106 of title 31, United States Code, and such report shall be published. The requirement for an audit under this section shall be in lieu of the requirement for an audit by the Comptroller General under section 9105(a) of title 31, United States Code.

(b) AUDITS BY THE COMPTROLLER GENERAL.—

(1) AUDITS OF THE HOUSING OPPORTUNITIES PARTNERSHIPS PROGRAM.—The Comptroller General, when the Comptroller General deems it to be appropriate or when requested by the Committee on Banking, Housing, and Urban Affairs of the Senate or the Committee on Banking, Finance and Urban Affairs of the House of Representatives, shall conduct a full financial audit of the records of the Housing Opportunities Partnerships program for any fiscal year. The initiation of an audit for a fiscal year under the previous sentence shall obviate the requirement for an audit by an independent accounting firm under paragraph (a) for that fiscal year. The report of the Comptroller General shall be submitted promptly to the Secretary and the Congress and shall be published.

(2) AUDITS OF RECIPIENTS.—The financial transactions of participating jurisdictions and of other recipients of funds provided under this title may, insofar as they relate to funds provided under this title, be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to or in use by such recipients pertaining to such financial transactions and necessary to facilitate the audit.

SEC. 383. UNIFORM RECORDKEEPING AND REPORTS TO THE CONGRESS.

(a) UNIFORM REQUIREMENTS.—The Secretary shall develop and establish uniform recordkeeping, performance reporting, and auditing requirements for use by participating jurisdictions.

(b) REPORT TO THE CONGRESS.—Not later than 120 days after the end of each fiscal year, the Secretary shall make an annual report to the Congress that summarizes and assesses the results of reports provided under this section.

SEC. 384. CITIZEN PARTICIPATION.

The Secretary shall ensure that each participating jurisdiction, and each jurisdiction seeking to become a participating jurisdiction, complies with the requirements of section 105(i) of this Act.

SEC. 385. LABOR.

Any contract for the construction of affordable housing with 12 or more units assisted with funds made available under this subtitle shall contain a provision requiring that not less than the wages prevailing in the locality, as predetermined by the Secretary of Labor pursuant to the Davis-Bacon Act (40 U.S.C. 276a–276a–5), shall be paid to all laborers and mechanics employed in

the development of affordable housing involved, and participating jurisdictions shall require certification as to compliance with the provisions of this section prior to making any payment under such contract. The Secretary may waive the application of this subsection in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

SEC. 386. INTERSTATE AGREEMENTS.

The consent of the Congress is hereby given to any two or more States to enter into agreements or compacts, not in conflict with any law of the United States, for cooperative efforts and mutual assistance in support of activities authorized under this title as they pertain to interstate areas and to localities within such States, and to establish such agencies, joint or otherwise, as they may deem desirable for making such agreements and compacts effective.

SEC. 387. ENVIRONMENTAL REVIEW.

(a) IN GENERAL.—In order to assure that the policies of the National Environmental Policy Act of 1969 and other provisions of law which further the purposes of such Act (as specified in regulations issued by the Secretary) are most effectively implemented in connection with the expenditure of funds under this title, and to assure to the public undiminished protection of the environment, the Secretary, in lieu of the environmental protection procedures otherwise applicable, may under regulations provide for the release of funds for particular projects to participating jurisdictions under this title who assume all of the responsibilities for environmental review, decisionmaking, and action pursuant to such Act, and such other provisions of law as the regulations of the Secretary specify, that would apply to the Secretary were he to undertake such projects as Federal projects. The Secretary shall issue regulations to carry out this section only after consultation with the Council on Environmental Quality.

(b) PROCEDURE.—The Secretary shall approve the release of funds subject to the procedures authorized by this section only if, at least 15 days prior to such approval and prior to any commitment of funds to such projects the participating jurisdiction has submitted to the Secretary a request for such release accompanied by a certification which meets the requirements of subsection (c). The Secretary's approval of any such certification shall be deemed to satisfy his responsibilities under the National Environmental Policy Act of 1969 and such other provisions of law as the regulations of the Secretary specify insofar as those responsibilities relate to the releases of funds for projects to be carried out pursuant thereto which are covered by such certification.

(c) CERTIFICATION.—A certification under the procedures authorized by this section shall—

(1) be in a form acceptable to the Secretary;

(2) be executed by the chief executive officer or other officer of the recipient of assistance under this title qualified under regulations of the Secretary;

(3) specify that the recipient of assistance under this title has fully carried out its responsibilities as described under subsection (a), and

(4) specify that the certifying officer (A) consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 and each provision of law specified in regulations issued by the Secretary insofar as the provisions of such Act or other such provision of law apply pursuant to subsection (a), and (B) is authorized and consents on behalf of the participating jurisdiction and himself to accept the jurisdiction of the Federal courts for the purpose of enforcement of his responsibilities as such an official.

(d) ASSISTANCE TO A STATE.—In the case of assistance to States, the State shall perform those actions of the Secretary described in subsection (b) and the performance of such actions shall be deemed to satisfy the Secretary's responsibilities referred to in the second sentence of such subsection.

TITLE IV—HOMEOWNERSHIP AND OPPORTUNITY THROUGH HOPE

Subtitle A—HOPE Grants for Public and Indian Housing Homeownership

SEC. 401. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.

The United States Housing Act of 1937 is amended by adding the following new title at the end thereof:

"TITLE III—HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP

"AUTHORITY

"SEC. 301. (a) PROGRAM AUTHORITY.—The Secretary is authorized to make—

"(1) planning grants to help applicants to develop homeownership programs for specified public housing projects in accordance with this title; and

"(2) implementation grants to carry out specified public housing projects and homeownership programs in accordance with this title.

"(b) AUTHORITY TO RESERVE HOUSING ASSISTANCE.—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in another project.

"(c) AUTHORIZATION.—There are authorized to be appropriated for grants under this title \$96,000,000 for fiscal year 1991, \$260,000,000 for fiscal year 1992, and \$400,000,000 for fiscal year 1993, of which not more than \$2,000,000 may be appropriated in any fiscal year for planning grants under this title. Sums appropriated pursuant to this subsection shall remain available until expended.

"PLANNING GRANTS

"SEC. 302. (a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title.

"(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for the following activities—

"(1) development of resident management corporations and resident councils;

"(2) training and technical assistance for applicants;

"(3) development of homeownership programs, including determining their affordability;

"(4) preliminary architectural and engineering work;

"(5) tenant and homebuyer counseling and training;

"(6) planning for economic development, job training, and self-sufficiency activities

that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

"(7) development of security plans; and

"(8) preparation of an application for an implementation grant under this title.

"(c) APPLICATION.—(1) An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) The Secretary shall require that an application contain at a minimum—

"(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located;

"(B) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, and the amount of the grant requested;

"(C) a description of the applicant and a statement of its qualifications;

"(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

"(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income.

"(d) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the qualifications or potential capabilities of the applicant;

"(2) the extent of tenant interest in the development of a homeownership program for the project;

"(3) the potential for developing an affordable homeownership program and the suitability of the project for homeownership;

"(4) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

"(e) LIMITATION ON PLANNING GRANTS.—Assistance provided under this section with respect to any public housing project may not exceed \$100,000.

"IMPLEMENTATION GRANTS

"SEC. 303. (a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this title.

"(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for the following activities—

"(1) architectural and engineering work;

"(2) acquisition of the public housing project from a public housing agency for the purpose of transferring ownership to eligible families in accordance with an approved homeownership program;

"(3) rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary;

"(4) administrative costs of the applicant and any charges by the applicant for developing and carrying out the homeownership program;

"(5) legal fees;

"(6) counseling and training of homebuyers and homeowners under the homeownership program;

"(7) defraying costs for the ongoing training needs of the recipient that are related to developing and carrying out the homeownership program;

"(8) defraying costs related to relocation of tenants who elect to move;

"(9) defraying costs related to any necessary temporary relocation of tenants during rehabilitation;

"(10) economic development activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program;

"(11) funding of operating and replacement reserves of the project covered by the homeownership program; and

"(12) defraying some or all of the costs related to implementation of a replacement housing plan.

"(c) **MATCHING FUNDING.**—(1) Each recipient shall assure that contributions equal to not less than 25 percent of the grant amount made available under this section shall be provided from non-Federal sources to carry out the homeownership program.

"(2) Such contributions may be in the form of—

"(A) cash contributions from non-Federal resources, which may not include Federal tax expenditures or funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

"(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

"(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

"(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

"(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

"(d) **APPLICATION.**—(1) An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) The Secretary shall require that an application contain at a minimum—

"(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that (i) the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located, and (ii) the matching funding required under subsection (c) shall be provided;

"(B) a request for an implementation grant, specifying the amount of the grant requested;

"(C) where applicable, an application for assistance under section 9 of this Act (i) specifying the proposed uses of such assistance and the period during which the assistance will be needed, and (ii) including an economic self-sufficiency plan specifying an estimated target date for phasing out the section 9 assistance;

"(D) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, specifying the activities proposed to be carried out and their estimated costs, demonstrating that the program will be affordable to eligible families, and identifying the schedules for carrying it out;

"(E) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(F) a workable plan for giving all tenants an opportunity to become owners, which plan shall identify—

"(i) the price at which the applicant intends to transfer ownership interests in, or shares representing, units in the project;

"(ii) the factors that will influence the setting of such price;

"(iii) how such price compares to the estimated appraised value of the ownership interests or shares;

"(iv) the underwriting standard the applicant plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

"(v) the financing arrangements the tenants are expected to pursue or be provided; and

"(vi) a workable schedule of sale (subject to the limitations of section 304(p)) based on estimated tenant incomes.

"(G) a description of the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

"(H) identification and description of the financing proposed;

"(I) where the applicant is not a public housing agency, the proposed sales price, if any, and terms to the applicant;

"(J) identification and description of the entity that will operate and manage the property;

"(K) a plan for—

"(i) identifying and selecting eligible families to participate in the homeownership program;

"(ii) providing relocation assistance to families who elect to move;

"(iii) assuring continued affordability by tenants, homebuyers, and homeowners in the project; and

"(iv) providing ongoing training and counseling for homebuyers and homeowners; and

"(L) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(e) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

"(2) the extent to which current tenants and other eligible families will be able to afford the purchase;

"(3) the quality and viability of the proposed homeownership program, including the viability of the economic self-sufficiency plan;

"(4) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program; and

"(5) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the public housing project is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the National Affordable Housing Act.

"(f) **APPROVAL.**—The Secretary shall notify the applicant whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 9 assistance is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

"OTHER PROGRAM REQUIREMENTS AND LIMITATIONS

"**SEC. 304. (a) LOCATION WITHIN PARTICIPATING JURISDICTIONS.**—The Secretary may approve applications for grants under this title only for public housing projects located within the boundaries of jurisdictions that are participating jurisdictions under title III of the National Affordable Housing Act.

"(b) **FINANCING.**—(1) The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the project. Financing may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

"(2) Property transferred under this title shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

"(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

"(B) neither the Federal Government nor the public housing agency will be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

"(C) any debt obligation can be serviced from project income, including operating assistance that is provided in accordance with subsection (j); and

"(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (c) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this title.

"(3) Any lender that provides financing in connection with a homeownership program under this title shall give the public housing agency, resident management corporation, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

"(c) **HOUSING STANDARDS.**—(1) Public housing projects transferred under this title shall meet housing standards established by the Secretary. The Secretary, in response to

a written plan contained in an application, may give an applicant a period of not to exceed 3 years (from the date the property is transferred from the public housing agency to the applicant or another entity specified in the approved application) to meet such housing standards.

"(2) A public housing agency shall not convey fee simple title to a public housing project transferred under this title until the property meets the housing standards established under paragraph (1).

"(d) QUALIFIED MANAGEMENT.—As a condition of approval of a homeownership program under this title, the resident management corporation (or such other entity representing the interests of the tenants) shall have demonstrated its abilities to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

"(e) ECONOMIC SELF-SUFFICIENCY PLAN.—Where a homeownership program involves the use of section 9 assistance for homebuyers or homeowners, the application shall include an economic self-sufficiency plan designed to reduce the need for the assistance through the provision of training, employment, and supportive services opportunities.

"(f) SALE BY PUBLIC HOUSING AGENCY TO APPLICANT OR OTHER ENTITY REQUIRED.—Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant, the public housing agency shall transfer the project to such other applicant, in accordance with the approved homeownership program.

"(g) PREFERENCES.—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in the project independence program authorized under section 14(j) of this Act, or in another economic self-sufficiency program specified by the Secretary.

"(h) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this subtitle.

"(i) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a public housing project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(j) OPERATING SUBSIDIES.—To the extent that the total income of a public housing project transferred under this title is not sufficient to cover the costs of operation, the public housing agency may enter into a 5-year operating assistance contract from amounts made available for use under section 9 of this Act, subject to the availability of appropriations, to provide assistance for the operating costs of an approved homeownership program. The total amount of the contract shall not exceed 5 times the current annual operating subsidy determined under section 9 of this Act with respect to the project for the year before sale of the project under this title, plus an annual inflation adjustment determined by the Secretary. The assistance shall be paid on an annual basis, and may not exceed an

amount for each year that is equal to the annual operating subsidy determined under section 9 of this Act with respect to the project for the year before sale of the project under this title, plus an annual inflation adjustment determined by the Secretary.

"(k) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, business opportunities for lower income families, and supportive services related to the homeownership program; additional homeownership opportunities; and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(l) RESTRICTIONS ON RESALE BY HOMEOWNERS.—(1) A homeowner under a homeownership program may transfer the homeowner's interest in, or shares representing, the unit only (A) to low-income families; and (B) at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return on investment (subject to paragraph (2)), including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers. Where a resident management corporation or resident council has jurisdiction over the unit, that entity shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity elects to purchase, it shall make the unit available for purchase by eligible families in accordance with the preferences established under subsection (f).

"(2) If the sale to the first eligible family is for less than market value, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for—

"(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

"(B) limiting the family's consideration for its interest in the property to the total of—

"(i) the contribution to equity paid by the family;

"(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

"(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity; such entity may, at the time of initial sale, enter into an agreement with the family to

set a maximum amount which this appreciation may not exceed;

"(C) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the public housing agency or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

"(D) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

"(3) Upon sale, the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

"(4) Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to paragraph (2) shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(m) REPLACEMENT PLAN.—(1) Public housing projects shall not be transferred under this title unless the Secretary has entered into a binding agreement with the local public housing agency to make available to such agency any Federal funding assistance to provide an additional decent, safe, sanitary, and affordable dwelling unit as a replacement for each unit in a public housing project to be transferred. Such replacement housing may consist of—

"(A) the development of new public housing units by the public housing agency in accordance with section 5;

"(B) the rehabilitation of vacant public housing units by the public housing agency in accordance with section 14(n)(1);

"(C) the use of 5-year, tenant-based rental assistance under section 8(b)(2) and section 8(o)(9);

"(D) the use of a State or local program that is comparable to any of the Federal programs referred to in subparagraphs (A) through (C) as to housing standards, eligibility, and contribution to rent, and provides a term of assistance of not less than 5 years;

"(E) where the applicant is a resident management corporation, resident council, or cooperative association, the acquisition of nonpublicly owned housing units, which the applicant shall operate as rental housing comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent; or

"(F) any combination of such methods.

"(2) Tenant-based rental assistance under section 8 (or a comparable State or local program) shall be counted as replacement housing only if the Secretary finds that replacement with assistance specified under subparagraphs (1) (A) and (B) is not feasible, and the supply of private rental housing actually available to those who would receive tenant-based assistance is sufficient

for the total number of certificates and vouchers available in the community after implementation of the agreement under subparagraph (1) and that such supply is likely to remain available for the full 5-year term of such assistance. Notwithstanding the preceding sentence, vouchers may be used to provide replacement housing in any community where the vacancy rate for standard rental units renting at less than the fair market rental exceeds the national average vacancy rate for such units.

"(n) **PROTECTION OF NON-PURCHASING FAMILIES.**—(1) No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

"(2) If the tenant decides not to purchase a unit, or is not qualified to do so, the recipient shall, during the term of the operating assistance contract entered into under subsection (j), permit each otherwise qualified tenant to continue to reside in the project at rents that do not exceed levels consistent with section 3(a) of this Act or, if an otherwise qualified tenant chooses to move (at any time during the term of such operating assistance contract), the public housing agency shall, to the extent approved in appropriations Acts, offer such tenant (A) a unit in another public housing project, or (B) section 8 assistance for use in other housing.

"(3) The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

"(4) Tenants renting a unit in a project transferred under this subtitle shall have all rights provided to tenants of public housing under this Act.

"(o) **DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.**—Not more than an aggregate of \$250,000 from amounts made available under sections 302 and 303, and under section 14 of this Act, may be used for economic development activities under sections 302(b)(6) and 303(b)(10) for any project.

"(p) **TIMELY HOMEOWNERSHIP.**—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for very low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection. Tenants renting a unit in a project transferred under this subtitle shall have all rights provided to tenants of public housing under this Act.

"(q) **RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.**—(1) Each recipient shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this title (and any proceeds from financing obtained in accordance with subsection (b) or sales under subsections (k) and (l)(4)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(2) The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"(3) The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient that are pertinent to assistance received under this title.

"DEFINITIONS

"SEC. 305. For purposes of this title—

"(1) The term 'applicant' means the following entities that may represent the tenants of the project: a public housing agency (including an Indian housing authority); a resident management corporation, established in accordance with requirements of the Secretary under section 20 of this Act; a resident council; a cooperative association; a public or private nonprofit organization; or a public body, including an agency or instrumentality thereof.

"(2) The term 'eligible family' means a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant, a lower income family, or a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture.

"(3) The term 'homeownership program' means a program providing for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

"(4) The term 'recipient' means an applicant approved to receive a grant under this title or such other entity specified in the approved application that will assume the obligations of the recipient under this title.

"(5) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the tenants of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the tenants of the housing.

"RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES

"SEC. 306. The provisions of this title shall not apply to housing developed or transferred for homeownership purposes prior to the enactment of the National Affordable Housing Act under the turnkey III, the mutual help, or any other homeownership program established under section 5(h), section 6(c)(4)(D), or section 21 of this Act.

"ANNUAL REPORT

"SEC. 307. The Secretary shall annually submit to the Congress a report setting forth—

"(1) the number, type, and cost of public housing units sold pursuant to this title;

"(2) the income, race, gender, children, and other characteristics of families participating (or not participating) in homeownership programs funded under this title;

"(3) the amount and type of financial assistance provided under and in conjunction with this title;

"(4) the amount of financial assistance provided under this title that was needed to ensure continued affordability and meet future maintenance and repair costs; and

"(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

"LIMITATION

"SEC. 308. Any authority of the Secretary under this title to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act."

SEC. 402. RELATED AMENDMENTS TO SECTION 18, DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

(a) **REPEAL OF DISPOSITION AUTHORITY.**—Section 18(b)(1) of such Act is amended by striking out "disposition" and inserting in lieu thereof the following: "disposition, and the tenant councils and resident management corporation, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application,".

(b) **APPLICABILITY.**—Section 18 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(e) The provisions of this section shall not apply to the disposition of a public housing project in accordance with an approved homeownership program under title III of this Act."

SEC. 403. RELATED AMENDMENT TO SECTION 8.

(a) **ELIGIBILITY.**—The first sentence of section 8(o)(3) of such Act is amended by—

(1) striking "or"; and

(2) insert the following before the period: "or

"(D) a family that qualifies to receive a voucher in connection with a homeownership program approved under title IV of the National Affordable Housing Act."

(b) **REPLACEMENT HOUSING.**—(1) Section 8(b) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(2) The Secretary is authorized to enter into annual contributions contracts with public housing agencies for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this subsection shall be for a term of not more than 60 months."

(2) Section 8(o) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(9) The Secretary is authorized to enter into contracts with public housing agencies to provide rental vouchers for the purpose of replacing public housing transferred in accordance with title III of this Act. Each contract entered into under this paragraph shall be for a term of not more than 60 months."

SEC. 404. RELATED CIAP AMENDMENTS.

Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following subsection:

"(n)(1) The Secretary shall make available and contract to make available assistance in the form of grants for the purpose of rehabilitating vacant public housing units as replacement housing for public housing transferred in accordance with title III of this Act.

"(2) The Secretary shall make available and contract to make available assistance in the form of grants for the purpose of supplementing implementation grants made available in accordance with title III of this Act.

"(3) Grants under paragraphs (1) and (2) shall be made only from amounts provided for such purposes in appropriations Acts."

SEC. 405. RELATED AMENDMENT TO RESIDENT MANAGEMENT.

Section 20(f)(1) of the United States Housing Act of 1937 is amended by adding in the first sentence after "financial assistance" the following: "for activities not in conjunction with activities assisted under title III of this Act."

SEC. 406. RELATED AMENDMENT TO SECTION 9, PUBLIC HOUSING OPERATING SUBSIDIES.

Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) if a public housing agency transfers a public housing project in accordance with an approved homeownership program under title III of this Act, the payments received under this section with respect to such project shall continue for a 5-year period, subject to the availability of appropriations for such purpose, in amounts not less than the amounts that would have been received without such transfer."

SEC. 407. IMPLEMENTATION.

(a) **IN GENERAL.**—Not later than 120 days after the date funds authorized under title III of the United States Housing Act of 1937 first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this title. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice.

(b) **TERMINATION OF EXISTING PUBLIC HOUSING HOMEOWNERSHIP PROVISIONS.**—

(1) **IN GENERAL.**—Effective on the date of enactment of this Act, section 5(h) and section 21 of the United States Housing Act of 1937 are repealed.

(2) **SAVINGS PROVISION.**—The provisions of paragraph (1) shall not affect housing transferred for homeownership purposes prior to the enactment of this Act under section 5(h) or section 21 of this Act.

SEC. 408. APPLICABILITY.

In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority, except that nothing in this title affects the program under section 202 of such Act.

Subtitle B—HOPE for HUD Multifamily Homeownership

SEC. 411. PROGRAM AUTHORITY.

(a) The Secretary is authorized to make—
(A) technical assistance grants to develop the capacity of applicants to develop and carry out homeownership programs for specified eligible properties in accordance with this subtitle;

(B) planning grants to enable applicants to develop homeownership programs for

specified eligible properties in accordance with this subtitle; and

(C) implementation grants to enable applicants to carry out homeownership programs for specified eligible properties in accordance with this subtitle.

(b) **AUTHORITY TO RESERVE HOUSING ASSISTANCE.**—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary—

(1) to provide housing assistance to an otherwise qualified eligible family, for use by the family in connection with the purchase and continued ownership by the family of an ownership interest in, or shares representing, a unit in the property; and

(2) to provide rental assistance for a non-purchasing tenant who resides in the property on the date the Secretary approves an application for an implementation grant, for use by the tenant in that or another property.

(c) **AUTHORIZATION.**—There are authorized to be appropriated for grants under this subtitle \$72,000,000 for fiscal year 1991, \$195,000,000 for fiscal year 1992, and \$300,000,000 for fiscal year 1993, of which not more than \$1,000,000 may be appropriated in any fiscal year for technical assistance grants under this subtitle and not more than \$1,000,000 may be appropriated in any fiscal year for planning grants under this subtitle. Sums appropriated pursuant to this subsection shall remain available until expended.

SEC. 412. TECHNICAL ASSISTANCE GRANTS.

(a) **GRANTS.**—The Secretary is authorized to make technical assistance grants to applicants for the purpose of developing the capacity of applicants to develop and carry out homeownership programs under this subtitle and under the Low-Income Housing Preservation and Resident Homeownership Act of 1990, and to develop and carry out other homeownership opportunities involving acquisition of single family property, containing no more than four units, owned by the Secretary.

(b) **ELIGIBLE ACTIVITIES.**—Technical assistance grants may be used for the purpose of providing training and technical assistance for potential applicants.

(c) **APPLICATION.**—(1) An application for a technical assistance grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that an application contain at a minimum—

(A) a certification by the public housing official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the eligible property is located;

(B) a request for a technical assistance grant, specifying the activities proposed to be carried out, the schedule for completing the activities, and the amount of the grant requested; and

(C) a description of the applicant and a statement of its qualifications.

(d) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria, which shall include—

(1) the qualification or potential capabilities of the applicant; and

(2) such other factors as the Secretary determines to be appropriate for purposes of the program established by this title.

SEC. 413. PLANNING GRANTS.

(a) **GRANTS.**—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle and facilitating resident management of eligible properties.

(b) **ELIGIBLE ACTIVITIES.**—Planning grants may be used for the following activities—

(1) training and technical assistance of applicants related to the development of a specific homeownership program;

(2) development of homeownership programs, including determining their affordability;

(3) preliminary architectural and engineering work;

(4) tenant and homebuyer counseling and training;

(5) planning for economic development, job training, and self-sufficiency activities that promote economic self-sufficiency for homebuyers and homeowners under the homeownership program;

(6) development of security plans;

(7) preparation of an application for an implementation grant under this subtitle or of a homeownership program proposal under the Low-Income Housing Preservation and Resident Homeownership Act of 1990; and

(8) the provision of financial assistance to resident management corporations and resident councils, as defined by the Secretary, in eligible properties that obtain, by contract or otherwise, technical assistance for the development of resident management entities in such projects, including the formation of such entities, the development of the management capability of newly formed or existing entities, the identification of the social support needs of residents of such properties, and the securing of such support, except that assistance under this paragraph may be provided with respect to a property owned other than by the Secretary only if the owner agrees to award of the assistance.

(c) **APPLICATION.**—(1) An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that an application contain at a minimum—

(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located;

(B) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, and the amount of the grant requested;

(C) a description of the applicant and a statement of its qualifications;

(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing; and

(E) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income.

(d) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the qualifications or potential capabilities of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential for developing an affordable homeownership program and the suitability of the property for homeownership; and

(4) such other factors as the Secretary determines to be appropriate for purposes of carrying out the program established by the subtitle in an effective and efficient manner.

(e) **LIMITATION ON PLANNING GRANTS.**—Assistance provided under this section with respect to any eligible property may not exceed \$100,000.

SEC. 414. IMPLEMENTATION GRANTS.

(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used for the following activities—

(1) architectural and engineering work;

(2) acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with an approved homeownership program;

(3) rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary;

(4) administrative costs of the applicant and any charges by the applicant for developing and carrying out the homeownership program;

(5) legal fees;

(6) counseling and training of homebuyers and homeowners under the homeownership program;

(7) defraying costs related to ongoing training needs of the recipient related to developing and carrying out the homeownership program;

(8) defraying costs related to relocation of tenants who elect to move;

(9) defraying costs related to any necessary temporary relocation of tenants during rehabilitation;

(10) economic development, job training, and self-sufficiency activities that promote economic self-sufficiency of the project's homebuyers and homeowners of the property covered by the homeownership program; and

(11) funding for operating and replacement reserves of the property covered by the homeownership program.

(c) **MATCHING FUNDING.**—(1) Each recipient shall assure that contributions equal to not less than 25 percent of the grant amounts made available under this section shall be provided from non-Federal sources to carry out the homeownership program.

(2) Such contributions may be in the form of—

(A) cash contributions from non-Federal resources, which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or de-

ferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of land or other real property as appraised according to procedures acceptable to the Secretary;

(E) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(F) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) **APPLICATION.**—(1) An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that an application contain at a minimum—

(A) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that (i) the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located, and (ii) the matching funding required under subsection (c) shall be provided;

(B) a request for an implementation grant, specifying the amount of the grant requested;

(C) where applicable, an application for assistance under section 9 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(D) a description of the proposed homeownership program, consistent with section 415 and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, demonstrating the program will be affordable by eligible families, and identifying the schedule for carrying it out;

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a workable plan for giving all tenants an opportunity to become owners, which plan shall identify—

(i) the price at which the applicant intends to transfer ownership interests in, or shares representing, units in the project;

(ii) the factors that will influence the setting of such price;

(iii) how such price compares to the estimated appraised value of the ownership interests or shares;

(iv) the underwriting standard the applicant plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

(v) the financing arrangements the tenants are expected to pursue or be provided; and

(vi) a workable schedule of sale (subject to the limitations of section 415(m)) based on estimated tenant incomes.

(G) a description of the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(H) identification and description of the financing proposed;

(I) the proposed sales price and terms to an entity, if any, that will purchase the property for resale to eligible families;

(J) identification and description of the entity that will operate and manage the property;

(K) a plan for—

(i) identifying and selecting eligible families to participate in the homeownership program;

(ii) providing relocation assistance to families who elect to move;

(iii) assuring continued affordability by tenants, homebuyers, and homeowners in the property;

(iv) providing ongoing training and counseling for homebuyers and homeowners; and

(v) where homebuyers or homeowners under a homeownership program are expected to receive the benefit of Federal, State, or local assistance, promoting economic self-sufficiency of homebuyers and homeowners; and

(L) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) **APPROVAL.**—The Secretary shall notify the applicant whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

(f) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

(2) the extent to which current tenants and other eligible families will be able to afford to purchase;

(3) the quality and viability of the proposed homeownership program;

(4) the extent and urgency of the need to approve the application in order to protect the opportunity to provide homeownership of units in the property;

(5) the extent to which funds for activities that do not qualify as eligible activities will be provided in support of the homeownership program; and

(6) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the National Affordable Housing Act.

SEC. 415. OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.

(a) **LOCATION WITHIN PARTICIPATING JURISDICTIONS.**—The Secretary may approve applications for grants under this subtitle only for eligible properties located within the boundaries of jurisdictions that are participating jurisdictions under title III of the National Affordable Housing Act.

(b) **FINANCING.**—(1) The application shall identify and describe the proposed financing for (A) any rehabilitation, and (B) acquisition (i) of the property, where applicable, by a resident or other entity for transfer to eli-

gible families, and (ii) by eligible families of ownership interests in, or shares representing, units in the property. Financing may include use of the implementation grant, sale for cash, and other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) Property transferred under this subtitle shall not be pledged as collateral for debt or otherwise encumbered except when the Secretary determines that—

(A) such encumbrance will not threaten the long-term availability of the property for occupancy by low-income families;

(B) the Federal Government will not be exposed to undue risks related to action that may have to be taken pursuant to paragraph (3);

(C) any debt obligation can be serviced from project income, including operating assistance that is provided in accordance with section 415; and

(D) the proceeds of such encumbrance will be used only to meet housing standards in accordance with subsection (c) or to make such additional capital improvements as the Secretary determines to be consistent with the purposes of this subtitle.

(3) Any lender that provides financing in connection with a homeownership program under this subtitle shall give the Secretary, the resident management corporation, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(c) **HOUSING STANDARDS.**—(1) Eligible properties transferred under this subtitle shall meet housing standards established by the Secretary. The Secretary, in response to a written plan contained in an application, may give an applicant a period of not to exceed 3 years (from the date the property is transferred from the Secretary or an existing owner to the applicant or another entity specified in the approved application) to meet such housing standards.

(2) Neither the Secretary nor an existing owner shall convey fee simple title to an eligible property transferred under this subtitle until the property meets the housing standards established under paragraph (1).

(d) **QUALIFIED MANAGEMENT.**—As a condition of approval of a homeownership program under this subtitle, the resident management corporation (or such other entity representing the interests of the tenants) shall have demonstrated its abilities to manage eligible properties by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

(e) **ECONOMIC SELF-SUFFICIENCY PLAN.**—Where a homebuyer or homeowner under a homeownership program is expected to receive the benefit of Federal, State, or local assistance, the application shall include an economic self-sufficiency plan designed to provide training, employment, and supportive services opportunities in order to eliminate the need for assistance for such persons.

(f) **PREFERENCES.**—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who have completed participation in the project

independence program authorized under section 14(j) of the United States Housing Act of 1937, or in another economic self-sufficiency program specified by the Secretary.

(g) **COST LIMITATIONS.**—The Secretary may establish cost limitations on eligible activities under this subtitle.

(h) **USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.**—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, business opportunities for lower income families, and supportive services related to the homeownership program; additional homeownership opportunities; and other activities approved by the Secretary. The remaining 50 percent shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(i) **RESTRICTIONS ON RESALE BY HOMEOWNERS.**—(1) A homeowner under a homeownership program may transfer the homeowner's interest in, or shares representing, the unit only (A) to low-income families; and (B) at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return on investment (subject to paragraph (2)), including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.

(2) If the sale to the first eligible family is for less than fair market value, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for—

(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

(B) limiting the family's consideration for its interest in the property to the total of—

(i) the contribution to equity paid by the family;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity; such entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed;

(C) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the recipient or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

(D) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

(3) Upon sale, the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(4) Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to paragraph (2) shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

(j) **PROTECTION OF NONPURCHASING FAMILIES.**—(1) No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle.

(2) If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant in that or another property.

(3) The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

(k) **SALE OF ELIGIBLE PROPERTIES BY THE SECRETARY—FORECLOSURE SALES.**—In connection with a foreclosure sale, the Secretary may require, as a term or condition of sale, that an eligible property be used by the purchaser, and its successors and assigns, only in accordance with a homeownership program approved under this subtitle.

(l) **DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.**—Not more than an aggregate of \$225,000 from amounts made available under sections 413 and 414 may be used for economic development activities under sections 413(b)(5) and 414(b)(10) for any project.

(m) **TIMELY HOMEOWNERSHIP.**—Recipients shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim period when the property continues to be operated and managed as rental housing, the recipient shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of improving housing opportunities for very low-income families. The recipient shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(n) **RECORDS AND AUDIT OF RECIPIENTS OF ASSISTANCE.**—(1) Each recipient shall keep such records as may reasonably be necessary to fully disclose the amount and the disposition by such recipient of the proceeds of assistance received under this subtitle (including any proceeds from financing obtained in accordance with subsection (b) or

sales under subsections (h) and (i)(4), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

(2) The Secretary shall have access for the purpose of audit and examination to any books, documents, papers and records of the recipient that are pertinent to assistance received under this subtitle.

(3) The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers and records of the recipient that are pertinent to assistance received under this subtitle.

(c) **CERTAIN ENTITIES NOT ELIGIBLE.**—Any entity that assumes, as determined by the Secretary, a mortgage covering eligible property in connection with the acquisition of the property from an owner under this section must comply with any low-income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

SEC. 416. SECTION 8 ASSISTANCE.

(a) **HOMEOWNERSHIP.**—To the extent that the total income of an eligible property transferred under this subtitle is not sufficient to cover the costs of operation, the Secretary may extend existing contracts for loan management assistance under section 8(v) for a period not to exceed 5 years and, if such extensions are not sufficient, provide additional rental assistance under section 8(b)(3), subject to the availability of appropriations, to provide assistance for the operating costs of an approved homeownership program.

(b) **EXCEPTION TO SECTION 8 PREFERENCE.**—The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) shall not apply to the provision of assistance to a family residing in a dwelling unit in an eligible project on the date the Secretary approves an application for an implementation grant.

SEC. 417. DEFINITIONS.

For purposes of this title—

(1) The term "applicant" means the following entities that may represent the tenants of the housing: a resident management corporation or a resident council, established in accordance with requirements of the Secretary; a cooperative association; or a public or private nonprofit organization; a public body (including an agency or instrumentality thereof); or a public housing agency (including an Indian housing authority). For purposes of technical assistance grants under section 412, the term "applicant" also means any other entity determined to be suitable by the Secretary to receive a grant and to provide training and technical assistance to potential applicants for homeownership programs under this subtitle or to other entities interested in developing other homeownership opportunities involving eligible property.

(2) The term "eligible family" means a family or individual who is a tenant of the eligible property on the date the Secretary approves an implementation grant or who is a lower income family.

(3) The term "eligible property" means a multifamily rental property, containing five

or more units, that is (A) owned by the Secretary and was financed by a loan or mortgage that was insured or held by the Secretary under the National Housing Act or by a loan held by the Secretary under section 312 of the Housing Act of 1964; (B) financed by a loan or mortgage that is held by the Secretary and was insured by the Secretary under such Act; or (C) determined by the Secretary to have serious physical or financial problems under the terms of such an insurance or loan program. For purposes of technical assistance grants under section 412, the term "eligible property" also means single family property, containing no more than four units, owned by the Secretary and eligible low-income housing, as defined in the Low-Income Housing Preservation and Resident Homeownership of 1990. For purposes of planning grants under section 413(b)(8), the term "eligible property" also means a property insured under the National Housing Act and assisted under section 8 of the United States Housing Act of 1937.

(4) The term "homeownership program" means a program providing for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "low income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this subtitle or such other entity specified in the approved application that will assume the obligations of the recipient under this subtitle.

(9) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 418. ANNUAL REPORT.

The Secretary shall annually submit to the Congress a report setting forth—

(1) the number, type and cost of eligible properties transferred pursuant to this subtitle;

(2) the income, race, gender, children and other characteristics of families participating (or not participating) in homeownership programs funded under this subtitle;

(3) the amount and type of financial assistance provided under and in conjunction with this subtitle;

(4) the amount of financial assistance provided under this subtitle that was needed to ensure continued affordability and meet future maintenance and repair costs; and

(5) the recommendations of the Secretary for statutory and regulatory improvements to the program.

SEC. 419. LIMITATION.

Any authority of the Secretary under this subtitle to provide financial assistance, or to enter into contracts to provide financial assistance, shall be effective only to such extent or in such amounts as are or have been provided in advance in an appropriation Act.

SEC. 420. EXEMPTION.

Eligible property covered by a homeownership program approved under this subtitle shall not be subject to (1) the Low-Income Housing Preservation and Resident Homeownership Act of 1990, or (2) the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

SEC. 421. RELATED NATIONAL HOUSING ACT AMENDMENT.

Section 203(b)(9) of the National Housing Act is amended by inserting after "Housing Act of 1961," the following: "or with respect to a mortgage covering a single family home in connection with a homeownership program under title IV of the National Affordable Housing Act."

SEC. 422. RELATED SECTION 8 AMENDMENT.

Section 8(b) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(3) The Secretary is authorized to enter into a contract for assistance payments with an owner of eligible property transferred in accordance with subtitle B of title IV of the National Affordable Housing Act to provide assistance for the operating costs of an approved homeownership program. Each contract entered into under this section shall be for a term of not more than 60 months."

SEC. 423. IMPLEMENTATION.

Not later than 120 days after the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period following the date of the notice.

Subtitle C—HOPE for Homeownership Through Nonprofit Organizations

SEC. 431. PROGRAM AUTHORITY.

(a) **IN GENERAL.**—The Secretary is authorized to make implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

(b) **AUTHORITY TO RESERVE HOUSING ASSISTANCE.**—In connection with a grant under this section which will be used for a homeownership program covering an occupied eligible property, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 to the extent necessary to provide rental assistance for a non-purchasing tenant who resides in the property on the date the Secretary approves the application for an implementation grant, for use by the tenant in that or another property.

(c) **AUTHORIZATION.**—There are authorized to be appropriated for grants under this subtitle \$72,000,000 for fiscal year 1991, \$195,000,000 for fiscal year 1992, and \$300,000,000 for fiscal year 1993. Sums ap-

propriated pursuant to this subsection shall remain available until expended.

SEC. 432. IMPLEMENTATION GRANTS.

(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs approved under this subtitle.

(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used for the following activities—

(1) architectural and engineering work;

(2) acquisition of the property for the purpose of transferring ownership to eligible families in accordance with an approved homeownership program;

(3) rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary;

(4) administrative costs of the applicant and any charges by the applicant for developing and carrying out the homeownership program;

(5) legal fees;

(6) counseling and training of homebuyers and homeowners under the homeownership program;

(7) defraying costs related to ongoing training needs of the recipient that are related to developing and carrying out the homeownership program;

(8) defraying costs related to relocation of tenants who elect to move;

(9) defraying costs related to any necessary temporary relocation of tenants during rehabilitation; and

(10) funding of replacement reserves of the property covered by the homeownership program.

(c) **MATCHING FUNDING.**—(1) Each recipient shall assure that contributions equal to not less than 25 percent of the grant amounts under this section are provided from non-Federal sources to carry out the homeownership program.

(2) Such contributions may be in the form of—

(A) cash contributions from non-Federal resources which may not include funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(B) payment of administrative expenses, as defined by the Secretary, from non-Federal resources, including funds from a grant made under section 106(b) or section 106(d) of the Housing and Community Development Act of 1974;

(C) the value of taxes, fees, or other charges that are normally and customarily imposed but are waived, foregone, or deferred in a manner that facilitates the implementation of a homeownership program assisted under this subtitle;

(D) the value of investment in on-site and off-site infrastructure required for a homeownership program assisted under this subtitle; or

(E) such other in-kind contributions as the Secretary may approve.

Contributions for administrative expenses shall be recognized only up to an amount equal to 7 percent of the total amount of grants made available under this section.

(d) **APPLICATION.**—(1) An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) The Secretary shall require that an application contain at a minimum—

(A) a certification by the public official responsible for submitting the comprehensive

housing affordability strategy under section 105 of the National Affordable Housing Act that (i) the proposed activities are consistent with the approved housing strategy of the State or unit of general local government within which the project is located and (ii) the matching fund required under subsection (c) shall be provided;

(B) a request for an implementation grant, specifying the amount of the grant requested;

(C) where section 8 assistance is to be used, (i) a certification from the applicant that it has entered into an agreement with a public housing agency under which the agency has agreed to apply for and administer any necessary section 8 assistance for use under the homeownership program; or (ii) an application from a public housing agency for assistance under section 9 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(D) a description of the qualifications and experience of the applicant in providing lower income housing; and where the applicant is a private nonprofit organization, a statement from the State or unit of general local government endorsing the application;

(E) a description of the proposed homeownership program, consistent with section 422 and the other requirements of this subtitle (i) specifying the activities proposed to be carried out and their estimated costs (including an estimated range of acquisition and rehabilitation costs), (ii) identifying the area proposed to be served, (iii) demonstrating the financial affordability of the program, and (iv) identifying the schedule for carrying out the proposed program;

(F) where properties are occupied by tenants, a workable plan for giving all tenants an opportunity to become owners, which plan shall identify—

(i) the price at which the applicant intends to transfer ownership interest in or shares representing, the unit or units in the project;

(ii) the factors that will influence the setting of such price;

(iii) how such price compares to the estimated appraised value of the ownership interests or shares;

(iv) the underwriting standard the applicant plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

(v) the financing arrangements the tenants are expected to pursue or be provided; and

(vi) a workable schedule of sale (subject to the limitations of section 414(m)) based on estimated tenant incomes;

(G) a description of the types of properties to be covered by the homeownership program (identifying the current owners, in the case of eligible property as defined in sections 424(3) (A) and (B), and demonstrating that it appears feasible to acquire eligible property from the owners), and a description of the composition of potential eligible families, including family size and income;

(H) a description of the resources that are expected to be made available to provide the matching funding required under subsection (c);

(I) identification and description of the financing proposed;

(J) a plan for—

(i) identifying and selecting eligible families to participate in the homeownership program;

(ii) providing relocation assistance to families who elect to move; and

(iii) assuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this subtitle, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant and the quality of any related ongoing program of the applicant;

(2) the quality and viability of the proposed homeownership program;

(3) the extent to which suitable eligible property is available for use under the program in the area to be served, and the extent to which the types of property expected to be covered by the proposed homeownership program are federally owned; and

(4) whether the approved comprehensive housing affordability strategy for the jurisdiction within which the eligible property is located includes the proposed homeownership program as one of the general priorities identified pursuant to section 105(b)(7) of the National Affordable Housing Act.

SEC. 433. OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.

(a) **HOMEOWNERSHIP PROGRAM.**—A homeownership program under this subtitle shall provide for—

(1) the recipient to acquire the eligible property and to reimburse the seller;

(2) the eligible family to acquire an ownership interest in, or shares representing, the unit from the recipient only if the unit meets housing standards established by the Secretary;

(3) the eligible family to make payments towards the costs of homeownership in accordance with the affordability standards set forth in the homeownership program;

(4) the eligible family to make or cause to be made repairs and improvements required to (A) correct all defects that pose a substantial danger to health and safety within one year, (B) make such repairs and improvements to the property as may be necessary to meet housing standards established by the Secretary within three years, and (C) permit reasonable periodic inspections at reasonable times by the unit of general local government or the recipient; and

(5) the recipient to convey fee simple title to, or shares representing, the unit, upon compliance by the family with the requirements of paragraph (4) and any other requirements specified by the Secretary.

(b) **PREFERENCES.**—In selecting eligible families for homeownership, the recipient shall give a first preference to otherwise qualified current tenants and a second preference to otherwise qualified eligible families who participate in the project independence program under section 14(j) of the United States Housing Act of 1937 or another economic self-sufficiency program specified by the Secretary.

(c) **COST LIMITATIONS.**—The Secretary may establish cost limitations on eligible activities under this subtitle.

(d) **REALE BY HOMEOWNERS.**—(1) A homeowner under a homeownership program may transfer the homeowner's interest in, or shares representing, the unit only (A) to low-income families; and (B) at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return on investment (subject to paragraph (2)), including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.

(2) If the sale to the first eligible family is for less than market value, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for—

(A) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

(B) limiting the family's consideration for its interest in the property to the total of—

(i) the contribution to equity paid by the family;

(ii) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

(iii) the appreciated value determined by an inflation allowance at a rate which may be based on a cost of living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to equity, such equity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed;

(C) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the recipient or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

(D) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit.

(3) Upon sale, the entity that transferred ownership interests in, or shares representing, unit to eligible families, or another entity specified in the approved application, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

(4) In the case of multifamily projects, 50 percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to paragraph (3) shall be paid to the recipient, for use by the recipient for eligible activities under this subtitle. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under this subtitle, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subtitle.

(e) **PROTECTION OF NONPURCHASING FAMILIES.**—(1) No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this subtitle. If the tenant decides not to

purchase a unit, or is not qualified to do so, the Secretary shall, subject to the availability of appropriations, ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant (who meets the eligibility requirements under such section).

(2) The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

SEC. 434. EXCEPTION TO SECTION 8 PREFERENCE.

The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) shall not apply to the provision of assistance to a family residing in a dwelling unit in an eligible property on the date the Secretary approves an application for an implementation grant.

SEC. 435. DEFINITIONS.

For purposes of this title—

(1) The term "applicant" means (A) a private nonprofit organization, or (B) a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term "eligible family" means a family or individual who is a lower income family and who does not currently own a home.

(3) The term "eligible property" means (A) a single family property, containing no more than four units, owned by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government, or a public housing agency (including an Indian housing authority), (B) a multifamily property, containing five or more units, that is owned by any public entity specified in subparagraph (A), other than by the Secretary or a public housing agency, or (C) manufactured housing owned by the Secretary.

(4) The term "homeownership program" means a program providing for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "low income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this title.

(9) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 436. IMPLEMENTATION.

Not later than 120 days after the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice

before the expiration of the 8-month period following the date of the notice.

TITLE V—AFFORDABLE RENTAL HOUSING

Subtitle A—Preservation of Affordable Rental Housing

SEC. 501. MANAGEMENT AND PRESERVATION OF FEDERALLY ASSISTED HOUSING.

(a) **SECTION 236.**—Section 236(f) of the National Housing Act is amended by adding the following new paragraph after paragraph (4):

"(5)(A) Notwithstanding paragraph (1), tenants whose incomes exceed 80 percent of area median income shall pay as rent the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located.

"(B) An owner shall phase in any increase in rents for current tenants resulting from subparagraph (A). Rental charges collected in excess of the basic rental charges shall continue to be credited to the reserve fund described in subsection (g)(1)."

(b) **SECTION 221.**—Section 221 of the National Housing Act is amended by inserting the following after subsection (k):

"(1)(1) Notwithstanding any other provision of law, tenants residing in eligible multifamily housing whose incomes exceed 80 percent of area median income shall pay as rent not more than the lower of the following amounts: (A) 30 percent of the family's adjusted monthly income; or (B) the relevant fair market rental established under section 8(b) of the United States Housing Act of 1937 for the jurisdiction in which the housing is located. An owner shall phase in any increase in rents for current tenants resulting from this subsection.

"(2) For purposes of this subsection, the term 'eligible multifamily housing' means any housing financed by a loan or mortgage that is (A) insured or held by the Secretary under subsection (d)(3) and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937; or (B) insured or held by the Secretary and bears interest at a rate determined under the proviso of subsection (d)(5)."

SEC. 502. FLEXIBLE SUBSIDY PROGRAM.

(a) **EXTENSION.**—Section 236(f)(3) of the National Housing Act is amended by striking "September 30, 1991" and inserting "September 30, 1993".

(b) **AUTHORIZATION.**—Section 201(j) of the National Housing Act is amended by adding at the end the following paragraph:

"(5) There are authorized to be appropriated for assistance under the flexible subsidy Fund not to exceed \$50,000,000 for fiscal year 1991, \$52,000,000 for fiscal year 1992, and \$54,080,000 for fiscal year 1993."

SEC. 503. PRESERVATION OF LOW-INCOME HOUSING AND RESIDENT HOMEOWNERSHIP.

(a) **IN GENERAL.**—Subtitles A and B of the Emergency Low Income Housing Preservation Act of 1987 are amended to read as follows:

"TITLE II—PRESERVATION OF LOW-INCOME HOUSING AND RESIDENT HOMEOWNERSHIP

"Subtitle A—Short Title

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Low-Income Housing Preservation and Resident Homeownership Act of 1990'.

"Subtitle B—Prepayment of Mortgages Insured Under the National Housing Act and Resident Homeownership

"SEC. 221. GENERAL PREPAYMENT LIMITATION.

"An owner of eligible low-income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary under this subtitle. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act ('voluntary termination') only in accordance with a plan of action approved by the Secretary under this subtitle. A mortgagee may not foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project without the approval of the Secretary.

"SEC. 222. NOTICE OF INTENT.

"(a) **FILING WITH THE SECRETARY.**—An owner of eligible low-income housing that intends to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 224 or seeks to extend the low-income affordability restrictions of the housing in accordance with section 225, or transfer the housing to a qualified purchaser in accordance with section 226, shall file with the Secretary a notice indicating this intent in such form and manner as the Secretary shall prescribe. An owner shall not be eligible to file a notice of intent under this subsection if—

"(1) the mortgage covering the housing falls into default on or after the effective date of the National Affordable Housing Act; or

"(2)(A) the mortgage covering the housing fell into default before, but is current as of, that date; and

"(B) the owner does not agree to recompense, in such amount as the Secretary may determine, the appropriate Insurance Fund for any losses sustained by the Fund as a result of any work-out or other arrangement agreed to by the Secretary and the owner with respect to the defaulted mortgage.

"(b) **FILING WITH THE STATE OR LOCAL GOVERNMENT; COPY TO TENANTS.**—The owner shall simultaneously file the notice of intent with the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located, and advise the tenants of the housing.

"SEC. 223. INFORMATION FROM THE SECRETARY: PLAN OF ACTION.

"(a) INFORMATION FROM THE SECRETARY.—

"(1) **TO OWNER.**—Within 6 months of receipt of a notice of intent under section 222 the Secretary shall provide the owner with such information as the owner needs to prepare a plan of action. In the case of an owner seeking to terminate the low-income affordability restrictions of the housing, this information shall include a description of the criteria specified under section 224 and the documentation required to satisfy such criteria. In the case of an owner seeking to extend the low-income affordability restrictions of the housing or transfer the housing to a qualified purchaser, this information shall include (A) notice of the housing's preservation value as calculated in accordance with section 228; and (B) a description of the Federal incentives authorized under sections 225 and 226 of this title.

"(2) **TO TENANTS.**—The Secretary shall make the information referred to in paragraph (1), as well as other information relat-

ed to the rights and opportunities of the tenants, available to the tenants of the housing.

"(b) SUBMISSION OF PLAN OF ACTION.—

"(1) **TIME FOR SUBMISSION.**—Within 6 months of receipt of the information from the Secretary under subsection (a), the owner may submit the plan of action to the Secretary in such form and manner as the Secretary shall prescribe.

"(2) **COPIES OF PLAN.**—If the owner submits a plan to the Secretary under paragraph (1), the owner shall also submit a copy to the tenants of the housing. The owner shall simultaneously submit the plan of action to the office of the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located. An appropriate agency of such State or local government shall review the plan and advise the tenants of the housing of any programs that are available to assist the tenants in carrying out the purposes of this title.

"(3) **FAILURE TO SUBMIT A PLAN.**—If the owner does not submit a plan of action to the Secretary within the 6-month period referred to in paragraph (1) (or such longer period as the Secretary determines to be appropriate where the owner seeks to transfer the housing to a qualified purchaser), the notice of intent shall be null and void and the owner may not submit another notice of intent under section 222 for 6 additional months.

"(c) **CONTENTS.**—(1) If the notice of intent seeks to terminate the low-income affordability restrictions through prepayment or voluntary termination in accordance with section 224, the plan of action shall include—

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of any proposed changes in the low-income affordability restrictions;

"(C) a description of any change in ownership that is related to prepayment or voluntary termination;

"(D) an assessment of the effect of the proposed changes on existing tenants;

"(E) an analysis of the effect of the proposed changes on the supply of housing affordable to low and very low-income families or persons in the community within which the housing is located and in the area that the housing could reasonably be expected to serve; and

"(F) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(2) If the notice of intent seeks to extend the low-income affordability restrictions of the housing in accordance with section 225 or transfer the housing to a qualified purchaser in accordance with section 226, the plan of action shall include—

"(A) a description of any proposed changes in the status or terms of the mortgage or regulatory agreement;

"(B) a description of the Federal incentives requested including cash flow projections, and analyses of how the owner will address any physical or financial deficiencies and maintain the low-income affordability restrictions of the housing;

"(C) a description of any assistance that could be provided by State or local government agencies, as determined by prior consultation between the owner and the agencies; or

"(D) any other information that the Secretary determines is necessary to achieve the purposes of this title.

"(d) **REVISIONS.**—The owner may from time to time revise and amend the plan of action as may be necessary to obtain approval of the plan under this subtitle. The owner shall submit any revision to the Secretary and to the tenants of the housing.

"SEC. 224. PREPAYMENT AND VOLUNTARY TERMINATION.

"The Secretary may approve a plan of action that seeks termination of the low-income affordability restrictions through prepayment or voluntary termination only upon a written finding that—

"(1) implementation of the plan of action will not materially increase economic hardship for current tenants (and will not in any event result in (A) a monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (B) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that exceeds the increase in the Consumer Price Index or 10 percent (whichever is lower)) or involuntarily displace current tenants (except for good cause) where comparable and affordable housing is not readily available determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement; and

"(2) the supply of vacant, comparable housing is sufficient to ensure that such prepayment will not materially affect—

"(A) the availability of decent, safe, and sanitary housing affordable to low-income and very low-income families or persons in the area that the housing could reasonably be expected to serve;

"(B) the ability of low-income and very low-income families or persons to find affordable, decent, safe, and sanitary housing near employment opportunities; or

"(C) the housing opportunities of minorities in the community within which the housing is located.

"SEC. 225. INCENTIVES TO EXTEND LOW-INCOME USE.

"(a) **AGREEMENTS BY SECRETARY.**—After receiving a plan of action from an owner of eligible low-income housing that includes the owner's plan to extend the low-income affordability restrictions of the housing, the Secretary shall, subject to the availability of appropriations for such purpose, enter into such agreements as are necessary to satisfy the criteria for approval under section 227.

"(b) **PERMISSIBLE INCENTIVES.**—Such agreements may include one or more of the following incentives that the Secretary, after taking into account local market conditions, determines to be necessary to provide an annual return equal to 8 percent of the owner's equity in the housing (the preservation value established under section 228 minus the outstanding balance on the HUD-assisted mortgage):

"(1) Increased access to residual receipts accounts.

"(2) Subject to the availability of amounts provided in appropriations Acts—

"(A) an increase in the rents permitted under an existing contract under section 8 of the United States Housing Act of 1937, or

"(B) additional assistance under section 8 or an extension of any project-based assistance attached to the housing.

"(3) An increase in the rents on units occupied by current tenants as permitted under section 227.

"(4) Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

"(5) Financing of capital improvements through provision of insurance for a second mortgage under section 241 of the National Housing Act.

"(6) In the case of housing defined in section 233(a)(A)(iii), redirection of the Interest Reduction Payment subsidies to a second mortgage.

"(7) Other incentives authorized in law.

"(c) **WINDFALL PROFITS.**—The Secretary shall provide a report to the Congress within 90 days of the enactment of the National Affordable Housing Act, evaluating the availability, quality, and reliability of data to measure the accessibility of decent, affordable housing in all areas where properties are eligible to submit a notice of intent to prepay under section 222. To prevent payment of windfall profits, the Secretary may make available incentive payments only to owners in those rental markets where there is an adequate supply of decent, affordable housing, if the Secretary determines that adequate data can be obtained to permit objective and fair implementation.

"SEC. 226. INCENTIVES TO TRANSFER THE HOUSING TO QUALIFIED PURCHASERS.

"(a) **IN GENERAL.**—Where the notice of intent submitted by the owner under section 222 indicates an intention to transfer the housing to a qualified purchaser, the owner shall, prior to offering to sell the housing to any qualified purchaser, give priority purchasers a right of first offer to purchase the housing in accordance with subsection (b).

"(b) **RIGHT OF FIRST OFFER.**—(1) For the 3-month period following receipt of a notice of intent submitted by an owner under section 222, priority purchasers shall have an opportunity to give a written notice to the owner and the Secretary stating their interest in acquiring the housing ('expression of interest'). Such written notice shall be in such form and include such information as the Secretary may prescribe.

"(2) Within 30 days of receipt of an expression of interest by a priority purchaser, the Secretary shall provide such purchaser with information on the assistance available from the Federal Government to facilitate a transfer and the owner shall provide appropriate information on the housing, to be determined by the Secretary. Priority purchasers shall have 9 months from the date of receipt of such information to negotiate a purchase with the owner and submit (with the owner) a plan of action requesting assistance under subsection (d).

"(c) **OFFERS TO PURCHASE.**—In the event that (1) no priority purchasers submit a timely expression of interest in acquiring the housing as provided in subsection (b); or (2) the owner is unable to reach agreement on the terms of a sale with any priority purchaser after the 9-month negotiation period has expired, the owner shall be free to offer to sell the housing to any other qualified purchaser.

"(d) **ASSISTANCE.**—(1) The Secretary shall approve a plan of action requesting assistance submitted by an owner and a qualified purchaser only if residents of the housing who comprise at least 50 percent of the units in the housing support such transfer. Where the qualified purchaser is a resident council, the Secretary shall, prior to approval, find that the council's proposed resident homeownership program meets the requirements specified in section 230. For all other qualified purchasers, the Secretary shall,

prior to approval, find that the criteria of approval specified in section 227 have been satisfied.

"(2) The Secretary shall, for approvable plans of action, provide assistance sufficient to enable qualified purchasers to (A) acquire the eligible low-income housing from the current owner for a purchase price equal to the preservation value of the housing; (B) rehabilitate the housing up to housing standards established for this subtitle; and (C) establish adequate operating and replacement reserves. In the case of an approved resident homeownership program, the Secretary shall also provide assistance to cover the costs of training for the resident council, homeownership counseling and training, the fees for the nonprofit entity or public agency working with the resident council and costs related to relocation of tenants who elect to move.

"(3)(A) Where the qualified purchaser is a priority purchaser, the Secretary may provide assistance (in the form of a grant) for each unit in the housing in an amount, as determined by the Secretary, that is no greater than the present value of the total of the projected published fair market rents for existing housing established by the Secretary under section 8(c) of the United States Housing Act of 1937 for the next 10 years (or such longer period if additional assistance is necessary to cover the costs referenced under paragraph (2)).

"(B) For all qualified purchasers, the Secretary may provide assistance for an approved application in the form of one or more of the incentives authorized under section 225(b). The Secretary may also provide insurance for a second mortgage under subsections (d) and (f) of section 241 of the National Housing Act for purposes of acquisition and rehabilitation.

"(5)(A) For purposes of this title, the term 'priority purchaser' means (i) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 228; and (ii) qualified nonprofit organizations dedicated to the promotion of affordable housing and State and local agencies that agree to maintain low-income affordability restrictions for the remaining useful life of the housing.

"(B) The term 'qualified purchaser' includes priority purchasers and for-profit entities that agree to maintain low-income affordability restrictions for the remaining useful life of the housing.

"SEC. 227. CRITERIA FOR APPROVAL OF PLAN OF ACTION INVOLVING INCENTIVES.

"(a) **IN GENERAL.**—The Secretary may approve a plan of action that describes the owner's plan to extend the low-income affordability restrictions of the housing or transfer the housing to a qualified purchaser (other than a resident council) only upon finding that—

"(1) due diligence has been given to ensuring that the package of incentives is, for the Federal Government, the least costly alternative that is consistent with the full achievement of the purposes of this title;

"(2) binding commitments have been made to ensure that—

"(A) the housing will be retained as housing affordable for very low-income families or persons, low income families or persons, and moderate-income families or persons for the remaining useful life of such housing;

"(B) throughout such period, adequate expenditures will be made for maintenance and operation of the housing;

"(C) current tenants will not be involuntarily displaced (except for good cause);

"(D) any increase in rent contributions for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenant or the published existing fair market rent for comparable housing established under section 8(c) of the United States Housing Act of 1937, whichever is lower (current tenants shall not qualify for a reduction in rent contributions by reason of this subparagraph);

"(E)(i) any resulting increase in rents for current tenants (except for increases made necessary by increased operating costs)—

"(I) shall be phased in equally over a period of not less than 3 years, if such increase is 30 percent or more; and

"(II) shall be limited to not more than 10 percent per year if such increase is more than 10 percent but less than 30 percent; and

"(ii) assistance under section 8 of the United States Housing Act of 1937 shall be provided if necessary to mitigate any adverse effect on current income-eligible tenants; and

"(F)(i) rents for units becoming available to new tenants shall be at levels approved by the Secretary that will ensure, to the extent practicable, that the units will be available and affordable to the same proportions of very low-income families or persons, low income families or persons, and moderate income families or persons (including families or persons whose incomes are 95 percent or more of area median income) as resided in the housing as of January 1, 1987 (based on the area median income limits established by the Secretary in February, 1987), or the date the plan of action is approved, whichever date results in the highest proportion of very low-income families, except that this limitation shall not prohibit a higher proportion of very low-income families from occupying the housing; and

"(ii) in approving rents under this paragraph, the Secretary shall take into account any additional incentives provided under this subtitle and shall make provision for such annual rent adjustments as may be made necessary by future reasonable increases in operating costs; and

"(3) no incentives under sections 225 and 226 will go into effect until the Secretary determines the project meets housing standards established by the Secretary, except that incentives under such sections and other incentives designed to correct deficiencies in the project may be provided.

"(b) **SECTION 8 RENTAL ASSISTANCE.**—When providing rental assistance under section 8, the Secretary may enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for rental assistance as provided in appropriations Acts, to extend the term of such rental assistance for such additional period or periods as is necessary to carry out an approved plan of action. The contract and the approved plan of action shall provide that, if the Secretary is unable to extend the term of such rental assistance or is unable to develop a revised package of incentives providing benefits to the owner comparable to those received under the original approved plan of action, the Secretary, upon the request of the owner, shall take the following actions (subject to the limitations under the following paragraphs):

"(1) Modify the binding commitments made pursuant to subsection (a) that are dependent on such rental assistance.

"(2) Terminate the plan of action and any implementing use agreements or restrictions, but only if the owner agrees in writing to take the actions specified in the plan to ensure that any tenants displaced are relocated to affordable housing.

At least 30 days before making a request under the preceding sentence, an owner shall notify the Secretary of the owner's intention to submit the request. The Secretary shall have a period of 90 days following receipt of such notice to take action to extend the rental assistance contract and to continue the binding commitments under subsection (a).

"(c) **RELOCATION OF DISPLACED TENANTS.**—Any plan of action that includes incentives shall specify actions that the Secretary and the owner shall take to ensure that any tenants displaced as a result of modifications taken pursuant to subsection (b) are relocated to affordable housing.

"(d) **AFFORDABILITY.**—Agreements to maintain the low-income affordability restrictions for the remaining useful life of the housing may be made through execution of a new regulatory agreement, modifications to the existing regulatory agreement or mortgage, or, in the case of the prepayment of a mortgage or voluntary termination of mortgage insurance, a recorded instrument.

"SEC. 228. PRESERVATION VALUE.

"(a) **IN GENERAL.**—The preservation value of eligible low-income housing under this subtitle shall be an amount equal to the fair market value of the housing as multifamily rental housing, as calculated in accordance with subsection (b).

"(b) **FAIR MARKET VALUE DETERMINATION.**—(1) The fair market value of the housing shall be determined by two independent appraisers, one of whom shall be selected by the Secretary and one of whom shall be selected by the owner. If the two appraisers fail to agree on the fair market value, the Secretary and the owner shall jointly select a third appraiser, whose appraisal shall be binding on the parties.

"(2) The Secretary shall provide written guidelines for appraisals of fair market value under this section, which shall assume repayment of the existing HUD-assisted mortgage, termination of the existing low-income affordability restrictions and conversion to market rate, multifamily rental housing. Such guidelines shall establish methods for (A) determining rehabilitation expenditures that would be necessary to bring the housing up to quality standards required to attract and sustain a market rate tenancy upon conversion and (B) assessing other costs that the owner could reasonably be expected to incur if the owner converted the property to market rate, multifamily rental housing. The guidelines may permit reliance upon assessments of rehabilitation needs and other conversion costs determined by an appropriate State agency, as determined by the Secretary. The value of the property calculated in accordance with the guidelines shall be discounted by such percentage as the Secretary determines to be an appropriate adjustment to reflect the residual value of the prior Federal assistance in the development, operation and maintenance of the housing.

"(3) The Secretary may approve a plan of action under section 225 or section 226 only based upon an appraisal conducted in accordance with this section that is not more than one year old.

"SEC. 229. TIMETABLE FOR APPROVAL OF PLAN OF ACTION.

"(a) **NOTIFICATION OF DEFICIENCIES.**—Not later than 60 days after receipt of a plan of action, the Secretary shall notify the owner in writing of any deficiencies that prevent the plan of action from being approved. If deficiencies are found, such notice shall describe alternative ways in which the plan could be revised to meet the criteria for approval.

"(b) **NOTIFICATION OF APPROVAL.**—

"(1) **IN GENERAL.**—Not later than 180 days after receipt of a plan of action, or such longer period as the owner requests, the Secretary shall notify the owner in writing whether the plan of action, including any revisions, is approved. If approval is withheld, the notice shall describe—

"(A) the reasons for withholding approval; and

"(B) the actions that could be taken to meet the criteria for approval.

"(2) **OPPORTUNITY TO REVISE.**—The Secretary shall subsequently give the owner a reasonable opportunity to revise the plan of action and seek approval.

"SEC. 230. RESIDENT HOMEOWNERSHIP PROGRAM.

"(a) **FORMATION OF RESIDENT COUNCIL.**—Tenants seeking to purchase eligible low-income housing in accordance with section 226 shall organize a resident council for the purpose of developing a resident homeownership program in accordance with standards established by the Secretary. The resident council shall work with a public or private nonprofit organization or a public body (including an agency or instrumentality thereof). Such organization or public body shall have experience that will enable it to help the tenants consider their options and to develop the capacity necessary to own and manage the housing, where appropriate, and shall be approved by the Secretary.

"(b) **OTHER PROGRAM REQUIREMENTS AND LIMITATIONS.**—

"(1) **SALES TO RESIDENTS.**—As a condition of approval of a homeownership program under this subtitle, the resident council shall prepare a workable plan acceptable to the Secretary for giving all residents an opportunity to become owners, which plan shall identify—

"(A) the price at which the resident council intends to transfer ownership interests in, or shares representing, units in the housing;

"(B) the factors that will influence the setting of such price;

"(C) how such price compares to the estimated appraised value of the ownership interests or shares;

"(D) the underwriting standard the resident council plans to use (or reasonably expects a public or private lender to use) for potential tenant purchasers;

"(E) the financing arrangements the tenants are expected to pursue or be provided; and

"(F) a workable schedule of sale (subject to the limitations of paragraph (8)) based on estimated tenant incomes.

"(2) **APPROVAL OF METHOD OF CONVERSION.**—The Secretary shall approve the method for converting the housing to homeownership, which may involve acquisition of ownership interests in, or shares representing, the units in a project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership).

"(3) **REQUIRED CONDITIONS.**—The Secretary shall require that the form of homeownership impose appropriate conditions, including conditions to assure that—

"(A) the number of initial owners that are very low-income, lower income, or moderate-income persons at initial occupancy meet standards required or approved by the Secretary;

"(B) occupancy charges payable by the owners meet requirements established by the Secretary;

"(C) the aggregate incomes of initial and subsequent owners and other sources of funds for the project are sufficient to permit occupancy charges to cover the full operating costs of the housing and any debt service; and

"(D) each initial owner occupies the unit it acquires.

"(4) **USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.**—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project; and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under section 226, subject to limitations contained in appropriations Acts.

Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(5) **RESTRICTIONS ON RESALE BY HOMEOWNERS.**—(A) A homeowner under a homeownership program may transfer the homeowner's interest in, or shares representing, the unit only (i) to low-income families; and (ii) at a price consistent with guidelines established by the Secretary that are designed to provide the owner with a fair return on investment (subject to paragraph (2)), including any improvements, and to ensure that the housing will remain affordable to a reasonable range of low-income homebuyers.

"(B) If the sale to the first eligible family is for less than market value, the homeownership program shall provide for appropriate restrictions to assure that an eligible family may not receive any undue profit. The plan shall provide for—

"(i) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 10-year period;

"(ii) limiting the family's consideration for its interest in the property to the total of—

"(I) the contribution to equity paid by the family;

"(II) the value, as determined by such means as the Secretary shall determine through regulation, of any improvements installed at the expense of the family during the family's tenure as owner; and

"(III) the appreciated value determined by an inflation allowance at a rate which may be based on a cost-of-living index, an income index, or market index as determined by the Secretary through regulation and agreed to by the purchaser and the entity that transfers ownership interests in, or shares representing, units to eligible families (or another entity specified in the approved application), at the time of initial sale, and applied against the contribution to

equity; such entity may, at the time of initial sale, enter into an agreement with the family to set a maximum amount which this appreciation may not exceed;

"(iii) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the recipient or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

"(iv) any other appropriate arrangement that the Secretary determines is adequate to prevent undue profit for at least 10 years.

"(C) Upon sale, the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall ensure that subsequent owners are bound by the same limitations on resale and further restrictions on equity appreciation.

"(D) Fifty percent of any portion of the net sales proceeds that may not be retained by the homeowner under the plan approved pursuant to subparagraph (B) shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project; and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under section 226, subject to limitations contained in appropriations Acts. Such entity shall keep and make available to the Secretary all records necessary to calculate accurately payments due the Secretary under this subsection.

"(6) PROTECTION OF NONPURCHASING FAMILIES.—(A) No tenant residing in a dwelling unit in a property on the date the Secretary approves a plan of action may be evicted by reason of a homeownership program approved under this subtitle.

"(B) If a tenant decides not to purchase a unit, or is not qualified to do so, the Secretary shall ensure that rental assistance under section 8 is available for use by each otherwise qualified tenant (that meets the eligibility requirements under such section) in that or another property. The requirement for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) of the United States Housing Act of 1937 shall not apply to the provision of assistance to such families.

"(C) The resident council shall also inform each such tenant that if the tenant chooses to move, the owner will pay relocation assistance in accordance with the approved homeownership program.

"(7) QUALIFIED MANAGEMENT.—As a condition of approval of a homeownership program under this subtitle, the resident council shall have demonstrated its abilities to manage eligible properties by having done so effectively and efficiently for a period of not less than 3 years or by entering into a contract with a qualified management entity that meets such standards as the Secretary may prescribe to ensure that the property will be maintained in a decent, safe, and sanitary condition.

"(8) TIMELY HOMEOWNERSHIP.—Resident councils shall transfer ownership of the property to tenants within a specified period of time that the Secretary determines to be reasonable. During the interim

period when the property continues to be operated and managed as rental housing, the resident council shall utilize written tenant selection policies and criteria that are approved by the Secretary as consistent with the purpose of providing housing for very low-income families. The resident council shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(9) RECORDS AND AUDIT OF RESIDENT COUNCILS.—(A) Each resident council shall keep such records as may be reasonably necessary to fully disclose the amount and the disposition by such resident council of the proceeds of assistance received under this subtitle (including any proceeds from sales under paragraphs (4) and (5)(D)), the total cost of the homeownership program in connection with which such assistance is given or used, and the amount and nature of that portion of the program supplied by other sources, and such other sources as will facilitate an effective audit.

"(B) The Secretary shall have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(C) The Comptroller General of the United States, or any of the duly authorized representatives of the Comptroller General, shall also have access for the purpose of audit and examination to any books, documents, papers, and records of the resident council that are pertinent to assistance received under this subtitle.

"(10) Any entity that assumes, as determined by the Secretary, a mortgage covering low-income housing in connection with the acquisition of the housing from an owner under this section must comply with any low-income affordability restrictions for the remaining useful life of the housing. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

"SEC. 231. DELEGATED RESPONSIBILITY TO STATE AGENCIES.

"(a) IN GENERAL.—The Secretary shall delegate responsibility for implementing this subtitle to a State housing agency if such agency submits a preservation plan acceptable to the Secretary.

"(b) APPROVAL.—State preservation plans shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. The Secretary may approve plans that contain—

"(1) an inventory of low-income housing located within the State that is or will be eligible low-income housing under this subtitle within 5 years;

"(2) a description of the agency's experience in the area of multifamily financing and restructuring;

"(3) a description of the administrative resources that the agency will commit to the processing of plans of action in accordance with this title;

"(4) a description of the administrative resources that the agency will commit to the monitoring of approved plans of action in accordance with this subtitle;

"(5) an independent analysis of the performance of the multifamily housing inventory financed or otherwise monitored by the agency;

"(6) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable

Housing Act that the proposed activities are consistent with the approved housing strategy of the State within which the eligible low-income housing is located; and

"(7) such other certifications or information that the Secretary determines to be necessary or appropriate to achieve the purposes of this subtitle.

"(c) IMPLEMENTATION AGREEMENTS.—The Secretary may enter into such agreements as are necessary to implement an approved State preservation plan, which agreements may include incentives that are authorized in other provisions of this subtitle.

"SEC. 232. CONSULTATIONS WITH OTHER INTERESTED PARTIES.

"The Secretary shall confer with any appropriate State or local government agency to confirm any State or local assistance that is available to achieve the purposes of this title and shall give consideration to the views of any such agency when making determinations under this subtitle. The Secretary shall also confer with appropriate interested parties that the Secretary believes could assist in the development of a plan of action that best achieves the purposes of this subtitle.

"SEC. 233. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'eligible low-income housing' means any housing financed by a loan or mortgage—

"(A) that is—

"(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

"(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

"(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

"(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

"(B) that, under regulation or contract in effect before February 5, 1988, is or will within 18 months become eligible for prepayment without prior approval of the Secretary.

"(2) The term 'low-income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

"(3) The terms 'low income families or persons' and 'very low-income families or persons' mean families or persons whose incomes do not exceed the respective levels established for low income families and very low-income families, respectively, under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'moderate-income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(5) The term 'owner' means the current or subsequent owner or owners of eligible low-income housing.

"(6) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(7) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the resident of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the housing.

"SEC. 234. NOTICE TO TENANTS.

"Where a provision of this subtitle requires that information or material be given to tenants of the housing, the requirement may be met by (a) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (b) supplying a copy of the information or material to a representative of the tenants.

"SEC. 235. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for assistance and incentives authorized under this subtitle \$412,500,000 for fiscal year 1991, \$858,000,000 for fiscal year 1992, and \$892,320,000 for fiscal year 1993.

"SEC. 236. APPLICABILITY.

"The requirements of this subtitle shall apply to any project that is eligible low-income housing on or after November 1, 1987."

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking the items relating to subtitles A and B of title II and inserting the following:

"Subtitle A—Short Title

"Sec. 201. Short title.

"Subtitle B—Prepayment of Mortgages Insured Under the National Housing Act and Resident Homeownership

"Sec. 221. General prepayment limitation.

"Sec. 222. Notice of intent.

"Sec. 223. Information from the Secretary; plan of action.

"Sec. 224. Prepayment and voluntary termination.

"Sec. 225. Incentives to extend low-income use.

"Sec. 226. Incentives to transfer the housing to qualified purchasers.

"Sec. 227. Criteria for approval of plan of action involving incentives.

"Sec. 228. Preservation value.

"Sec. 229. Timetable for approval of plan of action.

"Sec. 230. Resident homeownership program.

"Sec. 231. Delegated responsibility to State agencies.

"Sec. 232. Consultations with other interested parties.

"Sec. 233. Definitions.

"Sec. 234. Notice to tenants.

"Sec. 235. Authorization of appropriations.

"Sec. 236. Applicability."

SEC. 504. RELATED NATIONAL HOUSING ACT AMENDMENTS.

(a) CONFORMING AMENDMENTS.—Section 241(f) of the National Housing Act is amended by—

(1) in paragraph (1), striking out "section 233 of the Emergency Low Income Housing Preservation Act of 1987" and inserting in lieu thereof "section 232 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990";

(2) in paragraph (2)(A), striking out "value" and all that follows through the second comma and inserting in lieu thereof

"preservation value determined by the Secretary under section 228 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990"; and

(3) in paragraph (2)(A), striking out "section 225(b) of the Emergency Low Income Housing Preservation Act of 1987" and inserting in lieu thereof "section 227 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990".

(b) APPROVAL PRIOR TO FORECLOSURE.—Section 250(b) of such Act is amended to read as follows:

"(b) A mortgagee may not foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any project to which subsection (a) of this section applies, without the approval of the Secretary."

(c) REPEALER.—Section 250(c) of such Act is hereby repealed, and section 250(d) is redesignated as section 250(c).

SEC. 505. RELATED UNITED STATES HOUSING ACT OF 1937 AMENDMENTS.

Section 8(v)(2) of the United States Housing Act of 1937 is amended by striking out "Emergency Low Income Housing Preservation Act of 1987" and inserting in lieu thereof "Low-Income Housing Preservation and Resident Homeownership Act of 1990".

SEC. 506. EXTENSION OF PRIOR LAW UNTIL EFFECTIVE DATE OF THIS ACT.

Section 203 of the Emergency Low Income Housing Preservation Act of 1987 is hereby repealed. This section shall take effect upon enactment of this Act.

SEC. 507. TRANSITION.

Any owner of eligible low-income housing covered by the Emergency Low Income Housing Preservation Act of 1987 shall instead be subject to the Low-Income Housing Preservation and Resident Homeownership Act of 1990 unless the owner has (a) submitted a notice of intent under the Emergency Low Income Housing Preservation Act of 1987 before January 1, 1990, and (b) before the effective date of this title—

(1) has received approval from the Secretary of Housing and Urban Development to prepay a mortgage or voluntarily terminate mortgage insurance pursuant to a plan of action approved under section 225(a) of the Emergency Low Income Housing Preservation Act of 1987, and

(2) has (A) executed and recorded a use restriction or regulatory agreement modification under a plan of action approved by the Secretary under section 225(b) of such Act; or (B) entered into a regulatory agreement modification pursuant to section 228 of such Act.

SEC. 508. EFFECTIVE DATE.

The effective date of this title (other than section 506) shall be the effective date of final regulations issued by the Secretary.

Subtitle B—Low-Income Rental Assistance

SEC. 521. SECTION 8 REVISIONS.

(a) DESIGNATION OF CERTIFICATE AND VOUCHER PROGRAMS.—

(1) Section 8(b) of the United States Housing Act of 1937 is amended by striking "(b)(1)" and inserting "(b) RENTAL CERTIFICATES.—"

(2) Section 8(o) of the United States Housing Act of 1937 is amended by inserting "RENTAL VOUCHERS.—" after "(o)".

(b) FAIR MARKET RENT REFINEMENT.—

(1) Section 8(c)(1) of the United States Housing Act of 1937 is amended—

(A) by inserting "(A)" after "(c)(1)";

(B) by paragraphing and inserting "(B)" at the beginning of the fourth sentence;

(C) by paragraphing and inserting "(C)" at the beginning of the sixth sentence;

(D) by paragraphing and inserting "(D)" at the beginning of the seventh sentence; and

(E) by paragraphing and inserting "(E)" at the beginning of the eighth sentence.

(2) Section 8(c)(1)(B) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The Secretary may approve an alternative schedule with more than one fair market rent for an area if a participating jurisdiction or jurisdictions whose boundaries encompass all or part of the area demonstrate to the satisfaction of the Secretary that such alternative fair market rent schedule (i) accurately reflects rent variations among submarkets within the area, and (ii) will (I) improve housing opportunities for disadvantaged minorities and families with special needs, (II) provide very low-income families with better access to employment and education opportunities, or (III) otherwise further the objectives of national housing policy as affirmed by Congress."

(c) TENANT RENT CONTRIBUTIONS UNDER TENANT-BASED CERTIFICATE PROGRAM.—

(1) Section 8(c)(3) of the United States Housing Act of 1937 is amended—

(A) by inserting "(A)" after "(3)" the first time it appears; and

(B) by adding at the end the following new subparagraph:

"(B)(i) A family receiving tenant-based rental assistance under subsection (b)(1) may pay a higher percentage of income than that specified under section 3(a) of this Act if—

"(I) the family notifies the local public housing agency of its interest in a unit renting for an amount which exceeds the permissible maximum monthly rent established for the market area under paragraph (1), and

"(II) such agency determines that the rent for the unit and the rental payments of the family are reasonable, after taking into account other family expenses."

"(ii) A public housing agency shall not approve such excess rentals for more than 10 percent of its annual allocation of incremental rental assistance under subsection (b)(1). A public housing agency that approves such excess rentals for more than 5 percent of its annual allocation shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall describe the public housing agency's reasons for making the exceptions, including any available evidence that the exceptions were made necessary by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary.

"(iii) The Secretary shall, not later than 3 months following the end of each fiscal year, submit a report to Congress that identifies the public housing agencies that have submitted reports for such fiscal year under clause (ii), summarizes and assesses such reports, and includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports."

(2) The second sentence of section 8(c)(1)(A) of the United States Housing Act of 1937 is amended by—

(A) inserting "(i)" after "fair market rental" the second time it appears; and

(B) by striking "a local housing assistance plan" and all that follows through the end of the sentence and inserting in lieu thereof the following: "a housing strategy as defined in section 105 of the National Affordable Housing Act, or (ii) by such higher amount as may be requested by a tenant and approved by the public housing agency in accordance with paragraph (3)(B)."

(d) SPECIAL REVISIONS TO PROJECT-BASED CERTIFICATE PROGRAM.—

(1) TENANT SELECTION.—Section 8(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(D) Where a contract for assistance payments is attached to a structure, the owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income families; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. An owner shall promptly notify in writing any rejected applicant of the grounds for any rejection."

(2) PROJECT-BASING OF CERTIFICATES.—Section 8(d)(2) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(E) The Secretary shall annually survey public housing agencies to determine the extent to which the 15 percent limitations contained in subparagraphs (A) and (B) are exceeded, and shall report to the Congress on the results of such survey."

(3) TERM OF ASSISTANCE.—Section 8(d)(2)(C) of the United States Housing Act of 1937 is amended to read as follows:

"(C) In the case of a contract for assistance payments that is attached to a structure under this paragraph, a public housing agency shall enter into a contract with an owner, contingent upon the future availability of appropriations for the purpose of renewing expiring contracts for assistance payments as provided in appropriations Acts, to extend the term of the underlying contract for assistance payments for such period or periods as the Secretary determines to be appropriate to achieve long-term affordability of the housing. The contract shall obligate the owner to have such extensions of the underlying contract for assistance payments accepted by the owner and the owner's successors in interest."

(4) ENERGY EFFICIENCY STANDARDS.—Section 8(d)(2)(B) of the United States Housing Act of 1937 is amended—

(A) by striking "and" at the end of clause (i);

(B) by striking the period at the end of clause (ii) and inserting "; and"; and

(C) by adding at the end thereof the following:

"(iii) the structure meets the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act."

(e) REVISIONS TO VOUCHER PROGRAM.—

(1) REASONABLENESS OF RENTS.—Section 8(o) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(10)(A) The rent for units assisted under this subsection shall be reasonable in comparison with rents charged for comparable units in the private unassisted market or assisted under section (b)(1). A public housing agency shall, at the request of a family assisted under this subsection, assist such

family in negotiating a reasonable rent with an owner. A public housing agency shall review all rents for units under consideration by families assisted under this subsection (and all rent increases for units under lease by families assisted under this subsection) to determine whether the rent (or rent increase) requested by an owner is reasonable. If a public housing agency determines that the rent (or rent increase) for a unit is not reasonable, the agency may disapprove a lease for such unit."

(2) DOCUMENTATION OF EXCESSIVE RENT BURDENS.—Section 8(o)(9) of the United States Housing Act of 1937 is amended by adding at the end the following new subparagraph:

"(B)(i) A public housing agency shall, at least annually, in a written form satisfactory to the Secretary, obtain information on the percentage of income paid for rent of all families assisted under this subsection. If, during any fiscal year, more than 10 percent of the families assisted under this subsection by a public housing agency pay a higher percentage of income than that specified under section 3(a) of this Act, the local public housing agency shall submit a report to the Secretary not later than 30 days following the end of the fiscal year. The report shall be submitted in such form and in accordance with such procedures as the Secretary shall establish and shall contain the public housing agency's assessment of the reasons for such excessive rent burdens, including any available evidence that the excessive rent burdens were caused by problems with the fair market rent established for the area. The Secretary shall ensure that each report submitted in accordance with this clause is readily available for public inspection for a period of not less than 3 years, beginning not less than 30 days following the date on which the report is submitted to the Secretary."

"(ii) The Secretary shall, not later than 3 months following the end of a fiscal year, submit a report to Congress that—

"(I) identifies the public housing agencies that have submitted reports for such fiscal year under clause (i),

"(II) summarizes and assesses such reports, and

"(III) includes recommendations for such legislative or administrative actions that the Secretary deems appropriate to correct problems identified in such reports."

(3)(A) ADJUSTMENT OF SUBSIDY.—Section 8(o)(2) of the United States Housing Act of 1937 is amended—

(i) by striking "The" after "(2)" and inserting "(A) Except as provided for in subparagraph (B), the"; and

(ii) by adding at the end the following new subparagraph:

"(B) The monthly assistance payment for a family residing in the same unit in which it resided at the time the family received a voucher shall be the amount by which the rent for the dwelling unit (including the amount allowed for utilities in the case of a unit with separate utility metering) exceeds 30 percent of the family's monthly adjusted income: *Provided*, That the rent is equal to or less than the payment standard."

(B) The amendment made by subparagraph (A) shall apply only to vouchers made available in appropriations Acts after the date of enactment of the National Affordable Housing Act.

(f) TENANT PROTECTIONS.—Section 8(d)(1)(B) of the United States Housing Act is amended by—

(1) striking "and" before "(ii)"; and

(2) adding at the end the following new clauses:

"(iii) the lease between the tenant and the owner shall provide that the tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in activity that adversely affects the health, safety, or right to quiet enjoyment of the premises by other tenants, and shall not engage in criminal activity, including drug-related criminal activity, that threatens the health, safety, or right to quiet enjoyment of the premises by other tenants, and that such criminal activity shall be a cause for termination of tenancy; and

"(iv) any termination of tenancy shall be preceded by the owner's provision of written notice to the tenant specifying the grounds for such action."

(g) DISTRIBUTION OF CERTIFICATES.—Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 is amended by adding at the end the following new sentence: "Assistance under section 8(b)(1) of the United States Housing Act of 1937 shall be allocated in a manner that enables participating jurisdictions to carry out, to the maximum extent practicable, comprehensive housing affordability strategies approved in accordance with section 105 of the National Affordable Housing Act. Such jurisdictions shall submit recommendations for allocating assistance under section 8(b)(1) of such Act to the Secretary in accordance with procedures that the Secretary determines to be appropriate to permit allocations of such assistance to be made on the basis of timely and complete information. For purposes of this subparagraph, the term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title III of the National Affordable Housing Act."

(h) RENEWAL OF EXPIRING CONTRACTS.—(1) Section 8 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(w) Not later than 30 days after the beginning of each fiscal year, the Secretary shall publish in the Federal Register a plan for reducing, to the extent feasible, year-to-year fluctuations in the levels of budget authority that will be required over the succeeding 5-year period to renew expiring rental assistance contracts entered into under this section since the enactment of the Housing and Community Development Act of 1974. To the extent necessary to carry out such plan and to the extent approved in appropriations Acts, the Secretary is authorized to enter into annual contributions contracts with terms of less than 60 months."

(2) Section 8(d)(2) of the United States Housing Act of 1937 is amended by inserting after the first sentence the following: "The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date."

(i) DEFINITION OF PARTICIPATING JURISDICTION.—Section 8(f) of the United States Housing Act is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3); and

(3) by adding at the end the following new paragraph:

"(4) the term 'participating jurisdiction' means a State or unit of general local government designated by the Secretary to be a participating jurisdiction under title III of the National Affordable Housing Act; and

"(5) the term 'drug-related criminal activity' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))."

(j) **LOW-INCOME TERM.**—The United States Housing Act of 1937 is amended—

(1) by striking "lower income families" each place it appears and inserting "low income families";

(2) by striking "lower income housing" each place it appears and inserting "low income housing";

(k) **DRUG-RELATED AMENDMENTS.**—Section 8(c)(2)(B) of the United States Housing Act of 1937 is amended by adding at the end the following: "Where the Secretary determines that a project assisted under this section is located in a community where drug-related criminal activity is generally prevalent and the project's operating, maintenance, and capital repair expenses have been substantially increased primarily as a result of the prevalence of such drug-related activity, the Secretary may, subject to the availability of appropriations for contract amendments for this purpose, on a project by project basis, provide adjustments to the maximum monthly rents, to a level no greater than the existing fair market rents established for the areas by the Secretary in accordance with paragraph (1), to cover the costs of maintenance, security, capital repairs, and reserves required for the owner to carry out a strategy acceptable to the Secretary for addressing the problem of drug-related criminal activity. Any rent comparability standard required under this paragraph may be waived by the Secretary to so implement the preceding sentence."

(l) **REVISIONS TO PREFERENCE RULES.**—

(1) **CERTIFICATE PROGRAM.**—Section 8(d)(1)(A) of the United States Housing Act of 1937 is amended—

(A) by striking "(i)" the first time it appears;

(B) by inserting after "shall" the third time it appears the following: "(i) for not less than 90 percent of the families who initially receive assistance in any 1-year period,"; and

(C) by amending clause (ii) to read as follows: "(ii) for any remaining assistance in any 1-year period, give preference to families who qualify under a system of local preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities which may include (I) assisting very low-income families who either reside in transitional housing assisted under title IV of the McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities; (II) assisting families in accordance with subsection (u)(2); (III) avoiding breakup of families and preserving and strengthening families and achieving other objectives identified in cooperation with child welfare agencies and other appropriate human service agencies; or (IV) achieving other objectives of national housing policy as affirmed by Congress; and (iii) prohibit any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as

defined in subsection (f)(5)) from having a preference under any provision of this subparagraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary."

(2) **VOUCHER PROGRAM.**—Section 8(o)(3) of the United States Housing Act of 1937 is amended—

(A) by inserting "(A)" after "(3)";

(B) by striking "(A)" and inserting in lieu thereof "(i)";

(C) by striking "(B)" and inserting in lieu thereof "(ii)";

(D) by striking "(C)" and inserting in lieu thereof "(iii)";

(E) by paragraphing and inserting "(B)" after the first sentence; and

(F) by adding at the end the following new sentence: "The public housing agency shall in implementing the preceding sentence establish a system of preferences in writing and after public hearing to respond to local housing needs and priorities which may include (i) assisting very low-income families who either reside in transitional housing assisted under title IV of the McKinney Homeless Assistance Act, or participate in a program designed to provide public assistance recipients with greater access to employment and educational opportunities, (ii) avoiding breakup of families and preserving and strengthening families and achieving other objectives identified in cooperation with child welfare agencies and other appropriate human service agencies, or (iii) achieving other objectives of national housing policy as affirmed by Congress. Any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as defined in subsection (f)(5)) is not eligible for a preference under any provision of this subparagraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary."

(m) **SECTION 8 OPT-OUTS.**—Section 8(c)(9) of the United States Housing Act of 1937 is amended by—

(1) inserting at the end of the first sentence the following sentence: "The owner's notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination."; and

(2) inserting before the final sentence the following sentence: "Within 30 days of the Secretary's finding, the owner shall provide written notice to each tenant of the Secretary's decision."

SEC. 522. **AUTHORIZATIONS.**

(a) **AGGREGATE BUDGET AUTHORITY.**—Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for contracts for annual contributions under section 8, for other assistance under section 8 and for amendments to existing contracts is increased (to the extent approved in appropriations Acts) by \$2,826,360,000 on October 1, 1990, \$2,865,748,000 on October 1, 1991, and \$2,809,346,000 on October 1, 1992."

(b) **UTILIZATION OF BUDGET AUTHORITY.**—Section 5(c)(7) of the United States Housing Act of 1937 is amended to read as follows:

"(7)(A) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8(b)(1)—

"(I) not more than \$1,138,800,000 for incremental rental assistance,

"(II) not more than \$324,570,000 for property disposition activities,

"(III) not more than \$149,400,000 for loan management activities, and

"(IV) not more than \$108,750,000 for public housing replacement activities; and

"(ii) for assistance under section 8(o), not more than \$1,104,840,000.

"(B) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1992, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8(b)(1),

"(I) not more than \$1,129,190,000 for incremental assistance,

"(II) not more than \$343,759,000 for property disposition activities,

"(III) not more than \$155,376,000 for loan management activities, and

"(IV) not more than \$113,100,000 for public housing replacement activities; and

"(ii) for assistance under section 8(a), not more than \$1,124,323,000.

"(C) Using the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1993, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8(b)(1),

"(I) not more than \$1,057,935,000 for incremental assistance,

"(II) not more than \$357,510,000 for property disposition activities,

"(III) not more than \$161,591,000 for loan management activities, and

"(IV) not more than \$117,624,000 for public housing replacement activities; and

"(ii) for assistance under section 8(a) not more than \$1,114,686,000."

SEC. 523. **HOUSING ASSISTANCE TO PREVENT UNNECESSARY FOSTER CARE PLACEMENT.**

(a) **UNITED STATES HOUSING ACTS.**—

(1) **OF 1937.**—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended by adding at the end thereof the following new sentence: "The temporary absence of a child from the home due to placement in foster care shall not be considered in considering family composition and family size."

(2) **OF 1949.**—Section 501(b)(3) of the Housing Act of 1949 (42 U.S.C. 1471(b)(3)) is amended by adding at the end thereof the following new sentence: "The temporary absence of a child from the home due to placement in foster care should not be considered in considering family composition and family size."

SEC. 524. **STUDY OF PUBLIC HOUSING FUNDING SYSTEM.**

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing sufficient Federal funds to public housing agencies for the operation, maintenance and modernization of public housing. In analyzing such alternatives, the Secretary shall compare and contrast existing methods of funding in public housing with those used by the Department in housing assisted under section 8 of the United States Housing Act of 1937. In preparing the study mandated by this section, the Secretary shall, in particular, review the results of the study entitled "Alternative Operating Subsidies

Systems for the Public Housing Program" released by the Department's Office of Policy, Development and Research in May, 1982 and update such study as may be necessary. The Secretary shall issue a report to the authorizing committees of Congress within 12 months after the enactment of this Act detailing the findings of the study conducted under this section.

SEC. 525. STUDY OF PROSPECTIVE PAYMENT SYSTEM FOR PUBLIC HOUSING.

The Secretary of Housing and Urban Development shall carry out a study assessing one or more revised methods of providing Federal housing assistance through local public housing agencies (PHA's). In analyzing such alternatives, the Secretary will examine methods of prospective payment, including the conversion of PHA operating assistance, modernization, and other Federal housing assistance to a schedule of steady and predictable capitated Federal payments to PHA's on behalf of low income public housing tenants. The Secretary shall assess, within the capitated funding alternative, means of (a) providing for tenant participation in the release of such capitated payments to PHA's; (b) providing financial incentives for PHA overall performance and efficiency; (c) designating certain PHA's as distressed and eligible for special Federal assistance; (d) differential treatment of PHA's based on differences in local population demographics, rental housing markets, and other pertinent factors, and (e) calculating annual inflation-based increases in capitated Federal payments. Such report will be made to the authorizing committees of Congress within 12 months after the date of enactment of this Act.

SEC. 526. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT STUDY.

(a) The Secretary of the United States Department of Housing and Urban Development shall conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary shall place particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary shall convene individuals, of his choosing, who have demonstrated an expertise in such private nonprofit initiatives from across the country and draw on their expertise in implementing such programs. The study shall include the results of, and suggestions by, such individuals.

(b) The Secretary shall report to the Congress of the United States of America the findings of this study not later than twelve months after this bill becomes Public Law.

Subtitle C—Operation Bootstrap

SEC. 531. OPERATION BOOTSTRAP PROGRAM.

(a) **IN GENERAL.**—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 22. OPERATION BOOTSTRAP PROGRAM.

"(a) PURPOSE.—The purpose of the Operation Bootstrap Program established under this section is to promote the development of local strategies to coordinate assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) ESTABLISHMENT OF PROGRAM.—

"(1) REQUIRED PROGRAMS.—Except as provided in paragraph (2), the Secretary shall

carry out a program under which each public housing agency that administers assistance under subsection (b) or (c) of section 8 may carry out a local Operation Bootstrap Program under this section, and effective on October 1, 1992, the Secretary shall require each agency to carry out such a program. Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the Operation Bootstrap Program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program. The public housing agency shall take steps to ensure that, at the earliest practicable time, the number of families participating under the Operation Bootstrap Program shall be no less than a number equal to the aggregate number of certificates and vouchers that may be funded from such additional assistance, beginning with fiscal year 1991. The agency shall continue to operate the program for that number of families as long as it has sufficient funding under its certificate and voucher programs to do so.

"(2) EXCEPTION.—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency demonstrates, to the satisfaction of the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, including—

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; and

"(D) any other circumstances that the Secretary may consider appropriate.

"(c) CONTRACT OF PARTICIPATION.—

"(1) IN GENERAL.—Each public housing agency carrying out a local program under this section shall enter into a contract with participating leaseholders receiving assistance under the certificate and voucher programs of the public housing agency under section 8 who elect to participate in the Operation Bootstrap Program under this section. The contract shall set forth the provisions of the local program and shall specify the resources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family.

"(2) SUPPORTIVE SERVICES.—A local program under this section shall provide supportive services in accordance with the terms and conditions of the contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8, and may include—

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management;

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) TERM AND EXTENSION.—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) EMPLOYMENT AND COUNSELING.—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.—

"(1) MAXIMUM RENTS.—During the term of the contract of participation, the amount of rent paid by a participating family for occupancy in the dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family. Upon completion of the contract of participation if the participating family continues to qualify for and reside in housing assisted under section 8, the rent charged the participating family shall be increased to 30 percent of the monthly adjusted income of the family.

"(2) ESCROW SAVINGS ACCOUNTS.—For each participating family, the difference between 30 percent of the income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) EFFECT OF INCREASES IN FAMILY INCOME.—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibility of the family for benefits, or amount of benefits payable to the family, under any Federal or federally assisted program based on need unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) PROGRAM COORDINATING COMMITTEE.—

"(1) FUNCTIONS.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) MEMBERSHIP.—The program coordinating committee shall consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F

of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) ACTION PLAN.—

"(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the Operation Bootstrap Program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local Operation Bootstrap Program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 program, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) ALLOWABLE SECTION 8 ADMINISTRATIVE FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in

administering the provision of certificate and voucher assistance under section 8 through the Operation Bootstrap Program under this section. The fee shall be the fee in effect under such section on June 1, 1990, until the Comptroller General of the United States reports under section 532 of the National Affordable Housing Act when the Secretary shall adopt the fee recommended in the Comptroller General's report.

"(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

"(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local Operation Bootstrap Program under this section. The Secretary shall establish performance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local Operation Bootstrap Program established by the public housing agency under this section.

"(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974 the Secretary shall reserve not less than 10 percent of the budget authority available in fiscal year 1991 and fiscal year 1992 for certificate and voucher assistance under section 8 for allocation under this subsection.

"(j) FLEXIBILITY.—In establishing and carrying out the Operation Bootstrap Program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(k) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency that carries out a local Operation Bootstrap Program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the Operation Bootstrap Program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The

report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the Operation Bootstrap Program under this section.

"(l) GAO REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the Operation Bootstrap Program carried out by the Secretary under this section.

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the date of the enactment of the National Affordable Housing Act.

"(B) A final report, not later than the expiration of the 5-year period beginning on the date of the enactment of the National Affordable Housing Act.

"(m) DEFINITIONS.—As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in housing assisted under section 8 and elects to participate in a local Operation Bootstrap Program under this section.

"(n) EFFECTIVE DATE AND REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the National Affordable Housing Act, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations."

SEC. 532. GAO STUDY ON LINKING FEDERAL HOUSING ASSISTANCE TO ECONOMIC SELF-SUFFICIENCY PROGRAMS.

(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress, not later than 18 months following the date of enactment of the National Affordable Housing Act, a report evaluating the policy and administrative implications of requiring State and local governments to tie the provision of rental assistance under section 8 of the United States Housing Act of 1937 to participation in economic self-sufficiency programs. In addition, in preparing such report, the Comptroller General shall consider the additional costs to public housing agencies under such programs and shall recommend a change in the amount of the administrative fee under section 8(q) of the United States Housing Act of 1937 to cover the additional costs of carrying out the Operation Bootstrap Program.

(b) **SCOPE OF REPORT.**—The report shall include—

(1) an evaluation of Federal programs to link housing and supportive services for the promotion of economic self-sufficiency, including programs that are being or have been administered by the Secretary of Housing and Urban Development such as Project Self-Sufficiency, Operation Bootstrap, and the Public Housing Comprehensive Transition Demonstration;

(2) an analysis of the extent to which public housing agencies can reasonably and effectively obtain supportive services in conjunction with the Operation Bootstrap Program and other programs that link supportive services to Federal housing assistance; and

(3) an assessment of the policy and administrative implications of allocating section 8 rental assistance only to localities that have a plan for providing incremental rental assistance only in conjunction with economic self-sufficiency programs.

(c) **CONSULTATION.**—In preparing the report under this section, the Comptroller General shall consult with the Secretary of Housing and Urban Development, the Secretary of Health and Human Services, the Secretary of Labor, other appropriate Federal officials, appropriate State and local officials, other knowledgeable individuals, and national and other organizations representing eligible beneficiaries, State and local welfare and employment agencies, public housing agencies, business, public and private education or training institutions, and other service providers.

(d) **DEFINITION.**—The term "economic self-sufficiency program" means public and private programs that are designed to enable economically disadvantaged individuals achieve economic independence, including programs authorized under the Job Training Partnership Act and the Family Support Act of 1988.

TITLE VI—HOUSING FOR PERSONS WITH SPECIAL NEEDS

Subtitle A—Supportive Housing for the Elderly SEC. 601. SUPPORTIVE HOUSING FOR THE ELDERLY.

(a) **IN GENERAL.**—Section 202 of the Housing Act of 1959 is amended to read as follows:

"SEC. 202. SUPPORTIVE HOUSING FOR THE ELDERLY.

"(a) **PURPOSE.**—The purpose of this section is to enable elderly persons to live with dignity and independence by expanding the supply of supportive housing that—

"(1) is designed to accommodate the special needs of elderly persons; and

"(2) provides a range of services that are tailored to the needs of elderly persons occupying such housing.

"(b) **GENERAL AUTHORITY.**—The Secretary is authorized to provide assistance to private nonprofit organizations and consumer cooperatives to expand the supply of supportive housing for the elderly. Such assistance shall be provided as (1) capital advances in accordance with subsection (c)(1), and (2) contracts for project rental assistance in accordance with subsection (c)(2). Such assistance may be used to finance the construction, reconstruction, or moderate or substantial rehabilitation of a structure or a portion of a structure to be used as supportive housing for the elderly in accordance with this section. Assistance may also cover the cost of real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the

supply of supportive housing for the elderly.

"(c) **FORMS OF ASSISTANCE.**—

"(1) **CAPITAL ADVANCES.**—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very low-income elderly persons in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

"(2) **PROJECT RENTAL ASSISTANCE.**—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income elderly persons that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units so occupied and any initial utility allowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs.

"(3) **TENANT RENT CONTRIBUTION.**—A very low-income person shall pay as rent for a dwelling unit assisted under this section the highest of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated.

"(d) **TERM OF COMMITMENT.**—

"(1) **USE LIMITATIONS.**—All units in housing assisted under this section shall be made available for occupancy by very low-income elderly persons for not less than 40 years.

"(2) **CONTRACT TERMS.**—The initial term of a contract entered into under subsection (c)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

"(e) **APPLICATIONS.**—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed housing;

"(2) a description of the assistance the applicant seeks under this section;

"(3) a description of the resources that are expected to be made available in compliance with subsection (h);

"(4) a description of (A) the category or categories of elderly persons the housing is intended to serve; (B) the supportive services, if any, to be provided to the persons occupying such housing; (C) the manner in which such services will be provided to such

persons, including, in the case of frail elderly persons, evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and (D) the public or private sources of assistance that can reasonably be expected to fund or provide such services;

"(5) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of services identified in paragraph (4) is well designed to serve the special needs of the category or categories of elderly persons the housing is intended to serve;

"(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the National Affordable Housing Act that the proposed project is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

"(f) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and operate the proposed housing;

"(2) the need for supportive housing for the elderly in the area to be served;

"(3) the extent to which the proposed size and unit mix of the housing will enable the applicant to manage and operate the housing efficiently and ensure that the provision of supportive services will be accomplished in an economical fashion;

"(4) the extent to which the proposed design of the housing will meet the special physical needs of elderly persons;

"(5) the extent to which the applicant has demonstrated that the supportive services identified in subsection (e)(3) will be provided on a consistent, long-term basis;

"(6) the extent to which the proposed design of the housing will accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons the housing is intended to serve; and

"(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(g) **PROVISIONS OF SERVICES.**—

"(1) **IN GENERAL.**—In carrying out the provisions of this section, the Secretary shall ensure that housing assisted under this section provides a range of services tailored to the needs of the category or categories of elderly persons occupying such housing. Such services may include (A) meal service adequate to meet nutritional need; (B) housekeeping aid; (C) personal assistance; (D) transportation services; (E) health-related services; and (F) such other services as the Secretary deems essential for maintaining independent living. The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

"(2) **APPLICATION OF PROJECT RETROFIT REQUIREMENTS.**—The Secretary shall apply the requirements governing Project Retrofit under section 512(f) of the National Affordable Housing Act to housing assisted under

this section that is intended to serve frail elderly persons.

"(3) LOCAL COORDINATION OF SERVICES.—The Secretary shall ensure that owners have the managerial capacity to—

"(A) assess on an ongoing basis the service needs of residents;

"(B) coordinate the provision of supportive services and tailor such services to the individual needs of residents; and

"(C) seek on a continuous basis new sources of assistance to ensure the long-term provision of supportive services.

Any cost associated with this subsection, including any cost associated with the employment of a service coordinator in housing serving frail elderly persons, shall be an eligible cost under subsection (c)(2). The provisions governing the responsibilities and qualifications of a service coordinator under section 512(c) of the National Affordable Housing Act shall apply to this section.

"(h) MATCHING REQUIREMENT.—

"(1) IN GENERAL.—Each applicant shall contribute not less than 5 percent of the development cost calculated in accordance with subsection (i) to assure the applicant's commitment to the housing. Such contributions may be in the form of (A) cash investment from private resources; (B) the value of land or other real or personal property as appraised according to procedures acceptable to the Secretary; and (C) the present value of supportive services that the applicant has committed to provide from private resources in accordance with this section.

"(2) REDUCTION OF REQUIREMENT.—(A) MANDATORY WAIVER.—The Secretary shall reduce or waive the matching requirement specified under paragraph (1) for individual applicants who are community-based nonprofit organizations that are not affiliated with national nonprofit organizations.

"(B) DISCRETIONARY WAIVER.—The Secretary may reduce or waive the matching requirement specified under paragraph (1) for individual applicants where the Secretary finds that such waiver or reduction is necessary to achieve the purposes of this section provided that the applicant demonstrates to the satisfaction of the Secretary that it has the capacity to manage and maintain the housing in accordance with this section.

"(i) DEVELOPMENT COST LIMITATIONS.—

"(1) IN GENERAL.—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for the elderly by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect (A) the cost of construction, reconstruction, or rehabilitation of supportive housing for the elderly that meets applicable State and local housing and building codes; (B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary; (C) the cost of special design features necessary to make the housing accessible to elderly persons; (D) the cost of special design features necessary to make individual dwelling units meet the physical needs of elderly persons; (E) the cost of congregate space necessary to accommodate the provision of supportive services to elderly persons; (F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act; and (G) the cost of land, including necessary site improvement. In establishing development cost limitations for a given market area under this subsection, the Secretary shall use data that reflect cur-

rently prevailing costs of construction, reconstruction, or rehabilitation, and land acquisition in the area. For purposes of this paragraph, the term 'congregate space' shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

"(2) ANNUAL ADJUSTMENTS.—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of construction, reconstruction, or rehabilitation costs.

"(3) INCENTIVES FOR SAVINGS.—(A) The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners after taking into account the matching requirements specified under subsection (h). Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special housing account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

"(B) The special housing account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

"(4) DESIGN FLEXIBILITY.—The Secretary shall, to the extent practicable, give owners the flexibility to design housing appropriate to their location and proposed resident population within broadly defined parameters.

"(5) USE OF FUNDS FROM OTHER SOURCES.—A owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for the elderly if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

"(j) TENANT SELECTION.—An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (1) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (2) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

"(k) MISCELLANEOUS PROVISIONS.—

"(1) TECHNICAL ASSISTANCE.—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

"(2) CIVIL RIGHTS COMPLIANCE.—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act, and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity.

"(3) NOTICE OF APPEAL.—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation of loan authority. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

"(4) LABOR STANDARDS.—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more elderly persons shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (the Davis-Bacon Act); but the Secretary shall waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

"(l) DEFINITIONS.—

"(1) The term 'elderly person' means a household composed of one or more persons at least one of whom is 62 years of age or more at the time of initial occupancy.

"(2) The term 'frail elderly' means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligible requirements (acceptable to the Secretary) based on the standards in local supportive services programs.

"(3) The term 'owner' means a private nonprofit organization that receives assistance under this section to develop and operate supportive housing for the elderly.

"(4) The term 'private nonprofit organization' means any incorporated private institution or foundation—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of the community in which such housing is located, and (ii) which is responsible for the operation of the housing assisted under this section; and

"(C) which is approved by the Secretary as to financial responsibility.

"(5) The term 'State' includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

"(6) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(7) The term 'supportive housing for the elderly' means housing that is designed (A) to meet the special physical needs of elderly persons and (B) to accommodate the provision of supportive services that are expected to be needed, either initially or over the useful life of the housing, by the category or categories of elderly persons that the housing is intended to serve.

"(8) The term 'very low-income' has the same meaning as given the term 'very low-income families' under section 3(b)(2) of the United States Housing Act of 1937.

"(m) AUTHORIZATIONS.—

"(1) CAPITAL ADVANCES.—There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (c)(1) \$628,000,000 for fiscal year 1991, \$659,000,000 for fiscal year 1992, and \$685,360,000 for fiscal year 1993. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of the National Affordable Housing Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

"(2) PROJECT RENTAL ASSISTANCE.—For the purpose of funding contracts for project rental assistance in accordance with subsection (c)(2) the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregating \$346,000,000 for fiscal year 1991, \$363,000,000 for fiscal year 1992, and \$377,520,000 for fiscal year 1993.

"(3) NONMETROPOLITAN ALLOCATION.—Not less than 20 per centum of the funds made available under this subtitle shall be allocated by the Secretary on a national basis for nonmetropolitan areas."

(b) CONFORMING AMENDMENT.—Section 213(a) of the Housing and Community Development Act of 1974 is amended by striking "section 202 of the Housing Act of 1959".

(c) EFFECTIVE DATE AND APPLICABILITY.—

(1) The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(2) When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

(d) EXPEDITED FINANCING AND CONSTRUCTION.—

(1) **IN GENERAL.—**The Secretary may, subject to the availability of appropriations for contract amendments for the purposes of this subsection—

(A) provide such adjustments and waivers to the cost limitations specified under 24 CFR 885.410(a)(1); and

(B) make such adjustments to the relevant fair market rent limitations established under section 8(c)(1) of the United States Housing Act of 1937 in providing assistance under such Act,

as are necessary to ensure the expedited financing and construction of qualified supportive housing for the elderly provided that the Secretary finds that any applicable cost containment rules and regulations have been satisfied.

(2) **DEFINITION.—**For purposes of this subsection, the term "supportive housing for the elderly" means housing—

(A) located in a high-cost jurisdiction; and

(B) for which a loan reservation was made under section 202 of the Housing Act of 1959, 3 years before the date of enactment of this Act but for which no loan has been executed and recorded.

SEC. 602. PROJECT RETROFIT.

(a) **PURPOSE.—**The purpose of this section is to enable frail elderly persons residing in federally assisted housing to live with dignity and independence, avoiding unnecessary institutionalization by—

(1) retrofitting individual dwelling units and renovating public and common areas in such housing to meet the special physical needs of eligible residents;

(2) creating and rehabilitating congregate space in or adjacent to such housing to accommodate supportive services that enhance independent living;

(3) providing transitional funding for those qualifying supportive services that cannot otherwise be funded; and

(4) improving the capacity of management to assess the service needs of eligible residents, coordinate the provision of supportive services that meet the needs of eligible residents and ensure the long-term provision of such services.

(b) **AUTHORIZATION TO PROVIDE ASSISTANCE.—**The Secretary is authorized to provide assistance in the form of grants to adapt eligible housing for the elderly so that such housing better accommodates the physical requirements and service needs of eligible residents. The Secretary may determine the amount of individual grants that can be used for meals and supportive services. Assistance under this section shall be made available only to owners that demonstrate, to the satisfaction of the Secretary, that the assistance is necessary for the provision of qualifying supportive services that will receive long-term support from sources other than this Act.

(c) ELIGIBLE ACTIVITIES.—

(1) **RETROFIT AND RENOVATION.—**Assistance under this section may be provided with respect to eligible housing for the elderly for—

(A) retrofitting of individual dwelling units to meet the special physical needs of current or future residents who are or are expected to be eligible residents, which retrofitting may include—

(i) widening of doors to allow passage by persons with disabilities in wheelchairs into and within units in the project;

(ii) placement of light switches, electrical outlets, thermostats and other environmental controls in accessible locations;

(iii) installation of grab bars in bathrooms or the placement of reinforcements in bathroom walls to allow later installation of grab bars;

(iv) redesign of usable kitchens and bathrooms to permit a person in a wheelchair to maneuver about the space; and

(v) such other features of adaptive design that the Secretary finds are appropriate to meet the special needs of such residents;

(B) such renovation as is necessary to ensure that public and common areas are readily accessible to and usable by eligible residents;

(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to eligible residents;

(D) renovation of existing congregate space to accommodate the provision of supportive services to eligible residents; and

(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to eligible residents.

For purposes of this paragraph, the term "congregate space" shall include space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities, or other outpatient health facilities, or other essential service facilities.

(2) **TRANSITIONAL SUPPORT FOR SERVICES.—**Assistance under this section may also be provided with respect to eligible housing for the elderly for—

(A) the transitional provision of qualifying supportive services if the owner demonstrates to the satisfaction of the Secretary that—

(i) the qualifying services are necessary to help eligible residents live independently and avoid unnecessary institutionalization;

(ii) the owner has made diligent efforts to use or obtain other available resources to fund the designated services; and

(iii) long-term funding for the qualifying services will be available from other sources; and

(B) the renewal of contracts entered into under the Congregate Housing Services Act of 1978.

Assistance under subparagraph (A) shall be phased out over a period not to exceed 3 years. Assistance under subparagraph (B) shall be for a period of not to exceed 3 years and may be renewed, subject to the availability of appropriations, upon a determination of continuing need.

(3) **SERVICE COORDINATOR.—**The employment of one or more individuals (hereinafter referred to as "service coordinator") who may be responsible for—

(A) working with the professional assessment committee established under subsection (f) on an ongoing basis to assess the service needs of eligible residents;

(B) working with service providers and the professional assessment committee to tailor the provision of services to the needs and characteristics of eligible residents;

(C) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to subsection (d)(1) can be funded over the time period identified under such subsection;

(D) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

(E) performing such other duties and functions that the Secretary deems appropriate to enable frail elderly persons residing in federally assisted housing to live with dignity and independence.

The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management. The Secretary may fund the employment of service coordinators by using amounts appropriated under subsection (k) and by permitting owners to use existing sources of funds, including excess project reserves.

(d) **APPLICATION.—**The funds made available under this section shall be allocated by the Secretary among approvable applications submitted by owners. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall es-

establish. Applications for assistance shall contain—

(1) a description of qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under subsection (c)(1) that involve substantial rehabilitation);

(2) a firm commitment from one or more sources of assistance ensuring that some or all of the qualifying supportive services identified under paragraph (1) will be provided for not less than 1 year following the completion of activities assisted under subsection (c)(1);

(3) a description of public or private sources of assistance that are likely to fund or provide qualifying supportive services for the entire period specified under paragraph (1), including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including for-profit and nonprofit organizations);

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that (A) the provision of the qualifying supportive services identified under paragraph (1) will enable eligible residents to live independently and avoid unnecessary institutionalization, and (B) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under paragraph (1);

(5) evidence that the owner has established a professional assessment committee in accordance with subsection (f);

(6) a description of assistance that the owner seeks under this section;

(7) a description of any fees that would be established pursuant to subsection (f)(3); and

(8) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(e) **PROGRAM SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section which shall include—

(1) the ability of the owner or a designated service provider to provide the qualifying supportive services identified pursuant to subsection (d)(1);

(2) the need for such services in the housing;

(3) the extent to which the envisioned renovation and conversion activities will foster the provision of such services;

(4) the extent to which the owner has demonstrated that such services will be provided over the period identified pursuant to subsection (d)(1);

(5) the extent to which the owner has had a good record of maintaining and operating housing for the elderly; and

(6) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(f) **PROVISION OF SERVICES.**—

(1) **ESTABLISHMENT OF PROFESSIONAL ASSESSMENT COMMITTEE.**—(A) Each owner shall establish a professional assessment committee composed of at least three persons, each of whom is a qualified medical professional or other health or social services professional competent to appraise the functional abilities of frail elderly persons in relation to the performance of normal activities of daily living.

(B) The professional assessment committee shall identify residents eligible to receive

qualifying supportive services and designate the services appropriate for each eligible resident. Residents shall be accorded fair treatment and due process and a right of appeal in determinations of eligibility. Personal and medical records made available for determinations of eligibility shall remain confidential.

(2) **PARTICIPATION BY OTHER RESIDENTS.**—Residents other than eligible residents may participate in a supportive service program receiving capital or operating assistance under this section if the owner determines that the participation of such residents will not adversely affect the cost-effectiveness or operation of the program. The Secretary may permit the provision of services to elderly persons and persons with disabilities who are not residents if the participation of such persons will not adversely affect the cost-effectiveness or operation of the program or add significantly to the need for assistance under this Act.

(3) **FEES.**—An owner may charge fees for meals and other qualifying supportive services. Such fees shall be reasonable, shall not exceed the cost of providing the service, and shall be calculated on a sliding scale related to income which permits the provision of services to eligible residents who cannot afford meal and service fees. Fees for services provided to residents who are not eligible residents shall be reasonable and shall not exceed the cost of providing the service. The Secretary may set a ceiling for the total fees paid by residents.

(4) **RESIDENT ELIGIBILITY.**—The Secretary shall establish the standards and guidelines governing the eligibility of residents for qualifying supportive services under this section after consultation with the Secretary of Health and Human Services and with appropriate organizations representing the elderly, as determined by the Secretary.

(g) **MEAL SERVICES.**—Supportive services assisted under this section may include meal service. Meal service shall adequately meet at least one-third of the daily nutritional needs of eligible project residents as follows:

(1) **FOOD STAMPS AND AGRICULTURAL COMMODITIES.**—In the event meal services are provided as part of a service program under this section such program—

(A) shall—

(i) apply for approval as a retail food store under section 9 of the Food Stamp Act of 1977 (42 U.S.C. 2018); and

(ii) if approved under such section, accept coupons (as defined in section 3(e) of such Act) as payment from individuals to whom such meal services are provided; and

(B) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(2) **PREFERENCE FOR NUTRITIONAL PROVIDERS.**—In contracting for or otherwise providing for meal services under this paragraph, each supportive services program shall give preference to any provider of meal services who—

(A) receives assistance under title III of the Older Americans Act of 1965; or

(B) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for supportive services.

(h) **MINIMUM REQUIREMENTS FOR MEALS AND SUPPORTIVE SERVICES.**—Meals and supportive services provided under this section must meet such requirements for quality and individuals' rights as are published or developed by the Secretary. The Secretary

shall consult with the Secretary of the Department of Health and Human Services in developing such requirements. Such requirements shall include a process for receiving and responding to resident's appeals.

(i) **REPORTS.**—

(1) **OWNERS' REPORTS.**—Each owner shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual report evaluating the use of funds made available under this section.

(2) **ANNUAL REPORT TO THE CONGRESS.**—The Secretary shall submit to Congress, not less than annually for each fiscal year for which assistance is provided for supportive services under this section, a report containing the following information:

(A) A statement of the number of eligible residents served under such programs and the types of services provided to such resident.

(B) A statement of the percentage of the total number of residents in each project receiving assistance under this section that received supportive services.

(C) A statement of the number of deinstitutionalized individuals served under programs.

(D) A statement of any new resources for providing services that have been developed on the State or local level.

(E) The cost to States and projects of providing services.

(F) A description of how effective the services are at meeting the needs of project residents, local governments and housing sponsors, and State governments.

(G) A statement of the total amount of fees for supportive services collected from residents in eligible projects assisted under this section.

(H) A description of the reasons for termination of services provided to eligible project residents.

(I) A statement of the number of persons who previously received supportive services under a supportive services program assisted under this section who have since been institutionalized.

(J) A description of the manner in which supportive services were provided in eligible housing projects located in the poorest areas (with respect to median area income) and that were the most isolated (with respect to access to services) in each State.

(K) Any other information that the Secretary concerned considers helpful to the Congress in evaluation of the effectiveness of this section.

(j) **STUDY COMPARING THE TWO APPROACHES TO SERVICES TO THE ELDERLY UNDER THIS TITLE.**—The Secretary shall provide a study comparing the two approaches to services to the elderly under this title. Such a study should acquire data both before and after the intervention of services and follow the effectiveness of congregate versus scattered site services provision over a period of at least 2 years. Included in the study should be at least—

(1) the relative costs of the two services approaches,

(2) the quality of the services and their effectiveness in promoting independence;

(3) the satisfaction of participants in the program; and

(4) the relative success in meeting other objectives, such as preservation or marketing troubled projects.

(k) **RESERVE FUND.**—The Secretary may reserve not more than 5 percent of the amounts made available in each fiscal year to supplement grants awarded to owners under this section when, in the determina-

tion of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

(1) MISCELLANEOUS PROVISIONS.—

(1) PARTICIPATION OF RESIDENTS.—Each owner shall, to the maximum extent practicable, employ residents of eligible housing for the elderly who are not eligible residents, to provide services assisted under this section or from other sources. Such persons shall be paid at a rate not less than the highest of—

(A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he or she were not exempt under section 13 thereof;

(B) the State or local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) DISREGARD OF SERVICE AS INCOME.—No service provided to a resident of eligible housing for the elderly under this section, except for wages paid under paragraph (1) of this section, may be treated as income for the purpose of any other program or provision of State or Federal law.

(3) RESIDENCE.—Persons receiving services assisted under this section shall be deemed to be residents of their own households, and not to be residents of a public institution, for the purpose of any other program or provision of State or Federal law.

(m) DEFINITIONS.—For the purpose of this section—

(1) the term "elderly person" means a person who is 62 years of age or over;

(2) the term "eligible housing for the elderly" means housing that is occupied by elderly persons and their families and is—

(A) public housing assisted under the Housing Act of 1937;

(B) assisted under section 202 of the Housing Act of 1959;

(C) insured, assisted, or held by the Secretary under section 236 of the National Housing Act;

(D) insured or held under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

(E) insured or held by the Secretary and subject to a loan or mortgage bearing interest at a rate determined under the proviso to section 221(d)(5) of the National Housing Act;

(F) assisted under section 515 of the Housing Act of 1949; or

(G) assisted under section 8 of the United States Housing Act of 1937, all of the units of which receive the benefit of assistance under such section.

(3) the term "eligible resident" means a person residing in eligible housing for the elderly who qualifies under the definition of frail elderly, person with disabilities (regardless of whether the person is elderly), or temporarily disabled;

(4) the term "frail elderly" means an elderly person who is unable to perform at least 3 activities of daily living adopted by the Secretary for purposes of this program. Owners may establish additional eligible requirements (acceptable to the Secretary) based on the standards in local supportive services programs;

(5) the term "person with disabilities" has the meaning given the term under section 521 of this Act;

(6) the term "owner" means a public housing agency that operates public housing, a nonprofit entity that owns and operates all other types of eligible housing under paragraph (2), or a for-profit entity that owns and operates all other types of eligible housing under paragraph (2) and agrees to operate such housing as low income housing through the term of the original mortgage;

(7) the term "public housing" has the meaning given the term in section 3(b)(1) of the United States Housing Act of 1937;

(8) the term "public housing agency" has the meaning given the term in section 3(b)(6) of the United States Housing Act of 1937;

(9) the term "qualifying supportive services" shall mean new or significantly expanded services that the Secretary deems essential to enable eligible residents to live independently and avoid unnecessary institutionalization. Such services may include but not be limited to: (A) meal service adequate to meet nutritional need; (B) house-keeping aid; (C) personal assistance (which may include, but is not limited to, aid given to eligible residents in grooming, dressing, and other activities which maintain personal appearance and hygiene); (D) transportation services; (E) health-related services; and (F) personal emergency response systems; the owner may provide the qualifying services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers;

(10) the term "Secretary" means the Secretary of Housing and Urban Development; and

(11) the term "temporarily disabled" means an impairment which (A) is expected to be of no more than 6 months' duration, and (B) substantially impedes a person's ability to live independently unless the person receives qualifying supportive services.

(n) AUTHORIZATION.—There are authorized to be appropriated to carry out this subtitle \$50,000,000 for fiscal year 1991, \$52,000,000 for fiscal year 1992, and \$54,080,000 for fiscal year 1993. Any amount appropriated under this section shall remain available until expended.

(o) CONFORMING AMENDMENT.—Section 9(a)(3)(B) of the United States Housing Act of 1937 is amended—

(1) by striking "and" at the end of clause (iv);

(2) by striking the period at the end of clause (v) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(vi) if a public housing agency renovates, converts, or combines one or more dwelling units in a public housing project to create congregate space to accommodate the provision of supportive services in accordance with section 512 of the National Affordable Housing Act, the payments received under this section shall not be reduced because of the resulting reduction in the number of dwelling units."

SEC. 603. HOPE FOR ELDERLY INDEPENDENCE.

(a) PURPOSE.—The purpose of this section is to establish a demonstration program to test the effectiveness of combining housing vouchers and supportive services to assist frail elderly persons to continue to live independently. The demonstration period shall be five years.

(b) HOUSING VOUCHER ASSISTANCE.—In connection with this demonstration, the Secretary may enter into contracts with public housing agencies to provide housing

assistance under the voucher program authorized under section 8(o) of the United States Housing Act of 1937. The Secretary shall set aside not more than 1,500 incremental rental vouchers for the purpose of carrying out this demonstration. A public housing agency may not require that a frail elderly person live in a particular structure or unit, but may require that the person live within a particular geographic area, as a condition of participation, where necessary to assure that the provision of supportive services is feasible. At the end of the demonstration period, the public housing agency shall give each frail elderly person the option to continue to receive assistance under the housing voucher program of the agency.

(c) SUPPORTIVE SERVICES REQUIREMENTS; MATCHING FUNDING.—

(1) FEDERAL, PHA AND INDIVIDUAL CONTRIBUTIONS.—The amount estimated by the public housing agency and approved by the Secretary as necessary to provide the supportive services for the demonstration period shall be funded as follows:

(A) the Secretary shall provide 40 percent, using amounts appropriated under this section;

(B) the public housing agency shall assure the provision of at least 50 percent from sources other than under this section; and

(C) notwithstanding any other provision of law, each frail elderly person shall pay 10 percent of the costs of the supportive services the person receives.

(2) PROVISION OF SERVICES FOR ENTIRE DEMONSTRATION.—Each public housing agency shall assure that supportive services appropriate to the needs of the frail elderly persons to be served under this demonstration are provided throughout the demonstration period. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the frail elderly persons assisted under this section. A public housing agency may use up to 20 percent of the Federal assistance provided for supportive services in each year of this demonstration and any amounts from any prior year in which the public housing agency did not use 20 percent of the available Federal assistance. Notwithstanding any other provision of law, eligibility for supportive services shall be limited to persons who are receiving housing assistance under this section.

(3) CALCULATION OF THE MATCH.—In determining compliance with paragraph (1)(B), an agency may include the value of such items as the Secretary determines to be appropriate, which may include the salary paid to staff to provide supportive services.

(d) APPLICATIONS.—An application under this section shall request both housing voucher and supportive services assistance, and shall be submitted by a public housing agency in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

(1) an application for voucher assistance under section 8(o) of the United States Housing Act of 1937;

(2) a description of the size and characteristics of the population of frail elderly persons and of their housing and supportive services needs;

(3) a description of the proposed method of determining whether a person qualifies as a frail elderly person (specifying any additional eligibility requirements proposed by the agency), and of selecting frail elderly persons to participate;

(4) a statement that the public housing agency will create a professional assessment committee or will work with another entity which will assist the public housing agency in identifying and providing only those services that each frail elderly person needs to remain living independently;

(5) a description of the mechanisms for developing housing and supportive services plans for each person and for monitoring the person's progress in meeting that plan;

(6) the identity of the proposed service provider and a statement of its qualifications;

(7) a description of the supportive services the public housing agency proposes to make available for the frail elderly persons to be served, the estimated costs of such services, a description of the resources that are expected to be made available to cover the portion of the costs required by subsection (c)(3);

(8) assurances satisfactory to the Secretary that the supportive services will be provided for the demonstration period;

(9) the plan for coordinating the provision of voucher assistance and supportive services;

(10) a description of how the public housing agency will ensure that the service providers are providing supportive services, at a reasonable cost, adequate to meet the needs of the persons to be served;

(11) a plan for continuing supportive services to frail elderly persons that continue to receive voucher assistance after the end of the demonstration period; and

(12) a statement that the application has been developed in consultation with the area agency on aging under title III of the Older Americans Act and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) SELECTION.—

(1) CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(A) the ability of the public housing agency to develop and operate the proposed housing voucher and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly persons in the area to be served;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed funding for the supportive services is or will be available;

(E) the extent to which the program would meet the needs of the frail elderly persons proposed to be served by the program; and

(F) such other factors as the Secretary specifies to be appropriate for purposes of carrying out the demonstration program established by this section in an effective and efficient manner.

(2) CONSULTATION WITH HHS.—In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

(3) FUNDING LIMITATIONS.—No more than 10 percent of the assistance made available under this section may be used for programs located within any one unit of general local government.

(f) REQUIRED AGREEMENTS.—The Secretary may not approve any assistance for any program under this section unless the public housing agency agrees—

(1) to operate the proposed program in accordance with the program requirements established by the Secretary;

(2) to conduct an ongoing assessment of the voucher assistance and supportive services required by each frail elderly person participating in the program;

(3) to assure the adequate provision of supportive services, at a reasonable cost, to each frail elderly person participating in the program; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

(g) DEFINITIONS.—For purposes of this section:

(1) The term "frail elderly person" means a person who, or a family where each person, is at least 62 years old, is eligible to receive a voucher under the first sentence of section 8(o)(3) of the United States Housing Act of 1937, and is unable to perform at least three activities of daily living adopted by the Secretary for the purposes of this program. Public housing agencies may establish additional eligibility requirements based on the standards in local service programs.

(2) The term "professional assessment committee" means a group of at least three persons appointed by a public housing agency which shall include at least one qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly in relation to the performance of activities of daily living.

(3) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937. The term includes an Indian Housing Authority, as defined in section 3(b)(11) of such Act.

(4) The term "Secretary" means the Secretary of Housing and Urban Development.

(5) The term "supportive services" means assistance that the Secretary determines (A) addresses the special needs of frail elderly persons; and (B) provides appropriate supportive services or assists such persons in obtaining appropriate services, including personal assistance with activities of daily living, case management services, counseling, supervision, and other services essential for achieving and maintaining independent living. Supportive services shall not include medical services, as determined by the Secretary.

(h) REPORT.—

(1) INTERIM REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Congress an interim report evaluating the effectiveness of the demonstration program under this section.

(2) FINAL REPORT.—Not later than 2 years after the termination of the demonstration period under this section, the Secretary shall submit to Congress a final report evaluating the effectiveness of the demonstration program under this section.

(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the Secretary's responsibilities for supportive services under this demonstration, \$10,000,000 to become available in fiscal year 1991, and remain available until expended.

(j) IMPLEMENTATION.—Not later than 120 days after the date funds authorized for the demonstration under this section first become available for obligation, the Secretary shall by notice establish such require-

ments as may be necessary to carry out the demonstration program authorized under this section.

Subtitle B—Supportive Housing for Persons with Disabilities

SEC. 611. SUPPORTIVE HOUSING FOR PERSONS WITH DISABILITIES.

(a) PURPOSE.—The purpose of this section is to enable persons with disabilities to live with dignity and independence within their communities by expanding the supply of supportive housing that—

(1) is designed to accommodate the special needs of such persons; and

(2) provides supportive services that address the individual health, mental health, and other needs of such persons.

(b) GENERAL AUTHORITY.—The Secretary is authorized to provide assistance to private, nonprofit organizations to expand the supply of supportive housing for persons with disabilities. Such assistance shall be provided as—

(1) capital advances in accordance with subsection (d)(1), and

(2) contracts for project rental assistance in accordance with subsection (d)(2).

Such assistance may be used to finance the acquisition, acquisition and moderate rehabilitation, construction, reconstruction, or moderate or substantial rehabilitation of housing to be used as supportive housing for persons with disabilities and may include real property acquisition, site improvement, conversion, demolition, relocation, and other expenses that the Secretary determines are necessary to expand the supply of supportive housing for persons with disabilities.

(c) GENERAL REQUIREMENTS.—The Secretary shall take such actions as may be necessary to ensure that—

(1) assistance made available under this section will be used to meet the special needs of persons with disabilities by providing a variety of housing options, ranging from group homes and independent living facilities to dwelling units in multifamily housing developments, condominium housing, and cooperative housing; and

(2) supportive housing for persons with disabilities assisted under this section shall—

(A) provide persons with disabilities occupying such housing with supportive services that address their individual needs;

(B) provide such persons with opportunities for optimal independent living and participation in normal daily activities; and

(C) facilitate access by such persons to the community at large and to suitable employment opportunities within such community.

(d) FORMS OF ASSISTANCE.—

(1) CAPITAL ADVANCES.—A capital advance provided under this section shall bear no interest and its repayment shall not be required so long as the housing remains available for very-low-income persons with disabilities in accordance with this section. Such advance shall be in an amount calculated in accordance with the development cost limitation established in subsection (h).

(2) PROJECT RENTAL ASSISTANCE.—Contracts for project rental assistance shall obligate the Secretary to make monthly payments to cover any part of the costs attributed to units occupied (or, as approved by the Secretary, held for occupancy) by very low-income persons with disabilities that is not met from project income. The annual contract amount for any project shall not exceed the sum of the initial annual project rentals for all units and any initial utility al-

lowances for such units, as approved by the Secretary. Any contract amounts not used by a project in any year shall remain available to the project until the expiration of the contract. The Secretary may adjust the annual contract amount if the sum of the project income and the amount of assistance payments available under this paragraph are inadequate to provide for reasonable project costs. In the case of an intermediate care facility which is the residence of persons assisted under title XIX of the Social Security Act, project income under this paragraph shall include the same amount as if such person were being assisted under title XVI of the Social Security Act.

(3) **RENT CONTRIBUTION.**—A very low-income person shall pay as rent for a dwelling unit assisted under this section the higher of the following amounts, rounded to the nearest dollar: (A) 30 percent of the person's adjusted monthly income, (B) 10 percent of the person's monthly income, or (C) if the person is receiving payments for welfare assistance from a public agency and a part of such payments, adjusted in accordance with the person's actual housing costs, is specifically designated by such agency to meet the person's housing costs, the portion of such payments which is so designated; except that the gross income of a person occupying an intermediate care facility assisted under title XIX of the Social Security Act shall be the same amount as if the person were being assisted under title XVI of the Social Security Act.

(e) **TERM OF COMMITMENT.**—

(1) **USE LIMITATIONS.**—All units in housing assisted under this section shall be made available for occupancy by very low-income persons with disabilities for not less than 40 years.

(2) **CONTRACT TERMS.**—The initial term of a contract entered into under subsection (d)(2) shall be 240 months. The Secretary shall, to the extent approved in appropriation Acts, extend any expiring contract for a term of not less than 60 months. In order to facilitate the orderly extension of expiring contracts, the Secretary is authorized to make commitments to extend expiring contracts during the year prior to the date of expiration.

(f) **APPLICATIONS.**—Funds made available under this section shall be allocated by the Secretary among approvable applications submitted by private nonprofit organizations. Applications for assistance under this section shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

(1) a description of the proposed housing;

(2) a description of the assistance the applicant seeks under this section;

(3) a supportive service plan that contains—

(A) a description of the needs of persons with disabilities that the housing is expected to serve;

(B) assurances that persons with disabilities occupying such housing will receive supportive services based on their individual needs;

(C) evidence of the applicant's (or a designated service provider's) experience in providing such supportive services;

(D) a description of the manner in which such services will be provided to such persons, including evidence of such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of such services; and

(E) identification of the extent of State and local funds available to assist in the provision of such services;

(4) a certification from the appropriate State or local agency (as determined by the Secretary) that the provision of the services identified in paragraph (3) are well designed to serve the special needs of persons with disabilities;

(5) reasonable assurances that the applicant will own or have control of an acceptable site for the proposed housing not later than 6 months after notification of an award for assistance;

(6) a certification from the public official responsible for submitting a housing strategy for the jurisdiction to be served in accordance with section 105 of the National Affordable Housing Act that the proposed housing is consistent with the approved housing strategy; and

(7) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this section.

(g) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and operate the proposed housing;

(2) the need for housing for persons with disabilities in the area to be served;

(3) the extent to which the proposed design of the housing will meet the special needs of persons with disabilities;

(4) the extent to which the applicant has demonstrated that the necessary supportive services will be provided on a consistent, long-term basis;

(5) the extent to which the proposed design of the housing will accommodate the provision of such services;

(6) the extent to which the applicant has control of the site of the proposed housing; and

(7) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

(h) **DEVELOPMENT COST LIMITATIONS.**—

(1) **IN GENERAL.**—The Secretary shall periodically establish development cost limitations by market area for various types and sizes of supportive housing for persons with disabilities by publishing a notice of the cost limitations in the Federal Register. The cost limitations shall reflect—

(A) the cost of acquisition, construction, reconstruction, or rehabilitation of supportive housing for persons with disabilities that (i) meets applicable State and local housing and building codes; (ii) conforms with the design characteristics of the neighborhood in which it is to be located;

(B) the cost of movables necessary to the basic operation of the housing, as determined by the Secretary;

(C) the cost of special design features necessary to make the housing accessible to persons with disabilities;

(D) the cost of special design features necessary to make individual dwelling units meet the special needs of persons with disabilities;

(E) the cost of congregate space necessary to accommodate the provision of supportive services to persons with disabilities;

(F) if the housing is newly constructed, the cost of meeting the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act; and

(G) the cost of land, including necessary site improvement.

In establishing development cost limitations for a given market area, the Secretary shall use data that reflect currently prevailing costs of acquisition, construction, reconstruction, or rehabilitation, and land acquisition in the area.

(2) **ANNUAL ADJUSTMENTS.**—The Secretary shall adjust the cost limitation not less than once annually to reflect changes in the general level of acquisition, construction, reconstruction, or rehabilitation costs.

(3) **INCENTIVES FOR SAVINGS.**—(A) The Secretary shall use the development cost limitations established under paragraph (1) to calculate the amount of financing to be made available to individual owners. Owners which incur actual development costs that are less than the amount of financing shall be entitled to retain 50 percent of the savings in a special project account. Such percentage shall be increased to 75 percent for owners which add energy efficiency features which (i) exceed the energy efficiency standards promulgated by the Secretary in accordance with section 109 of the National Affordable Housing Act; (ii) substantially reduce the life-cycle cost of the housing; (iii) reduce gross rent requirements; and (iv) enhance tenant comfort and convenience.

(B) The special project account established under subparagraph (A) may be used (i) to supplement services provided to residents of the housing or funds set-aside for replacement reserves, or (ii) for such other purposes as determined by the Secretary.

(4) **FUNDS FROM OTHER SOURCES.**—An owner shall be permitted voluntarily to provide funds from non-Federal sources for amenities and other features of appropriate design and construction suitable for supportive housing for persons with disabilities if the cost of such amenities is (A) not financed with the advance, and (B) is not taken into account in determining the amount of Federal assistance or of the rent contribution of tenants.

(i) **TENANT SELECTION.**—(1) An owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (A) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (B) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Owners shall promptly notify in writing any rejected applicant of the grounds for any rejection.

(2) Notwithstanding any other provision of law, an owner may, with the approval of the Secretary, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

(j) **MISCELLANEOUS PROVISIONS.**—

(1) **TECHNICAL ASSISTANCE.**—The Secretary shall make available appropriate technical assistance to assure that applicants having limited resources, particularly minority applicants, are able to participate more fully in the program carried out under this section.

(2) **CIVIL RIGHTS COMPLIANCE.**—Each owner shall certify, to the satisfaction of the Secretary, that assistance made available under this section will be conducted and administered in conformity with title VI of the Civil Rights Act of 1964, the Fair Housing Act and other Federal, State, and local laws prohibiting discrimination and promoting equal opportunity; and

(3) **SITE CONTROL.**—An applicant may obtain ownership or control of a suitable

site different from the site specified in the initial application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for assistance, the assistance shall be recaptured and reallocated.

(4) **OWNER DEPOSIT.**—The Secretary may require an owner to deposit an amount not to exceed \$10,000 in a special escrow account to assure the owner's commitment to the housing.

(5) **NOTICE OF APPEAL.**—The Secretary shall notify an owner not less than 30 days prior to canceling any reservation of assistance provided under this section. During the 30-day period following the receipt of a notice under the preceding sentence, an owner may appeal the proposed cancellation. Such appeal, including review by the Secretary, shall be completed not later than 45 days after the appeal is filed.

(6) **LABOR STANDARDS.**—The Secretary shall take such action as may be necessary to insure that all laborers and mechanics employed by contractors and subcontractors in the construction of housing assisted under this section and designed for dwelling use by 12 or more persons with disabilities shall be paid wages at rates not less than those prevailing in the locality involved for the corresponding classes of laborers and mechanics employed on construction of a similar character, as determined by the Secretary of Labor in accordance with the Act of March 3, 1931 (the Davis-Bacon Act); but the Secretary may waive the application of this paragraph in cases or classes of cases where laborers or mechanics, not otherwise employed at any time in the construction of such housing, voluntarily donate their services without full compensation for the purposes of lowering the costs of construction and the Secretary determines that any amounts saved thereby are fully credited to the corporation, cooperative, or public body or agency undertaking the construction.

(7) **DEFINITIONS.**—As used in this section—

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome and any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. The term does not include any condition of asymptomatic infection with the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "group home" means a single family residential structure designed or adapted for occupancy by not more than 8 persons with disabilities. The Secretary may waive the project size limitation contained in the previous sentence if the applicant demonstrates that local market conditions dictate the development of a larger project. Not more than 1 home may be located on any one site and no such home may be located on a site contiguous to another site containing such a home.

(3) The term "person with disabilities" means a household composed of one or more persons at least one of whom has a disability. A person shall be considered to have a disability if such person is determined, pursuant to regulations issued by the Secretary to have a physical, mental, or emotional impairment which (A) is expected to be of long-continued and indefinite duration, (B) substantially impedes his or her ability to live independently, and (C) is of such a nature that such ability could be improved by more suitable housing conditions. A person shall also be considered to have a disability if such person has a developmental disability as defined in section 102(7) of

the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6001-7) or is a person with acquired immunodeficiency syndrome and related diseases. The Secretary shall prescribe such regulations as may be necessary to prevent abuses in determining, under the definitions contained in this paragraph, the eligibility of families and persons for admission to and occupancy of housing assisted under this section. Notwithstanding the preceding provisions of this paragraph, the term "person with disabilities" includes two or more persons with disabilities living together, one or more such persons living with another person who is determined (under regulations prescribed by the Secretary) to be important to their care or well-being, and the surviving member or members of any household described in the first sentence of this paragraph who were living, in a unit assisted under this section, with the deceased member of the household at the time of his or her death.

(4) The term "supportive housing for persons with disabilities" means housing that—

(A) is designed to meet the special needs of persons with disabilities, and

(B) provides supportive services that address the individual health, mental health or other special needs of such persons.

(5) The term "independent living facility" means a project designed for occupancy by not more than 20 persons with disabilities in separate dwelling units where each dwelling unit includes a kitchen and a bath.

(6) The term "owner" means a private nonprofit organization that receives assistance under this section to develop and operate a project for supportive housing for persons with disabilities.

(7) The term "private nonprofit organization" means any incorporated private institution or foundation—

(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

(B) which has a governing board (i) the membership of which is selected in a manner to assure that there is significant representation of the views of persons with disabilities, and (ii) which is responsible for the operation of the housing assisted under this section; and

(C) which is approved by the Secretary as to financial responsibility.

(8) The term "State" includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the possessions of the United States.

(9) The term "Secretary" means the Secretary of Housing and Urban Development.

(10) The term "very low-income" has the same meaning as given the term "very low-income families" under section 3(b)(2) of the United States Housing Act of 1937.

(11) **AUTHORIZATIONS.**—

(1) **CAPITAL ADVANCES.**—There are authorized to be appropriated for the purpose of funding capital advances in accordance with subsection (d)(1) \$258,000,000 for fiscal year 1991, \$271,000,000 for fiscal year 1992, and \$281,840,000 for fiscal year 1993. Amounts so appropriated, the repayments from such advances, and the proceeds from notes or obligations issued under this section prior to the enactment of this Act shall constitute a revolving fund to be used by the Secretary in carrying out this section.

(2) **PROJECT RENTAL ASSISTANCE.**—For the purpose of funding contracts for project rental assistance in accordance with subsection (d)(2), the Secretary may, to the extent approved in an appropriations Act, reserve authority to enter into obligations aggregat-

ing \$234,000,000 for fiscal year 1991, \$246,000,000 for fiscal year 1992, and \$255,840,000 for fiscal year 1993.

(m) **EFFECTIVE DATE AND APPLICABILITY.**—

(1) The Secretary shall, upon the request of an owner, apply the provisions of this section to any housing for which a loan reservation was made under section 202 of the Housing Act of 1959 before the date of enactment of this Act but for which no loan has been executed and recorded. In the absence of such a request, any housing identified under the preceding sentence shall continue to be subject to the provisions of section 202 of the Housing Act of 1959 as they were in effect when such assistance was made or reserved.

(2) When responding to an owner's request under paragraph (1), the Secretary shall, notwithstanding any other provision of law, apply such portion of amounts obligated at the time of loan reservation, including amounts reserved with respect to such housing under section 8 of the United States Housing Act of 1937, as are required for the owner's housing under the provisions of this section and shall make any remaining portion available for other housing under this section.

Subtitle C—Supportive Housing for the Homeless

SEC. 621. AMENDMENT TO MCKINNEY ACT.

(a) **IN GENERAL.**—Title IV of the Stewart B. McKinney Homeless Assistance Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

"SEC. 401. PURPOSE.

"(a) **IN GENERAL.**—The purpose of this title is to expand the Federal commitment to alleviate homelessness in this Nation by providing States, Indian tribes, and localities with the resources to—

"(1) help very low-income families avoid becoming homeless;

"(2) meet the emergency shelter needs of homeless persons and families;

"(3) provide transitional housing to facilitate the movement of homeless persons and families to independent living;

"(4) provide specialized permanent housing for homeless persons who require a supportive living environment; and

"(5) provide supportive services to help homeless persons and families lead independent and dignified lives.

"SEC. 402. DEFINITIONS.

"For purposes of this title—

"(1) The term 'assistance' means noninterest bearing advances to assist the acquisition, lease, renovation, substantial rehabilitation, operation, or conversion of facilities to assist the homeless, grants for moderate rehabilitation, grants for other purposes, and other assistance made eligible under section 405 and subtitle B.

"(2) The term 'emergency activities' means supportive services that are provided in an emergency shelter developed in accordance with section 412.

"(3) The term 'families' has the same meaning given the term under section 104(11) of the National Affordable Housing Act.

"(4) The term 'grantee' means a State or unit of general local government receiving grants from the Secretary under section 403(a). For purposes of section 406 and subsections (a), (b), (c), and (f) of section 408, Indian tribe, Indian housing authority or a private nonprofit organization receiving a

direct grant under section 405 shall be treated as a grantee.

"(5) The term 'person with disabilities' has the same meaning given the term in section 521 of the National Affordable Housing Act.

"(6) The term 'homeless person with disabilities' means a person with disabilities who is a homeless person within the meaning of section 103, is at risk of becoming a homeless person, or has been a resident of transitional housing carried out pursuant to this Act or the provisions made effective by section 101(g) of Public Law 99-500 or Public Law 99-591.

"(7) The term 'locality' means the geographical area within the jurisdiction of a local government.

"(8) The term 'operating costs' means expenses incurred by a project sponsor operating any housing assisted under this title with respect to—

"(A) the administration, maintenance, repair, and security of such housing; and

"(B) utilities, fuels, furnishings, and equipment for such housing.

"(9) The term 'operating costs' includes expenses incurred by a project sponsor operating transitional housing under this title with respect to—

"(A) the conducting of the assessment required by section 413(c)(1)(B); and

"(B) the provision of supportive services to the residents of such housing.

"(10) The term 'outpatient health services' means outpatient health care, outpatient mental health services, outpatient substance abuse services, and case management services.

"(11) The term 'private nonprofit organization' means a secular or religious organization—

"(A) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(B) that has a voluntary board;

"(C) that has an accounting system or has designated a fiscal agent in accordance with requirements established by the Secretary; and

"(D) that does not discriminate in the provision of assistance.

"(12) the term 'project' means a structure or a portion of a structure that is acquired or rehabilitated with assistance provided under this title or with respect to which the Secretary provides technical assistance or annual payments for operating costs.

"(13) The term 'project sponsor' means any governmental or private nonprofit organization that—

"(A) receives assistance from the Secretary or from a grantee under section 403(a),

"(B) is approved by the grantee as to financial responsibility, and

"(C) is directly responsible for the administration of assistance provided under this title.

Each project sponsor shall act as the fiscal agent of the Secretary with respect to assistance provided to such project sponsor under this title.

"(14) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(15) The term 'State' means a State of the United States, the District of Columbia, and the Commonwealth of Puerto Rico, or any agency or instrumentality thereof that is established pursuant to legislation and designated by the chief executive to act on behalf of the jurisdiction with regard to provisions of this Act.

"(16)(A) The term 'supportive services' means assistance designed by a project sponsor that—

"(i) addresses the special needs of homeless persons, such as deinstitutionalized persons, families with children, persons with mental disabilities, other persons with disabilities, the elderly, and veterans intended to be served by a project; and

"(ii) assists in accomplishing the purposes of the different types of housing for the homeless made eligible under this subtitle.

"(B) The term includes—

"(i) food services, child care, substance abuse treatment, assistance in obtaining permanent housing, outpatient health services, employment counseling, nutritional counseling, security arrangements for the protection of residents of facilities to assist the homeless, and such other services essential for maintaining or moving towards independent living as the Secretary determines to be appropriate; and

"(ii) assistance to homeless persons in obtaining other Federal, State, and local assistance available for such individuals, including public assistance benefits, mental health benefits, employment counseling, and medical assistance.

"(C) Such term does not include the provision of major medical equipment.

"(D) All or part of the supportive services may be provided directly by the project sponsor or by arrangements with other public or private service providers.

"(17) The term 'unit of general local government' means any city, town, township, county, parish, village, or other general purpose subdivision of a State; Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof; a consortium of such political subdivisions recognized by the Secretary in accordance with section 404(b)(1)(B) of this Act; and any other territory or possession of the United States.

"(18) The term 'very low-income families' has the same meaning given the term under section 104(8) of the National Affordable Housing Act.

"(19) The terms 'Indian tribe' and 'Indian housing authority' have the same meanings as in section 3 of the United States Housing Act of 1937.

"SEC. 403. GENERAL AUTHORITY.

"(a) GRANTS FOR HOMELESS HOUSING ASSISTANCE.—

"(1) IN GENERAL.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 409, make grants to States and units of general local government and to eligible applicants under section 405 in order to (A) carry out activities designed to meet the emergency, transitional, and permanent housing needs of the homeless, (B) help very low-income families and persons avoid becoming homeless, and (C) help homeless families and persons make the transition to permanent housing. A jurisdiction shall be eligible to receive a grant only if it has obtained an approved housing strategy (or an approved abbreviated housing strategy) in accordance with section 105 of the National Affordable Housing Act. A grantee shall carry out activities authorized under this subsection through contracts with project sponsors, except that a grantee that is a State shall obtain the approval of the unit of general local government for the locality in which a project is to be located prior to entering into such contracts.

"(2) ALLOCATION OF RESOURCES.—

"(A) FORMULA GRANTS.—(i) 80 percent of the amounts approved in appropriations Acts under section 409 shall be allocated in accordance with a formula established under section 404. Of the amounts made available under the previous sentence, the Secretary shall allocate 70 percent among units of general local government and 30 percent among States.

"(ii) Grants allocated under this subparagraph shall be available only for approved activities. Approved activities shall include—

"(I) the provision of assistance to help very low-income families avoid becoming homeless in accordance with section 411;

"(II) the development of emergency shelters for the homeless in accordance with section 412;

"(III) the development of transitional housing to facilitate the transition of homeless persons to independent living in accordance with section 413;

"(IV) the development of permanent housing for homeless persons with disabilities in accordance with section 414;

"(V) the provision of assistance to help very low-income families who are residing in emergency shelter or transitional housing make the transition to permanent housing in accordance with section 415; and

"(VI) such other activities that the Secretary develops in cooperation with grantees in accordance with section 416.

The Secretary shall establish standards and guidelines for approved activities. The Secretary shall permit grantees to refine and adapt such standards and guidelines for individual projects, where such refinements and adaptations are made necessary by local circumstances.

"(iii) A grantee may use not more than 30 percent of the grants allocated in accordance with this subparagraph for emergency activities as defined in section 402(2). The Secretary may approve a higher limitation if the grantee demonstrates that other approved activities under this subparagraph are already being carried out in the jurisdiction with other resources.

"(B) DISCRETIONARY ALLOCATIONS.—20 percent of the amounts approved in appropriations Acts under section 409 shall be allocated among appropriate applications in accordance with section 405.

"(b) SRO RENOVATION.—The Secretary shall, to the extent of amounts approved in appropriations Acts under section 422, provide rental assistance to public housing agencies or other contracting agencies for the renovation of single room occupancy dwellings in accordance with subtitle C.

"SEC. 404. ALLOCATION FORMULA.

"(a) ESTABLISHMENT OF FORMULA.—The Secretary shall issue regulations establishing an allocation formula that reflects each jurisdiction's share of the Nation's need for housing assistance for the homeless as identified by—

"(1) objective measures of the incidence of homelessness;

"(2) the relation between the supply of affordable housing for very low-income families and the number of such families in the jurisdiction;

"(3) poverty; and

"(4) housing overcrowding.

The data to be used for allocation of funds within a fiscal year shall be those that are available to the Secretary 90 days prior to the beginning of that fiscal year.

"(b) ALLOCATION RULES.—

"(1) **MINIMUM LOCAL ALLOCATION.**—The Secretary shall allocate amounts available for formula allocation to units of general local government so that, when all such amounts are allocated by the formula, only those jurisdictions that are allocated an amount of \$200,000 or greater shall receive an allocation. A jurisdiction receiving a formula allocation shall be eligible to receive grants if its formula allocation is \$250,000 or greater, or if—

"(A) the Secretary finds that—

"(i) the jurisdiction is the city with the greatest population in a metropolitan area and has demonstrated a capacity to carry out provisions of section 403(a), and

"(ii) the State has authorized the Secretary to transfer to the jurisdiction a portion of the State's allocation that is equal to or greater than the difference between the jurisdiction's formula allocation and \$250,000 or the State or jurisdiction has made available from the State's or jurisdiction's own sources an equal amount for use by the jurisdiction in conformance with the provisions of section 403(a); or

"(B) geographically contiguous local governments have formed a consortium that, in the determination of the Secretary—

"(i) has sufficient authority and administrative capability to act on behalf of its member jurisdictions in carrying out the provisions of section 403(a), and

"(ii) is comprised only of jurisdictions that have received a formula allocation for the fiscal year.

Such a consortium shall be deemed to be a unit of general local government for purposes of this section. If a jurisdiction has met the requirements of subparagraph (A), the jurisdiction's formula allocation for a fiscal year shall subsequently be deemed to equal the sum of the jurisdiction's allocation under this subsection and the amount made available to the jurisdiction under subparagraph (A)(ii). The formula allocation for a consortium that has met the requirements, under this subparagraph shall equal the total of the allocations of its member jurisdictions.

"(2) **MINIMUM STATE ALLOCATION.**—(A) If the formula, when applied to the funds available in accordance with section 403(a)(2)(A), would allocate less than \$250,000 to any State, the allocation for such State shall be \$250,000, and the increase shall be deducted pro rata from the allocations of other States.

"(B) If no unit of general local government within a State receives an allocation under paragraph (1), the Secretary may increase the State's allocation by \$125,000 after determining that such increase is necessary to provide appropriate levels of housing assistance to homeless persons and families within the State. Priority of use of such increased allocation shall go to the provision of housing assistance for the homeless within the boundaries of cities within the State that are the largest city within a metropolitan area. The increased allocation to a State under the preceding sentence shall be derived by a pro rata deduction from the allocations to units of general local government.

"(3) **GRANTEE STATUS.**—Once a State or unit of general local government becomes a grantee, it shall remain eligible to receive grants for subsequent fiscal years, except as provided in paragraph (4).

"(4) **REVOCATION.**—The Secretary may revoke a jurisdiction's status as a grantee if (A) the Secretary finds, after reasonable notice and opportunity for hearing, that the

jurisdiction is unwilling or unable to carry out the provisions of this subtitle, or (B) the jurisdiction's formula allocation falls below \$250,000 for 3 consecutive years, below \$225,000 for 2 consecutive years, or below \$200,000 in any 1 year.

"(d) **INITIAL ALLOCATION OF ASSISTANCE.**—Not later than 30 days after funds to carry out this section are provided in an appropriations Act (or, during the first year after enactment of this Act, not later than 30 days after regulations to implement this section are promulgated or due), the Secretary shall allocate funds in accordance with subsections (a) and (b) and promptly notify each jurisdiction receiving a formula allocation of its allocation amount. If a local jurisdiction is not eligible to receive grants because its allocation amount is too low, the Secretary shall inform the jurisdiction in writing how the jurisdiction may become eligible to receive grants.

"(e) **DISTRIBUTION OF ASSISTANCE BY A STATE.**—Each State shall distribute its allocation of assistance under this section in accordance with the need for homeless assistance as identified in the State's housing strategy approved under section 105 of the National Affordable Housing Act and shall coordinate its efforts where assistance is distributed to a unit of general local government that is a grantee.

"(f) **ALLOCATION TO TERRITORIES.**—In addition to the other allocations required in this section, the Secretary may make such allocations under this subtitle as the Secretary determines to be appropriate to Guam, the Northern Mariana Islands, the Virgin Islands, American Samoa, the Federated States of Micronesia and Palau, the Marshall Islands and any other territory or possession of the United States.

"SEC. 405. DISCRETIONARY ALLOCATION.

"(a) **IN GENERAL.**—The Secretary shall, to the extent of amounts made available under section 403(a)(2)(B) or reallocated under subsection 408(e), make grants to eligible applicants to meet urgent needs of homeless persons that are not being met by available public and private sources in areas with an unusually high incidence of homelessness. For purposes of this section, the term 'eligible applicant' means a grantee, Indian tribe, Indian housing authority or private nonprofit organization, except that a grantee shall not be permitted to submit an application if the Secretary finds that the grantee is in noncompliance with sections 406 and 408.

"(b) **ELIGIBLE ACTIVITIES.**—Assistance provided under this section may be used for approved activities under subtitle B and for the following additional activities:

"(1) the purchase, lease, rehabilitation, renovation, operation, or conversion of facilities to assist the homeless;

"(2) the transitional provision of supportive services designed to meet special needs of homeless persons, including families with children, deinstitutionalized persons, persons with mental disabilities, other persons with disabilities, the elderly, and veterans. Assistance provided under this paragraph shall be phased out over a period not to exceed 3 years; and

"(3) the provision of supplemental assistance to projects assisted under sections 412 and 413 if such assistance is required to meet the special needs of homeless persons residing in such projects.

"(c) **APPLICATIONS.**—Funds made available under this section shall be allocated among approvable applications submitted by eligible applicants. Applications for assistance

under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish. Such applications shall contain—

"(1) a description of the proposed activities;

"(2) a description of the size and characteristics of the homeless population that would be served by the proposed activities;

"(3) a description of the public and private resources that are expected to be made available in connection with the proposed activities;

"(4) assurances satisfactory to the Secretary that any property purchased, leased, rehabilitated, renovated, or converted with assistance under this section (except for property to be used as emergency shelter in accordance with section 412) shall be operated for not less than 10 years for the purpose specified in the application;

"(5) evidence in a form acceptable to the Secretary that the proposed activities will meet urgent needs of homeless persons that are not being met by available public and private sources;

"(6) if submitted by a private nonprofit organization, a certification from the public official responsible for submitting a housing strategy in accordance with section 105 of the National Affordable Housing Act that the application is consistent with the approved housing strategy; and

"(7) such other information or certifications that the Secretary determines to be necessary to achieve the purposes of this section.

"(d) **SELECTION CRITERIA.**—

"(1) **IN GENERAL.**—The Secretary shall establish selection criteria for assistance under this subsection, which shall principally take into account—

"(A) the extent to which the proposed activities meet urgent needs of homeless persons that are not being met by available public and private sources; and

"(B) the extent to which the area in which the proposed activities are to be carried out is an area with an unusually high incidence of homelessness.

"(2) **ADDITIONAL CRITERIA.**—Selection criteria established by the Secretary shall also take into account—

"(A) the extent to which the proposed activities would provide assistance to homeless persons who are most difficult to serve;

"(B) the extent to which the proposed activities would make available as housing for homeless persons property owned by the Federal Government, a State, a unit of general local government, or other public entity, including in rem property, public buildings, and public land;

"(C) the extent to which the proposed activities would be carried out in a jurisdiction that has demonstrated exemplary coordination among State and local agencies administering housing, child welfare, and public assistance activities;

"(D) the extent to which the applicant has demonstrated the capacity to carry out the proposed activities; and

"(E) such other factors as the Secretary determines to be appropriate to ensure that funds made available under this section are used effectively.

"(e) **SPECIAL RULES FOR SUPPLEMENTAL ASSISTANCE FOR FACILITIES TO ASSIST THE HOMELESS.**—

"(1) The Secretary may not provide assistance under subsection (b)(3) unless the Secretary determines that—

"(A) the applicant has made reasonable efforts to utilize all available local resources

and resources available under the other provisions of this title; and

"(B) other resources are not sufficient or are not available to carry out the purpose for which the assistance is being sought.

No assistance provided under subsection (b)(3) may be used to supplant any non-Federal resources provided with respect to any project.

"(2) Not more than \$10,000 of any grant or advance under subsection (b)(3) may be used for outpatient health services (excluding the cost of any rehabilitation or conversion of a structure to accommodate the provision of such services).

"(3) The Secretary of Housing and Urban Development and the Secretary of Health and Human Services shall jointly establish guidelines for determining under this section the appropriateness of proposed outpatient health services. Such guidelines shall include such provisions as are necessary to enable the Secretary of Housing and Urban Development to meet the time limits under this section for the final selection of applications for assistance.

"(f) ADMINISTRATIVE PROVISIONS.—The total amount allocated to a grantee under this section in any fiscal year shall not exceed the grantee's formula allocation under section 404 in that fiscal year.

"SEC. 406. RESPONSIBILITIES OF GRANTEE AND PROJECT SPONSORS.

"(a) MATCHING REQUIREMENTS.—Each grantee shall be required to supplement the grants provided under this title with an equal amount of funds from non-Federal sources. Each grantee shall certify to the Secretary its compliance with this subsection, describing the sources and amounts of such supplemental funds. Supplemental funds may include the value of any donated material or building, the value of any lease on a building, any salary paid to staff to carry out the program of a project sponsor, and the value of the time and services contributed by volunteers to carry out the program of a project sponsor at a rate determined by the Secretary.

"(b) HOUSING QUALITY.—Each grantee shall assure that housing assisted under this subtitle shall be decent, safe, and sanitary and, when appropriate, meet all applicable State and local housing and building codes and licensing requirements in the jurisdiction in which the housing is located.

"(c) CONSISTENCY WITH HOUSING STRATEGY.—Each grantee shall certify, to the satisfaction of the Secretary, that activities undertaken by project sponsors with assistance from the grantee are consistent with the housing strategy submitted by the grantee in accordance with section 105 of the National Affordable Housing Act.

"(d) ASSISTANCE TO HOMELESS PERSONS.—Each grantee shall certify that each project sponsor shall administer, in good faith, a policy designed to ensure that any shelter or housing assisted under this subtitle is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.

"(e) LIMITATION ON USE OF FUNDS.—Each grantee shall certify, to the satisfaction of the Secretary, that neither assistance received under this subtitle nor any State or local government funds used to supplement such assistance will be used to replace other public funds previously used, or designated for use, to assist the homeless.

"(f) CIVIL RIGHTS COMPLIANCE.—Each grantee shall certify, to the satisfaction of the Secretary, that the grant will be conducted and administered in conformity with

title VI of the Civil Rights Act of 1964 (Public Law 88-352), and the Fair Housing Act and the grantee will affirmatively further fair housing.

"(g) REPORTS.—

"(1) Each grantee shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, a performance and evaluation report on the use of amounts made available under this subtitle, together with the grantee's assessment of the relationship of such usage to the grantee's approved housing strategy. The report shall include information on the number of homeless persons served and the reasons for their homelessness. The report shall also specify the amounts made available under this subtitle for each approved activity under subtitle B. The report shall be made available to the public so that citizens, public agencies, and other interested parties have an opportunity to comment on the report prior to its submission. The report shall include a summary of any comments received from interested parties.

"(2) The Secretary shall consult with national associations of States, local governments, and other housing interests to develop uniform recordkeeping, performance reporting, and auditing requirements. After considering the results of such consultations, the Secretary shall establish uniform recordkeeping, performance reporting, and auditing requirements for assistance made available under this subtitle.

"(h) SITE CONTROL.—Each grantee or project sponsor shall furnish reasonable assurances that it will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. A suitable site different from the site specified in the application satisfies the requirement of this subsection. If ownership or control of a site is not obtained within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(i) PREVENTION OF UNDUE BENEFITS.—The Secretary may prescribe such terms and conditions as he deems necessary to prevent project sponsors from unduly benefiting from the sale or other disposition of projects constructed, rehabilitated, or acquired with assistance under this subtitle other than a sale or other disposition resulting in the use of the project for the direct benefit of very low-income families.

"(j) ADDITIONAL REQUIREMENTS.—The Secretary may establish such other program requirements as the Secretary determines are necessary for grantees to administer activities authorized under this subtitle in an efficient manner.

"SEC. 407. STRATEGY TO ELIMINATE WELFARE HOTELS AND UNFIT TRANSIENT FACILITIES.

"(a) IN GENERAL.—The Secretary shall, not more than 4 months after the date of enactment of the National Affordable Housing Act, identify the States and units of general local government which use welfare hotels and other unfit transient facilities as housing for homeless families with children and develop and publish in the Federal Register a strategy to eliminate such use by January 1, 1992. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, the Administrator of the Federal Emergency Management Agency, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons and other experts.

"(b) CONTENTS OF STRATEGY.—The strategy developed under this section shall specify—

"(1) actions to be taken to ensure that families with children currently residing in welfare hotels or unfit transient facilities will make a timely transition to permanent housing;

"(2) actions to be taken to provide sufficient emergency, transitional, and permanent housing to preclude the future use of welfare hotels or unfit transient facilities as housing for homeless families with children; and

"(3) changes in Federal, State, and local statutes and regulations that are needed to eliminate the use of welfare hotels and unfit transient facilities as housing for homeless families with children.

"(c) IMPLEMENTATION OF STRATEGY.—To ensure that the strategy developed under this section is carried out within the statutory deadline, the Secretary shall be authorized to use and apply the following additional resources and powers:

"(1) such preferences in the allocation of resources under section 405 as the Secretary determines to be appropriate;

"(2) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under section 403(a)(2)(A) of this title as the Secretary determines to be appropriate;

"(3) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

"(4) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

"(d) DEFINITIONS.—For purposes of this section—

"(1) the term 'unfit transient facility' means a facility that provides transient accommodations to homeless persons and families in an environment that does not meet the minimum standards of habitability established by the Secretary in accordance with section 412(b); and

"(2) the term 'welfare hotel' means a commercial hotel or motel used by a jurisdiction to provide transient accommodations to homeless persons and families receiving some type of public assistance.

"SEC. 408. ADMINISTRATIVE PROVISIONS.

"(a) LIMITATION ON ADMINISTRATIVE EXPENSES.—A grantee may not use more than 5 percent of the assistance received under this subtitle for administrative purposes.

"(b) INCOME ELIGIBILITY.—A homeless person shall be eligible for assistance under any program provided by this subtitle, or by the amendments made by this subtitle, only if the person has income not exceeding 50 percent of the median income for the area, as adjusted in accordance with section 3(b)(2) of the United States Housing Act of 1937.

"(c) FLOOD ELEVATION REQUIREMENTS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under any provision of this subtitle shall be no more restrictive than the standards applicable to any other program administered by the Secretary.

"(d) APPLICABILITY OF SECTION 104(g) OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.—The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this subtitle.

"(e) RECAPTURE AND REALLOCATION OF FUNDS.—

"(1) **FORMULA REALLOCATIONS.**—If a State or unit of general local government receiving a formula allocation under section 404 fails to obtain approval of its housing strategy in accordance with section 105 of the National Affordable Housing Act, the Secretary shall reallocate any funds reserved for the jurisdiction as follows:

"(A) If a State fails to obtain approval of its housing strategy, the Secretary shall make the State's formula allocation available in accordance with section 405. The Secretary shall, insofar as practicable, give priority to funding projects that assist the homeless population within the State.

"(B) If a unit of general local government eligible for a grant under section 404 fails to obtain approval of its housing strategy, the Secretary shall promptly reallocate the locality's formula allocation to the State in which the locality is located if the State has obtained approval of its housing strategy. The State shall give priority to funding projects that assist the homeless population within the locality.

"(C) If a unit of general local government eligible for a grant under section 404 fails to obtain approval of its housing strategy, and is located within a State that also fails to obtain approval of its housing strategy, the Secretary shall make the locality's formula allocation available in accordance with section 405. The Secretary shall, insofar as practicable, give priority to funding projects that assist the homeless population within the locality.

"(2) **NONCOMPLIANCE.**—The Secretary may recapture assistance made available to a grantee if the Secretary determines that the grantee is in noncompliance with program requirements and shall reallocate such assistance in accordance with section 405.

"(3) **OTHER REALLOCATIONS.**—If, following the receipt of applications for the final funding round under section 405 for any fiscal year, any amount set aside for assistance pursuant to section 405 will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for use under subtitle C.

"(f) **GAO AUDITS.**—Insofar as they relate to funds provided under this section, the financial transactions of grantees and project sponsors may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. The representatives of the General Accounting Office shall have access to all books, accounts, records, reports, files, and other papers, things, or property belonging to, or in use by, such grantees and project sponsors pertaining to the financial transactions and necessary to facilitate the audit.

"SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title \$220,000,000 for fiscal year 1991, \$228,800,000 for fiscal year 1992, and \$237,952,000 for fiscal year 1993. Any amount appropriated under this section shall remain available until expended.

"SEC. 410. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this title and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall summarize and assess the results of performance reports provided in accordance with subsection 406(g). The report shall be submitted

not later than 3 months after the end of each fiscal year.

"Subtitle B—Approved Activities**"SEC. 411. HOMELESSNESS PREVENTION.**

"(a) **DEFINITION.**—Assistance to help very low-income families avoid becoming homeless may include activities other than those that the Secretary has found to be inconsistent with the purposes of this Act.

"(b) **LIMITATION ON FINANCIAL ASSISTANCE.**—A grantee may provide financial assistance to very low-income families who have received eviction notices or notices of termination of utility services if—

"(1) the inability of the family to make the required payments is due to a sudden reduction in income;

"(2) the assistance is necessary to avoid the eviction or termination of services;

"(3) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(4) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources.

"SEC. 412. EMERGENCY SHELTER.

"(a) **DEFINITION.**—A project shall be considered 'emergency shelter' if it is designed to provide overnight sleeping accommodations and appropriate eating and cooking accommodations for homeless persons.

"(b) **MINIMUM STANDARDS OF HABITABILITY.**—The Secretary shall prescribe such minimum standards of habitability as the Secretary determines to be appropriate to ensure that emergency shelters assisted under this section are environments that provide appropriate privacy, safety, and sanitary and other health-related conditions for homeless persons and families. Grantees are authorized to establish standards of habitability in addition to those prescribed by the Secretary.

"(c) **TYPES OF ASSISTANCE.**—A grantee may provide the following assistance to a project sponsor of emergency shelter:

"(1) a grant for the renovation, major rehabilitation, or conversion of buildings to be used as emergency shelters;

"(2) a grant for the provision of supportive services if such services do not supplant any services provided by the local government during any part of the immediately preceding 12-month period; and

"(3) annual payments for maintenance, operation, insurance, utilities, and furnishings.

"(d) **PROGRAM REQUIREMENTS.**—A grantee may approve assistance for a project under this subsection only if the project sponsor has agreed that it will—

"(1) in the case of assistance involving major rehabilitation or conversion of a building, maintain the building as a shelter for homeless persons and families for not less than a 10-year period;

"(2) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion of a building), maintain the building as a shelter for homeless persons and families for not less than a 3-year period;

"(3) in the case of assistance involving only activities described in paragraphs (2) and (3) of subsection (c), provide services or shelter to homeless persons and families at the original site or structure or other sites or structures serving the same general population for the period during which such assistance is provided;

"(4) comply with the standards of habitability prescribed by the Secretary and (if applicable) the State or unit of general local government; and

"(5) assist homeless persons in obtaining—
"(A) appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living; and

"(B) other Federal, State, local, and private assistance available for homeless persons.

"SEC. 413. TRANSITIONAL HOUSING FOR THE HOMELESS.

"(a) **DEFINITION.**—A project shall be considered 'transitional housing' if it is designed to facilitate the movement of homeless persons to independent living within 24 months (or such longer period as the Secretary determines is necessary to facilitate the transition of homeless persons to independent living). Transitional housing includes housing primarily designed to serve deinstitutionalized homeless persons and other homeless persons with mental disabilities, and homeless families with children.

"(b) **TYPES OF ASSISTANCE.**—A grantee may provide the following assistance to a project sponsor of transitional housing:

"(1) An advance not to exceed cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as transitional housing. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as transitional housing prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as transitional housing.

"(3) Annual payments for operating costs of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act) not to exceed 75 percent of the annual operating costs of such housing.

"(4) Technical assistance in—

"(A) establishing transitional housing in an existing structure;

"(B) operating transitional housing in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of transitional housing (including transitional housing that is newly constructed with assistance provided from sources other than this Act).

"(5) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.

"(6) A grant to establish and operate a child care services program for homeless families as follows:

"(A) A program under this paragraph shall include—

"(i) establishing, licensing, and operating an on-site child care facility for the residents of transitional housing; or

"(ii) making contributions for the child care costs of residents of transitional housing to existing community child care programs and facilities; and

"(iii) counseling designed to inform the residents of transitional housing of public and private child care services for which they are eligible.

"(B) A grant under this paragraph for any child care services program shall not exceed the amount equal to 75 percent of the cost of operating the program for a period of up to 5 years.

"(C) Child care services provided with respect to a child care services program assisted under this paragraph shall meet any applicable State and local laws and regulations.

A project sponsor may receive assistance under both paragraphs (1) and (2).

"(c) PROGRAM REQUIREMENTS.—

"(1) **REQUIRED AGREEMENTS.—**A grantee may approve assistance for a project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as transitional housing for not less than 10 years;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project;

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) **OCCUPANT RENT.—**Each homeless person residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(3) **ALTERNATIVE USE.—**A project may continue to be treated as transitional housing for purposes of this subsection if the grantee determines that such project is no longer needed for use as transitional housing and approves the use of such project for the direct benefit of very low-income families.

"SEC. 414. PERMANENT HOUSING FOR HOMELESS PERSONS WITH DISABILITIES.

"(a) **DEFINITION.—**A project shall be considered 'permanent housing for homeless persons with disabilities' if it provides community-based long-term housing and supportive services for not more than 8 homeless persons with disabilities. The Secretary may waive the limitation contained in the preceding sentence if the grantee demonstrates that local market conditions dictate the development of a larger project.

"(b) **PROJECT DESIGN AND SITING.—**Each project assisted under this subtitle shall be either a home designed solely for housing persons with disabilities or dwelling units in a multifamily housing project, condominium project, or cooperative project. Not more than 1 home may be located on any 1 site and no such home may be located on a site contiguous to another site containing such a home.

"(c) **TYPES OF ASSISTANCE.—**A grantee may provide the following assistance to a project sponsor of permanent housing for homeless persons with disabilities:

"(1) An advance not to exceed the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as permanent housing for homeless persons with disabilities prior to the receipt of assistance.

"(2) A grant for moderate rehabilitation of an existing structure for use as permanent housing for homeless persons with disabilities.

"(3) Annual payments for operating costs for permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act), not to exceed 50 percent of the annual operating costs of such housing for the first year of operation, and not to exceed 25 percent of such costs for the second year of operation.

"(4) **Technical assistance in—**

"(A) establishing permanent housing for homeless persons with disabilities in an existing structure;

"(B) operating permanent housing for homeless persons with disabilities in existing structures and in structures that are newly constructed with assistance provided from sources other than this Act; and

"(C) providing supportive services to the residents of permanent housing for homeless persons with disabilities (including permanent housing for homeless persons with disabilities that is newly constructed with assistance provided from sources other than this Act).

"(d) PROGRAM REQUIREMENTS.—

"(1) **REQUIRED AGREEMENTS.—**A grantee may approve assistance for any project under this section only if the project sponsor has agreed—

"(A) to operate the proposed project as permanent housing for homeless persons with disabilities for not less than 10 years;

"(B) to conduct an ongoing assessment of the supportive services required by the residents of the project;

"(C) to provide such residential supervision as the Secretary determines is necessary to facilitate the adequate provision of supportive services to the residents of the project; and

"(D) to comply with such other terms and conditions as the Secretary or grantee may establish for purposes of carrying out this program in an effective and efficient manner.

"(2) **STATE PARTICIPATION.—**Each grantee providing assistance to a project under this section shall transmit to the Secretary a letter of participation from the State assuring that the State will promptly transmit assistance to the project sponsor and will facilitate the provision of necessary supportive services to the residents of the project;

"(3) **OCCUPANT RENT.—**Each homeless person residing in a project assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(4) **ALTERNATIVE USE.—**A project may continue to be treated as permanent housing for homeless persons with disabilities for purposes of this subsection if the grantee determines that such project is no longer needed for use as such housing and approves the use of such project for the direct benefit of very low-income families.

"(5) **TENANT SELECTION.—**(A) A project sponsor owner shall adopt written tenant selection procedures that are satisfactory to the Secretary as (i) consistent with the purpose of improving housing opportunities for very low-income persons with disabilities; and (ii) reasonably related to program eligibility and an applicant's ability to perform the obligations of the lease. Project sponsors shall promptly notify in writing any re-

jected applicant of the grounds for any rejection.

"(B) Notwithstanding any other provision of law, a project sponsor may, with the approval of the grantee, limit occupancy within housing developed under this section to persons with disabilities who have similar disabilities and require a similar set of supportive services in a supportive housing environment.

"SEC. 415. TRANSITION TO PERMANENT HOUSING.

"(a) **DEFINITION.—**Assistance to help eligible families make the transition to permanent housing shall include the provision of security deposits and the cost of rent for one month. For purposes of this section, the term 'eligible family' means a very low-income family who has resided in emergency shelter or transitional housing and who meets other conditions of eligibility as the Secretary determines to be appropriate.

"(b) **LIMITATION ON FINANCIAL ASSISTANCE.—**A grantee may provide financial assistance to eligible families in the form of a security deposit and the cost of rent for not more than one month if—

"(1) the grantee determines that the rental charge for the subject unit is reasonable in comparison with rents charged for comparable units in the private, unassisted market;

"(2) there is a reasonable prospect that the family will be able to sustain the rental payments for a reasonable period of time; and

"(3) the eligible family has made reasonable efforts to receive assistance under the program of aid to families with dependent children under part A of title IV of the Social Security Act or a similar local, State, or Federal public assistance program.

"(c) **PARTICIPATING LANDLORD.—**If an eligible family vacates the rental unit, a landlord participating in this program shall return to the grantee any portion of the security deposit (including reasonable interest) against which such landlord does not have a claim. Any returned funds may be used by a grantee in accordance with section 403(a).

"SEC. 416. DEVELOPMENT OF ADDITIONAL APPROVED ACTIVITIES.

"The Secretary, in cooperation with grantees and other appropriate parties, shall develop additional approved activities to carry out the purposes of this title.

"Subtitle C—Section 8 Single Room Occupancy

"SEC. 421. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY PROVISIONS.

"(a) **USE OF FUNDS.—**The amounts made available under this subtitle shall be used only in connection with the moderate rehabilitation of housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by homeless persons, except that such amounts may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.

"(b) **ALLOCATION.—**The amounts made available under this subtitle shall be allocated by the Secretary among approvable applications to the applicant public housing agencies or other contracting agencies that best demonstrate a need for the assistance under this section and the ability to undertake and carry out a program to be assisted under this subtitle. To be considered for assistance under this section, an applicant shall submit to the Secretary a proposal containing—

"(1) a description of the size and characteristics of the population within the applicant's jurisdiction that would occupy single room occupancy dwellings;

"(2) a listing of additional commitments from public and private sources that the applicant might be able to provide in connection with the program;

"(3) an inventory of suitable housing stock to be rehabilitated with such assistance; and

"(4) a description of the interest that has been expressed by builders, developers, and others (including profit and nonprofit organizations) in participating in the program.

No single city or urban county shall be eligible to receive more than 10 percent of the assistance made available under this subtitle.

"(c) **FIRE AND SAFETY IMPROVEMENTS.**—Each rental credit contract entered into with the authority provided under this subtitle shall require the installation of a sprinkler system that protects all major spaces, hard wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"(d) **COST LIMITATION.**—

"(1) The total cost of rehabilitation that may be compensated for in a rental credit contract entered into with the authority provided under this subtitle shall not exceed \$15,000 per unit, plus the expenditures required by subsection (d).

"(2) The Secretary shall increase the limitation contained in paragraph (1) by an amount the Secretary determines is reasonable and necessary to accommodate special local conditions, including—

"(A) high construction costs; or

"(B) stringent fire or building codes.

"(3) The Secretary shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.

"(e) **CONTRACT REQUIREMENTS.**—Each contract for annual contributions entered into with a public housing agency or other contracting agency to obligate the authority made available under this subtitle shall—

"(1) commit the Secretary to make such authority available to the public housing agency or other contracting agency for an aggregate period of 10 years, and require that any amendments increasing such authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of appropriations; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this subtitle shall be given to homeless persons.

"SEC. 422. INCREASE IN BUDGET AUTHORITY.

"The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by \$78,694,000 on or after October 1, 1990, by \$81,842,000 on or after October 1, 1991, and by \$85,115,000 on or after October 1, 1992. Any funds appropriated under this section shall remain available until expended.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

"SEC. 431. PURPOSE.

"The purpose of the program authorized under this subtitle is to provide rental housing assistance to homeless persons with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases) in connection with supportive services funded from sources other than this subtitle.

"SEC. 432. RENTAL HOUSING ASSISTANCE.

"The Secretary is authorized, in accordance with the provisions of this subtitle, to provide rental housing assistance under parts II, III, and IV.

"SEC. 433. SUPPORTIVE SERVICES REQUIREMENTS; MATCHING FUNDING.

"(a) **SUPPLEMENTAL FUNDS.**—Each recipient shall assure that the amount of budget authority obligated by the Secretary for rental housing assistance under this subtitle is supplemented with at least an equal amount of funds from other sources. The funds shall be used for the provision of supportive services to eligible persons under this subtitle. In calculating the amount of these funds, a recipient may include the value of such items determined appropriate by the Secretary.

"(b) **ASSURANCES.**—Each recipient shall give reasonable assurances that supportive services appropriate to the needs of eligible persons to be served under its program will be provided for the full term of the rental housing assistance under parts II, III, and IV, as appropriate. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the persons assisted under the program.

"(c) **RECAPTURE.**—If the supportive services and funding for the supportive services required by this section are not provided, the Secretary may recapture any unexpended housing assistance.

"SEC. 434. APPLICATIONS.

"(a) **IN GENERAL.**—An application for rental housing assistance under this subtitle shall be submitted by an applicant in such forms and in accordance with such procedures as the Secretary shall establish.

"(b) **MINIMUM CONTENTS.**—The Secretary shall require that an application contain at a minimum—

"(1) a request for housing assistance under part II, III, or IV, or a combination, specifying the number of units requested and the amount of necessary budget authority;

"(2) a description of the size and characteristics of the population of eligible persons;

"(3) the identity of the proposed service provider or providers (which may be, or include, the applicant) and a statement of the qualifications of the provider or providers;

"(4) a description of the supportive services that the applicant proposes to assure will be available for eligible persons;

"(5) a description of the resources that are expected to be made available to provide the supportive services required by section 433;

"(6) a description of the mechanisms for developing a housing and supportive services plan for each person and for monitoring each person's progress in meeting that plan;

"(7) reasonable assurances satisfactory to the Secretary that the supportive services will be provided for the full term of the

housing assistance under part II, III, or IV, or a combination; and a certification from the applicant that it will fund the supportive services itself if the planned resources do not become available for any reason;

"(8) a certification by the public official responsible for submitting the comprehensive housing affordability strategy under section 105 of the National Affordable Housing Act that the proposed activities are consistent with the approved housing strategy of the unit of general local government within which housing assistance under this subtitle will be provided;

"(9) a plan for—

"(A) in the case of rental housing assistance under part II, providing housing assistance;

"(B) identifying and selecting eligible persons to participate, including a proposed definition of the term 'chronic problems with alcohol, other drugs, or both';

"(C) coordinating the provision of housing assistance and supportive services;

"(D) ensuring that the service providers are providing supportive services adequate to meet the needs of the persons served;

"(E) obtaining participation of eligible persons who have previously not been assisted under programs designed to assist the homeless or have been considered not capable of participation in these programs; this plan shall specifically address how homeless persons, as defined in section 103(a)(2)(C), will be brought into the program;

"(10) in the case of housing assistance under part III, identification of the specific structures that the recipient is proposing for rehabilitation and assistance; and

"(11) in the case of housing assistance under part IV, identification of the nonprofit entity that will be the owner or lessor of the property, and identification of the specific structures in which the nonprofit entity proposes to house eligible persons.

"SEC. 435. SELECTION CRITERIA.

"(a) **IN GENERAL.**—The Secretary shall establish selection criteria for a national competition for assistance under this subtitle, which shall include—

"(1) the ability of the applicant to develop and operate the proposed assisted housing and supportive services program, taking into account the quality of any ongoing program of the applicant;

"(2) the need for a program providing housing assistance and supportive services for eligible persons in the area to be served;

"(3) the quality of the proposed program for providing supportive services and housing assistance;

"(4) the extent to which the proposed funding for the supportive services is or will be available;

"(5) the extent to which the project would meet the needs of the homeless persons proposed to be served by the program;

"(6) the cost-effectiveness of the proposed program; and

"(7) such other factors as the Secretary specifies in regulations to be appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

"(b) **CONSULTATION WITH HHS.**—In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

"(c) **FUNDING LIMITATION.**—No more than 10 percent of the assistance made available under this subtitle for any fiscal year may

be used for programs located within any one unit of general local government.

"SEC. 436. REQUIRED AGREEMENTS.

"The Secretary may not approve assistance under this subtitle unless the applicant agrees—

"(1) to operate the proposed program in accordance with the provisions of this subtitle;

"(2) to conduct an ongoing assessment of the housing assistance and supportive services required by the participants in the program;

"(3) to assure the adequate provision of supportive services to the participants in the program; and

"(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

"SEC. 437. TERMINATION OF ASSISTANCE.

"If an eligible person who receives assistance under this subtitle violates program requirements, the recipient may terminate assistance.

"SEC. 438. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'acquired immunodeficiency syndrome and related diseases' has the same meaning given the term in section 521 of the National Affordable Housing Act.

"(2) The term 'applicant' means—

"(A) in the case of rental housing assistance under parts II and IV, a State, unit of general local government, or Indian tribe; and

"(B) in the case of single room occupancy housing under the section 8 moderate rehabilitation program under part III (i) a State, unit of general local government, or Indian tribe (that shall be responsible for assuring the provision of supportive services and the overall administration of the program), and (ii) a public housing agency (that shall be primarily responsible for administering the housing assistance under part III).

"(3) The term 'chronic problems with alcohol, other drugs, or both' shall have such meaning as proposed by the applicant and approved by the Secretary.

"(4) The term 'eligible person' means a homeless person with disabilities (primarily persons who are seriously mentally ill, have chronic problems with alcohol, drugs, or both, or have acquired immunodeficiency syndrome and related diseases).

"(5) The term 'Indian tribe' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"(6) The term 'person with disabilities' has the same meaning given the term in section 521 of the National Affordable Housing Act.

"(7) The term 'public housing agency' has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

"(8) The term 'recipient' means an applicant approved for participation in the program authorized under this subtitle.

"(9) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(10) The term 'seriously mentally ill' means having a severe and persistent mental or emotional impairment that seriously limits a person's ability to live independently.

"(11) The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of

the Pacific Islands, and any other territory or possession of the United States.

"(12) The term 'supportive services' means assistance that the Secretary determines (A) addresses the special needs of eligible persons; and (B) provides appropriate services or assists such persons in obtaining appropriate services, including health care, mental health services, substance and alcohol abuse services, case management services, counseling, supervision, education, job training, and other services essential for achieving and maintaining independent living. In-patient acute hospital care shall not qualify as a supportive service.

"(13) The term 'unit of general local government' has the meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 439. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—For purposes of the housing program under part II of this subtitle, there are authorized to be appropriated \$160,800,000 for fiscal year 1991, \$167,213,000 for fiscal year 1992, and \$173,400,000 for fiscal year 1993.

"(b) PART III.—For purposes of the housing program under part III of this subtitle, the budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be increased by \$49,571,000 on or after October 1, 1990, \$54,193,000 on or after October 1, 1991, and \$56,144,000 on or after October 1, 1992.

"(c) PART IV.—For purposes of the housing program under part IV of this subtitle, there are authorized to be appropriated \$35,835,000 for fiscal year 1991, \$37,233,000 for fiscal year 1992, and \$38,573,000 for fiscal year 1993.

"(d) AVAILABILITY.—Sums appropriated under this section shall remain available until expended.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

"SEC. 441. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(a) to provide rental housing assistance in accordance with the requirements of this part.

"SEC. 442. HOUSING ASSISTANCE.

"Where necessary to assure that the provision of supportive services to persons is feasible, a recipient may require that a person participating in the program live (a) in a particular structure or unit for up to the first two years of participation, and (b) within a particular geographic area for the full period of participation or the period remaining after the period referred to in subsection (a).

"SEC. 443. AMOUNT OF ASSISTANCE.

"The contract with a recipient for assistance under this part shall be for a term of five years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. At the option of the recipient and subject to the availability of such amounts, the recipient may receive in any year (1) up to 25 percent of such amounts or (2) such higher percentage as the Secretary may approve upon a demonstration satisfactory to the Secretary that the recipient has entered into firm financial commitments to ensure that the housing assistance described in the application will be provided for the full term of the contract.

Any amounts not needed for a year may be used to increase the amount available in subsequent years. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 444. HOUSING STANDARDS AND RENT REASONABLENESS.

"(a) STANDARDS REQUIRED.—The Secretary shall require that—

"(1) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part; and

"(2) the recipient make at least annual inspections of each unit during the contract term.

"(b) PROHIBITION.—No assistance may be provided for a dwelling unit (1) for which the occupancy charge is not reasonable, or (2) which fails to meet the housing standards, unless the owner promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 445. TENANT RENT.

"Each tenant shall pay as rent an amount determined in accordance with the provisions of section 3(a)(1) of the United States Housing Act of 1937.

"SEC. 446. ADMINISTRATIVE FEES.

"The Secretary shall make amounts available to pay the entity administering the housing assistance an administrative fee in an amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"PART III—SHELTER PLUS CARE: SECTION 8 MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

"SEC. 451. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(b) of this subtitle only in connection with the moderate rehabilitation of single room occupancy housing described in section 8(n) of the United States Housing Act of 1937 for occupancy by very low-income eligible persons. However, amounts made available under section 439(b) may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating the efficiency units.

"SEC. 452. FIRE AND SAFETY IMPROVEMENTS.

"Each contract for housing assistance payments entered into using the authority provided under section 439(b) shall require the installation of a sprinkler system that protects all major spaces, hard-wired smoke detectors, and such other fire and safety improvements as may be required by State or local law. For purposes of this section, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.

"SEC. 453. CONTRACT REQUIREMENTS.

"Each contract for annual contributions entered into by the Secretary with a public housing agency to obligate the authority made available under section 439(b) shall—

"(1) commit the Secretary to make the authority available to the public housing agency for an aggregate period of 10 years, and require that any amendments increas-

ing the authority shall be available for the remainder of such 10-year period;

"(2) provide the Secretary with the option to renew the contract for an additional period of 10 years, subject to the availability of authority; and

"(3) provide that, notwithstanding any other provision of law, first priority for occupancy of housing rehabilitated under this part III shall be given to very low-income eligible persons.

"SEC. 454. OCCUPANCY.

"(a) OCCUPANCY AGREEMENT.—The occupancy agreement between the tenant and the owner shall be for at least one month.

"(b) VACANCY PAYMENTS.—If an eligible person vacates a dwelling unit before the expiration of the occupancy agreement, no assistance payment may be made with respect to the unit after the month during which the unit was vacated, unless it is occupied by another eligible person.

"(c) INAPPLICABILITY OF 'OTHER SINGLE PERSON' LIMITATIONS.—The limitations on the eligibility of other single persons contained in section 3(b)(3) of the United States Housing Act of 1937 shall not apply to eligible persons under this part.

"PART IV—SHELTER PLUS CARE: SECTION 202 RENTAL ASSISTANCE

"SEC. 461. PURPOSE.

"The Secretary is authorized to use amounts made available under section 439(c) of this subtitle only in connection with the provision of rental housing assistance under section 611 of the National Affordable Housing Act for very low-income eligible persons. The contract between the Secretary and the recipient shall require the recipient to enter into contracts with owners or lessors of housing meeting the requirements of section 611 of such Act for the purpose of providing such rental housing assistance.

"SEC. 462. AMOUNT OF ASSISTANCE.

"The contract with a recipient of assistance under this part shall be for a term of 5 years. Each contract shall provide that the recipient shall receive aggregate amounts not to exceed the appropriate existing housing fair market rent limitation under section 8(c) of the United States Housing Act of 1937 in effect at the time the application is approved. Each recipient shall ensure that the assistance provided by the Secretary, and any amounts provided from other sources, are managed so that the housing assistance described in the application is provided for the full term of the assistance.

"SEC. 463. HOUSING STANDARDS AND RENT REASONABLENESS.

"The Secretary shall require that (a) the recipient inspect each unit before any assistance may be provided to or on behalf of the person to determine that the occupancy charge for the housing being or to be provided is reasonable and that each unit meets housing standards established by the Secretary for the purpose of this part, and (b) the recipient make at least annual inspections of each unit during the contract term. No assistance may be provided for a dwelling unit (a) for which the occupancy charge is not reasonable, or (b) which fails to meet the housing standards, unless the owner or lessor, as the case may be, promptly corrects the deficiency and the recipient verifies the correction.

"SEC. 464. ADMINISTRATIVE FEES.

"The Secretary shall make amounts available to pay the nonprofit entity that is the owner or lessor of the housing assisted under this part an administrative fee in an

amount determined appropriate by the Secretary for the costs of administering the housing assistance.

"Subtitle E—Miscellaneous

"SEC. 471. ENVIRONMENTAL REVIEW.

"The provisions of, and the regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title."

(b) IMPLEMENTATION.—Not later than 120 days after the date funds authorized under section 439 of the Stewart B. McKinney Homeless Assistance Act, as amended by this Act, first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of subtitle D of that Act. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the eight-month period following the date of the notice.

(c) TRANSITION PROVISIONS.—Amounts appropriated for use under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act, as it existed immediately before the date of enactment of this Act, that are or become available for obligation shall be available for use under subtitle D of title IV of the McKinney Act, as amended by this Act.

SEC. 622. DEFINITION OF "HOMELESS PERSON".

Section 103(a) of the Stewart B. McKinney Homeless Assistance Act is amended by adding after "homeless individual" the following: "or homeless person".

SEC. 623. TRANSITIONAL RULE.

Notwithstanding section 404(a) of the Stewart B. McKinney Homeless Assistance Act (as amended by section 531), during the period not to exceed 1 year following the enactment of this Act, the Secretary is authorized to allocate homeless assistance made available under such Act in accordance with regulations in effect on January 1, 1989, to the extent determined by the Secretary to be necessary to provide for orderly transition to the regulations issued under such section.

SEC. 624. CONFORMING AMENDMENT.

That part of the table of contents of the Stewart B. McKinney Homeless Assistance Act that relates to title IV of such Act is amended to read as follows:

"TITLE IV—HOUSING ASSISTANCE

"Subtitle A—General Provisions

- "Sec. 401. Purpose.
- "Sec. 402. Definitions.
- "Sec. 403. General authority.
- "Sec. 404. Allocation formula.
- "Sec. 405. Discretionary allocation.
- "Sec. 406. Responsibilities of grantees and project sponsors.
- "Sec. 407. Strategy to eliminate welfare hotels and unfit transient facilities.
- "Sec. 408. Administrative provisions.
- "Sec. 409. Authorization of appropriations.
- "Sec. 410. Reports to Congress.

"Subtitle B—Approved Activities.

- "Sec. 411. Homelessness prevention.
- "Sec. 412. Emergency shelter.
- "Sec. 413. Transitional housing for the homeless.
- "Sec. 414. Permanent housing for homeless persons with disabilities.
- "Sec. 415. Transition to permanent housing.

"Sec. 416. Development of additional approved activities.

"Subtitle C—Section 8 Single Room Occupancy

"Sec. 421. Section 8 single room occupancy provisions.

"Sec. 422. Increase in budget authority.

"Subtitle D—Shelter Plus Care Program

"PART I—SHELTER PLUS CARE: GENERAL REQUIREMENTS

- "Sec. 431. Purpose.
- "Sec. 432. Rental housing assistance.
- "Sec. 433. Supportive services requirements; matching funding.
- "Sec. 434. Applications.
- "Sec. 435. Selection criteria.
- "Sec. 436. Required agreements.
- "Sec. 437. Termination of assistance.
- "Sec. 438. Definitions.
- "Sec. 439. Authorization of appropriations.

"PART II—SHELTER PLUS CARE: HOMELESS RENTAL HOUSING ASSISTANCE

- "Sec. 441. Purpose.
- "Sec. 442. Housing assistance.
- "Sec. 443. Amount of assistance.
- "Sec. 444. Housing standards and rent reasonableness.
- "Sec. 445. Tenant rent.
- "Sec. 446. Administrative fees.

"PART III—SHELTER PLUS CARE: MODERATE REHABILITATION ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS

- "Sec. 451. Purpose.
- "Sec. 452. Fire and safety improvements.
- "Sec. 453. Contract requirements.
- "Sec. 454. Occupancy.

"PART IV—SECTION 202 RENTAL ASSISTANCE

- "Sec. 461. Purpose.
- "Sec. 462. Amount of assistance.
- "Sec. 463. Housing standards and rent reasonableness.
- "Sec. 464. Administrative fees.

"Subtitle E—Miscellaneous

- "Sec. 471. Environmental review."
- SEC. 625. STRATEGY TO ASSIST HOMELESS PERSONS WITH ACQUIRED IMMUNODEFICIENCY SYNDROME AND RELATED DISEASES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall, not more than 12 months after the date of enactment of the National Affordable Housing Act, develop and publish in the Federal Register a strategy to expand the supply of supportive housing for homeless persons with acquired immunodeficiency syndrome and related diseases. In developing the strategy required under this section, the Secretary shall consult with the Secretary of the Department of Health and Human Services, other appropriate Federal officials, appropriate States and units of general local government, major organizations representing homeless persons with acquired immunodeficiency syndrome and related diseases and other experts.

(b) PRELIMINARY INFORMATION.—In developing the strategy required under this section, the Secretary shall—

(1) identify the States and units of general local government that have a significant population of homeless persons with acquired immunodeficiency syndrome and related diseases;

(2) assess the extent to which Federal housing and supportive service programs (and comparable State and local programs) are adequately serving such population

within the jurisdictions identified under paragraph (1);

(3) identify provisions in Federal, State, and local statutes and regulations that inhibit the development of supportive housing for homeless persons with acquired immunodeficiency syndrome and related diseases; and

(4) identify other barriers that inhibit the implementation of Federal housing and supportive service programs (and comparable State and local programs) within the jurisdictions identified under paragraph (1).

(c) **CONTENTS OF STRATEGY.**—The strategy developed under this section shall specify—

(1) recommended changes in Federal, State, and local statutes and regulations identified under subsection (b)(3);

(2) actions to be taken to build the capacity of nonprofit organizations that are dedicated to the development of supportive housing for persons with acquired immunodeficiency syndrome and related diseases;

(3) such preferences in the allocation of resources under section 405 of the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(4) such limitations upon a jurisdiction's discretion to allocate resources among approved activities under section 403(a)(2)(A) of the Stewart B. McKinney Homeless Assistance Act as the Secretary determines to be appropriate;

(5) such set-aside of tenant-based rental assistance under section 8(o) of the United States Housing Act of 1987 as the Secretary determines to be appropriate;

(6) such expedited decisionmaking or waivers or revisions of regulatory requirements under other provisions of Federal law as the Secretary determines to be appropriate; and

(7) such additional constraints on the use of funds under other provisions of Federal law as the Secretary determines to be appropriate.

(d) **DEFINITIONS.**—As used in this section—

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome and any conditions arising from the etiologic agent for acquired immunodeficiency syndrome. The term does not include any condition of asymptomatic infection with the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "Federal housing and supportive service programs" shall include but not be limited to public housing developed under the United States Housing Act of 1937, housing developed under section 202 of the Housing Act of 1959, housing developed or assistance provided under section 8 of the United States Housing Act of 1937, housing developed under title IV of the Stewart B. McKinney Homeless Assistance Act, and related supportive services provided under programs administered by the Department of Health and Human Services and other agencies and departments of the Federal Government.

Subtitle D—White House Conference on Homelessness

SEC. 631. SHORT TITLE.

This title may be cited as the "White House Conference on Homelessness Act".

SEC. 632. AUTHORIZATION OF CONFERENCE.

(a) **IN GENERAL.**—The President shall call and conduct a National White House Conference on Homelessness (hereinafter referred to as the "Conference") within 18 months of the date of enactment of this Act, to carry out the purposes described in section 638 of this Act. The Conference

shall be preceded by State and regional conferences with at least one such conference being held in each State and the District of Columbia.

(b) **PRIOR STATE AND REGIONAL CONFERENCES.**—Participants in the Conference and other interested individuals and organizations are authorized to conduct conferences and other activities at the State and regional levels prior to the date of the Conference, subject to the approval of the Executive Director of the Interagency Council on the Homeless, and shall direct such conferences and activities toward the consideration of the purposes of the Conference described in section 638 of this Act in order to prepare for the Conference.

SEC. 633. PURPOSES OF CONFERENCE.

The purposes of the Conference shall be—

(1) to increase public awareness of homelessness;

(2) to identify the problems of homeless individuals;

(3) to examine the status of homeless individuals;

(4) to assemble individuals involved in policies and programs related to the homelessness;

(5) to develop such specific and comprehensive recommendations for executive and legislative action as may be appropriate to address the problem of homelessness; and

(6) to review the existing laws and regulations related to public policy regarding the homeless.

SEC. 634. CONFERENCE PARTICIPANTS.

(a) **IN GENERAL.**—In order to carry out the purposes specified in section 638 of this Act, the Conference shall bring together individuals concerned with issues and programs, both public and private, relating to homelessness. No person involved in providing services to, or advocacy for, homeless individuals may be denied admission to any State or regional conference, nor may any fee or charge be imposed on any attendee except a registration fee of not to exceed \$10.

(b) **SELECTION.**—Delegates, including alternates, to the National Conference shall be elected by participants at the State conferences. In addition—

(1) each Governor may appoint one delegate and one alternate;

(2) each Member of the United States House of Representatives, including each Delegate, and each Member of the United States Senate may appoint one delegate and one alternate;

(3) the President may appoint 100 delegates and up to 30 alternates;

(4) each organization enumerated in section 301(b) of the Stewart B. McKinney Homeless Assistance Act may appoint one delegate and one alternate; and

(5) each mayor of a city with a population of 175,000 or more, according to the latest available census, may appoint one delegate and one alternate.

Only individuals involved in providing services to, or advocacy for, homeless individuals shall be eligible for appointment pursuant to this subsection.

SEC. 635. PLANNING AND ADMINISTRATION OF CONFERENCE.

(a) **FEDERAL SUPPORT.**—All Federal departments, agencies, and instrumentalities are authorized and directed to provide such support and assistance as may be necessary to facilitate the planning and administration of the Conference.

(b) **EXECUTIVE DIRECTOR OF INTERAGENCY COUNCIL.**—In carrying out the provisions of

this title, the Executive Director of the Interagency Council on the Homeless—

(1) shall provide such assistance as may be necessary for the organization and conduct of conferences at the State and regional levels as authorized under section 632(b) of this Act.

(2) is authorized to enter into contracts with public agencies, private organizations and academic institutions to carry out the provisions of this title; and

(3) shall assist in carrying out the provisions of this title by preparing and providing background materials for use by participants in the Conference, as well as by participants in State and regional conferences.

(c) **NONREIMBURSEMENT.**—Each participant in the Conference shall be responsible for his or her expenses related to attending the Conference and shall not be reimbursed either from funds appropriated pursuant to this title or the Stewart B. McKinney Homeless Assistance Act.

(d) **STAFF.**—(1) The President is authorized to appoint and compensate an executive director and such other directors and personnel for the Conference as he may deem advisable, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) Upon request by the executive director, the heads of the executive and military departments are authorized to detail employees to work with the executive director in planning and administering the Conference without regard to the provisions of section 3341 of title 5, United States Code.

SEC. 636. REPORTS REQUIRED.

Not more than 6 months after the date on which the National Conference is convened a final report of the Conference shall be submitted to the President and the Congress. The report shall include the findings and recommendations of the Conference as well as proposals for any legislative action necessary to implement the recommendations of the Conference. The final report of the Conference shall be available to the public.

SEC. 637. FOLLOWUP ACTIONS.

The Interagency Council on the Homeless shall include in its annual report to the President and the Congress the status and implementation of the findings and recommendations of the Conference.

SEC. 638. AVAILABILITY OF FUNDS.

(a) **AUTHORIZATION.**—There are hereby authorized to be appropriated \$6,000,000 for fiscal year 1991 to carry out the provisions of this title, and they shall remain available until expended. New spending authority or authority to enter contracts as provided in this title shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(b) **LIMITATION, DISPOSITION OF UNEXPENDED BALANCES.**—No funds appropriated to the Interagency Council on the Homeless shall be made available to carry out the provisions of this title other than funds appropriated specifically for the purpose of conducting the Conference. Any funds remaining unexpended at the termination of the Conference shall be returned to the Treasury of the United States and credited as miscellaneous receipts.

SEC. 639. AUTHORIZATION OF APPROPRIATIONS.

Notwithstanding any other provision of this Act, each authorization of appropria-

tions contained in a provision of this Act (other than a provision of this subtitle) shall be reduced by an amount that bears the same ratio to \$6,000,000 for a fiscal year 1991 authorization.

TITLE VII—PUBLIC AND INDIAN HOUSING

SEC. 701. PURPOSES.

The purposes of this title are—

(1) to modernize the Nation's stock of low-income public and Indian housing and provide operating assistance needed for such housing to be a suitable living environment;

(2) to make adequate provisions for one-for-one replacement of any public housing dwelling units that are demolished or disposed of;

(3) to establish Project Independence to help families with children living in public housing gain better access to jobs and educational opportunities; and

(4) to reduce the cost of operating assistance to public and Indian housing by improving the energy efficiency of the housing stock.

Subtitle A—Public Housing Revisions

SEC. 711. PUBLIC HOUSING REVISIONS.

Section 14 of the United States Housing Act of 1937 is amended by inserting at the end the following new subsection:

"(p) MAJOR RECONSTRUCTION.—The Secretary shall make available and contract to make available assistance in the form of grants to enable the substantial redesign, reconstruction or redevelopment of existing public housing projects or units. Of the total amount of assistance approved in appropriation Acts under section 5(c), there shall be set aside to carry out this subsection \$92,000,000 for fiscal year 1991, \$96,000,000 for fiscal year 1992 and \$100,000,000 for fiscal year 1993."

SEC. 712. REPLACEMENT HOUSING.

(a) BUDGET REQUEST.—Section 18(c)(2) of the United States Housing Act of 1937 is amended by adding at the end the following: "As part of each annual budget request for the Department of Housing and Urban Development, the Secretary shall transmit to the Congress a report—

"(A) outlining the commitments the Secretary entered into during the preceding year to fund plans approved under subsection (b)(3); and

"(B) specifying, by fiscal year, the budget authority required to carry out the commitments specified in paragraph (A)."

(b) REPEALER.—Section 18(c)(3) of the United States Housing Act is repealed.

SEC. 713. REFORM OF PUBLIC HOUSING MANAGEMENT.

(a) PERFORMANCE INDICATORS FOR PUBLIC HOUSING AGENCIES.—Section 6(j) of the United States Housing Act of 1937 is amended to read as follows:

"(j)(1) The Secretary shall develop and publish in the Federal Register indicators to assess the management performance of public housing agencies. Such indicators shall enable the Secretary to evaluate the performance of public housing agencies in all major areas of management operations. The Secretary shall, in particular, use the following indicators:

"(A) the number and percentage of vacancies within an agency's inventory, including the progress that an agency has made within the previous 3 years to reduce such vacancies;

"(B) the amount and percentage of funds obligated to the PHA under section 14 of this Act which remain unexpended after 3 years;

"(C) the percentage of rents uncollected;

"(D) the energy consumption per unit (with appropriate adjustments to reflect different regions and unit sizes);

"(E) the average period of time that an agency requires to repair and turn-around vacant units;

"(F) the proportion of maintenance work orders outstanding;

"(G) the percentage of units that an agency fails to inspect to ascertain maintenance or modernization needs within such period of time as the Secretary deems appropriate (with appropriate adjustments for large and small agencies); and

"(H) such other factors as the Secretary deems appropriate.

"(2)(A) The Secretary shall establish procedures for designating troubled public housing agencies, which procedures shall include identification of serious and substantial failure to perform as measured by the performance indicators specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate.

"(B) The Secretary shall seek to enter into an agreement with each troubled public housing agency setting forth—

"(i) targets for improving performance as measured by the performance indicators specified under paragraph (1) and other requirements within a specified period of time;

"(ii) strategies for meeting those targets; and

"(iii) incentives or sanctions for effective implementation of those strategies, which may include such constraints on the use of funds made available under this Act and the Housing and Community Development Act of 1974 as the Secretary determines to be appropriate.

The Secretary and the public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out the agreement.

"(3)(A) Notwithstanding any other provision of law or of any contract for contributions, upon the occurrence of events or conditions that constitute a substantial default by a public housing agency with respect to the covenants or conditions to which the public housing agency is subject or an agreement entered into under paragraph (2), the Secretary—

"(i) may solicit competitive bids from housing management agents in the eventuality that these agents may be needed for managing all, or part, of the housing administered by a public housing agency; and

"(ii) may petition for the appointment of a receiver (which may be a private management corporation) of the public housing agency to any district court of the United States or to any court of the State in which the real property of the public housing agency is situated, that is authorized to appoint a receiver for the purposes and having the powers prescribed in this subsection.

"(B) In any proceeding under subparagraph (A)(i), upon a determination that a substantial default has occurred, and without regard to the availability of alternative remedies, the court shall appoint a receiver to conduct the affairs of the public housing agency in a manner consistent with this Act and in accordance with such further terms and conditions as the court may provide. The court shall have power to grant appropriate temporary or preliminary relief pending final disposition of the petition by the Secretary.

"(C) The appointment of a receiver pursuant to this subsection may be terminated,

upon the petition of any party, when the court determines that all defaults have been cured and the housing operated by the public housing agency will thereafter be operated in accordance with the covenants and conditions to which the public housing agency is subject.

"(4) The Secretary shall annually submit to the Congress a report identifying the public housing agencies that have been designated as troubled under paragraph (2), describing the agreements that have been entered into with such agencies under such paragraph, describing the status of progress under such agreements, and describing any action that has been taken in accordance with paragraph (3). In preparing such report, the Secretary shall consult with the Public Housing Advisory Board established under section 5(n) of this Act."

(b) PROJECT-BASED ACCOUNTING SYSTEMS.—Section 6(c)(4) of the United States Housing Act is amended by adding at the end the following:

"(E) the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair and other operating costs) on a project basis.

The Secretary shall develop such guidelines and timetables as the Secretary determines to be appropriate, taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with paragraph (4)(E) not later than January 1, 1993."

(c) REDUCTION OF OPERATING SUBSIDY FOR VACANT UNITS.—Section 9 of the United States Housing Act of 1937 is amended by adding at the end the following:

"(f) REDUCTION.—The Secretary may reduce operating subsidies for public housing units that have been continuously vacant for 1 year or longer where such vacancies have been caused by factors within the control of the public housing agency."

(d) REPORT.—

(1) IN GENERAL.—Within 180 days after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the operation and efficiency of the Buffalo Municipal Housing Authority ("the Authority"), using, among other criteria, the performance indicators listed in section 6(j)(1) of the United States Housing Act of 1937, and giving special attention to the Authority's desegregation program and to the vacancy rate.

(2) SPECIFIC RECOMMENDATIONS.—For purposes of the report required by paragraph (1), the Secretary may specifically determine whether to—

(A) petition for the appointment of a receiver for the Authority under the provisions of section 6(j)(3) of the United States Housing Act of 1937, or

(B) reduce operating subsidies for the Authority under the provisions of section 9 of the United States Housing Act of 1937.

SEC. 714. TERMINATION OF TENANCY IN PUBLIC HOUSING.

(a) IN GENERAL.—Section 6(l)(5) of the Housing Act of 1937 is amended by striking the words after "shall not engage in" and before "and such criminal activity" and by inserting "activity that adversely affects the health, safety, and right to quiet enjoyment of the premises by other tenants and shall not engage in criminal activity, including drug-related criminal activity, that threatens the health or safety of, or right to quiet enjoyment of the premises by, other tenants."

(b) No PREFERENCE.—Section 3(b)(3) of the United States Housing Act of 1937 is amended by inserting at the end the following new sentence: "Any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity (as defined in section 6(l)) is not eligible for a preference under any provision of this paragraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary."

SEC. 715. ENERGY EFFICIENCY DEMONSTRATION.

(a) ESTABLISHMENT.—The Secretary shall establish a demonstration program to encourage the use of private energy service companies in accordance with section 118(a) of the Housing and Community Development Act of 1987. The Secretary shall provide technical assistance to 5 public housing agencies to demonstrate the opportunities for energy cost reduction in 5 public housing projects through energy services contracts. Not later than 90 days after enactment of this Act, the Secretary shall establish such selection criteria for this demonstration as the Secretary deems appropriate after consultation with representatives of public housing agencies and energy efficiency organizations.

(b) REPORT.—As soon as practicable following one year after the date of enactment of this Act, the Secretary shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this section. The Secretary shall disseminate such report, to the extent practicable, to other public housing agencies.

(c) FUNDING.—Of the total amount approved in appropriation Acts under section 911 of this Act, there shall be set aside to carry out this section \$500,000 for fiscal year 1991.

SEC. 716. PREFERENCE RULES.

Section 6(c)(4)(A) of the United States Housing Act of 1937 is amended—

(1) by inserting the following after "which" the second time it appears: "(i) for not less than 70 percent of the units that are made available for occupancy in a given fiscal year,";

(2) by inserting the following after "Act": "(ii) for any remaining units to be made available for occupancy, gives preferences in accordance with a system of preferences established by the public housing agency in writing and after public hearing to respond to local housing needs and priorities, and (iii) prohibits any individual or family evicted from housing assisted under the Act by reason of drug-related criminal activity from having a preference under any provision of this subparagraph for 5 years unless the evicted tenant successfully completes a rehabilitation program approved by the Secretary,"; and

(3) by striking all that follows after "problems" and inserting in lieu thereof a period.

SEC. 717. PUBLIC HOUSING REPLACEMENT.

Section 18(b) of the United States Housing Act of 1937 is amended by—

(1) striking "and" at the end of paragraph (2); and

(2) inserting at the end the following new paragraphs:

"(4) the public housing agency has developed a plan for the provision of not less than an additional decent, safe, sanitary and affordable dwelling unit for each two public housing dwelling units to be demolished or disposed of under such application (which plan otherwise complies with the requirements of paragraph (3)) where—

"(A) the project or portion of the project to be demolished or disposed of has had vacancies exceeding 35 percent for each of the 5 years preceding submission of the application under this section;

"(B) the project is located within a jurisdiction that has a vacancy rate for standard rental units that exceeds 10 percent (as reported in the most recent comprehensive housing affordability housing strategy filed and approved in accordance with section 105 of the National Affordable Housing Act); and

"(C) the project is located within jurisdiction that is deemed by the Secretary to be experiencing severe economic distress in accordance with standards established under section 119(b)(1) of the Housing and Community Development Act of 1974; and

"(5) the public housing agency has held an open, public hearing to obtain citizen views on the application, which hearing shall be held after adequate notice, at a time and location convenient to parties who will be affected by the demolition or disposition and with accommodation for persons with disabilities."

SEC. 718. PUBLIC HOUSING ADVISORY BOARD.

Section 5 of the United States Housing Act of 1937 is amended by inserting at the end the following new subsection:

"(n) PUBLIC HOUSING ADVISORY BOARD.—

"(1) There is created a Public Housing Advisory Board that shall provide advice to the Assistant Secretary for Public and Indian Housing with respect to the formulation of general policies and significant regulations governing public housing and such other matters as the Secretary and the Assistant Secretary may deem appropriate. The Advisory Board shall, in all other respects, be subject to the provisions of the Federal Advisory Committee Act.

"(2)(A) The Advisory Board shall be composed of 15 members to be appointed from among individuals who have substantial expertise and broad experience in public housing of whom—

"(i) 9 shall be appointed by the Secretary;

"(ii) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs of the Senate; and

"(iii) 3 shall be appointed by the Chairman and Ranking Minority Member of the Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs of the House of Representatives.

"(B) Membership on the Advisory Board shall include—

"(i) not less than 8 persons with distinguished careers in public housing, including persons who serve or have served as executive directors of public housing agencies or as receivers for public housing agencies;

"(ii) not less than 2 persons who are distinguished professionals such as architects, engineers, or builders who are associated with the development or modernization of public housing;

"(iii) not less than 2 persons who are elected public officials at the State or local level;

"(iv) not less than 2 persons who are tenants or representatives of tenants or a tenant organization; and

"(v) not less than 1 person who is a distinguished academic in the field of housing and urban development, particularly public housing.

"(C) The initial appointments to the Advisory Board shall be made not later than 90

days after the date of enactment of this Act in accordance with this subsection.

"(3) Members of the Advisory Board shall be selected to ensure, to the greatest extent practicable, geographical representation of every region of the country.

"(4) Membership of the Advisory Board shall not include any person who, during the previous 24-month period, was required to register with the Secretary under section 112(c) of the Department of Housing and Urban Development Reform Act of 1989 or employed a person for purposes that required such person to so register.

"(5) Of the members of the Advisory Board first appointed, 5 shall have terms of 1 year, and 5 shall have terms of 2 years. Their successors and all other appointees shall have terms of 3 years.

"(6) The Advisory Board is empowered to confer with, request information of, and make recommendations to the Assistant Secretary for Public and Indian Housing. The Assistant Secretary shall promptly provide the Advisory Board with such information as the Board determines to be necessary to carry out its review of the activities and policies of the Department of Housing and Urban Development that affect public housing.

"(7) The Advisory Board shall, not later than December 31 of each year, submit to the Secretary and the Congress a report of its assessment of the Department's activities affecting public housing, including the appropriateness of existing and proposed regulations, the adequacy of information systems (especially the Performance Funding System), the appropriateness of staffing patterns, the adequacy of staff work experience in public housing and other matters related to the Department's ability to help public housing agencies maintain and improve the living conditions in public housing. Such report shall contain the Board's recommendations for improvement and include any minority views.

"(8) The Board shall meet in Washington, D.C., not less than twice annually, or more frequently if requested by the Assistant Secretary for Public and Indian Housing or a majority of its members. The Board shall elect a chairman, vice chairman and secretary and adopt methods of procedure. The Board may establish committees and subcommittees as needed.

"(9) Subject to the provisions of section 7 of the Federal Advisory Committee Act, all members of the Board may be compensated and shall be entitled to reimbursement from the Department for traveling expenses incurred in attendance at meetings of the Board."

SEC. 719. EVICTION FOR CRIMINAL ACTIVITY.

(a) NOTICE TO POST OFFICE.—Section 6 of the United States Housing Act of 1937 is amended by adding at the end the following subsection:

"(n) When a public housing agency evicts an individual or family from a dwelling unit for engaging in criminal activity, including drug-related criminal activity, the public housing agency shall notify the local post office serving that dwelling unit that such individual or family is no longer residing in the dwelling unit."

(b) GRIEVANCE PROCEDURES.—Section 6(k) of the United States Housing Act of 1937 is amended by adding: "An agency may exclude from its procedure any grievance concerning an eviction or termination of tenancy for criminal activity, including drug-related criminal activity, that adversely affects

the health, safety and welfare of the public housing tenants on the premises provided that the agency notifies the tenant of the reason for the action to evict or terminate tenancy." between "on the proposed action," and "An agency may exclude", and by adding "for criminal activity, including drug-related criminal activity, that adversely affects the health, safety and welfare of the public housing tenants on the premises." between "termination of tenancy" and "in any jurisdiction".

SEC. 720. PERFORMANCE FUNDING SYSTEM.

In determining the Performance Funding System utility subsidy for public housing agencies, the Secretary shall include a cooling degree day adjustment factor. The method by which a cooling degree day adjustment factor is included shall be identical to the method by which the heating degree day adjustment factor is included.

Subtitle B—Authorizations

SEC. 721. AUTHORIZATION OF OPERATING SUBSIDIES.

Section 9(c) of the United States Housing Act of 1937 is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section \$1,865,000,000 for fiscal year 1991, \$1,940,100,000 for fiscal year 1992, and \$2,017,200,000 for fiscal year 1993."

SEC. 722. AUTHORIZATION OF THE COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM AND PUBLIC HOUSING RESIDENT MANAGEMENT.

(a) COMPREHENSIVE IMPROVEMENT ASSISTANCE PROGRAM.—Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for comprehensive improvement assistance grants under section 14 is increased by \$2,217,000,000 on October 1, 1990, by \$2,306,000,000 on October 1, 1991, and by \$2,398,400,000 on October 1, 1992."

(b) PUBLIC HOUSING RESIDENT MANAGEMENT.—Section 20(f)(3) of the United States Housing Act of 1937 is amended to read as follows:

"(3) FUNDING.—Of the amounts made available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than \$2,500,000 for fiscal year 1991, \$2,500,000 for fiscal year 1992, and \$2,500,000 for fiscal year 1993."

Subtitle C—Project Independence

SEC. 731. PURPOSE.

The purpose of this subtitle is to provide families with children living in public housing with better access to educational and employment opportunities by—

(1) developing facilities for training and support services in or near public housing;

(2) mobilizing public and private resources to expand and improve the delivery of such training and services;

(3) providing transitional funding for essential training and support services that cannot otherwise be funded; and

(4) improving the capacity of management to assess the training and service needs of families with children, coordinate the provision of training and services that meet such needs and ensure the long-term provision of such training and services.

SEC. 732. PROJECT INDEPENDENCE.

Section 14 of the United States Housing Act of 1937 is amended—

(1) by redesignating subsections (j) through (n) as (k) through (o); and

(2) by inserting after subsection (i) the following new subsection:

"(j)(1) The Secretary shall make available and contract to make available assistance in the form of grants to adapt public housing to help families with children gain better access to educational and job opportunities. Assistance under this subsection shall be made available only to public housing agencies that demonstrate to the satisfaction of the Secretary that such assistance is necessary to accommodate the provision of supportive services that will receive support from sources other than this Act. Facilities to be assisted under this subsection shall be in or near the premises of public housing. Such assistance shall be made without regard to the requirements of subsections (c) through (h). Of the total amount of assistance approved in appropriations Acts under section 5(c), there shall be set aside to carry out this subsection \$50,000,000 for fiscal year 1991, \$52,000,000 for fiscal year 1992, and \$54,080,000 for fiscal year 1993."

"(2)(A) Assistance provided under this subsection may be used for—

"(i) the renovation, conversion, or combination of vacant dwelling units in a public housing project to create congregate space to accommodate the provision of supportive services;

"(ii) the renovation of existing congregate space in a public housing project to accommodate the provision of supportive services;

"(iii) the renovation of facilities located near the premises of one or more public housing projects to accommodate the provision of supportive services;

"(iv) the transitional provision of qualifying supportive services if the public housing agency demonstrates to the satisfaction of the Secretary that—

"(I) the qualifying services are appropriate to improve the access of eligible residents to employment and educational opportunities;

"(II) the public housing agency has made diligent efforts to use or obtain other available resources to fund the designated services; and

"(III) long-term funding for the qualifying services will be available from other sources; and

"(v) the employment of management personnel (hereinafter referred to as 'service coordinator') who may be responsible for—

"(I) assessing the training and service needs of eligible residents;

"(II) working with service providers to coordinate the provision of services and tailor such services to the needs and characteristics of eligible residents;

"(III) mobilizing public and private resources to ensure that the qualifying supportive services identified pursuant to paragraph (4)(A) can be funded over the time period identified under such paragraph;

"(IV) monitoring and evaluating the impact and effectiveness of any supportive service program receiving capital or operating assistance under this section; and

"(V) performing such other duties and functions that the Secretary deems appropriate to provide families with children living in public housing with better access to educational and employment opportunities."

"(B) Assistance provided to carry out activities specified in subparagraph (A)(iv) shall be phased out over a period not to exceed 3 years.

"(C) The Secretary shall establish such minimum qualifications and standards for the position of service coordinator that the Secretary deems necessary to ensure sound management.

"(3) Assistance under this subsection shall be allocated by the Secretary among approvable applications submitted by public housing agencies.

"(4) Applications for assistance under this subsection shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Applications for assistance shall contain—

"(A) a description of the qualifying supportive services that can reasonably be expected to be made available to eligible residents over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under paragraph (2)(A) that involve substantial rehabilitation);

"(B) a firm commitment of assistance from one or more sources ensuring that qualifying supportive services will be provided for not less than 1 year following the completion of activities assisted under paragraph (2)(A);

"(C) a description of public or private sources of assistance that can reasonably be expected to fund or provide qualifying supportive services for the entire period specified under subparagraph (A), including evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);

"(D) a certification from the appropriate State or local agency (as determined by the Secretary) that (i) the provision of the qualifying supportive services identified under subparagraph (A) will provide eligible residents with better access to educational and employment opportunities, and (ii) there is a reasonable likelihood that such services will be funded or provided for the entire period specified under subparagraph (A);

"(E) a description of assistance that the public housing agency seeks under this subsection; and

"(F) such other information or certifications that the Secretary determines to be necessary or appropriate to achieve the purposes of this subsection.

"(5) The Secretary shall establish selection criteria for assistance under this subsection which shall take into account—

"(A) the ability of the public housing agency or a designated service provider to provide the qualifying supportive services identified under paragraph (4)(A);

"(B) the need for such services in the public housing project;

"(C) the extent to which the envisioned renovation, conversion and combination activities will foster the provision of such services;

"(D) the extent to which the public housing agency has demonstrated that such services will be provided for the period identified under paragraph (4)(A);

"(E) the extent to which the public housing agency has had a good record of maintaining and operating public housing; and

"(F) such other factors that the Secretary determines to be appropriate to ensure that funds made available under this subsection are used effectively.

"(6)(A) Each public housing agency shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual progress report evaluating the use of funds made available under this subsection.

"(B) The Secretary shall submit to the Congress, not later than 120 days after the end of each fiscal year, an annual report

evaluating the effectiveness of activities assisted under this subsection in such fiscal year. Such report shall summarize the progress reports submitted pursuant to subparagraph (A).

"(7) The Secretary may reserve not more than 5 percent of the amounts available in each fiscal year under this subsection to supplement grants awarded to public housing agencies under this subsection when, in the determination of the Secretary, such supplemental adjustments are required to maintain adequate levels of services to eligible residents.

"(8)(A) Each public housing agency shall, to the maximum extent practicable, employ public housing residents to provide the services assisted under this subsection or from other sources. Such persons shall be paid at a rate not less than the highest of—

"(i) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if he or she were not exempt under section 13 thereof;

"(ii) the State or local minimum wage for the most nearly comparable covered employment; or

"(iii) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

"(B) No service provided to a public housing resident under this subsection may be treated as income for the purpose of any other program or provision of State or Federal law.

"(9) For purpose of this subsection—

"(A) the term 'eligible resident' means a person residing in public housing who—

"(i) is a single parent head of household with 1 or more children under the age of 10; and

"(ii) is economically disadvantaged within the meaning of sections 4(8) (A) and (B) of the Job Training Partnership Act;

"(B) the term 'qualifying supportive services' shall mean new or significantly expanded services that the Secretary deems essential to provide families living with children in public housing with better access to educational and employment opportunities. Such services may include but not be limited to—

"(i) child care;

"(ii) employment training and counseling;

"(iii) literacy training;

"(iv) computer skills training; and

"(v) assistance in the attainment of certificates of high school equivalency.

The public housing agency may provide such services directly to eligible residents or may, by contract or lease, provide such services through other appropriate agencies or providers."

SEC. 733. CONFORMING AMENDMENTS.

(a) NO REDUCTION OF OPERATING SUBSIDY.—Section 9(a)(3)(B)(v) of the United States Housing Act of 1937 (as added by section 512(l) of this Act) is amended by inserting "section 14(j) of this Act or" before "section 512".

(b) BENEFITS EXCLUDED FROM INCOME.—Section 3(a) of the United States Housing Act of 1937, is amended by adding at the end the following new paragraph:

"(3) The earnings of and benefits to any public housing resident resulting from participation in a program providing employment training and supportive services in accordance with the Family Support Act of 1988, section 14(j) of this Act or any comparable Federal, State or local law shall not be considered as income for the purposes of de-

termining a limitation on the amount of rent paid by the resident during—

"(A) the period that the resident participated in such program; and

"(B) the period, not to exceed 18 months, that—

"(i) begins with the commencement of employment of the resident in the first job acquired by the person after completion of such program that is not funded by assistance under this Act; and

"(ii) ends on—

"(I) the date the resident ceases to continue employment without good cause as the Secretary shall determine; or

"(II) the expiration of the 18-month period following the commencement of the period described in clause (i), whichever event occurs first."

Subtitle D—Indian Housing

SEC. 741. DISPOSITION OF INTERESTS ON INDIAN LAND.

Section 509 of the Housing Act of 1949 is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, he shall not sell, transfer, or otherwise dispose or alienate the property except to one of the aforementioned entities."

SEC. 742. AUTHORIZATIONS.

Section 5(c)(6) of the United States Housing Act of 1937 is amended by adding at the end the following: "The aggregate amount of budget authority that may be obligated for Indian housing public housing grants is increased (to the extent approved in appropriation Acts) by \$233,700,000 on October 1, 1990, by \$243,048,000 on October 1, 1991, and by \$252,770,000 on October 1, 1992."

SEC. 743. WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.

(a) AUTHORIZATION OF WAIVER.—For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any other provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974.

(b) EXTENT OF WAIVER.—The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) DEFINITION OF HOUSING PROGRAM.—For purposes of this section, the term "housing program" means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that

provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

SEC. 744. ELIGIBILITY OF INDIAN MUTUAL HELP HOUSING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

Section 202(b) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary", and

(2) by adding at the end the following new paragraph:

"(2) ELIGIBILITY FOR CIAP.—Notwithstanding the provisions of section 14(c), the Secretary may provide assistance under section 14 for the housing projects under this section for the purposes under section 14."

SEC. 745. ADJUSTMENT IN AUTHORIZATION LEVELS.

Notwithstanding any other provision of this Act, each authorization of appropriations contained in a provision of this Act (other than a provision of this subtitle) shall be reduced by an amount that bears the same ratio to—

(1) \$54,530,000 for a fiscal year 1991 authorization;

(2) \$56,711,000 for a fiscal year 1992 authorization;

(3) \$58,980,000 for a fiscal year 1993 authorization;

as the amount authorized by such provision bears to the total amount authorized by this Act.

SEC. 746. PAYMENTS WITH RESPECT TO INDIAN HOUSING.

Section 107(a) of the Housing and Community Development Act of 1974 is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) to units of general local government that are located in North Dakota for public services provided with respect to Indian housing;"

Subtitle E—Public and Assisted Housing Drug Elimination

SEC. 751. REAUTHORIZATION OF THE PUBLIC HOUSING DRUG ELIMINATION ACT.

(a) IN GENERAL.—The Public Housing Drug Elimination Act of 1988 (chapter 2 of subtitle C of title V of Public Law 100-690) is amended to read as follows:

"CHAPTER 2—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

"SEC. 5121. SHORT TITLE.

"This chapter may be cited as the 'Public and Assisted Housing Drug Elimination Act of 1990'.

"SEC. 5122. CONGRESSIONAL FINDINGS.

"The Congress finds that—

"(1) the Federal Government has a duty to provide public and other federally assisted housing that is decent, safe, and free from illegal drugs;

"(2) public and other federally assisted housing in many areas suffers from rampant drug-related crime;

"(3) drug dealers are increasingly imposing a reign of terror on public and other federally assisted housing tenants;

"(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environ-

ment that requires substantial government expenditures; and

"(5) local law enforcement authorities often lack the resources to deal with the drug problem in public and other federally assisted housing, particularly in light of the recent reductions in Federal aid to cities.

"SEC. 5123. AUTHORITY TO MAKE GRANTS.

"The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants to public housing agencies (including Indian Housing Authorities) and private, for-profit and nonprofit owners of federally assisted, low-income housing for use in eliminating drug-related crime.

"SEC. 5124. ELIGIBLE ACTIVITIES.

"Grants under this chapter may be used in public housing or other federally assisted low-income housing projects for—

"(1) the employment of security personnel;

"(2) reimbursement of local law enforcement agencies for additional security and protective services;

"(3) physical improvements which are specifically designed to enhance security;

"(4) the employment of one or more individuals—

"(A) to investigate drug-related crime on or about the real property comprising any public or other federally assisted, low-income housing project; and

"(B) to provide evidence relating to such crime in any administrative or judicial proceeding;

"(5) the provision of training, communications equipment, and other related equipment for use by voluntary tenant patrols acting in cooperation with local law enforcement officials;

"(6) programs designed to reduce use of drugs in and around public or other federally assisted housing projects; and

"(7) providing funding to nonprofit public housing resident management corporation and tenant councils to develop security and drug abuse prevention programs involving site residents.

"SEC. 5125. APPLICATIONS.

"(a) **IN GENERAL.**—To receive a grant under this chapter, a public housing agency or an owner of federally assisted, low-income housing shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of the housing administered or owned by the applicant for which the application is being submitted. The plan shall include the following:

"(1) An assessment of the nature and extent of the problem of drug-related crime and the problems associated with drug-related crime in the projects administered or owned by the applicant for which the application is being submitted.

"(2) A discussion of the activities currently being undertaken and a listing of the resources being provided by the applicant, governmental entities, resident management corporations, and resident councils to address the problem of drug-related crime in the projects proposed for assistance under this chapter.

"(3) A discussion of the applicant's strategy for addressing the problem of drug-related crime in each of the projects proposed for assistance under this chapter including—

"(A) a description of each component of the applicant's strategy to be undertaken

with funding under this chapter and how these components interrelate;

"(B) the anticipated cost of each component of the strategy and the financial and other resources that may reasonably be expected to be available to carry out each component;

"(C) a schedule for beginning and completing each component of the strategy;

"(D) an estimate of the results that the strategy is supposed to achieve;

"(E) the role of affected tenants, resident management corporations, tenant councils and any other entities, such as local and State governments and community organizations, in planning and implementing the strategy; and

"(F) evidence of local government, local community and tenant support for the plan; and

"(G) a discussion of the extent to which the initiatives proposed in the strategy can be sustained over a period of several years.

"(b) **CRITERIA.**—Except as provided by subsections (c), (d), and (e), the Secretary shall approve applications under this chapter based exclusively on—

"(1) the extent of the drug-related crime problem in the public or federally assisted, low-income housing project, or projects proposed for assistance;

"(2) the quality of the plan to address the crime problem in the public or federally assisted, low-income housing project or projects proposed for assistance, including the extent to which the plan includes initiatives that can be sustained over a period of several years;

"(3) the capability of the applicant to carry out the plan as reflected by funding or other commitments of support for each aspect of the plan, its administrative capability to manage its projects, its record of previous efforts to eliminate drugs from its projects and its degree of commitment to addressing the problem of drug-related crime; and

"(4) the extent to which tenants, the local government and the local community support and participate in the design and implementation of the activities proposed to be funded under the application.

"(c) **PREFERENCE.**—In the case of applications submitted by private owners, the Secretary shall give preference to applicants who contribute or raise resources for the implementation of their plan. The Secretary shall reject the application of any private owner who has received more than a reasonable return, as determined by the Secretary, on the project or projects referred to in the owner's plan.

"(d) **FEDERALLY ASSISTED LOW-INCOME HOUSING.**—In addition to the selection criteria specified in subsection (b), the Secretary may establish other criteria for the evaluation of applications submitted by owners of federally assisted, low-income housing, except that such additional criteria shall be designed only to reflect—

"(1) relevant differences between the financial resources and other characteristics of public housing authorities and owners of federally assisted, low-income housing; or

"(2) relevant differences between the problem of drug-related crime in public housing and the problem of drug-related crime in federally assisted, low-income housing.

"(e) **HIGH INTENSITY DRUG TRAFFICKING AREAS.**—In evaluating the extent of the drug-related crime problem pursuant to subsection (b), the Secretary shall consider whether housing projects proposed for as-

sistance are located in a high intensity drug trafficking area designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988.

"SEC. 5126. DEFINITIONS.

"For the purposes of this chapter:

"(1) **CONTROLLED SUBSTANCE.**—The term 'controlled substance' has the meaning given such term in section 102 of the Controlled Substance Act (21 U.S.C. 802).

"(2) **DRUG-RELATED CRIME.**—The term 'drug-related crime' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use a controlled substance.

"(3) **SECRETARY.**—The term 'Secretary' means the Secretary of Housing and Urban Development.

"(4) **FEDERALLY ASSISTED, LOW-INCOME HOUSING.**—The term 'federally assisted, low-income housing' means housing assisted under—

"(A) section 221(d)(3) or section 221(d)(4) of the National Housing Act;

"(B) section 101 of the Housing and Urban Development Act of 1965; or

"(C) section 8 of the United States Housing Act of 1937.

"SEC. 5127. IMPLEMENTATION.

"The Secretary shall issue regulations to implement this chapter within 180 days after the date of enactment of the National Affordable Housing Act.

"SEC. 5128. REPORTS.

"The Secretary shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5125(a), and the incidence of drug-related crime in projects assisted under this chapter.

"SEC. 5129. EVALUATION.

"(a) **IN GENERAL.**—To increase the efficiency and effectiveness of programs funded under this chapter, the Secretary shall conduct a comprehensive evaluation of the programs funded under this chapter.

"(b) **FACTORS TO BE CONSIDERED.**—In conducting this review, the Secretary shall consider—

"(1) whether the programs funded under this chapter establish or demonstrate an effective approach to reducing drug-related criminal activity in public and other federally assisted, low-income housing;

"(2) the cost of such programs and the number of similar programs funded under this chapter.

"(3) whether the programs can easily be replicated in other jurisdictions;

"(4) the extent to which grants awarded under this chapter have been awarded for housing projects in high intensity drug trafficking areas as designated pursuant to section 1005 of the Anti-Drug Abuse Act of 1988, and other areas with particularly serious drug problems; and

"(5) whether there is substantial public awareness and community involvement in the programs.

Evaluation shall include the routine auditing, monitoring, and internal assessment of the programs. In conducting this review, the Secretary shall consult with Federal, State, and local law enforcement agencies and prosecutors, and with housing authorities, owners of federally assisted, low-income housing, and affected tenants.

"(c) **REPORT.**—The Secretary shall annually report to the Congress on the nature and findings of the evaluation required under this section.

"SEC. 5130. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this chapter \$150,000,000 for fiscal year 1991, \$156,000,000 for fiscal year 1992, and \$162,240,000 for fiscal year 1993. Any amount appropriated under this section shall remain available until expended."

(b) **CONFORMING AMENDMENTS.**—The table of contents for title V of Public Law 100-690 is amended by striking the items relating to chapter 2 and insert the following:

**"CHAPTER 2—Public and Assisted Housing
Drug Elimination**

"Sec. 5121. Short title.

"Sec. 5122. Congressional findings.

"Sec. 5123. Authority to make grants.

"Sec. 5124. Eligible activities.

"Sec. 5125. Applications.

"Sec. 5126. Definitions.

"Sec. 5127. Implementation.

"Sec. 5128. Reports.

"Sec. 5129. Evaluation.

"Sec. 5130. Authorization of appropriations."

TITLE VIII—RURAL HOUSING

SEC. 801. PURPOSES.

The purposes of this title are—

(1) to reaffirm the National commitment to expand homeownership and produce affordable rental housing for low-income persons in rural areas;

(2) to promote the full utilization of the section 502 program by very low-income people through the use of partially deferred mortgages; and

(3) to improve the quality of affordable housing in communities that have extremely high concentrations of poverty and substandard housing and that have been underserved by rural housing programs by directing Farmers Home Administration assistance toward designated underserved areas.

SEC. 802. PROGRAM AUTHORIZATIONS.

(a) **INSURANCE AND GUARANTEE AUTHORITY.**—Section 513(a)(1) of the Housing Act of 1949 is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title in aggregate amounts not to exceed \$2,160,000,000 during fiscal year 1991, \$2,246,400,000 during fiscal year 1992, and \$2,336,256,000 during fiscal year 1993, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 304 of the Housing and Community Development Act of 1987, \$1,457,465,000 for fiscal year 1991, \$1,515,764,000 for fiscal year 1992, and \$1,576,394,000 for fiscal year 1993.

"(B) For loans under section 504, \$11,715,000 for fiscal year 1991, \$12,184,000 for fiscal year 1992, and \$12,671,000 for fiscal year 1993.

"(C) For insured loans under section 514, \$11,870,000 for fiscal year 1991, \$12,344,000 for fiscal year 1992, and \$12,839,000 for fiscal year 1993.

"(D) For insured loans under section 515, \$677,840,000 for fiscal year 1991, \$704,954,000 for fiscal year 1992, and \$733,152,000 for fiscal year 1993.

"(E) For loans under section 523(b)(1), \$520,000 for fiscal year 1991, \$540,000 for fiscal year 1992, and \$562,000 for fiscal year 1993.

"(F) For site loans under section 524, \$590,000 for fiscal year 1991, \$614,000 for fiscal year 1992, and \$638,000 for fiscal year 1993."

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 513(b) of the Housing Act of 1949 is amended to read as follows:

"(b) There are authorized to be appropriated, to remain available until expended, the following amounts:

"(1) For grants under section 504, \$19,000,000 for fiscal year 1991, \$19,760,000 for fiscal year 1992, and \$20,550,000 for fiscal year 1993.

"(2) For purposes of section 509(c), \$520,000 for fiscal year 1991, \$540,000 for fiscal year 1992, and \$562,000 for fiscal year 1993.

"(3) Such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(4) For financial assistance under section 516, \$20,340,000 for fiscal year 1991, \$21,154,000 for fiscal year 1992, and \$22,000,000 for fiscal year 1993.

"(5) For grants under section 523(f), \$14,340,000 for fiscal year 1991, \$14,914,000 for fiscal year 1992, and \$15,510,000 for fiscal year 1993.

"(6) For grants under section 533, \$25,800,000 for fiscal year 1991, \$26,832,000 for fiscal year 1992, and \$27,906,000 for fiscal year 1993."

(c) **RENTAL ASSISTANCE PAYMENT CONTRACTS.**—Section 513(c)(1) of the Housing Act of 1949 is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating \$395,000,000 for fiscal year 1991, \$410,800,000 for fiscal year 1992, and \$427,232,000 for fiscal year 1993."

(d) **RENTAL HOUSING LOAN AUTHORITY.**—Section 515(b)(4) of the Housing Act of 1949 is amended by striking "September 30, 1990" and inserting "September 30, 1993".

(e) **MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.**—Section 523(f) of the Housing Act of 1949 is amended by striking "September 30, 1990" and inserting "September 30, 1993".

(f) **RURAL RENTAL REHABILITATION DEMONSTRATION.**—Section 311(d) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting "September 30, 1992".

SEC. 803. SECTION 502 DEFERRED REPAYMENT.

Section 502 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(f) **AUTHORITY FOR DEFERRED REPAYMENT.**—

"(1) **IN GENERAL.**—To the extent provided in appropriations Acts, the Secretary may allow a borrower to defer repayment of not more than 20 percent of the principal on a loan made or insured under this section after the date of enactment of the National Affordable Housing Act if the Secretary determines that—

"(A) the borrower resides in a State in which an average of 10 percent or more of the set-asides established in section 502(d) have not been obligated since November 30, 1983;

"(B) the deferral is necessary to enable the borrower to afford payment on the loan; and

"(C) the borrower can reasonably be expected fully to amortize the deferred principal over the remaining life of the loan.

"(2) **SUBSEQUENT ADJUSTMENTS.**—When the Secretary finds that a borrower deferring repayments under this subsection is able to make an increased mortgage payment in accordance with the schedules and repayment plans prescribed by the Secretary under section 502(b)(2), the Secretary shall first apply any increase in the monthly mortgage payment to repayment of deferred principal and interest on that principal and then, when principal is no longer being deferred, to an increase in the interest rate payable on the loan.

"(3) **INTEREST ON DEFERRED PRINCIPAL.**—Interest on the deferred principal shall remain at 1 percent until the deferral has been repaid in full."

SEC. 804. HOUSING IN UNDERSERVED AREAS.

Section 509 of the Housing Act of 1949 is amended by adding at the end thereof the following:

"(e) **HOUSING IN UNDERSERVED AREAS.**—

"(1) **DESIGNATION OF UNDERSERVED AREA.**—The Secretary shall designate as targeted underserved areas 100 counties in fiscal years 1991, 1992, and 1993 that have severe, unmet housing needs as determined by the Secretary. A county shall be eligible for designation if—

"(A) during fiscal years 1986 through 1988, the number of housing units assisted in the county under sections 502, 504, and 515 of this title as a percentage of rural households with incomes below 80 percent of area median in the county is less than the number of housing units assisted in the State as a percentage of the rural households with incomes below 80 percent of area median in the State, as determined by the Secretary; and

"(B) the county has a high combined—

"(i) number of county rural households with incomes below 50 percent of area median income as a percentage of total county rural households; and

"(ii) number of county rural occupied substandard housing units as a percentage of total county rural households.

In any State, notwithstanding subparagraph (A) above, the Secretary may consider for targeting the county with the highest combined percentage as set forth in subparagraph (B) above.

"(2) **OUTREACH PROGRAM.**—The Secretary shall publicize the availability to targeted underserved areas of grants and loans under this title and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

"(3) **SET-ASIDE FOR TARGETED UNDERSERVED AREAS.**—The Secretary shall set aside and reserve for assistance in targeted underserved areas \$25,000,000 in section 515, \$40,000,000 in section 502, and \$1,000,000 each in section 504 loans and grants during fiscal years 1991, 1992, and 1993. During each such fiscal year, the Secretary shall set aside an amount of section 521 rental assistance that is appropriate to provide assistance with respect to the lending authority under section 515 that is set aside for such fiscal year. Any assistance set aside for targeted underserved areas that has not been obligated by a reasonable date established by the Secretary shall be subject to year-end pooling procedures established by the Secretary.

"(4) **LIST OF UNDERSERVED AREAS.**—The Secretary shall publish the current list of targeted underserved areas.

"(5) PROJECT PREPARATION ASSISTANCE.—"

"(A) IN GENERAL.—The Secretary is authorized to provide grants to community housing development organizations or units of general local government for the development of affordable housing in targeted underserved areas. As used in this paragraph, the term "community housing development organization" has the same meaning as in section 105(6) of the National Affordable Housing Act.

"(B) PURPOSE.—A grant under this section shall not exceed an amount that the Secretary determines to equal the customary and reasonable costs of preparing an application for a loan under section 502, 504, 514, 515, or 524, including preapplication planning, site analysis, market analysis, and other necessary technical assistance. The Secretary shall adjust the loan amount to take account of project preparation costs that have been paid from grant proceeds and that normally would be reimbursed with proceeds of the loan.

"(C) AUTHORIZATION.—There are authorized to be appropriated to carry out this paragraph not to exceed \$10,000,000 for fiscal year 1991, \$10,400,000 for fiscal year 1992, and \$10,816,000 for fiscal year 1993. Any funds so appropriated shall remain available until expended."

SEC. 805. HOUSING PRESERVATION GRANTS.

(a) USE OF DEOBLIGATED FUNDS.—Section 533(c)(1) of the Housing Act of 1949 is amended by adding at the end the following: "Funds obligated, but subsequently unspent and deobligated, may remain available for use as housing preservation grants in ensuing fiscal years."

(b) REALLOCATION.—Section 533(g) of the Housing Act of 1949 is amended by striking the last sentence and inserting the following: "Any amounts which become available as a result of actions under this subsection shall be reallocated as housing preservation grants to such grantee or grantees as the Secretary may determine."

SEC. 806. TRANSFER OF SECTION 502 INVENTORY FOR USE UNDER SECTION 515.

Section 510(e) of the Housing Act of 1949 is amended by striking "or public bodies" and inserting ", public bodies, or for profit entities, which have good records of providing low-income housing under section 515".

SEC. 807. REUSE OF SECTION 515 LOAN AUTHORITY.

Section 515 of the Housing Act of 1949 is amended by adding at the end the following:

"(t) Any amounts appropriated for loans under this section shall remain available until expended."

SEC. 808. RIGHTS OF APPEAL.

Section 510(g) of the Housing Act of 1949 is amended by inserting before the semicolon the following: ", except that rules issued under this subsection may not exclude from their coverage decisions made by the Secretary that are not based on objective standards contained in published regulations".

SEC. 809. EQUITY TAKEOUT INCENTIVE FOR NEW RURAL HOUSING LOANS.

Section 515(t)(4) of the Housing Act of 1949 is amended by adding at the end the following sentence: "A moderate income tenant, or a low-income tenant receiving rental assistance, who occupies a unit previously occupied by a low-income unassisted tenant shall pay a rent that includes the annual increases which that unit would have incurred. An unassisted low-income tenant who occupies a unit previously occupied by either a moderate income tenant or

a low-income tenant receiving rental assistance, shall pay only the basic rent plus \$2.00."

SEC. 810. ESCROW ACCOUNTS.

Section 501(e) of the Housing Act of 1949 is amended by inserting after the third sentence the following: "The Secretary shall pay the same rate of interest on escrowed funds as is required to be paid on escrowed funds held by other lenders in any State where State law requires payment of interest on escrowed funds."

SEC. 811. SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.

Section 515 of the Housing Act of 1949, is amended by adding at the end thereof the following new subsection:

"(u) SET-ASIDE OF RURAL RENTAL HOUSING FUNDS.—

"(1) AUTHORITY.—Not less than 7 per centum of the funds available for loans authorized under this section in fiscal year 1991, and not less than 8 per centum of the funds available for loans authorized under this section in fiscal year 1992, and not less than 10 per centum of the funds available for loans authorized under this section in fiscal year 1993 shall be set aside for eligible entities as specified in subsection (a).

(2) EXCEPTION.—Funds not obligated by a reasonable date established by the Secretary shall be subject to year-end pooling procedures established by the Secretary.

SEC. 812. ASSISTANCE TO REDUCE RENT OVERBURDEN.

Section 521(a)(2)(C) of the Housing Act of 1949 is amended by adding at the end the following: "Notwithstanding the preceding sentence, excess funds received from tenants in projects financed under section 515 during a fiscal year shall be available during the next succeeding fiscal year, together with funds provided under subparagraph (D), to the extent approved in appropriations Acts, to make assistance payments to reduce rent overburden on behalf of tenants of any such project whose rents exceed the levels referred to in subparagraph (A). In providing assistance to relieve rent overburden, the Secretary shall provide assistance with respect to very low-income and low-income families to reduce housing rentals to the levels specified in subparagraph (A)."

TITLE IX—COMMUNITY DEVELOPMENT AND MISCELLANEOUS PROGRAMS**Subtitle A—Community Development****SEC. 901. COMMUNITY DEVELOPMENT AUTHORIZATIONS.**

(a) COMMUNITY DEVELOPMENT BLOCK GRANTS.—The second sentence of section 103 of the Housing and Community Development Act of 1974 is amended to read as follows: "There are authorized to be appropriated for purposes of assistance under sections 106 and 107 \$3,031,700,000 for fiscal year 1991, \$3,154,100,000 for fiscal year 1992, and \$3,279,400,000 for fiscal year 1993."

(b) ELIGIBLE ACTIVITIES.—Section 105(a) of the Housing and Community Development Act of 1974 is amended—

(1) by striking "and" at the end of paragraph (18);

(2) by striking the period at the end of paragraph (19) and inserting "; and"; and

(3) by adding at the end the following:

"(20) provision of technical assistance to public or private nonprofit entities to increase the capacity of such entities to carry out eligible neighborhood revitalization or community economic development."

(c) PUBLIC SERVICES.—(1) Section 105(a)(8) of the Housing and Community Develop-

ment Act of 1974 is amended by inserting after "under this title" the second place it appears "including program income".

(2) Section 105(a)(8) of the Housing and Community Development Act of 1974 is amended by inserting after "unit of general local government" the third time it appears "(or in the case of nonentitled communities not more than 15 per centum statewide)".

(d) GUARANTEES.—The last sentence of section 108(a) of the Housing and Community Development Act of 1974 is amended by striking "\$150,000,000 during fiscal year 1988, and \$156,150,000 during fiscal year 1989" and inserting "\$160,000,000 during each of the fiscal years 1991, 1992, and 1993".

(e) NEIGHBORHOOD REINVESTMENT CORPORATION.—Section 608(a) of the Neighborhood Reinvestment Corporation Act is amended by striking "\$18,300,000 for fiscal year 1988, and \$18,300,000 for fiscal year 1989" and inserting "\$28,000,000 for each of the fiscal years 1991, 1992, and 1993".

(f) NEIGHBORHOOD DEVELOPMENT DEMONSTRATION.—Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 is amended by striking "1988 and 1989" and inserting "1991, 1992, and 1993".

SEC. 902. CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITY.—Section 102(a)(4) of the Housing and Community Development Act of 1974 is amended—

(1) by striking the second sentence and inserting in lieu thereof the following: "any city that was classified as a metropolitan city for at least two years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city.";

(2) by striking "for fiscal year 1988 or 1989" in the fourth sentence; and

(3) by striking "the first or second sentence of" and "under such first or second sentence" in the last sentence.

(b) URBAN COUNTY.—Section 102(a)(6)(B) of the Housing and Community Development Act of 1974 is amended to read as follows:

"(B) Any county that was classified as an urban county for at least two years pursuant to subparagraph (A) of this paragraph shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph."

SEC. 903. CDBG SANCTIONS.

(a) SYNTHESIS OF BLOCK GRANT SANCTIONS.—Section 104(e) of the Housing and Community Development Act of 1974 is amended by striking the eighth sentence and inserting the following: "If, after providing a grantee a hearing, the Secretary determines that the grantee is continuing to fail to satisfy standards published in regulations to measure grantee performance pursuant to the reviews and audits described in the previous sentence, the Secretary may adjust, reduce, withhold, or withdraw amounts of the annual grants made (but not yet obligated) or to be made, in accordance with the Secretary's findings under this subsection".

(b) CONFORMING AMENDMENT.—Section 111(a) of such Act is amended by striking "shall—" and all that follows up to the period and inserting: "may adjust, reduce, withhold, or withdraw amounts of the

annual grants made (but not yet obligated) or to be made".

SEC. 904. PROTECTION OF INDIVIDUALS ENGAGING IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS.

(a) Section 104 of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following new subsection:

"(1) **PROTECTION OF INDIVIDUALS ENGAGING IN NON-VIOLENT CIVIL RIGHTS DEMONSTRATIONS.**—No funds authorized to be appropriated under section 103 of this Act may be obligated or expended to any municipality that:

"(1) fails to adopt and enforce a policy prohibiting the use of excessive force by law enforcement agencies within the jurisdiction of said municipality against any individuals engaged in nonviolent civil rights demonstrations; or

"(2) fails to adopt and enforce a policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstration within the jurisdiction of said municipality."

(b) This section shall be in effect for fiscal years beginning after September 30, 1990.

Subtitle B—Miscellaneous Programs

SEC. 911. RESEARCH AND DEVELOPMENT.

Section 501 of the Housing and Urban Development Act of 1970 is amended by striking the second sentence and inserting the following: "There are authorized to be appropriated to carry out this title \$21,200,000 for fiscal year 1991, \$22,100,000 for fiscal year 1992, and \$23,000,000 for fiscal year 1993."

SEC. 912. FAIR HOUSING INITIATIVES PROGRAM.

(a) **AUTHORIZATION.**—Section 561(d) of the Housing and Community Development Act of 1987 is amended by striking the first sentence and inserting the following: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, \$6,000,000 for fiscal year 1991, \$6,258,000 for fiscal year 1992, and \$6,527,000 for fiscal year 1993."

(b) **EXTENSION OF AUTHORITY.**—Section 561(e) of the Housing and Community Development Act of 1987 is amended by striking "September 30, 1989" and inserting in lieu thereof the following: "September 30, 1993".

SEC. 913. ALLOCATION FORMULA IN CASES OF ANNEXATION.

(a) **IN GENERAL.**—Section 102(a)(12) of the Housing and Community Development Act of 1974 is amended by inserting at the end thereof the following: "Where the boundaries for a metropolitan city or urban county used for the 1980 Census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 Census in the boundaries used for the 1980 Census over the population based on the 1980 Census in the current boundaries."

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to the extent approved in appropriations Acts to the first allocation of assistance under section 106 that is made after the date of enactment of this section and to each allocation thereafter for a period not to exceed three years after the date of annexation.

SEC. 914. ALLOCATION OF FUNDS UNDER TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

The Secretary of Housing and Urban Development shall, not later than July 1, 1991, report to the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs with respect to the adequacy, effectiveness, and equity of the formula used for allocations of funds under title I of the Housing and Community Development Act of 1974, with specific analysis and recommendations concerning the structure of the formulas, the eligibility criteria, the formula factors, and the weights that are assigned to the formula factors. The study should specifically examine the appropriateness of using the age of housing as a factor and also consider quality of housing as an additional factor and the desirability of including at an equal or greater weight the age of housing and the quality of housing. Based on the Secretary's analysis, the Secretary shall submit a new formula for the allocation of funds if the Secretary determines that the study indicates that a new formula is required to meet the purposes of title I of the Housing and Community Development Act of 1974. The Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives shall hold hearings on the Secretary's recommendations not later than 60 days after receipt of the report. The study should be completed using the data derived from the 1990 census or the most recent census data available.

SEC. 915. HAWAIIAN HOME LANDS.

Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended by adding at the end the following new subsection:

"(d) The provisions of this section and section 104(b)(2) which relate to discrimination on the basis of race shall not apply to the provision of assistance by grantees under this title to the Hawaiian Home Lands."

TITLE X—CONFORMING AMENDMENTS AND MISCELLANEOUS PROVISIONS

SEC. 1001. AMENDMENT TO TITLE I OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974.

Section 104(c) of the Housing and Community Development Act of 1974 is amended to read as follows: "Any grant made under section 106(b) shall be made only if the unit of general local government certifies that it is following a current housing affordability strategy which has been approved by the Secretary in accordance with section 105 of the National Affordable Housing Act or a housing assistance plan which was approved by the Secretary not later than 180 days after enactment of the National Affordable Housing Act."

SEC. 1002. REPORT ON RESIDUAL RECEIPTS ACCOUNTS IN SECTION 8 AND SECTION 202 HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of a statistically significant sample of housing assisted under section 8 of the United States Housing Act of 1937 and section 202 of the Housing Act of 1959 to determine the amounts that are contained in existing residual receipts accounts. The Secretary shall identify the existing rules and regulations governing the permissible uses of such accounts. Not later than 6 months after the date of enactment of this Act, the Secretary shall submit to the Congress a detailed report setting

forth the findings of the Secretary as a result of the study.

SEC. 1003. MINIMUM STATE SHARE FOR CERTAIN HOUSING PROGRAMS.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, each State shall be entitled to receive not less than one-half of 1 percent of the aggregate amount of funds available in each fiscal year to carry out the following housing assistance programs:

(1) Elderly and handicapped housing loans under section 202 of the Housing Act of 1959.

(2) Public housing modernization under section 14 of the United States Housing Act of 1937.

(3) Public housing operating subsidies under the United States Housing Act of 1937.

(4) Indian housing development under the United States Housing Act of 1937.

(b) **REGULATIONS.**—The Secretary of Housing and Urban Development is authorized to prescribe regulations to carry out the provisions of this section.

(c) **CALCULATION.**—For the purpose of this section, amounts of assistance provided to any agency or instrumentality of a State, any political subdivision or public agency within a State, and any private nonprofit or for-profit sponsor or developer participating in a State on a project assisted under a program referred to in subsection (a) are amounts provided to a State.

SEC. 1004. TERMINATION OF EXISTING HOUSING PROGRAMS.

Except with respect to projects and programs for which funds have been previously appropriated, no new grants or loans shall be made after October 1, 1990 under—

(1) section 17(d) of the United States Housing Act of 1937;

(2) section 312 of the Housing Act of 1964;

(3) title VI of the Housing and Community Development Act of 1987;

(4) section 8(e)(2) of the United States Housing Act of 1937, except where funds are allocated under this authority for single room occupancy dwellings as authorized by title IV of the Stewart B. McKinney Homeless Assistance Act;

(5) section 810 of the Housing and Community Development Act of 1974;

(6) title IV of the Housing and Community Development Amendments of 1978;

(7) section 106 of the Housing and Urban Development Act of 1968;

(8) section 5(a)(2) of the United States Housing Act of 1937; and

(9) except as authorized under section 328 on a transitional basis, section 17(a) of the United States Housing Act of 1937.

SEC. 1005. STUDY OF PENSION FUND FINANCING OF HOUSING.

The Secretary of Housing and Urban Development shall conduct a study of ways in which State and local pension funds can be used to finance construction of low and moderate income housing. Not later than ninety days after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the result of such study.

SEC. 1006. EXEMPTION FROM DAVIS-BACON ACT REQUIREMENTS OF VOLUNTEERS UNDER HOUSING PROGRAMS.

(a) **COMMUNITY DEVELOPMENT BLOCK GRANT.**—Section 110 of the Housing and Community Development Act of 1974 (42 U.S.C. 5310) is amended—

(1) by inserting "(a)" after "Sec. 110."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) and the provisions of the Davis-Bacon Act shall not apply to any volunteer laborers or mechanics engaged in any construction, rehabilitation, or maintenance financed in whole or in part with assistance received under this title."

(b) PUBLIC HOUSING AND SECTION 8 ASSISTANCE.—Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended—

(1) by inserting "(a)" after "SEC. 12."; and
(2) by adding at the end the following new subsection:

"(b) Subsection (a), the provisions relating to wages (pursuant to subsection (a)), in any contract for loans, contributions, sale, or lease pursuant to this Act, and the provisions of the Davis-Bacon Act shall not apply to any volunteer laborers or mechanics engaged in any construction, rehabilitation, or maintenance of any lower income housing project under any such contract."

SEC. 1007. CLARIFICATION OF THE TERM "AREA".

It is the sense of the Senate that in areas where FHA mortgage insurance is not accessible for a significant number of homebuyers because of diverse economies in the area the Secretary of Housing and Urban Development has sufficient authority under law to redefine the term "area", in establishing mortgage limits under section 203 of the National Housing Act.

SEC. 1008. GAO STUDY.

(a) IN GENERAL.—The Comptroller General of the United States shall carry out a study of the Davis-Bacon Act as it applies to Federal housing contracts. In the course of such study, the Comptroller General shall consider—

- (1) the original aims of the Davis-Bacon Act;
- (2) possible changes in the Davis-Bacon Act;
- (3) an analysis of the relevant construction industry labor market including geographic variations, skills, training, productivity, and quality of work product;
- (4) any productivity or quality differences between private and government sponsored construction;
- (5) the effects of the Davis-Bacon Act on Federal housing construction costs, construction wages, construction quality, the local and national economy, and the ability to create low-income housing; and
- (6) the effects of business practices designed to avoid coverage of the Davis-Bacon Act.

(b) OPTIONS TO BE CONSIDERED IN MAKING RECOMMENDATIONS.—The Comptroller General shall examine and make recommendations regarding the following possible congressional actions with respect to the housing construction industry:

- (1) reform of the Davis-Bacon Act;
- (2) changing the dollar threshold;
- (3) changing the definition of "prevailing wage";
- (4) expanding or restricting the use of helpers;
- (5) reducing or expanding required compliance activities for contractors;
- (6) changes in administrative or other enforcement;
- (7) regulating the splitting of contracts; and
- (8) any other recommendations.

(c) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall transmit to the Congress a report setting forth the results of the study required by this section.

SEC. 1009. AMENDMENT RELATING TO EXPEDITED FUNDS AVAILABILITY ACT.

(a) ATM DEPOSITS.—

(1) IN GENERAL.—Section 603(e) of the Expedited Funds Availability Act (12 U.S.C. 4002(e)) is amended—

(A) in paragraph (1)(A), by striking "6" and inserting "4";

(B) in paragraph (1)(C), by striking "1990" and inserting "1994"; and

(C) in paragraph (2)(D), by striking "1990" and inserting "1994".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(A) shall take effect on September 1, 1990.

SEC. 1010. STUDY OF USE OF CERTIFIED MAIL.

The Secretary shall carry out a study to determine the extent to which the use of certified mail to notify mortgagors of the availability of counseling to which the mortgagor may be entitled would improve mortgagor participation in the Assignment program, reduce unwarranted foreclosures, and reduce FHA mortgage insurance program costs associated with delays in foreclosure proceedings. The Secretary shall report the results of such study to Congress no later than 6 months after the enactment of this Act.

TITLE XI—FEDERAL GOVERNMENT COOPERATIVE PROGRAM WITH THE ADVANCED BUILDING CONSORTIUM

SEC. 1101. SHORT TITLE.

This title may be cited as the "Advanced Building Consortium Act".

SEC. 1102. FINDINGS.

The Congress finds that—

- (1) there is a growing shortage of affordable housing for newly formed households, low- and moderate-income families and the homeless;
- (2) one significant reason for this critical shortage is the high cost of constructing new housing or renovating existing buildings;
- (3) recent technological advances could be applied to the design, construction, maintenance and operations of buildings which could significantly reduce costs;
- (4) the unique characteristics of the building industry, which is highly diversified and composed primarily of small businesses that are continually confronted with a wide variety of financial, technical and regulatory uncertainties, make it difficult for those responsible for the design, construction, installation, operation, maintenance and financing of buildings to assume additional uncertainties and risks which they associate with innovative building technologies;

(5) the Federal Government has a responsibility, as the owner and operator of the Nation's largest inventory of buildings in every geographical region, to seek reductions in the costs of constructing and operating buildings;

(6) the Federal Government has expended hundreds of millions of dollars in support of research and development of technologies that could be applied to buildings, but the results of that research are not applied to the Federal Government's buildings because the current procurement system makes it difficult for new building technologies to compete successfully with conventional technologies;

(7) the building industry, which has historically accounted for a significant portion of the gross national product, is now confronted with increasing foreign competition that threatens domestic companies in important market sectors, with corresponding substantial losses in employment;

(8) current institutional constraints impose high costs and require as much as 20 years to obtain the necessary market acceptance of new building technologies and therefore inhibit the private sector of the economy from investing in such worthwhile endeavors;

(9) the development of a cooperative program between the Federal Government and a responsible entity representing leaders of the building industry who are concerned with improving the above described conditions and capable of providing expertise and leadership to provide for the introduction, use and evaluation of cost-saving technological innovations in new and existing buildings owned and operated by the Federal Government, could facilitate the introduction and the early use of such cost saving innovative building technologies by Federal, State and local public agencies and by the private sector of the economy;

(10) while a new cooperative program of the Federal Government and the building industry is needed to facilitate introduction of technological innovations, various private organizations and institutions, private industry, labor, and Federal and other governmental agencies and other entities are presently engaged in building research, technology development, testing and evaluations and information dissemination and these capabilities should be effectively utilized wherever possible and appropriate in the implementation of this title; and

(11) an authoritative nongovernmental instrumentality needs to be created by the Federal Government to address the problems and issues described in this section, with the advice and assistance of the various sectors of the building community, including labor and management, technical experts in building science and technology and State and local governments.

SEC. 1103. CONSORTIUM AUTHORIZATION.

(a) ESTABLISHMENT.—There is established, for the purposes described in section 1102, an appropriate nonprofit, nongovernmental instrument to be known as the Advanced Buildings Consortium (hereafter referred to as the "Consortium"), which shall not be an agency or establishment of the United States Government. The Consortium shall be subject to the provisions of this title and, to the extent consistent with this title, to the District of Columbia Nonprofit Corporation Act.

(b) DIRECTORS.—The Consortium shall have a Board of Directors (hereafter referred to as the "Board") consisting of not less than 15 nor more than 21 members who shall be appointed by the Secretary of Housing and Urban Development, in consultation with cooperating Federal agencies, from among senior executives representing the various segments of the building community of the various regions of the country with extensive experience in building industries, including (1) representatives of the building industry, product manufacturers, and experts in health, fire and safety, and (2) members representative of the public interest highly experienced in building technologies, including architects, professional engineers and representatives of consumer organizations. No Federal official shall be a member of the Board. Members of the Board shall not participate in any deliberations of the Board affecting technologies or related matters where they hold a financial interest or membership in, or employment by, or receive other compensation from, any company, association, or other group associ-

ated with the manufacture, distribution, installation, or maintenance of the building products, equipment, systems, subsystems, or other construction materials and techniques associated with the building technology under consideration or with the conventional technology for which the new technology may be a substitute.

(c) **NO STOCK.**—The Consortium shall have no power to issue any shares of stock or to declare or pay any dividends. No part of the income or assets of the Consortium shall inure to the benefit of any director, officer, employee or other individual except as salary or reasonable compensation for services.

(d) **POLITICAL CONTRIBUTIONS.**—The Consortium shall not contribute to or otherwise support any political party or candidate for elective public office.

SEC. 1104. CONSORTIUM FUNCTIONS AND RESPONSIBILITIES.

(a) **IN GENERAL.**—The Consortium shall conduct research involving, and take actions to facilitate and promote the use of, new, cost-saving building technologies. In carrying out its activities, the Consortium shall—

(1) select and evaluate new building technologies, including energy cost savings technologies, that conform to recognized performance criteria and meet test standards for maintenance of life, safety, health, and public welfare when used in occupied buildings;

(2) conduct needed investigations in direct support of paragraph (1);

(3) conduct economic analyses of proposed new technologies when produced and installed in buildings at volumes associated with comparable conventional technologies;

(4) in collaboration with cooperating Federal agencies, advise building designers, installers, subcontractors, contractors and supervising officials responsible for buildings in the appropriate design and use of the innovative building technology incorporated in federally owned or operated buildings;

(5) in collaboration with cooperating Federal agencies, monitor and evaluate the performance of new building technologies for at least 1 year after installation and building occupancy; and

(6) assemble and disseminate technical data and other information directly related to activities described in paragraphs (1) through (5) of this subsection.

(b) **DELEGATION AND MONITORING.**—The Consortium, in exercising its functions and responsibilities described in subsection (a) of this section, shall—

(1) assign and delegate to the maximum extent possible, responsibility for conducting each of the activities described in subsection (a) to private organizations, institutions, agencies, and Federal and other governmental entities that have a demonstrated capacity to exercise or contribute to the exercise of such responsibility;

(2) monitor the performance achieved through assignment and delegation, and

(3) when deemed necessary, reassign and delegate such responsibility.

(c) **CONSISTENCY WITH OTHER LAW.**—The Consortium, in exercising its functions and responsibilities under subsections (a) and (b) of this section, shall—

(1) assure to the extent possible that its actions and recommendations are consistent with nationally recognized performance criteria, standards, and other technical provisions of Federal, State, and local building codes and regulations and conform with generally accepted community and environmental standards; and

(2) consult with the Department of Justice and other agencies of Government to the extent necessary to insure that the national interest is protected and promoted in the exercise of its functions and responsibilities.

SEC. 1105. FEDERAL PARTICIPATION.

(a) **COOPERATIVE PROGRAM.**—The Secretary of Housing and Urban Development, the Secretary of Defense, the Secretary of Agriculture, the Secretary of Energy, and the Administrator of General Services, and other departments, agencies and establishments of the Federal Government having responsibility for more than 1,000 buildings or for operating buildings at an annual cost of at least \$1,000,000 shall participate in a cooperative program with the Consortium to develop and implement programs to incorporate one or more of the recommended new technologies in a new or existing building within each department. The initial selection of the new technology and the specific building project in which the new technology will be incorporated shall be determined jointly by the cooperating Federal agency and the consortium within 1 year after the date of enactment of this Act. The technology selected shall be appropriate to the building selected, and its intended uses, and shall offer maximum opportunity to demonstrate cost savings.

(b) **REQUIRED ASSURANCES.**—Upon agreement between the Federal agency and the Consortium with respect to the selection of the appropriate technology and the schedule of necessary work, the Consortium shall—

(1) provide the Federal agency with a 5-year guarantee from the technology manufacturer that all necessary corrections to the technology will be made in the design, installation, and maintenance of the technology and that all malfunctions will be repaired without delay and that the technology manufacturer will be responsible for removal of the technology in the event of its failure to perform as required;

(2) provide the Federal agency and its officials responsible for constructing or renovating the buildings utilizing the new technology, as well as the designers, installers, subcontractors and contractors responsible for the design, construction or renovation of the buildings utilizing the new technology with the technical information necessary to assure the most appropriate use of the new technology;

(3) in collaboration with the Federal agency, monitor and evaluate the performance of the new technology; and

(4) prepare reports to be made available to public agencies at all levels of government, to the industry and to the public on the performance of the new technology.

(c) **PROCUREMENT WAIVER.**—Each Federal agency participating in this program is authorized to waive the applicability of procurement laws or regulations and deem the Consortium to be a sole source of the agreed-upon new technology for the selected building or facility. Competitive bidding for all other work in the selected building or facility shall conform with Federal building procurement regulations.

(d) **SET-ASIDE.**—Each Federal agency participating in this cooperative program shall set aside special funds in its annual appropriated building construction and renovation budget, in an amount not exceeding \$1,000,000 in any fiscal year to provide for the costs of testing, monitoring, and evaluating the new technologies employed in this program.

(e) **ANNUAL REPORT.**—Each participating Federal agency shall report annually to the Congress on its efforts to implement the purpose of this title.

SEC. 1106. AUTHORIZATION.

There are authorized to be appropriated to the Consortium an amount not to exceed \$500,000 for each of the first 2 years of the Consortium's operation. Such funds shall remain available to the Consortium until expended.

SEC. 1107. ANNUAL REPORT.

The Consortium shall submit an annual report for the preceding year to the President for transmittal to the Congress within 60 days of its receipt. The report shall be a comprehensive and detailed report of the Consortium's operations, activities, financial condition, and accomplishments under this title and of the extent of the cooperation received from participating Federal agencies, and may include recommendations as the Consortium deems appropriate.

TITLE XII—COINAGE DESIGNS

SEC. 1201. DENOMINATIONS, SPECIFICATIONS, AND DESIGN OF COINS.

Subsection (d)(1) of section 5112 of title 31, United States Code, is amended by striking the fourth sentence.

SEC. 1202. DESIGN CHANGES REQUIRED FOR CERTAIN COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(3) The design on the reverse side of the half dollar, quarter dollar, dime coin, 5-cent coin and one-cent coin shall be selected for redesigning. One or more coins may be selected for redesign at the same time, but the first redesigned coin shall have a design commemorating the two hundredth anniversary of the United States Constitution for a period of 2 years after issuance. After that 2-year period, the bicentennial coin shall have its design changed in accordance with the provisions of this subsection. Such selection, and the minting and issuance of the first selected coin shall be made not later than 1-year after the date of the enactment of this paragraph. All such redesigned coins shall conform with the inscription requirements set forth in paragraph (1) of this subsection."

SEC. 1203. DESIGN ON OVERSE SIDE OF COINS.

Subsection (d) of section 5112 of title 31, United States Code, is amended by adding at the end the following new paragraph:

"(4) Subject to paragraph (2), the design on the obverse side of the half dollar, quarter dollar, dime coin, 5-cent coin, and one-cent coin shall contain the likenesses of those currently displayed and shall be considered for redesign. All such coin obverse redesigns shall conform with the inscription requirements set forth in paragraph (1) of this subsection."

SEC. 1204. SELECTION OF DESIGNS.

The design changes for each coin authorized by the amendments made by this title shall take place at the discretion of the Secretary and shall be done at the rate of one or more coins per year, to be phased in over 6 years after the date of the enactment of this Act. In selecting new designs, the Secretary shall consider, among other factors, thematic representations of the following constitutional concepts: freedom of speech and assembly; freedom of the press; right to due process of law; right to a trial by jury; right to equal protection under the law; right to vote; themes from the Bill of Rights; and separation of powers, including

the independence of the judiciary. The designs shall be selected by the Secretary upon consultation with the United States Commission on Fine Arts.

SEC. 1205. REDUCTION OF THE NATIONAL DEBT.

Subsection (a)(1) of section 5132 of title 31, United States Code, is amended by inserting after the third sentence the following: "Any profits received from the sale of uncirculated and proof sets of coins shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt."

TITLE XIII—PROVISION OF COMPREHENSIVE SERVICES TO FAMILIES AND INDIVIDUALS WITH SPECIAL NEEDS

SEC. 1301. SHORT TITLE.

This title may be cited as the "Homelessness Prevention and Community Revitalization Act of 1990".

SEC. 1302. PURPOSE.

It is the purpose of this title—

(1) help create safe, positive environments for families, children and individuals in low income housing and neighborhoods;

(2) reduce homelessness and institutionalization by making permanent housing accessible and hospitable to low income families, homeless veterans, frail elderly and individuals of special needs; and

(3) prevent additional homelessness by providing on-site social services and case management to families and individuals who are at risk of homelessness due to income level, illness, mental illness or lack of social and economic support networks.

Subtitle A—Family Support Centers

SEC. 1311. DEFINITIONS.

As used in this subtitle:

(1) **ADVISORY COUNCIL.**—The term "advisory council" means the advisory council established under section 1312(d)(2)(K).

(2) **ELIGIBLE AGENCY.**—The term "eligible agency" means State or local agencies, a Head Start agency, any community-based organization including an organization officially designated as a community action agency under section 210 of the Economic Opportunity Act of 1984 (42 U.S.C. 2790), public housing agencies as defined in section 3(b)(6) of the United States Housing Act of 1937, State Housing Finance Agencies, and in addition includes an institution of higher education, a public hospital, a community development corporation, a community health center, and other public or private nonprofit agency or organization specializing in delivering housing or social services.

(3) **FAMILY CASE MANAGERS.**—The term "family case managers" means advisers operating under the provisions of section 1316.

(4) **GOVERNMENTALLY SUBSIDIZED HOUSING.**—The term "governmentally subsidized housing" means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of very low income families or individuals.

(5) **HOMELESS.**—The term "homeless" has the same meaning given such term in the subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

(6) **INTENSIVE AND COMPREHENSIVE SUPPORTIVE SERVICES.**—The term "intensive and comprehensive supportive services" means—

(A) in the case of services provided to infants, children and youth, infant and child primary and health services designed to enhance the physical, social, emotional, educational and intellectual development of such

infants and children and that shall include, where appropriate, screening and referral services, child care services, early childhood development programs, early intervention services for children with, or at-risk of developmental delays, drop-out prevention services, after-school activities, job readiness services, education and support services for youth (including basic skills and literacy services), and nutritional services;

(B) in the case of services provided to parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and that shall include, where appropriate, substance abuse education, counseling and treatment or referral for treatment, employment counseling and job training as appropriate, life-skills training and personal financial counseling, education including basic skills and literacy services, parenting classes, health care and mental health services, peer counseling and crisis intervention services; and

(C) in the case of services provided by family case managers, needs assessment and support in accessing and maintaining appropriate public assistance and social services, referral for substance abuse counseling and treatment or referral for treatment, family violence counseling services, violence counseling and peer support services, family advocacy services, and housing assistance activities including emergency rental or mortgage assistance payments, housing counseling and eviction or foreclosure prevention assistance.

(7) **LOW INCOME.**—The term "low income" when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

(8) **SECRETARY.**—The term "Secretary" means the Secretary of Health and Human Services.

(9) **VERY LOW INCOME.**—The term "very low income" when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary, except that the Secretary may establish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by the Secretary that such variations are necessary because of unusually high or low individual or family incomes.

SEC. 1312. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

(a) **AUTHORITY.**—The Secretary is authorized to make grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of programs designed to encourage the provision of intensive and comprehensive supportive services that will enhance the physical, social, emotional, educational, and intellectual development of low-income families, especially those very low-income families who were previously homeless and who are currently residing in governmentally subsidized housing or who are at risk of becoming homeless.

(b) **AGREEMENTS WITH ELIGIBLE AGENCIES.**—The Secretary shall enter into con-

tracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

(c) **CONSIDERATIONS BY SECRETARY.**—In carrying out the provisions of this section, the Secretary shall consider—

(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

(2) the proximity of the agencies and facilities associated with the program to the low-income families to be served by the program or the ability of the agency to provide offsite services;

(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, employment and training, health and mental health services, substance abuse services, social services, child care, nutrition, income assistance, and other relevant services), with public or private nonprofit agencies and organizations that provide assistance to homeless families, and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

(4) the management and accounting skills of the eligible agency;

(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program; and

(6) the involvement of project participants and community representatives in the planning and operation of the program.

(d) REQUIREMENTS.—

(1) **IN GENERAL.**—Each eligible agency desiring to receive a grant under this section shall—

(A) if a planning grant application has been approved for such agency under section 1313(b), have such application on file with the Secretary;

(B) have experience in providing or arranging for the provision of services such as those required under this section; and

(C) submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

(2) **APPLICATION.**—Each application submitted under paragraph (1)(C) shall—

(A) identify the population and geographic location to be served by the program;

(B) provide assurances that services are closely related to the identifiable needs of the target population;

(C) provide assurances that each program will provide directly or arrange for the provision of intensive and comprehensive supportive services;

(D) identify the referral providers, agencies, and organizations that the program will use;

(E) describe the method of furnishing services at offsite locations, if appropriate;

(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as well as provide services not available in the area to be served by the program;

(G) describe how the program will relate to the State and local agencies providing assistance to homeless families, or providing health, nutritional, job training, education, social, substance abuse, and income maintenance services;

(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

(I) collect and provide data on groups of individuals and geographic areas served, in-

cluding types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

(J) describe the manner in which the applicant will implement the requirement of section 1314;

(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall consist of not more than 15 members that shall include—

(i) prospective participants in the program;

(ii) representatives of local private industry;

(iii) individuals with expertise in the services the program intends to offer;

(iv) representatives of the community in which the program will be located;

(v) representatives of local government social service providers;

(vi) representatives of local law enforcement agencies; and

(vii) representatives of the local public housing agency, where appropriate;

(L) describe plans for evaluating the impact of the program;

(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(e) **FAMILY SUPPORT CENTER.**—Each program that receives assistance under this section shall establish at least one family support center that shall operate out of, or in the immediate vicinity, of governmentally subsidized housing. Such centers shall be the primary location for the administration of the programs and the provision of services under this subtitle.

SEC. 1313. PLANNING GRANTS.

(a) **IN GENERAL.**—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 1312.

(b) **APPLICATION.**—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require. Each such application shall—

(1) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to this subtitle;

(2) describe the low-income families to be served by the program including the number to be served and information on the population and geographic location to be served;

(3) describe how the needs of individuals identified under paragraph (2) will be met by the program;

(4) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

(5) describe the manner in which the program will be operated together with the involvement of other community groups and public agencies;

(6) specify the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

(7) contain assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 1312(d)(2)(K), that shall include—

(A) prospective participants in the program;

(B) individuals with expertise in the services the program intends to offer;

(C) representatives of the community in which the program will be located;

(D) representatives of local government social service providers;

(E) representatives of local law enforcement agencies; and

(F) representatives of local public housing agencies;

(8) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

(9) contain an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 1312; and

(10) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

(c) **ADMINISTRATIVE PROVISIONS.**—

(1) **TERM OF GRANT.**—No planning grant may be for a period longer than 1 year.

(2) **MAXIMUM NUMBER OF GRANTS.**—Not more than 20 planning grants may be made under this subsection.

(3) **PRIORITY.**—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 1312 unless such applicant receives a grant under this section.

(d) **MAXIMUM AMOUNT OF GRANT.**—No grant awarded under this section to a single eligible agency may exceed \$50,000.

SEC. 1314. TRAINING AND RETENTION.

The Secretary shall require that agencies that receive a grant under section 1312 use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

SEC. 1315. AMOUNTS OF GRANTS.

(a) **IN GENERAL.**—The Secretary shall pay to an eligible agency having an application approved under section 1312 the Federal share of the cost of the activities described in the application.

(b) **FEDERAL SHARE.**—The Federal share shall be 80 percent for each fiscal year.

(c) **NON-FEDERAL SHARE.**—

(1) **IN GENERAL.**—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

(2) **PRIVATE CONTRIBUTIONS.**—Of the non-Federal share, 25 percent of such amount shall be provided through contributions from private entities.

(d) **PAYMENTS.**—Payments under this subtitle may be made in installments, and in advance or by way of reimbursement, with

necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

(e) **EQUITABLE CONSIDERATION OF RURAL AREAS.**—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

SEC. 1316. FAMILY CASE MANAGERS.

(a) **REQUIREMENT.**—Each program that receives a grant under section 1312 shall employ, subject to subsection (e), an appropriate number of individuals with expertise in the provision of intensive and comprehensive supportive services to serve as family case managers for the program.

(b) **NEEDS ASSESSMENT.**—Each low-income family that desires to receive services from a program that receives assistance under this subtitle shall be assessed by a family case manager on such families initial visit to such program as to their need for services.

(c) **CONTINUING FUNCTIONS.**—Family case managers shall formulate a plan based on a needs assessment for each family. Such case manager shall carry out such plan, and remain available to provide such family with counseling and services, including school advocacy services, to enable such family to become self-sufficient. In carrying out such plan the case manager shall conduct monitoring, tracking, and follow-up activities.

(d) **SPECIAL SERVICES.**—Case managers shall provide comprehensive services as required under the application submitted under section 1312, that places special emphasis on services relating to substance abuse and domestic violence.

(e) **LIMITATION.**—No family crisis adviser shall carry a caseload in excess of 20 families.

SEC. 1317. EVALUATIONS.

(a) **IN GENERAL.**—The Secretary shall require that programs that receive assistance under this subtitle be evaluated, by a third party with expertise in the types of services to be provided under this subtitle, on an annual basis.

(b) **MATTER TO BE EVALUATED.**—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this subtitle in—

(1) enhancing the living conditions in low income housing and in neighborhoods;

(2) improving the physical, social, emotional, educational, and intellectual development of low income children and families served by the program;

(3) increasing the self-sufficiency of families served by the program; and

(4) such other factors that the Secretary may reasonably require.

(c) **INFORMATION.**—Each eligible agency receiving a grant under this subtitle shall furnish information requested by evaluators in order to carry out this section.

(d) **RESULTS.**—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

SEC. 1318. REPORT.

Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

(1) concerning the evaluations required under section 1317, together with such recommendations, as the Secretary considers appropriate; and

(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this subtitle.

SEC. 1319. CONSTRUCTION.

Nothing in this subtitle shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

SEC. 1320. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle, \$90,000,000 for fiscal year 1991, \$100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

Subtitle B—Provision of Services to Elderly Individuals and Individuals with Chronic and Debilitating Illnesses and Conditions

SEC. 1331. ESTABLISHMENT OF PROGRAM.

Title III of the Public Health Service Act (42 U.S.C. 241 et seq.) is amended by adding at the end thereof the following new part:

"PART I—PROVISION OF SERVICES TO FRAIL ELDERLY INDIVIDUALS AND INDIVIDUALS WITH CHRONIC AND DEBILITATING ILLNESSES AND CONDITIONS

"SEC. 399B. DEFINITIONS.

"As used in this part:

"(1) **ADVISORY COUNCIL.**—The term 'advisory council' means the advisory council established under section 399C(d)(2)(K).

"(2) **ELIGIBLE AGENCY.**—The term 'eligible agency' means any community-based organization, State or local agency, community health center, public or private nonprofit agency or other institution that will provide or arrange for the provision of appropriate comprehensive services to frail elderly or seriously ill individuals.

"(3) **FRAIL ELDERLY.**—The term 'frail elderly' has the same meaning given such term in section 602.

"(4) **GOVERNMENTALLY SUBSIDIZED HOUSING.**—The term 'governmentally subsidized housing' means any rental housing that is assisted under any Federal, State or local program (including a tax credit or tax exempt financing program) and that serves a population that predominately consists of low income families or individuals.

"(5) **HOMELESS.**—The term 'homeless' has the same meaning given such term in subsections (a) and (c) of section 103 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11302 (a) and (c)).

"(6) **LOW INCOME.**—The term 'low income' when applied to families or individuals means a family or individual income that does not exceed 80 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low individual or family incomes.

"(7) **VERY LOW INCOME.**—The term 'very low income' when applied to families or individuals means a family or individual income that does not exceed 50 percent of the median income for an individual or family in the area, as determined by the Secretary of Housing and Urban Development, except that such Secretary may es-

tablish income ceilings that are higher or lower than 50 percent of the median for the area on the basis of a finding by such Secretary that such variations are necessary because of unusually high or low individual or family incomes.

"SEC. 399C. GENERAL GRANTS FOR THE PROVISION OF SERVICES.

"(a) **AUTHORITY.**—The Secretary is authorized to make grants to eligible agencies to pay the Federal share of the cost of programs designed to encourage the provision of eligible services to low-income elderly or low-income seriously ill individuals, especially those very low income elderly or seriously ill individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"(b) **AGREEMENTS WITH ELIGIBLE AGENCIES.**—The Secretary shall enter into contracts, agreements, or other arrangements with eligible agencies to carry out the provisions of this section.

"(c) **CONSIDERATIONS BY SECRETARY.**—In carrying out the provisions of this section, the Secretary shall consider—

"(1) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(2) the proximity of the agencies and facilities associated with the program to the low-income individuals to be served by the program, or the ability of the agency to provide offsite services;

"(3) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for health and mental health services, social services, nutrition, and other relevant services), with public or private nonprofit agencies providing assistance to homeless individuals and with appropriate nonprofit private organizations involved in the delivery of eligible support services;

"(4) the management and accounting skills of the eligible agency;

"(5) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the program;

"(6) the involvement of program participants and community representatives in the planning and operation of the program; and

"(7) the demonstrated or potential effectiveness of the eligible agency in serving the populations or subpopulations intended to be served under this section.

"(d) REQUIREMENTS.—

"(1) **IN GENERAL.**—Each eligible agency desiring to receive a grant under this section shall submit an application at such time in such manner and containing or accompanied by such information, including the information required under paragraph (2), as the Secretary shall reasonably require.

"(2) **APPLICATION.**—Each application submitted under paragraph (1) shall—

"(A) identify the population and geographic location to be served by the program;

"(B) provide assurances that services are closely related to the identifiable needs of the target population;

"(C) provide assurances that each program will provide directly or arrange for the provision of eligible services of the type described in section 399D;

"(D) identify the referral providers, agencies, and organizations that the program will use;

"(E) describe the method of furnishing services at offsite locations, if appropriate;

"(F) describe the extent to which the eligible agency, through its program, will coordinate and expand existing services as

well as provide services not available in the area to be served by the program;

"(G) describe how the program will relate to the State and local agencies providing health, nutritional, social, and income maintenance services;

"(H) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(I) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(J) describe the manner in which the applicant will implement the requirement of section 399F;

"(K) provide for the establishment of an advisory council that shall provide policy and programming guidance to the eligible agency, that shall include—

"(i) prospective participants in the program;

"(ii) individuals with expertise in the services the program intends to offer;

"(iii) representatives of the community in which the program will be located;

"(iv) representatives of local government social service providers;

"(v) community based organizations with a history of providing service to participants;

"(vi) representatives of local public housing agencies, where appropriate; and

"(vii) representatives of local health care professions;

"(L) describe plans for evaluating the impact of the program;

"(M) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require;

"(N) contain an assurance that if the applicant intends to assess fees for services provided with assistance under this section, such fees shall be nominal in relation to the financial situation of the recipient of such services; and

"(O) contain an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant Federal, State and local funds currently utilized to provide services of the type described in this section.

"(e) **HOME HEALTH SERVICE PROGRAM.**—Each recipient that receives assistance under this section shall establish at least one home health service program that shall operate out of, or in the immediate vicinity of, governmentally subsidized housing. Such programs shall be the primary location for the administration of the programs and the provision of services under this part. Such programs may operate out of existing family support centers.

"SEC. 399D. PLANNING GRANTS.

"(a) **IN GENERAL.**—The Secretary is authorized to make planning grants to eligible agencies to enable such entities to develop and submit plans and applications for grants under section 399C.

"(b) **APPLICATION.**—Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary shall reasonably require, including—

"(1) a description of the capacity of the eligible agency to provide or ensure the availability of services pursuant to this part;

"(2) a description of the low-income frail elderly or low-income seriously ill individuals to be served by the program including the number to be served and information on the population and geographic location to be served;

"(3) a description of the needs of individuals identified under paragraph (2) that will be met by the program;

"(4) a description of the services that program planners intend to address in the development of the plan;

"(5) a description of the manner in which the program will be operated together with the involvement of other community groups and public agencies;

"(6) a specification of the agencies that are intended to be contacted and the activities to be coordinated during the planning phase;

"(7) assurances that the applicant will establish a planning phase advisory council, that may become the council required under section 399C(d)(2)(K), that shall include—

"(A) prospective participants in the program;

"(B) individuals with expertise in the services the program intends to offer;

"(C) representatives of the community in which the program will be located;

"(D) representatives of local government social service providers;

"(E) representatives of local public housing agencies, where appropriate;

"(8) a description of the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require;

"(9) an assurance that the agency will use funds received under this section to prepare a plan as described in this subsection and submit such plan in an application for a grant under section 399C; and

"(10) an assurance that amounts received under a grant awarded under this section shall be used to supplement not supplant State and local funds currently utilized to provide services of the type described in this section.

"(c) ADMINISTRATIVE PROVISIONS.—

"(1) TERM OF GRANT.—No planning grant may be for a period longer than 1 year.

"(2) MAXIMUM NUMBER OF GRANTS.—Not more than 20 planning grants may be made under this section.

"(3) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to those applications that demonstrate that the applicant would not have the financial resources available to prepare a plan and application for a grant under section 399C unless such applicant receives a grant under this section.

"(d) MAXIMUM AMOUNT OF GRANT.—No grant awarded under this section to a single eligible agency may exceed \$50,000.

"SEC. 399E. ELIGIBLE SERVICES.

"(a) IN GENERAL.—Grants awarded under this part shall be used to provide services of the type described in subsection (b) to low-income frail elderly or low-income seriously ill individuals.

"(b) SERVICES.—Agencies receiving grants under this part shall use such grants to provide comprehensive services, in accordance with the service plan, that shall include, where appropriate—

"(1) 24-hours nursing supervision services;

"(2) case management services;

"(3) home health care services;

"(4) homemaker services;

"(5) meal provision services;

"(6) attendant services;

"(7) volunteer visiting services;

"(8) adult day care service;

"(9) treatment for substance abuse;

"(10) hospice services;

"(11) post hospitalization respite care services;

"(12) transportation services;

"(13) assistance in accessing and maintaining appropriate public assistance;

"(14) housing assistance activities, including emergency rental or mortgage assistance payments, housing counseling, and eviction or foreclosure prevention assistance;

"(15) mental health services; and

"(16) any other services determined appropriate by the Secretary.

"(c) COORDINATION.—Programs that receive assistance under this part shall be coordinated with a local hospital or community health center that regularly provides emergency medical care services.

"(d) SET-ASIDE FOR ELDERLY.—The Secretary shall require that at least 20 percent of the grants made under this part shall be set aside for the provision of subsidized housing-based services to elderly individuals, especially those very low income elderly individuals who were previously homeless or who are at risk of becoming homeless or at risk of institutionalization.

"SEC. 399F. TRAINING AND RETENTION.

"The Secretary shall require that agencies that receive a grant under section 399C use not less than 5 percent of such grant to improve the retention and effectiveness of staff and volunteers through appropriate service delivery training programs.

"SEC. 399G. AMOUNTS OF GRANTS.

"(a) IN GENERAL.—The Secretary shall pay to eligible agencies having applications approved under section 399C the Federal share of the cost of the activities described in the application.

"(b) FEDERAL SHARE.—The Federal share shall be 80 percent for each fiscal year.

"(c) NON-FEDERAL SHARE.—

"(1) IN GENERAL.—The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(2) CASH.—At least 25 percent of the non-Federal share under paragraph (1) shall be in the form of cash.

"(d) PAYMENTS.—Payments under this part may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(e) EQUITABLE CONSIDERATION OF RURAL AREAS.—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"SEC. 399H. EVALUATIONS.

"(a) IN GENERAL.—The Secretary shall require that programs that receive assistance under this part are evaluated, by a third party with expertise in the types of services to be provided under this part, on an annual basis.

"(b) MATTER TO BE EVALUATED.—Evaluations conducted under subsection (a) shall examine the efficacy of programs receiving assistance under this part in—

"(1) enhancing the living conditions for low income frail elderly and seriously ill individuals;

"(2) improving the opportunity for individuals served by the program to live independently and to avoid institutionalization; and

"(3) such other factors that the Secretary may reasonably require.

"(c) INFORMATION.—Each eligible agency receiving a grant under this part shall furnish information requested by evaluators in order to carry out this section.

"(d) RESULTS.—The results of such evaluations shall be provided to the eligible agencies conducting the programs to enable such agencies to improve such programs.

"SEC. 399I. REPORT.

"Not later than October 1, of each fiscal year, the Secretary shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a report—

"(1) concerning the evaluations required under section 399H, together with such recommendations, including recommendations for legislation, as the Secretary considers appropriate; and

"(2) describing any alternative sources of funding utilized or available for the provision of services of the type described in this part.

"SEC. 399J. CONSTRUCTION.

"Nothing in this part shall be construed to modify the Federal selection preferences described in section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) or the authorized policies and procedures of governmental housing authorities operating under annual assistance contracts pursuant to such Act with respect to admissions, tenant selection and evictions.

"SEC. 399K. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part, \$90,000,000 for fiscal year 1991, \$100,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

Subtitle C—Projects to Aid the Transition from Homelessness

SEC. 1341. PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS.

Part C of title V of the Public Health Service Act (42 U.S.C. 290cc et seq.) is amended to read as follows:

"PART C—PROJECTS TO AID THE TRANSITION FROM HOMELESSNESS

"SEC. 521. SHORT TITLE.

"This part may be cited as the 'Projects to Aid the Transition from Homelessness (PATH) Act of 1990'.

"SEC. 522. DEFINITIONS.

"As used in this part:

"(1) ELIGIBLE ENTITY.—The term 'eligible entity' means a State, a metropolitan city, or an urban county.

"(2) ELIGIBLE HOMELESS INDIVIDUAL.—The term 'eligible homeless individual' means an individual, including a veteran, who is—

"(A) afflicted with serious mental illness, alcoholism, substance abuse or a combination thereof; and

"(B) homeless or at imminent risk of becoming homeless.

"(3) METROPOLITAN CITY.—The term 'metropolitan city' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974 (42 U.S.C. 5302).

"(4) SERVICE PROVIDER.—The term 'service provider' includes any general purpose unit of local government, a city, county, town, township, parish, village or combination thereof, a public or private nonprofit agency including a veterans' community

based service provider, or a community based organization.

"(5) **STATE.**—The term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau.

"(6) **URBAN COUNTY.**—The term 'urban county' has the same meaning given such term in section 102 of the Housing and Community Development Act of 1974.

"SEC. 523. ALLOTMENT.

"(a) **IN GENERAL.**—The Secretary shall utilize amounts appropriated under section 532 in each fiscal year, to make an allotment to metropolitan cities, urban counties, and States (for distribution to service providers in the States) in the same manner as the Secretary of Housing and Urban Development makes allocations under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306), except that the Secretary shall—

"(1) substitute 50 percent for 70 percent in subsection (a) of such section 106; and

"(2) substitute 50 percent for 30 percent in subsection (d) of such section 106.

"(b) SPECIAL RULES.—

"(1) **IN GENERAL.**—If, under the allotment provisions applicable under this part, any city or urban county would receive an allotment of less than 0.05 percent of the amounts appropriated to carry out this part for any fiscal year, such amount shall instead be reallocated to the State, except that any metropolitan city that is located in a State that does not have counties as local governments, that has a population greater than 40,000 but less than 50,000 as used in determining the fiscal year 1987 community development block grant program allocation, and that was allocated in excess of \$1,000,000 in community development block grant funds in fiscal year 1987, shall receive directly the amount allotted to such city under subsection (a).

"(2) **MINIMUM.**—Notwithstanding any other provision of law, the total amount allotted to each State under this part, including amounts allotted to each eligible entity within the State, shall not be less than—

"(A) \$500,000; or

"(B) the amount of the allotment such State received pursuant to this part in fiscal year 1990 plus 30 percent of such allotment.

"(3) **RATABLE REDUCTION.**—The Secretary shall ratably reduce the allotments made pursuant to subsection (a) in order to carry out the provisions of this subsection.

"(c) **ALLOTMENTS TO TERRITORIES.**—In addition to the other allotments required in this section, the Secretary shall (for amounts appropriated under section 532) make allotments under this subtitle to the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Federated States of Micronesia and Palau, and any other territory or possession of the United States, in accordance with an allotment formula established by the Secretary, but in no case shall the total amount allotted to all of the territories and possessions exceed 2 percent of the total amount appropriated under section 532.

"(d) **REMAINING AMOUNTS.**—The Secretary may allocate any unclaimed or remaining funds to eligible entities determined by the Secretary to be in need of additional assistance.

"(e) REQUIREMENT OF NON-FEDERAL CONTRIBUTIONS.—

"(1) **IN GENERAL.**—The Secretary shall not make an allotment under this part to an eli-

gible entity unless such entity agrees to make available, directly or through donations from public or private entities, non-Federal contributions toward such costs in an amount equal to not less than \$1 for each \$3 of Federal funds provided under the allotment.

"(2) **DETERMINATION OF AMOUNT.**—Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Except as provided in paragraph (3), amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, shall not be included in determining the amount of such non-Federal contributions.

"(3) **SPECIAL RULE.**—Funds received pursuant to section 106 of the Housing and Community Development Act of 1974, and the value of any property, buildings, or housing received and fairly evaluated may be included in determining the amount of such non-Federal contributions.

"(4) **WAIVER.**—The Secretary may waive the requirements of paragraph (1) for metropolitan cities and urban counties which are unable to provide such matching funds.

"(5) **PARTICIPATING LOCALITIES.**—Each State receiving an allotment under this part shall not require participating localities to provide non-Federal contributions in excess of the non-Federal contributions described in paragraph (1).

"SEC. 524. ALLOTMENT APPLICATION.

"(a) REQUIREMENT.—

"(1) **IN GENERAL.**—Each eligible entity desiring an allotment under section 523 shall submit an application to the Secretary at such time, in such manner and accompanied by such information as the Secretary may reasonably require.

"(2) **APPLICATION PERIOD.**—The Secretary shall provide for a 90-day period during which applications may be submitted pursuant to paragraph (1).

"(b) **CONTENTS.**—Each application submitted pursuant to subsection (a) shall—

"(1) describe the activities and services for which the allotment is sought;

"(2) identify existing programs providing services and housing to eligible homeless individuals and identify gaps in the delivery systems of such programs;

"(3) include a plan for providing services and housing to eligible homeless individuals that shall—

"(A) describe the coordinated and comprehensive means of providing services and housing to homeless individuals; and

"(B) include documentation that suitable housing for eligible homeless individuals will accompany the provision of services to such individuals;

"(4) describe the source of the non-Federal contributions described in section 523;

"(5) contain assurances that the non-Federal contributions described in section 523 will be available at the beginning of the grant period;

"(6) describe any voucher system that may be used to carry out this part; and

"(7) contain such other information or assurances as the Secretary may reasonably require.

"SEC. 525. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USE OF GRANT FUNDS.

"(a) **IN GENERAL.**—The Secretary shall not make an allotment under section 523 to an eligible entity for any fiscal year unless—

"(1) the eligible entity submits to the Secretary a description of the intended use for

the fiscal year of the amounts for which the eligible entity is applying pursuant to such section;

"(2) such description identifies the geographic areas within the eligible entity in which the greatest numbers of homeless individuals with a need for mental health, substance abuse, and housing services are located;

"(3) such description provides information relating to the programs and activities to be supported and services to be provided, including information relating to coordinating such programs and activities with any similar programs and activities of public and private entities; and

"(4) the eligible entity agrees that such description will be revised throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the eligible entity pursuant to section 523.

"(b) **OPPORTUNITY FOR PUBLIC COMMENT.**—The Secretary shall not make an allotment under section 523 to an eligible entity for a fiscal year unless the eligible entity agrees that, in developing and carrying out the description required in subsection (a), the eligible entity will provide public notice with respect to the description (including any revisions) and such opportunities as may be necessary to provide interested persons, such as family members, consumers, and mental health, substance abuse, and housing agencies, an opportunity to present comments and recommendations with respect to the description.

"(c) RELATIONSHIP TO STATE COMPREHENSIVE MENTAL HEALTH SERVICES PLAN.—

"(1) **IN GENERAL.**—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) are consistent with the State comprehensive mental health services plan required in subpart 2 of part B of title XIX.

"(2) **SPECIAL RULE.**—The Secretary shall not make an allotment under section 523 to an eligible entity unless the services to be provided pursuant to the description required in subsection (a) have been considered in the preparation of, have been included in, and are consistent with, the State comprehensive mental health services plan referred to in paragraph (1).

"SEC. 526. USE OF ALLOTMENT.

"(a) USE OF ALLOTMENT.—

"(1) **IN GENERAL.**—Each eligible entity receiving an allotment under section 523 shall use such allotment to pay the Federal share of awarding grants to or entering into contracts with service providers to enable such service providers to provide comprehensive services and allowable housing assistance to homeless individuals in accordance with the provisions of this part.

"(2) **SPECIAL CONSIDERATION.**—Each eligible entity receiving an allotment under section 523 shall give special consideration to the provision of services to homeless veterans who are otherwise eligible for services under this subtitle. In providing such services to homeless veterans, such eligible entities shall give priority to service providers with a demonstrated effectiveness in serving homeless veterans.

"(3) **FEDERAL SHARE.**—The Federal share shall be 75 percent.

"(4) **SPECIAL RULE.**—Each eligible entity receiving an allotment under section 523 shall use at least two-thirds of such allotment to

assist eligible homeless individuals who have—

"(A) a primary diagnosis of a serious mental illness; or

"(B) a diagnosis involving a serious mental illness and substance abuse.

"(5) COORDINATION.—Each eligible entity receiving an allotment under section 523 shall only make grants pursuant to paragraph (1) to service providers that have the capacity to meet or coordinate the comprehensive services and housing needs of eligible homeless individuals, including referral services. Such capacity includes contractual arrangements and viable referral plans among service providers of mental health, substance abuse, or housing services so that the comprehensive needs of individuals who are both mentally ill and substance abusers are met.

"(6) ADMINISTRATIVE EXPENSES.—Notwithstanding the provisions of this subsection, each eligible entity receiving an allotment pursuant to section 523 may reserve not to exceed 4 percent of such allotment for administrative expenses.

"(b) SPECIAL RULES.—Each eligible entity receiving an allotment under section 523 shall not award a grant to a service provider that—

"(1) has a policy of excluding individuals from mental health services due to the existence or suspicion of substance abuse; and

"(2) has a policy of excluding individuals from substance abuse services due to the existence or suspicion of mental illness.

"(c) SUPPLEMENTATION.—Each eligible entity receiving an allotment under section 523 shall only use such funds to supplement and not supplant Federal, State and local government funds currently utilized to provide services of the type described in this part.

"SEC. 527. LOCAL APPLICATION.

"Each service provider desiring a grant pursuant to section 526(a) shall submit an application to the appropriate eligible entity at such time, in such manner and accompanied by such information as the eligible entity may reasonably require.

"SEC. 528. LOCAL USE OF GRANT FUNDS.

"(a) SERVICES.—Grants awarded pursuant to section 526(a) shall be used to provide either on-site or off-site services to eligible homeless individuals, including homeless veterans. Such services shall include—

"(1) outreach and engagement services;

"(2) screening and diagnostic treatment services;

"(3) habilitation and rehabilitation;

"(4) community mental health services;

"(5) alcohol or drug treatment services;

"(6) staff training, including the training of individuals who work in shelters, mental health clinics, substance abuse programs, and other sites where homeless individuals require services;

"(7) case management services, including—

"(A) preparing a plan for the provision of community mental health services to the eligible homeless individual involved, and reviewing such plan not less than once every 3 months;

"(B) providing assistance in obtaining and coordinating social and maintenance services for the eligible homeless individual, including services relating to daily living activities, personal financial planning, transportation services, and habilitation and rehabilitation services, prevocational and vocational services, and housing services;

"(C) providing assistance to the eligible homeless individual in obtaining income

support services, including housing assistance, food stamps, and supplemental security income benefits;

"(D) referring the eligible homeless individual for such other services as may be appropriate; and

"(E) providing representative payee services in accordance with section 1631(a)(2) of the Social Security Act if the eligible homeless individual is receiving aid under title XVI of such Act and if the applicant is designated by the Secretary to provide such services;

"(8) supportive and supervisory services in residential settings;

"(9) referral to primary health services;

"(10) referral to job training and education programs; and

"(11) referral to other relevant service or housing programs.

"(b) HOUSING.—Not to exceed 20 percent of amounts received under a grant awarded pursuant to section 526(a) may be used for—

"(1) minor renovation, expansion, and repair;

"(2) planning;

"(3) technical assistance in applying for housing assistance;

"(4) improving the coordination of housing services;

"(5) security deposits;

"(6) the costs associated with matching eligible homeless individuals with appropriate housing situations; and

"(7) one time rental payments to prevent eviction.

"(c) LIMITATIONS.—Grants awarded pursuant to section 526(a) shall not be used—

"(1) to support emergency shelters or construction of housing facilities;

"(2) for inpatient psychiatric treatment costs or inpatient substance abuse treatment costs; and

"(3) to make cash payments to intended recipients of mental health, substance abuse, or housing services.

"SEC. 529. COORDINATION.

"(a) IN GENERAL.—The Secretary shall provide for coordination among eligible entities of housing and service strategies used in carrying out the provisions of this part.

"(b) INFORMATION.—In carrying out the provisions of subsection (a) the Secretary shall make available to eligible entities—

"(1) the information contained in the application and plan submitted pursuant to section 524; and

"(2) the annual report described in section 531.

"SEC. 530. TECHNICAL ASSISTANCE.

"The Secretary, through the National Institute of Mental Health, the National Institute of Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse, may provide technical assistance to eligible entities in developing planning and operating programs in accordance with the provisions of this part.

"SEC. 531. REQUIREMENT OF REPORTS BY STATES.

"(a) IN GENERAL.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to prepare and submit to the Secretary an annual report in such form and containing such information as the Secretary determines (after consultation with the Comptroller General of the United States, the National Institute of Mental Health, the National Institute on Alcohol Abuse and Alcoholism, and the National Institute on Drug Abuse) to be necessary for—

"(1) securing a record and a description of the purposes for which amounts received

under section 523 were expended and of the recipients of such amounts; and

"(2) determining whether such amounts were expended in accordance with the provisions of this part.

"(b) AVAILABILITY TO PUBLIC OF REPORTS.—The Secretary shall not make allotments under section 523 to an eligible entity unless such eligible entity agrees to make copies of the reports described in subsection (a) available for public inspection.

"(c) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States in cooperation with the National Institute of Mental Health, shall evaluate at least once every 3 years the expenditures of grants under this part by eligible entities in order to ensure that expenditures are consistent with the provisions of this part, and shall include in such evaluation recommendations regarding changes needed in program design or operation.

"SEC. 532. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated \$120,000,000 in fiscal year 1991, and \$150,000,000 in each of the fiscal years 1992 through 1995 to carry out this part."

Subtitle D—Community Development Corporation Improvement Grants

SEC. 1351. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

Part 4 of subchapter A of the Community Economic Development Act of 1981 (42 U.S.C. 9814 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 634. COMMUNITY DEVELOPMENT CORPORATION IMPROVEMENT GRANTS.

"(a) PURPOSE.—It is the purpose of this section to provide assistance to community development corporations to upgrade the management and operating capacity of such corporations and to enhance the resources available to enable such corporations to increase their community economic development activities.

"(b) SKILL ENHANCEMENT GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to attain or enhance the business management and development skills of the individuals that manage such corporations to enable such corporations to seek the public and private resources necessary to develop low-income housing and to develop community economic development projects.

"(2) USE OF FUNDS.—Grantees may use funds obtained under this section—

"(A) to purchase training and technical assistance from agencies or institutions that have experience in the construction, development and management of low-income housing or experience in community economic development; or

"(B) to purchase such assistance from other highly successful community development corporations.

"(c) OPERATING GRANTS.—

"(1) IN GENERAL.—The Secretary of Health and Human Services shall make grants to community development corporations to enable such corporations to support an administrative capability for planning, developing, constructing and managing low-income housing, and for other community economic development projects.

"(2) USE OF FUNDS.—Of amounts made available in any fiscal year for operating grants under this subsection, the Secretary of Health and Human Services shall use—

"(A) 40 percent of such amounts to assist in starting up community development corporations; and

"(B) 60 percent of such amounts to assist established community development corporations.

"(3) **TERMS AND CONDITIONS.**—Assistance provided through operating grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(d) **GRANTS FOR COMMUNITY DEVELOPMENT CORPORATION EQUITY ACCOUNTS.**—

"(1) **IN GENERAL.**—The Secretary of Health and Human Services shall make grants to any nongovernmental, nonprofit entity that is principally involved with the development, construction or management of low-income housing, or to community development corporations, to enable such entities to establish and maintain equity accounts with which such corporations may plan, develop, construct and manage low-income housing.

"(2) **TERMS AND CONDITIONS.**—Assistance provided through equity account grants under this subsection shall be of sufficient size and duration, including multiyear grants where appropriate, to enable a community development corporation receiving such assistance to have an appreciable impact on the area or areas to be served.

"(e) **APPLICATIONS.**—Community development corporations that desire to receive assistance under this section shall prepare and submit, to the Secretary of Health and Human Services, an application at such time, in such form, and containing such information as the Secretary shall reasonably require. Such Secretary shall not require project-specific information for applications for assistance under subsections (b), (c) and (d).

"(f) **EQUITABLE CONSIDERATION OF RURAL AREAS.**—The Secretary shall ensure that an equitable number of grants are awarded to eligible agencies in rural areas.

"(g) **AUTHORIZATION OF APPROPRIATIONS.**—

"(1) **IN GENERAL.**—There are authorized to be appropriated to carry out this section, \$40,000,000 for fiscal year 1991, \$50,000,000 for fiscal year 1992, and such sums as may be necessary in each of the fiscal years 1993 through 1995.

"(2) **USE.**—The Secretary of Health and Human Services shall use—

"(A) 20 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (b);

"(B) 30 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (c); and

"(C) 50 percent of the amounts appropriated under paragraph (1) in each fiscal year to make grants under subsection (d).

"(3) **AVAILABILITY.**—Amounts appropriated under paragraph (1) shall remain available until expended.

"(h) **DEFINITION.**—As used in this section, the term 'community development corporation' means a nonprofit entity of the type described in this section and that meets the resident control and governing body requirements of 42 U.S.C. 9807(a)(1)."

Subtitle E—Public Housing Gateway

SEC. 1361. SHORT TITLE.

This subtitle may be cited as the "Public Housing Gateway Act of 1990".

SEC. 1362. STATEMENT OF PURPOSE.

The purpose of this subtitle is to establish programs, through public housing agencies,

to increase the abilities and self-sufficiency of young residents of public housing, increase the prospects for employment of young residents of public housing, and end generational dependency on public assistance in public housing, through—

(1) the provision of literacy training, training in basic and employment skills, and support services through the public housing agencies; and

(2) the employment of residents of public housing and of professional staff to perform outreach services, including identification of and assistance to residents who could prosper from education and training programs.

SEC. 1363. GRANT PROGRAM.

(a) **IN GENERAL.**—The Secretary of Labor may make grants under this subtitle to public housing agencies for the utilization of public housing in the provision of training and services to economically disadvantaged residents of public housing through gateway programs.

(b) **SELECTION OF GRANT RECIPIENTS.**—The Secretary shall select public housing agencies to receive grants under subsection (a) and may select only public housing agencies that meet the following requirements:

(1) **PROVISION OF FACILITIES.**—The public housing agency shall agree to make available suitable facilities in the public housing projects administered by the public housing agency, or any facilities provided by a State or local governmental agency or any private organization or person, for the provision of training and services under this subtitle.

(2) **NEED AND CAPABILITY TO PROVIDE SERVICES.**—The public housing agency shall demonstrate to the Secretary the need and ability to provide the training and services described in section 1364(a) to individuals qualified to receive the training and services under section 1365.

(3) **PROVISION OF SERVICES TO QUALIFIED INDIVIDUALS.**—The public housing agency shall demonstrate to the Secretary that any training and services to be provided under this subtitle will be provided only to individuals qualified to receive the training and services under section 1365.

(4) **PROVISION OF SERVICES TO YOUNG FAMILIES.**—The public housing agency shall demonstrate to the Secretary that the training and services to be provided under this subtitle will be provided to residents of public housing projects where a significant number of young families receiving public assistance reside.

(5) **COOPERATION WITH PRIVATE, NONPROFIT ORGANIZATIONS, OR COMMUNITY BASED ORGANIZATIONS.**—The public housing agency shall demonstrate to the Secretary the ability to create cooperative working relationships with private organizations, nonprofit organizations, or community based organizations that are to provide training and services under this subtitle and are located in the same community as the public housing agency.

(c) **APPLICATIONS FOR GRANTS.**—

(1) **IN GENERAL.**—The Secretary shall prescribe the form and procedures for public housing agencies to make applications for grants under this section.

(2) **PRIORITY.**—The Secretary shall give priority to applications that demonstrate significant cooperation and coordination with existing private organizations, nonprofit organizations, or community based organizations.

SEC. 1364. GATEWAY PROGRAM ESTABLISHED UNDER GRANT PROGRAM.

(a) **MANDATORY TRAINING AND SERVICES.**—Any public housing agency that receives a

grant under section 1363 shall use the grant to establish a gateway program to make available to individuals eligible under section 1365 all of the following training and services, subject to the limitations of section 1365:

(1) **INFORMATION.**—The provision of information designed to make individuals aware of training, employment, education, counseling or the provision of services offered by the public housing agency, including the training and services available under this subtitle.

(2) **LITERACY TRAINING.**—Literacy training and bilingual training.

(3) **BASIC SKILLS TRAINING.**—Remedial education and training in basic skills.

(4) **DEVELOPMENT OF WORK HABITS.**—Development of good work habits and other personal management skills to enable individuals to obtain and retain employment.

(5) **CHILD CARE.**—Child care services provided free of charge to facilitate the participation of individuals in other training and services provided under this section. The child care services shall be designed, to the extent practicable, to employ and train economically disadvantaged residents of the public housing project involved, and shall include—

(A) services to provide daytime care for the child dependents who do not attend school and adult dependents of eligible individuals;

(B) services to provide care after school hours for the child dependents of eligible individuals; and

(C) irregular, periodic, and evening care for the child dependents of eligible individuals scheduled to allow the eligible individuals to participate in the training and services provided under this section.

(b) **PERMISSIVE TRAINING AND SERVICES.**—Public housing agencies that receive grants under section 1363 may make available as part of their gateway programs to individuals qualified under section 1365 literacy training, training in basic and employment skills, and support services, in addition to the training and services described in subsection (a) and subject to the limitations of section 1365, including the following:

(1) **EMPLOYMENT ASSISTANCE.**—Assistance in acquiring employment.

(2) **EMPLOYMENT COUNSELING.**—Employment counseling and vocational exploration services.

(3) **DEVELOPMENT OF JOBS.**—Development of employment positions.

(4) **PRIVATE JOB TRAINING.**—The provision of training in occupations for which demand is increasing and training in the course of employment, by private employers or organizations.

(5) **OTHER FEDERAL EMPLOYMENT TRAINING OR SERVICES.**—Training or services coordinated with other Federal employment-related activities.

(6) **HIGH SCHOOL EDUCATION.**—Assistance in the attainment of certificates of high school equivalency.

(7) **COMPUTER SKILLS TRAINING.**—Training in computer skills for use in education, skills training, and employment preparation.

(8) **TRAINING IN APPLICATION OF SKILLS.**—Services to help individuals receiving training and educational assistance to utilize their acquired skills in the competitive employment market.

(9) **TRANSITIONAL ACTIVITIES.**—Activities designed to provide transition from education to employment.

(10) **DRUG PREVENTION SERVICES.**—Services to assist individuals with drug prevention,

drug counseling, and drug education programs.

(11) **SUPPORT SERVICES.**—Support services, including child care services in addition to the services described in subsection (a)(5) and transportation to training and services not held in public housing projects.

SEC. 1365. LIMITATIONS ON GATEWAY PROGRAMS.

(a) **ELIGIBILITY IN GENERAL.**—Public housing agencies receiving grants under this subtitle shall limit participation in training and services provided under gateway programs to individuals who meet the following requirements:

(1) **RESIDENCY.**—The individual shall be a resident of public housing.

(2) **AGE.**—The individual shall be not more than 25 years of age.

(3) **ECONOMIC DISADVANTAGE.**—The individual shall be economically disadvantaged.

(4) **EDUCATIONAL DISADVANTAGE.**—The individual shall—

(A) have encountered barriers to employment because of a deficiency in a basic skill; or

(B) if over 16 years of age or beyond the age of compulsory school attendance under State law, not have a certificate of graduation from a school providing secondary education and not have achieved an equivalent level of education.

(b) **LIMITATIONS ON CHILD CARE SERVICES.**—

(1) **ELIGIBILITY.**—Public housing agencies receiving grants under this subtitle shall limit the provision of child care services under section 1364(a)(5) to the following individuals:

(A) **PARTICIPANTS UNDER GATEWAY PROGRAMS.**—Individuals who are participating in training or services under a gateway program (not including the provision of support services), during the participation of the individual in the training or services.

(B) **UNEMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.**—Individuals who have successfully completed participation in training or services under a gateway program (not including the provision of support services) and who are not employed, during a period in which the individual searches for employment after the completion of the training or services, as follows:

(i) **COMMENCEMENT.**—The period shall begin on the completion of the training or services by the individual.

(ii) **TERMINATION.**—The period shall end on whichever of the following occurs first:

(I) The expiration of the 3-month period after the completion of the training or services by the individual.

(II) The commencement of the employment of the individual in a position not funded by grants made under this subtitle.

(C) **EMPLOYED FORMER PARTICIPANTS UNDER GATEWAY PROGRAMS.**—Individuals who have successfully completed training or services under a gateway program (not including the provision of support services) and who are employed in a position not funded by grants made under this subtitle, during the 12-month period that begins with commencement of the employment of the individual.

(2) **COMPLIANCE WITH STATE AND LOCAL LAWS.**—A public housing agency that provides child care services under this subtitle shall ensure that the child care complies with applicable State and local laws.

(c) **LIMITATIONS ON SUPPORT SERVICES.**—An individual may receive support services under this subtitle after the individual terminates any participation in training or services under a gateway program (not including the provision of support services)

only if the individual has completed the training or services. An individual may not receive support services later than 18 months after the completion of the training or services by the individual.

(d) **LIMITATION ON NONRESIDENT PERSONNEL.**—A public housing agency receiving a grant made under this subtitle shall attempt to employ in positions relating to the administration and delivery of training and services under gateway programs residents of the public housing project involved whenever qualified residents are available.

SEC. 1366. EFFECT OF GATEWAY PROGRAMS.

(a) **NONCONSIDERATION AS INCOME FOR PARTICIPATING INDIVIDUALS.**—The earnings of and benefits to any individual resulting from participation in training and services under a gateway program shall not be considered as income for the purposes of determining eligibility for or the amount of public assistance or determining a limitation on the amount of rent paid by the individual during the following periods:

(1) **PERIOD OF PARTICIPATION UNDER GATEWAY PROGRAM.**—The period during which the individual participates in training or services under a gateway program (not including the provision of support services).

(2) **EMPLOYMENT PERIOD.**—If the individual participating in training or services under a gateway program (not including the provision of support services) successfully completes the training or services, a single period, not to exceed 18 months, as follows:

(A) **COMMENCEMENT.**—The period shall begin on the commencement of employment of the individual in the first position acquired by the individual after completion of the training or services that is not funded by a grant under this subtitle.

(B) **TERMINATION.**—The period shall end on whichever of the following occurs first—

(i) the expiration of the 18-month period following the commencement of the period described in subparagraph (A); or

(ii) the individual ceases to continue employment without good cause, as the Secretary shall determine.

(b) **PUBLIC HOUSING OPERATING ASSISTANCE.**—The use of the facilities of a public housing agency receiving a grant under this subtitle in the provision of training or services under a gateway program shall have no effect on the amount of assistance provided to the public housing agency under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

SEC. 1367. REVIEW AND SANCTIONS.

(a) **REVIEW.**—The Secretary shall review at least annually the compliance of the public housing agencies receiving grants under this subtitle with the provisions of this subtitle.

(b) **SANCTIONS FOR NONCOMPLIANCE.**—Whenever the Secretary determines on the record after opportunity for a hearing that a public housing agency has failed to comply substantially with the provisions of this subtitle, the Secretary shall notify the public housing agency that no further grant payments will be made to the public housing agency under this subtitle until the public housing agency demonstrates, to the satisfaction of the Secretary, that the public housing agency will comply. Until the public housing agency demonstrates as required by this subsection, the Secretary shall not make further grant payments to the public housing agency under this subtitle.

SEC. 1368. REPORTS.

The Secretary shall transmit annually to the President and to the appropriate Com-

mittees of Congress a report containing a detailed statement of the activities of the public housing agencies receiving grants under this subtitle and the recommendations for any action the Secretary considers appropriate. Such reports shall include an evaluation of the effectiveness of such activities in enhancing the employability of residents of public housing.

SEC. 1369. DEFINITIONS.

As used in this subtitle:

(1) **BASIC SKILLS.**—The term “basic skills” means the rudimentary skills necessary for an individual to function in daily living, including literacy, arithmetic skills, and problem-solving.

(2) **ECONOMICALLY DISADVANTAGED.**—The term “economically disadvantaged” has the meaning given such term in section 4(8) of the Job Training Partnership Act (29 U.S.C. 1503(8)).

(3) **GATEWAY PROGRAM.**—The term “gateway program” means a program for the provision of training and services described in section 1364 established by a public housing agency under a grant made by the Secretary under this subtitle.

(4) **LITERACY.**—The term “literacy” means the knowledge and skills necessary to communicate, including reading, writing, speaking, and listening normally associated with the ability to function at a level greater than the 8th grade level.

(5) **OFFICER.**—The term “officer” has the meaning given the term in section 2104 of title 5, United States Code.

(6) **PUBLIC ASSISTANCE.**—The term “public assistance” means cash payments, credits, or other assistance or benefits provided to individuals or families under Federal law.

(7) **PUBLIC HOUSING.**—The term “public housing” has the meaning given such term in section 3(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(1)).

(8) **PUBLIC HOUSING AGENCY.**—The term “public housing agency” has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(6)).

(9) **SECRETARY.**—The term “Secretary” means the Secretary of Labor.

(10) **SUPPORT SERVICES.**—The term “support services” means services to facilitate the participation of residents of public housing in training and services under gateway programs. The term includes child care services under section 1364(a)(5) and services under section 1364(b)(10).

SEC. 1370. REGULATIONS.

The Secretary shall promulgate regulations necessary to carry out this subtitle.

SEC. 1371. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle \$40,000,000 for fiscal year 1991, and \$50,000,000 for each of the fiscal years 1992 through 1995. Any amount appropriated under this section shall remain available until expended.

Subtitle F—Homeless Youth Demonstration Projects

SEC. 1381. SHORT TITLE.

This subtitle may be cited as the “Homeless Youth Demonstration Project Act of 1990”.

SEC. 1382. DEMONSTRATION PROJECTS.

Subtitle E of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11472 et seq.) is amended by adding at the end thereof the following new section:

“SEC. 763. DEMONSTRATION PROJECTS.

“(a) **DEFINITIONS.**—As used in this section:

"(1) **HOMELESS YOUTH.**—The term 'homeless youth' means an individual who is 21 years of age or younger, is in need of services, and lacks a permanent place of shelter that provides appropriate supervision and care for such individual or who resides in a group home on a temporary basis.

"(2) **SECRETARY.**—The term 'Secretary' means the Secretary of Health and Human Services.

"(b) **DEMONSTRATION PROJECTS.**—

"(1) **IN GENERAL.**—The Secretary shall establish not to exceed three demonstration projects that are designed to assist private and public agencies and organizations in working together to provide a network of comprehensive services, including medical, mental health, health, legal, social, outreach, and emergency services, to homeless youth.

"(2) **GRANTS.**—

"(A) **IN GENERAL.**—The Secretary shall award grants to not to exceed three private, nonprofit organizations with demonstrated success in providing direct services to homeless youth, in subcontracting for such services, and in coordinating the provision of such services with other agencies, as referred to in paragraph (1).

"(B) **LOCATION.**—In awarding grants under subparagraph (A), the Secretary shall select organizations that are located in urban areas with a high concentration of out-of-city, out-of-county, and out-of-State homeless youth.

"(C) **ABILITY TO PROVIDE SERVICES.**—To be eligible for a grant under subparagraph (A), an organization shall demonstrate to the Secretary the ability of such organization, or another competent organization with which such organization has a subcontract, to provide a comprehensive network of each of the services described in paragraph (1).

"(D) **PREFERENCE.**—In awarding grants under subparagraph (A), the Secretary shall give preference to organizations that would involve a network of public and private agencies in the delivery of services to homeless youth.

"(3) **EVALUATION OF DEMONSTRATION PROJECTS.**—

"(A) **IN GENERAL.**—The Secretary shall monitor each demonstration project established under paragraph (1) to determine whether such project is complying with the requirements of this section.

"(B) **INDEPENDENT EVALUATOR.**—

"(1) **IN GENERAL.**—The Secretary shall contract with an independent evaluator to evaluate the process and outcome of each demonstration project established under paragraph (1), and to make suggestions for the implementation of other similar demonstration projects in other areas of the country.

"(ii) **STABILITY OF HOMELESS YOUTH.**—The independent evaluator referred to in clause (i) shall assess the stability of homeless youth that are served by a demonstration project established under paragraph (1) after such youth are either reunited with family or settled in a stable environment.

"(4) **ELIGIBLE YOUTH.**—

"(A) **IN GENERAL.**—Except as provided for in subparagraph (B), an individual wishing to receive services under this section shall be not more than 21 years of age.

"(B) **EXCEPTION.**—The Secretary may grant waivers to provide services under this section to individuals who are 22 through 24 years of age for not more than 10 percent of the funds awarded for grants under paragraph (2).

"(5) **LENGTH OF DEMONSTRATION PROJECTS.**—Each of the demonstration projects estab-

lished under paragraph (1) shall not exceed a period of 3 years.

"(6) **AUTHORIZATION OF APPROPRIATION.**—

"(A) **IN GENERAL.**—There is authorized to be appropriated to carry out this section \$2,500,000 for each of the fiscal years 1991, 1992, and 1993.

"(B) **INDEPENDENT EVALUATOR.**—Of the amounts authorized to be appropriated under subparagraph (A), not to exceed \$500,000 shall be utilized for the contract referred to in paragraph (3)(B)."

Subtitle G—Plan for Cooperation

SEC. 1391. PLAN FOR COOPERATION.

(a) **IN GENERAL.**—Not later than the date on which regulations necessary to carry out subtitle A of this title, part L of title III of the Public Health Service Act (as added by subtitle B), part C of title V of the Public Health Service Act (as amended by subtitle C), section 634 of the Community Economic Development Act of 1981 (as added under subtitle D), or subtitle E are issued, the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall prepare and submit, to the Committees on Education and Labor, and Banking of the House of Representatives and the Committees on Labor and Human Resources, and Banking of the Senate, a plan concerning the programs to be carried out under such subtitle, parts, and section.

(b) **CONTENTS.**—The plan prepared under subsection (a) shall—

(1) describe the method in which the Secretary of Health and Human Services, the Secretary of Labor, the Secretary of Veterans Affairs, and the Secretary of Housing and Urban Development shall consult with one another in implementing and administering the programs described in subsection (a) and coordinate the implementation of such programs with other relevant programs and Acts (including the programs established under the Stewart B. McKinney Homeless Assistance Act, or the amendments made by such Act, and under Federal housing Acts);

(2) contain an assurance that such Secretaries will consult with one another on an ongoing and continuous basis in such implementation; and

(3) contain procedures, developed by the Secretary of Housing and Urban Development, for granting priority in the provision of construction, rehabilitation or renovation assistance by such Secretary, to applicants that receive grants under the subtitle, parts, and section referred to in subsection (a).

TITLE XIV—DEPOSITOR PROTECTION AND ANTI-FRAUD ACT

SEC. 1401. SHORT TITLE.

This title may be cited as the "Depositor Protection and Anti-Fraud Act of 1990".

SEC. 1402. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FDIC-INSURED DEPOSITORY INSTITUTIONS.

(a) **IN GENERAL.**—Section 18 of the Federal Deposit Insurance Act (12 U.S.C. 1828) is amended by adding at the end the following new subsection:

"(c) **REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED DEPOSITORY INSTITUTIONS.**—

"(1) **PROHIBITION ON SELLING CERTAIN INSTRUMENTS.**—No insured depository institution may permit any evidence of indebtedness of, or ownership interest in, that institution or any affiliate to be sold or offered for sale in any of the following:

"(A) A domestic branch of that institution at which insured deposits are accepted.

"(B) That institution's head office, if it accepts insured deposits and is located in the United States.

"(2) **EXCEPTIONS.**—Paragraph (1) shall not apply with respect to any of the following:

"(A) A deposit in an insured depository institution.

"(B) A traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940, or otherwise regulated by the appropriate Federal banking agency.

"(D) A sale of instruments in minimum amounts of \$100,000 to a sophisticated investor.

"(E) A sale of instruments pursuant to converting a depository institution from mutual to stock ownership if that conversion has been approved by the appropriate Federal banking agency and, where applicable, any appropriate State agency.

"(3) **REGULATORY EXEMPTIONS.**—The appropriate Federal banking agency may by regulation provide exemptions from paragraph (1) if at a minimum:

"(A) the exemption is in the public interest;

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured deposit because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for depositors than for persons similarly situated who are not depositors;

"(D) the seller or offeror institutes and follows procedures to determine before selling the instrument whether the instrument is appropriate for the purchaser, except to the extent that the agency determines that, in particular cases or classes of transactions, such procedures are not necessary to protect the public;

"(E) no broker or dealer registered under the Securities Exchange Act of 1934 (or any associated person) receives a greater sales commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1); and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured depository institution.

"(ii) An affiliate of the insured depository institution.

"(iii) An employee of the insured depository institution or any of its affiliates, or a person under the direction and control of the insured depository institution or any of its affiliates.

"(4) **ANNUAL REPORTS REQUIRED.**—Each appropriate Federal banking agency shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences

between that agency's regulations under this subsection and the regulations adopted by the other agencies under this subsection. Each report shall explain the reasons for any such differences, and shall be published in the Federal Register."

(b) **REGULATIONS.**—Not less than 180 days after the date of enactment of this Act, each appropriate Federal banking agency shall promulgate regulations to administer and carry out the amendment made by this section.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall become effective with respect to depository institutions regulated by each appropriate Federal banking agency immediately upon the effectiveness of final regulations promulgated by that agency under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

SEC. 1403. LIMITATIONS ON CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF FEDERALLY INSURED CREDIT UNIONS.

(a) **IN GENERAL.**—Section 205 of the Federal Credit Union Act (12 U.S.C. 1785) is amended by adding at the end the following new subsection:

"(j) **REGULATION OF CERTAIN NONDEPOSIT MARKETING ACTIVITIES IN RETAIL BRANCHES OF INSURED CREDIT UNIONS.**—

"(1) **PROHIBITION ON SELLING CERTAIN INSTRUMENTS.**—No insured credit union may permit any evidence of indebtedness of that credit union or any evidence of indebtedness of, or ownership interest in, any affiliate of that credit union to be sold or offered for sale in any of the following:

"(A) A domestic branch of that credit union at which insured shares are accepted.

"(B) That credit union's head office, if it accepts insured deposits and is located in the United States.

"(2) **EXCEPTIONS.**—Paragraph (1) shall not apply with respect to any of the following:

"(A) An insured share in an insured credit union.

"(B) A traveler's check, cashier's check, teller's check, or money order, or other similar negotiable instrument typically sold by federally insured depository institutions in the ordinary course of business.

"(C) An interest in an investment company registered under the Investment Company Act of 1940, or otherwise regulated by the Board.

"(D) A sale of instruments in minimum amounts of \$100,000 to a sophisticated investor.

"(3) **REGULATORY EXEMPTIONS.**—The Board may by regulation provide exemptions from paragraph (1) if at a minimum:

"(A) the exemption is in the public interest;

"(B) the purchasers would not be likely to confuse the evidence of indebtedness or ownership interest with an insured share because of the manner in which it is sold or offered for sale, or for any other reason;

"(C) the evidence of indebtedness or ownership interest would be sold or offered for sale on terms (including price) no less favorable for shareholders than for persons similarly situated who are not shareholders;

"(D) the seller or offeror institutes and follows procedures to determine before selling the instrument whether the instrument is appropriate for the purchaser, except to the extent that the Board determines that, in particular cases or classes of transactions, such procedures are not necessary to protect the public;

"(E) no broker or a dealer registered under the Securities Exchange Act of 1934

(or any associated person) receives a greater commission in connection with a sale described in paragraph (1) than for a sale not described in paragraph (1); and

"(F) none of the following persons (other than a broker or dealer registered under the Securities Exchange Act of 1934, or an associated person) receives what is in substance a sales commission which is greater than the amount typical for the industry or that exceeds the amount that could have been received by a person subject to subparagraph (E) in connection with the sale or offer to sell described in paragraph (1):

"(i) The insured credit union.

"(ii) An affiliate of the insured credit union.

"(iii) An employee of the insured credit union or any of its affiliates, or any person under the direction or control of the insured credit union or any of its affiliates.

"(4) **AFFILIATE DEFINED.**—For the purposes of this subsection, the term 'affiliate' means any company that controls, is controlled by, or is under common control with another company.

"(5) **ANNUAL REPORTS REQUIRED.**—The Board shall report annually to the Chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and the Chairman and the ranking minority member of the Committee on Banking, Finance and Urban Affairs of the House of Representatives on any differences between the Board's regulations under this subsection and the regulations adopted by the Federal banking agencies under section 18(o) of the Federal Deposit Insurance Act. The report shall explain the reasons for any such differences, and shall be published in the Federal Register."

(b) **REGULATIONS.**—Not less than 180 days after the date of enactment of this Act, the National Credit Union Administration Board shall promulgate regulations to administer and carry out the purposes of this section.

(c) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall become effective immediately upon the effectiveness of final regulations promulgated under subsection (b), but in no event later than 270 days after the date of enactment of this Act.

TITLE XV—GENERAL ACCOUNTING OFFICE STUDY

SEC. 1501. EXTENT TO WHICH FEDERAL ASSISTANCE PROGRAMS DISCOURAGES INDIVIDUALS FROM LEAVING SUCH PROGRAMS.

(a) The Comptroller General of the United States of America shall conduct a study to examine how housing policies and social service policies affect beneficiaries, particularly those receiving public assistance, when such beneficiaries gain employment and experience a rise in income. The study shall analyze the extent to which existing housing and other laws create disincentives to upward income mobility and shall recommend any changes to existing law which would remove such disincentives.

(b) The Comptroller General shall report to the Congress of the United States of America the findings of this study not later than twelve months after this bill becomes Public Law.

TITLE XVI—GENERAL PROVISIONS

SEC. 1601. OLD-AGE, SURVIVORS AND DISABILITY INSURANCE.

It shall not be in order in the Senate to consider any bill dealing with the public debt, or amendment or conference report thereon if Congress has not acted to remove

the OASDI revenues and expenditures from the calculation of the deficit of the United States Government pursuant to the Gramm-Rudman-Hollings Deficit Reduction Act.

SEC. 1602. VIDEO EQUIPMENT USE IN DETECTING PERSONS DRIVING UNDER INFLUENCE OF ALCOHOL OR CONTROLLED SUBSTANCE.

Section 408(f) of title 23, United States Code, is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) for the acquisition of video equipment to be used in detecting persons driving under the influence of alcohol or a controlled substance and in effectively prosecuting those persons."

SEC. 1603. STUDY ON ENTERPRISE ZONES DEVELOPMENT CORPS.

Within 90 days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, on the feasibility of establishing a national volunteer corps made up of representatives from the business and labor communities who would provide management expertise or technical assistance to businesses or non-profit organizations located in designated enterprise zones.

SEC. 1604. STUDY ON TURNING DRUG ZONES INTO OPPORTUNITY ZONES.

Within 90 days from the date of enactment of this Act, the Secretary of Housing and Urban Development shall conduct a study and report to the Senate Committee on Banking, Housing, and Urban Affairs, on ways in which areas ravaged by drug trade, drug related crime and drug abuse may be made more attractive as investment locations for companies, including the provision of special incentives to encourage companies to invest in these areas, in order to provide economic opportunity within communities to the residents of these communities. This study shall include recommendations on how areas that would qualify for benefits as an enterprise zone might receive additional benefits if they met criteria demonstrating that the community suffered from acute drug use and related crime.

SEC. 1605. DEFICIT REDUCTION RECOMMENDATIONS.

(a) The Congress finds that:

(1) The elimination of Government waste should be the major component of deficit reduction.

(2) Revenues for fiscal year 1990 will grow by more than \$82,000,000,000 as a result of economic growth.

(3) The Comptroller General has stated that there is approximately \$100,000,000,000 to \$200,000,000,000 in annual Government waste, fraud and mismanagement.

(4) There is more than \$125,000,000,000 in outstanding delinquent debt owed to the Government by individuals.

(5) The Office of Management and Budget has identified more than one hundred "high-risk" programs that are vulnerable to fraud, waste and abuse.

(6) The Federal Government has more than \$5,700,000,000,000 in outstanding credit and insurance, representing a massive potential risk to taxpayers.

(7) Reducing waste would free the inefficient use of resources by the government and release them into the private sector.

(b) It is the sense of the Senate that the President and the members of the budget summit should consider the most feasible of the deficit reduction recommendations contained to the June 1990 report of Citizens against Government Waste, as well as those in the public record of Congressional Budget Office, General Accounting Office, Office of Management and Budget, and other agencies before considering new or increases taxes.

MOTION OFFERED BY MR. GONZALEZ

Mr. GONZALEZ. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Mr. Gonzalez moves to strike out all after the enacting clause of the bill, S. 566, and to insert in lieu thereof the provisions of H.R. 1180, as passed by the House, as follows:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the "Housing and Community Development Act of 1990".

(b) **TABLE OF CONTENTS.**—

Sec. 1. Short title and table of contents.

TITLE I—NATIONAL HOUSING TRUST DEMONSTRATION

Subtitle A—National Housing Trust Demonstration

- Sec. 101. Short title.
- Sec. 102. National Housing Trust.
- Sec. 103. Assistance for first-time homebuyers.
- Sec. 104. National Housing Trust Fund.
- Sec. 105. Definitions.
- Sec. 106. Regulations.
- Sec. 107. Report.
- Sec. 108. Authorization of appropriations.
- Sec. 109. Transition.
- Sec. 110. Termination.

Subtitle B—Other Homeownership Demonstration Programs

PART 1—HOMEOWNERSHIP MADE EASIER DEMONSTRATION

- Sec. 121. Definitions.
- Sec. 122. Matching contributions for homeownership downpayments.
- Sec. 123. Use of matching contribution certificates.
- Sec. 124. Redemption of matching contribution certificates.
- Sec. 125. Administration of home savings certificate accounts.
- Sec. 126. Repayment of funds received from matching contribution certificates.
- Sec. 127. Sale of mortgages.
- Sec. 128. Geographic distribution.
- Sec. 129. Reports.
- Sec. 130. Regulations.
- Sec. 131. Commitments to provide matching contribution certificates and authorization of appropriations.
- Sec. 132. Termination.

PART 2—SECOND MORTGAGES FOR FIRST-TIME HOMEBUYERS

- Sec. 141. Grants to local governments and nonprofit organizations for second mortgage assistance for first-time homebuyers.

TITLE II—RENTAL HOUSING PRODUCTION

- Sec. 201. Findings and purpose.
- Sec. 202. Authority to provide repayable advances.
- Sec. 203. Program requirements.

- Sec. 204. Selection criteria.
- Sec. 205. Rental Housing Production Fund.
- Sec. 206. Nondiscrimination.
- Sec. 207. Definitions.
- Sec. 208. Regulations.
- Sec. 209. Authorization of appropriations.
- Sec. 210. Conforming amendment.

TITLE III—HOPE PROGRAMS

Sec. 301. Short title.

Subtitle A—HOPE for Public and Indian Housing Homeownership

- Sec. 311. HOPE for public and Indian housing homeownership.
- Sec. 312. Amendment to section 18 regarding demolition and disposition of public housing.
- Sec. 313. Limitation on section 20 resident management financial assistance.
- Sec. 314. Extension of section 21 homeownership program and provision of technical and other assistance.
- Sec. 315. Implementation.
- Sec. 316. Applicability to Indian public housing.

Subtitle B—HOPE for Homeownership of Multifamily Units

- Sec. 321. Program authority.
- Sec. 322. Planning grants.
- Sec. 323. Implementation grants.
- Sec. 324. Homeownership program requirements.
- Sec. 325. Other program requirements.
- Sec. 326. Definitions.
- Sec. 327. Exemption.
- Sec. 328. Limitation on selection criteria.
- Sec. 329. Amendment to National Housing Act.
- Sec. 330. Implementation.

Subtitle C—HOPE for Homeownership of Single Family Homes

- Sec. 341. Program authority.
- Sec. 342. Planning grants.
- Sec. 343. Implementation grants.
- Sec. 344. Homeownership program requirements.
- Sec. 345. Other program requirements.
- Sec. 346. Definitions.
- Sec. 347. Limitation on selection criteria.
- Sec. 348. Implementation.

Subtitle D—Other HOPE Programs

- Sec. 351. HOPE for elderly independence.
- Sec. 352. HOPE for vacant public housing units.
- Sec. 353. HOPE for family self-sufficiency program.

Subtitle E—Housing Opportunity Zones

- Sec. 361. Basic authority and purpose.
- Sec. 362. Definitions.
- Sec. 363. Housing opportunity zones.
- Sec. 364. Selection of housing opportunity zones.
- Sec. 365. Barrier removal plans.
- Sec. 366. Term and revocation of housing opportunity zone designations and barrier removal plan approvals.
- Sec. 367. Reports.
- Sec. 368. Rental rehabilitation grant bonus.
- Sec. 369. CDBG low- and moderate-income benefit in housing opportunity zones.
- Sec. 370. Reuse of urban renewal land in housing opportunity zones.
- Sec. 371. Urban homesteading preference.
- Sec. 372. Single family mortgage insurance in housing opportunity zones.
- Sec. 373. Applicability of other laws.

TITLE IV—COMMUNITY HOUSING PARTNERSHIP

Sec. 401. Short title.

Sec. 402. Findings and purpose.

Subtitle A—Housing Education and Organizational Support Grants for Community Based Housing Projects

- Sec. 411. Program authority.
- Sec. 412. Eligible activities.
- Sec. 413. Authorization of appropriations.

Subtitle B—Community Housing Partnership Grants

- Sec. 421. Program authority.
- Sec. 422. Distribution and allocation of community housing partnership funds.
- Sec. 423. Eligible activities.
- Sec. 424. Eligible projects.
- Sec. 425. Authorization of appropriations.

Subtitle C—General Provisions

- Sec. 431. Definitions.
- Sec. 432. Community and resident participation plan.
- Sec. 433. Limitation on grant amounts.
- Sec. 434. Nondisplacement.
- Sec. 435. Regulations.

TITLE V—HOUSING ASSISTANCE

Subtitle A—Programs Under the United States Housing Act of 1937

- Sec. 501. Lower income housing authorization.
- Sec. 502. Definition of family, income, and adjusted income.
- Sec. 503. Public housing eviction and termination procedures.
- Sec. 504. Public housing agency reform.
- Sec. 505. Public housing operating subsidies.
- Sec. 506. Litigation by public housing agencies.
- Sec. 507. Formula allocation of public and Indian housing modernization funding and other miscellaneous amendments.
- Sec. 508. Income eligibility for public housing.
- Sec. 509. Scattered-site public housing disposition proceeds.
- Sec. 510. Public housing resident management.
- Sec. 511. Eligibility of Indian mutual help housing for comprehensive improvement assistance.
- Sec. 512. Public housing rent waiver for police officers.
- Sec. 513. Public housing early childhood development grants.
- Sec. 514. Indian public housing early childhood development demonstration program.
- Sec. 515. Public housing drug elimination grants.
- Sec. 516. Public housing youth sports programs.
- Sec. 517. Public housing one-stop perinatal services demonstration.
- Sec. 518. Public housing mixed income new communities strategy demonstration.
- Sec. 519. Exemption from public housing and section 8 tenant preferences.
- Sec. 520. Public housing and section 8 assistance regarding foster care children.
- Sec. 521. Section 8 certificates regarding foster care.
- Sec. 522. Section 8 fair market rent calculation.
- Sec. 523. Section 8 opt-outs.
- Sec. 524. Expiring section 8 contracts.
- Sec. 525. Section 8 assistance for PHA-owned units.

- Sec. 526. Eligibility of vouchers for use with mobile homes.
- Sec. 527. Income eligibility for tenancy in section 8 new construction units.
- Sec. 528. Settlement agreement regarding certain section 8 assistance.
- Sec. 529. HUD study of section 8 utilization rates.
- Sec. 530. Feasibility study regarding Indian tribe eligibility for voucher program.
- Sec. 531. Rental rehabilitation grants.
- Sec. 532. Exemption from housing development grant construction commencement requirements.
- Sec. 533. Applicability.

Subtitle B—Other Housing Assistance Programs

- Sec. 541. Housing for the elderly and handicapped.
- Sec. 542. Use of Resolution Trust Corporation eligible properties for section 202 housing.
- Sec. 543. Housing and services for the frail elderly.
- Sec. 544. Service coordinators as eligible project cost in section 202 projects.
- Sec. 545. Centralized applications for section 202 housing.
- Sec. 546. Study regarding section 202 housing.
- Sec. 547. Funding for congregate housing services program.
- Sec. 548. Revised congregate housing services.
- Sec. 549. Housing counseling.
- Sec. 550. Multifamily housing disposition partnership.
- Sec. 551. Flexible subsidy program.
- Sec. 552. Nehemiah housing opportunity grants.
- Sec. 553. Streamlined property disposition requirements for unsubsidized multifamily housing projects.
- Sec. 554. Home repair services grants for older and disabled homeowners.
- Sec. 555. Grants for asset-recycling housing funds.
- Sec. 556. Drug elimination grants for assisted housing.

TITLE VI—RURAL HOUSING

- Sec. 601. Program authorizations.
- Sec. 602. Security for loans for housing in remote rural areas.
- Sec. 603. Foreclosure procedures.
- Sec. 604. Disposition of interests on Indian trust land.
- Sec. 605. Rural housing inventory.
- Sec. 606. Assumption of section 515 loans.
- Sec. 607. Rural area classification.
- Sec. 608. Section 502 deferred mortgage demonstration.
- Sec. 609. Rural housing loan guarantees.
- Sec. 610. Housing in underserved areas.
- Sec. 611. Housing for rural homeless and migrant farmworkers.
- Sec. 612. Reciprocity in approval of housing subdivisions among Federal agencies.
- Sec. 613. Rural housing technical amendments.
- Sec. 614. Rural housing assistance for United States-Mexico border region.

TITLE VII—COMMUNITY DEVELOPMENT, MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET, AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

- Sec. 701. Community development authorizations.
- Sec. 702. Targeting community development block grant assistance.
- Sec. 703. Community development city and county classifications.
- Sec. 704. Allocation formula in cases of annexation.
- Sec. 705. Community development housing assistance plan requirements.
- Sec. 706. Authority to provide lump-sum payments to revolving loan funds.
- Sec. 707. Community development plans.
- Sec. 708. Limitation on use of CDBG amounts for providing public services.
- Sec. 709. CDBG eligible activities.
- Sec. 710. Community development loan guarantees.
- Sec. 711. Eligibility for Hawaiian home lands to receive assistance from CDBG grantees.

- Sec. 712. Prohibition of discrimination on basis of religion under CDBG Program.

- Sec. 713. Technical corrections regarding CDBG for Indian tribes.

- Sec. 714. CDGB assistance for United States-Mexico border region.

- Sec. 715. Urban homesteading.

- Sec. 716. Rehabilitation loans.

- Sec. 717. Neighborhood Reinvestment Corporation.

- Sec. 718. Study of neighborhood development opportunities on Indian trust lands.

- Sec. 719. Study of sweat equity contributions.

- Sec. 720. Neighborhood development demonstration.

- Sec. 721. Use of urban renewal land disposition proceeds and certain other community development and public facility funds.

- Sec. 722. Study regarding availability of housing proximate to places of employment.

- Sec. 723. Grants for economic development loan assistance.

Subtitle B—Mortgage Insurance and Secondary Mortgage Market Programs

- Sec. 731. Limitation on FHA insurance authority.
- Sec. 732. Increase in FHA mortgage limit.
- Sec. 733. Limitation on secondary residences.
- Sec. 734. Mortgage insurance premiums.
- Sec. 735. Disclosure regarding interest due upon mortgage prepayment.
- Sec. 736. Mutual Mortgage Insurance Fund distributions.

- Sec. 737. Accountability of lenders making mortgage loans under National Housing Act.

- Sec. 738. Actuarial soundness of Mutual Mortgage Insurance Fund.

- Sec. 739. Periodic mortgage insurance safety and soundness premium.

- Sec. 740. Mortgage counseling for delinquent mortgagors.

- Sec. 741. Insurance of mortgages on property in Virgin Islands.

- Sec. 742. Incentives regarding put option.

- Sec. 743. Improved energy efficiency standards for newly constructed FHA-insured housing.

- Sec. 744. Reports regarding early defaults on FHA-insured loans.

- Sec. 745. Home equity conversion mortgage insurance demonstration.

- Sec. 746. Appraisal services.

- Sec. 747. Increase in loan limits for property improvement loan insurance.

- Sec. 748. Disapproval of regulations regarding property disposition.

- Sec. 749. Limitation on GNMA guarantees of mortgage-backed securities.

- Sec. 750. Delegated processing system.

- Sec. 751. Section 235 homeownership.

- Sec. 752. Section 236 rental assistance.

Subtitle C—Regulatory and Other Programs

- Sec. 761. Fair housing initiatives program.

- Sec. 762. HUD research and development.

- Sec. 763. Collection and maintenance of data regarding programs under HUD.

- Sec. 764. Mortgage servicing transfer disclosure.

- Sec. 765. Mortgage escrow accounts.

- Sec. 766. Manufactured housing construction and safety standards.

- Sec. 767. National Institute of Building Sciences.

- Sec. 768. Exemption from Davis-Bacon Act requirements of volunteers under housing programs.

- Sec. 769. Eligibility under first-time homebuyer programs.

- Sec. 770. Maximum annual limitation on rent increases resulting from employment.

- Sec. 771. Preferences for native Hawaiians on Hawaiian homelands under HUD programs.

- Sec. 772. Waiver of matching funds requirements in Indian housing programs.

- Sec. 773. Energy efficiency program.

- Sec. 774. Low income housing conservation and efficiency grant program.

- Sec. 775. Report on seismic safety property standards.

- Sec. 776. Joint venture for affordable housing.

- Sec. 777. Buy American requirement.

- Sec. 778. Restrictions on contract awards.

- Sec. 779. Prohibition against fraudulent use of made in America labels.

Subtitle D—Disaster Relief

- Sec. 781. Section 8 certificates and vouch-

ers.

- Sec. 782. Moderate rehabilitation.
- Sec. 783. Community development.
- Sec. 784. Rural housing.

TITLE VIII—HOMELESS PREVENTION

Subtitle A—Emergency Low Income Housing Preservation

- Sec. 801. Repeal of prepayment moratorium.
- Sec. 802. Prepayment of mortgages insured under the National Housing Act.
- Sec. 803. Insurance for second mortgage financing.

Subtitle B—Other Homeless Prevention Programs

- Sec. 811. Program authorizations.
- Sec. 812. Section 8 and public housing assistance for substandard housing.
- Sec. 813. Definition of owner.
- Sec. 814. Funding for the rehabilitation of State and local government in rem properties.
- Sec. 815. Use of funds recaptured from refinancing local government finance projects.
- Sec. 816. Assistance to prevent prepayment under State mortgage programs.
- Sec. 817. Preference in housing opportunity zone designations for States limiting liability regarding food donations for homeless shelters and providers.
- Sec. 818. Consultation and report regarding use of National Guard facilities as overnight shelters for homeless individuals.

Subtitle C—Homelessness Prevention for Individuals with AIDS

- Sec. 831. Short title.
- Sec. 832. Definitions.

PART 1—GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES

- Sec. 841. Authority and use of grants.
- Sec. 842. Eligibility.
- Sec. 843. Applications.
- Sec. 844. Selection and preferences.
- Sec. 845. Report.
- Sec. 846. Authorization of appropriations.

PART 2—AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES DEMONSTRATION

- Sec. 851. Demonstration program.
- Sec. 852. Authorization of appropriations.
- Sec. 853. Conforming amendment.

PART 3—PERMANENT AND TRANSITIONAL HOUSING AND SERVICES

- Sec. 861. Purpose.
- Sec. 862. Section 8 certificate assistance.
- Sec. 863. Section 8 moderate rehabilitation for single room occupancy dwellings.
- Sec. 864. Grants for community residences and services.
- Sec. 865. Reservation of assistance for individuals with AIDS.

SEC. 2. BUDGET COMPLIANCE.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) in accordance with the Congressional Budget Act of 1974, the House of Representatives approved a concurrent resolution on the budget for fiscal year 1991 (H. Con Res. 310, 101st Congress), establishing aggregate budget priorities for the Congress for such fiscal year;

(2) the House report on such resolution calls for \$3,300,000,000 of additional budget authority in fiscal year 1991 for new housing programs in excess of the baseline amount established by the Committee on the Budget of the House of Representatives and approved by House of Representatives;

(3) the Congressional Budget Office has estimated the programmatic baseline for aggregate budget authority for fiscal year 1991 provided under this Act to be \$23,869,015,000; and

(4) therefore, the appropriate aggregate authorization of budget authority for housing programs provided under this Act (as reflected in the conference report on H. Con. Res. 310) is \$27,169,015,000.

(b) COMPLIANCE WITH BUDGET RESOLUTION.—To the extent that the aggregate amount of budget authority for programs that is authorized by this Act and the amendments made by this Act exceeds \$27,169,015,000 for fiscal year 1991, the amount of budget authority authorized by this Act and the amendments made by this Act for each program shall be reduced on a pro rata basis by the amount necessary to provide that such aggregate amount of budget authority is \$27,169,015,000.

(c) DEFINITIONS.—For purposes of this section, the terms 'budget authority' and 'concurrent resolution on the budget' have the meaning given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

TITLE I—NATIONAL HOUSING TRUST DEMONSTRATION

Subtitle A—National Housing Trust Demonstration

SEC. 101. SHORT TITLE.

This subtitle may be cited as the "National Housing Trust Act".

SEC. 102. NATIONAL HOUSING TRUST.

(a) ESTABLISHMENT.—There is established the National Housing Trust, which shall be in the Department of Housing and Urban Development and shall provide assistance to first-time homebuyers in accordance with this subtitle.

(b) BOARD OF DIRECTORS.—The Trust shall be governed by a Board of Directors, which shall be composed of—

- (1) the Secretary of Housing and Urban Development, who shall be the chairperson of the Board;
- (2) the Secretary of the Treasury;
- (3) the chairperson of the Board of Directors of the Federal Deposit Insurance Corporation;
- (4) the chairperson of the Federal Housing Finance Board;
- (5) the chairperson of the Board of Directors of the Federal National Mortgage Association;
- (6) the chairperson of the Board of Directors of the Federal Home Loan Mortgage Corporation; and
- (7) 1 individual representing consumer interests, who shall be appointed by the President of the United States, by and with the advice and consent of the Senate.

(c) POWERS OF TRUST.—The Trust shall have the same powers as the powers given the Government National Mortgage Association in section 309(a) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1723a(a)).

(d) TRAVEL AND PER DIEM.—Members of the Board of Directors shall receive no additional compensation by reason of service on the Board, but shall be allowed travel expenses, including per diem in lieu of subsistence, as provided for employees of the Federal Government or in the same manner as persons employed intermittently in the Government service are allowed under section 5703 of title 5, United States Code, as appropriate.

(e) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board of Directors may appoint an executive director of the

Trust and fix the compensation of the executive director, which shall be paid from amounts in the National Housing Trust Fund.

(2) STAFF.—Subject to such rules as the Board of Directors may prescribe, the Trust may appoint and hire such staff and provide for offices as may be necessary to carry out its duties. The Trust may fix the compensation of the staff, which shall be paid from amounts in the National Housing Trust Fund.

SEC. 103. ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) IN GENERAL.—The Trust shall provide assistance payments for first-time homebuyers (including homebuyers buying shares in limited equity cooperatives) in the following manners:

(1) INTEREST RATE BUYDOWNS.—Assistance payments so that the rate of interest payable on the mortgages by the homebuyers does not exceed 6 percent.

(2) DOWNPAYMENT ASSISTANCE.—Assistance payments to provide amounts for downpayments (including closing costs and other costs payable at the time of closing) on mortgages for such homebuyers.

(b) ELIGIBILITY REQUIREMENTS.—Assistance payments under this subtitle may be made only to homebuyers and for mortgages meeting the following requirements:

(1) FIRST-TIME HOMEBUYER.—The homebuyer is an individual who—

(A) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance payments are made under this subtitle;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A); or

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse while married, meets the requirements of subparagraph (A).

(2) MAXIMUM INCOME OF HOMEBUYER.—The aggregate annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application of the homebuyer for assistance under this subtitle, does not exceed 115 percent of the median income for a family of 4 persons in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas). The Board of Directors shall provide for certification of such income for purposes of initial eligibility for assistance payments under this subtitle and shall provide for recertification of homebuyers (and families of homebuyers) so assisted not less than every 2 years thereafter.

(3) CERTIFICATION.—The homebuyer (and spouse, where applicable) shall certify that the homebuyer has made a good faith effort to obtain a market rate mortgage and has been denied because the annual income of the homebuyer and the members of the family of the homebuyer residing with the homebuyer is insufficient.

(4) PRINCIPAL RESIDENCE.—The property securing the mortgage is a single-family residence or unit in a cooperative and is the principal residence of the homebuyer.

(5) MAXIMUM MORTGAGE AMOUNT.—The principal obligation of the mortgage does not exceed the principal amount that could

be insured with respect to the property under the National Housing Act.

(6) **MAXIMUM INTEREST RATE.**—The interest payable on the mortgage is established at a fixed rate that does not exceed a maximum rate of interest established by the Trust taking into consideration prevailing interest rates on similar mortgages.

(7) **RESPONSIBLE MORTGAGEE.**—The mortgage has been made to, and is held by, a mortgagee that is federally insured or that is otherwise approved by the Trust as responsible and able to service the mortgage properly.

(8) **INSURED OR CONVENTIONAL MORTGAGE.**—The mortgage—

(A) is insured under the National Housing Act; or

(B) is covered by private mortgage insurance and is for a principal amount that does not exceed 90 percent of the appraised value of the property.

(9) **MINIMUM DOWNPAYMENT.**—For a first-time homebuyer to receive downpayment assistance under subsection (a)(2), the homebuyer shall have paid not less than 1 percent of the cost of acquisition of the property (excluding the mortgage insurance premium paid at the time the mortgage is insured), as such cost is estimated by the Board of Directors.

(c) **TERMS OF ASSISTANCE.**—

(1) **SECURITY.**—Assistance payments under this subtitle shall be secured by a lien on the property involved. The lien shall be subordinate to all mortgages existing on the property on the date on which the first assistance payment is made.

(2) **REPAYMENT UPON SALE.**—Assistance payments under this subtitle shall be repayable from the net proceeds of the sale, without interest, upon the sale of the property for which the assistance payments are made. If the sale results in no net proceeds or the net proceeds are insufficient to repay the amount of the assistance payments in full, the Board of Directors shall release the lien to the extent that the debt secured by the lien remains unpaid.

(3) **REPAYMENT UPON INCREASED INCOME.**—If the aggregate annual income of the homebuyer (and family of the homebuyer) assisted under this subtitle exceeds 115 percent of the median income for a family of 4 persons in the applicable metropolitan statistical area (or such other area that the Board of Directors determines for areas outside of metropolitan statistical areas) for any 2-year period after such assistance is provided, the Board of Directors may provide for the repayment, on a monthly basis, of all or a portion of such assistance payments, based on the amount of assistance provided and the income of the homebuyer (and family of the homebuyer).

(4) **REPAYMENT IF PROPERTY CEASES TO BE PRINCIPAL RESIDENCE.**—If the property for which assistance payments are made ceases to be the principal residence of the first-time homebuyer (or the family of the homebuyer), the Board of Directors may provide for the repayment of all or a portion of the assistance payments.

(5) **AVAILABLE ASSISTANCE.**—The Trust may make assistance payments under paragraphs (1) and (2) of subsection (a) with respect to a single mortgage of an eligible homebuyer.

(d) **ALLOCATION FORMULA.**—Amounts available in any fiscal year for assistance under this subtitle shall be allocated for homebuyers in each State on the basis of the need of eligible first-time homebuyers in each State for such assistance in comparison with the

need of eligible first-time homebuyers for such assistance among all States.

SEC. 104. NATIONAL HOUSING TRUST FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a revolving fund, to be known as the National Housing Trust Fund.

(b) **ASSETS.**—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 108 for purposes of carrying out this subtitle;

(2) any amount received by the Trust as repayment for payments made under this subtitle; and

(3) any amount received by the Trust under subsection (d).

(c) **USE OF AMOUNTS.**—The Fund shall, to the extent approved in appropriations Acts, be available to the Trust for purposes of carrying out this subtitle.

(d) **INVESTMENT OF EXCESS AMOUNTS.**—Any amounts in the Fund determined by the Trust to be in excess of the amounts currently required to carry out the provisions of this subtitle shall be invested by the Trust in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 105. DEFINITIONS.

For purposes of this subtitle:

(1) **BOARD OF DIRECTORS.**—The term "Board of Directors" or "Board" means the Board of Directors of the National Housing Trust under section 102(b).

(2) **DISPLACED HOMEMAKER.**—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full time in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such assistance or income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this subtitle; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) **FUND.**—The term "Fund" means the National Housing Trust Fund established in section 104.

(4) **SINGLE PARENT.**—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(5) **STATE.**—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) **TRUST.**—The term "Trust" means the National Housing Trust established in section 102.

SEC. 106. REGULATIONS.

The Board of Directors shall issue any regulations necessary to carry out this subtitle.

SEC. 107. REPORT.

The Board of Directors shall submit to the Congress, not later than the expiration of the 90-day period beginning on the date of the termination of the Trust under section 110, a report containing a description of the activities of the Trust and an analysis of the effectiveness of the Trust in assisting first-time homebuyers.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle \$500,000,000 for fiscal year 1991 and such sums as may be necessary for each of fiscal years 1992 and 1993. Any amount appropriated under this section shall be deposited in the Fund and remain available until expended, subject to the provisions of section 109.

SEC. 109. TRANSITION.

(a) **AUTHORITY OF SECRETARY.**—Upon the termination of the Trust as provided in section 110, the Secretary of Housing and Urban Development shall exercise any authority of the Board of Directors and the Trust in accordance with the provisions of this subtitle as may be necessary to provide for the conclusion of the outstanding affairs of the Trust.

(b) **APPLICABILITY OF TRUST PROVISIONS.**—Any assistance under this subtitle shall, after termination of the Trust, be subject to the provisions of this subtitle that would have applied to such assistance if the termination had not occurred.

(c) **CERTIFICATION OF FUND TO TREASURY.**—Upon a determination by the Secretary of Housing and Urban Development that the National Housing Trust Fund is no longer necessary, the Secretary shall certify any amounts remaining in the Fund to the Secretary of the Treasury and the Secretary of the Treasury shall cover into the general fund of the Treasury as miscellaneous receipts any amounts remaining in the Fund.

SEC. 110. TERMINATION.

The Trust shall terminate on September 30, 1993.

Subtitle B—Other Homeownership Demonstration Programs

PART 1—HOMEOWNERSHIP MADE EASIER DEMONSTRATION

SEC. 121. DEFINITIONS.

For purposes of this part—

(1) The term "buyer contribution" means the sum of the total amount of funds deposited by an eligible buyer in a HOME savings certificate account in any calendar year and any interest earned under section 125(b) during the year on such amount.

(2) The term "depository institution" means a financial institution in the business of accepting time deposits insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration.

(3) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years, but has during such years worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such assistance or income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this part; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(4)(A) The term "eligible buyer" means a purchaser of a single-family residence—

(i) who has not, individually or jointly with 1 or more other persons, had any present ownership interest in a principal or secondary residence at any time during—

(I) the 3-year period ending on the date of the establishment of a HOME savings certificate account by the eligible buyer; and

(II) during the period beginning on the date of the establishment of such account and ending at the time of the use of amounts in the account for the purchase of a principal residence under this part; and

(ii) whose qualifying income did not exceed 120 percent of the State median gross income during the period beginning on the 1st day of the calendar year preceding the year in which the buyer established a certificate account and ending on the date the purchase by the buyer of a residence with assistance under this part.

(B) Such term may not be construed to exclude from consideration as a eligible buyer—

(i) any individual who is a displaced homemaker, on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(ii) any individual who is a single parent, on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(5) The terms "HOME savings certificate account" and "certificate account" mean a time deposit account established under this part with a depository institution by an eligible buyer, into which buyer contributions are deposited.

(6) The term "matching contribution certificate" means a nontransferable certificate issued by the Secretary of Housing and Urban Development under this part that represents, for any year, the total amount of the funds to be made available to an eligible buyer by the Secretary for purchase of a residence under this part.

(7) The term "qualifying income" means the annual family income of an eligible buyer, with adjustments for family size, and areas of high or low housing costs (in relation to the median income for the area).

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(10) The term "State median gross income" means the annual median gross income, as determined by the Secretary, for the State in which an eligible buyer resides, with adjustments for family size, and States with high or low housing costs (in relation to the median gross income in the State).

SEC. 122. MATCHING CONTRIBUTIONS FOR HOME-OWNERSHIP DOWNPAYMENTS.

(a) **AUTHORITY.**—To provide funds to eligible buyers for use in connection with the purchase of principal residences, the Secretary may issue matching contribution certificates under this part to eligible buyers that have established a HOME savings certificate account and, subject to subsection (e) and amounts provided in appropriations Acts, may make commitments to issue

matching contribution certificates before the date of their issuance.

(b) **ISSUANCE OF MATCHING CONTRIBUTION CERTIFICATES.**—A matching contribution certificate shall be issued annually for each year for which an eligible buyer may receive such certificates under this part. Matching contribution certificates may be redeemed under section 124 only in connection with the purchase of a principal residence by an eligible buyer under this part.

(c) **AMOUNT OF CONTRIBUTIONS.**—

(1) **MATCHING CONTRIBUTION CERTIFICATE.**—Subject to the limitations of this section and section 124, the amount of a matching contribution certificate shall be a multiple of the buyer contribution to the certificate account as determined by the ratio of the qualifying income of the eligible buyer to the State median gross income, expressed as a percentage, in accordance with the following table:

Qualifying income expressed as percentage of State median gross income	Government matching amount per \$1 buyer contribution to certificate account
50 percent or less.....	\$4.00
51-80 percent.....	\$3.00
81-100 percent.....	\$2.00
101-120 percent.....	\$1.00
Over 120 percent.....	\$0.00.

(2) **MAXIMUM BUYER CONTRIBUTION MATCHED.**—The amount of a buyer contribution eligible for Government matching amounts (in the form of a matching contribution certificate) under paragraph (1) shall not exceed 5 percent of the qualifying income of the eligible buyer. Notwithstanding the preceding sentence, during the 12-month period beginning on the date that regulations implementing this part take effect the eligible portion of a buyer contribution shall not exceed 15 percent of the qualifying income, and during the 12-month period beginning on the day after the expiration of the initial 12-month period under this paragraph the eligible portion of a buyer contribution shall not exceed 10 percent of the qualifying income.

(3) **TOTAL MAXIMUM MATCHING CONTRIBUTION.**—Notwithstanding paragraph (2), the sum of the amounts of the matching contribution certificates issued under this part for any eligible buyer may not exceed the amount equal to 40 percent of the average State median income for the years for which such certificates are issued.

(d) **INCOME INELIGIBILITY.**—If, for any year during which an eligible buyer establishes a HOME savings certificate account or thereafter, the qualifying income of an eligible buyer exceeds 120 percent of the State median gross income, the eligible buyer may not receive a matching contribution certificate for such year. Loss of eligibility for matching contribution certificates under this paragraph shall not affect the ability of any eligible buyer to redeem any matching contribution certificates properly issued to the buyer, subject to the provisions of this part.

(e) **COMMITMENTS.**—

(1) **IN GENERAL.**—The Secretary shall provide for entering into commitments to issue matching contribution certificates upon such terms as the Secretary shall by regulation prescribe, subject to the requirements of this subsection.

(2) **RESERVATION FOR LOW-INCOME ELIGIBLE BUYERS.**—Subject only to the absence of eligible buyers under this subsection, in each fiscal year the Secretary shall reserve 20 percent of the amounts provided in appropriation Acts for the year for commitments

to issue matching contribution certificates for eligible buyers whose qualifying income does not exceed 80 percent of the State median gross income. The Secretary shall make commitments to issue certificates with amounts reserved under this paragraph for the 9-month period beginning on the first day of each fiscal year.

(3) **REMAINING AMOUNTS.**—Subject to the eligibility under this part, for any amounts not reserved under paragraph (2), and for any amounts not committed under paragraph (2) after the expiration of the 9-month period under such paragraph, the Secretary shall enter into commitments to issue matching contribution certificates without regard to the income limitations under paragraph (2).

SEC. 123. USE OF MATCHING CONTRIBUTION CERTIFICATES.

(a) **USE.**—Matching contribution certificates may be redeemed only by or on behalf of an eligible buyer and only to provide for the payment of the downpayment, closing costs, and any other expenses due at the time of closing and incurred in connection with the purchase of a principal residence.

(b) **LOAN-TO-VALUE RATIO.**—Amounts received from the redemption of any matching contribution certificates may be expended only in connection with the purchase of a residence for which the sum of the principal obligation incurred under the mortgage (including such initial service charges, appraisal, inspection, and other fees, as the Secretary shall determine), the amounts received from redeemed certificates, and the amount secured by any subordinated lien, does not exceed 95 percent of the lesser of (A) the purchase price of the residence, or (B) the appraised value of the residence at the time of closing, with respect to such mortgage.

(c) **REQUIRED USE OF CONTRIBUTIONS OF BUYER.**—Amounts from the redemption of matching contribution certificates may only be provided under section 124 and used under this section if the eligible buyer uses, for the purchase of a principal residence, an amount from the HOME savings certificate account equal to the buyer contributions necessary (in the year for which each certificate was issued) for issuance of the certificates in the amount in which the certificates were issued.

SEC. 124. REDEMPTION OF MATCHING CONTRIBUTION CERTIFICATES.

(a) **PERIOD OF REDEMPTION.**—A matching contribution certificate shall be eligible for redemption at any time before the expiration of the 7-year period beginning on the date on which the eligible buyer established the certificate account for which such certificate was issued. Any certificate issued to the eligible buyer that is not redeemed within the period shall be null and void.

(b) **LIQUIDATION.**—To redeem a matching contribution certificate the eligible buyer to whom such certificate was issued shall, at the time of the purchase of a principal residence by or on behalf of an eligible buyer, request liquidation of the certificate in the form and manner that the Secretary shall by regulation determine.

(c) **REDUCTION.**—The amount provided to an eligible buyer for a matching contribution certificate upon redemption of the certificate shall be reduced—

(1) if the certificate is redeemed within the 12-month period beginning on the date of the establishment of the certificate account, to 25 percent of the amount of the certificate as issued under section 122; and

(2) if the certificate is redeemed after the expiration of the 12-month period beginning on the date of the establishment of the certificate account but before the expiration of the 3-year period beginning on such date, to 50 percent of the amount of the certificate as issued under section 122.

SEC. 125. ADMINISTRATION OF HOME SAVINGS CERTIFICATE ACCOUNTS.

(a) **REPORTING OF TRANSACTIONS.**—The Secretary shall by regulation require depository institutions holding HOME savings certificate accounts to provide to the Secretary the following information:

(1) **ESTABLISHMENT.**—Notice of the establishment of certificate accounts by eligible buyers.

(2) **TRANSACTIONS.**—Periodic reports of transactions regarding certificate accounts and balances in certificate accounts.

(b) **INTEREST.**—A HOME savings certificate account established under this part shall provide for the payment of interest, in an amount determined by the depository institution in which the account is established, on amounts deposited by an eligible buyer in the certificate account.

(c) **RESTRICTION OF WITHDRAWALS.**—If an eligible buyer makes any withdrawal from a HOME savings certificate account other than for obtaining the amounts in the account for use in the purchase of a principal residence, any matching contribution certificates issued in connection with the certificate account shall be null and void. The Secretary may establish exceptions to the restriction under this subsection to the extent that the exceptions are consistent with the purposes of this part.

SEC. 126. REPAYMENT OF FUNDS RECEIVED FROM MATCHING CONTRIBUTION CERTIFICATES.

(a) **REQUIREMENT OF REPAYMENT.**—An eligible buyer who has redeemed or caused to be redeemed any matching contribution certificate under section 124 shall repay the Secretary under this section for the amount of certificates redeemed.

(b) **SECURITY.**—At the time of redemption of any matching contribution certificate, the eligible buyer shall execute in favor of and cause to be delivered to the Secretary or his designee a promissory note and mortgage, deed of trust, or other appropriate instrument by which an interest in real property is rendered subject to a lien under the applicable laws of the jurisdiction in which the residence to be purchased is located, in an amount equal to the value of certificates redeemed. The lien of such mortgage, deed of trust, or other instrument shall be subordinate to the lien of the first mortgage that secures advances on, or the unpaid purchase price of, the residence, but shall be superior to all other liens and encumbrances, except as the Secretary may provide by regulation.

(c) **TERM.**—An eligible buyer shall repay the Secretary under this section by payments of substantially equal monthly installments of principal and interest during a term equal to the term of the first mortgage secured by the residence purchased using the proceeds of matching contribution certificates.

(d) **INTEREST.**—The Secretary may charge interest on amounts to be repaid under this section at a rate of—

(1) 3 percent per annum, in the case of an eligible buyer whose qualifying income is equal to or less than 80 percent of State median gross income at the time the eligible buyer redeems the matching contribution certificate; and

(2) 9 percent per annum, in the case of an eligible buyer whose qualifying income ex-

ceeds 80 percent of State median gross income at the time the eligible buyer redeems the certificate.

(e) **SALE OF RESIDENCE.**—If the eligible buyer sells or otherwise disposes of the residence purchased with any funds from matching contributions certificates redeemed under this part before full repayment under this section is made, any amounts that have not been repaid shall become immediately due and payable.

(f) **SERVICING OF REPAYMENTS.**—The Secretary may provide for servicing of repayments under this section as the Secretary considers appropriate, including servicing by private loan servicers.

SEC. 127. SALE OF MORTGAGES.

(a) **IN GENERAL.**—The Secretary may, without limitation, sell any mortgages or interests securing repayment of amounts advanced upon redemption of matching contribution certificates and the servicing relating to such mortgages and interests.

(b) **CONSULTATION AND AGREEMENTS.**—With respect to the purchase of any mortgages or interests securing repayment of amounts advanced upon redemption of matching contribution certificates, the Secretary shall consult with, and may enter into agreements with, any agencies and entities involved in the secondary mortgage market.

SEC. 128. GEOGRAPHIC DISTRIBUTION.

In carrying out the Homeownership Made Easier Demonstration program under this part, the Secretary shall ensure, to the extent sufficient amounts are provided in appropriations Acts under section 131, that the program is carried out in each region relating to a regional office of the Department of Housing and Urban Development.

SEC. 129. REPORTS.

(a) **ANNUAL REPORT.**—For each year for which the Secretary provides matching contributions certificates under this part, the Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act (42 U.S.C. 3536) information regarding the operation of the Homeownership Made Easier demonstration program under this part, including the extent of participation in the program and the amount of assistance provided under the program.

(b) **FINAL REPORT.**—The Secretary shall submit to the Congress, not later than the expiration of the 90-day period beginning on the termination date in section 132, a report summarizing the activities of the demonstration program under this part and analyzing the effectiveness of the program in promoting and facilitating homeownership.

SEC. 130. REGULATIONS.

The Secretary may issue any regulations necessary to carry out this part. The Secretary shall issue regulations to implement this part before the expiration of the 180-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990.

SEC. 131. COMMITMENTS TO PROVIDE MATCHING CONTRIBUTION CERTIFICATES AND AUTHORIZATION OF APPROPRIATIONS.

(a) **COMMITMENTS.**—The authority of the Secretary to enter into commitments to issue matching contribution certificates under this part shall be effective for any fiscal year to such extent or in such amounts as are or have been provided in appropriation Acts for such fiscal year.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to

carry out this part \$20,000,000 for fiscal year 1991.

SEC. 132. TERMINATION.

The Secretary may not issue any matching contribution certificates to any eligible buyer who establishes a HOME savings certificate account after September 30, 1991.

PART 2—Second Mortgages for First-time Homebuyers

SEC. 141. GRANTS TO LOCAL GOVERNMENTS AND NONPROFIT ORGANIZATIONS FOR SECOND MORTGAGE ASSISTANCE FOR FIRST-TIME HOMEBUYERS.

(a) **AUTHORITY.**—The Secretary of Housing and Urban Development (in this part referred to as the "Secretary") may make grants to units of general local government and nonprofit housing organizations for such entities to provide loans (secured by second mortgages) with deferred payment of interest and principal to first-time homebuyers.

(b) **GRANT REQUIREMENTS.**—To be eligible to receive a grant under this section, a unit of general local government or nonprofit housing organization shall meet the following requirements:

(1) **HOMEOWNERSHIP COUNSELING.**—The recipient shall provide for homeownership counseling to first-time homebuyers assisted, which shall include—

(A) counseling before and after purchase of the property;

(B) assisting first-time homebuyers in identifying the most suitable and affordable properties;

(C) providing homebuyers with financial management assistance;

(D) assisting homebuyers in understanding mortgage transactions and home sales contracts; and

(E) assisting homebuyers with eliminating any credit problems that may prevent the homebuyers from purchasing a property.

(2) **FINANCIAL RESPONSIBILITY.**—The recipient meets any requirements for financial responsibility as the Secretary may establish.

(c) APPLICATION AND SELECTION PROCEDURES.

(1) **ESTABLISHMENT.**—The Secretary shall provide for application by, and selection of, units of general local government and nonprofit housing organizations to receive grants under this section.

(2) **SELECTION CRITERIA.**—The Secretary shall select recipients for grants under this section based on the selection criteria that the Secretary shall establish, which shall include the following:

(A) The degree of commitment of the grant recipient to providing affordable housing.

(B) The extent to which the grant recipient has secured other public and private funds for assisting first-time homebuyers in obtaining affordable housing.

(C) The anticipated effectiveness of the homeownership counseling program of the grant recipient required under subsection (b)(1).

(d) **SECOND MORTGAGE ELIGIBILITY REQUIREMENTS.**—Deferred payment loans secured by second mortgages may be provided with amounts received from a grant under this section only under the following conditions:

(1) **FIRST-TIME HOMEBUYER.**—The homebuyer assisted is a first-time homebuyer.

(2) **PRINCIPAL RESIDENCE.**—The property secured by the second mortgage is a single-family residence and is the principal residence of the homebuyer.

(3) **MAXIMUM MORTGAGE AMOUNT.**—The principal obligation of the deferred payment loan secured by the second mortgage does not exceed 30 percent of the acquisition price of the residence to the homebuyer.

(4) **PAYMENT DEFERRAL.**—The payment of any principal and interest accrued on the loan under this section shall be deferred for not less than the 5-year period beginning on the date of the acquisition of the residence by the homebuyer.

(5) **INTEREST RATE.**—The interest rate payable on the deferred payment loan secured by the second mortgage shall be established by the grant recipient, subject to approval by the Secretary, and reviewed by the Secretary not less than once every 5 years, at not less than 4 percent annually and not more than the prevailing market rate, and shall be based on the income, household size, and other relevant characteristics of the family of the homebuyer, as the Secretary determines are appropriate.

(6) **TERM.**—The deferred payment loan secured by the second mortgage shall be repayable over the 15-year period beginning upon the expiration of the payment deferral period under paragraph (4).

(7) **MAXIMUM INCOME OF HOMEBUYER.**—The aggregate annual income of the homebuyer and members of the family of the homebuyer residing with the homebuyer, for the 12-month period preceding the date of the application for a loan under this section, does not exceed 80 percent of the median income for a family of 4 persons in the applicable metropolitan statistical area (or such other area that the Secretary determines for areas outside of metropolitan statistical areas).

(8) **FIRST MORTGAGE.**—The principal obligation of the first mortgage on the residence securing the deferred payment loan does not exceed the principal amount that could be insured with respect to the property under the National Housing Act.

(e) **SECURITY.**—A deferred payment loan assisted with amounts provided under a grant under this section shall be secured by a lien on the property involved, which shall be subordinate to the first mortgage on the property.

(f) **DEFINITIONS.**—For purposes of this part:

(1) **FIRST-TIME HOMEBUYER.**—The term "first-time homebuyer" means a homebuyer who meets the requirements under section 103(b)(1) of this title.

(2) **UNIT OF GENERAL LOCAL GOVERNMENT.**—The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this part \$20,000,000 for fiscal year 1991.

(h) **REGULATIONS.**—The Secretary may issue any regulations necessary to carry out this part.

TITLE II—RENTAL HOUSING PRODUCTION

SEC. 201. FINDINGS AND PURPOSE.

(a) **FINDINGS.**—The Congress finds that—

(1) the supply of affordable rental housing is diminishing;

(2) the Tax Reform Act of 1986 removed major tax incentives for the production of affordable rental housing;

(3) there should be established a direct assistance program that is more cost-effective and targeted than tax incentives; and

(4) an affordable rental housing production program should be targeted to projects

meeting demonstrated needs, including the needs for large family units, congregate facilities for frail elderly or handicapped persons, and additional units that are available to very low-income families receiving rental assistance payments from Federal, State, and local governments.

(b) **PURPOSE.**—It is the purpose of this title to authorize the Secretary of Housing and Urban Development to make repayable advances to the public and private sectors to assist in the provision of needed and affordable rental housing.

SEC. 202. AUTHORITY TO PROVIDE REPAYABLE ADVANCES.

(a) **IN GENERAL.**—The Secretary may provide repayable advances to eligible project sponsors under this title to assist the sponsors in constructing, acquiring, or substantially rehabilitating projects to be used as affordable rental housing, including limited equity cooperatives and mutual housing.

(b) **MAXIMUM AMOUNT OF ADVANCE.**—An advance under this title shall not exceed 50 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project, as determined by the Secretary.

(c) TERMS OF REPAYMENT.—

(1) INTEREST PAYMENTS.—

(A) **IN GENERAL.**—Advances provided under this title shall be repaid with interest calculated at a rate of not more than 3 percent per year, as determined by the Secretary to be appropriate. Interest shall begin to accrue 1 year after the completion of the construction, acquisition, or substantial rehabilitation of the project and shall be payable in annual installments.

(B) **EXCEPTION.**—Interest and any accrued interest shall be payable only from the surplus cash flow of the project, after a minimum return on equity determined by the Secretary to be appropriate.

(2) **ADDITIONAL INTEREST PAYMENTS.**—For any year in which the sum of the surplus cash flow of a project and the return on equity exceeds all interest payments due under paragraph (1), 50 percent of the excess surplus cash flow shall be paid to the Secretary as additional interest.

(3) PRINCIPAL AND UNPAID INTEREST.—

(A) **IN GENERAL.**—The principal amount of an advance under this title, and any interest remaining unpaid pursuant to paragraph (1)(B), shall be payable upon the expiration of the 25-year period following completion of the construction, acquisition, or substantial rehabilitation of the project.

(B) **EXCEPTION.**—If a project continues to comply with the low income occupancy and rent provisions of subsections (c) and (d) of section 203 after the termination of the 25-year period—

(i) repayment under subparagraph (A) shall be deferred;

(ii) no further interest on the advance shall accrue; and

(iii) the percentage of the amount that shall be required to be repaid shall be reduced by 6.7 percentage points for each year of continued compliance.

SEC. 203. PROGRAM REQUIREMENTS.

(a) **ELIGIBLE SPONSORS.**—Nonprofit entities, for-profit entities, and public housing agencies shall be eligible to apply for advances under this title with respect to projects to be owned by such entities and agencies.

(b) **COMMENCEMENT OF PROJECT.**—A project sponsor shall commence construction, acquisition, or substantial rehabilitation activities under this title not later than 24 months after notice of project selection, unless the

Secretary for good cause extends the commencement date.

(c) **LOW INCOME OCCUPANCY REQUIREMENT.**—During the 25-year period following the completion of the construction, acquisition, or substantial rehabilitation of the project, the project shall be used as affordable rental housing and—

(1) not less than 20 percent of the units in the project shall be occupied, or available for occupancy, only by very low-income families; or

(2) not less than 40 percent of the units in the project shall be occupied, or available for occupancy, only by low-income families.

(d) RENT LIMITATIONS.—

(1) **UNITS FOR VERY LOW-INCOME FAMILIES.**—The rent charged for any unit reserved for occupancy by very low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals 40 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families.

(2) **UNITS FOR LOW-INCOME FAMILIES.**—The rent charged for any unit reserved for occupancy by low-income families shall not exceed 30 percent of the adjusted income of a family whose income equals the income ceiling for very low-income families in the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) **UNITS FOR LOWER INCOME FAMILIES.**—The rent charged for any unit reserved for occupancy by lower income families shall not exceed 30 percent of the adjusted income of a family whose income equals the income ceiling for low-income families in the area, as determined by the Secretary with adjustments for smaller and larger families.

(e) **CONTINUED OCCUPANCY.**—A family who occupies a unit reserved for occupancy for very low- or low-income families but who no longer qualifies as a very low- or low-income family may continue occupancy in the unit if the family qualifies as a low or lower income family, respectively. The rent payment of such families shall be determined in accordance with subsections (d)(2) and (d)(3), respectively.

(f) LIMITATION ON UNITS ASSISTED.—

(1) **LOW AND VERY LOW-INCOME DEDICATED UNITS.**—Except as provided in paragraph (3), an advance under this title shall be limited to the amount necessary to comply with the requirements of subsections (c) and (d) over the term of the advance.

(2) **OTHER ASSISTANCE.**—If assistance other than assistance under this title is made available to a project by the Federal Government, a State, or a unit of general local government, or any agency or instrumentality thereof, the Secretary, in determining the amount of an advance pursuant to paragraph (1), shall allocate such assistance to all units in the project in approximately equal shares, unless the entity making the assistance available directs that a different allocation be made.

(3) **EXCEPTION.**—If necessary for a project to be feasible, the Secretary shall increase the amount of an advance calculated pursuant to paragraph (1) by not more than 10 percent of the total costs associated with the construction, acquisition, or substantial rehabilitation of the project (as determined by the Secretary), subject to the limitation on the amount of an advance under section 202(b).

(g) COST LIMITS.—

(1) **IN GENERAL.**—The Secretary shall establish limits on the amount of funds under

this title that may be invested on a per unit basis. The limits shall be established on a market-by-market basis, with adjustments made for number of bedrooms. Adjustments shall be made annually to reflect inflation. Separate limits may be established for different eligible activities.

(2) **CRITERIA.**—In calculating per unit limits, the Secretary shall take into account that assistance under this title is intended to—

(A) provide nonluxury housing with suitable amenities;

(B) operate effectively in all jurisdictions; and

(C) facilitate mixed-income housing.

(3) **CONSULTATION.**—In calculating cost limits, the Secretary shall consult with organizations that have expertise in the development of affordable housing, including national nonprofit organizations and national organizations representing private development firms and State and local governments.

SEC. 204. SELECTION CRITERIA.

(a) **IN GENERAL.**—The Secretary shall establish criteria for the selection of projects for assistance under this title. Such criteria shall be designed to select projects in areas and for markets demonstrating the greatest need for the production of affordable rental housing.

(b) **SPECIFIC REQUIREMENTS.**—The selection criteria shall include—

(1) the extent of shortage of rental housing in the area that is available to lower income families;

(2) the extent large families with children will be served by the project;

(3) the extent to which project provides congregate facilities and has available supportive services that will permit elderly or handicapped residents who become frail and are in need of assistance in living to continue to reside in the project;

(4) the extent of very low- and low-income occupancy in excess of the requirements in section 203(c);

(5) the extent of the project sponsor's commitment of equity to the project (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(6) the extent of the project sponsor's commitment of equity to the project in comparison to the value of all public assistance for the project, including assistance under this title, other Federal assistance and financing, and State and local government contributions (except that this criterion shall not apply to or affect the selection of applications submitted by public housing agencies and nonprofit entities);

(7) the extent market rents do not exceed rent limitations established for certificates under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f);

(8) the extent of non-Federal public or private assistance to the project;

(9) the extent to which the project provides supportive housing for persons with disabilities; and

(10) any other factor determined by the Secretary to be appropriate.

(c) **LIMITATION.**—In selecting projects for assistance under this title, the Secretary may not give a preference based on the ownership of the project sponsor.

(d) **AREA ELIGIBILITY CRITERIA.**—

(1) **AUTHORITY.**—In addition to the use of the selection criteria to direct assistance to projects in areas and for markets demonstrating the greatest need for the produc-

tion of affordable rental housing, the Secretary may establish, by regulation, criteria to limit the areas in which projects eligible for advances under this title may be located. Such criteria shall be based on objective and timely data, including the level and duration of rental housing vacancies, the vacancy and turnover rate of standard housing units with rents below the fair market rent established for the area under section 8 of the United States Housing Act of 1937, and the extent of housing overcrowding.

(2) **SPECIAL NEEDS.**—Projects serving special needs shall be eligible for advances without regard to any limitation established pursuant to paragraph (1). Projects serving special needs shall include—

(A) housing for large families with children;

(B) supportive housing for persons with disabilities; and

(C) congregate housing for elderly and handicapped persons.

SEC. 205. RENTAL HOUSING PRODUCTION FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a revolving fund, to be known as the Rental Housing Production Fund.

(b) **ASSETS.**—The Fund shall consist of—

(1) any amount approved in appropriation Acts under section 209 for purposes of carrying out this title;

(2) any amount received as interest on, or repayment of, loans made under this title; and

(3) any amount received under subsection (d).

(c) **USE OF AMOUNTS.**—The Fund shall, to the extent approved in appropriations Acts, be available to the Secretary for purposes of carrying out this title.

(d) **INVESTMENT OF EXCESS AMOUNTS.**—Any amounts in the Fund determined by the Secretary to be in excess of the amounts currently required to carry out the provisions of this title shall be invested by the Secretary in obligations of, or obligations guaranteed as to both principal and interest by, the United States or any agency of the United States.

SEC. 206. NONDISCRIMINATION.

During the period in which a project is subject to the occupancy requirements and rent limitations in subsections (c) and (d) of section 203, the project sponsor may not discriminate against prospective tenants or tenants on the basis of such prospective tenants or tenants receipt of, or eligibility for, housing assistance under any Federal, State, or local program.

SEC. 207. DEFINITIONS.

For purposes of this title:

(1) **ADJUSTED INCOME.**—The term "adjusted income" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(2) **LOW INCOME FAMILIES.**—The term "low income families" means families and individuals whose incomes do not exceed 60 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 60 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(3) **LOWER INCOME FAMILIES.**—The term "lower income families" means families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by the Secretary

with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) **PUBLIC HOUSING AGENCY.**—The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(5) **SECRETARY.**—The term "Secretary" means the Secretary of Housing and Urban Development.

(6) **SURPLUS CASH FLOW.**—The term "surplus cash flow" means the cash flow of the project after the payment of all amounts due under the first mortgage, operating expenses, and required replacement reserves, as determined by the Secretary.

(7) **VERY LOW-INCOME FAMILIES.**—The term "very low-income families" means families and individuals whose incomes do not exceed 50 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

SEC. 208. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this title.

SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this title \$300,000,000 for fiscal year 1991.

SEC. 210. CONFORMING AMENDMENT.

Section 105(a)(7) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(7)) is amended by inserting after "title" the following: "or under title II of the Housing and Community Development Act of 1990".

TITLE III—HOPE PROGRAMS

SEC. 301. SHORT TITLE.

This title may be cited as the "Homeownership and Opportunity for People Everywhere Act of 1990".

Subtitle A—HOPE for Public and Indian Housing Homeownership

SEC. 311. HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP.

The United States Housing Act of 1937 is amended by adding at the end the following new title:

"TITLE III—HOPE FOR PUBLIC AND INDIAN HOUSING HOMEOWNERSHIP

"SEC. 301. PROGRAM AUTHORITY.

"(a) **IN GENERAL.**—

"(1) **GRANTS.**—The Secretary is authorized to make—

"(A) planning grants to help applicants to develop homeownership programs in accordance with this title; and

"(B) implementation grants to carry out homeownership programs in accordance with this title.

"(2) **GRANT LIMITATIONS.**—

"(A) Not more than 15 percent of the amounts appropriated pursuant to subsection (c) for any fiscal year may be used for planning grants under this section.

"(B) Not more than 5 percent of the amount reserved for planning grants under

subparagraph (A) may be used for grants to any single grant recipient.

"(b) **AUTHORITY TO RESERVE HOUSING ASSISTANCE.**—In connection with a grant under this title, the Secretary may reserve authority to provide assistance under section 8 of this Act (other than assistance under section 8(o)) to the extent necessary to provide rental assistance for a nonpurchasing tenant who resides in the project on the date the Secretary approves the application for an implementation grant, for use by the tenant in that or another project. The Secretary may also reserve authority to provide such assistance in connection with replacement of units under section 304(g).

"(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for grants under this title \$136,000,000 for fiscal year 1991. Any amount appropriated pursuant to this subsection shall remain available until expended.

"SEC. 302. **PLANNING GRANTS.**

"(a) **GRANTS.**—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this title.

"(b) **ELIGIBLE ACTIVITIES.**—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

"(1) development of resident management corporations and resident councils;

"(2) training and technical assistance for applicants related to development of a specific homeownership program;

"(3) studies of the feasibility of a homeownership program;

"(4) preliminary architectural and engineering work;

"(5) tenant and homebuyer counseling and training;

"(6) planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of project residents and economic development of the neighborhood;

"(7) development of security plans; and

"(8) preparation of an application for an implementation grant under this title.

"(c) **APPLICATION.**—

"(1) **FORM AND PROCEDURES.**—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) **MINIMUM REQUIREMENTS.**—The Secretary shall require that an application contain at a minimum—

"(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

"(B) a description of the applicant and a statement of its qualifications;

"(C) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income; and

"(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(d) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for a national competition for assist-

ance under this section, which shall include—

"(1) the qualifications of the applicant;

"(2) the extent of tenant interest in the development of a homeownership program for the project;

"(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the project for homeownership;

"(4) national geographic diversity among projects for which applicants are selected to receive assistance; and

"(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this title in an effective and efficient manner.

"SEC. 303. **IMPLEMENTATION GRANTS.**

"(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs that meet the requirements of this title.

"(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership) that meet the requirements under this subtitle, including the following activities:

"(1) Architectural and engineering work.

"(2) Implementation of the homeownership program, including acquisition of the public housing project (not including scattered site single family housing of a public housing agency) from a public housing agency for the purpose of transferring ownership to eligible families in accordance with a homeownership program that meets the requirements under this title.

"(3) Rehabilitation of any public housing project covered by the homeownership program, in accordance with standards established by the Secretary.

"(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

"(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 302 for such activities.

"(6) Counseling and training of homebuyers and homeowners under the homeownership program.

"(7) Relocation of tenants who elect to move.

"(8) Any necessary temporary relocation of tenants during rehabilitation.

"(9) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of residents of the property covered by the homeownership program and economic development of the neighborhood.

"(10) Funding of operating expenses and replacement reserves of the project covered by the homeownership program.

"(11) Implementation of a replacement housing plan.

"(c) **MATCHING AMOUNTS.**—Each recipient of a grant under this section shall ensure that at least one-third of the total cost of eligible activities under this section that are necessary to carry out the homeownership program are provided from non-Federal sources. For purposes of the preceding sentence, non-Federal sources may include block grants made available by the Federal Government to States or local governments on a formula basis. In determining compli-

ance with this subsection, a recipient may include the value of such items as the Secretary determines to be appropriate, if such items have a readily discernible market value.

"(d) **APPLICATION.**—

"(1) **FORM AND PROCEDURE.**—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(2) **MINIMUM REQUIREMENTS.**—The Secretary shall require that an application contain at a minimum—

"(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

"(B) if applicable, an application for assistance under section 8 of this Act, which shall specify the proposed uses of such assistance and the period during which the assistance will be needed;

"(C) a description of the proposed homeownership program, consistent with section 304 and the other requirements of this title, which shall specify the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 304(b);

"(D) identification and description of the public housing project or projects involved, and a description of the composition of the tenants, including family size and income;

"(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

"(F) identification and description of the financing proposed for any (i) rehabilitation and (ii) acquisition (I) of the project, where applicable, by an entity other than the public housing agency for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the project;

"(G) if the applicant is not a public housing agency, the proposed sales price, if any, the basis for such price determination, and terms to the applicant;

"(H) the estimated sales prices, if any, and terms to eligible families;

"(I) any proposed restrictions on the resale of units under a homeownership program; and

"(J) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

"(e) **SELECTION CRITERIA.**—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, and the extent of tenant interest in the development of a homeownership program and community support;

"(2) the feasibility of the homeownership program;

"(3) whether the homeownership program meets the requirements for affordability under section 304(b);

"(4) the extent to which the project receives support from entities other than those assisted under this title;

"(5) national geographic diversity among housing for which applicants are selected to receive assistance; and

"(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this title exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

"(f) APPROVAL.—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for the section 8 assistance for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

"SEC. 304. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

"(a) IN GENERAL.—A homeownership program under this title shall provide for acquisition by eligible families of ownership interests in, or shares representing, at least one-half of the units in a public housing project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

"(b) AFFORDABILITY.—A homeownership program under this title shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property from the public housing agency if the applicant is not a public housing agency, and for sales to eligible families, such that an eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

"(c) PLAN.—A homeownership program under this title shall provide, and include a plan, for—

"(1) identifying and selecting eligible families to participate in the homeownership program;

"(2) providing relocation assistance to families who elect to move;

"(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the project;

"(4) providing ongoing training and counseling for homebuyers and homeowners; and

"(5) replacing units in eligible projects covered by a homeownership program.

"(d) ACQUISITION AND REHABILITATION LIMITATIONS.—Acquisition or rehabilitation of public housing projects under a homeownership program under this title may not consist of acquisition or rehabilitation of less than the whole public housing project (not including scattered site single family housing of a public housing agency) in a project consisting of more than 1 building. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who

are not included in the homeownership program.

"(e) FINANCING.—

"(1) TERMS.—Financing under a homeownership program may include use of the implementation grant, sale for cash, or other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

"(2) DEFAULT.—Any lender that provides financing in connection with a homeownership program under this title shall give the public housing agency, resident management corporation, purchasers of individual units, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

"(f) HOUSING QUALITY STANDARDS.—The application shall include a plan ensuring that the unit will—

"(1) be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

"(2) meet housing quality standards established by the Secretary for the purpose of this title not later than 2 years after transfer of an ownership interest in, or shares representing, a unit to an eligible family.

"(g) REPLACEMENT PLAN.—Each homeownership program shall provide for the replacement of each unit covered by the program for which the ownership interest is not retained by the public housing agency. Such replacement shall be in the form of a 5-year contract for tenant-based assistance under section 8(b).

"(h) PROTECTION OF NONPURCHASING FAMILIES.—

"(1) IN GENERAL.—No tenant residing in a dwelling unit in a public housing project on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program approved under this title.

"(2) REPLACEMENT ASSISTANCE.—The recipient shall inform each such tenant that if the tenant decides not to purchase a unit, or is not qualified to do so, the public housing agency will offer each tenant (A) a unit in another public housing project, or (B) assistance under section 8 (other than assistance under subsection (c) of such section), for use in that or another project.

"(3) RELOCATION ASSISTANCE.—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

"SEC. 305. OTHER PROGRAM REQUIREMENTS.

"(a) SALE BY PUBLIC HOUSING AGENCY TO APPLICANT OR OTHER ENTITY REQUIRED.—Where the Secretary approves an application providing for the transfer of the eligible project from the public housing agency to another applicant (or other entity, including a for-profit entity or a nonprofit entity in cooperation with an applicant), the public housing agency shall transfer the project to such other entity, in accordance with the approved homeownership program.

"(b) PREFERENCE FOR CURRENT TENANTS.—In selecting eligible families for homeownership, a recipient of a grant under section 303 shall give preference to current tenants.

"(c) COST LIMITATIONS.—The Secretary may establish cost limitations on eligible activities under this title, subject to the provisions of this title.

"(d) ANNUAL CONTRIBUTIONS.—Notwithstanding the purchase of a public housing

project under this section, or the purchase of a unit in a public housing project by an eligible family, the Secretary shall continue to pay annual contributions with respect to the project. Such contributions may not exceed the maximum contributions authorized in section 5(a).

"(e) OPERATING SUBSIDIES.—Operating subsidies under section 9 of this Act shall not be available with respect to a public housing project after the date of its sale by the public housing agency.

"(f) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

"(g) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

"(1) FIRST PURCHASE RIGHT.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit. Where a resident management corporation, resident council, or cooperative has jurisdiction over the unit, the corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer. If such an entity does not have jurisdiction over the unit or elects not to purchase and if the prospective buyer is not a lower income family, the public housing agency or the implementation grant recipient shall have the right to purchase the ownership interest in, or shares representing, the unit for the same amount.

"(2) ADDITIONAL RESALE RESTRICTIONS.—The homeownership program may establish additional restrictions on the resale of a unit under the program.

"(3) RECAPTURE OF PROCEEDS.—With respect to a homeowner assisted under a homeownership program under this title, if such homeowner sells a unit or shares representing a unit within 5 years after acquisition by the homeowner, the Secretary shall provide for the recapture by the Secretary of an amount equal to the net proceeds received by the homeowner from any sale or transfer of the unit by such homeowner less the sum of the following amounts:

"(A) Any equity interest of the homeowner in the unit (including any costs paid at closing).

"(B) The value of any improvements made by the homeowner during ownership of the unit.

"(C) An amount equal to the price paid for the unit upon sale to the homeowner multiplied by any percent increase in the appropriate consumer price index, as published monthly by the Bureau of Labor Statistics, over the period the property is owned by the homeowner.

"(4) USE OF RECAPTURED AMOUNTS.—Any portion of the net sales proceeds that may not be retained by the homeowner pursuant to paragraph (3) shall be returned to the Secretary for use under this title, subject to approval under appropriations Acts.

"(5) THIRD PARTY RIGHTS.—The requirements under this subsection regarding reha-

bilitation, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation, and against purchasers of property under this subsection or their successors in interest with respect to other actions by affected lower income families, resident management corporations, resident councils, public housing agencies, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

"(h) **DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.**—Not more than an aggregate of \$250,000 from amounts made available under sections 302 and 303 may be used for economic development activities under sections 302(b)(6) and 303(b)(9) for any project.

"(i) **CAPABILITY OF RESIDENT MANAGEMENT CORPORATIONS AND RESIDENT COUNCILS.**—To be eligible to receive a grant under section 303, a resident management corporation or resident council shall demonstrate to the Secretary its ability to manage public housing by having done so effectively and efficiently for a period of not less than 3 years or by arranging for management by a qualified management entity.

"SEC. 306. DEFINITIONS.

"For purposes of this title:

"(1) The term 'applicant' means the following entities that may represent the tenants of the project:

"(A) A public housing agency (including an Indian housing authority).

"(B) A resident management corporation, established in accordance with requirements of the Secretary under section 20.

"(C) A resident council.

"(D) A cooperative association.

"(E) A public or private nonprofit organization.

"(F) A public body, including an agency or instrumentality thereof.

"(2) The term 'eligible family' means—

"(A) a family or individual who is a tenant in the public or Indian housing project on the date the Secretary approves an implementation grant;

"(B) a lower income family; or

"(C) a family or individual who is assisted under a housing program administered by the Secretary or the Secretary of Agriculture (not including any non-lower income families assisted under any mortgage insurance program administered by either Secretary).

"(3) The term 'homeownership program' means a program for homeownership meeting the requirements under this title.

"(4) The term 'recipient' means an applicant approved to receive a grant under this title.

"(5) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the tenants of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the tenants of the housing.

"SEC. 307. RELATIONSHIP TO OTHER HOMEOWNERSHIP OPPORTUNITIES.

"The program authorized under this title shall be in addition to any other public housing homeownership and management

opportunities, including opportunities under section 5(h) and title II of this Act.

"SEC. 308. LIMITATION ON SELECTION CRITERIA.

"In establishing criteria for selecting applicants to receive assistance under this title, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located."

SEC. 312. AMENDMENT TO SECTION 18 REGARDING DEMOLITION AND DISPOSITION OF PUBLIC HOUSING.

Section 18(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437p(b)(1)) is amended by striking "disposition" and inserting the following: "disposition, and the tenant councils, resident management corporation, and tenant cooperative, if any, have been given appropriate opportunities to purchase the project or portion of the project covered by the application."

SEC. 313. LIMITATION ON SECTION 20 RESIDENT MANAGEMENT FINANCIAL ASSISTANCE.

Section 20(f) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)) is amended by adding at the end the following new paragraph:

"(4) **LIMITATION REGARDING ASSISTANCE UNDER HOPE GRANT PROGRAM.**—The Secretary may not provide financial assistance under this subsection to any resident management corporation or resident council with respect to which assistance for the development or formation of such entity is provided under title III."

SEC. 314. EXTENSION OF SECTION 21 HOMEOWNERSHIP PROGRAM AND PROVISION OF TECHNICAL AND OTHER ASSISTANCE.

Section 21(a) of the United States Housing Act of 1937 (42 U.S.C. 1437s(a)) is amended—

(1) by striking subparagraph (B) of paragraph (2) and inserting the following new subparagraph:

"(B) The Secretary may provide financial assistance to public housing agencies, resident management corporations, or resident councils that obtain, by contract or otherwise, training, technical assistance, and educational assistance as the Secretary determines to be necessary to promote homeownership opportunities under this section. Of any amounts made available under appropriations Acts for financial assistance under section 14, the Secretary may use not more than \$3,000,000 in any fiscal year to carry out this subparagraph."

(2) in paragraph (2)(C), by striking "September 30, 1990," and inserting the following: "the effective date of the regulations implementing subtitle A of title III of the Housing and Community Development Act of 1990. The Secretary may not provide financial assistance under subparagraph (B), after such effective date, unless the Secretary determines that such assistance is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such Act."; and

(3) in paragraph (3)(C), by striking "September 30, 1990," and inserting the following: "the effective date of the regulations implementing subtitle A of title III of the Housing and Community Development Act of 1990. The authority for a resident management corporation to purchase 1 or more multifamily buildings in a public hous-

ing project from a public housing agency shall terminate after such effective date, unless the Secretary determines that such purchase is necessary for the development of a homeownership program that was initiated, as determined by the Secretary, before the date of the enactment of such Act."

SEC. 315. IMPLEMENTATION.

Not later than the expiration of the 120-day period beginning on the date that funds authorized under title III of the United States Housing Act of 1937 first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

SEC. 316. APPLICABILITY TO INDIAN PUBLIC HOUSING.

In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority.

Subtitle B—HOPE for Homeownership of Multifamily Units

SEC. 321. PROGRAM AUTHORITY.

(a) **IN GENERAL.**—

(1) **GRANTS.**—The Secretary is authorized to make—

(A) planning grants to enable applicants to develop homeownership programs; and

(B) implementation grants to enable applicants to carry out homeownership programs.

(2) **GRANT LIMITATIONS.**—

(A) Not more than 15 percent of the amounts appropriated pursuant to subsection (c) for any fiscal year may be used for planning grants under this section.

(B) Not more than 5 percent of the amounts reserved for planning grants under subparagraph (A) may be used for grants to any single grant recipient.

(b) **AUTHORITY TO RESERVE HOUSING ASSISTANCE.**—In connection with a grant under this subtitle, the Secretary may reserve authority to provide assistance under section 8 of the United States Housing Act of 1937 (other than assistance under section 8(o)) to the extent necessary to provide rental assistance for a non-purchasing tenant who resides in the property on the date the Secretary approves an application for an implementation grant, for use by the tenant in that or another property.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for grants under this subtitle \$102,000,000 for fiscal year 1991. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 322. PLANNING GRANTS.

(a) **GRANTS.**—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle.

(b) **ELIGIBLE ACTIVITIES.**—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) development of resident management corporations and resident councils;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of a homeownership program;

(4) preliminary architectural and engineering work;

(5) tenant and homebuyer counseling and training;

(6) planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program and economic development of the neighborhood; and

(7) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) **FORM AND PROCEDURES.**—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) **MINIMUM REQUIREMENTS.**—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible property involved, and a description of the composition of the tenants, including family size and income; and

(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications of the applicant;

(2) the extent of tenant interest in the development of a homeownership program for the property;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the suitability of the property for homeownership;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

SEC. 323. IMPLEMENTATION GRANTS.

(a) **GRANTS.**—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs that meet the requirements of this subtitle.

(b) **ELIGIBLE ACTIVITIES.**—Implementation grants may be used for activities to carry out homeownership programs (including programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the eligible property for the purpose of transferring ownership to eligible families in accordance with a home-

ownership program that meets the requirements under this subtitle.

(3) Rehabilitation of any property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of the assistance provided under this section.

(5) Development of resident management corporations and resident management councils, but only if the applicant has not received assistance under section 322 for such activities.

(6) Counseling and training of homebuyers and homeowners under the homeownership program.

(7) Relocation of tenants who elect to move.

(8) Any necessary temporary relocation of tenants during rehabilitation.

(9) Planning for establishment of for- or not-for-profit small businesses by or on behalf of residents, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners of the property covered by the homeownership program and economic development of the neighborhood.

(10) Funding of operating expenses and replacement reserves of the property covered by the homeownership program.

(c) **MATCHING AMOUNTS.**—Each recipient of a grant under this section shall ensure that at least one-third of the total cost of eligible activities under this section that are necessary to carry out the homeownership program are provided from non-Federal sources. For purposes of the preceding sentence, non-Federal sources may include block grants made available by the Federal Government to States and local governments on a formula basis. In determining compliance with this subsection, a recipient may include such items as the Secretary determines to be appropriate, if such items have a readily discernible market value.

(d) APPLICATION.—

(1) **FORM AND PROCEDURE.**—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) **MINIMUM REQUIREMENTS.**—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) where applicable, an application for assistance under section 8 of the United States Housing Act of 1937, specifying the proposed uses of such assistance and the period during which the assistance will be needed;

(C) a description of the qualifications and experience of the applicant in providing lower income housing;

(D) a description of the proposed homeownership program, consistent with section 324 and the other requirements of this subtitle, specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating the program will comply with the affordability requirements under section 324(b);

(E) identification and description of the property involved, and a description of the composition of the tenants, including family size and income;

(F) a description of and commitment for the resources that are expected to be made

available to provide the matching funding required under subsection (c) and of other resources that are expected to be made available in support of the homeownership program;

(G) identification and description of the financing proposed for any (i) rehabilitation, and (ii) acquisition (I) of the property, where applicable, by a resident or other entity for transfer to eligible families, and (II) by eligible families of ownership interests in, or shares representing, units in the property;

(H) the proposed sales price, the basis for such price determination, and terms to an entity, if any, that will purchase the property for resale to eligible families;

(I) the proposed sales prices, if any, and terms to eligible families;

(J) any proposed restrictions on the resale of units under a homeownership program; and

(K) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the quality of any related ongoing program of the applicant, the extent of tenant interest in the development of a homeownership program and community support;

(2) the feasibility of the homeownership program;

(3) the homeownership program meets the requirements for affordability under section 324(b);

(4) the extent to which the project receives support from entities other than those assisted under this subtitle;

(5) national geographic diversity among housing for which applicants are selected to receive assistance; and

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) **APPROVAL.**—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved. The Secretary may approve the application for an implementation grant with a statement that the application for assistance under section 8 of the United States Housing Act of 1937 for residents of the project not purchasing units is conditionally approved, subject to the availability of appropriations in subsequent fiscal years.

SEC. 324. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) **IN GENERAL.**—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interest in, or shares representing, the units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership

(including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) **AFFORDABILITY.**—A homeownership program under this subtitle shall provide for the establishment of sales prices (including principal, insurance, taxes, and interest and closing costs) for initial acquisition of the property, and for sales to eligible families, such that the eligible family shall not be required to expend more than 30 percent of the adjusted income of the family per month to complete a sale under the homeownership program.

(c) **PLAN.**—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move;

(3) ensuring continued affordability by tenants, homebuyers, and homeowners in the property; and

(4) providing ongoing training and counseling for homebuyers and homeowners.

(d) **ACQUISITION AND REHABILITATION LIMITATION.**—Acquisition or rehabilitation of a property under a homeownership program under this subtitle may not consist of acquisition or rehabilitation of less than all of the units in the property. The provisions of this subsection may be waived upon a finding by the Secretary that the sale of less than all the buildings in a project is feasible and will not result in a hardship to any tenants of the project who are not included in the homeownership program.

(e) **FINANCING.**—

(1) **TERMS.**—Financing under a homeownership program may include use of the implementation grant, sale for cash, and other sources of financing (subject to applicable requirements), including conventional mortgage loans and mortgage loans insured under title II of the National Housing Act.

(2) **DEFAULT.**—Any lender that provides financing in connection with a homeownership program under this title shall give the acquiring entity, resident management council, purchasers of individual units, or other appropriate entity a reasonable opportunity to cure a financial default before foreclosing on the property, or taking other action as a result of the default.

(f) **HOUSING QUALITY STANDARDS.**—The application shall include a plan ensuring that the unit will—

(1) be free from any defects that pose a substantial danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) meet housing quality standards established by the Secretary for the purpose of this subtitle no more than 2 years after transfer of an ownership interest in, or shares representing, a unit to an eligible family.

(g) **PROTECTION OF NONPURCHASING FAMILIES.**—

(1) **IN GENERAL.**—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program under this subtitle.

(2) **REPLACEMENT ASSISTANCE.**—The recipient shall inform each such tenant that if the tenant decides not to purchase a unit, or is not qualified to do so, the recipient will request the public housing agency to offer

assistance under section 8 of the United States Housing Act of 1937 (other than assistance under subsection (o) of such section) to each qualified tenant, for use in that or another property.

(3) **RELOCATION ASSISTANCE.**—The recipient shall also inform each such tenant that if the tenant chooses to move, the recipient will pay relocation assistance in accordance with the approved homeownership program.

SEC. 325. OTHER PROGRAM REQUIREMENTS.

(a) **PREFERENCES FOR CURRENT TENANTS.**—In selecting eligible families for homeownership, a recipient shall give preference to current tenants.

(b) **COST LIMITATIONS.**—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(c) **USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.**—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, shall use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(d) **RESTRICTIONS ON RESALE BY HOMEOWNERS.**—

(1) **FIRST PURCHASE RIGHT.**—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit. Where a grant recipient, resident management corporation, resident council, or cooperative has jurisdiction over the unit, the grant recipient, corporation, council, or cooperative shall have the right to purchase the ownership interest in, or shares representing, the unit from the homeowner for the amount specified in a firm contract between the homeowner and a prospective buyer.

(2) **ADDITIONAL RESALE RESTRICTIONS.**—The homeownership program may establish restrictions on the resale of a unit under the program.

(3) **RECAPTURE OF PROCEEDS.**—With respect to a homeowner assisted under a homeownership program under this subtitle, if such homeowner sells a unit or shares representing a unit within 5 years after the acquisition by the homeowner, the Secretary shall provide for the recapture by the Secretary of an amount equal to the net proceeds received by the homeowner from any sale or transfer of the unit by such homeowner less the sum of the following amounts:

(A) Any equity interest of the homeowner in the unit (including any costs paid at closing).

(B) The value of any improvements made by the homeowner during ownership of the unit.

(C) An amount equal to the price paid for the unit upon sale to the homeowner multiplied by any percent increase in the appropriate consumer price index, as published monthly by the Bureau of Labor Statistics, over the period the property is owned by the homeowner.

(4) **USE OF RECAPTURED AMOUNTS.**—Any portion of the net sales proceeds that may not be retained by the homeowner pursuant to paragraph (3) shall be returned to the Secretary for use under this subtitle, subject to approval under appropriations Acts.

(5) **THIRD PARTY RIGHTS.**—The requirements under this subsection regarding rehabilitation, resale, or transfer of the ownership interest of a homeowner shall be judicially enforceable against the grant recipient with respect to actions involving rehabilitation and purchasers of property under this subsection or their successors in interest with respect to other actions by affected lower income families, resident management corporations, resident councils, and any agency, corporation, or authority of the United States Government. The parties specified in the preceding sentence shall be entitled to reasonable attorney fees upon prevailing in any such judicial action.

(e) **DOLLAR LIMITATION ON ECONOMIC DEVELOPMENT ACTIVITIES.**—Not more than an aggregate of \$250,000 from amounts made available under sections 322 and 323 may be used for economic development activities under sections 322(b)(6) and 323(b)(9) for any project.

(f) **CONTINUATION OF AFFORDABILITY REQUIREMENTS.**—Any recipient of a grant under section 323 that assumes a mortgage covering eligible property shall, in addition to any requirements of the homeownership program, comply with the low-income affordability restrictions under the mortgage for a period not shorter than the remaining term of the mortgage.

SEC. 326. DEFINITIONS.

For purposes of this subtitle:

(1) The term "applicant" means the following entities that may represent the tenants of the housing:

(A) A resident management corporation established in accordance with the requirements of the Secretary under section 20 of the United States Housing Act of 1937.

(B) A resident council.

(C) A cooperative association.

(D) A public or private nonprofit organization.

(E) A public body (including an agency or instrumentality thereof).

(F) A public housing agency (including an Indian housing authority).

(2) The term "eligible family" means a family or individual—

(A) who is a tenant of the eligible property on the date the Secretary approves an implementation grant; or

(B) whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

(3) The term "eligible property" means a multifamily rental property, containing 5 or more units, that is—

(A) owned or held by the Secretary;

(B) financed by a loan or mortgage held by the Secretary or insured by the Secretary;

(C) determined by the Secretary to have serious physical or financial problems under the terms of an insurance or loan program administered by the Secretary; or

(D) owned or held by the Secretary of Agriculture, the Resolution Trust Corporation, or a State or local government.

(4) The term "homeownership program" means a program for homeownership under this subtitle.

(5) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(6) The term "lower income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(7) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(8) The term "recipient" means an applicant approved to receive a grant under this subtitle.

(9) The term "resident council" means any incorporated nonprofit organization or association that—

(A) is representative of the tenants of the housing;

(B) adopts written procedures providing for the election of officers on a regular basis; and

(C) has a democratically elected governing board, elected by the tenants of the housing.

(10) The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 327. EXEMPTION.

Eligible property assisted by a homeownership implementation grant under this subtitle shall not be subject to the requirements of section 203 of the Housing and Community Development Amendments of 1978 applicable to the sale of projects either at foreclosure or after acquisition by the Secretary.

SEC. 328. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 329. AMENDMENT TO NATIONAL HOUSING ACT.

Section 203(b)(9) of the National Housing Act is amended by inserting after "Housing Act of 1961," the following: "or with respect to a mortgage covering a housing unit in connection with a homeownership program under the Homeownership and Opportunity for People Everywhere Act of 1990,".

SEC. 330. IMPLEMENTATION.

Not later than the expiration of the 120-day period beginning on the date that funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

Subtitle C—HOPE for Homeownership of Single Family Homes

SEC. 341. PROGRAM AUTHORITY.

(a) IN GENERAL.—

(1) GRANTS.—The Secretary is authorized to make—

(1) planning grants to help applicants develop homeownership programs in accordance with this subtitle; and

(2) implementation grants to enable applicants to carry out homeownership programs in accordance with this subtitle.

(2) GRANT LIMITATION.—Not more than 15 percent of the amounts appropriated pursuant to subsection (b) for any fiscal year may be used for planning grants under this section. Not more than 5 percent of the amounts reserved for planning grants under the preceding sentence for any fiscal year may be used for grants to any single grant recipient.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for grants under this subtitle \$72,000,000 for fiscal year 1991. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 342. PLANNING GRANTS.

(a) GRANTS.—The Secretary is authorized to make planning grants to applicants for the purpose of developing homeownership programs under this subtitle.

(b) ELIGIBLE ACTIVITIES.—Planning grants may be used for activities to develop homeownership programs (which may include programs for cooperative ownership), including—

(1) identifying eligible properties;

(2) training and technical assistance of applicants related to the development of a specific homeownership program;

(3) studies of the feasibility of specific homeownership programs;

(4) preliminary architectural and engineering work;

(5) homebuyer counseling and training;

(6) planning for establishment of for- or not-for-profit small businesses by or on behalf of homebuyers and homeowners, job training, and other activities that promote economic self-sufficiency of homebuyers and homeowners under the homeownership program and economic development of the neighborhood; and

(7) preparation of an application for an implementation grant under this subtitle.

(c) APPLICATION.—

(1) FORM AND PROCEDURES.—An application for a planning grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for a planning grant, specifying the activities proposed to be carried out, the schedule for completing the activities, the personnel necessary to complete the activities, and the amount of the grant requested;

(B) a description of the applicant and a statement of its qualifications;

(C) identification and description of the eligible properties involved, and a description of the composition of the potential homebuyers and residents of the areas in which such eligible properties are located, including family size and income; and

(D) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(d) SELECTION CRITERIA.—The Secretary shall, by regulation, establish selection criteria for a national competition for assistance under this section, which shall include—

(1) the qualifications of the applicant;

(2) the extent of interest in the development of a homeownership program;

(3) the potential of the applicant for developing a successful and affordable homeownership program and the availability and suitability of eligible properties in the applicable geographic area with respect to the application;

(4) national geographic diversity among housing for which applicants are selected to receive assistance; and

(5) such other factors that the Secretary shall require that (in the determination of

the Secretary) are appropriate for purposes of carrying out the program established by this subtitle in an effective and efficient manner.

SEC. 343. IMPLEMENTATION GRANTS.

(a) GRANTS.—The Secretary is authorized to make implementation grants to applicants for the purpose of carrying out homeownership programs that meet the requirements of this subtitle.

(b) ELIGIBLE ACTIVITIES.—Implementation grants may be used for activities to carry out homeownership programs (which may include programs for cooperative ownership), including the following activities:

(1) Architectural and engineering work.

(2) Acquisition of the property for the purpose of transferring ownership to eligible families in accordance with a homeownership program meeting the requirements of this subtitle.

(3) Rehabilitation of the property covered by the homeownership program, in accordance with standards established by the Secretary.

(4) Administrative costs of the applicant, which may not exceed 15 percent of the amount of assistance provided under this section.

(5) Counseling and training of homebuyers and homeowners under the homeownership program.

(6) Relocation of eligible families who elect to move.

(7) Any necessary temporary relocation of homebuyers during rehabilitation.

(c) MATCHING AMOUNTS.—Each recipient of a grant under this section shall ensure that at least one-third of the total cost of eligible activities under this section is provided from non-Federal sources. For purposes of the preceding sentence, non-Federal sources may include block grants made available by the Federal Government to State or local governments on a formula basis. In determining compliance with this subsection, a recipient may include the value of such items as the Secretary determines to be appropriate, if such items have a readily discernible market value.

(d) APPLICATION.—

(1) FORM AND PROCEDURE.—An application for an implementation grant shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

(2) MINIMUM REQUIREMENTS.—The Secretary shall require that an application contain at a minimum—

(A) a request for an implementation grant, specifying the amount of the grant requested and its proposed uses;

(B) a description of the qualifications and experience of the applicant in providing lower income housing;

(C) a description of the proposed homeownership program, consistent with section 344 and the other requirements of this subtitle specifying the activities proposed to be carried out and their estimated costs, identifying reasonable schedules for carrying it out, and demonstrating that the program will comply with the affordability requirements under section 344(b);

(D) a description of the properties to be acquired under the homeownership program and a description of the composition of potential eligible families, including family size and income;

(E) a description of and commitment for the resources that are expected to be made available to provide the matching funding required under subsection (c) and of other

resources that are expected to be made available in support of the homeownership program;

(F) identification and description of any financing proposed;

(G) the proposed sales prices for the properties, the basis for such price determinations, and terms to an entity, if any, that will purchase that property for resale to eligible families;

(H) the proposed sales prices, if any, and terms to eligible families; and

(I) a certification that the applicant will comply with the requirements of the Fair Housing Act, title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973, and the Age Discrimination Act of 1975, and will affirmatively further fair housing.

(e) **SELECTION CRITERIA.**—The Secretary shall, by regulation, establish selection criteria for assistance under this section, which shall include—

(1) the ability of the applicant to develop and carry out the proposed homeownership program, taking into account the qualifications and experience of the applicant, the quality of any related ongoing program of the applicant, and the extent of community interest and support for the program;

(2) the feasibility of the homeownership program;

(3) the extent to which suitable eligible properties are available for use under the program in the area to be served;

(4) whether the homeownership program meets the requirements for affordability under section 344(b);

(5) national geographic diversity among housing for which applicants are selected to receive assistance; and

(6) the extent to which a sufficient supply of affordable rental housing of the type assisted under this subtitle exists in the locality, so that the implementation of the homeownership program will not appreciably reduce the number of such rental units available to residents currently residing in such units or eligible for residency in such units.

(f) **APPROVAL.**—The Secretary shall notify each applicant, not later than 6 months after the date of the submission of the application, whether the application is approved or not approved.

SEC. 344. HOMEOWNERSHIP PROGRAM REQUIREMENTS.

(a) **IN GENERAL.**—A homeownership program under this subtitle shall provide for acquisition by eligible families of ownership interests in, or shares representing, units in an eligible property under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership), for occupancy by the eligible families.

(b) **AFFORDABILITY.**—A homeownership program under this subtitle shall provide for the eligible family to make payments toward the costs of homeownership (including principal, insurance, taxes, and interest and closing costs) in accordance with the affordability standards set forth in the homeownership program, which may not require payments in an amount exceeding 30 percent of the adjusted income of the family.

(c) **ELIGIBLE PROPERTY.**—A property may not participate in a homeownership program under this subtitle unless all tenants or occupants of the property (at the time of the application for the implementation grant covering the property is filed with the

Secretary) participate in the homeownership program.

(d) **PLAN.**—A homeownership program under this subtitle shall provide, and include a plan, for—

(1) identifying and selecting eligible families to participate in the homeownership program;

(2) providing relocation assistance to families who elect to move; and

(3) ensuring continued affordability of the property to homebuyers and homeowners.

(e) **HOUSING QUALITY STANDARDS.**—The application shall include a plan ensuring that the unit will—

(1) be free from any defects that pose a danger to health or safety before transfer of an ownership interest in, or shares representing, a unit to an eligible family; and

(2) meet housing quality standards established by the Secretary for the purpose of this subtitle not later than 2 years after transfer of an ownership interest in, or shares representing, a unit to an eligible family.

SEC. 345. OTHER PROGRAM REQUIREMENTS.

(a) **COST LIMITATIONS.**—The Secretary may establish cost limitations on eligible activities under this subtitle, subject to the provisions of this subtitle.

(b) **USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.**—Any entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use the proceeds, if any, from the initial sale for costs of the homeownership program, including operating expenses, improvements to the project, business opportunities for lower income families, supportive services related to the homeownership program, additional homeownership opportunities, and other activities approved by the Secretary.

(c) **RESTRICTIONS ON RESALE BY HOMEOWNERS.**—

(1) **TRANSFER.**—A homeowner under a homeownership program who has acquired fee simple to, or shares representing, the unit may transfer the homeowner's ownership interest in, or shares representing, the unit.

(2) **ADDITIONAL RESALE RESTRICTIONS.**—The homeownership program may establish restrictions on the resale of a unit under the program.

(3) **RECAPTURE OF PROCEEDS.**—With respect to a homeowner assisted under a homeownership program under this subtitle, if such homeowner sells a property or shares representing a property within 5 years after the acquisition by the homeowner, the Secretary shall provide for the recapture by the Secretary of an amount equal to the net proceeds received by the homeowner from any sale or transfer of the unit by such homeowner less the sum of the following amounts:

(A) Any equity interest of the homeowner in the unit (including any costs paid at closing).

(B) The value of any improvements made by the homeowner during ownership of the unit.

(C) An amount equal to the price paid for the unit upon sale to the homeowner multiplied by any percent increase in the appropriate consumer price index, as published monthly by the Bureau of Labor Statistics, over the period the property is owned by the homeowner.

(4) **USE OF RECAPTURED AMOUNTS.**—Any portion of the net sales proceeds that may not be retained by the homeowner pursuant to

paragraph (3) shall be returned to the Secretary for use under this subtitle, subject to approval under appropriations Acts.

(d) **PROTECTION OF NONPURCHASING FAMILIES.**—No tenant residing in a dwelling unit in a property on the date the Secretary approves an application for an implementation grant may be evicted by reason of a homeownership program under this subtitle assisted with such grant.

SEC. 346. DEFINITIONS.

For purposes of this title:

(1) The term "applicant" means a private nonprofit organization, cooperative association, or a public agency (including an agency or instrumentality thereof) in cooperation with a private nonprofit organization.

(2) The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this title; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) The term "eligible family" means a family or individual who—

(A) has an income that does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families; and

(B) is a first-time homebuyer.

(4) The term "eligible property" means a single family property, containing no more than four units, that is owned or held by the Secretary, the Secretary of Veterans Affairs, the Secretary of Agriculture, the Resolution Trust Corporation, a State or local government (including any in rem property), or a public housing agency or an Indian housing authority (including scattered site single family properties, and properties held by institutions within the jurisdiction of the Resolution Trust Corporation).

(5) The term "first-time homebuyer" means a family that has not owned a home during the 3-year period prior to purchase of an eligible homeownership unit under a homeownership program, except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(6) The term "homeownership program" means a program for homeownership under this subtitle.

(7) The term "Indian housing authority" has the meaning given such term in section 3(b)(11) of the United States Housing Act of 1937.

(8) The term "lower income family" has the meaning given such term in section 3(b)(2) of the United States Housing Act of 1937.

(9) The term "public housing agency" has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937.

(10) The term "recipient" means an applicant approved to receive a grant under this title.

(11) The term "Secretary" means the Secretary of Housing and Urban Development.

(12) The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

SEC. 347. LIMITATION ON SELECTION CRITERIA.

In establishing criteria for selecting applicants to receive assistance under this subtitle, the Secretary may not establish any selection criterion or criteria that grant or deny such assistance to an applicant (or have the effect of granting or denying assistance) based on the implementation, continuation, or discontinuation of any public policy, regulation, or law of any jurisdiction in which the applicant or project is located.

SEC. 348. IMPLEMENTATION.

Not later than the expiration of the 120-day period beginning on the date funds authorized under this subtitle first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this subtitle. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue regulations based on the initial notice before the expiration of the 8-month period beginning on the date of the notice.

Subtitle D—Other HOPE Programs

SEC. 351. HOPE FOR ELDERLY INDEPENDENCE.

(a) PURPOSE.—The purpose of this section is to establish a demonstration program to test the effectiveness of combining housing certificates and vouchers with supportive services to assist frail elderly individuals to continue to live independently. The demonstration program under this section shall terminate upon the expiration of the 5-year period beginning on the date of the enactment of this Act.

(b) HOUSING ASSISTANCE.—In connection with this demonstration, the Secretary of Housing and Urban Development may enter into contracts with public housing agencies to provide housing assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937. A public housing agency may not require that a frail elderly individual live in a particular structure or unit, but the agency may restrict the program under this section to a geographic area, where necessary to ensure that the provision of supportive services is feasible. At the end of the demonstration period, the public housing agency shall give each frail elderly individual the option to continue to receive assistance under the housing certificate or voucher program of the agency. In the demonstration, the Secretary may also provide for supportive services in connection with existing contracts for housing assistance under sections 8(b) and 8(o).

(c) SUPPORTIVE SERVICES REQUIREMENTS AND MATCHING FUNDING.—

(1) FEDERAL, PHA AND, INDIVIDUAL CONTRIBUTIONS.—The amount estimated by the public

housing agency and approved by the Secretary as necessary to provide the supportive services for the demonstration period shall be funded as follows:

(A) The Secretary shall provide 46 percent, using amounts appropriated under this section.

(B) The public housing agency shall ensure the provision of at least 50 percent from sources other than under this section.

(C) Notwithstanding any other provision of law, each frail elderly individual shall pay 10 percent of the costs of the supportive services that the individual receives, except that a frail elderly individual may not be required to pay an amount that exceeds 20 percent of the adjusted income (as the term is defined in section 3(b)(5) of the United States Housing Act of 1937) of such individual and the Secretary shall provide for the waiver of the requirement to pay costs under this subparagraph for individuals whose income is determined to be insufficient to provide for any payment.

(D) To the extent that the limitation under subparagraph (C) regarding the percentage of income frail elderly individuals may pay for services will result in collected amounts for any public housing agency of less than 10 percent of the cost of providing the services, 50 percent of such remaining costs shall be provided by the public housing agency and 50 percent of such remaining costs shall be provided by the Secretary from amounts appropriated under this section.

(2) PROVISION OF SERVICES FOR ENTIRE DEMONSTRATION.—Each public housing agency shall ensure that supportive services appropriate to the needs of the frail elderly individuals to be served under this demonstration are provided throughout the demonstration period. Expenditures for supportive services need not be made in equal amounts for each year, but may vary depending on the needs of the frail elderly individuals assisted under this section. A public housing agency may use up to 20 percent of the Federal assistance provided for supportive services in each year of this demonstration and any amounts from any prior year in which the public housing agency did not use 20 percent of the available Federal assistance.

(3) CALCULATION OF MATCH.—In determining compliance with paragraph (1)(B), an agency may include the value of such items as the Secretary determines to be appropriate, which may include the salary paid to staff to provide supportive services, if such items have a readily discernible market value.

(d) APPLICATIONS.—An application under this section shall be submitted by a public housing agency in such form and in accordance with such procedures as the Secretary shall establish. The Secretary shall require that an application contain at a minimum—

(1) an application for housing assistance under section 8 of the United States Housing Act of 1937, if necessary, and a description of any such assistance already made available that will be used in the demonstration;

(2) a description of the size and characteristics of the population of frail elderly individuals and of their housing and supportive services needs;

(3) a description of the proposed method of determining whether an individual qualifies as a frail elderly individual (specifying any additional eligibility requirements proposed by the agency), and of selecting frail elderly individuals to participate;

(4) a statement that the public housing agency will create a professional assessment

committee or will work with another entity which will assist the public housing agency in identifying and providing only services that each frail elderly individual needs to remain living independently;

(5) a description of the mechanisms for developing housing and supportive services plans for each individual and for monitoring the individual's progress in meeting that plan;

(6) the identity of the proposed service providers and a statement of qualifications;

(7) a description of the supportive services the public housing agency proposes to make available for the frail elderly individuals to be served, the estimated costs of such services, a description of the resources that are expected to be made available to cover the portion of the costs required by subsection (c)(1);

(8) assurances satisfactory to the Secretary that the supportive services will be provided for the demonstration period;

(9) the plan for coordinating the provision of housing assistance and supportive services;

(10) a description of how the public housing agency will ensure that the service providers are providing supportive services, at a reasonable cost, adequate to meet the needs of the individuals to be served;

(11) a plan for continuing supportive services to frail elderly individuals that continue to receive housing assistance under section 8 of the United States Housing Act of 1937 after the end of the demonstration period; and

(12) a statement that the application has been developed in consultation with the area agency on aging under title III of the Older Americans Act of 1965 and that the public housing agency will periodically consult with the area agency during the demonstration.

(e) SELECTION.—

(1) CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

(A) the ability of the public housing agency to develop and operate the proposed housing assistance and supportive services program;

(B) the need for a program providing both housing assistance and supportive services for frail elderly individuals in the area to be served;

(C) the quality of the proposed program for providing supportive services;

(D) the extent to which the proposed funding for the supportive services is or will be available;

(E) the extent to which the program would meet the needs of the frail elderly individuals proposed to be served by the program; and

(F) such other factors as the Secretary specifies to be appropriate for purposes of carrying out the demonstration program established by this section in an effective and efficient manner.

(2) CONSULTATION WITH HHS.—In reviewing the applications, the Secretary shall consult with the Secretary of Health and Human Services with respect to the supportive services aspects.

(3) FUNDING LIMITATIONS.—No more than 10 percent of the assistance made available under this section may be used for programs located within any one unit of general local government.

(f) REQUIRED AGREEMENTS.—The Secretary may not approve any assistance for any pro-

gram under this section unless the public housing agency agrees—

(1) to operate the proposed program in accordance with the program requirements established by the Secretary;

(2) to conduct an ongoing assessment of the housing assistance and supportive services required by each frail elderly individual participating in the program;

(3) to ensure the adequate provision of supportive services, at a reasonable cost, to each frail elderly individual participating in the program; and

(4) to comply with such other terms and conditions as the Secretary may establish for purposes of carrying out the program in an effective and efficient manner.

(g) **DEFINITIONS.**—For purposes of this section:

(1) The term “demonstration period” means the period beginning on the date of the enactment of this Act and ending upon the termination date under subsection (a).

(2) The term “frail elderly individual” means an individual who, or a family where each individual, is at least 62 years old, is eligible to receive a housing assistance under section 8(b) of the United States Housing Act of 1937, is a very-low income individual at the time the individual first receives such assistance, and is unable to perform at least 3 activities of daily living adopted by the Secretary for the purposes of this program. Public housing agencies may establish additional eligibility requirements based on the standards in local service programs.

(3) The term “professional assessment committee” means a group of at least 3 persons appointed by a public housing agency which shall include at least 1 qualified medical professional and other persons professionally competent to appraise the functional abilities of the frail elderly in relation to the performance of activities of daily living.

(4) The term “public housing agency” has the meaning given such term in section 3(b)(6) of the United States Housing Act of 1937. The term includes an Indian Housing Authority, as defined in section 3(b)(11) of such Act.

(5) The term “Secretary” means the Secretary of Housing and Urban Development.

(6) The term “supportive services”—

(A) means assistance, that the Secretary determines—

(i) addresses the special needs of frail elderly individuals; and

(ii) provides appropriate supportive services or assists such individuals in obtaining appropriate services, including personal care, case management services, transportation, meal services, counseling, supervision, and other services essential for achieving and maintaining independent living; and

(B) does not include medical services, as determined by the Secretary.

(h) **MULTIFAMILY PROJECT DEMONSTRATION.**—

(1) **IN GENERAL.**—In addition to the demonstration program authorized by this section, the Secretary shall conduct a demonstration, subject to the terms and conditions of this subsection, to determine the feasibility of using housing assistance under section 8 of the United States Housing Act of 1937 to assist elderly persons who may become frail to live independently in housing specifically designed for occupancy by such persons in sufficient numbers to achieve economies of scale in the provision of services and facilities.

(2) **SECTION 8 ALLOCATION.**—From amounts provided pursuant to subsection (j) and subject to availability in appropriation Acts,

the Secretary shall enter into a contract with a public housing agency to provide housing assistance under section 8(b) of the United States Housing Act of 1937 to assist elderly persons in at least 75 percent of the units in a single housing project with more than 100 units.

(3) **SECTION 8 TERMS.**—The assistance payment contract under such section 8 shall be attached to the structure and shall be in an initial term of 5 years. The contract shall (at the option of the public housing agency and subject to availability of amounts approved in appropriations Acts) be renewable for 3 additional 5-year terms. Rents for units in the project assisted pursuant to this subsection shall be subject to the rent limitations in effect for the area under section 8 for projects for the elderly receiving loans under section 202 of the Housing Act of 1959.

(4) **SUPPORTIVE SERVICES.**—The Secretary shall allocate, for the project assisted pursuant to this subsection, a reasonable portion of the amounts appropriated pursuant to the authorization for funds for supportive services in subsection (k), based on the estimated number of project residents who will be frail elderly individuals during the 5-year period beginning on the date of initial occupancy of the project. Notwithstanding the last sentence of subsection (c)(2), grants for supportive services may be used to assist any occupant in the demonstration project who is a frail elderly individual. Grants for supportive services under this subsection shall be subject to the other terms and conditions specified in this section.

(5) **APPLICATIONS.**—An application for assistance under this subsection may be submitted by any unit of general local government with a population under 50,000 and shall contain such information as the Secretary deems appropriate.

(6) **SELECTION.**—The Secretary shall select one application for funding under this subsection based on the following criteria:

(A) The number of elderly persons residing in the applicant's jurisdiction.

(B) The extent of existing housing constructed prior to 1940 in the applicant's jurisdiction.

(C) The number of elderly persons living in adjacent projects to whom the services and facilities provided by the project would be available.

(D) The level of State and local contributions toward the cost of developing the project and of providing supportive services.

(E) The project's contribution to neighborhood improvement.

(7) **DEFINITIONS.**—For purposes of this subsection:

(A) The term “elderly person” means an individual who is 62 years of age or older.

(B) The term “frail elderly individual” means an individual who, or a family where each individual, is at least 62 years old and is unable to perform at least 3 activities of daily living adopted by the Secretary for the purposes of this program. Public housing agencies may establish additional eligibility requirements based on the standards in local service programs.

(C) The term “State” means any State of the United States and the Commonwealth of Puerto Rico.

(D) The term “unit of general local government” means a city, town, township, county, parish, village, or other general purpose political subdivision of a State; the District of Columbia; and Guam, the Northern Mariana Islands, the Virgin Islands, and American Samoa, the Federated States of

Micronesia and Palau, the Marshall Islands, or a general purpose political subdivision thereof.

(i) **REPORT.**—Not less than annually, the Secretary shall submit to Congress a report evaluating the effectiveness of the demonstration, which shall include a statement of the number of persons served, the types of services provided, the cost of providing such services, and any other information the Secretary considers appropriate in evaluating the demonstration.

(j) **AVAILABLE SECTION 8 ASSISTANCE.**—The Secretary may, for fiscal year 1991, provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 in connection with the demonstrations under this section, in an amount not to exceed \$34,000,000, subject to the approval of sufficient amounts in appropriations Acts under section 5 of such Act.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for the Secretary to carry out the responsibilities for supportive services under the demonstrations under this section, \$10,000,000, to become available in fiscal year 1991 and remain available until expended.

(l) **IMPLEMENTATION.**—Not later than the expiration of the 120-day period beginning on the date that funds authorized for the demonstrations under this section first become available for obligation, the Secretary shall by notice establish such requirements as may be necessary to carry out the demonstration programs authorized under this section.

SEC. 352. HOPE FOR VACANT PUBLIC HOUSING UNITS.

(a) **CONTRACTS.**—The Secretary of Housing and Urban Development (in this section referred to as the “Secretary”) may make available and contract to make available financial assistance in the form of grants to public housing agencies for the purpose of improving the physical condition of existing vacant units in low-rent public housing projects for use as residences.

(b) **ELIGIBLE PUBLIC HOUSING.**—Assistance under this section may be made available for units in low-rent housing projects that—

(1) are owned by public housing agencies;

(2) are operated as rental housing projects and assisted under section 5 or section 9 of the United States Housing Act of 1937;

(3) are not assisted under section 8 of such Act;

(4) are vacant at the time the assistance under this section is received; and

(5) meet such other requirements as the Secretary may prescribe.

(c) **ASSESSMENT.**—

(1) **SMALL PHA.**—For any public housing agency that operates 500 or less public housing dwelling units, the public housing agency shall file with the Secretary, not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1990, a plan in a form established by the Secretary that the Secretary develops in coordination with appropriate local officials. The plan shall identify any vacant public housing dwelling units and propose a plan of action with respect to such units to ensure that each unit will be available for occupancy or demolished or disposed of in accordance with section 18 of the United States Housing Act of 1937 within 5 years after the submission of the plan. The plan shall include an estimate of rehabilitation costs, for each unit to be rehabilitated, necessary to ensure that the

unit will meet housing quality standards established by the Secretary.

(2) **LARGE PHA.**—For any public housing agency that operates 500 or more public housing dwelling units, the public housing agency shall file with the Secretary, not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1990, a 5-year comprehensive plan. The plan shall identify any vacant public housing dwelling units, identify the reason for the vacancies, and propose a plan of action for each such unit to ensure that the unit will be available for occupancy, or demolished or disposed of in accordance with the provisions of section 18 of the United States Housing Act of 1937, within 5 years after the submission of the plan. The plan shall include an estimate of rehabilitation costs, for each unit to be rehabilitated, necessary to ensure that the unit will meet housing quality standards established by the Secretary. A public housing agency under this paragraph that receives assistance under this section shall annually submit to the Secretary a statement and performance report with respect to the vacant housing assisted, in the form and manner established by the Secretary.

(d) **APPLICATION.**—To be eligible to receive assistance under this section, a public housing agency shall file an application for such assistance in the form and manner established by the Secretary.

(e) **USE OF ASSISTANCE.**—A public housing agency that receives assistance under this section may use such amounts only—

(1) to undertake activities specified in the plan provided pursuant to subsection (c)(1), or in the comprehensive plan or annual statement provided pursuant to subsection (c)(2), as applicable; and

(2) for the costs of developing the plan required under subsection (c)(1), or the comprehensive plan, annual statement and performance report required under subsection (c)(2), as applicable.

(f) **LIMITATION ON ASSISTANCE.**—Assistance may not be made available under this section to any public housing agency for any year subsequent to the first year such assistance is made available to such agency, unless the Secretary has determined that such agency has made substantial efforts to meet the objectives for the preceding year under the plan required pursuant to paragraph (1) or (2) of subsection (c), as applicable, and approved by the Secretary.

(g) **ALLOCATION OF ASSISTANCE.**—The Secretary shall allocate assistance under this section in the manner assistance is allocated under section 14 of the United States Housing Act of 1937.

(h) **REPORT.**—The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

(1) a description of the allocation, distribution, and use of assistance under this section on a regional basis and on the basis of public housing agency size; and

(2) a national compilation of the total funds requested in comprehensive plans for all public housing agencies owning or operating 500 or more public housing dwelling units.

(i) **REGULATIONS.**—The Secretary shall issue any regulations necessary to carry out this section, including regulations establishing housing quality standards comparable to the standards issued under section 14(j)(2) of the United States Housing Act of 1937.

(j) **APPLICABILITY TO INDIAN PUBLIC HOUSING.**—In accordance with section 201(b)(2) of

the United States Housing Act of 1937, this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority.

(k) **DEFINITIONS.**—For purposes of this section, the terms "public housing", "public housing agency", and "project" have the same meaning given the terms under section 3(b) of the United States Housing Act of 1937.

(l) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$250,000,000 for fiscal year 1991.

SEC. 353. HOPE FOR FAMILY SELF-SUFFICIENCY PROGRAM.

(a) **IN GENERAL.**—The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.) is amended by adding at the end the following new section:

"SEC. 22. HOPE FOR FAMILY SELF-SUFFICIENCY PROGRAM.

"(a) **PURPOSE.**—The purpose of the HOPE for Family Self-Sufficiency program established under this section is to promote the development of local strategies to coordinate use of public housing and assistance under the certificate and voucher programs under section 8 with public and private resources, to enable eligible families to achieve economic independence and self-sufficiency.

"(b) **ESTABLISHMENT OF PROGRAM.**—

"(1) **REQUIRED PROGRAMS.**—Except as provided in paragraph (2), the Secretary shall carry out a program under which each public housing agency that administers assistance under subsection (b) or (c) of section 8 or provides public housing shall carry out a local HOPE for Family Self-Sufficiency program under this section. Each local program shall, subject to availability of supportive services, include an action plan under subsection (g) and shall provide comprehensive supportive services for families electing to participate in the program. In carrying out the self-sufficiency program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies and provide for cooperative actions and funding agreements with such agencies. Each public housing agency administering an approved local program may employ a service coordinator to administer the local program.

"(2) **EXCEPTION.**—The Secretary shall not require a public housing agency to carry out a local program under subsection (a) if the public housing agency demonstrates, to the satisfaction of the Secretary, that the establishment and operation of the program is not feasible because of local circumstances, including—

"(A) lack of supportive services funding;

"(B) lack of funding for reasonable administrative costs;

"(C) lack of cooperation by other units of State or local government; and

"(D) any other circumstances that the Secretary may consider appropriate.

"(c) **CONTRACT OF PARTICIPATION.**—

"(1) **IN GENERAL.**—Each public housing agency carrying out a local program under this section shall enter into a contract with each leaseholder receiving assistance under the certificate and voucher programs of the public housing agency under section 8 or residing in public housing administered by the agency, that elects to participate in the self-sufficiency program under this section. The contract shall set forth the provisions of the local program and shall specify the re-

sources and supportive services to be made available to the participating family pursuant to paragraph (2) and the responsibilities of the participating family.

"(2) **SUPPORTIVE SERVICES.**—A local program under this section shall provide supportive services in accordance with the terms and conditions of the contract of participation under paragraph (1) to each participating family. The supportive services shall be provided during the period the family is receiving assistance under section 8 or residing in public housing, and may include—

"(A) child care;

"(B) transportation necessary to receive services;

"(C) remedial education;

"(D) education for completion of high school;

"(E) job training and preparation;

"(F) substance abuse treatment and counseling;

"(G) training in homemaking and parenting skills;

"(H) training in money management;

"(I) training in household management;

"(J) any other services and resources appropriate to assist eligible families to achieve economic independence and self-sufficiency.

"(3) **TERM AND EXTENSION.**—Each family participating in a local program shall be required to fulfill its obligations under the contract of participation not later than 5 years after entering into the contract. The public housing agency shall extend the term of the contract for any family that requests an extension, upon a finding of the agency of good cause.

"(4) **EMPLOYMENT AND COUNSELING.**—The contract of participation shall require the head of the participating family to seek suitable employment during the term of the contract. The public housing agency may, during such period, provide counseling for the family with respect to affordable rental and homeownership opportunities in the private housing market and money management counseling.

"(d) **MAXIMUM RENTS AND ESCROW SAVINGS ACCOUNTS.**—

"(1) **MAXIMUM RENTS.**—During the term of the contract of participation, the amount of rent paid by a participating family for occupancy in the public housing unit or dwelling unit assisted under section 8 may not be increased on the basis of any increase in the earned income of the family. Upon completion of the contract of participation, if the participating family continues to qualify for and reside in a dwelling unit in public housing or housing assisted under section 8, the rent charged the participating family shall be increased to 30 percent of the monthly adjusted income of the family.

"(2) **ESCROW SAVINGS ACCOUNTS.**—For each participating family, the difference between 30 percent of the income of the participating family and the amount of rent paid by a participating family shall be placed in an interest-bearing escrow account established by the public housing agency on behalf of the participating family. Amounts in the escrow account may be withdrawn by the participating family only after the family is no longer a recipient of any Federal, State, or other public assistance for housing.

"(e) **EFFECT OF INCREASES IN FAMILY INCOME.**—Any increase in the earned income of a family during the participation of the family in a local program established under this section may not be considered as income or a resource for purposes of eligibil-

ity of the family for benefits, or amount of benefits payable to the family, under any program administered by the Secretary, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

"(f) PROGRAM COORDINATING COMMITTEE.—

"(1) FUNCTIONS.—Each public housing agency shall, in consultation with the chief executive officer of the unit of general local government, develop an action plan under subsection (g), carry out activities under the local program, and secure commitments of public and private resources through a program coordinating committee established by the public housing agency under this subsection.

"(2) MEMBERSHIP.—The program coordinating committee may consist of representatives of the public housing agency, the unit of general local government, the local agencies (if any) responsible for carrying out programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, and other organizations, such as other State and local welfare and employment agencies, public and private education or training institutions, nonprofit service providers, and private businesses. The public housing agency may, in consultation with the chief executive officer of the unit of general local government, utilize an existing entity as the program coordinating committee if it meets the requirements of this subsection.

"(g) ACTION PLAN.—

"(1) REQUIRED SUBMISSION.—The Secretary shall require each public housing agency participating in the self-sufficiency program under this section to submit to the Secretary, for approval by the Secretary, an action plan under this subsection in such form and in accordance with such procedures as the Secretary shall require.

"(2) DEVELOPMENT OF PLAN.—In developing the plan, the public housing agency shall consult with the chief executive officer of the applicable unit of general local government, the program coordinating committee established under subsection (f), representatives of residents of the public housing, any local agencies responsible for programs under the Job Training Partnership Act and the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act, other appropriate organizations (such as other State and local welfare and employment or training institutions, child care providers, nonprofit service providers, and private businesses), and any other public and private service providers affected by the operation of the local program.

"(3) CONTENTS OF PLAN.—The Secretary shall require that the action plan contain at a minimum—

"(A) a description of the size, characteristics, and needs of the population of the families expected to participate in the local self-sufficiency program;

"(B) a description of the number of eligible participating families who can reasonably be expected to receive supportive services under the program, based on available and anticipated Federal, State, local, and private resources;

"(C) a description of the services and activities under subsection (c)(2) to be provided to families receiving assistance under this section through the section 8 and public housing programs, which shall be provided by both public and private resources;

"(D) a description of how the local program will deliver services and activities according to the needs of the families participating in the program;

"(E) a description of both the public and private resources that are expected to be made available to provide the activities and services under the local program;

"(F) a timetable for implementation of the local program; and

"(G) assurances satisfactory to the Secretary that development of the services and activities under the local program has been coordinated with the Job Opportunities and Basic Skills Training Program under part F of title IV of the Social Security Act and program under the Job Training Partnership Act and any other relevant employment, child care, transportation, training, and education programs in the applicable area, and that implementation will continue to be coordinated, in order to avoid duplication of services and activities.

"(h) ALLOWABLE PUBLIC HOUSING AGENCY ADMINISTRATIVE FEES AND COSTS.—

"(1) SECTION 8 FEES.—The Secretary shall establish a fee under section 8(q) for the costs incurred in administering the provision of certificate and voucher assistance under section 8 through the self-sufficiency program under this section, except that for purposes of the fee under this subsection, the applicable percentage of the fair market rental under the second sentence section 8(q)(1) shall be 9 percent and the applicable dollar amount for preliminary expenses under subsection 8(q)(2)(A)(i) shall be \$300.

"(2) PERFORMANCE FUNDING SYSTEM.—Notwithstanding any provision of section 9, the Secretary shall provide for inclusion under the performance funding system under section 9 of reasonable and eligible administrative costs (including the costs of employing a full-time service coordinator) incurred by public housing agencies carrying out local programs under this section. The Secretary shall include an estimate of the administrative costs likely to be incurred by participating public housing agencies in the annual budget request for the Department of Housing and Urban Development for public housing operating assistance under section 9 and shall include a request for such amounts in the budget request.

"(3) AUTHORIZATION OF APPROPRIATIONS.—Of any amounts appropriated under section 9(c) for fiscal year 1991, \$25,000,000 is authorized to be used for costs under paragraph (2).

"(i) PUBLIC HOUSING AGENCY INCENTIVE AWARD ALLOCATION.—

"(1) IN GENERAL.—The Secretary shall carry out a competition for budget authority for certificate and voucher assistance under section 8 and public housing development assistance under section 5(a)(2) reserved under paragraph (4) and shall allocate such budget authority to public housing agencies pursuant to the competition.

"(2) CRITERIA.—The competition shall be based on successful and outstanding implementation by public housing agencies of a local self-sufficiency program under this section. The Secretary shall establish performance criteria for public housing agencies carrying out such local programs and the Secretary shall cause such criteria to be published in the Federal Register.

"(3) USE.—Each public housing agency that receives an allocation of budget authority under this subsection shall use such authority to provide assistance under the local self-sufficiency program established by the public housing agency under this section.

"(4) RESERVATION OF BUDGET AUTHORITY.—Notwithstanding section 213(d) of the Housing and Community Development Act of 1974, the Secretary shall reserve for allocation under this subsection not less than 10 percent of the budget authority available in fiscal year 1991 and each fiscal year thereafter for certificate and voucher assistance under section 8 and not less than 10 percent of the public housing development assistance available in such fiscal years under section 5(a)(2).

"(j) ON-SITE FACILITIES.—Each public housing agency carrying out a local program may, subject to the approval of the Secretary, make available and utilize common areas or unoccupied public housing units in public housing projects administered by the agency for the provision of supportive services under the local program. The use of the facilities of a public housing agency under this subsection shall not affect the amount of assistance provided to the agency under section 9.

"(k) FLEXIBILITY.—In establishing and carrying out the self-sufficiency program under this section, the Secretary shall allow public housing agencies, units of general local government, and other organizations discretion and flexibility, to the extent practicable, in developing and carrying out local programs.

"(l) REPORTS.—

"(1) TO SECRETARY.—Each public housing agency that carries out a local self-sufficiency program approved by the Secretary under this section shall submit to the Secretary, not less than annually a report regarding the program. The report shall include—

"(A) a description of the activities carried out under the program;

"(B) a description of the effectiveness of the program in assisting families to achieve economic independence and self-sufficiency;

"(C) a description of the effectiveness of the program in coordinating resources of communities to assist families to achieve economic independence and self-sufficiency; and

"(D) any recommendations of the public housing agency or the appropriate local program coordinating committee for legislative or administrative action that would improve the self-sufficiency program carried out by the Secretary and ensure the effectiveness of the program.

"(2) HUD ANNUAL REPORT.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, a report summarizing the information submitted by public housing agencies under paragraph (1). The report under this paragraph shall also include any recommendations of the Secretary for improving the effectiveness of the self-sufficiency program under this section.

"(m) GAO REPORT.—

"(1) IN GENERAL.—The Comptroller General of the United States shall submit to the Congress reports under this subsection evaluating and describing the HOPE for Family Self-Sufficiency program carried out by the Secretary under this section.

"(2) TIMING.—The Comptroller General shall submit the following reports under this subsection:

"(A) An interim report, not later than the expiration of the 2-year period beginning on the effective date of the final regulations issued under subsection (o).

"(B) A final report, not later than the expiration of the 5-year period beginning on the effective date of the final regulations issued under subsection (o).

"(n) DEFINITIONS.—As used in this section:

"(1) The term 'contract of participation' means a contract under subsection (c) entered into by a public housing agency carrying out a local program under this section and a participating family.

"(2) The term 'earned income' means income from wages, tips, salaries, and other employee compensation, and any earnings from self-employment. The term does not include any pension or annuity, transfer payments, or any cash or in-kind benefits.

"(3) The term 'local program' means a program for providing supportive services to participating families carried out by a public housing agency within the jurisdiction of the public housing agency.

"(4) The term 'participating family' means a family that resides in public housing or housing assisted under section 8 and elects to participate in a local self-sufficiency program under this section.

"(o) EFFECTIVE DATE AND REGULATIONS.—

"(1) REGULATIONS.—Not later than the expiration of the 180-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990, the Secretary shall by notice establish any requirements necessary to carry out this section. Such requirements shall be subject to section 553 of title 5, United States Code. The Secretary shall issue final regulations based on the notice not later than the expiration of the 8-month period beginning on the date of the notice. Such regulations shall become effective upon the expiration of the 1-year period beginning on the date of the publication of the final regulations.

"(2) APPLICABILITY TO INDIAN PUBLIC HOUSING.—In accordance with section 201(b)(2), the provisions of this section shall also apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

"(p) GRANTS FOR SELF-SUFFICIENCY FAMILY INVESTMENT CENTERS.—

"(1) PURPOSE.—The purpose of this subsection is to provide families living in public housing with better access to educational and employment opportunities to achieve self-sufficiency and independence by—

"(A) developing facilities in or near public housing for training and support services offered under local self-sufficiency programs under this section;

"(B) mobilizing public and private resources to expand and improve the delivery of such services; and

"(C) providing funding for such essential training and support services that cannot otherwise be funded.

"(2) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants to public housing agencies carrying out local self-sufficiency programs to adapt public housing to help families living in the public housing (and other families participating in the self-sufficiency program) gain better access to educational and job opportunities to achieve self-sufficiency and independence. Facilities assisted under this subsection shall be in or near the premises of public housing.

"(3) USE OF AMOUNTS.—Except as provided in paragraph (7)(B), amounts received from a grant under this subsection may only be used for—

"(A) the renovation, conversion, or combination of vacant dwelling units in a public housing project to create common areas to accommodate the provision of supportive services under a local self-sufficiency program under this section;

"(B) the renovation of existing common areas in a public housing project to accom-

modate the provision of such supportive services;

"(C) the renovation of facilities located near the premises of 1 or more public housing projects to accommodate the provision of such supportive services; and

"(D) the provision of not more than 15 percent of the cost of any supportive services under subsection (c)(2), which may be provided directly to residents of the public housing participating in the local self-sufficiency program (and other participants) by the public housing agency or by contract or lease through other appropriate agencies or providers.

"(4) ALLOCATION OF GRANT AMOUNTS.—The Secretary shall allocate any amounts appropriated under paragraph (9) among public housing agencies carrying out local self-sufficiency programs that have submitted applications under paragraph (5) and are selected by the Secretary.

"(5) APPLICATIONS.—Applications for assistance under this subsection shall be submitted in such form and in accordance with such procedures as the Secretary shall establish. Each application for assistance shall contain—

"(A) a description of the supportive services under the local self-sufficiency program that are to be provided over a 5-year period (or such longer period that the Secretary determines to be appropriate if assistance is provided for activities under paragraph (3) that involve substantial rehabilitation);

"(B) a firm commitment of assistance from 1 or more sources ensuring that the supportive services will be provided for not less than 1 year following the completion of activities assisted under paragraph (3);

"(C) a description under paragraph (3)(E) of subsection (g), which shall include evidence of any intention to provide assistance expressed by State and local governments, private foundations, and other organizations (including profit and nonprofit organizations);

"(D) certification from the appropriate State or local agency (as determined by the Secretary) that—

"(i) the local self-sufficiency program is well designed to provide resident families better access to educational and employment opportunities; and

"(ii) there is a reasonable likelihood that services under the program will be funded or provided for the entire period specified under subparagraph (A);

"(E) a description of assistance for which the public housing agency is applying under this subsection;

"(F) a copy of the action plan under subsection (g) for the local self-sufficiency program of the public housing agency; and

"(G) any other information or certifications that the Secretary determines are necessary or appropriate to achieve the purposes of this subsection.

"(6) SELECTION.—The Secretary shall establish selection criteria for grants under this subsection, which shall take into account—

"(A) the ability of the public housing agency or a designated service provider to carry out the local self-sufficiency program;

"(B) the need for such program in the public housing project;

"(C) the extent to which the envisioned renovation, conversion, and combination activities are appropriate to facilitate the provision of services under the program;

"(D) the extent to which the public housing agency has demonstrated that services under the program will be provided for the period identified under paragraph (5)(A);

"(E) the extent to which the public housing agency has a good record of maintaining and operating public housing; and

"(F) any other factors that the Secretary determines to be appropriate to ensure that amounts made available under this subsection are used effectively.

"(7) GRANT REQUIREMENTS.—

"(A) IN GENERAL.—The Secretary shall ensure that each public housing agency that receives a grant under this subsection has the capacity, in the determination of the Secretary, to—

"(i) carry out the local self-sufficiency program under this section; and

"(ii) seek, on a continuous basis, new sources of assistance to ensure long-term funding for supportive services.

"(B) FUNDING.—Public housing agencies may use amounts received from grants under this subsection to carry out the requirements of this subsection, and the Secretary may permit public housing agencies to use existing sources of funds for such purposes.

"(8) REPORTS.—

"(A) TO SECRETARY.—Each public housing agency receiving a grant under this subsection shall submit to the Secretary, in such form and at such time as the Secretary shall prescribe, an annual progress report describing and evaluating the use of grant amounts received under this subsection.

"(B) TO CONGRESS.—The Secretary shall submit to the Congress annually, as a part of the report of the Secretary under section 8 of the Department of Housing and Urban Development Act, an evaluation of the effectiveness of activities carried out with grants under this subsection in such fiscal year. Such report shall summarize the progress reports submitted pursuant to subparagraph (A).

"(9) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this subsection \$25,000,000 in fiscal year 1991, and such sums as may be appropriated in fiscal years 1992 and 1993."

Subtitle E—Housing Opportunity Zones

SEC. 361. BASIC AUTHORITY AND PURPOSE.

(a) AUTHORITY AND PURPOSE.—The Secretary is authorized to designate housing opportunity zones and approve barrier removal plans for cities and urban counties, as provided by and in accordance with this subtitle, for the purpose of encouraging these jurisdictions to remove legislative and administrative barriers to the production of new and substantially rehabilitated housing that is affordable to lower-, moderate-, and middle-income families.

(b) NOTICE.—The Secretary shall establish standards to implement the provisions of this subtitle by notice published in the Federal Register not later than 120 days after the date of the enactment of this Act.

(c) RELATED ASSISTANCE.—The Secretary is authorized to promulgate or revise any insurance, guarantee, or financial or other assistance program or administrative requirement or regulation of the Secretary that is not required by law, in support of barrier removal plans and housing opportunity zones. To the extent such promulgation or revision relates only to actions that pertain to such zones or such plans, the Secretary may take such action by notice published in the Federal Register.

SEC. 362. DEFINITIONS.

For purposes of this subtitle:

(1) BARRIER.—The term "barrier" means any requirement promulgated by the legislative or executive body of any State or

local governmental entity that inhibits the production in the eligible jurisdiction of housing that is affordable to lower-, moderate-, and middle-income families, except that such term shall not include any requirement promulgated by the legislative or executive body of any State or local governmental entity pursuant to any requirement under Federal law.

(2) **CITY.**—The term "city" has the meaning given such term under section 102 of the Housing and Community Development Act of 1974.

(3) **ELIGIBLE JURISDICTION.**—The term "eligible jurisdiction" means a city that has a population of 50,000 or more, or an urban county, that received a formula allocation of rental rehabilitation grants under section 17(b)(1) of the United States Housing Act of 1937 for the fiscal year immediately preceding the fiscal year in which housing opportunity zones and barrier removal plans are designated and approved, respectively.

(4) **HOUSING OPPORTUNITY ZONE.**—The terms "housing opportunity zone" and "zone" mean a geographic area designated by the Secretary that (A) has significant amounts of vacant land or vacant buildings that have potential for development or redevelopment for housing affordable to lower-, moderate-, and middle-income families; (B) has continuous boundaries and covers the entire area within these boundaries; and (C) covers an area that is less than coterminous with, but wholly within, the boundaries of the eligible jurisdiction.

(5) **LOWER-, MODERATE-, AND MIDDLE-INCOME FAMILY.**—The term "lower-income family" means a family or individual whose income does not exceed 80 percent of the median income of the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 80 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. The term "moderate-income family" means a family or individual whose income exceeds 80 percent, but does not exceed 95 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 95 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. The term "middle-income family" means a family or individual whose income exceeds 95 percent, but does not exceed 115 percent, of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings that are higher or lower than 115 percent of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes. For purposes of such terms, the area involved shall be determined in the same manner as such area is determined for purposes of assistance under section 8 of the United States Housing Act of 1937.

(6) **SECRETARY.**—The term "Secretary" means the Secretary of Housing and Urban Development.

(7) **URBAN COUNTY.**—The term "urban county" has the meaning given such term under section 102 of the Housing and Community Development Act of 1974.

SEC. 363. HOUSING OPPORTUNITY ZONES.

(a) **DESIGNATION.**—The Secretary shall designate not more than 50 housing opportunity zones. All zone designations shall be made at one time. The Secretary shall make zone designations for those eligible jurisdictions that, in the Secretary's discretion, as reflected in the applications, have the best chances of achieving the purposes of this subtitle, except that the Secretary also shall have discretion to attain geographic diversity in making zone designations.

(b) **APPLICATIONS.**—Each zone designation shall be made on the basis of an application from an eligible jurisdiction. Each application for designation of a housing opportunity zone shall specify—

(1) the location, boundaries, and character of the proposed zone, including any maps or other supporting material that the Secretary deems appropriate;

(2) the actions that the applicant will take during the term of the designation to remove particular barriers within the zone, including the applicant's timetable for taking the actions;

(3) a plan for the production of housing affordable to lower-, moderate-, and middle-income families, respectively, in the zone, which plan shall include a description of the quantities and types of housing to be produced and a timetable for their production;

(4) a clear delineation of the relationship between barriers to be removed and the housing to be produced, including the effect of removing the barriers on reducing the price of housing;

(5) actions that an applicant shall take to emphasize homeownership opportunities for lower-, moderate-, and middle-income families;

(6) any other local support for zone activities, including commitments of financial or technical assistance from public and private entities and persons, including (but not limited to) such resources derived from community development block grants and programs of State assistance, donations of land, buildings, and other resources, and the abatement of relevant taxes, fees, and charges; and

(7) such other information as the Secretary shall require.

(c) **HIGHER INCOME AREAS.**—In the case of an eligible jurisdiction having a median family income higher than the median family income for the metropolitan statistical area in which it is located, the application for designation of a housing opportunity zone shall particularly emphasize producing housing to meet the needs of lower-income families.

SEC. 364. SELECTION OF HOUSING OPPORTUNITY ZONES.

The Secretary shall designate housing opportunity zones on the basis of a national competition, using the following selection criteria:

(1) The extent to which the zone has substantial potential for accommodating the production of housing.

(2) The extent to which housing produced in the zone will be affordable to lower-, moderate-, or middle-income families.

(3) The extent to which the removal of the barriers specified in the application will have a substantial effect on lowering the cost of housing.

(4) The extent to which the application emphasizes homeownership opportunities.

(5) The extent to which the applicant's proposed barrier removals and housing activities are capable of accomplishment within the period of the zone designation.

(6) The extent of any other local support for zone activities.

(7) Any other factors that the Secretary may require.

SEC. 365. BARRIER REMOVAL PLANS.

The Secretary may approve barrier removal plans submitted by eligible jurisdictions. All such approvals shall be made at one time, when the housing opportunity zones are designated under this subtitle. Eligible jurisdictions may apply both for housing opportunity zone designation and barrier removal plan approval, but may not be approved for both. Plans shall apply to the entire jurisdiction for which application is made, and shall identify the barriers to affordable housing for lower-, moderate-, or middle-income families, describe the steps that the locality intends to take to remove the barriers, and set forth a timetable for achieving such steps. The Secretary shall specify in the notice referred to in section 361(b) such minimum standards for the approval of plans as the Secretary deems appropriate.

SEC. 366. TERM AND REVOCATION OF HOUSING OPPORTUNITY ZONE DESIGNATIONS AND BARRIER REMOVAL PLAN APPROVALS.

(a) **TERM OF APPROVAL OR DESIGNATION.**—The approval of any barrier removal plan and the designation of any housing opportunity zone shall be effective for a term that shall not exceed 2 years, and no such approval or designation shall be made after the expiration of the 2-year period beginning on the date of the enactment of this Act.

(b) **REVIEW AND REVOCATION.**—Not less than annually, the Secretary shall review the progress of each jurisdiction with a designated zone or an approved plan in undertaking the actions specified in its application. If, in the Secretary's sole judgment, the jurisdiction is not making substantial progress in achieving the purposes of this subtitle, the Secretary may revoke the approval of the barrier removal plan or the designation of the housing opportunity zone.

(c) OBLIGATIONS UNDER RELATED PROGRAMS.

(1) **EFFECT OF REVOCATION.**—The revocation of a plan approval or zone designation under this subtitle shall not affect obligations under any other law except to the extent that there is documentary evidence that the Secretary made such obligation subject to the continuation without revocation of the approval or designation.

(2) **BENEFITS.**—For a period of 1 year after the approval or designation ceases to be effective, the Secretary shall have the authority to accord to the jurisdiction that has had a designated zone the benefits under sections 203(b)(2)(iv) and 203(k)(6) of the National Housing Act.

SEC. 367. REPORTS.

(a) **ANNUAL PERFORMANCE REPORTS.**—The Secretary may require each jurisdiction that has an approved barrier removal plan or a designated housing opportunity zone to make annual performance reports in support of the Secretary's responsibility to conduct progress reviews and otherwise.

(b) **FINAL REPORTS.**—Each jurisdiction that has an approved barrier removal plan or a designated housing opportunity zone shall submit a final report to the Secretary, in such form as the Secretary requires, within six months after the plan approval or zone designation ceases to be effective.

(c) REPORT TO CONGRESS.—The Secretary shall evaluate the programs under this subtitle, and report conclusions and make recommendations to the Congress within 5 years following the date of the original designations and approvals.

SEC. 368. RENTAL REHABILITATION GRANT BONUS.

Section 17(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437o(b)(2)) is amended by adding at the end the following new subparagraph:

"(C) The Secretary is authorized to increase, by 5 percent for an approved barrier removal plan or 10 percent for a designated housing opportunity zone, the amount allocated and otherwise adjusted under this subsection for any jurisdiction that has an approved plan or a designated zone, respectively, under subtitle E of title III of the Housing and Community Development Act of 1990."

SEC. 369. CDBG LOW- AND MODERATE-INCOME BENEFIT IN HOUSING OPPORTUNITY ZONES.

Section 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)) is amended—

(1) striking "and (B)" and inserting the following: "(B) if the grantee is a severely distressed unit of local government and conducts an activity in a designated housing opportunity zone under subtitle E of title III of the Housing and Community Development Act of 1990, to the extent so conducted, the activity shall be deemed to principally benefit low- and moderate-income persons; for purposes of construing the preceding clause, 'severely distressed unit of local government' means a unit of general local government (i) for which a major disaster is declared, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that meets such other standards as the Secretary may determine, or (ii) that meets the standards established by the Secretary for determining severe distress, which standards shall be based upon measures of the lack of capacity of units of general local government to meet the needs of low- and moderate-income persons with their own resources; and (C)";

SEC. 370. REUSE OF URBAN RENEWAL LAND IN HOUSING OPPORTUNITY ZONES.

The Secretary is authorized to modify or waive any term or condition entered into by the Secretary regarding the use or disposition of urban renewal project land, any part of which is located in a housing opportunity zone, including payment of disposition proceeds to the Secretary, under a closeout grant made pursuant to section 106(i) of the Housing Act of 1949 or section 103(b) of the Housing and Community Development Act of 1974, if such action may assist in the carrying out of any activity in such zone.

SEC. 371. URBAN HOMESTEADING PREFERENCE.

Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706(e)) is amended by adding at the end the following new subsection:

"(n)(1) In selecting urban homesteading programs for approval under subsection (b), the Secretary shall give preference to any unit of general local government that includes a designated housing opportunity zone under subtitle E of title III of the Housing and Community Development Act of 1990.

"(2) In allocating money for reimbursement under subsection (g), the Secretary shall give preference to making reimbursements for properties that are requested by units of general local government that in-

clude a designated housing opportunity zone."

SEC. 372. SINGLE FAMILY MORTGAGE INSURANCE IN HOUSING OPPORTUNITY ZONES.

(a) LOAN AMOUNT.—The last sentence of paragraph (2) of section 203(b) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended—

(1) by striking "or" before "(iii)"; and
(2) by inserting before the period at the end the following: ", or (iv) the dwelling is located in a designated housing opportunity zone under subtitle E of title III of the Housing and Community Development Act of 1990".

(b) REHABILITATION.—Section 203(k) of the National Housing Act (12 U.S.C. 1709(k)) is amended by adding at the end the following new paragraph:

"(6)(A) The Secretary is authorized to promulgate regulations that shall, in addition to other purposes under this title, promote the rehabilitation of housing for lower-, moderate-, or middle-income families (as defined in subtitle E of title III of the Housing and Community Development Act of 1990) in housing opportunity zones designated under title III of such Act.

"(B) The regulations under this paragraph may provide for the Secretary—

"(i) to delegate to a public agency the authority under this subsection to prescribe and implement standards and procedures that shall be in accord with this section and approved by the Secretary, for credit reviews, rehabilitation activities, and other eligibility requirements; and

"(ii) to share the insurance risk with a public agency, through indemnification, co-insurance, or other means the Secretary finds to be appropriate.

"(C) Any action taken by a public agency pursuant to the delegated authority shall be subject to review by the Secretary."

SEC. 373. APPLICABILITY OF OTHER LAWS.

Unless otherwise expressly provided in this subtitle and the amendments made by this subtitle, this subtitle and the amendments made by this subtitle may not be construed to annul, alter, affect, or exempt the applicability of, any other Federal laws or regulations.

TITLE IV—COMMUNITY HOUSING PARTNERSHIP

SEC. 401. SHORT TITLE.

This title may be cited as the "Community Housing Partnership Act".

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the goals of the Federal housing laws, set out in the Housing Act of 1949 and reaffirmed in the Housing and Urban Development Act of 1968, are to provide affordable, decent, safe, and sanitary living environments for all Americans;

(2) there is an increasing number of Americans whose living environments have deteriorated over the past several years as a result of reductions in Federal assistance to low- and moderate-income families;

(3) many Americans face the possibility of homelessness unless Federal, State, and local governments work together with the private sector to develop and rehabilitate the housing stock of the Nation to provide affordable, safe, decent, and sanitary housing for low- and moderate-income families;

(4) in order to fulfill the goals of the Federal housing laws, there is a need to develop a cost-effective community based housing development program under which—

(A) the rents charged to tenants will be based on the actual cost of the construction and management of the housing; and

(B) the Federal, State, and local investment in low- and moderate-income housing will be preserved to ensure continuity of providing housing for low- and moderate-income families in perpetuity;

(5) an increasing number of States and cities have been successful in producing cost-effective low- and moderate-income housing by working in partnership with local community-based nonprofit sponsors, such as community development corporations, community action agencies, neighborhood housing services, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and other tenant organizations;

(6) during the 1980's, the nonprofit sector has, despite severe obstacles caused by inadequate funding, played an increasingly important role in the production and rehabilitation of affordable housing in communities across the Nation;

(7) nonprofit sponsors need technical skills and financial resources to develop housing programs and otherwise assist low- and moderate-income families; and

(8) the success of housing development programs depends upon tenants and homeowners being fiscally responsible and able managers.

(b) PURPOSE.—It is the purpose of this title—

(1) to develop affordable, safe, decent, and sanitary housing for low- and moderate-income families in a cost-effective manner—

(A) by providing funding to cities and States to be used to maintain the low- and moderate-income housing stock and to make new construction, acquisition, and substantial rehabilitation projects feasible;

(B) by encouraging the development and management of housing projects by nonprofit community based organizations such as community development corporations, community action agencies, neighborhood housing services, trade unions, groups sponsored by religious organizations, limited equity cooperatives, and tenant organizations; and

(C) by encouraging matching funds from private entities and State and local governments to assist in the development of low- and moderate-income housing;

(2) to ensure that Federal investment in low- and moderate-income housing—

(A) produces housing stock that is available to low- and moderate-income tenants at a cost based on the actual cost of the construction (or acquisition) and management of the housing; and

(B) remains available to serve low- and moderate-income families in perpetuity;

(3) as one part of a more comprehensive housing program (including the for-profit private sector and public housing agencies and organizations) needed to meet the housing goals of the Nation, to help to steadily expand the development capacity of the nonprofit sector so that it can play an increasing role in the construction, rehabilitation, and preservation of affordable housing;

(4) to encourage potential nonprofit sponsors to develop the necessary capabilities and resources to undertake the housing development programs contemplated in subtitle B; and

(5) to assist low- and moderate-income families to obtain the skills and knowledge necessary to become responsible homeowners and tenants.

Subtitle A—Housing Education and Organizational Support Grants for Community Based Housing Projects

SEC. 411. PROGRAM AUTHORITY.

In order to facilitate the education of low- and moderate-income homeowners and tenants and to promote the ability of nonprofit sponsors to maintain, rehabilitate and construct housing for low- and moderate-income families, the Secretary of Housing and Urban Development may provide housing education and organizational support grants—

(1) to eligible cities and States to assist nonprofit sponsors and nonprofit organizations; and

(2) directly to nonprofit sponsors and nonprofit organizations.

SEC. 412. ELIGIBLE ACTIVITIES.

Grants made under this subtitle may be used only for the following eligible activities:

(1) **ORGANIZATIONAL SUPPORT GRANT.**—Organizational support grants shall be made by grant administrators to nonprofit sponsors to cover operational expenses and to cover expenses for training and technical, legal, engineering and other assistance to the board of directors, staff, and members of the nonprofit sponsor. Organizational support grants may not be provided under this subtitle for any project-specific activity provided for in section 423(a).

(2) **HOUSING EDUCATION GRANT.**—Housing education grants shall be made by grant administrators to nonprofit organizations to cover expenses for providing or administering programs for educating, counseling, or organizing homeowners and tenants who are eligible to receive assistance under grants made pursuant to subtitle B.

SEC. 413. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle \$14,000,000 for fiscal year 1991. Any amount appropriated under this section shall remain available until expended.

Subtitle B—Community Housing Partnership Grants

SEC. 421. PROGRAM AUTHORITY.

The Secretary may provide the following assistance under this subtitle to facilitate the maintenance, rehabilitation, acquisition, and construction of housing for low- and moderate-income families:

(1) **GRANTS TO CITIES AND STATES.**—Community housing partnership grants to eligible cities and States to assist nonprofit sponsors.

(2) **GRANTS AND LOANS TO NONPROFITS.**—Community housing partnership grants and loans directly to nonprofit sponsors.

SEC. 422. DISTRIBUTION AND ALLOCATION OF COMMUNITY HOUSING PARTNERSHIP FUNDS.

(a) URBAN COMMUNITY HOUSING PARTNERSHIP GRANTS.

(1) **SHARE OF APPROPRIATED FUNDS.**—The Secretary shall allocate 60 percent of any amount appropriated for purposes of carrying out this subtitle (after excluding amounts reserved for use under subsection (e)) for community housing partnership grants to metropolitan cities and urban counties.

(2) APPORTIONMENT OF FUNDS.

(A) **USE OF CDBG FORMULA.**—Except as provided in subparagraph (B), amounts allocated under paragraph (1) for community housing partnership grants shall be apportioned to metropolitan cities and urban counties in the same manner as funds are apportioned under section 106(b) of the

Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)).

(B) **MINIMUM ALLOCATION.**—If the amount allotted in any year to any metropolitan city or urban county under paragraph (2) is less than \$150,000, such city or county shall not receive a community housing partnership grant under this subsection. Such amount shall be distributed pro rata to the cities and counties otherwise receiving funding under subparagraph (A).

(b) STATE COMMUNITY HOUSING PARTNERSHIP GRANTS.

(1) **SHARE OF APPROPRIATED FUNDS.**—The Secretary shall allocate 25 percent of any amount appropriated for purposes of carrying out this subtitle (after excluding amounts reserved for use under subsection (e)) for community housing partnership grants to States for use in areas that do not receive a grant under subsection (a).

(2) **APPORTIONMENT OF FUNDS.**—Amounts allocated under paragraph (1) shall be apportioned among the States in the same manner as funds are apportioned under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)).

(c) DIRECT COMMUNITY HOUSING PARTNERSHIP GRANTS.

(1) **SHARE OF APPROPRIATED FUNDS.**—The Secretary shall allocate 15 percent of any amount appropriated for purposes of carrying out this subtitle (after excluding amounts reserved for use under subsection (e)) for community housing partnership grants to nonprofit sponsors.

(2) **DISTRIBUTION.**—The Secretary shall make grants to nonprofit sponsors from amounts allocated under paragraph (1), with priority given to any nonprofit sponsor—

(A) that will provide services in an area where the local government or State concerned—

(i) is unwilling or unable to participate in obtaining a grant under subsection (a) or (b); or

(ii) is unable to provide matching funds; or

(B) that proposes an innovative housing development.

(3) **DENIED APPLICANTS.**—The Secretary may make grants from amounts allocated under paragraph (1) to nonprofit sponsors that have applied to metropolitan cities and urban counties under subsection (a) or States under subsection (b) for assistance but have been denied assistance or have not been notified of the decision regarding such assistance within 90 days of filing the application for such assistance.

(d) UNUSED FUNDS.

(1) **RESERVATION OR DISTRIBUTION TO PUBLIC AGENCY SPONSORS.**—A grant administrator other than the Secretary that has grant funds remaining at the end of the 12-month period beginning on the date the funds are received from the Secretary may reserve such unused funds for an additional 6-month period or make the funds available to any public agency that—

(A) is willing to act as a nonprofit sponsor, only if the grant administrator certifies that there are no nonprofit sponsors that have applied for or are qualified to receive such unused funds; and

(B) otherwise fulfills the eligibility requirements.

(2) **REALLOCATION.**—A grant administrator other than the Secretary that has grant funds remaining at the end of the 18-month period beginning on the date the funds are received from the Secretary shall return

such unused funds to the Secretary for reallocation under subsection (c).

(e) **COMBINED HOUSING AND ECONOMIC DEVELOPMENT DEMONSTRATION.**—Using the amounts reserved under section 425 for use under this subsection in fiscal year 1991, the Secretary shall carry out a demonstration program for combining housing activities under section 423(c) and economic development activities as follows:

(1) In Milwaukee, Wisconsin, in an amount not to exceed \$4,200,000, for development, rehabilitation, and revitalization of 2 vacant structures in a blighted minority neighborhood.

(2) In Washington, District of Columbia, in an amount not to exceed \$10,000,000, for nonprofit neighborhood-based groups to acquire and rehabilitate vacant public and private housing for resale or rent to low- and moderate-income families and to engage in neighborhood-based economic development activities.

(3) In Philadelphia, Pennsylvania, in an amount not to exceed \$1,000,000, for technical assistance and organizational support for a community development corporation that is a city-wide public/private partnership engaged in the provision of technical assistance to neighborhood community development corporations.

(4) In other areas, as the Secretary may determine.

SEC. 423. ELIGIBLE ACTIVITIES.

(a) PROJECT-SPECIFIC TECHNICAL ASSISTANCE AND SITE CONTROL LOANS.

(1) **IN GENERAL.**—A grant administrator may use funds from a grant received under section 422 to provide technical assistance and site control loans to nonprofit sponsors in the early stages of site development for an eligible project.

(2) **ALLOWABLE EXPENSES.**—A loan may be provided under paragraph (1) to cover project expenses necessary to determine project feasibility, including costs of an initial feasibility study, consulting fees, costs of preliminary financial applications, legal fees, architectural fees, engineering fees, and deposits to obtain options for site control.

(3) **REPAYMENT.**—A nonprofit sponsor that receives a loan under paragraph (1) shall repay the loan to the grant administrator from construction loan proceeds or other project income. The Secretary may waive repayment of the loan if there are impediments to project development.

(b) PROJECT-SPECIFIC SEED MONEY LOANS.

(1) **IN GENERAL.**—Grant administrators may provide loans to nonprofit sponsors to cover preconstruction project expenses, such as obtaining firm construction loan commitments, architectural plans and specifications, zoning approvals, engineering studies and legal fees.

(2) **ELIGIBLE NONPROFIT SPONSORS.**—A grant administrator may provide a loan under paragraph (1) only to a nonprofit sponsor who has, with respect to the project concerned, site control, a preliminary financial commitment, and a capable development team.

(3) **REPAYMENT.**—A nonprofit sponsor that receives a loan under paragraph (1) shall repay the loan to the grant administrator from construction loan proceeds or other project income. The grant administrator may waive repayment of the loan if there are impediments to project development.

(c) PROJECT-SPECIFIC MATCHING GRANT OR LOAN.

(1) **IN GENERAL.**—A grant administrator may provide grants or loans to nonprofit sponsors or nonprofit sponsor partnerships to assist in the new construction, acquisition, or substantial rehabilitation of eligible projects. A grant or loan provided under the preceding sentence may be used to make a project feasible and to reduce rents or sales prices—

(A) by buying down long-term mortgages;

(B) by providing interest reduction payments;

(C) by covering operating deficits;

(D) by providing capital grants or deferred interest loans; or

(E) by providing other assistance to support the rehabilitation, construction, acquisition, and occupancy of the eligible project by low- and moderate-income families.

(2) **MATCHING REQUIREMENT.**—A grant administrator may not provide a grant or loan under this subsection unless the applicant, for every 3 dollars to be provided under the grant or loan, provides 1 dollar of matching funds or commitments, on a present value basis, from—

(A) the State or unit of general local government concerned (such as grants, tax abatements, subsidized loans, tax-exempt financing, or other local subsidy programs); or

(B) a private foundation, financial institution, or other private association or organization (such as grants, below market loans, or syndication proceeds, or equity contributions).

(d) **PROGRAM-WIDE SUPPORT OF NONPROFIT DEVELOPMENT AND MANAGEMENT.**—Each grant administrator shall use not less than 5 percent of the funds received under the grant to provide to eligible nonprofit sponsors—

(1) technical assistance and training; and

(2) continuing support for managing and conserving properties developed under this subtitle.

(e) **USE OF AMOUNTS RECEIVED AS LOAN REPAYMENTS.**—Any grant administrator that receives amounts in repayment of loans made under this subtitle may use such amounts only to carry out the purposes of this subtitle.

SEC. 424. ELIGIBLE PROJECTS.

(a) **ELIGIBLE RENTAL HOUSING PROJECTS.**—In order to be eligible for a grant under section 422, the owner of a rental housing project shall agree to the following requirements:

(1) **TYPES OF PROJECTS.**—The project shall consist of—

(A) multifamily rental housing structures (including limited equity cooperatives) that contain more than 4 independent dwelling units; or

(B) single room occupancy structures that have a capacity of not less than 4 persons (and may include the sharing of common eating and bath facilities).

(2) **OCCUPANCY BY LOWER INCOME FAMILIES.**—In the project—

(A) at least—

(i) 40 percent of the units shall be occupied, or available for occupancy by, lower income families with incomes of less than 60 percent of the area median income, adjusted for family size; or

(ii) 20 percent of the units shall be occupied, or be available for occupancy by, lower income families with incomes of less than 50 percent of the area median income, adjusted for family size; and

(B) at least 10 percent of the units shall be occupied, or available for occupancy by, lower income families with incomes of less

than 30 percent of the area median income, adjusted for family size.

(C) Tenants shall be selected for units in housing projects assisted under this subsection according to criteria that shall give preferences to families who occupy substandard housing, are paying more than 50 percent of family income in rent, or are involuntarily displaced at the time they are seeking assistance in a rental housing project under this subsection. Notwithstanding the preceding sentence, an owner may provide for circumstances in which families who do not qualify for any preference are provided assistance before families who do qualify for such preference, except that not more than 10 percent of the families who initially receive assistance in any 1-year period may be families who do not qualify for such preferences.

(3) **LIMITATION ON RENTAL PAYMENTS BY LOWER INCOME FAMILIES.**—In each project, tenants with incomes below 80 percent of the area median income shall not pay more than 30 percent of their monthly adjusted income toward monthly rental payments.

(4) **PROHIBITION ON ASSISTANCE TO NON-LOWER INCOME FAMILIES.**—Assistance provided under this subtitle may not be used in any project to reduce rental payments for families with incomes above 80 percent of the area median income, adjusted for family size.

(5) **LOWER INCOME USE OF ASSISTANCE.**—Of the assistance provided under this subtitle for eligible rental projects, not less than—

(A) 25 percent shall be used for lower income families with incomes of less than 30 percent of the area median income, adjusted for family size; and

(B) 50 percent shall be used for lower income families with incomes of less than 60 percent of the area median income, adjusted for family size.

(6) **LIMITATION ON PROFITS.**—Aggregate monthly rental for each eligible project may not exceed the cost of operating the project (including debt service, management, adequate reserves, and other operating costs) plus a 6 percent return on the equity investment, if any, of the owner of the project.

(7) **PERIOD OF RESTRICTIONS.**—A project for which assistance is received under this subtitle shall comply with the requirements of paragraphs (2) and (3) in perpetuity.

(8) **RESTRICTIONS ON CONVEYANCE.**—

(A) **APPLICABILITY OF RESTRICTIONS TO SUBSEQUENT OWNERS.**—The ownership interest in a project for which assistance is received under this subtitle may not be conveyed unless the instrument of conveyance requires the new owner to comply with the same restrictions imposed on the original owner.

(B) **ALLOWABLE PROFITS.**—A nonprofit sponsor that receives assistance under this subtitle for a project shall agree to use any profit received from the operation, sale, or other disposition of the project for the purposes of providing low- and moderate-income housing. Profit-motivated partners of nonprofit sponsors in a nonprofit sponsor partnership may receive—

(i) not more than a 6 percent return on their equity investment from project operations; and

(ii) upon disposition of the project, not more than an amount equal to their initial equity investment plus a return on that investment equal to the increase in the Consumer Price Index for the geographic location of the project since the time of the initial investment of such partner in the project.

(9) **TENANT PARTICIPATION PLAN.**—A nonprofit sponsor that receives assistance for a project under this subtitle shall provide a plan for and follow a program of tenant participations in management decisions and shall adhere to a fair lease and grievance procedure approved by the grant administrator.

(b) **HOME OWNERSHIP.**—

(1) **ELIGIBLE UNITS.**—Eligible home ownership units shall include the sale of dwellings (or in the case of a mutual housing corporation or association sponsorship, the sale of indicia of home ownership), including 1- to 4-family homes and dwelling units in a condominium project or cooperative, and any townhouse or manufactured home, provided such dwelling units provide facilities necessary for independent living and comply with—

(A) applicable local building codes; or

(B) in any case in which there is not an applicable building code, a nationally recognized model building code that the Secretary determines to be acceptable.

(2) **ELIGIBLE FAMILIES.**—In order to be eligible to purchase an eligible home ownership unit, a family—

(A) may not have a family income that exceeds—

(i) except as provided in clause (ii), the greater of (I) 115 percent of the area median income for a family of 4 persons, or (II) 115 percent of the State median income for a family of 4 persons; or

(ii) if purchasing a home located in an area that is a high housing cost area (as such term is defined under section 143(f)(5) of the Internal Revenue Code of 1986), the greater of (I) 120 percent of the area median income for a family of 4 persons, or (II) 120 percent of the State median income for a family of 4 persons; and

(B) shall be a first-time homebuyer (as defined in section 431(3) of this subtitle).

(3) **LIMITATION ON PROFITS.**—Eligible nonprofit sponsors and nonprofit sponsor partnerships may not charge a purchase price for any unit built or rehabilitated with assistance under this section in excess of the cost of acquisition, construction, and rehabilitation (including soft costs such as professional fees, costs of interest and insurance, and taxes) and sale of the unit and related common costs of the development plus a development fee of 10 percent of such costs. Any development fee received by a nonprofit sponsor from the sale or other disposition of an assisted project shall be used for the purpose of carrying out a program designed to—

(A) preserve low- and moderate-income housing;

(B) manage low- and moderate-income housing;

(C) provide tenant counseling services for tenants in low- and moderate-income housing; and

(D) provide low- and moderate-income housing.

(4) **RESALE.**—

(A) **DURING FIRST 15 YEARS.**—If a homeowner of a unit assisted under this subsection sells the unit during the 15-year period beginning upon acquisition of the assisted unit by the homeowner, the nonprofit sponsor shall recapture a portion of the proceeds of the sale equal to the sum of—

(i) the amount of assistance provided to the unit under section 423(c); and

(ii) the product of the increased value of the unit and the subsidy factor.

(B) **AFTER FIRST 15 YEARS.**—If a homeowner of a unit assisted under this subsection

sells the unit after the expiration of the 15-year period under subparagraph (A), the nonprofit sponsor shall recapture a portion of the proceeds of the sale as follows:

(i) If the sale occurs during the 1st 1-year period beginning upon the expiration of the period under subparagraph (A), the nonprofit sponsor shall recapture an amount equal to the sum of (I) 80 percent of the amount of assistance provided to the unit under section 423(c), and (II) 80 percent of the product of the increased value of the unit and the subsidy factor.

(ii) If the sale occurs during the 2d such 1-year period, the nonprofit sponsor shall recapture an amount equal to the sum of (I) 60 percent of the amount of assistance provided to the unit under section 423(c), and (II) 60 percent of the product of the increased value of the unit and the subsidy factor.

(iii) If the sale occurs during the 3d such 1-year period, the nonprofit sponsor shall recapture an amount equal to the sum of (I) 40 percent of the amount of assistance provided to the unit under section 423(c), and (II) 40 percent of the product of the increased value of the unit and the subsidy factor.

(iv) If the sale occurs during the 4th such 1-year period, the nonprofit sponsor shall recapture an amount equal to the sum of (I) 20 percent of the amount of assistance provided to the unit under section 423(c), and (II) 20 percent of the product of the increased value of the unit and the subsidy factor.

(v) If the sale occurs during the 5th such 1-year period or at any time thereafter, the nonprofit sponsor may not recapture any proceeds of the sale.

(C) NOTICE OF ASSISTANCE AMOUNT.—Upon initial sale of a homeownership unit under this subsection that received assistance under section 423(c), the nonprofit sponsor or nonprofit sponsor partnership selling the unit (or other seller) shall provide the homebuyer with written notice of the amount of assistance provided for such unit and the subsidy factor for such unit.

(D) DEFINITIONS.—For purposes of this paragraph:

(i) INCREASED VALUE.—The term "increased value" means the difference between the sale price of a unit upon sale by a homeowner and the sale price of the unit paid by the homeowner upon initial acquisition.

(ii) SUBSIDY FACTOR.—The term "subsidy factor" means the ratio of the amount of assistance provided to a unit under section 423(c) to the purchase price paid by the homeowner upon initial acquisition.

(E) INSTRUMENT OF CONVEYANCE.—The restrictions described in subparagraphs (A), (B), and (C) shall be contained in the instrument of conveyance with respect to the assisted unit.

(F) ELIGIBLE FAMILIES FOR RESALE.—The owner shall use best efforts to have the assisted unit resold to a family that, at the time of resale, is eligible to purchase a unit assisted under this title. The grant administrator for the applicable city or State shall monitor compliance with this subparagraph.

(G) PROHIBITION OF ADDITIONAL RESTRICTIONS.—Eligible nonprofit sponsors and nonprofit sponsor partnerships may not establish any restrictions on the resale by a homeowner of a homeownership unit under this subsection in addition to the restrictions under this paragraph.

(5) HOUSING COOPERATIVES.—Housing cooperatives shall be structured to limit the equity appreciation to ensure continued af-

fordability of cooperative units for households meeting the criteria established in paragraphs (2) and (3) of subsection (a).

(6) LOW INCOME USE.—For any amounts from a grant made under this subtitle used for the purposes under this subsection, the grant administrator shall use not less than 25 percent of such amount for lower income families with incomes of less than 80 percent of the area median income, adjusted for family size.

(C) COORDINATION WITH OTHER SOURCES OF FUNDING.—

(1) IN GENERAL.—Amounts may be provided to a project under this subtitle in addition to other amounts provided to such project under local, State, or other Federal housing or community assistance programs.

(2) LIMITATION.—In determining the amounts provided to a project under this subtitle, the grantee shall consider any other amounts provided to such project as described paragraph (1) to ensure that the monthly rental paid to the project owner for each unit assisted under this subtitle does not exceed the maximum rent permitted to be paid for such unit as determined under subsection (a)(3).

(3) SECTION 8 ASSISTANCE.—From any amounts provided in appropriations Acts, the Secretary or any local housing authority may allocate assistance under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f), including rent certificates and vouchers, to a rental project assisted under this subtitle for a term determined by the Secretary or such authority to be necessary to assist such project to obtain adequate financing or to maintain financial viability.

(d) AFFIRMATIVE ACTION REQUIREMENTS.—Each nonprofit sponsor that receives assistance for a project under this subtitle shall develop and follow an affirmative action program approved by the grant administrator to maximize the participation of minorities and women in construction, management, and maintenance employment opportunities arising from this program, particularly minority and women residents of the communities in which the project is located.

(e) NONDISCRIMINATION.—No person shall, on the grounds of race, color, national origin, age, handicap, or sex, be excluded from participation in, be denied the benefit of, or be subjected to discrimination under any program or activity assisted under this subtitle.

(f) ALLOCATION.—Of any amounts appropriated for the purposes under this subtitle, not less than 60 percent shall be used for eligible rental housing projects under subsection (a).

SEC. 425. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this subtitle \$286,000,000 for fiscal year 1991, of which not more than \$20,000,000 shall be available for the demonstration under section 422(e). Any amount appropriated under this section shall remain available until expended.

Subtitle C—General Provisions

SEC. 431. DEFINITIONS.

For purposes of this title:

(1) AREA MEDIAN INCOME AND STATE MEDIAN INCOME.—The terms "area median income" and "State median income" mean the area median income and the State median income, respectively, as determined by the Secretary.

(2) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this title; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(3) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means a family that has not owned a home during the 3-year period prior to purchase of an eligible homeownership unit under section 424(b), except that—

(A) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

(B) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this paragraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(4) GRANT ADMINISTRATOR.—The term "grant administrator" means any city or State receiving funds under this title, including any entity, authority, or agency designated by such city or State to act as grant administrator. To the extent the Secretary directly administers the funding under this program under section 422(c), the term includes the Secretary.

(5) LOW- AND MODERATE-INCOME FAMILIES.—The term "low- and moderate-income families" includes families and individuals who are at or below the income levels for eligibility for the assistance set forth in this title.

(6) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any not-for-profit corporation that—

(A) is organized under State or local laws;

(B) is qualified under section 501(c)(3) of the Internal Revenue Code of 1986; and

(C) has as one of its purposes the counseling, education, or organizing of low- or medium-income homeowners or tenants.

(7) NONPROFIT SPONSOR.—The term "nonprofit sponsor" means—

(A) any not-for-profit corporation that—

(i) is organized under State or local laws;

(ii) is qualified under section 501(c)(3) of the Internal Revenue Code of 1986;

(iii) has as one of its purposes the preservation and production of affordable housing; and

(iv) provides for board representation or another manner of accountability to low- and moderate-income community residents for decisions relating to specific projects under this title, including design, siting, development and management;

(B) any nonprofit cooperative corporation that is—

(i) organized under local law; and

(ii) approved by the Secretary; or

(C) any State or locally chartered, neighborhood based, nonprofit organization that has as its primary purpose the preservation and production of housing.

(8) **NONPROFIT SPONSOR PARTNERSHIP.**—The term "nonprofit sponsor partnership" means a limited partnership in which a nonprofit sponsor is a controlling general partner.

(9) **SECRETARY.**—The term "Secretary" means the Secretary of the Department of Housing and Urban Development.

(10) **SINGLE PARENT.**—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(11) **STATE.**—The term "State" means each of the several States or any instrumentality of a State approved by the Governor of such State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, any other territory or possession of the United States, and any Indian tribe.

(12) **SUBSTANTIAL REHABILITATION.**—The term "substantial rehabilitation" means rehabilitation of a project with a cost, including soft costs (such as professional fees, costs of interest and insurance, and taxes), equal to at least 30 percent of the fair market value of the building. Substantial rehabilitation shall require that the structure be rehabilitated (other than a cosmetic repair) so that it is in compliance with the building standards as prescribed by the Secretary.

SEC. 432. COMMUNITY AND RESIDENT PARTICIPATION PLAN.

To receive assistance under this title, a nonprofit sponsor shall submit to the Secretary and comply with a plan for community and resident participation in development and management decisions relating to eligible housing projects assisted with grants under this title, as the Secretary shall determine.

SEC. 433. LIMITATION ON GRANT AMOUNTS.

The Secretary may not provide assistance for any fiscal year under this title to any nonprofit sponsor in an amount that exceeds 50 percent of the amount of the total operating budget of the nonprofit sponsor in the fiscal year.

SEC. 434. NONDISPLACEMENT.

To receive assistance under this title, a grant administrator shall certify to the Secretary that the city or State receiving funds under this title is in compliance with a residential antidisplacement and relocation assistance plan under section 104(d) of the Housing and Community Development Act of 1974 (to the extent that such a plan applies to the city or State).

SEC. 435. REGULATIONS.

The Secretary shall issue any regulations necessary to carry out this title.

TITLE V—HOUSING ASSISTANCE

Subtitle A—Programs Under the United States Housing Act of 1937

SEC. 501. LOWER INCOME HOUSING AUTHORIZATION.

(a) **AGGREGATE BUDGET AUTHORITY.**—Section 5(c)(6) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(6)) is amended by adding at the end the following new sentence: "The aggregate amount of budget authority that may be obligated for assistance referred to in paragraphs (7) and (8) is increased (to the extent approved in appropriation Acts) by \$9,062,027,445 on October

1, 1989, and by \$16,768,852,000 on October 1, 1990."

(b) **UTILIZATION OF BUDGET AUTHORITY.**—Subparagraphs (A) and (B) of section 5(c)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)(7)) are amended to read as follows:

"(7)(A) Using \$5,752,065,123 of the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1990, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than \$582,913,195, of which amount not more than \$132,290,799 shall be available for Indian housing;

"(ii) for comprehensive improvement assistance grants under section 14(k), not more than \$1,998,535,000;

"(iii) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than \$1,189,170,078; and

"(iv) for assistance under subsections (b)(1) and (o) of section 8, not more than \$1,981,446,850.

"(B) Using \$5,913,002,000 of the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for public housing grants under subsection (a)(2), not more than \$738,122,000, of which amount not more than \$224,000,000 shall be available for Indian housing;

"(ii) for comprehensive improvement assistance grants under section 14(k), not more than \$2,100,000,000, of which not more than \$100,000,000 shall be available for carrying out the provisions of the Lead-Based Paint Poisoning Prevention Act in public housing and for which comprehensive testing, anti-lead interim containment strategies, and risk assessment fees shall be among the eligible activities;

"(iii) for assistance under section 8 in connection with projects developed under section 202 of the Housing Act of 1959, not more than \$1,200,000,000, of which \$300,000,000 shall be used in connection with section 202(h)(4); and

"(iv) for certificates under section 8(b)(1) and vouchers under section 8(o), not more than \$1,874,880,000, of which the Secretary shall use such amounts as may be necessary to provide not more than 1,000 certificates for purposes of replacement assistance under section 304(g) of the United States Housing Act of 1937; except that not more than 50 percent of the amounts appropriated under this clause may be used for vouchers under section 8(o)."

SEC. 502. DEFINITION OF FAMILY, INCOME, AND ADJUSTED INCOME.

(a) **FAMILY.**—Section 3(b)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(3)) is amended—

(1) in the first sentence, by striking "(D)" and all that follows and inserting the following: "(D) and any other single persons. In no event may any single person be provided a housing unit assisted under this Act of 2 bedrooms or more.";

(2) by striking the second sentence; and

(3) by striking the third from last sentence.

(b) **INCOME.**—Section 3(b)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(4)) is amended by inserting before the period at the end the following: ", except that any amounts not actually received by the family may not be considered as income under this paragraph".

(c) **ADJUSTED INCOME.**—

(1) **ALLOWANCE FOR DEPENDENTS.**—Section 3(b)(5)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(A)) is amended by striking "\$480" and inserting "\$550".

(2) **ALLOWANCE FOR MEDICAL EXPENSES.**—Section 3(b)(5)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)(C)) is amended—

(A) in clause (i), by striking "elderly"; and

(B) by striking "and" at the end.

(3) **ALLOWANCES FOR WORKING FAMILIES AND CHILD SUPPORT AND ALIMONY PAYMENTS.**—Section 3(b)(5) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(5)) is amended—

(A) by striking the period at the end of subparagraph (D) and inserting a semicolon; and

(B) by adding at the end the following new subparagraphs:

"(E) 10 percent of the earned income of the family; and

"(F) any payment made by a member of the family for the support and maintenance of any child, spouse, or former spouse who does not reside in the household, except that the amount excluded under this subparagraph shall not exceed the lesser of (i) the amount that such family member has a legal obligation to pay; or (ii) \$550 for each individual for whom such payment is made."

(d) **DETERMINATION OF INCOME LIMITS.**—Section 3(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(2)) is amended by inserting after the period at the end of the following: "In determining median incomes (of persons, families, or households) for an area or establishing any ceilings or limits based on income under this Act, the Secretary shall determine or establish area median incomes and income ceilings and limits for Westchester County, in the State of New York, as if such county were an area not contained within the metropolitan statistical area in which it is located. In determining such area median incomes or establishing such income ceilings or limits for the portion of such metropolitan statistical area that does not include Westchester County, the Secretary shall determine or establish area median incomes and income ceilings and limits as if such portion included Westchester County."

(e) **EFFECTIVE DATE.**—The Secretary shall issue regulations implementing the amendments made by this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act. The regulations may not take effect until after September 30, 1990.

SEC. 503. PUBLIC HOUSING EVICTION AND TERMINATION PROCEDURES.

(a) **GRIEVANCE PROCEDURE.**—Section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) is amended—

(1) in paragraph (1), by striking the semicolon at the end and inserting the following: "(which, in this subsection shall include any adverse failure to act on the part of a public housing agency)";

(2) in paragraph (5), by striking "and" at the end;

(3) in paragraph (6), by striking the period at the end and inserting "; and";

(4) by adding after paragraph (6), as so amended, the following new paragraph:

"(7) have the opportunity to appeal a failure to act by a public housing agency."; and

(5) by striking the matter after the period at the end of paragraph (7) (as added by this subsection) and inserting the following: "For any grievance concerning an eviction or termination of tenancy that involves any activity (including drug-related criminal activity) that threatens the health or safety of other tenants or employees of the public housing agency, the agency may (A) establish an expedited grievance procedure, or (B) exclude from its grievance procedure any such grievance, in any jurisdiction which requires that prior to eviction, a tenant be given a hearing in court which the Secretary determines provides the following basic elements of due process: (i) adequate notice to the tenant of the grounds for terminating the tenancy and for eviction; (ii) opportunity for the tenant to be represented by counsel; (iii) opportunity for the tenant to refute the evidence presented by the public housing agency, including the right to confront and cross-examine witnesses; and (iv) a decision on the merits. The agency shall provide tenants the opportunity prior to the hearing or trial to examine any documents or records or regulations related to the eviction or termination."

(b) LEASES.—Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by inserting after paragraph (5), as so amended, the following new paragraph:

"(6) specify that with respect to any notice of eviction or termination, notwithstanding any State law, a public housing tenant shall be informed of the opportunity, prior to any hearing or trial, to examine any documents or records or regulations related to the proposed action or failure to act."

(c) REGULATIONS.—The Secretary of Housing and Urban Development shall issue, and publish in the Federal Register for comment, proposed rules implementing the amendments made by this section not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

(d) APPLICABILITY.—Any exclusion of grievances by a public housing agency pursuant to a determination or waiver by the Secretary (under section 6(k) of the United States Housing Act of 1937, as such section existed before the date of the enactment of this Act) that a jurisdiction requires a hearing in court providing the basic elements of due process shall be effective after the date of the enactment of this Act only to the extent that the exclusion complies with the amendments made by this section.

SEC. 504. PUBLIC HOUSING AGENCY REFORM.

(a) PERFORMANCE STANDARDS FOR PUBLIC HOUSING AGENCIES.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) is amended by adding at the end the following new subsection:

"(n)(1) The Secretary shall develop and publish in the Federal Register standards to be used by the Secretary to assess the management performance of public housing agencies. Such standards shall enable the Secretary to evaluate the performance of public housing agencies in at least the following major areas of management operations—

"(A) operating expenses relative to revenues;

"(B) operating reserves relative to maximum allowable reserves;

"(C) tenant rent collections;

"(D) annual inspection of units, compliance of units with housing quality standards or an equivalent standard, and existence of a system for making necessary repairs or replacements;

"(E) utility consumption;

"(F) vacancies;

"(G) repair and turnover of vacant units; and

"(H) such other factors as the Secretary deems appropriate.

"(2) The Secretary shall designate a public housing agency that meets the performance standards specified in paragraph (1) to be a high performing agency.

"(3)(A) The Secretary shall establish procedures for designating troubled public housing agencies, which procedures shall include identification of one or more serious failures to meet the performance standards specified under paragraph (1) and such other factors as the Secretary may deem to be appropriate.

"(B) The Secretary shall enter into an agreement with each troubled public housing agency setting forth—

"(i) targets for meeting the performance standards specified under paragraph (1) and other requirements within a specified period of time;

"(ii) strategies for meeting those targets; and

"(iii) incentives or sanctions for effective implementation of those strategies, which may include such restrictions on the use of funds made available under this Act as the Secretary determines to be appropriate.

"(C) The Secretary and a troubled public housing agency shall, to the maximum extent practicable, seek the assistance of local public and private entities in carrying out an agreement under subparagraph (B).

"(4) The Secretary shall annually provide each appropriate housing authority of each State and the chief executive officer of each locality which has a public housing agency within its jurisdiction with a listing of the high performance and troubled public housing agencies in the State.

"(5) The Secretary shall annually publish in the Federal Register lists of public housing agencies that have been designated as high performing under paragraph (2) or troubled under paragraph (3). The Secretary shall also publish an annual update describing the status of each troubled public housing agency.

"(6) The Secretary shall require each State, as a condition for public housing agencies within the State to receive assistance under this Act, to establish (not later than 2 years after the date of the enactment of the Housing and Community Development Act of 1990) and enforce standards for a course of study and certification of executive directors and other officers and members of local, regional, and State public housing agencies. The State shall provide for completion of the course and certification before appointment to any position within a public housing agency within the State, and shall require any individuals holding such positions within any public housing agency on the date of the establishment of such course and provisions for certification to complete the course and acquire certification, within 1 year after such establishment."

(b) PROJECT-BASED ACCOUNTING SYSTEMS.—

(1) IN GENERAL.—Section 6(c)(4) of the United States Housing Act of 1937 (42 U.S.C. 1437(c)(4)) is amended—

(A) in subparagraph (C), by striking "and" at the end;

(B) in subparagraph (D), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(E) the establishment and maintenance of a system of accounting for rental collections and costs (including administrative, utility, maintenance, repair, and other operating costs) on a project basis, which shall (i) require each public housing agency to publish an annual financial statement of all its operations, including the financial status of each individual housing project, and (ii) the review of such reports by the applicable board of commissioners or other governing body with respect to such public housing agency and by the applicable State housing authority."

(2) IMPLEMENTATION.—The Secretary shall, by regulation, develop such guidelines and timetables as the Secretary determines to be appropriate to implement the amendment under paragraph (1)(C), taking into account the requirements of public housing agencies of different sizes and characteristics, to achieve compliance with requirements established by such amendment not later than January 1, 1993.

SEC. 505. PUBLIC HOUSING OPERATING SUBSIDIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 9(c) of the United States Housing Act of 1937 (42 U.S.C. 1437g(c)) is amended to read as follows:

"(c) There are authorized to be appropriated for purposes of providing annual contributions under this section \$1,793,032,000 for fiscal year 1990 and \$2,145,780,000 for fiscal year 1991. Notwithstanding the foregoing, there are authorized to be appropriated in each fiscal year, to provide annual contributions under this section, such sums as may be necessary to provide each public housing agency with all funds for which they are eligible under the performance funding system without adjustments for estimated or unrealized savings."

(b) SERVICES AND COORDINATORS AS ELIGIBLE COST.—Section 9(a) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after the paragraph designation;

(B) in the second sentence—

(i) by striking "(A)" and inserting "(i)";

(ii) by striking "(B)" and inserting "(ii)"; and

(iii) by striking "(C)" and inserting "(iii)"; and

(C) by adding at the end the following new subparagraph:

"(B) Annual contributions to public housing agencies for costs of operation may include, with respect to projects with a sufficient number of frail elderly or handicapped residents, (i) the cost of a management staff member to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to frail elderly or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions; and (ii) expenses for the provision of services for frail elderly and handicapped residents of the project to enable the residents to live independently and pre-

vent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services, except that not more than 15 percent of the cost of the provision of such services may be provided under this section. Contributions under this subparagraph shall not be subject to paragraph (3). For purposes of this subparagraph, the term 'frail elderly' shall have the meaning given the term under section 202(d) of the Housing Act of 1959." and

(2) in paragraph (3), by inserting before the first comma the following: "(except for payments under paragraph (1)(B))".

SEC. 506. LITIGATION BY PUBLIC HOUSING AGENCIES.

(a) ALLOWABLE EXPENSE.—Section 9(a)(3)(B) of the United States Housing Act of 1937 (42 U.S.C. 1437g(a)(3)(B)) is amended—

(1) by striking "and" at the end of clause (iii);

(2) by striking the period at the end of clause (iv) and inserting "; and"; and

(3) by adding at the end the following new clause:

"(v) there shall be included as an allowable expense the unreimbursed cost of any civil action commenced by a public housing agency against the Federal Government to ensure proper implementation of any Federal law relating to public housing."

(b) DISAPPROVAL OF REGULATIONS.—The rule of the Department of Housing and Urban Development entitled "Litigation Reporting and Related Requirements for Certain Recipients of HUD Assistance" and published in the Federal Register of October 27, 1988 (53 Fed. Reg. 43610 et seq.) is hereby disapproved. The Secretary of Housing and Urban Development may not publish a final rule based on such rule and may not otherwise implement the provisions of such rule.

SEC. 507. FORMULA ALLOCATION OF PUBLIC AND INDIAN HOUSING MODERNIZATION FUNDING AND OTHER MISCELLANEOUS AMENDMENTS.

(a) FORMULA ALLOCATION TO AGENCIES WITH 500 OR MORE UNITS.—

(1) IN GENERAL.—Section 14(k) of the United States Housing Act of 1937 (42 U.S.C. 1437(k)) is amended to read as follows:

"(k)(1) From amounts approved in appropriation Acts for grants under this section for each fiscal year, and to the extent provided by such Acts, the Secretary shall reserve not more than \$75,000,000 (including unused amounts reserved during previous fiscal years), which shall be available for modernization needs resulting from natural and other disasters and from emergencies. Amounts provided for emergencies shall be repaid by agencies from future allocations of assistance under paragraph (2), where available.

"(2)(A) The Secretary shall allocate the amount remaining, after determining the amount to be reserved under paragraph (1), pursuant to a formula contained in a regulation prescribed by the Secretary designed to measure the relative needs of public housing agencies.

"(B) The Secretary shall allocate half of the amount allocated under the formula referred to in subparagraph (A) based on the relative backlog needs of public housing agencies, determined—

"(i) for individual public housing agencies with 500 or more units and for the aggregate

gate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the most recently available, statistically reliable data regarding the (I) backlog of needed repairs and replacements of existing physical systems in public housing projects, (II) items that must be added to projects to meet the modernization standards of the Secretary (as referenced in subsection (e)(1)(A)(ii)(I)) and State and local codes, and (III) items that are necessary or highly desirable for the long-term viability of a project; or

"(ii) if such data are not statistically reliable for individual public housing agencies with 500 or more units, on the basis of estimates of the categories of backlog specified in clause (i) using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

"(I) the average number of bedrooms in the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the extent to which units for families are in high-rise elevator projects;

"(IV) the age of the projects;

"(V) in the case of a large agency, as determined by the Secretary, the number of units with 2 or more bedrooms;

"(VI) the cost of rehabilitating property in the area;

"(VII) for family projects, the extent of population decline in the unit of general local government determined on the basis of the 1970 and 1980 censuses; and

"(VIII) other factors the Secretary determines are appropriate.

The formula shall take into account amounts previously made available by the Secretary for modernization under this section and for major reconstruction of obsolete projects, to the extent determined appropriate by the Secretary.

"(C) The Secretary shall allocate the other half of the amount allocated under the formula established pursuant to subparagraph (A) based on the relative accrued needs of public housing agencies for the categories of need specified in subparagraph (B)(i)(I) and (II), determined—

"(i) for individual public housing agencies with 500 or more units and for the aggregate of agencies with fewer than 500 units, where the data are statistically reliable, on the basis of the needs that are estimated to have accrued since the date of the last objective measurement of backlog needs under subparagraph (B); or

"(ii) where the estimates under clause (i) are not statistically reliable for individual public housing agencies with 500 or more units, on the basis of estimates of accrued need using the most recently available data on the backlog, and objectively measurable data on public housing agency, community, and project characteristics regarding—

"(I) the average number of bedrooms of the units in a project;

"(II) the proportion of units in a project available for occupancy by very large families;

"(III) the age of the projects;

"(IV) the extent to which the buildings in projects of an agency average fewer than 5 units;

"(V) the cost of rehabilitating property in the area;

"(VI) the total number of units of each agency that owns or operates 500 or more units; and

"(VII) other factors the Secretary determines are appropriate.

"(D)(i) In determining how many units an agency owns or operates and the relative modernization needs of agencies, the Secretary shall count each existing unit under the annual contributions contract, except that an existing unit under the turnkey III and the mutual help programs may be counted as less than one unit, to take into account the responsibility of families for the costs of certain maintenance and repair. For purposes of this section, an agency that qualifies to receive a formula grant under paragraph (4) may elect to continue to qualify to receive a formula grant if it owns or operates at least 400 public housing units.

"(ii) Where an existing unit under a contract is demolished or disposed of, the Secretary shall not adjust the amount the agency receives under the formula unless more than one percent of the units are affected on a cumulative basis. Where more than one percent of the units are demolished or disposed of, the Secretary shall reduce the formula amount for the agency over a 3-year period to reflect removal of the units from the contract.

"(iii) The Secretary shall have sole discretion to determine whether the data under subparagraphs (B) and (C) are statistically reliable.

"(3) The amount determined under the formula for agencies with fewer than 500 units shall be allocated in accordance with subsection (d).

"(4) The amount determined under the formula for each agency that owns or operates 500 or more units shall be allocated to each qualifying agency in accordance with subsection (e).

"(5)(A) In the case of an agency that the Secretary designated as a troubled agency on or before June 1, 1990, and that is still designated as a troubled agency on the date amounts are allocated under this subsection for fiscal year 1991, the Secretary shall limit the total amount of funding to (i) the average amount the agency received during fiscal years 1988, 1989, and 1990, for modernization activities under this section and for major reconstruction of obsolete projects, adjusted to take into account changes in the cost of rehabilitating property, plus (ii) 25 percent of the differences between the amount determined under clause (i) and the amount that would be allocated to the agency if it were not designated as a troubled agency. A troubled agency may request the Secretary to increase the amount of the allocation by up to an additional 25 percent of such difference, based on the agency's progress toward meeting the performance standards. In the case of such a request, the Secretary shall render a decision within 75 days of receipt of the request.

"(B) In the fiscal year for which amounts become available in accordance with subparagraph (A), the amounts shall be reallocated to other public housing agencies that own or operate 500 or more units, based on their relative needs. In the case of troubled agencies that are Indian housing authorities, the amounts shall be reallocated to other Indian housing authorities. In the case of troubled agencies that are not Indian housing authorities, the amounts shall be reallocated to agencies that are not Indian housing authorities. The relative needs of agencies shall be determined using the formula established pursuant to paragraph (2)(A).

"(C) The Secretary may increase the amount a troubled agency receives for fiscal

years 1992 and subsequent years by not more than 25 percent per year, but not to exceed the amount of the formula allocation for the agency. The amount of any increase shall be based on the progress of a troubled agency toward meeting the performance standards. An agency may appeal a decision of the Secretary not to increase the amount an agency receives or to increase it by less than 25 percent. In the case of an appeal, the Secretary shall respond within 75 days of receipt of the request for appeal.

"(6) Any amounts (A) allocated under paragraph (4) that become available for reallocation because an agency does not qualify to receive all or a part of its formula allocation due to failure to comply with the requirements of this section, and (B) recaptured by the Secretary for good cause, shall be reallocated by the Secretary in the next fiscal year to other housing agencies that own or operate 500 or more units, based on their relative needs. The relative needs of agencies shall be measured by the formula established pursuant to paragraph (2)(A).

"(7) A public housing agency may appeal the amount of its allocation determined under the formula on the basis of unique circumstances or on the basis that the objectively measurable data regarding the agency, community, and project characteristics used for determining the formula amount were not correct.

"(8) Amounts allocated to a public housing agency under paragraph (3) or (4) may be used for any eligible activity in accordance with this section, notwithstanding that the allocation amount is determined by allocating half based on relative backlog needs and half based on relative accrued needs of agencies."

(2) CONFORMING AMENDMENTS.—Section 14 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended—

(A) in subsection (e)(3)(A), by striking the second sentence; and

(B) in subsection (h)—

(i) in the matter preceding paragraph (1), by inserting after "subsection (b)" the following: "to a public housing agency that owns or operates fewer than 500 public housing dwelling units"; and

(ii) in paragraph (2), by striking "or (e)".

(b) DELETION OF REPLACEMENT NEEDS PLANNING ESTIMATE, OPERATING BUDGET, AND FINANCIAL RESOURCES ESTIMATE FOR PUBLIC HOUSING AGENCIES WITH FEWER THAN 500 UNITS.—Section 14(d)(4) of the United States Housing Act of 1937 is amended—

(1) by inserting "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting a period; and

(3) by striking subparagraphs (C), (D), and (E).

(c) LIMITATION OF SPECIAL PURPOSE MODERNIZATION TO PUBLIC HOUSING AGENCIES WITH FEWER THAN 500 UNITS.—Section 14 of the United States Housing Act of 1937 is amended—

(1) in subsection (f)(2)(B), by striking "and to meet special purpose needs described in section 14(i)(1)(D)"; and

(2) in the first sentence of subsection (i)(1), by striking "In addition" and all that follows through "subsection (c) through (h)" and inserting the following: "In addition to assistance made available under subsection (b) to a public housing agency that owns or operates fewer than 500 public housing dwelling units, the Secretary may, without regard to the requirements of subsection (c), (d), (f), (g), or (h)".

(d) SPECIAL PURPOSE MANAGEMENT MODERNIZATION FOR PHA'S WITH FEWER THAN 500 UNITS.—Section 14(i)(1) of the United States Housing Act of 1937 is amended—

(1) in subparagraph (C), by striking "or" at the end;

(2) in subparagraph (D)(ii), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(E) management improvement needs which (i) would not otherwise be eligible for assistance under this section, and (ii) pertain to any lower income housing project other than a project assisted under section 8."

(e) ESTABLISHMENT OF 250-UNIT THRESHOLD BEGINNING IN FISCAL YEAR 1992.—

(1) IN GENERAL.—Effective October 1, 1991, section 14 of the United States Housing Act of 1937, as amended by this section, is further amended by striking "500" and inserting "250" in each of the following places:

(A) The first sentence of subsection (d).

(B) In subsection (e), the first sentence of each of paragraphs (1), (3)(A), (4)(A) and (4)(C).

(C) Subsections (f)(1) and (f)(2).

(D) Subsection (h).

(E) The first sentence of subsection (i)(1).

(F) In subsection (k), in paragraphs (2)(B)(i), (2)(B)(ii), (2)(C)(i), (2)(C)(ii), (3), (4), (5)(B), and (6).

(G) Subsection (l)(2).

(2) EXCEPTION.—Effective October 1, 1991, section 14(k)(2)(D)(i) of the United States Housing Act of 1937, as amended by this section, is further amended by striking "400" and inserting "200".

(f) INAPPLICABILITY TO INDIAN HOUSING.—Notwithstanding the provisions of this subtitle, section 14(e) of the United States Housing Act of 1937 shall not apply to Indian housing authorities until October 1, 1991.

(g) TRANSITION.—Section 14 of the United States Housing Act of 1937 is amended by adding at the end the following new subsection:

"(n) Any amount that the Secretary has obligated to a public housing agency in section 14 of this Act, other than pursuant to the program established under subsection (e), shall be used for the purposes for which such amount was provided, or for purposes consistent with an action plan submitted by the agency under subsection (e) and approved by the Secretary, as the agency determines to be appropriate."

(h) SECTION HEADING.—The section heading of section 14 of the United States Housing Act of 1937 is amended to read as follows:

"PUBLIC AND INDIAN HOUSING
MODERNIZATION".

(i) REGULATIONS.—The Secretary shall publish a proposed rule to implement the formula allocation amendments made to section 14 of the United States Housing Act of 1937 by this section and shall consult with the Congress, public housing agencies, and professional organizations representing public housing agencies before publishing such rule. The proposed rule shall be published not later than the expiration of the 60-day period beginning on the date of the enactment of this Act.

(j) REPORTS TO CONGRESS.—

(1) INDEPENDENT EVALUATION.—The Secretary of Housing and Urban Development shall enter into a contract providing for the independent evaluation of the modernization program authorized under section 14 of the United States Housing Act of 1937, as

amended by this section, and report to Congress on the results of the evaluation within 3 years after the initial allocation of assistance by formula under such section 14.

(2) MODIFICATIONS.—The Secretary shall submit a report to Congress, within 2 years after the date of enactment of this Act, recommending any changes to such section 14 that the Secretary determines are appropriate to take into account the relative needs of public housing agencies for assistance to carry out lead-based paint testing and abatement activities. The Secretary shall not adopt any changes to the formula for this purpose except in accordance with an amendment to section 14.

SEC. 508. INCOME ELIGIBILITY FOR PUBLIC HOUSING.

Section 16(b) of the United States Housing Act of 1937 (42 U.S.C. 1437n) is amended—

(1) by striking "(b) Not" and inserting the following: "(b)(1) Except as provided in paragraph (2), not"; and

(2) by adding at the end the following new paragraph:

"(2) At the discretion of the public housing agency, not more than 25 percent of the dwelling units that become available for occupancy under public housing contributions contracts under this Act (other than for scattered-site public housing) on or after the effective date of the Housing and Community Development Act of 1990 shall be available for leasing by lower income families other than very low-income families, but only if the public housing agency certifies to the Secretary that not more than 25 percent of dwelling units occupied at the time of certification are leased by such lower income families."

SEC. 509. SCATTERED-SITE PUBLIC HOUSING DISPOSITION PROCEEDS.

(a) IN GENERAL.—Section 18(a)(2)(B)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437p(a)(2)(B)(i)) is amended by inserting before the first comma the following: ", which, in the case of scattered-site housing of a public housing agency, shall be in an amount that bears the same ratio to the total of such costs and obligations as the number of units disposed of bears to the total number of units of the project at the time of disposition".

(b) APPLICABILITY.—The amendment made by this section shall apply to any scattered-site public housing project or portion of such project disposed of after the date of the enactment of this Act.

SEC. 510. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20(f)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437r(f)(3)) is amended to read as follows:

"(3) FUNDING.—Of the amounts made available for financial assistance under section 14, the Secretary may use to carry out this subsection not more than \$2,461,000 for fiscal year 1990 and \$5,000,000 for fiscal year 1991."

SEC. 511. ELIGIBILITY OF INDIAN MUTUAL HELP HOUSING FOR COMPREHENSIVE IMPROVEMENT ASSISTANCE.

Section 202(b) of the United States Housing Act of 1937 (42 U.S.C. 1437bb(b)) is amended—

(1) by striking "(b) FINANCIAL ASSISTANCE—" and inserting the following:

"(b) FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—"; and

(2) by adding at the end the following new paragraph:

"(2) ELIGIBILITY FOR CIAP.—Notwithstanding the provisions of section 14(c), the Secretary may provide, from amounts approved under appropriations Acts for fiscal year 1991 under section 5(c) for assistance under section 14, assistance under section 14 for the housing projects under this section for the purposes under section 14. Any assistance shall be provided under this paragraph only in the form of a single grant for each housing project (or unit within a project) selected for such assistance."

SEC. 512. PUBLIC HOUSING RENT WAIVER FOR POLICE OFFICERS.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development is authorized to permit public housing authorities to allow police officers and other security personnel to live in public housing units. Where the Secretary has authorized police officers or security personnel to live in public housing units, the Secretary may waive income eligibility limitations and rent requirements. The Secretary may further authorize the public housing authorities to set rent requirements and other terms and conditions of occupancy for units for such officers and security personnel, if the Secretary determines that there will be increased security for public housing tenants, limited loss of income to the public housing authority, and no significant reduction of units for eligible families.

SEC. 513. PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 222(g) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z-6 note) is amended to read as follows:

"(g) AUTHORIZATION OF APPROPRIATIONS.—To the extent provided in appropriations Acts, \$4,922,500 of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974 in fiscal year 1990 shall be available to carry out this section for fiscal year 1990, and \$15,000,000 of the amounts made available for public housing grants under section 5(c) of the United States Housing Act of 1937 in fiscal year 1991 shall be available to carry out this section for fiscal year 1991. Any amount appropriated pursuant section 103 of the Housing and Community Development Act of 1974 or section 5(c) of the United States Housing Act of 1937, and authorized for use under this subsection, shall remain available until expended."

(b) REDESIGNATION AS EARLY CHILDHOOD DEVELOPMENT PROGRAM.—

(1) IN GENERAL.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended—

(A) in subsection (a), by striking "child care services" each place it appears and inserting "early childhood development services";

(B) in subsection (b)—

(i) in the matter preceding paragraph (1), by striking "child care services" and inserting "early childhood development services";

(ii) in paragraph (1), by striking "child care services program" and inserting "early childhood development program";

(iii) in paragraph (2), by striking "child care services" and inserting "early childhood development services"; and

(iv) in paragraphs (3), (4), (5), and (6), by striking "child care services program" each place it appears and inserting "early childhood development program";

(C) in subsection (c)—

(i) in paragraphs (1) and (2), by striking "child care services" each place it appears

and inserting "early childhood development services"; and

(ii) in paragraph (3), by striking "child care services programs" and inserting "early childhood development programs";

(D) in subsection (d)—

(i) in paragraph (2), by striking "child care services" and inserting "early childhood development services";

(ii) in paragraph (3), in the matter preceding subparagraph (A), by striking "child care services program" and inserting "early childhood development program";

(iii) in paragraph (3)(A), by striking "child care services" and inserting "early childhood development services"; and

(iv) in paragraph (4), by striking "child care services" each place it appears and inserting "early childhood development services"; and

(E) in subsection (e), by striking "child care services" and inserting "early childhood development services".

(2) CONFORMING AMENDMENT.—The section heading for section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended to read as follows:

"PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT PROGRAM".

(c) SUFFICIENT GRANT AMOUNTS.—Section 222(c) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended—

(1) in paragraph (2), by striking "and" after the semicolon at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) make grants in an amount sufficient to provide a significant percentage of the renovation costs or operating expenses of early childhood development centers."

(d) 3-YEAR GRANTS.—Section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701-6 note) is amended by adding at the end the following new subsection:

"(h) 3-YEAR GRANTS.—Grants made under this section shall be for a 3-year period, and shall be distributed to the grant recipient over such period as the Secretary shall determine."

SEC. 514. INDIAN PUBLIC HOUSING EARLY CHILDHOOD DEVELOPMENT DEMONSTRATION PROGRAM.

(a) SET-ASIDE OF INDIAN PUBLIC HOUSING AMOUNTS.—Of any amounts approved in appropriations Acts under section 5(c)(7)(B) of the United States Housing Act of 1937 for public housing grants for Indian housing for fiscal year 1991, the Secretary of Housing and Urban Development shall use \$5,000,000 (to the extent such amounts are approved under such appropriations Acts) for carrying out a demonstration program under this section. Under the demonstration, the Secretary shall make grants to nonprofit organizations to assist such organizations in providing early childhood development services in or near lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority for lower income families who reside in such Indian public housing.

(b) OPERATION OF DEMONSTRATION.—Except as provided in this section, the Secretary of Housing and Urban Development shall carry out the demonstration program under this section in lower income housing developed or operated pursuant to a contract between the Secretary and an Indian

housing authority in the same manner as the demonstration program under section 222 of the Housing and Urban-Rural Recovery Act of 1983 is carried out. For purposes of this section, any reference to "public housing" or a "lower income housing project" in section 222 of such Act is deemed to refer to lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(c) LIMITATIONS.—

(1) TRIBAL DIVERSITY.—The Secretary of Housing and Urban Development shall provide that the demonstration program under this section is carried out in not more than 1 Indian public housing project for any single Indian tribe.

(2) GEOGRAPHIC DIVERSITY.—The Secretary of Housing and Urban Development shall carry out the demonstration program under this section through various Indian housing authorities and provide for geographic distribution among such housing authorities.

(d) REPORT.—

(1) IN GENERAL.—Not later than the expiration of the 3-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall prepare and submit to the Congress a detailed report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program established in this section. Such report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of assisting early childhood development services in or near lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

(2) CONFORMING PROVISION.—Notwithstanding subsection (b) of this section, section 222(e) of the Housing and Urban-Rural Recovery Act of 1983 (regarding submission of a report) shall not apply to this section and the demonstration program carried out under this section.

SEC. 515. PUBLIC HOUSING DRUG ELIMINATION GRANTS.

The first sentence of section 5129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11908) is amended to read as follows: "There are authorized to be appropriated to carry out this chapter \$99,225,000 for fiscal year 1990 and \$150,000,000 for fiscal year 1991."

SEC. 516. PUBLIC HOUSING YOUTH SPORTS PROGRAMS.

(a) YOUTH SPORTS PROGRAM GRANTS.—From amounts provided for public housing drug elimination grants under section 5129 of the Anti-Drug Abuse Act of 1988, the Secretary of Housing and Urban Development may make grants to qualified entities under subsection (b) to carry out youth sports programs in projects of public housing agencies with substantial drug problems.

(b) ENTITIES QUALIFIED TO RECEIVE GRANTS.—Grants under this section may be made only to—

(1) States;

(2) units of general local government;

(3) local park and recreation districts and agencies;

(4) public housing agencies;

(5) nonprofit organizations providing youth sports services programs; and

(6) Indian tribes.

(c) USE OF GRANTS.—

(1) PUBLIC HOUSING SITES WITH SUBSTANTIAL DRUG PROBLEMS.—Grants under this section shall be used for youth sports programs only with respect to public housing sites

that the Secretary determines have a substantial problem regarding the use or sale of illegal drugs.

(2) **YOUTH SPORTS PROGRAM ELIGIBILITY.**—To be eligible to receive assistance from a grant under this section, a youth sports program shall be designed and organized as follows:

(A) The sports program shall serve primarily youths from the public housing project in which the program assisted by the grant is operated.

(B) The sports program shall provide positive sports activities and positive cultural, recreational, or other activities, designed to appeal to youths as alternatives to the drug environment in the public housing project.

(C) The sports program shall be operated as, in conjunction with, or in furtherance of, an organized program or plan designed to eliminate drugs and drug-related problems in the public housing project or projects within the public housing agency.

(d) **ELIGIBLE ACTIVITIES.**—Any qualified entity that receives a grant under this section may use amounts from the grant to assist in carrying out a youth sports program in any of the following manners:

(1) Acquisition, construction, or rehabilitation of community centers, parks, or playgrounds.

(2) Redesigning or modifying public spaces in public housing projects to provide increased utilization of the areas by youth sports programs.

(3) Provision of public services, including salaries and expenses for staff of youth sports programs, cultural activities, educational programs relating to drug abuse, and sports and recreation equipment.

(e) **GRANT AMOUNT LIMITATIONS.**—

(1) **MATCHING AMOUNT.**—The Secretary may not make a grant to any qualified entity that applies for a grant under subsection (f) unless the applicant entity certifies to the Secretary, as the Secretary shall require, that the applicant will supplement the amount provided by the grant with an amount of funds from non-Federal sources equal to or greater than 50 percent of the amount provided by the grant.

(2) **NON-FEDERAL FUNDS.**—For purposes of this subsection, the term "funds from non-Federal sources" includes funds from States, units of general local governments, or agencies of such governments, Indian tribes, private contributions, any salary paid to staff to carry out the youth sports program of the recipient, the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary, the value of any donated material, equipment, or building, and the value of any lease on a building.

(3) **PROHIBITION OF SUBSTITUTION OF FUNDS.**—Neither amounts received from grants under this section nor any State or local government funds used to supplement such amounts may be used to replace other public funds previously used, or designated for use, for the purposes under this Act.

(4) **MAXIMUM ANNUAL GRANT AMOUNT.**—For any single fiscal year, the Secretary may not award grants under this section for carrying out a youth sports program with respect to any single public housing project in an amount exceeding \$125,000.

(f) **APPLICATIONS.**—To be eligible to receive a grant under this section, a qualified entity under subsection (b) shall submit to the Secretary an application as the Secretary may require, which shall include the following:

(1) A description of the organization of the youth sports program.

(2) A description of the nature of services provided by the youth sports program.

(3) An estimate of the number of youth involved.

(4) A description of the extent of involvement of local sports organizations or sports figures.

(5) A description of the facilities used.

(6) A description of plans to continue the youth sports program in the future.

(7) A statement regarding the extent to which the youth sports program meets the criteria for selection under subsection (g).

(8) A description of the planned schedule and activities of the youth sports program and the financial and other resources committed to each activity and service of the program.

(9) A budget describing the share of the costs of the youth sports program provided by the grant under this section and other sources of funds, including funds required under subsection (e)(1).

(10) Any other information that the Secretary may require.

(g) **SELECTION CRITERIA.**—The Secretary shall select qualified entities that have applied under subsection (f) to receive grants under this section pursuant to a competition based on the following criteria:

(1) The extent to which the youth sports program to be assisted with the grant addresses the particular needs of the area to be served by the program and employs methods, approaches, or ideas in the design or implementation of the program particularly suited to fulfilling such needs (whether such methods are conventional or unique and innovative).

(2) The technical merit of the application of the qualified entity.

(3) The qualifications, capabilities, and experience of the personnel and staff of the sports program who are critical to achieving the objectives of the program as described in the application.

(4) The capabilities, related experience, facilities, techniques of the applicant for carrying out the youth sports program and achieving the objectives of the program as described in the application and the potential of the applicant for continuing the youth sports program.

(5) The severity of the drug problem at the local public housing site for the youth sports program and the extent of any planned or actual efforts to rid the site of the problem.

(6) The extent to which local sports organizations or sports figures are involved.

(7) The extent of the support of the public housing agency for the program, coordination of proposed activities with local resident management groups or associations (where such groups exist) and coordination of proposed activities with ongoing programs of the applicant that further the purposes of this section.

(8) The extent of non-Federal contributions that exceed the amount of such funds required under subsection (e)(1).

(9) In the case of a qualified entity under paragraph (3) or (4) of subsection (b), the extent to which the applicant has demonstrated local government support for the program.

(h) **REPORT.**—Each qualified entity that receives a grant under this section shall submit to the Secretary, not later than the expiration of the 90-day period beginning on the date on which the grant amounts provided under this section are fully expended,

a report describing the activities carried out with the grant.

(i) **DEFINITIONS.**—For purposes of this section:

(1) **INDIAN TRIBE.**—The term "Indian tribe" has the meaning given such term in section 102(a)(17) of the Housing and Community Development Act of 1974.

(2) **PUBLIC HOUSING AGENCY.**—The term "public housing agency" has the meaning given the term in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) **PUBLIC HOUSING PROJECT.**—The terms "project" and "public housing" have the meanings given the terms in section 3(6) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(4) **QUALIFIED ENTITY.**—The term "qualified entity" means an entity eligible under subsection (b) to apply for and receive a grant under this section.

(5) **STATE.**—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(6) **UNIT OF GENERAL LOCAL GOVERNMENT.**—The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(7) **SECRETARY.**—The term "Secretary" means the Secretary of Housing and Urban Development.

(j) **REGULATIONS.**—The Secretary shall issue any regulations necessary to carry out this section.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—Section 5129 of the Anti-Drug Abuse Act of 1988 (42 U.S.C. 11908), as amended by the preceding provisions of this Act, is further amended by inserting after the first sentence the following new sentence: "From any amounts appropriated under this section in each fiscal year, 5 percent of such amounts shall be available for public housing youth sports program grants under section 516 of the Housing and Community Development Act of 1990 for such fiscal year."

SEC. 517. PUBLIC HOUSING ONE-STOP PERINATAL SERVICES DEMONSTRATION.

(a) **ESTABLISHMENT OF DEMONSTRATION PROGRAM.**—

(1) **IN GENERAL.**—The Secretary of Housing and Urban Development, in consultation with the Secretary of Health and Human Services, shall carry out a program to demonstrate the effectiveness of providing grants to public housing agencies to assist such agencies in providing facilities for making one-stop perinatal services programs (as defined in subsection (e)(1)) available for pregnant women who reside in public housing.

(2) **CONSULTATION REQUIREMENTS.**—In carrying out the demonstration program under this section, the Secretary shall consult with the heads of other appropriate Federal agencies.

(b) **ALLOCATION OF ASSISTANCE.**—

(1) **PREFERENCES.**—In selecting public housing agencies for grants under this section, the Secretary shall give preference to the following public housing agencies:

(A) **AREAS WITH HIGH INFANT MORTALITY RATES.**—Public housing agencies serving areas with high infant mortality rates.

(B) **SECURE FACILITIES.**—Public housing agencies that demonstrate, to the satisfac-

tion of the Secretary, that security will be provided so that women are safe when participating in the one-stop perinatal services program carried out at the facilities provided or assisted under this section.

(2) **LIMITATION ON GRANT AMOUNT.**—The aggregate amount provided under this section for any public housing project may not exceed \$15,000.

(c) **DEMONSTRATION PROGRAM REQUIREMENTS.**—

(1) **APPLICATIONS.**—Applications for grants under this section shall be made by public housing agencies in accordance with procedures established by the Secretary and shall include a description of the one-stop perinatal services program to be provided in the facilities provided or assisted under this section.

(2) **USE OF GRANTS.**—Any public housing agency receiving a grant under this section may use the grant only for the costs of providing facilities and minor renovations of facilities necessary to make one-stop perinatal services programs available to pregnant women who reside in public housing.

(3) **REPORTS TO SECRETARY.**—Each public housing agency receiving a grant under this section for any fiscal year shall submit to the Secretary, not later than 3 months after the end of such fiscal year, a report describing the facilities provided by the public housing agency under this section and the one-stop perinatal services program carried out in such facilities. The report shall include data on the size of the facilities, the costs and extent of any renovations, the previous use of the facilities, the number of women assisted by the program, the trimester of the pregnancy of the women at the time of initial assistance, infant birthweight, infant mortality rate, and other relevant information.

(4) **APPLICABLE STANDARDS.**—No provision of this section may be construed to authorize the Secretary to establish any health, safety, or other standards with respect to the services provided by the one-stop perinatal services program or facilities provided or assisted with grants received under this section. Such services and facilities shall comply with all applicable State and local laws, regulations, and ordinances, and all requirements established by the Secretary of Health and Human Services for such services and facilities.

(d) **REPORT TO CONGRESS.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall prepare and submit to the Congress a comprehensive report setting forth the findings and conclusions of the Secretary as a result of carrying out the demonstration program under this section. The report shall include any recommendations of the Secretary with respect to the establishment of a permanent program of providing facilities in public housing for making perinatal services available to pregnant women who reside in the public housing.

(e) **DEFINITIONS.**—For purposes of this section:

(1) **ONE-STOP PERINATAL SERVICES PROGRAM.**—The term "one-stop perinatal services program" means a program to provide a wide range of services for pregnant and new mothers in a coordinated manner at a drop-in center, which may include any of the following:

(A) **INFORMATION AND EDUCATION.**—Information and education for pregnant women regarding perinatal care services, and related services and resources, necessary to decrease infant mortality and disability.

(B) **HEALTH CARE SERVICES.**—Basic health care services that can be provided without a physician present.

(C) **REFERRAL.**—Basic health screening of pregnant women and referrals for health care services.

(D) **FOLLOWUP.**—Followup assessment of women and infants (including measurement of weight) and referrals for health care services and related services and resources.

(E) **SOCIAL WORKER.**—Information and assistance regarding Federal and State social services provided by a social worker.

(F) **OTHER.**—Any other services to assist pregnant or new mothers.

(2) **PUBLIC HOUSING.**—The terms "public housing" and "public housing agency" have the meanings given such terms in section 3(b) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)).

(3) **SECRETARY.**—The term "Secretary" means the Secretary of Housing and Urban Development.

(f) **REGULATIONS.**—The Secretary shall issue any regulations necessary to carry out this section.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section such sums as may be necessary for fiscal year 1991.

SEC. 518. PUBLIC HOUSING MIXED INCOME NEW COMMUNITIES STRATEGY DEMONSTRATION.

(a) **ESTABLISHMENT OF DEMONSTRATION PROGRAM.**—

(1) **IN GENERAL.**—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of promoting the revitalization of troubled urban communities through the provision of public housing in socioeconomically mixed settings combined with the innovative use of public housing operating subsidies to stimulate the development of new affordable housing in such communities.

(2) **COMPREHENSIVE SERVICES.**—Housing units provided under the demonstration program under this section shall be made available in connection with a comprehensive program of services and incentives under subsections (h) and (i), in order to prepare participating families for successful transition to the private rental housing market and homeownership within a reasonable period of time.

(b) **COORDINATING COMMITTEE.**—

(1) **ESTABLISHMENT.**—For a public housing agency to be eligible for designation or selection under subsection (d) for participation in the demonstration program, the chief executive officer of each unit of general local government in which the public housing agency is located shall appoint a coordinating committee under this paragraph. The coordinating committee shall participate in developing a plan for implementing the demonstration program, review, monitor, and make recommendations for improvements in activities under the demonstration program, and ensure the coordination and delivery of services under subsection (h).

(2) **MEMBERSHIP.**—Each coordinating committee shall be composed of 12 members, who shall include, but may not be limited to, the following individuals:

(A) A representative of the chief executive officer of the applicable unit of general local government.

(B) A representative of the applicable public housing agency.

(C) A representative of the regional administrator of the Department of Housing and Urban Development.

(D) A representative of a local resident management corporation.

(E) Not less than 1 individual affiliated with a local agency that administer programs in 1 of the following areas: health, human services, substance abuse, education, economic and business development, law enforcement, and housing.

(F) A representative from among local businesses engaged in housing and real estate.

(G) A representative from among business engaged in real estate financing.

(3) **SOCIAL SERVICE COMMITTEES.**—Each coordinating committee established under this subsection shall establish a subcommittee on social services, which shall, before any action is taken under subsection (e)(1) (with respect to the demonstration program as carried out by the applicable public housing agency), identify the specific services that are required to successfully carry out the demonstration program.

(c) **INTERAGENCY COOPERATION.**—The Secretary shall coordinate with the appropriate heads of other Federal agencies as necessary to coordinate the implementation of the demonstration program and endeavor to ensure the delivery of supportive services required under subsection (h).

(d) **SCOPE OF DEMONSTRATION PROGRAM.**—

(1) **PARTICIPATING PUBLIC HOUSING AGENCIES.**—The Secretary shall carry out the demonstration program with respect to public housing for families administered by the Housing Authority of the City of Chicago, in the State of Illinois. The Secretary may also carry out the demonstration program with respect to public housing administered by not more than 3 other public housing agencies.

(2) **PARTICIPATING PUBLIC HOUSING UNITS.**—Over the term of the demonstration, the demonstration may be applied to not more than 15 percent of the total number of public housing units for families administered by each participating public housing agency.

(3) **NONDISPLACEMENT.**—No person who is a tenant of public housing during the term of the demonstration program may be involuntarily relocated or displaced under the demonstration program.

(e) **HOUSING DEVELOPMENT.**—

(1) **USE OF PUBLIC HOUSING OPERATING SUBSIDIES.**—For the purpose of providing reasonable and necessary operating costs in connection with the development of additional affordable housing, under the demonstration program the Secretary shall amend the annual contributions contract between the Secretary and each participating public housing agency as the Secretary determines appropriate to permit the public housing agency to utilize operating subsidy amounts allocated to the agency under section 9 of the United States Housing Act of 1937 with respect to newly constructed or rehabilitated housing units that are privately developed and owned. Such units shall be reserved for use under the demonstration program for occupancy by very low-income families as provided under this subsection and subsection (g).

(2) **LEASE TERMS.**—Operating subsidy amounts shall be provided for the operation of housing under paragraph (1) pursuant to a lease contract between the owner of the housing and the public housing agency, which shall specify—

(A) the number of units to be leased exclusively to the public housing agency for the term of the demonstration program, subject only to the availability of amounts

under paragraph (1) or other funds for such purposes; and

(B) the requirements under subsection (f)(6).

(3) **TRANSFER OF AMOUNTS.**—Operating subsidy amounts may be provided for a unit of housing under paragraph (1) only after the execution of a lease under subsection (f)(5) for 1 corresponding public housing unit.

(4) **RENTAL TERMS.**—Units acquired by a participating public housing agency under this subsection shall be available only to very low-income families that reside, or have been offered a unit, in public housing administered by the public housing agency and that enter into a voluntary contract under subsection (g)(1). The rental charge for each unit shall be the amount equal to 30 percent of the adjusted income of the resident family (as determined under section 3(b) of the United States Housing Act of 1937), except that the rental charge may not exceed a ceiling rent determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of such Act.

(5) **INCOME MIX.**—Not more than 25 percent of the units in each privately developed housing project under the demonstration program may be leased by a public housing agency pursuant to a lease contract under paragraph (2). The number of units under each such lease may not be less than the number of public housing units that, notwithstanding the demonstration program, would have been assisted with the operating subsidy amounts made available under such contract, to ensure that there shall be no loss of public housing units.

(6) **COORDINATION WITH OTHER ENTITIES FOR DEVELOPMENT OF HOUSING.**—A participating public housing agency may seek the co-operation and receive assistance from State, county, and local governments and the private sector to develop housing for use under this subsection. Such assistance may include, but is not limited to—

(A) donations of land and write-downs and discounts on land by local governments;

(B) abatement of real estate taxes for specified periods by local, county, or State governments;

(C) assignment of community development block grant funds and loan guarantees made available under title I of the Housing and Community Development Act of 1974;

(D) low interest rate financing through Federal Home Loan Bank programs, State or Federal programs, and private lenders;

(E) low income housing tax credits from State and local governments; and

(F) mortgage revenue bonds from State or local governments.

(7) **DETERMINATION OF LOCATION AND NUMBER OF UNITS.**—

(A) **IN GENERAL.**—A participating public housing agency and the applicable unit of general local government shall jointly determine the location of any newly constructed or rehabilitated housing to be utilized under the demonstration program carried out by the public housing agency and the number of units to be developed annually, with approval of the legislative body of the local government.

(B) **LIMITATION ON NUMBER OF UNITS.**—The total number of newly constructed or rehabilitated units that may be used under this subsection in the demonstration program may not exceed—

(i) for any participating public housing agency with not more than 5,000 public housing units, 15 percent of the number of units administered by the agency;

(ii) for any participating agency with more than 5,000 but not more than 25,000 units, 10 percent of the number of units administered by the agency; and

(iii) for any participating agency with more than 25,000 units, 4 percent of the number of units administered by the agency.

(f) **EXISTING PUBLIC HOUSING.**—

(1) **IN GENERAL.**—To facilitate the establishment of socioeconomically mixed communities within existing public housing developments, under the demonstration program the Secretary shall authorize participating public housing agencies to lease units in existing public housing projects, as provided in this subsection, to lower income families who are not very low-income families, notwithstanding the provisions of section 16(b) of the United States Housing Act of 1937.

(2) **LIMITATIONS ON PUBLIC HOUSING RESIDENTS.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), not more than 25 percent of the units in each public housing project in which units are utilized under the demonstration program may be occupied by lower income families who are not very low-income families. Not less than 75 percent of the units in each such public housing project shall be occupied by very low-income families.

(B) **EXCEPTION.**—Upon determining that a public housing agency has a special need, the Secretary may provide for not more than 50 percent of the units in a public housing project utilized under the demonstration program to be occupied by lower income families who are not very low-income families, and the remainder of the units to be occupied by very low-income families. Such special need may include the need to ensure the successful revitalization of troubled public housing through establishing a socioeconomically mixed resident population.

(3) **NUMBER OF UNITS.**—The number of such units made available under this subsection by a public housing agency may not exceed the number of units provided under subsection (e) to participating families.

(4) **RENTAL TERMS.**—The rent charged any family occupying a unit made available under this subsection may not, at any time during the demonstration period, exceed the ceiling rent level determined by the public housing agency in the manner that monthly rent is determined under section 3(a)(2)(A) of the United States Housing Act of 1937.

(5) **LEASE.**—A participating public housing agency shall enter into a lease with each family occupying a public housing unit made available under this subsection. The term of each lease shall be 1 year. Each lease shall be renewable upon expiration for a period not to exceed 7 years. A public housing agency may extend the period as provided under subsection (j)(1).

(6) **VACANCY.**—If, at any time, a participating public housing agency is unable to rent a unit made available under this subsection and the unit has been vacant for a period of 6 months, the agency may—

(A) cancel a lease for 1 unit of housing provided under subsection (e) and recapture any operating subsidy amounts associated with the unit for use with respect to the vacant public housing unit, upon which such public housing unit shall be removed from participation in the demonstration program and made generally available for occupancy as provided under the United States Housing Act of 1937; and

(B) provide the family residing in the housing unit provided under subsection (e) (from which operating subsidy amounts have been recaptured) with assistance under section 8(b) of such Act, subject to the availability of such assistance pursuant to appropriations Acts and notwithstanding any preferences for such assistance under section (d)(1)(A)(i) of such Act, and permit the family to remain in the unit.

(g) **CONTRACTS WITH PARTICIPATING FAMILIES.**—

(1) **IN GENERAL.**—Under the demonstration program, a participating public housing agency shall enter into a contract with each family that will reside in a unit of privately developed housing leased to the agency under subsection (e). Such family shall voluntarily enter into the contract and shall meet the criteria established under paragraph (2). The contract shall be made part of the lease executed between the family and the public housing agency for such unit, shall set forth the provisions of the demonstration program, and shall specify the resources to be made available to the participating family and the responsibilities of the participating family under the program. The lease shall be for a term of 1 year and shall be renewable upon expiration for a period not to exceed 7 years, except as provided under subsection (j)(1).

(2) **ESTABLISHMENT OF CRITERIA.**—Each public housing agency shall establish criteria for participation of families in the demonstration program. The criteria shall be based on factors that may reasonably be expected to predict the family's ability to successfully complete the requirements of the demonstration program. The criteria shall include—

(A) the status and history of employment of family members;

(B) enrollment of the children in the family in an educational program;

(C) maintenance by the family of the family's previous dwelling;

(D) ability of adult family members to complete training for long-term employment;

(E) the existence and seriousness of any criminal records of family members; and

(F) the status and history of substance abuse of family members.

(3) **CONTINUED RESIDENCE.**—Continued residency of families in housing provided under subsection (e) shall be contingent upon compliance with standards established by the participating public housing agency, which shall include—

(A) all members of the family remaining drug-free;

(B) no member of the family engaging in any criminal activity;

(C) each child in the family remaining in an educational program until receipt of a high school diploma or the equivalent thereof; and

(D) family members participating in the support services and counseling under subsection (h);

(h) **PROVISION OF SUPPORTIVE SERVICES.**—For the entire term of residency of a participating family in housing provided under subsection (e), the public housing agency shall ensure the availability of supportive services and counseling to the family in accordance with the terms and conditions of the contract of participation under subsection (g)(1). The public housing agency shall provide for such services and counseling through its own resources and through coordination with Federal, State, and local agencies, community-based organizations,

and private individuals and entities. Services shall include the following:

- (1) Remedial education.
- (2) Education for completion of high school.
- (3) Job training and preparation.
- (4) Child care.
- (5) Substance abuse treatment and counseling.
- (6) Training in homemaking skills and parenting.
- (7) Family counseling.

(8) Financial counseling services emphasizing planning for homeownership, provided by local financial institutions under the Community Reinvestment Act of 1977, provided under section 106 of the Housing and Urban Development Act of 1968, or otherwise provided.

(i) ECONOMIC ADVANCEMENT OF PARTICIPATING FAMILIES.—

(1) **EMPLOYMENT.**—Under the demonstration program, for the entire term of residency of each participating family in housing provided under subsection (e)—

(A) the head of the family shall be required to be employed on a full-time basis, except that if the head of the family becomes unemployed, the public housing agency shall review the individual case to determine if mitigating factors, such as involuntary loss of employment, warrant continuing the family's participation in the demonstration program; and

(B) the public housing agency shall ensure the provision of counseling to assist family members in gaining, advancing in, and retaining employment.

(2) **RENT INCREASES.**—During the 1-year period beginning upon the residency of a participating family in housing provided under subsection (e), the amount of rent charged the participating family may not be increased on the basis of any increase in the earned income of the family, until such earned income exceeds 80 percent of the median family income for the area.

(3) ESCROW SAVINGS ACCOUNTS.—

(A) **PURPOSE AND ESTABLISHMENT.**—To ensure that participating families acquire the financial resources necessary to complete a successful transition from assisted rental housing to homeownership or other private housing, under the demonstration program each participating public housing agency shall establish for each participating family an interest-bearing escrow savings account held by the agency in the family's name.

(B) **PERIODIC DEPOSITS.**—For the entire term of a participating family's residency in housing provided under subsection (e) the public housing agency shall deposit in the account established for the family under subparagraph (A) a percentage of the monthly rent charged the family, which percentage shall be established in the contract of participation under subsection (g)(1). Any rent increases charged because of increases in the earned income of the family shall also be deposited into the escrow account.

(C) **ACCESS TO AMOUNTS.**—A participating family may withdraw amounts in the family's escrow account only upon successful completion of participation in the demonstration program, for purchase of a home, for contribution toward college tuition, or other good cause determined by the participating public housing agency. A participating family that has committed violations referred to under subsection (j)(2)(B) shall forfeit access to such amounts.

(4) **TREATMENT OF INCREASED INCOME.**—Any increase in the earned income of a partici-

pating family during residency in housing provided under subsection (e) may not be considered as income or a resource for the purpose of the family for benefits, or amount of benefits payable to the family, under any other Federal law, unless the income of the family equals or exceeds 80 percent of the median income of the area (as determined by the Secretary with adjustments for smaller and larger families).

(j) CONCLUSION OF PARTICIPATION.—

(1) **7-YEAR TERM.**—Each family residing in housing provided under subsection (e) or (f) shall terminate residency in housing not later than the expiration of the 7-year period beginning on the commencement of such residency. Notwithstanding the preceding sentence, a public housing agency shall extend the period for any family that requests extension of the period—

(A) because the family is not prepared to enter a program for homeownership or to secure any other form of private housing; or

(B) for other good cause.

(2) INCOMPLETION.—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), if a participating family is unable to successfully fulfill the requirements under the demonstration program, the public housing agency shall offer the family a comparable public housing unit in a project administered by the agency (notwithstanding any preference for residency in public housing under section 6(c)(4)(A)(i) of the United States Housing Act of 1937), or assistance under section 8 of such Act (subject to availability of amounts provided under appropriations Acts and notwithstanding any preference for such assistance under section 8(d)(1)(A)(1) of such Act).

(B) **EXCEPTION.**—Subparagraph (A) shall not apply to any participating family that has committed serious or repeated violations of the terms and conditions of the lease, violations of applicable Federal, State, or local law or that has been exempted from such requirement by the public housing agency for other good cause.

(k) REPORTS TO CONGRESS.—

(1) **INTERIM REPORT.**—Upon the expiration of each 2-year period during the term of the demonstration, the first such period beginning on the date of the enactment of this Act, the Secretary shall submit to the Congress a report evaluating the effectiveness of the demonstration program under this section.

(2) **FINAL REPORT.**—Not later than the expiration of the 60-day period beginning on the date of the termination of the demonstration program under subsection (n), the Secretary shall submit to the Congress a final report evaluating the effectiveness of the demonstration program under this section. The report shall also include findings and recommendations for any legislative action appropriate to establish a permanent program based on the demonstration program.

(1) **DEFINITIONS.**—For purposes of this subsection:

(1) The term "coordinating committee" means a local coordinating committee established under subsection (b)(1).

(2) The term "demonstration program" means the program established by the Secretary under this section.

(3) The term "lower income family" means a family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than

80 percent of the median for the area on the basis of findings by the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) The term "operating subsidy amounts" means assistance for public housing provided through the performance funding system under section 9 of the United States Housing Act of 1937.

(5) The term "participating family" means a family that is residing in a housing unit provided under subsection (e).

(6) The term "participating public housing agency" means a public housing agency with respect to which the Secretary carries out the demonstration program under this section.

(7) The terms "public housing agency", "public housing", and "project" have the meanings given such terms under section 3(b) of the United States Housing Act of 1937.

(8) The term "Secretary" means the Secretary of Housing and Urban Development.

(9) The term "unit of general local government" means any city, town, township, county, parish, village, or other general purpose political subdivision of a State.

(m) **REGULATIONS.**—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(n) **TERMINATION OF DEMONSTRATION PROGRAM.**—The demonstration program under this section shall terminate upon the expiration of the 10-year period beginning on the date of the enactment of this Act.

SEC. 519. EXEMPTION FROM PUBLIC HOUSING AND SECTION 8 TENANT PREFERENCES.

(a) **PUBLIC HOUSING.**—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by striking "10 percent" and inserting "30 percent".

(b) SECTION 8 CERTIFICATES.—

(1) **PREFERENCE PERCENTAGE.**—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended by striking "10 percent (or such higher percentage)" and inserting "30 percent in the case of assistance attached to the structure and 10 percent in the case of assistance not attached to the structure (or such higher percentages)".

(2) **TREATMENT OF PUBLIC HOUSING TENANTS.**—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended by inserting after the semicolon at the end the following: "except that any family who is otherwise eligible for assistance under this section may not be denied preference for assistance that is not attached to the structure (or delayed or otherwise adversely affected in provision of such assistance) solely because the family resides in public housing".

(c) **SECTION 8 NEW CONSTRUCTION.**—With respect to housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, and projects financed under section 202 of the Housing Act of 1959, notwithstanding any tenant selection criteria under a contract between the Secretary of Housing and Urban Development and an owner of such housing pursuant to the first sentence of such section—

(1) the tenant selection criteria for such housing shall give preference to families which occupy substandard housing, are paying more than 50 percent of family

income for rent, or are involuntarily displaced at the time they are seeking assistance under such section; and

(2) the owner may provide for circumstances in which families who do not qualify for any preference under paragraph (1) are provided assistance before families who do qualify for such preference, except that not more than 30 percent of the families who initially receive assistance in any 1-year period may be families who do not qualify for such preference.

SEC. 520. PUBLIC HOUSING AND SECTION 8 ASSISTANCE REGARDING FOSTER CARE CHILDREN.

(a) COORDINATION AND PROVISION OF ASSISTANCE.—

(1) PUBLIC HOUSING.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

“(c) In providing housing in lower income housing projects, each public housing agency shall coordinate with any local public agencies involved in providing for the welfare of children to make available dwelling units to—

“(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

“(A) in the imminent placement of a child in foster care; or

“(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

“(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.”

(2) SECTION 8.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by adding at the end the following new subsection:

“(w) Any public housing agency or other agency administering the allocation of assistance under this section shall coordinate with any local public agencies involved in providing for the welfare of children to make available certificates or vouchers to—

“(1) families identified by the agencies as having a lack of adequate housing that is a primary factor—

“(A) in the imminent placement of a child in foster care; or

“(B) in preventing the discharge of a child from foster care and reunification with his or her family; and

“(2) youth, upon discharge from foster care, in cases in which return to the family or extended family or adoption is not available.”

(b) SUBSTANDARD HOUSING AND INVOLUNTARY DISPLACEMENT.—

(1) PUBLIC HOUSING.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended—

(A) by inserting after “substandard housing” the following: “(including families for which substandard housing or lack of housing is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family)”; and

(B) by inserting after “involuntarily displaced” the following: “(including children aging out of or upon discharge from foster care in cases in which return to the family or extended family or adoption is not available)”; and

(2) SECTION 8.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)(i)) is amended—

(A) by inserting after “substandard housing” the following: “(including families for which substandard housing or lack of housing is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family)”; and

(B) by inserting after “involuntarily displaced” the following: “(including children aging out of or upon discharge from foster care in cases in which return to the family or extended family or adoption is not available)”; and

(c) HOUSING ASSISTANCE PLAN.—Section 213(a)(5) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(a)(5)) is amended by inserting after the period at the end the following new sentence: “In developing a housing assistance plan under this paragraph a unit of general local government shall consult with local public agencies involved in providing for the welfare of children to determine the housing needs of (A) families identified by the agencies as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family; and (B) children who, upon discharge of the child from foster care, cannot return to their family or extended family and for which adoption is not available. The unit of general local government shall include in the housing assistance plan needs and goals with respect to such families and children.”

SEC. 521. SECTION 8 CERTIFICATES REGARDING FOSTER CARE.

(a) PROVISION OF CERTIFICATES.—Each family or child that meets the requirements of subsection (b) of this section and that is otherwise eligible for a certificate under section 8(b)(1) of the United States Housing Act of 1937 shall be entitled to a certificate provided by the Secretary of Housing and Urban Development under section 8(b)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(b)(1)).

(b) REQUIREMENTS.—Assistance under this section shall be provided only on behalf of families identified by the agencies referred to in subsection (c) as having a lack of adequate housing that is a primary factor in the imminent placement of a child in foster care or in preventing the discharge of a child from foster care and reunification with his or her family.

(c) ADMINISTERING AGENCIES.—The Secretary shall provide for public housing agencies and other agencies administering the allocation of assistance under section 8 of the United States Housing Act of 1937 to consult with any local public agencies involved in providing for the welfare of children to make available assistance under this subsection.

(d) FUNDING.—There are authorized to be appropriated for each fiscal year such sums as may be necessary to provide assistance under this section to each individual entitled to such assistance.

(e) EFFECTIVE DATE.—This section shall take effect on October 1, 1990.

SEC. 522. SECTION 8 FAIR MARKET RENT CALCULATION.

Section 8(c)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(1)) is amended by inserting after “Federal Register” the following new sentence: “At the request of a public housing agency or public housing agencies, the Secretary may approve (for any period for which fair market

rents are established under this paragraph), for any housing market area, separate fair market rents for areas that are geographically smaller than the market area and are wholly contained within the market area if the public housing agency or agencies (whose boundaries encompass all or part of the smaller geographic areas) demonstrate to the satisfaction of the Secretary that the alternative fair market rents proposed for such smaller areas (A) accurately reflect rent variations between such areas and the established market area (for such period), and (B) will (for such period) improve housing opportunities for disadvantaged minorities and families with special needs, provide very low-income families with better access to employment and education opportunities, or otherwise further the objectives of national housing policy as affirmed by the Congress.”

SEC. 523. SECTION 8 OPT-OUTS.

Section 8(c)(9) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(9)) is amended—

(1) by inserting at the end of the first sentence the following new sentence: “The owner’s notice shall include a statement that the owner and the Secretary may agree to a renewal of the contract, thus avoiding the termination.”; and

(2) by inserting before the final sentence the following new sentence: “Within 30 days of the Secretary’s finding, the owner shall provide written notice to each tenant of the Secretary’s decision.”

SEC. 524. EXPIRING SECTION 8 CONTRACTS.

Section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)) is amended by inserting after the first sentence the following new sentence: “The Secretary shall permit public housing agencies to enter into contracts for assistance payments of less than 12 months duration in order to avoid disruption in assistance to eligible families if the annual contributions contract is within 1 year of its expiration date.”

SEC. 525. SECTION 8 ASSISTANCE FOR PHA-OWNED UNITS.

Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)) is amended by striking “newly constructed or substantially rehabilitated dwelling units as described in this section” and inserting “dwelling units”.

SEC. 526. ELIGIBILITY OF VOUCHERS FOR USE WITH MOBILE HOMES.

Section 8(o) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)) is amended by adding at the end the following new paragraph:

“(9)(A) The Secretary may enter into contracts to make assistance payments under this paragraph to assist lower income families by making rental assistance payments on behalf of any such family which utilizes a manufactured home as its principal place of residence. Such payments may be made with respect to the rental of the real property on which there is located a manufactured home which is owned by any such family, or with respect to the rental by such family of a manufactured home and the real property on which it is located. In carrying out this paragraph the Secretary shall enter into annual contributions contracts with public housing agencies pursuant to which such agencies may enter into contracts to make such assistance payments to the owners of such real property.

“(B)(i) A contract entered into pursuant to this subparagraph shall establish the

rent (including maintenance and management charges) for the space on which a manufactured home is located and with respect to which assistance payments are to be made. The public housing agency shall establish a payment standard based on the fair market rental established by the Secretary periodically (but not less than annually) with respect to the market area for the rental of real property suitable for occupancy by families assisted under this subparagraph.

"(ii) The amount of any monthly assistance payment with respect to any family which rents real property which is assisted under this subparagraph and on which is located a manufactured home which is owned by such family shall be the amount by which 30 percent of the family's monthly adjusted income is exceeded by the sum of—

"(I) the monthly payment made by such family to amortize the cost of purchasing the manufactured home;

"(II) the monthly utility payments made by such family, subject to reasonable limitations prescribed by the Secretary; and

"(III) the payment standard with respect to the real property which is rented by such family for the purpose of locating its manufactured home;

except that in no case may such assistance exceed the amount by which the rent for the property exceeds 10 percent of the family's monthly income.

"(C) The provisions of paragraph (6)(A) shall apply to the adjustments of maximum monthly rents under this paragraph.

"(D) The Secretary may carry out this paragraph without regard to whether the manufactured home park is existing, substantially rehabilitated, or newly constructed.

"(E) In the case of any substantially rehabilitated or newly constructed manufactured home park containing spaces with respect to which assistance is made under this paragraph, the principal amount of the mortgage attributable to the rental spaces within the park may not exceed an amount established by the Secretary which is equal to or less than the limitation for manufactured home parks described in section 207(c)(3) of the National Housing Act, and the Secretary may increase such limitation in high cost areas in the manner described in such section.

"(F) The Secretary may prescribe other terms and conditions which are necessary for the purpose of carrying out the provisions of this paragraph and which are consistent with the purposes of this paragraph.

SEC. 527. INCOME ELIGIBILITY FOR TENANCY IN SECTION 8 NEW CONSTRUCTION UNITS.

Dwelling units in any housing constructed or substantially rehabilitated pursuant to assistance provided under section 8(b)(2) of the United States Housing Act of 1937, as such section existed before October 1, 1983, shall be reserved for occupancy by lower-income families and very low-income families in accordance with the provisions of such section (as the section existed upon the making of the contract) and to the extent that a contract for assistance under such section provided assistance for such families (notwithstanding the lack of any such condition or provision in the contract).

SEC. 528. SETTLEMENT AGREEMENT REGARDING CERTAIN SECTION 8 ASSISTANCE.

Notwithstanding any other provision of law, the Secretary of Housing and Urban Development shall, from any amounts provided under section 5(c) of the United

States Housing Act of 1937 for use in fiscal year 1991 under section 8 of such Act, provide such assistance to the City of Norfolk, in the State of Virginia, in an amount necessary to provide 186 certificates under subsection (b) of such section 8. The assistance provided under this section shall be in connection with the settlement agreement dated October 6, 1981, in the case of Robin Hood Tenants Association v. Vincent J. Thomas, Jr. (civil action no. 80-501-N), in the Norfolk Division of the United States District Court for the Eastern Division of Virginia.

SEC. 529. HUD STUDY OF SECTION 8 UTILIZATION RATES.

(a) STUDY.—The Secretary of Housing and Urban Development shall conduct a study of the reasons for success or failure, within appropriate cities and localities, in utilizing assistance made available by the Secretary for such areas under the certificate and voucher programs under section 8 of the United States Housing Act of 1937. The study shall examine such rates and provide information regarding such rates based on the household size, age of household members, race of household members, income of households, welfare status of households, number of children in a household.

(b) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the study under this section. The report shall contain a conclusion of the Secretary, for each city or locality studied, whether the success or failure in utilizing assistance under such section 8 relates to the existence of a local problem or a programmatic failure with respect to the certificate or voucher program.

SEC. 530. FEASIBILITY STUDY REGARDING INDIAN TRIBE ELIGIBILITY FOR VOUCHER PROGRAM.

(a) STUDY.—The Secretary of Housing and Urban Development shall carry out a study to determine the feasibility and effectiveness of entering into contracts with Indian housing authorities to provide voucher assistance under section 8(o) of the United States Housing Act of 1937.

(b) CONSULTATION.—In carrying out the study under this section, the Secretary shall consult with Indian housing authorities.

(c) REPORT.—The Secretary shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the findings and conclusions of the Secretary as a result of the study under this section.

SEC. 531. RENTAL REHABILITATION GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 17(a)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437o(a)(3)) is amended to read as follows:

"(3) AUTHORIZATION.—There is authorized to be appropriated for rental rehabilitation under this section \$133,000,000 for fiscal year 1991."

(b) RENT CHARGES.—Section 17(f) of the United States Housing Act of 1937 (42 U.S.C. 1437o(f)) is amended—

(1) by inserting after the period at the end of the first sentence the following new sentence: "Notwithstanding the preceding sentence, the rent charged for units in structures assisted pursuant to subsection (a)(1)(A) may conform with requirements relating to rents imposed on such structures as a condition of receiving financial assistance under any program of a State or unit

of general local government to the extent that the structure is receiving such assistance."; and

(2) in the second sentence, by striking "This subsection" and inserting "The first sentence of this subsection".

SEC. 532. EXEMPTION FROM HOUSING DEVELOPMENT GRANT CONSTRUCTION COMMENCEMENT REQUIREMENTS.

(a) IN GENERAL.—Notwithstanding section 17(d)(4)(G) of the United States Housing Act of 1937 and subject to approval in appropriations Acts, the county of Santa Cruz, in the State of California, may not be required to return, and the Secretary of Housing and Urban Development may not recapture, any housing development grant amounts referred to in subsection (b) if during the 6-month period beginning on the date of the enactment of this Act the county (or any subgrantee) commences construction or substantial rehabilitation activities for which such amounts were made available.

(b) DESCRIPTION OF GRANT AMOUNTS.—The grant amounts referred to in subsection (a) are the amounts awarded to the county of Santa Cruz, in the State of California, on October 1, 1987, under section 17(d) of the United States Housing Act of 1937, for the purpose of providing 37 housing units for lower and very low-income families at the Murphy's Crossing housing development (project no. CA030HG701).

SEC. 533. APPLICABILITY.

In accordance with section 201(b)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437aa(b)(2)), the amendments made by this subtitle shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian Housing Authority, except that sections 504 and 508 shall not apply.

Subtitle B—Other Housing Assistance Programs

SEC. 541. HOUSING FOR THE ELDERLY AND HANDICAPPED.

(a) BORROWING AUTHORITY.—The first sentence of section 202(a)(4)(B)(i) of the Housing Act of 1959 (42 U.S.C. 1701q(a)(4)(B)(i)) is amended—

(1) by striking "and" the first place it appears; and

(2) by inserting after "1989," the following: "and to such sums as may be approved in appropriation Acts for fiscal years 1990 and 1991."

(b) LOAN AUTHORITY.—Section 202(a)(4)(C) of the Housing Act of 1959 (42 U.S.C. 1701q(a)(4)(C)) is amended by adding at the end the following new sentence: "For fiscal years 1990 and 1991, not more than \$472,664,357 and \$714,237,000, respectively, may be approved in appropriation Acts for such loans."

(c) AIDS AS ELIGIBLE HANDICAP.—Section 202(d)(4) of the Housing Act of 1959 (42 U.S.C. 1701q(d)(4)) is amended by inserting after the period at the end of the third sentence the following new sentence: "A person shall also be considered handicapped if such person is disabled as a result of infection with the human immunodeficiency virus."

(d) ELDER COTTAGE HOUSING UNITS.—

(1) LOANS FOR PURCHASE AND INSTALLATION OF ECHO UNITS.—

(A) ELIGIBILITY AS HOUSING UNDER SECTION 202 PROGRAM.—Section 202(d)(1) of the Housing Act of 1959 (42 U.S.C. 1701q(d)(1)) is amended—

(i) by striking "or" before "(B)"; and

(ii) by inserting before the period at the end of the following: ", or (C) elder cottage

housing opportunity units that are small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to existing 1- to 4-family dwellings".

(B) ELIGIBILITY OF DEVELOPMENT COSTS UNDER SECTION 202 PROGRAM.—Section 202(d)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(d)(3)) is amended by inserting after the period at the end the following new sentence: "In the case of elder cottage housing opportunity units described in paragraph (1)(C), such term also means the cost of purchasing and installing the units."

(2) LOANS FOR PREDEVELOPMENT COSTS OF ECHO UNITS.—Section 106(b)(1) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(b)(1)) is amended in the first sentence by inserting after "Act" the following: ", section 202 of the Housing Act of 1959 (including elder cottage housing opportunity units)".

(3) INSURANCE OF LOANS PROVIDED FOR PURCHASE OF ECHO UNITS.—Section 2 of the National Housing Act (12 U.S.C. 1703) is amended by adding at the end the following new subsection:

"(i) For purposes of this section, the term 'manufactured home' includes any elder cottage housing opportunity unit that is small, freestanding, barrier-free, energy efficient, removable, and designed to be installed adjacent to an existing 1- to 4-family dwelling."

SEC. 542. USE OF RESOLUTION TRUST CORPORATION ELIGIBLE PROPERTIES FOR SECTION 202 HOUSING.

(a) AUTHORITY TO PURCHASE RESOLUTION TRUST CORPORATION PROPERTY FOR SECTION 202 PROGRAM.—Section 202(d)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(d)(3)), as amended by this Act, is further amended by inserting after the period at the end the following new sentence: "The term also means the cost of acquiring existing housing and related facilities from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the cost of rehabilitation, alteration, conversion, or improvement, including the moderate rehabilitation thereof, and the cost of the land on which the housing and related facilities are located."

(b) RESERVATION OF AUTHORITY BEFORE PURCHASE.—Section 202(a) of the Housing Act of 1959 (12 U.S.C. 1701q(a)) is amended by adding at the end the following new paragraph:

"(9) The Secretary may reserve loan authority under this section and budget authority under section 8 of the United States Housing Act of 1937 for a project before acquisition of the project (or before an offer or option to purchase is made on the project) from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, if the Secretary determines there is a reasonable likelihood that the project will be acquired from the Resolution Trust Corporation under section 21A(c)."

(c) 20-YEAR SECTION 8 CONTRACTS.—Section 202(g) of the Housing Act of 1959 (42 U.S.C. 1701q(g)) is amended by inserting after the period at the end the following new sentence: "In the case of existing housing and related facilities acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act, the term of the contract pursuant to such section 8 shall be 240 months."

(d) MODIFICATION OF RTC DISPOSITION PROCEDURES FOR PROPERTIES RECEIVING HUD OR FMHA ASSISTANCE.—

(1) IN GENERAL.—Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C.

1441a(c)(6)) is amended by adding at the end the following new subparagraph:

"(D) EXCEPTION TO DISPOSITION RULES.—Notwithstanding the requirements under subparagraphs (A), (B), (C), (D), (F), and (G) of paragraph (3), the Corporation may provide for the disposition of eligible multifamily housing properties as necessary to facilitate purchase of such properties for use in connection with the section 202 of the Housing Act of 1959."

(2) CONFORMING AMENDMENT.—Section 21A(c)(3) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(3)) is amended by inserting after "RULES GOVERNING DISPOSITION OF ELIGIBLE MULTIFAMILY HOUSING PROPERTIES.—" the following: "Except as provided under paragraph (6)(D), the Corporation shall dispose of eligible multifamily housing property as follows:"

(e) EXEMPTION FROM PROJECT SIZE REQUIREMENT REGARDING SUPPORT SERVICES FOR FRAIL ELDERLY.—Section 213(d)(1)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)(A)) is amended by inserting after the period at the end the following new sentence: "The preceding sentence shall not apply to projects acquired from the Resolution Trust Corporation under section 21A(c) of the Federal Home Loan Bank Act."

SEC. 543. HOUSING AND SERVICES FOR THE FRAIL ELDERLY.

(a) SECTION 202 PROGRAM.—

(1) IN GENERAL.—Section 202 of the Housing Act of 1959 (42 U.S.C. 1701q) is amended by adding at the end the following new subsection:

"(c)(1) Of the amounts made available in appropriation Acts for loans under subsection (a)(4)(C) for each of the fiscal years 1990 and 1991, \$10,000,000 shall be available for loans for the rehabilitation of housing and related facilities financed with development loans under this section to improve the ability of such housing and facilities to meet the needs of frail elderly persons."

"(2) For purposes of assistance under section 8 of the United States Housing Act of 1937 for any housing and related facilities financed under this section, project funds may be used for the employment of service coordinators to assist frail elderly persons."

(2) DEFINITION.—Section 202(d) of the Housing Act of 1959 (42 U.S.C. 1701q(d)) is amended by adding at the end the following new paragraph:

"(11) The term 'frail elderly person' means a person who is not less than 62 years of age and is determined, pursuant to regulations issued by the Secretary, to have an impairment (including any short-term impairment or impairment due to the aging process) that substantially impedes the ability of the person to live independently without assistance."

(b) REVIEW AND MODIFICATION OF PROGRAMS.—

(1) IN GENERAL.—The Secretary of Housing and Urban Development shall periodically review and modify all programs within the jurisdiction of the Secretary to ensure that such programs, to the extent possible consistent with statutory requirements, meet the needs of frail elderly persons (as defined in section 202(d)(11) of the Housing Act of 1959).

(2) ANNUAL REPORT.—The Secretary of Housing and Urban Development shall annually submit to the Congress a report describing the actions taken by the Secretary to carry out this subsection. Each such report shall include any recommendations of the Secretary for modifications in statu-

tory requirements to improve the ability of the programs within the jurisdiction of the Secretary to meet the needs of frail elderly persons (as defined in section 202(d)(11) of the Housing Act of 1959).

SEC. 544. SERVICE COORDINATORS AS ELIGIBLE PROJECT COST IN SECTION 202 PROJECTS.

(b) PROJECT OPERATING ASSISTANCE.—

(1) IN GENERAL.—Section 202(g) of the Housing Act of 1959 (12 U.S.C. 1701q(g)), as amended by the preceding provisions of this Act, is further amended by inserting after the period at the end the following: "The Secretary may also, in determining the amount of assistance to be provided for a project pursuant to such section 8, consider (and annually adjust for) the costs of—

"(1) the expenses of a management staff member of the project to coordinate the provision of any services within the project provided through any agency of the Federal Government or any other public or private department, agency, or organization to elderly or handicapped residents of the project to enable such residents to live independently and prevent placement in nursing homes or institutions, including services under subsection (f) and paragraph (2) of this subsection; and

"(2) expenses for the provision of services for elderly and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, which may include meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services, except that not more than 15 percent of the cost of the provision of such services may be considered under this subsection for purposes of determining the amount of assistance provided."

SEC. 545. CENTRALIZED APPLICATIONS FOR SECTION 202 HOUSING.

Section 202 of the Housing Act of 1959 (42 U.S.C. 1701q), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsection:

"(p) The Secretary shall provide for a unit of general local government, nonprofit organization, or other appropriate organization or agency (which may include the applicable Area Agency on the Aging) in each area, as the Secretary shall determine, in which housing assisted under this section is located, to provide not less than 1 location at which elderly or handicapped persons may submit an application for occupancy in a unit in a project in the area assisted under this section. The Secretary shall require that at each such location, an application may be made for each such project located within the area."

SEC. 546. STUDY REGARDING SECTION 202 HOUSING.

(a) STUDY.—The Secretary shall conduct a study under this section regarding the program for assistance under section 202 of the Housing Act of 1959 for housing projects for elderly and handicapped families and the effects on such program of the following:

(1) FAIR MARKET RENT LIMITATION.—The area fair market rent limitation (under section 8(c)(1) of the United States Housing Act of 1937) on maximum monthly rents for units in housing assisted under section 202 of the Housing Act of 1959. The Secretary shall analyze the effect of the rent limitations with respect to—

(A) the relation of such limitations and project income to the actual development and operating costs of such housing projects

(including provision of necessary supportive services);

(B) the need for increased income from rental payments for such housing projects; and

(C) the overall effect of the limitations on the financial soundness of such housing projects.

(2) **PER UNIT COST LIMITATIONS.**—Establishment of per unit cost limitations for such housing projects that take into account inclusion of common areas, dining facilities, accessibility features, and elevators, and use of cost containment limitations regarding building design that do not prevent or prohibit the provision of supportive services within the project to residents of the project.

(3) **RESTRUCTURING OF FINANCING.**—Converting the assistance provided under such section 202 from loans to capital advances, repayable only if the housing project assisted is used for purposes other than housing for elderly and handicapped families.

(4) **OPERATING ASSISTANCE.**—Entering into contracts with owners of housing for elderly and handicapped families assisted under such section 202 to provide monthly payments to cover operating costs for units occupied by very low- and lower income families, including costs of—

(A) project rental expenses;

(B) utilities expenses;

(C) expenses of renovations and improvements to make units more accessible to elderly or handicapped individuals (including expenses for installing grab bars, moving light switches and electrical outlets, enlarging doorways, and modifying kitchens) and to provide space within the project for the provision of services to residents; and

(D) expenses for the provision of services for elderly and handicapped residents of the project that enable residents to live independently and prevent placement in nursing homes or institutions, including meal services, housekeeping and chore assistance, personal care, laundry assistance, transportation services, and health-related services.

(5) **LIMITATION ON RENT FOR EFFICIENCY UNITS.**—Limiting the monthly rent for efficiency units in such housing projects to 25 percent of the monthly income of the resident of the unit.

(b) **REPORT TO CONGRESS.**—The Secretary shall submit to the Congress a report regarding the study conducted under this section not later than the expiration of the 9-month period beginning on the date of the enactment of this Act.

SEC. 547. FUNDING FOR CONGREGATE HOUSING SERVICES PROGRAM.

Section 411(a) of the Congregate Housing Services Act of 1978 (42 U.S.C. 8010(a)) is amended to read as follows:

"(a) There are authorized to be appropriated to carry out this title \$5,907,000 for fiscal year 1990 and \$6,002,000 for fiscal year 1991."

SEC. 548. REVISED CONGREGATE HOUSING SERVICES.

(a) **FINDINGS AND PURPOSES.**—

(1) **FINDINGS.**—The Congress finds that—

(A) congregate housing, coordinated with the delivery of supportive services, offers an innovative, proven, and cost-effective means of enabling frail older individuals and disabled individuals to maintain their dignity and independence;

(B) independent living with assistance is a preferable housing alternative to institutionalization for many frail older and disabled adults;

(C) 365,000 individuals in federally assisted housing experience some form of frailty, and the number is expected to increase as the general population ages;

(D) an estimated 20 to 30 percent of older adults living in federally assisted housing experience some form of frailty;

(E) a large and growing number of frail elderly residents face premature or unnecessary institutionalization because of the absence of or deficiencies in the availability, adequacy, coordination, or delivery of supportive services;

(F) the support service needs of frail residents of assisted housing are beyond the resources and experience that housing managers have for meeting such needs;

(G) supportive services would promote the invaluable option of independent living for nonelderly disabled adults in federally assisted housing;

(H) approximately 25 percent of congregate housing services program sites provide congregate services to young disabled individuals;

(I) to the extent that institutionalized older adults do not need the full costly support provided by such care, public moneys could be more effectively spent providing the necessary services in a noninstitutional setting; and

(J) the Congregate Housing Services Program, established by Congress in 1978, and similar programs providing in-home services have been effective in preventing unnecessary institutionalization and encouraging deinstitutionalization.

(2) **PURPOSES.**—The purposes of this section are—

(A) to provide services in federally assisted housing to prevent premature and inappropriate institutionalization in a manner that respects the dignity of frail older and disabled adults;

(B) to provide readily available and efficient supportive services that provide a choice in supported living arrangements by utilizing the services of an on-site coordinator, with emphasis on maintaining a continuum of care for the vulnerable elderly;

(C) to improve the quality of life of older Americans living in federally assisted housing;

(D) to preserve the viability of existing affordable housing projects for lower-income older residents who are aging in place by assisting managers of such housing with the difficulties and challenges created by serving older residents;

(E) to develop partnerships between the Federal Government and State governments in providing services to frail older and disabled adults; and

(F) to utilize Federal and State funds in a more cost-effective and humane way in serving the needs of older adults.

(b) **CONTRACTS FOR CONGREGATE SERVICES PROGRAMS.**—

(1) **IN GENERAL.**—The Secretary of Housing and Urban Development and the Secretary of Agriculture (through Administrator of the Farmers Home Administration) shall enter into contracts with States, Indian tribes, units of general local government and local nonprofit housing sponsors in nonparticipating States (as such term is defined in subsection (g)(2)), utilizing any amounts appropriated under subsection (c), to provide congregate services programs for eligible project residents to promote and encourage maximum independence within a home environment for such residents capable of self-care with appropriate supportive services.

(2) **TERM OF CONTRACTS.**—Each contract between the Secretary concerned and a State, Indian tribe, or unit of general local government or local nonprofit housing sponsor in a nonparticipating State, shall be for a term of 3 years and shall be renewable at the expiration of the term, except as otherwise provided in this section.

(c) **RESERVATION OF AMOUNTS.**—For each State, Indian tribe, unit of general local government and nonprofit housing sponsor in a nonparticipating State, receiving a contract under this subsection, the Secretary concerned shall reserve a sum equal to the total approved contract amount from the amount authorized and appropriated for the fiscal year in which the notification date of funding approval occurs.

(d) **CONGREGATE SERVICES PROGRAM.**—

(1) **IN GENERAL.**—A congregate services program under this section shall provide meal and other services for eligible project residents (and other residents, as provided in subsection (e)(4)), as provided in this section, that are coordinated on site.

(2) **MEAL SERVICES.**—Congregate services programs assisted under this section shall include meal service adequate to meet at least one-third of the daily nutritional needs of eligible project residents, as follows:

(A) **FOOD STAMPS AND AGRICULTURAL COMMODITIES.**—In providing meal services under this paragraph, each congregate services program—

(i) shall—

(I) apply for approval as a retail food store under section 9 of the Food Stamp Act of 1977 (42 U.S.C. 2018); and

(II) if approved under such section, accept coupons (as defined in section 3(e) of such Act) as payment from individuals to whom such meal services are provided; and

(ii) shall request, and use to provide such meal services, agricultural commodities made available without charge by the Secretary of Agriculture.

(B) **PREFERENCE FOR NUTRITION PROVIDERS.**—In contracting for or otherwise providing for meal services under this paragraph, each congregate services program shall give preference to any provider of meal services who—

(i) receives assistance under title III of the Older Americans Act of 1965; or

(ii) has experience, according to standards as the Secretary shall require, in providing meal services in a housing project under the Congregate Housing Services Act of 1978 or any other program for congregate services.

(3) **OTHER SERVICES.**—Congregate services programs assisted under this section may include services for transportation, personal care, dressing, bathing, toileting, housekeeping, chore assistance, nonmedical counseling, assessment of the safety of housing units, group and socialization activities, assistance with medications (in accordance with any applicable State law), case management, and other services to prevent premature and unnecessary institutionalization of eligible project residents.

(4) **DETERMINATION OF NEEDS.**—In determining the services to be provided to eligible project residents under a congregate services program assisted under this section, the program shall provide for consideration of the needs and wants of eligible project residents.

(5) **FEES.**—

(A) **ELIGIBLE PROJECT RESIDENTS.**—Each eligible housing project, in coordination with the State, Indian tribe, and unit of general local government in a nonparticipating State, as appropriate, shall establish fees

for meals and other services provided under a congregate services program to eligible project residents, which shall be in an amount sufficient to provide 10 percent of the costs of the services provided. The Secretary concerned shall provide for the waiver of fees under this paragraph for individuals whose incomes are insufficient to provide for any payment. The fees shall be in the following amounts:

(i) **FULL MEAL SERVICES.**—The fees for residents receiving more than 1 meal per day, 7 days per week, shall be reasonable and shall equal between 10 and 20 percent of the adjusted income of the project resident (as such income is determined under section 3(b) of the United States Housing Act of 1937), or the cost of providing the services, whichever is less.

(ii) **LESS THAN FULL MEAL SERVICES.**—The fees for residents receiving meal services less frequently than as described in the preceding sentence shall be in an amount equal to 10 percent of such adjusted income of the project resident or the cost of providing the services, whichever is less.

(B) **OTHER RESIDENTS.**—Fees shall be established under this paragraph for residents of eligible housing projects (other than eligible project residents) that receive services from a congregate services program pursuant to subsection (e)(4). Such fees shall be in an amount equal to the cost of providing the services.

(6) **DIRECT AND INDIRECT PROVISION OF SERVICES.**—Any State, Indian tribe, or unit of general local government or nonprofit housing sponsor in a nonparticipating State, that receives assistance under this section may provide congregate services directly to eligible project residents or may, by contract or lease, provide such services through other appropriate agencies or providers.

(e) **ELIGIBILITY FOR SERVICES.**—

(1) **ELIGIBLE PROJECT RESIDENTS.**—Any individual who is a resident of eligible federally assisted housing (or who with deinstitutionalization and appropriate supportive services under this section could become a resident of eligible federally assisted housing) shall be eligible for services under a congregate services program assisted under this section if the resident—

(A) is an individual who is at risk of institutionalization (or is institutionalized) because the individual is—

(i) a disabled individual (including temporarily disabled individuals) whose disability—

(I) impedes acquiring adequate nutritional intake and performing not less than 1 other activity of daily living or instrumental activity of daily living (with preference given to individuals whose disability impairs 2 other such activities or instrumental activities); and

(II) is expected to be of long-continued and indefinite duration; or

(ii) an older adult who has an impairment (including functional disability or impairment that is a normal consequence of the human aging process) that—

(I) impedes acquiring adequate nutritional intake and performing not less than 1 other activity of daily living or instrumental activity of daily living (with preference given to individuals whose disability impairs 2 other such activities or instrumental activities); and

(II) is expected to be of long-continued and indefinite duration; and

(B) has an income that does not exceed 80 percent of the median income for the area involved, as determined under regulations issued under subsection (m).

(2) **ECONOMIC NEED.**—In providing services under a congregate services program, the program shall give consideration to serving eligible project residents with the greatest economic need.

(3) **IDENTIFICATION.**—

(A) **IN GENERAL.**—A professional assessment committee under subparagraph (B) shall identify eligible project residents under paragraph (1) and shall designate services appropriate to the functional abilities and needs of each eligible project resident. The committee shall utilize procedures that ensure that the process of determining eligibility of individuals for congregate services shall accord such individuals fair treatment and due process and a right of appeal of the determination of eligibility, and shall also ensure the confidentiality of personal and medical records.

(B) **PROFESSIONAL ASSESSMENT COMMITTEE.**—A professional assessment committee under this section shall consist of not less than 3 individuals, who shall be appointed to the committee by the officials of the eligible housing project responsible for the congregate services program, and shall include qualified medical and other health and social services professionals competent to appraise the functional abilities of frail older and disabled adults in relation to the performance of tasks of daily living.

(4) **ELIGIBILITY OF OTHER RESIDENTS.**—Older and disabled residents of an eligible housing project other than eligible project residents under paragraph (1) may receive services from a congregate services program under this section if the housing managers, congregate service coordinators, and the professional assessment committee jointly determine that the participation of such individuals will not negatively affect the provision of services to eligible project residents. Residents eligible for services under this paragraph shall pay fees as provided under subsection (c)(5)(B).

(f) **ELIGIBLE HOUSING PROJECTS.**—Assistance under this section may be used to provide congregate services programs only in—

(1) public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937) and lower income housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority under title II of the United States Housing Act of 1937;

(2) housing assisted under section 8 of the United States Housing Act of 1937 with a contract that is attached to the structure under subsection (d)(2) of such section;

(3) housing assisted under section 202 of the Housing Act of 1959;

(4) housing assisted under section 221(d) or 236 of the National Housing Act, with respect to which the owner has made a binding commitment to the Secretary of Housing and Urban Development not to prepay the mortgage or terminate the insurance contract under section 229 of such Act (unless the binding commitments have been made to extend the low income use restrictions relating to such housing for the remaining term of the mortgage);

(5) housing assisted under section 514 or 515 of the Housing Act of 1949, with respect to which the owner has made a binding commitment to the Secretary of Agriculture not to prepay or refinance the mortgage (unless the binding commitments have been made to extend the low income use restrictions relating to such housing for not less than the 20-year period under section 502(c)(4) of the Housing Act of 1949); and

(6) housing assisted under section 516 of the Housing Act of 1949.

(g) **ELIGIBLE CONTRACT RECIPIENTS AND DISTRIBUTION OF ASSISTANCE.**—

(1) **IN GENERAL.**—The Secretary concerned may provide assistance under this section and enter into contracts under subsection (b) only with—

(A) States that submit applications under subsection (h)(1) and are selected to receive assistance; and

(B) Indian tribes, units of general local government located in nonparticipating States that have coordinated with local nonprofit housing sponsors (including public housing agencies and sponsors eligible for assistance under section 202 of the Housing Act of 1959), and local nonprofit housing sponsors that have coordinated with Indian tribes or units of general local government, that submit applications under subsection (h)(2) and are selected to receive such assistance.

(2) **NONPARTICIPATING STATES.**—For purposes of this section, a State shall be considered a nonparticipating State for any fiscal year if—

(A) the State has not applied for assistance under this section within the application period established under subsection (h)(3); or

(B) the State has indicated in writing to the Secretary of Housing and Urban Development or the Secretary of Agriculture the intent of the State not to apply for such assistance for such fiscal year.

(3) **DISTRIBUTION OF ASSISTANCE.**—

(A) **PARTICIPATING STATES.**—

(i) **IN GENERAL.**—Each State that receives assistance under this section shall distribute amounts received to eligible housing projects as determined by the appropriate State agency in accordance with the provisions of this section, with the advice and assistance of the State advisory committee under clause (ii). In distributing assistance, each State shall consider the ratio of each type of eligible housing to the total of eligible housing in the State and the need for services in eligible projects.

(ii) **STATE ADVISORY COMMITTEES.**—Each State receiving assistance under this section shall establish an advisory committee under this paragraph, which shall consist of not less than 13 individuals, chosen by the chief executive officer of the State, including—

(I) an individual who represents the Department of Housing and Urban Development;

(II) an individual who represents the Farmers Home Administration;

(III) an individual who represents the Area Agency on Aging, if such agency exists, and if such agency does not exist, an individual who represents the interest of older individuals;

(IV) an individual who represents the State agency under the Older Americans Act of 1965;

(V) an individual involved in providing services to older adults in federally assisted housing;

(VI) an individual who is an older adult residing in federally assisted housing in which congregate services are available;

(VII) an individual who is an older adult residing in federally assisted housing in which congregate services are not available;

(VIII) an individual who is a disabled adult residing in federally assisted housing in which congregate services are available;

(IX) an individual who is a disabled adult residing in federally assisted housing in which congregate services are not available;

(X) an individual who is a manager of an eligible housing project;

(XI) an individual who is the administrator of a public housing agency;

(XII) an individual who owns a housing project assisted under section 202 of the Housing Act of 1959; and

(XIII) an individual who owns a housing project for elderly individuals assisted under section 8 of the United States Housing Act of 1937.

(B) **NONPARTICIPATING STATES AND INDIAN TRIBES.**—Each local government, nonprofit housing sponsor, and Indian tribe that receives assistance under this section shall distribute amounts received to eligible housing projects or tribal government agency, as applicable, according to the provisions of this section.

(h) **APPLICATIONS AND GRANT AWARDS.**—

(1) **STATE APPLICATIONS.**—An application for assistance under this section by a State shall be made to the Secretary concerned and shall include the following:

(A) **SERVICES PLAN.**—A plan specifying the types and priorities of basic services to be made available under congregate services programs assisted by the State with assistance under this section, which shall—

(i) provide for targeting of services to—

(I) frail older individuals and disabled individuals whose levels of functional disability puts them most at risk of institutionalization;

(II) projects with eligible residents that, without assistance under this section, would have inadequate services and inadequate funding for services;

(III) the needs of individuals who might otherwise be institutionalized without such services; and

(IV) deinstitutionalized adults and adults capable of being deinstitutionalized;

(ii) provide for consideration of the needs and characteristics of project residents as such needs change over time;

(iii) include a statement of the sources of any State and local governmental amounts provided under subsection (j)(1);

(iv) describe and explain how the amounts provided to the State will be allocated among eligible housing projects within the State, including a description of how amounts will be used to provide congregate services programs in the poorest areas in the State (with respect to median income) and housing most isolated (with respect to access to services); and

(v) include a statement specifying how the State will ensure quality control of services provided to eligible residents.

(B) **CERTIFICATION OF CONTRIBUTION AMOUNTS.**—Certification to the Secretary concerned that amounts have been contributed by the State or other governmental units sufficient to fulfill the requirement under subsection (j)(1)(A)(i), which shall include a statement of the amount and a description of the source of any such amounts.

(C) **STATE AGENCY.**—Designation of the State agency that will be administering the assistance provided under this section.

(D) **STATE ADVISORY COMMITTEES.**—A list of names and qualifications of the members of the State advisory committee.

(E) **ADMINISTRATIVE COSTS.**—A description of the manner by which the State will ensure that entities to which assistance is distributed will expend only a reasonable amount of such assistance for administrative costs, as required under subsection (k)(4).

(2) **LOCAL GOVERNMENT AND INDIAN TRIBE APPLICATIONS.**—

(A) **CONTENTS.**—An application for assistance under this section by an Indian tribe, or unit of general local government or local nonprofit housing sponsor in a nonparticipating State, shall be made to the Secretary concerned and shall include a services plan under paragraph (1)(A), except that the description under clause (iv) of such paragraph shall (if the applicant is not a local nonprofit housing sponsor that has coordinated with a local government or tribe to apply for and receive assistance) describe how amounts will be allocated among eligible housing projects within such tribe or local government. The application shall also include the certification under paragraph (1)(B), designation of the local or tribal government agency that will be administering the assistance provided under this section, and a description of the manner by which a tribe or local government will ensure that entities to which assistance is distributed will expend only a reasonable amount of such assistance for administrative costs, as required under subsection (k)(4).

(B) **REVIEW BY AGING AGENCY.**—Each Indian tribe, unit of general local government, and local nonprofit housing sponsor shall, before the submission of a final application for new or renewed funding under this paragraph, submit a copy of the proposed services plan under the application to the applicable Area Agency on Aging (or, where no such agency exists, to the appropriate State agency under the Older Americans Act of 1965) for review and comment. The applicant shall consider such review and comment in the development of any final application for new or renewed funding under this section.

(3) **APPLICATION DEADLINES.**—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n), establish appropriate deadlines for the submission of applications for assistance under this section and shall notify any State, Indian tribe, unit of general local government, and local nonprofit housing sponsor applying for such assistance of acceptance or rejection of its application within 60 days of such submission.

(i) **SELECTION AND EVALUATION OF APPLICATIONS AND PROGRAMS.**—

(1) **IN GENERAL.**—Each Secretary concerned shall establish criteria for selecting States, Indian tribes, and units of general local government and local nonprofit housing sponsors in nonparticipating States to receive assistance under this section, and shall select such entities to receive assistance. The criteria for selection shall include consideration of—

(A) the types and priorities of the basic services proposed to be provided, the appropriateness of the targeting of services as required under subsection (h)(1)(A)(i), the methods of providing for deinstitutionalized older individuals and individuals with disabilities, and the relationship of the proposal to the needs and characteristics of the eligible residents of the projects where the services are to be provided;

(B) the schedule for establishment of services following approval of the application;

(C) the degree to which local social services are adequate for the purpose of assisting eligible project residents to maintain independent living and avoid unnecessary institutionalization;

(D) the professional qualifications of the members of the professional assessment committee;

(E) the reasonableness and application of fees schedules established for congregate services; and

(F) the adequacy and accuracy of the proposed budgets.

(2) **EVALUATION OF PROVISION OF CONGREGATE SERVICES PROGRAMS.**—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, by regulation under subsection (n), establish procedures for States, Indian tribes, and units of general local government receiving assistance under this section—

(A) to review and evaluate the performance of the congregate services programs of eligible housing projects receiving assistance under this section in such State; and

(B) to submit annually, to the Secretary concerned, a report evaluating the impact and effectiveness of congregate services programs in the entity assisted under this section.

(J) **CONGREGATE SERVICES PROGRAM FUNDING.**—

(1) **COST DISTRIBUTION.**—

(A) **CONTRIBUTION REQUIREMENT.**—In providing contracts under subsection (b), each Secretary concerned shall provide for the cost of providing the congregate services program assisted under this section to be distributed as follows:

(i) Each State, Indian tribe, and unit of general government in a nonparticipating State (or nonprofit housing sponsor, in coordination with a local government) that receives amounts under a contract under subsection (b) shall supplement any such amount with amounts sufficient to provide 50 percent of the cost of providing the congregate services program. Any monetary or in-kind contributions received by a congregate services program under the Congregate Housing Services Act of 1978 may be considered for purposes of fulfilling the requirement under this clause.

(ii) The Secretary concerned shall provide 40 percent of the cost, with amounts under contracts under subsection (b).

(iii) Fees under subsection (d)(5) shall provide 10 percent of the cost.

(B) **EXCEPTIONS.**—

(i) For any congregate services program in a nonparticipating State that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this Act, the unit of general local government (or nonprofit housing sponsor, in coordination with a local government) with respect to such program shall not be subject to the requirement to provide supplemental contributions under subparagraph (A)(i) (for such program) for the 3-year period beginning on the expiration of the contract for such assistance. The Secretary concerned shall require each such program to maintain, for such 3-year period, the same dollar amount of annual contributions in support of the services eligible for assistance under this section as were contributed to such program during the year preceding the date of the enactment of this Act.

(ii) To the extent that the limitations under subsection (d)(5) regarding the percentage of income eligible residents may pay for services will result in collected fees for any congregate services program of less than 10 percent of the cost of providing the program, 50 percent of such remaining costs shall be provided by the recipient of amounts under the contract and 50 percent of such remaining costs shall be provided by the Secretary concerned under such contract.

(C) **ELIGIBLE SUPPLEMENTAL CONTRIBUTIONS.**—If provided by the State, Indian tribe, unit of general local government, or local nonprofit housing sponsor, any salary paid to staff from governmental sources to carry out the program of the recipient and salary paid to residents employed by the program (other than from amounts under a contract under subsection (b)), and any other in-kind contributions from governmental sources shall be considered as supplemental contributions for purposes of meeting the supplemental contribution requirement under subparagraph (A)(i), except that the amount of in-kind contributions considered for purposes of fulfilling such contribution requirement may not exceed 10 percent of the total amount to be provided by the State, Indian tribe, local government, or local nonprofit housing sponsor.

(D) **PROHIBITION OF SUBSTITUTION OF FUNDS.**—The Secretary concerned shall require each State, Indian tribe, and unit of general local government and local nonprofit housing sponsor in a nonparticipating State, that receives assistance under this section to maintain the same dollar amount of annual contribution that such State, Indian tribe, or local government was making, if any, in support of services eligible for assistance under this section before the date of the submission of the application for such assistance.

(E) **LIMITATION.**—For purposes of complying with the requirement under subparagraph (A)(i), the appropriate Secretary concerned may not consider any amounts contributed or provided by any local government to any State receiving assistance under this section that exceed 10 percent of the amount required of the State under subparagraph (A)(i).

(2) **DISRUPTION IN PARTICIPATION.**—With respect to any State, Indian tribe, or unit of local government or nonprofit housing sponsor in a nonparticipating State, that terminates a contract under this subsection before the expiration of the full term of the contract—

(A) if the State, Indian tribe, local government, or housing sponsor applies for a renewal of assistance under the existing contract (as the Secretaries of Housing and Urban Development and Agriculture shall provide in regulations under subsection (n)) before expiration of the term of the existing contract, the Secretary concerned may renew assistance under such contract to the extent that subsequent commitments under subparagraph (B) have not been made for amounts reserved under the contract; and

(B) the Secretary concerned may, at any time after termination of the existing contract and before renewal of assistance under the contract pursuant to subparagraph (A), make the amounts under such contract available to any other State, Indian tribe, or unit of general local government or local nonprofit housing sponsor in a nonparticipating State, that applies and meets the requirements under this section, for the period remaining under such contract.

(3) **NEW PARTICIPATION.**—

(A) **IN GENERAL.**—Upon termination of any contract with any unit of general local government or local nonprofit housing sponsor for assistance under this section, the Secretary concerned may not renew such contract (or enter into any new contract for assistance under this section) if the State in which the local government or housing sponsor is located is, at the time of termination of the contract with the local govern-

ment, receiving assistance under a contract with such Secretary.

(B) **PRIORITY.**—In distributing amounts provided to a State under a contract under subsection (b), the applicable State agency shall give priority in distributing amounts to any unit of general local government or nonprofit housing sponsor for which a contract is not renewed (or that may not enter into a new contract) by reason of subparagraph (A).

(k) **MISCELLANEOUS PROVISIONS.**—

(1) **USE OF RESIDENTS IN PROVIDING SERVICES.**—Each housing project that receives assistance under this section shall, to the maximum extent practicable, utilize older and disabled adults who are residents of the housing project, but who are not eligible project residents, to participate in providing the services provided under congregate services programs under this section. Such individuals shall be paid wages that shall not be lower than the higher of—

(A) the minimum wage that would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the resident and if the resident were not exempt under section 13 of such Act;

(B) the State of local minimum wage for the most nearly comparable covered employment; or

(C) the prevailing rates of pay for persons employed in similar public occupations by the same employer.

(2) **EFFECT OF SERVICES.**—Except for wages paid under paragraph (1) of this subsection, services provided to a resident of an eligible housing project under a congregate services program under this section may not be considered as income for the purpose of determining eligibility for or the amount of assistance or aid furnished under any Federal, federally assisted, or State program based on need.

(3) **ELIGIBILITY AND PRIORITY FOR 1978 ACT RECIPIENTS.**—Notwithstanding any other provision of this section, any public housing agency, housing assisted under section 202 of the Housing Act of 1959, or nonprofit corporation that was receiving assistance under a contract under the Congregate Housing Services Act of 1978 on the date of the enactment of this section—

(A) that is located in a State that receives assistance under this section, shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such Act, and shall receive priority from the applicable State agency for assistance under this section after the expiration of such period; and

(B) that is located in a nonparticipating State, shall be given priority by the Secretary concerned in selection of recipients for amounts under this section and shall (subject to approval and allocation of sufficient amounts under the Congregate Housing Services Act of 1978 and appropriations Acts under such Act) receive assistance under the Congregate Housing Services Act of 1978 for the remainder of the term of the contract for assistance for such agency or corporation under such section.

(4) **ADMINISTRATIVE COST LIMITATION.**—A recipient of assistance under this section may not use more than 10 percent of the sum of such assistance and the contribution amounts required under subsection

(j)(1)(A)(i) for administrative costs and shall ensure that any entity to which the recipient distributes amounts from such sum may not expend more than a reasonable amount from such distributed amounts for administrative costs. Administrative costs may not include any capital expenses.

(1) **DEFINITIONS.**—For purposes of this section:

(1) The term "activity of daily living" means an activity regularly necessary for personal care and includes bathing, dressing, eating, getting in and out of bed and chairs, walking, going outdoors, and using the toilet.

(2) The term "case management" means assessment of the needs of a resident, ensuring access to and coordination of services for the resident, monitoring delivery of services to the resident, and periodic reassessment to ensure that services provided are appropriate to the needs and wants of the resident.

(3) The term "congregate housing" means low-rent housing that is connected to a central dining facility where wholesome and economical meals can be served to the residents.

(4) The term "congregate services" means services described under subsection (d) of this section.

(5) The term "congregate services program" means a program assisted under this section undertaken by an eligible housing project to provide congregate services to eligible residents.

(6) The term "disabled" means an individual who—

(A) has an impairment that—

(i) is expected to be of long-continued and indefinite duration;

(ii) substantially impairs the ability of the individual to live independently; and

(iii) is of such a nature that such ability could be improved by more suitable housing conditions; or

(B) has a developmental disability as defined in section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act.

(7) The terms "eligible federally assisted housing" and "eligible housing project" mean housing eligible under subsection (f) for assistance for a congregate services program under this section.

(8) The term "eligible resident" means a resident of an eligible housing project who is eligible under subsection (e)(1) for congregate services under a congregate services program.

(9) The term "frail" means having impairment as described in subsection (e)(1)(A)(ii).

(10) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(11) The term "instrumental activity of daily living" means a regularly necessary home management activity and includes preparing meals, shopping for personal items, managing money, using the telephone, and performing light or heavy housework.

(12) The term "local nonprofit housing sponsor" includes public housing agencies (as such term is defined in section 3(b)(6) of the United States Housing Act of 1937).

(13) The term "nonprofit", as applied to an organization, means no part of the net

earnings of the organization inures, or may lawfully inure, to the benefit of any private shareholder or individual.

(14) The term "older" means 62 years of age or older.

(15) The term "professional assessment committee" means a committee established under subsection (e)(3)(B).

(16) The term "Secretary concerned" means—

(A) the Secretary of Housing and Urban Development, with respect to eligible federally assisted housing administered by such Secretary; and

(B) the Secretary of Agriculture, with respect to eligible federally assisted housing administered by the Administrator of the Farmers Home Administration.

(17) The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

(18) The term "State advisory committee" means a committee established under subsection (g)(3)(A)(ii).

(19) The term "temporarily disabled" means having an impairment that—

(A) is expected to be of no more than 6 months duration; and

(B) impedes the ability of the individual to live independently unless the individual receives congregate services.

(20) The term "unit of general local government"—

(A) means any city, town, township, county, parish, village, or other general purpose political subdivision of a State; and

(B) includes a unit of general government acting as an applicant for assistance under this section in cooperation with a nonprofit housing sponsor and a nonprofit housing sponsor acting as an applicant for assistance under this section in cooperation with a unit of general local government, as provided under subsection (g)(1)(B).

(m) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Each Secretary concerned shall submit to the Congress, not less than annually for each fiscal year for which assistance is provided for congregate services programs under this section, a report containing the following information:

(A) A statement of the number of eligible residents served under such programs and the types of services provided to such residents.

(B) A statement of the percentage of the total number of residents in each project receiving assistance under this section that received congregate services.

(C) A statement of the number of deinstitutionalized individuals served under the programs.

(D) A statement of any new resources for providing services that have been developed on the State or local level.

(E) The cost to States and projects of providing services.

(F) A description of how effective the services are at meeting the needs of project residents, local governments and housing sponsors, and State governments.

(G) A statement of any changes in membership with respect to each State advisory committee.

(H) A statement of the total amount of fees for congregate services collected from residents in eligible projects assisted under this section.

(I) A description of the reasons for termination of services provided to eligible project residents.

(J) A statement of the number of persons who previously received congregate services under a congregate services program assisted under this section who have since been institutionalized.

(K) A description of the manner in which congregate services programs were provided in eligible housing projects located in the poorest areas (with respect to median area income) and that were the most isolated (with respect to access to services) in each State.

(L) An evaluation of the effectiveness of the program of providing assistance for congregate services under this section, and a comparison of the effectiveness of the program under this section with the HOPE for Elderly Independence Program under section 351 of this Act.

(M) Any other information that the Secretary concerned considers helpful to the Congress in evaluating the effectiveness of this section.

(2) SUBMISSION OF DATA TO SECRETARY CONCERNED.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall provide, by regulation under subsection (n), for the submission of data by States, Indian tribes, and units of general local government in nonparticipating States, regarding the information required under the report under this subsection.

(n) REGULATIONS.—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall, not later than the expiration of the 90-day period beginning on the date of the enactment of this Act, jointly issue any regulations necessary to carry out this section.

(o) AUTHORIZATION OF APPROPRIATIONS.—

(1) AUTHORIZATION AND USE.—There is authorized to be appropriated to carry out this section \$11,244,000 for fiscal year 1991, of which not more than—

(A) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Housing and Urban Development to the total number of units assisted by programs administered by such Secretary and the Secretary of Agriculture, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Housing and Urban Development; and

(B) the amount of such sums appropriated that, with respect to the total amount appropriated, represents the ratio of the total number of units of eligible federally assisted housing for elderly individuals assisted by programs administered by the Secretary of Agriculture to the total number of units assisted by programs administered by such Secretary and the Secretary of Housing and Urban Development, shall be used for assistance for congregate services programs in eligible federally assisted housing administered by the Secretary of Agriculture (through the Administrator of the Farmers Home Administration).

(2) AVAILABILITY.—Any amounts appropriated under this subsection shall remain available until expended.

SEC. 549. HOUSING COUNSELING.

(a) COUNSELING SERVICES.—The first sentence of section 106(a)(3) of the Housing and Urban Development Act of 1968 (12

U.S.C. 1701x(a)(3)) is amended by striking "except that" and all that follows and inserting the following: "except that for such purposes there are authorized to be appropriated \$3,445,000 for fiscal year 1990 and \$3,584,000 for fiscal year 1991."

(b) EMERGENCY HOMEOWNERSHIP COUNSELING.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 106(c)(8) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(8)) is amended to be read as follows: "There is authorized to be appropriated to carry out this section \$6,700,000 for fiscal year 1991, of which amount \$2,000,000 shall be available to carry out paragraph (5)(C)."

(2) EXTENSION OF PROGRAM.—Section 106(c)(9) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(9)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(3) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—Section 106(c)(5) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)) is amended to read as follows:

"(5) NOTIFICATION OF AVAILABILITY OF HOMEOWNERSHIP COUNSELING.—

"(A) IN GENERAL.—Except as provided in subparagraph (C), if any eligible homeowner fails to pay any amount by the date the amount is due under a home loan, the creditor of the loan shall notify the homeowner of the availability of any homeownership counseling offered by the creditor and, as a supplement to counseling provided by the creditor, shall notify the homeowner of 1 of the following:

"(i) The availability of homeownership counseling provided by nonprofit organizations approved by the Secretary and experienced in the provision of homeownership counseling.

"(ii) The toll-free telephone number described in subparagraph (D)(i).

"(B) DEADLINE FOR NOTIFICATION.—The notification required in subparagraph (A) shall be made—

"(i) in a manner approved by the Secretary; and

"(ii) before the expiration of the 45-day period beginning on the date on which the failure referred to in such subparagraph occurs.

"(C) EXCEPTIONS.—Notification under subparagraph (A) shall not be required with respect to any loan—

"(i) insured or guaranteed under chapter 37 of title 38, United States Code; or

"(ii) for which the eligible homeowner pays the amount overdue before the expiration of the 45-day period under subparagraph (B)(ii).

"(D) ADMINISTRATION AND COMPLIANCE.—The Secretary shall, to the extent of amounts approved in appropriation Acts, enter into an agreement with an appropriate private entity under which the entity will—

"(i) operate a toll-free telephone number through which any eligible homeowner can obtain a list of nonprofit organizations that—

"(I) are approved by the Secretary and experienced in the provision of homeownership counseling; and

"(II) serve the area in which the residential property of the homeowner is located;

"(ii) monitor the compliance of creditors with the requirements of subparagraphs (A) and (B); and

"(iii) report to the Secretary not less than annually regarding the extent of compli-

ance of creditors with the requirements of subparagraphs (A) and (B).

"(E) REPORT.—The Secretary shall submit a report to the Congress not less than annually regarding the extent of compliance of creditors with the requirements of subparagraphs (A) and (B) and the effectiveness of the entity monitoring such compliance. The Secretary shall also include in the report any recommendations for legislative action to increase the authority of the Secretary to penalize creditors who do not comply with such requirements."

(c) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—Section 106 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x) is amended by adding at the end the following new subsection:

"(d) PREPURCHASE AND FORECLOSURE-PREVENTION COUNSELING DEMONSTRATION.—

"(1) PURPOSES.—The purpose of this subsection is—

"(A) to reduce defaults and foreclosures on mortgage loans insured under the Federal Housing Administration single family mortgage insurance program;

"(B) to encourage responsible and prudent use of such federally insured home mortgages;

"(C) to assist homeowners with such federally insured mortgages to retain the homes they have purchased prior to such mortgages; and

"(D) to encourage the availability and expansion of housing opportunities in connection with such federally insured home mortgages.

"(2) AUTHORITY.—The Secretary of Housing and Urban Development shall carry out a program to demonstrate the effectiveness of providing coordinated prepurchase counseling and foreclosure-prevention counseling to first-time homebuyers and homeowners in avoiding defaults and foreclosures on mortgages insured under the Federal Housing Administration single family home mortgage insurance program.

"(3) GRANTS.—Under the demonstration program under this subsection, the Secretary shall make grants to qualified nonprofit organizations under paragraph (4) to enable the organizations to provide prepurchase counseling services to eligible homebuyers and foreclosure-prevention counseling services to eligible homeowners, in counseling target areas.

"(4) QUALIFIED NONPROFIT ORGANIZATIONS.—The Secretary shall select nonprofit organizations to receive assistance under the demonstration program under this subsection based on the experience and ability of the organizations in providing homeownership counseling and their ability to provide community-based prepurchase and foreclosure-prevention counseling under paragraphs (5) and (6) in a counseling target area. To be eligible for selection under this paragraph, a nonprofit organization shall submit an application containing a proposal for providing counseling services in the form and manner required by the Secretary.

"(5) PREPURCHASE COUNSELING.—

"(A) MANDATORY PARTICIPATION.—Under the demonstration program, the Secretary shall require any eligible homebuyer who intends to purchase a home located in a counseling target area and who has applied for (as determined by the Secretary) a qualified mortgage (as such term is defined in paragraph (10)(K)) on such home that involves a downpayment of less than 10 percent of the principal obligation of the mort-

gage, to receive counseling prior to signing of a contract to purchase the home. The counseling shall include counseling with respect to—

"(i) financial management and the responsibilities involved in homeownership;

"(ii) fair housing laws and requirements;

"(iii) the availability of housing opportunities within the metropolitan area in which the counseling target area is located;

"(iv) the maximum mortgage amount that the homebuyer can afford; and

"(v) options, programs, and actions available to the homebuyer in the event of actual or potential delinquency or default.

"(B) ELIGIBILITY FOR COUNSELING.—A homebuyer shall be eligible for prepurchase counseling under this paragraph if—

"(i) the homebuyer has applied for a qualified mortgage;

"(ii) the homebuyer is a first-time homebuyer; and

"(iii) the home to be purchased under the qualified mortgage is located in a counseling target area.

"(6) FORECLOSURE-PREVENTION COUNSELING.—

"(A) AVAILABILITY.—Under the demonstration program, the Secretary shall make counseling available for eligible homeowners who are 60 or more days delinquent with respect to a payment under a qualified mortgage on a home located within a counseling target area. The counseling shall include counseling with respect to options, programs, and actions available to the homeowner for resolving the delinquency or default.

"(B) NOTIFICATION OF DELINQUENCY.—Under the demonstration program, the Secretary shall require the creditor of any eligible homeowner who is delinquent (as described in subparagraph (A)) to send written notice by registered or certified mail within 5 days (excluding Saturdays, Sundays, and legal public holidays) after the occurrence of such delinquency—

"(i) notifying the homeowner of the delinquency and the name, address, and phone number of the counseling organization for the counseling target area; and

"(ii) notifying any counseling organization for the counseling target area of the delinquency and the name, address, and phone number of the delinquent homeowner.

"(C) COORDINATION WITH EMERGENCY HOMEOWNERSHIP COUNSELING PROGRAM.—The Secretary may coordinate the provision of assistance under subsection (c) with the demonstration program under this subsection.

"(D) ELIGIBILITY FOR COUNSELING.—A homeowner shall be eligible for foreclosure-prevention counseling under this paragraph if—

"(i) the home owned by the homeowner is subject to a qualified mortgage; and

"(ii) such home is located in a counseling target area.

"(7) SCOPE OF DEMONSTRATION PROGRAM.—

"(A) DESIGNATION OF COUNSELING TARGET AREAS.—The Secretary shall designate 3 counseling target areas (as provided in subparagraph (B)), which shall be located in not less than 2 separate metropolitan areas. The Secretary shall provide for counseling under the demonstration program under this subsection with respect to only such counseling target areas.

"(B) COUNSELING TARGET AREAS.—Each counseling target area shall consist of a group of contiguous census tracts—

"(i) the population of which is greater than 50,000;

"(ii) which together constitute an identifiable neighborhood, area, borough, district,

or region within a metropolitan area (except that this clause may not be construed to exclude a group of census tracts containing areas not wholly contained within a single town, city, or other political subdivision of a State);

"(iii) in which the average age of existing housing is greater than 20 years;

"(iv) for which (I) the percentage of qualified mortgages on homes within the area that are foreclosed exceeds 5 percent for the calendar year preceding the year in which the area is selected as a counseling target area, or (II) the number of qualified mortgages originated on homes in such area in the calendar year preceding the calendar year in which the area is selected as a counseling target area exceeds 20 percent of the total number of mortgages originated on residences in the area during such year.

"(C) MORTGAGE CHARACTERISTICS.—In designating counseling target areas under subparagraph (A), the Secretary shall designate at least 1 such area that meets the requirements of subparagraph (B)(iv)(I) and at least 1 such area that meets the requirements of subparagraph (B)(iv)(II).

"(D) EXPANSION OF TARGET AREAS.—The Secretary may expand any counseling target area during the term of the demonstration program, if the Secretary determines that counseling can be adequately provided within such expanded area and the purposes of this subsection will be furthered by such expansion. Any such expansion shall include only groups of census tracts that are contiguous to the counseling target area expanded and such census tract groups shall not be subject to the provisions of subparagraph (B).

"(E) DESIGNATION OF CONTROL AREAS.—For purposes of determining the effectiveness of counseling under the demonstration program, the Secretary shall designate 3 control areas, each of which shall correspond to 1 of the counseling target areas designated under subparagraph (A). Each control area shall be located in the metropolitan area in which the corresponding counseling target area is located, shall meet the requirements of subparagraph (B), and shall be similar to such area with respect to size, age of housing stock, median income, and racial makeup of the population. Each control area shall also comply with the requirements of subclause (I) or (II) of subparagraph (B)(iv), according to the subclause with which the corresponding counseling target area complies.

"(8) EVALUATION.—Each organization providing counseling under the demonstration program under this subsection shall maintain records with respect to each eligible homebuyer and eligible homeowner counseled and shall provide information with respect to such counseling as the Secretary or the Comptroller General (for purposes of the study and report under paragraph (9)) may require.

"(9) GAO STUDY AND REPORT.—

"(A) STUDY.—During the 12-month period ending on the termination date under paragraph (13), the Comptroller General shall conduct a study to assess the effectiveness of the demonstration program and counseling under the program. The study shall include—

"(i) a comparison of the default and foreclosure rates for each counseling target area and other areas, including each corresponding control area;

"(ii) a survey of eligible homebuyers and eligible homeowners counseled under the program; and

"(iii) identification of factors preventing participation in the program for single family home mortgage insurance under the National Housing Act and contributing to default and foreclosure under such program.

"(B) REPORT.—The Comptroller General shall submit to the Committees on Banking, Finance and Urban Affairs and Veterans' Affairs of the House of Representatives, the Committees on Banking, Housing, and Urban Affairs and Veterans' Affairs of the Senate, the Secretary of Housing and Urban Development, and the Secretary of Veterans Affairs, not later than the termination date under paragraph (13), a report regarding the study under subparagraph (A). The report shall include—

"(i) information describing the results of the activities under clauses (i) through (iii) of such subparagraph;

"(ii) an assessment of the effectiveness of the counseling under the program in preventing default and foreclosure, based on comparison between counseling target areas and control areas; and

"(iii) a recommendation of whether a permanent counseling program involving pre-purchase counseling or foreclosure-prevention counseling would be effective in reducing defaults and foreclosures on qualified mortgages.

"(10) DEFINITIONS.—For purposes of this subsection:

"(A) The term 'control' area means an area designated by the Secretary under paragraph (7)(E).

"(B) The term 'counseling target area' means an area designated by the Secretary under paragraph (7)(A).

"(C) The term 'creditor' means a person or entity that is servicing a loan secured by a qualified mortgage on behalf of itself or another person or entity.

"(D) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full time in the labor force for a number of years, but has during such years, worked primarily without remuneration to care for the home and family;

"(iii) (I) has been dependent on public assistance or on the income of a spouse but is no longer supported by such assistance or income; or

"(II) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this subtitle; and

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(E) The term 'downpayment' means the amount of purchase price of home required to be paid at or before the time of purchase.

"(F) The term 'eligible homebuyer' means a homebuyer that meets the requirements under paragraph (5)(B).

"(G) The term 'eligible homeowner' means homeowner that meets the requirements under paragraph (6)(D).

"(H) The term 'first-time homebuyer' means an individual who—

"(i) (and whose spouse) has had no ownership in a principal residence during the 3-year period ending on the date of purchase of the home pursuant to which counseling is provided under this subsection;

"(ii) is a displaced homemaker who, except for owning a residence with his or her spouse or residing in a residence owned

by the spouse, meets the requirements of clause (i); or

"(iii) is a single parent who, except for owning a residence with his or her spouse or residing in a residence owned by the spouse while married, meets the requirements of clause (i).

"(I) The term 'home' includes any dwelling or dwelling unit eligible for a qualified mortgage, and includes a unit in a condominium project, a membership interest and occupancy agreement in a cooperative housing project, and a manufactured home and the lot on which the home is situated.

"(J) The term 'metropolitan area' means a standard metropolitan statistical area as designated by the Director of the Office of Management and Budget.

"(K) The term 'qualified mortgage' means a mortgage on a 1- to 4-family home that is insured under title II of the National Housing Act.

"(L) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(M) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii) (I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(11) REGULATIONS.—The Secretary may issue any regulations necessary to carry out this subsection.

"(12) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$350,000 for each of fiscal years 1991, 1992, 1993, and 1994.

"(13) TERMINATION.—The demonstration program under this section shall terminate at the end of fiscal year 1994."

SEC. 550. MULTIFAMILY HOUSING DISPOSITION PARTNERSHIP.

Section 184(c)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 1701z-11 note) is amended by striking "upon the expiration of the 3-year period beginning on the date of the enactment of this Act" and inserting "at the end of September 30, 1991".

SEC. 551. FLEXIBLE SUBSIDY PROGRAM.

Section 201(j)(1) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(1)) is amended by inserting before the period at the end the following: "and shall not (except as provided in Public Law 100-404 (102 Stat. 1018), as in effect on October 1, 1988) be available for any other purpose".

SEC. 552. NEHEMIAH HOUSING OPPORTUNITY GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 612 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended to read as follows: "There are authorized to be appropriated to carry out this title \$24,612,500 for fiscal year 1990 and \$100,000,000 for fiscal year 1991."

(b) EXTENSION OF PROGRAM.—Section 613 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 553. STREAMLINED PROPERTY DISPOSITION REQUIREMENTS FOR UNSUBSIDIZED MULTIFAMILY HOUSING PROJECTS.

(a) GOALS.—Section 203(a)(1)(B) of the Housing and Community Development Amendments of 1978 is amended by striking "or vacant".

(b) ACTIONS.—Section 203(d) of the Housing and Community Development Amendments of 1978 is amended—

(1) in paragraph (1)(B), by striking "or are vacant (which units shall be made available for such families as soon as possible)";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) In the case of multifamily housing projects (other than subsidized or formerly subsidized projects) that are acquired by a purchaser other than the Secretary at foreclosure or after sale by the Secretary, enter into annual contribution contracts with public housing agencies to provide vouchers or certificates under section 8 of the United States Housing Act of 1937 to all lower income families that are eligible for such assistance on the date that the project is acquired by the purchaser. The Secretary shall take action under this paragraph only after making a determination that there is available in the area an adequate supply of habitable affordable housing for lower income families."

SEC. 554. HOME REPAIR SERVICES GRANTS FOR OLDER AND DISABLED HOMEOWNERS.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) many older individuals "age in place" and prefer to remain in their homes rather than enter an institutional setting;

(B) many disabled individuals prefer to live in their own homes rather than enter an institutional setting;

(C) 75 percent of senior citizens own their own homes;

(D) 86 percent of low-income older homeowners pay 30 percent or more of their incomes for basic housing expenses, which include mortgage payments, utilities, taxes, and insurance;

(E) compared to other age groups of homeowners, older homeowners have the highest level of substandard housing;

(F) the problem of substandard housing among older individuals is especially severe for minority and women homeowners, homeowners who live alone, and homeowners living in rural areas;

(G) home repairs are necessary for the continued independence of older and disabled homeowners and for the preservation of existing housing stock;

(H) many older and disabled homeowners do not undertake routine repairs not only because of scarcity of financial resources, but also because of unrecognized need for such repairs, fear of being defrauded by contractors, difficulty in finding contractors for small repairs, or lack of the know-how or physical capabilities to perform repairs;

(I) older and disabled individuals have many skills that can benefit the community and at the same time help them to remain a part of community life;

(J) older individuals who are members of minority groups are underutilized in community projects;

(K) neighborhood and community groups should be utilized to a greater extent in assisting older and disabled homeowners, especially in minority communities;

(L) many older and disabled homeowners have social service needs in addition to needs for home repairs; and

(M) the Seven City Home Maintenance Demonstration for the Elderly, administered by the Department of Housing and Urban Development in 1981 and 1982, and other programs throughout the Nation have

shown that minor home repairs can be accomplished in a cost-effective manner with significant benefits to older and disabled homeowners and progress in preserving the housing stock in the United States.

(2) **PURPOSES.**—The purposes of this section are—

(A) to assist older homeowners and disabled homeowners with home repairs and modifications to enhance their quality of life, assist them in remaining in their homes, and prevent housing stock deterioration;

(B) to reduce the number of disabling and fatal accidents that occur in the home to older individuals;

(C) to facilitate outreach by and improve the capacity of neighborhood and community groups to assist low-income minority, older and disabled homeowners and provide a method of referral to other social services;

(D) to empower older and disabled homeowners, especially in minority communities, to remain independent and participate more fully in community life;

(E) to more fully utilize the talents of older and disabled volunteers;

(F) to contribute to the revitalization of neighborhoods by stimulating community involvement and pride through improved housing quality and increased participation of older and disabled homeowners in volunteer work; and

(G) to provide home repair services in a manner modeled on effective and successful home repair programs, including the Seven City Home Maintenance Demonstration for the Elderly administered by the Department of Housing and Urban Development.

(b) **AUTHORITY TO MAKE GRANTS FOR HOME REPAIR SERVICES FOR OLDER HOMEOWNERS AND DISABLED HOMEOWNERS.**—The Secretary of Housing and Urban Development shall make grants under this section, to the extent amounts are provided in appropriation Acts pursuant to subsection (1), to eligible organizations to provide home repair services for older homeowners and disabled homeowners.

(c) **ELIGIBLE ORGANIZATIONS.**—Grants under this section may only be made to locally based nonprofit organizations, local governments, and Indian tribes.

(d) **APPLICATION AND SELECTION.**—

(1) **APPLICATION.**—The Secretary shall prescribe the form and procedures for eligible organizations to apply for grants under this section.

(2) **SELECTION.**—The Secretary shall select eligible organizations applying under paragraph (1) to receive grants under this section. The Secretary shall prescribe a procedure for the selection, which shall be competitive in operation and based on the criteria and the relative importance of the criteria under paragraph (3).

(3) **CRITERIA FOR SELECTION.**—In selecting eligible organizations to receive grants under this section, the Secretary shall consider the following criteria (listed in order of importance):

(A) **NEED.**—The need for home repair services in the area served by the applicant.

(B) **COMMITMENT.**—The commitment demonstrated by the applicant to assisting older and disabled individuals, especially minority and low-income homeowners.

(C) **NON-FEDERAL FUNDING.**—The extent to which the applicant can commit funds and services to, and acquire non-Federal funds, services, and other in-kind contributions for, home repair services.

(D) **EXPERIENCE.**—The experience of the applicant in the delivery of home repair services or other similar services.

(E) **VOLUNTEERS.**—The commitment of the applicant to the use of older and disabled individuals, in volunteer or employee positions, in the performance of home repair services and other activities carried out by the applicant.

(F) **MANAGEMENT.**—The ability of the applicant to efficiently manage the provision of home repair services while maintaining a high quality of services.

(G) **COORDINATION WITH OTHER ORGANIZATIONS.**—The ability of the applicant to coordinate its functions under this section with other organizations providing home repair services and other services for older and disabled individuals.

(H) **COORDINATION WITH FEDERAL RESOURCES.**—The ability of the applicant to coordinate and combine funds and services under this section with existing Federal and other resources.

(4) **ALLOCATION.**—The Secretary shall allocate grants under this section in a manner to ensure, to the extent practicable, that grants are received by applicants throughout the United States, including rural areas, and to provide for diversity in the size and type of eligible organizations that receive the grants.

(5) **AMOUNT.**—In making grants under this section, the Secretary shall consider the limitation under paragraph (6) and the anticipated cost to the applicant of providing home repair services during the period beginning on the date of the making of a grant and ending 24 months thereafter. Notwithstanding the previous sentence, a grant under this section may not exceed \$300,000.

(6) **2-YEAR GRANTS.**—A recipient of a grant under this section may not receive any other grant under this section for the 24-month period beginning on the date that the recipient receives the grant.

(e) **HOME REPAIR SERVICES.**—

(1) **IN GENERAL.**—Each recipient of a grant under this section shall use any amounts provided under the grant to provide home repair services for eligible older and disabled individuals as follows:

(A) **EXAMINATION.**—The recipient shall provide for the examination of the homes of eligible older and disabled individuals, upon a request for repair services, to identify repair and maintenance problems and determine repair services to be provided. An examination under this subparagraph may be waived if the recipient provides for an alternative method of determining whether repairs are necessary that is adequate in the determination of the Secretary.

(B) **PROVISION.**—The home repair services shall include the following:

- (i) Preventive repairs and modifications.
- (ii) Weatherization and energy-related measures.
- (iii) Emergency repairs.
- (iv) Security-related repairs.
- (v) Repairs to enhance accessibility and suitability of the home to the residents.
- (vi) General repairs and other appropriate repairs.

(C) **FOLLOW-UP.**—The recipient shall provide for contacting each individual for whom home repair services have been provided upon the expiration of a reasonable period of time after the provision of such services to ensure the continued effectiveness of the repairs and to address any complaints regarding the repairs. Such contact shall include, if practicable, an on-site inspection of the repairs.

(2) **ELIGIBILITY OF INDIVIDUALS FOR HOME REPAIR SERVICES.**—Each recipient of a grant

under this section shall provide home repair services only to individuals who meet all of the following criteria:

(A) **HOMEOWNER.**—The individual is the owner of and resides in the dwelling or dwelling unit for which services are provided.

(B) **OLDER OR DISABLED INDIVIDUAL.**—The individual is an older or disabled individual.

(C) **LOWER INCOME.**—The individual and the family of the individual residing in the dwelling or dwelling unit, if applicable, is a lower income family.

(3) **ELIGIBILITY OF HOMES FOR HOME REPAIR SERVICES.**—Each recipient of a grant under this section shall provide home repair services only for dwellings or dwelling units that are the primary residence of the eligible older or disabled individual for whom services are provided. Such dwellings may include mobile homes and condominium and cooperative units.

(4) **REQUIRED NUMBER OF OLDER AND DISABLED HOMEOWNERS SERVED.**—For each grant made under this section, the recipient of the grant shall provide home repair services to not less than the number of eligible older and disabled individuals that is determined by dividing 85 percent of the amount of the grant by an amount, to be determined by the Secretary, that represents the estimated average cost per repair (by a recipient conducting home repairs under this section), considering the cost of living and construction costs for the area to be served by the recipient.

(5) **PREFERENCES FOR INDIVIDUALS SERVED.**—Each recipient of a grant under this section shall establish a preference for providing home repair services for families and individuals otherwise eligible under paragraph (2) as follows:

(A) **VERY LOW-INCOME.**—Families and individuals whose incomes do not exceed 50 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families.

(B) **SOCIAL NEED.**—Individuals with the greatest social need for the home repair services. For purposes of this subparagraph, the term "social need" means need caused by noneconomic factors. Such noneconomic factors shall include physical and mental disabilities, language barriers, and cultural, social, or geographical isolation including isolation caused by racial or ethnic status that restricts the ability of an individual to perform normal daily tasks or that threatens the capacity of such individual to live independently.

(6) **FEES.**—

(A) **ENROLLMENT FEE.**—Each recipient of a grant under this section shall charge each eligible older or disabled individual who receives home repair services from the recipient an enrollment fee not to exceed \$20 per year, except that the recipient may waive the fee at its discretion.

(B) **REPAIR SERVICES FEE.**—Each recipient of a grant under this section may charge fees for home repair services provided to eligible older and disabled individuals. Any fee under this subparagraph shall be based on the income of the individual receiving the home repair services and may not be implemented in a manner or amount that discourages older or disabled individuals from acquiring home repair services from the recipient.

(7) **LIMITATION ON ADMINISTRATIVE COSTS.**—Each recipient of a grant under this section may use not more than 15 percent of any amounts received under the grant for administrative costs relating to providing

home repair services. Administrative costs under this subsection shall include costs for planning, management, training, processing of applications for home repair services, providing for referrals under subsection (f), and any other administrative functions related to the delivery of home repair services to older or disabled individuals.

(f) **REFERRALS.**—Each recipient of a grant under this section shall provide, upon request, to older and disabled individuals who contact the recipient for home repair services, information regarding other appropriate agencies and organizations in the area that provide services to individuals other than home repair services.

(g) **COLLECTION OF DATA.**—Each recipient of a grant under this section shall provide for the collection of information regarding the provision by the recipient of home repair services under subsection (e)(1) and the older and disabled individuals for whom the recipient provided home repair services. The recipient shall protect the confidentiality of the individuals from and about whom information is collected under this section. Information collected under this section shall include the following:

(1) **DEMOGRAPHICS.**—The age, sex, race, income, and number of people in the household of the individual served.

(2) **REPAIRS.**—The number, type, and cost of repairs made.

(3) **VOLUNTEERS.**—The extent of use of older and other volunteers by the recipient in providing home repair services.

(4) **MINORITIES.**—The extent of use of minority contractors, employees, and volunteers by the recipient in providing home repair services.

(5) **HOUSING QUALITY.**—The quality of housing stock in the area.

(6) **MAJOR REPAIRS.**—The prevalence of need for major repairs.

(7) **MODERATE INCOME INDIVIDUALS.**—The extent of need for home repairs by older individuals whose income exceeds the limitation under subsection (e)(2)(C) for receiving home repair services.

(8) **SOCIAL SERVICES.**—The extent of need for social services among individuals for whom home repair services are provided and the extent to which such needs are being met.

(9) **INCOME ASSISTANCE.**—The extent to which individuals for whom home repair services are provided receive income assistance, from any source, and the extent to which such assistance is available.

(10) **OTHER.**—Any other information that the Secretary considers appropriate.

(h) **MANUALS.**—The Secretary shall develop and distribute, to each recipient of a grant under this section, a manual to assist the recipient in providing home repair services under subsection (e)(1). The manual shall also provide a standardized manner for organization and assessment of information collected under subsection (g).

(i) **REPORTS.**—

(1) **GRANT RECIPIENTS.**—Each recipient of a grant under this section shall submit to the Secretary, not more than 30 days after the expiration of each of the 2 successive 12-month periods (the first such period beginning on the date that the recipient receives a grant), a report containing the information collected under subsection (g) and any other information that the Secretary may require.

(2) **SECRETARY.**—The Secretary shall submit to the Congress, not more than 90 days after the expiration of each fiscal year that the Secretary makes grants under this

section, a report describing the grants made, the home repair services provided with the grants, the cost figure used by the Secretary under subsection (e)(4), and summaries of the information submitted under paragraph (1) by recipients of grants.

(j) **DEFINITIONS.**—For purposes of this section:

(1) **DISABLED INDIVIDUAL.**—The term “disabled individual” means an individual with a disability attributable to mental or physical impairment, or a combination of mental and physical impairments, that results in substantial functional limitations in 1 or more of the following areas of major life activity:

- (A) Self-care.
- (B) Receptive and expressive language.
- (C) Learning.
- (D) Mobility.
- (E) Self-direction.
- (F) Capacity for independent living.
- (G) Economic self-sufficiency.
- (H) Cognitive functioning.
- (I) Emotional adjustment.

(2) **ELIGIBLE OLDER OR DISABLED INDIVIDUAL.**—The term “eligible older or disabled individual” means any older or disabled individual eligible under subsection (e)(2) to receive home repair services provided pursuant to a grant under this section.

(3) **ELIGIBLE ORGANIZATION.**—The term “eligible organization” means any nonprofit organization, local government, or Indian tribe eligible under subsection (c) to receive a grant under this section.

(4) **HOME REPAIR SERVICES.**—The term “home repair services” means services for home repairs and modifications under subsection (e)(1).

(5) **INDIAN TRIBE.**—The term “Indian tribe” means any Indian tribe, band, nation, or other organized group or community which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(6) **LOCAL GOVERNMENT.**—The term “local government” means any borough, city, county, parish, town, township, village, or other general purpose political subdivision of a State. The term includes any agency of or office within any local government.

(7) **LOWER INCOME FAMILY.**—The term “lower income family” means families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(8) **OLDER INDIVIDUAL.**—The term “older individual” means any individual of 60 years of age or older.

(9) **OWNER.**—The term “owner” includes any individual who owns a dwelling, whether or not subject to a mortgage or other lien given to secure advances on, or the unpaid purchase price of the dwelling. The term does not include any individual who is a lessee with regard to the primary residence of the individual.

(10) **RECIPIENT.**—The term “recipient” means an eligible organization that receives a grant under this Act.

(k) **REGULATIONS.**—The Secretary shall issue any regulations necessary to carry out this section not later than the expiration of the 90-day period beginning on the date of the enactment of this Act.

(1) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for grants under this section such sums as may be necessary during fiscal years 1991 and 1992.

SEC. 555. GRANTS FOR ASSET-RECYCLING HOUSING FUNDS.

(a) **AUTHORITY TO MAKE GRANTS TO STATES.**—

(1) **IN GENERAL.**—Subject to the provisions of this section, the Secretary of Housing and Urban Development may make grants to States for use by State housing finance agencies to establish revolving funds to assist in providing housing for low- to moderate-income renters and first-time homebuyers.

(2) **APPLICATIONS.**—The Secretary shall prescribe the form and procedures for States to apply for grants under this section.

(3) **FAIR SHARE ALLOCATION.**—Grants under this section shall be allocated among the States on the basis of the formula prescribed by the Secretary under section 213(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 1439(d)(1)).

(4) **MATCHING REQUIREMENT.**—The Secretary may not make a grant under this section to any State in an amount in excess of the amount that the State certifies, as the Secretary shall require, that the State will contribute from non-Federal sources to the revolving fund established by the State housing finance agency under subsection (b) for the purposes of this section. The value of any administrative or other costs incurred by the State housing finance agency in carrying out this section shall be considered as contributions to the fund for the purposes of this paragraph.

(b) **STATE REVOLVING FUNDS.**—

(1) **ESTABLISHMENT.**—Any State that receives a grant under this section shall, through the State housing finance agency of the State, establish a revolving fund according to this subsection.

(2) **USE.**—Any amounts in the fund shall be available only for the following purposes:

(A) **HOMEBUYER LOANS.**—For making loans to low- and moderate-income families for the acquisition and rehabilitation of any property eligible under subsection (c) that is a single-family home and will serve as the primary residence of the family. In making such loans, preference shall be given to first-time homebuyers and lower-income families.

(B) **GRANTS AND LOANS FOR MULTIFAMILY DWELLINGS.**—For making grants to nonprofit agencies, local governments, and public housing agencies for the development and rehabilitation of any property eligible under subsection (c) that is a multifamily dwelling and loans to such organizations for purchase of such properties, subject to the following requirements:

(i) **LOWER INCOME OCCUPANCY.**—

(I) 40 percent of the units shall be occupied, or available for occupancy by, lower income families with incomes of less than 60 percent of the area median income, adjusted for family size; or

(II) 20 percent of the units shall be occupied, or available for occupancy by, lower income families with incomes of less than 50 percent of the area median income, adjusted for family size.

(ii) **RENT CHARGES.**—Any nonprofit agency, local government, or public housing agency that provides multifamily housing assisted with a grant or loan under this subpara-

graph shall provide for rent charges for each unit of the dwelling based on the income-level of the resident of the unit.

(C) PERMANENT LOW- AND MODERATE-INCOME USE.—

(i) **IN GENERAL.**—As a condition of receiving assistance from a revolving fund under this subsection, a nonprofit agency, local government, or public housing agency shall agree that property assisted will comply with the requirements of this paragraph for the remainder of the useful life of the property.

(ii) **RESTRICTIONS ON CONVEYANCE.**—An ownership interest in any property assisted with amounts received from a revolving fund under this subsection may not be conveyed by a nonprofit agency, local government, or public housing agency (or any subsequent owner) unless the instrument of conveyance requires the new owner to comply with the restrictions under this paragraph. Any amounts received by a nonprofit agency, local government, or public housing agency from the conveyance of a property assisted from amounts from a revolving fund shall be used to provide housing subject to the requirements of this paragraph.

(D) SELECTION OF TENANTS.—The nonprofit agency, local government, or public housing agency shall use a selection process for tenants for the assisted housing as follows:

(i) **PREFERENCES.**—The selection process shall give preference to lower income families, and among lower income families shall give preference to eligible families who—

(I) occupy housing that fails to meet relevant State or local health and safety standards or is overcrowded;

(II) are paying more than 30 percent of family income for housing (including utilities costs); and

(III) who, in the determination of the applicable State housing finance agency, have little prospect of obtaining improved housing within a reasonable time through means other than assistance under this Act.

(ii) **CONTRIBUTIONS.**—The selection process shall consider the capacity of the eligible families to—

(I) contribute labor in rehabilitating the housing; and

(II) obtain assistance from private sources, community organizations, and other sources.

(3) CREDITS.—A revolving fund established under this subsection shall be credited with the following:

(A) GRANTS.—Any amounts received from a grant under subsection (a).

(B) MATCHING AMOUNTS.—Any matching amounts under subsection (a)(4).

(C) REPAYMENTS.—Any repayments or amounts recaptured under paragraph (4) of this subsection.

(D) OTHER.—Any other amounts that may be dedicated to the fund.

(4) REPAYMENTS AND RECAPTURED AMOUNTS.—Any loans made from a revolving fund under paragraph (2) shall be repaid to the fund according to terms established by the State housing finance agency and the borrower.

(c) ELIGIBLE PROPERTIES.—Low- and moderate-income families and nonprofit agencies, local governments, and public housing agencies may purchase, develop, or rehabilitate with assistance from any revolving fund established under this section by a State housing finance agency only dwellings that meet the following requirements:

(1) TYPE.—The dwelling shall be an unoccupied single- or multifamily dwelling, such that rehabilitation and acquisition of the

dwelling for use as provided under this title does not result in the displacement of any residents of the dwelling.

(2) OWNERSHIP.—The dwelling shall be owned or controlled by any of the following:

(A) The Department of Housing and Urban Development.

(B) The Department of Veterans Affairs.

(C) The Federal Deposit Insurance Corporation.

(D) The Office of Thrift Supervision.

(E) The Farmers Home Administration.

(F) The Resolution Trust Corporation.

(3) VALUE.—The dwelling has an appraised value that does not exceed the following:

(A) In the case of a 1- to 4-family dwelling, the applicable maximum dollar amount limitation under section 203(b)(2) of the National Housing Act.

(B) In the case of a dwelling with more than 4 units, the applicable maximum dollar amount limitation under section 221(d)(3)(ii) of the National Housing Act for elevator-type structures (without regard to any increase under such section for high-cost areas).

(d) LISTING OF ELIGIBLE PROPERTIES.—

(1) IN GENERAL.—The Secretary shall make available upon request by any State housing finance agency or unit of general local government a list of eligible properties owned or controlled by entities under subsection (c)(2) that are located within the State or unit of general local government.

(2) CONSULTATION.—The Secretary shall consult with the entities under subsection (c)(2) not less than quarterly to provide a current listing under paragraph (1).

(e) OTHER PROPERTY DISPOSAL LAWS.—This section may not be construed to make available for acquisition under this section any dwelling that may not be made publicly available by any entity under subsection (c)(2) under applicable laws relating to disposal of such dwelling.

(f) REPORTS.—

(1) STATE HOUSING FINANCE AGENCIES.—Any State that receives a grant under this section shall submit to the Congress, not less than annually, a report of the State housing finance agency containing a listing of any properties purchased, developed, or rehabilitated with assistance from the revolving fund established with the amounts received from grants under this section and information regarding the financing for such purchases, development, and rehabilitation.

(2) SECRETARY.—The Secretary shall submit to the Congress, not less than annually, a report regarding the grant program under this section, which shall include a summary of the reports by State housing finance agencies under paragraph (1) and a listing of any properties of any entity under subsection (c)(2) for which assistance has been made through a revolving fund established pursuant to this section.

(g) GAO AUDIT.—The Comptroller General of the United States shall audit the activities of the Secretary under this section not less than annually under any rules and regulations prescribed by the Comptroller General. Representatives of the General Accounting Office shall have access to all books, accounts, reports, and files and all other papers and property belonging to or in use by the Secretary pertaining to such activities and necessary to facilitate the audit.

(h) DEFINITIONS.—For purposes of this section:

(1) DISPLACED HOMEMAKER.—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

(C) (i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under this title; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) FIRST-TIME HOMEBUYER.—The term "first-time homebuyer" means an individual who—

(A) (and whose spouse) has not had an ownership interest in a principal residence during the 3-year period ending on the date of purchase of the property with respect to which assistance is made available under this section;

(B) is a displaced homemaker who, except for owning a home with his or her spouse or residing in a home owned by the spouse, meets the requirements of subparagraph (A); or

(C) is a single parent who, except for owning a home with his or her spouse or residing in a home owned by the spouse, while married, meets the requirements of subparagraph (A).

(3) LOW- OR MODERATE-INCOME FAMILY.—The term "low- or moderate-income family" means families and individuals whose incomes do not exceed 115 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 115 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(4) LOWER INCOME FAMILY.—The term "lower income family" means families and individuals whose incomes do not exceed 80 percent of the median income for the area involved, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(5) REVOLVING FUND.—The term "revolving fund" means any fund established by a State housing finance agency under subsection (b) with amounts received from a grant under subsection (a).

(6) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(7) SINGLE PARENT.—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B) (i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(8) STATE.—The term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern

Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States.

(9) **STATE HOUSING FINANCE AGENCY.**—The term "State housing finance agency" has the meaning given the term under section 802(b)(2)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 1440(b)(2)(A)).

(1) **REGULATIONS.**—The Secretary may issue any regulations necessary to carry out this section.

(j) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section in fiscal year 1991 such sums as may be appropriated. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 556. DRUG ELIMINATION GRANTS FOR ASSISTED HOUSING.

(a) **AUTHORITY.**—The Secretary shall carry out a program to make grants under this section to entities eligible under subsection (c) for use in eliminating drug-related crime in federally assisted housing. The program shall be carried out in the same manner as the public housing drug elimination pilot program is carried out for public housing under the Public Housing Drug Elimination Act of 1988, except that for purposes of this section, any references to "public housing agency" and "public housing" in such Act are deemed to refer to "eligible entity" and "federally assisted housing", respectively, as such terms are defined in this section.

(b) **ELIGIBLE ACTIVITIES.**—Eligible entities under subsection (c) that receive grants under this section shall use grant amounts to carry out, in federally assisted housing, drug elimination activities described in section 5124 of the Public Housing Drug Elimination Act of 1988.

(c) **ELIGIBLE ENTITIES.**—The Secretary shall, by regulation, determine entities eligible for receiving grants pursuant to this section, which shall be appropriate and qualified to administer the use of grant amounts for the purposes of the program under this section.

(d) **FEDERALLY ASSISTED HOUSING.**—For purposes of this section, the term "federally assisted housing" means any housing assisted under a program administered by the Secretary of Housing and Urban Development, but does not include public housing or housing assisted under the mortgage insurance programs for single family housing under the National Housing Act.

(e) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated for grants under this section \$10,000,000 for fiscal year 1991. Any amount appropriated under this section shall remain available until expended.

TITLE VI—RURAL HOUSING

SEC. 601. PROGRAM AUTHORIZATIONS.

(a) **INSURANCE AND GUARANTEE AUTHORITY.**—Section 513(a)(1) of the Housing Act of 1949 (42 U.S.C. 1483(a)(1)) is amended to read as follows:

"(a)(1) The Secretary may, to the extent approved in appropriation Acts, insure and guarantee loans under this title during fiscal years 1990 and 1991 in aggregate amounts not to exceed \$1,906,220,000 and \$2,091,200,000, respectively, as follows:

"(A) For insured or guaranteed loans under section 502 on behalf of borrowers receiving assistance under section 521(a)(1) or receiving guaranteed loans pursuant to section 304 of the Housing and Community Development Act of 1987, \$1,310,800,000 for

fiscal year 1990 and \$1,325,000,000 for fiscal year 1991.

"(B) For loans under section 504, \$11,170,000 for fiscal year 1990 and \$12,000,000 for fiscal year 1991.

"(C) For insured loans under section 514, \$11,320,000 for fiscal year 1990 and \$12,000,000 for fiscal year 1991.

"(D) For insured loans under section 515, \$571,870,000 for fiscal year 1990 and \$740,200,000 for fiscal year 1991.

"(E) For loans under section 523(b)(1)(B), \$500,000 for fiscal year 1990 and \$1,000,000 for fiscal year 1991.

"(F) For site loans under section 524, \$560,000 for fiscal year 1990 and \$1,000,000 for fiscal year 1991."

(b) **AUTHORIZATION OF APPROPRIATIONS.**—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for fiscal years 1990 and 1991, and to remain available until expended, the following amounts:

"(1) For grants under section 504, \$12,500,000 for fiscal year 1990 and \$18,000,000 for fiscal year 1991.

"(2) For purposes of section 509(c), \$500,000 for fiscal year 1990 and \$1,000,000 for fiscal year 1991.

"(3) Such sums as may be necessary to meet payments on notes or other obligations issued by the Secretary under section 511 equal to—

"(A) the aggregate of the contributions made by the Secretary in the form of credits on principal due on loans made pursuant to section 503; and

"(B) the interest due on a similar sum represented by notes or other obligations issued by the Secretary.

"(4) For financial assistance under section 516, \$11,000,000 for fiscal year 1990 and \$21,296,000 for fiscal year 1991.

"(5) For grants under section 523(f), \$8,750,000 for fiscal year 1990 and \$8,979,000 for fiscal year 1991.

"(6) For grants under section 533, \$19,140,000 for fiscal year 1990 and \$29,906,000 for fiscal year 1991."

(c) **RENTAL ASSISTANCE PAYMENT CONTRACTS.**—Section 513(c)(1) of the Housing Act of 1949 (42 U.S.C. 1483(c)(1)) is amended to read as follows:

"(c)(1) The Secretary, to the extent approved in appropriation Acts for fiscal years 1990 and 1991, may enter into rental assistance payment contracts under section 521(a)(2)(A) aggregating \$297,170,000 for fiscal year 1990 and \$400,000,000 for fiscal year 1991."

(d) **SUPPLEMENTAL RENTAL ASSISTANCE CONTRACTS.**—Section 513(d) of the Housing Act of 1949 (42 U.S.C. 1483(d)) is amended to read as follows:

"(d) The Secretary, to the extent approved in appropriation Acts for fiscal years 1990 and 1991, may enter into 5-year supplemental rental assistance contracts under section 502(c)(5)(D) aggregating \$5,000,000 for fiscal year 1990 and \$5,200,000 for fiscal year 1991."

(e) **RENTAL HOUSING LOAN AUTHORITY.**—Section 515(b)(4) of the Housing Act of 1949 (42 U.S.C. 1485(b)(4)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

(f) **MUTUAL AND SELF-HELP HOUSING GRANT AND LOAN AUTHORITY.**—Section 523(f) of the Housing Act of 1949 (42 U.S.C. 1490c(f)) is amended by striking "September 30, 1990" and inserting "September 30, 1991".

SEC. 602. SECURITY FOR LOANS FOR HOUSING IN REMOTE RURAL AREAS.

Section 502(b)(1) of the Housing Act of 1949 (42 U.S.C. 1472(b)(1)) is amended by inserting before the semicolon at the end the following: ", except that the Secretary shall consider the actual cost of the land and structure to be financed as adequate security for purposes of this subsection for any applicant (A) who is a resident of a remote rural area or whose place of employment is located in a remote rural area, and (B) whose loan finances the purchase of land and a structure located in a remote rural area."

SEC. 603. FORECLOSURE PROCEDURES.

(a) **IN GENERAL.**—Section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

"(b) In foreclosing on any mortgage held by the Secretary under this title, the Secretary shall follow the foreclosure procedures of the State in which the property involved is located to the extent such procedures are more favorable to the borrower than the foreclosure procedures that would otherwise be followed by the Secretary."

(b) **CONFORMING AMENDMENT.**—The section heading for section 505 of the Housing Act of 1949 (42 U.S.C. 1475) is amended to read as follows:

"LOAN PAYMENT MORATORIUMS AND FORECLOSURE PROCEDURES"

SEC. 604. DISPOSITION OF INTERESTS ON INDIAN TRUST LAND.

Section 509 of the Housing Act of 1949 (42 U.S.C. 1479) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) In the event of default involving a security interest in tribal allotted or trust land, the Secretary shall only pursue liquidation after offering to transfer the account to an eligible tribal member, the tribe, or the Indian housing authority serving the tribe or tribes. If the Secretary subsequently proceeds to liquidate the account, the Secretary shall not sell, transfer, or otherwise dispose of or alienate the property except to one of the entities described in the preceding sentence."

SEC. 605. RURAL HOUSING INVENTORY.

(a) **TRANSFER FOR USE UNDER SECTION 514.**—Section 510(e)(3) of the Housing Act of 1949 (42 U.S.C. 1480(e)(3)) is amended by inserting after "fifty years" the following: ", or for use as rental units under section 514 with mortgages containing repayment terms with up to 33 years."

(b) **TRANSFER TO FOR-PROFIT ENTITIES.**—Section 510(e) of the Housing Act of 1949 is further amended by striking "or public bodies" and inserting ", public bodies, or for-profit entities, which have good records of providing low income housing under section 515".

SEC. 606. ASSUMPTION OF SECTION 515 LOANS.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by adding at the end the following new subsection:

"(v) The Secretary may provide for the assumption or transfer of a loan under this section to any person or entity qualified to receive a loan under this section in any case of default or foreclosure with respect to the original borrower. The Secretary shall pro-

vide in each assumption or transfer under this subsection for the assumption of the obligations, rights, and interests under the terms of the loan or such other terms as the Secretary determines appropriate."

SEC. 607. RURAL AREA CLASSIFICATION.

(a) IN GENERAL.—Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) is amended to read as follows:

"DEFINITION OF RURAL AREA

"SEC. 520. (a) IN GENERAL.—As used in this title, the terms 'rural' and 'rural area' mean any open country, or any place, town, village, or city which is not (except in the cases of Pajaro, in the State of California, and Guadalupe, in the State of Arizona) part of or associated with an urban area and which has—

"(1) a population not in excess of 10,000, if it is rural in character; or

"(2) a population in excess of 10,000 but not in excess of 25,000, if it—

"(A) is rural in character;

"(B) is not contained within a standard metropolitan statistical area; and

"(C) has a serious lack of mortgage credit for lower and moderate income households as determined by the Secretary of Agriculture after consultation with the Secretary of Housing and Urban Development.

"(b) REMOTE RURAL AREAS.—The Secretary may not refuse to make or insure a loan under this title on the basis that the housing involved is located in an area that is excessively rural in character or excessively remote."

"(b) APPLICABILITY.—The amendment made by this section shall apply with respect to classification of rural areas for fiscal year 1991 and any fiscal year thereafter.

SEC. 608. SECTION 502 DEFERRED MORTGAGE DEMONSTRATION.

Section 521(a)(1) of the Housing Act of 1949 (42 U.S.C. 1490a(a)(1)) is amended by adding at the end the following new subparagraph:

"(H)(i) With respect to families or persons otherwise eligible for assistance under section 502(d) but having incomes below the amount determined to qualify for a loan under this section, the Secretary may defer mortgage payments beyond the amount affordable at 1 percent interest, taking into consideration income, taxes, insurance, utilities, and maintenance. Deferred mortgage payments shall be converted to payment status when the ability of the borrower to repay improves. Deferred amounts shall not exceed 50 percent of the amount of the payment due at 1 percent interest and shall be subject to full recapture.

"(ii) Subject to approval in appropriations Acts, not more than 10 percent of the amount approved for each of fiscal years 1990 and 1991 for loans under section 502 may be used to carry out this subparagraph."

SEC. 609. RURAL HOUSING LOAN GUARANTEES.

(a) FINDINGS AND PURPOSES.—

(1) FINDINGS.—The Congress finds that—

(A) the Federal Government should encourage support for homeownership through unsubsidized mortgage loans guaranteed by the Secretary of Agriculture for the purchase of modest homes located in rural areas and small communities of the country that are not adequately served by private conventional, federally insured, or guaranteed mortgage credit providers; and

(B) many rural areas contain disproportionate amounts of substandard housing in need of repair, but lack the necessary funding and support to modernize such housing through preservation.

(2) PURPOSES.—The purpose of this section is to expand homeownership opportunities to low- and moderate-income residents of rural areas of the country through the establishment of guaranteed rural housing loans to be made available in rural locations where there is an insufficient availability of mortgage financing from other sources.

(b) GUARANTEED LOANS FOR HOUSING ACQUISITION.—Section 502 of the Housing Act of 1949 (42 U.S.C. 1483) is amended by adding at the end the following new subsection:

"(f) GUARANTEED LOANS.—

"(1) AUTHORITY.—The Secretary shall, to the extent provided in appropriation Acts, provide guaranteed loans in accordance with this section, section 517(d), and the last sentence of section 521(a)(1)(A), except as modified by the provisions of this subsection. Loans shall be guaranteed under this subsection in an amount equal to 100 percent of the loan.

"(2) ELIGIBLE BORROWERS.—Loans guaranteed pursuant to this subsection shall be made only to borrowers with moderate incomes that do not exceed the median income of the area, as determined by the Secretary.

"(3) ELIGIBLE HOUSING.—Loans may be guaranteed pursuant to this subsection only if the loan is used to acquire or construct a single-family residence that is—

"(A) to be used as the principal residence of the borrower;

"(B) eligible for assistance under this section, section 203(b) of the National Housing Act, or chapter 37 of title 38, United States Code; and

"(C) located in a rural area that is more than 25 miles from an urban area or densely populated area.

"(4) PRIORITY AND COUNSELING FOR FIRST-TIME HOMEBUYERS.—

"(A) In providing guaranteed loans under this subsection, the Secretary shall give priority to first-time homebuyers (as defined in paragraph (12)(A)).

"(B) The Secretary may require that, as a condition of receiving a guaranteed loan pursuant to this subsection, a borrower who is a first-time homebuyer successfully complete a program of homeownership counseling under section 106(a)(1)(iii) of the Housing and Urban Development Act of 1968 and obtain certification from the provider of the program that the borrower is adequately prepared for the obligations of homeownership.

"(5) ELIGIBLE LENDERS.—Guaranteed loans pursuant to this subsection may be made only by lenders approved by and meeting qualifications established by the Secretary.

"(6) LOAN TERMS.—Loans guaranteed pursuant to this subsection shall—

"(A) be made for a term not to exceed 30 years;

"(B) involve a rate of interest that is fixed over the term of the loan and does not exceed the rate for loans guaranteed under chapter 37 of title 38, United States Code, or comparable loans in the area that are not guaranteed; and

"(C) involve a principal obligation (including initial service charges, appraisal, inspection, and other fees as the Secretary may approve)—

"(i) for a first-time homebuyer, in any amount not in excess of 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act; and

"(ii) for any borrower other than a first-time homebuyer, in an amount not in excess of the percentage of the property or the acquisition cost of the property that the Secretary shall determine, subject to the maximum dollar limitation of section 203(b)(2) of the National Housing Act, such percentage or cost in any event not to exceed 100 percent of the appraised value of the property as of the date the loan is accepted or the acquisition cost of the property, whichever is less.

"(7) GUARANTEE FEE.—With respect to a guaranteed loan under this subsection, the Secretary may collect from the lender at the time of issuance of the guarantee a fee equal to not more than 1 percent of the principal obligation of the loan.

"(8) REFINANCING.—Any guaranteed loan under this subsection may be refinanced and extended in accordance with terms and conditions that the Secretary shall prescribe, but in no event for an additional amount or term which exceeds the limitations under this subsection.

"(9) NONASSUMPTION.—Notwithstanding the transfer of property for which a guaranteed loan under this subsection was made, the borrower of a guaranteed loan under this subsection may not be relieved of liability with respect to the loan.

"(10) GEOGRAPHICAL TARGETING.—In providing guaranteed loans under this subsection, the Secretary shall establish standards to target and give priority to areas that have a demonstrated need for additional sources of mortgage financing for low and moderate-income families.

"(11) ALLOCATION.—The Secretary shall provide that, in each fiscal year, guaranteed loans under this subsection shall be allocated among the States on the basis of the need of eligible borrowers in each State for such loans in comparison with the need of eligible borrowers for such loans among all States.

"(12) DEFINITIONS.—For purposes of this subsection—

"(A) The term 'displaced homemaker' means an individual who—

"(i) is an adult;

"(ii) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

"(iii) (I) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

"(II) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for a guaranteed loan under this subsection; and

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

"(B) the term 'first-time homebuyer' means any individual who (and whose spouse) has had no present ownership in a principal residence during the 3-year period ending on the date of purchase of the property acquired with a guaranteed loan under this subsection except that—

"(i) any individual who is a displaced homemaker may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse; and

"(ii) any individual who is a single parent may not be excluded from consideration as a first-time homebuyer under this subparagraph on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

"(C) The term 'single parent' means an individual who—

"(i) is unmarried or legally separated from a spouse; and

"(ii) (I) has 1 or more minor children for whom the individual has custody or joint custody; or

"(II) is pregnant.

"(D) the term 'State' means the States of the United States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territories of the Pacific, and any other possession of the United States."

(c) CONFORMING AMENDMENTS.—Section 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(2)) is amended—

(1) by inserting "(A)" after "Secretary"; and

(2) by striking "Act and" and inserting the following: "Act; (B) shall, in consultation with the Secretary of Agriculture, provide such services for borrowers who are first-time homebuyers with guaranteed loans under section 502(f) of the Housing Act of 1949; and (C)".

(d) REGULATIONS AND IMPLEMENTATION.—

(1) PROPOSED REGULATIONS AND COMMENT PERIOD.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall publish in the Federal Register proposed regulations to implement the amendments made by this section. The Secretary shall receive comments regarding the regulations during the 30-day period beginning on the date of the publication of the proposed regulations.

(2) IMPLEMENTATION.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall issue final regulations to implement the amendments made by this section. The Secretary shall provide for the regulations to take effect not later than 30 days after the date on which the regulations are issued.

(3) APPLICABILITY.—The amendments made by this section shall not apply to guaranteed loans under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) made before the date on which the final regulations issued by the Secretary under paragraph (2) take effect.

(4) CONSULTATION.—In developing and promulgating the regulations under paragraphs (1) and (2), the Secretary of Agriculture shall consult with the chairperson of the Federal Agricultural Mortgage Corporation and shall solicit the views of borrowers, lenders, realtors, and homebuilders experienced and knowledgeable regarding housing in rural areas to provide that the regulations promulgated ensure that guaranteed loans pursuant to the amendments made by this section—

(A) are made in a manner that is cost-effective; and

(B) are made in a manner that reduces, to the extent practicable, the burden of administration and paperwork for borrowers and lenders.

SEC. 610. HOUSING IN UNDERSERVED AREAS.

Section 509 of the Housing Act of 1949 (42 U.S.C. 1479), as amended by section 603 of

this Act, is further amended by adding at the end the following new subsection:

"(f) HOUSING IN UNDERSERVED AREAS.—

"(1) DESIGNATION OF UNDERSERVED AREA.—The Secretary shall designate as targeted underserved areas 50 counties and communities in fiscal year 1991, and 100 counties and communities in fiscal year 1992 that have severe, unmet housing needs as determined by the Secretary. A county or community shall be eligible for designation if, during the 10-year period preceding the year in which the designation is made, it has received an average annual amount of assistance under this title that is substantially lower than the average annual amount of such assistance received during that 10-year period by other counties and communities in the State that are eligible for such assistance calculated on a per capita basis, and has—

"(A) 20 percent or more of its population at or below the poverty level; and

"(B) 10 percent or more of its population in substandard housing.

As used in this paragraph, the term 'poverty level' has the same meaning as in section 102(a)(9) of the Housing and Community Development Act of 1974.

"(2) PREFERENCES.—

"(A) IN GENERAL.—In designating targeted underserved areas under this subsection, the Secretary shall give preference—

"(i) for fiscal year 1991, to any county or community eligible for such designation that is located within the Lower Mississippi; and

"(ii) for fiscal year 1991, to any county or community eligible for such designation that is (I) located within the Lower Mississippi, and (II) was not designated as a targeted underserved area for fiscal year 1991.

"(B) DEFINITION OF LOWER MISSISSIPPI.—For purposes of this paragraph, the term 'Lower Mississippi' has the meaning given such term in the Lower Mississippi Delta Development Act (H.R. 5378, 100th Congress, as introduced in the House of Representatives on September 26, 1988), incorporated by reference as a part of the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989 (Public Law 100-460; 102 Stat. 2246).

"(3) OUTREACH PROGRAM.—The Secretary shall publicize the availability to targeted underserved areas of grants and loans under this title and promote, to the maximum extent feasible, efforts to apply for those grants and loans for housing in targeted underserved areas.

"(4) SET-ASIDE FOR TARGETED UNDERSERVED AREAS.—The Secretary shall set aside and reserve for assistance in targeted underserved areas an amount equal to 3.5 percent in fiscal year 1991 and 5.0 percent in fiscal year 1992 of the aggregate amount of lending authority under sections 502, 504, 514, 515, and 524. During each such fiscal year, the Secretary shall set aside an amount of section 521 rental assistance that is appropriate to provide assistance with respect to the lending authority under sections 514 and 515 that is set aside for such fiscal year. Any assistance set aside for targeted underserved areas that has not been expended by August 1 of a fiscal year shall be reallocated to other counties and communities that meet the requirements of targeted underserved areas set forth in paragraph (1). Any assistance reallocated under the preceding sentence that has not been expended by September 1 of a fiscal year shall be made available and allocated under the laws and regulations relating to such assistance, notwithstanding this subsection.

"(5) LIST OF UNDERSERVED AREAS.—The Secretary shall publish the current list of targeted underserved areas in the Federal Register.

"(6) PROJECT PREPARATION ADVANCES.—

"(A) IN GENERAL.—In order to promote the development of affordable housing in targeted underserved areas, the Secretary is authorized to provide advances in an amount not to exceed 80 percent of any reasonable and customary costs that are—

"(i) incurred in the preparation of a preapplication for a loan under sections 502, 504, 514, 515, and 524 for housing to be located in a targeted underserved area; and

"(ii) customarily included in the amount financed under such a loan.

"(B) REPAYMENT.—Repayment shall be made from the proceeds of a loan made under this title. In the event that the loan is not approved, repayment of the advance shall begin not later than 36 months after the date on which the advance is made, and the repayment shall be on terms similar to the terms on approved loans. The Secretary may cancel any part or all of an advance if the Secretary determines that it cannot be recovered from the proceeds of any permanent loan made to finance the housing.

"(C) GUIDELINES.—The Secretary shall establish guidelines for the project preparation advance application process. The application shall include a budget for the costs of the loan preapplication and documentation that the funds to cover preapplication costs not advanced by the Secretary or the equivalent of those funds in the form of a loan or a donation of funds or services are available to the project preparation advance applicant.

"(D) APPROVAL.—The Secretary shall approve a properly submitted application or issue a written statement indicating the reasons for disapproval not later than 60 days after the receipt of the application.

"(E) PREFERENCE.—In carrying out any program under this title, the Secretary shall give a preference to an application for assistance that has been developed with project preparation advances under this paragraph, and to an application submitted by or on behalf of a sponsor that resides in the county or community to be served by the proposed housing.

"(F) ELIGIBILITY.—For the purpose of this paragraph, an eligible applicant may be a nonprofit organization or corporation, a State, a unit of general local government, or an agency of a State or unit of general local government."

SEC. 611. HOUSING FOR RURAL HOMELESS AND MIGRANT FARMWORKERS.

(a) GRANT PROGRAM.—Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"HOUSING FOR RURAL MIGRANT FARMWORKERS AND HOMELESS INDIVIDUALS

"SEC. 537. (a) IN GENERAL.—The Secretary may provide financial assistance for providing affordable rental housing and related facilities for migrant farmworkers and homeless individuals (and the families of such individuals) to applicants as provided in this section.

"(b) TYPES OF ASSISTANCE.—

"(1) IN GENERAL.—The Secretary may provide the following assistance for housing under this section:

"(A) An advance, in an amount not to exceed \$400,000, of the cost of acquisition, substantial rehabilitation, or acquisition and rehabilitation of an existing structure

or construction of a new structure for use in the provision of housing under this section. The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used for the purposes under this section prior to the receipt of assistance.

"(B) A grant, in an amount not to exceed \$400,000, for moderate rehabilitation of an existing structure for use in the provision of housing under this section.

"(C) Annual payments for operating costs of such housing (without regard to whether the housing is an existing structure), not to exceed 75 percent of the annual operating costs of such housing.

"(2) AVAILABLE ASSISTANCE.—A recipient may receive assistance under both subparagraph (A) and (B) of paragraph (1). The Secretary may increase the limit contained in such subparagraphs to \$800,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.

"(3) REPAYMENT OF ADVANCE.—Any advance provided under paragraph (1)(A) shall be repaid on such terms as may be prescribed by the Secretary when the project ceases to be used as housing in accordance with the provisions of this section. Recipients shall be required to repay 100 percent of the advance if the housing is used for purposes under this section for fewer than 10 years following initial occupancy. If the housing is used for such purposes for more than 10 years, the percentage of the amount that shall be required to be repaid shall be reduced by 10 percentage points for each year in excess of 10 that the property is so used.

"(4) PREVENTION OF UNDUE BENEFITS.—Upon any sale or other disposition of housing acquired or rehabilitated with assistance under this section prior to the close of 20 years after the housing is placed in service, other than a sale or other disposition resulting in the use of the project for the direct benefit of lower income persons or where all of the proceeds are used to provide housing for migrant farmworkers and homeless individuals (and the families of such individuals), the recipient shall comply with such terms and conditions as the Secretary may prescribe to prevent the recipient from unduly benefiting from the sale or other disposition of the project.

"(c) PROGRAM REQUIREMENTS.—

"(1) APPLICATIONS.—

"(A) Applications for assistance under this section shall be submitted by an applicant in such form and in accordance with such procedures as the Secretary shall establish.

"(B) The Secretary shall require that applications contain at a minimum—

"(i) a description of the proposed housing;

"(ii) a description of the size and characteristics of the population that would occupy the housing;

"(iii) a description of any public and private resources that are expected to be made available in connection with the housing;

"(iv) a description of the housing needs for migrant farmworkers and homeless individuals (and the families of such individuals) in the area to be served by the housing;

"(v) assurances satisfactory to the Secretary that the housing assisted will be operated for not less than 10 years for the purpose specified in the application; and

"(vi) a description of the coordination of the use of the housing for migrant farmworkers and homeless individuals (and the families of such individuals) and the

number of units and availability of units for each of such occupants.

"(C) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed housing not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.

"(2) SELECTION CRITERIA.—The Secretary shall establish selection criteria for a national competition for assistance under this section, which shall include—

"(A) the ability of the applicant to develop and operate the housing;

"(B) the feasibility of the proposal in providing the housing;

"(C) the need for such housing in the area to be served;

"(D) the cost effectiveness of the proposed housing;

"(E) the extent to which the project would meet the needs of migrant farmworkers and homeless individuals (and the families of such individuals) in the State;

"(F) the extent to which the applicant has control of the site of the proposed housing; and

"(G) such other factors as the Secretary determines to be appropriate for purposes of this section.

"(3) REQUIRED AGREEMENTS.—The Secretary may not approve assistance for any housing under this section unless the applicant agrees—

"(A) to operate the proposed project as housing for migrant farmworkers and homeless individuals (and the families of such individuals) in accordance with the provisions of this section;

"(B) to monitor and report to the Secretary on the progress of the housing;

"(C) to give preference in selecting tenants for units in housing assisted under this section to migrant farmworkers; and

"(D) to comply with such other terms and conditions as the Secretary may establish for purposes of this section.

"(4) OCCUPANT RENT.—Each migrant farmworker and homeless individual residing in a facility assisted under this section shall pay as rent an amount determined in accordance with the provisions of section 3(a) of the United States Housing Act of 1937.

"(d) GUIDELINES.—

"(1) REGULATIONS.—Not later than 90 days following the date of enactment of the Housing and Community Development Act of 1990, the Secretary shall by notice establish such requirements as may be necessary to carry out the provisions of this section.

"(2) LIMITATION ON USE OF FUNDS.—No assistance received under this section (or any State or local government funds used to supplement such assistance) may be used to replace other public funds previously used, or designated for use, to assist homeless individuals (and the families of such individuals) or migrant farmworkers.

"(e) LIMITATION ON ADMINISTRATIVE EXPENSES.—No recipient may use more than 5 percent of an advance or grant received under this section for administrative purposes.

"(f) REPORTS TO CONGRESS.—The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this section and setting forth the

findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year.

"(g) DEFINITIONS.—For purposes of this section:

"(1) The term 'applicant' means a State, political subdivision thereof, Indian tribe, any private nonprofit organization incorporated within the State that has applied for a grant under this section.

"(2) The term 'homeless individual' has the same meaning given the term under section 103 of the Stewart B. McKinney Homeless Assistance Act.

"(3) The term 'migrant farmworker'—

"(A) means any person (and the family of such person) who—

"(i) receives a substantial portion of his or her income from primary production of agricultural or aquacultural commodities, the handling of such commodities in the unprocessed stage, or the processing of such commodities, without respect to the source of employment; and

"(ii) establishes residence in a location on a seasonal or temporary basis, in an attempt to receive an income as described in subparagraph (A); and

"(B) includes any person (and the family of such person) who is retired or disabled, but who met the requirements of subparagraph (A) at the time of retirement or becoming disabled.

"(4) The term 'operating costs' means expenses incurred by a recipient providing housing under this section with respect to the administration, maintenance, repair, and security of such housing and utilities, fuel, furnishings, and equipment for such housing."

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 513(b) of the Housing Act of 1949 (42 U.S.C. 1483(b)), as amended by section 601 of this Act, is further amended by adding at the end the following new paragraph:

"(7) For financial assistance under section 537, \$10,000,000 for fiscal year 1991."

SEC. 612. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

Section 535(b) of the Housing Act of 1949 (42 U.S.C. 1490a(b)) is amended by striking "6-month period" and inserting "12-month period".

SEC. 613. RURAL HOUSING TECHNICAL AMENDMENTS.

(a) EQUITY TAKEOUT LOANS.—Section 515(t) of the Housing Act of 1949 (42 U.S.C. 1485(t)) is amended—

(1) in paragraph (3), by striking "original loan on the project" in the last sentence and inserting "original appraised value of the project";

(2) in paragraph (4), by inserting "initial payments and" after "except that such" in the second sentence; and

(3) by striking paragraph (8) and inserting the following new paragraph:

"(8) EFFECTIVE DATE.—The requirements of this subsection shall apply to any loan obligated under this section on or after December 15, 1989."

(b) REUSE OF SECTION 515 LOAN AUTHORITY.—Section 515(u) of the Housing Act of 1949 (42 U.S.C. 1485(u)) is amended by striking "during the same" and all that follows and inserting a period.

(c) RURAL HOUSING ASSISTANCE DEFINITION.—Section 536(h) of the Housing Act of 1949 (42 U.S.C. 1490p(h)) is amended by

striking the period at the end and inserting “, for the original construction or development of the project.”

(d) **PROHIBITION ON PREPAYMENT OF NEW RURAL HOUSING LOANS.**—Section 502(c)(1)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(1)(B)) is amended by inserting “initial” after “any”.

SEC. 614. RURAL HOUSING ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION.

(a) **PRIORITY FOR COLONIAS.**—In considering applications for assistance under title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) for any fiscal year to which this section applies, the Secretary of Agriculture shall give priority to applications for assistance to be used in any colonia.

(b) **APPLICABLE LAW.**—

(1) **IN GENERAL.**—Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisions of title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.).

(2) **EXCEPTION.**—Section 520 of the Housing Act of 1949 (42 U.S.C. 1490) shall not apply to assistance provided pursuant to this section.

(c) **DEFINITIONS.**—For purposes of this section:

(1) **COLONIA.**—The term “colonia” means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the United States-Mexico border region;

(C) is designated by the State or county in which it is located as a colonia;

(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(E) was in existence and generally recognized as a colonia before the date of the enactment of this Act.

(2) **NONPROFIT ORGANIZATION.**—The term “nonprofit organization” means an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(3) **PERSONS OF LOW AND MODERATE INCOME.**—The term “persons of low and moderate income” has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) **UNITED STATES-MEXICO BORDER REGION.**—The term “United States-Mexico border region” means the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(d) **APPLICABILITY.**—This section shall apply only with respect to fiscal years 1991, 1992, and 1993.

TITLE VII—COMMUNITY DEVELOPMENT, MORTGAGE INSURANCE AND SECONDARY MORTGAGE MARKET, AND MISCELLANEOUS PROGRAMS

Subtitle A—Community and Neighborhood Development and Preservation

SEC. 701. COMMUNITY DEVELOPMENT AUTHORIZATIONS.

(a) **COMMUNITY DEVELOPMENT BLOCK GRANTS.**—Section 103 of the Housing and Community Development Act of 1974 (42 U.S.C. 5303) is amended by striking the second sentence and inserting the following: “There are authorized to be appropriated for purposes of assistance under section 106

\$2,953,500,000 for fiscal year 1990 and \$3,241,700,000 for fiscal year 1991. Of any amounts appropriated under this section, the Secretary shall, to the extent approved in appropriation Acts, make available (A) not less than \$3,000,000 in each of fiscal years 1990 and 1991 in the form of grants to institutions of higher education, either directly or through areawide planning organizations or States, for the purpose of providing assistance to economically disadvantaged and minority students who participate in community development work study programs and are enrolled in full-time graduate or undergraduate programs in community and economic development, community planning, or community management, (B) not less than \$3,000,000 for fiscal year 1990 and \$4,500,000 for fiscal year 1991 in the form of grants to historically black colleges, (C) not less than \$6,802,000 for fiscal year 1990 and \$7,000,000 for fiscal year 1991 for grants in Guam, the Virgin Islands, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, (D) not less than \$500,000 in fiscal year 1991 for grants to demonstrate the feasibility of developing an integrated database system and computer mapping tool for the compliance, programming, and evaluation of community development block grants, and (E) not less than \$10,000,000 in fiscal year 1991 for the establishment of a national computerized database under section 104(l).”

(b) **LIMITATION ON LOAN GUARANTEES.**—The last sentence of section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended to read as follows: “Notwithstanding any other provision of law and subject only to the absence of qualified applicants or proposed activities, to the authority provided in this section, and to any funding limitation approved in appropriation Acts, the Secretary shall enter into commitments to guarantee notes and obligations under this section with an aggregate principal amount of \$141,768,000 during fiscal year 1990 and \$300,000,000 during fiscal year 1991.”

SEC. 702. TARGETING COMMUNITY DEVELOPMENT BLOCK GRANT ASSISTANCE.

(a) **PRIMARY OBJECTIVE.**—The second sentence of section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by striking “60 percent” and inserting “75 percent”.

(b) **CERTIFICATION REGARDING ACTIVITIES.**—Section 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(b)(3)) is amended by striking “60 percent” and inserting “75 percent”.

SEC. 703. COMMUNITY DEVELOPMENT CITY AND COUNTY CLASSIFICATIONS.

(a) **METROPOLITAN CITIES.**—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended—

(1) by striking the second sentence and inserting the following: “Any city that was classified as a metropolitan city for at least 2 years pursuant to the first sentence of this paragraph shall remain classified as a metropolitan city.”;

(2) in the fourth sentence, by striking “for fiscal year 1988 or 1989”; and

(3) in the last sentence, by striking—

(A) “the first or second sentence of”; and

(B) “under such first or second sentence”.

(b) **URBAN COUNTIES.**—Section 102(a)(6)(B) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(B)) is amended to read as follows:

“(B) Any county that was classified as an urban county for at least 2 years pursuant to subparagraph (A) or (D) shall remain classified as an urban county, unless it fails to qualify as an urban county pursuant to subparagraph (A) by reason of the election of any unit of general local government included in such county to have its population excluded under clause (ii)(I)(a) of subparagraph (A) or not to renew a cooperation agreement under clause (ii)(I)(b) of such subparagraph.”.

(c) **RELINQUISHMENT OF ENTITLEMENT STATUS.**—

(1) **RELINQUISHMENT BY METROPOLITAN CITY.**—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)), as amended by subsection (a), is further amended by inserting after the period at the end the following: “Any unit of general local government that was classified as a metropolitan city in any fiscal year, may, upon submission of written notification to the Secretary, relinquish such classification for all purposes under this title if it elects to have its population included with the population of a county for purposes of qualifying for assistance (for such following fiscal year) under section 106 as an urban county under paragraph (6)(D). Any metropolitan city that elects to relinquish its classification under the preceding sentence and whose port authority shipped at least 35,000,000 tons of cargo in 1988, of which iron ore made up at least half, shall not receive, in any fiscal year, a total amount of assistance under section 106 from the urban county recipient that is less than the city would have received if it had not relinquished the classification under the preceding sentence.”.

(2) **INCLUSION WITH URBAN COUNTY.**—Section 102(a)(6)(D) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(D)) is amended—

(A) in clause (ii), by striking “or” at the end;

(B) in clause (iii), by striking the period at the end and inserting “; and”; and

(C) by adding at the end the following new clause:

“(iv) has entered into a local cooperation agreement with a metropolitan city that received assistance in the preceding fiscal year under section 106 because of such classification, and has elected under paragraph (4) to have its population included with the population of the county for purposes of qualifying as an urban county; except that to qualify as an urban county under this clause, (I) the county must have a combined population of not less than 195,000, (II) more than 15 percent of the residents of the county shall be 60 years of age or older (according to the most recent decennial census data), (III) not less than 20 percent of the total personal income in the county shall be from pensions, social security, disability, and other transfer programs, and (IV) not less than 40 percent of the land within the county shall be publicly owned and not subject to property tax levies.”.

(3) **APPLICABILITY.**—The amendments made by this subsection shall apply with respect to assistance under title I of the Housing and Community Development Act of 1974 for fiscal year 1991 and any fiscal year thereafter.

SEC. 704. ALLOCATION FORMULA IN CASES OF ANNEXATION.

(a) **IN GENERAL.**—Section 102(a)(12) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(12)) is amended

by inserting after the period at the end the following new sentence: "Where the boundaries for a metropolitan city or urban county used for the 1980 census have changed as a result of annexation, the current population used to compute extent of growth lag shall be adjusted by multiplying the current population by the ratio of the population based on the 1980 census within the boundaries used for the 1980 census to the population based on the 1980 census within the current boundaries."

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply to the first allocation of assistance under section 106 that is made after the date of the enactment of this Act and to each allocation thereafter.

SEC. 705. COMMUNITY DEVELOPMENT HOUSING ASSISTANCE PLAN REQUIREMENTS.

Section 104(c)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(c)(1)) is amended—

(1) in subparagraph (A), by inserting "families who are participating in an organized program to achieve economic independence and self-sufficiency," after "rehabilitation assistance,";

(2) in subparagraph (B), by inserting "(including families who are participating in an organized program to achieve economic independence and self-sufficiency)" after "income" the first place it appears;

(3) in subparagraph (C), by inserting ", including families who are participating in an organized program to achieve economic independence and self-sufficiency" before the first comma; and

(4) in subparagraph (D), by inserting "including families who are participating in an organized program to achieve economic independence and self-sufficiency," after the first comma.

SEC. 706. AUTHORITY TO PROVIDE LUMP-SUM PAYMENTS TO REVOLVING LOAN FUNDS.

(a) **IN GENERAL.**—Notwithstanding any other provision of law, units of general local government receiving assistance under title I of the Housing and Community Development Act of 1974 may receive funds in one payment for use in establishing or supplementing revolving loan funds in the manner provided under section 104(h) of such Act.

(b) **APPLICABILITY.**—This section shall apply to funds approved in appropriations Acts for use under title I of the Housing and Community Development Act of 1974 for fiscal year 1991 and any fiscal year thereafter.

SEC. 707. COMMUNITY DEVELOPMENT PLANS.

(a) **FINDINGS.**—The Congress finds that—
(1) the Federal response to past periods of economic difficulties and recession has been hampered as a result of a lack of information about local needs and resources;

(2) there is a need to promote advance planning by the Federal Government and State and local governments for periods of economic difficulty and recession;

(3) there is a need to increase coordination among the Federal Government and State and local governments in responding to periods of economic difficulty and recession;

(4) there is a need to facilitate prompt and efficient responses to periods of economic difficulty and recession;

(5) there is a need for the Federal Government and State and local governments to have in place systems to set community development priorities, and to target Federal assistance where it can be most effectively used; and

(6) an inventory of anticipated needs and resources would greatly expedite the effi-

cient delivery of Federal assistance in both good and bad economic times.

(b) **PURPOSE.**—It is the purpose of the amendments made by this section—

(1) to establish systems for State and local governments to set community development priorities;

(2) to develop standardized lists of State and local community development needs, the resources necessary to meet such needs, and the resources that are readily available to meet those needs;

(3) to encourage greater cooperation and coordination among the Federal Government and State and local governments; and

(4) to set up a nationwide computerized data base of community development needs, priorities, and resources.

(c) **SUBMISSION OF COMMUNITY DEVELOPMENT PRIORITY LISTS OF ANTICIPATED NEEDS.**—Section 104 of the Housing and Community Development Act of 1974 (42 U.S.C. 5304) is amended by adding at the end the following new subsection:

"(1) Prior to the receipt in any fiscal year of a grant from the Secretary under subsection (b), (d)(1), or (d)(2)(B) of section 106, each recipient shall have prepared and submitted in accordance with this subsection and in such standardized form as the Secretary shall, by regulation, prescribe a priority list of anticipated community development needs.

"(2) The list required in paragraph (1) shall set forth the community development needs of the recipient in priority order and describe with respect to each such need the projects that the recipient will carry out if sufficient amounts are provided under section 106. The description of each project shall include information regarding the following:

"(A) Total cost of the project.

"(B) Annual upkeep or operating costs of the project.

"(C) Area or number of individuals to be served by the project and the number of low- and moderate-income persons to be served by the project.

"(D) Physical resources required to complete the project and the availability of the resources.

"(E) Human resources required to complete the project and the availability of the resources.

"(F) Long- and short-term jobs to be created by the project.

"(G) Governmental permits required to complete the project.

"(H) Length of time required before work on the project could commence.

"(I) Length of time required to complete the project.

"(J) Amount of housing to be developed or rehabilitated by the project.

"(K) Potential for minority participation in the project and the number of minority individuals to be served by the project.

"(3) In the case of a recipient that is a unit of general local government—

"(A) prior to the submission of the list required in paragraph (1), the recipient shall consult with adjacent units of general local government and hold one or more public hearings to obtain the views of citizens on community development needs; and

"(B) the list required under paragraph (1) shall be submitted to the Secretary, the State, and any other unit of general local government within which the recipient is located, in such standardized form as the Secretary shall, by regulation, prescribe.

"(4) In the case of a recipient that is a State, the list required in paragraph (1)—

"(A) shall include only the needs and projects within the State that affect more than one unit of general local government;

"(B) shall include the needs and projects of units of local government within the State which are eligible for a distribution under subsection (d)(2)(A) of section 106; and

"(C) shall be submitted to the Secretary in such standard form as the Secretary, by regulation, shall prescribe.

"(5) A list submitted under this subsection shall not be binding with respect to the use or distribution of amounts received under section 106.

"(6) Not later than the expiration of the 1-year period beginning on the date of enactment of the Housing and Community Development Act of 1990, the Secretary shall compile the lists submitted under paragraph (1) into a single, national computerized data base and shall make such data base accessible to all units of State and local government that have submitted lists under paragraph (1)."

(d) **CONFORMING AMENDMENTS.**—Section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended—

(1) in subsection (c)(1), by striking "or (d)" and inserting "(d), or (1)"; and

(2) in subsection (d)(3)(C), by striking "or (d)" and inserting "(d), or (1)".

(e) **APPLICABILITY.**—The amendments made by this section shall apply to any amounts received under section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) after the expiration of the 6-month period beginning on the date of the enactment of this Act.

SEC. 708. LIMITATION ON USE OF CDBG AMOUNTS FOR PROVIDING PUBLIC SERVICES.

Section 105(a)(8) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(8)) is amended by inserting "including program income" after "under this title" the second place it appears.

SEC. 709. CDBG ELIGIBLE ACTIVITIES.

(a) **ECONOMIC DEVELOPMENT PROJECTS THROUGH FOR-PROFIT ENTITIES.**—Section 105(a)(17) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)(17)) is amended to read as follows:

"(17) provision of assistance to private, for-profit entities, when the assistance is necessary or appropriate to carry out an economic development project (that shall minimize, to the extent practicable, displacement of existing businesses and jobs in neighborhoods) that—

"(A) creates or retains jobs for low- and moderate-income persons;

"(B) creates or retains businesses owned by community residents;

"(C) assists businesses that provide goods or services needed by, and affordable to, low- and moderate-income residents; or

"(D) provides technical assistance to promote any of the activities under subparagraphs (A) through (C)."

(b) **DIRECT HOMEOWNERSHIP ASSISTANCE.**—Section 105(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5305(a)) is amended—

(1) in paragraph (18), by striking "and" at the end;

(2) in paragraph (19), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(20) provision of direct assistance to facilitate and expand homeownership among persons of low and moderate income (except

that such assistance shall not be considered a public service for purposes of paragraph (8) by using such assistance to—

“(A) subsidize interest rates and mortgage principal amounts for low- and moderate-income homebuyers;

“(B) finance the acquisition by low- and moderate-income homebuyers of housing that is occupied by the homebuyers;

“(C) acquire guarantees for mortgage financing obtained by low- and moderate-income homebuyers from private lenders (except that amounts received under this title may not be used under this subparagraph to directly guarantee such mortgage financing and grantees under this title may not directly provide such guarantees);

“(D) provide up to 50 percent of any downpayment required from low- or moderate-income homebuyer; or

“(E) pay reasonable closing costs (normally associated with the purchase of a home) incurred by a low- or moderate-income homebuyers.”.

SEC. 710. COMMUNITY DEVELOPMENT LOAN GUARANTEES.

(a) STATEMENT OF PURPOSE AND OBJECTIVES.—

(1) PURPOSE.—It is the purpose of the amendments made by this section—

(A) to reaffirm the commitment of the Federal Government to assist local governments in their efforts in stimulating economic and community development activities needed to combat severe economic distress and to help in promoting economic development activities needed to aid in economic recovery; and

(B) to promote revitalization and development projects undertaken by local governments that principally benefit persons of low and moderate income, the elimination of slums and blight, and to meet urgent community needs, with special priority for projects located in areas designated as enterprise zones by the Federal Government or by any State.

(2) OBJECTIVES.—In order to further the purpose described in paragraph (1), activities undertaken pursuant to the amendments made by this section shall be directed toward meeting the objectives set forth in sections 101(c) and 104(b)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c) and 5304(b)(3)) and the additional objectives of—

(A) encouraging local governments to establish public-private partnerships;

(B) preserving and developing housing affordable for persons of low and moderate income; and

(C) creating permanent employment opportunities, primarily for persons of low and moderate income.

(b) GUARANTEE OF LOANS ISSUED BY NONENTITLEMENT COMMUNITIES AND TERRITORIES.—

(1) ELIGIBILITY.—

(A) IN GENERAL.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is amended by striking “unit of general local government” or “units of general local government” each place such terms appear and inserting “eligible public entity” or “eligible public entities”, respectively.

(B) CONFORMING AMENDMENT.—Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by striking “unit or agency” and inserting “entity or agency”.

(2) STATE ASSISTANCE IN APPLICATIONS.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) is

amended by adding at the end the following new subsection:

“(n) Any State that has elected under section 106(d)(2)(A) to distribute funds to units of general local government in nonentitlement areas may assist such units in the submission of applications for guarantees under this section.”.

(3) STATE GRANTS AS SECURITY.—

(A) IN GENERAL.—Section 108(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(d)) is amended—

(i) by inserting “(1)” after “(d)”;

(ii) by redesignating paragraphs (1), (2), and (3), as subparagraphs (A), (B), and (C), respectively; and

(iii) by adding at the end the following new paragraph:

“(2) To assist in assuring the repayment of notes or other obligations and charges incurred under this section, a State may pledge any grant for which the State may become eligible under this title as security for notes or other obligations and charges issued under this section by any unit of general local government in a nonentitlement area in the State.”.

(B) REPAYMENTS.—Section 108(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(e)) is amended by striking “subsection (d)(2)” and inserting “paragraphs (1)(B) and (2) of subsection (d)”.

(4) DEFINITION.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this section) is further amended by adding at the end the following new subsection:

“(o) For purposes of this section, the term ‘eligible public entity’ means any unit of general local government, including units of general local government in nonentitlement areas.”.

(c) GUARANTEE OF HOUSING CONSTRUCTION LOANS.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)) is amended in the first sentence—

(1) by striking “; or” and inserting a semicolon; and

(2) by inserting before the period at the end the following: “; or (4) construction of housing for persons of low and moderate income”.

(d) LOAN REPAYMENT PERIOD.—Section 108(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(a)), as amended by the preceding provisions of this Act, is further amended by inserting after the third sentence the following: “The Secretary may not deny a guarantee under this section on the basis of the proposed repayment period for the note or other obligation, unless the period is more than 20 years or the Secretary determines that the period causes the guarantee to constitute an unacceptable financial risk.”.

(e) OUTSTANDING LOAN GUARANTEE AMOUNT PER ISSUER.—Section 108(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(b)) is amended—

(1) by inserting after “this section” the following: “(excluding any amount defeased under the contract entered into under subsection (d)(1)(A))”; and

(2) by striking “three” and inserting “5”; and

(3) by inserting “or 107” after “section 106”.

(f) ALLOCATION OF LOAN GUARANTEES AND LIMITATION ON AMOUNT GUARANTEED FOR EACH COMMUNITY.—

(1) ALLOCATION OF GUARANTEES.—Section 108(a) of the Housing and Community De-

velopment Act of 1974 (42 U.S.C. 5308), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new sentence: “Of the amount approved in any appropriation Act for guarantees under this section in any fiscal year, the Secretary shall allocate 70 percent for guarantees for metropolitan cities, urban counties, and Indian tribes and 30 percent for guarantees for units of general local government in nonentitlement areas. The Secretary may waive the percentage requirements of the preceding sentence in any fiscal year only to the extent that there is an absence of qualified applicants or proposed activities from metropolitan cities, urban counties, and Indian tribes or units of general local government in nonentitlement areas.”.

(2) LIMITATION PER COMMUNITY.—Section 108(k) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(k)) is amended—

(A) by inserting “(1)” after “(k)”;

(B) by adding at the end the following new paragraph:

“(2) An eligible public entity may not receive guarantees under this section in any single year in a cumulative amount that exceeds—

“(A) for an eligible public entity that is a metropolitan city, urban county, or Indian tribe, \$25,000,000; and

“(B) for any eligible public entity not referred to in subparagraph (A), \$5,000,000.”.

(g) DEBT PAYMENT ASSISTANCE.—Section 108(h) of the Housing and Community Development Act of 1974 (42 U.S.C. 5308(h)) is amended by adding at the end the following: “The Secretary may also, to the extent approved in appropriation Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer.”.

(h) TRAINING AND INFORMATION.—Section 108 of the Housing and Community Development Act of 1974 (42 U.S.C. 5308) (as previously amended by this Act) is further amended by adding at the end the following new subsection:

“(p)(1) The Secretary, in cooperation with eligible public entities, shall carry out training and information activities with respect to the guarantee program under this section. Such activities shall commence not later than 1 year after the date of the enactment of the Housing and Community Development Act of 1989.

“(2) The Secretary may use amounts set aside under section 107 to carry out this subsection.”.

(i) ANNUAL REPORT.—Section 113(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5313(a)) is amended—

(1) in paragraph (2), by striking “and”;

(2) in paragraph (3), by striking the period at the end and inserting “; and”;

(3) by adding at the end the following new paragraph:

“(4) a description of the activities carried out under section 108.”.

(j) REGULATIONS.—To carry out the amendments made by this section, the Secretary of Housing and Urban Development shall—

(1) issue proposed regulations not later than 90 days after the date of the enactment of this Act; and

(2) issue final regulations not later than 180 days after the date of the enactment of this Act.

SEC. 711. ELIGIBILITY FOR HAWAIIAN HOME LANDS TO RECEIVE ASSISTANCE FROM CDBG GRANTEES.

Section 109 of the Housing and Community Development Act of 1974 (42 U.S.C. 5309) is amended by adding at the end the following new subsection:

"(d) The provisions of this section and section 104(b)(2) shall not apply to the provision of assistance by grantees under this title to the Hawaiian Home Lands."

SEC. 712. PROHIBITION OF DISCRIMINATION ON BASIS OF RELIGION UNDER CDBG PROGRAM.

(a) **IN GENERAL.**—Section 109(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5309(a)) is amended by inserting "religion," after "national origin."

(b) **APPLICABILITY.**—The amendment made by subsection (a) shall apply with respect to conduct relating to discrimination occurring after the date of the enactment of this Act.

SEC. 713. TECHNICAL CORRECTIONS REGARDING CDBG FOR INDIAN TRIBES.

(a) **INAPPLICABILITY OF LOW AND MODERATE INCOME REQUIREMENTS.**—Section 101(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5301(c)) is amended by inserting "to States and units of general local government" after "Federal assistance provided" the first place it appears.

(b) **ALLOCATION AND DISTRIBUTION OF FUNDS.**—

(1) **SET-ASIDE FOR INDIAN TRIBES.**—

(A) **REPEAL.**—Section 106(b) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(b)) is amended by striking paragraph (7).

(B) **REPLACEMENT.**—Section 106 of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended by striking "Sec. 106. (a)" and all that follows through the end of subsection (a) and inserting the following:

"SEC. 106. (a)(1) For each fiscal year, of the amount approved in an appropriation Act under section 103 for grants in any year (excluding the amounts provided for use in accordance with section 107), the Secretary shall reserve for grants to Indian tribes not more than 1 percent of the amount appropriated under such section. The Secretary shall provide for distribution of amounts under this paragraph to Indian tribes on the basis of a competition conducted pursuant to specific criteria for the selection of Indian tribes to receive such amounts. The criteria shall be contained in a regulation promulgated by the Secretary after notice and public comment. Notwithstanding any other provision of this Act, such grants to Indian tribes shall not be subject to the requirements of section 104, except subsections (f), (g), and (k) of such section.

"(2) After reserving such amounts for Indian tribes, the Secretary shall allocate amounts provided for use under section 107.

"(3) Of the amount remaining after allocations pursuant to paragraphs (1) and (2), 70 percent shall be allocated by the Secretary to metropolitan cities and urban counties. Except as otherwise specifically authorized, each metropolitan city and urban county shall be entitled to an annual grant from such allocation in an amount not exceeding its basic amount computed pursuant to paragraph (1) or (2) of subsection (b)."

(2) **ALLOCATION TO METROPOLITAN CITIES AND URBAN COUNTIES.**—Paragraphs (1) and (2) of section 106(b) of the Housing and Community Development Act of 1974 (42

U.S.C. 5306(b)) are amended by striking "After taking into account the set-aside for Indian tribes under paragraph (7), the" each place it appears and inserting "The" in each place.

(3) **ALLOCATION TO NONENTITLEMENT AREAS.**—Section 106(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(1)) is amended by striking "section 107 and section 119" and inserting in lieu thereof "section 106(a)(1) and (2)".

(c) **PROGRAM REQUIREMENTS FOR GRANTS TO INDIAN TRIBES.**—Section 107(e)(2) of the Housing and Community Development Act of 1974 (42 U.S.C. 5307(e)(2)) is amended by inserting ", section 106(a)(1)," after "this section".

(d) **ADMINISTRATION OF GRANTS TO INDIAN TRIBES.**—Section 702(c) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 5306 note) is repealed.

(e) **APPLICABILITY OF HUD REFORM ACT.**—Section 702(e) of the Department of Housing and Urban Development Reform Act of 1989 (42 U.S.C. 5306 note) is amended by striking "1991" and inserting "1990".

(f) **APPLICABILITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), the amendments made by this section shall apply to amounts approved in any appropriation Act under section 103 of the Housing and Community Development Act of 1974 for fiscal year 1990 and each fiscal year thereafter.

(2) **GRANTS IN FISCAL YEAR 1990.**—The Secretary of Housing and Urban Development may make grants to Indian tribes pursuant to the amendments made by this section with any amounts approved in any appropriation Act under section 103 for fiscal year 1990 for grants to Indian tribes, and the first sentence of section 106(a)(1) of the Housing and Community Development Act of 1974 (as amended by this Act) shall not apply to such grants.

SEC. 714. CDBG ASSISTANCE FOR UNITED STATES-MEXICO BORDER REGION.

(a) **SET-ASIDE FOR COLONIAS.**—The States of Arizona, California, New Mexico, and Texas shall each make available, for activities designed to meet the needs of the residents of colonias in the State relating to water, sewage, and housing, the following percentage of the amount allocated for the State under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)):

(1) **FIRST FISCAL YEAR.**—For the first fiscal year to which this section applies, 10 percent.

(2) **SUCCEEDING FISCAL YEARS.**—For each of the succeeding fiscal years to which this section applies, a percentage (not to exceed 10 percent) that is determined by the Secretary of Housing and Urban Development to be appropriate after consultation with representatives of the interests of the residents of colonias.

(b) **ELIGIBLE ACTIVITIES.**—Assistance distributed pursuant to this section may be used only to carry out the following activities:

(1) **PLANNING.**—Payment of the cost of planning community development (including water and sewage facilities) and housing activities, including the cost of—

(A) the provision of information and technical assistance to residents of the area in which the activities are to be concentrated and to appropriate nonprofit organizations and public agencies acting on behalf of the residents; and

(B) preliminary surveys and analyses of market needs, preliminary site engineering

and architectural services, site options, applications, mortgage commitments, legal services, and obtaining construction loans.

(2) **ASSESSMENTS FOR PUBLIC IMPROVEMENTS.**—The payment of assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement.

(c) **DISTRIBUTION OF ASSISTANCE.**—Assistance shall be made available pursuant to this section in accordance with a distribution plan that gives priority to colonias having the greatest need for such assistance.

(d) **APPLICABLE LAW.**—Except to the extent inconsistent with this section, assistance provided pursuant to this section shall be subject to the provisions of title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(e) **DEFINITIONS.**—For purposes of this section:

(1) **COLONIA.**—The term "colonia" means any identifiable community that—

(A) is in the State of Arizona, California, New Mexico, or Texas;

(B) is in the United States-Mexico border region;

(C) is designated by the State or county in which it is located as a colonia;

(D) is determined to be a colonia on the basis of objective criteria, including lack of potable water supply, lack of adequate sewage systems, and lack of decent, safe, and sanitary housing; and

(E) was in existence and generally recognized as a colonia before the date of the enactment of this Act.

(2) **NONPROFIT ORGANIZATION.**—The term "nonprofit organization" means an organization described in section 501(c) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code.

(3) **PERSONS OF LOW AND MODERATE INCOME.**—The term "persons of low and moderate income" has the meaning given the term in section 102(a) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)).

(4) **UNITED STATES-MEXICO BORDER REGION.**—The term "United States-Mexico border region" means the area of the United States within 150 miles of the border between the United States and Mexico, except that the term does not include any standard metropolitan statistical area that has a population exceeding 1,000,000.

(f) **APPLICABILITY.**—This Act shall apply only with respect to fiscal years 1991, 1992, and 1993.

SEC. 715. URBAN HOMESTEADING.

(a) **ACQUISITION OF PROPERTIES FROM THE RESOLUTION TRUST CORPORATION.**—Section 810 of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e), as amended by the preceding provisions of this Act, is further amended—

(1) by redesignating subsections (l), (m), and (n) as subsections (m), (n), and (o), respectively; and

(2) by inserting after subsection (k) the following new subsection:

"(l)(1) The Secretary may acquire from the Resolution Trust Corporation eligible single family properties (as such term is defined in section 21A(c)(9)(F) of the Federal Home Loan Bank Act), in bulk (as agreed to by the Secretary and the Resolution Trust Corporation), for transfer to units of general local government or a State, or qualified

community organizations or public agencies designated by a unit of general local government or a State, for use in connection with urban homesteading programs approved by the Secretary under this section and other disposition as provided under this subsection. Such properties shall be suitable for use in connection with approved urban homesteading programs, as determined by the Secretary.

"(2) The acquisition price paid by the Secretary to the Resolution Trust Corporation for properties under paragraph (1) shall be in an amount to be agreed upon by the Secretary and the Resolution Trust Corporation for each property and shall include discounts for bulk purchase and for the estimated costs and other expenses of the Secretary related to holding a property until its transfer for use in connection with an urban homesteading program or other disposition under this subsection. Notwithstanding the preceding sentence, the price paid by the Secretary for acquisition of a property under this subsection may not exceed 50 percent of the fair market value of the property, as valued individually.

"(3) If a unit of general local government, State, community organization, or public agency cannot make timely use under an urban homesteading program of a property acquired by the Secretary under this subsection, or if the property is found to be unsuitable for such use after acquisition, the Secretary may deal with, complete, rent, secure, repair, renovate, modernize, insure, or sell for cash or credit (at a price determined by the Secretary), in the discretion of the Secretary, any property purchased under this subsection. The Secretary may use the proceeds from any sales to offset any costs or other expenses related to holding properties acquired under this subsection.

"(4) After determining suitability of property under paragraph (1), the Secretary may acquire property from the Resolution Trust Corporation for more than the maximum amount that the Secretary, by regulation, has established for reimbursement for properties transferred for urban homesteading uses under this section. The local government, State, organization, or agency administering the urban homesteading program under which an individual or family receives such a property shall pay to the Secretary (in a manner as the Secretary shall provide) the amount by which the acquisition price paid by the Secretary to the Resolution Trust Corporation is greater than such maximum amount. The local government, State, or organization or agency may recover some or all of the amount paid to the Secretary by the administering agency, as the Secretary shall provide. Any property acquired pursuant to this subsection may be transferred, under an urban homesteading program under this section, only to individuals and families who are lower income families (as such term is defined in subsection (h)(3)).

"(5) For purposes of this subsection, a bulk acquisition of properties shall involve not less than 100 properties.

"(6) In using properties acquired under this subsection, each urban homesteading program shall provide for preference in conveying such properties under the program to residents of public housing (as such term is defined in section 3(b) of the United States Housing Act of 1937).

(b) NEIGHBORHOOD IMPROVEMENT STRATEGY.—Section 810(b)(6) of the Housing and Community Development Act of 1974 (12

U.S.C. 1706e(b)(6)) is amended by striking the period at the end and inserting the following: ", except that this paragraph shall not apply with respect to any group of 10 or less properties obtained for use under an urban homesteading program if the properties (A) are located in any single census tract, and (B) were acquired by the Secretary from the Resolution Trust Corporation pursuant to subsection (1)."

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 810(m) of the Housing and Community Development Act of 1974 (12 U.S.C. 1706e), as redesignated by subsection (a), is amended—

(1) by striking "To" and inserting "(1) To";

(2) by striking "\$12,000,000 for fiscal year 1988, and \$13,000,000 for fiscal year 1989" and inserting the following: "\$12,995,400 for fiscal year 1990, \$36,000,000 for fiscal year 1991, \$45,000,000 for fiscal year 1992, and \$54,000,000 for fiscal year 1993"; and

(3) by adding at the end the following new paragraph:

"(2) In addition to the amounts under paragraph (1), there are authorized to be appropriated \$36,000,000 for fiscal year 1991, \$45,000,000 for fiscal year 1992, and \$54,000,000 for fiscal year 1993 for the purchase of properties under subsection (1). For the costs of holding and selling properties acquired under subsection (1), there are authorized to be appropriated \$6,500,000 for fiscal year 1991, \$8,000,000 for fiscal year 1992, and \$9,500,000 for fiscal year 1993. Any amounts appropriated under this paragraph shall remain available until expended."

(e) RTC DISPOSITION PROCEDURES.—Section 21A(c)(6) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(c)(6)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subparagraph:

"(E) URBAN HOMESTEADING ACQUISITION.—

"(i) The Corporation and the Secretary, in providing for bulk acquisition by the Secretary of eligible single family properties under section 810(l) of the Housing and Community Development Act of 1974, shall agree to an amount to be paid by the Secretary under such section for acquisition of such properties. The acquisition price shall include discounts for bulk purchase and for holding of the property, as provided under such section, such that the acquisition price for each property shall not exceed 50 percent of the fair market value of the property, as valued individually.

"(ii) To the extent necessary to facilitate sale of properties to the Secretary under such section, the requirements of paragraphs (2), (5), and (6)(A) of this subsection shall not apply to such transactions and property involved in such transactions.

"(iii) To facilitate acquisitions by the Secretary under section 810(l) of the Housing and Community Development Act of 1974, the Corporation shall provide the Secretary with an inventory of eligible single family properties, not less than 4 times each year."

SEC. 716. REHABILITATION LOANS.

(a) LIMITATION ON USE OF FUND.—The first sentence of section 312(d) of the Housing Act of 1964 (42 U.S.C. 1452b(d)) is amended by inserting before the period at the end the following: "and to be used for no other purpose".

(b) LIMITATION ON LOAN COMMITMENTS.—Section 312(d) of the Housing Act of 1964 (42 U.S.C. 1452b(d)) is amended—

(1) in the third sentence, by striking the third comma and all that follows and inserting a period; and

(2) by inserting after the third sentence the following new sentence: "For each of the fiscal years 1990 and 1991, amounts from the fund under this section shall be available for loan commitments under this section to the extent provided in appropriation Acts."

(c) EXTENSION OF PROGRAM.—Section 312(h) of the Housing Act of 1964 (42 U.S.C. 1452b(h)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(d) ELIMINATION OF NONRESIDENTIAL USES.—Section 312 of the Housing Act of 1964 (42 U.S.C. 1452b) is amended—

(1) in subsection (a), by inserting "residential" after "tenants of" in the matter preceding paragraph (1);

(2) in subsection (b)(1), by inserting "residential" before "structure";

(3) in subsection (c)(4)(A), by striking "in the case of residential property";

(4) in subsection (c)(4)(B)—

(A) by striking "residential"; and

(B) by inserting "and" after the semicolon at the end;

(5) in subsection (c)(4)(C)—

(A) by striking "residential"; and

(B) by striking "; and" and inserting a period; and

(6) by striking subsection (c)(4)(D).

(e) LIMITATION ON MULTIFAMILY LOANS.—Section 312(d) of the Housing Act of 1964 (42 U.S.C. 1452b(d)), as amended by the preceding provisions of this section, is further amended by inserting after the period at the end the following: "Of amounts made available for loans under this section in each fiscal year, the Secretary may use not more than 50 percent of such amounts for loans for multifamily properties."

SEC. 717. NEIGHBORHOOD REINVESTMENT CORPORATION.

(a) FINDINGS.—The Congress finds that—

(1) protecting the existing stock of unsubsidized privately held lower income housing through the rehabilitation and revitalization of declining neighborhoods is essential to a national housing policy that seeks to increase the availability of affordable housing for low and moderate-income families;

(2) the Neighborhood Reinvestment Corporation, the anchor of the national neighborhood housing services network, was chartered by Congress more than 10 years ago to revitalize neighborhoods for the benefit of current residents by mobilizing public, private, and community resources at the neighborhood level;

(3) the national neighborhood housing services network has proven its worth as a successful cost-effective program relying largely on local initiative for the specific design of local programs;

(4) the national neighborhood housing services network has had more than 10 years of experience in revitalizing declining neighborhoods, creating housing for low and moderate-income families, and equipping residents with skills and resources required to maintain safe and healthy communities; and

(5) expanding upon the existing capabilities, resources, and potential of the national neighborhood housing services network is a cost-effective response to the affordable housing and neighborhood revitalization needs confronting the Nation, and is a strong preventive measure in addressing the national tragedy of homelessness.

(b) **PURPOSE.**—It is the purpose of this section to authorize appropriations for the Neighborhood Reinvestment Corporation for fiscal years 1990 and 1991 to permit the corporation—

(1) to carefully expand the capacities of the national neighborhood housing services network;

(2) to begin to meet the urgent need for neighborhood housing services and mutual housing associations in neighborhoods across the Nation as the effort to preserve affordable housing for low and moderate-income American families increases;

(3) to increase and provide ongoing technical and capacity development assistance to neighborhood housing services and related public-private partnership-based nonprofit institutions involved in the revitalization of neighborhoods for the benefit of current residents, rehabilitation, preservation of existing housing stock, and production of additional housing opportunities for low and moderate-income families;

(4) to expand the loan purchase capacity of the national neighborhood housing services secondary market, operated by Neighborhood Housing Services of America, for loans made by neighborhood housing services to residents who are unable to meet conventional lending standards, and other loans for community development purposes;

(5) to provide increased capacity development and matching grants to preserve existing privately held unsubsidized rental housing affordable to low and moderate-income households and to create flexible strategies effective in the diverse economic and geographic environments of the Nation;

(6) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to title II of the Housing and Community Development Act of 1987;

(7) to increase the resources available to neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families;

(8) to expand the national mutual housing association demonstration by providing technical assistance and matching grants to assist low- and moderate-income families to participate in such associations;

(9) to increase resources available to neighborhood housing services network programs for foreclosure intervention and prevention; and

(10) to create additional neighborhood housing services partnership organizations to serve rural communities, Native Americans, Native Hawaiians, and other communities in need.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—Section 608(a) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8107(a)) is amended to read as follows:

“(a)(1) There are authorized to be appropriated to the corporation to carry out this title \$26,837,470 for fiscal year 1990 and \$50,000,000 for fiscal year 1991. Not more than 15 percent of any amount appropriated under this paragraph for any fiscal year may be used for administrative expenses.

“(2) Of the amount appropriated pursuant to this subsection for each of the fiscal years 1990 and 1991, amounts appropriated in excess of the amount necessary to continue existing services of the Neighborhood Reinvestment Corporation in revitalizing declining neighborhoods shall be available—

“(A) to expand the national neighborhood housing services network and to assist network capacity development, including expansion of rental housing resources;

“(B) to expand the loan purchase capacity of the national neighborhood housing services secondary market operated by Neighborhood Housing Services of America;

“(C) to make grants to provide incentives to extend low-income housing use in connection with properties subject to prepayment pursuant to title II of the Housing and Community Development Act of 1987;

“(D) to increase the resources available to the national neighborhood housing services network programs for the purchase of multifamily and single-family properties owned by the Secretary of Housing and Urban Development for rehabilitation (if necessary) and sale to low- and moderate-income families; and

“(E) to provide matching capital grants, operating subsidies, and technical services to mutual housing associations for the development, acquisition, and rehabilitation of multifamily and single-family properties (including properties owned by the Secretary of Housing and Urban Development) to ensure affordability by low- and moderate-income families.”.

SEC. 718. STUDY OF NEIGHBORHOOD DEVELOPMENT OPPORTUNITIES ON INDIAN TRUST LANDS.

(a) **STUDY.**—The Neighborhood Reinvestment Corporation shall conduct a study under this section of neighborhood development activities for expanding affordable housing opportunities within lands held in trust for Indian tribes. The study shall examine the types and effectiveness of neighborhood development models and activities to provide affordable housing, including development by the Neighborhood Reinvestment Corporation and Neighborhood Housing Services, and the effectiveness of implementing such models and activities for development of affordable housing opportunities within such areas.

(b) **CONSULTATION.**—In carrying out the study under this section, the Neighborhood Reinvestment Corporation shall consult with the Secretary of Housing and Urban Development, the Assistant Secretary for Indian Affairs of the Department of the Interior, Indian housing authorities, and tribal councils.

(c) **REPORT.**—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Neighborhood Reinvestment Corporation shall submit to the Congress a report containing a detailed statement of findings and conclusions regarding the study under this section, including recommendations for such administrative and legislative action as the Corporation considers advisable.

SEC. 719. STUDY OF SWEAT EQUITY CONTRIBUTIONS.

(a) **IN GENERAL.**—The Neighborhood Reinvestment Corporation shall conduct a study regarding the effectiveness of, and demand for, provision of training, supervision, and counseling through local Neighborhood Housing Services programs to lower income families purchasing and rehabilitating homes through homeownership assistance programs administered by the Federal Government and State and local governments. The study shall include an assessment of the extent to which contributions of labor by lower income families to the rehabilitation of homes (commonly referred to as “sweat equity”) allow families to acquire a

substantially lower mortgage loans for the purchased and rehabilitated homes.

(b) **REPORT.**—The Neighborhood Reinvestment Corporation shall submit to the Congress a report regarding the results of the study under subsection (a) not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(c) **SWEAT EQUITY UNDER URBAN HOMESTEADING.**—Section 810(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 1706(e)) is amended by inserting after the period at the end the following new sentence: “The annual report shall include an assessment of the extent to which contributions of labor by applicants under urban homesteading programs reduce the need for indebtedness on the properties, and an assessment of the effectiveness of various forms of training, supervision, and counseling of such applicants.”.

SEC. 720. NEIGHBORHOOD DEVELOPMENT DEMONSTRATION.

Section 123(g) of the Housing and Urban-Rural Recovery Act of 1983 (42 U.S.C. 5318 note) is amended to read as follows:

“(g) To the extent provided in appropriations Acts, \$1,969,000 of the amounts made available for assistance under section 103 of the Housing and Community Development Act of 1974 in fiscal year 1990 shall be available to carry out this section for fiscal year 1990 and \$2,000,000 shall be available for fiscal year 1991.”.

SEC. 721. USE OF URBAN RENEWAL LAND DISPOSITION PROCEEDS AND CERTAIN OTHER COMMUNITY DEVELOPMENT AND PUBLIC FACILITY FUNDS.

(a) **LUZERNE COUNTY, PENNSYLVANIA.**—Notwithstanding any other provision of law or other requirement, the city of Nanticoke, the Borough of Plymouth, and the Borough of Forty Fort, all in the county of Luzerne and in the State of Pennsylvania, are authorized to retain any categorical settlement grant funds or urban renewal grant funds that remain after the financial closeout of the Lower Broadway Disaster Urban Renewal Project (No. B-79-UR-42-0001) in the city of Nanticoke, the Plymouth Disaster Urban Renewal Project (No. PA-R-617 and No. B-79-UR-42-0007) in the borough of Plymouth, and the Forty Fort Disaster Urban Renewal Project (No. PA-R-613 and No. B-79-UR-42-0003) in the borough of Forty Fort, respectively, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Nanticoke, the borough of Plymouth, and the borough of Forty Fort shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(b) **VALLEJO, CALIFORNIA.**—Notwithstanding any other provision of law or other requirement, the city of Vallejo, California, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Marina Vista Urban Renewal Project, and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Vallejo shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(c) **NEW HAVEN, CONNECTICUT.**—Notwithstanding any other provision of law or other requirement, the city of New Haven, Connecticut, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Church Street Urban Renewal Project (No. Conn. R-2), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of New Haven shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(d) **LEBANON, PENNSYLVANIA.**—Notwithstanding any other provision of law or other requirement, the city of Lebanon, Pennsylvania, is authorized to retain any land disposition proceeds or urban renewal grant funds that remain after the financial closeout of the Southside Urban Renewal Project (No. R-635(C)), and to use such funds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The city of Lebanon shall retain such funds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such funds, including any interest.

(e) **EAST STROUDSBURG, PENNSYLVANIA.**—Notwithstanding any other provision of law or other requirement, the Borough of East Stroudsburg, Pennsylvania, is authorized to retain any land disposition proceeds from the financial closeout of the Courtland Plaza Urban Renewal Project (No. PA-R-352) not paid to the Department of Housing and Urban Development, and to use such proceeds in accordance with the requirements of the community development block grant program specified in title I of the Housing and Community Development Act of 1974. The Borough of East Stroudsburg shall retain such proceeds in a lump sum and shall be entitled to retain and use, in accordance with this subsection, all past and future earnings from such proceeds, including any interest.

(f) **FAIRMOUNT HEIGHTS, MARYLAND.**—Notwithstanding any other provision of law or other requirement, the Secretary of Housing and Urban Development shall cancel the indebtedness of the Town of Fairmount Heights, Maryland, relating to the public facilities loan (project number MD-18-PFL003) issued July 1, 1969, under title II of the Housing Amendments of 1965. The Town of Fairmount Heights is relieved of all liability to the Federal Government for the outstanding principal balance on such loan, for the amount of accrued interest on such loan, and for any other fees and charges payable in connection with such loan.

(g) **BUDGET COMPLIANCE.**—This section shall be effective only to the extent provided in appropriations Acts.

SEC. 722. STUDY REGARDING AVAILABILITY OF HOUSING PROXIMATE TO PLACES OF EMPLOYMENT.

(a) **IN GENERAL.**—The Secretary of Housing and Urban Development shall conduct a study regarding the availability of housing within reasonable proximity of places of employment. The study shall—

(1) identify causes of, and factors relating to, the geographic divergence of available housing for low- and moderate-income families from places of employment for working members of such families; and

(2) propose methods for preventing such divergence and for providing housing within reasonable proximity of places of employment, without promoting establishment of cottage industries or housing developments for employees owned or controlled by the employer.

(b) **STUDY REQUIREMENTS.**—In carrying out the study under this section the Secretary of Housing and Urban Development shall—

(1) use, to the extent available and practicable, existing regional plans and strategies developed or implemented by public, private, and nonprofit environmental organizations and regulatory entities;

(2) select and analyze one particular region of the Nation or one State in which employment opportunities are available, relative to the remainder of the Nation, but for which lack of available housing is an acute problem; and

(3) give priority to analysis of regions and metropolitan areas not complying with Federal laws and regulations relating to clean air standards.

(c) **REPORT.**—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a report containing the results and conclusions of the study conducted under this section. The report shall also contain proposed strategies for adoption by local, regional, and State governmental agencies, in consultation with nonprofit organizations, to increase the availability of housing for low- and moderate-income families within reasonable proximity of places of employment for working members of such families and prevent the geographical divergence of such housing and places of employment.

SEC. 723. GRANTS FOR ECONOMIC DEVELOPMENT LOAN ASSISTANCE.

(a) **GRANTS TO COMMERCIAL DEVELOPMENT CORPORATIONS.**

(1) **IN GENERAL.**—The Secretary of Housing and Urban Development may make grants to any community development corporation sponsored by a bank or thrift institution, by a non-bank economic development corporation, or by residents of an economically distressed city or urban county to assist businesses and non-profit organizations by reducing interest rates on loans for economic development activities to be carried out by such businesses and organizations in any such city or urban county.

(2) **GRANT REQUIREMENTS.**—The Secretary of Housing and Urban Development shall require that a community development corporation receiving a grant under paragraph (1)—

(A) use such grant to reduce the interest rate on a loan described in such subsection by an amount not to exceed 60 percent of the market rate of interest on such loan; and

(B) take such steps as may be necessary to inform businesses and nonprofit organizations of the availability of such loans, including holding information hearings and placing notices in newspapers or other publications.

(3) **MAXIMUM AMOUNT OF GRANT.**—The Secretary of Housing and Urban Development shall not make a grant under paragraph (1) which exceeds \$2,000,000.

(4) **MONITORING REQUIREMENT.**—The Secretary of Housing and Urban Development shall monitor the use of grants made under

paragraph (1) and the costs of administering such grants.

(5) **DEFINITIONS.**—For the purposes of this subsection:

(A) **ECONOMICALLY DISTRESSED CITY OR URBAN COUNTY.**—The term “economically distressed city or urban county” means a city or county that contains an area that has been designated as an enterprise zone under section 701 of the Housing and Community Development Act of 1987.

(B) **ECONOMIC DEVELOPMENT ACTIVITIES.**—The term “economic development activities” means the construction and rehabilitation of housing, downtown and neighborhood commercial revitalization, industrial development and redevelopment, small and minority business assistance, neighborhood marketing, training, and technical assistance, research and planning for nonprofit development groups, and other activities which create permanent private sector jobs.

(b) **REPORT.**—The Secretary of Housing and Urban Development shall transmit to Congress, not later than 1 year after the date that amounts approved in appropriations Act to carry out this section first become available and for each year thereafter in which amounts are available to carry out this section, a report containing an evaluation of the effectiveness of grants made under this section.

(c) **IMPLEMENTATION STUDY AND RECOMMENDATION.**—

(1) **STUDY.**—The Secretary of Housing and Urban Development shall conduct a study regarding the effects and costs of carrying out an effective program of making grants under this section. The study shall determine the need for such grants and the amount of funds necessary to make effective grants.

(2) **REPORT.**—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the results of the study under paragraph (1). The report shall contain a recommendation for the amount of funds to be provided grants under this section.

(d) **FUNDING.**—Notwithstanding any other provision of law, there are authorized to be appropriated to carry out this section any previously appropriated amounts for programs and activities administered by the Secretary that remain unexpended under such programs and activities.

Subtitle B—Mortgage Insurance and Secondary Mortgage Market Programs

SEC. 731. LIMITATION ON FHA INSURANCE AUTHORITY.

Section 531(b) of the National Housing Act (12 U.S.C. 1735f-9(b)) is amended to read as follows:

“(b) Notwithstanding any other provision of law and subject only to the absence of qualified requests for insurance, to the authority provided in this Act, and the limitation in subsection (a), the Secretary shall enter into commitments to insure mortgages under this Act with an aggregate principal amount of \$73,837,500,000 during fiscal year 1990 and \$76,791,000,000 during fiscal year 1991.”

SEC. 732. INCREASE IN FHA MORTGAGE LIMIT.

(a) **MORTGAGE LIMIT INCREASE.**—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by striking “150 percent (185 percent during fiscal year 1990) of the dollar amount specified” and inserting the following: “185 percent of the dollar amount specified”.

(b) MAXIMUM MORTGAGE AMOUNT.—

(1) **IN GENERAL.**—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended by inserting after "higher dollar amount." the following: "In no case may the insured principal obligation (including such initial service charges, appraisal, inspection, mortgage insurance premiums, and other fees as the Secretary shall approve) exceed the appraised value of the property."

(2) **CONFORMING AMENDMENT.**—Section 203(d) of the National Housing Act (12 U.S.C. 1709(b)) is amended by striking the period at the end and inserting the following: ", except that this subsection shall not apply to the maximum mortgage amount limitation in the third sentence of subsection (b)(2)."

(3) **EFFECTIVE DATE.**—The amendments made by this subsection shall apply to mortgages insured on or after October 1, 1992.

SEC. 733. LIMITATION ON SECONDARY RESIDENCES.

(a) **LIMITATION ON SECONDARY RESIDENCES.**—Section 203(g)(1) of the National Housing Act is amended by inserting after the period at the end the following: "In making this determination with respect to the occupancy of secondary residences, the Secretary may not insure mortgages with respect to such residences unless the Secretary determines that it is necessary to avoid undue hardship to the mortgagor. In no event may a secondary residence under this subsection include a vacation home, as determined by the Secretary."

(b) **APPLICABILITY.**—The amendments made by subsection (a) shall apply only with respect to—

SEC. 734. MORTGAGE INSURANCE PREMIUMS.**(a) PREMIUMS.—**

(1) **IN GENERAL.**—Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)) is amended—

(A) by inserting "(1)" after "(c)"; and

(B) by striking "Provided, That with respect to mortgages" and all that follows; and

(C) by adding at the end the following new paragraph:

"(2) With respect to mortgages on 1- to 4-family dwellings—

"(A) insured prior to the effective date of this paragraph, the Secretary shall refund not more than 50 percent of the unearned premium upon prepayment of the principal obligation; and

"(B) insured after the effective date of this paragraph, the Secretary shall establish and collect—

"(i) at the time of insurance, a premium payment of 1.35 percent of the amount of the original insured principal obligation of the mortgage, which premium may be financed as a part of the mortgage loan; plus

"(ii) periodic premium payments of 0.6 percent of the remaining insured principal balance, and shall not refund any portion of the premium in the case of prepayment of the principal obligation."

(2) **EFFECTIVE DATE.**—The amendments made by this section shall take effect on October 1, 1995.

(b) TRANSITION RULES.—

(1) **PREMIUM CHANGES.**—Notwithstanding section 203(c) of the National Housing Act, mortgage insurance premiums for mortgages subject to section 203(b) of such Act for which mortgages are insured during fiscal year 1991 through 1996 shall be payable as provided in the following table:

Fiscal year of execution of mortgage	Percentage of principal obligation paid as premium at the time the mortgage is insured	Premium payable in periodic payments (expressed as percentage of principal obligation)
1991 to 1992	3.75	.24
1993 to 1995	2.15	.48
1996	1.35	.60

(2) REFUNDS.—

(A) Except as provided in subparagraph (B), upon prepayment of a mortgage that was insured at any time prior to October 1, 1995, the Secretary shall refund not more than 50 percent of the unearned premium.

(B) Upon prepayment of a mortgage for which insurance is issued during fiscal years 1991 through 1995, the Secretary shall not refund a portion of the premium paid at the time of insurance that equals 1.35 percent of the original insured principal obligation. The Secretary shall refund not more than 50 percent of any unearned premium in excess of the amount referred to in the preceding sentence.

SEC. 736. MUTUAL MORTGAGE INSURANCE FUND DISTRIBUTIONS.

Section 205 of the National Housing Act (12 U.S.C. 1711) is amended by adding at the end the following new subsection:

"(e) In determining whether there is a surplus for distribution to mortgagors under this section, the Secretary shall take into account the actuarial status of the entire Fund."

SEC. 735. DISCLOSURE REGARDING INTEREST DUE UPON MORTGAGE PREPAYMENT.

(a) **IN GENERAL.**—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following new subsection:

"(t)(1) Each mortgagee (or servicer) with respect to a mortgage under this section shall provide each mortgagor of such mortgagee (or servicer) written notice, not less than annually, containing a statement of the amount outstanding for prepayment of the principal amount of the mortgage and describing any requirements the mortgagor must fulfill to prevent the accrual of any interest on such principal amount after the date of any prepayment.

"(2) Each mortgagee (or servicer) with respect to a mortgage under this section shall, at or before closing with respect to any such mortgage, provide the mortgagor with written notice (in such form as the Secretary shall prescribe, by regulation, before the expiration of the 90-day period beginning upon the date of the enactment of the Housing and Community Development Act of 1990) describing any requirements the mortgagor must fulfill upon prepayment of the principal amount of the mortgage to prevent the accrual of any interest on the principal amount after the date of such prepayment."

(b) **APPLICABILITY.**—The amendment made by this section shall apply to any insured mortgage outstanding upon the expiration of the 90-day period beginning upon the issuance of final regulations implementing such amendment and to any mortgage insured after such date.

SEC. 737. ACCOUNTABILITY OF LENDERS MAKING MORTGAGE LOANS UNDER NATIONAL HOUSING ACT.

(a) **PROHIBITION ON BASING MORTGAGE COSTS AND INTEREST ON AMOUNT OF LOAN.**—Section 203 of the National Housing Act (12 U.S.C. 1709) is amended by adding at the end the following new subsection:

"(u) No mortgagee may make or hold mortgages insured under this section if the customary lending practices of such mortgagee, as determined by the Secretary, provide for variations in the interest rate, level of discount points, loan origination fee, or any other amount charged to a mortgagor with respect to a mortgage on the basis of the initial principal amount of the insured loan made by such mortgagee."

(b) **EXAMINATION OF MORTGAGEES.**—Title V of the National Housing Act (12 U.S.C. 1701 et seq.) is amended by adding at the end the following new section:

"EXAMINATION OF MORTGAGEES

"SEC. 539. (a)(1) In connection with any examination of any mortgagee approved by the Secretary pursuant to this Act, the Secretary shall assess the performance of the mortgagee in meeting the lending needs of the community in which it does business with respect to residential housing lending (including neighborhoods of predominantly low- and moderate-income families), the consistency of the lending programs of the mortgagee with safe and sound lending practices, as determined by the Secretary, and the record of defaults on insured mortgage loans originated and serviced by the mortgagee.

"(2) The Secretary shall consider any information acquired pursuant to paragraph (1) in determining whether to permit such mortgagee to continue in its status as an approved mortgagee for purposes of this Act and to otherwise participate in programs involving mortgage insurance administered by the Secretary.

"(b)(1) If any examination of an approved mortgagee by the Secretary (including an examination under subsection (d)) discloses that the mortgagee has failed, in the determination of the Secretary, to meet the lending needs of the community served by the mortgagee (as determined by the Secretary under subsection (a)(1)) with respect to residential housing lending, the Secretary may, in the discretion of the Secretary, require that the mortgagee, for continued status as an approved mortgagee for purposes of this Act, develop and submit a plan for remedying such deficiencies.

"(2) A plan under paragraph (1) shall be filed with the Secretary and the Secretary shall cause the plan to be published in the Federal Register. The mortgagee shall cause the plan to be published in at least one newspaper of general circulation in each community in which the approved mortgagee engages in the solicitation, origination, or servicing of residential mortgage loans.

"(3) The Secretary shall provide for not less than a 60-day period of public comment concerning the adequacy of the plan under this subsection, such period beginning on the latter of the publication of the plan in a newspaper or the Federal Register.

"(4) If the Secretary approves the plan, the mortgagee shall be considered a mortgagee approved for participation in the mortgage insurance programs under this Act, subject to compliance with the terms of the plan as approved by the Secretary.

"(c) If any approved mortgagee fails to comply with the provisions of any plan approved by the Secretary in accordance with subsection (b) with respect to the mortgagee, the Secretary may withdraw the approval of the mortgagee for participation in mortgage insurance programs under this Act or limit the participation of the mortgagee in such programs and may prohibit the

mortgagee from engaging in any direct endorsement or similar program.

"(d) Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990, the Secretary shall promulgate regulations to establish a procedure by which any person may file a request for an examination of the extent to which a mortgagee approved by the Secretary for participation in mortgage insurance programs under this Act is meeting the lending needs of the community (as described in subsection (a)(1)) with respect to residential housing lending. Such regulations shall provide for an expedited procedure by which persons requesting a review may obtain a written report of the results of any such requested examination, or of the results of any other examination of an approved mortgagee by the Secretary to the extent that such examination concerns the matters described in subsection (a)(1).

"(e) The Secretary shall submit to the Congress, not less than annually, a report regarding any actions taken to carry out this section. The report shall include a list of all requests filed pursuant to subsection (d) and any action taken pursuant to such requests."

SEC. 738. ACTUARIAL SOUNDNESS OF MUTUAL MORTGAGE INSURANCE FUND.

Section 205 of the National Housing Act (12 U.S.C. 1711), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new subsections:

"(f)(1) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 1.25 percent within 24 months after the date of the enactment of this subsection.

"(2) The Secretary shall ensure that the Mutual Mortgage Insurance Fund attains a capital ratio of not less than 2.0 percent within 10 years after the date of the enactment of this subsection, and shall ensure that the Fund maintains at least such capital ratio at all times thereafter.

"(3) Upon the expiration of the 24-month period beginning on the date of the enactment of this subsection, the Secretary shall submit to the Congress a report describing the actions the Secretary will take to ensure that the Mutual Mortgage Insurance Fund attains the capital ratio required under paragraph (2).

"(4) For purposes of this subsection:

"(A) The term 'capital' means the economic net worth of the Mutual Mortgage Insurance Fund, as determined by the Secretary under the annual audit required under section 538.

"(B) The term 'economic net worth' means the current cash available to the Fund, plus the net present value of all future cash inflows and outflows expected to result from the outstanding mortgages in the Fund.

"(C) The term 'capital ratio' means the ratio of capital to unamortized insurance-in-force.

"(D) The term 'unamortized insurance-in-force' means the remaining obligation on outstanding mortgage which are obligations of the Mutual Mortgage Insurance Fund, as estimated by the Secretary.

"(g) The Secretary shall annually conduct an independent actuarial study of the Mutual Mortgage Insurance Fund and shall report annually to the Congress on the financial status of the Fund.

"(h)(1) If, pursuant to the independent annual actuarial study of the Mutual Mort-

gage Insurance Fund required under subsection (g), the Secretary determines that the Mutual Mortgage Insurance Fund is not meeting the operational goals under paragraph (2), the Secretary may not issue distributions, and may, by regulation, propose and implement any adjustments to the insurance premiums under section 203(c), or any other program requirements established by the Secretary necessary to achieve such goals. Upon determining that a premium or other change is appropriate under the preceding sentence, the Secretary shall immediately notify Congress of the proposed change and the reasons for the change. Such premium change shall take effect not earlier than 90 days following such notification, unless the Congress acts during such time to increase, prevent, or modify the change.

"(2) The operational goals referred to in paragraph (1) shall be—

"(A) maintaining an adequate capital ratio;

"(B) meeting the needs of homebuyers with low downpayments and first-time homebuyers by providing access to mortgage credit; and

"(C) minimizing the risk to the Fund and to homeowners from homeowner default."

SEC. 739. PERIODIC MORTGAGE INSURANCE SAFETY AND SOUNDNESS PREMIUM.

Section 203(c) of the National Housing Act (12 U.S.C. 1709(c)), as amended by the preceding provisions of this Act, is further amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of law, the Secretary may require payment on all mortgages that are obligations of the Mutual Mortgage Insurance Fund of an additional premium charged on a periodic basis as determined by the Secretary to be consistent with sound actuarial practice. Such determination shall be in accordance with the findings of the annual actuarial study of the Mutual Mortgage Insurance Fund required under section 205(e). The additional premium charge may not exceed an amount equivalent to one-half of 1 percent per year of the amount of the principal obligation of the mortgage outstanding at any time, without taking into account delinquent payments or prepayments."

SEC. 740. MORTGAGE COUNSELING FOR DELINQUENT MORTGAGORS.

Section 203(r) of the National Housing Act (12 U.S.C. 1709(r)) is amended by striking the final period and inserting "; and

"(4) providing counseling, either directly or through third parties, to delinquent mortgagors whose mortgages are insured under section 203 (12 U.S.C. 1709), using the fund to pay for such counseling."

SEC. 741. INSURANCE OF MORTGAGES ON PROPERTY IN VIRGIN ISLANDS.

Section 214 of the National Housing Act (12 U.S.C. 1715d) is amended—

(1) in the first sentence, by striking "Alaska, Guam, or Hawaii," and inserting "Alaska, Guam, Hawaii, or the Virgin Islands";

(2) by striking "Alaska or in Guam or Hawaii" each place it appears and inserting "Alaska, Guam, Hawaii, or the Virgin Islands";

(3) by inserting ", the Virgin Islands," after "Government of Guam" each place it appears; and

(4) by striking the section heading and inserting the following:

"INSURANCE OF MORTGAGES ON PROPERTY IN ALASKA, GUAM, HAWAII, AND THE VIRGIN ISLANDS".

SEC. 742. INCENTIVES REGARDING PUT OPTION.

Section 221(g)(4)(A) of the National Housing Act (12 U.S.C. 1715i) is amended by striking the second sentence and inserting the following new sentence: "Upon such assignment, transfer, and delivery, the obligation of the mortgagee to pay the premium charges for insurance shall cease, and the Secretary shall (i) subject to the cash adjustment provided herein, issue to the mortgagee debentures having a total face value equal to the amount of the unpaid principal obligation of the mortgage which was unpaid on the date of assignment, plus accrued interest to such date, or (ii) if the mortgagee agrees not to exercise the option under clause (i), provide an incentive payment from the General Insurance Fund to the mortgagee in an amount equal to the present value at such time of the difference between the mortgage interest rate and the interest rate on similar mortgages over the remaining term of the mortgage."

SEC. 743. IMPROVED ENERGY EFFICIENCY STANDARDS FOR NEWLY CONSTRUCTED FHA-INSURED HOUSING.

(a) IN GENERAL.—Section 526(a) of the National Housing Act (12 U.S.C. 1735f-4) is amended by inserting before the period at the end of the last sentence the following: "or the most recent edition of the Model Energy Code of the Council of American Building Officials, whichever achieves greater energy efficiency and is cost-effective (such that it results in the lowest total of construction and operating costs)".

(b) IMPLEMENTATION.—The Secretary of Housing and Urban Development shall issue regulations implementing the amendment made by this section not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

SEC. 744. REPORTS REGARDING EARLY DEFAULTS ON FHA-INSURED LOANS.

(a) IN GENERAL.—The National Housing Act (12 U.S.C. 1701 et seq.) is amended by inserting after section 539 (as added by this Act) the following new section:

"REPORTS REGARDING EARLY DEFAULTS AND FORECLOSURES ON INSURED MORTGAGES

"(a) IN GENERAL.—The Secretary of Housing and Urban Development shall cause to be published quarterly a report entitled "FHA Default Report", which shall contain information as provided under this section. Each report shall be an official publication of the Department of Housing and Urban Development and shall be made available to the public. Each report shall be made for the applicable reporting period (as such term is defined in subsection (c)) and shall be published not more than 30 days after the conclusion of the calendar quarter relating to each such period. The first report under this section shall be made for the applicable reporting period relating to the first calendar quarter ending after the expiration of the 180-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990.

"(b) CONTENTS.—

"(1) MORTGAGE LENDER ANALYSIS.—Each report under this section shall contain, for each lender originating mortgages during the applicable reporting period that are insured pursuant to section 203 and secured by property in a designated census tract, the following information with respect to such mortgages:

"(A) The name of the lender and the number of each designated census tract in which the lender originated 1 or more such mortgages during the applicable reporting period.

"(B) The total number of such mortgages originated by such lender during the applicable reporting period in each designated census tract and the number of mortgages originated each year in each designated census tract.

"(C) The total number of defaults and foreclosures on such mortgages during the applicable reporting period in each designated census tract and the number of defaults and foreclosures in each designated census tract in each year of the period.

"(D) For each designated census tract, the percentage of such lender's total insured mortgages originated during each year of the applicable reporting period (with respect to properties within such census tract) on which defaults or foreclosures have occurred during the applicable reporting period.

"(E) The total of all such originations, defaults, and foreclosures on insured mortgages originated by such lender during the applicable reporting period for all designated census tracts and the percentage of the total number of such lender's insured mortgage originations on which defaults or foreclosures have occurred during the applicable reporting period.

"(2) OTHER INFORMATION.—Each report under this section shall also include the following information:

"(A) For each lender referred to under paragraph (1), the total number of insured mortgages originated by the lender secured by properties not located in a designated census tract, the total number of defaults and foreclosures on such mortgages, and the percentage of such mortgages originated on which defaults or foreclosures occurred during the applicable reporting period.

"(B) For each designated census tract, the total number of mortgages originated during the applicable reporting period that are insured pursuant to section 203, the number of defaults and foreclosures occurring on such mortgages during such period, and the percentage of the total insured mortgage originations during the period on which defaults or foreclosures occurred.

"(c) DEFINITIONS.—For purposes of this section:

"(1) APPLICABLE REPORTING PERIOD.—The term 'applicable reporting period' means the 5-year period ending on the last day of the calendar quarter for which a report under this section is made.

"(2) DESIGNATED CENSUS TRACT.—The term 'designated census tract' means a census tract located within a metropolitan statistical area, as defined pursuant to regulation issued by the Secretary of Commerce."

"(b) AVAILABILITY OF INFORMATION DURING TRANSITION.—During the period beginning on the date of the enactment of this Act and ending on the date of the issuance of the first quarterly report under section 540 of the National Housing Act (as added by subsection (a)), the Secretary of Housing and Urban Development shall make publicly available all reports regarding Default/Claim Rates per Regional Office for Fiscal Year 1990 Endorsements that are produced by the Department of Housing and Urban Development during such period.

SEC. 745. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) LIMITATION ON INSURANCE AUTHORITY AND MAXIMUM AMOUNT INSURED.—

(1) NUMBER OF MORTGAGES INSURED.—Section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking the second sentence and inserting the following: "The total number of mortgages insured under this section may not exceed 25,000."

(2) TERMINATION DATE.—The first sentence of section 255(g) of the National Housing Act (12 U.S.C. 1715z-20(g)) is amended by striking "September 30, 1991" and inserting "September 30, 1994".

(b) TYPES OF LOANS.—Section 255(d) of the National Housing Act (12 U.S.C. 1715z-20(d)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

"(9) provide for future payments to the mortgagor based on accumulated equity (minus any applicable fees and charges), according to the method that the mortgagor shall select from among the methods under this paragraph, by payment of the amount—

"(A) based upon a line of credit;

"(B) on a monthly basis over a term specified by the mortgagor;

"(C) on a monthly basis over a term specified by the mortgagor and based upon a line of credit;

"(D) on a monthly basis over the tenure of the mortgagor;

"(E) on a monthly basis over the tenure of the mortgagor and based upon a line of credit; or

"(F) on any other basis that the Secretary considers appropriate; and

"(10) provide that the mortgagor may convert the method of payment under paragraph (9) to any other method during the term of the mortgage, except that in the case of a fixed rate mortgage, the Secretary may, by regulation, limit such convertibility."

(c) LIMITATION ON LIABILITY OF MORTGAGOR.—Section 255(d)(7) of the National Housing Act (12 U.S.C. 1715z-20(d)(7)) is amended by striking subparagraph (A) and inserting the following new subparagraph:

"(A) the net sales proceeds from the dwelling that are subject to the mortgage (based upon the amount of the accumulated equity selected by the mortgagor to be subject to the mortgage, as agreed upon by the mortgagor and mortgagee); or"

(d) DISCLOSURES BY MORTGAGEE REGARDING LIABILITY OF MORTGAGOR.—Section 255(e) of the National Housing Act (12 U.S.C. 1715z-20(e)) is amended—

(1) in paragraph (2)—

(A) by inserting after "statement" the following: "informing the homeowner that the liability of the homeowner under the mortgage is limited and"; and

(B) by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(4) prior to loan closing, a statement of the projected total cost of the mortgage to the homeowner based on the projected total future loan balance (such cost expressed as a single average annual interest rate for at least 2 different appreciation rates for the term of the mortgage) for not less than 2 projected loan terms, as the Secretary shall determine, which shall include—

"(A) the cost for a short-term mortgage; and

"(B) the cost for a loan term equaling the actuarial life expectancy of the mortgagor."

SEC. 746. APPRAISAL SERVICES.

Section 202(e) of the National Housing Act (12 U.S.C. 1708(e)) is amended by adding at the end the following new paragraphs:

"(3) DIRECT ENDORSEMENT PROGRAM.—

"(A) Any mortgagee that is authorized by the Secretary to directly endorse mortgages for insurance under this title (pursuant to the single-family home mortgage direct endorsement program established by the Secretary) may contract with an appraiser chosen at the discretion of the mortgagee for the performance of appraisals in connection with such mortgages. Such appraisers may include appraisal companies organized as corporations, partnerships, or sole proprietorships.

"(B) Any appraisal conducted pursuant to subparagraph (A) shall be conducted by an individual who complies with the qualifications or standards for appraisers established by the Secretary.

"(C) In conducting an appraisal, such individual may utilize the assistance of others, who shall be under the direct supervision of the individual responsible for the appraisal. The individual responsible for the appraisal shall personally approve and sign any appraisal report.

"(4) FEE PANEL APPRAISERS.—

"(A) Any individual who is an employee of an appraisal company (including any company organized as a corporation, partnership, or sole proprietorship) and who meets the qualifications or standards for appraisers and inclusion on appraiser fee panels established by the Secretary, shall be eligible for assignment to conduct appraisals for mortgages under this title in the same manner and on the same basis as other approved appraisers.

"(B) With respect to any employee of an appraisal company described in subparagraph (A) who is offered an appraisal assignment in connection with a mortgage under this title, the person utilizing the appraiser may contract directly with the appraisal company employing the appraiser for the furnishing of the appraisal services."

SEC. 747. INCREASE IN LOAN LIMITS FOR PROPERTY IMPROVEMENT LOAN INSURANCE.

(a) MAXIMUM LOAN AMOUNT.—Section 2(b)(1) of the National Housing Act (12 U.S.C. 1703(b)(1)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) \$30,000 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing single-family structures; and

"(ii) \$17,500 if made for the purpose of financing alterations, repairs and improvements upon or in connection with existing manufactured homes;" and

(2) in subparagraph (B), by striking "\$43,750 or an average amount of \$8,750 per family unit (\$50,000 and \$10,000, respectively, where financing the installation of a solar energy system is involved)" and inserting "\$75,000 or an average amount of \$15,000 per family unit".

(b) HIGH COST AREAS.—The second sentence of section 2(b)(2) of the National Housing Act (12 U.S.C. 1703(b)(2)) is amended to read as follows: "In other areas, the maximum dollar amounts specified in subsections (b)(1)(A)(i), (b)(1)(B), (b)(1)(D), and (b)(1)(E) may be increased on an area-

by-area basis to the extent the Secretary deems necessary, but not to exceed the percentage by which the maximum mortgage amount of a 1-family residence in the area is increased by the Secretary under section 203(b)(2)."

(c) **LOAN TERM.**—Section 2(b)(3) of the National Housing Act (12 U.S.C. 1703(b)(3)) is amended—

(1) by striking subparagraph (A) and inserting the following new subparagraph:

"(A)(i) twenty years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing single-family structure; and

"(ii) fifteen years and thirty-two days if made for the purpose of financing alterations, repairs, and improvements upon or in connection with an existing manufactured home;" and

(2) in subparagraph (B), by striking "fifteen years" and inserting "twenty years".

SEC. 748. DISAPPROVAL OF REGULATIONS REGARDING PROPERTY DISPOSITION.

Section 291.1(c)(2) of the rule of the Department of Housing and Urban Development entitled "Disposition of HUD-Acquired Single Family Property" and published in the Federal Register of January 11, 1990 (55 Fed. Reg. 1161 et seq.) is hereby disapproved. The Secretary of Housing and Urban Development may not publish a final rule containing or based on such provision and may not otherwise implement such provision of such rule.

SEC. 749. LIMITATION ON GNMA GUARANTEES OF MORTGAGE-BACKED SECURITIES.

Section 306(g)(2) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1721(g)(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of law and subject only to the absence of qualified requests for guarantees, to the authority provided in this subsection, and to any funding limitation approved in appropriation Acts, the Association shall enter into commitments to issue guarantees under this subsection in an aggregate amount of \$81,713,500,000 during fiscal year 1990 and \$84,982,040,000 during fiscal year 1991."

SEC. 750. DELEGATED PROCESSING SYSTEM.

(a) **IN GENERAL.**—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall implement a system of mortgage insurance that delegates processing functions for mortgages insured under sections 207, 221, 223, 232, and 241 of the National Housing Act to approved mortgagees selected by the Secretary. Under such system, the Secretary shall retain the authority to approve rents, expenses, program appraisal, and mortgage amounts, and to execute a firm commitment.

(b) **REGULAR PROGRAM.**—Notwithstanding subsection (a), the Secretary shall develop and maintain a viable program for full insurance programs for multifamily housing under which all processing functions are performed by officers and employees of the Department of Housing and Urban Development.

SEC. 751. SECTION 235 HOMEOWNERSHIP.

(a) **ASSISTANCE PAYMENTS AUTHORITY.**—Section 235(h)(1) of the National Housing Act (12 U.S.C. 1715z(h)(1)) is amended by striking "September 30, 1989" in the last sentence and inserting "September 30, 1991".

(b) **INSURANCE AUTHORITY.**—Section 235(m) of the National Housing Act (12

U.S.C. 1715z(m)) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

(c) **HOUSING STIMULUS AUTHORITY.**—Section 235(q)(1) of the National Housing Act (12 U.S.C. 1715z(q)(1)) is amended by striking "September 30, 1989" in the last sentence and inserting "September 30, 1991".

(d) **EXTENSION OF PROGRAM.**—Section 401 of the Housing and Community Development Act of 1987 is amended by striking subsection (d).

SEC. 752. SECTION 236 RENTAL ASSISTANCE.

(a) **DEFINITION OF INCOME.**—Section 236(m) of the National Housing Act (12 U.S.C. 1715z-1) is amended by inserting before the period at the end of the first sentence the following: ", except that any amounts not actually received by the family may not be considered as income under this subsection".

(b) **RENT CHARGES.**—

(1) **PROJECTS ASSISTED UNDER SECTION 236.**—Section 236(f) of the National Housing Act (12 U.S.C. 1715z-1(f)) is amended by adding at the end the following new paragraph:

"(5) In order to induce capital and operating loss advances by owners (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects assisted under this section, in establishing basic rental charges and fair market rental charges under paragraph (1) the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine."

(2) **INSURED PROJECTS.**—Section 221(f) of the National Housing Act (12 U.S.C. 1715(f)) is amended by adding at the end the following new undesignated paragraph:

"In order to induce capital and operating loss advances by owners (excluding any owner contributions that may be required by the Secretary as a condition for assistance under section 201 of the Housing and Community Development Amendments of 1978) to benefit projects covered by a mortgage under the provisions of subsection (d)(3) that bears a below market interest rate prescribed in the proviso to subsection (d)(5), in establishing the rental charge for the project the Secretary may include an amount that would permit a return of such advances with interest to the owner out of project income, on such terms and conditions as the Secretary may determine."

Subtitle C—Regulatory and Other Programs

SEC. 761. FAIR HOUSING INITIATIVES PROGRAM.

(a) **AUTHORIZATION OF APPROPRIATIONS.**—The first sentence of section 561(d) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended to read as follows: "There are authorized to be appropriated to carry out the provisions of this section, including any program evaluations, \$5,907,000 for fiscal year 1990 and \$6,000,000 for fiscal year 1991, of which not more than \$3,000,000 in each year shall be for the private enforcement initiative demonstration."

(b) **EXTENSION OF PROGRAM.**—Section 561(e) of the Housing and Community Development Act of 1987 (42 U.S.C. 3616 note) is amended by striking "September 30, 1989" and inserting "September 30, 1991".

SEC. 762. HUD RESEARCH AND DEVELOPMENT.

(a) **AUTHORIZATION OF APPROPRIATIONS AND REPORTS.**—Section 501 of the Housing and

Urban Development Act of 1970 (12 U.S.C. 1701z-1) is amended by striking the second sentence and inserting the following: "The Secretary shall include in each annual report under section 8 of the Department of Housing and Urban Development Act a statement of the activities and findings pursuant to the authority under this section, including a statement of the amounts and use of funds expended by the Secretary for such purposes. There are authorized to be appropriated to carry out this title \$20,675,000 for fiscal year 1990 and \$21,243,000 for fiscal year 1991. From any amounts appropriated under this section for fiscal year 1991, the Secretary shall use not more than \$500,000 to carry out a demonstration project to test affordable housing technologies, and shall include in the annual report under section 8 of the Department of Housing and Urban Development Act (for the appropriate year) a statement of the activities under the demonstration program and findings resulting from the program. The statement shall set forth the amount and use of funds expended by the Secretary under the program for the year relating the report and the Secretary shall include such a statement in each such annual report for each year that amounts appropriated under this section are used under the demonstration."

(b) **REPORT REGARDING RESEARCH ACTIVITIES.**—Not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report listing and describing the various research activities, studies, testing, and demonstration programs relating to the mission and programs of the Department of Housing and Urban Development that are being conducted, have concluded, or will conclude during such period, pursuant to section 501 of the Housing and Urban Development Act of 1970, title V of such Act, or any other authority. The report shall include a statement identifying the individual or entity that is conducting each such activity, study, test, and demonstration program.

SEC. 763. COLLECTION AND MAINTENANCE OF DATA REGARDING PROGRAMS UNDER HUD.

(a) **PROGRAM EVALUATION AND MONITORING.**—Section 7(r) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(r)) is amended—

(1) in paragraph (1), by striking the periods at the end of the first and last sentences and inserting in each place the following: "and collecting and maintaining data for such purposes.";

(2) in paragraph (2)—

(A) in subparagraph (I), by striking "and" at the end;

(B) in subparagraph (J), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(K) titles I, II, III, and IV of the Housing and Community Development Act of 1990.";

(3) in paragraph (3)—

(A) by inserting after the comma the following: "and collecting and maintaining data pursuant to the authority under this subsection,"; and

(B) by striking the period at the end and inserting the following: "and collecting and maintaining data for such purposes."; and

(4) in paragraph (4)—

(A) in subparagraph (A), by inserting after "subsection" the following: "and col-

lecting and maintaining data for such purposes"; and

(B) in subparagraph (B), by inserting after "paragraph (2)" the following: "and to collect and maintain data for such purposes".

(b) **ANNUAL REPORT ON CHARACTERISTICS OF FAMILIES IN ASSISTED HOUSING.**—Section 166 of the Housing and Community Development Act of 1987 (42 U.S.C. 3536 note) is amended by adding at the end the following new subsection:

"(c) **COLLECTION AND MAINTENANCE OF DATA.**—The Secretary shall collect and maintain data necessary to carry out the purposes of this section and shall coordinate such efforts, to the greatest extent possible, with activities and responsibilities under section 8 of the Department of Housing and Urban Development Act."

SEC. 764. MORTGAGE SERVICING TRANSFER DISCLOSURE.

The Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2601 et seq.) is amended by inserting after section 5 the following new section:

"SERVICING OF MORTGAGE LOANS AND ADMINISTRATION OF ESCROW ACCOUNTS"

"SEC. 6. (a) DISCLOSURE TO APPLICANT RELATING TO ASSIGNMENT, SALE, OR TRANSFER OF LOAN SERVICING.—

"(1) **IN GENERAL.**—Each person who makes a federally related mortgage loan shall disclose to each person who applies for any such loan, at the time of application for the loan—

"(A) whether the servicing of any such loan may be assigned, sold, or transferred to any other person at any time while such loan is outstanding;

"(B) for each of the most recent 3 calendar years completed (at the time of such application), the percentage (rounded to the nearest 10 percent) of loans made by such person for which the servicing has been assigned, sold, or transferred as of the end of the most recent calendar year completed, except that—

"(i) for any loan application during the 12-month period beginning on the date of the enactment of the Housing and Community Development Act of 1990, the information disclosed under this subparagraph may be for only the most recent calendar year completed, and for any loan application during the 12-month period beginning 1 year after the date of the enactment of the Housing and Community Development Act of 1990, the information disclosed under this subparagraph may be for the most recent 2 calendar years completed; and

"(ii) this subparagraph may not be construed to require the inclusion, in the percentage disclosed, of any loans the servicing of which has been assigned, sold, or transferred by the person making the loan to a transferee servicer that is an affiliate or subsidiary of such person;

"(C) that the person originating the loan has the capacity to service loans and the best available estimate of the percentage of all loans made by such person for which the servicing will be assigned, sold, or transferred during the 12-month period beginning upon the origination; the estimate shall be expressed as one of the following range of possibilities—between 0 and 25 percent, between 26 and 50 percent, between 51 and 75 percent, or between 76 and 100 percent; this subparagraph may not be construed to require the inclusion, in the estimate disclosed, of any loans the servicing of which will be assigned, sold, or transferred by the person originating the loan to a

transferee servicer that is an affiliate or subsidiary of such person; within 90 days after the date of the enactment of the Housing and Community Development Act of 1990, the Secretary of Housing and Urban Development shall develop a model disclosure statement that notifies the applicant that the best available estimate is a prediction, subject to change, and applies to all of the loan originations made by the lender and not the particular loan of the individual applicant; and

"(D) if the person who makes the loan does not engage in the servicing of any federally related mortgage loans, that there is a present intent on the part of such person (at the time of such application) to assign, sell, or transfer the servicing of such loan to another person.

"(2) **SIGNATURE OF APPLICANT.**—Any disclosure of the information required under paragraph (1) shall not be effective for purposes of this section unless the disclosure is accompanied by a written statement, in such form as the Secretary shall develop before the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990, that the applicant has read and understood the disclosure and that is evidenced by the signature of the applicant at the place where such statement appears in the application.

"(b) **NOTICE BY TRANSFEROR OF LOAN SERVICING AT TIME OF TRANSFER.**—

"(1) **NOTICE REQUIREMENT.**—Each servicer of any federally related mortgage loan shall notify the borrower in writing of any assignment, sale, or transfer of the servicing of the loan to any other person.

"(2) **TIME OF NOTICE.**—

"(A) **IN GENERAL.**—Except as provided under subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not less than 15 days before the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) **EXCEPTION FOR CERTAIN PROCEEDINGS.**—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) **EXCEPTION FOR NOTICE PROVIDED AT CLOSING.**—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) **CONTENTS OF NOTICE.**—The notice required under paragraph (1) shall include the following information:

"(A) The effective date of transfer of the servicing described in such paragraph.

"(B) The name, address, and toll-free or collect call telephone number of the transferee servicer.

"(C) A toll-free or collect call telephone number for (i) an individual employed by the transferor servicer, or (ii) the department of the transferor servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(D) The name and toll-free or collect call telephone number for (i) an individual employed by the transferee servicer, or (ii) the department of the transferee servicer, that can be contacted by the borrower to answer inquiries relating to the transfer of servicing.

"(E) The date on which the transferor servicer who is servicing the mortgage loan before the assignment, sale, or transfer will cease to accept payments relating to the loan and the date on which the transferee servicer will begin to accept such payments.

"(F) Any information concerning the effect the transfer may have, if any, on the terms of or the continued availability of mortgage life or disability insurance or any other type of optional insurance and what action, if any, the borrower must take to maintain coverage.

"(G) A statement that the assignment, sale, or transfer of the servicing of the mortgage loan does not affect any term or condition of the security instruments other than terms directly related to the servicing of such loan.

"(c) **NOTICE BY TRANSFEREE OF LOAN SERVICING AT TIME OF TRANSFER.**—

"(1) **NOTICE REQUIREMENT.**—Each transferee servicer to whom the servicing of any federally related mortgage loan is assigned, sold, or transferred shall notify the borrower of any such assignment, sale, or transfer.

"(2) **TIME OF NOTICE.**—

"(A) **IN GENERAL.**—Except as provided in subparagraphs (B) and (C), the notice required under paragraph (1) shall be made to the borrower not more than 15 days after the effective date of transfer of the servicing of the mortgage loan (with respect to which such notice is made).

"(B) **EXCEPTION FOR CERTAIN PROCEEDINGS.**—The notice required under paragraph (1) shall be made to the borrower not more than 30 days after the effective date of assignment, sale, or transfer of the servicing of the mortgage loan (with respect to which such notice is made) in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause;

"(ii) commencement of proceedings for bankruptcy of the servicer; or

"(iii) commencement of proceedings by the Federal Deposit Insurance Corporation or the Resolution Trust Corporation for conservatorship or receivership of the servicer (or an entity by which the servicer is owned or controlled).

"(C) **EXCEPTION FOR NOTICE PROVIDED AT CLOSING.**—The provisions of subparagraphs (A) and (B) shall not apply to any assignment, sale, or transfer of the servicing of any mortgage loan if the person who makes the loan provides to the borrower, at settlement (with respect to the property for which the mortgage loan is made), written notice under paragraph (3) of such transfer.

"(3) **CONTENTS OF NOTICE.**—Any notice required under paragraph (1) shall include the information described in subsection (b)(3).

"(d) **TREATMENT OF LOAN PAYMENTS DURING TRANSFER PERIOD.**—During the 60-day period beginning on the effective date of transfer of the servicing of any federally related mortgage loan, a late fee may not be

imposed on the borrower with respect to any payment on such loan and no such payment may be treated as late for any other purposes, if the payment is received by the transferor servicer (rather than the transferee servicer who should properly receive payment) before the due date applicable to such payment.

"(e) DUTY OF LOAN SERVICER TO RESPOND TO BORROWER INQUIRIES.—

"(1) NOTICE OF RECEIPT OF INQUIRY.—

"(A) IN GENERAL.—If any servicer of a federally related mortgage loan receives a qualified written request from the borrower (or an agent of the borrower) for information relating to the servicing of such loan, the servicer shall provide a written response acknowledging receipt of the correspondence within 20 days (excluding legal public holidays, Saturdays, and Sundays) unless the action requested is taken within such period.

"(B) QUALIFIED WRITTEN REQUEST.—For purposes of this subsection, a qualified written request shall be a written correspondence, other than notice on a payment coupon or other payment medium supplied by the servicer, that—

"(i) includes, or otherwise enables the servicer to identify, the name and account of the borrower; and

"(ii) includes a statement of the reasons for the belief of the borrower, to the extent applicable, that the account is in error or provides sufficient detail to the servicer regarding other information sought by the borrower.

"(2) ACTION WITH RESPECT TO INQUIRY.—Not later than 60 days (excluding legal public holidays, Saturdays, and Sundays) after the receipt from any borrower of any qualified written request under paragraph (1) and, if applicable, before taking any action with respect to the inquiry of the borrower, the servicer shall—

"(A) make appropriate corrections in the account of the borrower, including the crediting of any late charges or penalties, and transmit to the borrower a written notification of such correction (which shall include the name and telephone number of a representative of the servicer who can provide assistance to the borrower);

"(B) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

"(i) to the extent applicable, a statement of the reasons for which the servicer believes the account of the borrower is correct as determined by the servicer; and

"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower; or

"(C) after conducting an investigation, provide the borrower with a written explanation or clarification that includes—

"(i) information requested by the borrower or an explanation of why the information requested is unavailable or cannot be obtained by the servicer; and

"(ii) the name and telephone number of an individual employed by, or the office or department of, the servicer who can provide assistance to the borrower.

"(3) PROTECTION OF CREDIT RATING.—During the 60-day period beginning on the date of the servicer's receipt from any borrower of a qualified written request relating to a dispute regarding the borrower's payments, a servicer may not provide information regarding any overdue payment, owed by such borrower and relating to such period or qualified written request, to any

consumer reporting agency (as such term is defined under section 603 of the Fair Credit Reporting Act).

"(f) DAMAGES AND COSTS.—Whoever fails to comply with any provision of this section shall be liable to the borrower for each such failure in the following amounts:

"(1) INDIVIDUALS.—In the case of any action by an individual, an amount equal to the sum of—

"(A) any actual damages to the borrower as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not to exceed \$1,000.

"(2) CLASS ACTIONS.—In the case of a class action, an amount equal to the sum of—

"(A) any actual damages to each of the borrowers in the class as a result of the failure; and

"(B) any additional damages, as the court may allow, in the case of a pattern or practice of noncompliance with the requirements of this section, in an amount not greater than \$1,000 for each member of the class, except that the total amount of damages under this subparagraph in any class action may not exceed the lesser of—

"(i) \$500,000; or

"(ii) 1 percent of the net worth of the servicer.

"(3) COSTS.—In addition to the amounts under paragraph (1) or (2), in the case of any successful action under this section, the costs of the action, together with any attorneys fees incurred in connection with such action as the court may determine to be reasonable under the circumstances.

"(4) NONLIABILITY.—A transferor or transferee servicer shall not be liable under this subsection for any failure to comply with any requirement under this section if, within 60 days after discovering an error (whether pursuant to a final written examination report or the servicer's own procedures) and before the commencement of an action under this subsection and the receipt of written notice of the error from the borrower, the servicer notifies the person concerned of the error and makes whatever adjustments are necessary in the appropriate account to ensure that the person will not be required to pay an amount in excess of any amount that the person otherwise would have paid.

"(g) ADMINISTRATION OF ESCROW ACCOUNTS.—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall make payments from the escrow account for such taxes, insurance premiums, and other charges in a timely manner as such payments become due.

"(h) PREEMPTION OF CONFLICTING STATE LAWS.—Notwithstanding any provision of any law or regulation of any State, a person who makes a federally related mortgage loan or a servicer shall be considered to have complied with the provisions of any such State law or regulation requiring notice to a borrower at the time of application for a loan or transfer of the servicing of a loan if such person or servicer complies with the requirements under this section regarding timing, content, and procedures for notification of the borrower.

"(i) DEFINITIONS.—For purposes of this section:

"(1) EFFECTIVE DATE OF TRANSFER.—The term 'effective date of transfer' means the date on which the mortgage payment of a borrower is first due to the transferee servicer of a mortgage loan pursuant to the assignment, sale, or transfer of the servicing of the mortgage loan.

"(2) SERVICER.—The term 'servicer' means the person responsible for servicing of a loan (including the person who makes or holds a loan if such person also services the loan). The term does not include—

"(A) the Federal Deposit Insurance Corporation or the Resolution Trust Corporation, in connection with assets acquired, assigned, sold, or transferred pursuant to section 13(c) of the Federal Deposit Insurance Act or as receiver or conservator of an insured depository institution; and

"(B) the Government National Mortgage Association, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Resolution Trust Corporation, or the Federal Deposit Insurance Corporation, in any case in which the assignment, sale, or transfer of the servicing of the mortgage loan is preceded by—

"(i) termination of the contract for servicing the loan for cause; or

"(ii) commencement of proceedings for bankruptcy of the servicer.

"(3) SERVICING.—The term 'servicing' means receiving any scheduled periodic payments from a borrower pursuant to the terms of any loan, including amounts for escrow accounts described in section 10, and making the payments of principal and interest and such other payments with respect to the amounts received from the borrower as may be required pursuant to the terms of the loan."

SEC. 765. MORTGAGE ESCROW ACCOUNTS.

"(a) IN GENERAL.—Section 10 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2609) is amended—

"(1) by inserting "(a) IN GENERAL.—" after the section designation; and

"(2) by adding at the end the following new subsections:

"(b) NOTIFICATION OF SHORTAGE IN ESCROW ACCOUNT.—If the terms of any federally related mortgage loan require the borrower to make payments to the servicer (as the term is defined in section 6(i)) of the loan for deposit into an escrow account for the purpose of assuring payment of taxes, insurance premiums, and other charges with respect to the property, the servicer shall notify the borrower not less than annually of any shortage of funds in the escrow account.

"(c) ESCROW ACCOUNT STATEMENTS.—

"(1) INITIAL STATEMENT.—

"(A) IN GENERAL.—Any servicer that has established an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established a statement clearly itemizing the estimated taxes, insurance premiums, and other charges that are reasonably anticipated to be paid from the escrow account during the first 12 months after the establishment of the account and the anticipated dates of such payments.

"(B) TIME OF SUBMISSION.—The statement required under subparagraph (A) shall be submitted to the borrower at closing with respect to the property for which the mortgage loan is made or not later than the expiration of the 45-day period beginning on the date of the establishment of the escrow account.

"(C) INITIAL STATEMENT AT CLOSING.—Any servicer may submit the statement required under subparagraph (A) to the borrower at closing and may incorporate such statement in the uniform settlement statement required under section 4. Not later than the expiration of the 90-day period beginning on the date of the enactment of the Housing and Community Development Act of 1990, the Secretary shall issue regulations prescribing any changes necessary to the uniform settlement statement under section 4 that specify how the statement required under subparagraph (A) of this section shall be incorporated in the uniform settlement statement.

"(2) ANNUAL STATEMENT.—

"(A) IN GENERAL.—Any servicer that has established or continued an escrow account in connection with a federally related mortgage loan shall submit to the borrower for which the escrow account has been established or continued a statement clearly itemizing, for each period described in subparagraph (B) (during which the servicer services the escrow account), the amount of the borrower's current monthly payment, the portion of the monthly payment being placed in the escrow account, the total amount paid into the escrow account during the period, the total amount paid out of the escrow account during the period for taxes, insurance premiums, and other charges (as separately identified), and the balance in the escrow account at the conclusion of the period.

"(B) TIME OF SUBMISSION.—The statement required under subparagraph (A) shall be submitted to the borrower not less than once for each 12-month period, the first such period beginning on the first January 1st that occurs after the date of the enactment of the Housing and Community Development Act of 1990, and shall be submitted not more than 30 days after the conclusion of each such 1-year period.

"(d) PENALTIES.—

"(1) IN GENERAL.—In the case of each failure to submit a statement to a borrower as required under subsection (c), the Secretary shall assess to the lender or escrow servicer failing to submit the statement a civil penalty of \$50 for each such failure, but the total amount imposed on such lender or escrow servicer for all such failures during any 12-month period referred to in subsection (b) may not exceed \$100,000.

"(2) INTENTIONAL VIOLATIONS.—If any failure to which paragraph (1) applies is due to intentional disregard of the requirement to submit the statement, then, with respect to such failure—

"(A) the penalty imposed under paragraph (1) shall be \$100; and

"(B) in the case of any penalty determined under subparagraph (A) the \$100,000 limitation under paragraph (1) shall not apply.

(b) PROHIBITION OF FEES FOR ESCROW ACCOUNT STATEMENTS.—Section 12 of the Real Estate Settlement Procedures Act of 1974 (12 U.S.C. 2610) is amended—

(1) by inserting after the first comma the following: "or by a servicer (as the term is defined under section 6(i))";

(2) by striking "lender" the second place it appears and inserting "lender or servicer";

(3) by striking "6" and inserting "10(c)"; and

(4) by striking the section heading and inserting the following new section heading:

"PROHIBITION OF FEES FOR PREPARATION OF TRUTH-IN-LENDING, UNIFORM SETTLEMENT, AND ESCROW ACCOUNT STATEMENTS".

SEC. 766. MANUFACTURED HOUSING CONSTRUCTION AND SAFETY STANDARDS.

(a) STATEMENT OF PURPOSE.—Section 602 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401) is amended to read as follows:

"STATEMENT OF PURPOSE

"SEC. 602. The Congress recognizes the important role served by manufactured housing in meeting housing needs in the United States. Manufactured homes provide a vital source of affordable housing accessible to all Americans. The Congress declares that the purpose of this title is to ensure the availability of safe, quality, and affordable manufactured homes."

(b) DEFINITIONS.—Section 603 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5402) is amended—

(1) in paragraph (1), by striking "but" and all that follows and inserting "those that promote the construction of safe, quality, and affordable housing";

(2) in paragraph (2), by striking "dealer" and inserting "retailer";

(3) by striking paragraph (3) and inserting the following new paragraph:

"(3) 'serious defect' means a defect in the performance, construction, compliance, or material of a manufactured home that constitutes a safety hazard";

(4) by striking paragraph (4);

(5) in paragraph (6)—

(A) by striking "in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or";

(B) by striking "three hundred twenty" and inserting "four hundred";

(C) by striking "built on a permanent chassis and"; and

(D) by inserting before the semicolon at the end the following: "; and except that such term does not include recreational vehicles and recreational vehicle park trailers";

(6) in paragraph (7), by striking "reasonable standard" and all that follows and inserting the following: "reasonable performance standard for the construction and design of a manufactured home that meets the needs of the public for safe, quality, and affordable homes";

(7) in paragraph (8), by striking "the occurrence" and all that follows and inserting "death or injury";

(8) by striking paragraph (9) and inserting the following new paragraph:

"(9) 'safety hazard' means an unreasonable risk of death or severe personal injury that proximately is caused by—

"(A) an error in design or assembly of the manufactured home by the manufacturer; or

"(B) the failure to comply with a Federal manufactured home construction and safety standard";

(9) in paragraph (12), by striking "and" at the end;

(10) in paragraph (13), by striking the period at the end and inserting a semicolon;

(11) by redesignating paragraphs (5) through (13) (as so amended) as paragraphs (4) through (12), respectively; and

(12) by adding at the end the following new paragraphs:

"(13) 'recreational vehicle' means a vehicular unit, built on a single chassis mounted on wheels, designed to provide temporary living quarters for recreational, camping, or

travel use, of such size or weight as not to require a special highway movement permit when towed by a motorized vehicle, primarily designed for daily transit by its owner or operator, and certified in compliance with applicable regulations of the Department of Transportation specified within parts 567, 568, and 571 of title 49 of the Code of Federal Regulations; and

"(14) 'recreational vehicle park trailer' means a vehicular unit that—

"(A) is built on a single chassis mounted on wheels;

"(B) is primarily designed as temporary living quarters for seasonal or destination camping and may be connected to utilities necessary for operation of installed fixtures and appliances; and

"(C) has a gross trailer area not exceeding 400 square feet in the set-up mode."

(c) FEDERAL MANUFACTURED HOME CONSTRUCTION AND SAFETY STANDARDS.—Section 604 of the the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5403) is amended—

(1) in subsection (a), by striking "The Secretary" and all that follows and inserting the following: "The Secretary shall establish, by order, appropriate Federal manufactured home construction and safety standards that shall be reasonable, practicable, and stated in objective terms, and shall meet the highest standards of protection for the provision of safe, quality, and affordable manufactured homes. The Secretary shall consider the recommendations of private standards writing organizations and the public in establishing the standards.";

(2) in subsection (e), by striking the period at the end of the first sentence and inserting the following: "and any regulation relating to such standards";

(3) in subsection (f)—

(A) in the matter preceding paragraph (1), by inserting ", for the standards" after "shall";

(B) in paragraph (1), by inserting "(especially the Consumer Product Safety Commission)" after "agencies";

(C) in paragraph (4), by striking "; and" and inserting the following: "; including the initial acquisition cost and post sale maintenance costs";

(D) in paragraph (5), by striking the period at the end and inserting a semicolon;

(E) by inserting at the end the following new paragraphs:

"(6) consider the need to provide safe, durable, and affordable housing; and

"(7) review such standards annually, including changes recommended by affected parties"; and

(4) by adding at the end the following new subsection:

"(j) The Secretary shall establish by order a system to periodically issue interpretations of Federal manufactured home construction and safety standards that shall provide all parties directly affected with timely notice and opportunity for comment. In establishing such system the Secretary shall—

"(1) provide a system that is practical and workable;

"(2) provide 2 separate systems for interpretations, which shall include one system for interpretations that have an industry-wide impact and one system for interpretations without an industry-wide impact that affect a single manufacturer;

"(3) provide an opportunity for comment on any interpretation of the standards that has an industry-wide impact, including the

amendment or revocation of any interpretation;

"(4) provide for the expeditious adoption of industry-wide interpretations, with a reasonable period of time for the industry to adjust, redesign, retool, or test when there is no significant controversy;

"(5) provide for rulemaking under subsection (b) regarding any industry-wide interpretations for which the comments submitted clearly reveal a significant controversy;

"(6) provide for a compilation and indexing of all interpretations; and

"(7) review and publish the compilation and index annually."

(d) NATIONAL MANUFACTURED HOME ADVISORY COUNCIL.—

(1) IN GENERAL.—Section 605 of the the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5404) is amended—

(A) in subsection (a), by striking "eight" each place it appears and inserting "4"; and

(B) in subsection (b), by striking the first comma and inserting the following: "convene the Advisory Council periodically or when a majority of the Council requests a meeting, and shall,".

(2) DECREASE IN MEMBERSHIP.—In providing for appointments to and handling vacancies for the National Manufactured Home Advisory Council, the Secretary of Housing and Urban Development shall provide (as the Secretary determines appropriate) for the decrease in number of members of the Council from the number provided under section 605 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (as such section existed immediately before the date of the enactment of this Act) to the number provided under such section as amended by paragraph (1).

(3) APPLICABILITY.—The amendment made by paragraph (1)(A) shall apply to the first National Manufactured Home Advisory Council having 12 members in existence after the date of the enactment of this Act and all Councils thereafter.

(e) RESEARCH, TESTING, DEVELOPMENT, AND TRAINING.—Section 608 of the the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5407) is amended to read as follows:

"RESEARCH, TESTING, DEVELOPMENT, AND TRAINING

"SEC. 608. (a) The Secretary shall conduct research, testing, development, and training using authority under sections 501 and 502 of the Housing and Urban Development Act of 1970.

"(b) The Secretary may use amounts collected under section 620 to conduct research, testing, and training for the following purposes:

"(1) Research, when the Secretary determines that unusual circumstances dictate that fee money should be used for research and the Secretary follows the procedures established in paragraphs (3), (4) and (5) of section 604(j).

"(2) Testing, on a case-by-case basis, to determine the existence of substantial safety-related or durability problems.

"(3) Testing to determine compliance with any Federal manufactured home construction and safety standards, except that not more than 5 percent of the amounts collected under section 620 in any year may be used for testing under this paragraph.

"(4) Training of primary inspection agencies and State administrative agencies under section 614."

(f) PROHIBITED ACTS AND EXCEPTIONS.—Section 610 of the National Manufactured

Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5409) is amended—

(1) by striking the section heading and inserting the following new section heading:

"PROHIBITED ACTS AND EXCEPTIONS"; and

(2) in subsection (a)(3), by striking "any defect" and inserting "any serious defect".

(g) JURISDICTION AND VENUE.—Section 612(a) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5411(a)) is amended by striking "a defect which constitutes an imminent safety hazard" and inserting "any serious defect".

(h) NONCOMPLIANCE WITH STANDARDS.—Section 613 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5412) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "as a result of manufacturing or design error" after "safety standards";

(ii) by striking "a defect which constitutes an imminent safety hazard" and inserting "a serious defect";

(iii) by striking "distributor or a dealer" and inserting "retailer"; and

(iv) by striking "distributor or dealer" and inserting "retailer";

(B) in paragraph (1)—

(i) by striking "distributor or dealer" each place it appears and inserting "retailer"; and

(ii) by inserting "furnish the retailer with a replacement manufactured home for such manufactured home or" after "immediately"; and

(C) in paragraph (2), by striking "the manufacturer, at his own expense," and all that follows and inserting the following: "the manufacturer, at its expense, shall furnish to the purchasing retailer, for installation by the retailer, the part, parts, or equipment necessary to correct such serious defect or failure to comply with an applicable Federal manufactured home construction and safety standard, and for the installation involved the manufacturer shall reimburse such retailer for the reasonable value of such installation plus a reasonable reimbursement of not less than 1 percent per month of the selling price of the manufacturer prorated from the date of receipt by certified mail of notice of such serious defect or such failure to comply to the date such serious defect or failure to comply is corrected, so long as the retailer proceeds with reasonable diligence with the installation after the required part or equipment is received.";

(2) in subsection (b), by striking "distributor or dealer, as the case may be," and inserting "retailer".

(i) INSPECTION PROCEDURES.—Section 614 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5413) is amended—

(1) by striking the section heading and inserting the following new section heading:

"INSPECTION PROCEDURES";

(2) in subsection (a)—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraphs:

"(2) The Secretary shall establish criteria for approval and certification of primary inspection agencies, who may be private parties or State agencies. The primary inspection agencies shall perform inspections of facilities of manufacturers and manufactured homes, and shall review the plans of

manufacturers for conformity with the Federal manufactured home construction and safety standards established under this title. The Secretary shall publish a list of all primary inspection agencies approved and certified under the criteria established under this subsection.

"(3) Each manufacturer shall select from the list of approved primary inspection agencies under paragraph (2) a primary inspection agency with whom it will contract to review plans and conduct the inspections authorized under this title, except that in cases in which a State agency has been approved as the exclusive independent agency for the inspection of homes, the manufacturer shall contract with such agency.

"(4) The Secretary shall maintain a file for each primary inspection agency in which the Secretary shall collect any monitoring reports on the performance of the primary inspection agency conducted by or for the Secretary pursuant to this paragraph and any submissions by the primary inspection agency to the Secretary during each calendar year. The Secretary shall annually review each primary inspection agency and its file for the preceding year. If the Secretary determines that a primary inspection agency satisfactorily has performed its duties under this title and that it possesses the qualified personnel and financial stability to continue to perform its responsibilities, the Secretary shall approve the primary inspection agency for service for another year."

(3) by striking subsection (b) and inserting the following new subsection:

"(b)(1) The Secretary may audit, inspect, and investigate the primary inspection agencies on an annual basis and, based on in-plant inspections of manufacturers' facilities and manufactured homes, evaluate the performance of such agencies in carrying out their responsibilities under this section. The Secretary may, based on the evaluation, take appropriate and necessary corrective action in accordance with the purposes of this title.

"(2) For purposes of such inspection, the Secretary, upon presenting appropriate credentials to the owner, operator, or agent in charge, may—

"(A) enter, at reasonable times and without advance notice, any factory, warehouse, or establishment in which manufactured homes are manufactured, stored, or held for sale; and

"(B) inspect, at reasonable times, within reasonable limits, and in a reasonable manner, any such factory, warehouse, or establishment, and papers, records, and documents as are described in subsection (c), and each such inspection shall be commenced and completed with reasonable promptness."

(4) in subsection (c)(5), by striking "a defect" and all that follows through the first period and inserting "a serious defect";

(5) in subsection (e), by striking "Secretary or his designee" and inserting "primary inspection agency";

(6) in subsection (f)—

(A) by striking ", distributor, and dealer" and inserting "and retailer";

(B) by striking "manufacturer, distributor, or dealer" each place it appears and inserting "manufacturer or retailer"; and

(C) by striking "a person duly designated by";

(7) in subsection (g), by striking "Secretary" the first and second places it appears and inserting "primary inspection agency"; and

(8) in subsection (h), by striking "Secretary or his representative" and inserting "Secretary or the primary inspection agency".

(j) NOTIFICATION AND CORRECTION OF SERIOUS DEFECTS.—Section 615 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5414) is amended—

(1) by striking the section heading and inserting the following new section heading:

"NOTIFICATION AND CORRECTION OF SERIOUS DEFECTS";

(2) by striking the section designation and subsection (a) and inserting the following:

"Sec. 615. (a) Each manufacturer of manufactured homes who determines, in good faith, that any manufactured home produced by the manufacturer contains a serious defect, shall furnish notification of the serious defect to the purchaser of the manufactured home within a reasonable time after the manufacturer has discovered the serious defect.";

(3) in subsection (b),

(A) in paragraph (1)—

(i) by striking "dealer or distributor" and inserting "retailer"; and

(ii) by inserting "serious" before "defect"; and

(B) in paragraph (3), by striking "dealer or dealers" and inserting "retailer or retailers";

(4) by striking subsection (c) and inserting the following new subsection:

"(c) The notification required by subsection (a) shall contain a clear description of such serious defect, an evaluation of the risk to the safety of the occupants of the manufactured home reasonably related to the serious defect, a statement of the measures needed to repair the serious defect, and a statement that such repairs are at no cost to the owner.";

(5) in subsection (d)—

(A) by striking "dealers" and inserting "retailers";

(B) by inserting "serious" before "defect";

(6) in subsection (e)—

(A) by striking the first sentence and inserting the following new sentence: "If the Secretary determines that any manufactured home contains a serious defect, the Secretary shall immediately notify the manufacturer of the manufactured home of each such serious defect.";

(B) in the third sentence, by striking "failure of compliance" and inserting "serious defect"; and

(C) in the fourth sentence, by striking "does not comply" and all that follows through "imminent safety hazard" and inserting "contains a serious defect";

(7) in subsection (f), by striking "distributors and dealers" and inserting "retailers";

(8) in subsection (g), by striking the first sentence and inserting the following new sentence: "A manufacturer required to furnish notification under subsection (a) or (e) of a serious defect shall also correct the serious defect in the manufactured home within a reasonable period of time at no expense to the owner.";

(9) in subsection (h)—

(A) in the first sentence, by inserting "serious" before "defect" each place it appears;

(B) in the second sentence by inserting "serious" before "defect"; and

(C) in the third sentence, by striking "defects or failure to comply" and inserting "serious defects"; and

(10) in subsection (i)—

(A) by striking "a defect or failure to comply" and inserting "a serious defect"; and

(B) by striking "the defect" and inserting "the serious defect".

(k) CERTIFICATION OF CONFORMITY WITH CONSTRUCTION AND SAFETY STANDARDS AND WARRANTY.—Section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) is amended—

(1) by striking the section heading and inserting the following new section heading:

"CERTIFICATION OF CONFORMITY WITH CONSTRUCTION AND SAFETY STANDARDS AND WARRANTY";

(2) by striking the section designation and inserting the following: "Sec. 616. (a)";

(3) by striking "distributor or dealer" and inserting "retailer"; and

(4) by adding at the end the following new subsection:

"(b) Each manufacturer of manufactured homes shall provide a 2-year warranty from the date of sale, in writing, to each purchaser of any manufactured home produced by such manufacturer, which shall conform to the requirements of any applicable State laws. The Secretary may not prescribe the provisions of such warranty beyond the requirement under this section to provide the warranty.".

(l) CONSUMER INFORMATION.—Section 617 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415) is amended—

(1) in the first sentence—

(A) by striking "consumer's manual" and inserting "consumer's manual and an installation manual"; and

(B) by inserting before the period at the end the following: "and shall require manufacturers to provide the manuals to the purchasers at the time of purchase";

(2) in the second sentence, by striking "These manuals should" and inserting "The consumer's manual shall be easy to understand, shall contain guidelines for purchase and walk-through inspection, and shall"; and

(3) by inserting after the period at the end the following: "The installation manual shall contain detailed installation instructions, including specifications and procedures for erection and hookup of the home. The installation and consumer's manuals shall be written in an objective and easy-to-understand manner so that they can be understood by people without extensive technical training.".

(m) INSPECTION FEES.—Section 620 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5419) is amended—

(1) by striking "required under this title" and inserting "authorized under section 614";

(2) by striking "manufacturers, distributors, and dealers" and inserting "manufacturers and retailers"; and

(3) by striking the period at the end and inserting the following: "; except that the Secretary may not impose on manufactured home manufacturers the costs associated with research, testing, development, training, or any other activities other than the inspections required pursuant to section 614(b) and the testing and training permitted under paragraphs (1) and (2) of section 608(b). Fee levels established pursuant to this section shall be established, and any adjustments in those levels made, in accordance with the rulemaking procedures under chapter 5 of title 5, United States Code.".

(n) STATE JURISDICTION AND PLANS.—Section 623(c)(9) of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5422(c)(9)) is amended by striking "manufacturers, distributors, and dealers" and inserting "manufacturers and retailers".

(o) REPORTS TO CONGRESS.—Section 626 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5425) is amended—

(1) by striking the section heading and inserting the following new section heading:

"REPORTS TO CONGRESS";

(2) in subsection (a), by striking "Such report" and all that follows and inserting the following: "The report, consistent with the purpose and objectives of this title, shall examine issues related to the affordability, quality, and safety of manufactured housing. Such report shall include, but not be restricted to (1) a list of Federal manufactured home construction and safety standards prescribed or in effect in such years; (2) the level of compliance with all applicable Federal manufactured home standards; (3) a summary of all current research grants and contracts together with a description of the problems to be studied in such research; (4) an analysis and evaluation, including relevant policy recommendations, of research activities completed and technological progress achieved during such years; (5) a statement of enforcement actions, including judicial decisions, settlements, serious defect notifications, and pending litigation, commenced during such years; and (6) the extent to which technical information was disseminated to the scientific community and consumer-oriented information was made available to manufactured home owners and prospective buyers."; and

(3) in subsection (b), by striking "to promote the improvement" and all that follows and inserting the following: "to promote the affordability, quality, and availability of manufactured housing, to promote the improvement of manufactured home construction and safety, and to strengthen the national manufactured home program.".

(p) IMPLEMENTATION.—The Secretary of Housing and Urban Development shall issue regulations necessary to implement this section and the amendments made by this section not later than the expiration of the 180-day period beginning on the date of the enactment of this Act.

SEC. 767. NATIONAL INSTITUTE OF BUILDING SCIENCES.

Section 809(h) of the Housing and Community Development Act of 1974 (12 U.S.C. 1701j-2) is amended by striking the second sentence and inserting the following new sentence: "In addition to the amounts authorized to be appropriated under the first sentence of this section, there are authorized to be appropriated to the Institute to carry out the provisions of this section not to exceed \$512,000 for each of fiscal years 1991 and 1992.".

SEC. 768. EXEMPTION FROM DAVIS-BACON ACT REQUIREMENTS OF VOLUNTEERS UNDER HOUSING PROGRAMS.

(a) COMMUNITY DEVELOPMENT BLOCK GRANT.—Section 110 of the Housing and Community Development Act of 1974 (42 U.S.C. 5310) is amended—

(1) by inserting "(a)" after "Sec. 110."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a) shall not apply to any volunteer laborers or mechanics not other-

wise employed at any time in the construction work."

(b) **PUBLIC HOUSING AND SECTION 8 ASSISTANCE.**—Section 12 of the United States Housing Act of 1937 (42 U.S.C. 1437j) is amended—

(1) by inserting "(a)" after "Sec. 12."; and

(2) by adding at the end the following new subsection:

"(b) Subsection (a), the provisions relating to wages (pursuant to subsection (a)) in any contract for loans, annual contributions, sale, or lease pursuant to this Act, shall not apply to any volunteer laborers or mechanics not otherwise employed at any time on the project."

(c) **ELDERLY AND HANDICAPPED HOUSING.**—Section 202(c)(3) of the Housing Act of 1959 (12 U.S.C. 1701q(c)(3)) is amended by striking "may waive the application of this paragraph" and inserting "shall waive the application of this paragraph".

(d) **APPLICABILITY.**—The amendments made by this section shall apply to any volunteer services provided before, on, or after the date of the enactment of this Act, except that such amendments may not be construed to require the repayment of any wages paid before the date of the enactment of this Act for services provided before such date.

SEC. 769. ELIGIBILITY UNDER FIRST-TIME HOME-BUYER PROGRAMS.

(a) **ELIGIBILITY OF DISPLACED HOMEMAKERS AND SINGLE PARENTS FOR FEDERAL ASSISTANCE FOR FIRST-TIME HOMEBUYERS.**—

(1) **DISPLACED HOMEMAKERS.**—No individual who is a displaced homemaker may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse.

(2) **SINGLE PARENTS.**—No individual who is a single parent may be denied eligibility under any Federal program to assist first-time homebuyers on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse.

(b) **DEFINITIONS.**—For purposes of this section:

(1) **DISPLACED HOMEMAKER.**—The term "displaced homemaker" means an individual who—

(A) is an adult;

(B) has not worked full-time full-year in the labor force for a number of years but has, during such years, worked primarily without remuneration to care for the home and family;

(C)(i) has been dependent on public assistance or on the income of a spouse but is no longer supported by such income; or

(ii) is a parent whose youngest dependent child will become ineligible to receive assistance under the Aid to Families With Dependent Children Program within 2 years after submission by the individual of an application for assistance under a Federal program to assist first-time homebuyers; and

(D) is unemployed or underemployed and is experiencing difficulty in obtaining or upgrading employment.

(2) **FIRST-TIME HOMEBUYER.**—The term "first-time homebuyer" means an individual who has never, or has not during a specified period of time, had any present ownership interest in a principal residence.

(3) **SINGLE PARENT.**—The term "single parent" means an individual who—

(A) is unmarried or legally separated from a spouse; and

(B)(i) has 1 or more minor children for whom the individual has custody or joint custody; or

(ii) is pregnant.

(c) **APPLICABILITY.**—This section shall apply to any Federal program to assist first-time homebuyers, unless the program is exempted from this section by a statute that amends this subsection or explicitly refers to this subsection.

SEC. 770. MAXIMUM ANNUAL LIMITATION ON RENT INCREASES RESULTING FROM EMPLOYMENT.

(a) **IN GENERAL.**—Notwithstanding any other law, the rent charged for any dwelling unit assisted under any housing assistance program administered by the Secretary of Housing and Urban Development, to a family whose monthly adjusted income increases as a result of the employment of a member of the family who was previously unemployed, may not be increased as a result of the increased monthly adjusted income due to such employment by more than 10 percent in each 12-month period during the 36-month period beginning upon such employment.

(b) **DEFINITION OF HOUSING ASSISTANCE.**—For purposes of this section, the term "housing assistance program" means any program of assistance for housing—

(1) for which assistance is provided by the Secretary of Housing and Urban Development in the form of a grant, contract, loan, loan guarantee, cooperative agreement, interest subsidy, insurance, or direct appropriation; and

(2) under which rent payments, with respect to all or some of the units in the housing assisted, are limited, restricted, or determined under law or regulation based on the income of the occupying families.

SEC. 771. PREFERENCES FOR NATIVE HAWAIIANS ON HAWAIIAN HOMELANDS UNDER HUD PROGRAMS.

(a) **AUTHORITY.**—The Secretary of Housing and Urban Development may authorize preferences for native Hawaiians who seek occupancy in housing that is located on Hawaiian homelands and that is assisted under any housing assistance or mortgage insurance program administered by the Secretary. Such programs shall include programs providing assistance under the United States Housing Act of 1937, assistance under section 202 of the Housing Act of 1959, and mortgage insurance under the National Housing Act.

(b) **DEFINITIONS.**—For purposes of this section:

(1) The term "native Hawaiian" means any descendant of not less than one-half of the blood of the races inhabiting the Hawaiian Islands before January 1, 1778 (or, in the case of an individual who succeeds a spouse or parent in an interest in a lease of Hawaiian homelands, such lower percentage as may be established under section 209 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 5)).

(2) The term "Hawaiian home lands" means all lands given the status of Hawaiian home lands under section 204 of the Hawaiian Homes Commission Act, 1920, or under the corresponding provision of the Constitution of the State of Hawaii adopted under section 4 of the Act entitled "An Act to provide for the admission of the State of Hawaii into the Union", approved March 18, 1959 (73 Stat. 5)).

SEC. 772. WAIVER OF MATCHING FUNDS REQUIREMENTS IN INDIAN HOUSING PROGRAMS.

(a) **AUTHORIZATION OF WAIVER.**—For any housing program that provides assistance through any Indian housing authority, the Secretary of Housing and Urban Development may provide assistance under such program in any fiscal year notwithstanding any provision of law that requires the Indian housing authority to provide amounts to match or supplement the amounts provided under such program, if the Indian housing authority has not received amounts for such fiscal year under title I of the Housing and Community Development Act of 1974.

(b) **EXTENT OF WAIVER.**—The authority under subsection (a) to provide assistance notwithstanding requirements regarding matching or supplemental amounts shall be effective only to the extent provided by the Secretary, which shall not extend beyond the fiscal year in which the waiver is made or beyond the receipt of any amounts by an Indian housing authority under title I of the Housing and Community Development Act of 1974.

(c) **USE OF FEDERAL FUNDS FOR MATCHING AMOUNTS.**—Any available assistance received from the Federal Government by an Indian housing authority may be used by such housing authority to fulfill any requirement under a housing program, in any provision of law, that requires the housing authority to provide amounts to match or supplement the amounts provided under such program, if under laws or regulations relating to the use of such assistance, the assistance is available for such housing activities. Assistance may be used as provided in this subsection notwithstanding any other provision of law prohibiting or restricting the use of assistance provided by the Federal Government to match or supplement amounts provided under any housing program.

(d) **DEFINITION OF HOUSING PROGRAM.**—For purposes of this section, the term "housing program" means a program under the administration of the Secretary of Housing and Urban Development or the Secretary of Agriculture (through the Administrator of the Farmers Home Administration) that provides assistance in the form of contracts, grants, loans, cooperative agreements, or any other form of assistance (including the insurance or guarantee of a loan, mortgage, or pool of mortgages) for housing.

SEC. 773. ENERGY EFFICIENCY PROGRAM.

(a) **ANNUAL ENERGY ASSESSMENT.**—

(1) **IN GENERAL.**—The Secretary of Housing and Urban Development shall submit a report to the Congress, not less than annually, assessing the status of the energy efficiency of, and energy use by, housing in the United States. The report shall include—

(A) information regarding the amount of energy used in residences, including the amount of use of renewable energy resources;

(B) a statement of the activities conducted by the Secretary to promote or achieve residential energy efficiency, and the amount and sources of any funds expended by the Secretary for such purpose; and

(C) a comparison, based on the standard established under paragraph (2), of residential energy efficiency for the year for which the report is submitted to residential energy efficiency in previous years, and an explanation of any changes in such efficiency.

(2) **ESTABLISHMENT OF ENERGY EFFICIENCY STANDARD.**—In the first annual report submitted under this subsection, the Secretary

of Housing and Urban Development shall establish, and include a description of, a standard measure by which changes over time in residential energy efficiency may be compared.

(b) **ENERGY EFFICIENCY DEMONSTRATION.**—

(1) **AUTHORITY.**—The Secretary of Housing and Urban Development shall carry out a program to demonstrate various methods of improving the energy efficiency of existing housing.

(2) **SCOPE.**—Amounts made available under this subsection may be used under existing programs administered by the Secretary of Housing and Urban Development or other organizations and agencies, and may be used to establish any new programs, as the Secretary may determine.

(3) **EXISTING HOUSING.**—The demonstration under this section shall determine appropriate design, improvement, and rehabilitation methods and practices for increasing residential energy efficiency in housing already constructed.

(4) **REPORT.**—As soon as practicable after September 30, 1991, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the demonstration under this subsection.

(5) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this subsection \$2,000,000 for fiscal year 1991.

(c) **5-YEAR ENERGY EFFICIENCY PLAN.**—

(1) **ESTABLISHMENT.**—The Secretary of Housing and Urban Development shall establish a plan for activities to be undertaken and policies to be adopted by the Secretary within the 5-year period beginning upon the submission of the plan to the Congress under paragraph (4) to provide for, encourage, and improve energy efficiency in newly constructed, rehabilitated, and existing housing. In developing the plan, the Secretary shall consider, as appropriate, any annual energy assessments under subsection (a).

(2) **INITIAL PLAN.**—The Secretary of Housing and Urban Development shall establish the first plan under this subsection not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(3) **UPDATES.**—The Secretary of Housing and Urban Development shall revise and update the plan under this subsection not less than once for each 2-year period, the first such 2-year period beginning on the date of the submission of the initial plan under paragraph (2) to the Congress (as provided in paragraph (4)). Each such update shall revise the plan for the 5-year period beginning upon the submission of the updated plan to the Congress.

(4) **SUBMISSION TO CONGRESS.**—The Secretary of Housing and Urban Development shall submit the initial plan established under paragraph (2) and any updated plans under paragraph (3) to the Congress not later than the date by which such plans are to be established or updated under such paragraphs.

(d) **REPORT REGARDING UNIFORM ENERGY EFFICIENT MORTGAGE POLICY.**—

(1) **REQUIREMENT.**—The appropriate heads of the Federal entities under paragraph (5) shall jointly submit to the Congress a report under this subsection.

(2) **CONTENTS.**—The report under this subsection shall contain—

(A) a description and evaluation of any laws, regulations, and policies of, and relat-

ing to, each such entity regarding housing energy efficiency requirements; and

(B) a recommendation for a uniform policy relating to the mortgage programs under all such entities for mortgage underwriting standards that promote the underwriting of mortgages on housing meeting minimum energy efficiency requirements, which shall include recommendations for any actions to be taken by the Congress and the entities to establish and adopt the uniform policy.

(3) **DISTINCTION.**—The uniform policy recommended by the report under this subsection shall provide for separate treatment of newly constructed housing and existing housing.

(4) **MONITORING.**—The Secretary of Housing and Urban Development, in consultation with the Secretary of Energy, shall monitor the development of the recommendation of the uniform policy under this subsection and consult with the appropriate heads of the Federal entities under paragraph (5) with respect to the report required under this subsection.

(5) **PARTICIPANTS.**—The report required under this subsection shall be prepared and submitted by the following Federal entities:

(A) The Department of Housing and Urban Development, to the extent of the Federal Housing Administration mortgage insurance programs.

(B) The Department of Agriculture, to the extent of the Farmers Home Administration mortgage loan and mortgage insurance programs.

(C) The Federal Home Loan Mortgage Corporation.

(D) The Federal National Mortgage Association.

(E) The Department of Veterans Affairs.

(6) **TIME OF SUBMISSION.**—The report under this subsection shall be submitted to the Congress not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

(e) **IMPROVED ENERGY CONSERVATION STANDARDS FOR NEWLY CONSTRUCTED HUD-ASSISTED HOUSING.**—

(1) **IN GENERAL.**—Any single family or multifamily residential housing (except for manufactured homes) that is constructed after the expiration of the 1-year period beginning on the date of the enactment of this Act and for which housing assistance is provided shall comply with the energy performance requirements under section 526(a) of the National Housing Act.

(2) **DEFINITION OF HOUSING ASSISTANCE.**—For purposes of this subsection, the term "housing assistance" means any assistance provided under a program administered by the Secretary of Housing and Urban Development in the form of a grant, contract, loan, loan guarantee, property, cooperative agreement, insurance, or direct appropriation.

SEC. 774. LOW INCOME HOUSING CONSERVATION AND EFFICIENCY GRANT PROGRAM.

(a) **AUTHORITY.**—The Secretary of Housing and Urban Development may make grants under this section to States for distribution to entities that are receiving amounts from such States under part A of title IV of the Energy Conservation and Production Act to carry out a low-income housing conservation and efficiency program to provide safe, energy-efficient affordable housing for low-income persons.

(b) **ALLOCATION AMONG STATES.**—Of any amount approved in appropriation Acts for grants under this section in any fiscal year, each State shall receive a percentage of the

total amount approved that is equal to the percentage of the total amounts available under part A of title IV of the Energy Conservation and Production Act that such State receives under such Act. If any State does not accept amounts made available under this section within 30 days after any such amounts become available, the Secretary of Housing and Urban Development may use the amounts allocated under this subsection for such State for direct grants (subject to application and a competitive selection process as the Secretary shall establish) to entities within such State that are receiving amounts under part A of title IV of the Energy Conservation and Production Act.

(c) **DISTRIBUTION BY STATES.**—

(1) **IN GENERAL.**—Each State that receives amounts under this section shall distribute such amounts to entities that are receiving funds under part A of title IV of the Energy Conservation and Production Act, subject to the approval of an application by the entity demonstrating the ability of the entity to conduct an effective housing conservation program in coordination with activities under the weatherization assistance for low-income persons program carried out by the Secretary of Energy under such part A of such Act, and meeting criteria for approval under paragraph (2).

(2) **SELECTION CRITERIA.**—Each State that receives amounts under a grant under this section shall select, from among entities eligible under paragraph (1) that have submitted applications for such amounts, entities to receive such grant amounts, subject to the following criteria:

(A) The entity shall have demonstrated competence in the management of weatherization programs.

(B) The entity shall have demonstrated the ability to evaluate local housing conditions and to repair and make energy conservation investments in low-income housing.

(C) The entity shall have demonstrated the capacity to significantly decrease the deterioration of low-income housing within the communities served by the entity and shall provide services in communities where housing deterioration poses a serious threat to the stock of available and habitable low-income housing.

(d) **USE REQUIREMENTS.**—

(1) **IN GENERAL.**—Amounts provided under this section shall be available to any entity conducting activities under such program for use carrying out activities under paragraph (2) and administrative costs of the entity relating to such activities and to administering amounts received from grants under this section. No amounts received under this section may be used for administrative costs of States.

(2) **ACTIVITIES.**—Each entity that receives amounts from a grant under this section shall—

(A) identify units of low-income housing that are—

(i) owned and occupied by persons or families who are eligible for assistance under the program established under this section and who have received, are currently receiving, or are scheduled to receive assistance under the weatherization assistance for low-income persons program under part A of title IV of the Energy Conservation and Production Act (or a comparable Federal or State program);

(ii) in danger of becoming uninhabitable within a 5-year period because of structural weaknesses or problems; and

(iii) are not sufficiently sound to permit energy conservation improvements without other repair or rehabilitation measures to protect such energy investments;

(B) make repairs that will significantly prolong that habitability of units identified under subparagraph (A), including roofing, electrical, plumbing, furnace, and foundation repairs or replacement that will prolong the use of the unit as a safe and energy-efficient residence for low-income persons;

(C) take reasonable steps to ensure that any units so repaired will remain occupied by persons or families with incomes not exceeding 125 percent of the area median income, as determined by the Secretary; and

(D) contribute from non-Federal sources an amount equal to 20 percent of the amount received by the entity from a grant under this section which non-Federal contributions may include the costs of labor and other self-help measures by community residents and institutions (the value of which shall be fairly evaluated based on the actual or estimated costs of labor or other self help measures).

(e) **FUNDING TIMING.**—The Secretary shall make funds available to States from any amounts approved in any appropriation Acts under this section not later than the expiration of the 90-day period beginning on the date of the enactment of such appropriation Act. Each State that receives amounts under this section shall issue a request for applications from eligible entities for such amounts within 45 days of the date such amounts become available to the State. Each such State shall provide amounts to entities whose applications are accepted within 120 days after the request for applications is issued.

(f) REPORTS.—

(1) **TO SECRETARY.**—Each State receiving amounts from grants under this section shall report to the Secretary of Housing and Urban Development regarding the distribution and use of such amounts as the Secretary shall require.

(2) **TO CONGRESS.**—The Secretary of Housing and Urban Development shall, using any information and reports received from States under paragraph (1), submit a report to the Congress not less than annually regarding the costs and benefits of the grant program under this section and the extent to which the program has—

(A) preserved low-income housing that otherwise would have deteriorated beyond the point of habitability;

(B) increased the energy efficiency and reduced the energy costs of homes;

(C) reduced the long-term use of fossil fuels; and

(D) prevented low-income families from becoming homeless.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated for grants under this section such sums as may be necessary for fiscal year 1991. Any amounts appropriated under this subsection shall remain available until expended.

SEC. 775. REPORT ON SEISMIC SAFETY PROPERTY STANDARDS.

(a) **AUTHORITY.**—The Secretary of Housing and Urban Development (in this section referred to as the "Secretary") shall assess the risk of earthquake-related damage to properties assisted under programs administered by the Secretary and shall develop seismic safety standards for such properties.

(b) **STANDARDS.**—The standards shall be designed to reduce the risk of loss of life to building occupants to the maximum extent

feasible and to reduce the risk of shake-related property damage to the maximum extent practicable. The standards shall take into consideration building type and risk exposure, including factors relating to new construction and existing structures, building materials, design criteria and construction practices used in the development of new and existing structures, soil and other geological conditions, and the proximity of structures to seismic hazards.

(c) **CONSULTATION.**—In carrying out this section, the Secretary shall consult with the Director of the Federal Emergency Management Agency and may utilize the resources under the National Earthquake Hazards Reduction Program (established under the Earthquake Hazards Reduction Act of 1977) and any other resources as may be required to carry out the activities under this section.

(d) REPORTS.—

(1) **ANNUAL SUBMISSION AND CONTENTS.**—The Secretary shall submit a report to the Congress, not less than annually, containing a statement of the findings of the risk assessment study conducted under this section, including risk assessment of properties by building type, location, and program, and a compilation of the standards developed pursuant to this section. The report shall also include a statement of the activities undertaken by the Secretary to carry out this section and the amount and sources of any funds expended by the Secretary for such purposes. The report shall also include a statement of the activities undertaken by the Secretary to carry out the requirements of Executive Order No. 12699 (January 5, 1990) and the amount and sources of any funds expended by the Secretary for such purposes.

(2) **INITIAL SUBMISSION.**—The first report required under this subsection shall be submitted not later than the expiration of the 1-year period beginning on the date of the enactment of this Act.

SEC. 776. JOINT VENTURE FOR AFFORDABLE HOUSING.

(a) **IN GENERAL.**—The Secretary shall carry out a program to—

(1) promote the development of information on affordable housing through reform of regulations, use of innovative construction and land planning techniques, and elimination of governmentally-imposed administrative restrictions inhibiting such development; and

(2) study model growth communities, develop a database on building and regulatory innovations that reduce development costs, serve as a clearinghouse to share resource materials and ideas among joint venture partners, publicize through conferences, workshops, demonstrations, publications, and similar activities, methods of reducing construction costs through more effective and efficient planning, site development, and building procedures, examine the use of factory-built housing (including manufactured housing) as a means of achieving affordable housing, and coordinate the activities of the Secretary that encourage and promote the objectives of this subsection.

(b) **TERMINATION OF PROGRAM.**—The program under this section shall terminate upon the expiration of the 2-year period beginning on the date of the enactment of this Act.

SEC. 777. BUY AMERICAN REQUIREMENT.

(a) **DETERMINATION BY THE SECRETARY.**—If the Secretary of Housing and Urban Development or the Secretary of Agriculture, as appropriate, with the concurrence of the United States Trade Representative, deter-

mines that the public interest so desires, such Secretary, as appropriate, is authorized to award to a domestic firm a contract made pursuant to the issuance of any grant made by such Secretary under this Act that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 51 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

In determining under this subsection whether the public interest so requires, each Secretary shall take into account United States international obligations and trade relations.

(b) **LIMITED APPLICATION.**—This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) **LIMITATION.**—This section shall apply only to contracts made related to the issuance of any grant made under this Act for which—

(1) amounts are authorized by this Act (including the amendments made by this Act) to be made available; and

(2) solicitation for bids are issued after the date of the enactment of this Act.

(d) **REPORT TO CONGRESS.**—The Secretary of Housing and Urban Development and the Secretary of Agriculture shall report to the Congress on contracts covered under this section and entered into with foreign entities in fiscal year 1991 and shall report to the Congress on the number of contracts that meet the requirements of subsection (a) but which are determined by the United States Trade Representative to be in violation of the General Agreement or an international agreement to which the United States is a party. Each Secretary shall also report to the Congress on the number of contracts covered under this Act (including the amendments made by this Act) and awarded based upon the parameters of this section.

(e) **DEFINITIONS.**—For purposes of this section—

(1) **DOMESTIC FIRM.**—The term "domestic firm" means a business entity that is incorporated in the United States and that conducts business operations in the United States.

(2) **FOREIGN FIRM.**—The term "foreign firm" means a business entity not described in paragraph (1).

SEC. 778. RESTRICTIONS ON CONTRACT AWARDS.

No person or enterprise domiciled or operating under the laws of a foreign government may enter into a contract or subcontract made pursuant to this Act if that government unfairly maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of the Trade Agreements Act of 1979.

SEC. 779. PROHIBITION AGAINST FRAUDULENT USE OF MADE IN AMERICA LABELS.

If the Secretary of Housing and Urban Development or the Secretary of Agriculture determines that any person intentionally affixes a label bearing a "Made in America" inscription to any product sold in or shipped to the United States that is not made in America, such Secretary shall declare that person ineligible to receive any Federal contract made under this Act and administered by such Secretary for a period of not less than 3 years and not more than 5 years. The Secretary of Housing and Urban Development and the Secretary of Agriculture, as appropriate, may bring action against such person to enforce this section in any United States district court.

Subtitle D—Disaster Relief

SEC. 781. SECTION 8 CERTIFICATES AND VOUCHERS.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the certificate and voucher programs under sections 8 (b) and (o) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amounts as may be necessary to provide assistance under such programs for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 782. MODERATE REHABILITATION.

The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the moderate rehabilitation program under section 8(e)(2) of such Act is authorized to be increased in any fiscal year in which a major disaster is declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act in such amount as may be necessary to provide assistance under such program for individuals and families whose housing has been damaged or destroyed as a result of such disaster, except that in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

SEC. 783. COMMUNITY DEVELOPMENT.

(a) **COMMUNITY DEVELOPMENT BLOCK GRANTS.**—Section 106(c) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306) is amended—

(1) in paragraph (1), by striking "paragraph (2)," and inserting "paragraphs (2) and (4)," and

(2) by adding at the end the following new paragraph:

"(4)(A) Notwithstanding paragraph (1), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall make available, to metropolitan cities and urban counties located or partially located in the areas affected by the disaster, any amounts that become available as a result of actions under section 104(e) or 111.

"(B) In using any amounts that become available as a result of actions under section 104(e) or 111, the Secretary shall give priority to providing emergency assistance under this paragraph.

"(C) The Secretary may provide assistance to any metropolitan city or urban county under this paragraph only to the extent necessary to meet emergency community development needs, as the Secretary shall determine (subject to subparagraph (D)), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this title, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and other sources of assistance.

"(D) Amounts provided to metropolitan cities and urban counties under this paragraph may be used only for eligible activities under section 105, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(E) The Secretary shall provide for applications (or amended applications and statements under section 104) for assistance under this paragraph.

"(F) A metropolitan city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date of the declaration of the disaster by the President.

"(G) This paragraph may not be construed to require the Secretary to reserve any amounts that become available as a result of actions under section 104(e) or 111 for assistance under this paragraph if, when such amounts are to be reallocated under paragraph (1), no metropolitan city or urban county qualifies for assistance under this paragraph."

(b) URBAN DEVELOPMENT ACTION GRANTS.

(1) **IN GENERAL.**—Section 119(g) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(g)) is amended—

(A) by inserting "(1)" after "(g)"; and

(B) by adding at the end the following new paragraph:

"(2)(A) Notwithstanding subsection (d)(5)(B)(iii), in the event of a major disaster declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall make available, to cities and urban counties eligible under subsection (b) for grants under this section that are located or partially located in the areas affected by the disaster, any amounts that are recaptured from previous grants.

"(B) In using any recaptured amounts, the Secretary shall give priority to providing emergency assistance under this paragraph.

"(C) The Secretary may provide assistance to any city or urban county under this paragraph only to the extent necessary to meet emergency urban development needs, as the Secretary shall determine (subject to subparagraph D), of the city or county resulting from the disaster that are not met with amounts otherwise provided under this title, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and other sources of assistance.

"(D) Amounts provided to cities and urban counties under this paragraph may be used only for eligible activities under this section, and in implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(E) The Secretary shall provide for applications (or amended applications under subsection (c)) for assistance under this paragraph.

"(F) A city or urban county eligible for assistance under this paragraph may receive such assistance only in each of the fiscal years ending during the 3-year period beginning on the date of the declaration of the disaster by the President.

"(G) This paragraph may not be construed to require the Secretary to reserve any recaptured amounts for assistance under this paragraph if, when such amounts are to be included in a competition pursuant to subsection (d)(5), no city or urban county qualifies for assistance under this paragraph."

(2) **CONFORMING AMENDMENT.**—Section 119(d)(5)(B)(iii) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(d)(5)(B)(iii)) is amended by striking the period at the end and inserting the following: "and have not been awarded under subsection (g)(2)."

SEC. 784. RURAL HOUSING.

Title V of the Housing Act of 1949 (42 U.S.C. 1471 et seq.) is amended by adding at the end the following new section:

"DISASTER ASSISTANCE

"SEC. 538. (a) AUTHORITY.—

"(1) **IN GENERAL.**—Notwithstanding any other provision of this title, in the event of a natural disaster, so declared by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, the Secretary shall allocate, for assistance under this section to the States affected for use in the counties designated as disaster areas and the counties contiguous to such counties, amounts available under this title. Allocations under this section may be made for each of the fiscal years ending during the 3-year period beginning on the declaration of the disaster by the President.

"(2) **AMOUNT.**—Subject to the availability of amounts pursuant to appropriations Acts, assistance under paragraph (1) shall be made in an amount equal to the product of—

"(A) the sum of the official State estimate of the number of dwelling units in the counties described in paragraph (1) within the eligible service area of the Farmers Home Administration (or otherwise if the Secretary provides for a waiver under subsection (d)) that are destroyed or seriously damaged; and

"(B) 20 percent of the average cost of all dwelling units assisted by the Secretary in the State during the previous 3 years.

"(b) **USE.**—The assistance made available under this section may be used for the housing purposes authorized under this title, and the Secretary shall issue such regulations as may be necessary to carry out this section to assure the prompt and expeditious use of such funds for the restoration of decent, safe, and sanitary housing within the areas described in subsection (a)(1). In implementing this section, the Secretary shall evaluate the natural hazards to which any permanent replacement housing is exposed and shall take appropriate action to mitigate such hazards.

"(c) **ELIGIBILITY.**—Notwithstanding any other provision of this title, assistance allocated under this section shall be available to units of general local government and their agencies and to local nonprofit organizations, agencies, and corporations for the construction or rehabilitation of housing for agricultural employees and their families.

"(d) **WAIVER OF RURAL AREA REQUIREMENTS.**—The Secretary may waive the application of the provisions of section 520 with

respect to assistance under this section, as the Secretary considers appropriate.

"(c) **RURAL HOUSING INSURANCE FUND.**—The Secretary is authorized to advance from the Rural Housing Insurance Fund such sums as may be necessary to meet the requirements of subsection (a)(1)."

TITLE VIII—HOMELESS PREVENTION

Subtitle A—Emergency Low Income Housing Preservation

SEC. 801. REPEAL OF PREPAYMENT MORATORIUM.

Section 203 of the Housing and Community Development Act of 1987 (12 U.S.C. 17151 note) is repealed.

SEC. 802. PREPAYMENT OF MORTGAGES INSURED UNDER THE NATIONAL HOUSING ACT.

(a) **IN GENERAL.**—Subtitle B of title II of the Housing and Community Development Act of 1987 (12 U.S.C. 17151) is amended to read as follows:

"Subtitle B—Prepayment of Mortgages Insured Under the National Housing Act

"SEC. 221. GENERAL PREPAYMENT LIMITATION AND NOTICE OF ELIGIBLE HOUSING.

"(a) **PREPAYMENT LIMITATION.**—An owner of eligible low income housing shall be entitled to prepay a mortgage on such housing or terminate an insurance contract on such housing pursuant to section 229 of the National Housing Act at any time after the mortgage becomes eligible for prepayment without prior approval by the Secretary of Housing and Urban Development, except that the owner must have filed notices of intent to prepay with the Secretary, the applicable unit of local government, the mortgagee, and any tenants of the housing as required under sections 222 and 223.

"(b) **PUBLIC NOTICE OF PROJECTS ELIGIBLE TO PREPAY.**—The Secretary shall publish in the Federal Register, by January 31 of each year, the names of the eligible low income housing projects that are or will be eligible for prepayment during that calendar year and the following 2 calendar years. The Secretary shall also provide each State housing finance agency, by such date, with a list of projects within the State that are or will be eligible for prepayment during the current calendar year and the following 2 calendar years, and shall otherwise disseminate the list of such projects in a manner to notify the tenants of the eligible low income housing projects and other concerned parties that the owner is or will be eligible to prepay within the next 3 years.

"SEC. 222. INITIAL NOTICE OF INTENT.

"(a) **FILING WITH SECRETARY.**—

"(1) **REQUIREMENT.**—An owner of eligible low income housing that intends to transfer the housing in connection with a homeownership program under section 225, seek incentives under section 224, or to prepay the mortgage or voluntarily terminate the mortgage insurance, shall file with the Secretary an initial notice under this section indicating such intent in such form and manner as the Secretary shall prescribe.

"(2) **INELIGIBILITY.**—An owner shall not be eligible to file an initial notice of intent under this subsection if the mortgage covering the housing is in default on the date on which the initial notice of intent is filed, or the mortgage had been in default at any previous time, unless the owner agrees (in connection with filing such initial notice of intent)—

"(A) to bring current all delinquent payments due under the mortgage (if the owner is then in default); and

"(B) to reimburse the appropriate insurance fund in an amount equal to the sum of any portion of the original balance of the

mortgage forgiven by the Secretary, any interest forgone by the Secretary on such portion, and any interest due on the mortgage which in any other manner had been forgiven by the Secretary.

"(b) **TIMING.**—An owner of eligible low income housing may not prepay the mortgage or voluntarily terminate the insurance on the housing until—

"(1) for any eligible low income housing for which the mortgage covering the housing was entered into on or after July 1, 1970, the expiration of the 24-month period beginning on the date of the filing of the initial notice under this subsection; and

"(2) for any eligible low income housing for which the mortgage covering the housing was entered into before July 1, 1970, the expiration of the 18-month period beginning on the date of the filing of the initial notice under this subsection.

"(c) **FILING WITH STATE OR LOCAL GOVERNMENTS.**—An owner, upon filing of an initial notice under this section with the Secretary, shall simultaneously file a copy of the initial notice with the chief executive officer of the appropriate State or local government for the jurisdiction within which the housing is located, and notify the tenants of the housing and the mortgagee of the filing.

"SEC. 223. INFORMATION FROM SECRETARY AND SECOND NOTICE OF INTENT.

"(a) **INFORMATION FROM SECRETARY.**—

"(1) **TO OWNER.**—Upon receiving an initial notice of intent under section 222, the Secretary shall provide the owner filing the notice with such information as the owner needs to prepare a second notice of intent under this section.

"(2) **CONTENTS.**—The information shall include—

"(A) an appraisal of the property under section 224(a);

"(B) a description of incentives authorized under sections 224 and 225, which shall include, in the case of a resident homeownership program under section 225, the maximum assistance that the Secretary may provide under such section; and

"(C) the resident homeownership plan, if any, developed pursuant to section 225.

"(3) **TIMING.**—The Secretary shall provide the information required under this subsection not later than 6 months after filing of initial notice by the owner under section 222(a).

"(4) **TO TENANTS.**—The Secretary shall make available to the tenants of the housing any information provided to the owner under this subsection and other information related to the rights and opportunities (with respect to the housing) of the tenants.

"(b) **SUBMISSION OF SECOND NOTICE OF INTENT.**—

"(1) **TIMING.**—An owner of eligible low income housing shall submit to the Secretary a second notice of intent under this subsection in such form and manner as the Secretary shall prescribe. The owner shall submit the second notice not later than 6 months after receipt of the information from the Secretary under subsection (a).

"(2) **CONTENTS.**—A second notice of intent under this section shall state whether the owner desires to sell the project to the tenants pursuant to a plan approved by the Secretary, obtain incentives to enable the owner to maintain the project for lower and moderate income occupancy, sell the project to a nonprofit or other entity that will keep the housing affordable for lower and moderate income occupancy, or pay off the mortgage or voluntarily terminate the insurance.

"(3) **OTHER PARTIES.**—The owner, upon filing of second notice under this subsection

with the Secretary, shall simultaneously submit the second notice of intent under this subsection to the tenants of the housing, the mortgagee, and the chief executive officer of the State in which the housing is located or the local government for the jurisdiction in which the housing is located. An appropriate agency of the State or local government shall review the second notice of intent and advise the tenants of the housing of any assistance available to the tenants to carry out the purposes of this title.

"(4) **FAILURE TO SUBMIT SECOND NOTICE OF INTENT.**—

"(A) **EFFECT OF DEADLINE.**—Except as provided in subparagraph (B), to be eligible to prepay a mortgage on eligible low income housing (or terminate an insurance contract on such housing), an owner who does not submit a second notice of intent under this section within the applicable period under paragraph (1) shall resubmit an initial notice of intent under section 222(a) and comply with the provisions of this subtitle pursuant to such filing. The original initial notice of intent filed by the owner under section 222(a) (pursuant to which notice under this subsection was not timely submitted) shall be ineffective for purposes of this subtitle.

"(B) **WAIVER.**—The Secretary may, upon application by an owner who failed to timely submit a second notice of intent under this section, extend the period under paragraph (1) for submission of such notice by the owner for an additional period not to exceed 60 days.

"SEC. 224. INCENTIVES TO EXTEND LOW INCOME USE.

"(a) **APPRAISAL.**—Upon receiving initial notice of intent under section 222, the Secretary shall ascertain the value of the eligible low income housing on the basis of an independent appraisal, obtained by the Secretary, as follows:

"(1) **FAIR MARKET VALUE.**—The appraisal shall determine 2 fair market values of the housing, without regard to any future restrictions (resulting from the loan or mortgage on the property that qualifies the property as eligible low income housing) on the use or occupancy of the property or on the income of, or the rent charged, any future occupants of the housing, as follows:

"(A) One fair market value shall be the value of the housing based on the highest and best use of the property.

"(B) One fair market value shall be the value of the property based on the highest and best use of the property as residential rental housing.

"(2) **OWNER'S APPRAISAL.**—The owner of the housing may obtain an independent appraisal of the fair market values of the housing and, if the appraised values pursuant to this paragraph differ from the appraisal values obtained by the Secretary and the 2 appraisers fail to agree on the fair market values, the Secretary and the owner shall jointly select a third independent appraiser whose appraisal shall be binding on the Secretary and the owner.

"(b) **INCENTIVES.**—The Secretary shall offer, to any owner of eligible low income housing that makes binding commitments as required under subsection (d), the following incentives:

"(1) **INCREASED RENT.**—

"(A) **IN GENERAL.**—An increase in the rents for all units in the housing (including units assisted under a contract for project-based assistance under section 8 of the United

States Housing Act of 1937) to the lesser of—

"(i) the rent level necessary to provide a fair return on the housing to the owner, based on the fair market value of the housing determined under subsection (a)(1)(B); or

"(ii) 110 percent of the fair market rental for existing dwelling units in effect, from time to time, under such section 8 for the area in which the housing is located;

"(B) ADJUSTMENT.—With respect to any housing with a mortgage insured or otherwise assisted pursuant to section 236 of the National Housing Act, the provisions of subsections (f) and (g) of section 236 of such Act notwithstanding, the fair market rental charge for each unit in such housing may be increased in accordance with this paragraph, but the owner shall pay to the Secretary all rental charges collected in excess of the basic rental charges, in an amount not greater than the fair market rental charges as such charges would have been established under section 236(f) of such Act absent the requirements of this paragraph.

"(2) PROJECT-BASED CERTIFICATES.—Subject to the availability of amounts approved in appropriation Acts, project-based assistance attached to the housing under section 8(b) of the United States Housing Act of 1937 (with a contract term of the same duration as the remaining term of the mortgage on the housing) for any families or persons eligible for such assistance who are not at the time receiving project-based assistance under such section 8, to the extent necessary to enable the tenants of the housing to afford rents established pursuant to paragraph (1). Assistance under this paragraph shall be provided for the greater of—

"(A) the number of units in the project receiving assistance under section 8(b) of the United States Housing Act of 1937 on the tenancy determination date under subsection (g);

"(B) 30 percent of the units in the project; or

"(C) the number of units occupied by lower income tenants on the tenancy determination date under subsection (g).

"(3) CAPITAL IMPROVEMENTS FINANCING.—Financing of capital improvements under section 201 of the Housing and Community Development Amendments of 1978.

"(4) INCREASED TENANT CONTRIBUTIONS.—Subject to subsection (d)(5), authorization for the owner to increase the tenant contributions to rent for all very low-, lower, and moderate income tenants of the housing to 30 percent of the adjusted income of each such tenant.

"(5) EQUITY TAKE OUT.—Access by the owner to any accumulated equity in the housing, to the extent of amounts provided under a second mortgage loan insured pursuant to section 241(f) of the National Housing Act or through a conventional second mortgage loan approved by the Secretary.

"(6) EXTENSION OF SECTION 8 CONTRACTS.—Subject to the availability of amounts provided in appropriation Acts, extension of all existing contracts with respect to the housing under section 8 of the United States Housing Act of 1937 to the date on which the first mortgage on the housing matures.

"(7) DISTRIBUTIONS.—Removal of all restrictions on distributions to, or other expenditures by, the owner, to the extent of surplus cash (as defined by the Secretary).

"(8) WITHDRAWAL OF RESIDUAL RECEIPTS.—Authority for the owner to withdraw any residual receipts accumulated with respect to

the housing, to the extent that the housing is in sound physical condition and the reserve for replacement for the housing is adequately funded.

"(9) SERVICE COORDINATORS IN PROJECTS SERVING THE ELDERLY.—

"(A) INCENTIVE.—With respect to housing planned in whole or in part for occupancy by elderly families (which term, for purposes of this paragraph and paragraph (10), shall have the meaning given the term in section 202(d)(4) of the Housing Act of 1959) and notwithstanding any other provision of law, annual adjustments authorized under this paragraph to provide for the cost of employment of 1 or more persons as service coordinators for the housing.

"(B) ADJUSTMENT.—In determining the amount of assistance to be provided for such a housing project pursuant to section 8 of the United States Housing Act of 1937 and rent charges pursuant to such assistance, the Secretary may consider and annually adjust for the cost of employment of service coordinators for the housing who shall be responsible for—

"(i) acquiring and coordinating public and private resources sufficient to ensure that supportive services are available to residents of the housing who are frail elderly persons (which term, for purposes of this paragraph and paragraph (10), shall have the meaning given the term in section 202(d)(11) of the Housing Act of 1959);

"(ii) monitoring and evaluating the impact and effectiveness of any supportive services provided in the housing; and

"(iii) carrying out such other duties and functions that the Secretary determines are appropriate to enable frail elderly persons in the housing to live with dignity and independence.

"(c) STANDARDS.—The Secretary shall establish minimum qualifications and standards for service coordinators under this paragraph necessary, in the determination of the Secretary, to ensure sound management of the services. To be eligible for assistance and adjustments under this paragraph, a housing project shall have a demonstrated need for supportive services, according to criteria established by the Secretary.

"(10) RETROFIT AND RENOVATION.—Notwithstanding any other provision of law, authority to use amounts resulting from incentives under this subsection in housing planned in whole or in part for occupancy by elderly families for—

"(A) retrofitting individual dwelling units to meet the special physical needs of frail elderly residents or future residents;

"(B) renovation necessary to ensure that public and common areas are readily accessible to and usable by frail elderly residents;

"(C) renovation, conversion, or combination of vacant dwelling units to create congregate space to accommodate the provision of supportive services to frail elderly residents;

"(D) renovation of existing congregate space to accommodate the provision of services to frail elderly residents; and

"(E) construction or renovation of facilities to create conveniently located congregate space to accommodate the provision of supportive services to frail elderly residents.

For purposes of this paragraph, the term 'congregate space' includes space for cafeterias or dining halls, community rooms or buildings, workshops, adult day health facilities and other outpatient health facilities, and other facilities for essential services.

"(c) TIMING.—The Secretary shall make the incentives specified in subsection (b) available to the owner not later than the date on which the owner may prepay the mortgage or voluntarily terminate the insurance contract under section 222(b).

"(d) REQUIRED COMMITMENTS.—The Secretary may provide the incentives under subsection (b) only for housing for which binding commitments have been made by the owner to ensure that—

"(1) the housing will be retained as housing affordable for very low-income families or persons, lower income families or persons, and moderate income families or persons for the remaining term of the mortgage, to the extent that assistance under section 8 of the Housing Act of 1937 or other Federal, State, or local assistance is available to ensure that such families and persons shall not pay more than 30 percent of the adjusted income of such families and persons for rents established pursuant to section 224(b)(1);

"(2) throughout the remaining term of the mortgage, adequate expenditures will be made for maintenance and operation of the housing and that the project meets housing standards established by the Secretary under subsection (e), as determined by inspections conducted under such subsection by the Secretary;

"(3) current tenants will not be involuntarily displaced (except for good cause);

"(4) any increase in rent contributions for current tenants will be to a level that does not exceed 30 percent of the adjusted income of the tenant, except that the rent contributions of any tenants occupying the housing at the time of such increase may not be reduced by reason of this paragraph;

"(5) any resulting increase in rents for tenants occupying the housing at the time of any such increase (other than increases made necessary by increased operating costs)—

"(A) shall be accomplished by annual increases in equal amounts over a period of not less than 3 years, if such increase is 30 percent or more; and

"(B) shall not exceed more than 10 percent annually, if such increase is more than 10 percent but less than 30 percent;

"(6) to the extent that assistance under section 8 of the United States Housing Act of 1937 is made available to the owner, such assistance shall be provided, if necessary, to mitigate any adverse effect on current income-eligible tenants;

"(7) the number of units in the housing occupied by very-low and lower income families shall not be less than the number of units so occupied on the tenancy determination date under subsection (g), except that the requirements of this paragraph shall apply only to the extent that assistance under section 8 of the United States Housing Act of 1937 or other Federal, State, or local assistance is available for the housing to ensure that such families and persons shall not pay more than 30 percent of the adjusted income of such families and persons for rent; and

"(8) upon the expiration of the term of the mortgage and pursuant to notification by the Secretary of intent to provide for incentives or sale under this paragraph (which shall be made not later than the commencement of the 18-month period ending on the date of the expiration of the term of the mortgage), the owner shall elect to (notification of which election shall be made to the Secretary not later than 6 months after notification by the Secretary

of intent to take action under this paragraph) and shall—

"(A) sell the housing to the Secretary at a price equal to the fair market value determined by the appraisal method described in subsection (a)(1)(A) (or for such price to any public agency, nonprofit organization, for-profit organization, or other purchaser that is approved by the Secretary and agrees to maintain the housing as affordable for very low-, lower, and moderate income families and persons, in compliance with the requirements of this subsection, and in the condition required by the standards established under subsection (e), for a term that the Secretary, by regulation, shall establish); except that if the owner elects to sell the property under this subparagraph and the Secretary has not provided a buyer for the housing before the expiration of the term of the mortgage, the owner shall not be further subject to the provisions of this paragraph of subtitle; or

"(B) enter into a contract with the Secretary under which—

"(i) the owner shall agree to maintain the housing as affordable for very low-, lower, and moderate income families and persons, in compliance with the requirements of this subsection, and in the condition required by the standards established under subsection (e), for a 5-year period beginning upon the date of the expiration of the remaining term of the mortgage, which period may be extended for not more than 1 additional 5-year period at the discretion of the Secretary;

"(ii) the Secretary shall provide incentives under subsection (b) for the housing during the period under clause (i) (including any extension of such period) based on the fair market value of the housing determined under subsection (a)(1)(B); except that if the owner elects to enter into a contract under this subparagraph and the Secretary has not provided incentives under this clause before the expiration of the term of the mortgage, the owner shall not be further subject to the provisions of this paragraph or subtitle; and

"(iii) the Secretary may offer to provide incentives under subsection (b) for the housing for any period after the expiration of the period (and any extension) under clause (i) and the owner may accept or refuse such incentives in the discretion of the owner; except that if the owner accepts such incentives, the incentives may be provided for the housing only if the owner agrees to maintain the housing as affordable for very low-, lower, and moderate income families and persons, in compliance with the requirements of this subsection and in the condition required by the standards established under subsection (e) for a term of not less than 5 years that the Secretary, by regulation, shall establish.

"(e) HOUSING STANDARDS.—

"(1) ESTABLISHMENT AND INSPECTION.—The Secretary shall, by regulation, establish standard regarding the physical condition in which any eligible low income housing project receiving incentives under subsection (b)(2) shall be maintained. The Secretary shall inspect each such project not less than annually to ensure that the project is in compliance with such standards.

"(2) SANCTIONS.—

"(A) IN GENERAL.—The Secretary shall take any action appropriate to require the owner of any housing not in compliance with such standards to bring such housing into compliance with the standards, including—

"(i) directing the mortgagee, with respect to an equity take-out loan under section 241(f) of the National Housing Act, to withhold the disbursement to the owner of any escrowed loan proceeds and requiring that such proceeds be used for repair of the housing; and

"(ii) barring distribution or withdrawal of any amounts otherwise available pursuant to paragraphs (7) and (8) of subsection (b) for the period ending upon a determination by the Secretary that the project is in compliance with the standards and requiring that such amounts be used for repair.

"(B) CONTINUED COMPLIANCE.—To ensure continued compliance with the standards for a project subject to any action under subparagraph (A) the Secretary may also limit access of the owner to such amounts and of such amounts for not more than the 2-year period beginning upon the determination that project is in compliance with the standards.

"(C) REMOVAL OF ASSISTANCE.—If, upon inspection, the Secretary determines that any eligible low income housing project has failed to comply with the standards established under this subsection for 2 consecutive years, the Secretary may take 1 or more of the following actions:

"(i) subject to availability of amounts provided in appropriations Acts, provide assistance under sections 8(b) and 8(o) of the United States Housing Act of 1937 (other than project-based assistance attached to the housing) for any tenant eligible for such assistance who desires to terminate occupancy in the housing. For each unit in the housing vacated pursuant to the provisions of assistance under this clause, the Secretary may, notwithstanding any other law or contract for assistance, cancel the provision of project-based assistance attached to the housing for 1 dwelling unit, if the housing is receiving such assistance.

"(ii) In the case of housing for which an equity take-out loan has been made under section 241(f) of the National Housing Act, declare such loan to be default and accelerate the maturity date of the loan.

"(iii) Declare any rehabilitation loan insured or provided by the Secretary (with respect to the housing) to be in default and accelerate the maturity date of the loan.

"(iv) Suspend payments under or terminate any contract for project-based rental assistance under section 8 of the United States Housing Act of 1937.

"(v) Take any other action authorized by law or the project regulatory agreement to ensure that the housing will be brought into compliance with the standards established under this subsection.

"(f) REQUESTS FOR INCENTIVES BY PURCHASERS.—Any nonprofit organization or other prospective purchaser of eligible low income housing may request, from the Secretary, incentives under this section and such incentives shall be subject to the terms and conditions of section 226.

"(g) TENANCY DETERMINATION DATE.—For purposes of subsections (b)(2) and (d)(7), the tenancy determination date shall be as follows:

"(1) NEWER MORTGAGES.—For eligible low income housing for which the mortgage covering the housing was entered into on or after July 1, 1970, the date on which the initial notice of intent is filed by the owner under section 222 or January 1, 1990, whichever date provides for a greater proportion of units in the housing to be occupied by very low- and lower income families and persons pursuant to such subsections.

"(2) OLDER MORTGAGES.—For eligible low income housing for which the mortgage covering the housing was entered into before July 1, 1970, the date on which the initial notice of intent is filed by the owner under section 222 of January 1, 1987, whichever date provides for a greater proportion of units in the housing to be occupied by very low- and lower income families and persons pursuant to such subsections.

"SEC. 225. RESIDENT HOMEOWNERSHIP.

"(a) APPROVAL.—The Secretary may approve a resident homeownership program for any eligible low income housing if the program meets the requirements of this section and this subtitle.

"(b) RESIDENT COUNCIL.—If an owner has filed an initial notice of intent under section 222, the tenants of the housing may organize a resident council for the purpose of developing a resident homeownership program in accordance with standards established by the Secretary. The tenants shall notify the Secretary of their preliminary intent to form such a council not later than 30 days after the filing of the initial notice of intent. The resident council shall work with a public or private nonprofit organization or a public body (including an agency or instrumentality thereof) that has experience that will enable it to assist the tenants in considering their options and developing the capacity necessary to own and manage the housing (where appropriate) and that is approved by the Secretary.

"(c) REQUEST FOR ASSISTANCE.—

"(1) IN GENERAL.—If, within 6 months after the date that the Secretary provides information to tenants under section 223(a), residents of the project who comprise at least 50 percent of the units in the project indicate a desire to negotiate with the owner to purchase the project, the resident council may file a plan of action (within such period) for the homeownership program, providing such information as the Secretary shall require, and apply to the Secretary, on behalf of the residents, for assistance under this section. The Secretary may establish a different standard for determining sufficient tenant interest, where appropriate, taking into account such factors as the number of vacant units in the project, the strength of commitment of the tenants, and the ability of the resident council.

"(d) GRANT ASSISTANCE.—

"(1) AMOUNT.—The Secretary may provide assistance in the form of a grant for the homeownership program for each unit in the housing in an amount, as determined by the Secretary, not greater than the present value of the sum of the projected published fair market rents for existing housing established by the Secretary under section 8(c) of the United States Housing Act of 1937 for the 10-year period beginning upon the date of the filing of the application under subsection (c).

"(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary for grants under this subsection.

"(e) ELIGIBLE ACTIVITIES.—As approved by the Secretary, assistance provided under subsection (d) may be used for the cost of acquisition of the housing from the owner, rehabilitation of the housing, operating and replacement reserves, training for the resident council, homeownership counseling and training, fees for the nonprofit entity or public body working with the resident council, and costs related to relocation of tenants who elect to move. The amount used for ac-

quisition of the housing from the owner may not exceed the sum of the fair market value established by the appraisal process under section 224(a)(1)(A) and the cost of any appraisal under this title paid for by the owner.

"(f) CONDITIONS ON ACQUISITION.—

"(1) APPROVAL OF METHOD OF CONVERSION.—The Secretary shall provide for the approval by the Secretary of the method for converting the housing to homeownership, which may involve acquisition of ownership interests in, or shares representing, the units in a project under any arrangement determined by the Secretary to be appropriate, such as cooperative ownership (including limited equity cooperative ownership) and fee simple ownership (including condominium ownership).

"(2) REQUIRED CONDITIONS.—The Secretary shall require that the form of homeownership impose appropriate conditions, including conditions to assure that—

"(A) the number of initial owners that are very low-income, lower income, or moderate income persons upon initial occupancy meet standards required or approved by the Secretary;

"(B) occupancy charges payable by the owners meet requirements established by the Secretary;

"(C) the aggregate incomes of initial and subsequent owners and other sources of funds for the housing are sufficient to permit occupancy charges to cover the full operating costs of the housing and any debt service; and

"(D) each initial owner occupies the unit such owner acquires.

"(3) USE OF PROCEEDS FROM SALES TO ELIGIBLE FAMILIES.—The entity that transfers ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, may use 50 percent of the proceeds, if any, from the initial sale for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project, and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under this section, subject to approval in appropriations Acts.

"(4) RESTRICTIONS ON RESALE BY HOMEOWNERS.—

"(A) AUTHORITY FOR RESALE.—A homeowner under a homeownership program may transfer the homeowner's ownership interest in, or shares representing, the unit.

"(B) LIMITATION ON UNDUE PROFIT.—If the sale of a unit to a subsequent purchaser occurs before the expiration of the 5-year period beginning upon the acquisition of the ownership interest in the unit by the homeowner assisted by the homeownership program and is for less than market value, the homeownership program shall provide for appropriate restrictions to ensure that an eligible family may not receive any undue profit. Such restrictions may provide for—

"(i) authorizing the family to retain a portion of the net proceeds of the sale on a sliding scale over a 5-year period;

"(ii) execution by the initial purchaser of a promissory note equal to the difference between the market value and the purchase price, payable to the recipient or other entity designated in the homeownership plan, together with a mortgage securing the obligation of the note; or

"(iii) any other appropriate arrangement that the Secretary, by regulation, deter-

mines is adequate to prevent undue profit for a period not exceeding 5 years.

"(C) USE OF UNDUE PROFIT.—50 percent of any portion of the net sales proceeds that may not be retained by the homeowner pursuant to subparagraph (B) shall be paid to the entity that transferred ownership interests in, or shares representing, units to eligible families, or another entity specified in the approved application, for use for costs of the homeownership program, including improvements to the project, operating and replacement reserves for the project, additional homeownership opportunities in the project, and other project-related activities approved by the Secretary. The remaining 50 percent of such proceeds shall be returned to the Secretary for use under this section, subject to approval in appropriations Acts.

"(5) PROTECTION OF NONPURCHASING FAMILIES.—

"(A) EVICTION PROTECTION.—No tenant residing in a dwelling unit in a property on the date the Secretary approves a homeownership plan for the property may be evicted by reason of a homeownership program approved under this subtitle.

"(B) NOTICE OF SECTION 8 ASSISTANCE.—The resident council shall inform each such tenant that if the tenant decides not to purchase a unit, or is not qualified to do so, the council will request the public housing agency to offer section 8 assistance to each otherwise qualified tenant, for use in that or another property. The requirements for giving preference to certain categories of eligible families under sections 8(d)(1)(A) and 8(o)(3) of the United States Housing Act of 1937 shall not apply to the provision of assistance to such families.

"(C) NOTICE OF RELOCATION ASSISTANCE.—The resident council shall also inform each such tenant that if the tenant chooses to move, relocation assistance will be provided in accordance with the approved homeownership program.

"(6) APPLICABILITY OF LOW INCOME AFFORDABILITY RESTRICTIONS.—Any entity that assumes, as determined by the Secretary, a mortgage covering low income housing in connection with the acquisition of the housing from an owner under this section must comply with any low income affordability restrictions for the remaining term of the mortgage. This requirement shall only apply to an entity, such as a cooperative association, that, as determined by the Secretary, intends to own the housing on a permanent basis.

"(g) APPROVAL OF HOMEOWNERSHIP PLAN.—If the Secretary determines that the plan of action submitted by the resident homeownership program meets the requirements of this section and subtitle and has been accepted by the owner, the Secretary shall approve the plan of action.

"SEC. 226. OPPORTUNITIES FOR PURCHASE BY OTHERS TO EXTEND LOW INCOME USE.

"(a) INCENTIVES.—The Secretary shall ascertain the value, under section 224(a)(1)(A), of any eligible low income housing for which a request for incentives is made under section 224 by any nonprofit organization or other prospective purchaser. The Secretary shall provide incentives under section 224 to any purchasing nonprofit organization or other purchaser, that agrees to comply with the requirements of section 224, except that for purposes of the increased rent incentive under section 224(b)(1), the fair market value used under section 224(b)(1)(A)(i) to determine the rent

level necessary to provide a fair return on the housing shall be the fair market value of the housing determined under section 224(a)(1)(A).

"(b) RIGHT OF FIRST REFUSAL.—

"(1) LIMITATION ON SALE.—With respect to any eligible low-income housing for which an owner has submitted a second notice of intent under section 223(b) stating an intent not to obtain incentives under section 224, the owner of such housing, during the first-refusal period under paragraph (4), may offer to sell and may sell the housing only to nonprofit organizations, public agencies, resident councils, and other purchasers as provided under this subsection.

"(2) PRICE AND RESTRICTIONS FOR MANDATORY SALE.—

"(A) GENERAL RULE.—If upon the expiration of the first-refusal period the Secretary finds that any nonprofit organization, public agency, resident council, or other purchaser has during such period made (A) a bona fide offer to purchase the housing for a sale price not less than the amount equal to the value of the housing as determined under section 224(a)(1)(A), and (B) binding commitments to comply with the provisions of section 224(d) for the remaining useful life of the housing, the Secretary shall require the owner to sell the housing pursuant to such offer.

"(B) SELECTION OF PURCHASERS.—The Secretary shall, by regulation, establish criteria for selecting a purchaser under this paragraph for housing for which more than 1 nonprofit organization, public agency, resident council, or other purchaser has made a bona fide offer under subparagraph (A).

"(C) TRANSFER BY SECRETARY.—

"(i) An owner of eligible low income housing may fulfill the requirement under subparagraph (A) to sell such housing as provided under this subparagraph.

"(ii) If an owner required to sell housing under subparagraph (A) refuses to sell the housing, the Secretary shall, in the name of the United States and prior to the approval of title by the Attorney General, acquire, enter upon, and take possession of such housing by purchase, donation, condemnation, or otherwise, in accordance with the laws of the United States (including the Act of February 26, 1931 (46 Stat. 1421)).

"(iii) The Secretary shall provide, by proper deed executed in the name of the United States, for the conveyance of the housing to the nonprofit organization, public agency, resident council, or other purchaser that has fulfilled the requirements of subparagraph (A) and been selected by the Secretary to purchase the housing. Such conveyance shall take effect simultaneously with the Secretary taking possession of the housing under clause (ii).

"(iv) The Secretary shall provide for the transfer to the owner, by the purchaser of the housing, of an amount equal to the amount of the bona fide offer made by the purchaser under subparagraph (A), which shall be considered just compensation to the owner for purposes of purchase, donation, or condemnation under this subparagraph. Such transfer shall comply with any provisions of law applicable to purchase, donation, condemnation, or other procedure taken by the Secretary under this subparagraph.

"(v) The Secretary shall also provide for the equitable distribution between the owner and purchaser of any other costs incurred in such transaction.

"(3) FIRST-REFUSAL PERIOD.—For purposes of this subsection, the term 'first-refusal

period' means, with respect to any eligible low income housing, the 6-month period beginning upon the filing by the owner of a second notice of intent under section 223(b) for the housing.

"(4) INCENTIVES.—The Secretary shall provide incentives pursuant to subsection (a) to any purchaser under this subsection.

"(5) SUBSEQUENT SALE.—If, upon expiration of the first-refusal period, the housing has not been sold under this subsection, the owner may offer to sell and may sell the housing to any purchaser.

"(c) GRANTS.—The Secretary may make grants to assist in completion of sales and transfers to nonprofit organizations pursuant to this section. There is authorized to be appropriated \$200,000,000 for grants under this subsection for fiscal year 1991.

"SEC. 227. ASSISTANCE FOR DISPLACED TENANTS.

"(a) AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under the certificate and voucher programs under sections 8(b) and 8(o) of such Act is authorized to be increased by \$250,000,000 on or after October 1, 1990, and by \$250,000,000 on or after October 1, 1991.

"(b) USE OF FUNDS.—The amounts made available under this section may be used only for assistance payments for lower income families that have been displaced as a result of the prepayment of the mortgage or voluntary termination of an insurance contract on eligible low income housing.

"(c) RELOCATION ASSISTANCE.—The Secretary shall provide assistance to any very low-, lower-, or moderate income family displaced from eligible low income housing as the result of the prepayment of the mortgage on such housing. Such assistance shall include the provision of moving expenses in the same manner and amount provided under section 202 of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970. At the discretion of the Secretary, the Secretary may require the owner of such housing to pay at least 50 percent of the moving expenses under this subsection.

"(d) MAINTENANCE OF OCCUPANCY.—

"(1) IN GENERAL.—With respect to any housing located in a low-vacancy area (as such term is defined by the Secretary) for which the owner prepaies the mortgage, the Secretary shall require the owner to allow the tenants occupying their units on the date of the initial notice of intent under section 222 to remain in the housing, at rent levels (except for increases necessary for increased operating costs) existing at the time of prepayment, for a period not to exceed 3 years.

"(2) PROVISION OF ASSISTANCE BY OWNER.—In any case in which the Secretary requires an owner to allow tenants to occupy units under paragraph (1), an owner may fulfill the requirements of such paragraph by providing such assistance necessary for the tenant to rent a decent, safe, and sanitary unit in another project for the same period and at a rental cost to the tenant not in excess of the rental amount the tenant would have been required to pay in the housing of the owner, except that the tenant must freely agree to waive the right to occupy the unit in the owner's housing.

"(e) REGIONAL POOLS.—In providing assistance under this section, the Secretary shall allocate the assistance on a regional basis through the regional offices of the Department of Housing and Urban Development. The Secretary shall allocate assistance

under this section in a manner so that the total number of assisted units in each such region available for occupancy by, and affordable to, lower income families and persons does not decrease because of the prepayment or payment of a mortgage on eligible low income housing or the termination of an insurance contract on such housing.

"SEC. 228. DEFINITIONS.

"For purposes of this subtitle:

"(1) The term 'eligible low income housing' means any housing financed by a loan or mortgage—

"(A) that is—

"(i) insured or held by the Secretary under section 221(d)(3) of the National Housing Act and assisted under section 101 of the Housing and Urban Development Act of 1965 or section 8 of the United States Housing Act of 1937;

"(ii) insured or held by the Secretary and bears interest at a rate determined under the proviso of section 221(d)(5) of the National Housing Act;

"(iii) insured, assisted, or held by the Secretary or a State or State agency under section 236 of the National Housing Act; or

"(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

"(B) that, under regulation or contract in effect before the date of the enactment of this Act, is, or will within 24 months become eligible for prepayment without prior approval of the Secretary.

"(2) The term 'low income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low income housing.

"(3) The terms 'lower income families or persons' and 'very low-income families or persons' means families or persons whose incomes do not exceed the respective levels established for lower income families and very low-income families under section 3(b)(2) of the United States Housing Act of 1937.

"(4) The term 'moderate income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 and 95 percent of the median for the area on the basis of the Secretary's finding that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

"(5) The term 'nonprofit organization' means a private organization (including a limited equity co-operative)—

"(A) no part of the net earnings of which inures to the benefit of any member, shareholder, founder, contributor, or individual; and

"(B) that is approved by the Secretary as to financial responsibility.

"(6) The term 'owner' means the current or subsequent owner or owners of eligible low income housing.

"(7) The term 'Secretary' means the Secretary of Housing and Urban Development.

"SEC. 229. REGULATIONS.

"The Secretary shall issue final regulations to carry out this subtitle not later than 60 days after the date of the enactment of the Housing and Community Development Act of 1990. The Secretary shall provide for the regulations to take effect not later than 45 days after the date on which the regulations are issued.

"SEC. 230. PREEMPTION OF STATE AND LOCAL LAWS.

"(a) IN GENERAL.—No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that—

"(1) limits or prohibits the prepayment of any mortgage described in section 228(1) (or the voluntary termination of any insurance contract pursuant to section 229 of the National Housing Act) on eligible low income housing;

"(2) is inconsistent with any provision of this subtitle, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subtitle (including authorization to increase rental rates, receive unrestricted distributions, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

"(3) in its applicability to eligible low income housing is limited to only such housing for which the owner has prepaid the mortgage or terminated the insurance contract.

Any law, regulation, or restriction described under paragraph (1), (2), or (3) shall be ineffective and any eligible low income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

"(b) CONSTRUCTION.—This section may not be construed to prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subtitle and relating to building standards, zoning limitations, health, safety, or habitability standards for housing, or rent control, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section may not be construed to preempt, annual, or alter any contractual restrictions or obligations existing before the date of the enactment of the Housing and Community Development Act of 1990 that prevent or limit an owner of eligible low income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

"SEC. 231. EFFECTIVE DATE AND APPLICABILITY.

"(a) EFFECTIVE DATE.—The requirements of this subtitle shall apply to any project that is eligible low income housing on or after November 1, 1987."

"(b) CONFORMING AMENDMENTS.—The table of contents in section 1(b) of the Housing and Community Development Act of 1987 is amended—

(1) by striking the item relating to section 203; and

(2) by striking the items relating to sections 221 through 235 and inserting the following new items:

"Sec. 221. General prepayment limitation and notice of eligible housing.

"Sec. 222. Initial notice of intent.

"Sec. 223. Information from Secretary and second notice of intent.

"Sec. 224. Incentives to extend low income use.

"Sec. 225. Resident homeownership.

"Sec. 226. Opportunities for purchase by others to extend low income use.

"Sec. 227. Assistance for displaced tenants.

"Sec. 228. Definitions.

"Sec. 229. Regulations.

"Sec. 230. Preemption of State and local laws.

"Sec. 231. Applicability."

SEC. 803. INSURANCE FOR SECOND MORTGAGE FINANCING.

Section 241(f) of the National Housing Act is amended to read as follows:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans made by financial institutions approved by the Secretary. For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 228 of the Emergency Low Income Housing Preservation Act of 1987) that is made for the purpose of providing an incentive for nonprepayment of the mortgage of eligible low income housing.

"(2) To be eligible for insurance under this subsection, an equity loan shall—

"(A) be limited to an amount equal to the lesser of 80 percent of the value of the equity in the project, as determined by the Secretary, or the amount the Secretary determines can be borne by the project on the basis of project rents being increased to the level provided in section 224(b)(1) of the Emergency Low Income Housing Preservation Act of 1987, except that for purposes of determining such equity value for housing purchased pursuant to section 226 of such Act, the increased rent levels shall be determined under section 224(b)(1) but the fair market value under section 224(a)(1)(A) shall be used in the determination under clause (i) of section 224(b)(1)(A);

"(B) have a maturity and provisions for amortization satisfactory to the Secretary, bear interest at such rate as may be agreed upon by the mortgagor and mortgagee, and be secured in such manner as the Secretary may require;

"(C) provide for the lender to deposit 10 percent of the loan amount in an escrow account, on behalf of the borrowing owner, which shall be available to the owner upon the expiration of the 5-year period beginning on the date the loan is made; and

"(D) contain such other terms, conditions, and restrictions as the Secretary may prescribe, including phased advances of equity loan proceeds to reflect project rent levels.

"(3) A public entity, qualified nonprofit organization or limited equity tenant cooperative corporation, when purchasing an otherwise eligible project, may constitute an owner of eligible low income housing for purposes of receiving a loan insured under this subsection.

"(4) The provisions of subsections (d), (e), (g), (h), (i), (j), (k), (l), and (n) of section 207 shall be applicable to loans insured under this section, except that—

"(A) all references to the term 'mortgage' shall be construed to refer to the term 'loan' as used in this subsection;

"(B) loans involving projects covered by a mortgage insured under section 236 shall be insured under and shall be the obligations of the Special Risk Insurance Fund; and

"(C) with respect to any sale under foreclosure of a mortgage on the project that is senior to the equity loan insured under this subsection and when the equity loan is secured by a mortgage, the Secretary may—

"(i) issue regulations providing that, in order to receive insurance benefits, the insured mortgagee shall either assign the equity loan to the Secretary or bid the amount necessary to acquire the project and

convey title to the project to the Secretary, in which case the insurance benefits paid by the Secretary shall include the amount bid by the mortgagee to satisfy the senior mortgage at the foreclosure sale; and

"(ii) if the equity loan has been assigned to the Secretary, bid, in addition to amounts authorized under section 207(k), any sum not in excess of the total unpaid indebtedness secured by such senior mortgage and the equity loan, plus taxes, insurance, foreclosure costs, fees, and other expenses."

Subtitle B—Other Homeless Prevention Programs

SEC. 811. PROGRAM AUTHORIZATIONS.

Section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437(c)) is amended—

(1) by redesignating paragraph (8) as paragraph (9); and

(2) inserting after paragraph (7) the following new paragraph:

"(8)(A) Using \$3,309,962,322 of the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1990, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8 for property disposition, not more than \$313,607,679;

"(ii) for assistance under section 8 for loan management, not more than \$141,265,895;

"(iii) for extensions of contracts expiring under section 8, not more than \$1,075,053,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(iv) for amendments to contracts under section 8, not more than \$1,578,213,263; and

"(v) for public housing lease adjustments and amendments, not more than \$201,822,485.

"(B) Using \$10,265,850,000 of the additional budget authority provided under paragraph (6) and the balances of budget authority that become available during fiscal year 1991, the Secretary shall, to the extent approved in appropriations Acts, reserve authority to enter into obligations aggregating—

"(i) for assistance under section 8 for property disposition, not more than \$523,720,000;

"(ii) for assistance under section 8 for loan management, not more than \$179,430,000;

"(iii) for extensions of contracts expiring under section 8, not more than \$7,735,000,000 which shall be for 5-year contracts for certificates under section 8(b)(1) and vouchers under section 8(o), and for assistance under section 8 for loan management;

"(iv) for amendments to contracts under section 8, not more than \$1,620,473,000; and

"(v) for public housing lease adjustments and amendments, not more than \$207,227,000."

SEC. 812. SECTION 8 AND PUBLIC HOUSING ASSISTANCE FOR SUBSTANDARD HOUSING.

(A) SECTION 8.—Section 8(d)(1)(A)(i) of the United States Housing Act of 1937 (42 U.S.C. 1437(d)(1)(A)(i)), as amended by section 518 of this Act, is further amended by inserting after "family" the first place it appears (as added by such section) the following: ", and families that are homeless, living in transitional housing for homeless families, or living in a shelter for homeless families".

(b) PUBLIC HOUSING.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)), as amended by section 518 of this Act, is further amended by inserting after "family" the first place it appears (as added by such section) the following: ", and families that are homeless, living in transitional housing for homeless families, or living in a shelter for homeless families".

SEC. 813. DEFINITION OF OWNER.

Section 8(f)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(f)(1)), as amended by the preceding provisions of this Act, is further amended by inserting before the semicolon at the end the following: ", and such term shall include any principals, general partners, primary shareholders, and other similar participants in any entity owning a multifamily housing project (as such term is defined in subsection (t)(2)), as well as the entity itself.

SEC. 814. FUNDING FOR THE REHABILITATION OF STATE AND LOCAL GOVERNMENT IN REM PROPERTIES.

(a) GENERAL AUTHORITY.—Section 103 of the Housing Community Development Act of 1974 (42 U.S.C. 5303) is amended—

(1) by inserting after the section designation the following: "(a) IN GENERAL.—"; and

(2) by adding at the end the following new subsection:

"(b) ADDITIONAL ASSISTANCE FOR THE HOMELESS.—In addition to the amounts authorized in subsection (a), there is authorized to be appropriated for grants under section 106 \$30,000,000 for fiscal year 1991. Amounts provided under this subsection may only be used to make grants to States and units of general local government converting in rem properties to provide affordable permanent housing units for the homeless (as defined in section 103 of the Stewart B. McKinney Homeless Assistance Act). The total cost of rehabilitation that may be funded by a grant under this subsection shall not exceed \$10,000 per unit. The States and units of general local government receiving grants under this subsection may lease the properties to nonprofit organizations and permit such organizations to rehabilitate as in rem property with funds provided under this subsection."

(b) REQUIREMENT OF ADOPTION OF ORDINANCES AND PROCEDURES.—Section 104(b) of the Housing Community Development Act of 1974 (42 U.S.C. 5304(b)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following new paragraph:

"(6) the grantee has adopted the necessary ordinances and administrative procedures to ensure that vacant properties that are taken through in rem proceedings, held by the grantee, and suitable for housing, are conveyed to public or private nonprofit agencies that—

"(A) serve the homeless (as defined in section 103 of the Stewart B. McKinney Homeless Assistance Act); and

"(B) can demonstrate a sound plan for rehabilitating (if necessary) and operating such properties for the purpose of providing permanent decent and affordable housing units; and"

SEC. 815. USE OF FUNDS RECAPTURED FROM REFINANCING LOCAL GOVERNMENT FINANCIAL PROJECTS.

(a) IN GENERAL.—Section 1012(a) of the Stewart B. McKinney Homeless Assistance

Amendments Act of 1988 (42 U.S.C. 1437f note) is amended by inserting "or local government" after "State" the first place it appears.

(b) CONFORMING AMENDMENTS.—The Stewart B. McKinney Homeless Assistance Amendments Act of 1988 is amended—

(1) in the section heading for section 1012, by inserting "AND LOCAL GOVERNMENT" after "STATE"; and

(2) in the table of contents in section 1(b), by striking the item relating to section 1012 and inserting the following new item:

"Sec. 1012. Use of funds recaptured from refinancing State and local government finance projects."

SEC. 816. ASSISTANCE TO PREVENT PREPAYMENT UNDER STATE MORTGAGE PROGRAMS.

(a) SECTION 8 ASSISTANCE.—

(1) AUTHORITY.—Section 8(d)(2)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(A)), as amended by the preceding provisions of this Act, is further amended by inserting after the period at the end the following: "Notwithstanding any other provision of this section, a public housing agency and an applicable State agency may, on a priority basis, attach to structures not more than an additional 15 percent of the assistance provided by the public housing agency or the applicable State agency only with respect to projects assisted under a State program that permits the owner of the projects to prepay a State assisted or subsidized mortgage on the structure, except that attachment of assistance under this sentence shall be for the purpose of (i) providing incentives to owners to preserve such projects for occupancy by lower and moderate income families (for the period that assistance under this sentence is available), and (ii) to assist lower income tenants to afford any increases in rent that may be required to induce the owner to maintain occupancy in the project by lower and moderate income tenants. Any assistance provided to lower income tenants under the preceding sentence shall not be considered for purposes of the limitation under paragraph (1)(A) regarding the percentage of families that may receive assistance under this section who do not qualify for preferences under such paragraph."

(2) CONTRACT TERM.—Section 8(d)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)(C)) is amended by inserting after the period at the end the following: "Notwithstanding the preceding sentence, to the extent assistance is used as provided in the penultimate sentence of subparagraph (A), the contract for assistance may, at the option of the public housing agency, have an initial term not exceeding 15 years."

(b) STATE PRESERVATION PROJECT ASSISTANCE.—

(1) IN GENERAL.—Upon application by a State or local housing authority (including public housing agencies), the Secretary of Housing and Urban Development may make available, from sources of assistance appropriated to preserve the low and moderate income status of projects with expiring Federal use restrictions, assistance to such State or local housing authorities for use in preventing the loss of housing affordable for low and moderate income families that is assisted under a State program under the terms of which the owner may prepay a State assisted or subsidized mortgage on such housing. The application of the State or local housing authority shall demonstrate to the Secretary that the total

amount of incentives provided to the owner to induce the owner to preserve the low and moderate income status of the project shall not exceed the level of incentives which may be provided to a similarly situated project with expiring Federal Use Restrictions under Subtitle B of Title II of the Housing and Community Development Act of 1987.

(2) SECTION 8.—Any assistance under section 8 of the United States Housing Act of 1937 made available pursuant to this subsection may be used (i) to supplement any assistance available on existing section 8 contracts, or (ii) to provide additional assistance to structures to ensure that all units occupied by tenants who are lower income families (as such term is defined in section 3(b) of the United States Housing Act of 1937) pay rents not exceeding 30 percent of their adjusted incomes. Any project receiving assistance hereunder shall be subject to standards, inspections and sanctions established by the Secretary under Section 223(e) of Subtitle B of Title II of the Housing and Community Development Act of 1987. Any such section 8 assistance shall be provided for a term and at the fair market rent levels or such higher levels used as applicable for eligible low income housing that receives incentives under subtitle B of title II of the Housing and Community Development Act of 1987.

(3) RESTRICTION.—Assistance may be provided under this subsection only to State and local housing authorities that require any housing receiving such assistance to remain affordable for lower and moderate income tenants for the period during which assistance under this subsection is received.

SEC. 817. PREFERENCE IN HOUSING OPPORTUNITY ZONE DESIGNATIONS FOR STATES LIMITING LIABILITY REGARDING FOOD DONATIONS FOR HOMELESS SHELTERS AND PROVIDERS.

(a) PREFERENCE.—In selecting applications for designation of housing opportunity zones under section 364 of this Act, the Secretary shall give preference to any application for a zone located in a State that has in effect a law that provides the following:

(1) LIABILITY FOR DAMAGES FROM DONATED FOOD AND GROCERY PRODUCTS.—A person or gleaner shall not be subject to civil or criminal liability arising from the nature, age, packaging, or condition of apparently wholesome food or an apparently fit grocery product that the person or gleaner donates in good faith to a nonprofit organization for ultimate distribution to needy individuals, except that this paragraph shall not apply to an injury to or death of an ultimate user or recipient of the food or grocery product that results from an act or omission of the donor constituting gross negligence or intentional misconduct.

(2) COLLECTION OR GLEANING OF DONATIONS.—A person who allows the collection or gleaning of donations on property owned or occupied by the person by gleaners, or paid or unpaid representatives of a nonprofit organization, for ultimate distribution to needy individuals shall not be subject to civil or criminal liability that arises due to the injury or death of the gleaner or representative, except that this paragraph shall not apply to an injury or death that results from an act or omission of the person constituting gross negligence or intentional misconduct.

(3) PARTIAL COMPLIANCE.—If some or all of the donated food and grocery products do not meet all quality and labeling standards imposed by Federal, State, and local laws and regulations, the person or gleaner who

donates the food and grocery products shall not be subject to civil or criminal liability in accordance with this subsection if the nonprofit organization that receives the donated food or grocery products—

(A) is informed by the donor of the distressed or defective condition of the donated food or grocery products;

(B) agrees to recondition the donated food or grocery products to comply with all the quality and labeling standards prior to distribution; and

(C) is knowledgeable of the standards to properly recondition the donated food or grocery product.

(b) DEFINITIONS.—As used in this section:

(1) APPARENTLY FIT GROCERY PRODUCT.—The term "apparently fit grocery product" means a grocery product that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the product may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other condition.

(2) APPARENTLY WHOLESOME FOOD.—The term "apparently wholesome food" means food that meets all quality and labeling standards imposed by Federal, State, and local laws and regulations even though the food may not be readily marketable due to appearance, age, freshness, grade, size, surplus, or other condition.

(3) DONATE.—The term "donate" means to give without requiring anything of monetary value from the recipient, except that the term shall include giving by a nonprofit organization to another nonprofit organization, notwithstanding that the donor organization has charged a nominal fee to the donee organization, if the ultimate recipient or user is not required to give anything of monetary value.

(4) FOOD.—The term "food" means any raw, cooked, processed, or prepared edible substance, ice, beverage, or ingredient used or intended for use in whole or in part for human consumption.

(5) GLEANER.—The term "gleaner" means a person who harvests for free distribution to the needy, or for donation to a nonprofit organization for ultimate distribution to the needy, an agricultural crop that has been donated by the owner.

(6) GROCERY PRODUCT.—The term "grocery product" means a nonfood grocery product, including a disposable paper or plastic product, household cleaning product, laundry detergent, cleaning product, or miscellaneous household item.

(7) GROSS NEGLIGENCE.—The term "gross negligence" means voluntary and conscious conduct by a person with knowledge (at the time of the conduct) that the conduct is likely to be harmful to the health or well-being of another person.

(8) INTENTIONAL MISCONDUCT.—The term "intentional misconduct" means conduct by a person with knowledge (at the time of the conduct) that the conduct is harmful to the health or well-being of another person.

(9) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means an incorporated or unincorporated entity that—

(A) is operating for religious, charitable, or educational purposes; and

(B) does not provide net earnings to, or operate in any other manner than inures to the benefit of, any officer, employee, or shareholder of the entity.

(10) PERSON.—The term "person" means an individual, corporation, partnership, organization, association, or governmental entity, including a retail grocer, wholesaler,

hotel, motel, manufacturer, restaurant, caterer, farmer, and nonprofit food distributor or hospital. In the case of a corporation, partnership, organization, association, or governmental entity, the term includes an officer, director, partner, deacon, trustee, council member, or other elected or appointed individual responsible for the governance of the entity.

(c) CONSTRUCTION.—This section shall not be construed to create any liability.

SEC. 818. CONSULTATION AND REPORT REGARDING USE OF NATIONAL GUARD FACILITIES AS OVERNIGHT SHELTERS FOR HOMELESS INDIVIDUALS.

(a) USE OF AVAILABLE SPACE AT NATIONAL GUARD FACILITIES.—The Secretary of Housing and Urban Development shall consult with the chief executive officers of the States and the Secretary of Defense to determine the availability of space at National Guard facilities for use by homeless organizations in providing overnight shelter for homeless persons and families. The Secretary of Housing and Urban Development shall determine the availability of only such space that can be used for shelter purposes during periods it is not actively being used for National Guard purposes. The Secretary of Housing and Urban Development shall also determine the availability of incidental services at such facilities, including utilities, bedding, security, transportation, renovation of facilities, minor repairs undertaken specifically to make available space in a facility suitable for use as an overnight shelter for homeless individuals, and property liability insurance.

(b) LIMITATIONS.—In consultations under this section, the Secretary of Housing and Urban Development shall determine—

(1) the number and capacity of such facilities that may be made available for shelters for homeless persons and families without adversely affecting the military or emergency service preparedness of the State or the United States; and

(2) whether any available space is suitable for use as an overnight shelter for homeless individuals or can, with minor repairs, be made suitable for that use.

(c) REPORT.—The Secretary of Housing and Urban Development shall submit to the Congress, not later than the expiration of the 1-year period beginning on the date of the enactment of this Act, a report regarding the consultations and determinations made by the Secretary under this section. The report shall include any recommendations of the Secretary regarding the need for, and feasibility of, using National Guard facilities for homeless shelters and any recommendations of the Secretary for administrative or legislative action to provide for such use.

Subtitle C—Homelessness Prevention for Individuals With AIDS

SEC. 831. SHORT TITLE.

This subtitle may be cited as the "AIDS Housing Opportunity Act".

SEC. 832. DEFINITIONS.

For purposes of this subtitle:

(1) The term "acquired immunodeficiency syndrome and related diseases" means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

(2) The term "lower-income individual" means any individual or family whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller

and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

(3) The term "Secretary" means the Secretary of Housing and Urban Development.

PART 1—GRANTS FOR AIDS HOUSING INFORMATION AND COORDINATION SERVICES

SEC. 841. AUTHORITY AND USE OF GRANTS.

(a) AUTHORITY.—The Secretary of Housing and Urban Development may make grants under this part to organizations and agencies eligible under section 842 for the delivery of housing information services to individuals with acquired immunodeficiency syndrome or related diseases and for coordination of efforts to expand housing assistance resources for such individuals.

(b) USE OF GRANTS.—Amounts received from grants under this part may only be used for the following activities:

(1) HOUSING INFORMATION SERVICES.—To provide (or contract to provide) counseling, information, and referral services to assist individuals with acquired immunodeficiency syndrome or related diseases to locate, acquire, finance, and maintain housing and meet their housing needs.

(2) RESOURCE IDENTIFICATION.—To identify, coordinate, and develop housing assistance resources (including conducting preliminary research and making expenditures necessary to determine the feasibility of specific housing-related initiatives) for individuals with acquired immunodeficiency syndrome or related diseases.

(c) PROHIBITION OF SUBSTITUTION OF FUNDS.—Amounts received from grants under this part may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this part.

SEC. 842. ELIGIBILITY.

To be eligible for a grant under this part, an applicant for a grant under section 843 shall meet both of the following requirements:

(1) PUBLIC OR NONPROFIT.—The applicant shall be a public or nonprofit organization or agency.

(2) CAPABILITY.—The applicant shall have, in the determination of the Secretary, the capacity and capability to effectively administer a grant under this part.

SEC. 843. APPLICATIONS.

(a) IN GENERAL.—The Secretary shall establish procedures and requirements to apply to receive grants under this part, which shall include requiring each applicant to enter into agreements with the Secretary, as the Secretary shall require, as follows:

(1) COOPERATION.—The applicant shall agree that the applicant will cooperate and coordinate in providing assistance under this part with the agencies of the relevant State and local governments responsible for services in the area served by the applicant for individuals with acquired immunodeficiency syndrome or related diseases and other public and private organizations and agencies providing services for such individuals.

(2) NO FEE.—The applicant shall agree that no fee will be charged of any lower-income individual for any services provided with amounts from a grant under this part and that if fees are charged of any other individuals, the fees will be based on the income and resources of the individual.

(3) CONFIDENTIALITY.—The applicant shall agree to ensure the confidentiality of the name of any individual assisted with amounts from a grant under this part and any other information regarding individuals receiving such assistance.

(4) FINANCIAL RECORDS.—The applicant shall agree to maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this part.

SEC. 844. SELECTION AND PREFERENCES.

The Secretary shall select organizations and agencies from eligible applicants under section 843 to receive grants under this part. In selecting grant recipients under this section, the Secretary shall give preference to the following eligible applicants:

(1) EXPERIENCE.—Applicants that are experienced in the delivery of emergency shelter or services, housing assistance or information, or health care services and have a demonstrated ability of providing services in collaboration with other service providers.

(2) HIGH-INCIDENCE AREAS.—Applicants that will undertake activities under this part in communities with a high incidence (as determined by the Centers for Disease Control of the Public Health Service, Department of Health and Human Services) of acquired immunodeficiency syndrome and related diseases.

(3) INTEGRATION OF SERVICES.—Applicants that will undertake activities under this part in a manner that effectively integrates the activities with activities undertaken by other organizations and agencies in the area providing services for individuals with acquired immunodeficiency syndrome or related diseases.

(4) OUTREACH TO WOMEN, CHILDREN, AND MINORITIES.—Applicants that will undertake activities under this part predominantly for women, children, and members of ethnic minority groups.

SEC. 845. REPORT.

Any organization or agency that receives a grant under this part shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this part, a report describing the use of the amounts received, which shall include the number of individuals assisted, the types of assistance provided, and any other information that the Secretary determines to be appropriate.

SEC. 846. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this part \$3,000,000 for each of fiscal years 1991 and 1992.

PART 2—AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES DEMONSTRATION

SEC. 851. DEMONSTRATION PROGRAM.

The Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 et seq.) is amended—

(1) by redesignating section 417 as section 418; and

(2) by inserting after section 416 the following new section:

"SEC. 417. AIDS SHORT-TERM SUPPORTED HOUSING AND SERVICES DEMONSTRATION.

"(a) AUTHORITY AND USE OF GRANTS.—

"(1) AUTHORITY.—The Secretary may make grants to organizations and agencies eligible under subsection (b) to carry out programs to demonstrate the effectiveness of various methods of preventing homelessness among individuals with acquired im-

munodeficiency syndrome or related diseases and of developing and providing short-term supported housing and services for homeless individuals with acquired immunodeficiency syndrome or related diseases.

"(2) **USE OF GRANTS.**—Any amounts received from grants under this section may only be used to carry out a demonstration program to provide (or contract to provide) assistance to individuals with acquired immunodeficiency syndrome or related diseases who are homeless or in need of housing assistance to prevent homelessness, which may include the following activities:

"(A) **SHORT-TERM SUPPORTED HOUSING.**—Purchasing, leasing, renovating, repairing, and converting facilities to provide short-term shelter and services.

"(B) **SHORT-TERM HOUSING PAYMENTS ASSISTANCE.**—Providing rent assistance payments for short-term supported housing and rent, mortgage, and utilities payments to prevent homelessness of the lessee or mortgagor of a dwelling.

"(C) **SUPPORTIVE SERVICES.**—Providing supportive services, to individuals assisted under subparagraphs (A) and (B), including health, mental health, assessment, permanent housing placement, drug and alcohol abuse treatment and counseling, day care, and nutritional services.

"(D) **MAINTENANCE AND ADMINISTRATION.**—Providing for maintenance, administration, security, operation, insurance, utilities, furnishings, equipment, supplies, and other incidental costs relating to any short-term supported housing provided under the demonstration program under this section.

"(E) **TECHNICAL ASSISTANCE.**—Providing technical assistance to such individuals to provide assistance in gaining access to benefits and services for homeless individuals provided by the Federal Government and State and local governments.

"(3) **PROHIBITION OF SUBSTITUTION OF FUNDS.**—Amounts received from grants under this section may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this section.

"(b) **ELIGIBILITY.**—To be eligible for a grant under this section, an applicant for a grant shall meet both of the following requirements:

"(1) **PUBLIC OR NONPROFIT.**—The applicant shall be a public or nonprofit organization or agency.

"(2) **CAPABILITY.**—The applicant shall have, in the determination of the Secretary, the capacity and capability to effectively administer a grant under this section.

"(c) **DEMONSTRATION PROGRAM REQUIREMENTS.**—

"(1) **MINIMUM USE PERIOD FOR STRUCTURES.**—

"(A) **IN GENERAL.**—Any building or structure assisted with amounts from a grant under this section shall be maintained as a facility to provide short-term supported housing or assistance for individuals with acquired immunodeficiency syndrome or related diseases—

"(i) in the case of assistance involving substantial rehabilitation or acquisition of the building, for a period of not less than 10 years; and

"(ii) in any other case, for a period of not less than 3 years.

"(B) **WAIVER.**—The Secretary may waive the requirement under subparagraph (A) with respect to any building or structure if the organization or agency that received the grant under which the building was assisted demonstrates, to the satisfaction of the Secretary, that—

"(i) the structure is no longer needed to provide short-term supported housing or assistance or the continued operation of the structure for such purposes is no longer feasible; and

"(ii) the structure will be used to benefit individuals or families whose incomes do not exceed 80 percent of the median income for the area, as determined by the Secretary of Housing and Urban Development, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median income for the area if the Secretary finds that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

"(2) **RESIDENCY AND LOCATION LIMITATIONS ON SHORT-TERM SUPPORTED HOUSING.**—

"(A) **RESIDENCY.**—A short-term supported housing facility assisted with amounts from a grant under this section may not provide shelter or housing at any single time for more than 50 families or individuals.

"(B) **LOCATION.**—A facility for short-term supported housing assisted with amounts from a grant under this section may not be located in or contiguous to any other facility for emergency or short-term housing that is not limited to use by individuals with acquired immunodeficiency syndrome or related diseases.

"(C) **WAIVER.**—The Secretary may, as the Secretary determines appropriate, waive the limitations under subparagraphs (A) and (B) for any demonstration program or short-term supported housing facility.

"(3) **TERM OF ASSISTANCE.**—

"(A) **SUPPORTED HOUSING ASSISTANCE.**—A demonstration program under this section may not provide residence in a short-term housing facility assisted under this section to any individual for a sum of more than 60 days during any 6-month period.

"(B) **HOUSING PAYMENTS ASSISTANCE.**—A demonstration program under this section may not provide assistance for rent, mortgage, or utilities payments to any individual for rent, mortgage, or utilities costs accruing over a period of more than 21 weeks of any 52-week period.

"(4) **PLACEMENT.**—A demonstration program under this section shall provide for any individual who has remained in short-term supported housing assisted under the demonstration program, to the maximum extent practicable, the opportunity for placement in permanent housing or an environment appropriate to the health and social needs of the individual.

"(5) **PRESUMPTION FOR INDEPENDENT LIVING.**—In providing assistance under this section in any case in which the residence of an individual is appropriate to the needs of the individual, a demonstration program under this section shall, when reasonable, provide for assistance in a manner appropriate to maintain the individual in such residence.

"(6) **CASE MANAGEMENT SERVICES.**—A demonstration program under this section shall provide each individual assisted under the program with an opportunity, if eligible, to receive case management services available from the appropriate social service agencies of the relevant State and local government.

"(7) **RECORDKEEPING.**—Any organization or agency that receives a grant under this section shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from a grant under this section.

"(8) **CONFIDENTIALITY.**—Any organization or agency that receives a grant under this section shall maintain the confidentiality of the name of any individual assisted with amounts from a grant under this section and any other information regarding individuals receiving such assistance.

"(9) **REPORTS.**—Any organization or agency that receives a grant under this section shall submit to the Secretary, for any fiscal year in which the organization or agency receives a grant under this section, a report describing the use of the amounts received, which shall include a description of the types of assistance provided with the amounts, the costs of assistance provided, the number of individuals assisted, and any other information that the Secretary determines to be appropriate.

"(d) **APPLICATIONS.**—The Secretary shall establish procedures and requirements for application of organizations and agencies to receive grants under this section, which shall include the following:

"(1) **PROPOSAL.**—Each applicant shall submit a proposal describing the demonstration program to be carried out with a grant received under this section, including assurances that the applicant will enter into written agreements with service providers qualified to deliver any appropriate services provided under the demonstration program under this section that are not provided directly by the applicant.

"(2) **MINORITY OUTREACH AGREEMENTS.**—Each applicant shall agree to provide a reasonable amount of assistance under this section, in the determination of the Secretary, in communities in which the residents are predominantly members of minority groups.

"(e) **SELECTION AND PREFERENCES.**—

"(1) **IN GENERAL.**—The Secretary shall select organizations and entities from eligible applicants under subsections (b) and (d) to receive grants under this section.

"(2) **PREFERENCES.**—In selecting grant recipients under this subsection, the Secretary shall give preference to the following eligible applicants:

"(A) **EXPERIENCE.**—Applicants that are experienced in the delivery of emergency shelter, drug abuse treatment or counseling, or health care services.

"(B) **POTENTIAL.**—Applicants whose applications and proposals for the demonstration program under subsection (d) indicate a high probability for success of the program and feasibility for replication of the program in other areas and by other organizations.

"(C) **NON-FEDERAL FUNDING.**—Applicants that have acquired or secured non-Federal funds or resources to supplement any amounts received from grants under this section.

"(3) **PROGRAM FOR INTRAVENOUS DRUG USERS.**—In providing grants under this section for each fiscal year, the Secretary (subject only to appropriations Acts providing amounts for assistance under this paragraph) shall make not less than 1 grant to carry out a demonstration program under this section for individuals with acquired immunodeficiency syndrome or related diseases and who are intravenous drug users.

"(f) **DEFINITION OF ACQUIRED IMMUNODEFICIENCY SYNDROME AND RELATED DISEASES.**—The term 'acquired immunodeficiency syndrome and related diseases' means the disease of acquired immunodeficiency syndrome or any conditions arising from the etiologic agent for acquired immunodeficiency syndrome.

"(g) REPORT TO CONGRESS.—For each fiscal year in which the Secretary makes grants under this section, the Secretary shall submit to the Congress, not later than the first January 10 occurring after the conclusion of such fiscal year, a report describing the use of any grants made during the fiscal year, the costs of any services provided with grant amounts, an evaluation of the effectiveness of the various demonstration projects established with the grants, and any recommendations for preventing homelessness among individuals with acquired immunodeficiency syndrome or related diseases and meeting the needs of homeless individuals with acquired immunodeficiency syndrome or related diseases."

SEC. 852. AUTHORIZATION OF APPROPRIATIONS.

Section 418 of the Stewart B. McKinney Homeless Assistance Act (as redesignated by section 851(1) of this Act) is amended by inserting after the period at the end the following new sentence: "There are authorized to be appropriated \$8,000,000 for each of fiscal years 1991 and 1992 to carry out the demonstration program under section 417."

SEC. 853. CONFORMING AMENDMENT.

The table of contents of the Stewart B. McKinney Homeless Assistance Act is amended by striking the item relating to section 417 and inserting the following new items:

"Sec. 417. AIDS short-term supported housing and services demonstration.

"Sec. 418. Authorization of appropriations."

PART 3—PERMANENT AND TRANSITIONAL HOUSING AND SERVICES

SEC. 861. PURPOSE.

The purpose of this part is to increase the availability of safe, decent, and sanitary housing of a permanent and temporary nature for individuals with acquired immunodeficiency syndrome or related diseases who are capable of independent living or living in community residential facilities and to provide services for such individuals.

SEC. 862. SECTION 8 CERTIFICATE ASSISTANCE.

(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) for assistance under the certificate program under section 8(b) of such Act is authorized to be increased by \$53,000,000 on or after October 1, 1990, and by \$53,000,000 on or after October 1, 1991.

(b) USE OF FUNDS.—

(1) REQUIRED USE.—The amounts made available under this section shall be used only for assistance payments for lower-income individuals with acquired immunodeficiency syndrome or related diseases.

(2) PERMISSIVE USE.—

(A) SHARED HOUSING ARRANGEMENTS.—Amounts made available under this section may be used to assist individuals who elect to reside in shared housing arrangements in the manner provided under section 8(p) of the United States Housing Act of 1937 (42 U.S.C. 1437f(p)), except that, notwithstanding such section, assistance under this section may be made available to nonelderly individuals. The Secretary shall issue any standards for shared housing under this paragraph that vary from standards issued under section 8(p) of the United States Housing Act of 1937 only to the extent necessary to provide for circumstances of shared housing arrangements under this paragraph that differ from circumstances of shared housing arrangements for elderly families under section 8(p) of the United States Housing Act of 1937.

(B) PROJECT-BASED.—Assistance payments under this section may be attached to the structure. The amount of assistance provided under this section shall not be counted for purposes of the 15 percent limitations under subparagraphs (A) and (B) of section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) with respect to any public housing agency.

(C) ALLOCATION.—The amounts made available under this section shall be allocated by the Secretary in a manner to ensure, to the extent practicable, equitable allocation throughout the States (as the term is defined in section 3(b)(7) of the United States Housing Act of 1937 (42 U.S.C. 1437a(b)(7))). The assistance shall be made available to applicants based on demonstrated need for the assistance under this section and demonstrated ability to undertake and carry out a program to be assisted under this section.

(d) LIMITATIONS.—Any public housing agency receiving amounts made available under this section shall comply with the following requirements:

(1) SERVICES.—The public housing agency shall provide for qualified service providers in the area to provide appropriate services to the individuals assisted under this section.

(2) INTENSIVE ASSISTANCE.—For any individual who requires more care than can be provided in housing assisted under this section, the public housing agency shall provide for the locating of a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 863. SECTION 8 MODERATE REHABILITATION FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 (42 U.S.C. 1437c(c)) and section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)), for assistance under section 8(e)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(e)(2)) is authorized to be increased by \$18,000,000 on or after October 1, 1990, and by \$18,000,000 on or after October 1, 1991. Any amounts made available under this subsection shall be used only for occupancy for individuals with acquired immunodeficiency syndrome or related diseases.

(b) LIMITATION.—Each contract for housing assistance payments entered into with the authority under this section shall require the provision to individuals assisted under this section of the following assistance:

(1) SERVICES.—Appropriate services provided by qualified service providers in the area.

(2) INTENSIVE ASSISTANCE.—For any individual who requires more care than can be provided in housing assisted under this section, locating a care provider who can appropriately care for the individual and referral of the individual to the care provider.

SEC. 864. GRANTS FOR COMMUNITY RESIDENCES AND SERVICES.

(a) GRANT AUTHORITY.—The Secretary of Housing and Urban Development may make grants to States and metropolitan areas to develop and operate community residences and provide services for persons with acquired immunodeficiency syndrome or related diseases.

(b) COMMUNITY RESIDENCES AND SERVICES.—

(1) COMMUNITY RESIDENCES.—

(A) IN GENERAL.—A community residence under this section shall be a multiunit resi-

dence designed for individuals with acquired immunodeficiency syndrome or related diseases for the following purposes:

(i) To provide a lower cost residential alternative to institutional care and to prevent or delay the need for institutional care.

(ii) To provide a permanent or transitional residential setting with appropriate services that enhances the quality of life for individuals who are unable to live independently.

(iii) To prevent homelessness among individuals with acquired immunodeficiency syndrome or related diseases by increasing available suitable housing resources.

(iv) To integrate individuals with acquired immunodeficiency syndrome or related diseases into local communities and provide services to maintain the abilities of such individuals to participate as fully as possible in community life.

(B) RENT.—Except to the extent that the costs of providing residence are reimbursed or provided by any other assistance from Federal or non-Federal public sources, each resident in a community residence shall pay as rent for a dwelling unit an amount equal to the following:

(i) For lower-income individuals, the amount of rent paid under section 3(a) of the United States Housing Act of 1937 (42 U.S.C. 1437a(a)) by a lower income family (as the term is defined in section 3(b)(2) of such Act (42 U.S.C. 1437a(b)(2))) for a dwelling unit assisted under such Act.

(ii) For any resident that is not a lower-income resident, an amount based on a formula, which shall be determined by the Secretary, under which rent is determined by the income and resources of the resident.

(C) FEES.—Fees may be charged for any services provided under subsection (e)(2) to residents of a community residence, except that any fees charged shall be based on the income and resources of the resident and the provision of services to any resident of a community residence may not be withheld because of an inability of the resident to pay such fee.

(D) SECTION 8 ASSISTANCE.—Assistance made available under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may be used in conjunction with a community residence under this subsection.

(2) SERVICES.—Services provided with a grant under this section shall consist of services appropriate in assisting individuals with acquired immunodeficiency syndrome and related diseases to enhance their quality of life, enable such individuals to more fully participate in community life, and delay or prevent the placement of such individuals in hospitals or other institutions.

(c) ELIGIBILITY FOR GRANTS.—

(1) GENERAL PROPOSAL.—To be eligible to receive a grant under this section, a State or metropolitan area shall submit to the Secretary a written proposal describing the use of the grant, as the Secretary shall require, which shall include the following:

(A) A description of the objectives of the program to provide assistance through a community residence or services provided under this section and the intended use of the grant amounts received during the fiscal year.

(B) A description of the benefits and beneficiaries of the assistance provided with grant amounts and the method by which the jurisdiction will evaluate the effectiveness of the activities.

(C) A description of any public or private organizations or entities that will participate in providing services under subsection

(e)(2) and the extent and nature of the participation.

(D) A description of the program for quality assurance under subsection (g)(5).

(2) **ADDITIONAL PROPOSAL FOR METROPOLITAN AREAS.**—In addition to the requirements of paragraph (1), to be eligible for a grant to a metropolitan area under this section, the major city, urban county, and any city with a population of 50,000 or more in the metropolitan area shall establish or designate a governmental agency or organization for receipt and use of amounts received from a grant under this section and shall submit to the Secretary, together with the proposal under paragraph (1), a proposal for the operation of such agency or organization.

(3) **PRELIMINARY CERTIFICATION AND MINORITY ASSISTANCE.**—To be eligible to receive a grant under this section, a jurisdiction shall certify to the Secretary, as the Secretary shall require, that the amounts received under the grant will be used and administered in accordance with this section and any regulations and terms that the Secretary may establish and that the jurisdiction will provide a reasonable amount of assistance under this section, in the determination of the Secretary, in communities in which the residents are predominantly members of minority groups.

(d) **AWARD OF GRANTS.**—To the extent that amounts are provided in appropriations Acts under subsection (m), the Secretary may approve the proposals under subsection (c) of eligible jurisdictions and make grants to the eligible jurisdictions. Grants to metropolitan areas shall be made to the governmental agency or organization designated under the proposal under subsection (c)(2) for receipt and use of the grant amounts. Grants shall be made under this subsection unless the Secretary makes any of the following determinations:

(1) **LACK OF CAPACITY.**—That the jurisdiction or the government agency or organization designated under the proposal under subsection (c)(2) lacks the capacity to administer the grant amounts in a timely or adequate manner.

(2) **INSUFFICIENT PROPOSAL.**—That the proposal of the jurisdiction under subsection (c)(1) (or the additional proposal of a metropolitan area under subsection (c)(2)) fails, in the determination of the Secretary, to provide for the appropriate administration of amounts under this section or the establishment and operation of a community residence or provision of services, as appropriate, under this section or other applicable laws or regulations.

(e) **USE OF GRANTS.**—Any amounts received from a grant under this section may be used only as follows:

(1) **COMMUNITY RESIDENCES.**—For providing assistance in connection with community residences under subsection (b)(1) for the following activities:

(A) **PHYSICAL IMPROVEMENTS.**—Construction, acquisition, rehabilitation, conversion, retrofitting, and other physical improvements necessary to make a structure suitable for use as a community residence.

(B) **OPERATING COSTS.**—Operating costs for a community residence.

(C) **TECHNICAL ASSISTANCE.**—Technical assistance in establishing and operating a community residence, which may include planning and other predevelopment or preconstruction expenses.

(D) **IN-HOUSE SERVICES.**—Services appropriate for individuals residing in a community residence, which may include staff training and recruitment.

(2) **SERVICES.**—For providing services under subsection (b)(2) to any individuals assisted under this part.

(3) **ADMINISTRATIVE EXPENSES.**—For administrative expenses related to the planning and execution of activities under this section, except that a jurisdiction that receives a grant under this section may expend not more than 10 percent of the amount received under the grant for such administrative expenses. Administrative expenses under this paragraph may include expenses relating to community outreach and educational activities regarding acquired immunodeficiency syndrome and related diseases, for staff carrying out activities assisted with a grant under this section and for individuals who reside in proximity of individuals assisted under this part.

(f) **LIMITATIONS ON USE OF GRANTS.**—

(1) **COMMUNITY RESIDENCES.**—Any jurisdiction that receives a grant under this section may not use any amounts received under the grant for the purposes under subsection (e)(1), except for planning and other expenses preliminary to construction or other physical improvement under subsection (e)(1)(A), unless the jurisdiction certifies to the Secretary, as the Secretary shall require, the following:

(A) **SERVICE AGREEMENT.**—That the jurisdiction has entered into a written agreement with service providers qualified to deliver any services included in the proposal under subsection (c) to provide such services to individuals assisted by the community residence.

(B) **FUNDING AND CAPABILITY.**—That the jurisdiction has acquired sufficient funding for such services and the service providers are qualified to assist individuals with acquired immunodeficiency syndrome and related diseases.

(C) **ZONING AND BUILDING CODES.**—That any construction or physical improvements carried out with amounts received from the grant will comply with any applicable State and local housing codes and licensing requirements in the jurisdiction in which the building or structure is located.

(D) **INTENSIVE ASSISTANCE.**—That, for any individual who resides in a community residence assisted under the grant and who requires more intensive care than can be provided by the community residence, the jurisdiction will locate for and refer the individual to a service provider who can appropriately care for the individual.

(2) **SERVICES.**—Any jurisdiction that receives a grant under this section may use any amounts received under the grant for the purposes under subsection (e)(2) only for the provision of services by service providers qualified to provide such services to individuals with acquired immunodeficiency syndrome and related diseases.

(g) **GRANT REQUIREMENTS.**—

(1) **NON-FEDERAL SHARE.**—Each jurisdiction that receives a grant under this section shall make available for use for the activities contained in the proposal under subsection (c) an amount from non-Federal sources equal to not less than 25 percent of the amount received from the grant under this section. Non-Federal contributions under this paragraph may be in cash or in kind, and may include the value of any donated building, land, material, services, personnel, or equipment or lease on a building.

(2) **PROHIBITION OF SUBSTITUTION OF FUNDS.**—Amounts received from grants under this section may not be used to replace other amounts made available or designated by State or local governments for use for the purposes under this section.

(3) **RECORDKEEPING.**—Each jurisdiction that receives a grant under this section shall maintain and provide the Secretary with financial records sufficient, in the determination of the Secretary, to ensure proper accounting and disbursing of amounts received from the grant and administration of such amounts in an efficient and cost-effective manner.

(4) **CONFIDENTIALITY.**—Each jurisdiction that receives a grant under this section shall maintain the confidentiality of the name of any individual assisted with amounts from a grant under this section and any other information relating to assistance provided from a grant under this section.

(5) **QUALITY ASSURANCE.**—Each jurisdiction that receives a grant under this section shall carry out a program, with respect to the ongoing operation of the community residences and services provided under the grant, to ensure the quality and accessibility of such assistance.

(6) **REPORTS.**—Each jurisdiction that receives a grant under this section shall submit to the Secretary, not later than the expiration of the 6-month period after the award of a grant under this section and annually thereafter for any year in which amounts from a grant under this section are expended, a report describing the use of any amounts received from a grant under this section, which shall include a description of the beneficiaries of the assistance provided with grant amounts, an evaluation of the activities carried out with such amounts in comparison to the activities proposed to be carried out with the amounts in the proposal under subsection (c), and any other information that the Secretary considers appropriate.

(h) **ALLOCATION.**—The Secretary shall allocate amounts under this section as follows:

(1) **METROPOLITAN AREA GOVERNMENTS.**—Of the amount provided in any appropriation Act under subsection (m) for grants in any year, 75 percent of the amount not allocated under paragraph (4) shall be allocated by the Secretary to metropolitan areas. The Secretary shall determine the amount to be allocated to each metropolitan area eligible under subsection (c) on the basis of the incidence of acquired immunodeficiency syndrome or related diseases in the jurisdiction in comparison with the incidence in other jurisdictions (as determined by the Centers for Disease Control of the Public Health Service, Department of Health and Human Services) and other factors that the Secretary determines are appropriate.

(2) **STATES.**—Of the amount provided in any appropriation Act under subsection (m) for grants in any year, 25 percent of the amount not allocated under paragraph (4) shall be allocated by the Secretary among the States as follows:

(A) **IN GENERAL.**—The Secretary shall determine the amount to be allocated to each State eligible under subsection (c) on the basis of the incidence of acquired immunodeficiency syndrome or related diseases in the State in comparison with the incidence in other States (as determined by the Centers for Disease Control of the Public Health Service, Department of Health and Human Services) and other factors that the Secretary determines are appropriate.

(B) **MINIMUM AMOUNT.**—Subject only to the availability of amounts pursuant to appropriation Acts under subsection (m), for each fiscal year each State shall receive at least \$200,000 in grants under this section. If allocation under subparagraph (A) would allocate less than \$200,000 for any State,

the allocation for such State shall be \$200,000 and the amount of the increase under this sentence shall be deducted on a pro rata basis from the allocations of the other States, except that a reduction under this subparagraph may not reduce the amount allocated to any State to less than \$200,000.

(3) REALLOCATION.—

(A) IN GENERAL.—The Secretary shall, periodically throughout each fiscal year and according to this paragraph, reallocate any amounts provided in grants under this section that have not been used or committed for use by the State or metropolitan area receiving the grant. The Secretary shall establish procedures for timely use and commitment of amounts and reallocation under this paragraph.

(B) METROPOLITAN AREA GRANTS.—Any amounts from grants to metropolitan areas that are reallocated under this paragraph shall be reallocated to the State in which the metropolitan area subject to the reallocation is located. The State shall distribute the amounts to nonprofit organizations in the metropolitan area subject to the reallocation to carry out the purposes of this section.

(C) STATE GRANTS.—Any amounts from grants to States that are reallocated under this paragraph shall be reallocated to metropolitan areas in the State subject to the reallocation for use by the metropolitan areas to carry out the purposes of this section.

(4) ALLOCATION TO TERRITORIES.—In addition to the other allocations required under this subsection, the Secretary shall allocate amounts appropriated under subsection (m) to Indian tribes, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, in accordance with an allocation formula established by the Secretary.

(i) MONITORING.—The Secretary shall provide for ongoing monitoring of community residences and services assisted under this section to ensure that any amounts provided under this section are used in conformity with this section, the certifications made by the jurisdiction under subsection (c)(3), and the proposal approved by the Secretary under subsection (d). Monitoring under this subsection shall include periodic on-site inspections of community residences and in-person observation of the provision of services.

(j) REPORT TO CONGRESS.—For any fiscal year that the Secretary makes grants under this section, the Secretary shall submit to the Congress, not later than the first January 10 occurring after such fiscal year, a report describing the use of any amounts received from a grant under this section, the costs of any community residences and services provided with grant amounts, an evaluation of the effectiveness of the various activities conducted with grants under this section, and any recommendations for preventing homelessness among individuals with acquired immunodeficiency syndrome or related diseases and meeting the needs of homeless individuals with acquired immunodeficiency syndrome or related diseases.

(k) DEFINITIONS.—For purposes of this section:

(1) COMMUNITY RESIDENCE.—The term "community residence" means a community residence under subsection (b)(1) established by a jurisdiction with a grant under this section.

(2) ELIGIBLE JURISDICTION.—The term "eligible jurisdiction" means a jurisdiction eligible under subsection (c) to receive a grant under this section.

(3) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, group, and nation, including Alaska Indians, Aleuts, and Eskimos, and any Alaska Native Village, of the United States, which is considered an eligible recipient under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f et seq.) or was considered an eligible recipient under chapter 67 of title 31, United States Code, prior to the repeal of such chapter.

(4) JURISDICTION.—The term "jurisdiction" means a State or metropolitan area.

(5) METROPOLITAN AREA.—The term "metropolitan area" means any metropolitan statistical area as established by the Office of Management and Budget, and includes the District of Columbia.

(6) STATE.—The term "State" means the States of the United States and the Commonwealth of Puerto Rico.

(7) URBAN COUNTY.—The term "urban county" means any county within a metropolitan area which has a population—

(A) of 200,000 or more (excluding the population of cities therein with a population of 50,000 or more) and has a combined population of 100,000 or more (excluding the population of cities therein with a population of 50,000 or more) in such unincorporated areas and in its included units of general local government; or

(B) in excess of 100,000, a population density of at least 5,000 persons per square mile, and contains within its boundaries no incorporated places as defined by the United States Bureau of the Census.

(l) REGULATIONS.—The Secretary shall issue any regulations necessary to carry out this section.

(m) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section \$68,000,000 for each of fiscal years 1991 and 1992. Any amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 865. RESERVATION OF ASSISTANCE FOR INDIVIDUALS WITH AIDS.

(a) SECTION 8.—Section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) is amended by inserting after subsection (k) the following new subsection:

"(l) The Secretary shall permit any public housing agency to reserve assistance under subsections (b) and (o), as the public housing agency determines appropriate, for individuals with the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome."

(b) PUBLIC HOUSING.—Section 6 of the United States Housing Act of 1937 (42 U.S.C. 1437d) as amended by section 518 of this Act, is further amended by adding at the end the following new subsection:

"(p) The Secretary shall permit any public housing agency to reserve units in a public housing project and to reserve assistance under this Act for public housing, as the public housing agency determines appropriate, for individuals with the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome."

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time, and passed.

The title of the Senate bill was amended so as to read: "A bill to amend and extend certain laws relating to housing, community and neighborhood development and preservation, and related programs, and for other purposes."

A motion to reconsider was laid on the table.

A similar House bill (H.R. 1180) was laid on the table.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF HOUSE AMENDMENTS TO S. 566, HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1990

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that, in the engrossment of the House amendment to the Senate bill, the Clerk be authorized to correct section numbers, punctuation, and cross references, and to make such other technical and conforming changes as may be necessary to reflect the actions of the House in amending the bill, H.R. 1180.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. GONZALEZ. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on H.R. 1180, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4498

Mr. MORRISON of Washington. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 4498. My listing as a cosponsor was an error which arose when my name was mistaken for that of Congressman BRUCE MORRISON of Connecticut, who had expressed his desire to cosponsor the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. The statement of the gentleman from Washington [Mr. MORRISON] will appear in the RECORD.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO SIT TOMORROW DURING 5-MINUTE RULE

Mr. CONYERS. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations be permitted to sit on Thursday, August 2,

1990, while the House is in session during the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

FOOD AND AGRICULTURAL RESOURCES ACT OF 1990

Mr. HALL of Ohio. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 444 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 444

Resolved, That during the further consideration of the bill (H.R. 3950) the "Food and Agricultural Resources Act of 1990", under the five-minute rule, debate on the following amendments shall be limited to the time specified, to be equally divided and controlled by the proponent and a member opposed thereto: (1) an amendment to title VI printed in the Congressional Record of July 20, 1990, to be offered by Representative Conte of Massachusetts, for not to exceed 20 minutes; (2) an amendment to title XI printed in the Congressional Record of July 20, 1990, to be offered by Representative Conte of Massachusetts, for not to exceed 60 minutes and a substitute thereto, to be offered by Representative Huckaby of Louisiana, for not to exceed 60 minutes; (3) an amendment to title XIV printed in the Congressional Record of July 20, 1990, to be offered by Representative Stenholm of Texas, for not to exceed 20 minutes, and said amendment shall not be subject to amendment except for a substitute to be offered by Representative DeFazio of Oregon, to be debatable for not to exceed 20 minutes and which shall be subject to amendment; and (4) the amendments to title XVII printed in the Congressional Record of July 20, 1990, to be offered by Representative Frenzel of Minnesota, to be debatable for not to exceed 40 minutes and which shall be considered en bloc and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. Amendments offered by Representative de la Garza of Texas pursuant to the authority granted by H. Res. 439, modifications of or amendments printed in the report of the Committee on Rules to accompany H. Res. 439 (H. Rept. 101-609), or those printed in the "Amendments" portion of the Congressional Record on or before July 20, 1990, and amendments thereto, shall be debatable for not to exceed ten minutes each. Pro forma amendments for purposes of debate shall not be in order unless offered by the chairman or ranking minority member of the Committee on Agriculture. The amendments en bloc offered by Representative de la Garza pursuant to paragraph (2) of H. Res. 439 shall not be subject to amendment. After passage of H.R. 3950, it shall be in order to take from the Speaker's table the bill S. 2830 and to consider said bill in the House and all points of order against consideration of said bill are hereby waived. It shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 3950, H.R. 3581, and H.R. 4077, as each passed the House, and all points of order against said motion are hereby waived. It shall then be in order to move to insist on the House amendment to

S. 2830 and to request a conference with the Senate thereon.

□ 1300

The SPEAKER pro tempore (Mr. TRAXLER). The gentleman from Ohio [Mr. HALL] is recognized for 1 hour.

Mr. HALL of Ohio. Mr. Speaker, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], for purposes of debate only, pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 444 provides for the further consideration of H.R. 3950, the Food and Agricultural Resources Act of 1990. Under this rule, certain time limitations on amendments are required so that the House may move forward with this important legislation. The resolution simply provides for the orderly consideration of remaining amendments.

Under the resolution, the following amendments shall be debatable for a period not to exceed 10 minutes: Amendments offered by Chairman DE LA GARZA pursuant to the authority granted in the previous rule, House Resolution 439; modifications of or amendments printed in the report accompanying House Resolution 439; and, amendments printed in the "Amendments" portion of the CONGRESSIONAL RECORD on or before July 20, 1990, and amendments thereto. Pro forma amendments for the purpose of debate are not in order.

In addition, Mr. Speaker, this resolution provides additional debate time on the following specified amendments. Time on these amendments shall be equally divided and controlled by the proponent and an opponent. The amendments are: First, an amendment to title VI, printed in the CONGRESSIONAL RECORD of July 20, 1990, by Representative CONTE on the honey program, debatable for 20 minutes. Second, an amendment by Representative CONTE to title XI, also printed in the July 20, 1990 RECORD, debatable for 60 minutes, subject to a substitute by Representative HUCKABY, debatable for 60 minutes. These amendments relate to payment limitations for farm subsidies.

Third, an amendment, printed in the same RECORD of July 20, 1990, to title XIV by Representative STENHOLM, debatable for 20 minutes, on organic food labeling. The Stenholm amendment is not subject to amendment except a substitute by Representative DEFazio, debatable for 20 minutes, not subject to amendment. Fourth, the amendments by Representative FRENZEL to title XVII, also printed in the RECORD of July 20, 1990, debatable for 40 minutes, to be considered en bloc. The Frenzel en bloc amendments, which have to do with limiting spending for food and nutrition programs, are not subject to a demand for a divi-

sion of the question in the House or in the Committee of the Whole.

Mr. Speaker, House Resolution 444 also provides that the en bloc amendments offered by Chairman DE LA GARZA pursuant to paragraph 2 of the previous rule, House Resolution 439 shall not be subject to amendment. These are amendments of a technical nature that Chairman DE LA GARZA may offer after the disposition of all other amendments.

Finally, this rule provides that after passage of H.R. 3950, it shall be in order to take from the Speaker's table, the Senate farm bill, S. 2830 and consider the bill in the House. All points of order against consideration of the bill are waived. This rule makes in order a motion to strike out all after the enacting clause and insert in lieu thereof the provisions of H.R. 3950, H.R. 3581, and H.R. 4077, as each bill passed the House. This rule waives all points of order against the motion. This rule then makes it in order to move to insist on the House amendment to S. 2830 and to request a conference with the Senate.

Mr. Speaker, H.R. 3581 is the Rural Economic Development Act, and H.R. 4077 is the farm credit bill. It is necessary to incorporate these bills into the final package so that the House may conference with the Senate on these important bills.

Mr. Speaker, I am glad that my colleagues from both sides of the aisle support this rule which limits time on amendments and allows us to complete this important legislation. As I stated earlier, this is the most significant farm bill since 1985. As chairman of the House Select Committee on Hunger, I had a particular interest in many programs included in this comprehensive bill.

This rule was passed out of the Rules Committee with no opposition, and I urge my colleagues to adopt it.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will begin by reiterating some of the points made by the gentleman from Ohio, and then I will explain the concerns that I have about this rule.

As to the rule itself, I want to point out that any Member who has a pre-printed amendment to any title of the bill not yet considered will have an opportunity to offer that amendment. Secondary amendments to these pre-printed amendments will likewise be in order. What this rule will do is to prevent Members from engaging in an extended debate on each such amendment.

The rule will not permit Members to strike the last word as a way of making pro forma amendments. In other words, each remaining amendment will have to be disposed of in 10 minutes. I am told that several hours

for debate by this rule should be sufficient time to dispose of these remaining amendments that were prefiled.

The rule further makes in order four other specified amendments, with a combined total for debate time of 3 hours and 40 minutes. Thus we are probably looking at another full legislative day in which to finish up work on this bill.

I would note further, as the gentleman from Ohio has stated, that this rule folds into the farm bill two rural development bills which have previously been passed in this session. These two bills are not open for amendment, but putting them into the farm bill will serve to expedite bringing them to conference with the Senate.

Mr. Speaker, I indicated at the outset that I have some concerns about the rule. You know, when this farm bill was brought to the floor last week, the rule governing its consideration was "modified open," and on balance I think it was tilted slightly more in the direction of open, rather than modified. That is why we did not oppose it.

This revised rule which we are considering today tilts the balance back over toward modified closed. By placing constraints on the 5-minute rule for the consideration of amendments, we are taking a big step backward on open rules, and that is wrong.

I want to advise the House that we are on an important threshold right now, right here today. Before we finish up this week, we are likely to go over the 50-percent mark on restrictive rules. Fifty percent, my colleagues. In other words, the 101st Congress is seeing fewer open rules than any other Congress in modern history. Every Member who is concerned about fairness should be alarmed at this development.

Mr. Speaker, this farm bill is one of the most important pieces of legislation to come before the House this year or any other year. It is a 5-year bill and will not be revisited on the floor of this Congress for at least 5 years.

Mr. Speaker, food supply is one of the most important issues this body, we as Members of Congress, will ever have to deal with, and it is the farm bill that should always be debated fully and openly.

Even we people who represent dairy industries or farm areas in the Northeast may have differences with those in the Southwest, those in California. We ought to be able to openly debate these issues. This rule today limits debate on this important issue. That is wrong, but it seems to be a pattern of what is coming about here these days.

Mr. Speaker, I reserve the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no requests for time.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. ARMEY].

□ 1310

Mr. ARMEY. Mr. Speaker, I thank the gentleman from New York for yielding me this time.

Mr. Speaker, let me say at the outset that I am sure it would come as no surprise to the Members of this body for me to tell them that although I love agriculture, I love the agrarian way of life, I love rural America, and I love the heritage that it has always presented to us and what it stands for, the farm bill and its heritage pains me.

Some of you have noticed that I have resisted this farm bill and made attempts to try to fix it around the edges, to tinker with it a bit, and I have not had a great deal of luck on the floor of this House although I am pleased overall with some of the impact we have had.

I have a natural inclination to try to seize this opportunity to perhaps revive a failed opportunity that fell to what I personally believe to be a misguided point of order, but nevertheless a point of order, which was held against our opportunity to perhaps repair the damage done to the American farmer's freedom of entrepreneurial choice by the peanut program. I am tempted to again ask unanimous consent to revive that, but I know that I would most certainly find one person, at least, who would object. I am tempted to use the other parliamentary procedures which might, for example, be to try to defeat the moving of the previous question on this rule. But to do so would be deleterious. We would only delay the proceedings.

The fact is I think the committee has a good point, they have labored long and hard in the committee and subsequently long and hard on the floor, so pursuant to that old adage that even though the pain may be inevitable, the suffering is optional, I am inclined to not resist this rule, allow it to go forward, allow us to complete the business at least for this time around without putting the body through an extended debate and extended time.

I would like to take this moment afforded to me by the gentleman from New York to admonish the body at large to read the Samuelson editorial in today's Washington Post which I suspect we will see soon in Newsweek that does put farm policy in perspective.

I would encourage and hope that the Members of this body not on the Committee on Agriculture, not charged with special concerns for their districts back home related to the jurisdiction of the Committee on Agriculture to take some time, study this legislation, study the amazing productivi-

ty of the American agricultural sector of our great economy and test in their own understanding the extent to which American farm policy does, in fact, inhibit that productivity and that spirit of enterprise which is so characteristic of American farmers that I fear we are losing to bureaucratic handouts.

Because the time will come, perhaps sooner but certainly later, when we can revisit this issue and make some of these cases again and liberate American agriculture, American consumers, and American taxpayers from this kind of policy.

Let me dare once more to present an analogy to see if I could bring to bear my understanding of the impact of American farm policy on the American farmer.

We all know that farming is a risky business. Anybody who spends any time on the farm understands it might rain not at all, it might rain too little when it is needed and too much when it is not needed; you may have your wheat laying in windrows afflicted with rust because you are getting too much rain at the wrong time. There are all kinds of risks, hail, sleet, and the farmers, courageous as they are, bear this risk, and, unfortunately, in the 1930's, the farmers bearing this risk stumbled, and they fell, as did many American businesses. When they fell in the 1930's, they broke their leg.

If I can resort to my analogy, they looked to Uncle Sam for repair. Uncle Sam responded, as well he should have, and in the 1930's, Uncle Sam put a cast on that leg of the great American farmer, and he vowed that the farmer should never again stumble and break his leg, and he vowed that with such commitment that he decided to keep that cast on his leg forever. The cast on the leg of the American farmer, although it inhibited his ability to get around, to be efficient, to be productive, to be competitive with farmers across the globe, prevented the farmer from once again breaking his leg.

American farmers are doing better now than ever before in the history of American agriculture. They are still stumbling. They are nowhere near as effective and as efficient as they could be. They cannot compete with foreign farmers. The cast has been so effective in keeping the American farmer from once again breaking a leg that Uncle Sam decided it would be a good idea, should we put that cast on the farmer's children as well.

Everybody today who wishes to go into agriculture has a cast that keeps the leg from being broken, but it disables the farmer from being competitive.

Government is an insidious business, and governments learn from one an-

other, and certainly governments across the globe have observed and said, "Look, American farmers do not break their legs. Our farmers ought not to either. Let us put casts on the farmers' legs in Europe and in South America and the rest of the globe as well." So we have today agriculture worldwide safe from broken legs but stumbling, falling, and failing to achieve the best it can.

It is argued that the American consumer has the best food deal in the world. I do not dispute that. It is argued that we as consumers pay less of our national income per capita on food than any consumers in the world. I do not dispute that. But this wonderful circumstance does not accrue to the benefit of and to the credit of the policies of this Government. It accrues to the native agricultural productivity of honest-to-God, love-the-Earth farmers across the soil in this country, despite the encumbrances put on them by that cast.

Some of us see that more clearly than others, and some of us try to fix this. We tried to trim the fat off the edge, and we were accused of having taken a meat ax to the program.

Let me say throughout all of this debate we were told, "Don't try to fix it, it ain't broke." At this point, we will give up our efforts to fix it, because, ladies and gentleman, the fix is in.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 439 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 3950.

□ 1318

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 3950) entitled the "Food and Agricultural Resources Act of 1990," with Mr. BONIOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole rose on Friday, July 27, 1990, title VI was open for amendment at any point.

Pursuant to House Resolution 444, debate on the following amendments printed in the CONGRESSIONAL RECORD of Friday, July 20, 1990, shall be limited

to the time specified, equally divided and controlled by the proponent of the amendment and a member opposed thereto:

First, an amendment to title VI offered by the gentleman from Massachusetts [Mr. CONTE], for 20 minutes;

Second, amendment to title XI offered by the gentleman from Massachusetts [Mr. CONTE], for 60 minutes, and a substitute amendment offered by the gentleman from Louisiana [Mr. HUCKABY], for 60 minutes

Third, an amendment to title XIV offered by the gentleman from Texas [Mr. STENHOLM], for 20 minutes, which shall not be subject to amendment, except for a substitute amendment offered by the gentleman from Oregon [Mr. DEFazio], which shall not be subject to amendment, for 20 minutes; and

Fourth, amendments to title XVII offered by the gentleman from Minnesota [Mr. FRENZEL], which shall be considered en bloc and shall not be subject to a demand for a division of the question, for 40 minutes.

The amendments offered by the gentleman from Texas [Mr. DE LA GARZA], pursuant to the authority granted in House Resolution 439, modifications of or amendments printed in House Report 101-609, or those printed in the "amendments" portion of the CONGRESSIONAL RECORD on or before July 20, 1990, and amendments thereto, shall be debatable for not to exceed 10 minutes each.

Pro forma amendments for purposes of debate shall not be in order unless offered by the chairman or ranking minority member of the Committee on Agriculture.

The amendments offered en bloc by the gentleman from Texas [Mr. DE LA GARZA] pursuant to paragraph (2) of House Resolution 439 shall not be subject to amendment.

□ 1320

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I take this time to inform Members that I want to express my appreciation for their patience as we have worked through this legislation up to now. I appreciate the cooperation of the Committee on Rules in giving us this rule. It is not our ordinary method of operation, but time was running away from us, and the leadership has insisted that this legislation be concluded today. Therefore, we reluctantly took that approach, but protecting all of the Members that have amendments.

Mr. Chairman, I would hope that in the process, utilizing the rule that has been granted, we might be able to conclude all amendments and debate on this legislation around 6 o'clock or so this evening in order that Members might have an opportunity to go to

their other endeavors. I would hope that Members cooperate with us to the extent possible in reducing time, even though we have a limitation.

Mr. Chairman, I again thank all Members, including those who in good faith have offered amendments. Even though we may have policy disagreements or disagreements about the amendments, we know it is done in good faith.

Mr. Chairman, we think we have a good measure. The committee has worked long and hard. We had over 30 hearings. We have asked everyone to be heard that wanted to be heard. We have drafted it in unison with majority and minority, and we hope the Members will stay with us, support the committee, and then go on with the business this afternoon and be able to finish at an early hour.

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: The amendment made by section 603 to subsection (b) of section 201 of the Agricultural Act of 1949 is amended by striking paragraph (1) and inserting the following:

"(b)(1) For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations as follows:

"(A) For the 1991 crop, the loan and purchase level for honey shall be 51.3 cents per pound.

"(B) For each of the 1992, 1993, 1994, and 1995 crops, the loan and purchase level for honey shall be the same as the level established for the preceding crop year reduced by 5 percent.

The CHAIRMAN. Pursuant to House Resolution 444, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 10 minutes, and the gentleman from Texas [Mr. STENHOLM] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. CONTE].

Mr. CONTE. Mr. Chairman, instead of eliminating the honey program, this amendment would cut the subsidy by 5 percent a year. Given the lack of justification for one program, if we won't eliminate it, at least we can cut it back. That's the least we can do.

Mr. Chairman, I am not done with the honey program. While the House decided on Friday that the honey-moon for a few privileged beekeepers is not yet over, that does not mean it is time to return to the hive. The honey program still sticks out like a sore, stung thumb from the pages of the farm bill. It still picks \$258 million from the taxpayers' pockets over the next 5 years. It still only benefits a handful of the Nation's 212,000 beekeepers.

It still subsidizes honey at a rate 40 percent higher than the market price. And it still justifies its existence on

the need for pollination, when there is a \$9.7 billion market for pollination in the United States.

You know all that by now. For those reasons many of you supported my amendment to phaseout the entire boondoggle of a program.

But some of you who did not support the phaseout agreed with me that the program is out of control, and needs to be reined in. Well, ladies and gentlemen, this one's for you.

My amendment gives you the opportunity to reduce honey program costs and rein in the program simply by endorsing current policy. That's right—endorsing current policy.

My amendment is merely a continuation of the policy Congress implemented in 1985 of annual 5-percent reductions in the honey loan rate. Simply doing that will save \$69 million over the next 5 years, and will limit the expansion of the program.

Mr. Chairman, with this amendment I am doing what the committee should have done, but refused to do.

The committee should have continued the policy of 5-percent annual rate reductions. That would have been the responsible action. But instead of sticking to that precedent, the committee got stuck on honey, and froze the loan rate at the 1990 level of 53.8 cents per pound, slamming the brakes on the progress we made toward reducing honey program costs and limiting forfeitures.

Not surprisingly, the committee action is a honey of a deal for the beekeepers. They get to repay their 53.8 cent Federal loans at 38 cents, collecting nearly 16 cents from the taxpayer on every pound of honey put under loan. If the committee has its way, we'll be forced to support the price of honey at a level 40 percent higher than the market price for the next 5 years; 40 percent higher. How sweet it is, Mr. Chairman, how sweet it is.

What does that mean in real dollars? \$69 million over 5 years—\$69 million which the committee would send directly from the taxpayer's pocket into the sticky pockets of the 6,000 beekeepers who swarm around this program.

Mr. Chairman, we are not living in the land of milk and honey. We are short on revenues and long on spending, and faced with a \$169 billion deficit.

With a savings and loan bailout that is going through the roof, with a budget summit that is going nowhere, and with bills such as this which spend enormous amounts of money at levels well over budget; this is no time to reverse direction on honey loan rates, adding yet another straw to the camel's back.

It would be a travesty for Members to pass up this opportunity to get the honey program back on the proper track through a simple change which

restores current policy and saves \$69 million of taxpayer money.

Mr. Chairman, here are the options. Either stuff another \$69 million into the pockets of the big beekeepers and watch the program expand, or maintain current policy, control the honey program expenses and growth, and save \$69 million.

□ 1330

The choice is clear. In the face of the \$168 billion deficit, in the face of a \$104 billion sequester, I started to tell Members today what is going to happen to the health programs, what is going to happen to Head Start, what is going to happen to the National Institutes of Health if we do not do something about this summit and come up with some figures here to save some money. We are going to have a 38-percent cut across the board with sequestration, and in the face of this, the farm bill, this farm bill is \$1 billion, \$1 billion over the budget in commodity programs.

Let us at least make a modest savings in a program that experts agree has no justification. We have to start somewhere, and I beg the House, I beg the House and the Members of the House to go along with this simple amendment.

Members did not want to phase it out over 4 years as I tried last Friday. The least we can do here is to modify it and go back to current policy and save \$69 million.

Am I asking too much?

Mr. STENHOLM. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, again, briefly, let us remind all of the Members again that the honey program is essential. Honeybees are essential for pollination. The pollination value of bees in this country has been estimated at \$9.7 billion.

The point the gentleman from Massachusetts makes about the price of honey is again the world price, it is not a free market price. This Member, at the moment that the world price becomes a true free market price, will join the gentleman in seeing that our programs would match theirs, but that is not the real world that we live in today.

I want to correct a few other things that have gotten inadvertently into the RECORD as of last week concerning whether or not the honey program is working.

Since 1985, when we last visited the honey program, we have cut in half the cost to the taxpayer of the honey program. The bill that we have before Members in the House Agriculture Committee version today continues in that trend, not as far as the gentleman from Massachusetts would go, but we do freeze the support price at the current levels for 5 years. The honey pro-

gram took an 18-percent cut since 1985, and that is not including inflation. If we add that 16-percent cut to it we can see why many economists who know something about the economics of honey tell us today that we have gone too far already.

We proposed a freeze on spending. The gentleman from Massachusetts says this bill is \$1 billion over budget. That is not true. According to CBO, which is the analysis we try to go by in this body, they say that we are \$79 million over and we are going to conform it to the CBO baseline with committee amendments.

One last point that I would make against this amendment, and that is to point out that the surpluses the gentleman talked about last week are just not so. The current status as of today according to the USDA is that we have 0.5 million pounds of forfeited honey, 20 million pounds outstanding loans, 10 million pounds projected forfeiture and 159 million put under loan. Current inventory is 16 million pounds. It is so low that we are suspending TFAP donations. To those among us today that need some honey through the TFAB Program, we are suspending that program.

Now these are some of the facts. In a moment I will offer an amendment in the nature of a substitute to the gentleman and show once again that the Agriculture Committee is listening to what the gentleman is saying and what others in this body are saying about the out-of-control portions of the bill. The gentleman from Louisiana [Mr. HUCKABY] will have an amendment. We will offer the same confining amendment in just a moment regarding honey that we did on wool and mohair and that we are going to do on every other commodity.

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] has consumed 3 minutes and the gentleman from Massachusetts [Mr. CONTE] has consumed 6 minutes.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I simply want to say that to my knowledge I do not have any beekeepers in my district that are participating in this program. I do think though that this is a program that has gotten a raw deal as far as some of its critics are concerned.

As the gentleman from Texas has pointed out, and I want to underscore once again, since 1985 honeybee producers have seen an 18-percent reduction in this program. It is a program, however, that has moved us toward the goal that we wanted to reach.

One is that we do not have huge amounts of honey in storage as far as the Department of Agriculture is concerned. In fact, we do not even have

enough to meet our domestic feeding programs today.

The other part is the fact that imports into this country are declining, and that is because the price has been brought so low and we are now in the export business so far as honey is concerned. So I think all of the signs are there.

The economists have underscored and told us that we not only have reached our goal but we may have gone too far, and I think that without question, Mr. Chairman, it would be indeed a very serious mistake and a threat to the 140 crops that this Nation has that depend upon honeybees for pollination.

So I would urge a no vote with regard to the amendment.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume. I just want to make one point.

Mr. Chairman, I have nothing against beekeepers. We have some bee-hives ourselves on our farm.

But this is a bad program. It started with World War II because of the shortage of sugar, and ever since that started they never let go. Then they came in with the pesticide program, DDT. I was here when that started. We finally killed that program and then they came up with this loan program, and they are never, never going to get out of the public trough.

There are 212,000 beekeepers in the United States. Only 6,000 are in this program, out there with their sticky hands taking money away from the taxpayers.

Pollination? I believe in pollination. I have more darn apple orchards in my district. They all have beehives. They do not come down here to the Federal Government looking for money or handouts. They are rugged individualists.

When are we going to stop some of these programs that continue on and on, and while all of these committees have a vested interest? Talking about pollination, I had a beekeeper from South Dakota in to see me a couple of years ago when I was fighting this program. He buys all of his bees down here, buys truckloads down here in Texas and he brings them up to South Dakota. He showed me his operation, the pictures and all. And I said to him, "How many of those bees are you working in pollination?"

Zero. Zero. The program was so good, so good, that he was producing all this honey, and it was overflowing in the warehouses.

Today there are 57 million pounds, 57 million pounds in CCC inventory. And we are going to get more and more unless we adopt my amendment.

I think it is time for sanity. I am on that summit. You don't know the difficulty we are having to try to come up with the Gramm-Rudman target figure.

For the Members that voted against me last Friday, just think, just think for a moment what sequestration is going to do, and what sequestration is going to do to your programs because you have got some honey guys in here, beekeepers with their sticky fingers.

I urge Members to vote for my amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] has 1 minute remaining.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

(Mr. GUNDERSON asked and was given permission to revise and extend his remarks.)

Mr. GUNDERSON. Mr. Chairman, we went through this last week. The gentleman from Massachusetts [Mr. CONTE] is a good friend of all of ours, but let us put all of this into the perspective of what we are trying to do with the farm bill.

□ 1340

The farm bill, generally we are trying to freeze every commodity support program, whether that be the price supports for milk, whether it be the target prices for the various commodities, whether it be the loan for honey. That is what the committee has done.

The committee has come up, has brought to the full Congress a bill that freezes the loan rate, as a result of that, has a projected cost for the life of the 1990 farm bill that is 40 percent less, 40 percent less than we have spent on this program over the life of the 1985 farm bill.

For fairness, for consistency, for the importance of honey and pollination to all of our agriculture product, it is important that we be consistent with this particular commodity. That is why this type of an amendment which literally phases out the loan, which literally phases out by effect, if not intent, the honey program, is unfair to honey compared to every other commodity and runs the risk of damaging not only this element but, I believe, the whole policy of equity within this farm bill compromise that is before us.

Therefore, I encourage my colleagues to vote against the Conte amendment.

Mr. CONTE. Mr. Chairman, how much time do I have?

The CHAIRMAN. The gentleman from Massachusetts has 1 minute remaining.

Mr. CONTE. Mr. Chairman, I yield myself that minute.

I had no intention to continue speaking, but when I hear these things—this bill is projected to cost \$55 billion of the taxpayers' money—\$55 billion. All I am trying to save is a measly \$69 million, and you will not even give me that.

I had the heavy transformer division in Pittsfield, MA, and do you know how many employees we had? Fourteen thousand five hundred.

Because of imports and all, the heavy transformer division is gone. Do you know how many employees we have in Pittsfield now? Three thousand two hundred.

Did GE come here to the Federal Government and say, "We have got to have Federal transformers, give me a subsidy and I will keep making them and put them in warehouses"? Did they do that? Why should it be different for the beekeeper or the farmer? They have been on the public tit too long. It is time to wean them off.

Mr. STENHOLM. Mr. Chairman, I yield such time as he may consume to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, I rise in strong support of the Conte amendment in the firm belief that bees will not lose interest in flowers.

Mr. Chairman, I rise in strong support of the Conte amendment to continue annual loan rate reductions for honey.

Mr. Chairman, the honey program serves little public service but to raise the income of few producers at a high cost to the public. How can we honestly tell taxpayers that we're working hard to reduce the deficit when Congress continues to support such wasteful programs?

Changes in 1985 terminated the mandatory parity formula, established progressively lower support prices and authorized a lower loan repayment option. This was a step in the right direction. Program costs remained high, however, because of high support prices which induced increased production. According to the General Accounting Office, government costs for the program increased to about \$100 million in 1988.

Instead of continuing a policy of annual reductions set forth in the 1985 farm bill, the Agriculture Committee recommends that the loan rates be frozen at the 1990 level of 53.8 cents per pound. The repayment option would allow producers to repay their loans at 38 cents. If this is the case, taxpayers would be supporting the price of honey at 42 percent higher than the market price for the next 5 years. This would result in outlays of about \$69 million over 5 years.

Mr. Chairman, bees will continue to produce honey with or without \$69 million from Congress. If we cannot agree to terminate the honey program outright, let us at least continue the reduction policy agreed to in 1985. I urge my colleagues to support this amendment.

AMENDMENT OFFERED BY MR. STENHOLM AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CONTE

Mr. STENHOLM. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM as a substitute for the amendment offered by

Mr. CONTE: Strike section 603 of the bill and insert the following:

SEC. 603. HONEY PRICE SUPPORT.

(a) Effective only for the 1991 through 1995 crops of honey, subsection (b) of section 201 of the Agricultural Act of 1949 (7 U.S.C. 1446) is amended to read as follows:

"(b)(1) For each of the 1991 through 1995 crops of honey, the price of honey shall be supported through loans, purchases, or other operations at not less than 53.8 cents per pound.

"(2) The Secretary may permit a producer to repay a loan made to the producer under this subsection for a crop at a level that is the lesser of—

"(A) the loan level determined for such crop; or

"(B) such level as the Secretary determines will—

"(i) minimize the number of loan forfeitures;

"(ii) not result in excessive total stocks of honey;

"(iii) reduce the costs incurred by the Federal Government in storing honey; and

"(iv) maintain the competitiveness of honey in the domestic and export markets.

"(3)(A) If the Secretary determines that a person has knowingly pledged adulterated or imported honey as collateral to secure a loan made under this subsection, such person, in addition to any other penalty or sanction prescribed by law, shall be ineligible for a loan, purchase, or payment under this subsection for the 3 crop years succeeding such determination.

"(B) For purposes of subparagraph (A), honey shall be considered adulterated if—

"(i) any substance has been substituted wholly or in part for such honey;

"(ii) such honey contains a poisonous or deleterious substance that may render such honey injurious to health, except that in any case in which such substance is not added to such honey, such honey shall not be considered adulterated if the quantity of such substance in or on such honey does not ordinarily render it injurious to health; or

"(iii) for any other reasons, such honey is unsound, unhealthy, unwholesome, or otherwise unfit for human consumption."

(b) "Section 405A of the Agricultural Act of 1949 (7 U.S.C. 1425A) is amended by striking 'does not exceed \$250,000' and inserting the following: 'does not, when combined with any payments for such crop of honey described in section 1001(2) of the Food Security Act of 1985, exceed—

'(1) \$200,000 in crop year 1991;

'(2) \$167,000 in crop year 1992;

'(3) \$133,000 in crop year 1993; and

'(4) \$100,000, beginning with crop year 1994.'"

Mr. STENHOLM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. The gentleman from Texas [Mr. STENHOLM] will be recognized for 5 minutes, and a Member opposed will also have 5 minutes, if time is requested.

Mr. STENHOLM. Mr. Chairman, I yield myself 1 minute for the purpose of explaining the amendment.

Mr. Chairman, this is an amendment that moves us in the direction that the gentleman from Massachusetts has wanted to move us on all of our commodities. It is the exact same amendment that the House passed last week on the wool and mohair program. It will conform the honey program to every other commodity program of like nature in this bill that we are debating today. What we basically are doing is taking the limitation on how much an individual honey producer may receive from currently \$250,000 down to \$200,000 in 1991, and then lowering it until 1994 in one-third increments to reach \$100,000 limitation in 1994.

This is projected to save, over the 5-year period of the bill, between \$20 and \$25 million.

Mr. Chairman, it is not everything that the gentleman from Massachusetts has been asking us to say, but it is moving us in that direction. More importantly, though, this allows us to make the savings without doing the damage to the honey program that the gentleman from Massachusetts would do with his amendment.

The CHAIRMAN. The Chair would advise the gentleman from Texas [Mr. STENHOLM] that, under this substitute, he is entitled to 5 minutes and must use the full 5 minutes; he may not reserve a block of time as he is entitled to do under the amendment offered by the gentleman from Massachusetts.

So if the gentleman wishes to continue on the substitute, he will have to continue.

PARLIAMENTARY INQUIRY

Mr. STENHOLM. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. STENHOLM. May I yield to other Members?

On my time?

The CHAIRMAN. The gentleman may do that.

Mr. STENHOLM. Mr. Chairman, I yield at this time to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, and my colleagues, we revisit again the honey, and we have heard the arguments of my friend, the distinguished Member from Massachusetts. We disagree, basically. But I do want to correct that there were not 57 million pounds of honey now, there is only about half a million. There are projected deficiencies.

This honey, everything goes around; you cannot take one of these items separate from the other. We have honey in the surplus commodities for the poor, and they are now looking for a deficiency in that area. This is where we get the honey to give to the poor and for the department to use. Otherwise they would have to buy it in the open market at exorbitant prices.

What my friend from Massachusetts said about the jobs in his district, this is exactly what we are talking about. If we do not produce the honey in this country with the assistance of this program, granted there may be only 6,000 out of the 12,000 or whatever the number is, it is going to come from Red China.

I told the Member, and I agree with him, when, if you can remember, the gentleman said, we lost our manufacturing, we lost our technology, heaven forbid we lose our farmers. That is the last that we are working for. So we are right at the baseline. We will be up there by the time we finish this bill. We have an amendment to bring us to baseline.

So budget is not an implication. If you see my chart, the tiny little line, if anyone thinks that, granted, we make—we have cut from agriculture over \$30 billion just in the last year. We have been responsible, every year they bring us the number. We do not hassle about it, we go and produce it.

Mr. Chairman, we have been responsible. As a matter of fact, this time the Bush budget gives us about a 17-percent share of the cuts when we are less than 1 percent of the expenditure. Therefore, it is a nonargument, budget is a nonargument. The question is jobs.

Do you want the jobs for turbines, for cars, for honey, peanuts, cotton, do you want the jobs here or do you want them overseas in some other place. Now, the philosophical viewpoint as to what is this and what is that, here we have to deal with reality. I support the substitute. Also, it is an attempt to get closer to where my friend from Texas and my friend from Massachusetts want us to be. I do not think they are right, I disagree with their philosophical viewpoint. But in this place, perception is reality. So we are yielding to them not because we think they are right but for perception because perception is reality.

I would hope the Members would support the substitute amendment in lieu of the original amendment because we make an honest attempt to get closer to where the gentleman philosophically wants us to go.

Support the committee and support the substitute.

The CHAIRMAN. The time of the gentleman from Texas [Mr. STENHOLM] on his substitute has expired.

Does a Member oppose the substitute?

□ 1350

Mr. ARMEY. Mr. Chairman, I rise in opposition to the amendment.

I yield to the gentleman from Colorado [Mr. BROWN].

Mr. BROWN of Colorado. Mr. Chairman, it has been suggested that out of concern for the poor, we ought to

retain the \$69 million subsidy to a small number of honey producers. Ladies and gentlemen, fixing prices for honey at artificially high prices does not help the poor. Let me repeat that: If Members are concerned about the poor, increasing the prices artificially on a product does not help the poor. It hurts the poor. So if Members care about the poor, Members are not going to be a fan of artificially fixing prices too high.

Second, it has been suggested that these jobs are going to go overseas if we do not have a subsidy program. Members, we had bees and we had honey in this country in the 1700's when our Revolution was fought, and we got along just fine without a honey program. We had bees and we had honey in the 1800's when this country expanded, from coast to coast, and we got along just fine without a honey program. We had bees and honey in the Nation during World War I and we got along just fine without a honey program.

Now, to suggest that our bees are going to go on a sitdown strike or all move to China if we do not have a subsidy is ludicrous. Every Member of this Chamber knows it is ludicrous. This is a wasteful program that should be eliminated. Funding it pushes Members to raise taxes in other areas. Ladies and gentlemen, before you go home to defend tax increases think about how we will answer the question about the honey giveaway program. It is a disgrace. It ought to be ended. There is no reasonable justification to continue it.

I assure the Members in this Chamber that the bees of America are not going to go on strike if we do not have a subsidy program.

Mr. ARMEY. Mr. Chairman, I think the honey amendment is very curious because it is a real microcosm of farm policy. Let me just review it for a moment.

Honey is a byproduct of a product. There are 107 crops that require pollination. None of these crops have a price support system. It is true that in some areas of the country like Southern California there is a cartel that is disguised as marketing orders, that controls supply, keeps products off the market, and holds price up, but no price support per se. But honey, which is the byproduct that comes from the necessary task of pollination has a price support program. Now, why? In 1949, after the grievous shortage of sugar when our sugar supplies were cut off during the war, we put this program in because we were short on sugar and we were short on honey, and Americans desperately wanted some sweeteners. So we put in a program to boost up the price of honey so that we could generate a greater production of honey than that which would come as a natural byproduct of

pollination of the 107 other crops. Then we kept it in place despite the fact today we have a special program to hold down the supply of sugar and hold up the price of sugar. We have a sugar surplus on our hands.

We now have a special program to hold up the supply of honey beyond what it would be naturally created, and to hold up the price of honey. And we have honey surplus. Now we are told that we are going to freeze these honey prices and put them in line with the other commodities that have a price support, whereas during the 1980's on the 1985 farm bill we had a steadily declining loan rate or price floor. Now we pat ourselves on the back and give ourselves credit for fiscal responsibility because we are freezing prices. Let me tell Members the average price of a farm bill in the 1970's was \$3 billion a year. The 1980 bill was brought on line and projected to cost a total of \$12 billion over a 5-year period; it cost \$55 billion over 5 years. The 1985 bill came on line with a projected cost of \$55 billion; it cost \$83 billion. Now there is a projected cost of \$55 billion. I guarantee Members it will cost over \$80 billion for this 5-year program, and it is an unnecessary program.

If we defeat this program or retire it, we would deny them some modicum of control of product and distortion of prices by the Government.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. STENHOLM] as a substitute for the amendment offered by the gentleman from Massachusetts [Mr. CONTE].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONTE], as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there any other amendments to title VI?

Mr. DE LA GARZA. Under the previous request, I think we now go to title XI.

The CHAIRMAN. The Clerk will designate title XI.

(For the text of title XI, see proceedings of the House of July 31, 1990.)

AMENDMENT OFFERED BY MR. CONTE

Mr. CONTE. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. CONTE: Section 1101 is amended to read as follows: SEC. 1101. PAYMENT LIMITATIONS.

(a) ATTRIBUTION OF PAYMENTS.—(1) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (5)(C) and inserting the following:

“(C) In the case of corporations, partnerships, and other entities including by subparagraph (B), the Secretary shall attribute payments to natural persons in proportion to their ownership interest in the entity and

any other entity which owns or controls the entity receiving such payment.”.

(2) Section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) is amended by striking subsections (c) and (d) and inserting the following:

“(c) In the case of corporations, partnerships, and other entities included in section 1001(5)(C) of the Food Security Act of 1985, the Secretary shall attribute payments to natural persons in proportion to their ownership interest in the entity.”.

(b) LIMITATION ON PAYMENTS.—(1) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking “provision of law” and inserting “provision of law, subject to sections 1001A and 1001C”.

(2) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by inserting “(a)” before “Notwithstanding”, by redesignating paragraphs (3), (4), and (5) as subsections (d), (e), and (f), respectively, and by striking paragraphs (1) and (2) and inserting the following:

“(1) For each of the 1991 through 1995 crops, the total amount of deficiency payments (excluding any deficiency payments described in paragraph (2)) and land diversion payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, and rice shall not exceed \$50,000.

“(2) For each of the 1991 through 1995 crops, the total amount of—

“(A) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, rice, and honey at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), 101A(a)(5), or 201(b)(2), respectively, of the Agricultural Act of 1949, or any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower level than the original loan level established under the Agricultural Act of 1949;

“(B) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of the Agricultural Act of 1949;

“(C) any deficiency payment received for a crop of wheat or feed grains under section 107D(c)(1), 105C(c)(1), respectively, of the Agricultural Act of 1949 as a result of the reduction of the price support level for such crop under section 107D(a)(4) or 105(a)(3) of such Act;

“(D) any inventory reduction payment for a crop of wheat, feed grains, upland cotton, or rice under section 107D(g), 105C(g), 103A(g), or 101A(g), respectively, of the Agricultural Act of 1949; and

“(E) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation, shall not exceed \$50,000.

“(3) For each of the 1991 through 1995 crops, the total amount of disaster payments made under one or more of the annual programs established under the Agricultural Act of 1949, or under any other act which authorizes the Secretary or the Commodity Credit Corporation to make a payment with respect to the loss of production of an agricultural commodity due to natural disaster or other condition beyond the control of a producer (excluding indemnities paid by the Federal Crop Insurance Corporation), shall not exceed \$100,000.

"(4) For each of the 1991 through 1995 marketing years, the total amount of payments that a person shall be entitled to receive under the annual program established under the National Wool Act of 1954 for wool and mohair shall not exceed \$50,000. For purposes of subsection (b), such payments shall be considered to be made on a crop year basis.

"(5) For each of the years 1991 through 1995, the Secretary shall provide that payments made under title VI of the Agricultural Act of 1949 shall be considered to be made on a crop year basis for purposes of subsection (b).

"(6) For each of the 1991 through 1995 crops, no certificate redeemable for stocks or commodities held by the Commodity Credit Corporation may be redeemable for honey held by the Corporation."

"(3) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by adding at the end thereof the following new subsections:

"(b) For each of the 1991 through 1995 crops, the total amount of all payments specified in subsection (a) shall not exceed \$250,000. For the purposes of this section and sections 1001A through 1001C, the term payment includes marketing loan gains.

"(c) For any of the 1991 through 1995 crops, the total amount of marketing gains and payments specified in subsection (a)(2) (A) and (B) when combined with the value of commodities for which a marketing gain may be realized which is forfeited to the Commodity Credit Corporation shall not exceed \$50,000."

(c) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 1001(d) of the Food Security Act of 1985 (7 U.S.C. 1308), as redesignated by subsection (a), is amended by striking "paragraph (2)" and inserting "subsection (a)(2)(A) of this section".

(2) Subsection (f) of section 1001 of the Food Security Act of 1985 (as redesignated by section 3) (7 U.S.C. 1308) is amended by striking subparagraph (A) and by inserting the following:

"(f)(1)(A) The Secretary shall issue regulations—

"(i) defining the term 'person'; and

"(ii) prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of the limitations established under this section and sections 1001A through 1001C."

(3)(A) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended by striking "1001(5)(B)(i)" each place it appears and inserting "1001(f)(1)(B)(i)".

(B) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended by striking "1001(5)(B)(i)(II)" each place it appears and inserting "1001(f)(1)(B)(i)(II)".

(C) Section 1001A(b)(1) of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended by striking "paragraphs (1) and (2)" and inserting "subsections (a)(1) through (3)".

(D) Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308-2) is amended by striking "paragraphs (1) and (2)" and inserting "subsection (a)(1) through (3)".

(E) Section 1001C of the Food Security Act of 1985 (7 U.S.C. 1308-3) is amended by striking out "1989 and 1990" and inserting "1991 through 1995".

Mr. CONTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 444, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

Does a Member wish to speak in opposition?

Mr. DE LA GARZA. Mr. Chairman, the distinguished chairman of the subcommittee, the gentleman from Louisiana [Mr. HUCKABY] would manage the opposition time.

Mr. MADIGAN. Mr. Chairman, if there are Members opposed on both sides of the aisle, is there provision for a division of the time in opposition?

The CHAIRMAN. The rule only suggests one Member opposed. It may facilitate matters if a working arrangement could be agreed to between Members opposed and both sides of the aisle.

The Chair surmises that the gentleman from Illinois is opposed, is that correct?

Mr. MADIGAN. The Chair surmises correctly. Mr. Chairman, the reason for my inquiry is because a number of Members on this side have indicated their desire to speak on this provision. If we have some assurance that the gentleman is going to yield something that resembles an equal apportionment between the two sides, we would just proceed with what the gentleman has indicated.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, I wish to suggest that perhaps we might limit the total time to the Conte amendment and the Huckaby substitute to a total of an hour for the two of them, to be equally divided, and certainly if I could control the time, half that time, I would be more than willing to see that Members on that side of the aisle received half of that time.

Mr. MADIGAN. Is the gentleman making a unanimous-consent request?

Mr. HUCKABY. Mr. Chairman, I make a unanimous-consent request that the time on the Huckaby amendment that will be offered to the Conte amendment, as well as the Conte amendment, the total of the time for the two amendments, be limited to 1 hour, to be equally divided and controlled by myself and the gentleman from Massachusetts [Mr. CONTE].

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

□ 1400

Mr. CONTE. Mr. Chairman, reserving the right to object, how does that

differ from the rule that we already adopted?

The CHAIRMAN. The Chair would advise the gentleman from Massachusetts [Mr. CONTE] that the rule provides the gentleman from Massachusetts with 1 full hour on this amendment to be divided equally and 1 full hour on the substitute to be offered by the gentleman from Louisiana, totaling 2 full hours. As the Chair understands it, the gentleman from Louisiana [Mr. HUCKABY] is suggesting that both the substitute and the gentleman's amendment be limited to debate for 1 hour.

Mr. CONTE. Mr. Chairman, I object. The CHAIRMAN. Objection is heard.

Pursuant to the rule, the gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes.

Mr. SCHUMER. Mr. Chairman, before we begin debate on the amendment, I have a unanimous-consent request to offer.

The CHAIRMAN. Does the gentleman from Massachusetts yield to the gentleman from New York?

Mr. SCHUMER. Will the gentleman from Massachusetts [Mr. CONTE] yield for a unanimous-consent request?

Mr. CONTE. Yes, I yield to my good friend, the gentleman from New York.

MODIFICATION OFFERED BY MR. SCHUMER TO THE AMENDMENT OFFERED BY MR. CONTE

Mr. SCHUMER. Mr. Chairman, I ask unanimous consent that the Conte amendment be modified to delete the section relating to wool and mohair on page 4, lines 6 through 11, and renumber sections (5) and (6) on that page accordingly, and also delete the words, "and honey," from page 2, line 20 of the amendment, both because separate amendments that were agreed to on wool and mohair last week and on honey earlier today establish limits for those programs.

The CHAIRMAN. The Chair would ask that the modification offered by the gentleman from New York be submitted in writing.

The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. SCHUMER to the amendment offered by Mr. CONTE: Delete the section relating to wool and mohair on page 4 of my amendment, lines 6 to 11, and renumber sections (5) and (6) on that page accordingly and also delete the words "and honey" from page 2, line 20 of the amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from New York that the amendment be modified?

There was no objection.

The CHAIRMAN. The modification is accepted.

The text of the amendment, as modified, is as follows:

Section 1101 is amended to read as follows:

SEC. 1101. PAYMENT LIMITATIONS.

(a) **Attribution of Payments.**—(1) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (5)(C) and inserting the following:

"(C) In the case of corporations, partnerships, and other entities included by subparagraph (B), the Secretary shall attribute payments to natural persons in proportion to their ownership interest in the entity and any other entity which owns or controls the entity receiving such payment."

(2) Section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) is amended by striking subsections (c) and (d) and inserting the following:

"(c) In the case of corporations, partnerships, and other entities included in section 1005(5)(C) of the Food Security Act of 1985, the Secretary shall attribute payments to natural persons on proportion to their ownership interest in the entity."

(b) **Limitation on Payments.**—(1) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking "provision of law" and inserting "provision of law, subject to sections 1001A and 1001C".

(2) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by inserting "(a)" before "Notwithstanding", by redesignating paragraphs (3), (4), and (5) as subsections (d), (e), and (f), respectively, and by striking paragraphs (1) and (2) and inserting the following:

"(1) For each of the 1991 through 1995 crops, the total amount of deficiency payments (excluding and deficiency payments described in paragraph (2)) and land diversion payments that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, upland cotton, extra long staple cotton, and rice shall not exceed \$50,000.

"(2) For each of the 1991 through 1995 crops, the total amount of—

"(A) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, upland cotton, rice, at the rate permitted under section 107D(a)(5), 105C(a)(4), 103A(a)(5), 101A(a)(5), or 201(b)(2), respectively, of the Agricultural Act of 1949, or any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower level than the original loan level established under the Agricultural Act of 1949;

"(B) any loan deficiency payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107D(b), 105C(b), 103A(b), or 101A(b), respectively, of the Agricultural Act of 1949;

"(C) any deficiency payment received for a crop of wheat or feed grains under section 107D(c)(1), 105C(c)(1), respectively, of the Agricultural Act of 1949 as a result of the reduction of the price support level for such crop under section 107D(a)(4) or 105(a)(3) of such Act;

"(D) any inventory reduction payment for a crop of wheat, feed grains, upland cotton, or rice under section 107D(g), 105C(g), 103A(g), or 101A(g), respectively, of the Agricultural Act of 1949; and

"(E) any part of any payment that is determined by the Secretary of Agriculture to represent compensation for resource adjustment (excluding land diversion payments) or public access for recreation, shall not exceed \$50,000.

"(3) For each of the 1991 through 1995 crops, the total amount of disaster payments made under one or more of the annual programs established under the Ag-

ricultural Act of 1949, or under any other act which authorizes the Secretary or the Commodity Credit Corporation to make a payment with respect to the loss of production of an agricultural commodity due to natural disaster or other condition beyond the control of a producer (excluding indemnities paid by the Federal Crop Insurance Corporation), shall not exceed \$100,000.

"(4) For each of the years 1991 through 1995, the Secretary shall provide that payments made under title VI of the Agricultural Act of 1949 shall be considered to be made on a crop year basis for purposes of subsection (b).

"(5) For each of the 1991 through 1995 crops, no certificate redeemable for stocks of commodities held by the Commodity Credit Corporation may be redeemable for honey held by the Corporation."

(3) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by adding at the end thereof the following new subsections:

"(b) For each of the 1991 through 1995 crops, the total amount of all payments specified in subsection (a) shall not exceed \$250,000. For the purposes of this section and sections 1001A through 1001C, the term payment includes marketing loan gains.

"(c) For any of the 1991 through 1995 crops, the total amount of marketing gains and payments specified in subsection (a)(2)(A) and (B) when combined with the value of commodities for which a marketing gain may be realized which is forfeited to the Commodity Credit Corporation shall not exceed \$50,000."

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—(1) Section 1001(d) of the Food Security Act of 1985 (7 U.S.C. 1308), as redesignated by subsection (a), is amended by striking "paragraph (2)" and inserting "subsection (a)(2)(A) of this section".

(2) Subsection (f) of section 1001 of the Food Security Act of 1985 (as redesignated by section 3) (7 U.S.C. 1308) is amended by striking subparagraph (A) and by inserting the following:

"(f)(1)(A) The Secretary shall issue regulations—

"(i) defining the term 'person'; and

"(ii) prescribing such rules as the Secretary determines necessary to assure a fair and reasonable application of the limitations established under this section and sections 1001A through 1001C."

(3)(A) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended by striking "1001(5)(B)(i)" each place it appears and inserting "1001(f)(1)(B)(i)".

(B) Section 1001A of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended by striking "1001(5)(B)(i)(II)" each place it appears and inserting "1001(f)(1)(B)(i)(II)".

(C) Section 1001A(b)(1) of the Food Security Act of 1985 (7 U.S.C. 1308-1) is amended by striking "paragraphs (1) and (2)" and inserting "subsection (a)(1) through (3)".

(D) Section 1001B of the Food Security Act of 1985 (7 U.S.C. 1308-2) is amended by striking "paragraphs (1) and (2)" and inserting "subsection (a)(1) through (3)".

(E) Section 1001C of the Food Security Act of 1985 (7 U.S.C. 1308-3) is amended by striking out "1989 and 1990" and inserting "1991 through 1995".

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] is recognized for 30 minutes on his amendment, as modified.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, there are two things I want to explain to the House, because I have been here 32 years and I have always tried to be fair in my deliberations.

I did not ask for a rollcall vote on the Stenholm substitute. We have labored long and hard on this bill, and I do want to see it go to conference. I am going to vote against the bill. I did not want to consume the time of the Congress, and I can count as well as anybody else around here, so I did not ask for a rollcall vote, and I do not object to the Schumer unanimous-consent request because that is what the House adopted and that is its will.

I might say that I feel somewhat like David against Goliath down here fighting this Agriculture Committee.

Mr. Chairman, I must compliment the Agriculture Committee. They got their ducks in order. I do not know what deals they have made. I remember when Burton was alive. He was a great friend. Remember Burton? He used to have all the labor bills, and he would grab me out here in the Speaker's room and he would put his arm around me—he was a very gregarious guy—and he would say, "Sil, you are responsible for more human labor legislation than anybody in the U.S. Congress."

I would look at him and I would say:

What are you talking about?

He said:

Every time you put that \$100,000 subsidy limitation on the farm bill, I make more deals with those guys, and then I get the black lung bill through and I get the minimum wage bill through. There is a lot of logrolling going on here.

I know it, and I feel it, because I think the amendments we offered on the bees and on the honey are so fair and so equitable, considering the problems we have in this country, that they should have been adopted.

Mr. Chairman, this is an important amendment. As reported, the farm bill will add, will add, an additional \$521 million to the deficit in the first year. The budget resolution passed by this House calls for \$800 million in deficit reduction from agriculture programs. So, this bill started out \$1.3 billion over budget.

The Madigan amendment barely made a dent in that, say some, \$11 million not nearly enough. There's no telling today how much will ultimately need to be cut. Last week the Post carried predictions that up to \$20 billion will ultimately need to be cut over 5 years.

A week ago, one attempt to rein in costs was rejected. This amendment takes a very different approach.

Unlike that other amendment, it is an approach that is endorsed by the Secretary of Agriculture. It is an approach that is wholeheartedly endorsed by farm groups, like the Na-

tional Grange, the Center for Rural Affairs, and the Sustainable Agriculture Coalition. It is an approach endorsed by budget watchdogs like the Citizens Against Government Waste. It is an approach endorsed by those concerned with equity, like the U.S. Catholic Conference and Bread for the World. And it is an approach endorsed by those concerned with the environment, like the Natural Resources Defense Council.

Unlike the Schumer-Army amendment, it cannot be attacked on environmental grounds. It cannot be attacked on such grounds as making farmers turn over the income tax forms. It is an amendment that is pro-family farm. It does nothing to change who is qualified to receive farm payments.

It does not cut anybody out. It is an amendment that does not seek to change farm policy, but to close a loophole and to put all farm program crops on an equal footing.

Let me describe the two parts of the amendment. First, my amendment closes a gigantic loophole that continues to make a mockery of the payment limitations Congress set in 1980 and 1985, and which has cost us billions of dollars in excessive farm program payments.

It will cost us close to another billion dollars in the next 5 years if we don't close it today.

Under current law, there are supposedly limits on the amount of Federal payments one individual farmer can receive, from \$50,000 in deficiency payments in such programs as wheat and corn to as much as \$250,000 in total farm program payments. But if you think that the existing \$50,000 limitation is really a \$50,000 limitation, then I have news for you. It ain't so. You've been had.

That gigantic loophole in current law allows a small number of farmers to double their take, by getting payments once as an individual and twice as partners in corporations and trusts. The \$50,000 limit is really a \$100,000 limit, and the \$250,000 limit is really a \$500,000 limit. We don't pay this elite, the biggest producers, the top 1 percent of the farming community, once, we pay them three times.

Mr. Chairman, my amendment will establish effective, honest payment limitations on all our farm subsidy payments. No longer will the big producers walk through the loophole to get \$75,000, \$85,000, up to \$100,000 per individual in deficiency payments, and up to \$500,000 in total payments. This amendment tracks the payments farmers receive, no matter what the source, and ensures that the total doesn't exceed the \$50,000 limit. If we say the limit is \$50,000, then we mean \$50,000—not twice that amount. The average farmer is out there working the land, and he is getting about

\$12,600 in deficiency payments per year. But those big guys, the top one percent of the farmers, are averaging \$78,000 per year in deficiency payments. That's \$28,000 in excess payments—and that excess is two times what the average farmer receives.

Out of 2 million farmers in the United States, this hits only the biggest of the big, some 38,000, and saves \$700 million over 5 years.

And almost as bad as the loophole, Mr. Chairman, is that some farm program payments fall outside the \$50,000 limit. For marketing loan gains and Findley payments, we allow individuals to receive up to \$250,000—and the fat cats can even double those limits by using the loophole.

Under my amendment, those excessive subsidies would be reduced to \$50,000, equal to the \$50,000 limit on deficiency payments, except for disaster payments, which are capped at \$100,000. That will restore some equity and fairness among the farm programs. Out of 2 million farmers, it is estimated to affect 1,000, and yet will save some \$150 million over 5 years.

Mr. Chairman, we have been trying to bring the costs of the agriculture program under control for a long time. I fought for the \$20,000 limit in the early 1970's, back when the Queen of England was getting \$700,000 to \$800,000 in subsidies per year. We ended the Queen's subsidy, and the subsidies to the Duke of Lichtenstein, worth more than his whole country. And we thought we ended other abuses when we settled on the \$50,000 limit in 1980.

We were wrong, Mr. Chairman, and we were wrong again in 1985 and 1987 when we made some reforms. As late as last year, we saw in the President's budget how one farmer divided his operation into 67 entities to evade the payment limits.

This amendment would stop that kind of abuse once and for all. It closes the existing loophole by which a select few, the 1 percent are paid three times instead of once and get up to \$500,00 in total farm payments.

I am sure you will hear all sorts of arguments made against this amendment. My seat belt is fastened. Just remember this. My amendment ends an abuse. It cuts no one off. It just enforces the existing limits. It is pro-family farm. It is supported by the Secretary of Agriculture. It is good policy and a major budget saver. And I ask for your support.

□ 1410

AMENDMENT OFFERED BY MR. HUCKABY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CONTE, AS MODIFIED

Mr. HUCKABY. Mr. Chairman, I offer an amendment as a substitute for the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. HUCKABY as a substitute for the amendment offered by Mr. CONTE, as modified:

On page 264—

(1) strike line 13 through line 8 on page 265 and insert the following:

“(1) in paragraph (1)—

“(A) by inserting ‘(A)’ after ‘(1)’;

“(B) by striking ‘1990’ and inserting ‘1995’;

“(C) by adding at the end the following new subparagraphs:

“(B) Subject to sections 1001A through 1001C, for each of the 1991 through 1995 crops, the total amount of payments set forth in clauses (i) through (iv) that a person shall be entitled to receive under one or more of the annual programs established under the Agricultural Act of 1949 for wheat, feed grains, oilseeds, upland cotton, extra long staple cotton, and rice shall not exceed \$100,000. For purposes of this subparagraph, the term ‘payments’ includes—

“(i)(I) any gain realized by a producer from repaying a loan for a crop of wheat, feed grains, oilseeds, upland cotton, or rice at the rate permitted under section 107A(a)(4), 105A(a)(4), 201(g)(4), 103B(a)(5), or 101B(a)(5) respectively, of the Agricultural Act of 1949, or (II) any gain realized by a producer from repaying a loan for a crop of any other commodity at a lower level than the original loan level established under the Agricultural Act of 1949;

“(ii) any loan deficiency payment received for a crop of wheat, feed grains, oilseeds, upland cotton, or rice under section 107A(b) or 105A(b), 201(g)(5), 103B(b), or 101B(b) respectively, of the Agricultural Act of 1949;

“(iii) any inventory reduction payment received for a crop of wheat, feed grains, upland cotton, or rice under section 107A(g)(1), 105A(g)(1), 103B(f), or 101B(f), respectively, of the Agricultural Act of 1949; and

“(iv) any deficiency payment received for a crop of wheat or feed grains under section 107A(c)(1) or 105A(c)(1), respectively, of the Agricultural Act of 1949 as the result of a reduction of the loan level for such crop under section 107A(a)(3) or 105A(a)(3) of such Act.

“(2) in paragraph (2)(A)—

“(A) by striking ‘1987 through 1990’ and inserting ‘1991 through 1995’; and

“(B) by inserting ‘oilseeds,’ after ‘feed grains.’;

“(C) by striking ‘(with respect to clause (iii)(II) of subparagraph (B))’;

“(D) by striking ‘when combined’ and inserting ‘and, with respect to wool and mohair, under the program established under the National Wool Act of 1954, when combined’; and

“(E) by striking ‘\$250,000’ and inserting ‘\$200,000’; “(3) in paragraph (2)(B) by—

“(A) striking ‘the term ‘payments’ means—’ and inserting ‘the term ‘payments’ includes—’;

“(B) striking clauses (iii) through (vi);

“(C) inserting ‘and’ after the semicolon at the end of clause (ii); and

“(D) inserting the following clause:

“(iii) any gain realized by a producer from repaying a loan for a crop of honey at a lower level than the original loan level established under section 201(b)(2) of the Agricultural Act of 1949.”;

“(4) by amending paragraph (5)(B)(i)(I) to read as follows:

“(I) an individual, including any individual participating in a farming operation as a partner in a general partnership, a participant in a joint venture, a grantor of a revocable trust, or a participant in a similar

entity (as determined by the Secretary), and, except for purposes of deficiency payments and land diversion payments (as described in paragraph (1)(A)), the term person shall also include any individual holding a substantial beneficial interest in any entity described in subclause (II);

"(5) in paragraph (5)(B)(i)(II) by inserting 'only for purposes of deficiency payments and land diversion payments described in paragraph (1)(A),' before 'a corporation';

"(6) in paragraph (5)(ii)(II) by—

"(A) striking 'irrevocable trusts and'; and

"(B) striking 'trusts and';

"(7) by inserting after paragraph (5)(B)(ii) the following clause:

"(iv) Such regulations shall prohibit an irrevocable trust from being eligible to receive any payments (as described under paragraph (2)(B)); and

"(8) in paragraph (5)(C), by striking 'The regulations' and inserting 'Only for purposes of deficiency payments and land diversion payments described in paragraph (1)(A), the regulations'.

"(b) AMENDMENT TO SECTION 1001A OF THE FOOD SECURITY ACT OF 1985.—Section 1001A(a) of the Food Security Act of 1985 (7 U.S.C. 1308-1(a)) is amended—

"(1) by striking 'farm program payments (as described in paragraphs (1) and (2) of this section' and inserting 'deficiency payments and land diversion payments (as described in section 1001(1)(A));

"(2) By striking paragraph (2);

"(3) by redesignating paragraph (3) as paragraph (2); and

"(4) by redesignating paragraph (4) as paragraph (3)."

2. On page 265—

(1) line 9, strike "(b)" and insert "(c)"

(2) line 13, strike "(c)" and insert "(d)"; and

(3) line 17, strike "(d)" and insert "(e)".

Mr. HUCKABY (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

Mr. CONTE. Mr. Chairman, reserving the right to object, I ask the Chair if this version at the desk includes the redefinition of "irrevocable trust" that CBO has written us will cost several million dollars and make it subject to a point of order, or does this version drop the irrevocable trust language, the result of which CBO says will mean the amendment makes only small savings over what is now in the bill?

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Louisiana.

Mr. HUCKABY. Mr. Chairman, may I point out that the amendment pending before the House prohibits trusts from participating in future farm programs?

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, this is the one that CBO says that it will make savings.

Mr. CONTE. Small savings.

Mr. DE LA GARZA. That is debatable.

Mr. Chairman, I say to my friend, the gentleman from Massachusetts [Mr. CONTE], that it will make savings.

Mr. CONTE. Mr. Chairman, I withdraw my reservation of objection.

The CHAIRMAN. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 444, the gentleman from Louisiana [Mr. HUCKABY] will be recognized for 30 minutes and a Member opposed will be recognized for 30 minutes.

Mr. CONTE. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] will be recognized for 30 minutes in opposition. The gentleman from Louisiana [Mr. HUCKABY] is recognized for 30 minutes in support of his substitute.

Mr. HUCKABY. Mr. Chairman, I yield myself such time as I may consume.

PARLIAMENTARY INQUIRY

Mr. COMBEST. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. COMBEST. Who controls the 30 minutes in opposition to the original amendment, the amendment offered by the gentleman from Massachusetts [Mr. CONTE]?

The CHAIRMAN. The gentleman from Louisiana [Mr. HUCKABY] controls 30 minutes in opposition to the amendment offered by the gentleman from Massachusetts [Mr. CONTE] and 30 minutes in control of his own substitute.

In addition, the Chair advises that the gentleman from Massachusetts [Mr. CONTE] likewise controls the same time on his side on his amendment.

Mr. HUCKABY. Mr. Chairman, my colleagues, the amendment of the gentleman from Massachusetts [Mr. CONTE] and the Huckaby substitute goes to the very heart and soul, the essence, of our farm programs to American agriculture.

Mr. Chairman, today in America 15 percent of our farmers produce 70 percent of the output. These are these full-time farmers that are operating 300 acres to 3,000 acres; 15 percent are producing 70 percent of our total output.

My colleagues, the overwhelming majority of our farms in America are family owned farms. They are not entities of big corporations. There is no big return to be made in agriculture.

The USDA says that the average return on investment from the years 1980 to 1988 in agriculture was only 1 percent. That is why it is essential that we have farm programs, so that these farmers can stay in business.

In addition, Mr. Chairman, USDA also tells us that more than 98 percent of America's farms are family owned.

My amendment, offered as a substitute to the amendment offered by the gentleman from Massachusetts [Mr. CONTE] preserves the three entity rule. What does the three entity rule mean? It means that an individual farmer can farm by himself and that he can go into partnership with his son or his neighbor and have a separate farming operation, that they could use the same equipment for efficiencies. Under the Conte amendment, for the first time ever, my colleagues, we in Washington would dictate, we in Washington would dictate, that a father and son could not be in partnership together and participate in government programs if either one of them participated by himself.

□ 1420

I do not think we want to do that. Fathers and sons, fathers and son-in-laws, brothers, neighbors, it is estimated that 18 to 10 percent of our farming operations in America are small family corporations or partnerships.

The gentleman's amendment would say that we in Washington know better. We do not want you to farm that way anymore. You cannot do that. We do not want to take that approach, Mr. Chairman.

Now, in 1987 we spent many hours, I myself, the chairman, the gentleman from Texas [Mr. STENHOLM], the gentleman from Kansas [Mr. GLICKMAN], the gentleman from New York [Mr. SCHUMER] and the gentleman from Massachusetts [Mr. CONTE], working on a compromise to try to correct the abuses in the farm program. Many hours were spent in developing the three entities so that we could be efficient.

We have large combines today. We have large cotton pickers today. You take a man and put him on that cotton picker and in a season he can do perhaps a thousand acres at a time, or several thousand acres of wheat on a large combine. We want our Government program to encourage efficient size operations, not to encourage our farms to break up into smaller and smaller entities where they can no longer compete.

Let us keep in mind that American agriculture is our largest industry. We export more agricultural products than any other thing in America. Let us keep this segment of our economy strong. Let us not strike at the very heart of how it is structured and how it functions.

The three entities were not a loophole. It was designed this way for efficiency. It was designed this way so that neighbors, fathers, and sons, can have joint farming operations. Under our amendment, the maximum that

an individual can receive in deficiency payments would be \$50,000, operating as a farmer by himself, and he could be in partnership with no more than two other entities, receiving \$25,000 from each of those, so that the absolute total would be \$100,000 that an individual can receive.

In addition to this, we significantly reduce the payments that one could receive from marketing loans or the so-called Findley payments.

As you are all aware, these payments only kick in when the market prices are severely distressed. In normal years there are no Findley payments or marketing loan payments. In fact, in the decade of the 1980's there was only 1 year when there was a cotton market loan payment.

We reduce these payments from \$250,000 to \$100,000 as the absolute maximum that an individual could receive; so if you take the combination of a maximum of \$100,000 deficiency payment and the maximum of \$100,000 in marketing loans or Findley payments, we arrive at a figure of \$200,000 as the total, with no exceptions, that any individual can receive from Government payments. This is \$50,000 less than what the gentleman from Massachusetts [Mr. CONTE] proposes. His alternative has a total of \$250,000. The alternative that we present before you has a total of \$200,000.

The gentleman from Massachusetts [Mr. CONTE] closed his statement by referring to a situation in Mississippi where 67 entities were farmed. This is wrong. May I quote from a letter that I wrote to Secretary Yeutter December 6, 1989, regarding this specific example, and I might point out, this is the only example that I am aware of that there was a violation of the intent of the spirit of the 1987 compromise. I quote from this letter from myself to Secretary Yeutter:

I feel strongly that the aforementioned operation violates both the spirit and the letter of the law.

Since then, the regulations have been changed, but our substitute amendment pending before you goes even further as far as addressing this particular case and others similar to them where trusts are used. It makes trusts ineligible to participate in farm programs. We can lay this matter to rest so that there will not be any abuses in the future from trusts.

So in conclusion, Mr. Chairman, let me point out that the integrity of American agriculture has been restored. Its viability has been restored under the 1985 farm bill. The 1990 farm bill, as you all know, is essentially a continuation of those programs with a solid freeze in farm prices and target prices for the next 5 years.

I would urge, Mr. Chairman, let us not change other than the fine tuning we are offering here in our substitute

amendment, the basic essence of how our programs work and the eligibility to participate, because what we are trying to do with this participation is to control the inventories. By controlling the inventories we help in some way to control the price so that the farmer gets most, if not all, of his payment from the marketplace, and not from the Government.

Our programs have worked amazingly well in the last few years, and I would urge my colleagues let us continue this good record. Let us approve the Huckaby substitute for the Conte amendment.

Mr. CONTE. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey [Mr. GALLO].

Mr. GALLO. Mr. Chairman, I thank the gentleman from Massachusetts for yielding me this time.

I rise in opposition to the substitute.

I might say, Mr. Chairman, that I am also strongly in support of the Conte amendment.

Although I agree the substitute has shown some improvement, it still leaves a hole large enough to drive a truck through, and that is the reason for this particular amendment by the gentleman from Massachusetts [Mr. CONTE]. The amendment closes huge loopholes that allow farmers to get around the payment limitation of the farm bill. In the current farm bill, farmers can double their farm program payment limitations and receive upward to \$100,000.

It is time to level the playing field, to limit the disparity among commodities and between large and small producers.

This amendment simply goes back to the original intent of Congress in setting payment limits. Over the past few days we have had a number of opportunities to show that we are serious about cutting spending. The Conte amendment saves taxpayers as much as \$1 billion over the next 5 years. For once, let us just do it. Support the Conte amendment. It is something that I believe this House should support and it deserves our support.

Mr. HUCKABY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas [Mr. COMBEST].

Mr. COMBEST. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, this is a debate that has been on this floor for many years. I appreciate the persistence of the gentleman from Massachusetts [Mr. CONTE], even though sometimes I think there is unintentionally some discussion about payment limitations that many times are misconstrued.

We have heard the words this afternoon about abuse. We have heard the word about farmers getting around the payment limitations. We have heard differences of large and small.

I hope someday we can have a definition of a family farm. I guess a family farm depends on where you come from. In an area where you have a family operation of 100 or 160 acres, a family farm, I suppose, in that area is 160 acres.

□ 1430

However, in the area of Texas that I represent we do not consider them the large and, as has been earlier described, fat-cat farmers. Farmers out in west Texas are simply trying to make a living, and yet if the Conte amendment were adopted, there was discussion by the gentleman from Massachusetts where it was mentioned in earlier comments that simply you are not making a change in farm policy, but you are in the instance of west Texas cotton farmers, because there are some changes in the Conte amendment that go, as has been described by the gentleman from Louisiana [Mr. HUCKABY], to the guts of the program.

The payment limitations traditionally in the past have referred to those payments or those limitations on the payments that come in the forms of deficiency payments, and yet one of the most, I think, damaging parts of the Conte amendment is a limitation that is directed at the loan.

It is not just at the loan that he mentioned under the marketing loan provisions, which I might add has been one of the key reasons that the farm bill in terms of cotton and rice has succeeded, but it also has to do with limitations on the forfeiture of the loan.

That is a dramatic, a dramatic move from current policy, because if you begin to limit the amount of loan forfeiture to \$50,000, the average cotton farm in my congressional district will be too large. The average cotton farm, not the large cotton farmer, but the average cotton farmer in my district could not live with a \$50,000 limitation under loan forfeiture.

I would like to have some of our colleagues come down to west Texas sometime and look at these fat-cat farmers, these farmers that are abusing the program, these farmers that are trying every way they can to get around these payment limitations.

Mr. Chairman, this is the way the program was designed. It was not designed to get around, and the 67 entities that were pointed out as the massive abuses, I might add, was changed. It is currently not the situation that that farm can any longer get those payments, and it was changed with the cooperation of the gentleman from Louisiana [Mr. HUCKABY], and others on the Committee on Agriculture, when we recognized that some abuses were taking place. We did not condone those abuses. There have been

changes made, and currently the program is working for that farmer who is, in fact, a full-time family farmer, and I do not think we ever want to get into the situation of where we begin to penalize a farmer because they are trying to operate efficiently.

A 200-bale-producing cotton farm would reach the payment limitation under the loan forfeiture at 50 cents a pound, which is where we have set the floor under the cotton loan. So what you would basically have is for those 200 bales you would have a nonrecourse loan program, and for all of the other bales under that program, you would have a recourse loan.

Mr. Chairman, the farm program has worked because of the loan mechanism. The farm program has worked because of the deficiency program under the payment limitations of the deficiency payment under target prices, and it has worked well in the areas of cotton and rice because of the marketing loan.

Let us not negate this. Let us not abandon this program that has worked well because of a few injustices that have been corrected, because of the massive movement to a new type of a farm program, and I want to again emphasize that the acceptance of the Conte amendment as it is drafted would be massive movement away from current farm programs when we began to limit loan forfeitures to \$50,000. It almost makes it an unworkable program, Mr. Chairman, and it is a dramatic deviation from current farm policy in opposition to what some people might say.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I rise today to urge my colleagues to support the Conte payment limitation amendment to the 1990 farm bill.

As my colleagues know, farm programs are designed to assist small- and medium-size family farmers in maintaining adequate income in the face of adversity. However, in recent years, a large portion of these income support payments have been going to a few relatively well-off individuals.

In 1980, Congress agreed that direct farm program payments to individual farmers should not exceed more than \$50,000 annually. This \$50,000 limit, however, has not been applied consistently to all farm programs. Utilizing a legal loophole, a few larger producers have reorganized their farming operations and have formed partnerships and corporations with family and friends to evade this limit. Individual cotton, rice, or honey producers can receive up to \$500,000 in total taxpayer subsidies, simply by reorganizing their operations. The average family farmer does not benefit from such reorganization. He does not have that luxury.

Very few farmers exceed the \$50,000 payment cap. In fact, in 1988, the average farm subsidy was less than \$15,000. Very few are taking advantage of the system and exploiting the loophole. Nevertheless, there are large, commercial farmers who are reaping huge profits from the lack of strict, loophole-free payment limit. The Conte amendment would close this loophole and apply a uniform, \$50,000 payment limit across all programs.

During this period of budgetary constraints, the Conte amendment serves as one responsible way to eliminate waste in farm policy. The Conte amendment can save \$200 to \$300 million next year alone, and \$1 billion over the 5-year life of the farm bill. The savings are relatively painless—only large, commercial farmers would be affected. The average family farmer would not see his payments reduced.

The Conte payment limitations amendment is a sensible approach to restoring fiscal responsibility to farm policy and I urge my colleagues to vote yea on the amendment.

Mr. HUCKABY. Mr. Chairman, I yield 3 minutes to the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise this afternoon in strong opposition to the Conte amendment. I think that it will serve ultimately to reduce the aggregate payment limitation. Even so, as we are in the 1990 farm bill, freezing target prices over the next 5 years which everybody knows will be a net income loss to the farmer.

Mr. Chairman, I have been asked during debate how does the small farmer differ from the small plumber or the small shoe salesman, besides the fact we cannot eat pipes or shoes, and that is pretty evident. I think the difference is that in the program the small farmer is under the complete control of the Federal Government once he enters the program. He is told what to produce, what he cannot produce, when to produce it, how much of it to produce, what price he will receive for the production, how much land he can utilize in production, and how much of the land that he can set aside, and it is very, very restrictive.

Mr. Chairman, even so, it is not as rewarding as some of the others would have us believe. In most cases, this payment that we are seeking to reduce here today never comes close to evening out the losses suffered by farmers from the high cost of production and low prices.

For instance, the average cost of production for cotton averages about 65½ cents per pound, while the average price is now about 80 cents. The important point here is the 65½-cent

cost does not include land or equipment payments which are the most costly of all farm expenses. Once the yearly and monthly land and equipment payments have been made, the farmer's average cost of production far exceeds what little the Government pays him.

According to the USDA, the cost of production data, where land and production payments are considered, the farmer loses on the average \$53.77 per acre, and he loses \$129.80 an acre on rice.

What does a cotton picker cost? What does a combine cost?

The other problem here, Mr. Chairman, is the fact that I represent a district in Mississippi which is very rural which has lost about 65,000 people since the last Federal census. I am saying to the Members, as a colleague interested in rural development and increasing the rural population, that this does not bode well for rural America and for Mississippi, because as goes agriculture so goes rural America.

If this amendment passes, we stand to lose substantially more than that.

So I rise to oppose the Conte amendment. I think that we have had some abuses in the past. We just passed a housing amendment, or a housing authorization bill, on the floor this morning, Mr. Chairman. And how much abuse have we seen in the housing program?

□ 1440

I think our action here should be to root out the abuses. I think that most small farmers really do abide by the program as presently written. If we change the regulations, we have to root out those who would choose to abuse it. I think the Conte amendment is ill-timed.

Mr. CONTE. Mr. Chairman, I yield 4 minutes, to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding. I hope Members of our body who are not on the Committee on Agriculture and not continual students of farm policy are listening today. Let me see if I can put into words what we see happening here.

The gentleman from Louisiana [Mr. HUCKABY] is offering an amendment in the form of a substitute that would tighten down the limit on the amount of money an individual can receive in farm subsidies from the U.S. Government in a variety of forms in which those subsidies might come.

Mr. Chairman, this is a real tough amendment. It says that we will provide a safety net, a word that is very popular with members of the committee who are supporters of this program, a safety net of \$200,000.

Mr. Chairman, it is no wonder they thought it was Draconian of us to sug-

gest earlier in this bill that anybody that had an adjusted gross income of \$100,000 should not participate in the program. The safety net is twice the limit we would have put on participation. A \$200,000 safety net.

The gentleman from Louisiana [Mr. HUCKABY] further suggested that to do less than this, to drop that, would cause these farms to be broken up into small units. This from a committee that has pledged to save the small family farm, could not tolerate these units being broken up.

Let us take a look at what the gentleman from Massachusetts [Mr. CONTE] would do. The gentleman from Massachusetts says he will make real with his amendment the \$50,000 maximum safety net that we legislated in 1980 and thought we reinforced in 1985.

For corn alone I have done a quick calculation here. If you had the base acres alone to qualify for the full \$50,000 safety net under the Conte limit, you would have no less than \$300,000 worth of assets in base corn acres alone.

Is there anybody outside of the American farmer with real assets of \$300,000 that is getting a safety net of \$50,000? It was not too many weeks ago when we saw a lady in one of our urban northern cities prosecuted for saving \$2,000 out of nickels, dimes, and quarters for her daughter's education, and forced to repay the Government the income support that she had received while she had that savings. But \$300,000 in base acres alone, do not consider the other assets that might be owned by this individual, does not disqualify one from this program and this is a tough limit of \$50,000.

It is no wonder we need such a safety net. The higher you fly, the higher must be placed the net. I should certainly think that anybody here would be satisfied to know that a \$200,000 safety net should protect the highest flyers, even in American agriculture.

Mr. Chairman, I suggest to this body if you think about it, if you care about the small family farm, if you care about really providing help to those who need and deserve your help, you will vote down the Huckaby substitute and vote for a reasonably limited safety net.

For those Members who represent a majority of constituents that have an average gross family income of \$35,000 a year, I think you should feel satisfied to vote with a get-tough Conte amendment that says the safety net shall not rise above \$50,000 a year, and, by golly, we mean it.

Mr. HUCKABY. Mr. Chairman, I yield 3 minutes to the gentleman from Montana [Mr. MARLENEE].

Mr. MARLENEE. Mr. Chairman, I rise in support of the Huckaby amendment and in opposition to the Conte

amendment. It seems that we repeat ourselves here every so often, and I have heard this same speech 5 years ago from our antifarm friends, those who live in a very parochial area of the United States of America.

The Conte amendment is extremely crafty and extremely mischievous. What the Conte amendment does is unravel and undo and devastate the whole intent of farm programs. The intent of farm programs is conservation, supply control, and export.

Mr. Chairman, what the Conte amendment does is put the total and complete burden of the supply control program and the conservation program and the wetlands program on the backs of the small producer. As a matter of fact, in some cases, in addition to putting the cost of the program and the burden of the program on the small producer, the Conte amendment actually devastates some of the small producers.

Take the example of co-ops, for instance. On the first page of the Conte amendment it says that in the case of corporations, partnerships, and other entities, the Secretary shall attribute payments to natural persons in proportion to their ownership interest in the entity.

What does that do to cooperatives, those groups of small producers who oftentimes gather together, gathering together to try to deal with the costs and the size of scale? It says that all of them, even if there are 30 of them, are entitled to only 1 payment.

Mr. Chairman, the Conte amendment is not needed. This Congress passed a \$50,000 payment limitation which the U.S. Department of Agriculture sought to strictly enforce. Then the U.S. Department of Agriculture proceeded to enforce that amendment, and put the producers through literal paperwork hell complying. The majority of producers will tell you it is a paperwork hell complying with the \$50,000 payment limitation.

Mr. Chairman, if one is concerned with conservation, and if one is concerned with people being in the program, one should ask himself this question: Would you rather have a 60-acre farm in the program subject to wetlands and subject to conservation plans and subject to conservation and erosion control, or would you rather have a 600-acre or 6,000-acre plan, or are you willing to pass the Conte amendment and say hey, these people with 600 acres, these people with 6,000 acres, they need not comply. The only people that need to comply are those that make and are entitled to less than a certain amount, an arbitrary amount, set by some people that do not understand the intricacies between commodities and the farm program.

Mr. CONTE. Mr. Chairman, may I inquire as to the time on both sides?

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] has 38 minutes remaining, and the gentleman from Louisiana [Mr. HUCKABY] has 39 minutes remaining.

Mr. CONTE. Mr. Chairman, I yield 5 minutes to my good friend, the gentleman from Massachusetts [Mr. ATKINS].

□ 1450

Mr. ATKINS. Mr. Chairman, I rise in opposition to the Huckaby substitute and in favor of the Conte amendment.

Mr. Chairman, the Conte amendment corrects a basic inequity and a loophole in the present deficiency payment program.

We passed in 1987 a \$50,000 limit. In part, because of that limit, I and many other Members who come from States where agriculture is not a large part of our economy supported the farm program. It made sense. It made some corrections in some things that had been abusive in the past.

The Conte amendment corrects that and assures that \$50,000 means \$50,000 and not \$100,000. This is an amendment that will save the Government and the American taxpayer \$1 billion over the 5-year term of the farm bill. The Huckaby amendment is in essence a cosmetic correction which has an almost negligible impact in terms of correcting the real abuses. The Huckaby amendment corrects things and problems and loopholes that are not used and does not really deal with the fundamental problem, which is the \$50,000 deficiency limit, and the fact that that has been evaded by the creation of corporations and partnerships.

What we have is a situation where people have said, and I was feeling just terrible, that the gentleman from Massachusetts [Mr. CONTE], in a mischievous way was tearing apart these families, fathers and sons could no longer farm together, siblings could no longer farm, in-laws. I have this vision of the gentleman from Massachusetts wrecking families all over the Farm Belt.

That is not the case at all. It would separate those people and it would eliminate work only for lawyers that come in and create these elaborate pyramid schemes to be able not to farm the ground but to farm the loopholes in the farm bill, and to create various kinds of dummy corporations so that they can evade the \$50,000 limit.

That is something that should be stopped. If the only basis for the relationship between a father and son or two brothers is not the way they work the earth but their skill in working with lawyers to evade the limits in the deficiency payments, then that is a sad situation. The Conte amendment will

in fact restore the integrity of the program and it will assure that families are kept together and assure the fundamental integrity of the program, and that is why I support it.

Mr. COMBEST. Mr. Chairman, will the gentleman yield?

Mr. ATKINS. I am happy to yield to the gentleman from Texas.

Mr. COMBEST. Mr. Chairman, I would not stand here and say that there have not been some instances such as the gentleman was speaking of where there are abuses. We on the Committee on Agriculture have recognized and realized that, in reference to, for example, splitting up father and son operations.

But let me say as someone who does represent a large agricultural area, we had literally hundreds of contacts from farmers that were prohibited from fathers and sons farming together because of the payment limitation problem. For example, just a father loaning a son or a daughter the use of their equipment, under those interpretations many times that meant or showed that they were in collusion, and yet seemed to be trying to get around the limitation problem.

So, in not every instance where it did cause the total division of father and son operations was it an effort to simply get around the payment limitations, and many times it did create some real hardships on some family farm operations.

I appreciate the gentleman yielding.

Mr. ATKINS. Reclaiming my time, I suggest that the intention may not have been to evade the limit, but the effect was by setting up the separate corporations, by setting up three corporations or partnerships or trusts, it had the real impact of evading that limit. And I see and my constituents see no reason why when you have an overall cap of \$250,000 out of the program why people cannot live with a \$50,000 limitation on deficiency payments. That seems entirely reasonable, entirely reasonable for families.

Mr. HUCKABY. Mr. Chairman, I yield 1½ minutes to the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Chairman, I take this time, and would ask the previous speaker if he would kindly listen, because I do not know where these figures are coming from that it is going to save \$1 billion, and dummy corporations.

Under the law you have to have an interest in the land, you have to have a farmer. It is misleading to tell the Members here there are dummy corporations. It cannot be. You have to have somebody there farming, and we cannot remove the human element. Even if I were the Governor of Massachusetts or the Pope, I could not remove the human element.

There is larceny and there is intent to defraud out there in housing, in de-

fense, in the FDIC, in the FSLIC, in the savings and loans. Wherever there is a human element there are those who will try and abuse it. It is no different here.

But to the charges that we have not assumed our responsibility, I have a quote here from the AP:

An Indiana farmer and his son face up to 10 years in prison and \$500,000 fines for being charged with fraud in connection with grain payments.

That means that the law is working. That means that if there is an intent to defraud, the law is out there. You cannot have dummy corporations. It is not saving all this money.

Good gosh, more money got lost at HUD during the lunch hour than all we spend on this legislation, and it is about time that Members brought complaints in a responsible way. If they have a complaint, if they have an item they want to bring out, back it up with facts and we will listen.

PARLIAMENTARY INQUIRY

Mr. HUCKABY. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. HUCKABY. Mr. Chairman, how much time remains before a vote will occur on the Huckaby substitute amendment?

The CHAIRMAN. The Chair would advise that the gentleman from Massachusetts [Mr. CONTE] has 33 minutes remaining and the gentleman from Louisiana [Mr. HUCKABY] has 37½ minutes remaining. So the votes will occur in approximate 1 hour and 7 minutes.

Mr. DE LA GARZA. Mr. Chairman, if my colleague, the gentleman from Massachusetts, would listen, it was my understanding that there was time allocated for our distinguished friend, the gentleman from Massachusetts and time allocated for our friend, the gentleman from Louisiana. I would expect that accordingly we would have each one separate and not have the 2 hours running on the two amendments, but that the time would be divided on each of the amendments separate from the other so that we do not have a balloon time.

Mr. CONTE. Mr. Chairman, these amendments are running at the same time.

The CHAIRMAN. The gentleman is correct. The Chair would state that the Chair would consider the time on these amendments fungible, and they are running at the same time given the fact that both the gentleman from Louisiana [Mr. HUCKABY] and the gentleman from Massachusetts [Mr. CONTE] control the time on both the Conte and the Huckaby amendments, and the opposition thereto. So the time is fungible and has been allocated and is running as such. The votes on the amendment and the substitute will occur at the end of the time.

Mr. HUCKABY. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. ROBERT F. (BOB) SMITH].

Mr. ROBERT F. (BOB) SMITH. Mr. Chairman, I thank the gentleman from Louisiana for yielding time to me.

Mr. Chairman, I rise in support of the Huckaby amendment and opposed to the Conte amendment.

Mr. Chairman, I sincerely believe that if we pass the Conte amendment we will have a full employment act for attorneys in America and cost farmers a tremendous amount of money, because again we are going to ask farmers in American to conform to new standards and new goal posts.

This is a bittersweet kind of issue, is it not? It is bitter because there are some who believe that the transfer of money to farmers is wrong in any case. Some believe we ought to eliminate all subsidies. It is sweet because we have inventory management that provides people in America with a stable food supply at the least cost in the world.

So we ought to devise a system, and we have I believe with the Huckaby amendment, which provides incentive enough to stay within the inventory control picture and still provide efficiency in agriculture. That is what Huckaby does. That is what Conte does not do.

□ 1500

Now, if you force people out of the program, you are going to cost the Treasury and the taxpayers more money. I believe Conte will force people out of the farm program and thus put a tremendous pressure on the small farmers because they will produce more commodities, the small farmer will be faced with increased costs and increased access to the public treasury.

So a billion dollars is a wild estimate, I agree with the chairman. I cannot prove that we are going to save money with the Huckaby amendment, but I surely will argue that a billion dollars is crazy about an estimate of savings with the Conte amendment.

Now, remember in 1987 the Congress of the United States agreed with the Schumer's and the Conte's, we tightened up this program in 1987, and the Congress agreed. Are we now coming back in 1990, and saying, "Hey, what we did in 1987 is wrong"? That is what we are trying to do with the Conte amendment.

I suggest we vote against the Conte amendment, support the Huckaby amendment, stay with the committee, and that is the way we progress with agriculture.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in answer to the gentleman who just took the well, about the great improvement of 1987, let me

quote the December 21, 1987, page 11983 of the CONGRESSIONAL RECORD, where I said,

You also have in here the most watered down payment limitation that has ever been concocted. I sent the Agriculture Committee a bill that would have saved almost the entire \$2.5 billion, but you chopped it up and added so many new loopholes that you'll be lucky if you save the \$10 million CBO estimates in fiscal year 1989. I'm shocked, I'm disappointed, and I'm disgusted with most of the recommendations in this agriculture section.

That was in 1987, and it has certainly come true.

In answer to my colleague, the gentleman from Massachusetts [Mr. ATKINS], did an excellent job, and he was challenged here on the floor. Let me tell you there are abuses in the program. Here is a letter from the Secretary of Agriculture of July 25. He says,

Representative CONTE's amendment, which would attribute payments to individuals, is a very positive move in this reform direction. The amendment will serve to limit further instances in which an excessive amount of farm payments is received by a single individual, thus undermining public confidence in the equity of our farm programs. We urge its adoption.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. CONTE. Just very briefly because we want to get through here.

Mr. DE LA GARZA. I thank my distinguished friend for yielding.

I do this just to put in the RECORD that the Secretary of Agriculture does not want any programs, period; he just wants to turn everybody loose.

So this letter befits his philosophy of turning everybody loose and turning it over to the people across the ocean.

Mr. Chairman, I thank my distinguished friend for yielding.

Mr. CONTE. Mr. Chairman, I am sure that if we had a free enterprise system in agriculture without this Government on their backs, we would beat anybody in the world.

I used to go down to the Eastern Shore. There was a German farmer down there who raises corn. Every time I go down there, he says, "Get the Government off my back. I don't want any subsidies. Get rid of the bad farmers. I am a good farmer. I don't need the Government to help me."

But as long as you keep him feeding from this trough, we're going to have this happening.

They say there are no abuses of the program. Look at the budget, look at the budget of the President.

I do not know if the camera can pick this up, whether you can see it. But look at that Christmas tree on how you can divide the subsidy with the loopholes, unless my amendment is adopted. This is what will happen if the Huckaby amendment is adopted.

Turn it around this way, and you have got a beautiful Christmas tree.

[Graphic not reproducible in the RECORD.]

Mr. Chairman, if I had to grade the Huckaby substitute to my payment limitations amendment, I'd give it an A for effort but an F for substance. Having tried to keep tabs on the dozen or so different versions of the Huckaby substitute as it has been drafted and redrafted, I can say that the amendment before us now improves on earlier versions, but still fails to accomplish very much in terms of substantive reforms.

The reason for that, and the central flaw in the Huckaby substitute, is that it fails entirely to close down the loophole on evasions of the \$50,000 payment limitation on deficiency payments. Mr. HUCKABY's substitute preserves the very same setup which allows large producers to rake in \$100,000 per individual in deficiency payments. \$100,000 per individual. \$100,000, taken from your pocketbook and given to the biggest farmers, to the elite—to the 1 percent of the Nations farmers who laugh all the way to the bank on account of the loophole.

That is the fundamental difference between Mr. HUCKABY's substitute and my underlying amendment. I close the loophole, and Mr. HUCKABY leaves it wide open. That also means that there is a substantial difference between our two amendments in budget savings. My amendment in budget savings. My amendment saves \$700 million over the next 5 years, merely by shutting off the abuse. Mr. HUCKABY, by letting the abuse continue, does not get those savings. On this, the most vital issues, the question is whether to end an abuse and save \$700 million, or to permit the abuse to continue and save nothing.

There are two other general points that must be made about the Huckaby substitute. First, the budget savings are negligible.

CBO told you that. If you believe in CBO, CBO said negligible. At first, the substitute saved nothing. It actually added. And then, when you found out that I could raise a point of order on that, you went out and you changed it to save peanuts—I shouldn't say that, it saves nothing.

Mr. Chairman, according to the Department of Agriculture, the payment limitation levels set by the substitute do not result in any savings because the limits are too loose and the loophole is left wide open. Second, the administrative burden is increased under Huckaby. To quote the Department of Agriculture:

The administration cannot support this amendment because it fails to achieve any effective tightening of payment limits and leaves in place the key loophole that has made enforcing a real payment limit so very difficult.

The amendment also will require additional paperwork and effort by producers and state offices to deal with the more complicated Person definitions with no significant result.

There are other differences between the Huckaby substitute and my amendment. The substitute doubles the limits I set on marketing loan gains and Findley payments. I have those pegged at a total of \$50,000, equal to the limit on deficiency payments. But the substitute sets that total at \$100,000.

I do not mind \$100,000, but if you leave my language in part 2, I would go with \$100,000.

Mr. Chairman, I had set those payments at \$50,000, the same as the deficiency payment limit, in order to bring some equivalence among the different farm program payments.

Perhaps in keeping with leaving the loophole open, the Huckaby substitute also achieves equivalence, but at twice the level I set.

The Huckaby substitute does lower the overall cap on total farm program payments to \$200,000, \$50,000 lower than the existing cap of \$250,000 which I have retained in my amendment. This is the only point at which the substitute has a lower cap than my underlying amendment.

I would be more than happy to accept the \$200,000 cap, were it offered alone. I do not think you will. But when it comes in a package which guts the major point of my amendment—which is to cut abuse and close the payment limitations loophole—then I cannot even consider it.

Mr. Chairman, it is clear that the differences between my underlying amendment and the Huckaby substitute on closing the loophole are very wide. I urge all Members to vote against the Huckaby substitute.

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] has consumed 9 minutes and has 24 minutes remaining.

Mr. HUCKABY. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. FAZIO].

□ 1510

Mr. FAZIO. Mr. Chairman, I rise in support of the Huckaby substitute to the Conte amendment. I guess perhaps I should put in this perspective for me personally. I was born in the gentleman from Massachusetts, Mr. CONTE's home State, and grew up in the gentleman from New Jersey, Mr. GALLO's district, but for the last 25 years I have lived in the Valley of California, and I have had to learn about agriculture, as a Representative of farmers, from the bottom up. I have had a continuing free education about agriculture. I can tell Members that from the perspective of the West, looking back to the East, there is an awful lot of penchant for sort of a

demagogic approach to the way of life that I have had to learn about and become appreciative of.

People have seen "Places in the Heart" or one of a half a dozen of the other wonderful movies that have been produced about declining agriculture over the last decade, and they see an opportunity, politically, to kick people around just as we do when we talk, blithely, about defense contractor fraud or welfare queens. They are an easy target for people that do not live in your district, and Members do not even have to fully understand or appreciate what they go through or where they fit in agriculture, because it is a home run ball at home. No person is going to vote against another if they take on somebody else who is theoretically ripping off some other part of the country.

We have to educate people all across the country that the farm program is not a welfare program. It is not, as the gentleman from Pennsylvania [Mr. COUGHLIN] has said, it is not there to help people who face some sort of adversity. It is a program which is designed to stabilize prices and to stabilize supply for the benefit of both consumers and farmers. That is what the farm program does. It does it well.

When we force people out of it by limiting the size of people who can participate, we are undermining the program, not just for those but for everyone else, particularly the small farmer who needs their participation for it to have any positive effect on him and his operation.

This program does work even in environmental terms. The gentleman from Massachusetts [Mr. CONTE] said earlier that this does not, therefore, differ from the gentleman from New York Mr. SCHUMER's amendment affecting the environmental programs. In fact, it does. It will drive people out of the salt butter and swamp buster provisions of the farm bill. It is simply bad policy. It is good politics, but I hope people will have the opportunity to vote it down by supporting the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I yield 3½ minutes to the gentleman from Iowa [Mr. SMITH].

Mr. SMITH of Iowa. Mr. Chairman, these speeches have been rather interesting. I have been interested in the statistics. The main problem with them is that in the main, they have been irrelevant, incompetent, and immaterial.

I will explain why. They talk about limitations of payments saving money. Limitations of payment do not really save money toward accomplishing the objective of stabilizing supplies and prices. To the extent a larger operator is eliminated from the program, several smaller ones have to come into the program to offset the larger one's con-

tribution, and in those years when we have a surplus, the smaller operators have to idle more land, and the larger operator then raises even more than they would have had they been in the program. In years when we need to put some commodities in reserve, the smaller operators then have to put more in reserve and furnish more storage to offset the larger ones not being in the reserve program. Instead of saving money, it shifts from the larger ones to the smaller ones the obligation to carry out the program and our objective of stabilizing adequate supplies at a reasonable price level.

Now, one member said something about farmers who are rendered ineligible by the Conte amendment owning \$300,000 in assets. He thought that was a high figure but it is a low figure. As a matter of fact, most of that is probably borrowed at the bank. Just because an operator is using \$300,000 in assets does not mean they have a large net worth. If they had that much money and no debts, they would probably sell it and live off of the interest. They would not be out there farming every day. In addition to that, there was something said about phony corporations being set up just so they could comply with the program. There is a requirement in the law, that a recipient must be effectively engaged in agriculture. They have a four-page form, a 502 form, and they go through it in detail providing extensive information on finances and relationships. A father cannot even loan machinery to the son without risking have attributed to him those acres that the son is farming. This is all poppycock that Members are hearing here today to the effect that the reason most corporations were set up was due to the recent limitations law. They have had family corporations for years to limit liability and share investments. I am not surprised that some people who hear the kind of speeches we have heard today and maybe read some of those dumb editorials we have seen based on a failure to understand the purposes of the program are misled, as there has been so much misinformation.

Including in the first paragraph of the amendment by the gentleman from Massachusetts [Mr. CONTE] was a provision concerning attribution which has some positive aspects, but then over in the amendment further, he includes within the \$50,000 limit the total value of the crop that is turned in in lieu of paying off the loan. When we have a year when there is a surplus and we need to be putting some wheat, corn, or other commodity back into reserve, that would not be but 150 acres of corn. That is all. No operator who depends on farming for a living can exist out there raising only 150 acres of corn today. Then, if he raises more and the market is so

low it—will not clear the loan rate, he would be ineligible that year. If we do not put some surplus crops in reserve in years of surplus, we will not have the commodity when it is needed. That is the situation we have today in this country.

A computer printout, just 2 weeks ago shows that the consumers in this country will save \$40 billion between now and 1995, as the result of the fact we had a reserve to carry us from the drought of the last 7 years. When we had some plush years we put grain aside. We put it aside, and we are now using it. That is the reserve program and an important part of this bill.

I say to Members, the Conte amendment would also hurt tenants. Most tenants and the vast majority of operators cannot afford to hold title to all the land they need to farm to make a living. Landowners receive more like a 5-percent return on the investment. They cannot go to the bank and borrow that much money and if they could, they cannot afford the part of the investment which returns less than the cost interest. They have to have a partnership with someone who will take the low return end of the investment. So, whenever we run the owner out of the program, that land will not be available to the tenant that needs the land to farm. Most of what we have heard in favor of the Conte amendment is just not relevant to the objective of having a program which assures plentiful and stable supplies at reasonable prices.

Mr. HUCKABY. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in strong opposition to the Conte amendment on payment limitations. If adopted, this amendment will, much like the means testing issue, isolate economically efficient agricultural producers from Federal farm programs and throw many of our rural communities into economic upheaval. Tragically, this amendment also undermines the basic foundation of farm policy. Misguided efforts, such as this amendment, are disruptive and counterproductive to the long-term goals of American agriculture. Be assured, the effects would soon be felt at the local supermarket checkout counter.

The negative impact on the American farmer and consumer will undoubtedly result in the breakup of America's more efficient farms into less economically efficient farm units. This structural breakdown will also lead to a less competitive posture for American agriculture to compete in world markets. Additionally, the reduction of our subsidy levels disarms our trade negotiators' leverage in demanding that our foreign competitors substantially reduce their support levels at a comparable rate.

Unfortunately, this counterproductive payment limitation effort would also result in giving heavily subsidized foreign producers a tremendous advantage in global competition for world markets. Current GATT talks in Geneva and the recent economic trade summit in Houston have made some progress in the reduction of unfair foreign trade barriers and foreign agriculture subsidization. However, ill-conceived efforts such as this only diminish our trade negotiators' ability to achieve a fair playing field for our own producers.

Finally, this action will not result in budget savings. These limitations will only force nonprogram farmers to plant fence row to fence row which will only serve to throw years of voluntary inventory management policy out the window. This will ultimately lead to higher stocks, which in turn means lower prices, higher deficiency payments, great Government exposure and weakened farm income. Let us not throw out the baby with the bath water. I strongly urge my colleagues to reject this antifarm amendment and allow our farmers and ranchers to continue feeding and clothing the world at the lowest cost anywhere.

Mr. HUCKABY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. SARPALIUS].

Mr. SARPALIUS. Mr. Chairman, I, too, rise in support of the Huckaby substitute. If Members will look behind the Chairman, they will see the American flag in this Chamber. On top of that is engraved "In God We Trust." On top of that in this Chamber is our clock. On each side of that clock are the American eagles, which symbolize a country to be strong, we must have a strong defense system to protect ourselves.

□ 1520

But on each side of those eagles are baskets of food. To be a strong country, you must be able to produce enough food and fiber for your citizens at a reasonable price. That is important in this country, and in order to do that we must be able to give farm supports to the producers in this country.

Look at what they get in return for that investment—only about 13 cents of our dollar that we earn is spent for food. In any other country in the world, that percentage is far, far higher. It is a wise investment, and I encourage my colleagues to continue with these farm supports and vote for the Huckaby substitute.

Mr. CONTE. Mr. Chairman, may I inquire as to what time remains?

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] has 24 minutes remaining, and the gentleman from Louisiana [Mr. HUCKABY] has 26 minutes remaining.

AMENDMENT OFFERED BY MR. CONTE TO THE AMENDMENT OFFERED BY MR. HUCKABY AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. CONTE, AS MODIFIED

Mr. CONTE. Mr. Chairman, I offer an amendment to the amendment offered as a substitute for the amendment, as modified.

The Clerk read as follows:

Amendment offered by Mr. CONTE to the amendment offered by Mr. HUCKABY as a substitute for the amendment offered by Mr. CONTE, as modified: At the end, insert the following new section, numbered appropriately:

() Section 1101 is amended by inserting at the end the following new subsection:

(e) ATTRIBUTION OF PAYMENTS.—(1) Section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308) is amended by striking paragraph (5)(C) and inserting the following:

"(C) In the case of corporations, partnerships, and other entities included by subparagraph (B), the Secretary shall attribute payments to natural persons in proportion to their ownership interest in the entity and any other entity which owns or controls the entity receiving such payment."

(2) Section 609 of the Agricultural Act of 1949 (7 U.S.C. 1471g) is amended by striking subsections (c) and (d) and inserting the following:

"(c) In the case of corporations, partnerships, and other entities included in section 1001(5)(C) of the Food Security Act of 1985, the Secretary shall attribute payments to natural persons in proportion to their ownership interest in the entity."

Mr. CONTE (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The CHAIRMAN. The gentleman from Massachusetts is recognized for 5 minutes on his amendment to the substitute.

Mr. CONTE. Mr. Chairman, the amendment I am offering to the substitute offered by the gentleman from Louisiana gets to the heart of the matter. Mr. HUCKABY took one half of my amendment, the part dealing with bringing payment limitations on all programs down to \$50,000, and essentially proposed payment limits lower than in the original bill, but higher than my amendment. I can probably live with that, as I said earlier. However, he left out the heart and soul of my amendment, the attribution language—a very neat trick. He excludes my language to close the loophole that allows the big farmers to receive up to double the \$50,000 per individual limit on farm deficiency payments. He left the barnyard door swinging wide open.

My amendment to his substitute proposes to add the language to close the loophole. Here it is, Mr. Chairman, an up or down vote on reform. An up or down vote on whether to close the biggest little game left in the farm bill, by which the biggest 1 percent of the

farms double their payments, while the little farmer gets you-know-what. Seven hundred million dollars over 5 years to be saved, simply by closing a loophole, pulling the rope tight.

I want to be very clear on what this amendment does.

This is the issue—are we going to close the loophole and end the waste and abuse in the payment limitations policy, or are we going to wash our hands of it, give up on our principles, give up on any significant budget savings, and give in to the moans and cries of the big agriculture producers who are the only ones benefiting from this scam? They moan and cry now, but they will be laughing all the way to the bank unless we close the loophole.

This loophole has been a travesty, Mr. Chairman. It has undermined all our past efforts to tighten up the payment limitations. The changes we made in 1987, to tighten the definitions of who is eligible, are having virtually no effect because of the loophole. You could drive a truck through it.

Mr. Chairman, we agreed that \$50,000 should be the maximum any one person could receive from farm deficiency payments. That was our intention 10 years ago, it was our intention 5 years ago, and it was our intention 3 years ago when we thought that at last we had reformed the program and controlled the abuses. But we left a loophole, a loophole that lets some farmers reap benefits way above that.

Are we so jaded around here, so enthralled with taking advantage of holes in the farm program, of taking advantage of the American taxpayer, that we cannot even close a loophole down? I do not think we are, Mr. Chairman. I don't think we can allow the fat cat farmers to pick \$700 million from taxpayer pockets. We need to close the loophole.

Let me remind you. The Secretary of Agriculture says we need this provision.

Here is what the letter says:

Conte's amendment, which would attribute payments to individuals is a very positive move in this reform direction. The amendment will serve to limit further instances in which an excessive amount of farm payments is received by a single individual, thus undermining public confidence in the equity of our farm programs. We urge its adoption.

That is the Secretary of Agriculture.

The Office of Management and Budget says we need it.

Rural farm groups like the National Grange, the Center for Rural Affairs, and the Sustainable Agriculture Coalition say we need it. This is the provision which the budget watchdog, Citizens Against Government Waste, wholeheartedly supports and says we need it. This is the provision which those defenders of the environment—

the Natural Resources Defense Council could strongly endorse.

And this is the provision that the U.S. Catholic Conference and Bread for the World say is essential for making farm payments equitable. We need to save some money in this bill, and this amendment is the right way to go. I urge you to support it.

And let me add one more thing. The budget savings from this amendment will reduce the amount that will have to be taken out of agriculture when the budget summit concludes a deal.

And that is important to the small and middle-size farmer, who is not affected by this budget conscious amendment—it is only the big guys—the fat cats who use the loophole, get cut. But when the target prices take an across-the-board cut, no one escapes—the big or the little. Fat cat or small potatoes. And unless my amendment is adopted, it will be a billion more taken out by the across-the-board cuts.

If you want to make it easier on the little guys, the family farmer, then this is the only way to go. I urge you to support the amendment.

The CHAIRMAN. Does the gentleman from Louisiana [Mr. HUCKABY] seek recognition on the amendment to the amendment?

Mr. HUCKABY. Yes, I do, Mr. Chairman. I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from Louisiana [Mr. HUCKABY] is recognized for 5 minutes.

Mr. HUCKABY. Mr. Chairman, this amendment strikes at the very heart of American farm programs. Never before have we restricted partnerships, fathers and sons, family corporations, or multiple entities from participating in Government programs. It is a fact that to survive in American agriculture today, to get financing to be able to put the seed in the ground to grow a crop, your banker is going to require that you be in the farm programs.

As I stated earlier, the top 15 percent of our farmers produce 70 percent of America's agricultural output, and the estimates are rising. From 40 to 50 percent of those top 15 percent are in partnerships or family corporations, and the gentleman's amendment slashes those from participation in farm programs.

Mr. Chairman, I urge my colleagues to defeat this amendment. Let us keep American agriculture operating efficiently and effectively, as it is today.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I associate myself with the remarks of the gentleman from Louisiana [Mr. HUCKABY] and also with those of the

gentleman from Iowa [Mr. SMITH], who spoke just a few moments ago.

I would encourage all my colleagues to vote against this particular amendment. Again this is the gutting amendment. This is the one that materially changes the philosophy and the direction of farm programs.

Let the record speak for itself. The farm programs under the policy we are operating on today are doing a good job. This would fundamentally change it.

This is one Member who agrees that there is a size of farm which we should not subsidize. I agree to that. This committee has attempted to find that. We attempted again today to find that, and the amendment offered by the gentleman from Louisiana continues to try to find that level. It goes much further, I say to the gentleman from Massachusetts.

I want to make one final point. I get a little tired of Mr. CONTE standing down there and preaching about financial and fiscal responsibility and attacking us, as he did on the honey program and now by his amendment that he says saves \$700 million over the next 5 years.

We had a vote on this floor a few weeks ago on the agricultural appropriation bill in which we had Mr. FRENZEL stand down in the well and offer an amendment to cut 7.7 percent. That is \$764 million in 1 year. This Member voted for that. That Member, the gentleman from Massachusetts, voted no.

We also had Mr. DANNEMEYER offer an amendment to cut 5 percent from the agriculture appropriation bill. That cuts right in the heart of my district, I say to the gentleman from Massachusetts [Mr. CONTE]. I voted for it. That would save \$500 million. The gentleman voted against it.

We finally found agreement on a 2-percent cut offered by Mr. PENNY. We agreed to make that cut. That is where real cuts are made. We do not make real cuts with philosophical balderdash like we have been hearing over and over and over again today. That is where we make the real cuts. This committee will make the cuts, and it will make them real.

□ 1530

Mr. Chairman, the amendment of the gentleman from Massachusetts [Mr. CONTE] will not save money. It will not save money. The gentleman from Louisiana [Mr. HUCKABY] is attempting to tighten our policy and make it work.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I simply want to associate myself with the remarks of the gentleman from Texas. I am in the same boat with

him. His argument is most persuasive and most pertinent, and I thank the gentleman from Louisiana [Mr. HUCKABY] for yielding.

Mr. STANGELAND. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Minnesota.

Mr. STANGELAND. Mr. Chairman, I thank the gentleman from Louisiana [Mr. HUCKABY] for yielding.

Mr. Chairman, I would like to point out to the committee that the average age of the farmers in this Nation is in excess of 55 years, and, if my colleagues follow the line of reasoning of the gentleman from Massachusetts [Mr. CONTE], the young farmer just is not going to be able to get started. There will be no young farmers. It will be only old, old farmers.

Mr. Chairman, I urge my colleagues to reject the proposal of the gentleman from Massachusetts [Mr. CONTE] and support the gentleman from Louisiana [Mr. HUCKABY].

Mr. MARLENEE. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Montana.

Mr. MARLENEE. Mr. Chairman, I thank the gentleman from Louisiana [Mr. HUCKABY] for yielding.

Mr. Chairman, I would maintain that the amendment offered by my friend, the gentleman from Massachusetts [Mr. CONTE], is flawed unless—unless—the gentleman from Massachusetts intends to cut out cooperatives, people who have joined together to cut the costs of programs. Small producers who come together and receive Government payments on the whole crop are considered one entity under his amendment, and, if that is his intention, then it cuts those people out, and they might be from Massachusetts, they might be from Minnesota, they might be from Iowa, they may be from Texas.

Cooperatives, small producers working together, limited to one payment under the amendment of the gentleman from Massachusetts [Mr. CONTE], unless it is flawed, and I maintain it is.

The CHAIRMAN. All time in opposition to the amendment by the gentleman from Massachusetts [Mr. CONTE] has expired.

The time remaining on the substitute and the original amendment offered by the gentleman from Massachusetts [Mr. CONTE] is 24 minutes for the gentleman from Massachusetts [Mr. CONTE] and 26 minutes for the gentleman from Louisiana [Mr. HUCKABY].

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume because I want to answer some questions for the gentleman from Texas [Mr. STENHOLM].

Yes, I voted against the amendment of the gentleman from Minnesota [Mr.

FRENZEL]. I voted for the amendment of the gentleman from Minnesota [Mr. PENNY]. But those are appropriations.

Mr. Chairman, I say to my colleagues, "If you're watching TV, he's trying to slip one over on you. If you pass this agricultural bill, these are entitlements. We won't be able to cut them. Not one nickel. He knows it. Being real cute here."

In addition, Mr. Chairman, let me tell my colleagues that I am sick and tired. The gentleman said he is sick and tired. I am sick and tired of him.

The S&L crisis, that is going to Texas; super collider, all in Texas; space program, in Texas. Well, Mr. Chairman, I am going to take another look at these programs. I am going to take another look at all these programs if the gentleman from Texas [Mr. STENHOLM] is going to attack me that way.

In addition, Mr. Chairman, let me tell my colleagues that the gentleman from California [Mr. FAZIO] talks about farming and how he came from the East and was educated in the East. He was educated in my district at a fancy prep school which CONTE could never afford. I was a poor kid working on a farm for a buck a day. Let me tell my colleagues that I know something about farming.

Mr. Chairman, we had no milking machines. We milked them by hand. Those guys use machines here against the taxpayers. They could not milk the taxpayers by hand because they could not get that much money from them.

Mr. Chairman, I say to my colleagues, "Believe me, it's sneaky. You would never get that money, \$55 billion, here. This is a scam."

This bill is \$1.8 billion, \$1.8 billion, above the baseline, and we are ready to go home. Some of my colleagues are going to be taking trips all around the world, vacationing in Paris while the country is going to pot. We ought to be staying right here, right here, come to a budget summit agreement, and knock out this money from the ag bill.

Mr. Chairman, I say to my colleague, "You've had it too long your way. Criticize me about my vote on the agriculture bill?"

We worked hard on that bill. We thought we came out with a sensible bill, but we cannot do a thing on appropriations about entitlements. The gentleman from Texas [Mr. STENHOLM] knows it. We cannot do a thing on entitlements. And this bill is all entitlements.

Mr. STENHOLM. Mr. Chairman, will the gentleman yield?

Mr. CONTE. I yield briefly to the gentleman from Texas and say to him, "Don't get me madder than I am."

Mr. STENHOLM. Mr. Chairman, I am really sorry that the gentleman from Massachusetts [Mr. CONTE] is mad, but is he saying that there is no

way to save money to the Federal budget by voting to cut appropriation bills?

Mr. CONTE. Mr. Chairman, I say to the gentleman from Texas, "You could save money, but that appropriation that we worked out was within the budget resolution within the 302(b)."

I know what I happen to be talking about, and I know that, if this bill passes today, we are stuck, we are stuck with a bill \$800 million above the baseline.

I ask the gentleman, "Now, who the heck you trying to kid? One day you're a conservative, the next day you're a wild-eyed liberal."

Mr. HUCKABY. Mr. Chairman, I yield myself such time as I may consume.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I appreciate the concerns of Members and their interests, and all I am trying to do is pass this little farm bill.

Mr. Chairman, we keep getting accused of boondoggles, and loopholes and budget, and what we passed out of committee was baseline, for those of my colleagues interested in the budget process.

However, Mr. Chairman, because the CBO had given us an unfair baseline on dairy, for their own reasons the Senate side disregarded the baseline and used what should have been the equitable baseline. We used the Senate baseline. But we are at the baseline because of something that the Committee on Ways and Means did. They docked us and put us about \$1 million off the baseline, but we have an en bloc amendment that the gentleman from Illinois [Mr. MADIGAN] and I will offer that, when we finish this bill, we will be at the baseline. That is our intent.

Staff may not know about that, my dear friend, but this is the intent.

Mr. CONTE. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Massachusetts.

Mr. CONTE. Mr. Chairman, I ask the gentleman from Texas [Mr. DE LA GARZA], "You're going to have an amendment to cut \$800 million?"

Mr. DE LA GARZA. Mr. Chairman, we have an en bloc amendment that will put us at the baseline.

Mr. Chairman, the \$800 million disregards; that is, the differential in the CBO estimate, and it is all going to be for dairy. The dairy is what puts us out of—the gentleman's staff is distracting me. I would like to speak to the gentleman from Massachusetts [Mr. CONTE].

Mr. Chairman, the fact is that we are going to offer an en bloc amendment that will put us at baseline, so I

hope we leave that to rest and address the issues.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman from Texas [Mr. DE LA GARZA] for yielding, and I would second the comments of the gentleman that we will have an en bloc amendment that brings us to baseline.

However, Mr. Chairman, I would also make the point to the members of the committee that the adoption of the Madigan amendment earlier brought the bill to the House budget figure, so the committee-reported bill is over the House budget figure, in sync with the Senate budget figure, but the bill, as amended by the Madigan amendment, is now in line with the House budget figure as well. So, we have no budget problem as long as that amendment stays in the bill.

Mr. HUCKABY. Mr. Chairman, I thank the gentlemen for their comments.

I would like to point out to my colleagues that this agriculture bill is a 5-year bill, and we are freezing support operations for 5 years. No other function in the budget does this.

Mr. THOMAS of California. Perhaps, Mr. Chairman, I should state prior to any comments about this particular amendment that I attended the public schools in California, that, as soon as this House adjourns, I am going to my district for the August recess. I have been called wild-eyed, but never liberal, and I do not have a honey fetish.

However, Mr. Chairman, in my estimation the gentleman from Massachusetts [Mr. CONTE] is guilty of at least one of those, and, if he will examine some of his amendment sections in which he clearly attempts to go after honey, I believe he goes far broader than that.

For example, in the marketing loan grain section, only those commodities dealing with marketing loans get nailed. Obviously, to get honey, he has to deal with honey, but that also gets soybeans, rice, and cotton, and it seems to me that in attempting to curb what he considers to be excesses he is playing dangerously close to significantly undermining a loan structure which is used only in emergencies which, for example, for the cotton is tied directly to the market price for cotton. They take 5 years, drop the high rate, drop the low rate, average the others. My colleagues are not dealing with pie in the sky, this is what we want, kind of rate. They are dealing with what the real world is dealing with on those rates, and the gentleman is dangerously close to totally undermining that operation which, for at least California, is a significant con-

tributor to our balance of payments plus on the basis of exporting 70 to 75 percent of the cotton that we grow.

Mr. Chairman, I urge my colleagues to reject the amendment offered by our colleague from Massachusetts. Limiting payments in this manner would only show that the House does not know how the farm programs work.

The bill limits marketing loan gains to \$50,000, a move that could reduce U.S. farm exports and deny the United States one of the tools needed to keep pressure on Uruguay round negotiations for an agreement on farm trade. The market loan commodities to sell commodities that would otherwise be forfeited to the Commodity Credit Corporation. This amendment makes it more likely that farmers will simply forfeit goods to the CCC, adding to the Government's cost. Our trading partners undoubtedly appreciate the marketing loan's value as an export promotion device. This amendment makes it less attractive for farmers to sell and may cause our trading partners to decide that the United States is no longer serious about supporting its farm sector in the face of unfair competition.

The most serious concern about this amendment, however, is its potential impact on the nonrecourse loans cotton and rice producers use as a means of stabilizing their marketing practices. It is my understanding that this language can be interpreted to limit farmers to a maximum of \$50,000 in nonrecourse loan forfeitures of commodities for which marketing loan payments may be available—a totally different kind of payment than the deficiency or market loan gains the amendment also addresses. If this language leads to limits on nonrecourse loans, virtually every marketing loan oriented commodity program will become worthless to the vast majority of farmers throughout the country. Such an approach would end these farm programs, not reform them, and that makes the amendment insupportable.

□ 1540

I would urge my colleagues to examine this attempt to get after basically one or two items in which he is required to move across the whole spectrum of agricultural interests, and that in fact does far more damage than he ever intended.

Mr. HUCKABY. Mr. Chairman, I yield 3 minutes to the gentleman from Oklahoma [Mr. ENGLISH].

Mr. ENGLISH. Mr. Chairman, I think that it is time we put this in perspective. The farm bill is a total package. The various programs and the way that they are designed are to complement each other and to work together to achieve an overall goal, to achieve a goal as a program.

The difficulty with regard to the Conte amendment is that it attempts to strike at the very heart of what the objective is, to try to achieve the goal of providing an abundance of food and fiber to the American people at a reasonable price.

Now, that means a steady flow of food and fiber. That means that we do

not have these exaggerated swings in one direction or another; 1 year we have a huge surplus and we have very low prices, other years we have shortages and very high prices. That is bad for consumers and it is bad for the American family farmer. That is what the farm bill is designed to take care of, to try to level that out as much as we can, and it is not an easy thing to do, but if you look back over the past 50 years I think you will find that the program has done very well by the consumer, far better for the consumer in fact than it has for the farmer, but we continue to believe in these programs and believe in the goals that we are trying to achieve.

I would hope that as we consider the amendments here today, whether it is the amendment of the gentleman from Massachusetts [Mr. CONTE] or any other, that we keep in mind what impact it is going to have on the overall program and whether we are going to be able to achieve our goal or not.

While we have attempted through the farm program to eliminate as much uncertainty as we can, providing some type of stability, one area in which we cannot do that is with regard to the weather.

The gentleman from Texas raised the issue with regard to the Appropriations Committee, the committee the gentleman from Massachusetts sits on. That very appropriations bill that the gentleman referred to, the agricultural appropriations bill, struck crop insurance, the one means our farmer had to try to again eliminate some of the uncertainty. Without crop insurance, if the gentleman's committee has its way, we will find more uncertainty. We will find it more difficult for farmers to put aside the resources to offset those disasters when they occur; so without crop insurance, as the gentleman's committee has pushed so hard for and got their way on, I would hope that we would strike the Conte amendment, that we would not agree to the Conte amendment and make sure that the American family farmer is able to put a little something aside to try to survive those hard times, because all he is left with is self-insurance.

Mr. Chairman, I would oppose the Conte amendment.

Mr. CONTE. Mr. Chairman, I yield as much time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I rise in support of the Conte amendment. I think Members of this Congress thought in the past that they were achieving limits of \$50,000 on farm producers for these various programs. We have found, to our regret, that those limits were not a reality, and existed only on paper.

In fact, this amendment, the Conte attribution proposal, would seek to

make the \$50,000 payment limitation a single payment, rather than a multiple one.

The mover of the amendment says it would save \$700 million over 5 years. I submit that \$700 million is a nice sum of money that many of our taxpayers would agree is worth saving.

The fact that people get a multiple bite at this limitation has been an open secret. But, certainly, when we in Congress voted the \$50,000 restriction, we did not think we were voting for one, two, three, four, and five bites at the apple. We thought there was one. One ought to be sufficient.

We thought we were helping the small family farmer. We did not think we were helping these large enterprises.

If we adopt the Conte amendment, we will be restricting our assistance to at least smaller amounts. A large proportion of the total payment will go to smaller farms.

Because we need to cut the excess spending in farm programs, I was interested in a number of statements about where the baseline was. I think you have heard pretty much the story on that. The committee's bill is well over the baseline.

The committee alleges the baseline is not high enough. So does every other committee in the Congress, but baselines are not supposed to be a matter of the whimsy of the authorizing committee. They are a matter of definition by law.

In addition, the budget resolution which this House passed called for a substantial reduction from the baseline, whereas this committee has given us a bill that is way over the baseline.

The committee understands, and so does every Member of this House, that the bills spending has to be cut back. This amendment is one way that many Members of the House may think is a fair way to reduce the amount that it is over the baseline and over the amount under the baseline that has been at least suggested as a target by the Congress. As a matter of fact, reductions may be well below the House budget resolution.

Mr. Chairman, it seems to me quite reasonable that the Conte amendment ought to be passed. I hope the House will adopt it. I understand that members of the authorizing committee may have great affection for all these programs.

I can understand that very well. I have a number of those producers in my district who enjoy receiving these payments. However, out of respect to the taxpayers and to the difficulties in which we as a Nation find ourselves in a fiscal way, it seems to me this amendment is one good way to reduce the deficit.

Mr. Chairman, I hope the House will adopt the Conte amendment.

Mr. HUCKABY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I will just try to summarize a few of the major points why I support the Huckaby amendment and oppose the Conte amendments and amendments thereto.

We are talking about a program in which we have tried to design efficiency and incentives for efficiency in order to continue a food policy program that is producing the most abundant quantity, the best quality, the safest food supply at the lowest cost of any other country in the world, bar none.

Mr. Chairman, that cannot be the sign of failure, that can only be the sign of success.

Speaking for this Member, I agree that there is a limit beyond which we should not subsidize that size of a farm operation. In fact, the entire Agriculture Committee has arrived at that in the manner in which we are debating the Huckaby amendment today.

It is our opinion that if you go further, particularly as far as the gentleman from Massachusetts would suggest that we go, that we will do irreparable harm to the farm program and policy as we now know it.

Given that we can change it, the question is do we want to change it in this manner or do we want to change it in another manner.

It seems that I struck a nerve with the gentleman on the Appropriations Committee, but I would submit to the House that we can save money by voting to cut appropriation bills.

I concede the point on entitlements. This gentleman's record will stand up against that of anyone else on voting cuts on entitlements.

I would suggest that the Agriculture Committee fully recognizes that the entitlement nature of farm programs is hanging by a thread, and once the summit gets through, we in fact will be making cuts in the entitlement nature of farm programs.

□ 1550

I would just venture a guess, I would say to the Members, that we will not be joined by very many other programs when it comes time to bite that tough bullet either, just as we constantly and consistently on this floor have not found the will to make any cuts.

We can argue all day, but I submit the record will stand for itself regarding what the House Committee on Agriculture offers to do. Support the Huckaby amendment, oppose both Conte amendments.

Mr. CONTE. Mr. Chairman, I yield 3 minutes to the gentleman from New York [Mr. SCHUMER].

Mr. SCHUMER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of the amendment. Having said that, I want to first say that the gentleman from Louisiana has, indeed, been very responsive in many of these areas.

We were involved in 1987 when there were huge abuses in this program, Mississippi Christmas trees, the Prince of Liechtenstein making \$9 million by cutting farms up into hundreds and hundreds of little pieces simply with different ownerships, so each would get a payment. Those abuses have been largely curbed as a result of the efforts of the gentleman from Massachusetts and myself and with the full cooperation of the gentleman from Louisiana, the chairman of the committee.

While there are some abuses, the remaining abuses really are corrected in the amendment offered by the gentleman from Louisiana, and so now we have the simple question really before us, and it no longer deals with the abusive situation which, as I mentioned, the Committee on Agriculture deserves a lot of credit for closing, and that is not even should there be a limit to how much money each farm can get, each individual really, but should that limit be \$50,000 or \$100,000.

The Huckaby amendment does create the limit and brings it to \$100,000. The gentleman from Massachusetts brings it to \$50,000, and the reason that I support the \$50,000 limit is very simple. That is that once again it seem to me that the average family farmer, the person whom we aim these programs at, is not getting \$50,000, is not getting even close to that in terms of support payments. The average farmer, the one we want to aim the program at, would not be affected by the Conte amendment. But there are many farmers who are getting more, and there are many farmers you could say who do not need that money.

I know the arguments that the whole program is sort of one seamless web. You knock out some and you knock out others. If I believed that, I would not be up here supporting the Conte amendment, and I would not have introduced the amendment that I did last week.

It is my belief that if we vote for this, the Conte amendment, we will send a shot across the bow, and we will show the Nation, we will show the conferees when they get together from the Ag Committees on both sides that we do need better targeting, that an agriculture program should exist and must exist, but, rather, a program that says that so much of the money must go to the very best in terms of income, in terms of support payments, the very best off of the farmers, is not the

program we want, is not the program that aims at the family farmer.

The Conte amendment is an amendment that says that if you cannot make it on \$50,000 of Government subsidy, then you are in bad shape and you should not be doing this.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume just to clarify.

The gentleman from California [Mr. THOMAS] had a misimpression on how this affected cotton. This is from the USDA. My amendment limits the amount of marketing loan gains, the Findley payments, and marketing loan crop forfeitures to \$50,000. The effect is that the producer who has received his \$50,000 marketing loan gain as well as the \$50,000 deficiency payment will have to look to the market to sell his crop.

I said to the USDA, which crops are affected by this limit? I asked the USDA to tell what happens under the budget assumption used in scoring the committee bill as amended on the floor. This is what I want to clarify to the gentleman. They tell me that for the 1991-95 crops, they predict no cotton marketing loan gains and no wheat Findley payments.

Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ARMEY].

Mr. ARMEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I just have one quick comparison I would like to make.

I, too, have an amendment in the RECORD for title XI of the bill. I will not be offering that amendment, but the amendment, had I offered it, would have suggested a cap on participation in these programs for farmers who have gross sales receipts of \$500,000 or more. That is a pretty good-size farm.

Let me just give the Members a few facts about that. If we had, in fact, imposed a cap on participation for people who had gross sales of \$500,000 or more, we would have affected some 33,000 farmers out of the 800,000 farmers who participate in the program. The average gross income of those 33,000 farmers would be \$176,000 and here is the point that I think is most important that I would like the Members to focus on, of those 33,000 farmers, their average receipt from these programs is \$46,000. That is \$4,000 below the cap that the gentleman from Massachusetts [Mr. CONTE] seeks to impose on these kinds of payments. So if the gentleman from Massachusetts [Mr. CONTE] imposes that cap of \$50,000 it will be Draconian. It will not destroy the program. It will not disrupt our ability to manage the world's food supply or the Nation's food supply. It will simply say to those 33,000 farmers:

If you are above the average in receipts from these programs by \$4,000, you're capped off at that point. If you are above the average of \$176,000 in total adjusted gross income, if you are over \$500,000 in gross sales and \$4,000 above the average in total receipts from these programs, we are going to cut you off at that point.

That will be some small portion of these 33,000 farmers affected out of the total of 800,000 farmers participating in the program.

Mr. Chairman, I recommend a "no" vote on the Huckaby amendment and a "yes" vote for a real limit with the Conte amendment.

Mr. HUCKABY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I would say to the Members as we close the debate, let me explain the parliamentary situation. The gentleman from Massachusetts, under the rule, offered an amendment that severely restricts the way agricultural programs operate and function today. I have offered a substitute amendment with the support of my colleagues on the committee. This substitute amendment preserves the three-entity rule. This substitute amendment reduces from \$250,000 to \$100,000 the maximum amount a farmer can receive for marketing loan gains or Findley payments. The substitute amendment says that under any circumstances the absolute most you can receive is \$200,000, whereas, the Conte amendment says \$250,000. The substitute amendment prohibits trusts from participating in the future in agricultural programs, whereas, the Conte amendment does not.

Then the gentleman from Massachusetts [Mr. CONTE] has come back and offered an additional amendment to the Huckaby substitute, and that is the first question that will appear before us, and that amendment strikes at the heart and the soul of our farm programs. He is saying you can no longer participate, you as a father and you as a son, in Government programs if either one of you are farming as an individual.

□ 1600

It is extraordinarily expensive to get into farming today. A young man returning home from college, combines cost \$150,000, as do large tractors. Most times it is necessary for the father to sign the papers, to go into partnership, to enable our young people to get into the agriculture business, to get into farming today.

The Conte amendment says no, you can no longer do that. You can no longer participate in Government programs. I assure you, the banks are not going to make the loan if you are not eligible to participate in the Government programs.

Mr. Chairman, I would urge Members to defeat the Conte amendment,

and then adopt the Huckaby substitute to the Conte amendment.

Mr. SMITH of Iowa. Mr. Chairman, will the gentleman yield?

Mr. HUCKABY. I yield to the gentleman from Iowa.

Mr. SMITH of Iowa. Mr. Chairman, I do not want to interrupt the argument of the gentleman from Louisiana [Mr. HUCKABY], but I want to point this out. We just voted today on a housing bill. We have spent in this country tens of millions or hundreds of millions of dollars on housing in the last 40 years, and we still have a terrible housing problem. People are paying 30 to 50 percent of their income for housing. Some of them cannot even find a decent place to live. That is a program that represents one of the two main necessities of life. It has failed to accomplish the objectives. Relatively new houses have been torn down and apartment houses have been boarded up while people need housing and housing costs have increased far more than inflation in many, many areas.

The most successful program we have had in this country in the last 40 years has been the agricultural program. In the budget for the year beginning next October 1st, there is \$27 billion for food for poor people, but we are proposing to spend only one-third of that amount for the total amount of the farm program to assure plentiful supplies at a reasonable price, including the cost of keeping reserves so that we are sure we have a plentiful supply every year.

Mr. Chairman, the programs in this bill have been successful. Before they start tinkering with it, some of the Members would contribute more to the national good if they spent some time working on the housing program instead of pushing unfriendly amendments to a program that works.

Mr. HUCKABY. Mr. Chairman, reclaiming my time, the gentleman from Iowa [Mr. SMITH] makes an extraordinarily good point. I thank the gentleman for pointing it out.

The CBO estimates that the cost for our programs for the next 5 years, each and every year, is \$10 to \$12 billion, roughly flat.

Mr. CONTE. Mr. Chairman, are we closing the debate?

The CHAIRMAN. The gentleman from Massachusetts [Mr. CONTE] has 10 minutes remaining, and the gentleman from Louisiana [Mr. HUCKABY] has 12 minutes remaining. The gentleman from Louisiana [Mr. HUCKABY] will close the debate.

Mr. CONTE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I think we have heard everything. We heard what this bill is going to do. Over 5 years this bill proposes to spend \$55 billion in price supports and \$95 billion in food and nutrition programs, \$150 billion in

total, almost all of it mandatory and automatic entitlement spending. So after we pass this bill and then get an up or down vote on the conference report, we will not review and debate farm policy issues and \$150 billion in spending again until 1995.

Mr. Chairman, my good friend the gentleman from Texas [Mr. STENHOLM] keeps harping on the vote on the appropriations bill. I checked the record, Mr. Chairman, and on May 1, 1990, my good friend the gentleman from Texas [Mr. STENHOLM] voted for the budget resolution, a smoke-and-mirror budget resolution.

Mr. Chairman, all I was doing on the Committee on Appropriations was voting for the 302(b) allocation that we got by the vote he voted for on the budget resolution. I voted against the budget resolution, the gentleman voted for the budget resolution. Then the gentleman comes in here with a bill on agriculture which violates the budget resolution.

Mr. Chairman, I do not want to dwell any further on it, but that is the record. As Al Smith would say, "Let's look at the record."

Mr. Chairman, anywhere you look at this thing, this is a budget buster. In the commodity programs alone the House budget resolution, already outdated because the deficit has grown, calls for cuts, cuts below the baseline of \$800 million. We have not seen it, Mr. Chairman. We have not seen that cut today—\$800 million below the baseline. The bill was reported out at \$73 million above the baseline. So in this one area alone, this bill is nearly \$1 billion over budget.

Place that in the context of the current budget situation: a projected \$168 billion deficit for next year, and that is without savings and loans, before taking Social Security off-budget, and off Gramm-Rudman, a potential \$104 billion sequester.

Yesterday we passed a debt ceiling increase to \$3.4 trillion. Today we passed a bill to increase spending for low-income people. Now we turn to see if we have the courage, if we have the guts, to vote for bringing the farm commodity title in this bill closer to budget by this most fair, most equitable reform possible, limiting payments to the biggest farm producers to the same level that the family farm has to survive on.

This is a major reform. It makes the savings that everyone admits will have to be done this year to the farm programs. It hits those who are milking the system to the maximum. If this amendment is not adopted, let me tell Members what the alternative is. The alternative is that all farmers will have their target prices reduced. That is the alternative.

Mr. Chairman, either we reform the system to close the loopholes on which

the biggest farm operations feed, or we will end up cutting the target prices on which all farmers, the little farmers, depend. I submit to Members that the Conte amendment is the right way to make the savings everyone agrees is necessary. Let us protect the small farmer and vote for the Conte amendment.

Mr. HUCKABY. Mr. Chairman, to close the debate I yield such time as he may consume to the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman of the Committee on Agriculture.

Mr. DE LA GARZA. Mr. Chairman, first let me say that how Members have voted in the past and the record of each individual Member is not really the issue here. I would accept what every Member says, whether he is liberal or conservative, whether he votes or does not vote, that is fine with me. That is the system, and I feel that that should be left to the Member's own discretion, how he votes.

What we are discussing here is a farm bill that encompasses the whole spectrum of American society. We are zeroing in on one tiny little spot. Because we have a farm bill that has conservation, working to protect the ecosystem, wildlife. We are trying to work to the extent we can to have clean water.

Mr. Chairman, let me tell Members what this is all about. Do you know what the individual needs to survive, the physical plant that the body is? Not the soul and intellect, but just the body. What do we need for survival?

One needs air, water, and food. That is all. Maybe a little exercise now and then. But we need food, air, and water. Only the good Lord makes air and water, and only farmers of the land and the sea make food. That is what we are talking about, the producers of food and fiber for your clothing, for what you eat today, whether it is coming from the lakes or the ocean. Our fishermen who are farmers of the sea and our farmers of the land, whether they are producing cattle or producing our foodstuffs. That is what we are talking about.

Now, the baseline. We have also conformed to the baseline. We have always conformed to the baseline and you can argue we were 73, the 800 million. There was a discrepancy from an honest baseline because of a disagreement that we have with CBO. But they say you take the present law and you continue it.

Mr. Chairman, in the case of dairy we were too successful, and we were ratcheting down costs. So they brought the baseline down like this, and we find ourselves with every other bill, every other committee, has a baseline here. We have a baseline down here for dairy because we were too successful in our attempt.

But I have stated, and the gentleman from Illinois [Mr. MADIGAN], our distinguished ranking member, that we will have in the en bloc amendments an amendment to bring us to the baseline. That is our commitment. So there should not be any more argument about baseline.

□ 1610

Plus, we have been responsible. In the past 10 years we have cut over \$30 billion from the agricultural sector, and it has been painful.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I am happy to yield to my colleague, the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, I thank the distinguished chairman of the committee for yielding, and I just want to briefly reinforce what he is saying and again make the point that with the amendment that was adopted of mine we saved \$1,200,000,000. We are at the figure that the House Budget Committee gave us.

I have a motion to recommit that will save, according to the Department, another \$1.5 billion. So if Members want to save money, if that is the objective of this whole debate, my suggestion is that it can be done in ways that do not do any injury to any farmer in the entire country.

I thank the gentleman for yielding.

Mr. DE LA GARZA. I thank my colleague.

We have been through the debate, and there are philosophical differences, no question about that. But what we have done is good.

An independent study shows that the 1985 act will have the potential to save about \$40 billion because of the drought of 1988, and had those reserves not been in place. So you see, you cannot say it is one big thing. It is getting out of hand here, the big farmer, the big farmer, the big farmer. And then they bring in the family farmer, the family farmer.

I told you, the family farmer, if he buys a combine, it costs \$150,000, a pickup costs \$15,000, a tractor costs \$150,000.

And the thinking, our minds are wandering to the family farmer of long ago with a coal oil lamp in the house, a mule in the back and a couple of dogs, and maybe a cow in the backyard. Those days are gone forever. Those are the good old days that I do not want to go back to. In the good old days that people are talking about I had to go about 30 yards outside the house to go to the bathroom. I do not want the good old days if that is it means going back to. That is what we are talking about.

The means tests, they are talking about means tests. We do not have means tests that landlords avail themselves of in housing programs, slum

landlords. We do not have means tests for them. We do not have means tests for defense contractors. We do not have means tests for people who supply things to the Government. We do not have means tests for anyone, but somehow there is an exercise about the farmer, the farmer, the farmer, the farmer.

The farmer is what is feeding all of God's children, and we are the only ones bringing money back from abroad. They are not buying what we manufacture. They are not buying our cars, our television sets. They are not buying that. The only thing they are buying is what we produce. That is what we are talking about here.

I read Members the other day that a nation that loses its manufacturing, and we have; a nation that loses its technology, and we have; a nation that loses its academic superiority, and we have; if we then turn out the farmers, it is a nation, and I quote this gentleman, "either ruled by fools or enemies."

Fools or enemies. That is what this gentleman said and I would not call any of my colleagues either one of those. But I would say that you are wrong, wrong, wrong.

Do you know it is painful for me as chairman of this committee, and our members, we were accused of being like the Al Capone days in Chicago, that we sat there and we said, "You get prostitution; you get the liquor; you get this; you get that." This is what we were accused of by one of the authors of one of the amendments here.

We went out and had 30 hearings outside in the country. We asked everyone who wanted to come. We had our hearings. We did it all, and we did it above the table. To be accused that we are sitting there in the committee saying, "You get this, you get that," my goodness. And also, it is like the greedy, every farmer is greedy. And loopholes. We have no loopholes. We legislate. If someone abuses it he goes to jail. I told you about the Indiana farmer that got caught, and well he should go to jail.

But the saddest part about all of this, my friends, is that we are in a fratricidal endeavor here. We are bashing ourselves. We should not be.

We are the best fed people in the world for the least amount of disposable income in the world. We feed all our poor. It was just mentioned that the program, half of the Department of Agriculture is nutrition programs.

But yet my point is, OK, here we go again. Are we making an impact on the budget in a negative manner? Look at the little line. That is what we do to the budget. How more can I explain it? That is the impact we make on the budget with this program.

To hear it on this floor, you would think we are going to balance it today. More money than this got lost during the lunch hour at HUD, and in defense they call it cost overruns.

Oh, but if it happens in agriculture, we have to sock it to that farmer.

Let's don't do that, my colleagues. Support the committee.

Across the seas they are probably applauding when they see what is happening here.

Do you know why we have the programs? We started them way back in the Depression because of need. We continued because the other countries in the world have forced us. We do not want to spend the taxpayers' money for export enhancement. We have to because the other side is doing it. We do not want to use targeted exports. We have to, because the other side is doing it. They are watching us now and saying, oh, they are bashing each other. Look at them. They are going to give us a loophole. That is what the other side is saying.

Stand for American agriculture. We are talking about jobs. We are talking about our farmers. We are talking about keeping them on the land. If someone gets out of line, we will send them to jail.

Let us not talk about loopholes. Let us not talk about we are going to balance the budget. There it is.

My friends, support the committee. Vote against the Conte amendment. Vote yes on the Huckaby substitute and then let us give Mr. CONTE the support and vote on his amendment as substituted by Mr. HUCKABY. That way we will make everybody happy.

So support the committee. But the most important things, my friends, is that philosophically, I say to my friend from Texas, Mr. ARMEY, if we lived in a world where you can make all of the decisions in a laboratory, from a textbook, fine. But this is the real world, and reality here, perception sometimes is reality, and we have yielded to that perception. We have come down. As a matter of fact, the Huckaby substitute is \$200,000, and Conte is \$250,000.

But the main thing is are we going to stand for America, not bashing each other here, pointing the finger, and you did this, you did that, you got a little more money than the other?

There is the impact it does on the budget.

Support the committee. Vote no on Conte, yes on Huckaby, and then yes on Conte, and I think we would have done American agriculture, and you my colleagues, and your constituents—somebody at noon said to me, "Hey, I don't have any." I say if you eat, you are involved in agriculture. And we provide you good, quality food at reasonable prices, and part of it is this program. You cannot get around it. Part of it is this program.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts [Mr. CONTE] to the amendment offered by the gentleman from Louisiana [Mr. HUCKABY] as a substitute for the amendment offered by the gentleman from Massachusetts [Mr. CONTE], as modified.

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. CONTE. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 250, answered "present" 1, not voting 10, as follows:

[Roll No. 295]

AYES—171

Applegate	Hochbrueckner	Pursell
Archer	Houghton	Regula
Army	Hughes	Rhodes
Atkins	Hunter	Richardson
Bartlett	Hyde	Ridge
Bates	Ireland	Rinaldo
Bellenson	Jacobs	Ritter
Bennett	Johnson (CT)	Rohrabacher
Bentley	Johnston	Ros-Lehtinen
Berman	Kanjorski	Rostenkowski
Bilbray	Kasich	Rowland (CT)
Borski	Kennedy	Russo
Boucher	Kennelly	Sabo
Brennan	Klecza	Sangmeister
Broomfield	Kostmayer	Sawyer
Brown (CO)	Kyl	Saxton
Buechner	LaFalce	Schaefer
Campbell (CA)	Leach (IA)	Scheuer
Cardin	Lehman (FL)	Schneider
Carper	Lent	Schroeder
Clarke	Levine (CA)	Schulze
Conte	Machtley	Schumer
Coughlin	Markey	Sensenbrenner
Cox	Martin (IL)	Shaw
Crane	Mavroules	Shays
Dannemeyer	Mazzoli	Shuster
DeLay	McCollum	Sikorski
Dicks	McGrath	Skaggs
Donnelly	McMillen (MD)	Slattery
Dorgan (ND)	Meyers	Smith (FL)
Dornan (CA)	Mfume	Smith (NJ)
Douglas	Michel	Smith (VT)
Downey	Miller (CA)	Smith, Robert
Dreier	Miller (OH)	(NH)
Durbin	Miller (WA)	Snowe
Early	Moakley	Solarz
Eckart	Molinari	Stark
Fawell	Moody	Stearns
Feighan	Morella	Studds
Fields	Morrison (CT)	Torricelli
Fish	Mrazek	Unsoeld
Foglietta	Murphy	Upton
Ford (MI)	Neal (MA)	Vander Jagt
Frank	Nielson	Vento
Frenzel	Nowak	Visclosky
Gallo	Oakar	Walker
Gejdenson	Oberstar	Waxman
Gekas	Obey	Weiss
Goodling	Owens (NY)	Weldon
Goss	Owens (UT)	Wolf
Gradison	Pallone	Wolpe
Green	Paxon	Wyden
Guarini	Payne (NJ)	Wylie
Hamilton	Pease	Yates
Hancock	Penny	Yatron
Henry	Petri	Young (FL)
Hertel	Porter	
	Price	

NOES—250

Ackerman	AuCoin	Bevill
Alexander	Baker	Bliley
Anderson	Ballenger	Boehlert
Andrews	Barnard	Boggs
Annuzio	Barton	Bonior
Anthony	Bateman	Bosco
Aspin	Bereuter	Boxer

Brooks	Hefner	Pelosi
Browder	Herger	Perkins
Brown (CA)	Hiler	Pickett
Bruce	Hoagland	Pickle
Bryant	Holloway	Poshard
Bunning	Hopkins	Quillen
Burton	Horton	Rahall
Bustamante	Hoyer	Rangel
Byron	Hubbard	Ravenel
Callahan	Huckaby	Ray
Campbell (CO)	Hutto	Roberts
Carr	Inhofe	Robinson
Chandler	James	Roe
Chapman	Jenkins	Rogers
Clay	Johnson (SD)	Rose
Clement	Jones (GA)	Roth
Clinger	Jones (NC)	Rowland (GA)
Coble	Jontz	Roybal
Coleman (MO)	Kaptur	Saiki
Coleman (TX)	Kastenmeier	Sarpalius
Collins	Kildee	Savage
Combest	Kolbe	Schiff
Condit	Kolter	Schuetz
Conyers	Lagomarsino	Serrano
Cooper	Lancaster	Sharp
Costello	Lantos	Shumway
Coyne	Laughlin	Sisk
Craig	Lehman (CA)	Sisk
Darden	Levin (MI)	Skelton
Davis	Lewis (CA)	Slaughter (NY)
de la Garza	Lewis (FL)	Slaughter (VA)
DePazio	Lewis (GA)	Smith (IA)
Dellums	Lightfoot	Smith (NE)
DeWine	Lipinski	Smith (TX)
Dickinson	Livingston	Smith, Denny
Dingell	Lloyd	(OR)
Dixon	Long	Smith, Robert
Duncan	Lowery (CA)	(OR)
Dwyer	Lowey (NY)	Solomon
Dymally	Lukens, Thomas	Spence
Dyson	Lukens, Donald	Spratt
Edwards (CA)	Madigan	Staggers
Edwards (OK)	Manton	Stallings
Emerson	Marlenee	Stangeland
Engel	Martin (NY)	Stenholm
English	Martinez	Stokes
Erdreich	Matsui	Sundquist
Espy	McCandless	Swift
Evans	McCloskey	Synar
Fascell	McCrery	Tallon
Fazio	McCurdy	Tanner
Flake	McDade	Tauke
Flippo	McDermott	Tauzin
Frost	McEwen	Taylor
Galleghy	McHugh	Thomas (CA)
Gaydos	McMillan (NC)	Thomas (GA)
Gephardt	McNulty	Thomas (WY)
Geren	Mineta	Torres
Gillmor	Mollohan	Towns
Gilman	Montgomery	Trafficant
Gingrich	Moorhead	Traxler
Glickman	Morrison (WA)	Udall
Gonzalez	Murtha	Valentine
Gordon	Myers	Volkmer
Grandy	Nagle	Vucanovich
Grant	Natcher	Walgren
Gray	Neal (NC)	Walsh
Gunderson	Olin	Washington
Hall (OH)	Ortiz	Watkins
Hammerschmidt	Oxley	Weber
Hansen	Packard	Wheat
Harris	Panetta	Whittaker
Hastert	Parker	Whitten
Hatcher	Parris	Williams
Hayes (IL)	Pashayan	Wilson
Hayes (LA)	Patterson	Wise
Hefley	Payne (VA)	Young (AK)

ANSWERED "PRESENT"—1

Stump

NOT VOTING—10

Bilirakis	Ford (TN)	Nelson
Courter	Hall (TX)	Roukema
Crockett	Hawkins	
Derrick	Leath (TX)	

□ 1640

The Clerk announced the following pair:

On this vote:

Mrs. Roukema for, with Mr. Hawkins against.

Mr. GORDON and Mr. COOPER changed their vote from "aye" to "no."

Messrs. SKAGGS, RICHARDSON, and DORGAN of North Dakota changed their vote from "no" to "aye."

So the amendment to the amendment offered as a substitute for the amendment, as modified, was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN pro tempore [Mr. ALEXANDER]. The question is on the amendment offered by the gentleman from Louisiana [Mr. HUCKABY] as a substitute for the amendment offered by the gentleman from Massachusetts [Mr. CONTE], as modified.

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. GLICKMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 375, noes 45, answered "present" 1, not voting 11, as follows:

[Roll No. 296]

AYES—375

Ackerman	Coleman (MO)	Gejdenson
Alexander	Coleman (TX)	Gekas
Anderson	Collins	Gephardt
Andrews	Combust	Geren
Annunzio	Condit	Gillmor
Anthony	Conyers	Gilman
Applegate	Cooper	Gingrich
Archer	Costello	Glickman
Aspin	Coughlin	Gonzalez
AuCoin	Cox	Goodling
Baker	Coyne	Gordon
Ballenger	Craig	Goss
Barnard	Darden	Gradison
Bartlett	Davis	Grandy
Barton	de la Garza	Grant
Bateman	DeFazio	Gray
Bates	DeLay	Guarini
Bentley	Dellums	Gunderson
Bereuter	Derrick	Hall (OH)
Berman	DeWine	Hamilton
Bevil	Dickinson	Hammerschmidt
Bilbray	Dicks	Hancock
Bliley	Dixon	Hansen
Boehlert	Dorgan (ND)	Harris
Boggs	Douglas	Hastert
Bonior	Downey	Hatcher
Borski	Dreier	Hawkins
Boucher	Duncan	Hayes (IL)
Boxer	Durbin	Hayes (LA)
Brennan	Dwyer	Hefley
Brooks	Dymally	Hefner
Browder	Dyson	Henry
Brown (CA)	Eckart	Hiler
Brown (CO)	Edwards (CA)	Hoagland
Bruce	Edwards (OK)	Hochbrueckner
Bryant	Emerson	Holloway
Buechner	Engel	Hopkins
Bunning	English	Horton
Burton	Erdreich	Houghton
Bustamante	Espy	Hoyer
Byron	Evans	Hubbard
Callahan	Fascell	Huckaby
Campbell (CO)	Fawell	Hughes
Cardin	Fazio	Hutto
Carper	Feighan	Hyde
Carr	Fields	Inhofe
Chandler	Fish	James
Chapman	Flake	Jenkins
Clarke	Filippo	Johnson (CT)
Clay	Frost	Johnson (SD)
Clement	Gallely	Johnston
Clinger	Gallo	Jones (GA)
Coble	Gaydos	Jones (NC)

Jontz	Nagle	Sisisky
Kanjorski	Natcher	Skaggs
Kaptur	Neal (NC)	Skeen
Kasich	Nielson	Skelton
Kastenmeier	Nowak	Slattery
Kennedy	Oakar	Slaughter (NY)
Kennelly	Oberstar	Slaughter (VA)
Kildee	Obey	Smith (FL)
Klecza	Olin	Smith (IA)
Kolbe	Ortiz	Smith (NE)
Kolter	Owens (NY)	Smith (NJ)
Kyl	Owens (UT)	Smith (TX)
LaFalce	Oxley	Smith (VT)
Lagomarsino	Packard	Smith, Denny
Lancaster	Pallone	(OR)
Lantos	Panetta	Smith, Robert
Leahy	Parker	(OR)
Leach (IA)	Parris	Snowe
Lehman (CA)	Pashayan	Solarz
Lehman (FL)	Patterson	Solomon
Lent	Paxon	Spence
Levin (MI)	Payne (NJ)	Spratt
Levine (CA)	Payne (VA)	Staggers
Lewis (CA)	Pease	Stallings
Lewis (FL)	Pelosi	Stangeland
Lewis (GA)	Penny	Stearns
Lightfoot	Perkins	Stenholm
Lipinski	Pickett	Stokes
Livinston	Pickle	Sundquist
Lloyd	Porter	Swift
Long	Poshard	Synar
Lowery (CA)	Price	Tallon
Lowey (NY)	Quillen	Tanner
Lukens, Thomas	Rahall	Tauke
Lukens, Donald	Rangel	Tauzin
Machtley	Ravenel	Taylor
Madigan	Ray	Thomas (CA)
Manton	Regula	Thomas (GA)
Markey	Rhodes	Thomas (WY)
Marlenee	Richardson	Torres
Martin (IL)	Ridge	Torricelli
Martin (NY)	Rinaldo	Towns
Martinez	Ritter	Trafficant
Matsui	Roberts	Traxler
Mavroules	Robinson	Udall
Mazzoli	Roe	Unsoeld
McCandless	Rogers	Upton
McCloskey	Ros-Lehtinen	Valentine
McCrery	Rose	Vander Jagt
McCurdy	Rostenkowski	Vento
McDade	Roth	Visclosky
McDermott	Rowland (CT)	Volkmeyer
McEwen	Rowland (GA)	Vucanovich
McGrath	Roybal	Walgren
McHugh	Sabo	Walsh
McMillan (NC)	Saiki	Washington
McNulty	Sangmeister	Watkins
Meyers	Sarpaluis	Waxman
Michel	Savage	Weber
Miller (OH)	Sawyer	Weldon
Miller (WA)	Saxton	Wheat
Mineta	Schaefer	Whittaker
Moakley	Schiff	Whitten
Molinaro	Schneider	Williams
Mollohan	Schroeder	Wilson
Montgomery	Schuetz	Wise
Moorhead	Sensenbrenner	Wolf
Morrison (CT)	Serrano	Wolpe
Morrison (WA)	Sharp	Wyden
Mrazek	Shays	Wylie
Murphy	Shumway	Yatron
Murtha	Shuster	Young (AK)
Myers	Sikorski	

NOES—45

Armey	Gibbons	Rohrabacher
Atkins	Green	Russo
Beilenson	Hergert	Scheuer
Bennett	Hertel	Schulze
Broomfield	Hunter	Schumer
Campbell (CA)	Ireland	Shaw
Conte	Jacobs	Smith, Robert
Crane	Kostmayer	(NH)
Dannemeyer	McCollum	Stark
Dingell	McMillen (MD)	Studds
Donnelly	Mfume	Walker
Dornan (CA)	Miller (CA)	Weiss
Early	Moody	Yates
Foglietta	Morella	Young (FL)
Frank	Neal (MA)	
Frenzel	Pursell	

ANSWERED "PRESENT"—1

Stump

NOT VOTING—11

Billirakis	Ford (MI)	Nelson
Bosco	Ford (TN)	Petri
Courter	Hall (TX)	Roukema
Crockett	Leath (TX)	

□ 1701

The Clerk announced the following pair:

On this vote:

Mr. Ford of Tennessee for, with Mrs. Roukema against.

Messrs. STUDDS, LEHMAN of California, PASHAYAN, MFUME, HERGER, HERTEL, BENNETT, and DONNELLY changed their vote from "aye" to "no."

Messrs. LEHMAN of Florida, LEHMAN of California, PASHAYAN, and CONNIT changed their vote from "no" to "aye."

So the amendment offered as a substitute for the amendment, as modified, was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Massachusetts (Mr. CONTE), as amended.

The amendment, as amended, was agreed to.

Mr. WILLIAMS. Mr. Chairman, often our constituents ask, quite correctly, "why weren't we warned." They want to know why the warning bells weren't sounded on pending crises such as the S&L bailout, the toxic waste dumps cleanup, or Pentagon fraud.

This farm bill is, I think, the appropriate vehicle for the following warning.

The world is on the precipice of a terrifying food shortage. The citizens of the world are perilously close to starvation.

The results of a global food shortage will be mass migration, abandoned homelands, widespread fear, despair, and famine—a global Bangladesh.

It is a frightening prospect, without precedent and it would surpass wars in its impact on humanity.

A shrinking cropland base, fewer farmers, a loss of woodlands, depressed farm prices, falling investments in agriculture, the warming of the planet, erosion, faulty irrigation—all have combined to eliminate the world's narrow food surplus.

Between 1950 and the middle of the 1980's the world experienced tremendous growth in world grain output. During the last half of the 1980's, global grain production began to fall, and—in per capita terms—it continues to decline.

With the world's population continuing to increase at unprecedented levels, our grain output is falling. Worsened by the monsoon failure in India 3 years ago and the 1988 drought in North America and Canada the world's grain harvest fell a startling 10 percent in just 24 months.

At the beginning of the 1987 harvest, the world had a record amount of grain, but even at that record level grain existed to feed the world for only 100 days. Within 24 months our grains reserve had fallen and was only ample to feed the world for 57 days. Another grow-

ing season drought in the world's breadbasket of the United States and Canada could eliminate the world's food surplus.

The future of agriculture is shaped not only by what we do here but also by environmental and technological influences, resource constraints, and demographic changes.

I personally believe it is doubtful that the world can arrest the growing decline in food production.

National governments must be better prepared to coordinate a unified effort to raise production if we are not to face the prospect of a global food shortage.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I yield to my distinguished colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, the House Agriculture Committee worked responsibly and diligently in drafting H.R. 3950, the Food and Agricultural Resources Act of 1990, and spent a great deal of time and effort deliberating the notion of farm program flexibility. The issue commanded the committee's attention as a result of farmers becoming locked into rigid planting patterns in order to remain eligible for Government program benefits. Moreover, these rules of the current farm program constrain planting decisions, restrict opportunities for market oriented profit, and effectively limit producers' freedom to use beneficial environmental enhancing practices.

If we want farm policies to maximize the efficiency of production agriculture, we must recognize the need for flexibility to encourage producers to adapt to changing market conditions and allow farm resources to be utilized more effectively.

The issue of Federal spending for farm programs played a substantial role in the development of H.R. 3950. Consequently, Federal budget cost considerations have greatly influenced the final form of this legislation, being below the CBO baseline. With this in mind, I would have preferred this so-called triple base option as a means to achieve desired budgetary objectives. Let me explain.

Under current law, producers receive deficiency payments on the full amount of their permitted acreage if they plant it to a program crop. Under the triple base option, they would receive payments on a smaller payment base that is 80 percent of permitted base. On the portion of permitted acres not receiving deficiency payments—flexible acres—producers could plant any crop they chose without affecting their entitlement to future program benefits. The triple base option would thus increase planting flexibility. The cost to producers of this increased flexibility would be the loss of program benefits paid on the flexible acres, no matter what they planted. This would separate planting decisions from Government payments on these newly flexible acres.

Also, with the Federal savings generated from the elimination of deficiency payments paid on the flexible acres, an offsetting increase in target price protection on the remaining payment acres would serve as a means for maintaining farm income. In other words, it is my belief that a producer who is currently receiving a certain per bushel target

price for wheat on 100 percent of his or her permitted acres, might prefer a higher per bushel target price on 80 percent of those acres—thus being free to plant anything they wish—with no Government protection—on the remaining 20 acres.

The triple base option would also generate environmental benefits by allowing the flexibility to rotate crops and modify cropping patterns and practices. More specifically, this approach would allow producers to plant crops that are less dependent on agricultural inputs as well as crops that are more wind and soil erosion preventive.

Finally, the triple base option would provide another step toward complying with an international agreement—to reduce the market-distorting effects of Government payments—that might emerge from the current General Agreement on Tariffs and Trade [GATT] talks in Geneva.

In the current political and economical climate, producers might prefer this way of reducing program costs, if Federal spending is continually reduced, because it would increase their flexibility to pursue marketable opportunities in other crops and help reduce economic inefficiencies generated by some current programs. Other less attractive options would include reducing target prices or raising the loan rate which I view as short-term methods of micromanaging our agricultural industry while moving agriculture away from the market-oriented direction which the 1985 Food Security Act set in motion.

Mr. DE LA GARZA. Mr. Chairman, at this point I would like to yield to the gentleman from California, the distinguished chairman of the Committee on Public Works and Transportation for a brief colloquy.

Mr. ANDERSON. Mr. Chairman, I thank the gentleman for yielding.

Is it the gentleman's understanding that key terms and requirements in H.R. 3950, such as those involving the definition of wetlands, delineation determinations and appeals, exempted activities, and mitigation, do not extend beyond the context of Swampbuster and into Corps and EPA regulatory activities?

Mr. DE LA GARZA. That is correct. For example, provisions in H.R. 3950 addressing wetlands delineations and procedures and mitigation requirements are not intended to affect duties or requirements of EPA and the Corps.

I thank the gentleman for his question and I want to state for the record that the purpose of this colloquy is to clarify the colloquy I had with the gentleman on July 25 which included this issue.

AMENDMENTS EN BLOC OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. DORGAN of North Dakota: In the amendment made by section 901 to section 107A of

the Agricultural Act of 1949, at the end of subsection (c)(1)(A) insert the following:

The farm program payment yield times the acreage, used to compute payments to a producer under this paragraph, shall not exceed 15,000 bushels of wheat.

In the amendment made by section 901 to section 107A(c)(1)(E)(i) of the Agricultural Act of 1949, strike "\$4" and insert "\$4.50".

In the amendment made by section 1001 to section 105A of the Agricultural Act of 1949, at the end of subsection (c)(1)(A) insert the following:

The farm program payment yield times the acreage, used to compute payments to a producer under this paragraph, shall not exceed 21,000 bushels of corn or, in the case of other feed grains, a comparable amount, as determined by the Secretary.

In the amendment made by section 1001 to section 105A(c)(1)(E)(i) of the Agricultural Act of 1949, strike "\$2.75" and insert "\$3.10".

Amend section 1101(a) by striking "and" at the end of paragraph (5), by striking the period at the end of paragraph (6) and inserting "; and", and by inserting at the end the following new paragraph:

(7) by striking subparagraph (A) of paragraph (5) and inserting the following:

"(5)(A) The Secretary shall issue regulations defining the term 'person', and prescribing such rules as necessary to assure a fair and reasonable application of the limitations established under this section, except that as the term applies to section 1001 (1) and (2) of this Act—

"(i) each person must meet the requirement of material participation within the meaning of section 469(h) of the Internal Revenue Code of 1986 as prescribed in section 1.469-5T of the Internal Revenue Code of 1986, and

"(ii) each person, and any related terms, such as individual, joint operation, and entity shall be defined in such manner that no combination of farming or business organization shall result in any one natural person qualifying as more than one person."

Mr. DORGAN of North Dakota (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Dakota?

Mr. MARLENEE. Mr. Chairman, reserving the right to object, do we have the amendment at the desk here?

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. MARLENEE. Further reserving the right to object, I am happy to yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, if I might, under the gentleman's reservation, I offer this on behalf of myself and the gentleman from South Dakota.

We will be asking unanimous consent that we change the first two parts of the amendment for this reason: that we were not able to get numbers from the Congressional Budget Office when we filed this amendment. Instead of \$4.50 on wheat, we would ask unanimous consent that it be changed

to \$4.40; instead of \$3.03 on corn, we would ask unanimous consent that it be changed to \$3.01, and that makes the amendments en bloc budget neutral.

Mr. MARLENEE. Mr. Chairman, I withdraw my reservation of objection. The CHAIRMAN. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

MODIFICATIONS OFFERED BY MR. DORGAN OF NORTH DAKOTA TO THE AMENDMENTS EN BLOC OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer modifications to the amendments en bloc offered by myself, and I ask unanimous consent that the amendments en bloc be modified as provided in the modifications to the amendments en bloc.

The CHAIRMAN. The Clerk will report the modifications.

The Clerk read as follows:

In the amendment made by section 901 to section 107A of the Agricultural Act of 1949, at the end of subsection (c)(1)(A) insert the following: "The farm program payment yield times the acreage used to compute payments to a producer under this paragraph shall not exceed 15,000 bushels of wheat."

In the amendment made by section 901 to section 107A(c)(1)(E)(i) of the Agricultural Act of 1949, after "\$4 per bushel" insert "for the 1991 crop and \$4.40 per bushel for the 1992, 1993, 1994, and 1995 crops".

In the amendment made by section 1001 to section 105A of the Agricultural Act of 1949, at the end of subsection (c)(1)(A) insert the following: "The farm program payment yield times the acreage used to compute payments to a producer under this paragraph shall not exceed 21,000 bushels of corn or, in the case of other feed grains, a comparable amount, as determined by the Secretary."

In the amendment made by section 1001 to section 105A(c)(1)(E)(i) of the Agricultural Act of 1949, after "\$2.75 per bushel" insert "for the 1991 crop and \$3.01 per bushel for the 1992, 1993, 1994, and 1995 crops".

Mr. DORGAN of North Dakota (during the reading). Mr. Chairman, I ask unanimous consent that the modifications to the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from North Dakota?

There was no objection.

The CHAIRMAN pro tempore. Is there objection to the original request of the gentleman from North Dakota that the amendments be modified?

There was no objection.

The CHAIRMAN pro tempore. The amendments are modified.

Mr. DORGAN of North Dakota. Mr. Chairman, I offer this amendment on behalf of myself and my colleague, the gentleman from South Dakota [Mr. JOHNSON].

This amendment is revenue neutral. The amendment does tighten the payment limitations under the current

farm program to raise money, and then it uses that money to better target farm program benefits to the family farmers in this country.

Mr. Chairman, this farm bill is good news for some. It has a good sugar program. I support that. It is good for honey, good for wool. It is good for peanuts, good for cotton. But I am convinced that in the wheat and feed-grain section of this farm bill we are headed toward a disaster in the Farm Belt. In the wheat and feedgrains area, the middle part of the country, the Dakotas, we have been in a deep, lengthy, abiding recession. We have farmers going broke. We have Main Street businesses boarded up, and things are not going to get better. They are going to get worse under the wheat and feedgrains title of this bill.

Simple arithmetic tells you that if the target price or support price is below the cost of production then you are headed for financial trouble. That is the case in the wheat and feedgrains.

We say in our amendment that we would like to better target farm price supports so that we can provide stronger price supports for the first increment of production, \$4.40 a bushel rather than \$4.00 a bushel for the first 15,000 bushels of wheat; \$3.01 a bushel for the first 21,000 bushels of corn. We are saying let us use our money more widely, let us layer in a higher support price for the first increment of production.

□ 1710

I have nothing against people who want to farm big operations. That is fine. If you want to farm two counties, God bless you. It is just that we do not have the money to be your financial partner on the second county.

Mr. Chairman, what we ought to do is develop a philosophy in this farm bill that provides the strongest price supports possible for the first increment of production of a family farm. That is what the gentleman from South Dakota [Mr. JOHNSON] and I are trying to do.

Mr. JOHNSON of South Dakota. Mr. Chairman, will the gentleman yield?

Mr. DORGAN of North Dakota. I yield to the gentleman from South Dakota.

Mr. JOHNSON of South Dakota. Mr. Chairman, grain farmers can prosper in one of two ways: they can either prosper from a good market price, which historically is brought about by higher loan rates. I have supported that in this farm bill, but frankly, the President has threatened to veto, and we have not had the votes to go that route.

The alternative way for a grain farmer to prosper is through a decent farm program. We have tried to increase target prices and at least index

those target prices to reflect inflation. But again, the President has threatened to veto, and frankly, that would cost more taxpayer outlay in the Farm Program. We do not have those resources. That has not been an option as well.

So the gentleman from North Dakota [Mr. DORGAN] has brought about a third option that I think is one that needs to be examined and that I think is a favorable option, and that is to better use the very limited dollars we have available and target those dollars to the first increment of production in wheat and corn, make sure the limited dollars we use are used for the family producer.

Mr. Chairman, I think this is a commonsense alternative to the options that we have available. All Members would like to see higher market prices. That is not an option we have. We have got to use the limited resources available in the farm program in a more effective way to preserve the fabric of family farming in America.

Mr. DORGAN of North Dakota. Mr. Chairman, reclaiming my time, the gentleman from South Dakota [Mr. JOHNSON] is correct. We have to do things better than we have done them in the past. When we have support prices that are below the cost of production, any way you slice it, that means that in my part of the country, our farmers are going to be in serious trouble.

There is a better way to do it. The better way to do it is to provide stronger price supports for the first increment of production. There are 1 million reasons that Members in this House do not want to do it, and I have heard them for a dozen years.

But the current program is not working. I challenge those who think it works to come to the Dakotas and stand on Main Street, any Main Street, and turn around and ask yourself, is this an economy that is living or dying? Is this an economy that is on the mend?

Mr. Chairman, this farm program in wheat and feed grains does not work. We need better support prices, targeted to family-sized farms. If we do that, we will strengthen, it seems to me, the ability of family farms to survive in rural America's future.

I know that other Members of the House would like to do this, but they say, "Well, reality prevents us."

Why is it we are always prevented by reality here in the House of Representatives? Why do we not change reality, inasmuch as we create it? Why do we not decide what we want to do with our dollars? We need a philosophy that guides for a change the Farm Program we write, and the philosophy ought to be to try to provide the establishment and maintenance of a network of family farmers for social and

economic reasons in the future of this country.

If we are not distinguishing here between family farmers and others, we will be left with a future in which 2000 corporations farm America. And if people think food prices are expensive now, watch them when they shop and pay the price for the output of large corporate farming in America.

Mr. Chairman, that is why we need to adopt an amendment like this in the wheat and feed grains title.

Mr. GLICKMAN. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, first of all, I want to compliment the gentleman from North Dakota [Mr. DORGAN]. We looked at this issue very seriously in the committee, trying to figure out if we could target farm benefits to family-sized producers, and came up with the conclusion that it could not be feasibly done.

H.L. Mencken once said for every complicated problem there is a simple and a wrong solution. And we came up with this solution, which was a simple one, but it was wrong, for several reasons.

No. 1, this bill will provide lots of incentives for farmers to get out of the program. Once they are over the 15,000 bushels, or the 10,000 bushels, they leave the program. Therefore, anyone who is moderately large, too large, will totally get out of the program, which will have the effect of reducing prices and increasing the cost of the program.

Second of all, this provides most benefits to the very smallest farmers, who are often hobby farmers, who will be able to come in, people who have not produced a crop before, just to get the higher target price, which means people all over this country who do not plant wheat and corn will suddenly see a very high target price on the first bushels of production and decide let us get into the program. In doing so, they jeopardize the producers of wheat and corn who are right now in the program and who are competing in a very, very difficult worldwide environment.

Mr. Chairman, No. 3 is flexibility. One of the goals of our farm program is to create flexibility, allowing farmers to plant based on market signals, not program constraints.

This amendment upsets the balance. Why? Because it creates a significantly higher target price for wheat and corn, but does not touch soybeans, does not touch sunflowers, does not touch cotton, does not touch rice, does not touch the competitive crops. So that will disrupt crop production in this country. It will disrupt geographical planting patterns by inducing farms to plant at least part of their farms to these crops just to get the higher target price. That will work to the disadvantage of certainly some

wheat and corn areas that do this right now.

Mr. Chairman, this will have an adverse environmental effect, providing incentives for farms smaller than prescribed acreage to intensify production. That is, you will take a smaller amount of acres and plant the heck out of it just to get the number of bushels that you need. That means more chemicals, when what we should be doing is trying to lessen reliance on chemicals.

Mr. Chairman, I would say, however, in all deference, what the gentleman from North Dakota [Mr. DORGAN] is trying to do is good philosophy. Intellectually, it makes sense, trying to get smaller and family farmers a larger share of the program benefits. I agree with that. We need to go down that road. It just does not work the way he has done it. So I admire him for this cause, but I urge Members to vote against the amendment.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I would simply like to associate myself with the remarks of the gentleman from Kansas [Mr. GLICKMAN]. This is a 400-acre deal. In my district if you are above 400 acres and you wheat farm, you do not qualify for the higher target price. If you are below 400 acres, you are fine. That is about what it amounts to.

The reason the gentleman has been on this argument for 12 years and heard it all before, is because it is very counterproductive and no one has agreed with him. You are going to shift wheat production down south and to hobby farmers and small farmers, and leave the big and successful but not really rich farmers in my district out of the program.

Kansas is the wheat State. My district is the wheat district. The average size farm is 1,000 acres.

With all due respect, that father and two son operation is also the family farm.

Mr. Chairman, I do not think the philosophy makes much sense either. So from the standpoint of workability and excluding districts to the benefit of the district of the gentleman, well, it just does not make any sense.

Mr. HUCKABY. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I would like to associate myself with the remarks of the gentleman from Kansas, and say just simply this concept really will not work. I urge its defeat.

Mr. GLICKMAN. Mr. Chairman, what is going to happen is that you are going to have a lot of people in the

wheat and corn areas that are going to find themselves prejudiced because people outside these areas, which traditionally do not grow wheat and corn, will be given an added incentive to do that, and that is going to disrupt the marketplace.

On the other hand, I would say to the gentleman again, the concept of trying to target payments to those farmers in the family size is something we ought to try to do, and hopefully as we get down the road of reconciliation in future bills, we will work toward that goal.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. GLICKMAN. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I just want to correct what I think is an inaccuracy. My friend the gentleman from Kansas [Mr. ROBERTS] said if you have over 400 acres you are not qualified. That is simply not true. If you have over 400 acres, the production off 400 acres is going to qualify for the higher support price, but that over 400 acres is not going to be eligible. Anybody, anybody is going to qualify for the first increment of production. I just wanted to make that clear.

Mr. GLICKMAN. Mr. Chairman, reclaiming my time, I urge a "no" vote on the amendment.

The CHAIRMAN pro tempore. (Mr. ALEXANDER). The question is on the amendments en bloc offered by the gentleman from North Dakota [Mr. DORGAN], as modified.

The amendments en bloc, as modified, were rejected.

The CHAIRMAN pro tempore. Are there other amendments to title XI?

AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DORGAN of North Dakota. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DORGAN of North Dakota:

—At the end of subtitle A of title XI, insert the following new section:

SEC. 1121. SENSE OF THE CONGRESS.

It is the sense of the Congress that any future reduction in spending provided by any budget reconciliation bill that affects agricultural commodity support programs should be made by Congress on a targeted basis to protect the support prices for the amount of commodities produced by family-sized farms, and should achieve budgetary savings, to the extent possible, through lower support prices on production from the largest farms.

Redesignate the succeeding section accordingly.

□ 1720

Mr. DORGAN of North Dakota. Mr. Chairman, I yield to my friend, the gentleman from South Dakota [Mr. JOHNSON], who is a cosponsor of this amendment along with me.

Mr. JOHNSON of South Dakota. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, this amendment, this sense of Congress being offered by the gentleman from North Dakota is not simply a replay of the previous amendment, although I thought there was great merit in the previous amendment. This is an effort to address the very likely need to reduce funding in the agricultural budget still further.

We are all aware of the kinds of stress that the budget summit is going to bring upon all of our domestic programs, agriculture included. It is an effort to set up a concept within the Agriculture Committee so that when the budget cuts do come along that we approach those cuts from the perspective of trying to protect moderate scale agriculture first and foremost.

There is nothing in this amendment which sets a bushel level. There is nothing in this amendment which narrows it to certain commodities. It leaves that open for future discussion.

But it does set the tone, it does set the direction and the priorities that we will look after moderate, medium scale family farmers first and foremost. That is what drives this amendment.

Mr. DORGAN of North Dakota. I thank the gentleman.

Mr. GLICKMAN. Mr. Chairman, will the gentleman yield?

Mr. DORGAN North Dakota. I yield to the gentleman from Kansas.

Mr. GLICKMAN. Mr. Chairman, as I understand it, this sense of Congress contains no mandatory language at all. All it says is that if we do get down the road to reconciliation, and we have to make further cuts in agriculture, we should do our best to protect mid-size, family-size producers in any way we possibly can, and I think that is a constructive amendment. I do not think it unnecessarily binds us.

We will have a lot of pressures in the reconciliation process, but I think, as a matter of record, we should go on record in trying to do our best for family-sized producers. So I support the amendment.

Mr. DORGAN of North Dakota. I appreciate the words of the gentleman from Kansas.

Mr. Chairman, let me try and describe, following the description of my friend, the gentleman from South Dakota [Mr. JOHNSON], what we are about here.

This is a sense of Congress resolution, and let me read it.

It is the sense of the Congress that any future reduction in spending provided by any budget reconciliation bill that affects agricultural commodity support programs should be made by Congress on a targeted basis to protect the support prices for the amount of commodities produced by family-sized farms, and should achieve budgetary savings, to the extent possible, through

lower support prices on production from the largest farms.

We are simply here trying to say that using scarce resources, as we are in the farm bill, if we come back now from budget reconciliation proscribing an additional cut to an already, in my judgment, already diminished support price, then we would like to see that that cut at least provides some basic element of protection for the increment of a family-sized farm. That is all we are saying. This is a sense of Congress resolution. It says we should do this to the extent possible. So that is what we are saying.

Mr. Chairman, I think that if we are not willing to go on record suggesting this, then what are we doing here with the farm program? I mean, the farm program, it seems to me, ought to have as its guiding star the desire, for a whole range of reasons, to protect the family farms in America against the vagaries of the ups and downs and vicious swings of international price manipulation. They are also now subject to the vicious circular motions of the budget dilemma that we have on the potential reconciliation cuts. And this says we want to try to provide some basic protection for family farm units in the face of what almost certainly will be very troublesome and very difficult budget cuts in the future in the reconciliation bill that we consider here in Congress.

The gentleman from South Dakota and I have not offered this lightly. We feel very strongly about this amendment. We think someplace in this bill we need to talk about a philosophy of targeting, why we are about a farm program and what we do, especially in the face of what I think is a very serious threat coming down the pike in the reconciliation bill.

The question is, Do we stand for family farmers? Are we going to decide that our job is to try to protect and provide some assistance, some stable income for family farmers in the years ahead?

I think the answer to that ought to be yes, ought to be yes in the face of international price swings. It ought to be yes even in the face of budget cuts, because we ought to do things better, and smarter, and more protective of the basic element of agriculture that we know in this country that provides most of our foodstuffs.

So that is the basis on which we offer this amendment, and I hope that the Members will consider it favorably and give us a favorable vote today.

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the gentleman's amendment.

My colleagues, we have had this argument on the Armeys-Schumer debate. We have had it on the Conte debate. We have had it. Well, we have had it as far as that goes in terms of the debate. I fail to see why we have

to redebate this with a sense of Congress.

I understand it does not have any real effect other than a sense of Congress, but I worry about it.

About every third foggy night on the Agriculture Committee, or if anybody is interested in agriculture policy, we hear from those who want to save the small family farmer. The gentleman has not defined what is a family-sized farm. He only says we are going to protect the family-sized farm, and let the record show every Member of Congress is for that, as opposed to the largest farms.

Well, what is a large farm? What is a family-sized farm? Is it a 100-acre farm as referred to by the chairman that we used to see on the cover of the Saturday Evening Post? Are we going back to Walden Pond agriculture, if that is the case? Is it a 500-acre farm? Is it a 1,000-acre farm?

The average size farm in my district is 1,000 acres. It is that size because that is what is efficient to that producer. He is a producer. We do not get as much rainfall as other areas do. We have to farm the ground. We simply do not put the seed in the ground and watch it grow. So that 1,000-acre farmer, if you will, a father and two sons, he is a family-sized farmer. He wears bib overalls. He goes to church. His kids go to land grant schools.

The gentleman from North Dakota [Mr. DORGAN] and I have had numerous, numerous conversations, and when he was on the Agriculture Committee he wanted to define what a small family farmer is. Perhaps a big family farmer may be somebody 6'2", if the gentleman would consider that.

The bottom line is efficiency. The bottom line is profit.

There is a picture that I was going to show to the gentleman from Texas [Mr. ARMEY], the gentleman from New York [Mr. SCHUMER], and others who wanted to define what a small family farmer is that appeared in all of my western Kansas newspapers. Here is a farmer from Lane County, 5,000 acres. Now my gosh, I know that the gentleman would say that is a large operation. He has diversified to some extent, but it is mostly wheat. And he just got hauled out. And there he is, sitting in his 5,000-acre wheat field with a pair of old scrubby jeans, a T-shirt and a ball cap, and a pair of worn cowboy boots, and he has not made any profit in the last 3 years. He lost 20 percent of his crop 2 years ago, half of his crop last year, and now he is hauled out. But he is a large-sized farm, according to the gentleman.

I wonder what the gentleman wants to do in defining what a family farm is? We have never done that before in the Agriculture Committee because it gets into region and commodity and politics, and I know, I know the attrac-

tiveness and the populist appeal of targeting these benefits to the family farmer. But I would say to the gentleman if we go down this road that it is a very dangerous road.

The gentleman from Massachusetts [Mr. CONTE] would define a small family farmer back in the 1930's. Please, please, why discriminate against an efficient farm operation having a very difficult time to make ends meet in Kansas as opposed to what the gentleman wants to do in South Dakota and North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. ROBERTS. I yield to my friend, the gentleman from North Dakota.

Mr. DORGAN of North Dakota. Mr. Chairman, I might observe we have already defined family farms in the Farmers Home Administration code and others.

Michelangelo, when he sculpted David, was asked how he sculpted David, and he said, "Well, I took a big slab of marble and I just chipped away everything that wasn't David."

If the gentleman and I had 15 minutes and talked this through, we would chip away everything that is not a family farm, and then we would be left with a pretty good working definition.

We do not have that time, so we probably cannot reach that accord today.

Mr. ROBERTS. I would simply reclaim my time and urge defeat of the gentleman's amendment, although I think that the distinguished chairman of the full committee has an amendment that will allow us to proceed.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the amendment as offered by the gentleman from North Dakota in fact encompasses some of the discussions that we have engaged in and that I have engaged in during the day. Even though, listening to my distinguished colleague from Kansas about technicalities and technical problems, which I agree would be a problem, I still feel that dedicating ourselves and merely asking the Congress that some degree of advantage be given to the smaller family-sized farms is good. But I have all day resisted the effort of just bashing the big and bashing the rich and so on.

So I would ask my distinguished colleague from North Dakota if we strike out the last part of his amendment which says, "and should achieve budgetary savings, to the extent possible, through lower support prices on production from the largest farms," and allowing us to dedicate ourselves to helping the small farmer, but not dictating that we would go solely to the large farm for support?

I would ask the gentleman if he would agree to a unanimous consent

request to strike out these words, and then I think the amendment would be within everything that we have discussed throughout the day.

Mr. DORGAN of North Dakota. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from North Dakota.

Mr. DORGAN of North Dakota. I thank the gentleman for yielding.

Mr. Chairman, my understanding is that the chairman of the committee, the gentleman from Texas, proposes striking out everything, on line 7, after the word "farms." That does leave intact the interests that we have with respect to the family-sized farms, and I would accept, certainly would not object, to a unanimous-consent request by the chairman to do that.

Mr. ROBERTS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. I thank the gentleman for yielding.

Mr. Chairman, as I indicated before, before I yielded back, I thought the chairman had an amendment that would take care of at least some of my concerns. I must tell the chairman and my good friends that I still object to the targeted basis. However, in the interest of comity and moving this bill along, and since it is a sense of the Congress, I will not object and we can proceed.

Mr. DE LA GARZA. I thank the gentleman for his understanding of our situation at this point.

MODIFICATION OFFERED BY MR. DE LA GARZA TO THE AMENDMENT OFFERED BY MR. DORGAN OF NORTH DAKOTA

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent to strike out the words after the word "farms" on line 7 of the amendment offered by the gentleman from North Dakota [Mr. DORGAN].

The CHAIRMAN pro tempore. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. DE LA GARZA: Page 1, line 7, after "farms" strike out all through "farms" on line 9.

The CHAIRMAN pro tempore. Is there objection to the modification of the amendment offered by the gentleman from Texas [Mr. DE LA GARZA]?

There was no objection.

The CHAIRMAN pro tempore. The amendment is modified.

The text of amendment offered by Mr. DORGAN of North Dakota, as modified, is as follows:

At the end of subtitle A of title XI, insert the following new section:
SEC. 1121. SENSE OF THE CONGRESS.

It is the sense of the Congress that any future reduction in spending provided by any budget reconciliation bill that affects agricultural commodity support programs should be made by Congress on a targeted basis to protect the support prices for the amount of commodities produced by family-sized farms.

Redesignate the succeeding section accordingly.

The question is on the amendment, as modified, offered by the gentleman from North Dakota [Mr. DORGAN].

The amendment, as modified, was agreed to.

The CHAIRMAN pro tempore. Are there any other amendments to title XI?

LEGISLATIVE PROGRAM

(By unanimous consent, Mr. MADIGAN was allowed to speak out of order.)

Mr. MADIGAN. Mr. Chairman, during this time, I would like to yield to the gentleman from Texas [Mr. DE LA GARZA], the distinguished chairman of the committee, to see if there might be some way that we could get an agreement of what we will do in terms of time for the balance of the evening.

I think Members on both sides would like to get some time limitation on the things that are remaining. Most emotional things have been disposed of, I believe. I wonder if the gentleman from Texas is disposed to making a request for some time limitation on the balance of the bill.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. MADIGAN. I yield to the gentleman from Texas.

Mr. DE LA GARZA. I thank the gentleman for yielding.

Mr. Chairman, I feel at this point, and I can sense Members' interest in knowing some approximate time at which we would conclude this legislation, and I think it would be well if we could accommodate them. I think we have gotten past the more contentious issues in the legislation. We are still in the process of trying to accept amendments as we can.

Mr. Chairman, I had aimed for 7 o'clock, 7:30, but if the gentleman would be willing, I would suggest that, to the extent possible, that we could aim for 7:30 to finish all debate and votes on the legislation so that we can allow Members to go about their business at an early time this evening.

Mr. MADIGAN. Mr. Chairman, would the gentleman make the unanimous consent request to that extent?

Mr. DE LA GARZA. Mr. Chairman, I would make that unanimous consent request at this time.

The CHAIRMAN pro tempore. The request of the gentleman from Texas should be withheld.

Mr. BENNETT. Mr. Chairman, I object.

The CHAIRMAN pro tempore. Objection is heard.

Are there other amendments to title XI of the bill? If not, the Clerk will designate title XIII.

The text of title XIII is as follows:

TITLE XIII—RESEARCH

Subtitle A—Extensions and Changes to Existing Programs

SEC. 1301. INCREASED AUTHORIZATIONS FOR, AND THE EXTENSION OF, EXISTING PROGRAMS.

(a) AGRICULTURAL RESEARCH FACILITIES GRANTS.—Section 4(a) of the Research Facilities Act (7 U.S.C. 390c(a)) is amended—

(1) by striking "\$20,000,000" and inserting "\$50,000,000"; and

(2) by striking "ending September 30, 1986, through September 30, 1990" and inserting "1991 through 1995".

(b) PROGRAMS ESTABLISHED IN THE NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.—(1) NUTRITION EDUCATION PROGRAM.—Section 1425(c) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (hereafter in this subsection referred to as "that Act") (7 U.S.C. 3175(c)) is amended by adding at the end the following new paragraph:

"(3) There is authorized to be appropriated for the expanded food and nutrition education program conducted under section 31(d) of the Act of May 8, 1914, not more than \$63,000,000 for fiscal year 1991, \$68,000,000 for fiscal year 1992, \$73,000,000 for fiscal year 1993, \$78,000,000 for fiscal year 1994, and \$83,000,000 for fiscal year 1995."

(2) ANIMAL HEALTH AND DISEASE CONTINUING RESEARCH.—Section 1433(a) of that Act (7 U.S.C. 3195(a)) is amended by striking "annually for the period beginning October 1, 1981, and ending September 30, 1990," and inserting "for each of the fiscal years 1991 through 1995."

(3) ANIMAL HEALTH AND DISEASE NATIONAL OR REGIONAL RESEARCH.—Section 1434(a) of that Act (7 U.S.C. 3196(a)) is amended by striking "annually for the period beginning October 1, 1981, and ending September 30, 1990," and inserting "for each of the fiscal years 1991 through 1995."

(4) AGRICULTURAL RESEARCH PROGRAMS.—Section 1463 of that Act (7 U.S.C. 3311) is amended—

(A) in subsection (a), by striking "\$600,000,000" and all that follows through "1990," and inserting "\$850,000,000 for each of the fiscal years 1991 through 1995."; and

(B) in subsection (b), by striking "\$270,000,000" and all that follows through "1990," and inserting "\$310,000,000 for each of the fiscal years 1991 through 1995."

(5) SUPPLEMENTAL AND ALTERNATIVE CROPS RESEARCH.—Section 1473D(a) of that Act (7 U.S.C. 3319d(a)) is amended by striking "1990" and inserting "1995".

(6) RANGELAND RESEARCH ADVISORY BOARD.—Section 1482(a) of that Act (7 U.S.C. 3335(a)) is amended by striking "1990," and inserting "1995."

(7) RANGELAND RESEARCH.—Section 1483(a) of that Act (7 U.S.C. 3336(a)) is amended by striking "annually for the period beginning October 1, 1981, and ending September 30, 1990," and inserting "for each of the fiscal years 1991 through 1995."

(c) DAIRY GOAT RESEARCH.—Section 1432(b)(5) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1981 (7 U.S.C. 3222 note) is amended by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995".

(d) EXTENSION OF PROGRAMS ESTABLISHED IN THE FOOD SECURITY ACT OF 1985.—(1) GRANTS TO UPGRADE 1890 LAND-GRANT COLLEGE EXTENSION FACILITIES.—Section 1416(b) of the Food Security Act of 1985 (hereafter in this subsection referred to as "that Act") (7 U.S.C. 3224(b)) is amended by striking "ending

September 30, 1986, through September 30, 1990," and inserting "1991 and 1992."

(2) FEDERAL AGRICULTURAL RESEARCH FACILITIES.—Section 1431 of that Act (99 Stat. 1556) is amended—

(A) in subsection (a), by striking "ending September 30, 1988, through September 30, 1990," and inserting "1991 through 1995"; and

(B) in subsection (b), by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995."

(3) FEDERAL MATCHING FUNDS FOR MARKET EXPANSION RESEARCH.—Section 1436(b)(3)(C) of that Act (7 U.S.C. 1632(b)(3)(C)) is amended by striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995."

SEC. 1302. FINDINGS OF THE NATIONAL AGRICULTURAL RESEARCH, EXTENSION, AND TEACHING POLICY ACT OF 1977.

Section 1402 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101) is amended to read as follows:

"SEC. 1402. FINDINGS.

"Congress finds the following:

"(1) The Federal Government has provided funding support for agricultural research and extension for many years in order to promote and protect the general health and welfare of the people of the United States, and this support has significantly contributed to the development of the Nation's agricultural system.

"(2) The existing agricultural research system consisting of the Federal Government, the land-grant colleges and universities, other colleges and universities engaged in agricultural research, the agricultural experiment stations, and the private sector constitutes an essential national resource that must serve as the foundation for any further strengthening of agricultural research in the United States.

"(3) The agencies conducting federally supported research were established at different times in response to different and specific needs and their work is neither fully coordinated among these agencies nor with the non-Federal agricultural research activities.

"(4) Long-range planning for research, extension, and teaching is a key element in meeting the objectives of this title; accordingly, all of the elements in the food and agricultural science and education system are encouraged to expand their planning and coordination efforts.

"(5) These agencies have only been partially successful in responding to the needs of all persons affected by their research, and useful information produced through such federally supported research is not being efficiently transferred to the people of the United States.

"(6) The agricultural system in the United States is increasingly dependent on science and technology and requires a constant source of food and agricultural scientific expertise to maintain this dynamic system.

"(7) Expanded agricultural research and extension are needed to meet the rising demand for food and fiber products caused by increases in worldwide population, market forces, and food shortages.

"(8) Advances in food and agricultural sciences and technology have become increasingly limited by the periodic imbalances between the thorough development and exploitation of currently known scientific principles and technological approaches and concentration upon more fundamental research, requiring a continuing review and balancing of research emphases.

"(9) Federal funding levels for agricultural research and extension in recent years have not always been commensurate with needs stemming from changes in United States agricultural practices and the world food and agricultural situation.

"(10) It has been, and continues to be, the policy of the United States to support food and agricultural research, extension, and teaching in the broadest sense of these terms. The partnership between the Federal Government and the States (as consummated in legislation and cooperative agreements and in efforts to implement this policy in cooperation with the food and agricultural industry) has provided the United States with the most productive and efficient food and agricultural system in the world. This system is the basis of our national affluence and provides vast amounts of food and fiber to people in other countries. The food and agricultural system is dynamic and constantly changing, however, and research, extension, and teaching programs must be maintained and constantly adjusted to meet new challenges and opportunities. National support of cooperative research, extension, and teaching efforts must be reaffirmed and strengthened to meet major societal needs and scientific opportunities. Efforts in the food and agricultural sciences are needed in the following areas:

"(A) PLANT SYSTEMS.—Special emphases are needed on plant genome structure and function; molecular and cellular genetics and plant and microbial biotechnology; plant-pest interactions and biocontrol systems; crop plant response to environmental stresses; improved nutrient qualities of plant products; new food, feed, fiber, and industrial uses of plant products; and development of new crops, best management practices, integrated crop management, and other cropping systems.

"(B) ANIMAL SYSTEMS.—Special emphases are needed on cellular, molecular, physiological, and behavioral basis of animal reproduction, growth, disease, and health; identification of genes responsible for improved production traits and resistance to disease; improved nutritional performance of animals; improved nutrient qualities and safety of animal products and development of new animal products; enhanced animal production practices and technologies; animal husbandry and well-being; and animal systems applicable to aquaculture.

"(C) NUTRITION, FOOD QUALITY, AND HEALTH AND WELFARE.—Special emphases are needed on microbial contaminants and toxic contaminants and residues related to human health; links between diet and health, including monitoring the nutritional status of the population, especially critical subpopulations; nutrition education; rural family welfare; home economics; bioavailability of nutrients, postharvest physiology and practices; and improved processing technologies.

"(D) NATURAL RESOURCES AND THE ENVIRONMENT.—Special emphases are needed on fundamental structures and functions of ecosystems; biological and physical bases of integrated production systems; minimizing soil losses and degradation, sustaining surface and ground water quality, and maximizing water availability through conservation; forest and range management and productivity; weather and climatic effects on agriculture.

"(E) ENGINEERING, PRODUCTS, AND PROCESSES.—Special emphases are needed on new uses and new products from crops, animals, byproducts, waste products and natural re-

sources; robotics, computing, and expert systems; information and communications technologies and systems; energy efficiency, conservation, and the development of alternative, renewable energy sources; new hazard and risk assessment and mitigation measures; and natural resource and environmental quality and management.

"(F) MARKETS, TRADE, AND AGRICULTURAL POLICY.—Special emphases are needed on optimal strategies for entering and competing in domestic and overseas markets; new decision tools for on-farm and in-market systems; choices and applications of technology; new approaches to economic development and viability in the rural United States, with emphases on family farming operations; international cooperation in agricultural research, extension, and teaching; and agricultural and nutritional improvements in developing nations.

"(11) Research and extension efforts should be directed toward the development of integrated production systems which are profitable, environmentally and agronomically sound, offer diverse production and market options, and increase rural economic and social vitality.

"(12) The Secretary should seek, on an annual basis, the assistance and guidance of the Board on Agriculture of the National Research Council, National Academy of Sciences, in identifying—

"(A) science and technology opportunities, training, and the manpower needs of the United States;

"(B) opportunities to advance the sustainability and profitability of agricultural enterprises;

"(C) applications of science and technology in enhancing the safety and nutritional attributes of food; and

"(D) factors underlying the long-run international competitiveness of agriculture in the United States and the prospective role of the United States in meeting human food needs."

SEC. 1303. DEFINITION OF SUSTAINABLE AGRICULTURE.

Section 1404 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103) is amended—

(1) by striking "and" at the end of paragraph (15);

(2) by inserting "and" at the end of paragraph (16); and

(3) by adding at the end the following new paragraph:

"(17) the term 'sustainable agriculture' means an integrated system of plant and animal production practices having a site-specific application that will, over the long-term—

"(A) satisfy human food and fiber needs;

"(B) enhance environmental quality and the natural resource base upon which the agriculture economy depends;

"(C) make the most efficient use of non-renewable resources and on-farm resources and integrate, where appropriate, natural biological cycles and controls;

"(D) sustain the economic viability of farm operations; and

"(E) enhance the quality of life for farmers and society as a whole."

SEC. 1304. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES AND NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD.

(a) JOINT COUNCIL.—Section 1407 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3122(a)) is amended—

(1) by striking the section heading and "Sec. 1407. (a)" and inserting the following:

"SEC. 1407. JOINT COUNCIL ON FOOD AND AGRICULTURAL SCIENCES.

"(a) TERM.—"

(2) in subsection (a), by striking "1990" and inserting "1995";

(3) by inserting "COMPOSITION.—" after "(b)";

(4) in the first sentence of subsection (b)—
(A) by striking "twenty-five" and inserting "21"; and

(B) by striking "including" and all that follows through the period in that sentence and inserting "including—

"(1) six representatives from State cooperative institutions, including at least one from institutions eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University;

"(2) four representatives from agencies within the Department of Agriculture which have significant research, extension, and teaching responsibilities;

"(3) one representative from public colleges and universities having a demonstrable capacity to carry out food and agricultural research, extension, and teaching;

"(4) one representative from colleges and universities conducting research related to the food and agricultural sciences;

"(5) three representatives from private organizations or corporations conducting research in the food and agricultural sciences, including one representative from the food processing industry involved in food technology research;

"(6) one representative from among foundations funding research in the food and agricultural sciences;

"(7) one representative from among farmers, ranchers, and other producers or domestic agricultural commodities;

"(8) one representative from the Office of Science and Technology Policy;

"(9) two representatives from other Federal agencies determined by the Secretary to be appropriate;

"(10) one representative from the National Academy of Sciences; and

"(11) to the extent the Joint Council is composed of more than 21 members, representatives of other public and private institutions, producers, and representatives of the public who are interested in and have the potential to contribute to (as determined by the Secretary) the formulation of national policy in the food and agricultural sciences."

(5) by striking the fourth, fifth, and sixth sentences of subsection (b);

(6) by inserting "TIME FOR MEETINGS.—" after "(c)";

(7) by inserting "RESPONSIBILITIES.—" after "(d)";

(8) in subsection (d)(2)—

(A) in subparagraph (B) by striking "and determine" and all that follows through "the Secretary" in that subparagraph;

(B) by striking subparagraph (F);

(C) by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively;

(D) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) determine high priority issues and goals for agricultural research, extension, and teaching programs, and submit to the Secretary and to Congress annual reports identifying such high priority issues and goals;"

(E) in subparagraph (G)(i)—by striking "and" before "specifying"; and (ii) by inserting before the final semicolon the following: "indicating progress made toward accomplishing the priorities and associated levels of financial and other support recommend-

ed in the annual report issued in the prior year; and delineating the activities of the Board in meeting its responsibilities under this subsection; and";

(F) in subparagraph (G) by striking clauses (ii) and (iii) and inserting the following new clause (ii):

"(ii) not later than June 30 of every second year, updating the five-year plan for food and agricultural sciences prepared by the Joint Council that reflects the coordinated views of the research, extension, and teaching community; and specifying the progress being made toward implementing the plan outlined in the previous report."

(9) by inserting "OPEN MEETINGS AND RECORDS.—" after "(e)"; and

(10) by striking subsection (f).

(b) USERS ADVISORY BOARD.—Section 1408 of that Act (7 U.S.C. 3123) is amended to read as follows:

"SEC. 1408. NATIONAL AGRICULTURAL RESEARCH AND EXTENSION USERS ADVISORY BOARD.

"(a) ESTABLISHMENT.—The Secretary shall establish within the Department of Agriculture a board to be known as the National Agricultural Research and Extension Users Advisory Board (hereafter in this section referred to as the "Advisory Board") which shall remain in existence until September 30, 1995.

"(b) MEMBERSHIP.—The Advisory Board shall be composed of 21 members appointed by the Secretary. The members shall be appointed to serve staggered terms, in a manner determined appropriate by the Secretary. The members of the Advisory Board shall consist of the following:

"(1) One member who is a producer representing farm cooperatives.

"(2) Two members who are producers representing general farm organizations.

"(3) Four members who are producers representing agricultural commodities, forest product, and aquacultural product groups from various geographic regions.

"(4) One member representing agricultural farm suppliers.

"(5) One member representing food and fiber processors.

"(6) One member representing animal health interests.

"(7) One member engaged in transportation of food and agricultural products to domestic or foreign markets.

"(8) One member representing labor organizations primarily concerned with the production, processing, distribution, or transport of food and agricultural products.

"(9) One member representing food marketing interests.

"(10) One member representing private nonprofit organizations and foundations involved in agricultural research, sustainable agricultural research, education, and extension.

"(11) One member representing private sector organizations involved in development programs and issues in developing countries.

"(12) One member representing agencies of the Department of Agriculture that do not have research capabilities.

"(13) One member engaged in rural development work.

"(14) One member engaged in human nutrition work.

"(15) Two members representing consumer interests, including one member who represents nonprofit consumer advocacy organizations.

"(16) One member representing nonprofit environmental protection organizations.

"(c) **CHAIRPERSON; VICE-CHAIRPERSON.**—At the first meeting each year of the Advisory Board, the members of the Advisory Board shall elect a chairperson and vice-chairperson from the members. The chairperson and vice-chairperson shall serve in such positions for a term of one year.

"(d) **MEETINGS.**—The Advisory Board shall meet a sufficient number of times each year to carry out its responsibilities under subsection (f). At least one meeting each year shall be held as a combined meeting with the Joint Council.

"(e) **PANELS.**—The Advisory Board may establish such panels as the Advisory Board considers appropriate to develop information, reports, advice, and recommendations for the use of the Advisory Board in meeting the responsibilities of the Advisory Board. Members of such panels may include members of the Advisory Board, Advisory Board staff members, individuals from the Department of Agriculture and other departments and agencies of the Federal government, and individuals from the private sector who have expertise in the subject to be examined by the panel.

"(f) **RESPONSIBILITIES.**—(1) The Advisory Board shall have general responsibility for preparing independent advisory opinions on the food and agricultural sciences.

"(2) The Advisory Board shall have specific responsibility to perform the following duties:

"(A) Review the policies, plans, and goals of programs within the Department of Agriculture involving the food and agricultural sciences, and related programs in other Federal and State departments and agencies and in the colleges and universities developed by the Secretary under this title.

"(B) Review and assess the extent of agricultural research, teaching, and extension being conducted by the private sector and the relationships and coordination of such activities with Federally supported agricultural research, teaching, and extension programs.

"(C) Review and provide consultation to the Secretary on national policies, priorities, and strategies for agricultural research and extension for both the short and long term.

"(D) Assess the overall adequacy of the distribution of resources and the allocation of funds authorized by this title and make recommendations to the Secretary, Federal agencies, and private organizations that are contributing to agricultural research, extension, and education funding with regard to such distribution and allocation.

"(E) Identify emerging agricultural research, teaching, and extension issues and suggest programs and technology transfer solutions for use by the public and private agricultural science and education community.

"(F) Evaluate the results and the effectiveness of research and extension programs with regard to their influence on long-term goals of agriculture expressed in section 1403 and consumer needs.

"(g) **REPORTS BY THE ADVISORY BOARD.**—(1) Not later than July 1 of each year, the Advisory Board shall provide an oral briefing to the Secretary (by the chairperson of the Advisory Board) and a written report to Congress and the Secretary of recommendations concerning the allocation of responsibilities and levels of funding among Federally supported agricultural research and extension programs. The Advisory Board shall include in each oral briefing and written report prepared under this paragraph—

"(A) a review and assessment of the allocation of funds for agricultural research and extension made for the preceding fiscal year by the Department of Agriculture;

"(B) an evaluation of—

"(i) the effectiveness of coordination of Federal and private research initiatives;

"(ii) new research and extension programs that need to be conducted by the research system; and

"(iii) the effectiveness of the private and public research and extension system; and

"(C) minority views, if timely submitted.

"(2) Not later than February 20 of each year, the Advisory Board shall submit to the President, the Committees on Agriculture and Appropriations of the House of Representatives, and the Committees on Agriculture, Nutrition, and Forestry and Appropriations of the Senate a report containing—

"(A) an appraisal by the Advisory Board of the proposed budget of the President for the food and agricultural sciences for the fiscal year beginning in the year that report is submitted;

"(B) the recommendations of the Secretary contained in the annual report submitted by the Secretary pursuant to section 1410; and

"(C) separate views of members of the Advisory Board, if timely submitted.

"(3) Each report prepared by the Advisory Board shall list the membership of the Advisory Board as of the time the report was prepared, including the organizational and employment affiliation of each member of the Advisory Board.

"(h) **REPORT BY SECRETARY.**—Not later than February 1 of each year, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the manner in which the recommendations of the Advisory Board have been incorporated into the budget and programs of the Department of Agriculture.

"(i) **SUPPORT.**—The Secretary shall provide such support and staffing for the Advisory Board as is necessary for the Advisory Board to carry out its duties under this section."

SEC. 1305. FEDERAL-STATE PARTNERSHIP AND COORDINATION.

(a) **COOPERATIVE HUMAN NUTRITION CENTERS.**—Section 1409A of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3124a(b)) is amended—

(1) in subsection (b) by inserting "COOPERATIVE HUMAN NUTRITION CENTERS.—(1)" after "(b)"; and

(2) by adding at the end the following new paragraph:

"(2) In order to promote further human nutrition research and greater utilization of existing facilities, the Secretary shall establish a cooperative food science nutrition research center for the southeast region of the United States at the Pennington Biomedical Research Center of Louisiana State University."

(b) **ANIMAL LEAN CONTENT AND ETHANOL RESEARCH.**—Such section is further amended by adding at the end the following new subsections:

"(f) **ANIMAL LEAN CONTENT RESEARCH.**—The Secretary is encouraged to fund research for the development of technology which will ascertain the lean content of animal carcasses to be used for human consumption.

"(g) **ETHANOL RESEARCH.**—In order to further carry on and enhance needed ethanol research, the facility of the Agricultural Re-

search Service located at Peoria, Illinois (authorized by section 202 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1292)), may enter into cooperative agreements, contracts, and the exchange of scientific information with the Department of Energy in the area of ethanol research. Such facility shall hereafter be referred to as the National Agricultural Research Laboratory, Agricultural Research Service, United States Department of Agriculture."

(c) **STYLISTIC AMENDMENTS.**—Such section is further amended—

(1) by striking the section heading and all that follows through "SEC. 1409A. (a)" and inserting the following:

"SEC. 1409A. FEDERAL-STATE PARTNERSHIP AND COORDINATION.

"(a) **EXISTENCE OF PARTNERSHIP.**—"

(2) by inserting "HEALTH AND WELFARE.—" after "(c)";

(3) by inserting "AGRICULTURAL POLICY ALTERNATIVES.—" after "(d)"; and

(4) by inserting "FARM INPUT COSTS AND OTHER MATTERS.—" after "(e)".

SEC. 1306. GRANTS TO ENHANCE RESEARCH CAPACITY IN SCHOOLS OF VETERINARY MEDICINE.

(a) **IN GENERAL.**—Section 1415 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3151) is amended—

(1) in subsection (a), by striking the first sentence and inserting the following: "The Secretary shall conduct a program of competitive grants to States for the purpose of meeting the costs of renovation and construction, improving compliance with Federal regulations, employing faculty, acquiring equipment, and taking other action related to the improvement of schools of veterinary medicine to ensure agricultural competitiveness on a worldwide basis."

(2) in subsection (b)(1), by striking ", or has made a reasonable effort to establish,"; and

(3) by amending subsection (b)(2) to read as follows:

"(2) the clinical training of the school to be improved shall emphasize care and preventive medical programs for food animals and companion animals (including horses) which support industries of major economic importance."

(b) **CONFORMING AND CLERICAL AMENDMENTS.**—(1) Such section is further amended—

(A) by striking the section heading and "SEC. 1415. (a)" and inserting the following:

"SEC. 1415. GRANTS TO ENHANCE RESEARCH CAPACITY IN SCHOOLS OF VETERINARY MEDICINE.

"(A) **COMPETITIVE GRANT PROGRAM.**—"

(B) by inserting "PREFERENCE.—" after "(b)"; and

(C) by inserting "APPORTIONMENT AND DISTRIBUTION OF FUNDS.—" after "(c)".

(2) The item in the table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) relating to section 1415 is amended to read as follows:

"Sec. 1415. Grants to enhance research capacity in schools of veterinary medicine."

SEC. 1307. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

Section 1417 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3152) is amended to read as follows:

"SEC. 1417. GRANTS AND FELLOWSHIPS FOR FOOD AND AGRICULTURAL SCIENCES EDUCATION.

"(a) HIGHER EDUCATION PROGRAMS IN THE FOOD AND AGRICULTURAL SCIENCES.—(1) The Secretary shall promote and strengthen higher education in the food and agricultural sciences by formulating and administering programs to enhance college and university teaching programs in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agricultural system.

"(2) The Secretary may make grants for the purposes described in paragraph (3) to—

"(A) land-grant colleges and universities;

"(B) colleges and universities with significant minority enrollments that have a demonstrable capacity to carry out the teaching of food and agricultural sciences; and

"(C) other colleges and universities that have a demonstrable capacity to carry out the teaching of food and agricultural sciences.

"(3) A grant may be made under this subsection to—

"(A) strengthen institutional capacities to respond to State, national, or international educational needs in the food and agricultural sciences;

"(B) attract and support graduate and undergraduate students and to educate them in the food and agricultural sciences, and to attract needed professionals to provide for their professional improvement in the food and agricultural sciences;

"(C) design and implement innovative food and agricultural educational programs;

"(D) facilitate cooperative agreements between two or more eligible institutions to maximize the use of faculty and facilities to improve their food and agricultural teaching programs;

"(E) conduct graduate and postdoctoral fellowship programs to attract highly promising individuals to research or teaching careers in the food and agricultural sciences; and

"(F) conduct undergraduate scholarship programs to meet national needs for training food and agricultural scientists and professionals.

"(4) A grant made under this subsection may be made—

"(A) for a period not to exceed five years; and

"(B) on a competitive basis or without regard to any requirement for competition.

"(5) A college or university receiving a grant under this subsection is required to have a significant demonstrable commitment to higher education teaching programs in the food and agricultural sciences and to each specific subject area for which the grant is to be used.

"(6) The Secretary may set aside a portion of funds appropriated for the award of grants under this section and make such amounts available only for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving the objective of full representation of minority groups in the food and agricultural sciences workforce in the United States.

"(7) The Secretary may require, as part of any agreement to make a grant under this subsection, that all or part of the grant be targeted to meet the needs identified in section 1402.

"(b) DATA AND INFORMATION SERVICES.—The Secretary shall conduct programs to develop, analyze, and provide to colleges and universities data and information that are essential to the evaluation of the quality of

current teaching programs and to facilitate the design of more effective programs comprising the food and agricultural sciences higher education system of the United States.

"(c) SPECIAL EDUCATIONAL INITIATIVES.—(1) The Secretary shall conduct special programs with colleges and universities, and with organizations in the private sector, to support educational initiatives that will enable food and agricultural scientists and professionals to remain abreast of changing technology, the expanding knowledge base, societal issues, and other factors which impact the skills and competencies needed to maintain the expertise base available to the Nation's agricultural system.

"(2) Special programs conducted under this subsection shall include the provision of grants and technical assistance.

"(d) TRANSFER OF FUNDS AND FUNCTIONS.—Funds authorized in section 22 of the Act of June 29, 1935 (7 U.S.C. 329), are transferred to, and shall be administered by, the Secretary of Agriculture. All the functions and duties of the Secretary of Education under such Act which are applicable to the activities and programs for which funds are made available under section 22 of such Act are transferred to the Secretary of Agriculture.

"(e) NATIONAL FOOD AND AGRICULTURAL SCIENCES TEACHING AWARDS.—(1) The Secretary shall establish a program to be known as the National Food and Agricultural Sciences Teaching Awards to recognize and promote the excellence of teachers in the food and agricultural sciences.

"(2) The Secretary shall make at least one cash award in each fiscal year to a nominee selected by the Secretary for excellence in teaching a food and agricultural science at a college or university.

"(3) The Secretary may transfer funds from amounts appropriated for the conduct of any agricultural research, extension, or teaching program to an account established pursuant to this section for the purpose of making such awards. The Secretary may also accept gifts pursuant to the provisions of the Act of October 10, 1978 (7 U.S.C. 2269) for the purpose of making such awards.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this section \$50,000,000 for each of the fiscal years 1991 through 1995.

"(g) APPLICABILITY OF OTHER LAWS.—The Federal Advisory Committee Act (5 U.S.C. App. 2) and title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to a panel or board created for the purpose of reviewing applications and proposals submitted under subsection (a) or (c) or nominations for awards submitted under subsection (e)."

SEC. 1308. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

(a) GRANTS.—Section 1419 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3154) is amended to read as follows:

"SEC. 1419. GRANTS FOR RESEARCH ON THE PRODUCTION AND MARKETING OF ALCOHOLS AND INDUSTRIAL HYDROCARBONS FROM AGRICULTURAL COMMODITIES AND FOREST PRODUCTS.

"(a) AUTHORITY OF SECRETARY.—The Secretary may award grants under this section to colleges, universities, and Federal laboratories for the purpose of conducting research related to—

"(1) alcohol fuels, including ethanol and methanol or their ethers;

"(2) industrial oilseed crops for diesel fuel and petrochemical substitutes;

"(3) other forms of biomass fuels, including gaseous and solid fuels;

"(4) other industrial hydrocarbons made from agricultural commodities and forest products; and

"(5) the development of the most economical and commercially feasible means of producing, collecting, and transporting agricultural crops, wastes, residues, and byproducts for use as feedstocks for the production of alcohol and other forms of biomass energy and the development of new markets for byproducts.

"(b) SET ASIDE OF FUNDS FOR CERTAIN GRANT PROJECTS.—Of the amounts appropriated in any fiscal year pursuant to the authorization contained in subsection (c), not less than 50 percent of those amounts shall be made available for grants for research relating to the development of technologies for increasing the energy efficiency and commercial feasibility of alcohol production, including—

"(1) processes of cellulose conversion and membrane technology,

"(2) research to improve the quality and value of byproducts to increase digestibility and performance of livestock, poultry, and fish, and

"(3) development of new markets for byproducts.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of carrying out this section \$20,000,000 for each of the fiscal years 1991 through 1995."

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by striking "and agricultural chemicals and other products from coal derivatives".

SEC. 1309. JOINT CONTRACT FOR ASSESSMENT OF FOOD SCIENCE AND HUMAN NUTRITION RESEARCH.

(a) CONTRACT REQUIRED.—Subtitle D of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3171 et seq.) is amended by inserting after section 1423 the following new section:

"SEC. 1424. JOINT CONTRACT FOR ASSESSMENT OF FOOD SCIENCE AND HUMAN NUTRITION RESEARCH.

"The Secretary of Agriculture and the Secretary of Health and Human Services shall jointly contract with a scientific body to conduct an assessment of—

"(1) progress in food science and human nutrition research;

"(2) the practical importance of such research to economic and societal well-being;

"(3) priorities for future directions in such research;

"(4) the supply of food scientists and nutritionists and the demand for food scientists and nutritionists by Federal agencies, industrial institutions, and colleges, universities, and related institutions; and

"(5) recommendations for the role of all Federal agencies supporting basic and applied food and human nutrition research."

(b) CLERICAL AMENDMENT.—The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by inserting after the item relating to section 1423 the following new item:

"Sec. 1424. Joint contract for assessment of food science and human nutrition research."

SEC. 1310. ANIMAL HEALTH AND DISEASE RESEARCH STUDY AND ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.

(a) **STUDY OF ANIMAL CARE DELIVERY SYSTEM.**—Section 1431 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3193) is amended—

(1) by striking the section heading and "SEC. 1431." and inserting the following:

"SEC. 1431. AUTHORIZATION TO THE SECRETARY OF AGRICULTURE.

"(a) Authority to Cooperate With, Encourage, and Assist States.—"; and

(2) by adding at the end the following new subsection:

"(b) **STUDY OF ANIMAL CARE DELIVERY SYSTEM.**—(1) The Secretary shall commission the National Academy of Sciences, working through the Board on Agriculture of the National Research Council, to conduct a study of the delivery system utilized to provide farmers and ranchers with animal care and veterinary medical services, including animal drugs.

"(2) The study required by this subsection shall assess opportunities to—

"(A) improve the flow of information to producers regarding animal husbandry practices, and diagnostic and treatment methods, including the costs and conditions necessary for the effective use of such practices and methods;

"(B) foster achievement of food safety goals; and

"(C) advance the well-being and treatment of farm animals, with particular emphasis on disease prevention strategies.

"(3) The study required by this subsection shall include recommendations for changes in research and extension policies or priorities, food safety programs and policies, and policies and procedures governing the approval, use, and monitoring of animal drugs."

(b) **CHANGES IN ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.**—Section 1432 of that Act (7 U.S.C. 3194) is amended—

(1) by striking the section heading and "Sec. 1432." and inserting the following:

"SEC. 1432. ANIMAL HEALTH SCIENCE RESEARCH ADVISORY BOARD.

"(a) **ESTABLISHMENT AND MEMBERSHIP.**—";

(2) in subsection (a)—

(A) by striking "1990" in the matter preceding the paragraphs and inserting "1995";

(B) by striking "eleven" in the matter preceding the paragraphs and inserting "12";

(C) by striking "Bureau of" in paragraph (4) and inserting "Center for"; and

(D) in paragraph (5)—

(i) by striking "seven" and inserting "eight";

(ii) by striking "and" at the end of subparagraph (B);

(iii) by redesignating subparagraph (C) as subparagraph (D); and

(iv) by inserting after subparagraph (B) the following new subparagraph:

"(C) one person representing an organization concerned with the general protection and well-being of animals, and"; and

(3) by striking subsection (b) and inserting the following new subsection:

"(b) **DUTIES.**—The Board shall meet at the call of the Secretary, but at least once annually, to consult with and advise the Secretary with respect to the implementation of any animal health and disease research program provided for under this title, under such rules and procedures for conducting business as the Secretary may prescribe."

SEC. 1311. GRANT PROGRAMS FOR 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.

(a) **RESIDENT INSTRUCTION.**—The National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3101 et seq.) is amended by inserting after section 1445 (7 U.S.C. 3222) the following new section:

"SEC. 1445A. **RESIDENT INSTRUCTION AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.**

"(a) **PURPOSE.**—It is the purpose of this section to promote and strengthen higher education in the food and agricultural sciences at colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University (hereinafter in this section referred to as 'eligible institutions') by formulating and administering programs to enhance teaching program in agriculture, natural resources, forestry, veterinary medicine, home economics, and disciplines closely allied to the food and agriculture production and delivery system.

"(b) **GRANTS.**—The Secretary shall make competitive grants, or grants without regard to any requirement for competition, to those eligible institutions having a demonstrable capacity to carry out the teaching of food and agricultural sciences.

"(c) **USE OF GRANT FUNDS.**—Grants made under subsection (b) shall be used to—

"(1) strengthen institutional educational capacities, including libraries, curriculum, faculty, scientific instrumentation, instruction delivery systems, and student recruitment and retention, in order to respond to identified State, regional, national, or international educational needs in the food and agricultural sciences;

"(2) attract and support undergraduate and graduate students in order to educate them in identified areas of national need in the food and agricultural sciences;

"(3) facilitate cooperative initiatives between two or more eligible institutions or between eligible institutions and units of State government, or organizations in the private sector, to maximize the development and use of resources such as faculty, facilities, and equipment to improve food and agricultural sciences teaching programs; and

"(4) conduct undergraduate scholarship programs to assist in meeting national needs for training food and agricultural scientists.

"(d) **GRANT REQUIREMENTS.**—(1) The Secretary shall ensure that each eligible institution, prior to receiving grant funds under subsection (b), shall have a significant demonstrable commitment to higher education programs in the food and agricultural sciences and to each specific subject area for which grant funds under this subsection are to be used.

"(2) The Secretary may require that any grant awarded under this section contain provisions that require funds to be targeted to meet the needs identified in section 1402.

"(e) **MINORITY SET-ASIDE.**—The Secretary may set aside a portion of the funds appropriated for grants under this section and make such amounts available only for grants to eligible institutions that the Secretary determines have unique capabilities for achieving the objective or full representation of minority groups that are underrepresented in the Nation's food and agricultural sciences work force.

"(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$11,000,000 for each of the fiscal years 1991 through 1995 to carry out this section."

(b) **AGRICULTURAL AND FOOD SCIENCES FACILITIES.**—Such Act is further amended by in-

serting after section 1445A (as added by subsection (a)) the following new section:

"SEC. 1445B. **GRANTS TO UPGRADE AGRICULTURAL AND FOOD SCIENCES FACILITIES AT 1890 LAND-GRANT COLLEGES, INCLUDING TUSKEGEE UNIVERSITY.**

"(a) **PURPOSE.**—It is hereby declared to be the intent of Congress to assist the institutions eligible to receive funds under the Act of August 30, 1890, including Tuskegee University (hereafter referred to in this section as 'eligible institutions') in the acquisition and improvement of agricultural and food sciences facilities and equipment, including libraries, so that the eligible institutions may participate fully in the production of human capital.

"(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of Agriculture for the purposes of carrying out the provisions of this section \$8,000,000 for each of the fiscal years 1991 through 1995, and such sums shall remain available until expended.

"(c) **USE OF GRANT FUNDS.**—Four percent of the sums appropriated pursuant to this section shall be available to the Secretary for administration of this grants program. The remaining funds shall be available for grants to eligible institutions for the purpose of assisting them in the purchase of equipment and land, the planning, construction, alteration, or renovation of buildings to strengthen their capacity in the production of human capital in the food and agricultural sciences and can be used at the discretion of the eligible institutions in the areas of research, extension, and resident instruction or any combination thereof.

"(d) **METHOD OF AWARDED GRANTS.**—Grants awarded pursuant to this section shall be made in such amounts and under such terms and conditions as the Secretary shall determine necessary for carrying out the purposes of this section.

"(e) **PROHIBITION OF CERTAIN USES.**—Federal funds provided under this section may not be utilized for the payment of any overhead costs of the eligible institutions.

"(f) **REGULATIONS.**—The Secretary may promulgate such rules and regulations as the Secretary may consider necessary to carry out the provisions of this section."

(c) **NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS.**—Such Act is further amended by inserting after section 1445B (as added by subsection (b)) the following new section:

"SEC. 1445C. **NATIONAL RESEARCH AND TRAINING CENTENNIAL CENTERS.**

"(a) **COMPETITIVE GRANTS AUTHORIZED.**—The Secretary of Agriculture may make a competitive grant to five national research and training centennial centers located at colleges (or a consortia of such colleges) eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, that—

"(1) have been designated by the Secretary for the fiscal years 1991 through 1995 as national research and training centennial centers; and

"(2) have the best demonstrable capacity, as determined by the Secretary, to provide administrative leadership as—

"(A) a National Center for Goat Research and Training;

"(B) a National Center for Agricultural Engineering Development, Research, and Training;

"(C) a National Center for Water Quality and Agricultural Production Research and Training;

"(D) a National Center for Sustainable Agriculture Research and Training; and

"(E) a National Center for Domestic and International Trade and Development Research and Training.

"(b) USE OF GRANTS.—A grant made under subsection (a) may be expended by a center to—

"(1) pay expenses incurred in conducting research for which the center was designated;

"(2) print and disseminate the results of such research;

"(3) plan, administer, and direct such research; and

"(4) alter or repair buildings necessary to conduct such research.

"(c) PRIORITY.—In making a grant determination under subsection (a), the Secretary shall give priority to those centers that—

"(1) will assure dissemination of information between eligible institutions described in subsection (a) and among agricultural producers; and

"(2) will attract students and needed professionals in the food and agricultural sciences.

"(d) PAYMENTS.—(1) Under the terms of a grant made under subsection (a), funds appropriated under subsection (f) for a fiscal year shall be paid (upon vouchers approved by the Secretary) to a center receiving the grant in equal quarterly installments beginning on or about the first day of October of such year.

"(2) Not later than 60 days after the end of each fiscal year for which funds are paid under this section to a center, the research director of such center shall submit to the Secretary a detailed statement of the disbursements in such fiscal year of funds received by such center under this section.

"(3) If any of the funds received by a center under this section are misapplied, lost, or diminished by any action or contingency on the part of the center—

"(A) the center shall replace such funds; and

"(B) the Secretary shall not distribute to such center any other funds under this subsection until such funds are replaced.

"(e) APPLICATION OF OTHER LAWS.—Section 1445(e) of this title shall apply with regard to research and experiments funded under this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$2,000,000 for each of the fiscal years 1991 through 1995 for grants under this section.

"(g) CENTER DEFINED.—For purposes of this section, the term 'center' means a national research and training centennial center that receives a grant under this subsection.

"(h) COORDINATION OF CENTER ACTIVITIES.—(1) The center designated under subsection (a)(2)(C) shall coordinate its activities with the water quality research activities conducted under subtitle I of title XIII of the Food and Agricultural Resources Act of 1990.

"(2) The center designated under subsection (a)(2)(D) shall coordinate its activities with the sustainable agriculture research and education program established under subtitle B of title XIII of the Food and Agricultural Resources Act of 1990."

(d) CLERICAL AMENDMENT.—The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by inserting after the item relating to section 1445 the following new items:

"Sec. 1445A. Resident instruction at 1890 land-grant colleges, including Tuskegee University.

"Sec. 1445B. Grants to upgrade agricultural and food sciences facilities at 1890 land-grant colleges, including Tuskegee University.

"Sec. 1445C. National research and training centennial centers."

SEC. 1312. INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION AND INTERNATIONAL TRADE DEVELOPMENT CENTERS.

(a) RESEARCH AND EXTENSION.—Section 1458 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3291(a)) is amended—

(1) in subsection (a)—

(A) by inserting "AUTHORITY OF THE SECRETARY.—" after "(a)";

(B) by striking "assist" in paragraph (2) and inserting "expand collaboration and coordination with";

(C) by striking "with food, agricultural, research and extension" and inserting "regarding food and agricultural research, extension, and education";

(D) by striking "through" in paragraph (4) and all that follows in that paragraph through "and" and inserting "through—

"(A) the development of highly qualified scientists with specialization in international development;

"(B) the provision of support to State universities and land-grant colleges to do collaborative research with other countries on issues relevant to United States agricultural competitiveness;

"(C) the provision of support for cooperative extension education in agriculture and to promote the application of new technology developed abroad to United States agriculture; and

"(D) the provision of support for the internationalization of resident instruction programs of State universities and land-grant colleges;"

(E) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(F) by adding at the end the following new paragraphs:

"(6) establish in coordination with the International Arid Land Consortium, a program to enhance collaboration and cooperation between institutions possessing research capabilities applied to the development, management, and reclamation of arid lands; and

"(7) cooperate with nongovernmental organizations, both domestic and foreign, for the purpose of expanding the agricultural economic base of middle income and developing countries."

(2) in subsection (c)—

(A) by inserting "PROVISION OF SPECIALIZED OR TECHNICAL SERVICES.—" after "(c)"; and

(B) by inserting after "universities" in the first sentence the following: "and other nongovernmental organizations, both domestic and foreign;" and

(3) by adding at the end the following new subsection:

"(d) LIMITATION ON ACTIVITIES.—No activities under this section may promote the production for export of agricultural commodities (or the products thereof) that will compete, as determined by the Secretary, in world markets with similar agricultural commodities (or the products thereof) produced in the United States, where such competition will cause substantial injury to United States producers."

(b) INTERNATIONAL TRADE DEVELOPMENT CENTERS.—Section 1458A of that Act (7 U.S.C. 3292) is amended—

(1) in subsection (a)—

(A) by inserting "GRANT PROGRAM.—" after "(a)";

(B) by striking "grants to States" in the first sentence and inserting "grants to States (or regional groupings of States)";

(C) by striking "State funding" in the second sentence and inserting "State or regional funding"; and

(D) by striking "State from" in the second sentence and inserting "State or region from";

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively;

(3) by inserting after subsection (a) the following new subsection:

"(b) LOCATION AND FUNDING OF CERTAIN CENTERS.—The Secretary shall make determinations regarding the location and funding of international trade development centers established after the date of the enactment of this subsection based on a national plan for agricultural export promotion through international trade development centers. Grants under this section shall be made available on a competitive basis in accordance with such plan."; and

(4) in subsection (c) (as redesignated by paragraph (2))—

(A) by inserting "PREFERENCES.—" after "(c)";

(B) by inserting after "shall" in the matter preceding the paragraphs the following: "consistent with the plan developed under subsection (b)."; and

(C) by striking "States" and inserting "States (or regional groupings of States)".

(c) STYLISTIC AMENDMENTS.—(1) Section 1458 of that Act (7 U.S.C. 3291) (as amended by subsection (a)) is further amended—

(A) by striking "Sec. 1458." and inserting the following:

"SEC. 1458. INTERNATIONAL AGRICULTURAL RESEARCH AND EXTENSION."

and

(B) by inserting "ENHANCING LINKAGES.—" after "(b)".

(2) Section 1458A of that Act (7 U.S.C. 3292) (as amended by subsection (b)) is further amended—

(A) by striking the section heading and "Sec. 1458A." and inserting the following:

"SEC. 1458A. GRANTS TO STATES FOR INTERNATIONAL TRADE DEVELOPMENT CENTERS."

(B) by inserting "ACTIVITIES OF CENTERS.—" after "(d)"; and

(C) by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after "(e)".

SEC. 1313. REAUTHORIZATION OF EXTENSION EDUCATION AND PILOT PROJECT TO COORDINATE FOOD AND NUTRITION EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 1464 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3312) is amended—

(1) by striking the section heading and "SEC. 1464." and inserting the following:

"SEC. 1464. AUTHORIZATION FOR APPROPRIATIONS FOR EXTENSION EDUCATION AND THE ESTABLISHMENT OF A PILOT PROJECT TO COORDINATE FOOD AND NUTRITION EDUCATION PROGRAMS.

"(a) AUTHORIZATION FOR APPROPRIATIONS.—"

(2) by striking "\$370,000,000" and all that follows through "1990." and inserting "\$420,000,000 for each of the fiscal years 1991 through 1995."; and

(3) by adding at the end the following:

"(b) PILOT PROJECT.—The Secretary shall establish a five-year pilot project to make available grants to not more than two States, on a competitive basis, for the purpose of implementing in such States, a plan that—

"(1) provides for the full coordination of the conceptual design and program delivery of food and nutrition education programs for potential participants within the State; and

"(2) provides to the greatest extent possible for the coordination of such food and nutrition education programs with related State programs.

"(c) ELEMENTS OF THE PROJECT.—In carrying out subsection (b), the Secretary shall—

"(1) provide for enhanced intraagency and interagency coordination in the design and delivery of food and nutrition education programs;

"(2) develop more efficient methods, and improved agency organization, to inform the public and persons eligible for food and nutrition programs about such education programs (including those education programs regarding nutrition and management of family resources for better nutrition and health) and nutrition education programs available at the Federal, State, and local level; and

"(3) provide for an evaluation of the degree to which stated program coordination objectives are being attained, the impact on actual behavioral change of program participants, and the implication of the program outcomes for future public health, budget expenditures, and the general public welfare.

"(d) DEFINITIONS.—For the purpose of subsections (b) and (c):

"(1) The term 'coordination' means the development and implementation of a consistent and coherent program of nutrition education regarding the receipt and increased beneficial use of the resources made available to persons for food and nutrition programs and, to the extent possible, related State and local food and nutrition programs.

"(2) The term 'food and nutrition education programs' includes any educational programs or components of the food stamp program, the expanded food and nutrition education program, and such other programs administered by the Department of Agriculture as the Secretary determines necessary to effectively implement the programs required under subsection (b).

"(e) FUNDING.—The Secretary shall make available one-half of one percent of the funds appropriated under this section for each of the fiscal years 1991 through 1995 for the purpose of implementing the pilot project established under subsection (b)."

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended to read as follows:

"Sec. 1464. Authorization for appropriations for extension education and the establishment of a pilot project to coordinate food and nutrition education programs."

SEC. 1314. AQUACULTURE ASSISTANCE PROGRAMS.

(a) FOOD SAFETY, CLOSED-SYSTEM PRODUCTION, AND REPORTS.—Section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3322) is amended—

(1) in subsection (a)

(A) by inserting "RESEARCH AND EXTENSION PROGRAM.—" after "(a)"; and

(B) by striking "United States," and inserting "United States and to enhance further the safety of food products derived from the aquaculture industry,"

(2) in subsection (b)—

(A) by inserting "GRANTS.—" after "(b)"; and

(B) by striking the period at the end of the first sentence and inserting "and to enhance further the safety and wholesomeness of those species and products, including the development of reliable supplies of seed stock and therapeutic compounds,"

(3) in subsection (c), by inserting "AQUACULTURE DEVELOPMENT PLANS.—" after "(c)";

(4) in subsection (d)—

(A) by inserting "AQUACULTURAL CENTERS.—" after "(d)";

(B) by striking "four aquacultural research, development, and demonstration centers" in the first sentence and inserting "six aquacultural research, development, and demonstration centers";

(C) by inserting after the first sentence the following new sentence: "Research at one of the centers established under this subsection shall be devoted primarily to the development of closed-system production of fish and seafood,"; and

(D) by adding at the end the following new sentence: "To the extent practicable, the Secretary shall ensure that equitable efforts are made at these centers in addressing the research needs of those segments of the domestic aquaculture industry located within that region,"

(5) in subsection (e)—

(A) by striking "Not later" and all that follows through "subsequent year," and inserting "Reports.—(1) Not later than March 1 of each year,"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary shall conduct a study to assess the economic impact of animal damage to the United States aquaculture industry. In conducting such study, the Secretary shall provide for the consideration of all types of animal damage, including predation, that have an impact on aquaculture enterprises, including fish farming. The Secretary shall submit a report detailing the results of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than January 1, 1992,"; and

(6) by adding at the end the following new subsection:

"(f) LISTING OF LAWS ON AQUACULTURE.—The Secretary shall, in consultation with appropriate Federal and State agencies, compile a listing of Federal and State laws, rules, and regulations materially affecting the production, processing, marketing, and transportation of aquaculturally produced commodities and the products thereof. The Secretary shall make such listing available to the public not later than January 1, 1992, and shall update and revise such listing not later than January 1, 1996, to show such laws, rules, and regulations as in effect on that date."

(b) AQUACULTURE RESEARCH FACILITY.—(1) Subtitle L of that Act (7 U.S.C. 3321 et seq.) is amended by inserting after section 1475 the following new section:

"SEC. 1476. AQUACULTURE RESEARCH FACILITY.

"(a) GRANT AUTHORIZED.—In order to gain further knowledge of intensive water recirculating aquaculture systems, the Secretary may make a grant for the purpose of further developing and expanding an aquaculture research facility located at Illinois State

University in Normal, Illinois, and to conduct such programs as are necessary to do basic and applied research for intensive water recirculating aquaculture systems.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized, in the event the Secretary decides to take action under subsection (a), to be appropriated \$480,000 for fiscal years 1991 through 1995 to carry out this section."

(2) The table of contents of the Food and Agriculture Act of 1977 (Public Law 95-113; 91 Stat. 913) is amended by inserting after the item relating to section 1475 the following new item:

"Sec. 1476. Aquaculture research facility."

(c) PROGRAM EXTENSION.—Section 1477 of that Act (7 U.S.C. 3324) is amended by striking "each fiscal year" and all that follows through "1990," and inserting "each of the fiscal years 1991 through 1995."

(d) APPROPRIATIONS FOR AQUACULTURE.—To authorize appropriations to carry out the National Aquaculture Act of 1980 for fiscal years 1991, 1992, and 1993, paragraphs (1), (2), and (3) of section 10 of the National Aquaculture Act of 1980 (16 U.S.C. 2809 (1), (2), and (3)) are amended to read as follows:

"(1) to the Department of Agriculture, \$1,000,000 for each of fiscal years 1991, 1992, and 1993;

"(2) to the Department of Commerce, \$1,000,000 for each of fiscal years 1991, 1992, and 1993;

"(3) to the Department of Interior, \$1,000,000 for each of fiscal years 1991, 1992, and 1993."

SEC. 1315. PROGRAM OF COMPETITIVE, SPECIAL, AND FACILITIES GRANTS FOR AGRICULTURAL RESEARCH.

(a) COMPETITIVE GRANTS.—Subsection (b) of section 2 of the Act of August 4, 1965 (7 U.S.C. 450i) is amended—

(1) by inserting "COMPETITIVE GRANTS.—" after "(b)";

(2) in the first sentence, by striking "for periods not to exceed five years,"

(3) by striking the second, third, seventh, and eighth sentences;

(4) in the fourth sentence, by striking "In seeking" and inserting the following:

"(7) In seeking";

(5) in the fifth sentence, by striking "No grant" and inserting the following:

"(8) Except for grants made under paragraph (3)(E), no grant";

(6) by aligning the text of paragraphs (7) and (8) to be flush with the left margin;

(7) by inserting after paragraph (1) the following new paragraphs:

"(2) The Secretary shall allocate grants made under this subsection to high priority research taking into account the recommendations made by the advisory board established under paragraph (5). For the purposes of this subsection, the term 'high priority research' means basic and applied research in the following areas:

"(A) Plant systems, including research regarding plant genome structure and function; molecular and cellular genetics and plant and microbial biotechnology; plant-pest interactions and biocontrol systems; cover cropping, crop rotation, soil building techniques, crop varietal development, crop diversification, and integrated crop and livestock systems; crop plant response to environmental stresses; improved nutrient qualities of plant products; new food, feed, fiber, and industrial uses of plant products; and development of new crops, best management practices, integrated crop management, and other cropping systems.

"(B) Animal systems, including research regarding cellular, molecular, physiological, and behavioral basis of animal reproduction, growth, disease, and health; identification of genes responsible for improved production traits and resistance to disease; improved nutritional performance of animals; improved nutrient qualities and safety of animal products and development of new animal products; enhanced animal production practices and technologies; animal husbandry and well-being; and animal systems applicable to aquaculture.

"(C) Nutrition, food quality, and health and welfare, including research regarding microbial contaminants and toxic contaminants and residues related to human health; production and processing facilities and systems to address the health and safety of food and farm workers and livestock; the production of nutritional feedstuffs; links between diet and health, including the nutritional status of the population, especially critical subpopulations; nutrition education; rural family welfare; bioavailability of nutrients; postharvest physiology and practices; and improved processing technologies.

"(D) Natural resources and the environment, including research regarding fundamental structures and functions of ecosystems; biological and physical bases of integrated production systems; minimizing soil losses and degradation, maintaining surface and ground water quality, and maximizing water availability through conservation; soil till development, management systems to utilize scarce soil moisture, drought tolerant plant development, evaporation reduction systems, and crop practices to foster soil water absorption and retention; forest and range management and productivity; and weather and climatic effects on agriculture.

"(E) Engineering, products, and processes, including research regarding new uses and new products from crops, animals, byproducts, waste products and natural resources; robotics, computing, and expert systems; energy efficiency, conservation, and the development of alternative, renewable energy sources; new hazard and risk assessment and mitigation measures; and natural resource and environmental quality and management.

"(F) Markets, trade, and agricultural policy, including research regarding optimal strategies for entering and competing in domestic and overseas markets; new decision tools for on-farm and in-market systems; choices and applications of technology; new approaches to economic development and viability in the rural United States, with emphasis on family farming operations; the development of domestic and international markets for resource-conserving and organic crops; international cooperation in agricultural research, extension, and teaching; and agricultural and nutritional improvements in developing nations.

"(3) Grants under this subsection shall be awarded in a variety of types, including the following:

"(A) Single and coinvestigator grants for a single investigator, or coinvestigators, for up to five years with the possibility of one renewal after that period.

"(B) Interdisciplinary team grants for interdisciplinary teams for up to five years with the possibility of one renewal after that period.

"(C) Systems research grants for research teams, including extension staff and producers where appropriate, examining integrated systems approaches to research for up to

seven years, with the possibility of renewal for up to three years.

"(D) New investigator grants for newly trained researchers, shall be made under the guidelines of paragraphs (1), (2), and (3), except that principal investigators shall be enrolled in a relevant degree program or have completed research training less than five years before the time of the grant application.

"(E) Equipment grants to obtain scientific equipment for research groups or institutions, where funds are not available by other means, which is necessary to the conduct of needed research.

"(F) Institution development grants to assist smaller research institutions in developing their capacity for research and education related to the relevant priority areas, for up to five years with the expectation that the institution will find alternative funding after that period.

"(4) The Secretary shall appoint a director for the grant program authorized by this subsection. The Secretary, acting through the director, shall be responsible for the overall direction of the grant program and implementation of general policies respecting the management and operation of programs and activities in the program.

"(5) The Secretary shall appoint a board to provide advice on the policies, priorities, and operations of the grant program carried out under this subsection. The advisory board shall be composed of 9 individuals appointed as follows:

"(A) Two-thirds of the members shall be appointed from among the leading representatives of the scientific disciplines relevant to the food and agricultural sciences, including agricultural sciences, biological sciences, environmental sciences, natural resource sciences, health sciences, and nutritional sciences.

"(B) One-third of the members shall be appointed from the general public and shall include leaders in fields of public policy, agricultural policy, international agriculture, and agricultural production, processing, or marketing.

"(6) The Secretary shall transmit to Congress an annual report describing the policies, priorities, and operations of the grant program authorized by this subsection during the preceding fiscal year. The report shall—

"(A) be prepared by the board established under paragraph (5);

"(B) include a description of the progress being made to comply with subsection (j); and

"(C) be transmitted not later than January 1 of each year; and

(8) by adding at the end the following new paragraph:

"(9) There are authorized to be appropriated to carry out this subsection \$500,000,000 for each of the fiscal years 1991 through 1995. Of the amounts appropriated to carry out this subsection for a fiscal year—

"(A) not more than two percent may be used to make equipment grants under paragraph (3)(E); and

"(B) not more than four percent may be used by the Secretary to pay administrative costs incurred by the Secretary to carry out this subsection."

(b) SPECIAL GRANTS.—Subsection (c) of section 2 of the Act of August 4, 1965 (7 U.S.C. 450i) is amended—

(1) by inserting "SPECIAL GRANTS.—" after "(c)"; and

(2) in paragraph (1), by striking "to land-grant colleges" and all that follows through

"by the Secretary" and inserting the following: "to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals".

(c) ADMINISTRATIVE PROVISIONS.—Section 2 of the Act of August 4, 1965 (7 U.S.C. 450i) is amended by adding at the end the following new subsections:

"(j) EMPHASIS ON SUSTAINABLE AGRICULTURE.—The Secretary of Agriculture shall ensure that grants made under subsections (b) and (c) are, where appropriate, consistent with the development of systems of sustainable agriculture. For purposes of this section, the term 'sustainable agriculture' has the meaning given that term in section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17)).

"(k) REPORTS.—The Secretary of Agriculture shall prepare and submit to Congress on January 1 of each year a report on awards made under subsections (b) and (c) during the previous fiscal year."

(d) STYLISTIC AMENDMENTS.—Such section is further amended—

(1) by striking "SEC. 2. (a)" and inserting the following:

"SEC. 2. COMPETITIVE, SPECIAL, AND FACILITIES RESEARCH GRANTS.

"(a) ESTABLISHMENT OF GRANT PROGRAM.—"

(2) in subsection (d), by inserting "FACILITIES GRANTS.—" after "(d)";

(3) in subsection (e), by inserting "RECORD KEEPING.—" after "(e)";

(4) in subsection (f), by inserting "LIMITS ON OVERHEAD COSTS.—" after "(f)";

(5) in subsection (g), by inserting "AUTHORIZATION OF APPROPRIATIONS.—" after "(g)";

(6) in subsection (h), by inserting "RULES.—" after "(h)"; and

(7) in subsection (i), by inserting "APPLICATION OF OTHER LAWS.—" after "(i)".

SEC. 1316. MINIMIZATION OF CONFLICTS OF INTEREST OF EMPLOYEES OF COLLEGES RECEIVING FUNDS UNDER THE SMITH-LEVER ACT.

Section 4 of the Act of May 8, 1914 (commonly known as the Smith-Lever Act) (7 U.S.C. 344), is amended by inserting after the second sentence the following: "The Secretary shall ensure that each college seeking to receive funds under this Act has in place appropriate requirements, as determined by the Secretary, to minimize actual or potential conflicts of interest among employees of such college whose salaries are funded in whole or in part with such funds."

SEC. 1317. GRANTS FOR FINANCIALLY STRESSED FARMERS, DISLOCATED FARMERS, AND RURAL FAMILIES.

(a) EXTENSION OF GRANT PROGRAM.—Section 502(f)(2) of the Rural Development Act of 1972 (7 U.S.C. 2662(f)(2)) is amended—

(1) by striking "1990" and inserting "1995"; and

(2) by inserting after "under paragraph (1)" the following: "to eligible applicants in any State applying for such grants".

(b) CHANGES TO GRANT PROGRAM.—Section 502(f)(1) of that Act (7 U.S.C. (f)(1)) is amended—

(1) in subparagraph (A), by striking "special grants" and all that follows through "counseling" and inserting the following: "competitive grants for programs that meet the criteria specified in subparagraph (B) to develop counseling, retraining, and educational";

(2) by redesignating subparagraphs (C) and (D) as (E) and (F), respectively;

(3) in subparagraph (B)—

(A) by striking the subparagraph heading, the matter preceding the clauses, and clause (i); and

(B) by redesignating clauses (ii) through (viii) as clauses (i) through (vii) of subparagraph (D);

(4) by inserting after subparagraph (A) the following new subparagraphs:

"(B) GRANT CRITERIA.—In order to be eligible to receive a grant under this subsection, an applicant must provide suitable assurances that—

"(i) not less than one-half of the grant funds to the applicant will be used for clinical outreach counseling and crisis management assistance, as required by subparagraph (C);

"(ii) a significant number of farms within the State have a ratio of debts to assets of 40 percent or more, the State's rural economy has been facing adverse economic conditions for a period of years, or such other conditions exist, as determined by the Secretary, such that the assistance provided under this subsection is necessary or appropriate;

"(iii) the planning and implementation of the provision of services under this subsection will be coordinated with the appropriate State agency for mental health, department of health, office of rural health, and any other State agency or department responsible for assisting persons in rural areas of the State; and

"(iv) the planning and implementation of the provision of services under this subsection will be coordinated with the appropriate local governments and other public and private nonprofit agencies and organizations located in rural areas and involved in addressing problems related to the mental health of rural residents.

"(C) COUNSELING AND OUTREACH REQUIRED.—Not less than 50 percent of the grant funds to a State under this subsection shall be used to provide clinical outreach counseling and crisis management assistance through appropriate State officials.

"(D) OTHER SERVICES TO BE PROVIDED.—In addition to the counseling and outreach services required under subparagraph (C), the following services may also be provided through programs funded under this section:"

(5) by adding at the end of subparagraph (D) (as added by paragraph (4)) the following new clause:

"(viii) Assistance for local officials and groups in developing income and employment alternatives."; and

(6) in subparagraph (F) (as redesignated by paragraph (2))—

(A) by striking "is encouraged to work with" and inserting "shall work with the appropriate State office of rural health, State department or agency of mental health, and other";

(B) by striking "a comprehensive plan" and inserting "an annual comprehensive plan";

(C) by striking "special"; and

(D) by adding at the end the following: "For recipients in a State to be eligible for a grant under this subsection in any fiscal year, the Cooperative Extension Service within the State must develop and sign a Memorandum of Agreement with the appropriate State department or agency of mental health and other State agencies as may be appropriate to carry out the comprehensive plan. Such agreement and plan must empha-

size the development and delivery of counseling and outreach programs as provided under subparagraph (B)."

(c) CONFORMING AMENDMENTS.—(1) Such section is further amended by striking "(f) Special" and inserting "(f) Competitive".

(2) Section 503(c) of that Act (7 U.S.C. 2663(c)) is amended—

(A) by inserting "ADDITIONAL DISTRIBUTIONS.—(1)" after "(c)";

(B) by striking "and section 502(f)" both places it appears; and

(C) by adding at the end the following new paragraph:

"(2) Such sums as are appropriated to carry out the provisions of section 502(f) of this title shall be distributed by the Secretary to colleges and universities in accordance with the requirements of such subsection."

(d) EFFECT OF AMENDMENTS ON CURRENT GRANT RECIPIENTS.—The eight States receiving grants under section 502(f) of the Rural Development Act of 1972 (7 U.S.C. 2662(f)) during fiscal year 1990 shall continue to be eligible to receive grants (in an amount not to exceed the amount received during that fiscal year) under that section notwithstanding the requirement that such grants be awarded competitively, so long as such States comply with the requirement that not less than one-half of such grant amount shall be used for clinical outreach counseling and crisis management assistance.

Subtitle B—Sustainable Agriculture Research and Education Program

SEC. 1321. PURPOSE AND DEFINITIONS.

(a) PURPOSE.—It is the purpose of this subtitle to encourage research designed to increase our knowledge concerning agricultural production systems that—

(1) maintain and enhance the quality and productivity of the soil;

(2) conserve soil, water, energy, natural resources, and fish and wildlife habitat;

(3) maintain and enhance the quality of surface and ground water;

(4) protect the health and safety of persons involved in the food and farm system;

(5) promote the well being of animals; and

(6) increase employment opportunities in agriculture.

(b) DEFINITIONS.—For purposes of this subtitle:

(1) The term "sustainable agriculture" shall have the same meaning given to that term by section 1404(17) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(17)).

(2) The term "integrated crop management" means an agricultural management system that integrates all controllable agricultural production factors for long-term sustained productivity, profitability, and ecological soundness.

(3) The term "integrated resource management" means livestock management which utilizes an interdisciplinary systems approach which integrates all controllable agricultural production practices to provide long-term sustained productivity and profitable production of safe and wholesome food in an environmentally sound manner.

(4) The term "extension" shall have the same meaning given to that term by section 1404(7) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(7)).

(5) The term "Secretary" means the Secretary of Agriculture.

(6) The term "Advisory Council" means the National Sustainable Agriculture Advisory Council established under section 1323(c).

(7) The term "State" means each of the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands of the United States, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or federally recognized Indian tribes.

(8) The term "State agricultural experiment stations" shall have the same meaning given to that term by section 1404(13) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(13)).

SEC. 1322. RESEARCH AND EXTENSION PROJECTS.

(a) RESEARCH AND EXTENSION PROGRAM REQUIRED.—The Secretary shall conduct research and extension projects on sustainable farm management systems to obtain data, develop conclusions, demonstrate technologies, and conduct education programs that promote the purpose of this subtitle, including research and extension projects that facilitate and increase scientific investigations and education in order to—

(1) develop and improve sustainable farm management systems which minimize health and environmental risks associated with pesticides and nitrates;

(2) improve sustainable farm management systems that enhance agricultural productivity, profitability, and competitiveness;

(3) develop effective crop, livestock, and enterprise diversification systems; and

(4) develop sustainable agroforestry systems on semiarid lands which minimize topsoil loss, maintain water quality, expand farm income opportunities, and enhance farm productivity and profitability.

(b) METHOD OF CONDUCTING PROGRAM.—The Secretary shall conduct the research and extension projects referred to in subsection (a) by—

(1) studying, to the maximum extent practicable, agricultural production systems that are located in areas that possess various soil, climate, and physical characteristics;

(2) studying farms that have been, and will continue to be managed using farm production practices that rely on sustainable production systems and other conservation practices;

(3) studying farms that are newly adopting sustainable farm production practices;

(4) taking advantage of the experience and expertise of farmers and ranchers through on-farm research and demonstration and through their direct participation and leadership in projects; and

(5) transferring practical, reliable, and timely information to farmers and ranchers concerning practices and systems of sustainable agriculture, including data on economic viability and transition costs.

(c) AGREEMENTS.—The Secretary shall carry out this section through agreements entered into with land-grant colleges or universities, other universities, State agricultural experiment stations, the State cooperative extension services, nonprofit organizations with demonstrable expertise, or Federal or State governmental entities.

(d) SELECTION OF PROJECTS.—(1) The Secretary shall select research and extension projects under this section after consideration of—

(A) the recommendations of the Advisory Council;

(B) the relevance of the project to the purpose of this subtitle;

(C) the appropriateness of the design of the project;

(D) the likelihood of attaining the objectives of the project; and

(E) the national or regional applicability of the findings and outcomes of the proposed project.

(2) The Secretary shall give priority to projects that—

(A) are recommended by the Advisory Council;

(B) closely coordinate research and extension activities;

(C) indicate how the findings of the project will be made readily usable by farmers;

(D) maximize the involvement and cooperation of farmers, including projects involving on-farm research and demonstration;

(E) involve a multidisciplinary systems approach; and

(F) involve cooperation between farms, nonprofit organizations with demonstrable expertise, colleges and universities, and government agencies.

(e) **DIVERSIFICATION OF RESEARCH.**—The Secretary shall conduct projects and studies under this section in areas that are broadly representative of the diversity of United States agricultural production, including production on family farms, mixed-crop livestock farms and dairy operations.

(f) **PROJECT DURATION.**—(1) The Secretary may approve projects conducted under this subtitle that have a duration of more than one fiscal year.

(2) In the case of a research project conducted under this section that involves the planting of a sequence of crops or crop rotations, the Secretary shall approve such project for a term that is appropriate to the sequence or rotation being studied.

(g) **PUBLIC ACCESS.**—The Secretary shall ensure that research projects are open for public observation at specified times.

(h) **INDEMNIFICATION.**—(1) Subject to paragraph (2), the Secretary may indemnify the operator of a project conducted under this section for damage incurred or undue losses sustained as a result of a rigid requirement of research or demonstration under such project that is not experienced in normal farming operations.

(2) An indemnity payment under paragraph (1) shall be subject to any agreement between a project grantee and operator entered into prior to the initiation of such project.

SEC. 1323. PROGRAM ADMINISTRATION.

(a) **DUTIES OF THE SECRETARY.**—The Secretary shall—

(1) administer the programs and projects under sections 1322 and 1324 through the Cooperative State Research Service in close cooperation with the Extension Service, the Agricultural Research Service, and other appropriate agencies;

(2) establish an Advisory Council in accordance with subsection (c);

(3) establish a minimum of four Regional Administrative Councils in accordance with subsection (d); and

(4) in conjunction with such Regional Administrative Councils, identify regional host institutions required to carry out the provisions of such programs or projects.

(b) **REPORTS.**—The Secretary shall, not later than April 1, 1991, and each April 1 thereafter, prepare and submit, to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Advisory Council—

(1) a report describing the results of the programs carried out under sections 1322, 1324, and 1325; and

(2) a report describing the progress of projects conducted under this subtitle, including—

(A) a summary and analysis of data collected under such projects;

(B) recommendations based on such data for new basic or applied research;

(C) the number, length, and type of projects proposed, funded and carried out, by region; and

(D) the national and regional economic, social, and environmental implications of the adoption of practices developed under this subtitle and section 1346.

(c) **NATIONAL SUSTAINABLE AGRICULTURE ADVISORY COUNCIL.**—(1) The membership of the National Sustainable Agriculture Advisory Council shall include representatives of—

(A) the Agricultural Research Service;

(B) the Cooperative State Research Service;

(C) the Soil Conservation Service;

(D) the Extension Service;

(E) State cooperative extension services;

(F) State agricultural experiment stations;

(G) the Economic Research Service;

(H) the National Agricultural Library;

(I) the Environmental Protection Agency;

(J) the Board on Agriculture of the National Academy of Sciences;

(K) private nonprofit organizations with demonstrable expertise;

(L) farmers utilizing systems and practices of sustainable agriculture;

(M) the United States Geological Survey;

(N) agribusiness; and

(O) other specialists in agricultural research or technology transfer, including individuals from colleges eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.), including Tuskegee University, or other colleges or universities with demonstrable expertise.

(2) The Advisory Council shall—

(A) make recommendations to the Secretary concerning research and extension projects that merit funding under sections 1322 and 1324;

(B) promote the programs established under this subtitle at the national level;

(C) coordinate research and extension activities funded by such programs;

(D) establish general procedures for awarding and administering funds under this subtitle;

(E) consider recommendations for improving such programs;

(F) facilitate cooperation and integration between sustainable agriculture, national water quality, integrated crop management, integrated resource management, integrated pest management, food safety, and other related programs; and

(G) prepare and submit an annual report concerning its activities to the Secretary.

(d) **REGIONAL ADMINISTRATIVE COUNCILS.**—

(1) The membership of the Regional Administrative Councils shall include representatives of—

(A) the Agricultural Research Service

(B) the Cooperative State Research Service;

(C) the Extension Service;

(D) State cooperative extension services;

(E) State agricultural experiment stations;

(F) the Soil Conservation Service;

(G) State departments engaged in sustainable agriculture programs;

(H) nonprofit organizations with demonstrable expertise;

(I) farmers utilizing systems and practices of sustainable agriculture;

(J) agribusiness;

(K) the State or United States Geological Survey; and

(L) other persons knowledgeable about sustainable agriculture and its impact on the environment and rural communities.

(2) The Regional Administrative Councils shall—

(A) make recommendations to the Advisory Council concerning research and extension projects that merit funding under sections 1322 and 1324;

(B) promote the programs established under this subtitle at the regional level;

(C) establish goals and criteria for the selection of projects authorized under this subtitle within the applicable region;

(D) appoint a technical committee to evaluate the proposals for projects to be considered under this subtitle by such council;

(E) review and act on the recommendations of the technical committee, and coordinate its activities with the regional host institution; and

(F) prepare and make available an annual report concerning projects funded under sections 1322 and 1324, together with an evaluation of the project activity.

(e) **CONFLICT OF INTEREST.**—A member of the regional administration council or a technical committee may not participate in the discussion or recommendation of proposed projects if the member has or had a professional or business interest in, including the provision of consultancy services, the organization whose grant application is under review.

SEC. 1324. FEDERAL-STATE MATCHING GRANT PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary shall establish a Federal-State matching grant program to make grants to States to assist in the creation or enhancement of State sustainable agriculture research, extension, and education programs, in furtherance of this subtitle.

(b) **ELIGIBLE PROGRAMS AND ACTIVITIES.**—States eligible to receive a grant under this section may conduct a variety of activities designed to carry out the purpose of this subtitle, including—

(1) activities that encourage the incorporation and integration of sustainable agriculture concerns in all State research, extension, and education projects;

(2) educational programs for farmers, educators, and the public;

(3) the development and funding of innovative research, extension, and education programs regarding sustainable agriculture;

(4) the conduct of research and demonstration projects;

(5) the provision of technical assistance to farmers and ranchers;

(6) activities that encourage farmer-to-farmer information exchanges; and

(7) such other activities that are appropriate to the agricultural concerns of the State that are consistent with the purpose of this subtitle.

(c) **SUBMISSION OF PLAN.**—(1) States that elect to apply for a grant under this section shall prepare and submit, to the appropriate Regional Administrative Council established under section 1323, a State plan and schedule for approval by such council and the Secretary.

(2) State plans prepared under paragraph (1) shall provide details of the proposed program to be implemented using funds provided under this section for fiscal years 1991 through 1995, or any 5-year period thereafter, and shall identify the sources of matching State funds for the same fiscal year.

(3) To be eligible for approval, State plans submitted under this subsection shall dem-

onstrate that there will be extensive and direct participation of farmers in the development, implementation, and evaluation of the program.

(d) GRANT AWARD.—(1) Subject to paragraph (2), the Secretary shall provide grants to eligible States in an amount not to exceed 50 percent of the cost of the establishment or enhancement of a State sustainable agriculture program under a plan approved by the Secretary under subsection (c) for a period not to exceed 5 years.

(2) To be eligible to receive a grant under this section, a State shall agree to pay, from State appropriated funds, other State revenue, or from private contributions received by the State, not less than 50 percent of the cost of the establishment or enhancement of the sustainable agriculture program under an approved plan under subsection (c).

SEC. 1325. INTEGRATED MANAGEMENT SYSTEMS RESEARCH AND EDUCATION.

(a) ESTABLISHMENT.—The Secretary shall establish a research and education program to enhance research related to farming operations, practices, and systems that optimize crop and livestock production potential and are environmentally sound. The purpose of the program shall be to—

(1) encourage producers to adopt integrated crop and livestock management practices and systems that minimize or abate adverse environmental impacts, reduce soil erosion and loss of water and nutrients, enhance the efficient use of on-farm and off-farm inputs, and maintain or increase profitability and long-term productivity;

(2) develop knowledge and information on integrated crop and livestock management systems and practices, including specific information for inclusion in handbooks, technical guides, and educational materials under section 1327, to assist agricultural producers in the adoption of these systems and practices;

(3) accumulate and analyze information on agricultural production practices researched or developed under programs established in sections 1322, 1324, and 1346 to further the development of integrated crop and livestock management systems;

(4) facilitate the adoption of whole-farm integrated crop and livestock management systems through demonstration projects on individual farms throughout the United States; and

(5) evaluate and recommend appropriate integrated crop and livestock management policies and programs.

(b) DEVELOPMENT AND ADOPTION OF INTEGRATED CROP MANAGEMENT PRACTICES.—The Secretary shall encourage agricultural producers to adopt and develop individual, site-specific integrated crop management practices. On a priority basis, the Secretary shall develop and disseminate information on integrated crop management systems for agricultural producers in specific localities or crop producing regions where the Secretary determines—

(1) water quality is impaired as a result of local or regional agricultural production practices; or

(2) the adoption of such practices may aid in the recovery of endangered or threatened species.

(c) DEVELOPMENT AND ADOPTION OF INTEGRATED RESOURCE MANAGEMENT PRACTICES.—The Secretary shall, on a priority basis, develop programs to encourage livestock producers to develop and adopt individual, site-specific integrated resource management practices. These programs shall be designed to benefit producers and consumers through—

(1) optimum use of available resources and improved production and financial efficiency for producers;

(2) identifying and prioritizing the research and educational needs of the livestock industry relating to production and financial efficiency, competitiveness, environmental stability, and food safety; and

(3) utilizing an interdisciplinary approach toward preventing potential problems.

SEC. 1326. TECHNICAL GUIDES AND HANDBOOKS.

(a) DEVELOPMENT.—The Secretary not later than the 1992 crop year shall develop and make available handbooks and technical guides, and any other educational materials that are appropriate for describing sustainable agriculture production systems and practices, integrated crop management systems and practices, integrated resource management systems and practices, nutrient management practices, and integrated pest management practices as researched and developed under this subtitle, subtitle I, and section 1346.

(b) CONSULTATION AND COORDINATION.—The Secretary shall develop the handbooks, technical guides, and educational materials in consultation with the panel established under section 1323(b) and any other appropriate entities designated by the Secretary. The Secretary shall coordinate activities conducted under this section with those conducted under section 1662 of the Food and Agricultural Resources Act of 1990.

(c) CONTENT.—(1) The handbooks and guides, and other education materials, shall include detailed information on the selection of crops and crop-plant varieties, rotation practices, soil building practices, tillage systems, nutrient management, integrated pest management practices, habitat protection, livestock management, soil, water, and energy conservation, and any other practices in accordance with or in furtherance of the purpose of this subtitle.

(2) The handbooks and guides, and other educational materials, shall provide standards and practical instructions and be organized in such a manner as to enable agricultural producers desiring to implement the practices and systems developed under this subtitle, subtitle I, and section 1346 to address site-specific, environmental and resource management problems and to sustain farm profitability, including—

(A) enhancing and maintaining the fertility, productivity, and conservation of farmland and ranch soils, ranges, pastures, and wildlife;

(B) maximizing the efficient and effective use of agricultural inputs;

(C) protecting or enhancing the quality of water resources; or

(D) optimizing the use of on-farm and nonrenewable resources.

(d) AVAILABILITY.—The Secretary shall ensure that handbooks and technical guides, and other educational materials are made available to the agricultural community and the public through colleges and universities, the State cooperative extension service, the Soil Conservation Service, other State and Federal agencies, and any other appropriate entities.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 1327. EDUCATION AND TRAINING.

(a) ESTABLISHMENT.—The Secretary shall establish a program for the training of appropriate field office personnel in the practices developed under this subtitle, subtitle I, and

section 1346, as well as related state activities and federal and state regulatory actions which will affect farming practices.

(b) ADMINISTRATION.—(1) The training program established under subsection (a) shall be organized and administered by the Extension Service, in coordination with other appropriate federal agencies.

(2) To implement this section within each State, the Secretary shall designate an individual from the Extension Service within each State to coordinate the training program established in this section. The coordinators shall be responsible, in cooperation with appropriate Federal and State agencies, for developing and implementing a statewide training program for appropriate field office personnel.

(c) REQUIRED TRAINING.—(1) The Secretary shall insure that all agricultural agents of the Extension Service have completed the training program established in subsection (a) not later than the end of the five-year period beginning on the date of enactment of this subtitle.

(2) Beginning three years after the date of enactment of this subtitle, the Secretary shall ensure that all agricultural Extension Service agents employed by such Service are able to demonstrate, not later than 18 months after the employment of such agents, that such agents have completed the training program established in subsection (a).

(d) ADDITIONAL EDUCATION.—The Secretary shall provide dealers of pesticides, fertilizers, and livestock production equipment, supplies, and feed ingredients with information on the programs detailed in subsection (a) to assist such dealers in transferring this information to agricultural producers.

(e) REGIONAL SPECIALISTS.—(1) To assist county agents and farmers implement production practices developed under this subtitle, subtitle I, and section 1346, regional sustainable agriculture specialists may be designated within each State who shall report to the State coordinator of that State, as designated by the Secretary under subsection (b)(2).

(2) The specialists shall be responsible for developing and coordinating local dissemination of sustainable agriculture information in a manner that is useful to farmers in the region.

(f) INFORMATION AVAILABILITY.—The Extension Service within each State shall transfer information developed under this subtitle, subtitle I, and section 1346, through a program that shall—

(1) assist in developing farmer-to-farmer information exchange networks to enable farmers making transitions to more sustainable farming systems to share ideas and draw on the experiences of other farmers;

(2) help coordinate and publicize a regular series of sustainable agriculture farm tours and field days within each State;

(3) plan for extension programming, including extensive farmer input and feedback, in the design of new and ongoing research endeavors related to sustainable agriculture;

(4) provide technical assistance to individual farmers in the design and implementation of farm management plans and strategies for making a transition to more sustainable agricultural systems;

(5) consult and work closely with the Soil Conservation Service and the Agricultural Stabilization and Conservation Service in carrying out the information, technical assistance, and related programs;

(6) develop, coordinate, and direct special education and outreach programs in areas

highly susceptible to groundwater contamination, linking sustainable agriculture information with water quality improvement information;

(7) develop information sources relating to crop diversification, alternative crops, on-farm food or commodity processing, and on-farm energy generation;

(8) establish a well-water testing program designed to provide those persons dependent upon underground drinking water supplies with an understanding of the need for regular water testing, information on sources of testing, and an understanding of how to interpret test results and provide for the protection of underground water supplies;

(9) provide specific information on water quality practices developed through the research programs in section 1367;

(10) provide specific information on nutrient management practices developed through the research programs in section 1368; and

(11) develop whole-farm management systems integrating research results under this subtitle, subtitle I, and section 1346.

(g) **DEFINITION.**—The term "appropriate field office personnel" includes employees of the Extension Service, Soil Conservation Service, and other appropriate personnel, as determined by the Secretary, whose activities involve the provision of agricultural production and conservation information to agricultural producers.

(h) **AUTHORIZATION FOR APPROPRIATIONS.**—There are authorized to be appropriated to carry out this section \$40,000,000 for each of the fiscal years 1991 through 1995.

SEC. 1328. AUTHORIZATION FOR APPROPRIATIONS.

With the exception of sections 1326 and 1327, there are authorized to be appropriated \$40,000,000 for each of the fiscal years 1991 through 1995 to carry out this subtitle. Of any amount that is appropriated under this section for a fiscal year to carry out the programs established under this subtitle, not less than \$15,000,000, or not less than two-thirds of the amount appropriated for that fiscal year, whichever is greater, shall be used to carry out sections 1322, 1323, and 1325.

SEC. 1329. REPEAL OF AGRICULTURAL PRODUCTIVITY RESEARCH PROVISIONS.

Subtitle C (sections 1461 through 1471) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (7 U.S.C. 4701094710) is repealed. The table of contents at the beginning of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1354) is amended by striking the items relating to that subtitle.

Subtitle C—National Genetics Resources Program

SEC. 1331. ESTABLISHMENT, PURPOSE, AND FUNCTIONS OF THE NATIONAL GENETIC RESOURCES PROGRAM.

(a) **IN GENERAL.**—The Secretary of Agriculture shall provide for a National Genetic Resources Program (hereafter referred to in this section as the "program").

(b) **PURPOSE.**—The program is established for the purpose of maintaining and enhancing a program providing for the collection, preservation, and dissemination of genetic material of importance to American food and agriculture production.

(c) **ADMINISTRATION.**—The program shall be administered by the Secretary through the Agricultural Research Service.

(d) **FUNCTIONS.**—The Secretary, acting through the program, shall—

(1) provide for the collection, classification, preservation, and dissemination of genetic material of importance to the food and agriculture sectors of the United States;

(2) conduct research on the genetic materials collected and on methods for storage and preservation of those materials;

(3) coordinate the activities of the program with similar activities occurring domestically;

(4) make available upon request, without charge and without regard to the country from which such request originates, the genetic material which the program assembles;

(5) expand the types of genetic resources included in the program to develop a comprehensive genetic resources program which includes plants (including silvicultural species), animal, aquatic, insect, microbiological, and other types of genetic resources of importance to food and agriculture, as resources permit; and

(6) engage in such other activities as the Secretary determines appropriate and as the resources of the program permit.

SEC. 1332. APPOINTMENT AND AUTHORITY OF DIRECTOR.

(a) **DIRECTOR.**—There shall be at the head of the program an official to be known as the Director of the National Genetic Resources program who shall be appointed by the Secretary. The Director shall perform such duties as are assigned to the Director by this subtitle and such other duties as the Secretary may prescribe.

(b) **ADMINISTRATIVE AUTHORITY.**—In carrying out this subtitle, the Secretary, acting through the Director—

(1) shall be responsible for the overall direction of the program and for the establishment and implementation of general policies respecting the management and operation of activities within the program;

(2) may secure for the program consultation services and advice of persons from the United States and abroad;

(3) may accept voluntary and uncompensated services; and

(4) may perform such other administrative functions as the Secretary determines are needed to effectively carry out this subtitle.

(c) **DUTIES.**—The Director shall—

(1) advise participants on the program activities;

(2) coordinate, review and facilitate the systematic identification and evaluation of, relevant information generated under the program;

(3) promote the effective transfer of the information described in paragraph (2) to the agriculture and food production community and to entities that require such information; and

(4) monitor the effectiveness of the activities described in paragraph (3).

(d) **BIENNIAL REPORTS.**—The Director shall prepare and transmit to the Secretary and to the Congress a biennial report containing—

(1) a description of the activities carried out by and through the program and the policies of the program, and such recommendations respecting such activities and policies as the Director considers to be appropriate;

(2) a description of the necessity for, and progress achieved toward providing, additional programs and activities designed to include the range of genetic resources described in section 1331(d)(5) in the activities of the program; and

(3) an assessment of events and activities occurring internationally as they relate to the activities and policies of the program.

(e) **INITIAL REPORTS.**—Not later than one year after the date of the enactment of this Act, the Director shall transmit to the Secretary and to the Congress a report—

(1) describing the projected needs over a 10-year period in each of the areas of genetic resources described in section 1331(d)(5), including the identification of existing components of a comprehensive program, policies and activities needed to coordinate those components, and additional elements not in existence which are required for the development of a comprehensive genetic resources program as described in such section;

(2) assessing the international efforts and activities related to the program, and their effect upon and coordination with the program; and

(3) evaluating the potential effect of various national laws, including national quarantine requirements, as well as treaties, agreements, and the activities of international organizations on the development of a comprehensive international system for the collection and maintenance of genetic resources of importance to agriculture.

SEC. 1333. ADVISORY COUNCIL.

(a) **ESTABLISHMENT AND MEMBERSHIP.**—(1) The Secretary shall establish an advisory council for the program for the purpose of advising, assisting, consulting with, and making recommendations to, the Secretary and Director concerning matters related to the activities, policies and operations of the program.

(2) The advisory council shall consist of ex officio members and not more than nine members appointed by the Secretary.

(b) **EX OFFICIO MEMBERS.**—The ex officio members of the advisory council shall consist of the following (or their designees):

(1) The Director.

(2) The Assistant Secretary of Agriculture for Science and Education.

(3) The Director of the National Agricultural Library.

(4) The Director of the National Institutes of Health.

(5) The Director of the National Science Foundation.

(6) The Secretary of Energy.

(7) The Director of the Office of Science and Technology Policy.

(8) Such additional officers and employees of the United States as the Secretary determines are necessary for the advisory council to effectively carry out its functions.

(c) **APPOINTMENT OF OTHER MEMBERS.**—The members of the advisory council who are not ex officio members shall be appointed by the Secretary as follows:

(1) Two-thirds of the members shall be appointed from among the leading representatives of the scientific disciplines relevant to the activities of the program, including agricultural sciences, environmental sciences, natural resource sciences, health sciences, and nutritional sciences.

(2) One-third of the members shall be appointed from the general public and shall include leaders in fields of public policy, trade, international development, law, or management.

(d) **COMPENSATION.**—Members of the advisory council shall serve without compensation, if not otherwise officers or employees of the United States, except that they shall, while away from their homes or regular places of business in the performance of services for the advisory council, be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under sections 5701 through 5707 of title 5, United States Code.

(e) **TERM OF OFFICE OF APPOINTEES; VACANCIES.**—(1) The term of office of a member appointed under subsection (c) is four years, except that any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(2) The Secretary shall make appointments to the advisory council so as to ensure that the terms of the members appointed under subsection (c) do not all expire in the same year. A member may serve after the expiration of the member's term until a successor takes office.

(3) A member who is appointed for a term of four years may not be reappointed to the advisory council before two years after the date of expiration of such term of office.

(4) If a vacancy occurs in the advisory council among the members appointed under subsection (c), the Secretary shall make an appointment to fill such vacancy within 90 days after the date such vacancy occurs.

(f) **CHAIR.**—The Secretary shall select as the chair of the advisory council one of the members appointed under subsection (c). The term of office of the chair shall be two years.

(g) **MEETINGS.**—The advisory council shall meet at the call of the chair or on the request of the Director, but at least two times each fiscal year. The location of the meetings of the advisory council shall be subject to the approval of the Director.

(h) **STAFF.**—The Director shall make available to the advisory council such staff, information, and other assistance as it may require to carry out its functions.

(i) **ORIENTATION AND TRAINING.**—The Director shall provide such orientation and training for new members of the advisory council as may be appropriate for their effective participation in the functions of the advisory council.

(j) **COMMENTS AND RECOMMENDATIONS.**—The advisory council may prepare, for inclusion in a report submitted under section 1332—

(1) comments respecting the activities of the advisory council during the period covered by the report;

(2) comments on the progress of the program in meeting its objectives; and

(3) recommendations respecting the future directions, program, and policy emphasis of the program.

(k) **REPORTS.**—The advisory council may prepare such reports as the advisory council determines to be appropriate.

(l) **APPLICATION OF ADVISORY COMMITTEE ACT.**—Section 14(a) of the Federal Advisory Committee Act (5 U.S.C. App.) relating to the termination of an advisory committee shall not apply to the advisory committee established under this section.

SEC. 1334. DEFINITIONS AND AUTHORIZATION OF APPROPRIATIONS.

(a) **DEFINITIONS.**—For purposes of this subtitle:

(1) The term "program" means the National Genetic Resources Program.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "Director" means the Director of the National Genetic Resources Program.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such funds as may be necessary to carry out this subtitle for each of the fiscal years 1991 through 1995.

Subtitle D—National Agricultural Library

SEC. 1335. ESTABLISHMENT, PURPOSES, AND FUNCTIONS OF THE NATIONAL AGRICULTURAL LIBRARY.

(a) **ESTABLISHMENT.**—There is established in the Department of Agriculture the National Agricultural Library (hereafter in this section referred to as the "Library").

(b) **PURPOSES.**—The Library is established for the purposes of—

(1) furthering the advancement of agricultural and related sciences; and

(2) aiding the dissemination and exchange of scientific and other information important to the progress of agricultural and food production.

(c) **ADMINISTRATION.**—The Library shall be administered by the Secretary of Agriculture.

(d) **FUNCTIONS.**—The Secretary, acting through the Library, shall—

(1) acquire and preserve books, periodicals, prints, films, recordings, and other library materials pertinent to agricultural and food related sciences;

(2) organize the materials specified in paragraph (1) by appropriate cataloging, indexing, bibliographical listings, and other methods;

(3) make available, through loans, photographic or other copying procedures, or other methods, such materials in the Library as the Secretary determines appropriate;

(4) provide reference and research assistance;

(5) provide agricultural information and information products and services—

(A) to Congress and agencies of the Federal Government; and

(B) to public and private organizations and individuals within the United States and internationally;

(6) plan for, coordinate, and evaluate information and library needs related to agricultural research and education;

(7) cooperate with and coordinate efforts undertaken by college and university libraries in conjunction with private industry and other agricultural library and information centers to develop a comprehensive agricultural library and information network;

(8) coordinate the development of specialized subject information services among the agricultural and library information communities; and

(9) engage in such other activities as the Secretary determines appropriate and as the resources of the Library permit.

(e) **DISPOSAL OF MATERIALS.**—The Secretary may exchange, destroy, or otherwise dispose of any books, periodicals, films, and other library materials not needed for the permanent use of the Library.

(f) **RULES.**—(1) To carry out the functions specified in subsection (d), the Secretary may issue rules under which the Library will make available to public and private entities and to individuals—

(A) copies of its publications or materials;

(B) facilities for research; or

(C) bibliographic, reference, or other services.

(2) Rules issued under paragraph (1) may provide for making available publications, materials, facilities, or services of the Library—

(A) without charge as a public service;

(B) upon a loan, exchange, or charge basis; or

(C) in appropriate circumstances, under contract arrangements made with a public or nonprofit private entity.

(3) Before issuing rules under paragraph (1), the Secretary shall obtain the advice

and recommendations of the Board of Regents.

SEC. 1336. GIFTS.

(a) **ACCEPTANCE AUTHORIZED.**—The Secretary may accept on behalf of the United States gifts made conditionally or unconditionally, by will or other method, for the benefit of the Library or to carry out its functions. The Board of Regents shall make recommendations to the Secretary relating to the establishment within the Library of suitable memorials to donors.

(b) **ACCEPTANCE AND USE OF CONDITIONAL GIFTS.**—(1) The Secretary may not accept a gift under subsection (a) that is conditioned on the expenditure of Federal funds unless such expenditure has been approved by Act of Congress.

(2) The principal of, and income from, a conditional gift accepted under subsection (a) shall be held, invested, reinvested, and used in accordance with its conditions.

(3) The Board may recommend to the Secretary the acceptance under subsection (a) of conditional gifts for study, investigation, or research respecting the purpose for which the Library is established.

(c) **USE OF UNCONDITIONAL GIFTS OF MONEY.**—(1) The Secretary shall deposit in the Treasury of the United States—

(A) any unconditional gift of money accepted under subsection (a);

(B) the net proceeds from the liquidation under subsection (d) or (e) of any other property so accepted; and

(C) the proceeds of insurance on any such gift property not used for its restoration.

(2) The funds so deposited shall be held in trust by the Secretary of the Treasury for the benefit of the Library.

(3) The Secretary of the Treasury may invest and reinvest such funds in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States.

(4) Such gifts and the income from such investments shall be available for expenditure in the operation of the Library and the performance of its functions, subject to the same examination and audit as is provided for appropriations made for the Library by Congress.

(d) **USE OF UNCONDITIONAL GIFTS OF INTANGIBLE PROPERTY.**—(1) The evidences of any unconditional gift of intangible personal property, other than money, accepted under subsection (a) shall be deposited with the Secretary of the Treasury, who may hold them or liquidate them, except that such evidences shall be liquidated upon the request of the Secretary of Agriculture, whenever necessary to meet payments required in the operation of the Library or the performance of its functions.

(2) The proceeds and income from any such property held by the Secretary of the Treasury shall be available for expenditure as is provided in subsection (c).

(e) **USE OF UNCONDITIONAL GIFTS OF REAL AND TANGIBLE PROPERTY.**—(1) The Secretary may hold and insure any real property or any tangible personal property accepted unconditionally under subsection (a) and may permit such property to be used for the operation of the Library and the performance of its functions. In the alternative, the Secretary may lease such property for the benefit of the Library.

(2) The Secretary shall deposit any income derived from the lease of such property with the Secretary of the Treasury to be available for expenditure as provided in subsection (c), except that—

(A) the income from any such real property or tangible personal property shall be available for expenditure in the discretion of the Secretary for the maintenance, preservation, or repair and insurance of such property; and

(B) any proceeds from insurance may be used to restore the property insured.

(3) Any such property when not required for the operation of the Library or the performance of its functions may be liquidated by the Secretary.

SEC. 1337. BOARD OF REGENTS.

(a) **ESTABLISHMENT AND MEMBERSHIP.**—(1) The Secretary shall establish a Board of Regents of the National Agricultural Library for the purpose of advising, consulting with, and making recommendations to the Secretary on matters of policy in regard to the library.

(2) The Board shall consist of *ex officio* members and 9 members appointed by the Secretary.

(b) **EX OFFICIO MEMBERS.**—The *ex officio* members of the Board shall consist of the following (or their designees):

(1) The Assistant Secretary of Agriculture for Science and Education.

(2) The Assistant Director for Biological, Behavioral, and Social Sciences of the National Science Foundation.

(3) The Director of the National Library of Medicine.

(4) The Librarian of Congress.

(c) **APPOINTMENT OF OTHER MEMBERS.**—The members of the Board who are not *ex officio* members shall be appointed by the Secretary as follows:

(1) Five members shall be selected from among leaders in fields of the agricultural sciences.

(2) Four members shall be selected from among leaders in the various fields of the fundamental sciences, communication and information sciences, education, or public affairs.

(d) **CHAIR; EXECUTIVE SECRETARY.**—(1) The Board shall annually elect one of the members appointed under subsection (c) to serve as chair at the pleasure of the Board.

(2) The Secretary shall designate a member of the Library staff to act as executive secretary of the Board.

(e) **DUTIES.**—(1) To carry out the purpose for which the Board is established, the Board shall provide recommendations to the Secretary regarding such matters as—

(A) the acquisition of materials for the Library;

(B) the scope, content, and organization of the services of the Library; and

(C) the rules under which its materials, publications, facilities, and services are made available to various kinds of users.

(2) The Secretary shall include in the annual report of the Department of Agriculture a statement covering the recommendations made by the Board and any action taken by the Secretary regarding such recommendations.

(f) **SERVICES OF MEMBERS.**—The Secretary may use the services of any member of the Board in connection with matters related to the work of the Library, for such periods, in addition to conference periods, as the Secretary may determine to be appropriate.

(g) **TERM OF OFFICE.**—(1) Each member appointed under subsection (c) shall hold office for a term of 4 years, except that any member appointed to fill a vacancy occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(2) A member who is appointed under subsection (c) may not be reappointed to the Board before 1 year after the date of the expiration of the term of such member.

(h) **APPLICATION OF ADVISORY COMMITTEE ACT.**—Section 14(a) of the Federal Advisory Committee Act (5 U.S.C. App.) relating to the termination of an advisory committee shall not apply to the Board established under this section.

SEC. 1338. DEFINITIONS AND AUTHORIZATION OF APPROPRIATIONS.

(a) **DEFINITIONS.**—For purposes of this subtitle—

(1) The term "Library" means the National Agricultural Library.

(2) The term "Board" means the Board of Regents of the National Agricultural Library.

(3) The term "Secretary" means the Secretary of Agriculture.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated amounts sufficient for the erection and equipment of suitable and adequate buildings and facilities for the use of the Library, except that—

(A) the cost of planning any one facility shall not exceed \$500,000; and

(B) the total cost of any one facility shall not exceed \$5,000,000.

(2) There are authorized to be appropriated such other funds as may be necessary to carry out this subtitle for each of the fiscal years 1991 through 1995.

Subtitle E—National Agricultural Weather Information System

SEC. 1339. SHORT TITLE, FINDINGS, AND PURPOSES.

(a) **SHORT TITLE.**—This subtitle may be cited as the "National Agricultural Weather Information System Act of 1990".

(b) **FINDINGS.**—Congress finds that—

(1) a major cause of variability and losses in agricultural production is weather and climate factors;

(2) extreme weather conditions, such as drought, appear to be occurring more frequently, and further climate changes are likely;

(3) the Federal Government has repeatedly assumed responsibility for emergency aid to agricultural producers who suffer losses due to weather;

(4) it would be prudent and cost effective to prevent or reduce agricultural losses due to weather factors through better use of weather and climate information;

(5) current agricultural weather and climate information and its delivery to agricultural producers are not adequate; and

(6) better application of weather and climate information will help conserve water resources, allow agricultural chemicals to be applied in a more efficient fashion with less stress on the environment, and reduce energy consumption by improved management decisionmaking.

(c) **PURPOSES.**—The purposes of this subtitle are to—

(1) provide a nationally coordinated agricultural weather information system, based on the participation of universities, State programs, Federal agencies, and the private weather consulting sector, and aimed at meeting the weather and climate information needs of agricultural producers;

(2) facilitate the collection, organization, and dissemination of advisory weather and climate information relevant to agricultural producers, through the participation of the private sector and otherwise;

(3) provide for research and education on agricultural weather and climate information, aimed at improving the quality and

quantity of weather and climate information available to agricultural producers, including research on short-term forecasts of thunderstorms and on extended weather forecasting techniques and models;

(4) encourage, where feasible, greater private sector participation in providing agricultural weather and climate information, to encourage private sector participation in educating and training farmers and others in the proper utilization of agricultural weather and climate information, and to strengthen their ability to provide site-specific weather forecasting for farmers and the agricultural sector in general; and

(5) ensure that the weather and climate data bases needed by the agricultural sector are of the highest scientific accuracy and thoroughly documented, and that such data bases are easily accessible for remote computer access.

SEC. 1340. AGRICULTURAL WEATHER OFFICE.

(a) **ESTABLISHMENT OF THE OFFICE AND ADMINISTRATION OF THE SYSTEM.**—(1) The Secretary of Agriculture shall establish in the Department of Agriculture an Agricultural Weather Office to plan and administer the National Agricultural Weather Information System. The system shall be comprised of the office established under this section and the activities of the State agricultural weather information systems described in section 1342(b)(1).

(2) The Secretary shall appoint a Director to manage the activities of the Agricultural Weather Office and to advise the Secretary on scientific and programmatic coordination for climate, weather, and remote sensing.

(b) **AUTHORITY.**—The Secretary, acting through the Office, may undertake the following activities to carry out this subtitle:

(1) Enter into cooperative projects with the National Weather Service to—

(A) support operational weather forecasting and observation useful in agriculture;

(B) sponsor joint workshops to train agriculturalists about the optimum utilization of agricultural weather and climate data;

(C) jointly develop improved computer models and computing capacity; and

(D) enhance the quality and availability of weather and climate information needed by agriculturalists.

(2) Obtain standardized weather observation data collected in near real time through State agricultural weather information systems.

(3) Make, through the Cooperative State Research Service, competitive grants under subsection (c) for research in atmospheric sciences and climatology.

(4) Make grants to eligible States under section 1342 to plan and administer State agricultural weather information systems.

(5) Coordinate the activities of the Office with the weather and climate research activities of the Cooperative State Research Service, the National Academy of Sciences, the National Science Foundation Atmospheric Services Program, and the National Climate Program.

(6) Encourage private sector participation in the National Agricultural Weather Information System through mutually beneficial cooperation with the private sector, particularly in generating weather and climatic data useful for site-specific agricultural weather forecasting.

(7) Represent the Department of Agriculture on agrometeorology and climate matters with the World Meteorological Organization, the Intergovernmental Program on

Climate Change, and relevant science and technology agreements.

(c) **COMPETITIVE GRANTS PROGRAM.**—(1) With funds allocated to carry out this subsection, the Secretary of Agriculture may make grants to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations and corporations, and individuals to carry out research in all aspects of atmospheric sciences and climatology that can be shown to be important in both a basic and developmental way to understanding, forecasting, and delivering agricultural weather information.

(2) Grants made under this subsection shall be made on a competitive basis.

(d) **PRIORITY.**—In selecting among applications for grants under subsection (c), the Secretary shall give priority to proposals which emphasize—

(1) techniques and processes that relate to weather-induced agricultural losses, and to improving the advisory information on weather extremes such as drought, floods, freezes, and storms well in advance of their actual occurrence;

(2) the improvement of site-specific weather data collection and forecasting; or

(3) the impact of weather on economic and environmental costs in agricultural production.

SEC. 1341. NATIONAL ADVISORY BOARD ON AGRICULTURAL WEATHER.

(a) **ESTABLISHMENT.**—The Secretary of Agriculture shall establish the Advisory Board on Agricultural Weather (hereafter referred to in this section as the "Board") to advise the Director of the Agricultural Weather Office with respect to carrying out this Act.

(b) **COMPOSITION.**—The Board shall be composed of nine members, appointed by the Secretary in consultation with the Director of the National Weather Service. Two of the members shall be from each of the four cooperative extension service regions. Of the two members from each region, one shall be an agricultural producer and one shall be an agricultural or atmospheric scientist. At least two members of the Board shall be appointed from among individuals who are engaged in providing private meteorology services or consulting with a private meteorology firm.

(c) **CHAIRPERSON.**—The Board shall elect a chairperson from among its members.

(d) **TERM.**—Each Board member shall be appointed for a three-year term, except that to ensure that members of the Board serve staggered terms, the Secretary shall appoint three of the original members of the Board to appointments for one year, and three of the original members to appointments for two years.

(e) **MEETINGS.**—The Board shall meet not less than twice annually.

(f) **COMPENSATION.**—Members of the Board shall serve without compensation, but while away from their homes or regular places of business in the performance of services for the board, members of the board shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as individuals employed in government service are allowed travel expenses under section 5703 of title 5, United States Code.

(g) **FEDERAL ADVISORY COMMITTEE ACT.**—Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Board.

SEC. 1342. STATE AGRICULTURAL WEATHER INFORMATION SYSTEMS.

(a) **GRANTS REQUIRED.**—(1) With funds allocated to carry out this section, the Secretary of Agriculture shall make grants to not fewer than 10 eligible States to plan and administer, in cooperation with persons described in paragraph (2), advisory programs for State agricultural weather information systems.

(2) The persons referred to in paragraph (1) are the Director of the Agricultural Weather Office, the Administrator of the Extension Service, the Administrator of the Cooperative State Research Service, and other persons as appropriate (such as the directors of the appropriate State agricultural experiment stations and State extension programs).

(3) For purposes of selecting among applications submitted by States for grants under this section, the Secretary shall take into consideration the recommendation of the Advisory Board on Agricultural Weather and consult with the Director.

(b) **ELIGIBILITY REQUIREMENTS.**—To be eligible to receive a grant under this section, the chief executive officer of a State shall submit to the Secretary an application that contains—

(1) assurances that the State will expend such grant to plan and administer a State agricultural weather system that will—

(A) collect observational weather data throughout the State and provide such data to the National Weather Service and the Agricultural Weather Office;

(B) develop methods for packaging information received from the national system for use by agricultural producers (with State extension services and the private sector to serve as the primary conduit of agricultural weather forecasts and climatic information to producers); and

(C) develop programs to educate agricultural producers on how to best use weather and climate information to improve management decisions; and

(2) such other assurances and information as the Secretary may require by rule.

SEC. 1343. FUNDING.

(a) **ALLOCATION OF FUNDS.**—(1) Not less than 15 percent and not more than 25 percent of the funds appropriated for a fiscal year to carry out this subtitle shall be used for cooperative work with the National Weather Service entered into under section 1340(b)(1).

(2) Not less than 15 percent and not more than 25 percent of such funds shall be used by the Cooperative State Research Service for a competitive grants program under section 1340(c).

(3) Not less than 25 percent and not more than 35 percent of such funds shall be divided equally between the participating States selected for that fiscal year under section 1342.

(4) The remaining funds shall be allocated for use by the Agricultural Weather Office and the Extension Service in carrying out generally the provisions of this subtitle.

(b) **LIMITATIONS ON USE OF FUNDS.**—Funds provided under the authority of this subtitle shall not be used for the construction of facilities. Each State or agency receiving funds shall not use more than 30 percent of such funds for equipment purchases. Any use of the funds in facilitating the distribution of agricultural and climate information to producers shall be done with consideration for the role that the private meteorological sector can play in such information delivery.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$5,000,000 to carry out this subtitle for each of the fiscal years 1991 through 1995.

Subtitle F—Plant and Animal Pest and Disease Control Program

SEC. 1344. FINDINGS AND DEFINITIONS.

(a) **FINDINGS.**—Congress finds the following:

(1) Integrated pest management treats pests as part of a crop production system that includes not only the crop and its pests, but also the physical and biological environment in which the crop is grown.

(2) The environment with respect to pest management is ever changing.

(3) A need continues to exist to coordinate and more fully develop pest control management systems to achieve economical and long-lasting solutions to pest problems.

(4) An urgent need exists to enhance, expand, and better coordinate existing Federal, State, and private research (including research by private industry) regarding integrated pest management.

(5) An expansion of research regarding integrated pest management should enhance—

(A) pest identification;

(B) field monitoring techniques;

(C) action guidelines;

(D) effective prevention and control, including the use of appropriate pesticides when needed; and

(E) available biological controls and methodology and the curtailment of inappropriate techniques.

(6) Integrated pest management is a flexible, evolving strategy that must be updated periodically so as to maximize economical solutions and minimize hazards to human health and the environment.

(b) **DEFINITIONS.**—For purposes of this subtitle:

(1) The term "integrated pest management" means a pest or disease population management system that uses all suitable techniques, such as biological and cultural controls as well as pesticides, in a total production system to anticipate and prevent pests and diseases from reaching economically damaging levels.

(2) The term "pesticide" shall have the same meaning as given that term in section 2(u) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136(u)).

SEC. 1345. ESTABLISHMENT OF OFFICE.

(a) **ESTABLISHMENT.**—(1) The Secretary of Agriculture, acting through the Assistant Secretary for Science and Education, shall establish an office in the Department of Agriculture to be known as the "Office of Integrated Pest Management".

(2) The Office of Integrated Pest Management shall be established not later than 180 days after the date of enactment of this Act.

(b) **CHIEF OF OFFICE.**—The Secretary of Agriculture may appoint a chief of the Office of Integrated Pest Management whose duties shall be to—

(1) investigate and report on the status of integrated pest management; and

(2) recommend new research and extension strategies regarding integrated pest management.

(c) **ADVISORY COMMITTEE.**—(1) The Secretary of Agriculture shall establish a 7-person technical committee to advise the Secretary and the chief of the Office of Integrated Pest Management regarding the development of new integrated pest management research strategies, including research of the type referred to in section 1344(a)(5).

(2) The members of the advisory committee shall be appointed by the Secretary from—

(A) among scientists with appropriate training and experience in the area of integrated pest management; and

(B) among individuals who are actively performing research for Federal or State agencies or for private industries, institutions, or organizations, in a variety of disciplines.

(3) Members of the advisory committee shall be appointed for a 3-year term, except that to ensure that members serve staggered terms, the Secretary shall appoint initial members for 1-, 2-, and 3-year terms.

(4) Members of the technical committee shall serve without compensation, except that while away from their homes or regular places of business in the performance of services for the committee, members of the committee shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as individuals employed in government service are allowed travel expenses under section 5703 of title 5, United States Code.

(d) GIFTS.—The Secretary of Agriculture may accept on behalf of the Office of Integrated Pest Management contributions of money and services from persons, groups, and entities within the United States.

(e) PILOT PROGRAMS.—The Secretary of Agriculture shall cooperate in or initiate pilot programs with respect to integrated pest management strategies.

(f) REPORT.—The Secretary of Agriculture shall submit to the Congress not later than January 15, 1995, a report reviewing existing research and extension activities involving integrated pest management. Such report shall contain recommendations regarding the continuation, modification, or elimination of the Office of Integrated Pest Management.

SEC. 1346. PLANT AND ANIMAL PEST AND DISEASE CONTROL PROGRAM.

(a) PROGRAM REQUIRED.—(1) The Secretary shall undertake or assist in the conduct of research regarding integrated pest management, including research by grant or contract with Federal or State agencies or private industries, institutions, or organizations, as may be necessary to carry out this subtitle. Such research shall include integrated pest management research to benefit the producers of cut roses and other fresh cut flowers.

(2) Implementation of integrated pest management strategies shall be conducted through the Extension Service.

(b) EFFECT ON OTHER LAWS.—Nothing in this Act shall be construed as limiting or repealing the authority of the Administrator of the Environmental Protection Agency to conduct research regarding integrated pest management under section 20(a) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136r(a)).

SEC. 1347. PEST AND DISEASE CONTROL DATA BASE AND PESTICIDE RESISTANCE MONITORING.

(a) DATA BASE REQUIRED.—The Secretary of Agriculture shall establish and maintain a data base on available materials and methods of pest and disease control available to agricultural producers. The data base required by this subsection shall include a listing (by crop, animal, and pest or disease) of information—

(1) on currently available materials or methods of chemical, biological, cultural, or other means of controlling plant and animal pests and diseases; and

(2) on the extent of pest or disease resistance developed under the monitoring required by subsection (d).

(b) PRIORITIES FOR RESEARCH AND EXTENSION ACTIVITIES.—When the information in the data base established under subsection (a) indicates a shortage of available pest or disease control materials or methods to protect a particular crop or animal, the Secretary of Agriculture shall set priorities designed to overcome this shortage in its pest and disease control research and extension programs conducted under this subtitle.

(c) DISSEMINATION OF INFORMATION IN THE DATA BASE.—The Secretary of Agriculture shall—

(1) make the information contained in the data base established under subsection (a) available through the National Agricultural Library; and

(2) provide such information on an annual basis to the Administrator of the Environmental Protection Agency in support of the activities of that Agency under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

(d) PESTICIDE RESISTANCE MONITORING.—The Secretary of Agriculture shall establish a national pesticide resistance monitoring program in accordance with the report developed by the Secretary under section 1437 of the Food Security Act of 1985 (Public Law 99-198; 99 Stat. 1558).

SEC. 1348. RESEARCH ON EXOTIC PESTS.

(a) PURPOSE.—The purpose of this section is to expand the research capacity of the Department of Agriculture and State cooperative institutions in the control and eradication of exotic pests.

(b) RESEARCH PROGRAM.—The Secretary of Agriculture shall expand ongoing research and grant programs designed to control infestations of exotic pests. Expanded research and grant programs shall include—

(1) improvement of existing methods of pest control, including sterile insect release, and development of safer pesticides, including pheromones; and

(2) expansion of research capacity to develop new methods of pest control, including containment of pests for research purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the program authorized by this section.

SEC. 1349. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subtitle (other than section 1348) \$55,000,000 for each of the fiscal years 1991 through 1995. Not less than \$30,000,000 of the amounts appropriated to carry out this subtitle (other than section 1348) for a fiscal year shall be available to the Extension Service for implementation research under section 1346(a)(2).

Subtitle G—Research Regarding the Production, Preparation, Processing, Handling, and Storage of Agricultural Products

SEC. 1351. FINDINGS, PURPOSE, AND DEFINITION.

(a) FINDINGS.—Congress finds that—

(1) the wholesomeness of agricultural products is important to the welfare of the people of the United States;

(2) it is appropriate to periodically examine agricultural production and preparation, processing, handling, and storage systems for agricultural products, especially with respect to harmful microbiological and chemical agents that seriously undermine product wholesomeness and fitness; and

(3) additional research into the wholesomeness of agricultural products should be conducted to identify needed improvements

in production, preparation, processing, handling and storage of agricultural products.

(b) PURPOSE.—The purpose of this subtitle is to authorize agricultural products research, and not to implement any changes to current production, preparation, processing, handling and storage methods and procedures for agricultural products.

(c) EFFECT ON OTHER PROGRAMS.—Nothing in this subtitle shall be construed or interpreted to limit or otherwise affect the research programs of any agency or department of the Federal Government currently conducted or to be conducted under any other statutory authority.

(d) AGRICULTURAL PRODUCT DEFINED.—The term "agricultural product" means the product of an agricultural commodity produced in the United States from a plant or animal or silvicultural activities, or an aquacultural species, including those raised and propagated in a controlled environment.

SEC. 1352. RESEARCH AND GRANT PROGRAM.

(a) RESEARCH PROGRAM.—The Secretary of Agriculture shall establish a research program to—

(1) establish a statistical framework to measure microbiological and chemical agents in or affecting agricultural products that seriously undermine product wholesomeness and fitness;

(2) identify any microbiological or chemical agent under the statistical framework established under paragraph (1); and

(3) identify the means to avoid microbiological and chemical agents in or affecting agricultural products or to control or reduce such agents, including—

(A) developing techniques for the rapid detection and identification of such microbiological and chemical agents;

(B) analyzing the production, preparation, processing, handling, storage, and distribution of agricultural products, to determine those points at which intervention could occur to control microbiological or chemical agents in or affecting an agricultural product; and

(C) research to develop or enhance existing techniques to control microbiological or chemical agents in or affecting an agricultural product, including food irradiation research.

(b) COMPETITIVE GRANT PROGRAM.—The Secretary of Agriculture may make competitive grants, after consultation with the committee established under section 1353, for periods not to exceed five years, to persons and governmental entities for research to be carried out for any of the activities specified in subsection (a). The Secretary shall require the recipient of any such grant to provide matching funds for such research unless the Secretary determines that the research should be performed notwithstanding the lack of matching funds.

(c) PROHIBITED USES.—No grant may be made under subsection (b) (or expended by the recipient of such a grant) for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

(d) ELIGIBILITY REQUIREMENTS.—To be eligible to receive a grant under subsection (b), a person or governmental entity shall submit to the Secretary an application that contains—

(1) a proposal to carry out research for one or more of the activities specified in subsection (a);

(2) an assurance that such person or entity will submit to the Secretary a detailed report of the research conducted with such grant; and

(3) such other terms and conditions as the Secretary may require by rule.

SEC. 1353. ADVISORY COMMITTEE AND GRANT PROCESSES.

(a) **ADVISORY COMMITTEE.**—The Secretary of Agriculture shall establish a committee to set research priorities for, and evaluate, proposed research projects for which grants under section 1352(b) are requested.

(b) **MEMBERSHIP.**—The committee shall be comprised of nine members as follows:

(A) The Secretary or the designee of the Secretary ex officio.

(B) Two members appointed by the Secretary from among scientists who are employed by colleges, universities, or State agricultural experiment stations and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, pathology, or any other appropriate scientific discipline.

(C) Two members appointed by the Secretary from among scientists or public health professionals who are employed by private research organizations or other entities involved in food research and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, pathology, or any other appropriate scientific discipline.

(D) Four members appointed by the Secretary from among individuals who are employees of the Federal Government and who are specially qualified to serve on the committee by virtue of their demonstrated, generally recognized expertise in food science, microbiology, veterinary medicine, pathology, or any other appropriate scientific discipline.

(c) **PUBLIC NOTICE.**—(1) On receipt of the committee's recommendations with respect to research priorities for grants awarded under section 1352(b), the Secretary shall publish in the Federal Register—

(A) the proposed research priorities, and
(B) a notice requesting persons and governmental entities to submit written comments on the priorities to the Secretary not later than sixty days after publication of such notice.

(2) After review of comments received under paragraph (1), the Secretary shall establish final research priorities by notice in the Federal Register.

(d) **REVIEW OF RESEARCH PROPOSALS.**—(1) On receipt of an application submitted under section 1352(b) for research, the Secretary shall refer the research proposal contained in such application to the committee established by this section for its review.

(2) To assist the committee in its deliberations, the committee shall establish peer review panels to review the scientific and technical merits of research proposals. The committee shall seek the widest participation of qualified scientists and public health professionals in such panels.

(3) The peer review panels shall report their findings and recommendations to the committee.

(4) Both the committee and the peer review panels shall consult and coordinate with other appropriate Federal advisory committees.

(5) After due consideration of the review panel comments, the committee shall recommend to the Secretary which grants should be made under this subtitle.

(e) **BASIC AND APPLIED RESEARCH.**—In reviewing research proposals received under subsection (d), the committee and the peer review panels shall identify both—

(1) proposals for basic research, and
(2) proposals for applied research, taking into consideration the practical application of the results of basic research and applied research.

(f) **REVIEW OF COMPLETED PROJECTS.**—When a research project is completed, the grant recipient shall forward the results of the project to the committee for its review. The committee shall submit the results to the Secretary along with any recommendations or suggestions of the committee.

(g) **APPLICATION OF THE FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the committee or peer review panels established under this section.

SEC. 1354. REPORTS TO CONGRESS.

(a) **REPORT ON IMPLEMENTATION.**—Not later than one year after the date of the enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on the implementation of this subtitle.

(b) **REPORTS ON RESEARCH.**—For each fiscal year in which funding is provided to carry out this subtitle, the Secretary shall report on the findings of the research for which grants were made during such fiscal year under this subtitle and include in such report any recommendations for implementation of the findings to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1355. AUTHORIZATION OF APPROPRIATIONS.

(a) **AUTHORIZATION.**—There are authorized to be appropriated for each of the fiscal years 1991 through 1995 such sums as may be necessary to carry out this subtitle to be available until expended without fiscal year limitation.

(b) **ADMINISTRATIVE EXPENSES.**—Not more than four percent of the amount appropriated for a fiscal year under subsection (a) may be expended by the Secretary of Agriculture for administrative costs incurred by the Secretary to carry out this subtitle.

Subtitle H—National Institute for Alternative Agricultural Products

SEC. 1356. SHORT TITLE, PURPOSES, AND DEFINITIONS.

(a) **SHORT TITLE.**—This subtitle may be cited as the "Alternative Agricultural Products Act of 1990".

(b) **PURPOSE.**—Through the encouragement of and the provision of assistance to agricultural research and development, it is the purpose of this subtitle to—

(1) substantially increase commercial use of agricultural commodities produced in the United States, through cooperative public and private development of environmentally sound, healthful, and safe new uses, applications, technologies, processes, and products of such commodities;

(2) mobilize private sector initiatives to improve the competitiveness of United States agricultural producers and processors in both domestic and export markets through accelerated development, application, and transfer of advanced technology related to new uses, processes, and products of agricultural commodities;

(3) foster economic development in rural areas of the United States through the introduction of new products obtained from agricultural commodities;

(4) establish markets for new nonfood, nonfeed uses of traditional and new agricultural commodities resulting from coopera-

tive research and development in order to create jobs, enhance the economic development of the rural economy, and diversify markets for raw agricultural commodities;

(5) encourage cooperative development and marketing efforts among manufacturers, investors, universities, and private and government laboratories in order to accelerate the commercialization of new industrial uses for agricultural commodities; and

(6) direct, to the maximum extent possible, commercialization efforts toward the development of new products from raw agricultural commodities that can be raised by family farmers.

(c) **DEFINITIONS.**—For purposes of this subtitle:

(1) The term "agricultural commodity" means a plant or animal species propagated or raised in a controlled environment, or the products derived from that species.

(2) The term "alternative agricultural product" means a new use, application, or material that—

(A) is derived from an agricultural commodity; and

(B) is not in widespread commercial use and is not expected to significantly displace a use, application, or material derived from an agricultural commodity that already is in widespread commercial use.

(3) The term "commercialization" or "commercialize" includes—

(A) activities associated with the development of prototype products or industrial plants;

(B) the application of technology and techniques to the development of industrial products; and

(C) the market development of new industrial uses of new and traditional agricultural commodities and processes, that will lead to the creation of goods and services that may be marketed for profit.

(4) The term "Institute" means the National Institute for Alternative Agricultural Products.

(5) The term "Secretary" means the Secretary of Agriculture.

(6) The term "Director" means the Director of the Institute.

(7) The term "Board" means the National Alternative Agricultural Products Board.

(8) The term "Regional Center" means a Regional Center established by the Board under section 1362.

(9) The term "Fund" means the Alternative Agricultural Products Technology Revolving Fund.

SEC. 1357. NATIONAL INSTITUTE FOR ALTERNATIVE AGRICULTURAL PRODUCTS.

(a) **ESTABLISHMENT OF THE INSTITUTE.**—The Secretary of Agriculture shall establish a National Institute for Alternative Agricultural Products to carry out the purpose of this subtitle. The Institute shall be operated as an independent entity within the Department of Agriculture under the general supervision and policy control of the National Alternative Agricultural Products Board.

(b) **FUNCTIONS OF THE INSTITUTE.**—The Institute shall have the authority to—

(1) make grants to, and enter into cooperative agreements and contracts with, eligible applicants for research, development, and demonstration projects in accordance with section 1359;

(2) make loans and interest subsidy payments and invest venture capital in accordance with section 1360;

(3) collect and disseminate information about State, regional, and local commercialization projects;

(4) search for new industrial materials that may be produced from agricultural commodities and for processes to produce such materials;

(5) administer, maintain, and dispense funds from the Alternative Agricultural Products Technology Revolving Fund to facilitate the conduct of activities under this subtitle; and

(6) engage in other activities incident to carrying out its functions.

(c) **DIRECTOR OF THE INSTITUTE.**—(1) The Institute shall be headed by a Director, who shall be appointed by the Board and approved by the Secretary of Agriculture. The Director shall receive basic pay at the rate provided for level III of the Executive Schedule under section 5314 of title 5, United States Code. The Director shall be appointed for a term of five years, subject to removal by the Board before the end of that term.

(d) **RESPONSIBILITIES OF THE DIRECTOR.**—The Director shall be responsible for the overall management of the Institute and the implementation of general policies respecting the management and operation of programs and activities of the Institute. In carrying out such responsibilities on behalf of the Institute, the Director (subject to the supervision of the Board)—

(1) shall provide for appropriate peer review of—

(A) applications for grants, contracts, and cooperative agreements submitted under section 1359 and applications for financial assistance submitted under section 1360;

(B) the conduct of research for which assistance is provided by the Institute; and

(C) research findings or reports resulting from grants, contracts, and cooperative agreements administered by the Institute as the Board determines necessary;

(2) shall require, where appropriate, licensing and patent agreements, copyright fees, royalties, or other fee arrangements on the sales of products, new uses, applications technologies, or processes developed through assistance provided through a grant made, contract or cooperative agreement entered into, or other assistance provided, under this subtitle; and

(3) shall take appropriate action to ensure that all channels for the dissemination and exchange of agricultural products and processes research are maintained between the Institute and other agricultural, scientific, and business entities.

SEC. 1358. NATIONAL ALTERNATIVE AGRICULTURAL PRODUCTS BOARD.

(a) **ESTABLISHMENT OF BOARD.**—The Secretary shall establish the National Alternative Agricultural Products Board, which shall consist of ex officio nonvoting members and 12 voting members.

(b) **MEMBERS.**—(1) The Secretary may appoint as ex officio nonvoting members of the Board such officers or employees of the United States as the Secretary determines to be necessary to assist the Board to effectively carry out its functions.

(2) The voting members of the Board shall be appointed by the Secretary as follows:

(A) Three members who are appointed from among the leading representatives of the scientific disciplines relevant to the activities of the Institute.

(B) Three members who are producers or processors of agricultural commodities.

(C) Three members who are privately engaged in the commercialization of new products from agricultural commodities.

(D) Three members who are representatives of private industries that have a history of successful commercialization of new products.

(c) **RESPONSIBILITIES.**—The Board shall—

(1) be responsible for the general supervision and policy control of the Institute and Regional Centers;

(2) determine (in consultation with the advisory council appointed under section 1360) high priority commercialization areas to receive assistance under that section;

(3) review any grant, contract, or cooperative agreement to be made by the Institute under section 1359 and any financial assistance to be provided under section 1360;

(4) make the final decision, by majority vote, on whether and how to provide assistance to the applicant;

(5) establish program policy, objectives, research and development, and commercialization priorities to implement this subtitle, through a process of public hearings to be initiated as soon as practicable after the establishment of the Board; and

(6) using the results of such hearings and other information and data collected under paragraph (4), develop and establish a budget plan and a long-term operating plan to implement this subtitle.

(d) **TERM; VACANCIES.**—The term of office of a voting member of the Board shall be four years, except that six members shall be initially appointed for a two-year term and any member appointed to fill a vacancy for an unexpired term shall be appointed only for the remainder of such term. A vacancy on the Board shall be filled in the same manner as the original appointment.

(e) **CHAIR.**—The voting members of the Board shall select a chair from among the voting members. The term of office of the chair shall be two years.

(f) **MEETINGS.**—The Board shall meet at the call of the chair or at the request of the Director, but at least three times each fiscal year. The location of the meetings of the Board shall be subject to the approval of the Director. A quorum of the Board shall consist of a majority of the voting members of the Board.

(g) **COMMITTEES.**—The Board may establish one or more temporary committees with scientific, technical, or other expertise, whose duties shall be to provide information, analysis, and recommendations, at the request and direction of the Board, on scientific, technological, policy, and other matters, as determined necessary by the Board. The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to such temporary committees.

(h) **COMPENSATION.**—Members of the Board who are officers or employees of the United States shall not receive any additional compensation by reason of service on the Board. Members of the Board appointed under subsection (b)(2) shall receive, for each day (including travel time) they are engaged in the performance of the functions of the Board, compensation at a rate not to exceed the daily equivalent of the annual rate in effect for grade GS0918 of the General Schedule. All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(i) **RESTRICTIONS.**—(1) Except as provided in paragraph (3), no member of the Board shall vote on any matter respecting any application, contract, claim, or other particular matter pending before the Institute, in which, to the knowledge of the member, such member, spouse or minor child of such member, partner or organization (other than the Corporation) in which such member is serving as officer, director, trustee, partner, or employee, or any person or or-

ganization with whom such member is negotiating or has any arrangement concerning prospective employment, has a financial interest.

(2) Action by a member of the Corporate Board that is contrary to the prohibition contained in paragraph (1) shall be cause for removal of such member, but shall not impair or otherwise affect the validity of any otherwise lawful action by the Institute in which the member or officer participated.

(3) The prohibitions contained in paragraph (1) shall not apply if a member of the Board advises the Board of the nature of the particular matter in which such member proposes to participate in, and if such member makes a full disclosure of such financial interest, prior to any participation, and the Board determines, by majority vote, that the financial interest is too remote or too inconsequential to affect the integrity of such member's services to the Institute in that matter. The member involved shall not participate in such determination.

(4) Any final decision made under subparagraph (3) may be vetoed by the Secretary, and the Secretary shall inform the Board of the reasons for such veto.

SEC. 1359. RESEARCH AND DEVELOPMENT GRANTS, CONTRACTS, AND AGREEMENTS.

(a) **ELIGIBILITY.**—All public and private educational institutions, other public and private research institutions and organizations, Federal agencies, and individuals shall be eligible to receive a grant from, or enter into a contract or cooperative agreement with, the Institute for a research, development, or demonstration project, as provided in this section.

(b) **COMPETITIVE BASIS FOR AWARDS.**—Grants made, and contracts and cooperative agreements entered into, under this section shall be selected on a competitive basis on the recommendation of a peer review system to be established by the Institute. Such system shall contain peer review expertise in commercial production, product development, processing, and marketing of agricultural commodities as well as in scientific research.

(c) **SELECTION CRITERIA.**—The Institute shall select a research, development, or demonstration project to receive a grant, contract, or cooperative agreement under this section, based on the likelihood that the project will result in creating or improving economically viable commercial products, applications, processes, or technologies that involve the use of raw or processed agricultural commodities. The criteria to be considered shall include the following:

(1) The potential of the project to develop technologies that use or modify existing agricultural commodities to provide an economically viable quantity of new products.

(2) The potential of the project to develop new processes that may significantly increase the use of agricultural commodities.

(3) The potential marketability of the new product, the time period needed to market the new product, and the availability of the raw or processed agricultural commodity used in production.

(4) The potential that a project's selection could have on reducing the costs of Federal agricultural assistance programs.

(5) The unavailability of adequate funding from other sources to develop new commercial products or processes from the agricultural commodity proposed to be used in the project.

(6) The positive effect that the new product involved in the project may have on re-

source conservation, public health and safety, and the environment.

(7) The ability to produce the alternative agricultural product in or near the area where the agricultural commodity is produced.

(d) **SET-ASIDE OF FUNDS FOR CERTAIN PROJECTS.**—(1) Not less than two-thirds of the funds obligated each fiscal year for grants, contracts, and cooperative agreements under this section shall be awarded only for research, development, and demonstration projects for which the applicant—

(A) has committed substantial funding and support from its own resources; and

(B) has also entered into a cooperative agreement or other contractual arrangement with a commercial company domiciled in the United States that commits such company to—

(i) provide funds for at least 20 percent of the total cost of such project; and

(ii) engage in commercial production and sale of the marketable products, processes, uses, applications, or technologies developed through the project, under appropriate licensing, royalty, or other agreements.

(2) Not less than five percent of the funds obligated each fiscal year for grants, contracts, and cooperative agreements under this section shall be awarded only for projects submitted by the 1890 land-grant institutions, eligible to receive funds under the Act of August 30, 1890 (7 U.S.C. 321 et seq.) including Tuskegee University.

(e) **LIMITATION ON FUNDS PROVIDED.**—Funds committed by the Institute for any project under a grant, contract, or cooperative agreement under this section shall in no case exceed 50 percent of the total cost of the project.

(f) **MATCHING FUNDS.**—Assistance shall be provided by the Institute on a matching basis with each dollar of Institute funds to be matched by one dollar or more from funds provided by a source other than the Institute. The actual ratio shall be established by the Institute and the applicant.

SEC. 1360. COMMERCIALIZATION ASSISTANCE.

(a) **ASSISTANCE AUTHORIZED.**—The Institute, at the discretion of the Board, may provide to eligible entities for projects commercializing new, nonfood, nonfeed products using agricultural commodities, financial assistance in the form of—

(1) loans made or insured by the Institute;

(2) interest subsidy payments made by the Institute (pursuant to an agreement between the Institute, the lender, and the borrower) to the lender in amounts determined pursuant to the agreement;

(3) venture capital invested by the Institute in the form of a convertible debenture; and

(4) repayable grants that are matched by private or local public funds and that are repaid as agreed in a contract between the Institute and the entity.

(b) **ADVISORY COUNCIL.**—The Board shall appoint an Advisory Council to advise the Director and Board concerning all applications for assistance submitted under this section. The Advisory Council shall—

(1) review (or coordinate the review of) the technical, engineering, financial, and managerial soundness and marketing potential of the applications;

(2) by majority vote, make a nonbinding recommendation on each application submitted under this section;

(3) monitor the progress of ongoing projects and provide technical and business counseling as needed;

(4) monitor the operation of the Regional Centers; and

(5) provide technical and business counseling to entities that are not seeking financial assistance from the Corporation, but which are engaged in commercializing nonfood, nonfeed uses of agricultural commodities.

(c) **APPLICATION REQUIREMENTS.**—(1) To obtain financial assistance from the Institute under this section, an eligible entity shall file an application with the Director.

(2) An application submitted to the Director under paragraph (1) shall—

(A) describe the proposal of the entity for the commercialization of a new product consistent with this section, including documentation that such proposal is—

(i) scientifically sound;

(ii) technologically feasible; and

(iii) marketable;

(B) provide documentation that adequate private sector funding is not available, but that the applicant has the ability to obtain matching funds from the public or private sectors;

(C) provide documentation that the applicant has invested in the project a significant amount of the applicant's own resources, including time and money;

(D) provide documentation that the product or process has broad application and has the potential to be commercially viable without continual assistance;

(E) provide documentation that the proposal has broad participation by representatives of the public sector, the financial community, the private business community, State and local governments, educational institutions, the farm community, the science and engineering communities;

(F) provide documentation that an established relationship exists between the applicant and other entities to give the applicant access to private business assistance;

(G) provide assurances of legal compliance by the applicant with the terms and conditions of the receipt of assistance under this section; and

(H) provide assurances that the project will result in the creation of new jobs in rural communities.

(d) **PRIORITIES.**—The Board shall give priority to—

(A) applications that shall create jobs in economically distressed rural areas;

(B) applications that have State or local government financial participation; and

(C) applications that have private financial participation.

(e) **ELIGIBLE ENTITY DEFINED.**—For purposes of this section, the term "eligible entity" includes—

(1) a university or other educational institution;

(2) a nonprofit organization; or

(3) a business concern.

SEC. 1361. GENERAL RULES REGARDING THE PROVISION OF ASSISTANCE.

(a) **NOTICE OF RECEIPT OF APPLICATIONS.**—Not later than 30 days before the start of each period established by the Board for receipt of applications for financial assistance under section 1359 or 1360, the Board shall publish in the Federal Register a notice that it will receive such applications.

(b) **MONITORING.**—(1) The Board shall monitor the progress of projects that receive financial assistance under this subtitle.

(2) Such monitoring may include on-site reviews by representatives of the Board, the requirement of written reports by recipients of assistance, and supportive business and technical counseling as needed by the recipient. The Board may use the Advisory Council appointed under section 1360 to assist in such monitoring.

(c) **AUDITING AND ACCOUNTABILITY.**—(1) The Board shall establish a thorough and effective system of auditing and accountability to ensure that funds paid under section 1359 or 1360 are used by recipients only for the purposes for which those funds are provided by the Institute.

(2) The Board may require that recipients of assistance demonstrate that the use of financial assistance is in compliance with the agreement by which that assistance is provided.

(d) **INFORMATION EXEMPT FROM DISCLOSURE.**—With respect to research, development, or demonstration projects carried out with the participation of private research institutions or commercial companies, information received by the Institute incident thereto shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not be made available publicly except in a judicial or administrative proceeding in which such information is subject to protective order.

(e) **OVERHEAD AND ADMINISTRATIVE COSTS.**—The Board shall require that applications or responses to requests for proposals issued by the Institute for grants, contracts, or cooperative agreements include detailed estimates of project overhead and administrative costs. In selecting such applications or proposals for awards, the Institute shall give preference to those with the lowest effective costs.

(f) **TIME LIMITATION.**—No grant may be awarded, or contract or cooperative agreement entered into, for a period in excess of three years.

(g) **PROHIBITION ON CERTAIN USES OF ASSISTANCE.**—No grant may be awarded, or contract or cooperative agreement entered into, for the planning, repair, rehabilitation, acquisition, or construction of a building or a facility.

(h) **REPORTS.**—(1) As soon as practicable after the end of each fiscal year, the Board shall prepare and submit to the Secretary a report on the activities, progress, and accomplishments of the Institute during such fiscal year. The report shall include—

(A) a description of the progress, activities, and accomplishments of the Institute during that fiscal year and the expenditures by the Institute for its information and other service activities; and

(B) a copy of the operating plan prepared by the Board under section 1358(c)(5).

(2) The Secretary shall transmit each report received under paragraph (1) to the President and Congress not later than 30 days after the day on which the Secretary receives the report.

SEC. 1362. REGIONAL CENTERS.

(a) **ESTABLISHMENT REQUIRED.**—(1) Except as provided in paragraph (2), the Board shall establish not less than two nor more than five Regional Centers to carry out the activities specified in this section and such other activities as the Board shall from time to time specify.

(2) A Regional Center may not be established or operated in a fiscal year unless at least \$5,000,000 has been appropriated for that fiscal year to carry out this subtitle.

(b) **METHOD OF ESTABLISHMENT.**—(1) Each Regional Center established under this section shall be located at a host institution. The Regional Centers shall be established in different States to reflect the different regional climatic conditions and rural economic stresses in the United States.

(2) An institution that desires to be selected as a host institution for a Regional

Center shall submit an application to the Board. The Board shall determine the location of the Regional Centers based on a competitive review of the contents of such applications and shall consider the ability of the applicant to carry out the activities specified in this section.

(c) **MATCHING OF FUNDS.**—(1) Each institution submitting an application for a Regional Center under this section shall provide assurances—

(A) that adequate funds or in-kind support (including office space, equipment and staff support) shall be provided to match the amount of funds used for administrative costs that are provided by the Federal Government under this subtitle;

(B) that the institution is qualified to carry out the activities required of a Regional Center; and

(C) concerning such other matters as the Board determines to be appropriate.

(2) The matching funds required under paragraph (1) may be provided by a consortium that may include the host institution and other public or private entities existing within various regions of the United States, including State and local governments, entities created by State and local governments, charitable organizations, public and private universities and other institutions of higher education, cooperatives, and economic development organizations.

(d) **DIRECTOR.**—Each Regional Center shall be headed by a full-time Regional Director who shall—

(1) be selected by the Board; and

(2) have a scientific or engineering background or have experience in the development of new products or processes in the public or private sector.

(e) **ACTIVITIES.**—Each Regional Center shall—

(1) encourage interaction among the private and Federal laboratories, National Science Foundation centers, Department of Agriculture research programs (including the Institute), other Federal resources, State and local regional economic development programs, universities, colleges, the private sector, and the financial community, for the purpose of evaluating and commercializing new nonfood, nonfeed uses of agricultural commodities;

(2) identify broad areas where commercialization of new products and processes can contribute to economic growth in rural areas of the United States, through the development of new nonfood, nonfeed uses for agricultural commodities by private companies and businesses;

(3) provide technical assistance and related business and financial counseling for small domestic businesses to commercialize new nonfood, nonfeed uses of agricultural commodities;

(4) identify new nonfood, nonfeed products and processes that are worthy of financial assistance;

(5) make use of existing programs in scientific, engineering, technical, and management education that will support the accelerated commercialization of new nonfood, nonfeed products and processes using agricultural commodities;

(6) advise the Director on the viability of specific proposals submitted for financial assistance and on the type of assistance, if any, to be provided;

(7) coordinate their activities with the Small Business Development Centers; and

(8) coordinate their activities with the Institute.

(f) **REVIEW OF PROPOSALS FOR ASSISTANCE.**—

(1) Persons applying for assistance under

this subtitle may submit their applications to a Regional Center for review.

(2) The Directors of the Regional Centers shall work in consultation with the Advisory Council appointed under section 1360(b) to obtain peer review and evaluation of applications submitted to the Regional Centers.

(3) The Advisory Council shall review applications submitted to the Regional Centers. The Advisory Council shall, by majority vote, make a nonbinding recommendation on each proposal to the Regional Director involved.

(4) The Regional Director, after consideration of the Advisory Council's recommendation and based on the comments of the reviewers, shall make and submit a recommendation to the Board along with the recommendation of the Advisory Council.

(5) The recommendation submitted by a Regional Director is not binding on the Board.

SEC. 1363. ALTERNATIVE AGRICULTURAL PRODUCTS TECHNOLOGY REVOLVING FUND.

(a) **ESTABLISHMENT.**—There is established in the Treasury of the United States a revolving fund to be known as the Alternative Agricultural Products Technology Revolving Fund. The Fund shall be available to the Institute, without fiscal year limitation, to carry out the authorized programs and activities of the Institute under this subtitle.

(b) **CONTENTS OF FUND.**—There shall be deposited in the Fund—

(1) such amounts as may be appropriated or transferred to support the programs and activities of the Institute;

(2) payments received from any source for products, services, or property furnished in connection with the activities of the Institute;

(3) fees and royalties collected by the Institute from licensing or other arrangements relating to commercialization of products developed through projects funded in whole or part by grants, contracts, or cooperative agreements executed by the Institute;

(4) donations or contributions accepted by the Institute or the Corporation to support authorized programs and activities; and

(5) any other funds acquired by the Institute.

(c) **ACCOUNTS.**—(1) The Fund shall be organized into two separate accounts as follows:

(A) An account to cover activities of the Institute under section 1359.

(B) An account to cover activities of the Institute under section 1360.

(2) Monies deposited into the Fund shall be credited (as determined by the Board) to the account to which the monies relate.

(d) **FUNDING ALLOCATIONS.**—Funding of projects and activities under this subtitle shall be subject to the following restrictions:

(1) Of the total amount of funds made available for a fiscal year under this subtitle—

(A) not more than 5 percent may be set aside to be used for authorized administrative expenses of the Institute in carrying out its functions;

(B) not more than 5 percent may be set aside to be used for information collection and dissemination, and technology transfer programs, authorized in this subtitle; and

(C) not less than 85 percent shall be set aside to be awarded to qualified applicants who file project applications with, or respond to requests for proposals from, the Institute under sections 1359 and 1360.

(2) Any funds remaining uncommitted at the end of a fiscal year shall be credited to the Fund and added to the total program funds available to the Institute for the next fiscal year.

(e) **PROHIBITION ON CERTAIN USES OF THE FUND.**—None of the funds deposited in the Fund may be used for facilities or equipment by recipients of grants or successful bidders for contracts or cooperative agreements.

(f) **TERMINATION OF THE FUND.**—On expiration of the provisions of this subtitle, all assets (after payment of all outstanding obligations) of the Fund shall revert to the general fund of the Treasury.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Fund for each of the fiscal years 1991 through 1995 such sums as may be necessary to carry out this subtitle. Such sums shall be available without fiscal year limitation until expended.

Subtitle I—Agriculture and Water Policy Coordination

PART 1—SHORT TITLE, DEFINITIONS, WATER QUALITY POLICY, COORDINATION, RESEARCH, AND INFORMATION

SEC. 1364. SHORT TITLE, PURPOSE, DEFINITIONS, AND AUTHORIZATION OF APPROPRIATIONS.

(a) **SHORT TITLE.**—This subtitle may be cited as the "Agriculture and Water Policy Coordination Act".

(b) **PURPOSE.**—It is the purpose of this subtitle to ensure—

(1) that the Department of Agriculture develops, implements, and sustains a coordinated, integrated, and comprehensive intra-agency program to protect waters from contamination from agricultural chemicals and production and production practices; and

(2) increased efforts by the Department of Agriculture in extension, technical assistance, and research on the relations between agricultural production and the contamination of water.

(c) **DEFINITIONS.**—For purpose of this subtitle—

(1) The term "agricultural nitrogen" means nitrogen in all forms (whether man-made, chemical, or biological) which may be present or available for crop production.

(2) The term "contaminant" means any matter which, in its original form or as a metabolite, degradation, or waste product, as a constituent of water may impair the quality of water or may have a potential adverse effect on human health or the environment.

(3) The term "Department" means the United States Department of Agriculture.

(4) The term "Food and Agricultural Councils" means those councils established by the policy of the Secretary in each State and made up of the leaders of programs within each State that represent agriculture.

(5) The term "soil and water conservation committees" refers to the committees established within the respective States by State law and which include the leaders of appropriate State agencies that address soil and water conservation.

(6) The term "Secretary" means the Secretary of Agriculture.

(7) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, and federally recognized Indian tribes.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary for fiscal years 1991 through 1995 to carry out this subtitle.

SEC. 1365. WATER POLICY WITH RESPECT TO AGRICULTURAL CHEMICALS.

(a) **AUTHORITY.**—The Department of Agriculture shall be the principal Federal agency responsible and accountable for the development and delivery of educational programs, technical assistance, and research programs for the users and dealers of agricultural chemicals to insure that—

(1) the use, storage, and disposal of agricultural chemicals by users is prudent, economical, and environmentally sound; and

(2) agricultural users, dealers, and the general public understand the implications of their actions and the potential effects on water.

The Secretary is authorized to undertake such programs and assistance in cooperation with other Federal, State, and local governments and agencies, and appropriate nonprofit organizations. The Secretary shall disseminate the results of efforts in extension, technical assistance, research, and related activities. The Secretary shall undertake activities under this subtitle in coordination with the Office of Environmental Quality in section 1612 of this Act.

(b) **PARTICIPATION.**—The following agencies shall participate in the Department's water program: the Agricultural Research Service; the Agricultural Stabilization and Conservation Service; the Animal Plant Health Inspection Service; the Cooperative State Research Service in conjunction with the system of State agricultural experiment stations; the Economic Research Service; the Extension Service, in conjunction with State and county cooperative extension services; the Forest Service; the National Agricultural Library; the National Agricultural Statistics Service; the Soil Conservation Service; and other agencies within the Department deemed appropriate by the Secretary.

SEC. 1366. STATE WATER QUALITY COORDINATION PROGRAM.

(a) **ESTABLISHMENT.**—The Secretary shall require the establishment of a water quality coordination program within each State. To the greatest extent possible, the Secretary shall use the expertise of the food and agricultural councils.

(b) **MEMBERSHIP.**—Each State water quality coordination program shall involve those departmental agencies that are operating within the State that were identified in section 1365(b). For the purpose of coordination, the State water quality coordination program shall include, should they choose to participate, those State agencies with complementary water program authorities and programs. These State agency members should include the State agencies that are members of the respective State's soil and water conservation committees. The program shall also include the education program coordinator designated under section 1327(b)(2).

(c) **PROGRAM LEADER.**—The program leader of the State water quality coordination program shall be designated by the Secretary from among the Federal agency representatives in subsection (b).

(d) **PURPOSE.**—The water quality coordination program within each State shall serve as the focal point for coordinating the Department's water programs with agencies of that State. In addition to other actions, each water quality coordination program shall—

(1) serve as the focal point within the State for the coordination of Department-supported agricultural water programs with the water programs being conducted by other Federal agencies within the State;

(2) coordinate Federal activities within the State with water quality plans developed by that State in accordance with applicable Federal and State laws;

(3) review progress being made on identification and mapping of hydrologic units within that State; and

(4) review the needs of that State to assess the Federal assistance required for State programs to address agricultural sources of water contamination.

(e) **ADVISORY PANELS.**—The chair of the water quality coordination program in each State may establish an ad hoc advisory panel that shall include farmers, representatives of conservation groups, and advocates of sustainable agricultural practices, agribusiness, chemical and fertilizer industries, agricultural commodities, lending institutions, and trade organizations.

(f) **STATE AND REGIONAL RESEARCH PRIORITIES.**—The water quality coordination program for each State shall request appropriate representative scientists from the Agricultural Research Service, the State agricultural experiment stations and the agricultural departments of the land-grant universities, to work with the water quality coordination program to establish a prioritized agriculture and water research agenda for the State. This agenda shall address the research topics identified in sections 1367 and 1368 and the concerns or findings established by the activities described in subsection (d)(4). The State research priorities identified under this subsection shall be compiled and reviewed by the appropriate regional and area divisions of the Cooperative State Research Service and the Agricultural Research Service to develop coordinated regional research priorities and shall be included in the report under subsection (g).

(g) **REPORTS.**—The water quality coordination program in each State will provide the Director of the Office of Environmental Quality established in section 1612 of this Act with an annual report of their accomplishments and the State and regional research priorities identified in subsection (f).

SEC. 1367. WATER QUALITY RESEARCH.

(a) **PURPOSES.**—It is the purpose of this section to establish a coordinated water quality research program at the Department of Agriculture. In carrying out this section, the Secretary shall undertake efforts to—

(1) reduce the sources of contaminants of surface and ground water resources through the development of farm systems which replace or conserve the use of such contaminants while maintaining farm profitability;

(2) develop information and technologies needed to formulate integrated farm chemical and plant nutrient and animal waste management strategies which avoid contamination of surface and ground water, especially in areas identified by State and Federal monitoring or regulatory efforts as having current or potential water quality problems; and

(3) monitor and better evaluate the extent of water contamination caused by farm chemicals, plant nutrients, and animal wastes.

(b) **COORDINATION.**—In carrying out this section, the Secretary shall ensure that all activities undertaken are coordinated with other programs within the Department of Agriculture, other Federal agencies, and with State governments.

(c) **RESEARCH.**—Research projects on water quality funded in whole or in part by the Secretary under this section shall include research to help—

(1) develop farming systems and practices which can prevent water contamination

while maintaining and improving profitability, including—

(A) integrated crop management systems,

(B) sustainable agricultural practices,

(C) best management practices for use of plant nutrients and animal wastes,

(D) alternative methods of pest and disease control designed to integrate biological, cultural, host-resistance, and judicious use of pesticides, and

(E) improved methods for the storage, use, and safe disposal of potential contaminants;

(2) improve the understanding of the fate and transport of farm chemicals, plant nutrients, and animal wastes which can contaminate water and cause adverse human or environmental effects;

(3) monitor and evaluate the extent of water contamination from agricultural production methods;

(4) improve the understanding of the relationships between water use and the availability and quality of water;

(5) improve the accuracy of yield and nutrient advisories;

(6) improve the understanding of the ecological and biological aspects of agricultural production;

(7) demonstrate the results of research conducted with funds provided under this section, undertaken in cooperation with the Extension Service, the Soil Conservation Service, and other entities;

(8) reduce water contamination and improve water quality relating to the production of cut roses and other fresh cut flowers; and

(9) meet other critical water quality research needs, as determined by the Secretary.

SEC. 1368. NUTRIENT MANAGEMENT RESEARCH.

(a) **IN GENERAL.**—The Secretary shall provide for the research and development of nutrient management practices which sustain farm profitability and minimize or abate the negative effects of agricultural nitrogen and other crop nutrients on water quality. To the maximum extent practicable, such research should rely on multidisciplinary teams.

(b) **COORDINATION.**—The Secretary shall implement the research program in cooperation and coordination with Federal, State, and other appropriate public and private sector entities, including the National Fertilizer and Environmental Research Center.

(c) **AREAS OF RESEARCH.**—The teams referred to in subsection (a) should be given incentives to work together in researching and developing integrated crop production systems which are more productive, use inputs more efficiently, and are more protective of the environment. Emphasis shall be given to research which considers a whole-farm systems approach to nutrient management practices and the applicability of those practices to integrated crop management systems for sustainable agriculture. Areas of research shall include—

(1) nutrient management and use efficiency;

(2) soil and tissue testing and nutrient availability interactions with specific cropping systems;

(3) plant nutrient needs for nitrogen and elements in intensively managed cropping systems;

(4) enhancement of soil productivity;

(5) varietal and hybrid interactions with plant nutrient requirements and overall crop management;

- (6) the relationship of soil microbial activity to nutrient management;
- (7) suitability of cover crops in soil protection and nutrient conservation;
- (8) the role of crop rotations in intensively managed cropping systems;
- (9) legume management for nutrient conservation and environmental protection;
- (10) interactions of improved nutrient use efficiency and efficient water use;
- (11) nutrient availability interactions with soil physical conditions;
- (12) nutrient balance effects on improved nitrogen use efficiency and lowered nitrate carryover in soils;
- (13) the importance of subsoil fertility in improved plant yields and nutrient use efficiency; and
- (14) other critical areas of research as determined by the Secretary.

SEC. 1369. REPOSITORY OF AGRICULTURE AND WATER QUALITY PLANNING INFORMATION.

The Secretary, through the Director of the National Agricultural Library, shall establish at the Library a repository of the reports developed in response to the provisions of this subtitle. The Library shall also—

- (1) compile other planning documents regarding agriculture and water protection produced by the Department and other Federal, regional, and State agencies;
- (2) compile and catalog all Federal statutes relevant to the protection of water from agricultural production; and
- (3) identify, list, and provide information on access to data bases and information sources on water and agriculture available through the Department, the United States Geological Survey, the Environmental Protection Agency, United States Department of Commerce, the National Oceanic and Atmospheric Agency, the Tennessee Valley Authority, private industry, nonprofit organizations, and other sources.

SEC. 1370. DATA BASE ON STATE PLANS AND PROGRAMS.

(a) **ESTABLISHMENT.**—The Secretary, through the Director of the National Agricultural Library, and in consultation with relevant efforts underway at the Tennessee Valley Authority, shall establish at the National Agricultural Library an interactive data base on State programs that shall include—

- (1) State laws that specifically address the relationships between agricultural production and water quality; and
 - (2) State programs as compiled by the State water quality coordination programs.
- (b) **STANDARDIZATION.**—The Director of the National Agricultural Library shall collaborate with the Director of the Office of Environmental Quality, the State water quality coordination programs and the Administrators of appropriate departmental agencies, to develop a standardized format for the entry and description of State programs, activities, and their results. The description of these State programs may incorporate information received from the Cooperative State Research Service system and the data bases of the Extension Service. These descriptions shall also include the current status and results of ongoing programs. The listing of State programs shall include programs sponsored by State and other Federal agencies acting within the States. Information shall be categorized in such a manner that it will be possible for interested parties in one State to search and locate information regarding water protection programs in other States.

SEC. 1371. NATIONAL AGRICULTURE AND WATER DATA BASE.

(a) **ASSESSMENT.**—Within 270 days after the date of enactment, the Secretary shall prepare and submit a report to the Congress on the measures necessary to develop an interactive, descriptive national data base to contain information on agricultural practices and water resources (including research results, monitoring and survey data, pesticide and nutrient use data, and other relevant data bases and information sources relevant to water protection), to be located at the National Agricultural Library. In preparing this report, the Secretary shall—

- (1) identify the information required for the development of such an agriculture and water data base and identify the extent to which such information is now collected either publicly or privately;
- (2) determine the extent to which such information can be integrated into one data base; and
- (3) develop a plan for implementing the development of such a data base.

(b) **CONSULTATION.**—In preparing the report, the Secretary shall consult as appropriate with the Economic Research Service, the Extension Service, the Cooperative State Research Service, the National Agricultural Statistics Service, the Soil Conservation Service, the United States Geological Survey, the Environmental Protection Agency, such other public and private persons as the Secretary determines appropriate.

(c) **DEVELOPMENT.**—After 90 days after the date on which the report is submitted under subsection (a), the Secretary shall initiate the development of the data base in accordance with such report.

PART 2—EXPERIMENTAL WATER QUALITY ENHANCEMENT PROGRAM

SEC. 1372. PROGRAM ELIGIBILITY.

(a) **PROGRAM.**—During the 1991 through 1995 crop years, the Secretary shall formulate and carry out an experimental water quality enhancement program, in accordance with this part, through agreements to assist owners and operators of a farm or ranch pursuant to a program under section 319 of the Federal Water Pollution Control Act (33 U.S.C. 1329) or in a water quality project area, as designated by the Secretary, to minimize ground and surface water contamination from agricultural production practices and improve the quality of the water resources on their farms, and ranches.

(b) **AGREEMENTS.**—The Secretary shall enter into agreements with owners and operators of farms and ranches contributing to identified water quality problems in the designated areas.

(c) **OTHER LAND AND MANAGEMENT PRACTICES.**—The Secretary may include in the program established under this part lands that are not located within the designated or approved areas but that are located such that if permitted to continue to operate under existing management practices would defeat the purpose of the program.

(d) **WATER QUALITY MANAGEMENT PLAN.**—Under the program established by this part, the Secretary shall formulate a water quality management plan to include the entire farming or ranching operation for farms or ranches subject to agreements under this part.

(e) **DURATION OF AGREEMENT.**—For the purposes of carrying out this part, the Secretary shall enter into agreements of not less than 3, nor more than 5, years.

SEC. 1373. DUTIES OF OWNERS AND OPERATORS.

(a) **IN GENERAL.**—Under the terms of the agreement entered into under this part, during the term of such agreement, an owner or operator of a farm or ranch must agree—

- (1) to implement a water quality management plan approved by the local conservation district (or in an area not located within a conservation district, a plan approved by the Secretary) for improving the water quality by efficient use of nutrients and pesticides through the use of best management practices to minimize adverse impacts on water quality;
- (2) to implement a water quality management plan subject to the agreement established under section 1372;
- (3) to consider recommendations of application rates and disposal methods of nutrients, pesticides, and animal waste materials as recommended by the Secretary, or designee;
- (4) to accurately certify nutrient, pesticide and animal waste materials usage rates for three previous years on applicable areas;
- (5) to supply production evidence, well test results, soil tests, tissue tests, nutrient application levels, pesticide application levels, and animal waste material usage levels, to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) for the county in which the farm is administratively located (hereafter in this section referred to as the "county committee") for each year of the agreement as determined necessary by the Secretary of Agriculture;
- (6) on the violation of a term or condition of the agreement at any time the owner or operator has control of the land to be ineligible for any price support, payment, or other assistance specified in section 1611 or 1621 of this Act during that crop year;
- (7) on the transfer of the right and interest of the owner or operator in land subject to the agreement, unless the transferee of such land agrees with the Secretary to assume all obligations of the agreement, to forfeit all rights to exceed permitted acres or reduced set aside under annual commodity programs, as determined by the Secretary;
- (8) not to conduct any practice on the farm or ranch specified by the Secretary in the contract as a practice that would tend to defeat the purposes of this part; and
- (9) to comply with such additional provisions as the Secretary determines are desirable and are included in the agreement to carry out this part or to facilitate the practical administration thereof.

(b) **BEST MANAGEMENT PRACTICES.**—The water quality management plan referred to in subsection (a)(1) shall set forth the best management practices to be carried out by the owner or operator during the term of the contract.

SEC. 1374. DUTIES OF THE SECRETARY.

In return for an agreement entered into by an owner or operator under this part, the Secretary shall, as the Secretary determines appropriate—

- (1) reduce the required reductions in set aside;
- (2) increase the permitted acreage of program crops except quota or allotment crops;
- (3) during the agreement period calculate and provide any applicable program deficiency payments based upon the greater of the established yield or actual yield for the crop land subject to the agreement;

(4) not require structural practices as a requirement to participate in this subtitle;

(5) encourage the participant to obtain cost share assistance under other Federal, State, or local cost share programs;

(6) offer the participant a loan provided for in section 4(h) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714(h)), to implement the water quality management plan or to perform the well test; and

(7) provide technical assistance to assist the owner or operator in carrying out the terms of the agreement.

SEC. 1375. WATER QUALITY MANAGEMENT PLANS.

(a) **LIMITATION.**—No plan shall be required under this part that requires above normal expenditures by owners or operators unless—

(1) cost shares are assured under available programs;

(2) loans are provided under title XII; and

(3) such expenditures are agreed to by the owner or operator.

(b) **OPERATIONS INCLUDED.**—All farm and ranch operations shall be included in the water quality management plan including (but not limited to)—

(1) livestock;

(2) cropping;

(3) packaging or processing;

(4) shipping;

(5) waste disposal; and

(6) excess dairy products.

SEC. 1376. AGREEMENTS.

(a) **TRANSFER OF LAND.**—If during the term of the agreement entered into under this part an owner or operator of land subject to such agreement sells or otherwise transfers the ownership or right of occupancy of such land, the new owner or operator of such land may—

(1) continue such agreement under the same terms and conditions;

(2) enter into a new agreement in accordance with this part; or

(3) elect not to participate in the program established by this part.

(b) **MODIFICATION.**—The Secretary may modify a contract entered into with an owner or operator under this part if—

(1) the owner or operator agrees to such modification; and

(2) the Secretary determines that such modification is desirable—

(A) to carry out this part;

(B) to facilitate the practical administration of this part; or

(C) to achieve such other goals as the Secretary determines are appropriate, consistent with this part.

(c) **TERMINATION.**—The Secretary may terminate an agreement entered into with an owner or operator under this part if—

(1) the owner or operator requests such termination; or

(2)(A) the owner or operator violates the terms and conditions of the agreement; and

(B) the Secretary determines that such termination would be in the public interest.

Subtitle J—Miscellaneous Research Provisions

SEC. 1377. BIOTECHNOLOGY RISK ASSESSMENT RESEARCH.

(a) **FINDINGS.**—Congress finds the following:

(1) Rapid advances in the application of biotechnology to agriculture have resulted, and will continue to result, in the development of products whose research, evaluation, and commercial use require introduction into the environment.

(2) Additional scientific information regarding the effects of the introduction of genetically engineered organisms into the en-

vironment, and the development of methods to contain and monitor such introductions, are needed to—

(A) help researchers to make sound judgments regarding the overall environmental impacts of genetically engineered organisms they develop and to design projects that minimize any risks associated with the introduction of such genetically engineered organisms; and

(B) help regulators make scientifically sound and timely decisions regarding the introduction of genetically engineered organisms.

(b) **PURPOSE.**—It is the purpose of this section to—

(1) authorize and support environmental assessment research to the extent necessary to help address general concerns about environmental effects of biotechnology; and

(2) authorize research to help regulators develop policies, as soon as practicable, concerning the introduction into the environment of such technology.

(c) **GRANT PROGRAM.**—The Secretary of Agriculture shall establish a grant program within the Cooperative State Research Service and the Agricultural Research Service to provide the necessary funding for environmental assessment research concerning the introduction of genetically engineered organisms into the environment.

(d) **TYPES OF RESEARCH.**—Types of research for which grants may be made under this section shall include the following:

(1) Research designed to develop methods to physically and biologically contain genetically engineered animals, plants, and microorganisms once they are introduced into the environment.

(2) Research designed to develop methods to monitor the dispersal of genetically engineered animals, plants, and microorganisms.

(3) Research designed to further existing knowledge with respect to the rates and methods of gene transfer that may occur between genetically engineered organisms and related wild and agricultural organisms.

(4) Other areas of research designed to further the purposes of this section.

(e) **ELIGIBILITY REQUIREMENTS.**—Grants under this section shall be—

(1) made on the basis of the quality of the proposed research project; and

(2) available to any public or private research or educational institution or organization.

(f) **CONSULTATION.**—In considering specific areas of research for funding under this section, the Secretary of Agriculture shall consult with the Administrator of the Animal and Plant Health Inspection Service, the Office of Agricultural Biotechnology, and the Agricultural Biotechnology Research Advisory Committee.

(g) **PROGRAM COORDINATION.**—The Secretary of Agriculture shall coordinate research funded under this section with the Office of Research and Development of the Environmental Protection Agency in order to avoid duplication of research activities.

(h) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated such sums as necessary to carry out this section.

(2) The Secretary of Agriculture shall withhold from outlays of the Department of Agriculture for research on biotechnology, as defined and determined by the Secretary, at least one percent of such amount for the purpose of making grants under this section for research on biotechnology risk assessment.

SEC. 1378. GRADUATE SCHOOL OF THE UNITED STATES DEPARTMENT OF AGRICULTURE.

(a) **TRAINING AGREEMENTS AUTHORIZED.**—Notwithstanding any other provision of law, the head of a Federal agency or major organizational unit within any agency, including agencies and offices within the Department of Agriculture, may place an order, or enter into an agreement, with the Graduate School of the United States Department of Agriculture (hereafter in this section referred to as the "Graduate School") under the provisions of section 1535 of title 31, United States Code, for training as defined in section 4101 of title 5, United States Code, and for other services incidental to the provision of such training.

(b) **PROCUREMENT OF GOODS AND SERVICES BY SCHOOL.**—The Graduate School may obtain any goods or services necessary to the fulfillment of such order or its obligations under such agreement without regard to the requirements of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471 et seq.), or any other law that prescribes procedures for the procurement of property or services by an executive agency.

(c) **AVAILABILITY OF RECORDS.**—The financial records of the Graduate School relating to such orders or agreements shall be made available to the Comptroller General of the United States for purposes of conducting an audit.

SEC. 1379. PESTICIDE IMPACT RESPONSE PROGRAM.

(a) **PURPOSE.**—It is the purpose of this section to establish, manage, and coordinate, through a Pesticide Impact Response Program, the collection and analysis of information by the Department of Agriculture and States—

(1) on pesticide use in agricultural activities; and

(2) the impact of pesticide regulations, as proposed and implemented under the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.) on the agricultural economy, including the impact on the production and prices of agricultural commodities and retail food prices.

(b) **BOARD OF PESTICIDE ASSESSMENTS.**—The Secretary shall appoint a Board of Pesticide Assessments to provide advice on the policies, priorities, and operations of the staff for, and projects carried out under, the program established in this section. The Board shall be chaired by an appropriate policy level official of the Department of Agriculture.

(c) **MEMBERSHIP OF BOARD.**—The Board shall consist of the following members:

(1) The Director of the Pesticide Impact Response Program.

(2) A representative of each of the following:

(A) Agricultural Research Service.

(B) Cooperative State Research Service.

(C) Economic Research Service.

(D) Extension Service.

(E) Other agencies as deemed necessary by the Secretary.

(d) **PROGRAM STAFF.**—(1) The Secretary shall appoint staff as necessary with the appropriate scientific and technical expertise needed to carry out the purposes of the program.

(2) At the request of the Director, the head of any Federal agency may detail to the staff, or to any project administered or coordinated under the program personnel of such agency.

(e) **DIRECTOR.**—(1) The staff of the program shall be headed by a Director appointed by the Secretary.

(2) The Director shall have the authority and responsibility to—

(A) establish the priorities of the program required by subsection (f); and

(B) coordinate the activities of agricultural agencies under the Assistant Secretary for Science and Education with the activities of other agencies of the Department of Agriculture in order to support the policies of the Department on pesticides.

(f) PESTICIDE IMPACT RESPONSE PROGRAM.—The Secretary, acting through the Board, shall—

(1) establish and conduct a program to be known as the Pesticide Impact Response Program, to assess—

(A) the benefits of pesticides used in agricultural activities; and

(B) the impact of pesticide regulations and actions of the Administrator of the Environmental Protection Agency;

(2) develop a memorandum of understanding with the Administrator of the Environmental Protection Agency, to assure that pesticide assessments developed under the program are—

(A) suitable to the needs and requirements of the Environmental Protection Agency;

(B) of sufficient quality to be publishable works of research; and

(C) released in a timely manner with respect to proposed Environmental Protection Agency regulations;

(3) develop an understanding and a mechanism to assist the Administrator of the Environmental Protection Agency, when the Administrator is developing a suspension order under section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136d), in developing benefits and use data regarding the pesticide and information on exposure;

(4) participate in establishing data collection priorities under section 1380 in order to satisfy any requirements or priorities relevant to the program;

(5) consult with the Administrator of the Environmental Protection Agency in order to anticipate actions that may entail the cancellation, restriction, or reclassification of pesticides used in agricultural activities.

(g) REPORTS.—(1) Not later than one year after the date of the enactment of this Act, the Director shall prepare a five-year planning report on the priorities of the program (including the priorities established by the Director) for the five-year period beginning on the date of enactment of this Act. The report required under this paragraph shall be updated for each five-year period thereafter.

(2) The Director shall periodically or as necessary prepare reports and bulletins or issue notices on the extent and nature of the regulatory activities of the Environmental Protection Agency that may result in the cancellation, restriction, or reclassification of pesticides, or otherwise limit their availability or use in agricultural activities. The Secretary shall make such information available to Congress and relevant agricultural crop and commodity groups potentially affected by the cancellation, restriction, and reclassification of a specific pesticide.

(h) DEFINITIONS.—For purposes of this section—

(1) The term "Director" means the Director of the staff of the Pesticide Impact Response Program.

(2) The term "Board" means the Board of Pesticide Assessments.

(3) The term "program" means the Pesticide Impact Response Program established under this section.

(4) The term "Secretary" means the Secretary of Agriculture.

SEC. 1380. COLLECTION OF PESTICIDE USE INFORMATION.

(a) COLLECTION REQUIRED.—The Secretary of Agriculture shall collect data of statewide significance on the use of pesticides to control pests and diseases of major crops and crops of dietary significance, as determined by the Secretary. Such data shall be collected by surveys of farmers or from other sources offering statistically reliable data.

(b) PREPARATION AND AVAILABILITY.—(1) The Secretary of Agriculture shall ensure that the information collected under this section also satisfies the priorities and requirements specified in section 1379 to the extent the Secretary determines necessary.

(2) Pesticide use information collected under this section shall be—

(A) submitted to the Director of the Pesticide Impact Response Program; and

(B) made available to the public through the National Agricultural Library and other sources as appropriate.

(c) TIME FOR COLLECTION.—Pesticide use information required to be collected by this section shall be collected and updated in a timely manner consistent with the needs and purposes established under section 1379.

SEC. 1381. DISPOSAL OF AGRICULTURAL CHEMICALS AND AGRICULTURAL CHEMICAL CONTAINERS.

The Secretary of Agriculture shall direct the Extension Service to operate a program in each State to catalogue the Federal, State, and local laws and regulations which govern the disposal of unused or unwanted agricultural chemicals and agricultural chemical containers in such State. The program established under this section shall also make available to producers of agricultural commodities and the general public, and provide upon request, educational materials developed or collected by the program.

SEC. 1382. NATIONAL FARM SAFETY STUDY.

(a) STUDY REQUIRED.—(1) The Secretary of Agriculture, acting through the Economic Research Service and the National Agricultural Statistics Service, shall conduct a nationwide study of the frequency and the types of agricultural accidents resulting in physical injuries that involve farmers, ranchers, and their employees.

(2) In conducting the study, the Secretary shall analyze agricultural accidents involving the following:

(A) Farm equipment and machinery.

(B) Agricultural chemicals.

(C) Livestock.

(D) Farm buildings.

(3) The study shall differentiate between accidents occurring on farms that are related to agricultural-related employment and those accidents occurring on farms that are not related to agricultural employment.

(b) CONSULTATION.—To provide a comprehensive data base for the study required by this section, the Secretary of Agriculture shall consult with existing informational sources on accidents, such as the National Safety Council, the National Institute of Occupational Safety and Health, equipment manufacturers, agricultural producer organizations, State departments of agriculture, health or labor, insurance companies, and other persons, as determined necessary and appropriate by the Secretary.

(c) GRANTS.—To assist the Secretary of Agriculture in the conduct of the study required by this section, the Secretary shall make special grants under section 2(c)(1) of the Act of August 4, 1965 (7 U.S.C.

450i(c)(1)), to public and private institutions to—

(1) gather and provide relevant regional information on agricultural accidents; and

(2) perform such other tasks as determined by the Secretary to be needed to acquire and analyze the information required to be collected under subsection (a).

(d) USE OF COLLECTED INFORMATION.—(1) The Secretary of Agriculture shall use the information gathered pursuant to subsection (a) to instruct the Extension Service of the adequacy or deficiency of existing farm safety programs operating within various regions of the country.

(2) The Secretary, acting through the Extension Service, and in cooperation with agricultural organizations, State departments of agriculture, machinery manufacturers, and land-grant universities, shall coordinate and disseminate information relating to farm safety programs to farmers, ranchers, and their employees.

(e) CENSUS OF AGRICULTURE.—The Secretary of Agriculture shall request the Secretary of Commerce to include questions relating to agricultural accidents and farm safety in the 1992 Census of Agriculture.

(f) SUBMISSION TO CONGRESS.—Not later than January 1, 1992, the Secretary shall submit a report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate describing the findings and recommendations of the study required by this section.

SEC. 1383. PLANT GENOME MAPPING PROGRAM.

(a) PROGRAM REQUIRED.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall conduct a research program for the purpose of—

(1) supporting basic and applied research and technology development in the area of plant genome structure and function;

(2) providing United States leadership in biotechnology; and

(3) providing crop varieties that may be cultivated profitably without negatively impacting the environment.

(b) COMPETITIVE GRANTS.—The Secretary may make competitive grants, for periods not to exceed five years, to State agricultural experiment stations, all colleges and universities, other research institutions and organizations, Federal agencies, private organizations or corporations, and individuals for research projects in the research areas identified in subsection (c).

(c) RESEARCH AREAS.—Grants available under subsection (b) shall be awarded in the following research areas:

(1) Construction of plant genome maps.

(2) Identification, characterization, transfer, and expression of genes of agricultural importance.

(3) Technology development in the areas of plant genome mapping, sequencing, gene transfer, and data management.

(4) Research on microorganisms associated with plants, such as plant pathogens and plant symbionts.

(d) PLAN FOR MAKING GRANTS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the Congress a detailed plan for awarding grants under this section.

(e) COORDINATION OF EFFORTS.—The Secretary shall coordinate activities under this section with related activities sponsored by the National Science Foundation, the National Institutes of Health, the Department of Energy, and the Department of Commerce.

(f) **PROPRIETARY INTERESTS.**—The Secretary shall require (when the Secretary considers it to be appropriate) licensing and patent agreements, copyright fees, royalties, or other fee arrangements on the sales of products and new uses, applications, technologies, or processes developed through assistance provided under this section.

(g) **REPORTS.**—The Secretary shall submit to the Congress an annual report describing the operations of the grant program authorized by this section during the preceding fiscal year.

(h) **AUTHORIZATIONS OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1384. COMPOSTING RESEARCH AND EXTENSION PROGRAM.

(a) **FINDINGS.**—Congress finds the following:

(1) Composting of agricultural wastes can help prevent contamination of water supplies and alleviate waste removal burdens on farmers.

(2) The Department of Agriculture should support an agricultural waste management hierarchy emphasizing—

(A) source reduction;

(B) applying certain agricultural wastes directly to the soil;

(C) recovery and reuse of valuable elements, such as starches, fats, and oils;

(D) composting of wastes following separation of valuable elements; and

(E) safe disposal of waste which cannot be reused or composted.

(3) Compost can be a safe and useful soil additive which can help to stabilize and enrich soil, prevent erosion of farm lands, and reduce the need for chemical fertilizers.

(4) The use of compost as a substitute for other soil additives can help avoid the depletion of raw materials and protect the environment.

(5) The Department of Agriculture is uniquely qualified to research appropriate uses and markets for compost.

(6) The Federal Government, acting through the Department of Agriculture, should help facilitate the use of compost.

(b) **PURPOSE.**—It is the purpose of this section to require the Secretary of Agriculture to identify appropriate methods of composting agricultural wastes and potential uses for such compost.

(c) **ESTABLISHMENT OF COMPOST TASK FORCE.**—(1) Not later than six months after the date of the enactment of this Act, the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall establish a Compost Task Force, which shall meet at least four times annually.

(2) The Compost Task Force shall consist of 15 members, appointed by the Secretary from—

(A) representatives of the Department of Commerce, the Environmental Protection Agency, the Department of the Interior, the Food and Drug Administration, the United States Trade Representative, Federal Highway Administration, States with laws on composting; and

(B) representatives of agricultural interests (including livestock, forestry, fishing, nursery, horticulture, vineyard, and orchard interests), landscapers and builders, the composting industry, microbiological scientists, food and fiber processors, food service industries, public interest groups, and manufacturers of consumer product packaging.

(3) The Secretary shall serve as the chairperson of the Compost Task Force.

(4) In its deliberations, the Compost Task Force shall consult regularly with and solic-

it recommendations from the agencies, organizations, and entities referred to in paragraph (2).

(5) Section 14(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.) shall not apply with respect to the Compost Task Force.

(d) **COMPOSTING STUDIES AND RESEARCH.**—

(1) The Secretary, in consultation with the Compost Task Force, shall conduct a study of processes for composting agricultural wastes. The study required under this paragraph shall include evaluation of composting wastes resulting from the production, processing, and distribution of food, fiber, forestry, livestock, and fish products.

(2) The Secretary, in consultation with the Compost Task Force, shall conduct research on potential uses for compost derived from agricultural wastes, and from other waste streams as appropriate, and identify domestic and international markets for such compost. The research required under this paragraph shall include evaluation of the application of compost derived from agricultural wastes on soil, plants, and food and fiber crops.

(3) The Secretary shall assemble (and submit to the Congress) a catalogue of laws, rules, and programs adopted by State and local governments, and foreign countries, that—

(A) establish standards for compost quality;

(B) set definitions for processing, handling, or using compost; or

(C) otherwise affect the production or use of compost.

(e) **COMPOSTING EXTENSION PROGRAM.**—(1) Beginning not later than one year after the date of the enactment of this Act, the Secretary shall initiate extension efforts (including seminars, demonstration projects, and dissemination of materials) to inform the agricultural community and the general public regarding—

(A) the desirability and safety of compost derived from agricultural wastes;

(B) on-farm and other composting techniques; and

(C) procedures for using compost.

(2) The Secretary shall consider designating composting as a farm conservation practice eligible for cost-sharing.

(f) **INTER-AGENCY AGREEMENTS ON COMPOSTING.**—Not later than six months after the date of the enactment of this Act, the Secretary shall undertake efforts to enter into agreements with appropriate Federal agencies, including the Federal Highway Administration and the Department of the Interior, to identify opportunities for applying compost on Federal lands.

(g) **PUBLICATION OF FINDINGS.**—The Secretary shall publish, and disseminate to all entities which receive United States Department of Agriculture funding, the results of the activities of the Secretary under subsection (d). Such publications shall contain technical and economic information useful to the public concerning composting techniques and uses for compost.

(h) **REPORTS TO CONGRESS.**—(1) Not later than six months after the date of the enactment of this Act, and every one year thereafter, the Secretary shall submit to the Congress a report on compliance with this section.

(2) The Secretary shall include in each report a description of the results of any study or research conducted under subsection (d) during the period covered by the report.

SEC. 1385. AFLATOXIN RESEARCH PROGRAM.

The Secretary of Agriculture shall conduct a research program for the purpose of determining the presence of aflatoxin in the food and feed chains. The research required under this section shall include research in the following areas:

(1) The examination of agricultural commodities, products, and feeds for the presence and quantity of aflatoxin.

(2) The examination of human populations to assess the exposure level to aflatoxin.

(3) The examination of safe levels of aflatoxin in the food and feed chains.

(4) The development and assessment of control methods for aflatoxin, including methods to handle, store, detoxify, and dispose of aflatoxin-contaminated agricultural commodities, products, and feeds.

(5) The development of effective methods of controlling the aflatoxin contamination of agricultural products in international trade when the level of such contamination exceeds an acceptable level.

(6) The development of plants resistant to aflatoxin contamination.

(7) The improvement of sampling and analysis methods for aflatoxin.

(8) The effect of aflatoxin on animal disease through immunosuppression and interaction with other disease agents.

(9) The economic consequences of aflatoxin contamination.

SEC. 1386. AGRICULTURAL TELECOMMUNICATIONS PROGRAM.

(a) **PURPOSE.**—The program (hereafter referred to in this section as the "program") established under this section is intended to encourage the development and utilization of an agricultural communications network to facilitate and to strengthen agricultural extension, resident education and research, and domestic and international marketing of United States agricultural commodities and products through a partnership between eligible institutions and the Department of Agriculture. The network will employ satellite and other telecommunications technology to disseminate and to share academic instruction, cooperative extension programming, agricultural research, and marketing information.

(b) **OBJECTIVES.**—The objectives of the program established under this section are—

(1) to make optimal use of available resources for agricultural extension, resident education, and research by sharing resources between participating institutions;

(2) to improve the competitive position of United States agriculture in international markets by disseminating information to producers, processors, and researchers;

(3) to train students for careers in agriculture and food industries;

(4) to facilitate interaction among leading agricultural scientists;

(5) to enhance the ability of United States agriculture to respond to environmental and food safety concerns; and

(6) to identify new uses for farm commodities and to increase the demand for United States agricultural products in both domestic and foreign markets.

(c) **DEFINITIONS.**—For purposes of this section—

(1) The term "eligible institution" means an accredited institution of higher education determined by the Secretary to be able to meet the objectives identified in subsection (b).

(2) The term "communications network" refers to television or cable television origi-

nation or distribution equipment, signal conversion equipment (including both modulators and demodulators), computer hardware and software, programs or terminals, or related devices, used to process and exchange data through a telecommunications system in which signals are generated, modified, or prepared for transmission, or received, via telecommunications terminal equipment or via telecommunications transmission.

(3) The term "delivery" means the transmission and reception of programs by facilities that transmit, receive, or carry data between telecommunications terminal equipment at each end of a telecommunications circuit or path.

(4) The term "facilities" includes microwave antennae, fiberoptic cables and repeaters, coaxial cables, communications satellite ground station complexes, copper cable electronic equipment associated with telecommunications transmission, and similar items as defined by the Secretary.

(5) The term "satellite ground station complex" includes transmitters, receivers, and communications antennae at the Earth station site together with the interconnecting terrestrial transmission facilities (including cables, line, or microwave facilities) and modulating and demodulating equipment necessary for processing traffic received from the terrestrial distribution system prior to transmission via satellite and the traffic received from the satellite prior to transfer to terrestrial distribution systems.

(d) AUTHORIZATION OF ASSISTANCE TO ELIGIBLE INSTITUTIONS.—(1) The Secretary shall establish a program, to be administered by the Assistant Secretary for Science and Education, under which financial and technical assistance may be provided to eligible institutions that participate in a network that distributes programs consistent with the objectives described in subsection (b).

(2) The Secretary may approve all or part of any application submitted by an eligible institution if the proposed activity will contribute, directly or indirectly, to the purpose and objectives of the program established under this section.

(3) As provided in subsection (f), applications for financial assistance may include requests to fund program production or program delivery, or both.

(e) PRIORITY.—The Secretary, in considering applications for assistance under this program, shall establish procedures to ensure a broad dissemination of programming, giving a preference to applications that—

(1) are submitted by institutions affiliated with an established agricultural telecommunications network that distributes programs to a wide geographical area; or

(2) demonstrate the need for such assistance, taking into consideration the relative needs of all applicants and the financial ability of the applicants to otherwise secure or create the telecommunications system.

(f) APPLICATIONS FOR PROGRAM PRODUCTION AND DELIVERY.—(1) The Secretary shall consider applications for financial assistance for the production and delivery of programs or cooperative extension, academic instruction in agriculture, agricultural research, and other topics consistent with the objectives described in subsection (b).

(2) Eligible institutions shall request assistance by submitting applications to the Assistant Secretary for Science and Education. Applications shall include—

(A) a detailed description of the telecommunications network and programming

proposed to be produced and delivered, including to whom the programming will be distributed, how the programming will contribute to achieving the objectives described in subsection (b), and the total cost of producing and delivering such programming;

(B) the amount of assistance requested for the proposed program authorized under this section and other sources of funding that will be used for the proposed program; and

(C) an analysis of the costs and benefits of purchasing (or leasing) different types of facilities, equipment, components, hardware and software, or other items.

(g) LIMITATIONS ON ASSISTANCE.—(1) The Secretary may provide funds totaling not more than 50 percent of the cost of a proposal for which an application is submitted under subsection (f). Notwithstanding the preceding sentence, the Secretary may provide funds totaling up to 100 percent of the cost of such a proposal if the Secretary determines that an eligible institution would otherwise be unable to carry out the proposal.

(2) The Secretary may allocate not more than 10 percent of the funds appropriated under this section for the acquisition and installation of telecommunications transmission facilities.

(h) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of implementing the program established under this section, there are hereby authorized to be appropriated not more than \$12,000,000 for each of the fiscal years 1991 through 1995.

SEC. 1387. STUDY OF THE TRANSPORTATION OF FERTILIZER AND AGRICULTURAL CHEMICALS TO FARMERS.

(a) STUDY.—The Secretary of Agriculture, acting through the Office of Transportation of the Department of Agriculture, shall conduct a study regarding the transportation of fertilizer, agricultural crop protection chemicals, and agricultural use hazardous materials such as fuel, to the farm. Such study shall include a review and analysis of—

(1) the transportation of fertilizer, fuels (such as liquid propane gas, diesel, gasoline heating oil, methane and others), and agricultural crop protection chemicals to farms by farmers, hired farm labor, and agribusiness, including—

(A) safety practices used, the nature of the equipment used, roads traveled and employees engaged in such transportation; and

(B) any significant distinctions between transportation by retail dealers and transportation by farmers;

(2) Federal and State requirements imposed on the transportation of fertilizer, fuels, and agricultural crop protection chemicals by farmers, hired farm labor, and agribusiness retail dealers to farms (and exemptions, exclusions or waivers authorized under such requirements), including—

(A) commercial driver's license requirements;

(B) driver qualification requirements;

(C) alcohol and drug testing requirements; and

(D) worker safety requirements.

(3) the compliance by farmers and retail dealers and their employees with such Federal and State requirements and the costs associated with compliance;

(4) the safety history associated with the transport of fertilizers, fuel, and crop protection chemicals by farmers and retail dealers and their employees; and

(5) the impact on rural communities, employment, and the cost and availability of fertilizer, fuel, and agricultural crop protec-

tion chemicals associated with complying with such Federal and State requirements.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall publish a report of such study and analyses (including comments on the adequacy of existing Federal and State requirements or exemptions) and submit the report to Congress.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of fulfilling the study, analyses, and reporting requirements under this section, there is hereby authorized to be appropriated not more than \$75,000.

SEC. 1388. SPECIAL GRANT TO STUDY CONSTRAINTS ON AGRICULTURAL TRADE.

(a) GRANT REQUIRED.—The Secretary of Agriculture shall provide at least two special grants to land-grant colleges and universities to conduct a study that will evaluate the trade impacts of technical barriers, quality factors, and end-use characteristics in agricultural trade to determine whether such factors are consistent as between commodities. Such study shall be conducted with the objective—

(1) to identify and analyze constraints related to end-use characteristics in trade and competition;

(2) to design production and processing techniques to lessen their impacts; and

(3) to identify public policy alternatives, nationally and internationally, that may reduce the impacts of such trade restrictions.

(b) JOINT DEVELOPMENT.—The Secretary shall ensure that the grants provided for in this section provide for the joint development of the methodology and techniques between the recipients of such grants to meet the objectives set forth in subsection (a).

(c) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall report the results of the study grants under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(d) LAND-GRANT COLLEGES AND UNIVERSITIES DEFINED.—For purposes of this section, the term "land-grant colleges and universities" has the meaning given to that term in section 1404(10) of the National Agricultural Research, Teaching, and Extension Policy Act of 1977 (7 U.S.C. 3103(10)).

SEC. 1389. SPECIAL GRANTS FOR MESQUITE AND PRICKLY PEAR RESEARCH.

(a) MESQUITE RESEARCH PROGRAM.—(1) The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall conduct a research program for the purpose of developing enhanced production methods and commercial uses of mesquite.

(2) The Secretary shall make competitive grants, for periods not to exceed 5 years, to a State agricultural experiment station, State land-grant college or university, or a consortium of such entities, for a research project in the research areas identified in paragraph (3).

(3) A grant available under paragraph (2) shall be awarded to an applicant to conduct research in—

(A) the development of techniques to produce, from small-diameter, short-length, or otherwise irregular mesquite logs, solid-wood products useful as flooring, furniture parts, turning blanks, and such other uses as may have potential economic value;

(B) the development of management techniques designed to improve stands for quality lumber production from mesquite; and

(C) such other methods of production, harvesting, processing, and marketing that are designed to provide viable markets for mesquite and lead to the commercialization of mesquite as a cash crop.

(4) There are authorized to be appropriated \$100,000 for each of the fiscal years 1991 through 1995 to carry out this subsection.

(b) **PRICKLY PEAR PROGRAM REQUIRED.**—(1) The Secretary shall conduct a research program for the purpose of investigating enhanced genetic selection and processing techniques of prickly pears.

(2) The Secretary shall make competitive grants, for periods not to exceed 5 years, to a State agricultural experiment station, State land-grant college or university, or a consortium of such entities, for research projects in the research areas identified in paragraph (3).

(3) A grant available under paragraph (2) shall be awarded to an applicant to conduct research—

(A) to investigate, through genetic selection, the development of varieties of prickly pear with improved growth, freeze tolerance, and harvest characteristics;

(B) to develop techniques to produce and process prickly pear as a food source; and

(C) to continue to investigate the nutritional value and health benefits of prickly pears.

(4) There are authorized to be appropriated \$100,000 for each of the fiscal years 1991 through 1995 to carry out this subsection.

(c) **RESEARCH REVIEW.**—Research funded under this section shall be subject to peer review at the end of the second and fourth year of such research, for the purpose of reviewing the progress and efficacy of the research and the justification and need for continued funding.

SEC. 1390. NATIONAL CENTERS FOR AGRICULTURAL PRODUCT QUALITY RESEARCH.

(a) **FINDINGS.**—Congress finds the following:

(1) There is growing concern among consumers, both in the United States and in its trading partners, about the safety and wholesomeness of their food. This concern centers on health effects from chemical residues in food, microbial contamination, and normal constituents of food that compromise health. The sources of possible concern begin with production and include processing, transportation, storage, and marketing of food supplies.

(2) The Department of Agriculture is responsible for research and education that supports the development and use by the Department of new knowledge and technology aimed at reducing the real and perceived concerns about food safety by quantitatively evaluating risk, defining new methods for detection and prevention of factors that compromise agricultural product quality, assessing consumer attitudes and preferences, and assuring the timely transfer and adoption of new technology.

(3) Current research and extension programs of the Department have been enhanced to address these concerns, but there remains a need for an expanded effort that should be undertaken in the immediate future.

(4) In addition to existing funding mechanisms, which may be increased to address specific issues, there is need for regional centers for agricultural product quality research.

(b) **PURPOSES.**—The purposes of the national centers for agricultural product quality research shall be to—

(1) serve as regional or commodity specific agricultural product quality research and education focal points involving one or more university and Federal participants;

(2) take advantage of opportunities, and establish linkages between universities and other entities with expertise, in basic biology and engineering, the development of new technology, the application of technology to practice, and related quality assurance and regulatory activities;

(3) develop and enhance explicit relationships (including the possible sharing of the cost of center operations) between the research and development community, the Department, and other Federal agencies, and with all aspects of the involved industries;

(4) provide a mechanism for dealing with the safety and wholesomeness of new food products and processes that use biotechnology (including transgenic plants and animals);

(5) provide factual public information about agricultural product quality and wholesomeness on a continuing basis; and

(6) where appropriate, build on existing institutional strengths and commitments to address issues relating to agricultural product quality and wholesomeness and on demonstrated capability to effectively link with operational units of the Department, other Federal agencies, and private industry.

(c) **CHARACTERISTICS OF CENTERS.**—(1) The centers shall be regional based units that conduct a broad spectrum of research, development, and education programs to assure the safety and wholesomeness of food through the prevention, detection, and modification of processes and products involved in the food chain that potentially compromise agricultural product quality and wholesomeness.

(2) The centers shall involve multidisciplinary and interdisciplinary approaches to the development of new knowledge and technology. The centers may include multi-institutional linkages between universities or related Federal laboratories.

(3) The centers shall serve as a management focal point for grants that deal with agricultural product quality research, extension, and teaching, including the provision of mechanisms for sharing resources between cooperating institutions and laboratories.

(4) Appropriate linkages within the centers shall include related efforts in agriculture, medicine, veterinary medicine, public health, engineering and related life and physical sciences, and social sciences dealing with health related behavior.

(5) Each center shall conduct research and education on the full spectrum of production, processing, transportation, and marketing for commodity classes, such as animals (including animal products and animal feed), agronomic crops, and horticultural crops.

(d) **ESTABLISHMENT OF CENTERS.**—(1) The Secretary shall make grants to establish the centers. Such grants establishing centers shall be competitively awarded based on merit and relevance in reference to meeting the purposes specified in subsection (b).

(2) Grants may be awarded for periods of up to five years and may be renewed in competition with demonstration of adequate performance. The Secretary shall give preference to proposals that demonstrate linkages with action agencies of the Department, with other related Federal research laboratories and agencies, and with private industry.

(3) The primary institution involved in a center shall be a land-grant college with

other cooperating or collaborating academic institutions, nonprofit research and development entities, and Federal laboratories. A center may involve institutions or laboratories in more than one State.

(4) The non-Federal sponsors of a center shall contribute an amount of funds for operation of the center equal to not less than the amount awarded by the Federal Government.

(e) **PROGRAM PLAN AND REVIEW.**—(1) A program plan shall be developed by the Department after obtaining the advice of representative users of the centers, including both action agencies and appropriate representatives from various segments of the food industry. The plan shall be submitted to the Congress for review at intervals of not less than once every three years.

(2) Accomplishments and directions of the centers shall be reviewed by the Department on a periodic basis, but not less frequently than at the end of the second and fourth years after the date of the enactment of this Act. The persons conducting the review shall be appointed by, and report to, the Secretary.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—(1) There are authorized to be appropriated such funds as may be necessary to carry out this section for each of the fiscal years 1991 through 1995.

(2) The centers shall be funded through the Cooperative State Research Service in the Department.

(g) **DEFINITIONS.**—For purposes of this section:

(1) The term "center" means a national center for agricultural product quality research established under this section.

(2) The term "Secretary" means the Secretary of Agriculture.

(3) The term "Department" means the Department of Agriculture.

SEC. 1391. IMMUNOASSAY RESEARCH PROGRAM.

(a) **GRANT PROGRAM.**—The Secretary of Agriculture shall establish and carry out a program to make grants to land-grant colleges and universities for research relating to immunoassay used to—

(1) detect agricultural pesticide residues on agricultural commodities for human consumption; and

(2) diagnose animal and plant diseases.

(b) **PREFERENCE.**—In making grants under subsection (a), the Secretary may give preference to those land-grant colleges and universities that, as of the date of the enactment of this Act, are conducting research described in that subsection.

(c) **LAND-GRANT COLLEGES AND UNIVERSITIES DEFINED.**—For purposes of this section, the term "land-grant colleges and universities" has the meaning given to that term in section 1404(10) of the National Agricultural Research, Teaching, and Extension Policy Act of 1977 (7 U.S.C. 3103(10)).

SEC. 1392. RURAL DEVELOPMENT RESEARCH.

(a) **COMPETITIVE GRANTS.**—(1) The Secretary of Agriculture shall establish a program of competitive grants, to be administered through the Cooperative State Research Service, for the purpose of encouraging research and analysis of the social, economic, and other factors influencing the economic vitality of rural areas.

(2) Priority in the award of grants under paragraph (1) shall be given to projects designed to research methods by which the social and economic vitality of rural areas can be enhanced.

(b) **DEMONSTRATION PROJECTS.**—The Secretary of Agriculture shall establish a program

of competitive grants to rural areas to serve as demonstration areas. In awarding such grants, the Secretary shall favorably consider an application from a rural area that the Secretary determines—

(1) demonstrates the ability of the rural area—

(A) to supplement the grant funds provided under this subsection with other funds from State, local, or private sources; and

(B) to use the grant funds to increase employment in the area; and

(2) can successfully serve as a demonstration area to share the results of the funded project to the benefit of other rural areas in the region in which the rural area receiving the grant is located.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1393. OUTREACH AND ASSISTANCE FOR SOCIALLY DISADVANTAGED FARMERS.

(a) **OUTREACH AND ASSISTANCE.**—The Secretary of Agriculture shall provide outreach and technical assistance through the Office of Advocacy and Enterprise to encourage and assist socially disadvantaged farmers to participate in the programs established or authorized in this Act. This assistance should include information on application and bidding procedures and other essential information to participate in the program.

(b) **Grants and Contracts.**—The Secretary and the Director of the Office of Advocacy and Enterprise may make grants and enter into contracts and other agreements in the furtherance of this section subject to the following conditions:

(1) Of the amounts appropriated to carry out this section, 50 percent of such amounts shall be available only for grants and contracts to community based organizations with demonstrated experience and commitment in providing education, advocacy, or other services to minority farmers. Such community based organizations must provide documentary evidence of—

(A) their past experience and commitment of working with minority farmers during the two years preceding their application for assistance under this section; or

(B) their ability and commitment to establish an organization to provide such services.

(2) Of the amounts appropriated to carry out this section, 50 percent of such amounts shall be available only for grants and contracts to institutions of postsecondary education, with a priority given to—

(A) institutions eligible to receive 1890 Land-Grant Colleges including Tuskegee University;

(B) Indian Tribal Community Colleges and Alaska Native Cooperative Colleges;

(C) Hispanic Serving Institutions of Higher Education; and

(D) other educational institutions with demonstrated experience in providing education, advocacy or other services to minority family farmers in their region.

(c) **REPORT.**—(1) The Director of the Office of Advocacy and Enterprise shall submit an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate detailing on a State by State and county by county basis the rate of minority participation for each program under this Act.

(2) Each report required by this subsection shall compare on a State by State and county by county basis the actual application rates, acceptance rates, and participa-

tion rates with the target participation rates established by the Secretary pursuant to section 355(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2003(a)(2)).

(3) The first report required by this subsection shall be submitted not later than September 30, 1992.

(d) **SOCIALLY DISADVANTAGED FARMERS DEFINED.**—The term "socially disadvantaged farmers" means those farmers who have been subjected to racial or ethnic prejudice or cultural bias because of their identity as a member of a group without regard to their individual qualities.

(e) **FUNDING.**—There are authorized to be appropriated \$10,000,000 for each fiscal year to carry out this section.

SEC. 1394. GRANTS FOR NICHE MARKET DEVELOPMENT.

(a) **GRANTS REQUIRED.**—The Secretary shall make research and extension grants available for the development of agricultural production and marketing systems that will service niche markets located in nearby metropolitan areas. In awarding such grants, the Secretary shall pay particular attention to areas—

(1) with a high concentration of small farm operations; and

(2) that experience difficulty in delivering products to market due to geographic isolation.

(b) **AUTHORIZATION OF APPROPRIATION.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1395. TURKEY RESEARCH CENTER.

There are authorized to be appropriated \$500,000 for fiscal year 1992 to be used by the Agricultural Research Service for planning purposes in the establishment of a facility to be known as the Agricultural Turkey Research Center to be located in Pelican Rapids, Minnesota, and operated in cooperation with the North Dakota State University.

The CHAIRMAN pro tempore. Are there amendments to title XIII?

Mrs. LOWEY of New York. Mr. Chairman, I move to strike the requisite number of words.

The CHAIRMAN pro tempore. The gentlewoman from New York may insert her remarks in the RECORD but under the rule may not strike the last word.

Mrs. LOWEY of New York. I thank the Chair.

The CHAIRMAN pro tempore. Does the gentlewoman seek unanimous consent for recognition for 5 minutes?

Mrs. LOWEY of New York. Yes, Mr. Chairman.

The CHAIRMAN pro tempore. The gentlewoman is recognized, without objection, for 5 minutes.

There was no objection.

The CHAIRMAN pro tempore. The Chair will advise that the gentlewoman may not offer a pro forma amendment under the rule; only the chairman and ranking member of the committee may offer a pro forma amendment under the rule. But the gentlewoman is recognized for 5 minutes by unanimous consent.

Mrs. LOWEY of New York. I thank the Chair.

Mr. Chairman, first, I would like to commend the distinguished chairman, Mr. DE LA GARZA, and the ranking minority member, Mr. MADIGAN for their hard work and bipartisan spirit in bringing this bill to the floor.

I rise today in support of my amendment to H.R. 3950, the Food and Agricultural Resources Act which has been included in Chairman DE LA GARZA's en bloc amendment. My amendment authorizes \$250,000 for each of the fiscal years 1991 through 1995 to be used by the Agricultural Research Service to assist research in the field of population ecology of deer ticks and other pests determined to transmit Lyme disease.

Last week was Lyme Disease Awareness Week, which makes consideration of this amendment very timely. Many members of Congress are already aware that humans contract Lyme disease from deer ticks which thrive in wooded areas across the country. In fact, our former colleague, Berkley Bidell of Iowa, who served on the Agriculture Committee, contracted this illness. While the disease can be treated, many of the early symptoms resemble flu characteristics and may not appear serious enough to require medical attention. If ignored, however, Lyme disease can develop into a severe, very debilitating, and possibly fatal condition.

With 45 States reporting a total of 8,367 cases in 1989, Lyme disease is a serious and growing public health threat, yet the only preventive measure currently available is public education. Study of the deer tick population and how it can be controlled offers another important opportunity to halt the spread of this disease. Scientific studies of tick environments and behavior will help develop methods of reducing tick populations, thereby lessening the spread of Lyme disease. The Federal Government should take a leadership role in encouraging this work which can help curb the dramatic growth of Lyme disease cases.

The Department of Agriculture cooperates in many research projects concerning various insects and pests, including \$1.6 million for tick research specifically. Funding this work through the Agriculture Research Service will permit scientists working on deer tick research to have the benefit of tick research funded by the Department of Agriculture. In this time of budgetary constraints, this amendment provides a resourceful solution to a very serious public health threat. This amendment authorizes a modest sum for support of research which holds the potential of reversing the dramatic growth of Lyme disease cases around the Nation. This funding would be awarded to a qualified independent researcher through a competitive grant process.

New York Medical College is already conducting preliminary work on tick ecology. Their plans include providing a sound ecological basis for improved efforts to detect, monitor, and control deer ticks. Current options for controlling tick populations are severely limited and work in control of tick populations is far behind that done on other disease carrying pests. New York Medical College researchers propose to develop tick population control technology, taking into account the effect current pesticides have on the environment and what naturally occurring factors discourage tick population growth. That is the kind of valuable work I hope can be supported under this authority.

It is my understanding that my distinguished colleagues, the gentleman from California [Mr. BROWN] and the gentleman from Kansas [Mr. ROBERTS], the chairman and ranking minority member of the subcommittee are supportive of this amendment. For that, I am most appreciative.

I ask other Members to join in its approval.

□ 1740

Mr. BROWN of California. Mr. Chairman, will the gentlewoman yield?

Mrs. LOWEY of New York. I yield to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I wish to assure the gentlewoman of our support for her amendment and to compliment her on the work that she has done in connection with this. Lyme disease is a rather obscure ailment, but those members on the Committee on Agriculture recall that a former chairman of this subcommittee actually contracted that disease himself. We are aware of what it can do and the importance of it. We will do our best to make sure that there is an adequate program in this area.

Mr. ROBERTS. Will the gentlewoman yield?

Mrs. LOWEY of New York. I yield to the gentleman from Kansas.

Mr. ROBERTS. Mr. Chairman, I want to associate myself with the remarks of my friend and colleague, the gentleman from California [Mr. BROWN]. I appreciate very much the gentlewoman's leadership in this whole field of research.

The CHAIRMAN. Are there other amendments to title XIII?

Mr. BEREUTER. Mr. Chairman, I move to strike the last word.

The CHAIRMAN. The Chair would have to advise that rule does not allow the gentleman from Nebraska [Mr. BEREUTER] to offer a pro forma amendment.

AMENDMENTS EN BLOC OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. DE LA GARZA:

1. On page 389, after line 14, add the following:

"(4) Continuation of Small Farmer Training and Technical Assistance Program. Section 1328 of that Act (7 U.S.C. 1981 note) is amended by striking "1988" and inserting "1995"."

2. On page 411, after line 2, add the following:

"(3) The Secretary may set aside a portion of funds appropriated for the award of grants under this section and make such amounts available for grants to eligible colleges and universities that the Secretary determines have unique capabilities for achieving the objective of full participation of minority groups in research in the Nation's schools of veterinary medicine."

3. On page 418, after line 9, add the following:

"(c) The Secretary may set aside a portion of funds appropriated for the award of grants under this section and make such amounts available only for grants to eligible colleagues and universities that the Secretary determines have unique capabilities for achieving the objective of full participation of minority groups in research on the production and marketing of alcohols and industrial hydrocarbons from agricultural commodities and forest products." and redesignate subsection (c) as subsection (d)

4. On page 420, on line 20 after the word "farmers" add the following: ", including small and limited resource farms."

5. On page 473, on line 3, after the word "farms" add the following: "including small and limited resource farms."

6. In section 1314(a)—

(1) strike "and" at the end of paragraph (2)(A);

(2) insert the following new subparagraph after paragraph (2)(A):

"(B) inserting 'and sea grant' after 'land grant'; and";

(3) redesignate paragraph (2)(B) as paragraph (2)(C);

(4) in paragraph (4)(B), strike "six" and insert "five" and add after the semicolon "and";

(5) strike paragraph (4)(C) and redesignate paragraph (4)(D) as paragraph (4)(C);

(6) In paragraph (5)(B), in the new paragraph (2) of section 1475(e) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977—

(A) insert ", in consultation with the interagency aquaculture coordinating group established under section 6(a) of the National Aquaculture Act of 1980 (7 U.S.C. 2805(a))," after "shall"; and

(B) insert "and the Committee on Merchant Marine and Fisheries" after "Agriculture"; and

(7) in paragraph (6), in the new subsection (f) of section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977—

"(A) in the first sentence, strike "The Secretary" and insert the interagency aquaculture coordinating group established under section 6(a) of the National Aquaculture Act of 1980 (7 U.S.C. 2805(a)); and

(B) in the second sentence, strike "The Secretary" and insert "The interagency aquaculture coordinating group."

7. In section 1314(b), strike the new section 1476 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and insert the following:

"SEC. 1476. AQUACULTURE RESEARCH FACILITIES.

"(a) GRANTS AUTHORIZED.—In order to gain further knowledge of intensive water recirculating aquaculture systems, the Secretary may make grants for the purpose of further developing and expanding aquaculture research facilities at Illinois State University in Normal, Illinois, and Virginia Polytechnic Institute and State University in Blacksburg, Virginia, and to conduct such programs as are necessary to do basic and applied research for intensive water recirculating aquaculture systems.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized, in the event the Secretary decides to take action under subsection (a), to be appropriated \$500,000 for each of the two facilities for fiscal years 1991 through 1995 to carry out this section."

8. In Title XIII, Subtitle F, add: "SEC. 1350. STUDY OF THE BIOLOGY AND BEHAVIOR OF CHINCH BUGS: FACTORS LEADING TO CROP LOSS AND DEVELOPMENT OF IMPROVED MANAGEMENT PRACTICES.

(a) ESTABLISHMENT.—The Secretary shall establish a research and education program to study the biology and behavior of chinch bugs. The purpose of this study shall be to:

(1) Characterize the relationship between environmental/climatic factors and chinch bug outbreaks in an attempt to predict when these outbreaks occur.

(2) Determine chinch bug dispersal habits, overwintering habitat preferences, and overwintering survival in native and introduced grasses.

(3) Describe the population dynamics of chinch bugs in small grain and noncrop grass hosts in the spring and assess yield losses in small grain crop hosts.

(4) Investigate various aspects of chinch bug behavior (including host habitat preferences, oviposition, and pheromones) that may result in the development of novel management strategies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section."

9. In title XIII, at the end of subtitle G, add:

"SEC. 1355B. STUDY OF THE IMPACT ON U.S. MEAT EXPORTS OF ALLOWING DESTINATION BASED GRADING.

(a) ESTABLISHMENT.—The Secretary shall establish a research program to study the effects of grading meat destined for export, under the grading system of the country of final destination.

(b) PURPOSE.—To determine if allowing meat destined for export to be graded by persons or under the system of the country of final destination shall facilitate the export of U.S. meat products, improve the competitive position of U.S. meat exports or provide other benefits."

10. At the end of title XIII (page 614, after line 10) insert after section 1395 the following new section:

SEC. 1396. SCRAPIE RESEARCH PROGRAM.

(a) FINDINGS.—Congress finds that—

(1) scrapie, a fatal disease of the central nervous system of sheep and goats, has no known cure and currently cannot be detected until the infected animal becomes symptomatic;

(2) countries other than the United States that have significant sheep industries, such

as Australia, New Zealand, and the United Kingdom, have determined that the most effective approach to dealing with the problem of scrapie, in the absence of an effective preclinical diagnostic test, is through eradication of the infected populations;

(3) there are data indicating that scrapie may be spread laterally among sheep and goat flocks as well as vertically through sheep and goat bloodlines;

(4) there is a possibility that scrapie can spread to other forms of livestock; and

(5) the Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") should implement a national program to eradicate scrapie in the United States.

(b) **RESEARCH PROGRAM.**—(1) The Secretary shall establish and carry out a program to conduct research regarding the disease of scrapie in sheep and goats. The program shall include research regarding the following:

(A) Methods for detecting infection of animals with scrapie before the animals become symptomatic.

(B) Methods for treatment, prevention, and cure of scrapie.

(C) Methods for controlling the spread of scrapie.

(2) In carrying out the research program established under this subsection, the Secretary of Agriculture may make grants to and contract with Federal, State, and local agencies and any other organizations that are experienced in research regarding animal diseases.

(3) The Secretary shall coordinate the research program established under this subsection with other research programs regarding encephalopathies, in particular research regarding bovine spongiform encephalopathy in cattle.

(c) **REGULATIONS.**—The Secretary may issue such regulations as the Secretary considers necessary to carry out this section.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

11. At the end of Title XIII, add a new section as follows:

SEC. 1397. DEER TICK ECOLOGY AND RELATED RESEARCH.

There are authorized to be appropriated \$250,000 for each of the fiscal years 1991 through 1995 to be used by the Agricultural Research Service to assist research in the field of population ecology of deer ticks and other insects and pests which transmit Lyme disease.

12. Section 1327(c) is amended on page 477 line 12 by inserting after the word "subtitle," the following: "Such training may occur at a college or university located within each state as designated by the coordinator designated under this section."

13. At the end of Part I of Subtitle I of Title XIII, add the following new section 1371A:

SEC. 1371A. PESTICIDE RECORD-KEEPING.

(a) **REQUIREMENTS.**—Any person using pesticides for agricultural production, including postharvest treatment of agricultural products, or other commercial purposes shall maintain records of each pesticide application. Such records shall include the product name, amount and rate of application, method of application, target pest, crop, or in the case of a nonagricultural application, the site treated, date and approximate time of application, and location of application of each pesticide used for a 2-year period after such use.

(2) A commercial applicator shall provide a copy of records maintained under subsection (a)(1) to the person for whom the pesticide application was provided within 30 days of the application.

(b) **ACCESS.**—Information maintained under subsections (a) and (g) shall be made available to Federal, State, or local agencies that deal with pesticide use or any health or environmental issues related to the use of pesticides, after reasonable notice. Federal agency access to pesticide use records will be the responsibility of the Department of Agriculture, or its designee. Non-Federal agency requests for access to records maintained under this section shall be the responsibility of the lead state agency so designated by the state. Information maintained under this section by any government agency shall be subject to public disclosure under section 552(a) of title 5, United States Code, or any similar state law, except the name and address of the individual keeping the records. The specific location of application in the records will be deleted, except designation of the county of application.

(c) **HEALTH CARE PERSONNEL.**—When a health professional determines that pesticide information maintained under this section is necessary to provide medical treatment or first aid to an individual who may have been exposed to such pesticides, upon request persons covered by this section shall promptly provide record and available label information to that health professional. In the case of an emergency, such record information shall be provided immediately.

(d) **INFORMATION.**—Upon the request of an employee such persons covered by this section shall provide records on a pesticide to which such employee has or may have been exposed.

(e) **PENALTY.**—The Secretary of Agriculture shall be responsible for the enforcement of subsections (a), (b), (c) and (d). A violation of this section shall—

(1) in the case of the first offense, be subject to a fine not more than \$500; and

(2) in the case of subsequent offenses, be subject to a fine of not less than \$1,000 for each violation, except that the penalty shall be less than \$1,000 if the Secretary determines that the person made a good faith effort to comply with this section.

(f) **FEDERAL OR STATE PROVISIONS.**—The requirements of this section shall not affect provisions of other Federal or State law.

(g) **SURVEYS AND REPORTS.**—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency, shall survey the records maintained under this section to develop and maintain a data base that is sufficient to enable the Secretary and the Administrator to publish annual comprehensive reports concerning agricultural and nonagricultural pesticide use. The Secretary and Administrator shall enter into a memorandum of understanding to define their respective responsibilities under this subsection in order to avoid duplication of effort. Such reports shall be filed April 1 of each year.

(h) **REGULATIONS.**—The Secretary of Agriculture and the Administrator of the Environmental Protection Agency shall promulgate regulations on their respective areas of responsibility implementing this section within 180 days after enactment of this Act.

14. Section 1322(d)(2)(F) (page 463, line 8) is amended by striking the words "nonprofit organizations with demonstrable expertise."

15. Section 1382 (relating to the National Farm Safety Study), insert after subsection

(d)(2) (page 583, after line 24) the following new paragraphs:

(3) The Secretary shall use the information gathered pursuant to subsection (a) to prepare a listing of farm injuries and disease-related hazards showing the frequency of such injuries and hazards. The list shall be updated annually by the Secretary.

(4) The Secretary shall establish prioritized objectives for reducing farm accidents, provide a method to evaluate the improvement in farm safety and health achieved, and include the objectives in existing programs. The objectives, methods of evaluation, and programs shall be reviewed annually by the Secretary. Any educational program conducted under this paragraph shall be prioritized consistent with the list prepared under paragraph (3).

16. In section 1382—

(a) amend subsection (b) to read as follows:

"(b) **CONSULTATION.**—To provide a comprehensive data based for the study required by this section, the Secretary of Agriculture shall consult with existing informational sources on accidents, such as other appropriate Federal agencies, equipment manufacturers, agricultural producer organizations, State departments of agriculture, health or labor, insurance companies, and other persons, as determined necessary and appropriate by the Secretary."; and

(b) amend subsection (f) by striking "the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate" and insert "Congress".

17. Page 526, line 17, after "environment," insert "or a tree species,".

18. At the end of the title, insert the following section:

SEC. 1398. RESERVATION EXTENSION AGENTS

(a) **ESTABLISHMENT.**—The Secretary of Agriculture, through the Extension Service, shall establish appropriate extension education programs on Indian Reservations and tribal jurisdictions. In establishing these extension programs, the Secretary shall consult with the Bureau of Indian Affairs, the Intertribal Agriculture Council, and the Southwest Indian Agriculture Association, and shall make such interagency cooperative agreements or memoranda of understanding as may be necessary. The programs to be developed and delivered on Reservations, and within tribal jurisdictions, shall be determined with the advice and counsel of Reservation or tribal program advisory committees.

(b) **ADMINISTRATION AND MANAGEMENT.**—Extension agents shall be employees of and administratively responsible to the Cooperative Extension Service of the state within which the Reservation or tribal jurisdiction is located, and employment and personnel management responsibilities shall be vested with the State Cooperative Extension Service. In cases where a reservation or tribal jurisdiction is located in two or more states, the Secretary shall make the determination of administrative responsibility, including possible divisions along state boundaries.

(c) **ADVISORY COMMITTEES.**—With the assistance of the Tribal authorities, an advisory committee shall be formed to give overall policy and program advice to the State Extension Director with regard to programs conducted on reservations or within tribal jurisdictions. Program advisory committees may be formed to assist extension staff in development and conduct of program activities.

(d) **STAFFING.**—Insofar as possible, agent and specialist staff shall include individuals representative of the tribal grouping being served. Programs will emphasize training and employment of local people as program aides, master gardeners, volunteers, etc. Staffing at a particular location will be dependent on the needs and priorities as identified by the advisory committees and the State Extension Director, and may make use of existing personnel and facilities as appropriate.

(e) **PLACING OF AGENTS.**—The number of offices and their placement shall be jointly determined by the State Extension Directors and tribal authorities of the respective states by taking into consideration the agricultural acreage within the boundaries of an Indian Reservation or tribal jurisdiction, the soil classifications of such acreage, and the population of such Reservation or tribal jurisdiction.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

19. On page 409, line 13, strike "Laboratory" and insert "Center".

20. On page 480, line 12, insert after "appropriate" the words "Department of Agriculture".

21. On page 517, line 7, strike "research under" and insert "of".

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, I yield to my distinguished colleague, the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, the purpose of my seeking recognition is simply to thank the distinguished chairman, the gentleman from Texas [Mr. DE LA GARZA], for accommodating this member, and with special thanks as well to the distinguished ranking minority member [Mr. MADIGAN], and their subcommittee counterparts.

This gentleman had printed three amendments to title XIII, and it is my understanding that the committee has accepted the one related to U.S. meat exports, for allowing designation based grading, and a study on chinch bugs which is a major problem in parts of Kansas and Nebraska, and is offering them in the en bloc amendments.

Mr. Chairman, it is also my understanding that the amendment entitled "Environmental Restoration Program" will be offered in en bloc amendments at the end of the bill. If my understanding is correct, this Member wants to say that he very much appreciates the chairman accommodating this Member's concern at the health problems created throughout the Great Plains, and perhaps throughout the Midwest, by carbon tetrachloride pollution related to USDA facilities. If the chairman

could confirm my understanding about these three amendments, I would ask for that.

Mr. Chairman, the first of the two amendments included in the title XIII, en bloc amendments offered by the gentleman and by the distinguished chairman of the Agriculture Committee [Mr. DE LA GARZA] was printed on page 18550 of the CONGRESSIONAL RECORD of July 20, 1990, and was entitled "Study of the Impact on U.S. Meat Exports of Allowing Destination Based Grading." In explaining the intent and rationale for the amendment, this Member would begin by noting, Mr. Chairman, that U.S. beef is one of the most rapidly growing agricultural exports. In the mid-1970's beef exports accounted for around 1 percent of production. In 1989, exports are nearly 10 percent of production and are projected to exceed 10 percent by 1995.

Through very important and successful Super 301 negotiations with Japan and South Korea, the USTR has opened their domestic markets to meat imports. The United States has fought a long and difficult battle to open these markets and if we do not apply aggressively our own initiative, Australian and Argentinian producers will meet the needs of these burgeoning markets. Australia has already begun destination based export meat grading to give Australian meat an advantage in the Japanese market.

This amendment would direct the Secretary to study this issue and determine if a destination-based export meat grading would facilitate export of U.S. meat and meat products. Such a system could better equip U.S. farmers to produce meat that satisfies the requirements of the destination market. Without destination based export grading, there is little opportunity for market signals to be passed back to the producer.

This Member has successfully urged the Agriculture Committee to accept this amendment to ensure that we do not simply give away the markets that we have worked so hard to open.

Mr. Chairman, the second of the two amendments offered by this gentleman and included in the title XIII en bloc amendment by the distinguished chairman of the Agriculture Committee [Mr. DE LA GARZA] was also printed on page 18550 of the CONGRESSIONAL RECORD of July 20, 1990, and was entitled "Study of the Biology and Behavior of Chinch Bugs: Factors Leading to Crop Loss and Development of Improved Management Practices." In explaining the intent and rationale for the amendment, this Member would begin by noting, Mr. Chairman, that this amendment will direct the Secretary to complete a study, the results of which will assist sorghum producers and producers of other grain to more effectively cope with the horrible scourge known as the chinch bug. The chinch bug overwinters in dry grasses, moves into wheat fields and progresses into sorghum fields and destroys them. In 1989, producers in south-east Nebraska lost \$12 million because of this destructive little insect. Known insecticides do not effectively control chinch bugs and few other methods, each with little effectiveness, are available to combat this despicable pest. This amendment would authorize a study to learn more about the habits of the chinch bug

so that sorghum producers can have some chance of controlling it. I appreciate the Agricultural Committee's willingness to support me in the important fight against this formidable foe. This Member particularly appreciates the assistance of the distinguished gentleman from Kansas [Mr. ROBERTS] for his support of the gentleman's amendment and encourages the research to be conducted in both Kansas and Nebraska despite the amendments specific reference only to Nebraska.

Mr. Chairman, finally, this third amendment offered by this gentleman to title XIII which the distinguished chairman of the Agriculture Committee [Mr. DE LA GARZA] has indicated he will offer in the final en bloc amendments offered at the conclusion of debate on H.R. 3950 was printed on page 18550 CONGRESSIONAL RECORD of July 20, 1990, and was entitled "Environmental Restoration Program." In explaining the intent and rationale for the amendment, this Member would begin by voting, Mr. Chairman, that the purpose of this bill is to begin investigation of sites that were contaminated by the U.S. Department of Agriculture's use of chemicals at grain storage sites over the past 50 years. It is also this Member's intent that facilities used by the Agricultural Research Service to test chemicals would be investigated. The domestic water supplies of a number of Nebraska's communities has been contaminated as a result of past chemical use by the USDA and has necessitated the temporary use of bottled water in some communities. Undoubtedly, numerous private wells also have been similarly contaminated.

As required testing of private wells is expanded, this Member expects the number of contaminated wells to increase significantly since the testing of private wells is not currently a routine practice. It is imperative that this testing occur to identify contamination before it can cause serious health difficulties for rural residents and others who depend on private wells.

At this time, two communities in Nebraska's First District have had to find alternative sources of water. At great expense, the community of Waverly developed an entirely new well field and major water services lines; Murdock solved its problem by constructing a major water line to a previously existing rural water system located nearby. In the case of these communities, the problem was caused by existence of carbon tetrachloride, a volatile chemical. Not only could residents not safely drink the contaminated water, but bodily contact with the water subjected residents to health risk. Other communities, similarly affected and including this Member's home town, have solved their problems by shutting down affected wells, and developing new wells or must do so to restore this necessary water supply. Many additional communities in Nebraska, Kansas, and elsewhere are also certain to be at risk. Their situation must be investigated.

It is the intent of this amendment that the U.S. Department of Agriculture should inventory grain storage and research sites where hazardous substances were potentially released. This inventory should then be made available to the EPA, to enable the EPA to begin rou-

tine testing of wells near all sites where the potential for contamination exists. Following testing by the EPA, the USDA is directed to develop a cost estimate to clean up those sites where the EPA has named USDA to be the potentially responsible party for the chemical contamination of a site. This provision also ensures that warning be provided to persons living within the vicinity of the facility of any possible ground water contamination.

This member very much appreciates the assistance of members of the Agriculture Committee, and particularly its chairman, for their support of this amendment which will help to protect the health of rural residents.

Finally, this Member wishes to express his recognition and appreciation of the direct and personal assistance on this amendment given to this Member by Secretary Clayton Yeutter and his top leadership and legal talent in the ASCS. Also the cooperation and assistance of the distinguished gentleman from Ohio [Mr. LUKEN] in reviewing and supporting, in behalf of the Energy and Commerce Committee, the subsections of the amendment related to cooperation and interaction between the EPA and the USDA.

Mr. DE LA GARZA. I would tell the gentleman that he is correct and the amendments are in the en bloc amendment.

I yield to my distinguished colleague from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Chairman, I am pleased to rise in favor of the en bloc amendments offered by the gentleman from Texas [Mr. DE LA GARZA] including the amendment by the gentleman from New York [Ms. LOWEY]. This important amendment would provide for a grant in the amount of \$250,000 for the center for the study and treatment of Lyme disease at the New York Medical College at Valhalla.

I have had the pleasure on several occasions to visit the Valhalla Medical Research Center and to meet with its director, Dr. Fish. The Center for the Treatment and Study of Lyme Disease was established in 1986 and is the only medical school currently conducting both basic and clinical research and field work on Lyme disease.

Among the activities of the center are the investigation of treatments for Lyme disease, the impact of Lyme disease on unborn children during pregnancy, and efforts to determine how to control the deer tick, which carries the bacteria causing Lyme disease.

Mr. Chairman, Lyme disease, named after Old Lyme, CT, where it was first diagnosed in 1976, is a bacterial infection that is spread by an extremely small tick called the northern deer tick. If it were not for AIDS, Lyme disease would be the No. 1 infectious disease facing us today.

I am pleased to be a cosponsor of the comprehensive Lyme Disease Act of 1990. This legislation was recently introduced by the gentleman from New York [Mr. HOCHBRUECKNER], who has been a tireless advocate for increased funding for Lyme disease research, education, and prevention.

This important measure authorizes \$2.5 million annually for 3 years for grants to public and private nonprofit entities to conduct research and provide treatment for Lyme disease. Furthermore, the act authorizes \$1 mil-

lion annually for 3 years for grants to educate the public about Lyme disease.

Mr. Chairman, the consequences of Lyme disease are severe, and the disease is spreading across the United States. Accordingly, in order to effectively address this problem we must address it now with a fully funded program of research, education, prevention, and treatment. Accordingly, I urge my colleagues to support the amendment.

Mr. DE LA GARZA. Mr. Chairman, I yield to my distinguished friend, the gentleman from Iowa [Mr. LEACH].

(Mr. LEACH of Iowa asked and was given permission to revise and extend his remarks.)

Mr. LEACH of Iowa. Mr. Chairman, I simply would like to thank the chairman and the distinguished chairman of the subcommittee of jurisdiction for putting in a section on the disease scrapie.

Mr. Chairman, included in the committee's en bloc amendment to title XIII of H.R. 3950 is an amendment I have offered which would insert after section 1395 a new section, section 1396, which would direct the Secretary of Agriculture to establish a scrapie research program.

Before commenting briefly on the nature and intent of my amendment, I would like to thank Chairman DE LA GARZA, Mr. MADIGAN, my colleagues on the Agriculture Committee, and the committee staff for the extraordinary amount of work they have put in on this legislation. The measure is of immense importance to Iowa and to my district and your labor does not go unnoticed or unappreciated.

I would like particularly to thank Chairman STENHOLM and Mr. GUNDERSON of the Subcommittee on Livestock, Dairy, and Poultry and the subcommittee staff for their invaluable assistance in the formulation of this amendment.

Scrapie is a disease which attacks the central nervous system of sheep and goats. Although not a new disease, we know surprisingly little about scrapie. It has no known cure and cannot be detected until the infected animal begins displaying symptoms.

The disease's symptoms include weight loss, scratching and itching, and unsteadiness. The incubation period for scrapie can be as long as 6 to 8 years and market animals may have but show no symptoms of the disease.

The agent that causes scrapie and the method of its transmission are not known, but it can affect all breeds of sheep and goats. Further, at present there is no diagnostic test for the disease that does not involve destruction of the animal. The only way a positive diagnosis can be made is to examine brain tissue from a euthanized animal. It is because of these unknowns that the spread of scrapie represents a potential catastrophe for the sheep and goat industry.

The research program called for by this amendment would be aimed at developing methods of detecting the presence of the disease before its symptoms appear, developing methods of treatment, prevention and cure for the disease, and developing methods for controlling the spread of scrapie.

Of the almost 120,000 flocks in the United States in 1989, nearly 200 were exposed to

scrapie and were under scrapie surveillance. This represents approximately 12,000 animals and at least 45 of these flocks were known to be infected.

In addition, while the scientific evidence at present is conflicting, a British study indicates the possibility the disease may have variants which may infect other kinds of livestock, thus raising the specter of a devastating impact on our entire meat industry. Thus the Secretary of Agriculture is directed to coordinate the research program provided for by this amendment with similar programs into related encephalopathies, and in particular research into bovine spongiform encephalopathy in cattle.

A negotiated rulemaking process is currently underway under the auspices of the Department of Agriculture and involving all segments of the meat industry aimed at developing regulations for controlling scrapie. The Secretary is to be commended for instituting this process. This amendment is not intended to short circuit this effort, but to supplement it and to place in statute the requirement for a research program which the potential danger this disease presents makes virtually mandatory.

Australia and New Zealand have successfully dealt with scrapie through the eradication of infected and potentially infected animals and the United States has had an eradication program the future of which will be determined in the negotiated rulemaking process. My amendment is silent with regard to eradication in order to allow the experts engaged in the rulemaking to address this complex issue.

On this point, I would simply like to stress that should the negotiated rulemaking process fail to satisfactorily address the eradication question, it is my understanding that Chairman STENHOLM's subcommittee would be open to taking this issue up in the future.

Again, I want to thank both the gentlemen from Texas—Chairman DE LA GARZA and Chairman STENHOLM—and would like to conclude by saying that what is at stake in my amendment is the credibility of our food safety standards. As a nation we are known for the rigorous requirements we place on the producers and processors of our food supply. It is in our national interest to act quickly to ensure that our overseas customers can be confident that the meat they buy from us is totally wholesome. If our domestic markets for lamb become jeopardized by an alar-like scare, sheep exporting countries like New Zealand and Great Britain can be expected to consider retaliation with nontariff food examination barriers where we have a competitive trade advantage.

Finally, even the most restrained theories of government hold that governments should assist here individuals and small groups cannot help themselves. Biomedical and veterinary medical research are two of those areas where the Government can help provide protection for farmers from forces beyond their control, and where the outcome can provide protection for the populace as a whole.

Mr. DE LA GARZA. Mr. Chairman, I yield to my distinguished colleague, the gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Chairman, I rise in support of the substitute amendment

offered by the gentleman from Nebraska [Mr. BEREUTER] as part of the amendments en bloc.

On behalf of the Committee on Energy and Commerce, I would like to note that the amendment affects matters within the jurisdiction of the Committee on Energy and Commerce. In fact, a bill introduced by the gentleman from Nebraska only a few weeks ago, H.R. 4782, included very similar provisions, and it was referred to our committee.

We have reviewed the substitute amendment, and as chairman of the subcommittee with jurisdiction in this area, I have no objection to the gentleman's amendment and, in fact, I will support it.

The substitute was worked out with the Department of Agriculture, which I understand supports it also.

I therefore urge my colleagues to support the Bereuter substitute.

Mr. DE LA GARZA. Mr. Chairman, I yield to my colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, let me first acknowledge the strong support which this issue has received from the gentleman from Iowa.

There is possibly no other disease existing today that is a more difficult, more complex, animal health problem facing animal science than scrapie. Several factors contribute to this problem. First, there are no preclinical diagnostic tests available to define the exposed and diseased animals.

Unfortunately, scrapie is a fatal disease of sheep and goats. More specifically, it is a slow virus infection of sheep and goats, one of a group of transmissible diseases known as the spongiform encephalopathies. The disease develops slowly, with an incubation period that generally lasts from 18 to 60 months, or longer, and there is no live animal preclinical diagnostic test.

Since it was first diagnosed in the United States in 1947, various attempts have been made to eradicate the disease. However, beginning with 1980 the number of flocks with diagnosed scrapie outbreaks has increased dramatically. It is projected that 260 flocks of sheep, consisting of 15,000 animals, will be exposed to scrapie by the end of this fiscal year. Currently, the Animal and Plant Health Inspection Service of USDA, which is responsible for scrapie control efforts, has about 200 flocks under surveillance for scrapie.

On July 27, 1989, the Subcommittee on Livestock, Dairy, and Poultry conducted a public hearing regarding this dreaded livestock disease. The testimony received clearly indicated that until the scientific research community develops a test to diagnose scrapie in the live animal, a modification of USDA's current scrapie eradication and research program should be pursued.

Subsequently, USDA has entered into a negotiated rulemaking process on scrapie to determine, with the input of industry and other interested parties, the best way to deal with scrapie within the bounds of current technology. It would be premature to establish mandatory legislation on scrapie without giving this process a chance to work.

Certainly, the efforts of the Sheep Industry Development Program, the U.S. Animal Health

Association and the American Sheep Industry Association should be acknowledged and are appreciated. As a livestock producer myself, I know from experience that it is much more productive and economical to prevent disease than to treat sick animals. Herd and flock health management is a program of cooperation between the producer and veterinarian and should blend with proper management procedures that occur throughout the year. Moreover, for any program to be successful, it must be industry driven. It must serve industry's needs. This includes a self-policing policy to avert the nonreporting of flocks, which protects potentially exposed animals from the surveillance system.

Regardless of whether improvements can be made in the administration of the current program, scrapie will be difficult to eradicate until a preclinical test or a diagnostic test becomes available that detects the disease in the live animal before clinical signs are exhibited; until the causative agent is identified and characterized and until the methods of transmission are fully understood.

To develop a greater understanding of the disease, the Department of Agriculture's Agricultural Research Service and the University of Wisconsin are conducting research to develop a diagnostic test that will determine, before clinical signs are exhibited, whether an animal is infected with scrapie. In addition, the USDA is working with Utah State University to learn more about the epidemiology of scrapie.

Let me conclude by complimenting USDA and the Animal and Plant Health Inspection Service for their record of success in developing effective animal health programs. Through industry, State, and Federal cooperative efforts, we have eradicated over 12 major diseases of livestock and poultry within the past century. Beyond that, we have kept devastating foreign diseases away from our shores.

Mr. DE LA GARZA. Mr. Chairman, the process of the en bloc amendments is for correction, technical corrections, or amendments that have been agreed to by majority, by minority, and by everyone concerned.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendments en bloc were agreed to.

AMENDMENT OFFERED BY MR. DURBIN

Mr. DURBIN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. DURBIN: At the end of title XIII (relating to research, page 614, after line 10) insert the following new section:

SEC. 1396. PUBLIC EDUCATION CONCERNING THE DANGERS OF TOBACCO USE.

(a) **PUBLIC EDUCATION.**—The Extension Service of the Department of Agriculture, in consultation with the Office on Smoking and Health in the Centers for Disease Control in the Department of Health and Human Services, shall carry out a program of public education (with a special emphasis on reaching children and minorities) on the hazards of tobacco use and the advantages of quitting or not starting tobacco use.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$5,000,000 for each of the fiscal years 1991 through 1995 to carry out this section.

Mr. DURBIN (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MODIFICATION OFFERED BY MR. DURBIN TO THE AMENDMENT OFFERED BY MR. DURBIN

Mr. DURBIN. Mr. Chairman, I offer a modification of the amendment, and I ask unanimous consent that the amendment be so modified.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. DURBIN to the amendment offered by Mr. DURBIN of Illinois: Line 12, strike "\$5,000,000" and insert "\$10,000,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. VOLKMER. Mr. Chairman, reserving the right to object, I do for the gentleman from Illinois [Mr. DURBIN] to be able to explain what his modification is and I yield to him for that purpose.

Mr. DURBIN. Mr. Chairman, the modification increases the authorization amount for this program from \$5 million to \$10 million.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. VOLKMER. Mr. Chairman, further reserving the right to object, what is the necessity for increasing from 5 to 10?

Mr. Chairman, I will object.

The CHAIRMAN. Objection is heard.

The gentleman from Illinois [Mr. DURBIN] is recognized for 5 minutes in support of his amendment.

Mr. DURBIN. Mr. Chairman, American tobacco companies are going to lose 5,000 of their very best customers today: 4,000 of them will quit smoking, and 1,000 of them will die from tobacco-related diseases, some from cancer, some from heart disease, some from lung disease, and a variety of tobacco-related diseases. Tobacco-related diseases are the number one preventable cause of death in America today.

How will tobacco companies replenish their ranks? There are 3 target groups. First, young people. With \$3 billion in advertising annually, they work to recruit young women to smoke, suggesting this deadly habit is chic and somehow adds to a successful image. They are benefited by a conspiracy of silence among women's magazines in America which refuses to inform their readers that lung disease

is now the No. 1 cancer cause of death among women, passing breast cancer. Cigarette smoking is the principal cause.

□ 1750

Second, Mr. Chairman, they target minorities. We all recall the insidious Uptown cigarette campaign condemned by Dr. Sullivan at the Department of Health and Human Services. They target advertising in black communities across our Nation, and they subsidize black colleges, charities and political groups. As a result, while 29 percent of Americans over 20 smoke, 34 percent of black Americans and 40 percent of Hispanics, males, are hooked on this fatal addiction.

Finally, and tragically, they target our children. More than 3,000 American teenagers will start smoking today, and 25 percent of today's smokers started before the age of 12. Kids, impressionable, immature, and weak, succumb to advertising and peer pressure to become tomorrow's tobacco victims.

Mr. Chairman, this bill is a modest attempt to battle the tobacco goliath. What I have asked for in this amendment is \$5 million, and I hope we will be able to amend it to \$10 million for the agriculture extension service to target educating our children and minorities in America to avoid or quit smoking.

Mr. Chairman, the extension service is a perfect agency to take on this responsibility. They operate in virtually every county in America, working in both rural and urban areas. They are presently involved in health issues, as well as food and nutrition.

In my district, Mr. Chairman, they work on such issues as teen parenting, and we all know the dangers of smoking for pregnant women.

Their programs, Mr. Chairman, serve the youth across America, and in 1989, fiscal 1989, more than 200,000 families were enrolled in their nutrition program, and more than 400,000 children in their 4-H programs.

Mr. Chairman, let me say at the outset though that there was some objection to my modification of this amendment to move it from \$5 million to \$10 million. I believe my colleague, in offering this amendment, the gentleman from Washington [Mr. CHANDLER], will now address the original amendment offered.

Mr. Chairman, I would like to place in the RECORD a series of letters I have received in support of the Durbin-Chandler amendment.

COALITION ON SMOKING OR HEALTH,
Washington, DC, July 20, 1990.

Re: Amendments to 1990 farm bill.

DEAR MEMBER: On behalf of the American Cancer Society, the American Lung Association and the American Heart Association, united as the Coalition on Smoking OR Health, we write in support of two amendments which Reps. Richard Durbin, Chet

Atkins and Rod Chandler plan to offer to the 1990 farm bill, H.R. 3950.

The Durbin-Chandler amendment would prescribe that the Extension Service of the Department of Agriculture, in consultation with the federal Office on Smoking and Health, carry out a program of public education on the hazards of tobacco use and the advantages of quitting or not starting, emphasizing education to children and minorities. The amendment would authorize \$5 million for this program.

The Durbin-Atkins amendment would prohibit the use of U.S. agricultural export programs to assist or encourage the export of tobacco in its raw or processed form.

These proposals make sense for at least two reasons. First, tobacco is the leading preventable cause of death in our society, claiming 390,000 lives each year in the United States, as well as 2.6 million worldwide. For 26 years, it has been the explicit domestic health policy of our government to discourage tobacco use. The Durbin-Atkins amendment offers a first step in ending the Federal Government's contradictory practice of promoting the exportation of tobacco, of which \$424 million worth has been sent abroad under U.S. agricultural export programs in the past five years.

Second, too many people in our society still are unaware of the serious risks associated with tobacco use. Approximately 34 percent of high school seniors, for example, still do not believe that smoking a pack or more of cigarettes each day causes a great risk to their health. Nearly 50 percent of adult Americans do not know that smoking is addictive, a fact which is critical for young people deciding whether or not to start. Incredibly, 22 percent of the public and nearly 30 percent of smokers are still unaware that smoking causes heart disease. Thirty-two percent of women of child-bearing age do not believe that smoking during pregnancy increases the risk of stillbirth, and 25 percent are unaware of the risk of miscarriage or premature birth. And while only 8 percent of the public remains unaware of some link between smoking and lung cancer, fully 28 percent of smokers still do not know that smoking causes most cases of lung cancer.

The Durbin-Chandler amendment would initiate a new program of public education on the hazards of tobacco use. This would be a moderate and sensible response by the Federal Government to the \$3.3 billion spent annually by cigarette companies to advertise and promote their products with the widespread use of deceptively healthy imagery, macho cowboys, fun-loving beach parties, professional tennis tournaments, and themes of sexual attractiveness and material wealth.

We strongly urge you to vote in favor of these amendments when they come to the House floor.

Sincerely,

FRAN DU MELLE,

Chairperson, Coalition on Smoking OR Health, Director of Government Relations, American Lung Association.

SCOTT D. BALLIN,

Legislative Counsel and Vice President for Public Affairs, American Heart Association.

JOHN H. MADIGAN, JR.,

Assistant Vice President for Public Affairs, American Cancer Society.

AMERICAN MEDICAL ASSOCIATION,
Chicago, IL, July 31, 1990.

Re: Farm Bill Public Education Amendment.

HON. RICHARD J. DURBIN,
House of Representatives, Cannon House Office Building, Washington, DC.

DEAR CONGRESSMAN DURBIN: The American Medical Association understands that you intend to offer an amendment to the farm bill that would create a public education program on the hazards of tobacco use and the advantages of quitting or not starting tobacco use. This program would have a special emphasis on reaching children and minorities.

The AMA commends you for developing this proposal and we strongly support its adoption. The level of federal support for public education about tobacco would be greatly enhanced by the passage of your amendment. The emphasis on education efforts targeted at children is especially important. Most smokers begin as children, well before they appreciate the adverse health consequences. And while the tobacco industry denies that its advertising is targeted to children and adolescents, there is good evidence that such advertisements do in fact reach youth. Some popular themes in tobacco advertising have particular appeal to children and adolescents. These are the very ads that are found in magazines with large readerships among adolescents.

Effective education efforts are needed to counter the effects of widespread tobacco advertising and we are confident that your amendment would advance this important public health goal. Once again, we would like to express our strong support for your efforts.

Sincerely,

JAMES S. TODD, M.D.

AMERICAN PUBLIC HEALTH ASSOCIATION,
Washington, DC, July 23, 1990.

Re: Farm bill.

DEAR MEMBER OF CONGRESS: The American Public Health Association, representing a combined national and affiliate membership of more than 55,000 public health professionals and community health leaders encourages you to support the Durbin-Atkins and Durbin-Chandler amendments to HR 3950, the Farm Bill.

The U.S. Surgeon General has determined that tobacco use is the leading cause of preventable death in our country. Smoking causes 2.5 million deaths world-wide each year with 390,000 of these deaths occurring in the U.S. While nearly half of all living adults who ever smoked have quit, the decline in smoking has not been equitable. Minorities, children, women, and citizens of the Third World countries have been especially targeted by the tobacco industry as future growth markets. To counter the tobacco industry's \$3 billion advertising campaign, we need to take strong measures to protect the health of people around the globe.

The Durbin-Atkins amendment would prohibit the use of U.S. agricultural export programs to assist or support the export of tobacco in its raw or processed form. U.S. tobacco export policy is not just a trade issue, as many members of the Bush Administration claim, especially when millions of lives are at stake. The noted British epidemiologist Richard Peto predicts that of the world's population alive today, 500 million individuals will eventually be killed by tobacco. Current U.S. tobacco trade policy

sends the dangerous political message that the health and lives of citizens of other countries are not as important as the profits of the U.S. tobacco industry.

The Durbin-Chandler amendment would authorize a \$5 million public education program on the health hazards of tobacco and the advantages of preventing and quitting tobacco use. Administered by the Extension Service, in consultation with the Federal Office of Smoking and Health, this program would place a special emphasis on preventing tobacco use among children and minorities. The American Public Health Association is particularly concerned about smoking among teenage girls, the only group whose prevalence rates of tobacco use are on the rise. The tobacco industry knows its markets (teens, women, and minorities) and is aggressively pursuing them with slick advertising and promotional events. The Durbin-Chandler amendment would help counter deceptive cigarette advertising used by the tobacco industry.

Please support the Durbin-Atkins and Durbin-Chandler amendments to the Farm Bill and become a leader in the fight against the worldwide scourge caused by tobacco.

Very truly yours,

MYRON ALLUKINA, DDS, MPH,

President.

ACTION ON SMOKING AND HEALTH,
Washington, DC.

Re: Support for two smoking-related amendments to the farm bill.

DEAR REPRESENTATIVE: Action on Smoking and Health (ASH) would like to urge your support for two amendments which Representative Dick Durbin, in cooperation with Representatives Chet Atkins and Rod Chandler, is expected to offer to this year's Farm Bill.

The first amendment would serve to withdraw the federal government from the promotion of tobacco and tobacco product exports. The second amendment would require that the U.S. Department of Agriculture, in consultation with the federal office on Smoking and Health, carry out a Public Education Program (with a special focus on children and minorities) regarding the dangers of tobacco use and the advantages of quitting or not starting.

The first amendment would prevent the use of U.S. agricultural export programs to promote tobacco exports. Although the Surgeon General of the United States has determined that tobacco use is hazardous to health and is the single most preventable cause of death, U.S. export programs have been used to promote this lethal product abroad. This has occurred despite the estimated 2.5 million deaths a year worldwide from tobacco.

As Assistant Secretary for Health Dr. James O. Mason recently told the world, it is "unconscionable for the mighty transnational tobacco companies—and three of them are in the United States—to be peddling their poison abroad, particularly because their main targets are less-developed countries." The Durbin-Atkins amendment would end the use of federal resources to facilitate the export of this deadly product in contradiction of U.S. health policy both domestically and internationally.

Thus, to promote just world relations and protect the health of millions of people worldwide, ASH urges your support for the Durbin-Atkins amendment.

The second amendment, which is expected to be sponsored by Representatives Durbin and Chandler, would authorize a \$5 million

public education program administered by the Extension service on the danger of tobacco and the advantages of not using it, with a special focus on children and minorities. Increased funding for anti-smoking efforts targeted on children and minorities are badly needed to offset the widely recognized targeting of these groups by the tobacco industry.

As Dr. Mason recently said, "Anyone who thinks cigarette makers aren't after the youth market in America and worldwide must live in a cave." Moreover, Dr. Louis W. Sullivan, the Secretary of Health and Human Services, has called for "an all-out effort to resist the tobacco merchants' attempts to earn profits at the expense of the health and well-being of our poor and minority citizens."

Therefore, ASH urges you to support the Durbin-Chandler amendment to the farm bill as part of the effort to counteract the callous targeting of children and minorities by the tobacco companies.

Respectfully,

JOHN F. BANZHAF III

Executive Director.

MAYO CLINIC,

Rochester, MN, July 31, 1990.

Hon. RICHARD J. DURBIN,
House of Representatives,
Cannon Building,
Washington, DC.

DEAR CONGRESSMAN DURBIN: I am writing in support of your amendment to H.R. 3950 regarding public education concerning the dangers of tobacco. I am the President of the American College of Chest Physicians representing 13,000 cardiopulmonary specialists and Chairman of the largest pulmonary division in the country, also representing physicians whose large percent of their practice relates to dealing with the diseases associated with the use of tobacco. If all smoking stopped today, many of us would be out of business in ten years, but that doesn't stop us from preaching the abstinence of smoking and striving for a goal of a smoke-free society in the next decade or so.

I commend you for supporting education of the public regarding the dangers of tobacco use. Those of us that deal with the addiction of smoking realize it is far easier to keep somebody from smoking than to try to help them quit. Many quit when they realize that they are dying of the consequences of smoking and then it is too late. Over 1,000 people die every day from the effects of smoking; this is the equivalent of more than two fully loaded 747s crashing every day 365 days a year with no survivors. Ten times more people die every year from the adverse effects of smoking than from AIDS. Over 90 percent of smokers begin by the age of 19. Thus if a person has not begun smoking by then, it is unlikely that he or she will.

Nicotine is thought to be more addicting than heroin and cocaine (Surgeon General's Report, 1989). Addiction begins with smoking the first pack of cigarettes, occurring shortly after the individual is over the nausea and other symptoms that anyone has with smoking their first cigarette. Tobacco is also an introductory drug; youth who smoke are 15 times more likely than nonsmokers to progress to narcotic drugs and alcohol abuse.

We physicians have known and have documented that the most important help smokers can get in making the decision to quit smoking is the advice of their physician urging them to quit. The next step is edu-

cating these people per the advice of physicians and other professionals to never start smoking. Therefore, your recommendation to support educational endeavors regarding the dangers of smoking is paramount to reducing the 3,000 or so people who begin smoking for the first time every day.

Sincerely yours,

EDWARD C. ROSENOW III, M.D.,

Chairman, Division of Thoracic Diseases,
President, American College of Chest Physicians.

MEMORIAL SLOAN-KETTERING

CANCER CENTER,

New York, NY, July 31, 1990.

Congressman RICHARD J. DURBIN,
Cannon House Office Building,
Washington, DC.

DEAR CONGRESSMAN DURBIN: For over 35 years, I have been a lung cancer surgeon at Memorial Sloan-Kettering Cancer Center, one of the most prestigious cancer hospitals in the world. On any given day, 30% of the hospital's adult patients are there because they smoked. Almost without exception, all started doing so in their teens.

What must be emphasized is that young, growing tissues are much more vulnerable to carcinogens than those of adults.

Thousands of children in this country who light up for the first time in this country each day, do so at an earlier age than those of previous generations. Therefore, it can be predicted that in about 25 to 35 years, an epidemic of smoking-related cancers, even larger than our present one, will occur. Moreover, these will occur at an earlier age.

Our children are our future. We must take every constructive measure to protect them. By educating them at their most impressionable ages to the hazards of smoking—to say "NO" to tobacco use, we can shield from a lifetime addiction and premature death.

The Durbin Amendment to the Farm Bill would use 10 million dollars for this purpose—and can be a major factor in preventing millions of tragedies for generations of Americans to come.

Sincerely yours,

WILLIAM G. CAHAN, M.D.,

Senior Attending Surgeon.

Mr. HATCHER. Mr. Chairman, will the gentleman yield?

Mr. DURBIN. I yield to the gentleman from Georgia.

Mr. HATCHER. Mr. Chairman, would the gentleman in the well consider offering again, or offering anew, his unanimous-consent request for modification?

Mr. DURBIN. Yes, Mr. Chairman, I will be happy to make that offer, or perhaps I will yield at this point to my colleague, the gentleman from Washington [Mr. CHANDLER], the cosponsor of this amendment.

The CHAIRMAN. The Chair would advise the gentleman from Illinois [Mr. DURBIN] that he would have to yield back his time to the Chair before an amendment to his amendment could be offered by the gentleman from Washington [Mr. CHANDLER].

Mr. DURBIN. All right.

Mr. Chairman, for purposes of debate only, I yield to my colleague, the gentleman from Washington [Mr.

CHANDLER], on the original amendment.

The CHAIRMAN. The Chair would advise the gentleman from Illinois [Mr. DURBIN] that he could ask for unanimous consent to modify his amendment.

REQUEST FOR MODIFICATION TO AMENDMENT
OFFERED BY MR. DURBIN

Mr. DURBIN. Mr. Chairman, I ask unanimous consent to modify the amendment as originally proposed. I believe the modification is still at the Clerk's desk.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification to amendment offered by Mr. DURBIN: Line 12, strike "\$5,000,000" and insert "\$10,000,000".

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

Mr. WALKER. Reserving the right to object, Mr. Chairman, I am still confused as to the procedure here. I mean we are doubling the cost of the program. It is my understanding this is a program that already has \$85 million in it over at the Department of Health and Human Services.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, there is no program presently in existence at the Federal level to provide direct education to youth and minorities about the dangers of smoking. There is an Office of Smoking and Health in the Department of Health and Human Services with an annual budget of \$3½ million. It provides information and materials for those who wish to use them.

Mr. Chairman, this is a direct educational program, and there is no parallel.

Mr. WALKER. Mr. Chairman, further reserving the right to object, I am still a little bit confused as to, if there is a program in existence, why would we start off a whole new program with a whole new bureaucracy if we already have one here in existence and fund it at a level of double of what the gentleman from Illinois [Mr. DURBIN] originally brought the amendment to the floor to do.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I am sorry that I did not make myself clear, but there is no existing program which does this at the present time.

Mr. WALKER. Mr. Chairman, there is an existing program that deals in this area. We are now creating a brand-new program to do things at least similar to what is already in place at HHS.

Now, Mr. Chairman, I am confused as to why this is necessary and particularly why a doubling of the funds is necessary as the gentleman offers his amendment.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. DURBIN] has expired.

Is there objection to the request of the gentleman from Illinois [Mr. DURBIN] for a modification of the amendment offered by Mr. DURBIN?

Mr. WALKER. Mr. Chairman, reserving the right to object, I yield to the gentleman from Illinois [Mr. DURBIN].

PARLIAMENTARY INQUIRY

Mr. DURBIN. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. DURBIN. As I recall, Mr. Chairman, I was allotted 5 minutes initially. Is that correct?

The CHAIRMAN. The time of the gentleman from Illinois [Mr. DURBIN] has expired.

Mr. DURBIN. Mr. Chairman, I withdraw my request and allow my colleague, the gentleman from Washington [Mr. CHANDLER], to offer an amendment.

The CHAIRMAN. The request of the gentleman from Illinois is withdrawn.

AMENDMENT OFFERED BY MR. CHANDLER TO THE
AMENDMENT OFFERED BY MR. DURBIN

Mr. CHANDLER. Mr. Chairman, I offer an amendment to the amendment.

The Clerk read as follows:

Amendment offered by Mr. CHANDLER to the amendment offered by Mr. DURBIN: Line 12, strike "\$5,000,000" and insert "\$10,000,000".

Mr. CHANDLER. Mr. Chairman, I think this will remove the doubt of what we are trying to do and why at this point I will yield to the gentleman from Illinois [Mr. DURBIN] to explain this modification.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from Illinois.

Mr. DURBIN. Very briefly, Mr. Chairman, I will explain to my colleagues in the Chamber the reason why this program was conceived. It would for the very first time provide valuable information, particularly to young persons and to minorities, about the dangers of smoking.

Mr. Chairman, there is no parallel at the Federal level. There is no program which does this. We are using the Extension Service because we believe it has an excellent track record for reaching families in rural and urban areas and particularly disadvantaged families.

Mr. Chairman, the reason why the amendment was increased was that we came to realize that each day in America tobacco companies spend \$9 million

trying to recruit new customers. So, we are asking for a total annual appropriation of \$10 million in an effort to at least get the health message across.

Mr. Chairman, I thank the gentleman from Washington [Mr. CHANDLER] for yielding.

Mr. CHANDLER. Mr. Chairman, I would like to yield further to the gentleman, if I could, so he can explain how the program would operate. I think there is some question in the minds of Members.

Mr. DURBIN. Mr. Chairman, will the gentleman yield?

Mr. CHANDLER. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Chairman, I am happy to explain it.

Mr. Chairman, the Agriculture Extension Service today operates in 3,150 counties across America. They have an annual budget of close to \$400 million, and among their programs are health and nutrition programs which reach into 4-H groups which, of course, are concerned about health in both urban and rural areas, and in fact their clientele, the Extension Services, 40 percent of their clientele are minorities, blacks, Hispanics, and other groups, so we feel they are an excellent agency to initiate this program. My colleagues, consider the cost of smoking among those groups to, not only the American people, but to our Government, I think it is money well invested.

Mr. CHANDLER. Mr. Chairman, I would simply like to add that we are talking here about a tiny fraction of what the tobacco industry spends to try to encourage people, first, to take up the habit and then to continue it. We are simply saying that, instead of the \$5 million original amendment, this would be \$10 million spent to try to educate especially the young and especially minorities against the dangers of tobacco.

Mr. Chairman, Assistant Secretary for Health, James Mason recently said, "Anyone who thinks cigarette makers are not after the youth market in America and worldwide must live in a cave."

When I read that tobacco companies spend more than \$3 billion a year on advertising—much of it directed at the young—it makes me sick.

It makes me sick to think that more than 1,000 children take up the smoking habit every day.

It makes me sick to think that the number of Americans who die from smoking related causes in 1 year exceeds the number of American battle deaths during World War II.

We spend billions in health care dollars just treating the victims of smoking. Why cannot we spend a small sum to educate the young on the hazards of smoking?

Congressman DURBIN and I are offering an amendment to educate people on what is the single most preventable cause of death in our society. Smoking is responsible for 390,000 deaths in the United States each year, or one

in every six, according to the American cancer society.

It is amazing that approximately 34 percent of high school seniors, for example, still do not believe that smoking a pack or more of cigarettes each day causes great risk to their health.

Nearly 50 percent of adult Americans do not even know that smoking is addictive—a fact that is critical for young people deciding whether or not to start.

Incredibly, 22 percent of the public and 30 percent of smokers are still unaware that smoking causes heart disease. Less than a third of smokers do not know that smoking causes most cases of lung cancer. I could go on.

Mr. Chairman, many in this body have fundamental disagreement regarding the value or harm of the tobacco programs in this farm bill. That is fine.

There should not be disagreement on whether or not educating Americans—especially young people—as to the hazards of smoking—is a wise investment.

The money authorized for the Federal Office on Smoking and Health under this amendment is a pittance compared to what is spent to encourage smoking in this country.

I urge Members to support this amendment.

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Washington [Mr. CHANDLER].

Mr. Chairman, I oppose the gentleman's amendment. I am not from a tobacco State. I have no parochial interest in the tobacco program nor tobacco issues generally. I, however, as ranking member on the subcommittee with legislative jurisdiction over the Extension Service feel compelled to protect the agency from these kinds of requirements.

The U.S. Government already, through the Department of Health and Human Services, will spend an estimated \$85 million on smoking cessation and prevention programs. In addition, several private organizations already do outstanding service with respect to these activities, like the National Cancer Society. Let's recognize that it accomplishes nothing beyond what is already being done both by this Government and private organizations.

My other concern is where will this stop? Next there will be a mandated program to educate people on the benefits of organic foods, or a program to dissuade people from eating beef. And, that's not the purpose of the Extension Service. Production agriculture today is a highly technical, capital intensive enterprise. The Extension Service is intended to assist farmers in adopting new, more productive methods of farming. In this bill alone, we have imposed additional responsibilities on the Extension Service to assist farmers in protecting and enhancing the value of their natural resources and the environment—such as water quality, wildlife, wetlands, and soil conservation. This amendment detracts from these new missions. And, I urge my colleagues to vote no to this amendment.

Mr. NIELSON of Utah. Mr. Chairman, "mankind shall not be crucified upon a cross of gold * * * " William Jennings Bryan declared a century ago. Today I urge that 390,000 Americans every year not be unwittingly stran-

gled by a well-advertised noose of nicotine. That is why I am pleased to support the Durbin-Chandler amendment to H.R. 3950.

I have never smoked. The vast majority of my constituents don't smoke. Yet my support for the Durbin-Chandler amendment does not stem from a visceral aversion to tobacco. Rather it comes from a reasoned and sincere concern for the health of millions of Americans who are, or could be persuaded to become tobacco users. I am especially concerned about our children who are most vulnerable to these advertisements.

There is today a pervasive persuasion to use tobacco. Tobacco marketing is effective. If it was not it simply would not be used. If it wasn't, new cigarettes such as Dakota and Uptown would not have been developed.

Yes, the Bill of Rights grants Americans the freedom of speech. That means even tobacco companies have the right to advertise their wares. And they do.

Their cartoon camels, beautiful bathers, and macho cowboys riding in from Marlboro Country tout smoking cool, refreshing, menthol flavor cigarettes. Their sporting events sponsor noteworthy athletic contests. Yet while their tennis stars may have come a long way baby, the smokers who buy their cigarettes may have gone a long, painful way to their graves.

The truth must continually be told about tobacco. This amendment would educate consumers to the facts about tobacco use. It would also help inform consumers about how tobacco companies can take away their freedom of speech. Yes tobacco companies can take away freedom of speech by aggressively marketing products that cause throat cancer, lung cancer, emphysema, respiratory diseases, fetal injury, and premature birth.

In the interest of the life and breath of millions of Americans, education is essential to protecting tobacco consumers. The Durbin-Chandler amendment to H.R. 3950 would grant \$5 million to educate the public, especially our children. To prevent children from becoming smokers in the first place, they must be taught the truth. The truth of the health hazards of tobacco use. The truth of how these tobacco companies are not fully representing their products.

In the interest of cancer prevention and good health retention, pipe and chewing tobacco, cigarette, and cigars must be portrayed as the potentially toxic substances they are. Education will serve as the chief opponent in this battle against the tobacco companies to keep the lungs of our children smoke-free.

Mr. Chairman, the \$5 million to be used toward education is a small price to pay. Especially when compared to the billions we spend to pay for smoking related illnesses and death. It will also protect the rights of the Americans who deserve to know the truth about the products they are consuming.

Mr. Chairman, for reasons of health protection, I support and urge the adoption of the Durbin-Chandler amendment to H.R. 3950.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Washington [Mr. CHANDLER] to the amendment offered by the gentleman from Illinois [Mr. DURBIN].

The amendment was agreed to.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois, as amended.

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to title XIII?

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. MOLLOHAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from West Virginia.

Mr. MOLLOHAN. Mr. Chairman, I thank the gentleman from Texas [Mr. DE LA GARZA] for his cooperation in this matter during the last several days.

Mr. Chairman, I have wanted to offer an amendment that would address an unforeseen and an unfortunate disruption to the child care program by specifying that for-profit day care centers are eligible to participate in the child care food program if 25 percent of their clients are reimbursed by title XX funds or the jobs program. Since 1980, day care centers have been eligible to participate in the USDA child care food programs if 25 percent of their participants were funded by title XX money. The 25-percent standard was intended, Mr. Chairman, to ensure that only those for-profit day care centers which serve a substantial number of low-income children would be reimbursed by the Federal Government. Unfortunately, this intent has been inadvertently unmined by the enactment of the 1988 Family Support Act's new jobs program.

□ 1800

This program has created a new source of Federal reimbursement for day care services provided to low-income children. Many children who were formerly title XX fund recipients are now receiving funding as part of the JOBS Program. In fact, enough children are now shifting from the title XX roles to the JOBS Program to cause many day care centers to drop below the 25-percent mark, thus rendering these centers ineligible to participate in the USDA Child Care Food Program. This has, of course, created a burden for those day care centers. It is an unintended result and it means simply that the incentive for those for-profit day care centers to provide for low-income children has been removed, which means we will not be providing for as many low-income children.

Mr. DE LA GARZA. Mr. Chairman, in order to accommodate my friend, the gentleman from West Virginia [Mr. MOLLOHAN], I yield to my friend, the gentleman from Pennsylvania [Mr. GOODLING].

Mr. GOODLING. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman from West Virginia has explained the problem very correctly. We are well aware of that problem. I am glad the gentleman brought it to our attention. It takes money to fix it. We did last year authorize and it was appropriated to do some demonstration programs to see how we can bring this about.

The gentleman has explained the problem. Hopefully next year the climate will be better and we will be able to get the kind of money that is necessary in order to correct the problem for the for-profit day care centers.

I thank the gentleman for bringing it to the attention of the Congress.

Mr. DE LA GARZA. Mr. Chairman, I thank both gentlemen for bringing this to our attention and commend them for their interest in this area.

Mr. Chairman, I yield to my distinguished colleague, the gentleman from Idaho [Mr. STALLINGS].

Mr. STALLINGS. Mr. Chairman, I would like to engage the chairman of the committee in a colloquy.

I would like to ask the committee chairman, the gentleman from Texas [Mr. DE LA GARZA], section 1704 of the 1985 farm bill requires the Secretary of Agriculture to perform random spot checks of potatoes entering through ports of entry in the Northeastern United States and report to the Congress on the results of the spot checks.

It is my understanding that this provision does not expire and does not need to be renewed in the 1990 farm bill and that the Secretary of Agriculture is obligated to continue to perform the random checks without the need for any further legislation.

Is this the understanding of the gentleman of the requirements of section 1704?

Mr. DE LA GARZA. The gentleman is correct. The Secretary is under a continuing obligation to perform the random spot checks required under section 1704.

I yield to our distinguished colleague, the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, I rise to indicate that I will not be offering the amendment which I filed articulating the purposes to be served by federally funded research and extension programs. My understanding with Mr. BROWN and Mr. ROBERTS suggests to me that the concepts embodied in my amendment will be reflected in their positions in the conference committee over the farm bill.

To clarify the committee position, is it correct, I would ask the gentleman from California [Mr. BROWN], that the House farm bill directs the Secretary to emphasize projects consistent with sustainable agriculture systems in making competitive grants and special

grants? Is it also true that sustainable agriculture systems are those which among other things discussed in the legislation, enhance the quality of life for farmers and society as a whole, by which the committee means research which increases income and employment—especially self-employment—opportunities in agriculture and rural communities and strengthens the family farm system of agriculture, a system characterized by small- and moderate-sized farms which are principally owner operated?

Mr. BROWN of California. Mr. Chairman, will the gentleman from Texas yield to me?

Mr. DE LA GARZA. I yield to our distinguished colleague, the gentleman from California [Mr. BROWN].

Mr. BROWN of California. I would like to thank the gentleman from Minnesota for withdrawing his amendment and enabling us to reach an understanding on this issue in an agreeable and timely manner. The answer to each of his questions is yes.

The amendment which was filed by the gentleman from Minnesota [Mr. PENNY] came before my subcommittee in an earlier and less refined state. Due to the press of time, we were unable to work it out in subcommittee and I appreciate the Congressman's efforts in offering an improved compromise version endorsed by both the land grant institutions and many of their traditional critics. I support the concepts embodied by Mr. PENNY's amendment and that support will be reflected in the positions I take during the deliberations with the Senate in conference committee.

Mr. PENNY. Mr. Chairman, will the gentleman yield further?

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Minnesota.

Mr. PENNY. I would like to ask the gentleman from Kansas [Mr. ROBERTS] whether he will also support the concepts in my amendment during the conference committee deliberations, including provisions directing the Secretary of Agriculture to establish guidelines and procedures to ensure that the purposes expressed by my amendment are reflected in the priority setting processes for research and extension programs such that projects consistent with these purposes are emphasized and each of these purposes is advanced by the research and extension program in its entirety.

Mr. DE LA GARZA. Mr. Chairman, I yield to my friend, the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I thank the gentleman for yielding to me. I concur with the gentleman from California [Mr. BROWN]. My position in the conference committee will reflect the concepts embodied by the amendment. The answer to these questions is yes in each case. At the

same time, my position will balance competing concerns. To protect academic freedom, I will strive to ensure that the legislation which emerges from conference committee cannot be used to prohibit any line of inquiry. Likewise, I will ensure that flexibility is retained. The size of farm acreages to be emphasized will have to vary by region and type of agriculture. Without question, the size of operations on which research and extension programs will focus in my district in western Kansas, which is characterized by wheat farms and ranches, will be larger than the size of operations emphasized by these programs in your district, where dairy farms and corn production predominate. Likewise, the emphasis on environmentally sound farming systems will be tempered by economics. Federally funded research and extension programs must strive to support farming systems which are both environmentally sound and economically viable.

Mr. PENNY. Mr. Chairman, will the gentleman yield further?

Mr. DE LA GARZA. I yield to my friend, the gentleman from Minnesota.

Mr. PENNY. Mr. Chairman, I would like to thank the gentleman from Kansas [Mr. ROBERTS] and the gentleman from California [Mr. BROWN] for their responsiveness to the concerns embodied by my amendment, which include family farms, rural development, human health, and environment. I pledge to work with them to find a mutually agreeable resolution to these issues, and I thank the chairman of the full committee for yielding us this time.

Mr. DE LA GARZA. Mr. Chairman, I thank all three gentlemen for bringing this issue to our attention, and commend them for their interest.

Mr. Chairman, I yield to my distinguished colleague, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I rise in support of the research title established in H.R. 3950.

With each passing day, we are inventing and adopting new technologies that can produce value-added agricultural products that are congruous with the values sought by American consumers. To capitalize on these opportunities, a concerted and well-defined effort must be made to identify desired qualities, and to properly match the research and technologic needs of the industry with our growing body of knowledge.

It is because of a progressive agriculture that Americans enjoy the standard of living and food abundance that are the envy of the world. However, concerns about the environment are calling for modifications in farming practices and input use. To make significant changes in present practices, farmers and ranchers must deal with several obstacles, including time limitations, knowledge and information limitations, new technology implementation, and the need to increase efficiency in

crop production. Moreover, reconciling generally accepted agricultural practices with environmental and conservation goals has become one of the most significant challenges confronting farmers and ranchers.

Based on questions over the past several years, we know that producers are searching for ways to reduce production costs. Currently, there are serious and legitimate concerns about the off-farm environmental effects of agricultural practices as well as effects on health and safety on farm families. With this in mind, one of the most frequent words used in agricultural and other biological circles on the current Washington scene is sustainability.

Agricultural sustainability can be defined in different ways and sought through different means. Sustainability is only a target which one can aim, and agricultural systems obviously operate within the constraints of the larger society.

Part of the current confusion about the sustainable agriculture concept is that several related ideas and terms about sustainable agriculture have also been used. Given the limited understanding of what defines true sustainability, it has been no easy task at this point to determine how to incorporate the ideas of sustainability into congressional policy efforts.

Most importantly, if a farming method is not profitable, it cannot be sustainable. If producers are to adopt methods that result from a low-input concept, the technology must be based on more than a whim and a promise. As provided in sections 1303, 1321, and 1325, information, research, and education will be a crucial part of any new Government program related to sustainable agriculture.

Moreover, transitions from present production to systems with lower inputs will require change by evolution rather than revolution if the changes are to be truly sustainable. The set of strategies for a given production unit is site-specific and changes at a given site over time because of the random dynamics of the natural environment.

Let us not forget, the productivity of modern agriculture is the result of a remarkable fusion of science, technology, and practice. The conventional agriculture of today is not the conventional agriculture of even 5 years ago. Technology and science have moved forward and created new opportunities and new awarenesses.

Technology, intelligently conceived and carefully implemented, including the measured and careful application of agrichemicals and crop protection techniques, represents the hope for the future and, as such, should be a cornerstone of food and agricultural policy for the coming decades.

The challenge of the 1990's and beyond will be to strike a reasoned balance between competing interests and goals. H.R. 3950 is responsive to all legitimate goals. It does so in a systematic and thoughtful way that gives the U.S. Department of Agriculture and farmers the policy tools and flexibility needed for the problems of the 1990's. Flexibility in new programs and policies is essential to allow more creative, ambitious, profitable, and locally acceptable strategies to emerge that underwrite major progress toward reconciling stewardship and agricultural production needs and responsibilities.

WATER QUALITY ENHANCEMENT

Mr. Chairman, people are becoming increasingly concerned about the relationship between agricultural production and the contamination of our Nation's water resources. On one hand, there is the recognition that we need to maintain a viable and economically sound agricultural system that can meet our food and fiber needs. On the other hand, there is a growing demand that this production system be adjusted in some fashion so that any detrimental impacts on the environment are minimized.

One of the difficulties in the issue of agricultural contamination of ground and surface water is that it often occurs as a result of normal agricultural practices. And ironically, it is farmers, and other rural residents, that may be the populations most-at risk from agricultural contaminants in their drinking water because of their activities. Thus, the policy dilemma revolves around difficult choices: how to balance normal activities of an important American sector, production agriculture, against the potential for farming operations to contaminate water supplies.

It is important to note that we do not yet have a firm idea about the magnitude of the ground water contamination problem. However, in most technical circles the debate is no longer about whether or not agricultural activities contaminate ground water. Current discussions focus on where, when, why, the seriousness of the problem, and what can be done about it?

Furthermore, it is clear from the Nation's multibillion-dollar experience in cleaning up groundwater contamination at industrial waste sites that prevention of pollution is much less costly for the public than remedial action.

Make no mistake, environmental protection cannot be considered in isolation, totally aside from profit. Producers must be encouraged and allowed to manage an efficient system that preserved the quality of their drinking water while also preserving their standard of living. As provided in sections 1364 and 1372, a multisite approach, including interdisciplinary team efforts, and meaningful participation of operating farmers is essential to the continued success of production agriculture. H.R. 3950 provides for continued research to evaluate alternative strategies so that we can identify reasonable cost-effective and equitable control strategies for all who are involved: Farmers, taxpayers, and water users.

Yes, water quality issues are complex and difficult and will take some years of sustained effort to address. The quicker we act, the quicker we apply what we already know, the greater our chances of preventing serious degeneration of our Nations' water supplies.

FOOD SAFETY

In the United States, we have come to expect that food will be available when, where, and in the state and condition we desire at relatively low costs. In addition, we expect that it will be safe, wholesome, and contain appropriate nutrients.

Recent events, including media and congressional activities, have brought nationwide focus on food safety. The attention is largely negative and has led to an apparent breach of consumer confidence in the safety of the U.S. food supply.

The agricultural community must recognize that public perceptions shape political reality, whether or not those perceptions are scientifically accurate. Public confidence in the food supply, once shaken, is hard to rebuild. Reassuring consumers with accurate and complete food safety information must remain a government and industry priority throughout the 1990's.

Consequently, the challenge for this body grows increasingly complex as science and technology advance. Improvements in analytic chemistry and residue detection capabilities, new toxicologic data, changing agricultural chemical-use practices, and the development of new food products establishes an urgency and the feasibility for devising a more extensive food safety research effort.

With the numerous opportunities that are evolving for agriculture it is time to move forward with a major investment in research regarding the production, preparation, processing, handling, and storage of agricultural products. Title XIII of H.R. 3950 does just that. It will ensure that the United States is proactive, rather than reactive, to risks and crises in the food and agriculture system.

More specifically, section 1351 of the bill provides for a research program within USDA that will: First, establish a statistical framework to measure the potential risk associated with microbiological and chemical agents in or affecting agricultural products that seriously undermine product wholesomeness and fitness; second, identify any microbiological or chemical agent under the developed statistical framework; and third, identify the means to avoid microbiological and chemical agents in or affecting agricultural products or to control or reduce microbiological and chemical agents; including developing techniques for the rapid detection and identification of microbiological and chemical agents and analyzing agricultural production, processing, and distribution, to determine those points at which intervention could occur to control microbiological or chemical agents in or affecting an agricultural product.

The sharp increases in productivity that makes it possible for a farmer to feed himself plus 92 others today are likely to be duplicated, maybe exceeded, in the decades ahead. As the United States considers its position in the agricultural technology evolution, it will need to hold an open debate and address important decisions on the priority and funding necessary in agricultural science and technology to keep America competitive in agricultural production and trade.

The CHAIRMAN. Are there any other amendments to title XIII?

If not, the Clerk will designate title XIV.

The text of title XIV is as follows:

TITLE XIV—FRUITS, VEGETABLES, AND MARKETING

Subtitle A—Fruits and Vegetables

SEC. 1401. FINDINGS.

Congress finds that—

(1) fruits, vegetables, and specialty crops are a vital and important source of nutrition for the general health and welfare of the people of the United States; and

(2) fruits and vegetables are recommended as an essential part of a healthy, nutritious

diet by numerous health officials and organizations including the Surgeon General of the United States; the National Institutes of Health; the National Cancer Institute; the American Heart Association; the Committee on Diet, Nutrition and Cancer of the National Academy of Sciences; the Department of Agriculture; and the Department of Health and Human Services.

SEC. 1402. PURPOSES.

The purposes of this subtitle are to—

(1) improve the Nation's dietary and nutritional standards by promoting domestically produced wholesome and nutritious fruit and vegetable products;

(2) increase the public awareness as to the difficulties domestic producers experience regarding the production, harvesting, and marketing of these products; and

(3) aid in the development of new technology and techniques that will assist domestic producers in meeting the challenges of increased demands for fruit and vegetable products in the future.

SEC. 1403. DECLARATION.

Congress declares that the domestic production of fruits and vegetables is an integral part of this Nation's farm policy.

SEC. 1404. STUDY OF THE FRUIT AND VEGETABLE INDUSTRY.

(a) **STUDY.**—(1) **IN GENERAL.**—The Secretary shall conduct a study to determine the current state of the domestic fruit and vegetable industry. In conducting such study, the Secretary shall consult with such agencies or departments as determined necessary by the Secretary, including, but not limited to, the Environmental Protection Agency, the Department of Health and Human Services, the Department of Commerce, the Department of Labor, and the Department of Education.

(2) **CONTENTS.**—Such study shall include—

(A) a review of the availability of an adequate labor supply for producing, maintaining, and harvesting fruits and vegetables;

(B) a review of the availability and adequacy of crop insurance or disaster assistance for fruit and vegetable producers;

(C) a review of scientific and technological advances in the areas of genetics, biotechnology, integrated pest management, post harvest protection, or other scientific developments applicable to the production and marketing of fruits and vegetables;

(D) an examination of the availability of safe and effective chemicals for use in the production of fruits and vegetables, with special emphasis on the value of national uniformity to both consumers and producers;

(E) a review of the requirements and costs of labeling of fruits and vegetables and of the benefits of labeling of these products; and

(F) a review of whether Federal educational programs provide adequate information regarding the importance of fruits and vegetables to a proper diet.

(b) **REPORT.**—The Secretary shall submit to the Congress the results of the study described in subsection (a) not later than 18 months from the date of the enactment of this subtitle.

(c) **DEFINITION.**—As used in this section the term "Secretary" means the Secretary of Agriculture.

Subtitle B—Marketing

SEC. 1411. AMENDMENT TO THE PERISHABLE AGRICULTURAL COMMODITIES ACT.

Section 3(b) of the Perishable Agricultural Commodities Act (7 U.S.C. 499c(b)) is amended by—

(1) striking "Provided, That the" and inserting the following: "Any reserve funds in the Perishable Agricultural Commodities Act Fund may be invested by the Secretary in insured or fully-collateralized interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. Any interest earned on such reserve funds shall be credited to the Perishable Agricultural Commodities Act Fund and shall be available for the same purposes as the fees deposited in such fund. The"; and

(2) striking "Provided further, That financial" and inserting "Financial".

SEC. 1412. ENFORCEMENT OF HANDLER ASSESSMENTS.

Section 8(c)(14) of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 608c(14)) is amended—

(1) in subparagraph (A) by—

(A) striking "(other than a provision calling for payment of a pro rata share of expenses)"; and

(B) striking "Provided, That if" and inserting "If"; and

(2) in subparagraph (B) by striking "(other than a provision calling for payment of a pro rata share of expenses)".

SEC. 1413. WINE AND WINEGRAPE INDUSTRY STUDY.

(a) **STUDY.**—The Secretary of Agriculture shall conduct a study to determine how the Department of Agriculture might best work with and support the United States wine and winegrape industry. Such study shall—

(1) be designed to determine whether existing Department of Agriculture programs could be improved to better assist and support the United States wine and winegrape industry;

(2) be designed to determine whether new methods or programs implemented by the Department of Agriculture could enhance wine and winegrape production and processing and expand markets for United States wine and winegrapes;

(3) be conducted in consultation with local, state, and national associations or organizations of wine and winegrape producers;

(4) give special emphasis to States or other geographic areas that have not traditionally had a wine and winegrape industry.

(b) **REPORT.**—The Secretary of Agriculture shall submit a report detailing the determinations made in the study under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate not later than December 31, 1991. Such report shall also include any recommendations to the Congress for legislation the Secretary determines may be necessary to implement the programs or methods specified under subsection (a).

SEC. 1414. PRODUCER RESEARCH AND PROMOTION BOARD ACCOUNTABILITY.

(a) **FINDINGS.**—The Congress finds that—

(1) United States agricultural producers and importers contribute approximately \$600 million annually to support agricultural promotion and research, and consumer information relating to food and nutrition, under federally-authorized checkoff programs;

(2) these federally-authorized checkoff programs are self-help efforts that enable the industry members that contribute to these checkoff programs to take an active role in enhancing the marketing of their farm products;

(3) the federally-authorized checkoff programs, while relatively new, have substantially contributed to strengthening markets

for the agricultural products covered by the programs;

(4) the authorizing legislation for these agricultural check-off programs provides for the Secretary of Agriculture to appoint boards or councils comprised of producers and importers to assist the Secretary in administering the programs under the Secretary's oversight;

(5) the boards and councils that participate in administering the federally-authorized checkoff programs, in each instance, have important responsibilities under, and make substantial contributions to the effective management of, the programs while serving as a valuable link between the industry members that are funding the promotion, research, and information activities under the programs and the Department of Agriculture;

(6) the producers and importers that pay assessments to support the programs must have confidence in, and strongly support, the checkoff programs if these programs are to continue to succeed; and

(7) the checkoff programs cannot operate efficiently and effectively, nor can producer confidence and support for these programs be maintained, unless the boards and councils faithfully and diligently perform the functions assigned to them under the authorizing legislation.

(b) **SENSE OF THE CONGRESS.**—It is the sense of Congress that, to ensure the continued success of the federally-authorized checkoff programs, boards or councils that participate in the administration of the checkoff programs should take care to faithfully and diligently perform the functions assigned to them under the authorizing legislation and otherwise meet their crucial program responsibilities. It further is the sense of Congress that each of these boards and councils, in carrying out the responsibilities assigned to it, is accountable to the Secretary of Agriculture, Congress, and the industry contributing funds for the checkoff program involved, and that each currently operational checkoff board or council should review its charter and activities to ensure that its responsibilities and duties have not been inappropriately delegated or otherwise relinquished to another organization.

Subtitle C—Commodity Promotion

Part 1—Pecan Promotion

SEC. 1421. SHORT TITLE.

This part may be cited as the "Pecan Promotion and Research Act of 1990".

SEC. 1422. FINDINGS AND DECLARATION OF POLICY.

(a) **FINDINGS.**—Congress finds that—

(1) pecans are a native American nut that is an important food, and is a valuable part of the human diet;

(2) the production of pecans plays a significant role in the economy of the United States in that pecans are produced by thousands of pecan producers, shelled and processed by numerous shellers and processors, and pecans produced in the United States are consumed by millions of people throughout the United States and foreign countries;

(3) pecans must be high quality, readily available, handled properly, and marketed efficiently to ensure that consumers have an adequate supply of pecans;

(4) the maintenance and expansion of existing markets and development of new markets for pecans are vital to the welfare of pecan producers and those concerned with marketing, using, and producing pecans, as well as to the general economy of the United States, and necessary to ensure the ready

availability and efficient marketing of pecans;

(5) there exist established State organizations conducting pecan promotion, research, and industry and consumer education programs that are invaluable to the efforts of promoting the consumption of pecans;

(6) the cooperative development, financing, and implementation of a coordinated national program of pecan promotion, research, industry information, and consumer information are necessary to maintain and expand existing markets and develop new markets for pecans; and

(7) pecans move in interstate and foreign commerce, and pecans that do not move in such channels of commerce directly burden or affect interstate commerce in pecans.

(b) **POLICY.**—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this part, of an orderly procedure for developing, financing (through adequate assessments on pecans produced or imported into the United States), and carrying out an effective, continuous, coordinated program of promotion, research, industry information, and consumer information designed to—

(1) strengthen the pecan industry's position in the marketplace;

(2) maintain and expand existing domestic and foreign markets and uses for pecans; and

(3) develop new markets and uses for pecans.

(c) **CONSTRUCTION.**—Nothing in this part may be construed to provide for the control of production or otherwise limit the right of any person to produce pecans.

SEC. 1423. DEFINITIONS.

As used in this part—

(1) **BOARD.**—The term "Board" means the Pecan Marketing Board established in section 1426(b).

(2) **COMMERCE.**—The term "commerce" means interstate, foreign, or intrastate commerce.

(3) **CONFLICT OF INTEREST.**—The term "conflict of interest" means a situation in which a member has a direct or indirect financial interest in a corporation, partnership, sole proprietorship, joint venture, or other business entity dealing directly or indirectly with the Board.

(4) **CONSUMER INFORMATION.**—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of pecans.

(5) **DEPARTMENT.**—The term "Department" means the Department of Agriculture.

(6) **DISTRICT.**—The term "district" means a geographical area of the United States, as determined by the Board and approved by the Secretary, in which there is produced approximately one-fourth of the volume of pecans produced in the United States.

(7) **FIRST HANDLER.**—The term "first handler" means the first person who buys or takes possession of pecans from a grower for marketing. If a grower markets pecans directly to consumers, such grower shall be considered the first handler with respect to pecans grown by such grower.

(8) **GROWER.**—The term "grower" means any person engaged in the production and sale of pecans in the United States who owns, or who shares the ownership and risk of loss of, such pecans.

(9) **GROWER-SHELLER.**—The term "grower-sheller" means a person who—

(A) shells pecans, or has pecans shelled for such person, in the United States; and

(B) during the immediately previous year, grew 50 percent or more of the pecans such person shelled or had shelled for such person.

(10) **HANDLE.**—The term "handle" means receipt of in-shell pecans by a sheller or first handler, including pecans produced by such sheller or first handler.

(11) **IMPORTER.**—The term "importer" means any person who imports pecans from outside of the United States for sale in the United States.

(12) **INDUSTRY INFORMATION.**—The term "industry information" means information and programs that will lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the pecan industry.

(13) **IN-SHELL PECAN.**—The term "in-shell pecan" means a pecan that has a shell that has not been removed.

(14) **TO MARKET.**—The term "to market" means to sell or offer to dispose of pecans in any channel of commerce.

(15) **MEMBER.**—The term "member" means a member of the Board.

(16) **PECAN.**—The term "pecan" means the nut of the pecan tree *Carya illinoensis*.

(17) **PERSON.**—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other entity.

(18) **PLAN.**—The term "plan" means an order issued under section 1424.

(19) **PROMOTION.**—The term "promotion" means any action taken by the Board, pursuant to this part, to present a favorable image of pecans to the public with the express intent of improving the competitive position of pecans in the marketplace and stimulating sales of pecans, including paid advertising.

(20) **RESEARCH.**—The term "research" means any type of test, study, or analysis designed to advance the image, desirability, usage, marketability, production, product development, or quality of pecans.

(21) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture.

(22) **SHELL.**—The term "shell" means to remove the shell from an inshell pecan.

(23) **SHELLED PECAN.**—The term "shelled pecan" means a pecan kernel, or portion of a kernel, after the pecan shell has been removed.

(24) **SHELLER.**—The term "sheller" means any person who—

(A) shells pecans or has pecans shelled for the account of such person; and

(B) during the immediately previous year, purchased more than 50 percent of the pecans such person shelled or had shelled for such account.

(25) **STATE.**—The term "State" means any of the several States, the District of Columbia and the Commonwealth of Puerto Rico.

(26) **UNITED STATES.**—The term "United States" means collectively the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1424. ISSUANCE OF PLANS.

(a) **IN GENERAL.**—To effectuate the declared policy of section 1422(b), the Secretary shall, subject to this part, issue and from time to time amend, plans applicable to growers, grower-shellers, shellers, first handlers, and importers of pecans. Any such plan shall be national in scope. Not more than one plan shall be in effect under this part at any one time.

(b) **PROCEDURE.**—(1) **PROPOSAL FOR ISSUANCE OF PLAN.**—The Secretary may propose the issuance of a plan under this part, or an association of pecan growers or grower-shellers

or any other person that will be affected by this part may request the issuance of, and submit a proposal for, such a plan.

(2) **PROPOSED PLAN.**—Not later than 60 days after the receipt of a request and proposal by an interested person for a plan, or when the Secretary determines to propose a plan, the Secretary shall publish a proposed plan and give due notice and opportunity for public comment on the proposed plan.

(3) **ISSUANCE OF PLAN.**—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue a plan, taking into consideration the comments received and including in the plan provisions necessary to ensure that the plan is in conformity with the requirements of this part.

(4) **EFFECTIVE DATE OF PLAN.**—Such plan shall be issued and become effective not later than 150 days following publication of the proposed plan.

(c) **AMENDMENTS.**—The Secretary, from time to time, may amend any plan issued under this section. The provisions of this part applicable to a plan shall be applicable to amendments to a plan.

SEC. 1425. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this part.

SEC. 1426. REQUIRED TERMS IN PLANS.

(a) **IN GENERAL.**—Each plan issued under this part shall contain the terms and conditions prescribed in this section.

(b) **PECAN MARKETING BOARD.**—(1) **ESTABLISHMENT.**—The plan shall establish a Pecan Marketing Board to carry out the program referred to in section 1422(b).

(2) **SERVICE TO ENTIRE INDUSTRY.**—The Board shall carry out programs and projects that will provide maximum benefit to the pecan industry in all parts of the United States and only generically promote pecans.

(3) **BOARD MEMBERSHIP.**—The Board shall consist of 15 members, including—

(A) 8 members who are growers;

(B) 4 members who are shellers;

(C) one member who is a first handler and who derives over 50 percent of the member's gross income from buying and selling pecans;

(D) one member who is an importer of pecans into the United States, nominated by the Board;

(E) one member representing the general public, nominated by the Board; and

(F) at the option of the Board, a consultant or advisor representing the views of pecan producers in a country other than the United States who may be chosen to attend Board functions as a nonvoting member.

(4) **REPRESENTATION OF MEMBERS.**—(A) **GROWER REPRESENTATIVES.**—Of the growers referred to in paragraph (3)(A), 2 members shall be from each district.

(B) **SHELLER REPRESENTATIVES.**—Of the shellers referred to in paragraph (3)(B)—

(i) 2 members shall be selected from among shellers whose place of residence is east of the Mississippi River; and

(ii) 2 members shall be selected from among shellers whose place of residence is west of the Mississippi River.

(C) **FIRST HANDLER REPRESENTATIVE.**—The first handler representative on the Board referred to in paragraph (3)(C) shall be selected from among first handlers whose place of residence is in a district.

(D) **IMPORTER REPRESENTATIVE.**—The importer representative on the Board referred to in paragraph (3)(D) shall be an individual who imports pecans into the United States.

(E) **PUBLIC REPRESENTATIVE.**—The public representative on the Board referred to in paragraph (3)(E) shall not be a grower, grower-sheller, sheller, first handler, or importer.

(5) **ALTERNATE FOR EACH MEMBER.**—Each member of the Board shall have an alternate with the same qualifications as the member such alternate would replace.

(6) **LIMITATION ON STATE RESIDENCE.**—There shall be no more than one member from each State in each district, except that the State of Georgia may have 2 growers from such State representing the district that it is in.

(7) **MODIFYING BOARD MEMBERSHIP.**—In accordance with regulations approved by the Secretary, at least once each 3 years and not more than once each 2 years, the Board shall—

(A) review the geographic distribution of pecan production throughout the United States; and

(B) if warranted, recommend to the Secretary that the Secretary reapportion a district in order to reflect the geographic distribution of pecan production.

(8) **Selection process for members.**—

(A) **PUBLICITY.**—The Board shall give reasonable publicity to the industry for nomination of persons interested in being nominated for Board membership.

(B) **ELIGIBILITY.**—Each grower and sheller shall be eligible to vote for the nomination of members who represent that class of members on the Board. Growers shall be eligible to vote for the nomination of the first handler members on the Board.

(C) **SELECTION OF NOMINEES.**—Each person referred to in subparagraph (B) shall have one vote. The 2 eligible candidates receiving the largest number of votes cast for each Board position for each class of members shall be the nominees for such position.

(D) **CERTIFICATION.**—Except for the establishment of the initial Board, the nominations made under subparagraph (C) and subsections (b)(3)(D) and (b)(3)(E) shall be certified by the Board and submitted to the Secretary no later than May 1 or such other date recommended by the Board and approved by the Secretary preceding the commencement of the term of office for Board membership, as established in paragraph (9).

(E) **APPOINTMENT.**—To each vacant Board position, the Secretary shall appoint 1 individual from among the nominees certified and submitted under subparagraph (D).

(F) **REJECTION OF NOMINEES.**—The Secretary may reject any nominee submitted under subparagraph (D). If there are insufficient nominees from which to appoint members to the Board as a result of the Secretary's rejecting such nominees, additional nominees shall be submitted to the Secretary in the same manner.

(G) **INITIAL BOARD.**—The Secretary shall establish an initial Board from among nominations solicited by the Secretary. For the purpose of obtaining nominations for the members of the initial Board described in paragraph 3(A), (B), and (C), the Secretary shall perform the functions of the Board under this subsection as the Secretary determines necessary and appropriate. Nominations for those members of the initial Board described in paragraph (3)(D) and (E) shall be made in accordance with paragraph (3).

(H) **FAILURE TO NOMINATE.**—If growers and shellers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the plan. If the Board fails to nominate an importer or a public representative, such member may be appointed without a nomination.

(9) **TERMS OF OFFICE.**—(A) **IN GENERAL.**—The members of the Board shall serve for a term of 3 years, except that the members appointed to the initial Board established under paragraph (8)(G) shall serve, proportionately, for terms of 1, 2, and 3 years, as determined by the Secretary.

(B) **TERMINATION OF TERMS.**—Notwithstanding subparagraph (C), each member shall continue to serve until a successor is appointed by the Secretary.

(C) **LIMITATION ON TERMS.**—No individual may serve more than 2 consecutive 3-year terms as a member.

(D) **VACANCIES.**—

(i) **SUBMITTING NOMINATIONS.**—To fill any vacancy created by the death, removal, resignation, or disqualification of any member of the Board, the Secretary shall request that at least 2 eligible nominations for a successor for each such vacancy be submitted by the Board in the manner provided in paragraph (8).

(ii) **LACK OF NOMINATIONS.**—If at least 2 eligible nominations are not submitted under clause (i), the Secretary shall determine the manner of submission of nominations for the vacancy.

(10) **COMPENSATION.**—A member of the Board shall serve without compensation, but shall be reimbursed for necessary and reasonable expenses incurred in the performance of duties for and approved by the Board.

(c) **POWERS AND DUTIES OF THE BOARD.**—The plan shall define the powers and duties of the Board, which shall include the power and duty—

(1) to administer the plan in accordance with its terms and conditions;

(2) to make regulations to effectuate the terms and conditions of the plan;

(3) to meet, organize, and select from among members of the Board a chairperson, other officers, and committees and subcommittees, as the Board determines appropriate;

(4) to establish working committees of persons other than Board members;

(5) to employ such persons, other than Board members, as the Board considers necessary and to determine the compensation and define the duties of such persons;

(6) to prepare and submit for the approval of the Secretary, prior to the beginning of each fiscal period, a recommended rate of assessment under section 1428, and a fiscal period budget of the anticipated expenses in the administration of the plan, including the probable costs of all programs and projects;

(7) to develop programs and projects, subject to subsection (d);

(8) to enter into contracts or agreements, subject to subsection (e), to develop and carry out programs or projects of promotion, research, industry information and consumer information;

(9) to carry out research, promotion, industry information, and consumer information, and to pay the costs of such projects with assessments collected pursuant to section 1428;

(10) to keep minutes, books, and records that reflect the actions and transactions of the Board, and promptly report minutes of each Board meeting to the Secretary;

(11) to appoint and convene, from time to time, working committees comprised of growers, grower-shellers, first handlers, shellers, importers, and the public to assist in the development of research, promotion, industry information, and consumer information programs for pecans;

(12) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this part, only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may be used for any purpose for which the invested funds may be used;

(13) to receive, investigate, and report to the Secretary complaints of violations of the plan;

(14) to furnish the Secretary with such information as the Secretary may request;

(15) to recommend to the Secretary amendments to the plan; and

(16) to develop and recommend to the Secretary for approval such rules and regulations as may be necessary for the development and execution of programs or projects, or as may otherwise be necessary, to carry out the plan.

(d) **PROGRAMS AND BUDGETS.**—(1) **SUBMISSION TO SECRETARY.**—The plan shall provide that the Board shall submit to the Secretary for approval any program or project of promotion, research, consumer information, or industry information. No program or project shall be implemented prior to its approval by the Secretary.

(2) **BUDGETS.**—The plan shall require the Board, prior to the beginning of each fiscal year, or as may be necessary after the beginning of such fiscal year, to submit to the Secretary for approval budgets of its anticipated expenses (including reimbursements under subsection (b)(10)) and disbursements in the implementation of the plan, including projected costs of promotion, research, consumer information, and industry information programs and projects.

(3) **INCURRING EXPENSES.**—The Board may incur such expenses for programs or projects of research, promotion, consumer information, or industry information, and other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary, including any implementation, administrative, and referendum costs incurred by the Department.

(4) **PAYING EXPENSES.**—The funds to cover the expenses referred to in paragraph (3) shall be paid by the Board from assessments collected under section 1428 or funds borrowed pursuant to paragraph (5).

(5) **AUTHORITY TO BORROW.**—In order to meet the expenses referred to in paragraph (3), the Board shall have the authority to borrow funds, as approved by the Secretary, for capital outlays and startup costs.

(6) **LIMITATION ON SPENDING.**—Effective on the date that is 3 years after the date of the establishment of the Board, the Board shall not spend in excess of 20 percent of the assessments collected under section 1428 for administration of the Board.

(e) **CONTRACTS AND AGREEMENTS.**—(1) **IN GENERAL.**—To ensure efficient use of funds, the plan shall provide that the Board may enter into contracts or agreements for the implementation and carrying out of programs or projects of pecan promotion, research, consumer information, or industry information, including contracts with grower and grower-sheller organizations,

and for the payment of the cost thereof with funds received by the Board under the plan.

(2) **REQUIREMENTS.**—Any such contract or agreement shall provide that—

(A) the contracting party shall develop and submit to the Board a program or project together with a budget or budgets that shall show estimated costs to be incurred for such program or project;

(B) the program or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Board of activities conducted, and make such other reports as the Board or the Secretary may require.

(3) **GROWER AND GROWER-SHELLER ORGANIZATIONS.**—The plan shall provide that the Board may contract with grower and grower-sheller organizations for any other services. Any such contract shall include provisions comparable to those required by paragraph (2).

(f) **BOOKS AND RECORDS OF BOARD.**—(1) **IN GENERAL.**—The plan shall require the Board to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Board.

(2) **AUDITS.**—The Board shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) **PROHIBITION.**—The Board shall not engage in any action to, nor shall any funds received by the Board under this part be used to—

(1) influence legislation or governmental action, other than recommending to the Secretary amendments to the plan;

(2) engage in any action that would be a conflict of interest; or

(3) engage in any advertising that may be false or misleading.

(h) **BOOKS AND RECORDS.**—(1) **IN GENERAL.**—The plan shall require that each first handler, grower-sheller, or importer shall—

(A) maintain and submit to the Board any reports considered necessary by the Secretary to ensure compliance with this part; and

(B) make available during normal business hours, for inspection by employees of the Board or Secretary, such books and records as are necessary to carry out this part, including such records as are necessary to verify any required reports.

(2) **TIME REQUIREMENT.**—The records required under paragraph (1) shall be maintained for 2 years beyond the fiscal period of the applicability of such records.

(3) **CONFIDENTIALITY.**—(A) **IN GENERAL.**—Except as provided in subparagraphs (B) and (D), all information obtained from books, records, or reports required to be maintained under paragraph (1) shall be kept confidential, and shall not be disclosed to the public by any person.

(B) **DISCLOSURE.**—Information referred to in subparagraph (A) may be disclosed to the public only if—

(i) the Secretary considers the information relevant;

(ii) the information is revealed in a suit or administrative hearing brought at the direction or on the request of the Secretary or to

which the Secretary or any officer of the Department is a party; and

(iii) the information relates to this part.

(C) **MISCONDUCT.**—Any disclosure of confidential information in violation of subparagraph (A) by any Board member or employee of the Board, except as required by other law or allowed under subparagraph (B) or (D), shall be considered a violation of this part.

(D) **GENERAL STATEMENTS.**—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the plan or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the plan, together with a statement of the particular provisions of the plan violated by such person.

(4) **AVAILABILITY OF INFORMATION.**—(A) **EXCEPTION.**—Except as provided in section 1432, information obtained under this part may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) **PENALTY.**—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Board or the Department, shall be removed from office.

(5) **WITHHOLDING INFORMATION.**—Nothing in this part shall be construed to authorize the withholding of information from Congress.

(i) **USE OF ASSESSMENTS.**—The plan shall provide that the assessments collected under section 1428 shall be used for payment of the expenses in implementing and administering this part, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this part, except for the salaries of Government employees incurred in conducting referenda.

(j) **OTHER TERMS AND CONDITIONS.**—The plan also shall contain such terms and conditions, not inconsistent with this part, as determined necessary by the Secretary to effectuate this part.

SEC. 1427. PERMISSIVE TERMS IN PLANS.

(a) **IN GENERAL.**—A plan issued pursuant to this part may contain one or more of the terms and conditions contained in this section.

(b) **EXEMPTIONS.**—The plan may provide authority to exempt from the plan pecans used for nonfood uses and authority for the Board to require satisfactory safeguards against improper uses of such exemptions.

(c) **DIFFERENT PAYMENT AND REPORTING SCHEDULES.**—The plan may provide authority to designate different payment and reporting schedules for growers, grower-shellers, first handlers and importers to recognize differences in marketing practices and procedures utilized in different production areas.

(d) **PROMOTION.**—The plan may provide for the establishment, issuance, effectuation, and administration of appropriate programs or projects for the promotion of pecans and for the disbursement of necessary funds for such purposes, except that—

(1) any such program or project shall be directed toward increasing the general demand for pecans; and

(2) such promotional activities shall comply with other restrictions on the use of funds that are established under this part.

(e) **RESEARCH AND INFORMATION.**—The plan may provide for establishing and carrying on research, consumer information, and industry information projects and studies to the end that the marketing and utilization of pecans may be encouraged, expanded, improved, or made more efficient, and for the disbursement of necessary funds for such purposes.

(f) **RESERVE FUNDS.**—The plan may provide authority to accumulate reserve funds from assessments collected pursuant to this part, to permit an effective and continuous coordinated program of research, consumer information, industry information and promotion in years when the production and assessment income may be reduced, except that the total reserve fund may not exceed the amount budgeted for the operation of the plan for 2 years.

(g) **FOREIGN MARKETS.**—The plan may provide authority to use funds collected under this part, with the approval of the Secretary, for the development and expansion of pecan sales in foreign markets.

SEC. 1428. ASSESSMENTS.

(a) **IN GENERAL.**—During the effective period of a plan issued pursuant to this part, assessments shall be—

(1) levied on all pecans produced in, and all pecans imported into, the United States and marketed; and

(2) deducted from the payment made to a grower for all pecans sold to a first handler.

(b) **LIMITATION ON ASSESSMENTS.**—No more than one assessment may be assessed under subsection (a) on a grower (as remitted by a first handler) or importer, for any lot of pecans handled or imported.

(c) **REMITTING ASSESSMENTS.**—(1) **IN GENERAL.**—Assessments required under subsection (a) shall be remitted to the Board by—

(A) a first handler; and

(B) an importer.

(2) **TIMES TO REMIT ASSESSMENT.**—

(A) **FIRST HANDLERS.**—Each first handler who is not a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board no later than the last day of the month following the month that the pecans being assessed were purchased or marketed by such first handler.

(B) **GROWER-SHELLERS.**—Each first handler who is a grower-sheller and who is required to remit an assessment under paragraph (1) shall remit such assessment to the Board, to the extent practicable, in payments of one-third of the total annual amount of such assessment due to the Board on January 31, March 31, and May 10, or such dates as may be recommended by the Board and approved by the Secretary, during the fiscal year that the pecans being assessed were harvested.

(C) **IMPORTERS.**—Importers of pecans into the United States shall pay the assessment at the time the pecans enter the United States and shall remit such assessment to the Board.

(d) **ASSESSMENT RATE.**—(1) **IN GENERAL.**—Except as provided in paragraph (2), assessment rates shall be recommended by the Board and approved by the Secretary, except that the maximum assessment shall not exceed—

(A) during the period commencing on the effective date of the issuance of the plan and ending on the date the referendum is conducted under section 1432(a), one-half cent per pound for in-shell pecans as determined

by the Board and approved by the Secretary; and

(B) after such period, 2 cents per pound for in-shell pecans.

(2) **ADJUSTING RATE FOR OUT-OF-SHELL PECANS.**—The rate of assessment of shelled pecans shall be twice the rate established for in-shell pecans pursuant to paragraph (1).

(3) **SPECIAL STATE ASSESSMENT.**—Notwithstanding any other provision of this part, with the approval of the Secretary and if authorized by State law and requested by such State, a special assessment of one-quarter cent per pound for in-shell pecans, and an appropriate per-pound assessment for out-of-shell pecans as adjusted under paragraph (2), shall be remitted to the Board for the purpose of utilizing such funds by a State pecan marketing board for research projects to promote pecans pursuant to State law. The Board shall collect such assessments and upon receipt of such assessments shall remit such assessments to the State, within a time period mutually agreed upon between the State and the Board, and approved by the Secretary. In the collection of such State assessments, neither the Board nor the Secretary shall in any manner enforce the collection or remittance of any such payment by producers of such State assessments or investigate nonpayment of such State assessments, except to provide to a State the names of growers from whom such assessments were collected and the respective amounts of assessments collected. The Secretary is authorized to make such regulations as may be necessary to carry out the provisions of this section.

(e) **LATE-PAYMENT CHARGE.**—(1) **IN GENERAL.**—There shall be a late-payment charge imposed on any person who fails to remit, on or before the due date established by the Board under subsection (c)(2), to the Board the total amount for which such person is liable.

(2) **AMOUNT OF CHARGE.**—The amount of the late-payment charge imposed under paragraph (1) shall be prescribed by the Board with the approval of the Secretary.

(f) **REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.**—(1) **ESTABLISHMENT OF ESCROW ACCOUNT.**—During the period beginning on the effective date of a plan first issued under section 1424 after enactment of this part and ending on the date the referendum is conducted under section 1432(a), the Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2).

(2) **PLACEMENT OF FUNDS IN ACCOUNT.**—The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) **RIGHT TO RECEIVE REFUND.**—Subject to paragraphs (4), (5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a one-time refund of assessments paid by or on behalf of such grower, grower-sheller, or importer during the period referred to in paragraph (1) if—

(A) such grower, grower-sheller, or importer is required to pay such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this part;

(C) such grower, grower-sheller, or importer demands such refund prior to the conduct of the referendum under section 1432(a); and

(D) the plan is not approved pursuant to the referendum conducted under section 1432(a).

(4) **FORM OF DEMAND.**—Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) **MAKING OF REFUND.**—Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) **PRORATION.**—If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible growers, grower-shellers, or importers; and

(B) the plan is not approved pursuant to the referendum conducted under section 1432(a)

the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

(7) **PROGRAM APPROVED.**—If the plan is approved pursuant to the referendum conducted under section 1432(a), all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this part.

SEC. 1429. PETITION AND REVIEW.

(a) **PETITION.**—(1) **IN GENERAL.**—A person subject to a plan issued under this part may file with the Secretary a petition—

(A) stating that the plan, any provision of the plan, or any obligation imposed in connection with the plan is not in accordance with law; and

(B) requesting a modification of the plan or an exemption from the plan.

(2) **HEARINGS.**—The petitioner shall be given the opportunity for a hearing on the petition, on the record and in accordance with regulations issued by the Secretary.

(3) **RULING.**—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) **REVIEW.**—(1) **COMMENCEMENT OF ACTION.**—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) **PROCESS.**—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) **REMANDS.**—If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) **ENFORCEMENT.**—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 1430.

SEC. 1430. ENFORCEMENT.

(a) **JURISDICTION.**—The district courts of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain a person from violating, this part or any plan, order, rule, or regulation issued under this part.

(b) **REFERRAL TO ATTORNEY GENERAL.**—A civil action to be brought under this section, other than under subsection (f), shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this part or any plan, order, rule, or regulation issued under this part if the Secretary believes that the administration and enforcement of this part would be adequately served by administrative action under subsection (c) or by providing a suitable written notice or warning to any person committing the violation.

(c) **CIVIL PENALTIES AND ORDERS.**—(1) **CIVIL PENALTIES.**—(A) A person who willfully violates any provision of this part or any plan, order, rule, or regulation issued under this part, including the failure to pay, collect, or remit any assessment or late-payment charge required of the person under this part or any plan, order, rule, or regulation issued under this part, may be assessed by the Secretary a civil penalty of not less than \$1,000 nor more than \$10,000 for each such violation.

(B) Each violation shall be a separate offense.

(2) **CEASE AND DESIST ORDERS.**—In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) **NOTICE AND HEARING.**—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record with respect to such violation.

(4) **FINALITY.**—The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person against whom the order is issued files an appeal from the Secretary's order in accordance with subsection (d).

(d) **REVIEW BY DISTRICT COURT.**—(1) **COMMENCEMENT OF ACTION.**—A person against whom a civil penalty is assessed or a cease and desist order is issued under subsection (c) may obtain review of such penalty or order in the district court of the United States for the district in which such person resides or does business, or in the United States District Court for the District of Columbia, by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in such court; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) **RECORD.**—The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) **STANDARD OF REVIEW.**—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) **FAILURE TO OBEY ORDERS.**—Any person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing on the record and for judicial review under the procedures specified in subsections (c) and (d), of not more than \$1,000 for each offense. Each day during which the failure continues shall be considered a separate violation of such order.

(f) **FAILURE TO PAY PENALTY.**—If a person fails to pay a civil penalty after it has become a final and unappealable order issued by the Secretary, or after the appropriate district court has entered a final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of such order imposing such civil penalty shall not be subject to review.

SEC. 1431. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) **IN GENERAL.**—The Secretary may make such investigations as the Secretary deems necessary—

(1) for the effective administration of this part; or

(2) to determine whether a person has engaged or is engaging in any act or practice that constitutes a violation of any provision of this part, or of any plan, rule, or regulation issued under this part.

(b) **POWER TO SUBPOENA.**—(1) **INVESTIGATIONS.**—For the purpose of an investigation made under subsection (a), the Secretary is authorized to administer oaths and affirmations and to issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) **ADMINISTRATIVE HEARINGS.**—For the purpose of an administrative hearing held under section 1429 or section 1430, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) **AID OF COURTS.**—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) **CONTEMPT.**—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) **PROCESS.**—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) **HEARING SITE.**—The site of any hearings held under this section shall be within the judicial district where such person resides or has a principal place of business.

SEC. 1432. REQUIREMENT OF REFERENDUM.

(a) **IN GENERAL.**—Not later than 24 months after the effective date of the plan first issued under section 1424 after enactment of this part, the Secretary shall conduct a referendum among growers, grower-shellers, and importers, who during a representative period determined by the Secretary have been engaged in the production or importation of pecans, for the purpose of ascertaining whether growers, grower-shellers, and importers favor continuation, termination, or suspension of the plan.

(b) **OTHER REFERENDA.**—(1) **IN GENERAL.**—After the referendum required under subsection (a), the Secretary shall hold a referen-

dum on request of the Board or 10 percent or more of the total number of growers, grower-shellers, and importers, to determine if growers, grower-shellers, and importers favor the termination or suspension of the plan.

(2) **SUSPENSION OR TERMINATION.**—The Secretary shall terminate or suspend such plan, in accordance with section 1433(b), whenever the Secretary determines that such suspension or termination is favored by a majority of those voting in a referendum.

(c) **COSTS OF REFERENDUM.**—The Secretary shall be reimbursed from any assessments collected by the Board for any expenses incurred by the Department in connection with the conduct of any referendum under this part, except for the salaries of Government employees.

(d) **MANNER.**—(1) **IN GENERAL.**—Referenda conducted pursuant to this part shall be conducted in such a manner as is determined by the Secretary.

(2) **ADVANCE REGISTRATION.**—A grower, grower-sheller, or importer who chooses to vote in any referendum conducted under this part shall register in person prior to the voting period at the appropriate local office of the Agricultural Stabilization and Conservation Service, as determined by the Secretary, for such grower, grower-sheller, or importer.

(3) **VOTING.**—A grower, grower-sheller, or importer who votes in any referendum conducted under this part shall vote in person at the appropriate local office of the Agricultural Stabilization and Conservation Service, as determined by the Secretary.

(4) **NOTICE.**—Each Agricultural Stabilization and Conservation Service office shall notify all growers, grower-shellers, and importers in the area of such office, as determined by the Secretary, at least 30 days prior to a referendum conducted under this part. Such notice shall explain the registration and voting procedures established under this subsection.

SEC. 1433. SUSPENSION OR TERMINATION OF PLAN.

(a) **MANDATORY SUSPENSION OR TERMINATION.**—The Secretary shall, whenever the Secretary finds that the plan or any provision of the plan obstructs or does not tend to effectuate the declared policy of this part, terminate or suspend the operation of such plan or provision.

(b) **SUSPENSION OR TERMINATION.**—If, as a result of any referendum conducted under this part, the Secretary determines that suspension or termination of a plan is favored by a majority of the growers, grower-shellers, and importers voting in the referendum, the Secretary shall—

(1) within 6 months after making such determination, suspend or terminate, as the case may be, collection of assessments under the plan; and

(2) suspend or terminate, as the case may be, activities under the plan in an orderly manner as soon as practicable.

(c) The termination or suspension of any plan, or any provision thereof, shall not be considered a plan within the meaning of this part.

SEC. 1434. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this part.

(b) **ADMINISTRATIVE EXPENSES.**—Funds appropriated to carry out this part shall not be available for payment of the expenses or expenditures of the Board in administering any provision of any plan issued under this part.

PART 2—MUSHROOMS

SEC. 1441. SHORT TITLE.

This part may be cited as the "Mushroom Promotion, Research, and Consumer Information Act of 1990".

SEC. 1442. FINDINGS AND DECLARATION OF POLICY.

(a) **FINDINGS.**—Congress finds that—

(1) mushrooms are an important food that is a valuable part of the human diet;

(2) the production of mushrooms plays a significant role in the Nation's economy in that mushrooms are produced by hundreds of mushroom producers, distributed through thousands of wholesale and retail outlets, and consumed by millions of people throughout the United States and foreign countries;

(3) mushroom production benefits the environment by efficiently using agricultural byproducts;

(4) mushrooms must be high quality, readily available, handled properly, and marketed efficiently to ensure that the benefits of this important product are available to the people of the United States;

(5) the maintenance and expansion of existing markets and uses, and the development of new markets and uses, for mushrooms are vital to the welfare of producers and those concerned with marketing and using mushrooms, as well as to the agricultural economy of the Nation;

(6) the cooperative development, financing, and implementation of a coordinated program of mushroom promotion, research, and consumer information are necessary to maintain and expand existing markets for mushrooms; and

(7) mushrooms move in interstate and foreign commerce, and mushrooms that do not move in such channels of commerce directly burden or affect interstate commerce in mushrooms.

(b) **POLICY.**—It is declared to be the policy of Congress that it is in the public interest to authorize the establishment, through the exercise of the powers provided in this part, of an orderly procedure for developing, financing through adequate assessments on mushrooms produced domestically or imported into the United States, and carrying out, an effective, continuous, and coordinated program of promotion, research, and consumer and industry information designed to—

(1) strengthen the mushroom industry's position in the marketplace;

(2) maintain and expand existing markets and uses for mushrooms; and

(3) develop new markets and uses for mushrooms.

(c) **CONSTRUCTION.**—Nothing in this part may be construed to provide for the control of production or otherwise limit the right of individual producers to produce mushrooms.

SEC. 1443. DEFINITIONS.

As used in this part—

(1) **COMMERCE.**—The term "commerce" means interstate, foreign, or intrastate commerce.

(2) **CONSUMER INFORMATION.**—The term "consumer information" means information and programs that will assist consumers and other persons in making evaluations and decisions regarding the purchase, preparation, and use of mushrooms.

(3) **COUNCIL.**—The term "Council" means the Mushroom Council established under section 1445(b).

(4) **DEPARTMENT.**—The term "Department" means the Department of Agriculture.

(5) **FIRST HANDLER.**—The term "first handler" means any person, as described in an order issued under this part, who receives or otherwise acquires mushrooms from a producer and prepares for marketing or markets such mushrooms, or who prepares for marketing or markets mushrooms of that person's own production.

(6) **IMPORTER.**—The term "importer" means any person who imports, on average, over 500,000 pounds of mushrooms annually from outside the United States.

(7) **INDUSTRY INFORMATION.**—The term "industry information" means information and programs that are designed to lead to the development of new markets and marketing strategies, increased efficiency, and activities to enhance the image of the mushroom industry.

(8) **MARKETING.**—The term "marketing" means the sale or other disposition of mushrooms in any channel of commerce.

(9) **MUSHROOMS.**—The term "mushrooms" means all varieties of cultivated mushrooms grown within the United States for the fresh market, or imported into the United States for the fresh market, that are marketed, except that such term shall not include mushrooms that are commercially marinated, canned, frozen, cooked, blanched, dried, packaged in brine, or otherwise processed, as may be determined by the Secretary.

(10) **PERSON.**—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or any other legal entity.

(11) **PRODUCER.**—The term "producer" means any person engaged in the production of mushrooms who owns or who shares the ownership and risk of loss of such mushrooms and who produces, on average, over 500,000 pounds of mushrooms per year.

(12) **PROMOTION.**—The term "promotion" means any action determined by the Secretary to enhance the image or desirability of mushrooms, including paid advertising.

(13) **RESEARCH.**—The term "research" means any type of study to advance the image, desirability, marketability, production, product development, quality, or nutritional value of mushrooms.

(14) **SECRETARY.**—The term "Secretary" means the Secretary of Agriculture.

(15) **STATE AND UNITED STATES.**—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1444. ISSUANCE OF ORDERS.

(a) **GENERAL.**—To effectuate the declared policy of section 1442(b), the Secretary, subject to the procedures provided in subsection (b), shall issue orders under this part applicable to producers, importers, and first handlers of mushrooms. Any such order shall be national in scope. Not more than one order shall be in effect under this part at any one time.

(b) **PROCEDURES.**—(1) **ISSUANCE OF AN ORDER.**—The Secretary may propose the issuance of an order under this part, or an association of mushroom producers or any other person that will be affected by this part may request the issuance of, and submit a proposal for, such an order.

(2) **PUBLICATION OF ORDER.**—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, or when the Secretary determines to propose an order, the Secretary shall publish the proposed order and give due notice and opportunity for public comment on the proposed order.

(3) **ISSUANCE OF ORDER.**—After notice and opportunity for public comment are given,

as provided in paragraph (2), the Secretary shall issue the order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this part. Such order shall be issued and, if approved by producers and importers of mushrooms as provided in section 1446(a), shall become effective not later than 180 days following publication of the proposed order.

(c) **AMENDMENTS.**—(1) **IN GENERAL.**—The Secretary, from time to time, may amend any order issued under this section.

(2) **APPLICATION OF PART.**—The provisions of this part applicable to an order shall be applicable to amendments to the order.

SEC. 1445. REQUIRED TERMS IN ORDERS.

(a) **IN GENERAL.**—Each order issued under this part shall contain the terms and conditions prescribed in this section.

(b) **MUSHROOM COUNCIL.**—(1) **ESTABLISHMENT AND MEMBERSHIP OF COUNCIL.**—(A) **ESTABLISHMENT.**—The order shall provide for the establishment of, and selection of members to, a Mushroom Council that shall consist of at least 4 members and not more than 9 members.

(B) **MEMBERSHIP.**—Except as provided for in paragraph (2), the members of the Council shall be mushroom producers and importers appointed by the Secretary from nominations submitted by producers and importers in the manner authorized by the Secretary, except that no more than one member may be appointed to the Council from nominations submitted by any one producer or importer.

(2) **APPOINTMENTS.**—(A) **IN GENERAL.**—In making appointments, the Secretary shall take into account, to the extent practicable, the geographical distribution of mushroom production throughout the United States, and the comparative volume of mushrooms imported into the United States.

(B) **UNITS.**—In establishing such geographical distribution of mushroom production, a whole State shall be considered as a unit and such units shall be organized into 4 regions that shall fairly represent the geographic distribution of mushroom production within the United States.

(C) **IMPORTERS.**—Importers shall be represented as one region, which shall be separate from the regions established for mushrooms produced in the United States.

(D) **MEMBERS PER REGION.**—The Secretary shall appoint one member from each region if such region produces or imports, on average, at least 35,000,000 pounds of mushrooms annually.

(E) **ADDITIONAL MEMBERS.**—Subject to the nine-member limit on the number of members on the Council provided in paragraph (1), the Secretary shall appoint an additional member to the Council from a region for each additional 50,000,000 pounds of production or imports per year, on average, within the region.

(F) For purposes of this paragraph, in determining average annual mushroom production in each of the 4 regions of the United States established under this paragraph, the Secretary shall only consider mushrooms produced by producers covered by this part, as defined in section 1443(11).

(G) **FAILURE TO NOMINATE.**—If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order.

(3) **TERMS; COMPENSATION.**—(A) **TERMS.**—The term of appointment to the Council shall be for 3 years, except that the initial appoint-

ments shall to the extent practicable be proportionately for 1-year, 2-year, and 3-year terms.

(B) **COMPENSATION.**—Council members shall serve without compensation but shall be reimbursed for their expenses incurred in performing their duties as members of the Council.

(c) **POWERS AND DUTIES OF THE COUNCIL.**—The order shall define the powers and duties of the Council, which shall include the following powers and duties—

(1) to administer the order in accordance with its terms and provisions;

(2) to make rules and regulations to effectuate the terms and provisions of the order;

(3) to appoint members of the Council to serve on an executive committee;

(4) to propose, receive, evaluate, approve and submit to the Secretary for approval under subsection (d) budgets, plans, and projects of mushroom promotion, research, consumer information, and industry information, as well as to contract and enter into agreements with appropriate persons to implement such plans or projects;

(5) to develop and propose to the Secretary voluntary quality and grade standards for mushrooms;

(6) to receive, investigate, and report to the Secretary complaints of violations of the order;

(7) to recommend to the Secretary amendments to the order; and

(8) to invest, pending disbursement under a plan or project, funds collected through assessments authorized under this part only in—

(A) obligations of the United States or any agency thereof;

(B) general obligations of any State or any political subdivision thereof;

(C) any interest-bearing account or certificate of deposit of a bank that is a member of the Federal Reserve System; or

(D) obligations fully guaranteed as to principal and interest by the United States, except that income from any such invested funds may only be used for any purpose for which the invested funds may be used.

(d) **PLANS AND BUDGETS.**—(1) **SUBMISSION TO SECRETARY.**—The order shall provide that the Council shall submit to the Secretary for approval any plan or project of promotion, research, consumer information, or industry information.

(2) **BUDGETS.**—The order shall require the Council to submit to the Secretary for approval budgets on a fiscal year basis of its anticipated expenses and disbursements in the implementation of the order, including projected costs of promotion, research, consumer information, and industry information plans and projects.

(3) **APPROVAL BY SECRETARY.**—No plan or project of promotion, research, consumer information, or industry information, or budget, shall be implemented prior to its approval by the Secretary.

(e) **CONTRACTS AND AGREEMENTS.**—(1) **IN GENERAL.**—To ensure efficient use of funds, the order shall provide that the Council may enter into contracts or agreements for the implementation and carrying out of plans or projects of mushroom promotion, research, consumer information, or industry information, including contracts with producer organizations, and for the payment of the cost thereof with funds received by the Council under the order.

(2) **REQUIREMENTS.**—Any such contract or agreement shall provide that—(A) the contracting party shall develop and submit to the Council a plan or project together with a

budget or budgets that shall show estimated costs to be incurred for such plan or project;

(B) the plan or project shall become effective on the approval of the Secretary; and

(C) the contracting party shall keep accurate records of all of its transactions, account for funds received and expended, make periodic reports to the Council of activities conducted, and make such other reports as the Council or the Secretary may require.

(3) **PRODUCER ORGANIZATIONS.**—The order shall provide that the Council may contract with producer organizations for any other services. Any such contract shall include provisions comparable to those provided in subparagraphs (A), (B), and (C) of paragraph (2).

(f) **BOOKS AND RECORDS OF COUNCIL.**—(1) **IN GENERAL.**—The order shall require the Council to—

(A) maintain such books and records (which shall be available to the Secretary for inspection and audit) as the Secretary may prescribe;

(B) prepare and submit to the Secretary, from time to time, such reports as the Secretary may prescribe; and

(C) account for the receipt and disbursement of all funds entrusted to the Council.

(2) **AUDITS.**—The Council shall cause its books and records to be audited by an independent auditor at the end of each fiscal year, and a report of such audit to be submitted to the Secretary.

(g) **ASSESSMENTS.**—(1) **COLLECTION AND PAYMENT.**—(A) **IN GENERAL.**—The order shall provide that each first handler of mushrooms for the domestic fresh market produced in the United States shall collect, in the manner prescribed by the order, assessments from producers and remit the assessments to the Council.

(B) **IMPORTERS.**—The order also shall provide that each importer of mushrooms for the domestic fresh market shall pay assessments to the Council in the manner prescribed by the order.

(C) **DIRECT MARKETING.**—Any person marketing mushrooms of that person's own production directly to consumers shall remit the assessments on such mushrooms directly to the Council in the manner prescribed in the order.

(2) **RATE OF ASSESSMENT.**—The rate of assessment shall be determined and announced by the Council and may be changed by the Council at any time. The order shall provide that the rate of assessment—

(A) for the first year of the order, may not exceed one-quarter cent per pound of mushrooms;

(B) for the second year of the order, may not exceed one-third cent per pound of mushrooms;

(C) for the third year of the order, may not exceed one-half cent per pound of mushrooms; and

(D) for the following years of the order, may not exceed one cent per pound of mushrooms.

(3) **USE OF ASSESSMENTS.**—The order shall provide that the assessments shall be used for payment of the expenses in implementing and administering this part, with provision for a reasonable reserve, and to cover those administrative costs incurred by the Secretary in implementing and administering this part, except for the salaries of Government employees incurred in conducting referenda.

(4) **LIMITATION ON COLLECTION.**—No assessment may be collected on mushrooms that a first handler certifies will be exported as mushrooms.

(h) **PROHIBITION.**—The order shall prohibit any funds received by the Council under the order from being used in any manner for the purpose of influencing legislation or government action or policy, except that such funds may be used by the Council for the development and recommendation to the Secretary of amendments to the order as prescribed in this part and for the submission to the Secretary of recommended voluntary grade and quality standards for mushrooms under the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.).

(i) **BOOKS AND RECORDS.**—(1) **IN GENERAL.**—The order shall require that each first handler and importer of mushrooms maintain, and make available for inspection, such books and records as may be required by the order and file reports at the time, in the manner, and having the content prescribed by the order.

(2) **AVAILABILITY TO SECRETARY.**—Such information shall be made available to the Secretary as is appropriate for the administration or enforcement of this part, the order, or any regulation issued under this part.

(3) **CONFIDENTIALITY.**—(A) **IN GENERAL.**—All information obtained under paragraph (1) shall be kept confidential by all officers and employees of the Department and the Council, and agents of the Council, and only such information so obtained as the Secretary considers relevant may be disclosed to the public by them and then only in a suit or administrative hearing brought at the request of the Secretary, or to which the Secretary or any officer of the United States is a party, and involving the order.

(B) **LIMITATIONS.**—Nothing in this paragraph may be construed to prohibit—

(i) the issuance of general statements, based on the reports, of the number of persons subject to the order or statistical data collected therefrom, which statements do not identify the information furnished by any person; or

(ii) the publication, by direction of the Secretary, of the name of any person violating the order, together with a statement of the particular provisions of the order violated by such person.

(4) **AVAILABILITY OF INFORMATION.**—(A) **IN GENERAL.**—Except as provided in section 1448, information obtained under this part may be made available to another agency of the Federal Government for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency has made a written request to the Secretary specifying the particular information desired and the law enforcement activity for which the information is sought.

(B) **PENALTY.**—Any person knowingly violating this subsection, on conviction, shall be subject to a fine of not more than \$1,000 or to imprisonment for not more than 1 year, or both, and if an officer or employee of the Council or the Department, shall be removed from office.

(5) **WITHHOLDING INFORMATION.**—Nothing in this part shall be construed to authorize the withholding of information from Congress.

(j) **OTHER TERMS AND CONDITIONS.**—The order also shall contain such terms and conditions, not inconsistent with this part, as are necessary to effectuate this part, including provisions for the assessment of a penalty for each late payment of assessments under subsection (g).

SEC. 1446. REFERENDA.

(a) **INITIAL REFERENDUM.**—(1) **IN GENERAL.**—Within the 60-day period immediately preceding the effective date of an order issued

under section 1444(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether the order shall go into effect.

(2) **APPROVAL OF ORDER.**—The order shall become effective, as provided in section 1444(b), if the Secretary determines that the order has been approved by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum.

(b) **SUCCEEDING REFERENDA.**—(1) **DETERMINATION CONCERNING ORDER.**—(A) **IN GENERAL.**—Effective 5 years after the date on which an order becomes effective under section 1444(b), the Secretary shall conduct a referendum among mushroom producers and importers to ascertain whether they favor continuation, termination, or suspension of the order.

(B) **REQUEST FOR REFERENDUM.**—Effective beginning 3 years after the date on which an order becomes effective under section 1444(b), the Secretary, on request of a representative group comprising 30 percent or more of the number of mushroom producers and importers, may conduct a referendum to ascertain whether producers and importers favor termination or suspension of the order.

(2) **SUSPENSION OR TERMINATION.**—If, as a result of any referendum conducted under paragraph (1), the Secretary determines that suspension or termination of an order is favored by a majority of the producers and importers voting in the referendum, which majority, on average, annually produces and imports into the United States more than 50 percent of the mushrooms annually produced and imported by all those voting in the referendum, the Secretary shall—

(A) within 6 months after making such determination, suspend or terminate, as appropriate, collection of assessments under the order; and

(B) suspend or terminate, as appropriate, activities under the order in an orderly manner as soon as practicable.

(c) **MANNER.**—Referenda conducted pursuant to this section shall be conducted in such a manner as is determined by the Secretary.

SEC. 1447. PETITION AND REVIEW.

(a) **PETITION.**—(1) **IN GENERAL.**—A person subject to an order issued under this part may file with the Secretary a petition—

(A) stating that the order, any provision of the order, or any obligation imposed in connection with the order, is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) **HEARINGS.**—The petitioner shall be given the opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) **RULING.**—After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) **REVIEW.**—(1) **COMMENCEMENT OF ACTION.**—The district courts of the United States in any district in which a person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of such ruling of the Secretary under subsection (a).

(2) **PROCESS.**—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) **REMANDS.**—If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) **ENFORCEMENT.**—The pendency of proceedings instituted under subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 1448.

SEC. 1448. ENFORCEMENT.

(a) **JURISDICTION.**—The several district courts of the United States are vested with jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this part.

(b) **REFERRAL TO ATTORNEY GENERAL.**—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this part, or any order, rule, or regulation issued under this part, if the Secretary believes that the administration and enforcement of this part would be adequately served by administrative action under subsection (c) or suitable written notice or warning to the person who committed or is committing the violation.

(c) **CIVIL PENALTIES AND ORDERS.**—(1) **CIVIL PENALTIES.**—A person who willfully violates a provision of any order or regulation issued by the Secretary under this part, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under such order or regulation, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense.

(2) **CEASE-AND-DESIET ORDERS.**—In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) **NOTICE AND HEARING.**—No penalty shall be assessed or cease and desist order issued by the Secretary under this subsection unless the Secretary gives the person against whom the penalty is assessed or the order is issued notice and opportunity for a hearing before the Secretary with respect to such violation.

(4) **FINALITY.**—The penalty assessed or cease and desist order issued under this subsection shall be final and conclusive unless the person against whom the penalty is assessed or the order is issued files an appeal with the appropriate district court of the United States in accordance with subsection (d).

(d) **REVIEW BY DISTRICT COURT.**—(1) **COMMENCEMENT OF ACTION.**—Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order by—

(A) filing, within the 30-day period beginning on the date such penalty is assessed or order issued, a notice of appeal in the District Court of the United States for the district in which such person resides or does business, or in the United States District Court for the District of Columbia; and

(B) simultaneously sending a copy of the notice by certified mail to the Secretary.

(2) **RECORD.**—The Secretary shall promptly file in such court a certified copy of the

record on which the Secretary found that the person had committed a violation.

(3) **STANDARD OF REVIEW.**—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) **FAILURE TO OBEY ORDERS.**—A person who fails to obey a cease and desist order after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than \$500 for each offense. Each day during which such failure continues shall be considered as a separate violation of such order.

(f) **FAILURE TO PAY PENALTIES.**—If a person fails to pay an assessment of a civil penalty after it has become final and unappealable, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in any district court in which the person resides or conducts business. In such action, the validity and appropriateness of such civil penalty shall not be subject to review.

SEC. 1449. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) **INVESTIGATIONS.**—The Secretary may make such investigations as the Secretary considers necessary for the effective administration of this part or to determine whether any person subject to this part has engaged or is engaging in any act that constitutes a violation of this part or of any order, rule, or regulation issued under this part.

(b) **SUBPOENAS, OATHS, AND AFFIRMATIONS.**—(1) For the purpose of an investigation made under subsection (a), the Secretary may administer oaths and affirmations and issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) **ADMINISTRATIVE HEARINGS.**—For the purpose of an administrative hearing held under section 1447 or section 1448, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) **AID OF COURTS.**—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) **CONTEMPT.**—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) **PROCESS.**—Process in any such case may be served in the judicial district in which such person resides or conducts business or wherever such person may be found.

(f) **HEARING SITE.**—The site of any hearings held under this section shall be within the judicial district where such person resides or has a principal place of business.

SEC. 1450. SAVINGS PROVISION.

Nothing in this part may be construed to preempt or supersede any other program relating to mushroom promotion, research, consumer information, or industry information organized and operated under the laws of the United States or any State.

SEC. 1451. SUSPENSION OR TERMINATION OF ORDERS.

The Secretary shall, whenever the Secretary finds that the order or any provision of the order obstructs or does not tend to effectuate the declared policy of this part, terminate or suspend the operation of such order or provision. The termination or suspension of any order, or any provision thereof, shall not be considered an order under the meaning of this part.

SEC. 1452. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated for each fiscal year such sums as are necessary to carry out this part.

(b) **ADMINISTRATIVE EXPENSES.**—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Council in administering any provision of an order issued under this part.

SEC. 1453. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this part.

PART 3—POTATOES

SEC. 1461. SHORT TITLE.

This part may be cited as the "Potato Research and Promotion Act Amendments of 1990".

SEC. 1462. FINDINGS AND DECLARATION OF POLICY.

Section 302 of the Potato Research and Promotion Act (7 U.S.C. 2611) is amended—

(1) in the first paragraph—

(A) in the first sentence by inserting "and foreign countries" after "United States";

(B) in the second sentence, by inserting "and imported into the United States from foreign countries" after "United States"; and

(C) by striking the last sentence;

(2) in the second paragraph—

(A) in the first sentence—

(i) by striking "in a large part,"; and

(ii) by inserting "or foreign" after "channels of interstate"; and

(B) by striking the second sentence; and

(3) in the fourth paragraph—

(A) by inserting "and imported into the United States from foreign countries" after "commercial use"; and

(B) by striking at the end thereof "produced in the United States" and inserting "and potato products".

SEC. 1463. DEFINITIONS.

Section 303 of the Potato Research and Promotion Act (7 U.S.C. 2612) is amended—

(1) in subsection (c)—

(A) by striking "forty-eight contiguous" and inserting "50"; and

(B) by inserting before the period at the end thereof "and grown in foreign countries and imported into the United States"; and

(2) by adding at the end the following new subsection:

"(g) The term 'importer' means any person who imports tablestock, frozen, or processed potatoes for ultimate consumption by humans or seed potatoes into the United States."

SEC. 1464. AUTHORITY TO ISSUE A PLAN.

Section 304 of the Potato Research and Promotion Act (7 U.S.C. 2613) is amended—

(1) in the first sentence—

(A) by striking "persons engaged in the handling of potatoes (hereinafter referred to

as handlers)" and inserting "handlers and importers"; and

(B) by inserting "or imported" after "potatoes handled"; and

(2) in the third sentence—

(A) by striking "forty-eight contiguous" and inserting "50"; and

(B) by inserting before the period "and in foreign countries, if importers are subject to a plan and such potatoes are imported into the United States".

SEC. 1465. NOTICE AND HEARINGS.

Section 305 of the Potato Research and Promotion Act (7 U.S.C. 2614) is amended—

(1) in the first sentence by striking "potato producers" and inserting "interested persons"; and

(2) in the second sentence by striking "by potato producers or by any other interested person or persons, including the Secretary" and inserting "by any interested person, including the Secretary".

SEC. 1466. REQUIRED TERMS IN PLANS.

Section 308 of the Potato Research and Promotion Act (7 U.S.C. 2617) is amended—

(1) in subsection (b)—

(A) by inserting after the first sentence the following: "If importers are subject to a plan, the board shall also include up to 5 representatives of importers, appointed by the Secretary from nominations submitted by importers in such manner as may be prescribed by the Secretary.";

(B) after "If producers" by inserting "or importers"; and

(C) in the last sentence by inserting ", or to importer approval when importers are subject to a plan," after "approval";

(2) in subsection (e)—

(A) by striking "one cent" and inserting "2 cents"; and

(B) by inserting ", and importers when importers are subject to a plan," after "producers";

(3) in subsection (f)(1) by inserting in the proviso ", or importer approval when importers are subject to a plan," after "producer approval"; and

(4) by striking subsection (g) and redesignating subsections (h), (i), and (j) as subsections (g), (h), and (i), respectively.

SEC. 1467. PERMISSIVE TERMS IN PLANS.

Section 309 of the Potato Research and Promotion Act (7 U.S.C. 2618) is amended by redesignating subsection (g) as subsection (i) and inserting the following new subsections:

"(g) Providing that any potato producer or importer against whose potatoes any assessment is made and collected under authority of this title and who is not in favor of supporting the research and promotion program as provided for under this title shall have the right to demand and receive from the board a refund of such assessment. Such demand shall be made personally by such producer or importer in accordance with regulations and on a form and within a time period prescribed by the board and approved by the Secretary, but in no event less than 90 days, and upon submission of proof satisfactory to the board that the producer or importer paid the assessment for which refund is sought, and any such refund shall be made within 60 days after demand therefor.

"(h) Providing for authority to assess imports of tablestock, frozen, or processed potatoes for ultimate consumption by humans and seed potatoes into the United States."

SEC. 1468. ASSESSMENTS.

Section 310 of the Potato Research and Promotion Act (7 U.S.C. 2619) is amended—

(1) in subsection (a) by inserting "(1)" after "(a)" and adding at the end thereof the following new paragraph:

"(2) when importers are subject to a plan, each importer designated by the board, pursuant to regulations issued under the plan, to make payment of assessments shall be responsible for payment to the board, as it may direct, of any assessment levied on potatoes. The assessment on imported tablestock, frozen, or processed potatoes for ultimate consumption by humans, and seed potatoes shall be established by the board so that the effective assessment shall equal that on domestic production and shall be paid by the importer to the board at the time of entry into the United States. Each such importer shall maintain a separate record including the total quantity of tablestock, frozen, processed potatoes for ultimate consumption by humans, and seed potatoes imported into the United States that are included under the terms of the plan as well as those that are exempt under such plan, and shall indicate such other information as may be prescribed by the board. No more than one assessment shall be made on any imported potatoes."

(2) in subsection (b) by inserting "and importers" after "Handlers"; and

(3) in subsection (c)(1) by inserting "or importers" after "handlers".

SEC. 1469. INVESTIGATION AND POWER TO SUBPOENA.

Section 313 of the Potato Research and Promotion Act (7 U.S.C. 2622) is amended in subsection (a)—

(1) by striking in the first sentence "a handler or any other" and inserting "any"; and

(2) in the last sentence by striking "handler or other".

SEC. 1470. REQUIREMENT OF REFERENDUM.

Section 314 of the Potato Research and Promotion Act (7 U.S.C. 2623) is amended—

(1) in subsection (a) by adding at the end the following sentence: "When the issuance of a plan would subject importers to the terms and conditions of a plan, the Secretary also shall conduct the referendum among importers, who during a representative period determined by the Secretary have been engaged in the importation of potatoes, for the purpose of ascertaining whether the issuance of such plan is approved or favored by such importers.";

(2) in subsection (b) by striking "two-thirds of the producers voting in such referendum, or by the producers of not less than two-thirds of the potatoes produced during the representative period by producers voting in such referendum, and by not less than a majority of the producers voting in such referendum" and inserting "a majority of the producers voting in such referendum or a majority of the producers and importers when the issuance of a plan would subject importers to the terms and conditions of a plan, voting in such referendum";

(3) in subsection (c) by inserting "and importers" after "producers"; and

(4) in subsection (d) by inserting ", or any importer or the volume of potatoes imported by such importer," after "potatoes".

SEC. 1471. SUSPENSION OR TERMINATION OF PLANS.

Section 315 of the Potato Research and Promotion Act (7 U.S.C. 2624) is amended—

(1) in subsection (b)—

(A) by inserting ", or of the total number of producers and importers when importers are subject to a plan," after "potato producers" the first time it appears;

(B) by inserting "and importers" after "potato producers" the second time it appears;

(C) by inserting "and import" after "produce"; and

(D) by striking "by the potato producers voting in the referendum" and inserting "and imported by those voting in the referendum"; and

(2) by adding a new subsection (c) to read as follows:

"(c) The termination or suspension of any plan, or any provision thereof, shall not be considered the issuance of a plan within the meaning of this part."

SEC. 1472. AMENDMENT PROCEDURE.

(a) IN GENERAL.—Notwithstanding any provision of the Potato Research and Promotion Act (hereafter in this section referred to as the "Act"), the procedure specified in this section shall apply if a producer or a producer organization requests the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") to amend the plan in effect under that Act (hereafter in this section referred to as the "plan") to—

(1) subject importers to the terms and conditions of a plan, and

(2) eliminate provisions for refunds of assessments for those not in favor of supporting the research and promotion program as provided under that Act.

The procedure under this section shall apply only in the case of the first such request received after the date of enactment of this Act.

(b) PUBLICATION OF PROPOSED AMENDMENTS.—The Secretary shall publish for public comment such proposed amendments to the plan within 60 days.

(c) ISSUANCE OF FINAL AMENDMENTS.—Not later than 150 days after publication of such amendment, and after notice and opportunity for public comment, the Secretary shall issue the amendments to the plan, as described in subsection (a), if the Secretary has reason to believe that such amendments will tend to effectuate the declared policy of this part.

(d) REFERENDUM.—Not later than 24 months after the date of issuance of such amendments to the plan, the Secretary shall conduct a referendum among producers and importers who, during a representative period determined by the Secretary, have been engaged in the production or importation of potatoes. The amendments shall be continued only if the Secretary determines that the amendments to the plan have been approved by a majority of the total number of producers and importers voting in the referendum.

(e) REFUNDS.—The board shall—

(1) establish an escrow account to be used for assessment refunds, and place funds in such account in accordance with paragraph (2) during the period beginning on the effective date of the amendments to the plan issued under subsection (c) and ending on the date of the referendum on the amendments to the plan;

(2) place in the account established under paragraph (1), from assessments collected under the plan during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent;

(3) subject to paragraphs (4), (5), and (6), provide that for the period referred to in paragraph (1) any producer or importer shall have the right to demand and receive from the board a one-time refund of assessments collected from such producer or importer during such period if—

(A) such producer or importer is responsible for paying such assessments;

(B) such producer or importer does not support the program established under the plan; and

(C) the amendments to the plan to eliminate provisions for refunds of assessments are not approved pursuant to a referendum conducted under subsection (d);

(4) require such demand to be made in accordance with regulations, on a form, and within a time period prescribed by the board;

(5) require such refund to be made on submission of proof satisfactory to the board that such producer or importer paid the assessment for which refund is demanded; and

(6) if the amount in the escrow account required to be established by paragraph (1) is not sufficient to refund the total amount of assessments demanded by all eligible producers and importers under this subsection, prorate the amount of such refunds among all eligible producers and importers who demand such refund.

(f) If such amendments to the plan are not approved, the Secretary shall terminate the amendments and the plan shall continue in effect without the amendments.

(g) AMENDMENT TO INCLUDE THE 50 STATES.—Notwithstanding any provision of the Act, the Secretary shall, upon request of a producer or a producer organization, issue an amendment to the plan to include the 50 States of the United States. Such amendment shall not be subject to a referendum.

PART 4—COTTON

SEC. 1473. SHORT TITLE.

This part may be cited as the "Cotton Research and Promotion Act Amendments of 1990".

SEC. 1474. FINDINGS AND DECLARATION OF POLICY.

Section 2 of the Cotton Research and Promotion Act (7 U.S.C. 2101) is amended by—

(1) in the second sentence inserting "and also outside the United States" before the period;

(2) in the third sentence by striking "in large part";

(3) striking the fourth and the sixth sentences of the first paragraph;

(4) striking "The great inroads on the market and uses for United States" and inserting "The great inroads on the market and uses for"; and

(5) in the third paragraph—

(A) striking "harvested" and inserting "marketed"; and

(B) inserting "and on imports of cotton" after "United States" the first time it appears.

SEC. 1475. REQUIRED TERMS IN ORDER; COTTON IMPORTS.

Section 7 of the Cotton Research and Promotion Act (7 U.S.C. 2106) is amended—

(1) in subsection (a)(2) by—

(A) striking "handler" and inserting "person"; and

(B) striking "producer";

(2) in subsection (b), in the first sentence, by—

(A) inserting "(1)" after "shall be composed of"; and

(B) striking the colon and all that follows through the end of the sentence and inserting the following: "and (2) when imports of cotton are subject to an order, an appropriate number of representatives, as determined by the Secretary, of importers of cotton on which assessments are paid under this Act. Such importer representatives shall be appointed by the Secretary after consultation with organizations representing im-

porters, as determined by the Secretary. Each cotton-producing State shall be entitled to at least one representative on the Cotton Board."

(3) by amending subsection (e) to read as follows:

"(e)(1) Providing that—

"(A) the producer or other person for whom the cotton is being handled shall pay to the handler of such cotton designated by the Cotton Board pursuant to regulations issued under the order;

"(B) such handler shall collect from the producer or other person for whom the cotton, including cotton owned by the handler, is being handled, and shall pay to the Cotton Board; and

"(C) each importer shall pay to the Cotton Board on imports of cotton,

an assessment prescribed by the order, on the basis of bales of cotton handled or imported. The assessment shall cover such expenses and expenditures, including provision for a reasonable reserve, as the Secretary finds are reasonable and likely to be incurred by the Cotton Board under the order, during any period specified by the Secretary.

"(2) The order shall provide for reimbursing the Secretary—

"(A) for expenses not to exceed \$300,000 incurred by the Secretary in connection with any referendum conducted under section 8; and

"(B) for administrative costs incurred by the Secretary for supervisory work up to 5 employee years after an order or amendment to an order has been issued and made effective.

There shall also be included in the order a provision for reimbursing any agency of the Federal Government that assists in administering the import provisions of the order for a reasonable amount of the expenses incurred by that agency in connection therewith.

"(3) To facilitate the collection and payment of such assessments, the Cotton Board may designate different handlers or importers or classes of handlers or importers to recognize differences in marketing practices or procedures utilized in any State or area, except that no more than one such assessment shall be made on any bale of cotton, unless specifically authorized by provisions of this subsection.

"(4) The rate of assessment prescribed by the order shall be \$1 per bale of cotton handled, supplemented by an additional per bale amount not to exceed 1 percent of the value of cotton as determined by the Cotton Board and the Secretary. The rate of assessment on imports of cotton shall be determined in the same manner as the rate of assessment per bale of cotton handled, and the value to be placed on cotton imports for the purpose of determining the assessment on such imports shall be established by the Secretary in a fair and equitable manner.

"(5) No authority under this Act may be used as a basis to advertise or solicit votes in any referendum relating to the rate of assessment with funds collected under this Act.

"(6) The Secretary may maintain a suit against any person subject to the order for the collection of such assessment, and the several district courts of the United States are hereby vested with jurisdiction to entertain such suits regardless of the amount in controversy. The remedies provided in this section shall be in addition to, and not exclusive of, the remedies provided for elsewhere in this Act or now or hereafter existing at law or in equity.

"(7) The provisions of this subsection and subsection (b) shall not apply to cottonseed

and the products derived from cotton and its seed.

"(8) The provisions of this subsection relating to importers and assessments on imports of cotton shall be effective only if approved in a referendum as provided in section 8(b) or 8(c)."

SEC. 1476. REQUIREMENTS FOR REFERENDA.

Section 8 of the Cotton Research and Promotion Act (7 U.S.C. 2100) is amended by—

(1) inserting "(a)" before "The Secretary"; and

(2) adding at the end the following new subsections:

"(b)(1) Notwithstanding the provisions of sections 4 and 5, not later than 150 days after the date of enactment of the Cotton Research and Promotion Act Amendments of 1990, and after notice and opportunity for public comment, the Secretary shall issue a proposed amendment to the order implementing the provisions of such Act, which shall become effective as provided in paragraph (2).

"(2) Notwithstanding the provisions of subsection (a), the Secretary shall, within a period not to exceed 8 months after the date of enactment of the Cotton Research and Promotion Act Amendments of 1990, conduct a referendum among persons who have been cotton producers and importers during a representative period, as determined by the Secretary, for the purpose of ascertaining if a majority of those voting approve the proposed amendment to the order issued by the Secretary under paragraph (1). The Secretary shall announce the results of the referendum within 30 days after the date of such referendum. If the amendment is approved in the referendum, within a period not to exceed 90 days from the date of announcement of the results of such referendum, the Secretary shall publish the amendment to the order and regulations implementing the amendment provided for in this subsection.

"(c)(1) Notwithstanding the provisions of sections 4 and 5, once every five years after the date of the referendum provided for under subsection (b), the Secretary shall conduct a review to ascertain whether a referendum is needed to determine whether producers and importers favor continuation of the amendment to the order provided for in the Cotton Research and Promotion Act Amendments of 1990 if such amendment is then in effect or, if such an amendment is not in effect, whether they favor approval of such amendment. The Secretary shall make a public announcement of the results of the review within 60 days after each fifth anniversary date of the referendum provided for under subsection (b). If the Secretary determines to provide for such a referendum, the Secretary shall conduct the referendum within 12 months after a public announcement of the determination to conduct the referendum.

"(2) If the Secretary does not provide for such a referendum on the Secretary's own initiative, the Secretary shall conduct such a referendum upon the request of 10 percent or more of the number of cotton producers and importers voting in the most recent referendum, except that, in counting such requests for a referendum, not more than 20 percent of such requests may be from producers from any one State. Producers and importers may sign up to request such a referendum at the county office of the Agricultural Stabilization and Conservation Service, or county extension agent, or by mailing such a request to the Secretary, as prescribed

in regulations. The signup period shall be for a period not to exceed 90 days, shall commence 60 days after the Secretary makes a public announcement of a determination not to provide for a referendum on the Secretary's own initiative, and shall be publicized by the Secretary and the Cotton Board immediately after such public announcement. The referendum shall be held within 12 months after the end of the signup period, if requested by the requisite number of persons.

"(3) The amendment to the order provided for in this subsection shall not be effective if it is disapproved by a majority of cotton producers and importers of cotton voting in the referendum."

SEC. 1477. SUSPENSION AND TERMINATION OF ORDERS.

Section 9(b) of the Cotton Research and Promotion Act (7 U.S.C. 2108(b)) is amended to read as follows:

"(b) The Secretary may conduct a referendum at any time, and shall hold a referendum on request of a number of producers and importers (if subject to the order) equivalent to at least 10 percent of those persons voting in the most recent referendum, to determine whether cotton producers and importers subject to the order favor the termination or suspension of the order. The Secretary shall suspend or terminate the order at the end of the marketing year, as defined in the order, whenever the Secretary determines suspension or termination of the order is approved by a majority of producers and importers (subject to the order) voting in the referendum who, during a representative period determined by the Secretary, have been engaged in the production and importation of cotton and who produced and imported more than 50 percent of the volume of cotton produced and imported by those voting in the referendum."

SEC. 1478. AMENDMENTS TO THE ORDER.

Section 10 of the Cotton Research and Promotion Act (7 U.S.C. 2109) is amended to read as follows:

"PROVISIONS APPLICABLE TO AMENDMENTS

"SEC. 10. (a) Except as provided in subsection (b), the provisions of this Act applicable to orders shall be applicable to amendments to orders.

"(b) No amendment to an order issued under this Act shall be effective unless the Secretary determines that—

"(1) with respect to an amendment referred to in section 8(b) or 8(c), the amendment is approved by producers and importers of cotton as provided in such section; or

"(2) with respect to any other amendment, that the amendment is approved by a majority of cotton producers and importers subject to the order voting in the referendum.

"(c) The disapproval of any amendment to an order issued under this Act shall not be deemed to invalidate such order."

SEC. 1479. PRODUCER REFUNDS.

Section 11 of the Cotton Research and Promotion Act (7 U.S.C. 2110) is amended by—

(1) striking "Notwithstanding any other provision" and inserting "(a) Notwithstanding any other section and except as provided in subsection (b),"; and

(2) adding at the end the following new subsection:

"(b) The right of a producer to demand a refund under subsection (a) shall terminate if the proposed amendment of the order implementing the Cotton Research and Promotion Amendments Act of 1990 is approved in the referendum provided for under section 8. Such right shall terminate 30 days after the date the Secretary announces the results of

such referendum if such proposed amendment is approved. Such right shall be reinstated if the amendment should be disapproved in any subsequent referendum."

SEC. 1480. DEFINITIONS.

Section 17 of the Cotton Research and Promotion Act (7 U.S.C. 2116) is amended—

(1) in subsection (c)—

(A) by inserting "(1)" after "means"; and

(B) by striking "its seed." and inserting the following: "its seed and (2) imports of upland cotton. The term 'cotton' shall not, however, include any entry of imported cotton by an importer that has a value or weight less than any de minimis figure established in accordance with regulations issued by the Secretary. Any de minimis figure established under this paragraph shall be such as to minimize the burden in administering the assessment provision but still provide for the maximum participation of imports of cotton in the assessment provisions of this Act."

(2) in subsection (d), by inserting after "cottonseed" the following:

"or, for the purposes of sections 3, 6(c), and 13, any person who imports cotton, including de minimis amounts of cotton described in subsection (c),"; and

(3) by adding at the end a new subsection to read as follows:

"(h)(1) the term 'importer' means any person who enters, or withdraws from warehouse, cotton produced outside the United States for consumption in the customs territory of the United States.

"(2) The term 'import' means any such entry."

PART 5—LIMES

SEC. 1481. SHORT TITLE.

This part may be cited as the "Lime Research, Promotion, and Consumer Information Act of 1990".

SEC. 1482. FINDINGS, PURPOSES, AND LIMITATIONS.

(a) FINDINGS.—Congress finds that—

(1) domestically produced limes are grown by many individual producers;

(2) virtually all domestically produced limes are grown in the States of Florida and California;

(3) limes move in interstate and foreign commerce, and limes that do not move in such channels of commerce directly burden or affect interstate commerce in limes;

(4) in recent years, large quantities of limes have been imported into the United States;

(5) the maintenance and expansion of existing domestic and foreign markets for limes and the development of additional and improved markets for limes are vital to the welfare of lime producers and other persons concerned with producing, marketing, or processing limes;

(6) a coordinated program of research, promotion, and consumer information regarding limes is necessary for the maintenance and development of such markets; and

(7) lime producers, lime producer-handlers, lime handlers, and lime importers are unable to implement and finance such a program without cooperative action.

(b) PURPOSES.—The purposes of this part are—

(1) to authorize the establishment of an orderly procedure for the development and financing (through an adequate assessment) of an effective and coordinated program of research, promotion, and consumer information regarding limes designed—

(A) to strengthen the position of the lime industry in domestic and foreign markets, and

(B) to maintain, develop, and expand markets for limes; and

(2) to treat domestically produced and imported limes equitably.

(c) LIMITATION.—Nothing in this part shall be construed to require quality standards for limes, control the production of limes, or otherwise limit the right of the individual producers to produce limes.

SEC. 1483. DEFINITIONS.

For purposes of this part:

(1) BOARD.—The term "Board" means the Lime Board provided for under section 1485(b).

(2) CONSUMER INFORMATION.—The term "consumer information" means any action taken to provide information to, and broaden the understanding of, the general public regarding the use, nutritional attributes, and care of limes.

(3) HANDLE.—The term "handle" means to sell, purchase, or package limes.

(4) HANDLER.—The term "handler" means any person in the business of handling limes.

(5) IMPORTER.—The term "importer" means any person who imports limes into the United States.

(6) LIME.—The term "lime" means the fruit of a citrus aurantifolia tree for the fresh market.

(7) MARKETING.—The term "marketing" means the sale or other disposition of limes in commerce.

(8) ORDER.—The term "order" means a lime research, promotion, and consumer information order issued by the Secretary under section 1484(a).

(9) PERSON.—The term "person" means any individual, group of individuals, partnership, corporation, association, cooperative, or other legal entity.

(10) PRODUCER.—The term "producer" means any person who produces limes in the United States for sale in commerce.

(11) PRODUCER-HANDLER.—The term "producer-handler" means any person who is both a producer and handler of limes.

(12) PROMOTION.—The term "promotion" means any action taken under this part (including paid advertising) to present a favorable image for limes to the general public with the express intent of improving the competitive position and stimulating the sale of limes.

(13) RESEARCH.—The term "research" means any type of research relating to the use and nutritional value of limes and designed to advance the image, desirability, marketability, or quality of limes.

(14) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(15) STATE AND UNITED STATES.—The terms "State" and "United States" include the 50 States of the United States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 1484. ISSUANCE OF ORDERS.

(a) IN GENERAL.—Subject to this part, and to effectuate the declared purposes of this part, the Secretary shall issue and, from time to time, amend lime research, promotion, and consumer information orders applicable to handlers, producers, producer-handlers, and importers of limes. Any such order shall be national in scope. Not more than one order shall be in effect under this part at any one time.

(b) PROCEDURE.—(1) PROPOSAL FOR ISSUANCE OF ORDER.—Any person that will be affected by this part may request the issuance of, and submit a proposal for, an order under this part.

(2) **PROPOSED ORDER.**—Not later than 60 days after the receipt of a request and proposal by an interested person for an order, the Secretary shall publish a proposed order and give due notice and opportunity for public comment on the proposed order.

(3) **ISSUANCE OF ORDER.**—After notice and opportunity for public comment are given, as provided in paragraph (2), the Secretary shall issue an order, taking into consideration the comments received and including in the order provisions necessary to ensure that the order is in conformity with the requirements of this part.

(4) **EFFECTIVE DATE OF ORDER.**—Such order shall be issued and become effective not later than 150 days following publication of the proposed order.

(c) **AMENDMENTS.**—The Secretary, from time to time, may amend any order issued under this section. The provisions of this part applicable to orders shall be applicable to amendments to orders.

SEC. 1485. REQUIRED TERMS IN ORDERS.

(a) **IN GENERAL.**—An order issued by the Secretary under section 1484(a) shall contain the terms and conditions described in this section and, except as provided in section 1486, no other terms or conditions.

(b) **LIME BOARD.**—Such order shall provide for the establishment of a Lime Board as follows:

(1) **MEMBERSHIP.**—The Board shall be composed of—

(A) 7 members who are producers and who are not exempt from an assessment under subsection (d)(5)(A);

(B) 3 members who are importers and who are not exempt from an assessment under subsection (d)(5)(A); and

(C) one member appointed from the general public.

(2) **APPOINTMENT AND NOMINATION.**—

(A) **APPOINTMENT.**—The Secretary shall appoint the members of the Board.

(B) **PRODUCERS.**—The 7 members who are producers shall be appointed from individuals nominated by lime producers.

(C) **IMPORTERS.**—The 3 members who are importers shall be appointed from individuals nominated by lime importers.

(D) **PUBLIC.**—The public representative shall be appointed from nominations of the Board.

(E) **FAILURE TO NOMINATE.**—If producers and importers fail to nominate individuals for appointment, the Secretary may appoint members on a basis provided for in the order. If the Board fails to nominate a public representative, such member may be appointed by the Secretary without a nomination.

(F) **INITIAL BOARD.**—The Secretary shall establish an initial Board from among nominations solicited by the Secretary. For the purpose of obtaining nominations for the members of the initial Board described in paragraph (1), the Secretary shall perform the functions of the Board under this subsection as the Secretary determines necessary and appropriate.

(3) **ALTERNATES.**—The Secretary shall appoint an alternate for each member of the Board. An alternate shall—

(A) be appointed in the same manner as the member for whom such individual is an alternate; and

(B) serve on the Board if such member is absent from a meeting or is disqualified under paragraph (5).

(4) **TERMS.**—Members of the Board shall be appointed for a term of 3 years. Of the members first appointed—

(A) 3 members shall be appointed for a term of 1 year;

(B) 4 members shall be appointed for a term of 2 years; and

(C) 4 members shall be appointed for a term of 3 years; as designated by the Secretary at the time of appointment.

(5) **REPLACEMENT.**—If a member or alternate of the Board who was appointed as a producer, importer, or public representative ceases to belong to the group for which such member was appointed, such member or alternate shall be disqualified from serving on the Board.

(6) **COMPENSATION.**—Members and alternates of the Board shall serve without pay.

(7) **TRAVEL EXPENSES.**—While away from their homes or regular places of business in the performance of duties for the Board, members and alternates shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed travel expenses under section 5703 of title 5, United States Code.

(8) **POWERS AND DUTIES.**—The Board shall—

(A) administer orders issued by the Secretary under section 1484(a), and amendments to such orders, in accordance with their terms and provisions and consistent with this part;

(B) prescribe rules and regulations to effectuate the terms and provisions of such orders;

(C) receive, investigate, and report to the Secretary accounts of violations of such orders;

(D) make recommendations to the Secretary with respect to amendments that should be made to such orders; and

(E) employ a manager and staff.

(c) **BUDGETS AND PLANS.**—Such order shall provide for periodic budgets and plans as follows:

(1) **BUDGETS.**—The Board shall prepare and submit to the Secretary a budget (on a fiscal period basis determined by the Secretary) of the anticipated expenses and disbursements of the Board in the administration of the order, including probable costs of research, promotion, and consumer information. A budget shall take effect on the approval of the Secretary.

(2) **PLANS.**—Each budget shall include a plan for research, promotion, and consumer information regarding limes. A plan under this paragraph shall take effect on the approval of the Secretary. The Board may enter into contracts and agreements, with the approval of the Secretary, for—

(A) the development and carrying out of such plan; and

(B) the payment of the cost of such plan with funds collected pursuant to this part.

(d) **ASSESSMENTS.**—Such order shall provide for the imposition and collection of assessments with regard to the production and importation of limes as follows:

(1) **Rate.**—The assessment rate shall not exceed \$.01 per pound of limes.

(2) **COLLECTION BY FIRST HANDLERS.**—Except as provided in paragraph (4), the first handler of limes shall—

(A) be responsible for the collection from the producer, and payment to the Board, of assessments under this subsection; and

(B) maintain a separate record of the limes of each producer whose limes are so handled, including the limes owned by the handler.

(3) **PRODUCER-HANDLERS.**—For purposes of paragraph (2), a producer-handler shall be considered the first handler of limes produced by such producer-handler.

(4) **IMPORTERS.**—The assessment on imported limes shall be paid by the importer at the time of entry into the United States and shall be remitted to the Board.

(5) **DE MINIMIS EXCEPTION.**—The following persons are exempt from an assessment under this subsection—

(A) a producer who produces less than 35,000 pounds of limes per year;

(B) a producer-handler who produces and handles less than 35,000 pounds of limes per year; and

(C) an importer who imports less than 35,000 pounds of limes per year.

(6) **CLAIMING AN EXEMPTION.**—To claim an exemption under paragraph (5) for a particular year, a person shall submit an application to the Board—

(A) stating the basis for such exemption; and

(B) certifying that such person will not exceed the limitation required for such exemption in such year.

(e) **USE OF ASSESSMENTS.**—(1) **IN GENERAL.**—Such order shall provide that funds paid to the Board as assessments under subsection (d)—

(A) may be used by the Board to—

(i) pay for research, promotion, and consumer information described in the budget of the Board under subsection (c) and for other expenses incurred by the Board in the administration of an order;

(ii) pay such other expenses for the administration, maintenance, and functioning of the Board as may be authorized by the Secretary; and

(iii) fund a reserve established under section 406(4); and

(B) shall be used to pay the expenses incurred by the Secretary, including salaries and expenses of government employees in implementing and administering the order, except as provided in paragraph (2).

(2) **REFERENDA.**—Such order shall provide that the Board shall reimburse the Secretary, from assessments collected under subsection (d), for any expenses incurred by the Secretary in conducting referenda under this part, except for the salaries of Government employees.

(f) **FALSE CLAIMS.**—Such order shall provide that any promotion funded with assessments collected under subsection (d) may not make—

(1) any false or unwarranted claims on behalf of limes; and

(2) any false or unwarranted statements with respect to the attributes or use of any product that competes with limes for sale in commerce.

(g) **PROHIBITION ON USE OF FUNDS.**—Such order shall provide that funds collected by the Board under this part through assessments authorized by this part may not, in any manner, be used for the purpose of influencing legislation or governmental policy or action, except for making recommendations to the Secretary as provided for in this part.

(h) **BOOKS, RECORDS, AND REPORTS.**—(1) **BY THE BOARD.**—Such order shall require the Board—

(A) to maintain books and records with respect to the receipt and disbursement of funds received by the Board;

(B) to submit to the Secretary from time to time such reports as the Secretary may require for appropriate accounting; and

(C) to submit to the Secretary at the end of each fiscal year a complete audit report regarding the activities of the Board during such fiscal year.

(2) BY OTHERS.—So that information and data will be available to the Board and the Secretary that is appropriate or necessary for the effectuation, administration, or enforcement of this part (or any order or regulation issued under this part), such order shall require handlers, producer-handlers, and importers who are responsible for the collection, payment, or remittance of assessments under subsection (d)—

(A) to maintain and make available for inspection by the employees of the Board and the Secretary such books and records as may be required by the order; and

(B) to file, at the times, in the manner, and having the content prescribed by the order, reports regarding the collection, payment, or remittance of such assessments.

(i) CONFIDENTIALITY.—(1) IN GENERAL.—Such order shall require that all information obtained pursuant to subsection (h)(2) shall be kept confidential by all officers and employees of the Department and of the Board. Only such information as the Secretary considers relevant shall be disclosed to the public and only in a suit or administrative hearing, brought at the request of the Secretary or to which the Secretary or any officer of the United States is a party, involving the order with respect to which the information was furnished or acquired.

(2) LIMITATIONS.—Nothing in this subsection prohibits—

(A) issuance of general statements based on the reports of a number of handlers, producer-handlers, and importers subject to an order, if the statements do not identify the information furnished by any person; or

(B) the publication by direction of the Secretary, of the name of any person violating an order issued under section 1484(a), together with a statement of the particular provisions of the order violated by such person.

(j) WITHHOLDING INFORMATION.—Nothing in this part shall be construed to authorize the withholding of information from Congress.

SEC. 1486. PERMISSIVE TERMS IN ORDERS.

On the recommendation of the Board and with the approval of the Secretary, an order issued under section 1484(a) may—

(1) provide authority to the Board to exempt from such order limes exported from the United States, subject to such safeguards as the Board may establish to ensure proper use of the exemption;

(2) provide authority to the Board to designate different handler payment and reporting schedules to recognize differences in marketing practices and procedures;

(3) provide that the Board may convene from time to time working groups drawn from producers, handlers, producer-handlers, importers, exporters, or the general public to assist in the development of research and marketing programs for limes;

(4) provide authority to the Board to accumulate reserve funds from assessments collected pursuant to section 1485(d) to permit an effective and continuous coordinated program of research, promotion, and consumer information, in years in which production and assessment income may be reduced, except that any reserve fund so established may not exceed the amount budgeted for operation of this part for 1 year;

(5) provide authority to the Board to use, with the approval of the Secretary, funds collected under section 1485(d) for the development and expansion of lime sales in foreign markets; and

(6) provide for terms and conditions—

(A) incidental to, and not inconsistent with, the terms and conditions specified in this part; and

(B) necessary to effectuate the other provisions of such order.

SEC. 1487. PETITION AND REVIEW.

(a) PETITION.—(1) IN GENERAL.—A person subject to an order may file with the Secretary a petition—

(A) stating that such order, a provision of such order, or an obligation imposed in connection with such order is not in accordance with law; and

(B) requesting a modification of the order or an exemption from the order.

(2) HEARINGS.—A person submitting a petition under paragraph (1) shall be given an opportunity for a hearing on the petition, in accordance with regulations issued by the Secretary.

(3) RULING.—After the hearing, the Secretary shall make a ruling on the petition which shall be final if in accordance with law.

(b) REVIEW.—(1) COMMENCEMENT OF ACTION.—The district courts of the United States in any district in which such person who is a petitioner under subsection (a) resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a).

(2) PROCESS.—Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) REMANDS.—If the court determines that the ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further action as, in the opinion of the court, the law requires.

(4) ENFORCEMENT.—The pendency of proceedings instituted pursuant to subsection (a) shall not impede, hinder, or delay the Attorney General or the Secretary from obtaining relief pursuant to section 1488.

SEC. 1488. ENFORCEMENT.

(a) JURISDICTION.—Each district court of the United States shall have jurisdiction specifically to enforce, and to prevent and restrain any person from violating, any order or regulation made or issued by the Secretary under this part.

(b) REFERRAL TO ATTORNEY GENERAL.—A civil action authorized to be brought under this section shall be referred to the Attorney General for appropriate action, except that the Secretary is not required to refer to the Attorney General a violation of this part, or any order or regulation issued under this part, if the Secretary believes that the administration and enforcement of this part would be adequately served by administrative action under subsection (c) or suitable written notice or warning to any person committing the violation.

(c) CIVIL PENALTIES AND ORDERS.—(1) CIVIL PENALTIES.—Any person who willfully violates any provision of any order or regulation issued by the Secretary under this part, or who fails or refuses to pay, collect, or remit any assessment or fee duly required of the person under the order or regulation, may be assessed a civil penalty by the Secretary of not less than \$500 nor more than \$5,000 for each such violation. Each violation shall be a separate offense.

(2) CEASE AND DESIST ORDERS.—In addition to or in lieu of such civil penalty, the Secretary may issue an order requiring such person to cease and desist from continuing such violation.

(3) NOTICE AND HEARING.—No order assessing a penalty or cease and desist order may be issued by the Secretary under this subsection unless the Secretary gives the person against whom the order is issued notice and opportunity for a hearing on the record before the Secretary with respect to such violation.

(4) FINALITY.—The order of the Secretary assessing a penalty or imposing a cease and desist order shall be final and conclusive unless the person against whom the order is issued files an appeal from such order with the appropriate district court of the United States, in accordance with subsection (d).

(d) REVIEW BY UNITED STATES DISTRICT COURT.—(1) COMMENCEMENT OF ACTION.—Any person against whom a violation is found and a civil penalty assessed or cease and desist order issued under subsection (c) may obtain review of the penalty or order in the district court of the United States for the district in which such person resides or does business, or the United States district court for the District of Columbia, by—

(A) filing a notice of appeal in such court not later than 30 days after the date of such order; and

(B) simultaneously sending a copy of such notice by certified mail to the Secretary.

(2) RECORD.—The Secretary shall promptly file in such court a certified copy of the record on which the Secretary found that the person had committed a violation.

(3) STANDARD OF REVIEW.—A finding of the Secretary shall be set aside only if the finding is found to be unsupported by substantial evidence.

(e) FAILURE TO OBEY ORDERS.—Any person who fails to obey a cease and desist order issued by the Secretary after the order has become final and unappealable, or after the appropriate United States district court has entered a final judgment in favor of the Secretary, shall be subject to a civil penalty assessed by the Secretary, after opportunity for a hearing and for judicial review under the procedures specified in subsections (c) and (d), of not more than \$500 for each offense. Each day during which such failure continues shall be considered a separate violation of such order.

(f) FAILURE TO PAY PENALTIES.—If a person fails to pay an assessment of a civil penalty after it has become a final and unappealable order issued by the Secretary, or after the appropriate United States district court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General for recovery of the amount assessed in the district court of the United States in any district in which the person resides or conducts business. In such action, the validity and appropriateness of the final order imposing such civil penalty shall not be subject to review.

SEC. 1489. INVESTIGATIONS AND POWER TO SUBPOENA.

(a) IN GENERAL.—The Secretary may make such investigations as the Secretary considers necessary—

(1) for the effective carrying out of the responsibilities of the Secretary under this part; or

(2) to determine whether a person subject to the provisions of this part has engaged or is engaging in any act that constitutes a violation of any provision of this part, or any order, rule, or regulation issued under this part.

(b) POWER TO SUBPOENA.—(1) Investigations.—For the purpose of an investigation made under subsection (a), the Secretary

may administer oaths and affirmations and may issue a subpoena to require the production of any records that are relevant to the inquiry. The production of any such records may be required from any place in the United States.

(2) **ADMINISTRATIVE HEARINGS.**—For the purpose of an administrative hearing held under section 1487 or section 1488, the presiding officer is authorized to administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records that are relevant to the inquiry. Such attendance of witnesses and the production of any such records may be required from any place in the United States.

(c) **AID OF COURTS.**—In case of contumacy by, or refusal to obey a subpoena to, any person, the Secretary may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in order to enforce a subpoena issued by the Secretary under subsection (b). The court may issue an order requiring such person to comply with such a subpoena.

(d) **CONTEMPT.**—Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(e) **PROCESS.**—Process in any such case may be served in the judicial district of which such person resides or conducts business or wherever such person may be found.

(f) **HEARING SITE.**—The site of any hearings held under this section shall be within the judicial district where such person is an inhabitant or has a principal place of business.

SEC. 1490. INITIAL REFERENDUM.

(a) **REQUIREMENT.**—Not later than 2 years after the date on which the Secretary first issues an order under section 1484(a), the Secretary shall conduct a referendum among producers, producer-handlers, and importers who—

(1) are not exempt from assessment under section 1485(d)(5); and

(2) produced or imported limes during a representative period as determined by the Secretary.

(b) **PURPOSE OF REFERENDUM.**—The referendum referred to in subsection (a) is for the purpose of determining whether the issuance of the order is approved or favored by not less than a majority of the producers, producer-handlers, and importers voting in the referendum. The order shall continue in effect only with such a majority.

(c) **CONFIDENTIALITY.**—The ballots and other information or reports that reveal, or tend to reveal, the vote of any person under this section, or section 1491, shall be held strictly confidential and shall not be disclosed.

(d) **REFUND OF ASSESSMENTS FROM ESCROW ACCOUNT.**—(1) **IN GENERAL.**—A portion of the assessments collected from producers, producer-handlers, and importers prior to announcement of the results of the referendum provided for in this section shall be held in an escrow account until the results of the referendum are published by the Secretary. The amount in the escrow account shall be equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(2) **APPROVAL OF ORDER.**—If the order is approved by a majority of the producers, producer-handlers, and importers voting in the initial referendum under subsection (a), the funds in the escrow account shall be released to be used for the purposes of this part.

(3) **DISAPPROVAL OF ORDER.**—(A) **PRORATION.**—If—

(i) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by producers, producer-handlers, or importers; and

(ii) the plan is not approved pursuant to the referendum conducted under subsection (a);

the Board shall prorate the amount of such refunds among all eligible producers, producer-handlers, or importers who demand such refund.

(B) **RIGHT TO REFUND.**—A producer, producer-handler, or importer shall be eligible to receive a refund—

(i) if demand is made personally, in accordance with regulations and on a form and within a time period prescribed by the Board, but in no event less than 90 days after the date of publication of the results of the referendum; and

(ii) on submission of proof satisfactory to the Board that the person paid the assessment for which refund is sought and did not collect the assessment from another person.

(C) **SURPLUS FUNDS.**—Any funds not refunded under this paragraph shall be released to be used to carry out this part.

SEC. 1491. SUSPENSION AND TERMINATION.

(a) **FINDING OF SECRETARY.**—If the Secretary finds that an order issued under section 1484(a), or a provision of such order, obstructs or does not tend to effectuate the purposes of this part, the Secretary shall terminate or suspend the operation of such order or provision.

(b) **PERIODIC REFERENDA.**—The Secretary may periodically conduct a referendum to determine if lime producers, producer-handlers, and importers favor the continuation, termination, or suspension of any order issued under section 1484(a) and in effect at the time of such referendum.

(c) **REQUIRED REFERENDA.**—The Secretary shall hold a referendum under subsection (b)—

(1) at the request of the Board; or

(2) if not less than 10 percent of the lime producers, producer-handlers, and importers subject to assessment under this part submit a petition requesting such a referendum.

(d) **LIMITATION.**—The termination or suspension of any order, or any provision thereof, shall not be considered an order within the meaning of this part.

(e) **VOTE.**—The Secretary shall suspend or terminate the order at the end of the marketing year if the Secretary determines that—

(1) the suspension or termination of the order is favored by not less than a majority of those persons voting in a referendum under subsection (b); and

(2) the producers, producer-handlers, and importers comprising this majority produce and import more than 50 percent of the volume of limes produced and imported by those voting in the referendum.

SEC. 1492. AUTHORIZATION OF APPROPRIATIONS.

(a) **IN GENERAL.**—There are authorized to be appropriated for each fiscal year such funds as are necessary to carry out this part.

(b) **ADMINISTRATIVE EXPENSES.**—The funds so appropriated shall not be available for payment of the expenses or expenditures of the Board in administering any provisions of an order issued under this part.

SEC. 1493. REGULATIONS.

The Secretary may issue such regulations as are necessary to carry out this part.

PART 6—APPLICATION OF COMMODITY RESEARCH AND PROMOTION PROGRAMS TO IMPORTS

SEC. 1499. CONSISTENCY WITH INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.

(a) **IN GENERAL.**—The provisions of any commodity research and promotion program may not be applied to imports of the commodity concerned unless the application is in a nondiscriminatory manner consistent with the international obligations of the United States.

(b) **PROGRAMS AFFECTED.**—Subsection (a) applies to any commodity research and promotion program that is—

(1) provided for under this subtitle, any other provision of this Act, or any other provision of law; and

(2) authorized or in effect on or after the date of the enactment of this Act.

AMENDMENT OFFERED BY MR. STENHOLM

Mr. STENHOLM. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. STENHOLM:

—At the end of title XIV, add the following new subtitle:

Subtitle D—Organic Food Standards

SEC. 1494. SHORT TITLE AND FINDINGS.

(a) **SHORT TITLE.**—This subtitle may be cited as the "Organic Food Standards Development Act of 1990".

(b) **FINDINGS.**—It is the sense of Congress that—

(1) a number of consumers are seeking fresh and processed foods that have been produced using organic methods;

(2) producers and processors of food desire a single set of national standards to define the term "organic food" and to govern the production and processing of organic food;

(3) significant differences of opinion exist among consumers, producers, and processors with respect to what production and processing practices are organic practices;

(4) several States have adopted standards governing the production and processing of organic food that conflict and may hamper interstate commerce;

(5) the United States Department of Agriculture possesses the resources to create a forum by which to achieve the resolution of the conflicts among the various opinions regarding the nature of organic food and among the various governmental approaches to certifying food as having been organically produced; and

(6) without resolution of the current conflicts regarding the labeling of organic food, consumers have inadequate assurance that such food is organically produced.

SEC. 1495. PURPOSES.

It is the purpose of this subtitle to—

(1) achieve, through public hearings and formal rulemaking conducted by the Secretary of Agriculture, adoption of standards to govern the production and processing of food that is to be labeled as organically produced;

(2) establish a national definition of the term "organic" in connection with food;

(3) determine what definition should be employed for the term "organic" in connection with food;

(4) determine what consumers expect constitutes an organic food or food product and what "organic" characteristics would affect their purchasing patterns and to provide consumers with reliable information concerning organic food products;

(5) determine the cost to the Federal and State governments, to producers, processors, and consumers of an organic food labeling program;

(6) determine impact of labeling recommendations by the National Academy of Sciences in its efforts to harmonize labeling activities among agencies;

(7) evaluate the impact that a national organic food label would have on consumer purchasing decisions and organic food markets;

(8) assess whether availability of a national organic food label would provide a significant incentive to motivate farmers to adopt organic farming practices;

(9) determine the size and projected growth of the organic industry;

(10) determine which organic farming and processing methods are commonly used;

(11) determine criteria for a National List of acceptable farming inputs and methods to be used in the production of organically produced foods and the feasibility of applying organic standards to the meat and poultry industries;

(12) determine need for a producer—financed national program of research, promotion, and consumer education; and

(13) determine the most appropriate regulatory mechanisms.

SEC. 1496. ADMINISTRATION.

(a) The Secretary of Agriculture shall hold public hearings and conduct a study to enable the Secretary to prepare and submit recommendations, to be submitted in the form of reports, on the purposes set forth in section 3, to the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. An interim report shall be submitted not later than 1 year, and a final report not later than 2 years, after the date of enactment of this subtitle.

(b) The Secretary shall establish an organic food standards program by regulation, based on the findings and purposes of this subtitle and the recommendations submitted under subsection (a), within 3 years after the date of enactment of this subtitle.

SEC. 1497. AUTHORIZATION OF APPROPRIATIONS

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

Mr. STENHOLM (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 444, the gentleman from Texas (Mr. STENHOLM) will be recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. DeFAZIO. Mr. Chairman, will the gentleman yield?

Mr. STENHOLM. I am happy to yield to the gentleman from Oregon.

Mr. DeFAZIO. Mr. Chairman, would it be all right with the gentleman if we offered the substitute amendment now and just divide the time 20—20?

Mr. STENHOLM. That would be perfectly all right with me.

AMENDMENT OFFERED BY MR. DeFAZIO AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. STENHOLM

Mr. DeFAZIO. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. DeFAZIO as a substitute for the amendment offered by Mr. STENHOLM:

At the end of title XIV, add the following new subtitle:

Subtitle D—Organic Certification Standards
SEC. 1494. SHORT TITLE.

This subtitle may be cited as the "Organic Foods Production Act of 1990".

SEC. 1494A. PURPOSES.

The purposes of this subtitle are—

(1) to establish national standards governing the marketing of certain agricultural products as organically produced products;

(2) to assure consumers that organically produced products meet a consistent standard; and

(3) to facilitate interstate commerce in fresh and processed food that is organically produced.

SEC. 1494B. DEFINITIONS.

As used in this subtitle:

(1) AGRICULTURAL PRODUCTS.—The term "agricultural products" means any agricultural commodity or product whether raw or processed, including any commodity or product derived from livestock, or fowl that is marketed in the United States for human and livestock consumption.

(2) BOTANICAL PESTICIDE.—The term "botanical pesticide" means natural pesticides derived from plants.

(3) CERTIFYING AGENT.—The term "Certifying Agent" means the chief executive official of a State or, in a State that provides by law for statewide election of a Commissioner of Agriculture, the Commissioner of Agriculture or an individual (including private entities) who is accredited by the Secretary as a Certifying Agent for the purpose of certifying a farm or handling operation as an organically certified farm or handling operation in accordance with this subtitle.

(4) CERTIFIED ORGANIC FARM.—The term "certified organic farm" means a farm, or portion of a farm, that is certified by the Certifying Agent under this subtitle as utilizing a system of organic farming as established by the Secretary in accordance with this subtitle.

(6) CROP YEAR.—The term "crop year" means the normal growing season for a crop as determined by the Secretary.

(7) GOVERNING STATE OFFICIAL.—The term "governing State official" means the chief executive official of a State or, in a State that provides by law for statewide election of a Commissioner of Agriculture, the Commissioner of Agriculture who administers the organic certification program established under section 1494C.

(8) HANDLE.—The term "handle" means to sell, process, or package organically produced agricultural products, except such terms shall not include final retailers of agricultural products that do not process agricultural products.

(9) INDIVIDUAL.—The term "individual" means a person, group of people, corporation, association, organization, cooperative, or other entity.

(10) NATIONAL LIST.—The term "National List" means a list of approved and prohib-

ed substances as provided for in section of this subtitle.

(11) ORGANICALLY PRODUCED.—The term "organically produced" means an agricultural product that is produced using organic farming methods as described in this subtitle, on an organically certified farm and handled by organically certified handling operations.

(12) PESTICIDE.—The term "pesticide" means any substance which alone, in chemical combination, or in any formulation with one or more substances, is defined as a pesticide in the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. Sec. 136 et seq.).

(13) PROCESSING.—The term "processing" means cooking, baking, heating, drying, mixing, grinding, churning, separating, extracting, cutting, fermenting, eviscerating, preserving, dehydrating, freezing, or otherwise manufacturing, and includes the packaging, canning, jarring, or otherwise enclosing such food in a container.

(14) PRODUCER.—The term "producer" means an individual who engages in the business of growing or producing food for consumption by humans or livestock.

(15) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(16) SYNTHETIC.—The term "synthetic" means a substance that is formulated or manufactured by a process which chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, excepting microbiological process.

SEC. 1494C. NATIONAL ORGANIC PRODUCTION PROGRAM.

(a) IN GENERAL.—The Secretary shall establish national minimum standards for producers and handlers of agricultural products that have been produced using organic methods as provided in this subtitle.

(b) STATE PROGRAM.—In establishing standards under subsection (a), the Secretary shall permit each State to implement a State organic certification program for producers and handlers of agricultural products that have been produced using organic methods as provided in this subtitle.

(c) CONSULTATION.—In developing standards under subsection (a), and the National List under section 1494Q, the Secretary shall consult with the National Organic Standards Board established under section 1494R.

(d) CERTIFICATION.—The Secretary shall implement the program established under subsection (a) through Certifying Agents that may certify a farm or handling operation that meets the requirements of this subtitle as an organically certified farm or handling operation.

SEC. 1494D. COMPLIANCE REQUIREMENTS.

(a) IN GENERAL.—

(1) On or after October 1, 1993, no individual may affix a label to an agricultural product that infers, directly or indirectly, that such product is produced, grown or processed using organic methods or otherwise indicate that such product is produced, grown, or processed using organic methods, except in accordance with this subtitle and under an approved organic certification program implemented under this subtitle.

(2) Such label or other market information may indicate that the product meets USDA standards for organic production and may incorporate the United States Department of Agriculture seal.

(b) IMPORTED PRODUCTS.—Imported organically produced agricultural products shall be deemed to be in compliance with para-

graph (a)(1) if the Secretary determines that such products have been produced and handled under an organic certification program that provides safeguards and guidelines governing the production and handling of such products that are at least equivalent to the requirements of this subtitle.

(c) **EXEMPTIONS FOR PROCESSED FOOD.**—Subsection (a) shall not apply for the purpose of describing the organically produced ingredients in the case of products that—

(1) contain at least 50 percent organically produced ingredients by weight, excluding water and salt, if the Secretary, on the recommendation of the National Organic Standards Board, and in consultation with the Secretary of Health and Human Services, has determined to permit the word "organic" to be used on the principal display panel of such products only for the purpose of describing the organically produced ingredients; or

(2) contain less than 50 percent organically produced ingredients by weight, excluding water and salt, if the Secretary, on the recommendation of the National Organic Standards Board, and in consultation with the Secretary of Health and Human Services, has determined to permit the word "organic" to appear on the ingredient listing panel to describe those ingredients that are organically produced in accordance with this subtitle.

(d) **SMALL FARMER EXEMPTION.**—Subsection (a) shall not apply to individuals who sell no more than \$5,000 annually in value of agricultural products.

SEC. 1494E. GENERAL REQUIREMENTS.

(a) **IN GENERAL.**—A program established under this subtitle shall—

(1) provide that each organically produced agricultural product must—

(A) be produced only on organically certified farms and handled only through organically certified handling operations in accordance with this subtitle; and

(B) be produced and handled in accordance with such program;

(2) require that producers and handlers desiring to participate under such program to establish an organic farm plan under section 1494M;

(3) provide for procedures that allow producers and handlers to appeal an adverse administrative determination under this subtitle;

(4) require each organic farming operation or each organic handling operation to certify to the Secretary, the governing State official (if applicable), and the Certifying Agent on an annual basis, that such producer or handler has not produced or handled any organically produced agricultural product except in accordance with this subtitle and any applicable State program;

(5) provide for annual on-site inspection by the Certifying Agent of each farm and handling operation that has been certified under this section;

(6) provide for periodic residue testing of agricultural products that have been produced on organically certified farms and handled through organically certified handling operations to determine whether such products contain any pesticide or other non-organic residue or natural toxicants and, upon detection of pesticide residues in excess of tolerance, or any residue of a pesticide which is unregistered or for which the registration has been canceled, or unhealthy levels of other residues or toxicants, provide for the notification of appropriate governmental health agencies;

(7) provide for appropriate and adequate enforcement procedures, as determined by the Secretary to be necessary and consistent with section 1494G;

(8) protect against conflict-of-interest as specified under section 1494O(h);

(9) provide for public access to certification documents and laboratory analyses that support certification; and

(10) require such other terms and conditions as may be determined by the Secretary to be necessary.

(11) provide for the collection of reasonable fees from producers, Certifying Agents and handlers who participate in such program; and

(b) **DISCRETIONARY REQUIREMENTS.**—An organic certification program established under this subtitle may—

(1) provide for the certification of an entire farm or handling operation or specific fields of a farm or parts of a handling operation if—

(A) in the case of a farm, the fields to be certified have distinct, defined boundaries and buffer zones separating the land being operated through the use of organic methods from land that is not being operated through the use of such methods;

(B) the operators of such farm or handling operation maintain separate records of all operations and make such records available at all times for inspection by the Secretary, the Certifying Agent, and the governing State official; and

(C) appropriate physical facilities, machinery, and management practices are established to prevent the possibility of a mixing of organic and nonorganic products or a penetration of prohibited chemicals or other substances on the certified land or area; and

(2) provide, in consultation with the National Organic Standards Board as provided in section 1494R(k)(6), for reasonable exemptions from specific requirements of this subtitle (except the provisions of section 1494L) with respect to agricultural products produced on organically certified farms if such farms are subject to a Federal or State emergency pest or disease treatment program.

SEC. 1494F. STATE ORGANIC CERTIFICATION PROGRAM.

(a) **IN GENERAL.**—The governing State official may prepare and submit a plan for the establishment of a State organic certification program to the Secretary for approval. A State organic certification program must meet the requirements of this subtitle to be approved by the Secretary.

(b) **ADDITIONAL REQUIREMENTS.**—

(1) **AUTHORITY.**—Such State organic certification program may contain more restrictive requirements governing the organic certification of farms and handling operations and the production and handling of organic agricultural products in accordance with this subtitle than are contained in the program established by the Secretary under this subtitle.

(2) **CONTENT OF REQUIREMENTS.**—Such additional requirements must—

(A) further the purposes of this subtitle;

(B) not be inconsistent with this subtitle;

(C) not be discriminatory toward agricultural commodities produced in other States that are certified under this subtitle; and

(D) be approved by the Secretary.

(c) **REVIEW AND OTHER DETERMINATIONS.**—

(1) **SUBSEQUENT REVIEW.**—The Secretary shall review programs established under plans approved by the Secretary not less than once during each 5-year period follow-

ing the date of the approval of such program.

(2) **CHANGES IN PROGRAM.**—The governing State official, prior to implementing any substantive change to such program, must submit such change to the Secretary for approval.

(3) **TIME FOR DETERMINATION.**—The Secretary shall make a determination concerning any plan, proposed change to a plan, or a review of a plan no later than 6 months after receipt of such plan, such proposed change, or the initiation of such review.

SEC. 1494G. NATIONAL STANDARDS FOR ORGANIC PRODUCTION.

(a) **ORGANICALLY PRODUCED PRODUCTS.**—To be sold or labeled as an organically produced agricultural product under this subtitle, such commodity shall meet the minimum standards established under this subtitle.

(b) **SYNTHETIC CHEMICALS.**—To be sold or labeled as an organically produced agricultural product under this subtitle, an agricultural commodity shall have been produced and handled without the use of synthetic chemicals, except as provided in section 1494Q.

(c) **TRANSITION PERIODS.**—To be sold or labeled as an organically produced agricultural product under this subtitle, an agricultural commodity shall not be produced on land to which any prohibited substances, including synthetic chemicals, have been applied during the 3 years immediately preceding the harvest of such agricultural product.

(d) **COMPLIANCE WITH ORGANIC PLAN.**—To be sold or labeled as an organically produced agricultural product under this subtitle, an agricultural commodity shall be produced and handled in compliance with an organic plan agreed to by the producer and handler of such product and the Certifying Agent.

SEC. 1494H. PROHIBITED CROP PRODUCTION PRACTICES AND MATERIALS.

(a) **SEED, SEEDLINGS AND PLANTING PRACTICES.**—For a farm to be certified under this subtitle, producers on such farm shall not apply materials to, or engage in practices on, seeds or seedlings that are determined by the Secretary or by the applicable governing State official to be contrary to, or inconsistent with, this subtitle or the applicable State organic certification program.

(b) **SOIL AMENDMENTS.**—For a farm to be certified under this subtitle, producers on such farm shall not—

(1) use any fertilizers containing synthetic ingredients or any commercially blended fertilizers containing materials prohibited under this subtitle or under the applicable State organic certification program; or

(2) use as a source of nitrogen: phosphorous, lime, potash, or any materials determined by the Secretary or the governing State official to be inconsistent with the purposes of this subtitle.

(c) **CROP MANAGEMENT.**—For a farm to be certified under this subtitle, producers on such farm shall not—

(1) use natural poisons such as arsenic or lead salts that have long-term effects and persist in the environment, as determined by the applicable governing State official or the Secretary;

(2) use plastic mulches, unless such mulches are removed at the end of each growing or harvest season; or

(3) use annual transplants that are treated with any synthetic or prohibited material.

SEC. 1494I. ANIMAL PRODUCTION PRACTICES AND MATERIALS.

(a) **IN GENERAL.**—Any meat, poultry, wild or domesticated game, or other nonplant life that is to be slaughtered and sold as organically produced shall be raised in accordance with this subtitle.

(b) **BREEDER STOCK.**—Breeder stock may be purchased from whatever source if such stock is not in the last third of gestation.

(c) **FEED.**—For a farm that produced livestock to be certified under this subtitle, producers on such farm—

(1) shall feed such livestock organically produced feed that meets the requirements of this subtitle; and

(2) shall not use the following feed—

(A) plastic pellets for roughage;

(B) manure refeeding; or

(C) feed formulas containing urea.

(d) **SUPPLEMENTS.**—For a farm that produces livestock to be organically certified under this subtitle, producers on such farm shall not use growth promoters and hormones, whether implanted, ingested, or injected, including antibiotics and synthetic trace elements used to stimulate growth or production of livestock covered by this subtitle.

(e) **HEALTH CARE.**—

(1) **PROHIBITED PRACTICES.**—For a farm that produces livestock to be organically certified under this subtitle, producers on such farm shall not—

(A) use subtherapeutic doses of antibiotics;

(B) use synthetic internal paraciticide on a routine basis; or

(C) administer medication other than vaccinations in the absence of illness.

(2) **STANDARDS.**—The National Organic Standards Board shall recommend to the Secretary standards in addition to those in paragraph (1) for the care of livestock to ensure that the animal is organically produced.

(e) **ADDITIONAL GUIDELINES.**—

(1) **POULTRY AND LIVESTOCK.**—With the exception of day old poultry, all poultry from which meat or eggs will be labeled as organically produced shall be managed in accordance with this subtitle prior to and during the period in which such meat or eggs are sold.

(2) **DAIRY LIVESTOCK.**—A dairy cow from which milk or milk products will be labeled as organically produced shall be raised in accordance with this subtitle for not less than the 12-month period immediately prior to the sale of such milk and milk products.

(3) **OTHER SLAUGHTER LIVESTOCK.**—Other meat, from wild or domesticated game, or other nonplant life that is to be slaughtered and sold as organically produced shall be raised in accordance with this subtitle.

(f) **LIVESTOCK IDENTIFICATION.**—

(1) **IN GENERAL.**—In order for a farm that produces livestock to be certified under this subtitle, producers shall keep adequate records and maintain a detailed, verifiable audit trail so that each animal or flock can be traced back to such farm.

(2) **RECORDS.**—In order to carry out paragraph (1), each producer shall keep accurate records on each slaughter animal including—

(A) amounts and sources of all medications administered; and

(B) all feeds and feed supplements bought and fed.

SEC. 1494J. HANDLING.

(a) **IN GENERAL.**—For a handling operation to be certified under this subtitle, each individual on such handling operation shall not,

with respect to any agricultural product covered by this subtitle—

(1) add any synthetic ingredient during the processing or any post harvest handling of the product;

(2) add any ingredient known to contain levels of nitrates, heavy metals, or toxic residues in excess of those permitted by the Secretary of applicable governing state official;

(3) add any sulfites, nitrates, or nitrites;

(4) add any ingredients that are not organically produced in accordance with this subtitle and the applicable State organic certification program, unless such ingredients are included on the National List and represent not more than 5 percent of the weight of the total finished product (excluding salt and water);

(5) use any packaging materials that contain fungicides, preservatives, or fumigants;

(6) use any bag or container that had previously been in contact with any substance that would compromise the organic quality of such product; or

(7) use, in processed food to be labeled organically produced, water that does not meet Safe Drinking Water Act requirements.

(b) **MEAT.**—For a farm or handling operation to be organically certified under this subtitle, producers on such farm or individual on such handling operation shall ensure that organically produced meat does not come in contact with nonorganically produced meat.

SEC. 1494K. ADDITIONAL GUIDELINES.

(a) **IN GENERAL.**—The Secretary, the governing State official, or the Certifying Agent shall use a system of residue testing of products labeled as organically produced under this subtitle to assist in the enforcement of this subtitle.

(b) **PREHARVEST TESTING.**—The Secretary, the applicable governing State official, or the Certifying Agent may require preharvest tissue testing of any crop grown on soil suspected of harboring contaminants.

(c) **PRODUCT RESIDUE TESTING.**—

(1) **INSPECTION.**—If the Secretary, the applicable governing State official, or the Certifying Agent determines that an agricultural product sold or labeled as organically produced under this subtitle contains any detectable pesticide or other non-organic residue or prohibited natural substance, the Secretary, the applicable governing State official, or the Certifying Agent shall conduct an investigation to determine if the organic certification program has been violated, and may require the producer or handler to prove that any prohibited substance was not applied to such product.

(2) **NONCOMPLIANCE WITH ORGANIC CERTIFICATION.**—If, as determined by the Secretary, the applicable governing State official, or the Certifying Agent, the investigation conducted under paragraph (1) indicates that the residue is—

(A) the result of intentional application of a prohibited substance; or

(B) present at levels that are greater than unavoidable residual environmental contamination as prescribed by the Secretary or the applicable governing State official, in consultation with appropriate environmental regulatory agencies; such agricultural product shall not be labeled or sold as organically produced under this subtitle.

(d) **RECORDKEEPING REQUIREMENTS.**—Producers who operate certified farming or handling operations under this subtitle shall maintain records for 5 years concerning the production or handling of organical-

ly produced agricultural products by such operation, including—

(1) a detailed history of substances applied to fields or agricultural products;

(2) the names of persons who applied such substances, dates, the rate and method of application of such substances; and

(3) for handlers, records of the sources, handling, and disposition of all ingredients or production aids acquired for the production of organically produced products.

SEC. 1494L. OTHER PRODUCTION AND HANDLING PRACTICES.

If a production or handling practice is not prohibited or otherwise restricted under this subtitle, such practice shall be permitted unless the Secretary or the applicable governing state official determines that such practice would be inconsistent with the purposes of this subtitle.

SEC. 1494M. CONTENTS OF ORGANIC FARM PLAN.

(a) **IN GENERAL.**—A producer seeking certification under this subtitle must submit an organic farm plan to the Certifying Agent which meets all the requirements of this subtitle, and such plan must be reviewed by the Certifying Agent and be determined to meet the requirements of such programs.

(b) **CROP PRODUCTION FARM PLAN.**—

(1) **SOIL FERTILITY.**—An organic farm plan shall contain provisions designed to foster soil fertility, primarily through the management of the organic content of the soil through proper tillage, crop rotation, and manuring.

(2) **MANURING.**—

(A) **INCLUSION IN ORGANIC FARM PLAN.**—An organic farm plan shall contain terms and conditions that regulate the application of manure to crops.

(B) **APPLICATION OF MANURE.**—Such organic farm plan shall provide for application of raw manure only to—

(i) any green manure crop;

(ii) any perennial crop;

(iii) any crop not for human consumption; and

(iv) any crop for human consumption, but only if such crop is harvested after a reasonable period of time after the most recent application of raw manure, determined by the Certifying Agent to ensure the safety of such crop, but in no event shall such period be sooner than 60 days after such application.

(C) **CONTAMINATION BY MANURE.**—Such plan shall provide that raw manure may not be applied to any crop in a way that significantly contributes to water contamination by nitrates or bacteria.

(c) **LIVESTOCK PLAN.**—An organic livestock plan shall contain provisions designed to foster the organic production of livestock consistent with the purposes of this subtitle, as determined appropriate by the Secretary and the applicable governing State official.

(d) **MIXED CROP LIVESTOCK PRODUCTION.**—An organic plan may encompass both the crop production and livestock production requirements in subsections (b) and (c) if both activities are conducted by the same producer.

(e) **HANDLING PLAN.**—An organic handling plan shall contain provisions designed to ensure that organically produced agricultural products are processed or packaged in a manner that is consistent with the purposes of this subtitle, as determined appropriate by the Secretary and the applicable governing state official.

(f) **MANAGEMENT OF WILD CROPS.**—An organic plan for the harvesting of wild crops shall—

(1) designate the area from which the wild crop will be gathered or harvested;

(2) include a 3 year history of the management of the area showing that no prohibited substances have been applied;

(3) include a plan for the harvesting or gathering of the wild crops assuring that such harvesting or gathering will not be destructive to the environment and will sustain the growth and production of the wild crop; and

(4) include provisions that no prohibited substances will be applied by the producer.

(g) **LIMITATION ON CONTENT OF PLAN.**—An organic farm plan shall not include any production practices that are inconsistent with this subtitle and the applicable State organic certification program.

SEC. 1494N. ACCREDITATION PROGRAM.

(a) **IN GENERAL.**—The Secretary of Agriculture shall implement a program whereby a governing State official or a private individual that meets the requirements of this section shall be accredited as a Certifying Agent for the purpose of certifying a farm or handling operation as an organically certified farm or handling operation.

(b) **REQUIREMENTS.**—In order to be designated as a Certifying Agent under this subtitle, a governing State official or private individual must—

(1) prepare and submit, to the Secretary, an application for such accreditation;

(2) have sufficient expertise in organic farming and handling techniques as determined by the Secretary; and

(3) fully comply with the provisions of this subtitle.

(c) **DURATION OF DESIGNATION.**—An accreditation under this subtitle shall be for a period not to exceed 5 years, or for a shorter period, as determined by the Secretary.

(d) **FEES.**—The Secretary may provide for the collection of reasonable fees from Certifying Agents seeking accreditation or reaccreditation under this section to assist in defraying the costs of the program established under this subtitle.

SEC. 1494O. REQUIREMENTS OF CERTIFYING AGENTS.

(a) **ABILITY TO IMPLEMENT REQUIREMENTS.**—To be accredited as a Certifying Agent under section 1494N, a governing State official or an individual must be able to fully implement the organic program established under this subtitle.

(b) **INSPECTORS.**—Any Certifying Agent must employ a sufficient number of inspectors to implement the program established under this subtitle, as determined by the Secretary.

(c) **RECORDKEEPING.**

(1) **MAINTENANCE OF RECORDS.**—Any Certifying Agent must maintain all records concerning its activities under this subtitle for a period of not less than 10 years.

(2) **ACCESS FOR SECRETARY.**—Any Certifying Agent must allow representatives of the Secretary and the governing State official access to any and all records concerning the Certifying Agent's activities under this subtitle.

(3) **TRANSFER OF RECORDS.**—If any private individual that was certified under this subtitle is dissolved or loses its accreditation, all records concerning such individual's activities under this subtitle shall become the property of the Secretary and shall be transferred to the Secretary and made available to the applicable governing State official.

(d) **AGREEMENT.**—Any Certifying Agent must enter into an agreement with the Secretary under which such agent shall—

(1) agree to carry out the provisions of this subtitle; and

(2) agree to such other terms and conditions as the Secretary determines appropriate.

(e) **PRIVATE CERTIFYING AGENT AGREEMENT.**—Any Certifying Agent that is a private individual, in addition to the agreement required in subsection (e), shall—

(1) agree to hold the Secretary harmless for any failure on the part of the agent to carry out the provisions of this subtitle; and

(2) furnish reasonable security, in an amount determined by the Secretary, for the purpose of protecting the rights of participants in the program established under this subtitle.

(f) **COMPLIANCE WITH STATE PROGRAM.**—Any Certifying Agent must fully comply with the terms and conditions of the applicable State organic certification program implemented under this subtitle.

(g) **CONFIDENTIALITY.**—Except as provided in section 1494E(a)(9), any Certifying Agent must maintain strict confidentiality with respect to its clients under this program and may not disclose to third parties (with the exception of the Secretary or the applicable governing State official) any business related information concerning such client obtained while implementing this subtitle.

(h) **CONFLICT OF INTEREST.**—Any Certifying Agent shall not—

(1) carry out any inspections of any operation in which such agent, or employee of such agent has, or has had, a commercial interest, including the provision of consultancy services;

(2) accept payment, gifts, or favors of any kind from the business inspected in excess of prescribed fees; or

(3) provide advice concerning organic practices or techniques for a fee, other than fees established under such program.

(i) **ADMINISTRATOR.**—A Certifying Agent that is a private individual shall nominate the person who controls the day to day operation of the agent.

(j) **LOSS OF ACCREDITATION.**

(1) **NON-COMPLIANCE.**—If the Secretary or the governing State official (if applicable) determines that a Certifying Agent is not properly adhering to the provisions of this subtitle, the Secretary or such governing State official may suspend such Certifying Agent's accreditation.

(2) **EFFECT ON CERTIFIED OPERATIONS.**—If the accreditation of a Certifying Agent is suspended under paragraph (1), the Secretary or the governing State official (if applicable) shall promptly determine whether farming or handling operations certified by such agent may retain their organic certification.

SEC. 1494P. PEER REVIEW OF CERTIFYING AGENTS.

(a) **PEER REVIEW.**—In determining whether to approve an application for accreditation submitted under section 1494O, the Secretary shall consider the report concerning such applicant prepared by a peer review committee established in accordance with subsection (b).

(b) **PEER REVIEW COMMITTEE.**—In order to assist the Secretary in evaluating applications under section 1494O, the Secretary may establish a panel consisting of no less than 3 persons who have expertise in organic farming and handling methods for the purpose of evaluating the State or private individual seeking approval as a Certifying Agent under this subtitle. At least 2 members of such committee shall not be employees of the United States Department of Ag-

riculture or of the applicable State government.

SEC. 1494Q. NATIONAL LIST.

(a) **IN GENERAL.**—The Secretary shall establish a National List of approved and prohibited substances that shall be included in the standards for organic production established under this subtitle in order for such products to be labeled "organically produced" under this subtitle.

(b) **CONTENT OF LIST.**—The list established under subsection (a) shall contain an itemization, by specific use or application, of each synthetic substance permitted under subsection (c)(1) or each natural substance prohibited under subsection (c)(2).

(c) **GUIDELINES FOR PROHIBITIONS OR EXEMPTIONS.**

(1) **EXEMPTION FOR PROHIBITED SUBSTANCES.**—The National List may provide for the use of substances in an organic farming or handling operation that are otherwise prohibited under this subtitle only if—

(A) the Secretary of Agriculture determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would not be harmful to human health or the environment;

(ii) is necessary to the production or handling of the crop because of the unavailability of wholly natural substitute products; and

(iii) is consistent with organic farming and handling; and

(B) the substance (i) is used in production and contains an active synthetic ingredient in the following categories: copper and sulfur compounds; toxins derived from bacteria; pheromones, soaps, horticultural oils, fish emulsions, treated seed, vitamins and minerals; livestock paracitides and medicines;

(ii) is used in handling and is non-synthetic but is not organically produced; and

(C) the specific exemption is developed using the procedures described in subsection (d).

(2) **PROHIBITION ON THE USE OF SPECIFIC NATURAL SUBSTANCES.**—The National List may provide for the prohibition on the use of specific natural substances in an organic farming or handling operation that are otherwise allowed under this subtitle only if—

(A) the Secretary of Agriculture determines, in consultation with the Secretary of Health and Human Services and the Administrator of the Environmental Protection Agency, that the use of such substances—

(i) would be harmful to human health or the environment; and

(ii) is inconsistent with organic farming and handling, and the purposes of this subtitle; and

(B) the specific prohibition is developed using the procedures specified in subsection (d).

(d) **PROCEDURE FOR ESTABLISHING NATIONAL LIST.**

(1) **IN GENERAL.**—The National List established by the Secretary shall be based upon a proposed national list or proposed amendments to the National List developed by the National Organic Standards Board.

(2) **NO ADDITIONS.**—The Secretary may not include exemptions for the use of specific synthetic substances in the National List other than those exemptions contained in the Proposed Amendments to the National List.

(3) **PROHIBITED SUBSTANCES.**—In no instance shall the National List include any

substance, the presence of which in food has been prohibited by Federal regulatory action.

(4) **NOTICE AND COMMENT.**—Before establishing the National List or before making any amendments to the National List, the Secretary shall publish the Proposed National List or any Proposed Amendments to the National List in the Federal Register and seek public comment on such proposals. The Secretary shall include in such Notice any changes to such proposed list or amendments recommended by the Secretary.

(5) **PUBLICATION OF NATIONAL LIST.**—After evaluating all comments received concerning the Proposed National List or Proposed Amendments to the National List, the Secretary shall publish the final National List in the Federal Register, along with a discussion of comments received.

(e) **SUNSET PROVISION.**—No exemption or prohibition contained in the National List shall be valid unless the National Organic Board has reviewed such exemption or prohibition as provided in this section within 5 years of such exemption or prohibition being adopted or reviewed.

SEC. 1494R. NATIONAL ORGANIC STANDARDS BOARD.

(a) **IN GENERAL.**—The Secretary shall establish a National Organic Standards Board (in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2 et seq.)) to assist in the development of standards for substances to be used in organic production and to advise the Secretary on any other aspects of the implementation of this subtitle.

(b) **COMPOSITION OF BOARD.**—The Board shall be composed of 15 members, of which—

(1) 4 shall be individuals who own or operate an organic farming operation;

(2) 2 shall be individuals who own or operate an organic handling operation;

(3) 1 shall be an individual who owns or operates a retail establishment with significant trade in organic products;

(4) 3 shall be individuals with expertise in areas of environmental protection and resource conservation;

(5) 3 shall be individuals who present public interest or consumer interest groups;

(6) 1 shall be an individual with expertise in the fields of toxicology, ecology, or biochemistry; and

(7) 1 shall be an individual who is a certifying agent as identified under section 1494D(i).

(c) **APPOINTMENT.**—Not later than 180 days after the date of enactment of this subtitle, the Secretary shall appoint the members of the Board from nominations received from organic certifying organizations, States, and other interested persons and organizations.

(d) **TERM.**—A member of the Board shall serve for a term of 5 years, except that the Secretary may shorten the terms of the original members of the Board in order to provide for a staggered term of appointment for all members of the Board. Members cannot serve consecutive terms unless they are members whose terms have been reduced by the Secretary.

(e) **MEETINGS.**—The Secretary shall convene a meeting of the Board not later than 60 days after the appointment of its members and shall convene subsequent meetings on a periodic basis.

(f) **COMPENSATION.**—A member of the Board shall serve without compensation, but may be reimbursed by the Secretary for transportation expenses incurred in performing duties as a member of the Board.

(g) **CHAIR.**—The Board shall select a Chairperson for the Board.

(h) **QUORUM.**—A majority of the members of the Board shall constitute a quorum for the purpose of conducting business.

(i) **DECISIVE VOTES.**—Two-thirds of the votes cast at a meeting of the Board at which a quorum is present shall be decisive of any motion.

(j) **OTHER TERMS AND CONDITIONS.**—The Secretary shall authorize the Board to hire a staff director and shall detail staff of the Department of Agriculture or allow for the hiring of staff and may, subject to necessary appropriations, pay necessary expenses incurred by such Board in carrying out the provisions of this subtitle, as determined appropriate by the Secretary.

(k) **RESPONSIBILITIES OF THE BOARD.**—

(1) **IN GENERAL.**—The Board shall provide recommendations to the Secretary regarding the implementation of this subtitle.

(2) **NATIONAL LIST.**—The Board shall develop the proposed National List or proposed amendments to the National List for submission to the Secretary in accordance with section 1494Q.

(3) **TECHNICAL ADVISORY PANELS.**—The Board shall convene technical advisory panels to provide scientific evaluation of the materials considered for inclusion in the National List. Such panels may include experts in agronomy, entomology, health sciences and other relevant disciplines.

(4) **SPECIAL REVIEWS OF BOTANICAL PESTICIDES.**—The National Organic Standards Board shall, prior to the establishment of any list, review all botanical pesticides used in agricultural production and consider whether any such botanical pesticide should be included in the list of prohibited natural substances.

(5) **PRODUCT RESIDUE TESTING.**—The board shall advise the Secretary concerning the testing organically produced agricultural products for residues as a result of avoidable residual environmental contamination.

(6) **EMERGENCY SPRAY PROGRAMS.**—The Board shall advise the Secretary concerning rules for exemptions from specific requirements of this subtitle (except the provisions of section 1494L) with respect to agricultural products produced on organically certified farms if such farms are subject to a Federal or State Emergency pest or disease treatment program.

(l) **REQUIREMENTS.**—In establishing the proposed National List or proposed amendments to the National List, the National Organic Standards Board shall—

(1) review available information from the Environmental Protection Agency, the National Institute of Environmental Health Studies, and such other sources as appropriate, concerning the potential for adverse human and environmental effects of substances considered for inclusion in the proposed National List;

(2) work with manufacturers of substances considered for inclusion in the proposed National List to obtain a complete list of ingredients and determine whether such substances contain inert materials that are synthetically produced; and

(3) submit to the Secretary, along with the proposed National List or any proposed amendments to such list, the results of the National Organic Standards Board evaluation and the evaluation of the technical advisory panel of all substances considered for inclusion in the National List.

(m) **EVALUATION.**—In evaluating substances considered for inclusion in the proposed National List or proposed amendment

to the National List, the National Organic Standards Board shall consider—

(1) the potential of such substances for detrimental chemical interactions with other materials used in organic farming systems;

(2) the toxicity and mode of action of the substance and of its breakdown products or any contaminants, and their persistence and areas of concentration in the environment;

(3) the probability of environmental contamination during manufacture, use, misuse or disposal of such substance;

(4) the effect of the substance on human health;

(5) the effects of the material on biological and chemical interactions in the agroecosystem, including the physiological effects of the substance on soil organisms (including the salt index and solubility), crops and livestock;

(6) the alternatives to using the substance in terms of practices or other available materials; and

(7) its compatibility with a system of sustainable agriculture.

(n) **PETITIONS.**—The National Organic Standards Board shall establish procedures under which individuals may petition the Organic Standards Board for the purpose of evaluating substances for inclusion on the National List.

(o) **CONFIDENTIALITY.**—Any business sensitive material obtained by the National Organic Standards Board in carrying out this section shall be treated as confidential business information by such Board and shall not be released to the public.

SEC. 1494S. VIOLATIONS OF SUBTITLE.

(a) **MISUSE OF LABEL.**—Any individual who knowingly sells or labels a product as organic, except in accordance with this subtitle, shall be subject to a civil penalty of not more than \$10,000.

(b) **FALSE CERTIFICATION.**—Any individual who issues a false certification under this subtitle to the Secretary, a governing state official, or a Certifying Agent shall be subject to the provisions of section 1001 of title 18, United States Code.

(c) **INELIGIBILITY.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), any producer who—

(A) issues a false certification;

(B) attempts to have an organically produced label affixed to an agricultural product that such producer knows, or should have reason to know, to have been produced in a manner that is not in accordance with this subtitle;

(C) otherwise violates the purposes of the national organic certification program established under section 1494C(a) as determined by the Secretary or the applicable governing state official, after notice and an opportunity to be heard, shall not be eligible, for a period of 5 years from the date of such occurrence, to receive certification under this subtitle with respect to any farm or handling operation in which such producer has an interest.

(2) **WAIVER.**—Notwithstanding paragraph (1), the Secretary may reduce or eliminate such period of ineligibility if the Secretary determines that such modification or waiver is in the best interests of the national organic certification program established under this subtitle.

(d) **REPORTING OF VIOLATIONS.**—A Certifying Agent shall immediately report any violations of this subtitle to the Secretary or the governing State official (if applicable),

and shall decertify any individual determined to be in violation of this subtitle.

(e) VIOLATIONS BY CERTIFYING AGENT.—A Certifying Agent that is a private individual that violates the provisions of this subtitle or that falsely or negligently certifies any farming or handling operation and that does not meet the terms and conditions of the applicable organic certification program as an organic operation, as determined by the Secretary or the governing State official (if applicable) after notice and an opportunity to be heard, shall—

(1) lost its accreditation as a Certifying Agent under this subtitle; and

(2) be ineligible to be accredited as a Certifying Agent under this subtitle for a period of not less than 3 years subsequent to such determination.

(f) EFFECT OF OTHER LAWS.—Nothing in this subtitle shall alter the authority of the Secretary of Agriculture under the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) and the Poultry Products Inspection Act (21 U.S.C. 451 et seq.) concerning meat and poultry products, nor any of the authorities of the Secretary of Health and Human Services under the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301 et seq.), nor the authority of the Administrator of the Environmental Protection Agency under the Federal Insecticide, Fungicide and Rodenticide Act (7 U.S.C. 136 et seq.).

SEC. 1494T. ADMINISTRATIVE APPEAL.

(a) EXPEDITED APPEALS PROCEDURE.—The Secretary shall establish an expedited administrative appeals procedure under which persons may appeal an action of the Secretary, the applicable governing State official, a Certifying Agent, or a certified farming or handling operation under this subtitle that—

(1) adversely affects such person; or

(2) is inconsistent with the organic certification program established under the subtitle.

(b) APPEAL OF FINAL DECISION.—A final decision of the Secretary under such process may be appealed to the United States Court of Appeals of the District in which such person is located.

SEC. 1494U. ADMINISTRATION.

(a) REGULATIONS.—Not later than 180 days after the date of enactment of this subtitle, the Secretary shall issue proposed regulations to carry out this subtitle.

(b) ASSISTANCE TO STATE.—

(1) TECHNICAL AND OTHER ASSISTANCE.—The Secretary shall provide technical, administrative, and Extension Service assistance to each state that implements an organic certification program under this subtitle.

(2) FINANCIAL ASSISTANCE.—The Secretary may provide financial assistance to any state that implements an organic certification program under this subtitle.

SEC. 1494V. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as necessary to carry out this subtitle.

Mr. DEFAZIO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 444, the gentleman from Oregon [Mr. DEFAZIO] will be

recognized for 10 minutes and a Member opposed will be recognized for 10 minutes.

The Chair recognizes the gentleman from Oregon [Mr. DEFAZIO].

The Chair would ask the gentleman from Oregon [Mr. DEFAZIO] if he is opposed to the amendment offered by the gentleman from Texas [Mr. STENHOLM] and wishes the 10 minutes in opposition.

Mr. DEFAZIO. I am, Mr. Chairman, and I would claim that time.

The CHAIRMAN. The Chair will then allocate 20 minutes to the gentleman from Texas [Mr. STENHOLM] and 20 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. STENHOLM. Mr. Chairman, is it 20 minutes total for both amendments?

The CHAIRMAN. No. The Chair would state it will be 20 minutes on each amendment and each side will get 20 minutes on both the amendment and the substitute amendment.

□ 1810

Mr. DEFAZIO. Mr. Chairman, I ask unanimous consent that the total debate be limited, in the interest of moving through the House here, to 20 minutes, 10 minutes per side.

The CHAIRMAN. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The CHAIRMAN. The time will be divided 10 minutes to the gentleman from Texas [Mr. STENHOLM] and 10 minutes to the gentleman from Oregon [Mr. DEFAZIO].

The Chair recognizes the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, I want to commend the committee's ranking minority member, Mr. MADIGAN, the chairman of the Defense Marketing, Consumer Relations, and Nutrition Subcommittee, Mr. HATCHER, and the subcommittee's ranking minority member, Mr. EMERSON, and other members of the Agriculture Committee for their assistance in developing the various provisions of this amendment.

The purpose of the amendment is to achieve, through public hearings and formal rulemaking conducted by USDA, the adoption of standards to govern the production and processing of food that is to be labeled as organically produced.

More specifically, this amendment does not mandate just a study, but rather establishes the proper process for developing national standards for organic food labeling and allows an adequate period for comment by all interested parties. This approach represents both a commitment to the organic industry and a realistic assessment of the ground that must be cov-

ered in order to insure that a workable program is developed.

Quite clearly, the U.S. Department of Agriculture possesses the resources to create a forum by which to properly achieve the resolution of the conflicts among the various opinions regarding the nature of organic food and among the various State approaches to certifying food as having been organically produced.

There is unquestionably a segment of society that is interested in purchasing organically produced food. The development of Federal standards will ensure that organic food standards are consistently applied and meaningful to the consumer.

This amendment enjoys the support of producer organizations such as the American Farm Bureau Federation, National Milk Producers Federation, National Pork Producers Council, National Cattlemen's Association, and several State farm organizations to name just a few.

As indicated during a hearing held on June 19, 1990, conducted by the Agriculture Committee, significant differences of opinion exist among administration officials, producers, and processors with respect to what production and processing practices are organic practices. Therefore, this amendment reflects a good-faith attempt to move forward with the establishment of a program with the suggestions and advice of all interested parties.

Some in the organic movement commonly use the word "organic" as a synonym for "natural," and regard "organically grown" food as superior nutritionally to conventionally grown food. Let the record be clear that scientifically, natural substances are not necessarily organic, and organic substances are not necessarily natural.

The statement that a food has been organically produced implies and is often accompanied by assertions that such food is superior in safety or nutrient content to food not labeled in this fashion. There is no scientific evidence that organic food is any safer or any more nutritious than foods produced using conventional methods.

Chemicals in general, and organic chemicals in particular, cannot be classified as safe or unsafe on the basis of their origin. Some organic chemicals that are synthesized by living organisms are extremely toxic to humans. In fact, whether natural or synthetic, all fertilizers consist wholly of chemicals, be they derived from animal, vegetable, or mineral sources. Food produced using substances from any of these sources can be wholesome, fully nutritious, and safe.

It is important to recognize that a chemical becomes hazardous only when the degree of exposure is sufficient to cause toxic effects. The thou-

sands of chemicals that constitute the food supply are collectively beneficial in the quantities normally ingested, but all would have detrimental effects if ingested individually in excessive quantities.

Where or how a specific chemical compound is formed is irrelevant as far as the properties and effects of the compound are concerned. Today, many of the simpler organic substances produced by living organisms can be synthesized in the laboratory by chemists. When the synthetic version of a naturally occurring organic chemical is produced in a laboratory or factory, the resulting chemical is identical to the one produced naturally by plants or animals. For example, vitamins are the same organic chemicals and have the same effects whether synthesized in a laboratory or by living organisms.

In many of today's progressive farming systems, extensive use is made of nutritional supplements in animal feeds. Mineral and other nutritional supplements increase animal productivity, and they are of greatest importance in feeds for poultry and swine.

Further increases in production efficiency are achieved in modern conventional animal agriculture by use of hormonally active substances. Most of the hormones and other active substances useful in conventional animal agriculture are naturally occurring organic compounds, but their purposeful use is unnatural and thus is objectionable to some persons.

In crop and livestock production practices, conventional and organic farming have more in common than not. The principal divergence is in the use of modern chemical technology.

We must recognize that greater diversity in both our crop and livestock systems often can lead to improved economic stability for producers. It seems we have only begun to tap the rich pool of products that could be produced efficiently from agricultural species. Because farmers sometimes feel they are caught in a squeeze between weather and markets, if can be psychologically helpful to ensure that they have plenty of options to choose from and different potential profit sources.

Let me conclude by stating that the goal of any farming system should be to provide an abundance of food and fiber that is safe and nutritious to consumers and harmless to the environment and sustainable for generations to come. In order to commit land and financial resources to organic production, farmers must have a clear and well developed set of standards which allow organized, efficient interstate commerce. In addition, proper incentive, in the form of Federal standards, is needed so that all producers are playing by the same set of rules.

The primary focus of this amendment is food labeling, and not food safety. It is clearly not the role of the Federal Government to encourage organic production over traditional production. Agriculture has and continues to be responsive to consumers' needs and tastes. If consumers want food with an organic label, then that label should mean the same thing throughout the country. Those wishing to buy and those wishing to grow organic food should be encouraged to do so, but that choice should be on the basis of complete and accurate information.

Mr. DeFAZIO. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the gentleman from Texas and I share the same goal: The establishment of a uniform national standard for use of the word "organic" in marketing food products. Both amendments will have these standards in place 3 years from now. While Mr. STENHOLM and I are in agreement on the final goal, we differ on the best way to get there. Extensive hearings in the House and Senate have vividly demonstrated that organic growers, organic processors and retailers, conventional farm groups, consumers, environmental groups, State departments of agriculture, and others are in strong agreement; we need to define a tough, enforceable national standard now.

This is a pro-consumer amendment. Consumers want to buy organic foods—that is why the market is growing by more than 40 percent every year. A consistent, nationwide standard is the only way consumers will know whether or not they are getting what they pay for.

This is a pro-farmer amendment. I applaud the Chairman's assertion that this farm bill is about American jobs. I have supported him repeatedly over the past week in protecting those jobs. This amendment is about American jobs. Your farmers see an exploding national and international market. They want us to set the ground rules and let them at it. They want consistent standards, that are clear well in advance, not some tenuous promise for action by bureaucratic whim. Family farmers will benefit; organic production is a godsend for smaller acreage, high-value crops. That is why my amendment is supported by the National Farmers Union and the National Family Farm Coalition. Big farmers benefit, too. The Dole Co. is putting in 40 organic acres in California. Archer Daniels Midland, Mid-American Dairymen and Farmland Industries, Inc. all support my amendment.

This is a pro-States rights amendment. Twenty-two States now have organic certification programs in place, and many more State legislatures are considering them. These programs are in place, they are working, and the gentleman from Texas' amendment threatens to wipe the slate clean and

let the Department of Agriculture set the standard for them. My amendment will establish nationwide marketing uniformity, so farmers who meet the national standard won't be excluded from other States, but allows the States to run their own programs. This is a pro-States rights amendment.

There is nothing new or untried in my amendment. Mr. STENHOLM argues that we don't know enough to set any standards right now. That is not correct. The amendment is based on those existing State programs, some of which have been working well for a decade, and would allow them to keep doing a great job. When these programs were systematically compared, they agreed on 95 percent of the definition of organic. My amendment locks in place the 95-percent agreement between the various State and private certification programs, and sets up a process under the USDA to resolve the remaining 5 percent. It is a lean, low cost amendment that makes full use of the resources and programs already in place. There is nothing new or untried in my amendment.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of the amendment offered by my colleague, the gentleman from Texas [Mr. STENHOLM], establishing the Organic Food Standards Development Act. I joined with several of my colleagues from the Committee on Agriculture to propose this. It is the sound and reasonable approach to an organic food standards program. I am the ranking member on the subcommittee with jurisdiction over this issue and we held a hearing just last month. There was one common theme during the hearing and that was that witnesses could not define organic. I asked several and received no clear answer. I believe consumers know what organic is—or what it should be and that is a food produced with no chemicals. Consumers pay a premium price for an organic product—they should get what they are paying for.

I agree that there should be national standards for organic food. I do not know what those standards are. Before we set the Federal Government on a course of setting standards designed in the Congress, we should have some documentation of what standards consumers expect, what practices are agreed to by the entire organic community and what form the national standards should take.

The Organic Food Standards Development Act requires the Secretary of Agriculture to hold public hearings, conduct a study, and establish a program to adopt standards to govern the

production and processing of food that is labeled as organic. The Secretary is required to establish a national definition of organic; determine what consumers expect from organic food; and determine which organic farming and processing methods are currently used.

I know there is considerable interest, from people desiring to have a nationwide certification program and those concerned about its impact on traditional farming and the vast numbers of producers who combine traditional farming with other techniques, such as integrated pest management, crop rotation systems, preventative soil erosion techniques, and other such practices. This is not a situation into which producers can be placed into one of two camps—farming is a complex and evolving practice. Changes are made regularly, new information becomes available, and alternatives are tested.

I would like to note that when discussions of organic farming come up, the implication is that the food produced is somehow better than food produced by other farming methods. I do not believe it to be the case. Consumers in the United States are the best fed in the world, at a cost, about 10 percent of disposable income, far less than residents of other countries. We have a safe, reliable, and affordable food supply—with ample choices for all consumers. One of those choices should be organic food. That is why I urge you to support the Organic Food Standards Development Act—let's make sure that we provide consumers what they desire—not what some believe they should desire.

Some will say why wait? Why do a study on organic standards? My response is tell me what you want the standards to be and whether they are consistent with what consumers believe them to be. I do not believe that can be done at this time.

I urge my colleagues to support the Organic Food Standards Development Act and the amendment offered by Mr. STENHOLM. Let's make sure that consumers desiring organic food get what they are paying for.

Now, let us consider these questions:

WHAT IS ORGANIC?

What is the definition of organic? To producers? To consumers? The DeFazio amendment says that it is food produced with organic materials and with organic methods. But what are these materials and methods? Can the sponsors explain and provide the Members with a definition of organic? Are chemicals used? If so are they natural or synthetic chemicals? Do consumers buying organic food know that chemicals are used on the food?

The standards in the DeFazio amendment were incorporated without the benefit of full disclosure or public hearings, with no consultation with consumers or the federal agencies re-

sponsible for the Nation's food supply and distribution system. That's like letting an automobile manufacturing company set clear air standards—and then requiring EPA to enforce them.

The DeFazio amendment allows a national list of approved and prohibited chemicals that can be applied—and yet still meet the standards for organic. There are exceptions for prohibited chemicals that are "necessary" * * * because of the unavailability of natural products." All this means that the definition of organic is muddled and inconsistent with the general perception of a food product produced without chemicals.

Will consumers get what they are paying for under the DeFazio amendment? Organic foods cost between 30 percent and 50 percent more than food produced through traditional methods. The DeFazio amendment does not reconcile what the sponsors believe organic is and what consumers believe organic is. We need to know this answer before we commit Federal dollars to a system that may only serve to mislead consumers.

Consumers deserve a choice—with organic food being one of the choices. Consumers also deserve to be told what they are buying. No clear understanding of organic food is available to the public. The perception is that organic food is produced free from chemicals. That is not always the case and the DeFazio amendment does nothing to inform consumers about the uses of chemicals on food called organic.

EXEMPTIONS UNDER THE DEFazio AMENDMENT

Exemptions from the DeFazio program are provided for small producers—allowing some foods called organic to be sold outside of the standards set up by the DeFazio amendment. Again, the consumer will not have confidence in the choices of food offered for sale.

Processed food containing only 50 percent of organic ingredients can still be called organic according to the DeFazio amendment.

Imported foods are exempt from the program included in the DeFazio amendment. It is virtually impossible for the USDA to assess foreign organic programs with any confidence.

WHAT PRODUCTS ARE INCLUDED IN THE DEFazio AMENDMENT?

The DeFazio amendment applies to all foods—including processed foods, fruits, vegetables, livestock, and poultry—and all food fed to livestock.

The American Veterinary Medical Association has expressed concern that organic production may contribute to raising of animals in a less healthy manner. Professionally accepted preventive health procedures are prohibited under the DeFazio amendment. There is a strong deterrent to treat sick animals. The result can be a failure to maintain a healthy

animal population—even beyond the organic animal production area. Contamination can be spread to the traditional operations.

WHO PAYS FOR MANDATORY NATIONAL ORGANIC STANDARDS PROGRAM?

The USDA estimates that the cost of an organic certification program will be \$19 million for certification, National Standards Board and accreditation programs—to be collected in user fees. And \$43 million for USDA activities—a total of more than \$60 million. The U.S. taxpayer will be paying up to \$43 million for a program affecting 2 percent of the food production.

WHO SELLS ORGANIC FOOD?

Organic farmers often quote the March 1989 Harris poll that suggests that 84 percent of Americans want organic fruits and vegetables and that about 52 percent of those polled would pay up to 10 percent more to get organic food. However, many nationwide food stores have realized what consumers say they want and what they actually buy are not always the same. Kroger Co. reported unsuccessful attempts in organic sales. "People like the idea until they see what it looks like." Safety stores tried selling organic but stopped because shoppers did not go for it. Giant stores has taken organic off of the shelves because it did not sell.

There is a market for organic foods—it is now a \$1 billion industry. Twenty-two States have standards for organic foods—all of which are standards that differ from those in the DeFazio amendment. Without uniform national standards that all segments of the industry and the consumers can agree with and understand, the organic industry will suffer.

Mr. DEFazio. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. UPTON].

Mr. UPTON. Mr. Chairman, I rise in strong support of the DeFazio organic standards amendment.

My southwestern Michigan district is deeply involved in agriculture. According to Department of Agriculture statistics, my district ranks 44th of 435 congressional districts in terms of harvested acres of corn. It yields a broad spectrum of agricultural products—including dairy, pork, and many varieties of fruits and vegetables.

This diversity extends to a considerable degree to organic crops. From the number of organic farmers who have contacted me in favor of the DeFazio amendment, my district appears to be the Michigan hotbed of organic farming. In fact, my good friend Carl Gnodtke, a State representative in my district, is the sponsor of the bill to establish organic standards in Michigan.

It is clear that now is the time to enact national standards for organic food. The \$1.2-billion organic food industry is the fastest growing compo-

ment of agriculture. The consumers of organic food deserve to know that their food has been certified to meet minimum standards. Consumers need to be able to trust labels that describe food as organic.

The DeFazio amendment contains the essential components of an organic standards program: Clear national standards, a National Standards Board, an enforcement program, and a USDA monitored accreditation program for State and private certification programs. Most of the program costs will be paid for by the industry with user fees.

The DeFazio amendment represents a consensus of the organic industry and consumers regarding what the standards should be. The standards contained in this proposal build on Department of Agriculture definitions issued in 1980 and refined in practice throughout the decade. There is no need for the Department of Agriculture to waste time by repeating this consensus building process. For the very minute percentage of issues that do not have consensus, the DeFazio amendment allows the Department of Agriculture to develop additional standards.

For the 23 States that already have organic standards, the DeFazio amendment will set national minimum criteria. For the States, like Michigan, that are working toward setting organic standards, immediate Federal guidance will greatly assist the process. For these reasons, I urge your support of the DeFazio amendment.

We do not need another study. Let us get to the meat and potatoes. Support the DeFazio amendment.

□ 1820

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Georgia [Mr. HATCHER].

Mr. HATCHER. Mr. Chairman, I rise in support of the Stenholm amendment and in opposition to the DeFazio substitute. The Stenholm amendment will authorize the creation of an organic food standard program by regulation through public hearings and study conducted by the United States Department of Agriculture.

The Agriculture Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition, of which I am chairman, held a public hearing on this issue during June of this year. After hearing the testimony presented at that hearing, I have come to the conclusion that the industry supports standards for organically produced commodities, although it is uncertain about what those standards should be.

Organic certification should be a precise process, and the regulations developed must be clear and concise.

In the DeFazio substitute, there is no uniform definition for the term organic. This imprecision will result in

confusion for producers, consumers, and those operating in the regulatory agencies.

The Stenholm amendment will allow the industry to continue to work on development of those guidelines. For that reason, I urge adoption of the Stenholm amendment.

Mr. DEFAZIO. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. BROWN].

Mr. BROWN of California. Mr. Chairman, I reluctantly rise in opposition to the amendment of the gentleman from Texas [Mr. STENHOLM], and in support of the amendment of the gentleman from Oregon [Mr. DEFAZIO].

Mr. Chairman, you actually have three approaches to the organic certification situation. You have the approach of the gentleman from Texas [Mr. STENHOLM], which is go slow, take another 2 or 3 years; you have a second approach, which says go very fast and make the standard so tough that nobody can qualify; then you have the approach of the gentleman from Oregon [Mr. DEFAZIO], which basically modeled after the language already in the Senate bill, and copies the programs in the State of California and many other States 23 in total which have been doing this for a number of years.

Mr. Chairman, the Association of the State Departments of Agriculture has adopted a policy position in support of this approach. The States are ready for it and consumer groups are ready for it. There is a huge market, over \$1 billion, as has been indicated. The approach of the gentleman from Oregon [Mr. DEFAZIO] would allow us in this farm bill to move ahead in conference with the Senate to develop a reasonable program which would be good for this country and be good for the farmers of this country.

Mr. STENHOLM. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I rise in support of the Stenholm amendment. If the Federal Government is going to have a certification program, it must be properly instituted. The Stenholm amendment, which allows for sufficient examination of the question and then mandates that a program be put in place is the proper way to achieve the goal we all want. The Stenholm amendment allows input from all interested parties—farmers, food processors, and consumers—before the program is established. The DeFazio amendment, in contrast, sets in law almost all the details of an organic food program. The implications for all Federal food inspection and certification programs are troubling.

The DeFazio amendment contains standards that allow food to be grown with the use of synthetic chemicals

and toxic natural chemicals and still be called organic.

Is this what the consuming public wants. I believe we had better find out before we approve such practices.

The process in the Stenholm amendment will give us those answers before the program is implemented.

Mr. DEFAZIO. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I rise in support of the DeFazio/Brown amendment to provide a national organic standards program as part of our new farm policy. This amendment responds to well-documented interests by the farm and food industry to establishing national standards and growing consumer demand for organic food. Nothing new or untried is being proposed. This amendment merely will protect consumers and remove obstacles to developing national markets for organic production.

In Montgomery County, MD, there is widespread interest and support for organic products. The Bethesda Co-op, in my district, opened its doors 15 years ago, and has been responding to the increasing demand for organic foods. Ms. Bini (Bee-Nee) Reilly, who runs the co-op, says, "there has always been a demand for organic and there are always lines in the aisles and, sometimes, out the door." She says that consumers are always asking: "What is organic?" Attesting to the need for a definition for organic and the establishment of national standards, labeling, requirements, and other ground rules.

The Maryland Organic Food and Farming Association believes that this amendment would benefit farmers, food distributors, and consumers. This past spring, the State of Maryland enacted legislation mandating the establishment of standards for organic food production. More than 20 other States have similar laws, and private certification programs are operating in virtually every State.

While the rapid growth in sales of organic products represents a new market for farmers, the equally rapid growth of State and private certification programs has created confusion among consumers and obstacles to interstate commerce. Consumers want to be assured that the organic food products they are buying meet some minimum standard. Major retailers and wholesalers want to be able to market organic products with full confidence.

This amendment will protect consumers and enhance interstate and international trade. It is the product of a consensus among consumers, organic growers, processors and retailers. I urge my colleagues to vote for the DeFazio/Brown amendment.

Mr. DeFAZIO. Mr. Chairman, I yield 1 minute to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, as a member from the first State in the Nation to develop an organic certification program, I rise in support of the DeFazio amendment.

The concern over our environment and the safety of our food supply has created a boom in the organic foods industry. In my home State of Washington, organic farmers grew 15 million dollars worth of organic products—many of which were exported to Japan and Europe. With the multiplier effect, the organic industry contributed nearly \$40 million to our State's economy. Nationwide this industry was estimated by the Wall Street Journal to have contributed \$1.25 billion to the economy in 1989 and to be growing at 40 percent per year. I know in my State, organic production is increasing dramatically. In 1988, only 65 farmers requested certification as organic producers. This year that number is expected to be 300.

Washington State is a leader in the organic food industry. The Washington State Department of Agriculture's Organic Certification Program has been touted as one of the most far-sighted and effective programs in the country. Many features of our successful program are contained in the proposed Federal standards.

Washington citizens are not alone in pushing for organically grown food. A Good Housekeeping survey reported that consumer's top concern, even above "high prices," is "avoiding harmful additives, preservatives and chemicals." In fact, 63 percent of the consumers are willing to pay 10 to 15 percent more for food certified as free from agricultural chemicals.

We need to protect our ground water, soils, and citizens. We need organic certification to do that and we need it now. We don't need more studies. The Washington State program works now and so will a Federal program.

I urge Members to support the DeFazio amendment.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. ROBERTS].

Mr. ROBERTS. Mr. Chairman, I rise in opposition to the substitute amendment. We can go down the organic freeway in California and the State of Washington if we want and exceed the speed limit, or we can really adhere to what we heard in the subcommittee and do a step-by-step process.

Mr. Chairman, this is not a study. This is not a study. The amendment of the gentleman says that the Secretary of Agriculture will establish an organic program. There are two flaws in the substitute of the gentleman. No. 1, the amendment exempts small farms from the organic certification standards.

That means that 35 percent of the Nation's farms that could benefit the most from really producing organically will be exempt.

Second, the amendment allows the use of synthetic chemicals. This flies in the face of what organic is all about.

Mr. Chairman, the amendment does not meet the basic standard. The amendment permits the use of synthetic substances that are deemed necessary in handling a crop, and the people who are allowed to determine which manmade chemicals can be used serve on the National Organic Standards Board. That is a conflict of interest that will be trouble.

Mr. Chairman, I rise in opposition to the substitute amendment offered by the gentleman from Oregon. I believe the gentleman's amendment has serious flaws, exemptions, and loopholes. Let me highlight the two most serious:

The amendment exempts small farms from the organic certification standards. This means that 35 percent of the Nation's farms that could benefit the most from producing organic commodities would not have to be certified, would not have to have an organic production plan, would never be subject to on-site inspections, and not have to pay any user fees.

The amendment allows the use of synthetic chemicals. This flies in the face of what organic is all about. Let me give you the definition from the American Heritage Dictionary:

organic, 3.a Using or grown with fertilizers and mulches consisting only of animal or vegetable matter, with no use of chemical fertilizers or pesticides. b. free from chemical injections or additives.

This amendment does not meet this basic standard. The amendment permits the use of synthetic substances that are deemed "necessary to the production or handling of the crop because of the unavailability of wholly natural substitute products;" and, the people who are allowed to determine which manmade chemicals can be used serve on the National Organic Standards Board; six persons that either grow, process, or sell organic foods—the very same people who stand to profit from the use of manmade chemicals.

The CHAIRMAN. The Chair would advise the gentleman from Texas [Mr. STENHOLM] has 2 minutes remaining, and the gentleman from Oregon [Mr. DeFAZIO] has 2 minutes remaining. The gentleman from Texas [Mr. STENHOLM] has the right to close the debate.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. CONDIT].

Mr. CONDIT. Mr. Chairman, I rise in support of [Mr. STENHOLM]'s amendment which would require USDA to establish a national standard for organically produced food.

Let me first say that the United States has the safest food supply in the world. There is, however, a certain segment of consumers that prefers organically produced food to convention-

ally produced food, believing it to be pure of chemical contaminants, and therefore safer. These consumers will pay a premium price for foods that are labeled "organic". They do so with the expectation that no chemical pesticides were used to produce the organic food, and that the food contains no chemical residue.

There are some serious misconceptions, however, as to what constitutes organic food. Because there are varying standards throughout the Nation, lax enforcement in many States which have standards, or because some States have no standards at all, organic food is oftentimes not chemical free. Chemicals are often applied or chemical drift or chemical contamination from soil which had previously been used to grow conventional commodities can occur.

Consumers have the right to expect that products labeled as "organically produced" are not produced with or handled with chemicals. For this reason, I introduced legislation, H.R. 5045 "The Organic Foods National Standards Act", which establishes a national standard for organically produced foods. Additionally, my bill defines "organically produced" to mean food produced without chemicals and which does not contain traces of chemical pesticides. My bill would also establish a USDA certification process for organic foods.

As a result of a hearing conducted by the Agriculture Committee where my bill, Mr. DeFAZIO's bill, and Senator LEAHY's bill were discussed, it became clear that a significant difference of opinion exists among producers, processors, retailers, and government officials with respect to what production practices should be considered as "organic" practices. This being the case, Mr. STENHOLM introduced a proposal which would have required USDA to study this issue further.

I say "would have" required a study, because this proposal no longer simply requires USDA to conduct a study. I am pleased to say that Mr. STENHOLM has incorporated many of my suggestions to his proposal, the most significant being that this amendment actually requires USDA to establish a national standard for organically produced foods. This approach will allow a thorough review and comment to occur by all interested parties, thereby insuring that a workable program is developed. This represents a commitment to consumers, the organic industry, and to environmentalists.

I urge your support of the Stenholm amendment to the farm bill.

Mr. DeFAZIO. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BRYANT].

Mr. BRYANT. Mr. Chairman, I simply want to make clear that there is more than one Texas point of view on this matter.

Speaking on behalf of our Texas Agriculture Commissioner, Jim Hightower, I support the DeFazio/Brown program, as does he. It is already up and running in Texas. We right now have more than 8,500 acres in organic production on certification with another 7,000 acres' worth of applications pending.

I think that there is a good definition of organic in the bill. It is a good bill and I commend the gentleman from Oregon [Mr. DeFazio] and the gentleman from California [Mr. Brown] for bringing it to us, and I urge Members to vote for the DeFazio/Brown amendment.

Mr. DeFAZIO. Mr. Chairman, I yield 30 seconds to the gentleman from North Carolina [Mr. Rose].

Mr. ROSE. Mr. Chairman, I think the key here is 23 States, 23 States have this program that is embodied in the DeFazio amendment up and running right now. I have heard all of the arguments, and I think my chairman, the gentleman from California [Mr. Brown], summed it up about as well as it could be, and I support the DeFazio/Brown amendment and urge my colleagues to support it likewise.

The handwriting is on the wall. The Federal Government, the USDA should get in line with this policy, and let us make it nationwide.

Mr. DeFAZIO. Mr. Chairman, I yield myself my final 1 minute.

Mr. Chairman, in response to the earlier gentleman's comments, the synthetics that would be used would be very limited. They have to be reviewed by the board, the Secretary of Agriculture, and they are currently in use. They are inert substances that are used as carriers and common biologicals and other substances.

Second, the small farm exemption. I did not want to put on the small farmers of America the burden of having to pay for the certification since this is a self-supporting program. So what we have is that they will use the organic label if they conform and are consistent with the standards set by the Federal Government. They will not be subject to certification inspection. However, if there are any questions raised, they could be inspected and decertified, if necessary.

Mr. Chairman, it is time we recognize the growth of this industry, \$1.2 billion in sales last year, growing 40 percent a year. This is the appropriate time to apply a consistent national standard, while this industry is still in its infancy and growing, and I would ask my colleagues to support this amendment.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr.

STENHOLM] for 1 minute to close debate.

Mr. STENHOLM. Mr. Chairman, to make sure there is no confusion I ask my colleagues to vote against the DeFazio amendment. It is true, it is a go-slow proposition, and I think rightfully so.

The subcommittee of the House Agriculture Committee held hearings on it, and we report to you there is no consensus. I do not think I have to remind my colleagues there are 50 States in these United States, not 23, and in order to put together legislation as the gentleman from Oregon's amendment does, we need to go slow.

His amendment lacks the input of all of the interested parties nationwide. The application of any such standards as he suggests today in his amendment should be preceded by a comprehensive study. I would say our amendment is not a study and kill. My amendment is a study and implement organic farming, organic labeling. I want to make that very clear.

His amendment requires excessive surveillance at the national and State levels, and it will erode substantially the authority of the Meat and Poultry Inspection Act, and also appears to have many other very damaging aspects to our current agricultural system.

I ask that Members vote no on the DeFazio amendment.

Mr. DeFAZIO. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. Moody].

Mr. MOODY. Mr. Chairman, I rise in support of the amendment.

Mr. Chairman, I rise today in strong support of the DeFazio amendment on national organic farming standards. The organic food market is growing rapidly each year, and we owe it to farmers and consumers to swiftly establish a uniform, national labeling standard for organic foods.

The DeFazio amendment evolved out of House and Senate hearings and was crafted with the input of numerous farm groups, State departments of agriculture, environmental, and consumer groups. Twenty-three States, including my State of Wisconsin, already have organic food standards in place. Now that the organic foods market is growing at an estimated rate of 40 percent a year, it is important to bring together all those different State standards and create a uniform national standard for organic foods.

The establishment of standards for organic farming and food labeling is necessary for several reasons:

The adoption of alternative agriculture and organic farming methods, which include the abandonment of the use of pesticides, is good for the environment.

The establishment of uniform national standards will help create a national market and thus do much to encourage farmers to adopt these more environmentally sound farming practices. Furthermore, a uniform standard for organic food will eliminate disin-

centives and barriers to an interstate market for organic foods.

Consumers have indicated in polls that they are interested in buying organic foods. However, consumers desiring to purchase organic food have at times been misled by companies seeking to cash on in proenvironment sentiment through falsely claiming that their products are produced with environmentally sound organic practices. The National Organic Standards Program established by the DeFazio amendment would ensure that consumers are getting what they are paying for.

Last, Mr. Chairman, I would note that the DeFazio amendment is supported by a broad and impressive array of organizations including the National Farmers Union, the Sustainable Agriculture Working Group, the Organic Food Producers Association of America, Public Voice for Food and Health Policy, Sierra Club, the Natural Resources Defense Council, Land O' Lakes, and Mid-American Dairyman, to name but a few.

We don't need any more studies. The organic food market is a \$1.25 billion industry that is growing each year, with consumer support. If it got any riper it would burst. I urge my colleagues to join me in supporting the DeFazio amendment and establishing these much needed national standards for organic foods.

Mr. LAGOMARSINO. Mr. Chairman, I rise today in support of the amendment offered by my colleague Mr. DeFAZIO and urge Members to vote in favor of this important amendment.

By establishing a system of national minimum standards for producers and handlers of agriculture products that have been produced by organic means, the amendment will provide much needed consumer protection from mislabeling and fraud in the marketplace. The amendment will also encourage environmental stewardship, and will facilitate interstate commerce in fresh and processed organically produced food.

The DeFazio amendment is supported by every sector of the organic foods industry, and is also supported by many environmental and consumer organizations.

The \$1.25 billion organic foods industry is the fastest growing sector in agriculture. It is estimated that consumer demand for organically produced foods may expand by 40 percent annually throughout the 1990's. With this expected growth, the time for national organic standards is now.

According to the Organic Farmers' Association Council, the biggest barrier to growth of the organic food industry is the lack of national organic standards. The organic farming industry, environmental organizations, and most importantly, American consumers, demand organic farming standards.

I urge my colleagues to support the DeFazio amendment.

Mr. SCHUETTE. Mr. Chairman, I am pleased that the House Agriculture Committee adhered to my request to recognize the Great Lakes region as a conservation priority area in this amendment to title XVI of H.R. 3590. This amendment will encourage farmers to enroll land in designated watershed areas into the Conservation Reserve Program [CRP]. As you know, the Great Lakes account for 20 percent of all the fresh water in the world. The Great

Lakes are an invaluable natural resource for my State of Michigan and the other seven States which touch upon its shores. For this reason, it is imperative that steps are taken to reduce the impact of pollution affecting the Great Lakes due to the naturally occurring processes of erosion and sedimentation.

According to estimates provided by the 1982 National Resources Inventory [NRI], more than 900 million tons of soil are eroded annually in the eight Great Lakes States; that is nearly 30 tons of soil lost every second. Soil erosion and sedimentation are serious problems in the Great Lakes Basin and impact recreation, adversely affect fish and wildlife habitat, and cost taxpayers millions of dollars. In addition, erosion diminishes the productivity of the land resource of lakes and degrades water quality.

This amendment will authorize the USDA to provide additional incentive for farmers in Michigan and other areas of special environmental sensitivity to enroll land in the CRP. By allowing producers in designated watersheds to enroll in this conservation program we are establishing an equitable system which will be beneficial to farmers and the environment.

There is no way that we can stop Mother Nature; however, we can take this prudent step to minimize soil erosion. I urge my colleagues to support this amendment.

Mr. SCHUETTE. Mr. Chairman, my amendment expands the administration's monthly crop report authority to include special reports on fruits and vegetables.

The fruit and vegetable industry in this country has become a strong force in American agriculture. Taking this into account, the House Committee on Agriculture has decided to add a Fruits, Vegetables, and Marketing Title to the 1990 farm bill. This decision underscores the importance that the Committee on Agriculture places on strengthening our Nation's fruit and vegetable industry. In response to this commitment by the committee, I offer the amendment to provide the industry with essential tools to effectively market and produce its product for domestic and international sales.

Fresh market and processed vegetables, fruits and nuts forage and turf seeds, vegetable seeds, and maple syrup would be surveyed by the U.S. Department of Agriculture to gather reliable and accurate information on supply, acreage, production, disposition, and prices for those commodities listed. Results from the surveys would be reported at least annually in such States as determined by the Secretary of Agriculture. In addition to the surveys, the Secretary is also directed to collect information on fruit and nut trees. The fruit and nut tree inventories will be conducted and reported on a regular basis every 3 to 5 years as determined by the Secretary.

The surveys will assist our vegetable, fruit, and nut industry in determining supply and demand trends. This information will greatly improve the industry's ability to prevent overproduction or production shortfalls and to provide a stable source of food supply. With that planning assistance, the industry would be in a better position to market its products.

I strongly recommend that this amendment be adopted. The vegetable and fruit industry is extremely important to the State of Michigan's

overall economy as well to the economies of several other States. This amendment will enhance our Nation's fruit and vegetable industry's ability to provide a stable source of food and to compete more effectively and efficiently for international and domestic markets.

Mr. McCANDLESS. Mr. Chairman, I rise today in full support of the gentleman from Florida's substitute to my amendment. This substitute is a compromise that has been accepted by the Committee on Agriculture. It is my understanding that members of the Agriculture Committee on both sides of the aisle have agreed to this compromise language.

Our measure requires clear country of origin labeling on all imported or domestic perishable agricultural products during a 2-year pilot program. The 2-year program will be implemented by the Secretary of Agriculture and will be conducted nationwide. After the 2-year program has ended, the Secretary will study the results of the program and report back to Congress within 18 months of its completion.

I feel strongly that this country needs a permanent country of origin labeling law for fresh fruits and vegetables. I have agreed to this compromise amendment, however, because I am certain that once American consumers become accustomed to making an informed decision when buying produce, they will continue to expect and demand this labeling even after the 2-year pilot program has been completed. What's more, I am convinced that the practice of origin labeling will become an accepted method of retail. Grocers and retailers will surely realize that the negatives of produce labeling that they perceive now are nonexistent as they travel down the road of experience provided by this 2-year program. Once this labeling program is implemented, consumers will expect country of origin labeling, grocers will accept country of origin labeling, and producers will benefit from country of origin labeling. Americans will soon see for themselves how the positives will far outweigh any negative associated with country of origin labeling.

I am pleased with this compromise. Essentially, my amendment requires a national country of origin labeling program to be implemented by the U.S. Department of Agriculture. The 2-year program will be reevaluated at its completion. Although further congressional action will be necessary to perpetuate the program or to permanently require country of origin labeling, I am confident that labeling will not be discontinued once it has begun.

Mr. Chairman, the importance of country of origin labeling involves several factors including consumer choice and safety, promotion of domestic produce markets and improving this country's trade deficit.

Under the measure that we are introducing, the labeling that will be required does not call for a label or stamp on each individual piece of fruit. All that this provision requests is a sign above the bin of loose fruit or vegetables stating the country of origin whether it is, for instance, Mexico, Iran, or the United States.

One of the most important goals of our Federal Government is to protect the American public. Country of origin labeling deserves to be a national issue because the health of Americans around the country is endangered. Our health is in peril every time we bite into a

fruit or vegetable that is not labeled because we don't know what type of pesticide may have been used on the product. If it has been imported from another country, chances are very good that the piece of fruit or vegetable carries residues of chemicals that are illegal in our own country. While the United States is strict in enforcing its own pesticide control laws, the same cannot be said for many foreign countries. The GAO has reported that FDA multiresidue tests are unable to detect more than one-half of all pesticide chemicals currently available for use on the world market. Even if we could test for all pesticides, lapses in the inspection of this produce as it enters the country either overlook contaminated fruit entirely or news of positive chemical test results reach the consumer 2 weeks later, long after the product has been eaten.

My point is this. While we can and must strive for improved testing of foreign produce, that will take time. New and better testing procedures will have to be developed, more facilities constructed, and more scientists trained. Meanwhile, American consumers are unwittingly ingesting unknown chemical substances. At the minimum, they deserve to know the origin of their produce in order to decide individually the risks they are willing to take.

Consider what country of origin labeling could mean to our domestic fruit and vegetable industry. Instead of competing against lower quality, poorly presented and cheaply produced fruit, American growers will benefit by proudly displaying U.S. grown produce with a clear indication that their produce is made in the U.S.A. and the other stuff is from somewhere else.

The problem is that when a consumer buys a substandard product, use Middle-Eastern dates, for example, he's disappointed in the product. Since that box is not labeled as to country of origin, the consumer is unable to distinguish between those unappealing dates and the higher-quality U.S. product. He loses confidence in all dates, thus affecting the entire market, including the sale of top quality U.S. produce.

Mr. Chairman, when considering the value of country of origin labeling, it is important that a discussion of the role imports play in America's trade deficit. As a strong proponent of free trade, I believe that the establishment of import quotas and trade restrictions would harm our country. However, we need not sit idly by watching imports flood our markets while Americans lose their jobs. We can instead encourage production efficiency, reward ingenuity, and promote American products.

Title 14 of the farm bill, as reported by the House Agriculture Committee, requires the Secretary of Agriculture to conduct a study of various aspects of foreign competition from imported fruits and vegetables as well as problems found in domestic production of fresh fruits and vegetables. Among the items the Secretary is supposed to cover is included the benefits and possible costs of the labeling of fruits and vegetables. Unfortunately, the committee has not gone far enough and precious time will be lost if stronger action than a study is not taken. I predict the 5 or 10 years down the road, when labeling of country of

origin is the norm and consumers are well informed before they consume a particular product, that we will look back on this debate and marvel that it ever took place. It is only a matter of time before the American public will no longer put up with the horror of mystery fruits and vegetables on grocery shelves.

Also included in title 14, Mr. Chairman, are three special commodity promotion programs to benefit pecans, mushrooms, and limes. These are national marketing promotionals, and although I am not criticizing the need for such programs, I wager that if USDA would implement country of origin labeling, commodity promotion programs such as these would not be necessary at all.

Given our concern for the competitiveness of American goods, it makes no sense that we fail to distinguish between U.S. products and imports. How can we encourage citizens to "Buy American" when foreign and domestic produce sit unmarked and indistinguishable side by side in grocery stores throughout our country?

At this time, Mr. Chairman, I would like to clarify some concerns that have been expressed by the U.S. Trade Representatives Office concerning country of origin labeling. Under the Tariff Act of 1930, when packaged perishable agricultural products enter this country, they are marked clearly with their country of origin. Under this same Tariff Act, the ultimate purchaser must receive the product with the country of origin clearly labeled. Until now, the ultimate purchaser has been interpreted to be the grocer who receives the package on his or her loading dock. There is not a problem with the present tariff law if the said packaged item enters in its final container. That container will then reach the consumer marked clearly with the country of origin. Unfortunately, when perishable products enter in bulk crates or boxes, they are usually unloaded and put on the shelf without any indication of the country of origin. I object to this interpretation of who the ultimate purchaser is. I feel that the consumer is the ultimate purchaser and the American consumer also deserves to buy produce with an indication of the country of origin.

In brief, I do not aim with this amendment to change present trade law. We aim to convey the country of origin notification a step further to the grocery store shopper. If the grocer knows the country of origin, so, too should the consumer.

There are many issues to take into consideration here. If the Members of the House will only weigh the positive impacts of such country of origin labeling against the possibility of an almost imperceptible increase in price, the latter is not worth a discussion. The State of Florida has done it. They have instituted a country of origin labeling requirement on their produce. Not only have the consumers of that State benefited from the knowledge that they have gained but local producers have thrived with the ability to label their product as American grown and nurtured.

This past Monday, the House of Representatives passed a bill under suspension of the rules known as the Nutrition Labeling and Education Act. This bill requires that all products, including perishable fruits and vegetables and raw fish, are extensively labeled with

nutritional information such as cholesterol, fat, sugar, salt, and other nutrient content. Isn't it ironic that consumers will know the nutritional value of the food that they eat without any knowledge of where that food was produced if it is a perishable product? It will be great to know how many calories are contained in the next bunch of broccoli that I buy on the grocer shelf. Too bad I can't tell for sure whether or not DDT may have been used and may still remain on the vegetable.

Today, more Americans are concerned about the safety of their food than any time in the past. And we can be confident that the U.S. food supply is the safest in the world. The time has come to protect all Americans from foreign food items as well by increasing their awareness of the origin of those products. Support country of origin labeling.

Mr. STALLINGS. Mr. Chairman, there is a provision in H.R. 3950, known as the "Farmer-to-Farmer Program" in title XII, which I would like to call to the attention of my colleagues. This program, operated by Volunteers in Overseas Cooperative Assistance [VOCA], sends senior farmer volunteers overseas to provide short-term technical assistance to cooperatives and other private farm organizations.

VOCA, which recently celebrated its 20th anniversary, has an impressive record of sending 800 volunteers to 87 developing countries. From my district, Mr. and Mrs. Louis Cosho have completed five VOCA assignments on cooperative law to Taiwan, Thailand—twice—Liberia, and Malawi. His expertise is in taking American cooperative law and adapting it to national circumstances. Often, cooperatives in developing countries are controlled by government officials who appoint managers and boards of directors. Mr. and Mrs. Cosho helped local farmer organizations and government officials rewrite their legislation to provide control to the members of their cooperative. Farmer owned and controlled cooperatives are often the only real experience of farmers with genuine grassroots democracy.

The farmer-to-farmer provision, initiated in the 1985 farm bill, has built an impressive record of success. All evaluations have been positive on the quality of technical assistance, its impact in increasing farm production and the low-cost through use of unpaid volunteers. The Thailand United States Agency for International Development mission commented that "Perhaps the secret to the success of VOCA volunteers is the fact that they are indeed volunteers more interested in assisting others, visiting new lands, observing new culture than in making more money."

In H.R. 3950 before us today, the Farmer-to-Farmer Program will be expanded to emerging democracies in Eastern Europe. Through the Support for Eastern European Democracy Act, VOCA has already sent 23 volunteers to help Polish farmers convert their cooperatives and state enterprises into farmer owned and controlled organizations. Over the next 12 months, another 100 volunteers will be providing critical advice at this historic time in Poland assists adopts a market economy. No sector is more critical than agriculture for the success of the Solidarity-led Government. Low farm prices have already resulted in demonstrations and road blockages. Yet, con-

sumer prices continue to rise rapidly. VOCA volunteers are working at creating more efficient linkages and private agribusinesses that can help increase farmer income and increase production to keep prices reasonable for the consumer.

H.R. 3950 expands the Farmer-to-Farmer Program to continue VOCA's work in Poland and to initiate programs in other Eastern European countries where farmers face even more daunting problems. Unlike Poland, their farms were collectivized on the Soviet model. The farmer to farmer volunteers will be helping farmers split up the state farms and create cooperatives and other farmer-controlled organizations which will be necessary to undertake profitable operations with economies of scales.

The Farmer to Farmer Program, a people-to-people effort to alleviate hunger, strengthens grassroots democracy through giving farmers ownership and a real stake in their societies. I want to encourage my fellow members to support this important program.

Mr. STAGGERS. Mr. Chairman, I rise in opposition to the Frenzel amendment. This is neither the time nor the place for this action. I suggest the gentleman bring this up after the budget summit has produced an agreement. The Agriculture Committee labored long and hard to come up with these much needed nutrition provisions while staying within the budget resolution guidelines. These provisions in the farm bill will help to bring down the barriers which the poor face in attempting to obtain an adequate diet. The Subcommittee on Nutrition heard hours of testimony from many witnesses on the critical need among the poor for food. We heard evidence that this need is going unmet with increasing frequency. The measures contained in the farm bill to meet the nutritional needs of the poor are reasonable, balanced and should be protected. I urge my colleagues to oppose the Frenzel amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oregon [Mr. DeFazio] as a substitute for the amendment offered by the gentleman from Texas [Mr. Stenholm].

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. STENHOLM. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 234, noes 187, not voting 11, as follows:

[Roll No. 297]

AYES—234

Ackerman	Boehlert	Campbell (CA)
Anderson	Bonior	Cardin
Andrews	Borski	Carper
Annuzio	Bosco	Carr
Anthony	Boucher	Chandler
Applegate	Boxer	Clarke
Aspin	Brennan	Clay
Atkins	Brooks	Clement
AuCoin	Broomfield	Coleman (TX)
Bates	Brown (CA)	Collins
Beilenson	Bruce	Conte
Bennett	Bryant	Conyers
Berman	Bustamante	Cooper
Bilbray	Byron	Costello

Coughlin	Kildee	Rangel	Kyl	Parris	Smith, Robert
Coyne	Kiecicka	Ravenel	Laughlin	Pashayan	(OR)
Davis	Kostmayer	Richardson	Lewis (CA)	Patterson	Spence
DeFazio	LaFalce	Rinaldo	Lewis (FL)	Paxon	Staggers
Dellums	Lagomarsino	Ritter	Lightfoot	Penny	Stallings
Derrick	Lancaster	Roe	Livingston	Pickett	Stangeland
Dicks	Lantos	Ros-Lehtinen	Lloyd	Quillen	Stearns
Dixon	Leach (IA)	Rose	Long	Ray	Stenholm
Donnelly	Lehman (CA)	Rostenkowski	Lowery (CA)	Regula	Stump
Dorgan (ND)	Lehman (FL)	Rowland (CT)	Lukens, Donald	Rhodes	Sundquist
Douglas	Lent	Russell	Madigan	Ridge	Tailon
Downey	Levin (MI)	Sabo	Marlenee	Roberts	Tanner
Durbin	Levine (CA)	Saiki	Martin (IL)	Robinson	Tauke
Dwyer	Lewis (GA)	Sangmeister	Martin (NY)	Rogers	Tauzin
Dymally	Lipinski	Savage	McCandless	Rohrabacher	Taylor
Early	Lowe (NY)	Sawyer	McCollum	Roth	Thomas (CA)
Eckart	Luken, Thomas	Saxton	McCrery	Rowland (GA)	Thomas (GA)
Edwards (CA)	Machtley	Scheuer	McDade	Roybal	Thomas (WY)
Engel	Manton	Schneider	McEwen	Sarpallus	Towns
Erdreich	Markey	Schroeder	McMillan (NC)	Schaefer	Traxler
Evans	Martinez	Schumer	McNulty	Schiff	Valentine
Fascell	Matsui	Serrano	Michel	Schuetz	Vander Jagt
Fawell	Mavroules	Sharp	Miller (OH)	Schulze	Vucanovich
Fazio	Mazzoli	Shays	Molinari	Sensenbrenner	Walker
Feighan	Sikorski	Sikorski	Mollohan	Shaw	Walsh
Fish	McCurdy	Skaggs	Montgomery	Shumway	Watkins
Flake	McDermott	Slattery	Moorhead	Smith (TX)	Weber
Foglietta	McGrath	Slaughter (NY)	Morrison (WA)	Sisisky	Whittaker
Ford (MI)	McHugh	Smith (FL)	Myers	Skeen	Whitten
Frost	McMillen (MD)	Smith (NJ)	Natcher	Skelton	Wilson
Gallegly	Meyers	Smith (VT)	Nielson	Slaughter (VA)	Wolf
Gaydos	Mfume	Smith, Robert	Olin	Smith (IA)	Wylie
Gejdenson	Miller (CA)	(NH)	Oxley	Smith (NE)	Young (AK)
Gephardt	Miller (WA)	Snowe	Packard	Smith (TX)	Young (FL)
Gibbons	Mineta	Solarz	Parker	Smith, Denny	
Gilman	Moakley	Solomon		(OR)	
Glickman	Moody	Spratt			
Gonzalez	Morella	Stark			
Gordon	Morrison (CT)	Stokes	Alexander	Ford (TN)	Nelson
Gray	Mrazek	Studds	Bilirakis	Frank	Ortiz
Green	Murphy	Swift	Courter	Hall (TX)	Roukema
Guarini	Murtha	Synar	Crockett	Leath (TX)	
Hall (OH)	Nagle	Torres			
Hamilton	Neal (MA)	Torricelli			
Hawkins	Neal (NC)	Trafiacant			
Hayes (IL)	Nowak	Udall			
Hefner	Oakar	Unsoeld			
Hertel	Oberstar	Upton			
Hoagland	Obey	Vento			
Hochbrueckner	Owens (NY)	Visclosky			
Horton	Owens (UT)	Volkmer			
Houghton	Pallone	Walgren			
Hoyer	Panetta	Washington			
Hughes	Payne (NJ)	Waxman			
Jacobs	Payne (VA)	Weiss			
Johnson (SD)	Pease	Weldon			
Johnston	Pelosi	Wheat			
Jones (GA)	Perkins	Williams			
Jones (NC)	Petri	Wise			
Jontz	Pickle	Wolpe			
Kanjorski	Porter	Wyden			
Kaptur	Poshard	Yates			
Kastenmeier	Price	Yatron			
Kennedy	Pursell				
Kennelly	Rahall				

NOES—187

Archer	Crane	Grant
Army	Dannemeyer	Gunderson
Baker	Darden	Hammer Schmidt
Ballenger	de la Garza	Hancock
Barnard	DeLay	Hansen
Bartlett	DeWine	Harris
Barton	Dickinson	Hastert
Bateman	Dingell	Hatcher
Bentley	Dornan (CA)	Hayes (LA)
Bereuter	Dreier	Hefley
Bevill	Duncan	Henry
Bliley	Dyson	Herger
Boggs	Edwards (OK)	Hiler
Browder	Emerson	Holloway
Brown (CO)	English	Hopkins
Buechner	Espy	Hubbard
Bunning	Flelds	Huckaby
Burton	Flippo	Hunter
Callahan	Frenzel	Hutto
Campbell (CO)	Gallo	Hyde
Chapman	Gekas	Inhofe
Clinger	Geren	Ireland
Coble	Gillmor	James
Coleman (MO)	Gingrich	Jenkins
Combest	Goodling	Johnson (CT)
Condit	Goss	Kasich
Cox	Gradison	Kolbe
Craig	Grandy	Kolter

NOT VOTING—11

Alexander	Ford (TN)	Nelson
Bilirakis	Frank	Ortiz
Courter	Hall (TX)	Roukema
Crockett	Leath (TX)	

□ 1854

The Clerk announced the following pair:

On this vote:

Mr. Frank for, with Mrs. Roukema against.

Mr. HERGER changed his vote from "aye" to "no."

Messrs. VOLKMER, BUSTAMANTE, HORTON, and APPLE-GATE changed their vote from "no" to "aye."

So the amendment in the nature of a substitute was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas [Mr. STENHOLM], as amended.

The amendment, as amended, was agreed to.

Mr. EMERSON. Mr. Chairman, I rise in support of title 14, the fruits, vegetables, and marketing title of the Food and Agricultural Resources Act. I am pleased that the Committee on Agriculture has reported a fruit and vegetable title to the 1990 farm bill. I wish to express my thanks to the subcommittee chairman, the gentleman from Georgia, for his leadership and cooperation throughout the past 2 years. I have enjoyed working with him on this and on other issues and look forward to continuing to work on issues of mutual interest.

Fruits and vegetables are integral part of the agricultural picture in the United States and a growing industry. Time and again reports are issued by respected health authorities promoting fruits and vegetables as a part of the diets of American consumers. The Sur-

geon General, the National Institute of Health, the National Cancer Institute, the Department of Agriculture and several others all recommend the consumption of fruits and vegetables as an essential part of a healthy and nutritious diet.

Over the past, year the Subcommittee on Domestic Marketing, Consumer Relations, and Nutrition has held hearings on the general issue of fruit and vegetable production. Additionally, the subcommittee has held hearings on specific fruits and vegetables in relations to research and promotion programs to be instituted by the specific industry. Producers of fruits and vegetables are committed to providing quality produce to the American consumers. It is my hope that the inclusion of the provision in the fruits and vegetables title of the farm bill will aid them in continuing their work.

This title incorporates a section offered by the gentleman from Florida [Mr. LEWIS]. I commend him for his hard work on this issue. That section requires the Secretary of Agriculture to conduct a study of the fruit and vegetable industry at the present time and requires that all phases of the production be included in the study—including labor, disasters, technological advances, and nutrition education programs. Such a study will provide the committee with a picture of the fruit and vegetable industry so that may determine the areas in which improvement may be needed.

In addition, the committee reported title includes changes in law based on the recommendation of the Secretary of Agriculture. Specifically, the USDA is given the authority to assess civil fines and penalties against handlers of fruits and vegetables who fail to pay assessments under the appropriate Federal marketing order. The second recommendation of the Secretary involves the Perishable Agricultural Commodities Act and allows the Secretary to invest the accumulate license fees in interest bearing accounts. USDA calculates the interest to be earned will be around \$100,000, which will be returned to the program for future use.

Title 14 also includes legislation establishing research and promotion programs for limes, mushrooms, and pecans and amending the research and promotion programs for cotton and potatoes. These are programs that I wholeheartedly support. They are a means by which producers join together to promote their products, provide nutritional information to consumers, and to support research efforts.

Over the past 30 years, the Congress has approved several of these research and promotion programs. These are programs that provide producers with the structure to establish and to fund programs designed to promote research, sales, and consumption of their products.

I urge Members to support the fruits, vegetables, and marketing title to H.R. 3950.

Mr. TAUKE. Mr. Chairman, as we consider the 1990 farm bill, I would like to bring to the attention of my colleagues an important provision in Title XII to continue and expand the Farmer-to-Farmer Program. This small, but effective program sends American volunteers overseas to teach our agricultural practices to small farmers in developing countries.

This program represents the highest spirit of American volunteerism. Administered by Volunteers in Overseas Assistance (VOCA), the Farmer-to-Farmer program utilizes unpaid volunteers who donate their time and talent in providing technical assistance to farmers in developing nations. This type of hands-on training is an effective means of helping developing nations improve their standards of living.

Several Iowans from my congressional district recently participated in the Farmer-to-Farmer program. They are Les and Mary Klink of Elkader, Joe Legg of Anamosa, Leigh and Gwen Rekow of Postville, and Bill and Helen Stewart of Maquoketa. All of these volunteers assisted in a corn production project in the Ivory Coast. The young farmers they taught were interested in learning and were anxious to adopt farm practices we use in Iowa. Based on the advice of our volunteers and using hybrid seeds provided by Pioneer Seed, corn production increased dramatically. This is the type of small success that truly addresses the issue of hunger in the world.

In addition to two assignments in the Ivory Coast, Leigh Rekow also provided technical assistance for grain storage in Tanzania and agricultural production in a terribly poor area of Haiti. Rekow is a typical VOCA volunteer. After 33 years on his 240-acre diversified farm, he turned over his corn, alfalfa, oats and dairy operation to his son-in-law and daughter. Rather than retiring, he now volunteers his know-how to help farmers around the world.

At the 20th anniversary of VOCA last May, I discussed the value of the Farmer-to-Farmer Program with Les and Mary Klink, long-time friends of mine who assisted in soil conservation in the Ivory Coast. They relayed to me that their efforts were not only appreciated, but that their recommendations were readily accepted. Like the over 800 volunteers who have worked in 87 different countries, the Klinks have worked to make the world a better place.

I am pleased to support continuation of the Farmer-to-Farmer Program in H.R. 3950. Initiated in the 1985 farm bill by my colleague from Nebraska, DOUG BEREUTER, the provision will be expanded to include the emerging democracies in Eastern Europe. VOCA is already operating a program in Poland through the Support for Eastern European Democracy Act [SEED] in which over 100 farmers are helping Polish farmers take over their previously government-controlled cooperatives.

The expanded program in H.R. 3950, co-sponsored by Mr. BEREUTER and the Agriculture Committee's ranking Republican, Eo MADIGAN, will make it possible to continue the program in Poland, where private farm ownership remained strong in spite of Communist rule. But, an even greater challenge for our VOCA volunteers will be in working with farmers in Eastern European nations where nearly all farms were collectivized into state farms. The volunteers will be providing advice on breaking up the state farms and turning the land back to private farmers. These farmers face the enormous task of creating new farmer-owned organizations to maintain profitable farming operations and to pool their resources for supply, transportation, storage and marketing.

The Bereuter-Madigan provision is not only

a way to combat hunger in the Third World and support emerging democracies in Eastern Europe, but it is also good for American agriculture. By sharing American farming technology we help developing nations improve their living standards which will in turn will help create new markets for American agricultural products.

I urge support for this important provision.

PARLIAMENTARY INQUIRY

Mr. MARLENEE. Mr. Chairman, I have a parliamentary inquiry.

The CHAIRMAN. The gentleman will state it.

Mr. MARLENEE. Mr. Chairman, it is into the conduct of the staff on both sides of the aisle that I particularly noted that staff was involved in passing out literature, in passing out and handing out leaflets. I would like to know what the proper conduct of the staff is.

The CHAIRMAN. The gentleman raises a good point. The Chair will pull from clause 4, rule XXXII on the conduct of staff:

No such person or clerk of a committee so admitted under clause 1 shall engage in efforts in the Hall of the House or rooms leading thereto to influence Members with regard to the legislation being amended.

The Chair would ask Members and staff to adhere to this.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words, and I yield to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Chairman, on May 8, 1990, I participated in a breakfast meeting here on the Hill commemorating 20 years of service by Volunteers in Overseas Cooperative Assistance, known as VOCA.

Through the Farmer-to-Farmer and other programs, VOCA has sent over 800 volunteers to assist farmers and cooperatives around the world. At the breakfast, there were three Minnesotans from my district, Mr. and Mrs. Lyle Lapham from Caledonia and Larry Offenbecker from Albert Lea, among the nearly 200 volunteers who assembled to share their experiences in helping others help themselves.

The Laphams, a husband and wife team, have completed three VOCA assignments in Cote d'Ivoire working with young farmers in a major maize production program. They provided advice in the production, harvesting and farm management. In Tunisia, they worked alongside of Peace Corp volunteers in helping dairy producers.

Larry Offenbecker has completed nine VOCA assignments since 1979. An expert in cooperative print operations and management, he has provided advice to local groups in Zimbabwe, Jamaica, Bolivia, Costa Rica, Ecuador, the Sudan, and Zambia.

While I am proudest of volunteers from my district, Minnesota ranks number one in overall volunteers with a total of 24 who have undertaken 65 assignments. VOCA has completed a total of 800 projects in 87 developing

countries. They have provided American technology and know-how to improve crop production, strengthen farm management as well as marketing, storage, and other modern practices which help developing country farmers increase their income and, in many cases, pull themselves out of abject poverty.

Working side by side with their local counterparts, VOCA's work is done at the request of local farm organizations to assure they are needed and recommendations will be implemented.

VOCA is one of the most cost effective foreign assistance programs we have. It provides the direct people-to-people assistance for helping others which is widely supported by the American public. It is important that the Farmer-to-Farmer Program continue to be operated on a nongovernmental basis through Volunteers in Overseas Cooperative Assistance [VOCA].

The Farmer-to-Farmer Program is addressing international food and hunger needs in seeking practical solutions to world hunger. Because of this outstanding work, VOCA was awarded a Presidential End Hunger Award in 1989.

Initiated in the 1984 farm bill and contained in the bill before us today, the Farmer-to-Farmer Program is to be continued and expanded. H.R. 3950 will double its funding and expand the program to middle-income countries to help increase United States agricultural markets for technology and commodities and to emerging democracies in Eastern Europe to help in the transition to a private sector agriculture.

Under the SEED Act, VOCA is already implementing a Farmer-to-Farmer Program in Poland to revitalize farmer cooperatives and strengthen private agriculture. Twenty-three volunteers have assisted farmers to take over their Government-controlled cooperatives and create new private agricultural cooperatives. Over the next 18 months, 110 VOCA volunteers will be providing critical advice on cooperative management and practices so that Polish farmers can successfully operate them as private businesses.

H.R. 3950 will permit VOCA to expand into other Eastern European countries where, unlike Poland, land has been collectivized. The principal activity of the Farmer-to-Farmer Program will be to put land back into farmer ownership while maintaining economies of scale through cooperatives and other farmer organizations to maintain and increase production. United States farmers will provide hands-on expertise as Eastern Europe shifts to a free market agriculture.

As we consider the 1990 farm bill, I encourage my colleagues to join me in supporting renewal and expansion of the Farmer-to-Farmer Program for another 5 years. The program is right in

offering a helping hand. It is also in interest of U.S. agriculture because as developing countries prosper, the people increase their consumption of food which, in turn, helps both local farmers and our farmers who need expanding markets for our agricultural commodities.

MR. DE LA GARZA. Mr. Chairman, I would like to inform the Members that we are trying in every way possible, and we had intended to finalize debate on all of the issues between 7 and 8 o'clock. I would like to inform the Members of the pending amendments we have; we have about an hour of debate, maybe less, if Members reduce their time. We have no control over votes that may be called. We feel that we may have a final passage vote, a recommittal vote, and maybe one vote on a separate amendment. But otherwise we are doing everything possible, I might inform my colleagues, to accept amendments where possible, to compromise wherever we can to accept amendments.

However, basically now we have about an hour left, excluding the possibility of votes.

□ 1900

AMENDMENT OFFERED BY MR. MC CANDLESS

Mr. McCANDLESS. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. McCANDLESS: Section 1411 is amended by inserting "(a)" before "Section 3(b)" and by inserting at the end the following new subsection:

(b) Section 2(5) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(5)) is amended—

(1) by striking "or deed" and inserting "deed, or failure to mark,";

(2) in subparagraph (B), by inserting ", or failure to mark," after "label"; and

(3) by striking "\$2,000" and inserting "\$50,000".

Mr. McCANDLESS (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McCANDLESS. Mr. Chairman, for the purpose of introducing a technical substitute amendment, I yield to my distinguished friend from Florida [Mr. FASCELL].

The CHAIRMAN. The Chair would advise the gentleman from California [Mr. McCANDLESS] that he must use his 5 minutes on the amendment. If he wishes not to speak on the amendment, he can yield back his time, and then the gentleman from Florida [Mr. FASCELL] can indeed offer his amendment.

Mr. McCANDLESS. Mr. Chairman, correcting my parliamentary procedure, the gentleman from Florida [Mr. FASCELL] will offer later a substitute to

my amendment which I wish the House to know that I am in total agreement with.

Mr. Chairman, the amendment of the gentleman from Florida [Mr. FASCELL] deal with some areas that make beneficial the ultimate objective of this amendment.

Mr. Chairman, I rise to address the amendment which is simple in nature and very uncomplicated in that it simply requires clear country or origin label on all imported or domestic perishable agricultural products.

Mr. Chairman, my colleagues may say, "Why do we need this?"

The importance of this label involves the consumer choice and safety of fresh perishable vegetables and fruits. It promotes our domestic produce markets, and it is intended to improve our country's trade deficit.

This labeling, Mr. Chairman, does not mean a label on each piece of fruit or commodity. Quite the contrary. It requires only a sign above the bin of loose fruit or vegetables stating the country of origin next to the price or other descriptive materials such as: Iran, United States, wherever the origin of that loose fruit and vegetable came from.

Mr. Chairman, I might add at this point that Japan, Canada, and over 40 other countries, requires this in the merchandising of fresh fruits and vegetables.

I might also add that we are talking here also about bulk fruits or vegetables, dries or fresh, which come into the country in bulk. The bulk is being labeled with the country of origin, but are repackaged. My amendment requires that repackaging, be it fresh, dried or otherwise, that the packaging show the country of origin.

Mr. Chairman, fresh fruits and vegetables carry residues of chemicals. Many of us are concerned about the level of chemicals that fresh fruits and vegetables currently carry. We are also concerned about the quality of these fruits and vegetables if they cannot be seen in the packaging.

It is in these areas, Mr. Chairman, that I have concern, and consumers have concern and my constituents have expressed their concern. I ask a favorable vote on this.

It is not complicated. We are not involved in any way in a nontariff trade barrier situation. We are not involved in any of the tariff act. The amendment to my amendment and my amendment addresses these issues, including the juices that come in, in bulk for further processing into some kind of a product.

Mr. LAGOMARSINO. Mr. Chairman, I rise today in support of the amendment offered by my colleagues, the gentleman from California [Mr. McCANDLESS] and the gentleman from Florida [Mr. FASCELL].

Mr. LAGOMARSINO. Mr. Chairman, the McCandless-Fascell amendment will modify the Perishable Agricultural Commodities Act [PACA] of 1930, to require clear country of origin labeling on all imported perishable agricultural products.

Considering growing concern over the use of pesticides in foreign countries, consumers should be able to know the origin of the perishable agricultural products they purchase and need to have the opportunity to purchase items produced in the United States.

It may be important to note that when fruits and vegetables enter this country in bulk, they are required to be identified by country of origin. Therefore, while these requirements mandate that retailers are made aware of the origin of products, there is no law which requires the retailer to pass this information on to the consumer. The McCandless-Fascell amendment will end this loophole in the law.

The State of Florida has already instituted a successful country of origin law. It is time that we follow suit at the Federal level.

Consumers demand information on the origin of the perishable agricultural products they purchase. I strongly support the McCandless-Fascell amendment and ask my colleagues to vote for it.

Mr. SHAW. Mr. Chairman, I rise in support of the amendment offered by the gentleman from California [Mr. CANDLESS] and the amendment offered by the gentleman from Florida [Mr. FASCELL].

Mr. Chairman, my home State of Florida has a country of origin law that was enacted in 1979. The producer, the grower, and the consumer now favor this law in Florida.

I am convinced that consumers have a basic right to know where the foods they consume come from. In the Consumer Bill of Rights, the first right cited is a "Consumer Right To Know." That is what country of origin labeling is all about, the right to know where food comes from.

This amendment also benefits domestic producers. Our Nation's growers must adhere to stricter regulatory requirements than their foreign competitors. I don't even have to elaborate on the pesticide panics with the "alar apples" and Chile grapes. Producers and consumers alike know that the inspections and analyses done on foreign products are not equal to that required in the United States.

This policy is easy to administer, at minimal cost, and does not take long to institute. Most states currently have regulatory and enforcement programs to inspect retail food stores for such things as sanitation, labeling of products, and temperature requirements. The manpower is already in

place, and inspection agents can easily add this step to their inspection list.

The cost to the State of Florida for the enforcement of this law is approximately \$15,000 annually; \$15,000 to give your constituents a choice—a safe choice. Tell me it isn't worth it! And compliance is so simple. Retailers in Florida often have hand-lettered place cards at the point of sale.

This is not a burdensome law. Any fears associated with this amendment have proven unjustified by the 11 years of success demonstrated by Florida. A federally mandated country of origin policy makes perfect sense because it is common sense. Lack of disclosure of origin does adversely impact our domestic growers, producers, and the consuming public.

The residents of Florida enjoy the right to make a conscious choice as a result of origin labeling—every producer and consumer across the nation deserves the same. If you would like to improve food safety, if you really want to help domestic producers, you should support the McCandless amendment.

Mr. McCANDLESS. Mr. Chairman, let me conclude by saying that the clothes we wear, the tools we use, the hardware that we have, virtually everything in the way of a consumer product that this House comes in contact with, except the food that it eats, has a label of origin, and I believe it is about time that we were able to accomplish that purpose.

Mr. HATCHER. Mr. Chairman, I rise to claim the time in opposition to the amendment offered by the gentleman from California [Mr. McCANDLESS].

Mr. Chairman, this amendment would provide that it would be a violation of the act for any PACA licensee to fail to place a mark or label indicating the country of origin, even for U.S. grown products, of all perishable agriculture commodities "received, shipped, consigned, sold, or offered for sale" by the PACA licensee.

The average supermarket's produce department carries over 200 items year round. Displays change constantly due to supplies and the perishable nature of the produce. It is not uncommon for fruits and vegetables to be mixed by either customers or market employees when products are handled or openly displayed. Therefore, it would be almost impossible for a market to avoid products from being commingled. This amendment would be a huge burden on the retail industry.

This is not a question of food safety—if safety is a major concern, then more Federal inspections should be done at point of entry.

It has been estimated by one supermarket company that the average supermarket will incur costs of around \$400 per week just in added labor, signage, and display space. Multiply this

times the 30,000 supermarkets in this country and a cost of \$12 million a week results. It equals \$650 million per year.

I urge a "no" vote on this amendment.

Mr. Chairman, I yield to the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I rise in opposition to the amendments offered by my friend from California and the substitute offered by my friend from Florida. I agree with the concept of the amendment—that consumers should be able to find out the origin of the fruits and vegetables they buy. However, the form, the mandatory nature and the penalties incorporated in the amendment are not appropriate.

The amendments will alter the Perishable Agricultural Commodities Act [PACA] by requiring that containers of fresh fruit and vegetables or the commodities themselves be marked with the country of origin. This includes all perishable commodities covered by PACA and any transaction in interstate commerce or foreign commerce—meaning that U.S. produce is included. Fines for failure to mark the container or the commodity would be increased from \$2,000 to \$5,000 or \$50,000, depending on which amendment is adopted. PACA already requires that any commission merchant, dealer or broker—including wholesalers, retailers, and growers who market grown by others—of perishable commodities cannot misrepresent the grade, quality, size, weight, and other characteristics, including the country of origin. There is no requirements that such characteristics be marked on containers.

Markings on containers are voluntary and the amendments will make them mandatory.

Fruits and vegetables often are re-packaged in the distribution chain and commingled with products from many sources. Merchants and brokers would be subject to substantial fines for requirements over which they do not have total control.

PACA is not the law to be used to require country of origin labeling on fruits and vegetables. Instead this is a function of the U.S. Customs Service. Making PACA the law governing country of origin labeling will not cover all produce in the nation because PACA exempts small retailers, custom packers, and wholesalers from PACA licensing requirements.

The responsibility to require country of origin labeling of imported fruits and vegetables rests with the U.S. Customs Service. However, under current law all imported fruits and vegetables are not required to be labeled as to the country of origin. For example, tomatoes imported in bulk and sold in supermarket bins are exempt from the country of origin labeling requirement

since there is no container which reaches the ultimate purchaser. Tomatoes imported in plastic cartons must be marked to indicate the country of origin on the cartons.

The appropriate vehicle to require a country of origin label on all imported produce is an amendment to the Tariff Act—not to PACA. Section 304 of the Tariff Act of 1930 requires packaged produce sold at retail stores to be marked with the country of origin. The amendments will require the USDA to be the regulator of bulk displays on fruits and vegetables. Two enforcers can lead to confusion and problems in the marketplace.

PACA is designed to establish and promote free and fair trading practices in the fresh and frozen fruit and vegetable industry and authorizes USDA to license merchants, dealers and brokers. PACA already prohibits the misbranding of fruits and vegetables and penalizes those found in violation of the act.

I must oppose the amendment.

Mr. McCANDLESS. Mr. Chairman, will the gentleman yield?

Mr. HATCHER. I yield to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, I respect the gentleman for his position relative to the supermarkets; however, having investigated this and having been around supermarkets and produce and produce shipping and packing for many, many years, when a gondola is completed and the purchase of that commodity has taken place and the balance is rotten, or whatever it is, it is replaced by a new unit, which may or may not be from the same shipment, at which time a new price is put on based upon the price of the commodity to the retailer from the distributor, so when we talk about commingling tomatoes or we talk about commingling lettuce, this is not a part of the general merchandising of a supermarket. I would call that to my colleague's attention.

Mr. HATCHER. Reclaiming my time, Mr. Chairman, I would point out that somebody is going to have to pay the cost, which is estimated to be \$650 million a year, and that somebody is going to be the American consumer.

Mr. McCANDLESS. Mr. Chairman, if the gentleman will yield further, when you go to the supermarket, it is 3 pounds for \$1. You see that in the way of a sign describing what the cost of the commodity is. All we are asking is that off to the side underneath or in some way it says product of whatever country.

Mr. THOMAS of California. Mr. Chairman, will the gentleman yield?

Mr. HATCHER. I yield to the gentleman from California.

Mr. THOMAS of California. Mr. Chairman, I appreciate the gentleman yielding to me.

I understand, and oftentimes aside from the arguments the gentleman is making in terms of expenses and the mandatory nature of it, it just seems to me if anybody has been in a supermarket recently, they will notice all kinds of signs around particular produce, if that sign somehow is a positive or an inducement to get someone to buy something, and it is interesting that whenever it is an undesirable sign that someone wants up, that is a consumer can make a rational choice on a product, all of a sudden it becomes an enormous dollar cost. Somebody else is paying for all those other signs as well. It seems to me it is interesting when it is positive, they put them up; when it gives the consumers some real choice, it costs money.

Mr. HATCHER. In closing, Mr. Chairman, let me say that the present penalty for violating the PACA Act is \$2,000. This amendment would increase that to \$50,000 for a violation.

Mr. Chairman, I urge a no vote.

AMENDMENT OFFERED BY MR. FASCELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. MCCANDLESS

Mr. FASCELL. Mr. Chairman, I offer an amendment as a substitute for the amendment.

The Clerk read as follows:

Amendment offered by Mr. FASCELL as a substitute for the amendment offered by Mr. MCCANDLESS:

Section 1411 is amended by inserting "(a)" before "Section 3(b)" and by inserting at the end the following new subsections:

(b) Section 2(5) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499(5)) is amended by striking "\$2,000" and inserting "\$50,000".

(c) Section 2(7) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499b(7)) is amended by striking the period at the end and inserting "; and" and by adding at the end the following:

"(8) For any commission merchant, dealer, or broker to fail to place a mark, stencil, or label indicating the country of origin of any perishable agricultural commodity received, shipped, consigned, sold, or offered for sale by such person—

"(A) on any such commodity, or

"(B) on the package, display, holding unit, or bin of any such commodity;

(3) The labeling program applies to those imported perishable agricultural products which enter this country marked as to country of origin and are thus in compliance with section 304(a) of the Tariff Act of 1930.

(4) Exemptions to this labeling law may be made for imported perishable agricultural products which enter this country unpackaged, without any type of container and are thus exempted from country of origin labeling by virtue of the J-list of the Tariff Act of 1930.

(5) This amendment shall not apply to fruit or vegetable juice, received, shipped, consigned, sold, or offered for sale by such person.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Chairman, let me take a moment to say why I have offered this substitute. I have offered the substitute to restrict the amendment to labeling. The original base amendment covered grade, quality and a whole host of other matters. We wanted to be certain that we could restrict it just to the principal issues that we were trying to get at.

Now, as you know, those of you who are familiar with PACA, the Perishable Agricultural Commodities Act, that in section 499(b) you have a whole list of items there now which are unlawful or considered unfair conduct, and if you read those you will find that all of those are designed so that there is no deception or misunderstanding by the consumer, and it does not allow an unfair advantage to those who ship or sell retail or wholesale. That is the intent of that whole section.

What this amendment does is simply to say that it is not enough to say that you shall not engage in a deceptive practice or misleading practice, it says you must label. We want to go on the affirmative side.

The way it is now, if you do not label it is not an unfair act.

In order to eliminate any doubt, we are asking for transparency, full disclosure, in other words; so the way it is now, if a vegetable or fruit comes in a bulk package, it is marked with the country of origin. When it comes out of that and goes into the bin, that is it.

Now, all this bill seeks to do is simply say just put on the bin the same label that comes from country X, period. The consumer then decides whether or not they want to buy from country X or not. It is not a plus or a minus.

People who read a negative into this I think are reading something that should not be there.

As one speaker has already pointed out, when it has a sales advantage, things are always marked imported or whatever. It is snob appeal and they pay the price for it and they are willing to do it.

I dare say the minute this label goes on, retailers will figure out a way to market it so that it becomes a real plus.

What happens now is the differential in price is not recognized. The price is all the same. If the product that comes in is really cheaper in price, the consumer does not benefit from that. If there was any benefit to a consumer, it might, it just might redound to the consumer's benefit if the consumer knew what country it was coming from and was aware of the fact that the wages are lower, pesticides are being used, and so on. I do not

know that is the way the consumer will make the determination.

So Mr. Chairman, what we have done here is make one of these unfair conduct things, seven of which are already in the law, we are adding a number eight, and number eight simply says that it will be an unfair practice if you fail to make the country of origin, period. That is it.

Now, there are all kinds of countries around the world. We explicitly say we are not trying to interfere with trade in any way. We have a specific exemption to the Trade Act. It does not apply to juices. We are trying to get at one simple thing, which is that when you walk in there and you look at the product, you know the country that it came from. You, the consumer, can make a decision.

Now, if the marketer can sell it on a plus appeal, on a positive appeal and get a bigger price, he will mark it imported from country X, the best in the world. On the other hand, if he cannot, he might not want to do that, but at least the consumer has the choice.

Mr. DREIER of California. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I yield to the gentleman from California.

Mr. DREIER of California. Mr. Chairman, I thank my friend for yielding to me.

It seems to me that one of the biggest things that we are constantly talking about in this House is the issue of disclosure, and the amendment that the gentleman has is clearly one which is designed to encourage disclosure. With 44 countries on the face of the Earth who already do this, including Canada and Japan, we can learn a lot from those two countries. It seems that this amendment would be a very good way to go in bringing about better disclosure for the consumer.

Mr. FASCELL. Mr. Chairman, I agree with the gentleman and I thank him for his comments.

□ 1920

Mr. HATCHER. Mr. Chairman, I rise in opposition and claim the time in opposition.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. HATCHER. Mr. Chairman, this amendment, as I understand it, offered as a substitute for the amendment, is still essentially what was offered by the gentleman originally. It still will carry a tremendous cost and be a tremendous burden on the stores operating throughout this country.

Mr. DE LA GARZA. Mr. Chairman, will the gentleman yield?

Mr. HATCHER. I am happy to yield to the gentleman from Texas.

Mr. DE LA GARZA. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman and colleagues, I have no disagreement with either side on this issue. It is being done in some areas now. My problem is that there is a cost regardless of what anyone says, and I am concerned that we might go into legislation that conceivably we could not administer as well as we would like to.

I was wondering if I could ask my colleagues, both colleagues, that during the process we try to arrive at some compromise if we could, in trying to save the Members' time in case there would be another vote, and so we could finish at an early hour, if either the gentleman from Florida or the gentleman from California would agree to this.

There was language discussed prior that would have the Secretary have a pilot program that would fit in place and see how it works and then the Secretary would be instructed after perusal of the result if he saw fit to apply this to the general law. Is there any interest from either gentleman?

Mr. McCANDLESS. Mr. Chairman, will the gentleman yield?

Mr. HATCHER. I am happy to yield to the gentleman from California.

Mr. McCANDLESS. Mr. Chairman, I need a clarification. We submitted to the chairman's committee a pilot program amendment in the name of the gentleman from Florida [Mr. FASCELL] which is what I believe the gentleman means, the language of that in lieu of the language of the amendment that the gentleman from Florida [Mr. FASCELL] has offered. Is that amendment of the gentleman from Florida [Mr. FASCELL] to my amendment the language that the gentleman is referring to?

Mr. DE LA GARZA. We would be prepared to accept that language that the gentleman from Florida [Mr. FASCELL] had that we discussed earlier in the evening.

Mr. McCANDLESS. And subject to the approval of the gentleman from Florida [Mr. FASCELL].

Mr. FASCELL. Mr. Chairman, will the gentleman yield?

Mr. HATCHER. I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Chairman, just to clarify the parliamentary matter, in order to do that, it seems to me—and we can ask the Parliamentarian about it—I would have to draw down my amendment and offer this other one that we are talking about?

The CHAIRMAN. The gentleman can withdraw his substitute.

Mr. FASCELL. That is what I mean.

The CHAIRMAN. The gentleman may do that by unanimous consent and submit another one.

Mr. FASCELL. Mr. Chairman, I ask unanimous consent to withdraw my amendment offered as a substitute to the amendment offered by the gentle-

man from California [Mr. McCANDLESS].

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

AMENDMENT OFFERED BY MR. FASCELL AS A SUBSTITUTE FOR THE AMENDMENT OFFERED BY MR. McCANDLESS

Mr. FASCELL. Mr. Chairman, I offer an amendment as a substitute for the amendment offered by the gentleman from California [Mr. McCANDLESS].

The Clerk read as follows:

Amendment offered by Mr. FASCELL as a substitute for the amendment offered by Mr. McCANDLESS: Add at the end of subtitle A of title XIV the following new section:

SEC. 1405. PILOT PROGRAM ON LABELING OF PERISHABLE AGRICULTURAL PRODUCTS.

(a) PILOT PROGRAM.—The Secretary of Agriculture shall implement a 2-year pilot program during which time perishable agricultural products are labeled or marked as to their country of origin. This 2-year program will be conducted nationwide. After the 2-year period, the Secretary will conduct a study to determine the results of the 2-year pilot country of origin labeling program. The Secretary shall submit to the Congress the results of the study within 18 months from the date of completion of the pilot program.

(b) DETAILS OF THE 2-YEAR PILOT PROGRAM.—(1) The labeling program requires that the country of origin on perishable produce is indicated on any such commodity or on the package, display, holding unit, or bin with a label, stamp, mark, placard or other clear and visible indication at the point of sale by any commission merchant, dealer, broker, or grocer. A sign alongside the produce is acceptable for country of origin labeling.

(2) The labeling program applies to imported and domestic perishable agricultural products.

(3) The labeling program applies to those imported perishable agricultural products which enter this country marked as to country of origin and are thus in compliance with section 304(a) of the Tariff Act of 1930.

(4) Exemptions to this labeling law may be made for imported perishable agricultural products which enter this country unpackaged, without any type of container and are thus exempted from country of origin labeling by virtue of the J-list of the Tariff Act of 1930.

Mr. FASCELL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment offered as a substitute for the amendment offered by the gentleman from California [Mr. McCANDLESS] be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Chairman, I yield to the gentleman from California [Mr. McCANDLESS] to explain this part of the amendment.

Mr. McCANDLESS. Mr. Chairman, very simply and quickly, this is a 2-year pilot program. At the conclusion of the 2 years the Secretary of Agri-

culture shall report to the Committee on Agriculture of the House of Representatives his findings as to the success or lack thereof of the program and make specific recommendations to continue or otherwise modify the program.

Mr. FASCELL. That is my understanding.

Mr. HATCHER. Mr. Chairman, will the gentleman yield?

Mr. FASCELL. I am happy to yield to the gentleman from Georgia.

Mr. HATCHER. Mr. Chairman, I have no objection to the amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida [Mr. FASCELL] as a substitute for the amendment offered by the gentleman from California [Mr. McCANDLESS].

The amendment offered as a substitute for the amendment was agreed to.

The CHAIRMAN. The question is on the amendment, as amended, offered by the gentleman from California [Mr. McCANDLESS].

The amendment, as amended, was agreed to.

The CHAIRMAN. Are there other amendments to title XIV?

Mr. HILER. Mr. Chairman, on June 5 an event occurred in my district which clearly illustrated the need for improved crop insurance or disaster relief coverage for specialty crops.

An unseasonal dip in the temperature to well below freezing struck at a critical time in the development of northern Indiana's blueberry crop causing in the neighborhood of \$1.3 million in damage. Estimates on crop losses ranged from 50 to 100 percent. While a number of u-pick blueberry farms are suffering from this unfortunate turn of events, the hardest hit farmers are the major growers who sell their crop commercially. There are approximately 10 growers located in northern Indiana who supply 95 percent of the State of Indiana's commercial blueberry business and 5 percent of the national commercial crop.

Unfortunately these farmers currently have no recourse for this kind of disaster. The Federal Crop Insurance Corporation has the authority to offer coverage for blueberry farmers but currently does not, in part, because it will take several years to assess the stability of the crop, production histories, and prices; and in part, because of the special risks nature poses to bush fruits.

And, as some of my colleagues who have also had severe and unseasonal weather conditions in their districts may have discovered, disaster relief programs for specialty crops are not receiving Government support this year because of extremely tight budget constraints.

Regrettably, there is currently no provision in this farm bill which addresses the question of crop insurance or disaster assistance for our farmers. For many reasons, I believe this issue must be addressed by Congress at the earliest possible date. We must either find ways to expand insurance coverage for farmers or create a program that will protect pro-

ducers from devastating losses that occur at the hands of mother nature.

When we do address this issue, it is especially important to look at ways to help specialty crop producers like our blueberry farmers who take great risks to contribute to such an important part of American markets. I can tell you there is no greater feeling of frustration than walking into a field that has been devastated by freezing temperatures and telling those whose livelihood has been so seriously affected that, while the Government can help some farmers, it will do nothing for others.

I urge my colleagues to take this matter to heart as the debate on this important piece of legislation continues and yield back the balance of my time.

The CHAIRMAN. Are there any other amendments to title XIV?

If not, the Clerk will designate title XV.

The text of title XV is as follows:

TITLE XV—STATE AND PRIVATE FORESTRY
SEC. 1501. FIREFIGHTING PREPAREDNESS AND MOBILIZATION ASSISTANCE.

(a) ASSISTANCE TO STATE FORESTERS.—Section 7(b) of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2106(b)) (hereafter in this section referred to as the "Act") is amended—

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) provide financial, technical, and related assistance to State foresters or equivalent State officials, and through them to other agencies and individuals, including rural volunteer fire departments, to conduct preparedness and mobilization activities, including training, equipping, and otherwise enabling state and local firefighting agencies to respond to requests for fire suppression assistance."

(b) APPROPRIATIONS.—Section 7(e) of the Act (16 U.S.C. 2106(e)) is amended—

(1) by striking "(e)" and inserting "(e)(1)"; and

(2) in paragraph (1) (as so redesignated), by inserting "paragraphs (1), (2), and (3) of" after "implement"; and

(3) by adding at the end thereof the following:

"(2)(A) There are hereby authorized to be appropriated annually \$40,000,000 to carry out subsection (b)(4). Of the total amount appropriated to carry out this subsection—

"(i) one-half shall be available only for State agencies administered by State foresters or equivalent State officials, and through them to other agencies and individuals, to enhance their firefighting capability and conduct mobilization activities, of which not less than \$100,000 shall be made available to each State; and

"(ii) one-half shall be available only for rural volunteer fire departments to conduct activities pursuant to subsection (b)(4).

"(B) The Federal share of the cost of any activity carried out with funds made available pursuant to this paragraph may not exceed 50 percent of the cost of that activity. The non-Federal share for such activity may be in the form of cash, services, or in-kind contributions, fairly valued."

(c) DEFINITIONS.—Section 7 of the Act (16 U.S.C. 2106) is amended by adding at the end the following:

"(g) As used in this Section—

"(1) the term 'rural volunteer fire department' means any organized, not for profit, fire protection organization that provides service primarily to a community or city with a population of 10,000 or less or to a rural area, as defined by the Secretary, whose firefighting personnel is 80 percent or more volunteer, and that is recognized as a fire department by the laws of the State; and

"(2) the term 'mobilization' means any activity in which one fire fighting organization assists another that has requested assistance."

SEC. 1502. INSECT CONTROL.

Section 5 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2104) is amended—

(1) in subsection (g) by inserting "; other than subsection (h)" after "section"; and

(2) by adding at the end the following:

"(h) Subject to the provisions of subsections (c) and (e) and to the availability of appropriations, the Secretary shall, in cooperation with State foresters or equivalent State officials, subdivisions of States, or other entities on non-Federal lands, (hereafter in this section referred to as the 'cooperator')—

"(1) provide cost-share assistance to such cooperators who have established an acceptable integrated pest management strategy, as determined by the Secretary, that will prevent, retard, control, or suppress gypsy moth, southern pine beetle, or spruce budworm infestations in an amount no less than 50 percent nor greater than 75 percent of the cost of implementing such strategy; and

"(2) upon request, assist the cooperator in the development of such integrated pest management strategy.

"(i) There are hereby authorized to be appropriated annually \$10,000,000 to implement subsection (h)."

SEC. 1503. DISASTER ASSISTANCE.

(a) IN GENERAL.—The Secretary of Agriculture is authorized to provide assistance under this section to eligible landowners who suffer destruction of 35 percent or more of a tree stand due to damaging weather, related condition or wildfire.

(b) FORM OF ASSISTANCE.—The assistance, if any, provided by the Secretary under this section shall consist of either—

(1) reimbursement of up to 65 percent of the cost of reestablishing such tree stand damaged by the damaging weather, related condition or wildfire in excess of 35 percent mortality; or

(2) at the discretion of the Secretary, provision of sufficient tree seedlings to reestablish such tree stand.

(c) CONDITIONS.—(1) LIMITATION ON ASSISTANCE.—No person may receive an amount in excess of \$25,000 in any fiscal year, or an equivalent value in tree seedlings, under this section.

(2) INELIGIBILITY.—A person who has qualifying gross revenues in excess of \$2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this section.

(3) IMPLEMENTATION.—In implementing this section, the Secretary shall issue regulations—

(A) defining the term "person" for the purposes of this section that shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308);

(B) prescribing such rules as the Secretary determines necessary to ensure a fair and

reasonable application of the limitations established under this subsection; and

(C) ensuring that no person receives duplicate payments or assistance under this section and the Stewardship Incentive Program established by Section 4A of the Cooperative Forestry Assistance Act of 1978 as amended by section 1507 of this Act, the Agricultural Conservation Program established by Section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l, or 590p), or other Federal program.

(d) DEFINITIONS.—As used in this section—

(1) the term "damaging weather" includes but is not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination thereof;

(2) the term "eligible landowner" means a person who—

(A) produces annual crops from trees for commercial purposes and owns 500 acres or less of such trees; or

(B) owns 1,000 acres or less of private forest land;

(3) the term "qualifying gross revenues" means—

(A) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(B) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources;

(4) the term "related condition" includes but is not limited to insect infestations, disease, or other deterioration of a tree stand, that is accelerated or exacerbated by damaging weather;

(5) the term "Secretary" means the Secretary of Agriculture; and

(6) the term "wildfire" means any forest or range fire.

SEC. 1504. RESEARCH AND UTILIZATION.

(a) REFORESTATION RESEARCH; APPROPRIATIONS; PRIVATE FORESTRY.—Section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642) is amended—

(1) in subsection (a)(1) by inserting after "energy conservation, and other purposes" the following: ", including activities for encouraging improved reforestation of forest lands from which timber has been harvested";

(2) in subsection (b) by—

(A) inserting "(1)" immediately prior to the words "To ensure the availability,"; and

(B) adding at the end the following:

"(2) In implementing this subsection, the Secretary is authorized to develop and implement improved methods of survey and analysis of forest inventory information, for which purposes there are hereby authorized to be appropriated annually \$10,000,000; and

(3) by adding at the end the following:

"(d) The Secretary is authorized to conduct, support, and cooperate in studies and other activities the Secretary deems necessary to—

"(1) evaluate renewable resource management problems associated with urban-forest interface;

"(2) assess effects of changes in Federal revenue codes on private forest management and investment; and

"(3) develop improved delivery systems for information and technical assistance provided to private landowners."

(b) **RECYCLING RESEARCH.**—Section 9 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1641 et seq.) is amended to read as follows:

"SEC. 9. RECYCLING RESEARCH.

"(a) FINDINGS.—Congress finds that—

"(1) the United States is amassing vast amounts of solid wastes, which is presenting an increasing problem for municipalities in locating suitable disposal sites;

"(2) a large proportion of these wastes consists of paper and other wood wastes;

"(3) less than one-third of these paper and wood wastes are recycled;

"(4) additional recycling would result in reduced solid waste landfill disposal and would contribute to a reduced rate of removal of standing timber from forest lands; and

"(5) additional research is needed to develop technological advances to address barriers to increased recycling of paper and wood wastes and utilization of products consisting of recycled materials.

"(b) RECYCLING RESEARCH PROGRAM.—The Secretary is authorized to conduct, support, and cooperate in an expanded wood fiber recycling research program, including the acquisition of necessary equipment. The Secretary shall seek to ensure that the program includes the cooperation and support of private industry and that program goals include the application of such research to industry and consumer needs.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other funds made available to implement section 3 of this Act, for the 5-year period beginning on October 1, 1990, there are authorized to be appropriated annually \$10,000,000 to implement this section."

(c) MODERN TIMBER BRIDGE INITIATIVE.—(1) **IN GENERAL.**—The Secretary of Agriculture is authorized to continue the Modern Timber Bridge Initiative to provide Federal funds, on a cost-share basis as determined by the Secretary, for the construction of demonstration bridges, modern bridge technology transfer projects, and conferences.

(2) APPROPRIATIONS.—There are hereby authorized to be appropriated annually \$5,000,000 to carry out this subsection.

(d) FORESTRY RESEARCH NEEDS ASSESSMENTS.—Within six months after the date of enactment of this Act, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that responds to the recommendations contained in the report of the National Research Council entitled "Forestry Research: A Mandate for Change". The report shall include—

(1) an assessment of the capability of current forestry research programs to address research areas specified in the report, including research on ecosystem functions and management;

(2) an evaluation of alternatives to current organizational frameworks for providing guidance to forestry research programs and establishing research priorities, including the establishment of a National Forestry Research Council; and

(3) recommendations for changes in current forestry research programs, including levels of research funding, that may be needed to address existing deficiencies.

SEC. 1505. FOREST RESERVE PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") may establish a Forest Reserve Program (hereafter in this section referred to as the "Program") in cooperation with States and subdivisions of States for

the purpose of protecting environmentally sensitive forest lands that are threatened by conversion to nonforest uses through the creation and administration of easements on such forest lands.

(b) INTERESTS IN LAND.—The Secretary may purchase interests in land eligible for inclusion in the forest reserve program established under this section from willing owners of forest lands, for the protection of forest and environmental resources.

(c) PILOT PROJECTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall establish four pilot projects to meet the goals and requirements of this section for the Program.

(d) ELIGIBILITY.—The Secretary shall establish eligibility criteria for the inclusion of forest lands threatened by conversion to nonforest uses in the Program. Of forest lands proposed to be included in the Program the Secretary shall give priority to forest lands—

(1) that are threatened by development;

(2) with unique scenic character; or

(3) with threatened or endangered species.

(e) APPLICATION.—To be eligible to enter forest lands in the Program, the owner of such forest lands shall prepare and submit, through State foresters or equivalent State officials, an application containing such information as the Secretary shall require including a forest reserve plan that demonstrates satisfaction of the eligibility criteria established under subsection (d) and also provides for—

(1) the identification of the environmental rationale for bringing the forest lands into the Program, including the environmental values to be protected by entry of the lands into the Program;

(2) any management activity that is planned and the manner in which the values identified in such plan are to be protected; and

(3) the disclosure of other information determined appropriate by the Secretary.

(f) CONSULTATION.—The Secretary shall determine the eligibility of forest lands for inclusion within the Program in consultation with the State forester or equivalent State official and other appropriate State natural resource management agencies.

(g) DUTIES OF OWNERS.—Under the terms of an easement acquired under subsection (b), the landowner shall manage such forest lands, and conduct any timber harvesting on such lands, in a manner that is consistent with the forest reserve plan approved by the Secretary and shall not convert such forest lands to agricultural (other than forest), development, or other uses during the life of the interest in the land that is acquired by the Secretary. Hunting, fishing, and similar recreational uses shall not be considered to be inconsistent with the purposes of this program.

(h) REIMBURSEMENT.—(1) **IN GENERAL.**—In return for an interest in land acquired by the Secretary under this section, the Secretary shall compensate the landowner for such interest according to this subsection.

(2) RATE AND SCHEDULE.—The Secretary, in consultation with the State forester or equivalent State official, shall determine the appropriate reimbursement rate and schedule for each parcel of forest lands proposed for entry into the Program. Such determination shall be based on—

(A) the real estate value of the land;

(B) the ecological and scenic value of the land;

(C) the degree of threat of loss of forest land;

(D) income potential anticipated from use of the land; and

(E) any other criteria that are determined appropriate by the Secretary.

(3) PAYMENTS.—Payments under this section shall—

(A) be lump-sum or periodic payments that are established within the easement; and

(B) be based on other criteria determined appropriate by the Secretary.

(i) PROHIBITIONS ON LIMITATIONS.—Notwithstanding any provision of State law, no easement held by the United States under this section shall be limited in duration or scope or defeasible by—

(1) the easement being in gross or appurtenant;

(2) the management of the easement having been delegated or assigned to a non-Federal entity; or

(3) any requirement under State law for re-recordation or renewal of the easement.

SEC. 1506. FOREST LAND PROTECTION STUDIES.

(a) NORTHERN FOREST LANDS.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") is authorized to continue support for the study of changing land ownership and management patterns in the northern forest lands of Maine, New Hampshire, Vermont, and New York.

(b) NEW YORK-NEW JERSEY HIGHLANDS.—(1) **IN GENERAL.**—The Secretary is authorized to conduct a study of the region known as the New York-New Jersey Highlands, located in the States of New York, New Jersey, and Pennsylvania, including the Sterling Forest in Orange County, New York.

(2) SCOPE OF STUDY.—The study authorized under this subsection (hereafter in this section referred to as the "study") shall include an identification and assessment of—

(A) the physiographic boundaries of the region referred to in this subsection (hereafter in this section referred to as the "region");

(B) forest resources of the region, including (but not limited to) timber and other forest products, fish and wildlife, lakes and rivers, and recreation;

(C) historical land ownership patterns in the region and projected future land ownership, management, and use, including future recreational demands and deficits and the potential economic benefits of recreation to the region;

(D) the likely impacts of changes in land and resource ownership, management, and use on traditional land use patterns in the region, including economic stability and employment, public use of private lands, natural integrity, and local culture and quality of life; and

(E) alternative conservation strategies to protect the long-term integrity and traditional uses of lands within the region.

(3) ALTERNATIVE CONSERVATION STRATEGIES.—The alternative conservation strategies referred to in paragraph (2)(E) shall include a consideration of—

(A) sustained flow of renewable resources in a combination that will meet the present and future needs of society;

(B) public access for recreation;

(C) protection of fish and wildlife habitat;

(D) preservation of biological diversity and critical natural areas; and

(E) new local, State, or Federal designations.

(4) PUBLIC PARTICIPATION.—In conducting the study, the Secretary shall provide an opportunity for public participation.

(c) APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to implement this section.

SEC. 1507. FOREST RESOURCES MANAGEMENT IMPROVEMENT, STEWARDSHIP, AND REFORESTATION PROGRAM.

(a) FINDINGS AND PURPOSE.—Section 2 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101) (hereafter in this section referred to as the "Act") is amended to read as follows:

"SEC. 2. FINDINGS, PURPOSE, AND POLICY.

"(a) FINDINGS.—Congress finds that—

"(1) most of the productive forest land of the United States is in private, State, and local governmental ownership, and the capacity of the United States to produce renewable forest resources is significantly dependent on such non-Federal forest lands;

"(2) adequate supplies of timber and other forest resources are essential to the Nation and are dependent on proper forest management and efficient methods for establishing, managing, and harvesting trees and processing, marketing, and using wood and wood products;

"(3) nearly one-half of the wood supply of the Nation comes from non-industrial private timberlands and such percentage could rise with expanded assistance programs;

"(4) non-industrial private forest lands provide important habitats for fish and wildlife, as well as aesthetics, outdoor recreation opportunities, and other goods and services;

"(5) the soil, water, air quality, and aesthetics of the Nation can be maintained and improved through good stewardship of privately held forest resources;

"(6) insects and diseases affecting trees occur and sometimes create emergency conditions on all land, whether Federal or non-Federal, and efforts to prevent and control such insects and diseases often require coordinated action by both Federal and non-Federal land managers;

"(7) fires in rural areas threaten human lives, property, and forests and other resources, and Federal-State cooperation in forest fire protection has proven effective and valuable;

"(8) the products and services resulting from non-industrial private forest land stewardship provide income and employment that contributes to the economic health and diversity of rural communities;

"(9) stewardship of privately held forest resources requires a long-term commitment that can only be fostered through local, State, and Federal governmental actions; and

"(10) the Department of Agriculture, through the coordinated efforts of the Agriculture Research Service, Agriculture Stabilization and Conservation Service, Cooperative State Research Service, Extension Service, Forest Service, and Soil Conservation Service, cooperating with other Federal agencies, and State foresters and others, has the expertise and experience to assist private landowners in achieving individual goals and public benefits.

"(b) PURPOSE.—It is the purpose of this Act to authorize the Secretary of Agriculture (hereafter in this Act referred to as the 'Secretary'), with respect to non-Federal forest lands, to assist in—

"(1) the establishment of a coordinated and cooperative Federal, State, and local forest resources stewardship program to promote the multiple-use management of the non-Federal forest lands of the United States;

"(2) the encouragement of the production of timber;

"(3) the prevention and control of insects and diseases affecting trees and forests;

"(4) the prevention and control of rural fires;

"(5) the efficient utilization of wood and wood residues, including the recycling of wood fiber;

"(6) the improvement and maintenance of fish and wildlife habitat;

"(7) the planning and implementation of urban forestry programs; and

"(8) the strengthening of educational, technical and financial assistance programs that provide assistance to non-Federal forest land owners.

"(c) POLICY.—It is the policy of Congress that it is in the national interest for the Secretary to work in cooperation with State foresters or equivalent State officials and the private sector in implementing Federal programs affecting non-Federal forest lands.

"(d) CONSTRUCTION.—This Act shall be construed to complement the policies and direction under the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1600 et seq.)."

(b) RURAL FORESTRY ASSISTANCE.—Section 3 of the Act (16 U.S.C. 2102) is amended to read as follows:

"SEC. 3. RURAL FORESTRY ASSISTANCE.

"(a) IN GENERAL.—The Secretary, in consultation with the appropriate Federal, State and local agencies, and the private sector shall establish and implement expanded programs that provide educational and technical assistance to meet the goals of this Act.

"(b) ASSISTANCE TO STATE OFFICIALS.—The Secretary may provide financial, technical, educational, and related assistance to State foresters, State extension directors, and equivalent State officials to enable such officials to provide technical information, advice, and related assistance to private forest land owners and managers, vendors, forest resource operators, forest resource professionals, public agencies and individuals to enable such persons to carry out activities that are consistent with the purposes of this Act, including—

"(1) protecting, maintaining, enhancing, and preserving forest lands and the multiple values and uses that depend on such lands;

"(2) identifying, protecting, maintaining, enhancing and preserving wildlife and fish species and their habitats;

"(3) implementing the latest forest management technologies;

"(4) selecting, producing, and marketing alternative forest crops, products and services from forest lands;

"(5) protecting forest land from damage caused by fire, insects, disease, and damaging weather;

"(6) managing the rural-land and urban-land interface to balance the use of forest resources in and adjacent to urban and community areas;

"(7) identifying and managing recreational forest land resources; and

"(8) administering the management of resources of forest lands, including—

"(A) the harvesting, processing, and marketing of timber and other forest resources and the marketing and utilization of wood and wood products;

"(B) the conversion of wood to energy for domestic, industrial, municipal, and other uses;

"(C) the planning, management, and treatment of forest land, including site preparation, reforestation, thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and im-

prove the quality of timber and other forest resources;

"(D) ensuring that forest regeneration or reforestation occurs if needed to sustain long-term resource productivity;

"(E) protecting and improving forest soil fertility and the quality, quantity, and timing of water yields; and

"(F) protecting and improving fish and wildlife and their habitats.

"(c) ASSISTANCE TO STATE FORESTERS.—The Secretary is authorized to provide financial, technical, and related assistance to State foresters, or equivalent State officials, to—

"(1) develop genetically improved tree seeds;

"(2) procure, produce, and distribute tree seeds and trees for the purpose of establishing forests, windbreaks, shelterbelts, woodlots, and other plantings;

"(3) plant tree seeds and trees for the reforestation or afforestation of non-Federal forest lands that are suitable for timber production, recreational use or the generation of other benefits associated with the growing of trees;

"(4) plan, organize, and implement measures on non-Federal forest lands, including thinning, prescribed burning, and other silvicultural activities designed to increase the quantity and improve the quality of trees and other vegetation, fish and wildlife habitat, and water yielded therefrom; and

"(5) protect or improve soil fertility on non-Federal forest lands and the quality, quantity, and timing of water yields.

"(d) LAND GRANT UNIVERSITIES.—The Secretary, in consultation with the State foresters or equivalent State officials, may cooperate directly with other State and local natural resource management agencies and land grant universities in implementing this Act in cases in which the State foresters or equivalent State officials are not able to make fund transfers to other State and local agencies.

"(e) IMPLEMENTATION.—In implementing this section, the Secretary shall cooperate with other Federal, State, and local natural resource management agencies, universities and the private sector.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section."

(c) FOREST RESOURCES STEWARDSHIP PROGRAM.—Section 4 of the Act (16 U.S.C. 2103) is amended to read as follows:

"SEC. 4. FOREST RESOURCES STEWARDSHIP PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in consultation with State foresters or equivalent State officials, shall establish a Forest Resources Stewardship Program, (hereafter referred to in this section as the 'Program'), to encourage the long-term stewardship of nonindustrial private forest lands by assisting owners of such lands to more actively manage their forest and related resources by utilizing existing State, Federal, and private sector resource management expertise and assistance programs.

"(b) GOAL.—The goal of the Program shall be to enroll at least 25,000,000 acres of non-industrial private forest land in the Program by December 31, 1995.

"(c) DEFINITION.—For the purposes of this section, the term 'private forest land' means land capable of producing crops of industrial wood and owned by any private individual, group, association, corporation, Indian tribe or other native group, or other legal entity.

"(d) IMPLEMENTATION.—In carrying out the Program the Secretary, in consultation with each State Forester or equivalent State official, shall—

"(1) establish a State Advisory Committee in accordance with section 11(b); and

"(2) provide financial, technical, and related assistance to State Foresters or equivalent State officials, including assistance to help such State Foresters or equivalent officials to provide financial assistance to other State and local natural resource entities, both public and private, and land-grant universities for the delivery of information and professional assistance to owners of nonindustrial private forest lands. The Secretary, in consultation with each State forester or equivalent State official, is also authorized to cooperate directly with other State and local natural resource entities, both public and private, and land-grant universities in implementing this section where the State forester or equivalent State officials are not able to make fund transfers to other agencies. Such information and assistance shall be directed to help the owners of such nonindustrial forest lands understand and evaluate alternative actions they might take, including—

"(A) managing and enhancing the productivity of timber, fish and wildlife habitat, and water, wetlands, and recreation resources;

"(B) investing in practices to protect, maintain, and enhance the resources identified in subparagraph (A);

"(C) ensuring that afforestation, reforestation, improvement of poorly stocked stands, timber stand improvement, practices necessary to improve seedling growth and survival, and growth enhancement practices occur where needed to enhance and sustain the long-term productivity of timber and non-timber forest resources to help meet future public demand for all forest resources and provide the environmental benefits that result; and

"(D) protecting their forests from damage caused by fire, insects, disease, and damaging weather.

"(e) ELIGIBILITY.—All existing private nonindustrial forest lands that are not currently under a forest management plan are eligible for assistance under the Program. Private nonindustrial forest lands that are managed under existing Federal, State, or private sector financial and technical assistance programs may be eligible for assistance under the Program if the landowner agrees to comply with the requirements of the Program or if forest management activities on such forest lands are expanded or enhanced to meet the requirements of this Act.

"(f) DUTIES OF OWNERS.—To enter forest land into the Program, landowners shall—

"(1) prepare and submit to the State forester or equivalent State official a forest resources stewardship plan that meets the requirements of this section and that—

"(A) is prepared by a professional resource manager;

"(B) identifies and describes actions to be taken by the landowner to protect soil, water, range, aesthetic quality, recreation, timber, water, and fish and wildlife resources on such land in a manner that is compatible with the objectives of the landowner; and

"(C) is approved by the State forester, or equivalent State official, in accordance with Federal and State law; and

"(2) agree that all activities conducted on such land shall be consistent with the stewardship plan.

"(g) PREPARATION OF PLANS.—The Secretary shall encourage the use of private agencies, consultants, organizations, and firms to the extent feasible, for the preparation of individual forest resources stewardship plans and the implementation of approved activities.

"(h) STEWARDSHIP RECOGNITION.—The Secretary, in consultation with State foresters or equivalent State officials, is encouraged to develop an appropriate recognition program for landowners who practice stewardship management on their lands, with an appropriate, special recognition symbol and title.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated \$20,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary thereafter, to carry out this section."

(d) STEWARDSHIP INCENTIVE PROGRAM.—The Act (16 U.S.C. 2104) is amended—

(1) by inserting after the new section 4, the following new section:

"SEC. 4A. STEWARDSHIP INCENTIVE PROGRAM.

"(a) IN GENERAL.—The Secretary is authorized to develop and implement a Stewardship Incentive Program to provide cost share assistance for tree-planting and other forest management activities in accordance with approved stewardship plans.

"(b) ELIGIBILITY.—Eligibility for cost sharing assistance under the stewardship incentive program established under this section shall be available for owners of existing private nonindustrial forest lands that—

"(1) have developed an approved forest resources stewardship plan pursuant to section 4(f);

"(2) agree to implement approved activities pursuant to subsection (d) in accordance with the plan for a period of not less than 10 years unless the State forester or equivalent State official approves a modification to such plan; and

"(3) own not more than 1,000 acres of private forest land, except that the Secretary may approve the provision of cost-sharing assistance to landowners that own more than 1,000 acres of such land if the Secretary determines that significant public benefits will accrue from such approval. The Secretary shall not approve of the provision of cost-sharing assistance to any landowner owning in excess of 5,000 acres of private forest land.

"(c) STATE PRIORITIES.—The Secretary in consultation with the State forester or equivalent State official, other State natural resource management agencies, and the Advisory Committee established pursuant to section 10A may recommend State priorities for cost-sharing under this section that will promote unique forest management objectives in that State.

"(d) APPROVED ACTIVITIES.—(1) DEVELOPMENT OF LIST.—The Secretary, in consultation with the Advisory Committee established pursuant to section 10A, shall develop a list of approved forest management activities that will be eligible for cost-share assistance under this section within each State.

"(2) TYPE OF ACTIVITIES.—Approved activities under paragraph (1) may include—

"(A) the growing and management of forests for timber production;

"(B) the management and maintenance of forests for shelterbelts, windbreaks, and other conservation purposes;

"(C) the protection, restoration, and use of forest wetlands and native vegetation on other lands vital to water quality;

"(D) the maintenance and improvement of fish and wildlife habitat; and

"(E) the management and protection of forest lands for their aesthetic values and outdoor recreational opportunities.

"(e) REIMBURSEMENT FOR ELIGIBLE ACTIVITIES.—(1) IN GENERAL.—The Secretary may share the cost of developing and carrying out the forest resources stewardship plan under section 4 and of implementing the approved activities that the Secretary determines are appropriate and in the public interest pursuant to subsection (d), with landowners who have entered into agreements to place their forest land into the Stewardship Incentive Program.

"(2) RATE OF REIMBURSEMENT.—The Secretary, in consultation with the State forester, or equivalent State official, shall determine the appropriate reimbursement rate for making cost share payments under paragraph (1), and the schedule of such payments.

"(3) MAXIMUM.—The Secretary shall not make cost share payments under this subsection to a landowner in an amount in excess of 75 percent of the total cost to such landowner of developing and implementing the forest resources stewardship plan. Total payments to any one landowner shall be determined by the Secretary.

"(f) RECAPTURE PROVISION.—The Secretary shall establish and implement a recapture provision to be applied in the event that a landowner terminates any approved practice required under the forest resources stewardship plan.

"(g) DISTRIBUTION OF FUNDS.—The Secretary shall distribute funds available for cost sharing under this section among the States only after assessing the public benefit incident to such distribution, and after giving appropriate consideration to—

"(1) the acreage of private forest land in each State;

"(2) the potential productivity of such land;

"(3) the number of owners of such land eligible for cost sharing in each State;

"(4) the need for reforestation in each State;

"(5) the opportunities to enhance non-timber resources on such forest lands; and

"(6) the anticipated demand for timber and non-timber resources in each state.

"(h) OTHER AUTHORITY.—In implementing this section, the Secretary may use the authorities provided in sections 1001, 1002, 1004, and 1008 of the Agricultural Act of 1970 (16 U.S.C. 1501, 1502, 1504 and 1508), as amended by the Agriculture and Consumer Protection Act of 1973.

"(i) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated \$100,000,000 for each of the fiscal years 1991 through 1995, and such sums as may be necessary thereafter to carry out this section.";

and

(2) in section 9(a), by striking "section 4" and inserting "section 4A".

(e) FEDERAL, STATE, AND LOCAL COORDINATION AND COOPERATION.—The Act (16 U.S.C. 2101 et seq.) is amended—

(1) in section 10 by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f) respectively; and

(2) by inserting after section 10, the following new section:

"SEC. 10A. STATE AND PRIVATE FORESTRY COORDINATING COMMITTEE; STATE ADVISORY COMMITTEES.

"(a) STATE AND PRIVATE FORESTRY COORDINATING COMMITTEE.—(1) ESTABLISHMENT.—The Secretary shall establish an intra-departmental committee, to be known as the State

and Private Forestry Coordinating Committee (hereafter referred to in this section as the 'Coordinating Committee') to coordinate forestry activities associated with the implementation of this Act.

"(2) COMPOSITION.—The Coordinating Committee shall be composed of representatives, appointed by the Secretary, from the Agricultural Research Service, Agricultural Stabilization and Conservation Service, Extension Service, Forest Service and Soil Conservation Service.

"(3) CHAIRPERSON.—The Secretary shall designate the Chief of the Forest Service as chairperson of the Coordinating Committee.

"(4) DUTIES.—The Coordinating Committee shall—

"(A) provide assistance in directing and coordinating actions of the Department of Agriculture that relate to the educational, technical, and financial assistance available to private land owners for the protection and management of forest lands;

"(B) clarify individual agency responsibilities concerning forest land, consistent with the legislative authorities of each agency represented on the Committee; and

"(C) advise the Secretary to mediate and facilitate intradepartmental differences regarding the implementation of this Act, and any other Act related to the authority of the Secretary concerning non-Federal forest lands.

"(b) STATE ADVISORY COMMITTEES.—(1) IN GENERAL.—The Secretary, in consultation with the State forester or equivalent State official, shall establish a Forest Resources Stewardship Advisory Committee (hereafter in this section referred to as the 'Advisory Committee') for each such State.

"(2) COMPOSITION.—The Advisory Committee shall be chaired and administered by the State Forester, or equivalent State official, and shall be composed, to the extent practicable, of—

"(A) representatives from the Forest Service, Soil Conservation Service, Agricultural Stabilization and Conservation Service, and Extension Service;

"(B) representatives, to be appointed by the State Forester, of forestry interests including—

"(i) individuals that are representative of—

"(I) local government;

"(II) the forest products industry;

"(III) forest land owners;

"(IV) conservation organizations; and

"(V) the State fish and wildlife agency; and

"(ii) any other individuals determined appropriate by the Secretary.

"(3) TERMS.—The members of the Advisory Committee appointed under subparagraph (B)(i)(II) shall serve 3-year terms, with the initial members serving staggered terms as determined by the Secretary, and may be reappointed for consecutive terms.

"(4) EXISTING COMMITTEES.—Existing State forestry committees may be used to complement, formulate, or replace the Advisory Committees to avoid duplication of efforts if such existing committees are made up of membership that is similar to that described in subparagraph (B)(i)(II).

"(5) DUTIES.—The Advisory Committee shall—

"(A) consult with other Department of Agriculture and State committees that address State and private forestry issues;

"(B) make recommendations to the Secretary concerning the assignment of priorities and the coordination of responsibilities for the implementation of this Act by the various Federal and State forest management agencies that take into consideration the mandates of each such agency; and

"(C) make recommendations to the Secretary concerning the development of approved activities for cost-sharing pursuant to section 4A".

SEC. 1508. URBAN AND COMMUNITY FORESTRY.

(a) FINDINGS.—The Congress finds that—

(1) the health of forests in urban areas and communities, including cities, their suburbs, and towns, in the United States is on the decline;

(2) forest lands, shade trees, and open spaces in urban areas and communities improve the quality of life for residents;

(3) forest lands and associated natural resources enhance the economic value of residential and commercial property in urban and community settings;

(4) tree plantings and ground covers such as low growing dense perennial turfgrass sod in urban areas and communities can aid in reducing carbon dioxide emissions, mitigating the heat island effect, and reducing energy consumption, thus contributing to efforts to reduce global warming trends;

(5) efforts to encourage tree plantings and protect existing open spaces in urban areas and communities can contribute to the social well-being and promote a sense of community in these areas; and

(6) strengthened research, education, technical assistance, and public information and participation in tree planting and maintenance programs for trees and complementary ground covers for urban and community forests are needed to provide for the protection and expansion of tree cover and open space in urban areas and communities.

(b) PURPOSES.—The purposes of this section are to—

(1) improve understanding of the benefits of preserving existing tree cover in urban areas and communities;

(2) encourage owners of private residences and commercial properties to maintain trees and expand forest cover on their properties;

(3) provide education programs and technical assistance to State and local organizations (including community associations and schools) in maintaining forested lands and individual trees in urban and community settings and identifying appropriate tree species and sites for expanding forest cover;

(4) implement a tree planting program to complement urban and community tree maintenance and open space programs;

(5) promote the establishment of demonstration projects in selected urban and community settings to illustrate the benefits of maintaining and creating forest cover and trees;

(6) enhance the technical skills and understanding of sound tree maintenance and arboricultural practices including practices involving the cultivation of trees, shrubs and complementary ground covers, of individuals involved in the planning, development, and maintenance of urban and community forests and trees; and

(7) expand existing research and educational efforts intended to improve understanding of tree growth and maintenance, tree physiology and morphology, species adaptations, forest ecology, and the value of integrating trees and ground covers and the economic, environmental, social, and psychological benefits of trees and forest cover in urban and community environments.

(c) EDUCATION AND TECHNICAL ASSISTANCE.—EDUCATION, TECHNICAL ASSISTANCE, AND RESEARCH ACTIVITIES.—Section 6 of the Cooperative Forestry Assistance Act of 1978 (16

U.S.C. 2105) is amended by redesignating subsection (c) as subsection (h) and inserting the following new subsections:

"(c) The Secretary in cooperation with State foresters and State extension agents or equivalent State officials shall implement a program of education and technical assistance for urban and community forest resources. The program shall be designed to—

"(1) assist urban areas and communities in conducting inventories of their forest resources, including inventories of the species, number, location, and health of trees in urban areas and communities, and the status of related resources (including fish and wildlife habitat, water resources, and trails);

"(2) assist State and local organizations (including community associations and schools) in organizing and conducting urban and community forestry projects and programs;

"(3) improve education and technical support in—

"(A) selecting tree species appropriate for planting in urban and community environments;

"(B) providing for proper tree planting, maintenance, and protection in urban areas and communities;

"(C) protecting individual trees and preserving existing open spaces with or without tree cover; and

"(D) identifying opportunities for expanding tree cover in urban areas and communities;

"(4) assist in the development of State and local management plans for trees and associated resources in urban areas and communities; and

"(5) increase public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community environments and expand knowledge of the ecological relationships and benefits of trees and related resources in these environments.

"(d) PROCUREMENT OF PLANT MATERIALS.—The Secretary, in cooperation with State foresters or equivalent State officials, shall assist in identifying sources of plant materials and may procure or otherwise obtain such plant materials from public or private sources and may make such plant materials available to urban areas and communities for the purpose of reforesting open spaces, replacing dead and dying urban trees, and expanding tree cover in urban areas and communities.

"(e) CHALLENGE COST-SHARE PROGRAM.—(1) IN GENERAL.—The Secretary shall establish an urban and community forestry challenge cost-share program. Funds or other support shall be provided under such program to eligible communities and organizations, on a competitive basis, for urban and community forestry projects. The Secretary shall annually make awards under the program in accordance with criteria developed in consultation with, and after consideration of recommendations received from, the National Urban and Community Forestry Advisory Council established under subsection (f). Such awards shall be consistent with the cost-share requirements of this section.

"(2) COST-SHARING.—The Federal share of support for a project provided under this subsection may not exceed 50 percent of the support for that project and shall be provided on a matching basis. The non-Federal share of such support may be in the form of cash, services, or in-kind contributions, fairly valued.

"(f) FORESTRY ADVISORY COUNCIL.—(1) ESTABLISHMENT AND PURPOSE.—The Secretary shall establish a National Urban and Community Forestry Advisory Council (hereafter in this section referred to as the 'Council') for the purpose of—

"(A) developing a national urban and community forestry action plan;

"(B) evaluating the implementation of that plan; and

"(C) developing criteria for, and submitting recommendations with respect to, the urban and community forestry challenge cost-share program under subsection (e).

"(2) COMPOSITION AND OPERATION.—(A) The Council shall be composed of 15 members appointed by the Secretary, as follows:

"(i) 2 members representing national nonprofit forestry and conservation citizen organizations,

"(ii) 3 members, 1 each representing State, county, and city and town governments,

"(iii) 1 member representing the forest products, nursery, or related industries,

"(iv) 1 member representing urban forestry, landscape, or design consultants,

"(v) 2 members representing academic institutions with an expertise in urban and community forestry activities,

"(vi) 1 member representing State forestry agencies or equivalent State agencies,

"(vii) 1 member representing a professional renewable natural resource or arboricultural society,

"(viii) 1 member from the Extension Service,

"(ix) 1 member from the Forest Service, and

"(x) 2 members who are not officers or employees of any governmental body, 1 of whom is a resident of a community with a population of less than 50,000 as of the most recent census and both of whom have expertise and have been active in urban and community forestry.

"(B) A vacancy in the Council shall be filled in the manner in which the original appointment was made.

"(C) The Secretary shall select 1 member, from members appointed to the Council, who is not an officer or employee of the United States nor any State, county, city, or town government, who shall serve as the chairperson of the Council.

"(D)(i) Except as provided in clauses (ii) and (iii) of this paragraph, members shall be appointed for terms of 3 years, and no member may serve more than two consecutive terms on the Council.

"(ii) Of the members first appointed—

"(I) 5, including the chairperson and 2 governmental employees, shall be appointed for a term of 3 years,

"(II) 5, including 2 governmental employees, shall be appointed for a term of 2 years, and

"(III) 5, including 2 governmental employees, shall be appointed for a term of 1 year,

as designated by the Secretary at the time of appointment.

"(iii) Any member appointed to fill a vacancy occurring before the expiration of the term of the member's predecessor shall be appointed only for the remainder of such term. A member may serve after the expiration of the member's term until the member's successor has taken office.

"(E)(i) Except as provided in clause (ii) of this subparagraph, members of the Council shall serve without pay, but may be reimbursed for reasonable costs incurred while in the actual performance of duties vested in the Council.

"(ii) Members of the Council who are full-time officers or employees of the United

States shall receive no additional pay, allowances, or benefits by reason of their service on the Council.

"(iii) The Secretary shall provide financial and administrative support for the Council.

"(3) URBAN AND COMMUNITY FORESTRY ACTION PLAN.—Within 1 year after the date of enactment of this subsection and every 10 years thereafter, the Council shall prepare a National Urban and Community Forestry Action Plan. The plan shall include (but not be limited to) the following:

"(A) An assessment of the current status of urban forest resources in the United States.

"(B) A review of urban and community forestry programs and activities in the United States, including education and technical assistance activities conducted by the Forest Service, Extension Service, and other Federal agencies, the State forestry organizations, private industry, private nonprofit organizations, community and civic organizations and interested others.

"(C) Recommendations for improving the status of the Nation's urban and community forest resources, including education and technical assistance and modifications required in existing programs and policies of relevant Federal agencies.

"(D) A review of urban and community forestry research, including—

"(i) a review of all ongoing research associated with urban and community forests, arboricultural practices, and the economic, social, and psychological benefits of trees and forest cover in urban and community environments being conducted by the Forest Service, other Federal agencies, and associated land grant colleges and universities;

"(ii) recommendations for new and expanded research efforts directed toward urban and community forestry concerns; and

"(iii) a summary of research priorities and an estimate of the funds needed to implement such research, on an annual basis, for the next 10 years.

"(E) Proposed criteria for evaluating proposed projects under the urban and community forestry challenge cost share program under subsection (e), with special emphasis given to projects that would demonstrate the benefits of improved forest management (including the maintenance and establishment of forest cover and trees) in urban areas and communities.

"(F) An estimate of the resources needed to implement the National Urban and Community Forestry Action Plan for the succeeding 10 fiscal years.

"(4) AMENDMENT OF THE PLAN.—The plan may be amended by a majority of the Council members. Such amendments shall be incorporated into the Council's annual review of the plan submitted to the Secretary pursuant to paragraph (5) of this subsection.

"(5) REVIEW OF THE PLAN.—The Council shall submit the plan to the Secretary and the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate upon its completion. Beginning no later than one year after the plan is submitted and annually thereafter, the Council shall submit a review of the plan to the Secretary no later than December 31. The review shall consist of—

"(A) the Council's assessment of prior year accomplishments in research, education, technical assistance, and related activities in urban and community forestry;

"(B) the Council's recommendations for research, education, technical assistance,

and related activities in the succeeding year; and

"(C) the Council's recommendations for the urban and community forestry challenge cost share projects to be funded during the succeeding year.

The review submitted to the Secretary shall be incorporated into the annual report of the Forest Service to the Congress under Section 3(d) of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1601(d)).

"(6) DETAIL OF PERSONNEL.—Upon request of the Council, the Secretary is authorized to detail, on a reimbursable basis, any of the personnel of the Department of Agriculture to the Council to assist the Council in carrying out its duties under this Act.

"(7) INAPPLICABILITY OF THE FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Council.

"(g) DEFINITIONS.—For the purposes of this section—

"(1) the term 'Council' means the National Urban and Community Forestry Advisory Council established under subsection (f);

"(2) the term 'plan' means the National Urban and Community Forestry Action Plan developed under subsection (f)(3); and

"(3) the term 'urban and community area' includes cities, their suburbs, and towns.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated \$30,000,000 for each of the fiscal years 1991 through 1995 for the implementation of subsections (c) through (g)."

(d) AMENDMENT TO RENEWABLE RESOURCES EXTENSION ACT.—(1) PROMOTION OF PUBLIC UNDERSTANDING.—Section 3(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1672(a)) is amended—

(A) by striking "and" at the end of paragraph (7);

(B) by striking the period at the end of paragraph (8) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(9) in cooperation with State foresters or equivalent State officials, promote public understanding of the economic, social, environmental, and psychological values of trees and open space in urban and community area environments and expand knowledge of the ecological relationships and benefits of trees and related resources in urban and community environments."

(2) URBAN AND COMMUNITY FORESTRY.—Section 5(a) of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674(a)) is amended in the final sentence by striking "for planting and management of trees and forests in urban areas," and inserting "for urban and community forestry activities."

SEC. 1509. AMERICA THE BEAUTIFUL FOUNDATION.

(a) PURPOSE.—The purpose of this section is to provide for a grant to the America the Beautiful Foundation established in subsection (b) to be used—

(1) to provide matching grants to qualifying nonprofit organizations for the implementation of programs to promote public awareness and a spirit of volunteerism in support of tree planting, maintenance, management, protection, and cultivation projects in rural areas, communities and urban areas throughout the United States;

(2) to solicit private sector contributions through the mobilization of individuals, businesses, governments, and community organizations with the goal of increasing the number of trees planted, maintained, managed and protected in rural areas, communities and urban environments;

(3) to accept and administer private gifts and make grants, including matching grants to encourage local participation, for the planting, maintenance, management, protection, and cultivation of trees; and

(4) to ensure that our descendants will be able to share their ancestors' pride when referring to their land as "America the Beautiful".

(b) **ESTABLISHMENT.**—There is hereby established the America the Beautiful Foundation (hereafter in this section referred to as the "Foundation"). The Foundation shall be a private and nonprofit organization and not an agency or establishment of the United States.

(c) **IMPLEMENTATION.**—The Foundation shall carry out this section in accordance with the purposes stated in subsection (a).

(d) **OFFICERS OF THE FOUNDATION.**—(1) **INITIAL APPOINTMENT.**—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall appoint the initial officers of the Foundation. The officers so appointed shall possess the experience and expertise necessary to direct the activities of the Foundation.

(2) **CONSTRUCTION.**—Nothing in this section shall be construed to make officers, employees, or members of the board of directors of the Foundation officers or employees of the United States.

(e) **FUNDING.**—For fiscal year 1991, the Secretary is authorized to make a grant of not to exceed \$25,000,000 to the Foundation.

(f) **USE OF FUNDS.**—Funds made available pursuant to subsection (e) shall be granted to the Foundation by the Secretary—

(1) to enable the Foundation to carry out the purposes specified in subsection (a) of this section; and

(2) for the administrative expenses of the Foundation.

(g) **INTEREST.**—Notwithstanding any other provision of law, the Foundation may hold funds made available pursuant to subsection (f) in interest-bearing accounts, prior to the disbursement of the funds for purposes specified in subsection (a), and may retain to carry out such purposes any interest earned on the deposits.

(h) **LIMITATIONS ON USE OF FUNDS.**—(1) **IN GENERAL.**—The Foundation may use funds provided by this section only for making matching grants to qualified organizations for the implementation of programs and projects that are consistent with the purposes specified in subsection (a) of this section.

(2) **QUALIFIED ORGANIZATIONS.**—For the purposes of this section, qualified organizations shall consist of those organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) and have demonstrated a capability to provide at least one-half of the total cost of the project or program for which the Foundation funds will be used.

(i) **COMPENSATION FROM OUTSIDE SOURCES.**—An officer or employee of the Foundation may not receive any salary or other compensation for services rendered to the Foundation from any source other than the Foundation.

(j) **STOCK AND DIVIDENDS.**—The Foundation shall not issue any shares of stock or declare or pay any dividends.

(k) **SALARY; TRAVEL AND EXPENSES; CONFLICTS OF INTEREST.**—(1) **PERSONAL BENEFIT FROM FUNDS.**—No part of the funds of the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses.

(2) **TRAVEL AND EXPENSE REIMBURSEMENT.**—Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

(3) **CONFLICTS OF INTEREST.**—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, or organization in which such director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(l) **LOBBYING.**—An officer or employee of the Foundation shall not engage in any activity for the purpose of influencing legislation.

(m) **RECORDS; AUDITS.**—The Foundation shall ensure that—

(1) each recipient of assistance provided through the Foundation under this section maintains, for at least 5 years after the receipt of the assistance, separate accounts with respect to the assistance and such records as may be reasonably necessary to disclose fully—

(A) the amount and the disposition by the recipient of the proceeds of the assistance;

(B) the total cost of the project or undertaking in connection with which the assistance is given or used;

(C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(D) such other records as will facilitate an effective audit; and

(2) the Foundation and any duly authorized representative of the Foundation shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Foundation under this section.

(n) **AUDITS.**—(1) **INDEPENDENT AUDITS.**—For the fiscal year in which the Foundation receives the grant awarded under subsection (e), and for the succeeding 5 fiscal years, the accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by subsection (o).

(2) **AGENCY AUDITS.**—For the fiscal year in which the Foundation receives the grant awarded under subsection (e), and for the succeeding 5 fiscal years, the financial transactions undertaken pursuant to this section by the Foundation may be audited by any agency designated by the President.

(o) **ANNUAL REPORTS.**—(1) **IN GENERAL.**—Not later than 3 months after the conclusion of each fiscal year, the Foundation shall publish an annual report that includes a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Foundation under this Act during the fiscal year.

(2) **TERMINATION.**—The obligation of the Foundation to publish annual reports pursuant to this subsection shall terminate after publication of the report incorporating the findings of the final audit required by subsection (n).

(p) **PROHIBITION ON COMMERCIAL HARVEST.**—Trees planted pursuant to a program receiv-

ing funds under this section may not be commercially harvested and sold for Christmas trees."

SEC. 1510. PRESIDENTIAL COMMISSION ON STATE AND PRIVATE FORESTS.

(a) **ESTABLISHMENT.**—The President shall establish a Commission on State and Private Forests (hereafter in this section referred to as the "Commission") which shall assess the status of the nation's state and private forest lands, the problems affecting these lands, and the potential contribution of these lands to the nation's renewable natural resource needs associated with their improved management and protection.

(b) **COMPOSITION.**—The Commission shall be composed of 25 members to be appointed by the President of the United States (hereafter in this section referred to as the "President") including Federal, State, and local officials, timber industry representatives, non-industrial private forest landowners, conservationists, and community leaders. No more than five members shall be appointed from any one State. Not fewer than 20 members shall be appointed by the President from nominations submitted by the following Members of Congress (after consultation by such Members with other Members of Congress who sit on the specified Committee):

(1) The chairman of the Committee on Agriculture of the House of Representatives.

(2) The ranking minority member of the Committee on Agriculture of the House of Representatives.

(3) The chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(4) The ranking minority member of the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) **VACANCY.**—A vacancy on the Commission shall be filled by appointment by the President in the manner provided in subsection (b).

(d) **CHAIRPERSON.**—The Commission shall elect a chairperson from among the members of the Commission by a majority vote.

(e) **MEETINGS.**—The Commission shall meet at the call of the chairperson or a majority of the members of the Commission.

(f) **DUTIES.**—(1) **STUDY.**—The Commission shall conduct a study that shall include—

(A) an assessment of the current status of the nation's state and private forest lands, including—

(i) ownership status and past and future trends;

(ii) renewable natural resource inventories;

(iii) the production of timber and non-timber resources from such lands; and

(iv) landowner attitudes toward the protection and management of these lands;

(B) a review of the problems affecting the nation's state and private forest lands, including—

(i) resource losses to insects, disease, fire, and damaging weather;

(ii) inadequate reforestation;

(iii) fragmentation of the forest land base; and

(iv) constraints on management options; and

(C) recommendations for addressing the problems and capitalizing on the potential of these lands for contributing to the nation's renewable natural resource needs.

(2) **FINDINGS AND RECOMMENDATIONS.**—On the basis of its study, the Commission shall make findings and develop recommendations for consideration by the President with respect to the future demands placed

on state and private forests in meeting both commodity and non-commodity needs of our nation in anticipation of impending changes in the management of the national forests, especially with regard to timber harvest. This assessment will place new focus on the role of state and private forest lands and will help to identify means of improving their contribution to meeting the timber and non-timber needs of the nation.

(3) **REPORT.**—The Commission shall submit to the President, not later than December 1, 1991, a report containing its findings and recommendations. The President shall forthwith submit the report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition and Forestry of the Senate, and the report is authorized to be printed as a House Document.

(g) **OPERATIONS IN GENERAL.**—(1) **AGENCY COOPERATION.**—The heads of executive agencies, the General Accounting Office, the Office of Technology Assessment, and the Congressional Budget Office shall provide the Commission such information as may be required to carry out its duties and functions.

(2) **COMPENSATION.**—Members of the Commission shall serve without compensation for work on the Commission. While away from their homes or regular places of business in the performance of duties of the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in the Government service under section 5703 of title 5 of the United States Code.

(3) **DIRECTOR.**—To the extent there are sufficient funds available to the Commission and subject to such rules as may be adopted by the Commission, the Commission, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to the classification and General Schedule pay rates, may—

(A) appoint and fix the compensation of a director; and

(B) appoint and fix the compensation of such additional personnel as the Commission determines necessary to assist it to carry out its duties and functions.

(4) **STAFF AND SERVICES.**—On the request of the Commission, the heads of executive agencies, the Comptroller General, and the Director of the Office Technology Assessment may furnish the Commission with such office, personnel or support services as the head of the agency, or office, and the chairperson of the Commission agree are necessary to assist the Commission to carry out its duties and functions. The Commission shall not be required to pay, or reimburse, any agency for office, personnel or support services provided by this subsection.

(5) **EXEMPTIONS.**—(A) The Commission shall be exempt from sections 7(d), 10(e), 10(f), and 14 of the Federal Advisory Committee Act (5 U.S.C. App. 2, 1 et seq.).

(B) The Commission shall be exempt from the requirements of sections 4301 through 4305 of title 5 of the United States Code.

(h) **AUTHORIZATION OF APPROPRIATIONS AND SPENDING AUTHORITY.**—(1) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated such sums as are necessary to implement this section.

(2) **SPENDING AUTHORITY.**—Any spending authority (as defined in section 401 of the Congressional Budget Act of 1974) provided

in this title shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

(i) **TERMINATION.**—The Presidential Commission on State and Private Forests shall cease to exist 90 days following the submission of its report to the President.

SEC. 1511. BLUE MOUNTAIN NATURAL RESOURCE INSTITUTE.

(a) **FINDINGS.**—The Congress finds that—
(1) the forests and rangelands in the States of Washington and Oregon east of the Cascade Crest do not yield their productive capacity of multiple products, services and benefits, yet these forests and rangelands are expected to yield more;

(2) these forests are among the most insect and disease infected in North America due to early management practices, including the exclusion of fire and past management treatments, which have allowed these forests to become overstocked or to succeed to pest-susceptible forest types;

(3) forage productivity of these forests and rangelands is reduced due to the spread of nonactive grasses, juniper, and noxious weeds;

(4) the unprecedented build-up of fuel loads in these forests places them under continual threat of catastrophic fire;

(5) losses due to insects, disease, and fire and reduced productivity of these forests and rangelands have far-reaching environmental and economic consequences to local communities and a region entirely dependent on land-based resources; and

(6) concerns over global climate change, water quality and quantity, air quality, fish and wildlife habitat, biodiversity, long-term forest and rangeland health and productivity, welfare of resource-dependent communities and regional economies, catastrophic fire, and scenic quality of landscapes set the dimensions of multi-faceted resources issues which are straining the effectiveness of policy makers and land managers.

(b) **ESTABLISHMENT OF RESEARCH AND DEMONSTRATION PROGRAM.**—The Secretary of Agriculture shall establish a research, development, and application program for the forests and rangelands of the States of Oregon and Washington located east of the Cascade Crest. The Blue Mountain Natural Resource Institute, headquartered in La Grande, Oregon, shall address research, development, and application needs of the Blue Mountain area in Washington and Oregon and shall plan and initiate the larger program. The program, through research, technology development and application, and public involvement, shall—

(1) compile and develop basic biological and ecological information to improve forest and rangeland health and vigor;

(2) focus research on joint management and production of timber, wildlife, grazing, fish, water quality, and recreation;

(3) stimulate cooperative research between universities and other Federal and State agencies;

(4) identify and evaluate opportunities to enhance the long-term economic and social benefits derived from the region's forest and rangeland resources in concert with county and regional economic strategies;

(5) convert results of research into technology development products and apply new information in a timely manner;

(6) develop technology to guide intensive multi-resource management and policy decisions for sustaining long-term productivity and ecological values into the early decades of the 21st century;

(7) develop new technologies that will enable forest and range managers to maxi-

mize multi-resource benefits and minimize the hazards of fire, insect, and disease outbreaks;

(8) develop forest management practices for use by land managers and landowners that are appropriate at the wildland-urban interface and in concert with public values for these areas;

(9) demonstrate the application of technology and resource knowledge on specific management areas; and

(10) establish mutually beneficial relations with the public to inform them regarding research and technology development and new management directions and to obtain feedback.

(c) **PARTNERSHIP.**—The Secretary shall establish and carry out the program under subsection (b) in consultation and cooperation with Federal, State, and local agencies, universities, and the private sector. In addition, the Secretary shall establish an advisory committee representing broad interests and perspectives to assist in the formulation of plans for implementing the program.

SEC. 1512. INTERNATIONAL FOREST RESOURCES INSTITUTE.

(a) The Secretary shall establish an International Forest Resources Institute (hereafter referred to as the "Institute"), to be operated by the State University of New York College of Environmental Science and Forestry.

(b) The mission of the Institute will be to increase the competitive position of the forest industries of the northeastern United States as major producers of international forest products in order to increase domestic employment, stimulate rural development, and to provide a knowledgeable, objective analysis of global forest resource problems.

(c) The Institute will be comprised of the State University of New York College of Environmental Science and Forestry.

(d) The Institute shall—

(1) emphasize application of existing knowledge to the manufacturing and international marketing of forest products as well as conduct new research related to the competitiveness of the northeastern forest products industry;

(2) study and evaluate domestic and international forest, forest sector, agroforestry, development, economic, and trade policies;

(3) design, analyze and test technologically appropriate manufacturing, processing and marketing systems which are supportive of and consistent with forest policy and management strategies formulated by the Institute and which enhance opportunities for markets in forest products;

(4) formulate and test management strategies for United States forests and for manufacturing facilities that promote rational use, and long term maintenance, of globally important forests; and

(5) design and analyze specific policies for critically important forests in the world with respect to forest sector, agricultural, developmental, and economic policies (giving particular attention to mechanisms to coordinate policy development between countries with significant forest resources).

(e) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

SEC. 1513. SEMIARID AGROFORESTRY RESEARCH CENTER.

(a) **SEMIARID AGROFORESTRY RESEARCH, DEVELOPMENT, AND DEMONSTRATION CENTER.**—The Secretary of Agriculture shall establish at the Forestry Sciences Laboratory of the United States Forest Service, in Lincoln, Ne-

braska, a Semiarid Agroforestry Research, Development, and Demonstration Center (hereafter referred to in this subsection as the "Center") and appoint a Director to manage and coordinate the program established at the Center under subsection (b).

(b) PROGRAM.—The Secretary shall establish a program at the Center and seek the participation of Federal or State governmental entities, land-grant colleges or universities, State agricultural experiment stations, State and private foresters, National Arbor Day Foundation, and other nonprofit foundations in such program to conduct or assist research, investigations, studies, and surveys to—

(1) develop sustainable agroforestry systems on semiarid lands that minimize topsoil loss and water contamination, and stabilize or enhance crop productivity;

(2) adapt, demonstrate, document, and model the effectiveness of agroforestry systems under different farming systems and soil or climate conditions;

(3) develop dual use agroforestry systems compatible with paragraphs (1) and (2) which would provide high-value forestry products for commercial sale from semiarid land;

(4) develop and improve the drought and pest resistance characteristics of trees for conservation forestry and agroforestry applications in semiarid regions, including the introduction and breeding of trees suited for the Great Plains region of the United States;

(5) develop technology transfer programs that increase farmer and public acceptance of sustainable agroforestry systems; and

(6) develop improved windbreak and shelterbelt technologies for drought preparedness, soil and water conservation, environmental quality, and biological diversity on semiarid lands.

(c) INFORMATION COLLECTION AND DISSEMINATION.—The Secretary shall establish at the Center a program, to be known as the National Clearinghouse on Agroforestry Conservation and Promotion to—

(1) collect, analyze, and disseminate information on agroforestry conservation technologies and practices; and

(2) promote the use of such information by landowners and those organizations associated with forestry and tree promotions.

(d) AUTHORIZATION FOR APPROPRIATION.—There are authorized to be appropriated such sums as are necessary to carry out this section.

EN BLOC AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer an en bloc amendment.

The Clerk read as follows:

En bloc amendment offered by Mr. DE LA GARZA: 2. Beginning on page 784, line 3, amend section 1509 to read:

SEC. 1509. TREE PLANTING FOUNDATION.

(a) PURPOSE.—The purpose of this section is to authorize the President to designate a private non-profit foundation as eligible to receive a grant from the Department of Agriculture to be used—

(1) to provide grants, including matching grants, to qualifying nonprofit organizations, municipalities, counties, towns and townships for the implementation of programs to promote public awareness and a spirit of volunteerism in support of tree planting, maintenance, management, protection, and cultivation projects in rural areas, communities and urban areas throughout the United States;

(2) to solicit public and private sector contributions through the mobilization of individuals, businesses, governments, and community organizations with the goal of increasing the number of trees planted, maintained, managed, and protected in rural areas, communities and urban environments;

(3) to accept and administer public and private gifts and make grants, including matching grants, to encourage local participation, for the planting, maintenance, management protection, and cultivation of trees; and

(4) to ensure that our descendants will be able to share their ancestors' pride when referring to their land as "America the Beautiful".

(b) AUTHORITY.—The President is authorized to designate a private nonprofit organization, hereafter in this section referred to as the "Foundation", as eligible to receive funds pursuant to subsections (d) and (e), upon determining that such organization can, consistent with its charter, carry out the purposes stated in subsection (a), and that the officers of such organization have the experience and expertise necessary to direct the activities of the organization. Nothing in this section shall be construed to make officers, employees, or members of the board of directors of the Foundation officers or employees of the United States. The Foundation shall be a private and nonprofit organization and not an agency or establishment of the United States.

(c) IMPLEMENTATION.—The Foundation shall carry out this section in accordance with the purposes stated in subsection (a).

(d) FUNDING.—For fiscal year 1991, the Secretary is authorized to make a grant of not to exceed \$25,000,000 to the Foundation.

(e) USE OF FUNDS.—Funds made available pursuant to subsection (d) shall be granted to the Foundation by the Secretary to enable the Foundation to carry out the purposes specified in subsection (a).

(f) INTEREST.—Notwithstanding any other provision of law, the Foundation may hold funds made available pursuant to subsection (e) in interest-bearing accounts, prior to the disbursement of the funds for purposes specified in subsection (a), and may retain to carry out such purposes any interest earned on the deposits.

(g) LIMITATIONS ON USES OF FUNDS.—(1) IN GENERAL.—The Foundation may use funds provided by this section only for making grants to qualified organizations, municipalities, counties, towns and townships for the implementation of projects and activities that are consistent with the purposes specified in subsection (a).

(2) QUALIFIED ORGANIZATIONS.—For the purposes of this section, qualified organizations shall consist of those organizations that meet the requirements of section 501(c)(3) of the Internal Revenue Code (26 U.S.C. 501(c)(3)) and have demonstrated a capability to implement the project or activity for which the Foundation funds will be used.

(h) COMPENSATION FROM OUTSIDE SOURCES.—An officer or employee of the Foundation may not receive any salary or other compensation for services rendered to the Foundation from any source other than the Foundation.

(i) STOCK AND DIVIDENDS.—The Foundation shall not issue any shares of stock or declare or pay any dividends.

(j) LOBBYING.—The Foundation shall not engage in lobbying or propaganda for the purpose of influencing legislation and shall

not participate or intervene in any political campaign on behalf of any candidate for public office.

(k) SALARY; TRAVEL AND EXPENSES; CONFLICTS OF INTEREST.—(1) PERSONAL BENEFIT FROM FUNDS.—No part of the funds of the Foundation shall inure to the benefit of any board member, officer, or employee of the Foundation, except as salary or reasonable compensation for services or expenses.

(2) TRAVEL AND EXPENSE REIMBURSEMENT.—Compensation for board members shall be limited to reimbursement for reasonable costs of travel and expenses.

(3) CONFLICTS OF INTEREST.—No director, officer, or employee of the Foundation shall participate, directly or indirectly, in the consideration or determination of any question before the Foundation affecting—

(A) the financial interests of the director, officer, or employee; or

(B) the interests of any corporation, partnership, entity, or organization in which such director, officer, or employee—

(i) is an officer, director, or trustee; or

(ii) has any direct or indirect financial interest.

(l) RECORDS; AUDITS.—The Foundation shall ensure that—

(1) each recipient of assistance provided through the Foundation under this section maintains, for at least 5 years after the receipt of the assistance, separate accounts with respect to the assistance and such records as may be reasonably necessary to disclose fully—

(A) the amount and the disposition by the recipient of the proceeds of the assistance;

(B) the total cost of the project or undertaking in connection with which the assistance is given or used;

(C) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(D) such other records as will facilitate an effective audit; and

(2) the Foundation and any duly authorized representative of the Foundation shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient that are pertinent to assistance provided through the Foundation under this section

(m) AUDITS.—(1) INDEPENDENT AUDITS.—For the fiscal year in which the Foundation receives the grant awarded under subsection (e), and for the succeeding 5 fiscal years, the accounts of the Foundation shall be audited annually in accordance with generally accepted auditing standards by an independent certified public accountant or an independent licensed public accountant certified or licensed by a regulatory authority of a State or other political subdivision of the United States. The report of each such independent audit shall be included in the annual report required by subsection (n).

(2) AGENCY AUDITS.—For the fiscal year in which the Foundation receives the grant awarded under subsection (d), and for the succeeding 5 fiscal years, the financial transactions undertaken pursuant to this section by the Foundation may be audited by any agency designated by the President.

(n) ANNUAL REPORTS.—(1) IN GENERAL.—Not later than 3 months after the conclusion of each fiscal year, the Foundation shall publish an annual report that includes a comprehensive and detailed report of the operations, activities, financial condition, and accomplishments of the Foundation under this Act during the fiscal year.

(2) TERMINATION.—The obligation of the Foundation to publish annual reports pur-

suant to this subsection shall terminate after publication of the report incorporating the findings of the final audit required by subsection (1).

(c) **PROHIBITION ON COMMERCIAL HARVEST.**—Trees planted pursuant to a program receiving funds under this section may not be commercially harvested and sold for Christmas trees.

(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated \$25,000,000 to be granted by the Secretary of Agriculture to the Foundation. All funds appropriated under this section remain available until expended.

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the en bloc amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, this is an amendment that has worked out, and basically it is the America-the Beautiful Program, reforestation, planting trees. This is the program that the President and Mrs. Bush have, and I would urge the Members to accept the amendment.

The CHAIRMAN. The question is on the en bloc amendment offered by the gentleman from Texas [Mr. DE LA GARZA].

The en bloc amendment was agreed to.

The CHAIRMAN. Are there any other amendments to title XV?

If not, the Clerk will designate title XVI.

The text of title XVI is as follows:

TITLE XVI—CONSERVATION

SEC. 1601. MODIFICATION OF HIGHLY ERODIBLE LAND PROGRAM.

(a) **PROGRAM INELIGIBILITY.**—Section 1211 of the Food Security Act of 1985 (16 U.S.C. 3811) is amended—

(1) in the first sentence by inserting after "is predominate" the following: "; or designates land on which highly erodible land is predominate to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, as determined by the Secretary";

(2) in paragraph (1)(D) by inserting before the semicolon "; under section 132 of the Disaster Assistance Act of 1989 (16 U.S.C. 1421 note), or under any similar provision enacted subsequent to August 14, 1989";

(3) in paragraph (1)(E) by striking the final "or";

(4) in paragraph (2) by striking the period at the end and inserting "; or"; and

(5) by adding at the end the following:

"(3) during such crop year—

"(A) a payment made under section 8, section 12 or section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l or 590p(b));

"(B) a payment made under section 401 or section 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 or 2202);

"(C) a payment under any contract entered into pursuant to section 1231;

"(D) a payment under section 1281;

"(E) a loan under section 1256; or

"(F) a payment, loan or other assistance under section 3 or section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 or 1006a)."

(b) **EXEMPTIONS.**—Section 1212(a) of the Food Security Act of 1985 (16 U.S.C. 3812(a)) is amended—

(1) in paragraph (1) by inserting after "commodity is produced" the phrase "or that is designated to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity, as determined by the Secretary"; and

(2) in paragraph (2) by inserting after the first sentence the following new sentence: "The Secretary shall not approve any conservation plan or any revision to any conservation plan subsequent to the date of enactment of the Food and Agricultural Resources Act of 1990 unless, in addition to the requirements of the preceding sentence, the Secretary determines such plan or revision will reduce erosion by at least 50 percent from the level that would occur if conservation measures were not applied, unless the Secretary determines such level of reduction is not feasible."

(c) **INADVERTENT ACTIONS; REDUCTION IN CERTAIN PAYMENTS, LOANS, AND ASSISTANCE.**—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812(b)) is amended—

(1) in subsection (b)(1) by inserting "or" after the semicolon;

(2) in subsection (b)(2) by striking the semicolon and inserting a period;

(3) by redesignating subsection (c) as subsection (d);

(4) by redesignating the remainder of subsection (b) as subsection (c) and inserting after paragraph (2) the following new subsection:

"(c) No person shall become ineligible under section 1211 for program loans, payments, and benefits as the result of the production of a crop of an agricultural commodity or the designation of land to be set aside, diverted, devoted to conservation uses, or otherwise not cultivated under a program administered by the Secretary to reduce production of an agricultural commodity (hereafter "set aside")—"; and

(5) in the new subsection (c)—

(A) by redesignating paragraph (3) through paragraph (5) as paragraph (1) through paragraph (3) respectively;

(B) in the new paragraph (2)—

(i) by inserting after "that is planted" the words "or set aside";

(ii) by inserting after "that was planted" the words "or set aside"; and

(iii) by striking "or" at the end;

(C) in the new paragraph (3) by striking the period at the end and inserting "; or"; and

(D) by adding after the new paragraph (3) the following new paragraph:

"(4) for any action or inaction associated with applying a conservation plan if such action or inaction is minor or inadvertent and if such person has made a good faith effort to comply with this section, as determined by the Secretary. However, the Secretary shall reduce any payment, loan, or assistance specified under section 1211 for such person by such amounts as the Secretary determines to be equitable in light of the degree of non-compliance of such action and shall require the person to come into compliance as soon as practicable."

(d) **TENANTS.**—Section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812) is amended by adding at the end the following new subsection:

"(e) If a tenant is determined to be ineligible for payments and other benefits under section 1211, the Secretary may limit such ineligibility only to the farm which is the basis for such ineligibility determination if—

"(1) the tenant has established to the satisfaction of the Secretary that—

"(A) the tenant has made a good faith effort to meet the requirements of this section, including enlisting the assistance of the Secretary to create a conservation plan for such farm; and

"(B) the landlord or another tenant on the farm refuses to comply with such plan on such farm; and

"(2) the Secretary determines that such lack of compliance is not a part of a scheme or device to avoid such compliance.

The Secretary shall provide an annual report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate concerning the ineligibility determinations limited during the previous 12-month period under this subsection."

SEC. 1602. MODIFICATION OF WETLAND PROGRAM.

(a) **DEFINITION.**—Section 1201(a)(16) is amended by amending the first sentence to read as follows:

"(16) The term 'wetland', except when such term is part of the term 'converted wetland', means land that—

"(A) has a predominance of hydric soils;

"(B) is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and

"(C) under normal circumstances does support a prevalence of such vegetation."

(b) **WETLAND.**—Section 1221 of the Food Security Act of 1985 (16 U.S.C. 3821) is amended—

(1) by striking "the date of" and all that follows through "for—" and inserting the following: "December 23, 1985, any person who in any crop year produces an agricultural commodity on converted wetland or who in any crop year subsequent to the date of enactment of the Food and Agricultural Resources Act of 1990 converts a wetland for the purpose or to have the effect of making the production of an agricultural commodity possible on such converted wetland by draining, dredging, filling, leveling, or any other means shall be ineligible for—";

(2) in paragraph (1)(D) by inserting before the semicolon "; under section 132 of the Disaster Assistance Act of 1989 (16 U.S.C. 1421 note), or under any similar provision enacted subsequent to August 14, 1989";

(3) in paragraph (1)(E) by striking the final "or";

(4) in paragraph (2) by striking the period at the end and inserting a "; or"; and

(5) by adding at the end the following:

"(3) a payment made under section 8, section 12 or section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h, 590l or 590p(b));

"(4) a payment made under section 401 or section 402 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 or 2202);

"(5) a payment under any contract entered into pursuant to section 1231;

"(6) a payment under section 1281;

"(7) a loan under section 1256; or

"(8) a payment, loan or other assistance under section 3 or section 8 of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003 or 1006a)."

(c) **DELINEATION OF WETLAND; EXEMPTIONS.**—Section 1222 of the Food Security Act of 1985 (16 U.S.C. 3822) is amended to read as follows:

"DELINEATION OF WETLANDS; EXEMPTIONS"

"SEC. 1222. (a) DELINEATION OF WETLANDS.—(1) **MAP.**—The Secretary shall delineate wetlands on a map. The Secretary shall make a reasonable effort to make an on-site wetland determination whenever requested by an owner or operator.

"(2) CERTIFICATION.—After providing notice to affected owners or operators, the Secretary shall certify each such map as sufficient for the purpose of making determinations of ineligibility for program benefits under section 1221 and shall, in accordance with section 1243, provide an opportunity to appeal such delineations to the Secretary prior to making such certification. Prior to rendering a decision on any such appeal, the Secretary shall conduct an on-site inspection of the subject land.

"(3) PUBLIC LIST.—The Secretary shall maintain a public listing of all such certifications that have been completed.

"(4) REVIEW OF PRIOR DETERMINATIONS.—The Secretary shall review and certify the accuracy of the mapping of all lands mapped prior to the date of enactment of the Food and Agricultural Resources Act of 1990 for the purpose of wetland delineations to ensure that wetland on such lands has been accurately delineated.

"(5) PERIODIC REVIEW AND UPDATE.—The Secretary shall provide by regulation a process for the periodic review and update of such wetland delineations as the Secretary deems appropriate. No person shall be adversely affected because of having taken an action based on a previous determination by the Secretary.

"(b) EXEMPTIONS.—No person shall become ineligible under section 1221 for program loans, payments, and benefits—

"(1) as the result of the production of an agricultural commodity on—

"(A) converted wetland if the conversion of such wetland was commenced before December 23, 1985;

"(B) an artificial lake, pond, or wetland created by excavating or diking non-wetland to collect and retain water for livestock, fish production, irrigation (including subsurface irrigation), a settling basin, cooling, rice production, or flood control;

"(C) a wet area created by a water delivery system, irrigation, irrigation system, or application of water for irrigation; or

"(D) wetland on which the owner or operator of a farm or ranch uses normal cropping or ranching practices to produce agricultural commodities in a manner that is consistent for the area as a result of natural conditions without action by the producer that destroys a natural wetland characteristic; or

"(2) for the conversion of—

"(A) an artificial lake, pond, or wetland created by excavating or diking non-wetland to collect and retain water for livestock, fish production, irrigation (including subsurface irrigation), a settling basin, cooling, rice production, or flood control; or

"(B) a wet area created by a water delivery system, irrigation, an irrigation system, or the application of water for irrigation.

"(c) ON-SITE INSPECTION REQUIREMENT.—No program loans, payments, or benefits shall be withheld from a person under this subtitle unless the Secretary has conducted an on-site visit of the subject land.

"(d) PRIOR LOANS.—Section 1221 shall not apply to a loan described in section 1221 made before December 23, 1985.

"(e) NON-WETLANDS.—The Secretary shall exempt from the ineligibility provisions of section 1221 any action by a person upon lands in any case in which the Secretary determines that any one of the following does not apply with respect to such lands:

"(1) Such lands have a predominance of hydric soils.

"(2) Such lands are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions.

"(3) Such lands, under normal circumstances, support a prevalence of such vegetation.

"(f) MINIMAL EFFECT; MITIGATION.—The Secretary shall exempt a person from the ineligibility provisions of section 1221 for any action associated with the production of an agricultural commodity on a converted wetland, or the conversion of a wetland, if, as determined by the Secretary—

"(1) such action, individually and in connection with all other similar actions authorized by the Secretary in the area, will have a minimal effect on the functional hydrological and biological value of the wetland, including the value to waterfowl and wildlife; or

"(2) such wetland has been frequently cropped prior to the date of such action and the wetland values, acreage, and functions are mitigated by the producer through the restoration of a converted wetland, the conversion of which occurred prior to December 23, 1985, where such restoration is—

"(A) in accordance with a restoration plan;

"(B) in advance of, or concurrent with, such action;

"(C) not at the expense of the Federal Government;

"(D) on not greater than a one for one acreage basis unless more acreage is needed to provide equivalent functions and values that will be lost as a result of such wetland conversion or production;

"(E) on lands in the same general area of the local watershed as the converted wetland; and

"(F) on lands that the owner has agreed to subject to a perpetual unpaid easement (or an easement for the maximum term allowed by applicable State law) subject to the provisions of section 1282(a).

"(g) MITIGATION APPEALS.—A producer shall be afforded the right to appeal, under section 1243, the provisions of any mitigation agreement requiring greater than one to one mitigation to which the producer is subject.

"(h) GOOD FAITH EXEMPTION; GRADUATED PENALTIES.—(1) **GOOD FAITH EXEMPTION.**—Except to the extent provided in paragraph (2), no person shall become ineligible under section 1221 for program loans, payments, and benefits as the result of the conversion of a wetland, or the production of an agricultural commodity on a converted wetland, subsequent to the date of enactment of this subsection, if—

"(A) such person, under an agreement entered into with the Secretary, agrees to fully restore the characteristics of the converted wetland to its prior wetland state; and

"(B) the Secretary determines that—

"(i) the person has not otherwise violated the provisions of section 1221 in any 10-year period on a farm; and

"(ii) such person converted a wetland, or produced an agricultural commodity on a converted wetland, in good faith and without the intent to violate the provisions of section 1221.

"(2) GRADUATED PENALTIES.—If the Secretary determines that a person who has violated the provisions of section 1221 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1221, reduce by not less than \$750 nor more than \$10,000, (depending on the seriousness of the violation) program benefits described in section 1221 that such producer would otherwise be eligible to receive in a crop year.

"(i) RESTORATION.—Any person who is determined to be ineligible for program benefits under section 1221 for any crop year shall not be ineligible for such program benefits under such section for any subsequent crop year if, prior to the beginning of such subsequent crop year, the person has fully restored the characteristics of the converted wetland to its prior wetland state.

"(j) DETERMINATIONS; RESTORATION AND MITIGATION PLANS; REPORTING; MONITORING ACTIVITIES.—(1) **DETERMINATIONS; PLANS.**—Determinations and the development of restoration and mitigation plans under this section shall be made through the agreement of the local representative of the Soil Conservation Service and a representative of the Fish and Wildlife Service. If agreement cannot be reached at the local level under the preceding sentence, such determinations shall be referred to the State Conservationist, who in making a determination under this paragraph, shall consult with the Fish and Wildlife Service.

"(2) REPORT OF DETERMINATIONS.—The State Conservationist and the representative of the Fish and Wildlife Service referred to in paragraph (1) shall report to their respective national offices concerning all determinations made under paragraph (1) at the State level as a result of an agreement not being reached at the local level.

"(3) MONITORING ACTIVITIES.—The Secretary shall conduct such monitoring activities as are necessary to ensure the success and effectiveness of the wetland restoration efforts under this section.

(d) CONSULTATION.—Section 1223 of the Food Security Act of 1985 (16 U.S.C. 3823) is amended—

(1) in paragraph (2) by striking "and";

(2) in paragraph (3) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(4) mitigation; and

"(5) the restoration of wetland values and functions on converted wetland as required under this subtitle."

(e) FAIRNESS OF COMPLIANCE.—Subtitle C of title XVI of the Food Security Act of 1985 (16 U.S.C. 3821 et seq.) is amended by adding at the end the following new section:

"SEC. 1224. FAIRNESS OF COMPLIANCE.

"If the actions of an unrelated person or public entity, outside the control of and without the prior approval of the landowner or tenant result in a change in the characteristics of cropland that would cause the land to be determined to be as wetland, the affected land shall not be considered to be wetland and program benefits may not be denied under this Act for the conversion of such lands."

(f) PRIOR DETERMINATIONS.—The amendments made by this section shall not be construed to alter or affect any determination by or for the Secretary that found a person exempt from program ineligibility prior to the enactment of the Food and Agricultural Resources Act of 1990 under section 1222 of the Food Security Act of 1985.

SEC. 1603. CONSERVATION RESERVE PROGRAM.

(a) EXTENSION OF PROGRAM.—Title XVI of the Food Security Act of 1985 (hereafter in this section referred to as "the Act") is amended by amending section 1231 (7 U.S.C. 3831) to read as follows:

"SEC. 1231. CONSERVATION RESERVE.

"(a) IN GENERAL.—(1) PROGRAM.—During the 1986 through 1995 crop years, the Secretary shall formulate and carry out a conservation reserve program through the use of contracts to assist owners and operators of lands specified in subsection (b) to conserve and improve the soil and water resources of such lands.

"(2) CROP YEAR.—For purposes of this subsection, the term 'crop year' means the calendar year in which the crop is normally harvested.

"(b) ELIGIBLE LANDS.—The Secretary may include in the program established under this subtitle—

"(1) highly erodible croplands that—

"(A) if permitted to remain untreated could substantially reduce the production capability for future generations; or

"(B) can not be farmed in accordance with a plan under section 1212 or 1274;

"(2) marginal pasture lands converted to wetland, or established as wildlife habitat;

"(3) marginal pasture lands established to trees in or near riparian areas, not to exceed 10% of the number of acres of land that is placed in the conservation reserve under this subtitle in each of the 1991 through 1995 crop years;

"(4) croplands that are otherwise not eligible—

"(A) if the Secretary determines such lands contribute to the degradation of water quality or would pose an on-site or off-site environmental threat to water quality if permitted to remain in agricultural production;

"(B) if such croplands are newly-created, permanent grass sod waterways, or are contour grass sod strips established and maintained as part of an approved conservation plan;

"(C) that are planted to trees, or are living snow fences, permanent wildlife habitat, windbreaks, shelterbelts, or filterstrips;

"(D) that are farmed wetland if wildlife values and functions are restored by conversion to a less intensive use; or

"(E) if the Secretary determines that such lands pose an off-farm environmental threat or pose a threat of continued degradation of productivity due to soil salinity if permitted to remain in production; and

"(5) croplands on which the Secretary has prevented the production of agricultural commodities.

"(c) ENROLLMENT.—(1) IN GENERAL.—The Secretary shall provide opportunities and give public notice thereof for owners and operators of farms and ranches to enroll eligible lands in the conservation reserve.

"(2) MAXIMUM ENROLLMENT.—The Secretary may enter into contracts under this section to place in the conservation reserve up to 45 million acres.

"(3) COUNTY LIMIT.—Under the programs established under this subtitle, the Secretary shall not place under contract more than 25 percent of the cropland in any one county any land on which easements are acquired pursuant to subtitle I, except that the Secretary may exceed the limitation established by this paragraph in a county to the extent that the Secretary determines that such action would not adversely affect the local economy of such county and producers in such county are having difficulties complying with conservation plans.

"(d) CONTRACT PERIOD.—For the purpose of carrying out this subtitle, the Secretary shall enter into contracts of 10 years. With respect to any new or existing contract on land to be devoted to hardwood trees, the owner or operator may extend such contract to a term not to exceed 15 years."

(b) DUTIES OF OWNERS AND OPERATORS.—Section 1232 of the Act is amended—

(1) in subsection (a)—

(A) by inserting after "(a)" the heading "PLAN.—";

(B) in paragraph (1) by striking "highly erodible cropland" and inserting "eligible lands";

(C) in paragraph (4) by striking "cover" and inserting "or water cover for the enhancement of wildlife";

(D) in paragraph (5) by inserting before "on the violation" the phrase "in addition to the remedies provided under section 1236(d)"; and

(E) in paragraph (7) by inserting after "emergency" the words "and the Secretary may permit limited fall and winter grazing on such land that is incidental to the cleaning of crop residues on the fields in which such land is located for an applicable reduction in rental payment";

(2) in subsection (b) by inserting after "(b)" the heading "REQUIRED PROVISIONS.—";

(3) by striking subsection (c) and adding the following new subsections:

"(c) AGROFORESTRY.—(1) IN GENERAL.—The Secretary may permit agricultural commodities to be produced on land that is subject to contracts entered into under this chapter, if—

"(A) such land is planted to hardwood trees;

"(B) such agricultural commodities will be produced in conjunction with, and in proximity to, such hardwood trees; and

"(C) the owner or operator of such land agrees to implement appropriate conservation practices concerning such land, including agroforestry alley cropping.

"(2) DEFINITION.—For the purposes of this subsection, the term 'agroforestry alley cropping' shall mean the practice of planting rows of trees bordered on each side by a narrow strip of groundcover, alternated with wider strips of row crops or grain.

"(3) BID SYSTEM.—The Secretary shall develop a bid system by which owners and operators may offer to reduce their annual rental payments in exchange for permission to produce agricultural commodities on such land. The Secretary shall not accept offers under this paragraph that provide for less than a 50 percent reduction in such annual payments.

"(4) EXTENSION OF CONTRACTS.—(A) The Secretary may extend any contract entered into under this subtitle for not more than 5 years for owners or operators who plant trees in accordance with this subsection.

"(B) Notwithstanding subparagraph (A), the Secretary shall ensure that the total annual rental payments over the term of any contract modified under this subsection are not in excess of that specified in the original contract.

"(d) ENVIRONMENTAL USE.—To the extent practicable, not less than one-eighth of land that is placed in the conservation reserve under this subtitle during the 1991 through 1995 crop years shall be devoted to trees, shrubs, hydrophytic vegetation, critical area seedings, or other non-crop vegetation or water that provides a permanent habitat for wildlife including migratory waterfowl.

"(e) EXPIRATION OF CONTRACT.—Upon the expiration of the contract, highly erodible

land that was the subject of such contract shall be subject to the provisions of subtitle B. The conservation plan referred to in section 1212(a)(2) shall be fully implemented with respect to such lands by the owner or operator not later than 2 years after the date on which the contract expires or such longer period of time as determined appropriate by the Secretary if such plan requires structures to be constructed."

(c) DUTIES OF THE SECRETARY.—Section 1233 of the Act is amended—

(1) in paragraph (1) by inserting after "carrying out the" the words "water quality and"; and

(2) by amending paragraph (2) to read as follows:

"(2) for a period of years not in excess of the term of the contract, pay an annual rental payment in accordance with section 1234; and".

(d) PAYMENTS.—Section 1234 of the Act is amended—

(1) in subsection (a) by inserting after "(a)" the heading "TIME OF PAYMENT.—";

(2) in subsection (b)—

(A) by inserting after "(b)" the heading "COST SHARING.—(1) IN GENERAL.—";

(B) by inserting after "establishing" the words "water quality and"; and

(C) by adding the following new paragraph:

"(2) MAXIMUM.—The Secretary shall not make any payment under this subtitle to the extent that the total amount of cost sharing payments provided to such owners and operators from all sources would exceed 100 percent of such costs."

(3) by amending subsection (c) to read as follows:

"(c) ANNUAL PAYMENTS.—(1) IN GENERAL.—The annual rental payments for eligible lands enrolled in the conservation reserve under this subtitle shall be based on comparable local rental rates.

"(2) ACCEPTABILITY OF OFFERS.—In determining the acceptability of contract offers, the Secretary may—

"(A) take into consideration the extent to which enrollment of the land that is the subject of the contract offer would improve soil resources, water quality, or provide other environmental benefits;

"(B) where appropriate, accept contract offers that provide for the establishment of—

"(i) shelterbelts, windbreaks, or living snow fences; or

"(ii) permanently vegetated stream borders, filter strips of permanent grass, forbs, shrubs, and trees that will substantially enhance water quality; and

"(C) establish different criteria in various States and regions of the United States to determine the extent to which water quality may be improved or erosion may be abated."

(4) in subsection (d)—

(A) by striking "(1)" and inserting the heading "FORM OF PAYMENT.—(1) IN GENERAL.—";

(B) in paragraph (1)(A) by striking the final "and";

(C) in paragraph (1)(B) by striking the semicolon and inserting "; and";

(D) in paragraph (1) by adding the following new subparagraph:

"(C) shall not exceed the prevailing local rental rate for comparable land."

(E) in paragraph (2)—

(i) by inserting after "(2)" the heading "INKIND COMMODITIES.—";

(ii) in subparagraph (B) by striking the final "or";

(iii) in subparagraph (A) by striking the semicolon and inserting “; or”; and
(iv) by striking subparagraph (C); and
(F) in paragraph (3) by inserting after “(3)” the heading “SUBSTITUTION OF CASH PAYMENT.—”;

(G) by adding the following new paragraph:

“(4) STATE PAYMENTS.—Payments to a producer under a special conservation reserve enhancement program described in subsection (f)(4) shall be in the form of cash only.”;

(5) in subsection (e) by inserting after “(e)” the heading “PAYMENT TO PERSON OTHER THAN OWNER.—”;

(6) in subsection (f)—
(A) by striking “(1)” and inserting the heading “PAYMENT LIMITATION.—(1) LIMITATION.—”;

(B) in paragraph (2) by inserting after “(2)” the heading “REGULATIONS.—”;

(C) in paragraph (3)—

(i) by inserting after “(3)” the heading “OTHER PAYMENTS.—”; and

(ii) by inserting after “this Act” the words “, the Food and Agricultural Resources Act of 1990,”; and

(D) in paragraph (4) by inserting after “(4)” the heading “SPECIAL CONSERVATION RESERVE ENHANCEMENT PROGRAM.—”;

(7) by adding at the end the following new subsections:

“(g) EXEMPTION FROM SEQUESTRATION.—Notwithstanding any other provision of law, no order issued for any fiscal year under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), shall affect any contract entered into under this subtitle.

“(h) OTHER STATE PAYMENTS.—In addition to any payment under this subtitle, an owner or operator may receive cost share assistance, rental payments, or tax benefits from a State or subdivision thereof for enrolling lands in the conservation reserve program.”

(e) CONTRACTS.—Section 1235 of the Act is amended—

(1) in subsection (a)(1)—
(A) by striking “(1)” and inserting “PERIOD OF OWNERSHIP REQUIREMENT.—(1) IN GENERAL.—”; and

(B) by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C) respectively;

(2) in subsection (a)(2)—

(A) by inserting after “(2)” the heading “EXCEPTIONS.—”;

(B) in subparagraph (A) by inserting after “subtitle” the phrase “unless the original owner retains a contingent interest in the land as determined by the Secretary”; and

(C) in subparagraph (B)(i) by striking “or since January 1, 1985, whichever is later”;

(3) in subsection (b)—

(A) by inserting after “(b)” the heading “TRANSFER OF LAND.—”; and

(B) by striking paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2) respectively;

(4) in subsection (c)—

(A) by inserting after “(c)” the heading “MODIFICATION.—(1) IN GENERAL.—”; and

(B) in paragraph (2) by inserting after “(2)” the heading “PRODUCTION OF COMMODITIES.—”; and

(5) in subsection (d) by striking “(1)” and inserting the heading “TERMINATION.—(1) IN GENERAL.—”;

(f) BASE HISTORY.—Section 1236 of the Act is amended—

(1) in subsection (a) by inserting after “(a)” the heading “REDUCTION WITH RESPECT TO ANNUAL PRODUCTION ADJUSTMENT PROGRAM.—”;

(2) in subsection (b) by inserting after “(b)” the heading “PRESERVATION OF BASE.—”; and

(3) by adding the following new subsections:

“(c) EXTENDED BASE PROTECTION.—The Secretary shall offer the owner or operator of a farm or ranch an opportunity to extend the preservation of cropland base and allotment history pursuant to subsection (b) for up to 10 years after the expiration date of a contract under this subtitle at the request of such owner or operator. In return for such extension, the owner or operator shall agree to continue to abide by the terms and conditions of the original contract, except that—
“(1) such owner or operator shall receive no cost share, annual rental or bonus payment; and

“(2) the Secretary may permit, subject to such terms and conditions, haying and grazing of acreage placed in the conservation reserve established under this subtitle for the purpose of meeting any requirement established under this Act except during any consecutive 5 month period that is established by the State committee. Each 5 month period shall be established during the period beginning April 1 and ending October 31 of a year. In the case of a natural disaster, the Secretary may permit unlimited haying and grazing on such acreage.
“(d) VIOLATION OF TERM OR CONDITION.—In addition to any other remedy prescribed by law, the Secretary may reduce or terminate the amount of cropland base and allotment history preserved pursuant to subsection (c) for acreage with respect to which a violation of a term or condition occurs.”

SEC. 1604. TREE PLANTING INITIATIVE.
(a) TREE PLANTING INITIATIVE.—Title XVI of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by adding at the end of subtitle F the following new section:
“SEC. 1256. TREE PLANTING INITIATIVE.

“(a) MAINTENANCE, AFFORESTATION, AND REFORESTATION OF FOREST LANDS.—(1) POLICY.—It is the policy of the United States to—
“(A) promote the retention and management of lands currently in forest cover as forested lands;

“(B) provide for the reforestation of Federal, State, and private non-industrial forest lands following timber harvest or loss of cover due to fire, insect damage, disease or damaging weather;

“(C) encourage the reforestation of previously forested lands and the afforestation of marginal agricultural lands; and

“(D) promote the planting of trees and the proper management of existing forest lands to reduce soil erosion, improve water quality, enhance fish and wildlife habitat, and provide for the sustained production of the commodity and non-commodity resources that these lands can provide to meet the Nation's needs.

“(2) IMPLEMENTATION OF POLICY.—The Secretary is encouraged to use the following programs to accomplish the policy identified in subsection (a)(1):

“(A) The conservation reserve established under subtitle D of this title (16 U.S.C. 3831 et seq.).

“(B) The agricultural conservation program authorized by sections 7 through 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590g through 590o, 590p(a), 590p(f), and 590(g)) and sections 1001 through 1008 and 1010 of the Agricultural Act of 1970 (16 U.S.C. 1501 through 1508 and 1510).

“(C) The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103) as amended.

“(D) The provisions of title XVI of the Food and Agricultural Resources Act of 1990.

“(b) AGREEMENTS WITH STATE FORESTRY AGENCIES.—The Secretary shall encourage owners and operators of cropland who enter into agreements in accordance with this section to enlist the cooperative assistance of the State Forester or equivalent State official in obtaining technical and financial assistance for tree planting and maintenance activities in accordance with the provisions title XV of the Food and Agricultural Resources Act of 1990.”

(b) INDIGENOUS TREE PLANTING INITIATIVE.—(1) CONTRACT PERIOD.—Section 1231(e) of the Food Security Act of 1985 (16 U.S.C. 3831(e)) is amended—

(A) by striking “(e) For the purpose of carrying out this subtitle” and inserting “(e)(1) Except as provided in paragraph (2) and for the purpose of carrying out this subtitle,”; and

(B) by adding at the end the following new paragraph:

“(2) For the purpose of carrying out this subtitle, the Secretary may offer to owners and operators of highly erodible cropland after placement in the reserve an opportunity to extend any existing contract, or to enter into a new contract on such cropland, for a total contract term of not more than 15 years under this subtitle, if such owners or operators agree to devote such cropland to indigenous trees, shelterbelts, windbreaks, wildlife corridors, or filter strips. An owner or operator shall as a condition of entering into a contract under this paragraph participate in the Forest Resources Stewardship Program established under section 4 of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103).”

(2) COST SHARE ASSISTANCE.—Section 1234(b) of the Food Security Act of 1985 (16 U.S.C. 3832(b)) is amended by adding at the end the following: “In the case of contracts under this subtitle for acreage planted to indigenous trees, the Secretary shall pay not less than 50 percent and not more than 75 percent of the reasonable and necessary costs associated with establishing trees on such acreage, as determined by the Secretary, taking into consideration the amount necessary to ensure that the acreage levels planted to trees specified in section 1231 are attained. Such cost share assistance may include the costs of establishing windbreaks, shelterbelts, wildlife corridors, and filter strips and other costs incurred by such owner or operator for maintaining new tree plantings (including the cost of replanting, cultivation, nutrient needs, and disease and insect control) during the 2 to 4 year period beginning on the date the acreage is planted to trees, as determined by the Secretary. The Secretary may permit owners or operators who contract to convert at least 10 acres of land to the production of indigenous trees under this subtitle to extend the planting of such trees over a 3-year period if at least one-third of such trees are planted in each of the first 2 years. An owner or operator who receives cost-share assistance under this subsection shall not receive any other Federal cost-share assistance with respect to such land under any other provision of law.”

(c) CONVERSION OF CERTAIN ACRES.—Section 1234 of the Food Security Act of 1985 (16 U.S.C. 3834) is amended by adding at the end the following new subsection:

“(h) The Secretary shall permit owners and operators with contracts in effect under this subtitle on the date of enactment of this subsection to convert areas of highly erodi-

ble cropland that are planted to grass under such contract to the planting of indigenous trees. The owner or operator shall not require the Secretary, through such conversion, to incur any additional expense on such acres, including the expense involved in the original establishment of the vegetative cover, that is in excess of the average per acre indigenous tree planting expense in the same area. If the original term of contract with respect to land to be planted to indigenous trees under the previous sentence was less than 15 years, the owner or operator may extend such contract to a term of no more than 15 years."

(d) **ECONOMIC USE OPTION.**—Section 1235(c) of the Food Security Act of 1985 (16 U.S.C. 3835(c)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) The Secretary shall modify or waive a term or condition of a contract entered into under this subtitle in order to permit sustained-yield harvesting of timber or related resources by the owner or operator of such land during the last 3 years of the contract period if such owner or operator agrees to retire permanently the cropland base and allotment history applicable to such land subject to the conservation reserve contract.

"(B) The Secretary shall provide additional compensation to an owner or operator referred to in subparagraph (A) who agrees to retire permanently cropland base and allotment history, as referred to in subparagraph (A)."

SEC. 1605. NATURAL RESOURCES LOAN PROGRAM.

Title XVI of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by adding at the end of subtitle F the following new sections:

"SEC. 1257. NATURAL RESOURCES LOAN PROGRAM.

"(a) **ESTABLISHMENT.**—The Secretary shall establish a natural resources loan program to encourage the alleviation of natural resource conservation problems that reduce the productive capacity of the Nation's land and water resources or that cause degradation of environmental quality.

"(b) **IMPLEMENTATION.**—The Secretary shall, beginning within 180 days of enactment of this Act, make loans available in cash or in kind to eligible agricultural producers for those resource conservation and environmental enhancement measures that are determined necessary by the applicable county and State committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act in consultation with the Extension Service, the Soil Conservation Service, the applicable conservation district, and the Fish and Wildlife Service, or are included in the water quality protection plan prepared and approved under subtitle H of this Act.

"(c) **TERM AND INTEREST RATE.**—Loans made under this section shall be for a period not to exceed ten years at a rate of interest based upon the rate of interest charged the Commodity Credit Corporation by the United States Treasury on the date such loans are made.

"(d) **LIMITATION.**—The Secretary may make loans to any one producer in any fiscal year in an amount not to exceed \$50,000; loans up to \$25,000 in amount may be unsecured and loans in excess of \$25,000 shall be secured; and the total of such unsecured and secured loans made in each fiscal year shall not exceed \$100,000,000.

"(e) **APPROPRIATIONS.**—There are hereby authorized to be appropriated such sums as are necessary to implement this section.

"SEC. 1258. SOIL AND WATER LOANS.

"(a) **SOIL AND WATER LOAN PROGRAM.**—The Secretary may provide loans for soil and water conservation and protection. The Secretary may make or insure loans under this section to farm owners or tenants who are eligible borrowers under subtitle A of title III of the Agricultural Act of 1961 for—

"(1) the installation of conservation structures, including terraces, sod waterways, permanently vegetated stream borders and filter strips, windbreaks (tree or grass), shelterbelts, and living snow fences;

"(2) the establishment of forest cover for sustained timber yield timber management, erosion control, or shelterbelt purposes;

"(3) the establishment or improvement of permanent pasture;

"(4) the conversion to and maintenance of sustainable agricultural production systems, as described by Department technical guides and handbooks;

"(5) the payment of costs of complying with section 1212 of this Act; and

"(6) other purposes consistent with plans for soil and water conservation, integrated farm management, water quality protection, and wildlife habitat improvement.

"(b) **PRIORITY.**—In making or insuring loans under this section, the Secretary shall give priority to producers who use such loans to build conservation structures or establish conservation practices to comply with section 1212 of this Act.

"(c) **LIMITATION ON THE AMOUNT OF LOAN.**—The Secretary shall make or insure no loan under this section that exceeds the lesser of—

"(1) the value of the farm or other security for such loan, or

"(2) \$50,000."

"SEC. 1606. STATE TECHNICAL COMMITTEE.

Title XVI of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by adding the following new subtitle:

"Subtitle G—State Technical Committees

"SEC. 1261. ESTABLISHMENT.

"(a) **IN GENERAL.**—The Secretary shall establish in each State a Technical Committee to assist the Secretary in the technical considerations relating to implementation of the conservation provisions under this title.

"(b) **STANDARDS.**—Not later than 180 days after enactment of this section, the Secretary shall develop standards to be used by the State Technical Committee in the development of technical guidelines under section 1262(b) for the implementation of the conservation provisions of this title.

"(c) **COMPOSITION.**—Each State Technical Committee established under subsection (a) shall be composed of professional resource managers that represent a variety of disciplines in the soil, water, wetland, and wildlife sciences. Such committee shall include such representatives as may serve from among—

"(1) the Soil Conservation Service;

"(2) the Agricultural Stabilization and Conservation Service;

"(3) the Forest Service;

"(4) the Extension Service;

"(5) the Farmers Home Administration;

"(6) the Fish and Wildlife Service;

"(7) State departments and agencies which the Secretary deems appropriate, including:

"(A) the State fish and wildlife agency;

"(B) the State forester;

"(C) the State water resources agency;

"(D) the State department of agriculture; and

"(E) the State association of soil and water conservation districts; and

"(8) other agency personnel with expertise in soil, water, wetland, and wildlife management as the Secretary determines appropriate.

"SEC. 1262. RESPONSIBILITIES.

"(a) **IN GENERAL.**—Each Committee established under section 1261 shall meet regularly to provide information, analysis, and recommendations to appropriate officials of the Department of Agriculture who are charged with implementing the conservation provisions of this title. Such information, analysis, and recommendations shall be provided in a manner that will assist the Department of Agriculture in determining matters of fact, technical merit, or scientific question. Data, analysis, and recommendations shall be provided in writing and shall reflect the best professional information and judgment of the Committee. The Secretary shall coordinate activities conducted under this section with those conducted under section 1371 of the Food and Agricultural Resources Act of 1990.

"(b) **WETLAND AND WILDLIFE HABITAT PROTECTION GUIDELINES.**—(1) **DEVELOPMENT OF TECHNICAL GUIDES.**—Not later than one year after enactment of this section each State Technical Committee shall develop technical guides for the implementation of the Wetland Preservation and Wildlife Habitat Improvement Options of the Agricultural Water Quality Protection Programs under section 1273.

"(2) **CONTENT OF GUIDES.**—(A) The technical guides required under this subsection shall include detailed information on the selection of crops and crop-plant varieties, cover crops, rotation practices, tillage systems, nutrient management, biological control practices (including biologically intensive integrated pest management practices), soil, water, and natural resource conservation, and other practices useful in developing practices pursuant to such option.

"(B) The technical guides required under subsection (a) shall provide standards and practical instructions for implementation of water quality improvement, wetland protection and wildlife habitat improvement practices based on existing scientific and technical knowledge.

"(C) In consultation with the panel established under section 1314 of the Food and Agricultural Resources Act of 1990, the Secretary may enter into contracts with persons who are eligible to conduct research projects under subtitle B of title XIII of such Act to assist in the development and periodic revision of the technical guides described in this subsection.

"(c) **OTHER DUTIES.**—Each Technical Committee shall provide assistance and offer recommendations with respect to the technical aspects of—

"(1) wetland protection, restoration, and mitigation requirements;

"(2) criteria to be used in evaluating bids for enrollment of environmentally-sensitive lands in the conservation reserve program;

"(3) guidelines for haying or grazing and the control of weeds to protect nesting wildlife on set-aside acreage;

"(4) highly erodible lands exemptions and appeals;

"(5) wetland and conservation compliance exemptions and appeals;

"(6) addressing common weed and pest problems and programs to control weeds and pests found on acreage enrolled in the conservation reserve program; and

"(7) other matters determined appropriate by the Secretary.

"(d) **AUTHORITY.**—Each Committee established under section 1261 is advisory and shall have no implementation or enforcement authority. However, the Secretary shall give strong consideration to the recommendations of such Committees in administering the programs under this title, and to the factual, technical, or scientific findings and recommendations under the Committee's responsibility."

SEC. 1607. WATER QUALITY PROTECTION.

Title XVI of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by adding at the end the following:

"Subtitle H—Water Quality Protection Program

"SEC. 1271. FINDINGS AND STATEMENT OF POLICY.

"(a) **FINDINGS.**—Congress finds that—

"(1) the protection of ground water and surface water is essential for the health and well-being of rural America;

"(2) agricultural non-point and point source pollution has been identified by States as contributing to surface and ground water degradation in the United States;

"(3) the agricultural community desires to protect surface and ground water against pollution;

"(4) many existing farming practices and systems have the potential for preventing such pollution by minimizing pollutants at the source while maintaining agricultural productivity and profitability;

"(5) these farming practices and systems usually constitute the most cost-effective and environmentally-sound approach to protecting and enhancing water quality and the environment as affected by agriculture; and

"(6) State and Federal environmental laws increasingly give priority to pollution prevention to protect the environment, natural resources including wildlife, and human health.

"(b) **STATEMENT OF POLICY.**—The policy of Congress is that water quality protection, including source reduction of agricultural pollutants, henceforth shall be an important goal of the programs and policies of the Department of Agriculture. Furthermore, agricultural producers in environmentally sensitive areas should request assistance to develop and implement on-farm water quality protection plans in order to assist in compliance with State and Federal environmental laws and to enhance the environment.

"SEC. 1272. DEFINITIONS.

"As used in this subtitle—

"(1) **AGRICULTURAL WATER QUALITY PROTECTION PRACTICE.**—The term 'agricultural water quality protection practice' means a farm-level practice or a system of practices designed to protect water quality by mitigating or reducing the release of agricultural pollutants, including nutrients, pesticides, animal waste, sediment, salts, biological contaminants, and other materials, into the environment.

"(2) **SOURCE REDUCTION.**—The term 'source reduction' means minimizing the generation, emission, or discharge of agricultural pollutants or wastes through the modification of agricultural production systems and practices.

"SEC. 1273. AGRICULTURAL WATER QUALITY PROTECTION PROGRAM.

"(a) **INCENTIVES.**—(1) **IN GENERAL.**—During the 1991 through 1995 crop years, the Secretary shall formulate and carry out a voluntary incentive program, in accordance with this subtitle, through agreements to assist owners and operators of a farm in developing and implementing a water quality protection plan pursuant to this section.

"(2) **AGREEMENTS.**—The Secretary shall enter into agreements of up to 5 years upon the request of owners and operators of farms in eligible areas and shall not initiate any such agreements beyond December 31, 1995.

"(3) **DUTIES OF OWNERS AND OPERATORS.**—In order to receive annual incentive payments, an owner or operator of a farm must agree—

"(A) to implement a water quality protection plan approved by the Secretary subject to the agreement established under this subtitle;

"(B) not to conduct any practice on the farm specified in the approved water quality protection plan as a practice that would tend to defeat the purposes of this subtitle;

"(C) to comply with such additional provisions as the Secretary determines are desirable and are included in the agreement to carry out the water quality protection plan or to facilitate the practical administration of the program;

"(D) on the violation of a term or condition of the agreement at any time the owner or operator has control of the land to refund any incentive or cost share payment received with interest and forfeit any future such payments as determined by the Secretary; and

"(E) on the transfer of the right and interest of the owner or operator in land subject to the agreement, unless the transferee of such agrees with the Secretary to assume all obligations of the agreement, to refund any such cost-share and incentive payments received under this subtitle, as determined by the Secretary.

"(4) **WETLAND OR WILDLIFE HABITAT OPTIONS.**—(A) **COST SHARE ASSISTANCE.**—Owners and operators who voluntarily agree to develop and implement agricultural production practices, in concert with their water quality protection plan, that preserve and enhance wetland or wildlife habitat, shall also be eligible to receive cost-share assistance for the implementation of such practices. The Secretary shall develop procedures for approving such agricultural practices, as a part of the water quality protection plan, that qualify for cost-share assistance.

"(B) **WETLAND PRESERVATION AND WILDLIFE HABITAT IMPROVEMENT OPTIONS.**—(i) The Secretary shall encourage owners and operators who choose the wetland preservation option to implement, improve and maintain agricultural production practices, in concert with their water quality protection plan, that are designed to preserve and enhance existing wetland and to restore converted wetland to their natural state.

"(ii) The Secretary shall encourage owners and operators who choose the wildlife habitat improvement option to implement, improve and maintain agricultural production practices, in concert with their water quality protection plan, that are designed to improve on-farm wildlife habitat, including the establishment of perennial cover, the protection of riparian areas, and the creation of wildlife corridors and areas of critical habitat for endangered species.

"(5) **DUTIES OF THE SECRETARY.**—In return for an incentive agreement voluntarily entered into under this subtitle, the Secretary shall assist the owner or operator in the protection and improvement of surface and groundwater quality and related resources by—

"(A) providing an eligibility assessment of the farming operation as a basis for developing the water quality protection plan and any options associated with such plan;

"(B) providing technical assistance in developing and implementing agricultural water quality protection plans;

"(C) providing an annual incentive payment for developing and implementing agricultural production practices in accordance with an approved water quality protection plan submitted by the owner or operator;

"(D) providing cost share assistance for implementing the wetland preservation or wildlife habitat improvement options; and

"(E) ensuring that participants receive adequate information, education, and training to aid in implementation of a plan.

"(6) **PAYMENTS.**—(A) **TERMS.**—Payments shall be made for a period of up to 5 years, as determined appropriate by the Secretary, as specified in the agreement entered into under this subtitle.

"(B) **AMOUNTS.**—(i) In determining the amount of incentive payment to be made to a participant under this subtitle, the Secretary shall consider, among other things, the amount necessary on a per acre basis to encourage producers to participate, additional costs incurred by the producer, and the production values forgone, if any, in implementing the practices.

"(ii) Cost-share payments shall be made in an amount not to exceed 50 percent of the cost of the eligible practice.

"(C) **LIMITATIONS.**—Payments to a participant agreeing to implement a plan on acres devoted to the production of an agricultural commodity under this subtitle shall not exceed—

"(i) \$3500 per person per year in the form of incentive payments; and

"(ii) not more than an additional \$1500 per person per year in the form of cost share assistance.

"(D) **OTHER PROGRAMS.**—Payments received by an owner or operator under this subtitle shall be in addition to, and not affect, the total amount of payments that such owner or operator is otherwise eligible to receive under this Act or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), except that payments for a practice or practices shall not be made under this subtitle if payments or assistance is provided for such practice under any other Federal program.

"(7) **MODIFICATIONS.**—The Secretary may modify an agreement entered into with a participant under this subtitle if the participant agrees to such modification and the Secretary determines such modifications are desirable to—

"(A) carry out this subtitle;

"(B) facilitate the practical administration of this subtitle; or

"(C) achieve such other goals as the Secretary determines are appropriate, consistent with this subtitle;

"(8) **TERMINATION.**—The Secretary may terminate an agreement entered into with a participant under this subtitle if—

"(A)(i) the producer agrees to such termination; or

"(ii) the producer violates the terms and conditions of the agreement; and

"(B) the Secretary determines that such termination would be in the public interest.

"(9) **REFUNDS.**—The Secretary shall obtain refunds of incentive and cost-share payments with interest if an agreement is terminated unless it is determined by the Secretary not to be in the public interest.

"(10) **BASE AND YIELD PROTECTION.**—An owner or operator agreeing to implement an approved water quality protection plan pursuant to this subtitle shall, by regulations established by the Secretary, receive program payment yield and base protection on the farm during the agreement period.

"(11) **ACREAGE LEVELS.**—The Secretary shall, to the extent possible, seek to enter

into agreements with participants to place into the program a total of not less than 20 million acres during the 1991 through 1995 crop years.

"(b) **CONTENT OF PLANS.**—Agricultural water quality protection plans should include as applicable, but not be limited to—

"(1) a description of the prevailing farm enterprises, cropping patterns, and cultural practices, and other information that may be relevant to protecting water quality on the farm;

"(2) a description of farm resources, including soil characteristics, proximity to water bodies, and other relevant characteristics of the farm related to water quality;

"(3) to the extent practicable, specific, quantitative water quality protection goals and objectives that will minimize contamination or degradation of surface or ground water;

"(4) a range of water quality protection practices that will, if implemented by a producer, assist such producer in complying with State and Federal environmental laws, and where appropriate, will complement conservation plans prepared for highly erodible lands under section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812);

"(5) the specific agricultural production practices that will be implemented, improved and maintained, including practices that ensure continued farm productivity and profitability by promoting the efficient use of fertilizers, other crop nutrients, and pesticides, as well as any management practices that are to be avoided, in order to carry out and achieve the water quality goals and objectives of the producer;

"(6) to the extent practicable, water quality protection practices for safe storage, mixing and loading of pesticides and fertilizers, and storage and handling of animal waste;

"(7) the timing and sequence for implementing such practices that will assist the producer in complying with State and Federal environmental laws, taking into consideration schedules that may be established in such laws; and

"(8) information that will enable the producer to evaluate the effectiveness of the plan in protecting water quality.

"(c) **PLAN DEVELOPMENT.**—The Secretary shall establish a procedure to enable agricultural producers to develop agricultural water quality protection plans pursuant to this section with the local Soil Conservation Service office.

"(d) **PROTECTION OF CONFIDENTIALITY.**—The Secretary shall protect the confidentiality of the information contained in these plans to the extent confidentiality is provided under current law to information contained in conservation plans under section 1212. The Secretary shall provide notice to producers that information contained in the plans developed under this subsection will be available to the public upon request.

"(e) **PLAN APPROVAL.**—The Secretary shall develop procedures for and approve water quality protection plans.

"(f) **ACCEPTANCE OF CONTRACTS.**—The Secretary shall begin accepting contracts within one year.

"(g) **FEDERAL OR STATE PROVISIONS.**—The requirements of this section are intended to supplement and support the provisions of other State and Federal laws. This section in no way replaces or substitutes for any other State or Federal laws.

"SEC. 1274. ELIGIBLE LANDS.

"(a) **ELIGIBLE LANDS.**—Lands eligible for enrollment in the program pursuant to sec-

tion 1273 or for technical assistance pursuant to section 1275 shall include—

"(1) impaired watersheds identified by a State pursuant to section 319 of the Clean Water Act (33 U.S.C. 1329);

"(2) wellhead protection areas defined under the Safe Drinking Water Act (42 U.S.C. 300h-7);

"(3) other areas recommended by State lead agencies for environmental protection as designated by a Governor of a State; or

"(4) in consultation with the Secretary, other areas recommended by the Administrator of the Environmental Protection Agency or the Secretary of the Interior.

"(b) **PRIORITY LANDS.**—In accepting agreements pursuant to this section and providing assistance pursuant to section 1275, the Secretary shall give priority to lands on which agricultural production has been determined to contribute to, or creates, the potential for failure to meet applicable water quality standards or the goals and requirements of Federal or State laws governing surface and ground water quality as determined by the Secretary in consultation with State officials having responsibility for monitoring and protecting water quality.

"SEC. 1275. TECHNICAL ASSISTANCE FOR WATER QUALITY PROTECTION.

"(a) **IN GENERAL.**—Upon request, the Secretary shall provide technical assistance to agricultural producers on eligible lands to assist such producers in developing and implementing agricultural water quality protection plans.

"(b) **FIELD OFFICE TECHNICAL GUIDES FOR WATER QUALITY PROTECTION.**—(1) **DEVELOPMENT.**—The Secretary shall develop handbooks and local field office technical guides describing a process to assist agricultural producers in preparing and implementing on-farm agricultural water quality protection plans necessary to assist in complying with State and Federal environmental laws, and to implement the agricultural water quality protection policy established by this subtitle.

"(2) **CONTENT.**—The guides required under this subsection shall reflect local agronomic, economic and ecological conditions, and include and describe in detail—

"(A) procedures to identify potential sources of pollution on a farm;

"(B) to the extent practicable, a range of water quality protection practices, and their economic cost and benefit, that is suitable to local ecological characteristics and prevailing farm enterprises and that complement conservation plans prepared for highly erodible lands under section 1212 of the Food Security Act of 1985 (16 U.S.C. 3812);

"(C) storage, mixing, and loading practices for on-farm pesticide and fertilizer use to protect water quality;

"(D) any information regarding relevant State and Federal environmental laws that may impact upon the producer;

"(E) criteria to evaluate the effectiveness of on-farm plans in protecting water quality and provide aggregate data to aid in evaluating compliance with State and Federal environmental laws; and

"(F) means to evaluate the economic costs and benefits of agricultural water quality protection practices, including source reduction practices.

"(3) **DEADLINE.**—Local field office technical guides shall be developed for environmentally sensitive areas no later than two years after such areas have been designated as such under State or Federal environmental law and up-dated periodically, but not less than every two years, to incorporate any im-

proved water quality protection practices; and

"(4) **CONSULTATION.**—The Secretary shall consult with the Administrator of the Environmental Protection Agency, the Secretary of the Interior, and with relevant State agencies in developing handbooks and field office technical guides under this section to ensure that such handbooks and guides contain accurate and up-to-date technical information on practices designed to protect water quality.

"(c) **PERSONNEL.**—The Secretary shall designate the Soil Conservation Service as the lead agency for purposes of providing technical assistance in connection with implementing this subtitle, and shall assign such personnel from the Extension Service, Agricultural Research Service, and other agencies as are necessary to fulfill the purposes of this subtitle. The Secretary may request the services of the State water quality agencies, State fish and wildlife agencies, State forestry agencies, or any other source deemed appropriate to assist in providing the technical assistance necessary for the development and implementation of the water quality protection plans.

"SEC. 1276. REPORT TO CONGRESS.

"Not later than September 30, 1992, the Secretary shall provide to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an interim report describing the degree of participation in the planning process and program established in this subtitle, including the number of plans that have been prepared, any information on the number of plans that are in implementation, including the number and acreage of farms engaged in planning by type of environmentally sensitive area, any information relevant for evaluating the effectiveness of agricultural water quality plans in protecting water quality and the economic costs and benefits of the plans if implemented, and other information pertinent to implementation of this subtitle. A final report shall be submitted no later than September 30, 1994."

SEC. 1608. WETLAND AND ENVIRONMENTAL EASEMENTS.

Title XVI of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.) is amended by adding at the end the following:

"Subtitle I—Wetland and Environmental Easement Program

"SEC. 1281. WETLAND AND ENVIRONMENTAL EASEMENT PROGRAM.

"(a) **ESTABLISHMENT.**—The Secretary shall, during the 1991 through 1995 crop years, formulate and carry out a wetland and environmental easement program (hereafter in this subtitle referred to as the 'easement program') in accordance with this subtitle, through the acquisition of perpetual easements or easements for the maximum term permitted under applicable State law from willing owners of eligible farms or ranches in order to ensure the continued long-term protection of environmentally sensitive lands or reduction in the degradation of water quality on such farms or ranches through the continued conservation and improvement of soil and water resources.

"(b) **ELIGIBLE LAND.**—(1) **IN GENERAL.**—The Secretary may acquire easements under this section on land placed in the conservation reserve under subtitle D (other than such land that is likely to continue to remain out of production and that does not pose an off-farm environmental threat), land under the

Water Bank Act (16 U.S.C. 1301), or other cropland that—

"(A) is farmed wetland;

"(B) is adjacent to wetland that is functionally dependent on such cropland;

"(C) is converted wetland converted prior to December 23, 1985, the restoration of which is deemed important by the Secretary for the protection of water quality or wildlife;

"(D) contains riparian corridors that provide a link between wetland or that is adjacent to waterways, streams, or other water bodies;

"(E) is an area of critical habitat for wildlife, especially threatened or endangered species; or

"(F) contains other environmentally sensitive areas, as determined by the Secretary, that would prevent a producer from complying with other Federal, State, or local environmental goals if commodities were to be produced on such land.

"(2) INELIGIBLE LAND.—The Secretary may not acquire easements on—

"(A) land that contains timber stands established under the conservation reserve under subtitle D; or

"(B) pasture land established to trees under the conservation reserve under subtitle D.

"(3) TERMINATION OF EXISTING CONTRACT.—The Secretary may terminate any existing contract entered into under section 1231(a) if the land that is subject to such contract is transferred into the program established by this subtitle.

"(c) ACREAGE LIMITATION.—The Secretary shall not acquire easements on more than 10 percent of the cropland in any one county and easements may be acquired only to the extent that such easements, together with lands placed in the conservation reserve under section 1231(c)(3), shall not exceed 25 percent of the cropland in any one county, except that the Secretary may exceed the limitation established by this paragraph in a county to the extent that the Secretary determines that such action would not adversely affect the local economy of such county and producers in such county are having difficulties complying with conservation plans.

"(d) NATIONAL AGRICULTURAL WETLAND RESERVE.—(1) ESTABLISHMENT.—The Secretary shall establish as a component of the easement program established under this section a national agricultural wetland reserve.

"(2) ENROLLMENT.—The Secretary shall seek to enroll 2,500,000 acres of wetland and associated areas in the national agricultural wetland reserve during fiscal years 1991 through 1995.

"(3) PRIORITY.—In establishing the national agricultural wetland reserve, the Secretary, in consultation with the Secretary of the Interior, shall place priority on acquiring easements based on the value of the easement for protecting wetland and associated areas and enhancing habitat for migratory birds and other wildlife.

"SEC. 1282. DUTIES OF OWNERS; COMPONENTS OF PLAN.

"(a) DUTIES OF OWNERS.—(1) PLAN.—In conjunction with the creation of an easement on any lands under this subtitle, the owner of the farm or ranch wherein such lands are located must agree to implement a natural resource conservation management plan approved by the Secretary in consultation with the Secretary of the Interior.

"(2) AGREEMENT.—In return for the creation of an easement on any lands under this subtitle, the owner of the farm or ranch wherein such lands are located must agree—

"(A) to the creation and recordation of an appropriate deed restriction in accordance with applicable State law to reflect the easement agreed to under this subtitle with respect to such lands;

"(B) to provide a written statement of consent to such easement signed by those holding a security interest in the land;

"(C) to comply with such additional provisions as the Secretary determines are desirable and are included in the easement to carry out this subtitle or to facilitate the practical administration thereof;

"(D) to specify the location of any timber harvesting on land subject to the easement; harvesting and commercial sales of Christmas trees and nuts shall be prohibited on such land, except that no such easement or related agreement shall prohibit activities consistent with customary forestry practices, such as pruning, thinning, or tree stand improvement on lands converted to forestry uses;

"(E) to limit the production of any agricultural commodity on such lands only to production for the benefit of wildlife;

"(F) not to conduct any harvesting or grazing, nor otherwise make commercial use of the forage, on land that is subject to the easement unless specifically provided for in the easement or related agreement, nor adopt any similar practice specified in the easement or related agreement that would tend to defeat the purposes of this subtitle, as determined by the Secretary;

"(G) not to adopt any other practice specified in the easement or related agreement that would tend to defeat the purposes of this subtitle, as determined by the Secretary;

"(3) Violation on the violation of the terms or conditions of such related agreement, the owner shall have the responsibility—

"(i) to refund to the Secretary any cost share payments received by the owner under this subtitle, together with interest thereon as determined by the Secretary, if the Secretary determines that such violation warrants termination of the agreement; or

"(ii) to refund to the Secretary, or accept adjustments to, cost share payments provided under this subtitle as the Secretary determines appropriate, if the Secretary determines that such violation does not warrant termination of the agreement.

"(b) COMPONENTS OF PLAN.—The natural resource conservation management plan referred to in subsection (a)(1), (hereafter referred to as the "plan")—

"(1) shall set forth—

"(A) the conservation measures and practices to be carried out by the owner of the land subject to the easement; and

"(B) the commercial use, if any, to be permitted on such land during the term of the easement; and

"(2) shall provide for the permanent retirement of any existing cropland base and allotment history for such land under any program administered by the Secretary.

"SEC. 1283. DUTIES OF THE SECRETARY.

"In return for the granting of an easement by an owner under this subtitle, the Secretary shall—

"(1) share the cost of carrying out the establishment or reestablishment of conservation measures and practices set forth in the plan for which the Secretary determines that cost sharing is appropriate and in the public interest;

"(2) pay for a period not to exceed 10 years annual easement payments in the aggregate not to exceed the lesser of—

"(A) \$250,000; or

"(B) the value of the land without an easement;

"(3) provide necessary technical assistance to assist owners in complying with the terms and conditions of the easement and the plan; and

"(4) permit the land to be used for wildlife activities, including hunting and fishing, if such use is permitted by the owner.

"SEC. 1284. PAYMENTS.

"(a) TIME OF PAYMENT.—The Secretary shall provide payment for obligations incurred by the Secretary under this subtitle—

"(1) with respect to any cost sharing obligation as soon as possible after the obligation is incurred; and

"(2) with respect to any annual easement payment obligation incurred by the Secretary as soon as possible after October 1 of each calendar year.

"(b) COST SHARING PAYMENTS.—In making cost sharing payments to owners under this subtitle, the Secretary may pay up to 100 percent of the cost of establishing, or reestablishing, conservation measures and practices pursuant to this subtitle.

"(c) EASEMENT PAYMENTS; ACCEPTABILITY OF OFFERS.—(1) DETERMINATION OF AMOUNT.—The Secretary shall determine the amount payable to owners in the form of easement payments under this subtitle, and in making such determination may consider, among other things, the amount necessary to encourage owners to participate in the easement program.

"(2) ACCEPTABILITY OF OFFERS.—In determining the acceptability of easement offers, the Secretary may take into consideration—

"(A) the extent to which the purposes of the easement program would be achieved on the land;

"(B) the productivity of the land; and

"(C) the on-farm and off-farm environmental threats if the land is used for the production of agricultural commodities.

"(d) FORM OF PAYMENT.—Except as otherwise provided in this section, payments under this subtitle—

"(1) shall be made in cash in such amount and at such time as is agreed on and specified in the easement or related agreement; and

"(2) may be made in advance of a determination of performance.

"(e) PAYMENTS TO OTHERS.—If an owner who is entitled to a payment under this subtitle dies, becomes incompetent, is otherwise unable to receive such payment, or is succeeded by another person who renders or completes the required performance, the Secretary shall make such payment, in accordance with regulations prescribed by the Secretary and without regard to any other provision of law, in such manner as the Secretary determines is fair and reasonable in light of all of the circumstances.

"(f) PAYMENT LIMITATION.—(1) IN GENERAL.—The total amount of easement payments made to a person under this subtitle for any fiscal year may not exceed \$50,000.

"(2) REGULATIONS.—The Secretary shall issue regulations—

"(i) defining the term 'person' as used in this subsection, which shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001; and

"(ii) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation contained in this subsection.

"(3) OTHER PAYMENTS.—Easement payments received by an owner shall be in addition to any other payments received by the owner.

tion to, and not affect, the total amount of payments that such owner is otherwise eligible to receive under this Act, the Food and Agricultural Resources Act of 1990, or the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.).

(4) STATE WETLAND AND ENVIRONMENTAL ENHANCEMENT.—The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987 (7 U.S.C. 1308 note), shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special wetland and environmental easement enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to States, political subdivisions, or agencies thereof that the Secretary determines will advance the purposes of this subtitle.

(g) EXEMPTION FROM AUTOMATIC SEQUESTER.—Notwithstanding any other provision of law, no order issued for any fiscal year from 1991 through 2006 under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902), shall affect any payment pursuant to an easement entered into under this subtitle.

SEC. 1285. CHANGES IN OWNERSHIP.

(a) LIMITATIONS.—No easement shall be created under this subtitle on land that has changed ownership in the year preceding the year of such acquisition unless—

(1) the new ownership was acquired by will or succession as a result of the death of the previous owner;

(2) the new ownership was acquired before January 1, 1990; or

(3) the Secretary determines that the land was acquired under circumstances that give adequate assurances that such land was not acquired for the purposes of placing it in the program established by this subtitle.

(b) MODIFICATION; TERMINATION.—(1) **MODIFICATION.**—The Secretary may modify an easement acquired from, or a related agreement with, an owner under this subtitle if—

(A) the current owner agrees to such modification; and

(B) the Secretary determines that such modification is desirable—

(i) to carry out this subtitle;

(ii) to facilitate the practical administration of this subtitle; or

(iii) to achieve such other goals as the Secretary determines are appropriate and consistent with this subtitle.

(2) TERMINATION.—(A) The Secretary may terminate an easement created with an owner under this subtitle if—

(i) the current owner agrees to such termination; and

(ii) the Secretary determines that such termination would be in the public interest.

(B) At least 90 days before taking any action to terminate under paragraph (A) all easements entered into under this subtitle, the Secretary shall provide written notice of such action to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate."

SEC. 1609. ADMINISTRATION OF CONSERVATION PROGRAMS.

(a) DEFINITIONS.—Section 1201(a) of the Food Security Act of 1985 (16 U.S.C. 3801(a)) is amended by striking "subtitles A through E," and inserting "subtitles A through E, H, and I."

(b) COMMODITY CREDIT CORPORATION.—Section 1241 of such Act (16 U.S.C. 3841) is amended—

(1) in subsection (a)(2), by striking "subtitle D," and inserting "subtitles D, H, and I,"; and

(2) in subsection (b), by striking "subtitles (A) through (E)" and inserting "subtitles A through E, H, and I."

(c) USE OF OTHER AGENCIES.—Section 1242 of such Act (16 U.S.C. 3842) is amended—

(1) in subsection (a), by striking "and D," and inserting "D, H, and I,";

(2) in subsection (b)(1), by striking "subtitle D," and inserting "subtitles D, H, and I,"; and

(3) in subsection (b)(2), by striking "subtitle D" and inserting "subtitles D, H, and I."

(d) ADMINISTRATION.—Section 1243 of such Act (16 U.S.C. 3843) is amended—

(1) in subsection (a), by striking "subtitles A through E" and inserting "subtitles A through E, H, and I,";

(2) in subsection (c)—

(A) by striking "subtitles B through E" and inserting "subtitles B through E, and H"; and

(B) by striking "program established by subtitle D" and inserting "programs established by subtitles D and H"; and

(3) by adding the following new paragraphs:

"(d) In making determinations under this title and in conducting appeals from any determination made under this title, the Secretary shall act as expeditiously as possible but shall provide adequate safeguards to protect the interests of the persons involved in such determination.

"(e) The Secretary shall annually review the number and status of appeals pending under this title at the district, area, and state conservationist level, and shall identify those such appeals that have been pending in excess of 120 days. The Secretary shall annually report to Congress the results of such review."

(f) REGULATIONS.—Section 1244 of such Act (16 U.S.C. 3844) is amended—

(1) by inserting "(a)" after "1244,"; and

(2) by adding at the end the following:

"(b) Not later than 180 days after the date of enactment of this subsection, the Secretary shall issue such regulations as the Secretary determines are necessary to carry out subtitles H, and I, including regulations that address, with respect to such subtitles, paragraphs (1), (2), and (3) of subsection (a)."

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 1245 of such Act (16 U.S.C. 3845) is amended by striking "subtitles A through E," and inserting "subtitles A through E, H, and I."

SEC. 1610. OFFICE OF ENVIRONMENTAL QUALITY.

(a) ESTABLISHMENT.—There is hereby established an Office of Environmental Quality in the Department of Agriculture (hereafter in this section also referred to as the "Department"). The Office shall be under the direct authority of the Secretary of Agriculture (hereafter in this section referred to as the "Secretary").

(b) DIRECTOR.—(1) **IN GENERAL.**—The Office shall be administered by a Director who shall be appointed by the Secretary. The Director shall be an individual who has demonstrated technical expertise and experience in agricultural and environmental matters.

(2) POSITION AT EXECUTIVE LEVEL IV.—Section 5315 of title 5, United States Code, is amended by adding at the end the following: "Director of the Office of Environmental Quality."

(c) STAFF.—(1) **APPOINTMENTS.**—The Secretary shall appoint such staff as may be nec-

essary to assist the Director in carrying out this section. Staff shall have professional expertise in matters related to environmental quality including, but not limited to, agricultural production, water quality, wetland, wildlife conservation, soil conservation, and agricultural chemical usage.

(2) LIAISONS.—The Secretary shall request that the Administrator of the Environmental Protection Agency and the Secretary of the Interior detail, on a reimbursable basis, to the Office at least one employee of the Environmental Protection Agency and the Department of the Interior, respectively, with expertise in matters related to agriculture and environmental quality, to serve as a liaison for the Environmental Protection Agency and the Department of the Interior, respectively, with the Department of Agriculture to assist the Director in carrying out the duties of the Director under this section.

(3) ADDITIONAL STAFF.—If the Director determines that additional professional individuals are necessary to carry out the duties under this section, then, upon request of the Director, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Office to assist the Director.

(4) APPOINTMENT DEADLINE.—The Director shall be appointed not later than 60 days after the date of enactment of this Act.

(d) DUTIES.—The Director shall assist the Secretary in developing a departmental and agency-specific environmental quality policy statement and implementation plan and an annual agricultural environmental quality report, as specified in subsection (f). The Director shall coordinate and monitor the activities of the Department regarding initiatives and programs related to environmental quality and the interpretation of departmental policies affecting environmental quality. The Director shall also be responsible for—

(1) recommending to the Secretary environmental protection goals and specific programs, initiatives, and policies that will balance the needs of production agriculture with environmental concerns;

(2) providing advice to the Secretary on the development, implementation, and review of activities of agencies of the Department to ensure consistency with the Department's environmental protection goals;

(3) coordinating environmental policies within the Department, and between the Department and other Federal agencies, regional authorities, State and local governments, land-grant and other colleges and universities, and nonprofit and commercial organizations, regarding programs and actions relating to environmental quality;

(4) serving as a coordinator for the Department's data, information, programs, and initiatives dealing with environmental quality; and

(5) developing the plans and reports required under subsection (f).

(e) COMMITTEE ON ENVIRONMENTAL QUALITY.—(1) **ESTABLISHMENT.**—There is established in the Department the Interagency Committee on Environmental Quality. The Committee shall—

(A) advise the Director on the policies and activities of the agencies of the Department which have an impact on environmental quality; and

(B) provide guidance to the Director on actions the Director should undertake.

(2) MEMBERSHIP.—The members of the Committee shall include the Director and the heads of the Soil Conservation Service, the Agricultural Stabilization and Conser-

vation Service, the Animal and Plant Health Inspection Service, the Agricultural Research Service, the Cooperative State Research Service, the Economic Research Service, the Extension Service, the Forest Service, the Farmers Home Administration, the National Agricultural Statistics Service, and other agencies within the Department deemed appropriate by the Secretary.

(3) **PROCEDURES.**—The Director shall serve as the chair of the Committee. The Committee shall meet at least quarterly.

(4) **LIAISON.**—The members of the Committee shall serve as liaisons between their agencies and the Committee.

(5) **TECHNICAL INTEGRATION GROUPS.**—The Director shall provide for technical integration groups to coordinate the research agendas and priorities of the Department of Agriculture, the United States Geological Survey, the Environmental Protection Agency, the National Oceanic and Atmospheric Agency, the National Fertilizer Development Center of the Tennessee Valley Authority and other appropriate Federal agencies.

(f) **ENVIRONMENTAL QUALITY POLICY STATEMENT, IMPLEMENTATION PLAN, AND ANNUAL REPORT.**—(1) **POLICY STATEMENT.**—(A) The Director shall prepare an Environmental Quality Policy Statement that identifies goals and objectives for addressing the effects of agriculture on environmental quality and is based upon an assessment, in accordance with subparagraph (B), of the current status and level of effort, in terms of staff and funding, of programs at the Department of Agriculture to evaluate, prevent, and mitigate environmental problems that may result from agricultural production subject to the approval of the Secretary. The policy statement shall be revised at least every 5 years.

(B) The assessment under subparagraph (A) shall include—

(i) detailed descriptions of the roles of the respective divisions and services of the Department;

(ii) a description of current efforts to coordinate the individual activities of each of the involved departmental agencies;

(iii) recommendations for precluding any undesirable duplication of effort within the Department and between the Department and other Federal and State programs; and

(iv) specific recommendations for new initiatives in monitoring, research, extension, and technical assistance efforts to address present and potential environmental quality problems.

The assessment may incorporate existing documents and planning processes within the Department.

(2) **IMPLEMENTATION PLAN.**—The Director shall prepare a plan to implement the Environmental Quality Policy Statement and to achieve the specific goals and objectives it includes, subject to the approval of the Secretary. The plan shall include an assessment of the activities of each agency to mitigate or reduce any negative effects of agricultural policies, programs, and practices under their jurisdiction on environmental quality and shall describe in detail new Departmental and agency-specific initiatives intended to achieve the goals and objectives of the policy statement. The plan shall be revised at least every 5 years.

(3) **ANNUAL ENVIRONMENTAL QUALITY REPORT.**—Not later than January 31, 1991, and annually thereafter, the Secretary, through the Director, shall prepare and submit an annual report to the Congress, other appropriate Federal and State agen-

cies, and the public on the progress being made toward the goals and objectives established in the National Environmental Quality Statement. The report shall also include—

(A) a review of the environmental activities and initiatives of the Department during the preceding year;

(B) specific action taken to coordinate the environmental programs of the Department with programs of other Federal agencies and related State programs; and

(C) such recommendations as the Secretary considers appropriate regarding current or additional environmental protection programs, initiatives, or policies that will balance the needs of production agriculture while addressing environmental concerns.

(4) **PRELIMINARY DRAFT.**—The preliminary draft of the implementation plan required under this subsection shall be developed within 300 days after the date of the enactment of this Act and shall then be made available for public comment for a period of at least 30 days. The final report shall be submitted to the Congress, appropriate State and Federal agencies, and the public not later than one year after the date of the enactment of this Act.

SEC. 1611. INTEGRATED FARM MANAGEMENT PROGRAM OPTION.

(a) **ESTABLISHMENT.**—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall, by regulation, establish a voluntary program, to be known as the "Integrated Farm Management Program Option" (hereafter referred to in this section as the "program"), designed to assist producers of agricultural commodities in adopting integrated, multiyear, site-specific farm management plans by reducing farm program barriers to resource stewardship practices and systems. Participants in the program under this section may plant base acres of one program commodity to a crop of another program commodity and maintain base acreage, but not receive payments unless such planted commodity is part of a resource-conserving crop.

(b) **DEFINITIONS.**—(1) **IN GENERAL.**—For purposes of this section—

(A) The term "resource-conserving crop" means legumes, legume-grass mixtures, legume-small grain mixtures, legume-grass-small grain mixtures, and alternative crops.

(B) The term "resource-conserving crop rotation" means a crop rotation that includes at least one resource-conserving crop and that reduces erosion, maintains or improves soil fertility and tilth, interrupts pest cycles, or conserves water.

(C) The term "farming operations and practices" includes the integration of crops and crop-plant variety selection, rotation practices, tillage systems, soil conserving and soil building practices, nutrient management strategies, biological control and integrated pest management strategies, livestock production and management systems, animal waste management systems, water and energy conservation measures, and health and safety considerations.

(D) The term "integrated farm management plan" means a comprehensive, multiyear, site-specific plan that meets the requirements of subsection (e).

(2) **CROPS.**—For purposes of paragraph (1)(A)—

(A) The term "grass" means perennial grasses commonly used for haying or grazing.

(B) The term "legume" means forage legumes (such as alfalfa or clover) or any legume grown for use as a forage or green

manure, but not including any bean crop from which the seeds are harvested.

(C) The term "small grain" shall not include malting barley or wheat, except for wheat interplanted with other small grain crops for nonhuman consumption.

(D) The term "alternative crops" means experimental and industrial crops grown in arid and semi-arid regions that conserve soil and water.

(c) **ELIGIBILITY.**—To be eligible to participate in the program established by this section, a producer must—

(1) prepare and submit to the Secretary for approval an integrated farm management plan (hereafter referred to in this section as the "plan");

(2) comply with the terms and conditions of the plan, as approved by the Secretary; and

(3) keep such records as the Secretary may require.

(d) **CONTRACTS.**—The Secretary shall enter into contracts with producers to enroll acreage in the program. Such contracts shall be for a period of not less than 3 years, but may, at the producer's option, be for a longer period of time up to 10 years.

(e) **REQUIREMENTS OF THE PLANS.**—Each plan approved by the Secretary shall—

(1) specify the acreage to be enrolled in the program;

(2) describe the resource-conserving crop rotation to be implemented and maintained on such acreage during the contract period to fulfill the purposes of the program;

(3) contain a schedule for the implementation, improvement and maintenance of the resource-conserving crop rotation described in the plan;

(4) describe the farming operations and practices to be implemented on such acreage and how such operations and practices could reasonably be expected to result in—

(A) the maintenance or enhancement of the overall productivity and profitability of the farm;

(B) the prevention of the degradation of farmland soils, the long-term improvement of the fertility and physical properties of such soils; and

(C) the protection of water supplies from contamination by managing or minimizing agricultural pollutants if their management or minimization results in positive economic and environmental benefits;

(5) comply with all Federal, State, and local requirements designed to protect soil, wetland, wildlife habitat, and the quality of groundwater and surface water; and

(6) contain such other terms as the Secretary may, by regulation, require.

(f) **ADMINISTRATION; CERTIFICATION; TERMINATION.**—(1) **ADMINISTRATION; TECHNICAL ASSISTANCE; FLEXIBILITY; IMPLEMENTATION; DISPLACEMENT.**—(A) The program shall be administered by the Secretary.

(B) In administering the program, the Secretary, in consultation with the local conservation districts, and the local conservation committee, shall provide technical assistance to producers in developing and implementing plans, evaluating the effectiveness of plans, and assessing the costs and benefits of farming operations and practices. The plans may draw on handbooks and technical guides and may also include other practices appropriate to the particular circumstances of the producer and the purposes of the program.

(C) In administering the program, the Secretary shall provide sufficient flexibility for a producer to adjust or modify the producer's plan to respond to changes in technolo-

gy and farm and market conditions. Any such adjustments or modifications shall be consistent with the purposes of the program and approved by the Secretary.

(D)(i) Notwithstanding any other provision of this section, the Secretary shall implement this section in such a manner as to minimize any adverse economic effect on the agribusinesses and other agriculturally related economic interests within any county, State, or region that may result from a decrease of harvested acres due to the operation of this section. In carrying out this section, the Secretary may restrict the total amount of crop acreage that may be removed from production, taking into consideration the total amount of crop acreage that has, or will be, removed from production under other price support, production adjustment, or conservation program activities.

(ii) The Secretary shall, to the greatest extent practicable, permit producers on a farm that desire to participate in the program authorized under this section to enroll acreage adequate to maximize conservation goals on such farm and ensure economic effectiveness of the program in each individual application.

(E)(i) Any enrollment in this program of land on a farm that results in an average decrease of harvested acres on such farm in excess of 25 percent over the life of such plan as compared to current operations shall be deemed as Conservation Reserve Program acres for the purpose of applying the county limit on acres placed in the reserve.

(ii) To the extent practicable, the Secretary shall not enroll any acreage under this program to the extent that the average amount of cropland removed from production in any county under the plan developed for such acreage over the life of such plan plus the total amount of cropland removed from production in such county under—

(I) the Conservation Reserve Program authorized under section 1231 of the Food Security Act of 1985 (hereafter referred to as the "Conservation Reserve Program"); and

(II) a program authorized under section 101B(c)(1)(B), section 103B(c)(1)(B), section 105A(c)(1)(B), or section 107A(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1441 et seq.) (hereafter in this section referred to as the "Act")

would exceed 25 percent of the total commercial cropland in any such county.

(F) The Secretary shall not approve any plan that will result in the involuntary displacement of farm tenants or lessees by landowners through the removal of substantial portions of the farm from production of a commodity. In the case of any tenant or lessee who has rented or leased the farm (with or without a written option for annual renewal or periodic renewals) for a period of two or more of the immediately preceding years, the Secretary shall consider the refusal by a landlord, without reasonable cause other than simply for the purpose of enrollment in the program, to renew such rental or lease as an involuntary displacement in the absence of a written consent to such nonrenewal by the tenant or lessee.

(2) CERTIFICATION.—The Secretary shall certify compliance by producers with the terms and conditions of the plans.

(3) TERMINATION.—The Secretary may terminate a contract entered into with a producer under this program if—

(A) the producer agrees to such termination, or

(B) the producer violates the terms and conditions of such contract.

(g) PROGRAM RULES.—(1) BASE, YIELD AND PAYMENT PROTECTION.—Notwithstanding any other provision of law, the Secretary shall not, except as provided in paragraph (3), reduce crop acreage bases, farm program payment yields, or farm program payments of participants in the program as a result of their planting a resource-conserving crop as part of a resource-conserving crop rotation.

(2) ADJUSTMENTS IN ACREAGE REDUCTION REQUIREMENTS.—Notwithstanding any other provision of law, the Secretary shall make fair and equitable adjustments in acreage limitation or set-aside requirements applicable to producers participating in the program giving due consideration to crop rotation, soil and water conservation practices, and other appropriate factors resulting from the implementation of plans. If the Secretary determines that the reduction in program crop production and total crop production on a participating farm referred to in the preceding sentence will equal or exceed any reduction in crop production that occurs on the farm as a result of acreage reduction requirements in the absence of participation in the program, the Secretary shall waive or reduce the acreage limitation or set-aside requirement for the farm.

(3) HAYING AND GRAZING RESTRICTION.—The Secretary shall eliminate any program payments a producer is otherwise eligible to receive with respect to acreage enrolled in the program if such producer hays or grazes such acreage during the 5-month period in each State during which haying and grazing of conserving use acres is not allowed under the provisions of the Agricultural Act of 1949, or, if the crop planted on such acreage is a small grain, before the producer harvests the small grain crop in kernel form, whichever is sooner.

(4) The Secretary, only for the purpose of establishing a producer's crop acreage base under the Agricultural Act of 1949, shall make such adjustments as the Secretary determines to be fair and equitable to reflect resource-conserving crop rotation practices that were maintained by producers prior to participation in the program and to reflect such other factors as the Secretary determines should be considered, except that the total of such adjustments in any year shall not exceed the total farm program savings in the same year that would result from the implementation of plans.

(5) PAYMENT ACREAGE LIMITATION.—(A) IN GENERAL.—No producer enrolled in a resource-conserving crop rotation shall receive payments under farm programs for wheat, feed grains, rice, or cotton under the Agricultural Act of 1949 on traditionally under-planted acreage.

(B) DEFINITION.—(i) Subject to clause (ii), for the purposes of this paragraph, the term "traditionally under-planted acreage" means—

(I) the average for the 3 crops prior to the date of enactment of this Act of the acreage that is part of a producer's crop acreage base that is not planted to the program crop, less

(II) the portion of the crop acreage base subject to an acreage limitation program or required to be set aside for the current crop year.

(ii) In the case of producers participating in a program authorized under section 101B(c)(1)(B), section 103B(c)(1)(B), section 105A(c)(1)(B), or section 107A(c)(1)(B) of the Agricultural Act of 1949, the term "traditionally under-planted acreage" means 8 percent of the producer's permitted acreage.

(h) REPORTS.—The Secretary shall submit to the Committee on Agriculture of the

House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, not later than April 1, 1991, and each April 1 thereafter, a report describing the progress of the program that shall include—

(1) a summary and analysis of participation rates, implementation, and economic and environmental impact of the program, by geographical region, farm type, farm size, and other relevant subdivisions;

(2) a description of administration, technical assistance, and certification procedures undertaken to carry out such program; and

(3) such other information as the Secretary deems appropriate.

SEC. 1612. SOIL AND WATER ACTIVITIES.

(a) PURPOSE.—The Congress declares that an additional purpose of the Soil Conservation Service and the Extension Service is to aid in protecting and improving the quality of water.

(b) CONSERVATION PLANS.—The Secretary, when reviewing conservation plans for compliance certification, shall determine the impact that such plans may have on agriculture and water quality planning. The Soil Conservation Service shall complete this determination by January 1, 2000.

(c) ACQUISITION OF WATER INFORMATION THROUGH THE NATIONAL RESOURCES INVENTORY.—The Secretary shall determine within six months after the date of the enactment of this Act whether the national resources inventory can be modified to acquire useful information on water conditions and surface conditions that affect water quality and supply. In making this determination, the Secretary shall consider—

(1) the costs, limitations, opportunities, and capability of expanding the inventory to include water matters; and

(2) whether the natural resources inventory can be integrated with alternative sources of data on water from Federal and State agencies.

(d) ANNUAL REPORT.—The Secretary shall submit an annual report to the Committee on Agriculture of the House of Representatives and to the Committee on Agricultural, Nutrition, and Forestry of the Senate in conjunction with the report required under section 1610(f)(3) of this Act. The report shall specify the—

(1) activities and accomplishments of the Soil Conservation Service during the preceding year, including measures taken to enhance the ability of the Service to address water contamination problems;

(2) plans of the Chief for the subsequent year, including measures expected to be taken to enhance the ability of the Service to address water contamination problems; and

(3) progress made in carrying out the purpose stated in subsection (a).

SEC. 1613. COST SHARING FOR SOIL ENHANCEMENT.

(a) SOIL FERTILITY.—The first paragraph of subsection (b) of section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) is amended by adding after the words "enduring conservation (including energy conservation) and environmental enhancement measures" the following: "and other measures that enhance soil fertility and physical characteristics of the soil".

(b) PLANTING OF LEGUMES.—Section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590l) is amended by adding at the end thereof the following new subsection:

"(h) PLANTING OF LEGUMES.—(1) COST-SHARING.—The Secretary is authorized to enter

into agreements with producers on farms to provide 50 percent cost-sharing assistance for the costs of establishing short-term stands of soil-building legumes and legume-grass mixtures on harvested or reduced acres when applying a resource-conserving crop rotation, except when planted on acres on which farm program payments are received.

"(2) DEFINITION.—As used in this subsection—

"(i) the term 'legumes' means forage legumes, such as alfalfa or clover, and any legume grown for use as a forage or green manure and does not include any bean crop from which the seeds are harvested;

"(ii) the term 'grasses' shall include perennial grasses commonly used for haying or grazing;

"(iii) 'short-term stands of soil building legumes or legume-grass mixtures' shall include those maintained for at least one full growing season, but not more than 2 years.

"(3) OTHER LAND.—Producers shall not be ineligible under this subsection solely because they plant on land eroding at rates less than the tolerable rate.

"(4) DISQUALIFICATION.—Assistance may be denied under this subsection if the local Soil Conservation Service office determines that due to the presence of soil nitrates planting of the legume will result in excessive leaching of nitrates into groundwater.

"(5) HERBICIDES.—Herbicide purchases and applications shall be ineligible for assistance under this subsection."

SEC. 1614. EXTENSION OF GREAT PLAINS CONSERVATION PROGRAM.

Section 16(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)) is amended—

(1) in paragraph (1)—

(A) by striking "September 30, 1991" and inserting "September 30, 2001"; and

(B) by striking "land, and (c)" and inserting "land, (c) enhancing water quality, and (d)"; and

(2) in paragraph (7) by striking "\$600,000,000" and inserting "\$900,000,000".

SEC. 1615. AMENDMENT TO THE WATERSHED PROTECTION AND FLOOD PREVENTION ACT.

Section 3(6) of the Watershed Protection and Flood Prevention Act (16 U.S.C. 1003(6)) is amended by inserting after "recreation resources of" the words "and enhance the water quality of".

SEC. 1616. RESOURCE CONSERVATION AND DEVELOPMENT PROGRAM ELIGIBILITY.

Section 1536 of the Agriculture and Food Act of 1981 (16 U.S.C. 3459) is amended by striking "two hundred and twenty-five" and inserting "450".

SEC. 1617. AMENDMENT TO THE NOXIOUS WEED ACT.

The Federal Noxious Weed Act of 1974 (7 U.S.C. 2801 et seq.) is amended by adding at the end the following:

"SEC. 15. MANAGEMENT OF UNDESIRABLE PLANTS ON FEDERAL LANDS.

"(a) DUTIES OF AGENCIES.—Each Federal agency shall—

"(1) designate an office or person adequately trained in the management of undesirable plant species to develop and coordinate an undesirable plants management program for control of undesirable plants on Federal lands under the agency's jurisdiction;

"(2) establish and adequately fund an undesirable plants management program through the agency's budgetary process;

"(3) complete and implement cooperative agreements with State agencies regarding the management of undesirable plant species on Federal lands under the agency's jurisdiction; and

"(4) establish integrated management systems to control or contain undesirable plant species targeted under cooperative agreements.

"(b) ENVIRONMENTAL IMPACT STATEMENTS.—In the event an environmental assessment or environmental impact statement is required under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) to implement plant control agreements, Federal agencies shall complete such assessments or statements within 1 year after the requirement for such assessment or statement is ascertained.

"(c) COOPERATIVE AGREEMENTS WITH STATE AGENCIES.—(1) IN GENERAL.—A Federal agency shall enter into cooperative agreements with State agencies to coordinate the management of undesirable plant species on Federal lands.

"(2) CONTENTS OF PLAN.—A cooperative agreement entered into pursuant to paragraph (1) shall—

"(A) prioritize and target undesirable plant species or group of species to be controlled or contained within a specific geographic area;

"(B) describe the integrated management system to be used to control or contain the targeted undesirable plant species or group of species; and

"(C) detail the means of implementing the integrated management system, define the duties of the Federal agency and the State agency in prosecuting that method and establish a timeframe for the initiation and completion of the tasks specified in the integrated management system.

"(d) EXCEPTION.—This section does not require a Federal agency to carry out programs on Federal lands if there are no such programs being implemented on State or private lands.

"(e) DEFINITIONS.—As used in this section:

"(1) COOPERATIVE AGREEMENT.—The term 'Cooperative Agreement' means a written agreement between a Federal agency and a State agency entered into pursuant to this section.

"(2) FEDERAL AGENCY.—The term 'Federal agency' means a department, agency, or bureau of the Federal Government responsible for administering or managing Federal lands under its jurisdiction.

"(3) FEDERAL LANDS.—The term 'Federal lands' means lands managed by or under the jurisdiction of the Federal Government.

"(4) INTEGRATED MANAGEMENT SYSTEM.—The term 'integrated management systems' means a system for the planning and implementation of a program, using an interdisciplinary approach, to select a method for containing or controlling an undesirable plant species or group of species using all available methods, including—

"(A) education;

"(B) preventive measures;

"(C) physical or mechanical methods;

"(D) biological agents;

"(E) herbicide methods;

"(F) cultural methods; and

"(G) general land management practices such as manipulation of livestock or wildlife grazing strategies or improving wildlife or livestock habitat.

"(5) INTERDISCIPLINARY APPROACH.—The term 'interdisciplinary approach' means an approach to making decisions regarding the containment or control of an undesirable plant species or group of species, which—

"(A) includes participation by personnel of Federal or State agencies with experience in areas including weed science, range science, wildlife biology, land management, and forestry; and

"(B) includes consideration of—

"(i) the most efficient and effective method of containing or controlling the undesirable plant species;

"(ii) scientific evidence and current technology;

"(iii) the physiology and habitat of a plant species; and

"(iv) the economic, social, and ecological consequences of implementing the program.

"(6) STATE AGENCIES.—The term 'State agency' means a State department of agriculture, or other State agency or political subdivision thereof, responsible for the administration or implementation of undesirable plants laws of a State.

"(7) UNDESIRABLE PLANT SPECIES.—The term 'undesirable plants' means plant species that are classified as undesirable, noxious, exotic, injurious, or poisonous, pursuant to State or Federal law. Designation of undesirable plants under this section is limited by the Endangered Species Act, and shall not include plants indigenous to an area where control measures are to be taken under this section.

"(f) DIRECTION TO SECRETARY.—The Secretary of Agriculture shall exercise the authority granted in this Act to control the spread of undesirable plants as a result of transporting seeds or commodities to or from Federal lands."

AMENDMENTS EN BLOC OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. DE LA GARZA: 1. Section 1601(c)(5), strike subparagraph (D).

2. Section 1601, add at the end of the following new subsection:

(e) EXCEPTION.—Section 1212 of the Food Security Act is amended by adding at the end the following new subsection:

"(f)(1) Except to the extent provided in paragraph (2), no person shall become ineligible under section 1211 for program loans, payments, and benefits as a result of the failure of such person to actively apply a conservation plan that documents the decisions of such person with respect to location, land use, tillage systems, and conservation treatment measures and schedules prepared under subsection (a), if the Secretary—

"(A) determines that such person has—

"(i) not violated the provisions of section 1211 within the previous 5 years on a farm; and

"(ii) acted in good faith and without the intent to violate the provisions of this subtitle;

"(B) determines that such failure is due to circumstances beyond the control of the producer; or

"(C) grants the producer a temporary variance from the practices specified in the plan for the purpose of handling a specific problem.

"(2) If the Secretary determines that a person who has failed to comply with the provisions of section 1211 meets the requirements of paragraph (1), the Secretary shall, in lieu of applying the ineligibility provisions in section 1211, reduce by not less than \$375 nor more than \$2,500, depending on the seriousness of the violation as determined by the Secretary, program benefits described in section 1211 that such producer would otherwise be eligible to receive in a crop year.

"(3) Any person whose benefits are reduced in any crop year under this subsection shall continue to be eligible for all of the benefits described in section 1211 for any subsequent crop year if, prior to the beginning of such subsequent crop year, the Secretary determines that such person is actively applying a conservation plan prepared under subsection (a) according to the schedule set forth in such plan."

3. Section 1603(b), strike the period at the end of the subsection and insert "; and"; and insert at the end the following:

(4) by adding at the end the following new subsection:

"(f) INFORMATION CONCERNING FLEXIBILITY.—The Secretary, in providing assistance to an individual in the preparation or revision of a conservation plan under this section, shall provide such individual with information concerning crop flexibility, base adjustment, and conservation assistance options that may be available to such individual to meet the requirements of this section, including, but not limited to, the provisions of sections 1121, 1603, 1605, 1611, 1613, and 1614 of the "Food and Agricultural Resources Act of 1990."

4. Section 1609, add at the end the following new subsection

(g) Monitoring and Evaluation.—Subtitle E of title XII of the Food Security Act of 1985 (16 U.S.C. 3841) is further amended by adding after section 1246 the following new section:

"SEC. 1247. MONITORING AND EVALUATION.

"(a) IN GENERAL.—Not later than December 31, 1992, and each year thereafter, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a comprehensive report that evaluates, in accordance with subsection (b), the programs and policies established and operated under this title.

"(b) REQUIREMENTS.—In conducting the evaluations required under subsection (a), the Secretary shall—

"(1) assess the progress made toward the national objective of nondegradation of the soil resources through the implementation of the relevant provisions of this title, identify obstacles to the attainment of such goal, and recommend manners in which to overcome such obstacles;

"(2) perform on-site evaluations of 5 percent, or such reasonable amount as necessary to produce a statistically valid survey, of all affected acreage of—

"(A) conservation practices on highly erodible lands;

"(B) estimates of erosion reductions that may result from the implementation of conservation plans; and

"(C) the technical adequacy and feasibility of such plans; and

"(3) collect data concerning the social and economic impacts, violations, appeals, and such other matters under this title as the Secretary determines to be necessary to assess the overall impact of this title. Such data collection shall not impose an additional recordkeeping or reporting requirement on the producer.

"(C) REPORT.—The Secretary shall prepare an annual report that shall contain a summary of the results of the monitoring and evaluation conducted under this section.

5. Page 821, after line 17, insert the following:

"(4) CONSERVATION PRIORITY AREAS.—(A) Upon application by the appropriate State

agency, the Secretary shall designate watershed areas of the Chesapeake Bay Region (Pennsylvania, Maryland, and Virginia), the Great Lakes Region, the Long Island Sound Region, and other areas of special environmental sensitivity as conservation priority areas.

"(B) Watersheds eligible for designation under subparagraph (A) shall include areas with actual and significant adverse water quality or habitat impacts related to agricultural production activities.

"(C) Conservation priority area designation under subparagraph (A) shall expire after 5 years, subject to redesignation, except that the Secretary may withdraw a watershed's designation—

"(i) upon application by the appropriate State agency; or

"(ii) in the case of areas specified in subparagraph (B), if the Secretary finds that such areas no longer contain actual and significant adverse water quality or habitat impacts related to agricultural production activities."

6. Page 825, line 3, strike "and"; and insert ";"; and insert after line 3 the following:

(3) by striking the period at the end of paragraph (3) and inserting "; and"; and

(4) by adding the following at the end:

"(4) maximize water quality and habitat benefits by ensuring that program participation in each conservation priority area is equal to at least 50 percent of the national average rate of program participation measured by the ratio of participating acres to eligible acres, which the Secretary may accomplish by—

"(A) providing a one-time cash bonus or an annual rental premium to eligible owners or operators;

"(B) accepting filter strips of less than 66 feet but not less than 25 feet;

"(C) entering into contracts for not less than 5, and not more than 15 years;

"(D) paying up to 50 percent of the costs of establishing conservation measures and practices as provided for in section 1234(b); or

"(E) promoting program participation in any other fashion that the Secretary deems appropriate that is consistent with the purposes of this title."

7. On page 824, after line 18, insert the following:

(4) Section 1232(a)(6) of the Act is further amended by inserting before "agrees with the Secretary" the phrase "is the United States, a State or local government or an agency of the United States, a State or local government, or"

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, these are amendments to the conservation title basically dealing with the highly erodible land package, conservation priority areas, CRP lands and sale to Government entities. Our amendments, as had been stated before, are in agreement with all concerned.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. Mr. Chairman, I am happy to yield to the gentleman from Oklahoma.

Mr. ENGLISH. Mr. Chairman, I thank the chairman for yielding to me.

Mr. Chairman, I want to say that I do support the amendments en bloc that the chairman is offering.

I know that when we began this year there was much speculation with regard to the farm bill, the controversy surrounding environmental proposals dealing with the conservation section of this bill. We were extremely pleased that working over several months we were able to reach an agreement with environmental groups, with the agricultural commodity groups, something I think many people thought would be a near impossibility. But we did reach a satisfactory agreement and, as such as we come here tonight, we find that there is little controversy in the section. In fact, most of the amendments have been worked out and will be included in the Chairman's en bloc proposal.

I want to thank and commend both the agriculture commodity groups and environmental groups for their cooperation in reaching this understanding and this agreement.

I would, however, like to engage the distinguished chairman of the committee in a colloquy regarding the definition of wetland. Is it not true, Mr. Chairman, that the committee recognized there had been considerable confusion and controversy generated by attempts to apply the provisions of the swampbuster subtitle of the 1985 Food Security Act?

Mr. DE LA GARZA. That is correct. The committee found it necessary to restate the definition of wetland in order to impress on the Department of Agriculture that wetland possesses three essential characteristics: hydrophytic vegetation, hydric soils and wetland hydrology. And the Committee intends that the three criteria must all be met for an area to be identified as wetland for all purposes of the swampbuster section of this bill.

Mr. ENGLISH. It is my understanding that the committee's intention continues to be that an agricultural area cannot be designated a wetland on the basis of a single one of those criteria but that all three must be satisfied. Is that correct?

□ 1930

Mr. DE LA GARZA. Mr. Chairman, the gentleman is correct. The committee intends that all three characteristics must be present to arrive at a wetland designation, unless interrupted by temporary weather conditions or if hydrophytic vegetation has been removed by farming or ranching practices. I might further state that the committee does not intend that land

subject to infrequent flooding or occasional, brief pooling such as from abnormally heavy rains or snowmelt be construed to meet the hydrological requirements of a wetland. The committee also recognizes that normal farming practices will often remove hydrophytic vegetation, but the committee intends that when a wetland designation is made for an area being farmed, determination must be made that hydrophytic vegetation would have been present except for the disturbance.

Mr. ENGLISH. Is my understanding correct that in certain conditions, the committee intends that an onsite visit must occur before wetland decisions may be made?

Mr. DE LA GARZA. The gentleman's understanding is correct. The Secretary of Agriculture is directed to delineate wetland on a map and to make a reasonable effort to make an onsite wetland determination whenever requested by an owner or operator. In addition, the committee intends that the Secretary conduct an onsite visit of the subject land prior to withholding any program benefits under the swampbuster provisions.

Mr. ENGLISH. Mr. Chairman, if the gentleman from Texas [Mr. DE LA GARZA] would continue to yield, I also want to commend the ranking minority member, the gentleman from Missouri [Mr. COLEMAN], for the fine contributions made in working out this agreement, as well as all of the members of the Committee on Agriculture for their cooperation. I think that the conservation section of this farm bill is one that strikes a real balance between meeting the environmental requirements and needs of this Nation, as well as the agricultural and farming needs.

Mr. Chairman, I certainly want to commend the chairman and the gentleman from Illinois [Mr. MADIGAN], the ranking minority member, for the fine effort they have put forth as well.

Mr. DYSON. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. Mr. Chairman, I yield to the gentleman from Maryland.

Mr. Chairman, my amendment which is a part of the chairman's en bloc amendments will create a pilot program for reducing the stress on environmentally sensitive waterways caused by agriculture runoff.

The program will encourage greater participation in the conservation reserve program in areas that have participation rates less than half the national average and where local waters are extremely sensitive to agricultural runoff.

This amendment makes special reference to areas like the Chesapeake Bay region and the Great Lakes region. But no region of the country is excluded from this pilot program.

Mr. Chairman, the more farm acreage that we can enroll in the CRP Program in these areas, the more we can expect improvements in the local water quality.

It's that simple. The program works by reducing the flow of excess fertilizer, pesticides and herbicides into surface waters.

And as we reduce the nutrient and chemical flow into these waters, natural processes will help restore living resources and improve water quality.

Mr. Chairman, I am offering this amendment because many areas of environmental concern lack a normal participation rate.

For example, at the last CRP sign-up period, the State of Maryland had about 17,000 acres in the program, or about nine-tenths of 1 percent participation rate.

Pennsylvania had about 93,000 acres under the program, or about 1.6 percent of all of Pennsylvania's farmlands.

In Virginia, there were about 74,000 acres in the CRP Program, or about 1.9 percent of Virginia's farmland acreage.

Mr. Chairman, the national average for participation in the conservation reserve program is about 7.3 percent of a State's farm land.

Across the country, Mr. Chairman, there are rivers, lakes, and bays that have suffered from decades of neglect and abuse. We have taken strides to reduce industrial, residential and municipal impacts on these waters.

We have encouraged the agricultural community to become more attentive to the affects of modern farming practices.

It's working Mr. Chairman. But we need to increase the CRP participation rates for farmers in low-participation areas where water quality is a pressing concern.

That's what my amendment achieves, and I believe that it will add a powerful tool to local and regional campaigns to revitalize embattled waters.

For example, 13 million people live in the Chesapeake Bay watershed. They are straining the ecosystem of the bay area.

With this pilot program, we can ease some pressure on these kinds of ecosystems and increase water quality environmentally sensitive watershed.

Mr. Chairman, let me make these points clear.

The amendment directs the Secretary in persuasive but nonbinding language to increase CRP acreage in environmental sensitive areas.

The amendment gives him freedom to accomplish these goals without binding him financially.

The amendment gives millions of U.S. citizens better water quality by controlling harmful agriculture runoff.

And perhaps most important, the amendment allows farmers to become part of a very important cleanup process and not become unduly burdened by doing so.

If you are a friend to the farmer, if you are concerned for the impact of agricultural runoff on sensitive waterways, and if you are interested in improving the effective programs that encourage environmentally sound farm practices, I urge you to support my amendment.

The CHAIRMAN. The question is on the en bloc amendments offered by the gentleman from Texas [Mr. DE LA GARZA].

The amendments en bloc were agreed to.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I wish to speak in favor of the amendment just adopted. I would yield to my distinguished, charming colleague, the gentleman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in support of the Chairman's en bloc amendments to this title.

I particularly want to emphasize to my colleagues the importance of the amendment proposed by the gentleman from Maryland [Mr. DYSON] and my perfecting amendment thereto. The Dyson amendment will encourage increased participation in the conservation reserve program by farmers in watersheds in environmentally sensitive regions including specifically the Chesapeake Bay, the Great Lakes, and the Long Island Sound. This is extremely important because it offers yet another tool in the battle against nonpoint source pollution which is severely threatening these bodies of water which are very valuable resources to all Americans.

According to the Long Island Sound Study's 1988 Annual Report, about 25,000 tons of nitrogen enter the Sound yearly from area rivers; an additional 5,000 tons from nonpoint sources directly enter the sound. Agricultural activity along the Connecticut River which accounts for over 70 percent of the freshwater flow into the sound is a significant component of the nitrogen overload that contributes to hypoxia. As my colleagues know, hypoxia, is a condition that develops when the level of dissolved oxygen in the water drops to less than 3 parts per million. The result of hypoxia is significant fish kills in the Long Island Sound. Other rivers, including the Quinnipiac which is very close to the hypoxic zone of the Sound, also are adjacent to agricultural activities that add to the nonpoint source problem which ultimately reaches the Sound.

The hypoxia problem is a serious one for America's waterways and this

proposal is a constructive step toward addressing one of the root causes of hypoxia. I appreciate the support the Agriculture Committee is giving to the Dyson amendment and my amendment thereto which added the Long Island Sound region to those eligible for designation as conservation priority areas.

I urge my colleagues to approve this package of amendments.

Mr. GIBBONS. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my distinguished friend, the gentleman from Florida.

Mr. GIBBONS. Mr. Chairman, as the distinguished chairman and ranking member of the subcommittee know, we are now engaged in a multi-lateral trade negotiation in which agriculture is one of the principal subjects being discussed in that negotiation, which, if it is successful, would vastly increase the opportunity for American agricultural products to be sold around the world by reducing trade barriers in other countries.

Mr. Chairman, we are undertaking this 5-year bill at this time. Some countries have raised a question as to whether or not we are taking agriculture out of the negotiations. I have tried to assure them that we will negotiate, as we have in the past, on these subject matters, knowing that we cannot predict the outcome of them. But this bill in no way signifies that we are not willing to negotiate, and we are not trying to take agriculture off the table as a legitimate bargaining matter.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the distinguished ranking minority member, the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding. I would like to say to the distinguished gentleman from Florida [Mr. GIBBONS] that I am a supporter of the U.S. position on the GATT negotiations as they relate to agriculture. It would be my hope that the U.S. position would prevail, and over a 10-year period that all subsidies of agriculture would be phased out by all the GATT signatory nations.

Mr. Chairman, if that should come to pass, and it is my hope that it will come to pass, I certainly would be anxious and willing to revisit any provisions in this bill that would be required to be revisited as a result of those negotiations being successful.

Mr. Chairman, I thank the gentleman from Florida [Mr. GIBBONS] for bringing that to our attention.

Mr. GIBBONS. Mr. Chairman, I thank the gentleman from Illinois [Mr. MADIGAN] for his very fine statement.

Mr. DE LA GARZA. Mr. Chairman, reclaiming my time, let me state to my friend that I have visited personally with all of the principals negotiating both in Brussels and in Geneva, and I have told all of them and have stated publicly and privately that what we are doing here is for the reasons that we need to do it here, and that it is on a parallel course, separate and apart from the negotiations in Geneva.

Mr. Chairman, our legislation runs out at the end of September. So all of them can be assured and take heed from our word that it is in no way incompatible with the position of the administration, with what the administration is trying to arrive at at Geneva. Our committee has been and my public commitment, should I be chairman, has been that we in no way wanted to interfere. We in no way wanted to send a message or signal. They should do their thing for the reasons that need to be done there, and we should do our thing here for the reasons we need to do it here, and that when and if they arrive, and I hope they do, at some conclusion in Geneva, hopefully favorable to the endeavor of the administration, that we would be happy to revisit any section of this legislation that might be addressed or could be enhanced from the final resolution in Geneva.

Mr. FRENZEL. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to my friend the gentleman from Minnesota.

Mr. FRENZEL. Mr. Chairman, I have been and am one of those who believe it would be unwise to create a new bill while we were negotiating in Geneva. However, I am vastly cheered by the statement of the distinguished chairman and the distinguished vice chairman about our intentions to tailor our future policies toward the results of the Uruguay round negotiations.

I think if I can suggest to the distinguished gentleman from Florida [Mr. GIBBONS], that while we reassure our friends abroad with whom we are negotiating of the purity of the intentions of the Committee on Agriculture leadership, we ought to tell our friends in Europe that they have given us no signs that they are willing to be as forthcoming as the leadership on our Committee on Agriculture, and that we can use a little help on their side of the ocean as well.

Mr. GIBBONS. The gentleman from Minnesota [Mr. FRENZEL] is absolutely correct.

The CHAIRMAN. Are there other amendments to title XVI?

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: At the end of title XVI add:

Sec. 1620. STUDY OF THE EFFECTS OF CONSERVATION COMPLIANCE PROVISIONS ON CHEMICAL USE AND GROUNDWATER DEGRADATION.

(a) ESTABLISHMENT.—The Secretary shall establish a research program to study the effects of conservation compliance provisions on the use of agricultural chemicals by farmers and the resulting impact on groundwater quality.

(b) PURPOSE.—(1) To determine if conservation compliance requirements are causing increased use of agricultural chemicals.

(2) If conservation compliance requirements are found to cause increased use of agricultural chemicals; is this increase cause degradation of groundwater quality and the environment generally.

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Mr. Chairman, this amendment would basically establish a research program to study the effects of conservation compliance on the use of agricultural chemicals by farmers and the resulting impact on groundwater quality. Having been advised that in fact there is a substantial section on this very subject, the author being my colleague and neighbor, the gentleman from Iowa [Mr. GRANDY], I would like to engage in a brief colloquy with him.

Mr. Chairman, I would ask the gentleman, my understanding is that section 1618, which establishes the Office of Environmental Quality, while it is more generally describing this function, is in fact doing what this gentleman's amendment proposed to do.

Mr. Chairman, I would ask if the gentleman from Iowa [Mr. GRANDY] would enlighten me on that.

□ 1940

Mr. GRANDY. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I yield to the gentleman from Iowa.

Mr. GRANDY. Mr. Chairman, I would direct the gentleman to section 1610 of this title which does establish the Office of Environmental Quality. On page 875 of the legislation the duties of the Director of the Office of Environmental Quality are set forth, and if I understand what the gentleman intends to do in his amendment, I believe they are covered under the specific requirements for the Director of the Office of Ground-Water Policy. Let me just list these for the gentleman and hopefully his concerns will be addressed by these particular portions of this section.

The Director shall also be responsible for—

(1) recommending to the Secretary environmental protection goals and specific pro-

grams, initiatives, and policies that will balance the needs of production agriculture with environmental concerns;

(2) providing advice to the Secretary on the development, implementation, and review of activities of agencies of the Department to ensure consistency with the Department's environmental protection goals;

(3) coordinating environmental policies within the Department, and between the Department and other Federal agencies, regional authorities, State and local governments, land-grant and other colleges and universities, and nonprofit and commercial organizations, regarding programs and actions relating to environmental quality;

(4) serving as a coordinator for the Department's data, information, programs, and initiatives dealing with environmental quality; and

(5) developing the plans and reports required under subsection (f).

I might add parenthetically there is also language elsewhere in the legislation that will coordinate all of these activities with the various State agencies around the United States and develop a data bank. So it is my understanding that this newly created office would be addressing the gentleman's concerns which I know deal with carbon tetrachloride in Nebraska. And it is my understanding, and certainly the intent of this legislation to address these concerns under this newly established office.

Mr. BEREUTER. I thank the gentleman. My amendment was attempting to deal with a variety of agricultural chemicals and the pollution caused by them as well as other sources, and the gentleman is to be commended for his outstanding work on this section and the latest section of the bill.

Mr. GRANDY. If the gentleman will yield further, I would just add in addition to this office there is an Environmental Quality Committee that is empowered to integrate with other departments within the Federal Government, particularly the U.S. Geological Survey and the EPA and others to address those concerns that might not fall specifically under the jurisdiction of the Department of Agriculture.

Mr. BEREUTER. Mr. Chairman, I thank the gentleman from Iowa for that explanation and assurance, and very much appreciate it.

Mr. GRANDY. This amendment would direct the Secretary of Agriculture to study an issue that is of major concern to my constituents; that of the impact increased use of Agricultural chemicals may have on ground-water quality. Conservation compliance provisions were designed to protect a very important natural resource, the fertile soil which has enabled this country to become the breadbasket for the world. In our effort to protect this important resource, we may be seriously damaging another very vital resource, our water.

Mr. Chairman, a majority of rural residents rely on ground-water for drinking. In many areas of Nebraska, the only viable method farmers have to implement conservation compliance requirements is reducing tillage and increasing chemical use. The magnitude of the

increase in chemical useage must be documented so that negative impacts on surface and ground-water quality and the environment generally can be understood. This information is crucial to ensure that the health of rural residents, dependant upon ground-water, is protected.

This Member would urge members of the Agriculture Committee to support this amendment to identify the potential negative consequences of provisions passed by this body so that improved methods of reducing soil erosion can be developed if necessary. Since my distinguished colleague and neighbor from Iowa, Mr. GRANDY, has through his effort in fashioning section 1610 and his assurance that the intent of this amendment is covered by the duties assigned to the Office of Environmental Quality, this Member requests unanimous consent to withdraw the amendment.

Amendment to H.R. 3950, offered by Mr. BEREUTER: At the end of title XVI add:

SEC. 1620. STUDY OF THE EFFECTS OF CONSERVATION COMPLIANCE PROVISIONS ON CHEMICAL USE AND GROUNDWATER DEGRADATION.

(a) ESTABLISHMENT.—The Secretary shall establish a research program to study the effects of conservation compliance provisions on the use of agricultural chemicals by farmers and the resulting impact on ground-water quality.

(b) PURPOSE.—(1) To determine if conservation compliance requirements are causing increased use of agricultural chemicals.

(2) If conservation compliance requirements are found to cause increased use of agricultural chemicals; is this increase cause degradation of groundwater quality and the environment generally.

Mr. BEREUTER. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

AMENDMENT OFFERED BY MR. BEREUTER

Mr. BEREUTER. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BEREUTER: In title XVI:

At the end of Sec. 1604, add the following subsections: "(e) FEDERAL FARM COMMODITY PROGRAM ACREAGE BASE PROTECTION.—This subsection shall apply to subsection (b) and (c)—Notwithstanding title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the historical acreage base of a farm shall not be reduced as the result of planting cropland to indigenous trees, shelterbelts, windbreaks, wildlife corridors, or filter strips for the purpose of protecting crops, livestock or the reduction of soil and water erosion.

(f) NATIONAL GOALS FOR WINDBREAKS, SHELTERBELTS, WILDLIFE CORRIDORS, AND SUSTAINABLE AGROFORESTRY SYSTEMS.

(1) SHELTERBELTS, WINDBREAKS, WILDLIFE CORRIDORS OR FILTER STRIPS.—The Secretary shall, within one year after the date of enactment of this Act, establish a national goal of, and begin implementation programs for developing by December 31, 2001, 50,000 linear miles of additional shelterbelts, windbreaks, wildlife corridors or filter strips.

(2) SUSTAINABLE AGROFORESTRY SYSTEMS.—The Secretary shall, within one year after the date of enactment of this Act, establish

a national goal and implementation program to convert, to the extent practicable, at least 12,000,000 acres of highly erodible lands to sustainable agroforestry systems by December 31, 2001."

In Sec. 1604, subsection (b), page 835, line 8, following "nutrient needs," insert "supplemental watering."

In Sec. 1604, at the end of subsection (b) add the following "(3) SUPPLEMENTAL WATERING.—Cost share assistance for supplemental watering shall only be available in semi-arid areas where annual average rainfall (as determined by the Secretary) is 25 inches or less."

At the end of title 16, add the following Sections:

"SEC. 1618. ESTABLISHMENT OF SHELTERBELTS OF WINDBREAKS UNDER AGRICULTURAL CONSERVATION PROGRAM.

The third paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by adding at the end the following new sentence: "Notwithstanding the preceding provisions of this paragraph, if an agricultural producer establishes or restores a shelterbelt or windbreak, the amount of financial assistance provided under this subsection shall be—

(i) during the 1-year period beginning on the date of the establishment or restoration of the shelterbelt or windbreak—

(I) 80 percent of the cost of establishing or restoring the shelterbelt or windbreak; and

(II) if the shelterbelt or windbreak is part of an approved wind erosion control system that is included in the conservation compliance plan of the producer, an additional 10 percent of the cost of establishing or restoring the shelterbelt or windbreak; and

(ii) during the subsequent 3-year period, at least 50 percent of the cost of maintaining the shelterbelt or windbreak, including the cost of weed control, supplemental watering, livestock fencing, and rodent control."

SEC. 1619. ESTABLISHMENT OF SHELTERBELTS OR WINDBREAKS UNDER GREAT PLAINS CONSERVATION PROGRAM.

The last paragraph of section 16(b)(1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p(b)(1)) is amended by adding at the end of the following new sentence: "Notwithstanding the preceding provisions of this paragraph, if an agricultural producer establishes or restores a shelterbelt or windbreak, during the 3-year period following the contract year during which the shelterbelt or windbreak is established or renovated, the amount of financial assistance provided under this subsection shall be at least 50 percent of the cost of weed control, supplemental watering, livestock fencing, and rodent control."

Mr. BEREUTER (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. BEREUTER. Mr. Chairman, I want to expedite the procedure because the hour is late. It is my understanding in visiting with the gentleman from Oklahoma, the chairman of the subcommittee, and the gentleman

from Missouri [Mr. COLEMAN], that they have no apparent objections with the direction of the amendment that I have offered. But they pointed out to me something that I have known, unfortunately, and that is the ACP Program and the Great Plains Conservation Program are inadequately funded to meet the demand upon these excellent programs. I expressed my intent to assist these gentlemen with the authorization of appropriations for these programs and hope that in the future the program may be extended for the purposes that I have in mind, because it is aimed at agroforestry in the Great Plains, the semiarid portions of the country where we need to have additional shelter belts and trees planted.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. BEREUTER. I am pleased to yield to the chairman of the subcommittee for any comments that he might make.

Mr. ENGLISH. Mr. Chairman, I appreciate the gentleman yielding and simply want to say certainly I am in agreement with the thrust of the gentleman's amendment. I think it is desperately needed, there is no question about it.

Unfortunately, we find two programs, the ACP Program and the Great Plains Programs, that are not able to meet their present needs, and placing additional demands on those two programs obviously would result in even more difficulty for them to reach those goals. I appreciate the gentleman's cooperation, and we will try to work with him and see if we cannot come up with some funds to meet this very important need.

Mr. BEREUTER. I thank the chairman for that assurance, and I look forward to working with him on the legislation in the future, and on its appropriateness.

Mr. Chairman, the Conservation Forestry Act of 1990, H.R. 4584, which this Member introduced during the last week of April, would promote the planting of trees in semiarid climates. This Member would like to thank the chairman of the committee, the leadership of the Committee on Agriculture for incorporating a number of the provisions of H.R. 4584 into the conservation title approved in H.R. 3950 by the Agriculture Committee. H.R. 4584 was developed by this Member with the understanding that establishing windbreaks and shelterbelts in areas with less than 25-inch annual rainfall is often difficult, time consuming, and expensive. Tree planting results in many environmental and conservation goals being met, as well as providing economic benefit for crop and livestock production.

The amendment this Member has offered to section 1604, subsection (e), tonight would direct the Secretary not to reduce farm-acreage base if a producer plants trees to establish shelterbelts, windbreaks filterstrips on highly erodible land. This amendment does not change the program, it simply protects his-

torical base and would simply act as an additional incentive to plant trees.

Other parts of this amendment would establish national goals for the planting of trees in shelterbelts, windbreaks, wildlife corridors and filterstrips. Goals for establishing sustainable agroforestry systems on highly erodible land would also be established. Agroforestry systems is defined as: An integrated system that would stabilize and enhance crop yields and livestock production while fully protecting soil and water resources under highly variable climatic conditions. The importance of these goals is illustrated by the following points:

The Great Plains contains 71.5 percent of U.S. cropland where wind erosion is in excess of 5 tons/acre/year.

The estimated value of the existing 1 million acres of field and farmstead windbreaks in the Great Plains is \$700 million per year.

Only 3.5 percent of the highly wind-erodible land in the Great Plains is protected by windbreaks.

Current trends have led to projections of a continued net loss of 0.4 percent per year of windbreaks in the Great Plains.

Conversion of 12 million acres of highly erodible CRP land in the Great Plains to agroforestry systems has an average benefit-cost ratio of 170 and a net present value, 4 percent, of \$10.88 billion. At the present time only 20,500 acres, 0.13 percent, of CRP land is enrolled in three planting options.

The remainder of this amendment would modify the Agricultural Conservation Program and the Great Plains Conservation Program so that these programs will better meet the needs of low rainfall areas of the United States. The changes would promote tree planting and support the maintenance of shelterbelts and windbreaks for the first 3 years after establishment. This period is the most critical for the successful establishment of trees in low rainfall areas.

All parts of this amendment would promote the planting of trees and further the many benefits associated with trees. These changes are consistent with President Bush's the America the Beautiful initiative and his goals of planting more trees throughout America.

This Member urges his colleagues to support these efforts in the future, as resources permit, to promote the planting of trees. Also this Member wants to express appreciation for the support, encouragement, and technical assistance offered to him by State foresters from several Great Plains states and from respected leaders within the U.S. Forest Service.

Agroforestry amendments to H.R. 3950, as reported offered by Mr. BEREUTER of Nebraska: In title XVI:

At the end of Sec. 1604, add the following subsections: "(e) FEDERAL FARM COMMODITY PROGRAM ACREAGE BASE PROTECTION.—This subsection shall apply to subsection (b) and (c)—Notwithstanding title V of the Agricultural Act of 1949 (7 U.S.C. 1461 et seq.), the historical acreage base of a farm shall not be reduced as the result of planting cropland to indigenous trees, shelterbelts, windbreaks, wildlife corridors, or filter strips for the purpose of protecting crops, livestock or the reduction of soil and water erosion.

(f) NATIONAL GOALS FOR WINDBREAKS, SHELTERBELTS, WILDLIFE CORRIDORS, AND SUSTAINABLE AGROFORESTRY SYSTEMS.—

(1) SHELTERBELTS, WINDBREAKS, WILDLIFE CORRIDORS OR FILTER STRIPS.—The Secretary shall, within one year after the date of enactment of this Act, establish a national goal of, and begin implementation programs for developing by December 31, 2001, 50,000 linear miles of additional shelterbelts, windbreaks, wildlife corridors or filter strips.

(2) SUSTAINABLE AGROFORESTRY SYSTEMS.—The Secretary shall, within one year after the date of enactment of this Act, establish a national goal and implementation program to convert, to the extent practicable, at least 12,000,000 acres of highly erodible lands to sustainable agroforestry systems by December 31, 2001."

In Sec. 1604, subsection (b), page 835, line 8, following "nutrient needs," insert "supplemental watering."

In Sec. 1604, at the end of subsection (b) add the following "(3) Supplemental Watering.—Cost share assistance for supplemental watering shall only be available in semi-arid areas where annual average rainfall (as determined by the Secretary) is 25 inches or less."

At the end of title 16, add the following Sections: "Sec. 1618. Establishment of Shelterbelts of Windbreaks Under Agricultural Conservation Program.

The third paragraph of section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)) is amended by adding at the end the following new sentence: "Notwithstanding the preceding provisions of this paragraph, if an agricultural producer establishes or restores a shelterbelt or windbreak, the amount of financial assistance provided under this subsection shall be—

(i) during the 1-year period beginning on the date of the establishment or restoration of the shelterbelt or windbreak—

(I) 80 percent of the cost of establishing or restoring the shelterbelt or windbreak; and

(II) if the shelterbelt or windbreak is part of an approved wind erosion control system that is included in the conservation compliance plan of the producer, an additional 10 percent of the cost of establishing or restoring the shelterbelt or windbreak; and

(ii) during the subsequent 3-year period, at least 50 percent of the cost of maintaining the shelterbelt or windbreak, including the cost of weed control, supplemental watering, livestock fencing, and rodent control."

Sec. 1619. Establishment of Shelterbelts or Windbreaks Under Great Plains Conservation Program.

The last paragraph of section 16(b)(1) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590p (b) (1)) is amended by adding at the end of the following new sentence: "Notwithstanding the preceding provisions of this paragraph, if an agricultural producer establishes or restores a shelterbelt or windbreak, during the 3-year period following the contract year during which the shelterbelt or windbreak is established or renovated, the amount of financial assistance provided under this subsection shall be at least 50 percent of the cost of maintaining the shelterbelt or windbreak, including the cost of weed control, supplemental watering, livestock fencing, and rodent control."

Mr. BEREUTER. Mr. Chairman, I ask unanimous consent to withdraw my amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The CHAIRMAN. The amendment is withdrawn.

Are there further amendments to title XVI?

The Clerk will designate title XVII.

The text of title XVII is as follows:

TITLE XVII—FOOD STAMP AND RELATED PROVISIONS

SEC. 1700. SHORT TITLE; PRESUMPTION OF REFERENCE TO FOOD STAMP ACT OF 1977.

(a) **SHORT TITLE.**—This title may be cited as the "Mickey Leland Memorial Domestic Hunger Relief Act".

(b) **REFERENCE TO FOOD STAMP ACT OF 1977.**—Unless otherwise expressly provided, whenever in this title a reference is made to "the Act" or an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) or to a section or other provision of such Act.

Subtitle A—Reducing Childhood Hunger

SEC. 1701. HOUSEHOLDS WITH HIGH SHELTER EXPENSES.

(a) **REMOVAL OF CAP.**—The fourth sentence of section 5(e) of the Act (7 U.S.C. 2014(e)) is amended by striking "": Provided, That the amount" and all that follows through "June 30".

(b) **TRANSITIONAL CAP.**—Effective for the period beginning on the date of enactment of this Act through September 30, 1993, section 5(e), as amended by subsection (a), is amended by inserting after the fourth sentence "Such excess shelter expense deduction, in the twelve months ending September 30, 1991, shall not exceed \$219 a month in the forty-eight contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, \$380, \$312, \$265, and \$161 a month, respectively; in the twelve months ending September 30, 1992, shall not exceed \$234 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, \$406, \$333, \$283, and \$172 a month, respectively; and in the twelve months ending September 30, 1993, shall not exceed \$283 a month in the 48 contiguous States and the District of Columbia, and shall not exceed, in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, \$491, \$403, \$343, and \$208 a month, respectively.".

SEC. 1702. BASIC BENEFIT LEVEL.

Section 3(o) of the Act (7 U.S.C. 2012(o)) is amended by striking "(4) through" and all that follows through the end of the subsection and inserting the following:

"(4) on October 1, 1990, adjust the cost of such diet to reflect 103 percent of the cost of the thrifty food plan in the preceding June, as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size, (5) on October 1, 1991, adjust the cost of such diet to reflect 103 and one-third percent of the cost of the thrifty food plan in the preceding June (without regard to the adjustment made under clause (4)), as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size, (6) on October 1, 1992, adjust the cost of such diet to reflect 103 and two-thirds percent of the cost of the thrifty food plan in the preceding June (without regard to any

previous adjustments made under clauses (4) and (5)), as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size, (7) on October 1, 1993, adjust the cost of such diet to reflect 104 percent of the cost of the thrifty food plan in the preceding June (without regard to any previous adjustments made under clauses (4), (5) and (6)), as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size, and (8) on October 1, 1994, and on every October 1 thereafter, adjust the cost of such diet to reflect 105 percent of the cost of the thrifty food plan in the preceding June, (without regard to any previous adjustments made under clauses (4), (5), (6), (7) or this clause) as determined by the Secretary, and round the result to the nearest lower dollar increment for each household size: Provided: That, in adjusting the cost of such diet in Alaska and Hawaii to reflect the cost of the thrifty food plan in the preceding June, the Secretary shall, in any year in which the cost of the thrifty food plan in June is not available for Alaska and Hawaii, use the average cost of such plan in Alaska and Hawaii, respectively, for the six-month period ending in June, adjusted by a percentage equal to the average percentage difference, for all years in which the monthly cost of the thrifty food plan is available for Alaska and Hawaii, between the cost of such plan in June and the average of the monthly cost of such plan for the six-month period ending in June.".

SEC. 1703. CONTINUING BENEFITS TO ELIGIBLE HOUSEHOLDS.

Section 8(c)(2) of the Act (7 U.S.C. 2017(c)(2)) is amended in subparagraph (B) by inserting after "following any period" the phrase "of more than one month in".

SEC. 1704. EMERGENCY FOOD FOR DISASTER VICTIMS.

Section 5(h) of the Act (7 U.S.C. 2014(h)) is amended by adding at the end the following new paragraph:

"(3) The Secretary shall provide, by regulation, for emergency allotments to eligible households to replace food destroyed in a disaster; such regulations shall provide for replacement of the value of food actually lost up to a limit approved by the Secretary not greater than the applicable maximum monthly allotment for the household size. The Secretary shall adjust reporting and other application requirements to be consistent with what is practicable under actual conditions in the affected area. In making this adjustment, the Secretary shall consider the availability of the State agency's offices and personnel and any damage to or disruption of transportation and communication facilities.".

SEC. 1705. CLOTHING ALLOWANCES AND GENERAL ASSISTANCE VENDOR PAYMENTS.

(a) **CLOTHING ALLOWANCES.**—Section 5(d)(5) of the Act (7 U.S.C. 2014(d)(5)) is amended by inserting after "household" the following: "and any allowance a State agency provides no more frequently than annually to families with children on the occasion of those children's entering or returning to school or child care for the purpose of obtaining school clothes".

(b) **GENERAL ASSISTANCE VENDOR PAYMENTS.**—(1) Section 5(k)(1)(B) of the Act (7 U.S.C. 2014(k)(1)(B)) is amended to read as follows:

"(B) a benefit payable to the household for housing expenses, not including energy or utility-cost assistance, under—

"(i) a State or local general assistance program; or

"(ii) another basic assistance program comparable to general assistance (as determined by the Secretary)."

(2) Section 5(k)(2) of the Act (7 U.S.C. 2014(k)(2)) is amended—

(A) in subparagraph (G), by deleting "Secretary," and inserting "Secretary; or"; and

(B) by adding at the end thereof a new subparagraph:

"(H) assistance provided to a third party on behalf of a household under a State or local general assistance program, or another local basic assistance program comparable to general assistance (as determined by the Secretary), if, under State law, no assistance under such program may be provided directly to the household in the form of a cash payment.".

SEC. 1706. PARTICIPANTS IN DEMONSTRATION PROJECTS.

Section 17(b)(1) of the Act (7 U.S.C. 2026(b)(1)) is amended by inserting "(A)" after "(b)(1)" and adding at the end:

"(B) No waiver or demonstration program shall be approved under this Act after the date of enactment of the Food and Agricultural Resource Act of 1990 unless—

"(i) any household whose food assistance is issued in a form other than coupons has its allotment increased to the extent necessary to compensate for any State or local sales tax that may be collected in all or part of the area covered by the demonstration project or such tax is waived on purchases of food by any such household; and

"(ii) the State agency conducting such demonstration project pays the cost of such increased allotments, unless the Secretary determines on the basis of information provided by the State agency that such increase is unnecessary on the basis of the limited nature of the items subject to such State or local sales tax. The foregoing sentence shall not apply where the waiver or demonstration project already provides a household with assistance that exceeds that which the household would otherwise be eligible to receive by more than the estimated amount of any sales tax on the purchases of food that would be collected from the household in the project area in which the household resides.".

SEC. 1707. ALTERNATIVE METHOD OF ISSUANCE.

(a) **ELECTRONIC BENEFIT TRANSFER.**—Section 7 of the Act (7 U.S.C. 2016) is amended by adding at the end the following new subsection:

"(1)(A) Any State agency may, with the approval of the Secretary, implement an on-line electronic benefit transfer system in which household benefits determined under section 8(a) are issued from and stored in a central data bank and electronically accessed by household members at the point-of-sale.

"(B) No State agency may implement or expand an electronic benefit transfer system without prior approval from the Secretary.

"(2) The Secretary shall issue final regulations effective no later than April 1, 1992 that establish standards for the approval of such a system. The standards shall include but not be limited to—

"(A) determining the cost-effectiveness of the system to ensure that its operational cost, including the pro-rata cost of capital expenditures, does not exceed, in any one year, the operational cost of issuance systems in use prior to the implementation of the on-line electronic benefit transfer system,

"(B) defining the required level of recipient protection regarding privacy, ease of

use, and access to and service in retail food stores,

"(C) the terms and conditions of retailer and financial institution participation,

"(D) system security,

"(E) system transaction interchange, reliability and processing speeds,

"(F) financial accountability,

"(G) the required testing of system operations prior to implementation, and

"(H) the analysis of the results of system implementation in a limited project area prior to expansion.

"(3) In the case of systems described in paragraph (1) in which participation is not optional for households the Secretary shall not approve such a system unless—

"(A) a sufficient number of eligible retail food stores, including those stores able to serve minority language populations, have agreed to participate in the system throughout the area in which it will operate to ensure that eligible households will not suffer significant reduction in their choice of retail food stores or a significant increase in the cost of food or transportation to participating food stores; and

"(B) any special equipment necessary to allow households to purchase food with the benefits issued under this Act is operational at all registers or check-out lines in each participating store.

"(4) Administrative costs incurred in connection with activities under this subsection shall be eligible for reimbursement in accordance with section 16, subject to the limitations in section 16(g)."

(b) CONFORMING AND TECHNICAL AMENDMENT.—Section 17(f) of the Act (7 U.S.C. 2026(f)) is amended by striking "(f)(1)" and inserting "(f)".

SEC. 1708. IMPROVING ASSISTANCE TO THE HOMELESS.

(a) DEFINITION OF MEALS.—Section 3(g)(9) of the Act (7 U.S.C. 2012(g)(9)) is amended by striking "a public" and all that follows through the end and inserting "private establishments that contract with the appropriate agency of the State to offer meals for such persons at concessional prices."

(b) CONFORMING CHANGE.—Section 11002(f) of the Homeless Eligibility Clarification Act (7 U.S.C. 2012 note) is amended in paragraph (3) by striking "subsection (b)" and inserting "subsections (a) and (b)".

SEC. 1709. REDUCED PAPERWORK FOR HOMELESS HOUSEHOLDS.

Section 11(e)(3)(E) of the Act (7 U.S.C. 2020(e)(3)(E)) is amended by inserting before the final semicolon the following:

"In certifying households in which all members are homeless individuals, the State agency shall calculate the excess shelter deduction provided in section 5(e) on the basis of reported expenses for shelter except where the household's report is questionable. Under rules prescribed by the Secretary, State agencies may develop standard estimates of the shelter and related expenses homeless households may reasonably be expected to incur and may certify households based on expenses that do not exceed this estimate."

Subtitle B—Promoting Self-Sufficiency

SEC. 1711. CHILD SUPPORT.

Section 5 of the Act (7 U.S.C. 2014), as amended by sections 1701, 1704, and 1705 of this Act, is further amended—

(1) in clause (13) of subsection (d)—

(A) by striking "at the option" and all that follows through "subsection (m)," and inserting "(A)"; and

(B) by adding at the end the following:

"and (B) the first \$50 of any child support payments for such month received in that

month, and the first \$50 of child support payments for each prior month received in that month if such payments were made by the absent parent in the month when due,"; and

(2) by striking subsection (m).

SEC. 1712. LIMITATION ON RESOURCES.

(a) INCREASE IN LIMITS.—Section 5(g) of the Act (7 U.S.C. 2014(g)) is amended by—

(1) inserting "(1)" after "(g)";

(2) inserting "(2)" after the first sentence; and

(3) striking "\$4,500" and inserting the following: "a level set by the Secretary, which shall be \$4,500 through December 31, 1991, \$4,750 from January 1, 1992, through September 30, 1992, \$5,000 for fiscal year 1993, \$5,250 for fiscal year 1994, and \$5,500 for fiscal year 1995, and which shall be adjusted on October 1, 1995, and on each October 1 thereafter, to reflect changes in the index determined by the Secretary to be most reasonable."

(b) DEMONSTRATION PROJECTS.—Section 17 of the Act (7 U.S.C. 2026) is amended by adding at the end the following new subsection:

"(h) The Secretary shall conduct a sufficient number of demonstration projects to evaluate the effects, in both rural and urban areas, of counting the fair market value of licensed vehicles to the extent the value of each vehicle exceeds \$4,500, but excluding the value of—

"(1) any licensed vehicle that is used to produce earned income, necessary for transportation of an elderly or physically disabled household member, or used as the household's home; and

"(2) one licensed vehicle used to obtain, continue, or seek employment (including travel to and from work), used to pursue employment-related education or training, or used to secure food or the benefits of the food stamp program."

SEC. 1713. STATE OPTION TO REDUCE UNNECESSARY PAPERWORK.

Section 6(c) of the Act (7 U.S.C. 2015(c)) is amended—

(1) in paragraph (2)(C), by striking "forms approved by the Secretary" and inserting "State agency designed forms"; and

(2) in the first sentence of paragraph (3)—

(A) by striking "in accordance with standards prescribed by the Secretary, they contain sufficient information to enable the State agency to determine household eligibility and allotment levels" and inserting "they contain the information relevant to eligibility and benefit determinations that is specified by the State agency".

SEC. 1714. COMBINED HOUSEHOLDS.

Section 6(d)(1) of the Act (7 U.S.C. 2015(d)(1)) is amended by inserting after the first sentence "The State agency shall allow the household to select an adult parent of children in the household as its head where all adult household members making application agree to such selection."

SEC. 1715. EMPLOYMENT AND TRAINING PROGRAM EXPANSION.

(a) LITERACY TRAINING.—Section 6(d)(4)(B)(v) of the Act (7 U.S.C. 2015(d)(4)(B)(v)) is amended by inserting "and literacy," after "basic skills".

(b) EXPANDING STATE FLEXIBILITY.—Section 6(d)(4)(E) of the Act (7 U.S.C. 2015(d)(4)(E)) is amended by inserting at the end—

"Through September 30, 1995, four States may, upon application to the Secretary, give priority in the provision of services to voluntary participants, including both exempt and non-exempt participants, but giving such priority shall not excuse the State from

compliance with the performance standards issued under subparagraphs (K) and (L), and the Secretary may, at the Secretary's discretion, approve additional States' requests to give such priority if the Secretary reports to the Congress on the number and characteristics of voluntary participants under this authority and such other information as the Secretary determines to be appropriate."

(c) PROGRAMS THAT FOCUS ON SELF-EMPLOYMENT OPPORTUNITIES.—(1) AUTHORIZATION FOR PROGRAMS.—Section 6(d)(4)(B) of the Act (7 U.S.C. 2015(d)(4)(B)) is amended—

(A) by redesignating clause (vi) as clause (vii); and

(B) by inserting after clause (v) the following new clause:

"(vi) Programs designed to increase the self-sufficiency of recipients through self-employment, including programs that provide instruction for self-employment ventures."

(2) EXEMPTION FOR RESOURCES USED IN PROJECTS.—The third sentence of section 5(g) of the Act (7 U.S.C. 2014(g)), as amended by section 1712, is further amended by inserting before the period—"and non-liquid resources necessary to allow the household to carry out a plan for self-sufficiency approved by the State agency as constituting adequate participation in an employment and training program under section 6(d)(4)(B)(vi)".

(d) EXPENSES FOR JOB SEARCH AND OTHER EMPLOYMENT AND TRAINING ACTIVITIES.—(1) REIMBURSEMENTS TO PARTICIPANTS.—Section 6(d)(4)(I)(i)(I) of the Act (7 U.S.C. 2015(d)(4)(I)(i)(I)) is amended by striking "\$25" and inserting "\$75".

(2) REIMBURSEMENTS TO STATE AGENCIES.—Section 16(h)(3) of the Act (7 U.S.C. 2025(h)(3)) is amended by striking "\$25" and all that follows through "dependent care costs)" and inserting "the payment made under section 6(d)(4)(I)(i)(I) but not more than \$75 per participant per month."

SEC. 1716. EMPLOYMENT AND TRAINING ALLOCATIONS.

(a) Section 16(h)(1) of the Act (7 U.S.C. 2025(h)(1)) is amended to read as follows:

"(h)(1)(A) The Secretary shall allocate among the State agencies in each fiscal year, from funds appropriated for such fiscal year under section 18(a)(1), the amount of \$75,000,000 for each of the fiscal years 1991 through 1995 to carry out the employment and training program under section 6(d)(4), except as provided in paragraph (3), during such fiscal year."

"(b) Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by adding at the end of paragraph (1) the following new subparagraphs:

"(B) The Secretary shall allocate among the States for fiscal years 1991 through 1995 that portion of funds required to be allocated under paragraph (A) that is not based on State agency performance based upon the ratio of the number of individuals eligible to register for work under section 6(d)(4) in each State divided by the total number of such persons in all States.

"(C) In addition to the funds required to be allocated under subparagraph (A), the Secretary shall allocate \$10,000,000 for each of the fiscal years 1991 through 1995 among States that would have received in any such year, under the allocation formula utilized in fiscal year 1990, an amount of funds under subparagraph (A), other than funds based on State agency performance, that exceeds the amount that such States receive under the allocation formula required by

subparagraph (B), in order to maintain the level of such nonperformance funding provided to such States at the levels provided in fiscal year 1990."

SEC. 1717. HELPING LOW-INCOME STUDENTS ACHIEVE SELF-SUFFICIENCY.

(a) **ELIGIBILITY FOR LOW-INCOME STUDENTS.**—Section 6(e) of the Act (7 U.S.C. 2015(e)) is amended to read as follows:

"(e) No individual who is a member of a household otherwise eligible to participate in the food stamp program under this section shall be eligible to participate in the food stamp program as a member of that or any other household if that individual is enrolled at least half time in an institution of higher education unless such individual—

"(1) is under age 18 or is age 50 or older;

"(2) is not physically and mentally fit;

"(3) is assigned to or placed in an institution of higher education through or in compliance with the requirements of a program under the Job Training Partnership Act, an employment and training program under this section, a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296), or another program for the purpose of employment and training operated by a State;

"(4) is employed a minimum of 20 hours per week or participating in a State or federally financed work study program during the regular school year;

"(5) is a parent with responsibility for the care of a dependent child under age 6 or a parent with responsibility for the care of a dependent child above the age of 5 and under the age of 12 for whom adequate child care is not available to enable such individual to attend class and satisfy the requirements of paragraph (4);

"(6) is receiving aid to families with dependent children under part A of title IV of the Social Security Act;

"(7) is so enrolled as a result of participation in the work incentive program under title IV of the Social Security Act or its successor programs; or

"(8) is enrolled full-time in an institution of higher education, as determined by such institution, and is a single-parent with responsibility for the care of a dependent child under age 12."

(b) **TREATMENT OF EDUCATIONAL EXPENSES.**—Section 5(d) of the Act (7 U.S.C. 2014(d)), as amended by sections 1705 and 1711, is further amended—

(1) in paragraph (3)—

(A) by inserting "(A)" after "the like", and

(B) by striking "at an institution" and all that follows through "handicapped, and", and inserting the following: "(including the rental or purchase of any equipment, materials, and supplies required to pursue the course of study involved) at a recognized institution of post-secondary education, at a school for the handicapped, in a vocational education program, or in a program that provides for completion of a secondary school diploma or obtaining the equivalent thereof, (B) to the extent that they do not exceed the amount made available as an allowance determined by such school, institution, or program, for books, supplies, transportation, and other miscellaneous personal expenses (other than living expenses), of the student incidental to attending such school, institution, or program, and (C)";

(2) in the proviso to clause (5)—

(A) by inserting "and" after "1988";

(B) by striking "non-Federal"; and

(C) by striking "and no portion of any Federal" and all that follows through "mandatory school fees,"; and

(3) in paragraph 7—

(A) by striking "a student" and inserting

"an elementary or secondary student"; and

(B) by striking "his eighteenth birthday" and inserting "the age of nineteen".

(c) **CLARIFYING AND TECHNICAL AMENDMENT.**—Section 5(e) of the Act (7 U.S.C. 2014(e)), as amended by section 1701, is further amended in the fourth sentence by inserting after "third party" the phrase: "amounts made available and excluded for such expenses under subsection (d)(3)".

SEC. 1718. FAMILIES IN TRANSITIONAL HOUSING.

Section 5(k)(2)(F) of the Act (7 U.S.C. 2014(k)(2)(F)), is amended to read as follows:

"(F) housing assistance payments made to a third party on behalf of a household residing in transitional housing for the homeless in an amount equal to 50 percent of the maximum shelter allowance provided to families not residing in such transitional housing under the States' plan for aid to families with dependent children approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or"

Subtitle C—Simplifying Program Administration

SEC. 1721. RELATIVES LIVING TOGETHER.

The first sentence of section 3(i) of the Act (7 U.S.C. 2012(i)) is amended—

(1) by striking "(2)" and inserting "or (2)";

(2) by striking "or (3) a parent of minor children and that parent's children" and all that follows through "parents and children, or siblings," and inserting "Parents and their minor children who live together and spouses"; and

(3) by striking "unless one of" and all that follows through "disabled member".

SEC. 1722. AFDC/FOOD STAMP SIMPLIFICATION.

Section 17 of the Act (7 U.S.C. 2026), as amended by sections 1706, 1707, and 1712, is amended by adding at the end the following new subsection:

"(i)(1) The Secretary shall conduct 5 demonstration projects, in both urban and rural areas, under which households in which each member receives benefits under a State plan approved under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) (hereafter in this subsection referred to as 'eligible households') shall be issued monthly allotments following the rules and procedures of programs under part A of title IV of the Social Security Act, and without regard to the eligibility, benefit, and administrative rules established under this Act other than those terms and conditions specified under this subsection or established by the Secretary to ensure program integrity.

"(2) In carrying out such demonstration projects, the Secretary shall ensure that—

"(A) The provisions of sections 6(b), 6(d)(2), and 11(e)(1)(B), (3), (4), and (9), the first sentence of section 6(c), the third sentence of section 3(i), and all applicable provisions of this Act dealing with the treatment of homeless and migrant and seasonal farm worker households shall apply.

"(B) Assistance under the food stamp program shall be furnished to all eligible households who make application for assistance by providing any information that is needed by the State agency to determine the correct monthly allotment and that has not been provided as part of the household's application for assistance under part A of title IV of the Social Security Act.

"(C) Eligible households' monthly allotments shall be calculated under the provisions of section 8(a), except that a household's income shall be determined in accordance with subparagraphs (D) and (E) of this paragraph. Such allotments shall be provided retroactive to the date of application.

"(D) For purposes of determining monthly allotments under this subsection, household income shall be the benefit provided under part A of title IV of the Social Security Act and the amount used to determine the household's benefit under such part (not including any amount disregarded for dependent care expenses), except that such amount shall be calculated without regard to the provisions of section 402(a)(7)(C) of such Act (42 U.S.C. 602(a)(7)(C)) and shall not include nonrecurring lump-sum income and income deemed or allocated to the household under provisions of such part.

"(E) In computing household income for purposes of determining monthly allotments, all eligible households shall be allowed the standard, earned income, excess shelter, and medical expense deductions provided under section 5(e) in lieu of any earned income disregards provided under section 402(a)(8) of the Social Security Act (42 U.S.C. 602(a)(8)). Alternatively, the Secretary may approve demonstration projects under which households without earned income are allowed such standard, excess shelter, and medical expense deductions, and household income for households with earned income is computed using the earned income disregards provided under section 402(a)(8) of the Social Security Act to the extent that the Secretary determines they are consistent with the purposes of the demonstration projects required under this subsection.

"(F) Uninterrupted food stamp assistance shall be provided to households who become ineligible to receive such assistance under this subsection but are determined otherwise eligible for food stamp assistance and to households receiving food stamp assistance other than under this subsection who are determined eligible under this subsection.

"(G) Any other requirements and administrative procedures equivalent to those applicable under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may be used in implementing the demonstration projects required under this subsection, if the Secretary determines that such requirements or procedures further the purposes of this subsection and do not undermine program integrity.

"(D) For purposes of determining monthly allotments under this subsection, household income shall be the benefit provided under part A of title IV of the Social Security Act and the amount used to determine the household's benefit under such part (not including any amount disregarded for dependent care expenses), except that such amount shall be calculated without regard to the provisions of section 402(a)(7)(C) of such Act (42 U.S.C. 602(a)(7)(C)) and shall not include nonrecurring lump-sum income and income deemed or allocated to the household under provisions of such part.

"(E) In computing household income for purposes of determining monthly allotments, all eligible households shall be allowed the standard, earned income, excess shelter, and medical expense deductions provided under section 5(e) in lieu of any earned income disregards provided under section 402(a)(8) of the Social Security Act (42 U.S.C. 602(a)(8)). Alternatively, the Secretary may approve demonstration projects under which households without earned income are allowed such standard, excess shelter, and medical expense deductions, and household income for households with earned income is computed using the earned income disregards provided under section 402(a)(8) of the Social Security Act to the extent that the Secretary determines they are consistent with the purposes of the demonstration projects required under this subsection.

"(F) Uninterrupted food stamp assistance shall be provided to households who become ineligible to receive such assistance under this subsection but are determined otherwise eligible for food stamp assistance and to households receiving food stamp assistance other than under this subsection who are determined eligible under this subsection.

"(G) Any other requirements and administrative procedures equivalent to those applicable under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) may be used in implementing the demonstration projects required under this subsection, if the Secretary determines that such requirements or procedures further the purposes of this subsection and do not undermine program integrity.

"(3) Demonstration projects established under this subsection may be carried out during the period beginning October 1, 1990, and ending September 30, 1994. In establishing such projects, the Secretary shall solicit proposals from, and consult with, interested State and local agencies and shall consult with the Secretary of Health and Human Services on waivers of Federal rules under part A of title IV of the Social Security Act that would assist in carrying out the projects required under this subsection.

"(4) No later than March 1, 1995, the General Accounting Office and the Secretary shall submit reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate evaluating the results of the demonstration projects established under this subsection, including evaluations of the effects on recipients and administrators."

SEC. 1723. SIMPLIFYING RESOURCE AND ELIGIBILITY DETERMINATIONS.

Section 5 of the Act (7 U.S.C. 2014), as amended by sections 1701, 1704, 1705, 1711, 1712, 1715, 1717, and 1718, is further amended—

(1) in subsection (g) by adding at the end the following new sentence: "The Secretary

shall promulgate rules by which State agencies shall develop standards for identifying kinds of resources that, as a practical matter, the household is unlikely to be able to sell for any significant return because the household's interest is so slight or because the cost of selling the household's interest would be so great. Resources so identified shall be excluded as inaccessible resources." and

(2) in subsection (j)—

(A) by striking "a household in which all members of the household receive" and inserting "the resources of a household member who receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1382 et. seq.) or who receives"; and

(B) by striking "have satisfied the resource limitations prescribed under subsection (g)" and inserting "be exempt for purposes of satisfying the resource limitations prescribed under subsection (g) of this section if such resources are considered exempt for purposes of such title".

SEC. 1724. SIMPLIFIED APPLICATION SIGNING REQUIREMENTS.

Section 11(e)(2) of the Act (7 U.S.C. 2020(e)(2)), is amended by striking "One adult member of a household that is applying for a coupon allotment shall be required to certify in writing, under penalty of perjury, the truth of the information contained in the application for the allotment." and inserting "The State agency shall require that an adult representative of each household that is applying for food stamp benefits shall certify in writing, under penalty of perjury, that the information contained in the application is true and that all members of the household are either citizens or are aliens eligible to receive food stamps under section 6(f). The signature of such adult under this section shall be deemed sufficient to comply with any provision of Federal law requiring household members to sign the application or statements in connection with the application process."

SEC. 1725. CATEGORICAL ELIGIBILITY FOR RECIPIENTS OF STATE GENERAL ASSISTANCE.

Section 5(a) of the Act (7 U.S.C. 2014(a)) is amended in the second sentence—

(1) by striking "or aid" and inserting "aid"; and

(2) by inserting before "shall be eligible" the following: "or a State general assistance program that the Secretary certifies serves a population appropriate to be categorically eligible for assistance under this Act."

SEC. 1726. FRAUD CLAIMS REPAYMENT.

Section 13(b)(1)(A) of the Act (7 U.S.C. 2022(b)(1)(A)) is amended by striking "thirty" in the last sentence and inserting "10".

SEC. 1727. COMMISSION ON COORDINATION OF FAMILY SUPPORT AND FOOD STAMP POLICIES.

(a) **APPOINTMENT AND MEMBERSHIP OF COMMISSION.**—There is hereby established a Commission on the Coordination of Family Support and Food Stamp Policies (hereafter in this section referred to as the "Commission"), consisting of 15 members as follows:

(1) The Secretary of Health and Human Services.

(2) The Secretary of Agriculture.

(3) Two Members of the Senate, one selected by the Majority Leader of the Senate and the other by the Minority Leader of the Senate.

(4) Two Members of the House of Representatives, one selected by the Speaker of the House and the other by the Minority Leader of the House.

(5) Two State Governors, one selected jointly by the Speaker of the House and the Majority Leader of the Senate and the other selected jointly by the Minority Leader of the House and the Minority Leader of the Senate.

(6) Seven other members, including State and local officials responsible for administering the family support and food stamp programs, representatives of welfare advocacy organizations, and individuals with demonstrated expertise in welfare policy, to be selected jointly by the Speaker of the House and the Majority Leader of the Senate in consultation with the Minority Leader of the House and the Minority Leader of the Senate.

(b) **PURPOSE.**—It shall be the purpose of the Commission—

(1) to study and consider the policies and definitions being implemented or used (under law or administrative practice) in the administration of the family support program under part A of title IV of the Social Security Act and the food stamp program under the Act;

(2) to identify the policies and definitions being implemented or used under each such program that are inconsistent or in conflict with those being implemented or used under the other and to identify those policies and practices implemented or used under each program that result in barriers to the participation of needy persons in those programs; and

(3) to make recommendations for developing common policies and definitions for use under both programs that would eliminate such inconsistency, conflict and barriers to participation to the maximum extent possible in a manner consistent with the protective purposes of the programs.

(c) **REPORT.**—The Commission shall submit to the President and the Congress within one year after the date of the enactment of this Act a full and complete report on its study under this section, including its recommendations for such legislative, administrative, and other actions as may be considered appropriate.

(d) **AUTHORIZATION OF FUNDS.**—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 1728. DEPENDENT CARE EXPENSES.

(a) **INCREASE IN AMOUNT.**—Section 5(e) of the Act (7 U.S.C. 2014(e)), as amended by sections 1701 and 1717 is amended in clause (1) of the fourth sentence—

(1) by striking "\$160 a month for each dependent" and inserting "\$200 a month for each dependent child under age 2 and \$175 a month for each other dependent"; and

(2) by striking " , regardless of the dependent's age,"

(b) **MAXIMUM.**—(1) Section 6(d)(4)(I)(i)(II) of the Act (7 U.S.C. 2015(d)(4)(I)(i)(II)) is amended by striking "reimbursements exceed \$160" and all that follows through the end and inserting "reimbursements exceed the applicable local market rate as determined by procedures consistent with any such determination under the Social Security Act. Individuals subject to the program under this paragraph may not be required to participate if dependent care costs exceed the limit established by the State agency under this paragraph (which limit shall not be less than the limit for the dependent care deduction under section 5(e))."

(2) Section 16(h)(3) of the Act (7 U.S.C. 2025(h)(3)), as amended by section 1715, is further amended by striking "representing \$160 per month per dependent" and inserting "equal to the payment made under sec-

tion 6(d)(4)(I)(i)(II) but not more than the applicable local market rate".

SEC. 1729. STATE FLEXIBILITY IN BUDGETING METHODS.

(a) **BUDGETING INCOME AND PROMPT ADJUSTMENT OF BENEFITS.**—Section 5(f) of the Act (7 U.S.C. 2014(f)) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2)(A) Except as provided in subparagraphs (B), (C), and (D), households shall have their incomes calculated on a prospective basis, as provided in paragraph (3)(A), or, at the option of the State agency, on a retrospective basis, as provided in paragraph (3)(B).

"(B) In the case of the first month, or at the option of the State, the first and second months in a continuous period in which a household is certified, the State agency shall determine eligibility and the amount of benefits on the basis of the household's income and other relevant circumstances in such period.

"(C) Households specified in section 6(c)(1)(A)(i), (ii), and (iii) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

"(D) Except as provided in subparagraph (B), households required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B)."; and

(2) in paragraph (3)(B)—

(A) by inserting "(i)" after the subparagraph designation;

(B) by striking the last sentence and inserting the following sentence: "No household shall have its food stamp allotment for any month based upon income received in two or more separate months under titles IV or XVI of the Social Security Act or a state or local general assistance program."; and

(C) by adding at the end the following new clause:

"(ii) The State shall establish and implement a procedure for the prompt adjustment of benefits for households suffering a severe hardship. This procedure shall provide that households not required to submit monthly reports of their income and circumstances under section 6(c)(1), whose income is calculated on a retrospective basis, as provided in this subparagraph, and who report (I) an increase in household size, (II) a decrease of \$50 or more in household income not excluded under subsection 5(d), or (III) an increase of \$50 or more in shelter costs, dependent care costs, or medical costs, shall receive benefits that reflect the reported change not later than the first monthly allotment issued to the household 10 or more days after the report of the change. If the first monthly allotment issued to the household after the report of the change is scheduled to be issued less than 10 days after the report of the change, a supplementary allotment shall be issued not later than the tenth day of the month following the report of the change."

(b) **MINIMUM CERTIFICATION PERIOD.**—Section 3(c)(2) of the Act (7 U.S.C. 2012(c)(2)) is amended by inserting after "persons, or" the following: "(except in the case of households in which all members are homeless individuals)".

(c)(1) **EFFECTIVE DATE OF STATE OPTIONS.**—The amendments made by subsection (a)(1) of this section shall be effective on October 1, 1990.

(2) **EFFECTIVE DATE OF NEW REQUIREMENTS.**—The amendments made by subsection (a)(2) and subsection (b) of this section shall be effective on October 1, 1990, except that no State agency shall be required to implement such amendments prior to the first day of the first month beginning at least 120 days after the date of enactment of this Act.

(3) **STATES IMPLEMENTING PRIOR LAW.**—Any errors committed in cases as a result of a State agency's good faith implementation of the provisions of law amended by subsection (a)(1) shall be disregarded under section 16(c) of the Act (7 U.S.C. 2025(c)) for purposes of establishing any error rate under such subsection for the period between October 1, 1990, and the first day of the first month beginning at least 120 days after the date of enactment of this Act.

SEC. 1730. ENHANCED WAIVER AUTHORITY FOR DEMONSTRATION PROJECTS.

Section 17(b) of the Act (7 U.S.C. 2026(b)) is amended by—

(1) in the second sentence of paragraph (1), inserting after "eligible households" the following: "or a project authorized under paragraph (3) of this subsection";

(2) inserting at the end a new paragraph (3) to read as follows:

"(3)(A) The Secretary may conduct demonstration projects to test improved consistency or coordination between the food stamp employment and training program and the Job Opportunities and Basic Skills program under title IV of the Social Security Act. Notwithstanding paragraph (1), the Secretary may, as part of a project authorized under this paragraph, waive requirements under section 6(d) to permit a State to operate an employment and training program for food stamp recipients on the same terms and conditions under which the State operates its Job Opportunities and Basic Skills program for recipients of aid to families with dependent children under part F of title IV of the Social Security Act, and any work experience program conducted as part of such project shall be conducted in conformity with section 482(f) of part F of title IV of such Act. A State seeking such a waiver shall provide assurances that the resulting employment and training program shall meet the requirements of sections 402(a)(19) and 402(g) of part A of title IV of the Social Security Act (but not including the provision of transitional benefits under sections 402(g)(1)(A) (ii) through (vii)) and sections 481-487 of part F of title IV of such Act, and each reference to 'aid to families with dependent children' in those sections shall be deemed to be a reference to food stamps for purposes of the demonstration project. Notwithstanding the other provisions of this paragraph, participation in an employment and training activity in which food stamp benefits are converted to cash shall occur only with the consent of the participant.

"(B) For the purposes of any project conducted under this paragraph, the provisions of this Act affecting the rights of recipients may be waived to the extent necessary to conform to the provisions of section 402 of part A and sections 481-487 of part F of title IV of the Social Security Act. At least 60 days prior to granting final approval of a project under this paragraph, the Secretary shall publish the terms and conditions for any demonstration project conducted under the paragraph for public comment in the Federal Register and shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. Waivers may be granted under this para-

graph to conduct projects at any one time in a total of up to 60 project areas (or parts of project areas), as such areas are defined in regulations in effect on January 1, 1990.

(C) A waiver for a change in program rules may be granted under this paragraph only for a demonstration project that has been approved by the Secretary, is being evaluated by the Secretary, and that will be in operation for no more than 4 years."

Subtitle D—Hunger in Rural America

SEC. 1731. SIMPLIFIED ISSUANCE PROCEDURES IN RURAL AREAS.

Section 11(e) of the Act (7 U.S.C. 2020(e)), as amended by sections 1709 and 1724 of this Act, is further amended—

(1) in paragraph (23) by striking the final "and";

(2) in paragraph (24) by striking the period and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(25) a procedure for designating project areas or parts of project areas that are rural and in which low-income persons face substantial difficulties in obtaining transportation. The State agency shall designate such areas according to procedures approved by the Secretary, and in each area so designated the State agency shall provide for the issuance of coupons by mail to all eligible households in any such area, except that any household with mail losses exceeding levels established by the Secretary shall not be entitled to such a mailing and the State agency shall not be required to issue coupons by mail in those localities within such area where the mail loss rates exceed standards set by the Secretary."

SEC. 1732. FLEXIBILITY FOR STATE INFORMATIONAL ACTIVITIES.

(a) **OPTIONAL INFORMATIONAL ACTIVITIES.**—Section 11(e)(1)(A) of the Act (7 U.S.C. 2020(e)(1)(A)) is amended by inserting "(including those activities allowed under regulations issued under this Act in effect on June 1, 1981)" after "stamp program".

(b) **ADMINISTRATIVE COSTS.**—Section 16(a)(4) of the Act (7 U.S.C. 2025(a)(4)) is amended by inserting "and assistance to households" after "informational activities".

SEC. 1733. VEHICLES NECESSARY TO CARRY FUEL OR WATER.

Section 5(g) of the Act (7 U.S.C. 2014(g)), as amended by sections 1712, 1715, and 1723, is amended by adding at the end "The Secretary shall exclude from financial resources the value of a vehicle that a household depends upon to carry fuel for heating or water for home use when such transported fuel or water is the primary source of fuel or water for the household."

SEC. 1734. GRANTS TO IMPROVE FOOD STAMP PARTICIPATION OF RURAL AMERICANS, MINORITIES, ELDERLY AND HOMELESS.

(a) Section 17 of the Act (7 U.S.C. 2020), as amended by sections 1706, 1707, 1712, and 1722, is amended by adding at the end the following new subsection:

"(j)(1)(A) Of sums appropriated pursuant to section 18, \$5,000,000 for each of the fiscal years 1992 through 1995 shall, except as provided under paragraph (3)(E), be used by the Secretary to fund food stamp outreach demonstration projects (hereafter in this subsection referred to as the 'projects') and related evaluations in areas of the United States to increase participation by eligible low income households in the food stamp program through grants competitively awarded to public or private non-profit organizations. Such funds shall be used in the year during which they are appropriated. No

more than 20 percent of the funds specified in this paragraph shall be used for evaluations.

"(B) The Secretary shall make a grant under this paragraph only to an entity that demonstrates to the Secretary that such entity is able to conduct the outreach functions described in this subsection.

"(2) Outreach projects under this subsection shall be targeted toward members of rural, elderly, and homeless populations, low-income working families with children, and non-English speaking minorities. (Hereafter in this subsection, such groups shall be referred to as 'target populations'.)

"(3)(A) The Secretary shall appoint an advisory panel (hereafter in this subsection referred to as the 'panel') composed of representatives of the target populations as well as individuals with expertise in the area of program evaluation. The panel shall not be subject to the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(B) The Secretary shall select recipients for grants, taking into consideration any recommendations from the panel concerning criteria that should be used in selecting recipients, to carry out projects under this subsection based upon the appropriateness of the methods proposed for such projects to reach target populations. Appropriate methods shall include, but not be limited to—

"(i) the production of electronic media campaigns (with the total amount allocated for such campaigns in the aggregate not to exceed 15 percent of the total amount of funds specified in paragraph (1)(A));

"(ii) utilization of local outreach workers and volunteers;

"(iii) development of solutions to transportation and access problems;

"(iv) in-service training for those capable of referring households to the program;

"(v) community presentations and education;

"(vi) pre-screening assistance for program eligibility;

"(vii) individualized client assistance;

"(viii) consultation and referral for benefit appeals; and

"(ix) recruitment of authorized representatives for applicants unable to appear for certification or at authorized food stores.

"(C) In selecting grant recipients, the Secretary shall take into consideration the ability of the applicants to produce useful data for evaluation purposes.

"(D) In selecting grant recipients from among applicant public agencies, preference shall be given to those applicants that propose to involve nonprofit organizations in projects to be carried out with such grants.

"(E) At least one grant shall be provided for the development of outreach materials aimed at the general food stamp eligible population as well as the specific target populations, including written materials and public service announcements, so that such materials may be used or adopted by other grant recipients, as appropriate. In awarding any such grant, the Secretary shall require applicants to provide matching funds equal to 50 percent and shall give preference to applicants that demonstrate the ability to disseminate such materials through other public and private non-profit organizations. Not to exceed \$500,000 of the funds provided under this subsection for any fiscal year shall be used for such grant.

"(4)(A) The Secretary shall evaluate a sufficient number of projects to be able to determine the effectiveness of such projects and the techniques employed by such projects with respect to—

"(i) success in reducing barriers to participation,

"(ii) increasing overall program participation including participation among target populations;

"(iii) administrative effectiveness;

"(iv) program efficiency; and

"(v) adequacy of administrative resource levels to conduct such activities effectively.

"(B) The Secretary shall also examine and report on previous research regarding reasons for non-participation and effective methods to conduct outreach and to reduce barriers to participation. The Secretary shall provide an interim report on the results of the evaluation carried out under this paragraph to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate no later than February 1, 1993, and a final report no later than February 1, 1995.

"(5) The Secretary shall—

"(A) within 180 days after the date of the enactment of this subsection, publish such notice as may be necessary to implement this subsection;

"(B) accept proposals from organizations for projects under this subsection for fiscal year 1992 for 90 days following the date such notice is published; and

"(C) begin to award grants under this subsection beginning no later than January 1, 1992."

(b) Of sums appropriated pursuant to section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027), not to exceed \$1,000,000 in fiscal year 1991 may be used by the Secretary of Agriculture to make grants to public or private nonprofit organizations or agencies, in one or more areas of the United States, that have projects designed to improve the effectiveness of the food stamp program in delivering food assistance to homeless individuals.

Subtitle E—Promoting Access for the Elderly and Disabled

SEC. 1741. CLARIFYING AMENDMENT CONCERNING SIMPLIFIED PROCEDURE FOR CLAIMING EXCESS MEDICAL DEDUCTION.

Section 5(e) of the Act (7 U.S.C. 2014(e)), as amended by sections 1701, 1717, and 1728, is further amended by inserting before the final period "and shall not require further verification of a change in medical expenses if such change has been anticipated by the State agency for the certification period."

SEC. 1742. VALUE OF MINIMUM BENEFIT.

Section 8(a) of the Act (7 U.S.C. 2017(a)) is amended by inserting before the final period "and shall be adjusted on each October 1 to reflect the percentage change in the thrifty food plan without regard to the adjustments under section 3(o) for the 12 month period ending the preceding June, with the result rounded to the nearest \$5".

SEC. 1743. PROCEDURES FOR ISSUING AGGREGATE ALLOTMENTS.

(a) OPTIONAL PROCEDURE.—Section 8(a) of the Act (7 U.S.C. 2017(a)), as amended by section 1742, is further amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding the following new paragraph:

"(2) State agencies may establish procedures that allow households whose regular food stamp benefits do not exceed \$20, at their option, to receive, in lieu of their food stamp benefits for the initial period under subsection (c) and their regular allotment in following months, and at intervals of up to three months thereafter, aggregate allotments not to exceed \$60 and covering not more than three months' benefits, which

shall be provided in accordance with sections 11(e)(3) and (9) (except that no household shall begin to receive combined allotments under this section until it has complied with all applicable verification requirements of section 11(e)(3)) and (with respect to the first aggregate allotment so issued) within forty days of the last coupon issuance."

(b) COLLECTION OF IMPROPERLY ISSUED BENEFITS.—Section 13(b)(1)(B) of the Act (7 U.S.C. 2022(b)(1)(B)) is amended by adding at the end "The State agency shall establish a claim for the amount of any benefits issued under section 8(a)(2) for which the household becomes ineligible."

SEC. 1744. APPLICANTS FOR SUPPLEMENTAL SECURITY INCOME.

Section 11(j)(1) of the Act (7 U.S.C. 2020(j)(1)) is amended by inserting "supplemental security income or" after "recipient of".

SEC. 1745. ASSET LIMITS FOR THE DISABLED.

Section 5(g) of the Act (7 U.S.C. 2014(g)), as amended by sections 1712, 1715, 1723, and 1733, is amended by striking in the first sentence "a member who is 60 years of age or older," and inserting "an elderly or disabled member."

SEC. 1746. EXTENSION OF PILOT PROJECTS.

Section 17(b)(1) of the Act (7 U.S.C. 2026(b)(1)) is amended by striking "1990" and inserting "1995".

Subtitle F—Program Administration by State Agencies

SEC. 1751. QUALITY CONTROL SANCTIONS WITH RESPECT TO DISALLOWANCES BEFORE FISCAL YEAR 1991.

No disallowance or other similar action shall be applied to any State for any fiscal year before fiscal year 1991 under section 16(c) of the Act (7 U.S.C. 2025(c)) or any predecessor statutory or regulatory provision relating to disallowances for erroneous issuances made in carrying out a State plan under the Act.

SEC. 1752. FOOD STAMP AUTOMATION.

(a) AMENDMENT TO THE ACT.—The Act (7 U.S.C. 2011 et seq.) is amended by adding the following new section:

"AUTOMATION

"SEC. 23. (a) STANDARDS AND PROCEDURES FOR REVIEWS.—(1) INITIAL REVIEWS.—(A) IN GENERAL.—The Secretary shall develop by October 1, 1992, standards for initial approval of automated data processing and information retrieval systems for State agencies and shall further develop written procedures for conducting initial approval reviews for systems described in section 16(g). Such standards shall take into consideration the state of the art in automation technology and those elements identified in section 11(o).
 "(B) DEADLINE FOR NEW SUBMISSIONS.—Advance planning documents submitted by State agencies and approved by the Secretary after October 1, 1992, must meet the standards for initial approval required pursuant to subparagraph (A).
 "(C) DEADLINE FOR MODIFICATIONS.—Modifications or amendments, submitted after October 1, 1992, to advance planning documents must meet the standards for initial approval required pursuant to subparagraph (A) regardless of when the original advance planning document was submitted to the Secretary for approval.
 "(2) DEADLINE FOR STATEWIDE OPERATION.—The deadline for statewide operation of such systems for a State is the earlier of—
 "(A) September 30, 1994, or
 "(B) the last day of the sixth month following the date specified for operation of such

systems in the State's most recently approved advanced planning document submitted before the date of the enactment of this section.

"(3) CONTINUED APPROVAL.—The Secretary shall develop by October 1, 1992, a set of performance standards for continued systems approval and shall further develop procedures for conducting reappraisal reviews, including specific criteria for reassessing systems operations no less often than every 2 years to insure that all such performance standards and other requirements are met on a continuous basis.

"(4) CONDITIONS.—In order to receive payments under section 16(g), and not be subject to a penalty pursuant to section 11(g), a State system must be initially approved by the Secretary in accordance with the standards and procedures under paragraph (1), be operational on or before the deadline established under paragraph (2), and, in the fiscal year subsequent to initial approval and continuously thereafter, meet the performance requirements prescribed by the Secretary.

"(b) REVIEW PROCESS.—The Secretary, with respect to State automation systems, shall—

"(1) provide that reviews for reappraisal, conducted before October 1, 1994, shall be for the purpose of developing a systems performance data base and assisting State agencies to improve their systems;

"(2) insure that review procedures, performance standards, and other requirements developed under subsection (a) are sufficiently flexible to allow for differing administrative needs among the State agencies, and that such procedures, standards, and requirements are of a nature that will permit their use by State agencies for self-evaluation;

"(3) notify all State agencies of proposed procedures, standards, and other requirements at least 2 quarters prior to the fiscal year in which such procedures, standards, and other requirements will be used for conducting reviews for reappraisal;

"(4) provide technical assistance to State agencies in the development and improvement of the systems so as to continually improve the capacity of such systems;

"(5) develop and disseminate clear definitions of those types of reasonable costs relating to State systems that are reimbursable under the provisions of section 16;

"(6) allow State agencies the option of contracting with private vendors for the development or operation of approved systems; and

"(7) report on or before October 1, 1993, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the extent to which State agencies have developed and are operating effective systems.

"(c) WAIVER.—(1) GRANTING.—The Secretary may waive some or all of the provisions of this section with respect to the operation and approval of automated food stamp program and information retrieval systems with respect to any State that—

"(A) has a 1988 population (as reported by the Bureau of the Census) of less than one million and made total expenditures (including Federal reimbursement) for which Federal financial participation is authorized under this Act of less than \$25 million in federal fiscal year 1989 (as reported by such State agency for such year), or

"(B) reasonably demonstrates that the application of such provision, in whole or in part, would not significantly improve the ef-

iciency of the administration of such State agency's plan under this Act.

"(2) **WITHDRAWAL.**—If the Secretary determines that the application of the provisions of this section, other than this subsection, to a State agency would significantly improve the efficiency of the administration of the State agency's plan under this Act, the Secretary may withdraw the State agency's waiver under paragraph (1) and shall impose a timetable for such State agency with respect to compliance with the provisions of subsection (a).

"(d) **GOOD CAUSE WAIVER.**—The Secretary may waive requirements under this section if the Secretary determines that a State agency is unable to comply for good cause. Any such waiver shall be subject to review no less frequently than once every 2 years.

"(e) **COST SHARING.**—The Secretary shall pay each State agency with an approved system an amount greater than 50 percent but not in excess of 75 percent of the operational cost of such system for any year following the fiscal year in which the Secretary determines that such State agency is operating a significantly more effective and efficient program. The total of such payments shall equal \$25,000,000 in fiscal year 1994 and \$30,000,000 in fiscal year 1995."

(b) **CONFORMING AMENDMENT.**—Section 11(g) of the Act (7 U.S.C. 2020(g)) is amended in the first sentence by inserting after "section 16(b)(1)" the following: "or the requirements established pursuant to section 23".

Subtitle G—Program Integrity

SEC. 1761. AUTHORIZATION OF WHOLESALE FOOD CONCERNS.

Section 9(b)(1) of the Act (7 U.S.C. 2018(b)(1)) is amended by inserting after the first sentence "No combined wholesale and retail food concern may be authorized to accept and redeem coupons as a retail food store unless—

"(A) it does a substantial level of retail food business, or

"(B) the Secretary determines that failure to authorize such a food concern as a retail food store would cause hardship to food stamp households."

SEC. 1762. BIENNIAL REAUTHORIZATION OF RETAIL FOOD STORES.

Section 9(a) of the Act (7 U.S.C. 2018(a)) is amended by—

(1) inserting "(1)" immediately after the subsection designation; and

(2) adding at the end the following new paragraph:

"(2) The Secretary is authorized to issue regulations providing for a biennial reauthorization of retail food stores and wholesale food concerns."

SEC. 1763. PER-VIOLATION CIVIL MONEY PENALTY FOR COUPON TRAFFICKING AND PERMANENT DISQUALIFICATION FOR CERTAIN ABUSES.

Section 12(b)(3) of the Act (7 U.S.C. 2021(b)(3)(B)) is amended—

(1) striking, in subparagraph (A), "or";

(2) striking, in subparagraph (B), the period at the end;

(3) in subparagraph (B) by inserting "for each violation" after "\$20,000"; and

(4) adding the following new subparagraph:

"(C) a finding of the sale for coupons of firearms, ammunition, explosives, or controlled substances (as such term is defined in title II, section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802))."

SEC. 1764. FINES FOR RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS THAT ACCEPT LOOSE COUPONS.

Section 12(e) of the Act (7 U.S.C. 2021(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary may impose a fine against any retail food store or wholesale food concern that accepts food coupons that are not accompanied by the corresponding book cover, other than the denomination of coupons used for making change as specified in regulations promulgated under this Act. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations promulgated under this Act in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against such store or concern to collect such fine."

SEC. 1765. FINES FOR UNAUTHORIZED THIRD PARTIES THAT ACCEPT FOOD STAMPS.

Section 12 of the Act (7 U.S.C. 2021) is amended by adding at the end the following new subsection:

"(f) The Secretary may impose a fine against any person not approved by the Secretary to accept and redeem food coupons who violates any provision of this Act or the regulations promulgated under this Act including violations concerning the acceptance of food coupons. The amount of any such fine shall be established by the Secretary and may be assessed and collected in accordance with regulations promulgated under this Act in combination with any fiscal claim established by the Secretary. The Attorney General of the United States may institute judicial action in any court of competent jurisdiction against such person to collect such fine."

SEC. 1766. COMPUTER FRAUD PENALTIES.

(a) **USE OF AN ACCESS DEVICE.**—Section 15(b) of the Act (7 U.S.C. 2024(b)) is amended by—

(1) striking in the first sentence of paragraph (1) "or authorization cards in any manner not authorized by" and inserting "authorization cards, or access devices in any manner contrary to"; and

(2) inserting in the first sentence of paragraph (1) after "a value of \$100 or more" the following: "or if the item used, transferred, acquired, altered, or possessed is an access device."

(b) **DEFINITION.**—Section 3 of the Act is amended by adding at the end the following new subsection:

"(t) 'Access device' means any card, plate, code, account number, or other means of access of a type that is used under this Act or regulations issued pursuant to this Act, alone or in conjunction with another access device, to obtain payments, allotments, benefits, money, goods, or other things of value, or to initiate a transfer of funds."

(c) **CONFORMING CHANGE.**—Section 15(g) of the Act (7 U.S.C. 2024(g)) is amended by striking "or authorization cards in any manner not authorized by" and inserting "authorization cards, or access devices, or anything of value obtained by use of an access device, in any manner contrary to".

SEC. 1767. UNLAWFUL USE OF COUPONS IN LAUNDERING MONETARY INSTRUMENTS.

Section 15(b)(1) is amended by—

(1) inserting after "Act shall," the words "if such coupons or authorization cards are of a value of \$5,000 or more, be guilty of a felony and shall be fined not more than \$250,000 or imprisoned for not more than twenty years, or both, and shall,"; and

(2) inserting after "\$100 or more," the words "but less than \$5,000,".

SEC. 1768. ISSUANCE OF WARNING LETTERS.

Section 12(a) of the Act (7 U.S.C. 2021) is amended by inserting after "up to \$10,000" the words "or issued a warning letter".

Subtitle H—The Commodity Distribution Programs

SEC. 1771. TEFAP COMMODITY AVAILABILITY.

(a) The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended—

(1) by amending the title to read as follows:

"TITLE II— EMERGENCY FOOD ASSISTANCE ACT";

(2) in section 201 by striking "Temporary";

(3) in section 201A by

(A) inserting "(a)" after "201A"; and

(B) by adding at the end:

"(b) State agencies may, with the approval of the Secretary, determine whether a public or nonprofit organization is an eligible recipient agency on the basis of its service to a substantial number of low-income persons rather than by individual income eligibility determinations if such procedures will reduce administrative burdens to the agency and ensure that most program recipients are low-income persons."; and

(4) in section 202 by adding a new subsection (g) as follows:

"(g)(1) Whenever commodities acquired by the Commodity Credit Corporation are made available for donation to domestic food programs in amounts that exceed Federal obligations for such donations, the Secretary also shall make some portion of such commodities available to emergency feeding organizations authorized by this Act.

"(2) In determining the commodities that will be made available to emergency feeding organizations under the provisions of this Act, the Secretary may distribute commodities that become available on a seasonal or irregular basis."

(5) by amending section 210(c) to read as follows:

"(c)(1) The Secretary shall as early as feasible but not later than the beginning of each fiscal year, publish in the Federal Register an estimate of the types and quantities of commodities that the Secretary anticipates are likely to be made available under the commodity distribution program under this Act during such fiscal year.

"(2) The actual types and quantities of commodities made available by the Secretary under this Act may differ from the estimates made under paragraph (1)."

(b) The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended in section 13(3)(E) by striking "Temporary".

SEC. 1772. FOOD BANK PROJECTS.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended—

(1) in section 4(a) by striking the heading "Demonstration Project" and inserting "Community Food Banks";

(2) in section 4(d) by striking "and ending on December 31, 1990"; and

(3) by amending section 4(e) to read as follows:

"(e) **REPORTS.**—Not later than July 1, 1991, the Secretary shall submit a report to Congress on each project carried out under this section. Thereafter, the Secretary shall submit biennial reports to Congress on such projects. Such reports shall include analyses and evaluations of the provision and redis-

tribution of agricultural commodities and food products under such projects, recommendations regarding improvements in the provision and redistribution of agricultural commodities and food products to community food banks, and the feasibility of expanding this method of provision and redistribution of agricultural commodities and food products to other community food banks."

SEC. 1773. AUTHORIZING A COMMODITY SUPPLEMENTAL FOOD PROGRAM FOR THE ELDERLY AND INCREASING ADMINISTRATIVE FUNDING.

The Agriculture and Consumer Protection Act of 1973 is amended—

(1) in section 4(a) (7 U.S.C. 612c note) after "supplemental feeding programs wherever located" by inserting "serving women, infants and children, or elderly persons";

(2) in section 5(a) (7 U.S.C. 612c note) by striking "may not exceed 15 per centum of the sum of (A) the amount appropriated for the commodity supplemental food program and (B)" and inserting "may not be less than the sum of (A) 20 percent of the amount appropriated for the commodity supplemental food program and (B) 15 percent of"; and

(3) in section 5(f) (7 U.S.C. 612c note) by striking "additional sites for the program" and inserting "additional sites for the program, including sites that serve only elderly persons,".

SEC. 1774. FOOD DISTRIBUTION PROGRAM ADVANCE FUNDING FOR STATE OPTION CONTRACTS (SOCs).

The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended by inserting after section 3 a new section 3A to read as follows:

"SEC. 3A. STATE OPTION CONTRACTS FOR COMMODITIES.

"The Secretary may use the funds of the Commodity Credit Corporation and the funds available to carry out section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) to pay for all or a portion of the cost, as agreed upon with the State distribution agency, of food or the processing or packaging of food on behalf of a State distribution agency. In such cases, the State distribution agency shall reimburse the Secretary for the agreed upon cost. Any funds received by the Secretary as reimbursement shall be deposited to the credit of the Commodity Credit Corporation or the appropriation originally charged for such costs, as appropriate. If the State distribution agency fails, within 150 days of delivery, to make the required reimbursement in full, the Secretary shall, within 30 days, offset any outstanding amount against the appropriate account."

SEC. 1775. CLARIFYING AMENDMENT.

The Commodity Distribution Reform Act and WIC Amendments of 1987 (7 U.S.C. 612c note) is amended in section 3(a)(3)(A)(i) by adding ", including food banks" after "recipient agencies".

SEC. 1776. DISTRIBUTION OF MILK.

Section 110(c) of the Hunger Prevention Act of 1988 (7 U.S.C. 612c(c) note) is amended—

(1) by inserting "(1)" after "AMOUNTS.—", and

(2) by adding at the end the following:

"(2) During each of the fiscal years 1991 through 1995, whenever milk acquired by the Commodity Credit Corporation is made available for donation to domestic food programs, the Secretary shall make some amount available to States for distribution to food banks and soup kitchens."

SEC. 1777. COMMODITY ASSISTANCE FOR INFANTS AND CHILDREN.

(a) Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note), as amended in section 1773, is amended by inserting after the words "distribution to institutions" the following: ", including hospitals and facilities caring for needy infants and children".

(b) Section 416(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1431(a)(3)) is amended by striking the words "hospitals, to the extent that needy persons are served" and inserting the words "hospitals and facilities, to the extent that they serve needy persons, including infants and children".

Subtitle I—Reauthorization of Programs

SEC. 1781. REAUTHORIZATION OF FOOD STAMP PROGRAM AND ELIMINATION OF SPECIFIED AUTHORIZATION LEVELS.

Section 18 of the Act (7 U.S.C. 2027) is amended—

(1) in subsection (a)(1)—

(A) by striking the first two sentences and inserting "To carry out the provisions of this Act, there are hereby authorized to be appropriated such sums as are necessary for the fiscal years 1991 through 1995,"; and

(B) by striking in the last sentence "reductions in the value of allotments issued to households certified to participate in the food stamp program will be necessary under subsection (b) of this section" and inserting "supplemental appropriations will be needed to support the operation of the program through the end of the fiscal year"; and

(2) in subsection (b) by striking "amount authorized in subsection (a)(1)".

SEC. 1782. REAUTHORIZATION OF NUTRITION ASSISTANCE PROGRAM FOR PUERTO RICO.

(a) **POLICY OF CONGRESS.**—It is the policy of Congress that citizens of the United States who reside in the Commonwealth of Puerto Rico should be safeguarded against hunger and treated on an equitable and fair basis with other citizens under Federal nutritional programs.

(b) **FUNDING LEVELS.**—Section 19(a)(1)(A) of the Act (7 U.S.C. 2028(a)(1)(A)) is amended to read as follows:

"(a)(1)(A) From the sums appropriated under this Act, the Secretary shall, subject to the provisions of this section, pay to the Commonwealth of Puerto Rico \$985,000,000 for fiscal year 1991, \$1,029,000,000 for fiscal year 1992, \$1,074,000,000 for fiscal year 1993, \$1,121,000,000 for fiscal year 1994, and \$1,170,000,000 for fiscal year 1995, to finance 100 percent of the expenditures for food assistance provided to needy persons and 50 percent of the administrative expenses related to the provision of such assistance."

(c) **STUDY OF NUTRITIONAL NEEDS OF PUERTO RICANS.**—The Comptroller General of the United States shall conduct a study of—

(1) the nutritional needs of the citizens of the Commonwealth of Puerto Rico, including—

(A) the adequacy of the nutritional level of the diets of members of households receiving assistance under the nutrition assistance program and other households not currently receiving the assistance;

(B) the incidence of inadequate nutrition among children and the elderly residing in the Commonwealth;

(C) the nutritional impact of restoring the level of nutritional assistance provided to households in the Commonwealth to the level of such assistance provided to other households in the United States; and

(D) such other factors as the Comptroller General considers appropriate;

(2) the potential alternative means of providing nutritional assistance in the Commonwealth of Puerto Rico, including—

(A) the impact of restoring the Commonwealth to the food stamp program;

(B) increasing the benefits provided under the nutrition assistance program to the aggregate value of food stamp coupons that would be distributed to households in the Commonwealth if the Commonwealth were to participate in the food stamp program; and

(C) the usefulness of adjustments to standards of eligibility and other factors appropriate to the circumstances of the Commonwealth comparable to those adjustments made under the Act (7 U.S.C. 2011 et seq.) for Alaska, Hawaii, Guam and the Virgin Islands of the United States.

(d) **REPORT OF FINDINGS.**—The Comptroller General shall submit a final report on the findings of the study required under subsection (c) no later than August 1, 1992, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 1783. REAUTHORIZATION OF THE TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM.

The Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended—

(1) in section 204 by—

(A) striking subsections (a) and (b);

(B) redesignating subsections (c) and (d) as subsections (a) and (b), respectively; and

(C) in subsection (a)(1), as so redesignated, striking "ending September 30, 1986, through September 30, 1990," and inserting "1991 through 1995";

(2) in section 212 by striking "1990" and inserting "1995"; and

(3) in section 214 by—

(A) striking in subsection (a) "fiscal years 1989 and 1990" and inserting "fiscal years 1989 through 1992"; and

(B) revising subsection (e) to read as follows:

"(e) **AMOUNTS.**—During fiscal year 1991, the Secretary shall spend \$175,000,000 and during fiscal year 1992 the Secretary shall spend \$190,000,000, to purchase, process, and distribute additional commodities under this section. To carry out the provisions of this subsection there are hereby authorized to be appropriated \$220,000,000 for each of the fiscal years 1993 through 1995 to purchase, process, and distribute additional commodities under this section. Any amounts provided for fiscal years 1993 through 1995 shall be available only to the extent and in such amounts as are provided in advance in appropriations acts."

SEC. 1784. SOUP KITCHENS AND FOOD BANKS.

Section 110 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note), as amended by section 1776, is amended—

(1) in subsection (a) by striking "1991" and inserting "1995"; and

(2) in subsection (c)(1) (as redesignated by section 1676) by striking "in fiscal year 1991" and inserting "during each of the fiscal years 1991 through 1995".

SEC. 1785. REAUTHORIZATION OF COMMODITY SUPPLEMENTAL FOOD PROGRAM AND OTHER FOOD DONATION PROGRAMS.

(a) The Agriculture and Consumer Protection Act of 1973 is amended—

(1) in section 4(a) (7 U.S.C. 612c note) by striking "1986, 1987, 1988, 1989, and 1990" and inserting "1991 through 1995";

(2) in section 5(a), as amended by section 1773, by striking "1986 through 1990" in

clause (2) and inserting "1991 through 1995"; and

(3) in section 5(d) after "(d)" by inserting "(1)".

(b) Section 130 of the Hunger Prevention Act of 1988 is amended—

(1) by striking "and 1990" and inserting "through 1995";

(2) by striking "of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note)"; and

(3) by redesignating such section, as amended in this subsection, as section 5(d)(2) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note). SEC. 1786. PROCESSING AGREEMENTS.

Section 1114(a)(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1990" and inserting "1995".

SEC. 1787. NUTRITION EDUCATION AUTHORIZATION.

Section 1588(a) of the Food Security Act of 1985 (7 U.S.C. 3175e(a)) is amended by striking "\$5,000,000" and all that follows through the end and inserting "\$8,000,000 for each of the fiscal years 1991 through 1995".

Subtitle J—Miscellaneous; Effective Dates

SEC. 1791. GLEANING ASSISTANCE.

Section 111 of the Hunger Prevention Act of 1988 (7 U.S.C. 612c note) is amended to read as follows:

"SEC. 111. NATIONAL GLEANING CLEARINGHOUSE.

"(a) DEFINITION OF GLEANING.—For purposes of this section, the term 'to glean' means to collect unharvested crops from the fields of farmers, or to obtain agricultural products from farmers, processors, or retailers, in order to distribute such products to needy individuals, including unemployed and low-income individuals, and the term includes only those situations in which agricultural products and access to fields and facilities are made available without charge.

"(b) ESTABLISHMENT.—(1) The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") is authorized to establish a National Gleaning Clearinghouse (hereafter in this section referred to as the 'Clearinghouse').

"(2) Through the Clearinghouse, the Secretary is authorized to—

"(A) encourage public and nonprofit private organizations to initiate and carry out gleaning activities, and to assist other organizations and individuals to do so, through lectures, correspondence, consultation, or such other measures as the Secretary may deem appropriate;

"(B) collect from public and private sources (including farmers, processors, and retailers) information relating to the kinds, amounts, and geographical locations of agricultural products not completely harvested;

"(C) gather, compile, and make available to public and nonprofit private organizations and to the public the statistics and other information collected under this paragraph, at reasonable intervals, as determined by the Secretary;

"(D) establish and operate a toll-free telephone line by which—

"(i) farmers, processors, and retailers may report to the Clearinghouse for dissemination information regarding unharvested crops and agricultural products available for gleaning, and may also report how they may be contacted;

"(ii) public and nonprofit organizations that wish to glean or to assist others to glean, may report to the Clearinghouse the kinds and amounts of products that are wanted for gleaning, and may also report how they may be contacted;

"(iii) persons who can transport crops or products may report the availability of free transportation for gleaned crops or products; and

"(iv) information about gleaning can be provided without charge by the Clearinghouse to the persons and organizations described in clauses (i), (ii), and (iii) above;

"(E) prepare, publish, and make available to the public, at cost and on a continuing basis, a handbook on gleaning that includes such information and advice as may be useful in operating efficient gleaning activities and projects, including information regarding how to—

"(i) organize groups to engage in gleaning; and

"(ii) distribute to needy individuals, including low-income and unemployed individuals, food and other agricultural products that have been gleaned; and

"(F) advertise in print, on radio, television, or through other media, as the Secretary considers to be appropriate, the services offered by the Clearinghouse under this section."

SEC. 1792. WELFARE SIMPLIFICATION AND COORDINATION ADVISORY COMMITTEE.

(a) APPOINTMENT AND MEMBERSHIP.—There is hereby established an Advisory Committee on Welfare Simplification and Coordination (hereafter in this section referred to as the "Committee") consisting of no fewer than 9 and no more than 15 members appointed by the Secretary of Agriculture (hereafter in this section referred to as the "Secretary"), after consultation with the Secretaries of Health and Human Services and Housing and Urban Development, the Commissioner of Social Security, State and local officials responsible for administering the food stamp program, cash and medical assistance programs for low-income families and individuals under the Social Security Act, and programs providing housing assistance to needy families and individuals, and representatives of recipients and recipient advocacy organizations associated with such programs. The members of the Committee shall be persons who have experience in administering food stamp, cash, medical, and housing assistance programs at the Federal, State, and local levels, are familiar with the rules, goals, and limitations of such programs, and have demonstrated expertise in evaluating the operations of and interaction among such programs as they affect administrators and recipients, and shall include representatives of the administrators and recipients affected by such programs.

(b) PURPOSE.—It shall be the purpose of the Committee—

(1) to identify the policies implemented in the food stamp program, cash and medical assistance programs under the Social Security Act, and housing assistance programs (whether resulting from law, regulations, or administrative practice) that, because they differ, make it difficult for those eligible to apply for and obtain benefits from more than one program and restrict the ability of administrators of such programs to provide efficient, timely, and appropriate benefits to those eligible for more than one type of assistance;

(2) to examine the reasons for such different programs and policies and previous efforts to coordinate and simplify such programs and policies;

(3) to evaluate how and the extent to which such different programs and policies hinder the receipt of benefits from more than one program and limit administrators' ability to provide efficient, timely and appropriate benefits;

(4) to recommend common or simplified programs and policies (including recommendations for changes in law, regulations, and administrative practice and for policies that do not currently exist in such programs) that would reduce difficulties in applying for and obtaining benefits from more than one program and increase the ability of administrators of such programs to efficiently provide timely and appropriate assistance to those eligible for more than one type of assistance; and

(5) to describe the effects of such common or simplified programs and policies (including how such common or simplified programs and policies would enhance or conflict with the purposes of such programs, how they would ease the burdens on administrators and recipients, how they would affect program costs and participation, and the degree to which they would change Federal-State relationships in such programs), and the reasons for recommending such programs and policies (including reasons that might be sufficient to override the purposes of individual programs).

(c) ADMINISTRATIVE SUPPORT.—The Secretary shall provide the Committee with such technical and other assistance, including secretarial and clerical assistance, as may be required to carry out its functions.

(d) REIMBURSEMENT.—Members of the Committee shall serve without compensation but shall receive reimbursement for necessary travel and subsistence expenses incurred by them in the performance of the duties of the Committee.

(e) REPORTS.—The Committee shall submit a final report, including recommendations for common or simplified programs and policies and the effects of and reasons for such programs and policies, to the Congress and the Secretaries of Agriculture, Health and Human Services, and Housing and Urban Development not later than April 1, 1992, and may submit interim reports to the Congress and such Secretaries as deemed appropriate by the Committee.

(f) EXPIRATION.—The Committee shall expire upon submission of its final report, or at such later time as the Secretary of Agriculture determines appropriate to fulfill its advisory functions.

SEC. 1793. NUTRITION EDUCATION IMPROVEMENTS.

(a) Section 11(f) of the Act (7 U.S.C. 2020(f)) is amended by amending the first sentence to read "To encourage the purchase of nutritious foods the Secretary is authorized to assign responsibility for the nutrition education of people eligible for food stamps to the extension service, as defined in section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)) in cooperation with the Food and Nutrition Service and the Human Nutrition Information Service."

(b) Section 18 of the Act (7 U.S.C. 2027), as amended by section 1734, is amended by adding at the end the following new subsection:

"(h) Of sums appropriated pursuant to this section, not more than \$2,000,000 in any fiscal year may be used by the Secretary to make two-year competitive grants that will (1) enhance interagency cooperation in nutrition education activities and (2) develop cost effective ways to inform people eligible for food stamps about nutrition, resource management, and community nutrition education programs, such as the expanded food and nutrition education program. Awards will be made to one or more cooper-

ative extension services, as defined in section 1404(5) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(5)), in coordination with local or State agencies serving low income people. Each project shall include an evaluation component and shall develop an implementation plan for replication in other States. The Secretary shall report to the appropriate committees of Congress on the results of the projects and shall disseminate these results through the cooperative extension service system and to State welfare offices, local food stamp program offices, and other entities serving low income households."

SEC. 1794. EFFECTIVE DATES.

Except as otherwise provided in this title, the provisions of this title shall become effective on October 1, 1990. Sections 1721, 1733 and 1745 shall be effective April 1, 1991. Sections 1703, 1711, 1715, 1717, and 1728 shall become effective July 1, 1991.

SEC. 1795. SPECIAL PROVISION IN CASE OF SEQUESTRATION.

(a) **FOOD STAMP PROGRAM.**—Notwithstanding any other provision of law, if a final order is issued for any of the fiscal years 1991 through 1995 under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)), or any subsequent enactment extending the effect of such provision, and such order is not subsequently rescinded, the amount made available to carry out the food stamp program under section 18 of the Act (7 U.S.C. 2027) shall be reduced by the amount equal to the amount of the percentage reduction for domestic programs required under such order multiplied by the additional cost over the preceding year, as contained in the Congressional Budget Office's final estimate of the cost of this Act prior to enactment, of the increases as provided for in sections 1701, 1702, 1711, 1712, 1715(d), 1728 and 1745 of this title for the fiscal year for which a final order has been issued.

(b) The reduction required by subsection (a) shall be achieved by reducing the increases in the costs of the provisions under sections 1701, 1702, 1711, 1712, 1715(d), 1728 and 1745 effective January 1 of such fiscal year, by one and one-third times the percentage reduction for domestic programs required under such order.

EN BLOC AMENDMENTS OFFERED BY MR. FRENZEL

Mr. FRENZEL. Mr. Chairman, I offer 18 amendments which under the rule I ask to be offered en bloc.

The Clerk read as follows:

Amendments offered by Mr. FRENZEL:

Strike section 1705 (and redesignate references and succeeding sections as may be necessary).

Strike section 1711 (and redesignate references and succeeding sections as may be necessary).

In section 1794 of the bill, strike "1711,". In section 1795 of the bill, strike "1711," each place it appears.

Strike section 1701 (and redesignate references and succeeding sections as may be necessary).

In section 1795(b) of the bill, strike "1701,".

Strike section 1712 (and redesignate references and succeeding sections as may be necessary).

In section 1795 of the bill, strike "1712," each place it appears.

Strike subsection (d) of section 1715 (and redesignate references and succeeding sections as may be necessary).

In section 1795 of the bill, strike "1715(d)," each place it appears.

Strike section 1717 (and redesignate references and succeeding sections as may be necessary).

In section 1794 of the bill, strike "1717,". Strike section 1721 (and redesignate references and succeeding sections as may be necessary).

In section 1794 of the bill, strike "1721,". Strike section 1728 (and redesignate references and succeeding sections as may be necessary).

In section 1794 of the bill, strike "1717, and 1728" and insert "and 1717".

In section 1795 of the bill, strike "1728," each place it appears.

In section 1729(a)(2) of the bill, strike subparagraph (B) (and make such technical corrections as may be necessary).

Strike section 1733 (and redesignate references and succeeding sections as may be necessary).

Strike section 1734 (and redesignate references and succeeding sections as may be necessary).

Strike section 1745 (and redesignate references and succeeding sections as may be necessary).

In section 1794 of the bill, strike "1733 and 1745" and insert "and 1733".

In section 1795 of the bill, strike "1728 and 1745" each place it appears and insert "and 1728".

Strike section 1751 (and redesignate references and succeeding sections as may be necessary).

Strike section 1752 (and redesignate references and succeeding sections as may be necessary).

In section 215(e) of the Temporary Emergency Food Assistance Act of 1983, as added by the bill—

(1) amend the first sentence to read as follows: "There are authorized to be appropriated to purchase, process, and distribute additional commodities under this section, \$175,000,000 for fiscal year 1991 and \$190,000,000 for fiscal year 1992."; and

(2) in the last sentence strike "1993" and insert "1991".

In section 19(a)(1)(A) of the Food Stamp Act of 1977, as added by section 1782 of the bill—

(1) strike "\$985,000,000" and insert "\$974,000,000",

(2) strike "\$1,029,000,000" and insert "\$1,014,000,000",

(3) strike "\$1,074,000,000" and insert "\$1,054,000,000",

(4) strike "\$1,121,000,000" and insert "\$1,096,000,000", and

(5) strike "\$1,170,000,000" and insert "\$1,140,000,000".

Strike section 1702 (and redesignate references and succeeding sections as may be necessary).

In section 1795 of the bill, strike "1702," each place it appears.

Strike section 1703 (and redesignate references and succeeding sections as may be necessary).

In section 1794 of the bill, strike "1703,".

Mr. FRENZEL (during the reading). Mr. Chairman, I ask unanimous consent that the 18 amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The CHAIRMAN. Pursuant to House Resolution 444, the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes and a Member opposed will be recognized for 20 minutes.

Mr. DE LA GARZA. Mr. Chairman, I am opposed.

The CHAIRMAN. The gentleman from Texas [Mr. DE LA GARZA] will control the time in opposition.

The Chair recognizes the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is designed to strike or modify 18 provisions which would expand the Food Stamp Program and other public assistance programs at a cost of \$438 million in fiscal year 1991 and \$4.852 billion over 5 years.

Under my amendment, the Food Stamp Program would continue in its present configuration, including program growth due to inflation and enrollment fluctuations. Existing program costs are growing at a fast clip—\$12.8 billion in fiscal year 1989, \$14.8 billion in fiscal year 1990, and a projected \$16.8 billion in fiscal year 1991. My amendments would not curb this cost escalation. Only further expansions and liberalizations of the present law would be deleted.

Second, I would strike the proposed expansion in the program of nutrition assistance for Puerto Rico so that this program would continue at its current level.

Third, I would accelerate the conversion of the Emergency Food Assistance Program from an entitlement to a discretionary program subject to appropriations from fiscal year 1993 to fiscal year 1991.

Many Members may be unaware that the farm bill would increase spending for entitlement-type welfare programs by almost a half billion in fiscal year 1991 and \$5.011 billion over 5 years. It is ludicrous that we should give serious consideration to a bill which expands entitlements at the very time we are searching for ways to cut existing entitlement programs.

The budget summit negotiators are discussing entitlement cuts which could total \$12 to \$15 billion next year and considerably more over the next 5 years. As I figure it, the expansions in these nutrition programs account for about 5 percent of the targeted budget summit entitlement savings. In effect, we are being asked to pay a 5-percent surcharge on any entitlement savings we come up with during the summit. To put it more directly, other entitlement programs will have to be cut even deeper to pay for these expansions.

We should not be misled into thinking that just because most of these ex-

pansions are included in the House-passed budget resolution, they are somehow paid for. That budget resolution attempts to reduce the deficit by only \$36 billion—far short of what we now know is needed. Any budget resolution that results from a summit agreement will look quite different from the House-passed budget in its promises for domestic initiatives.

The committee subjected these food program expansions to sequesters. Unfortunately, this gesture is more apparent than real because only the program expansions, not the programs in their entirety, were subject to the sequester.

Whenever a lot of different interests are competing for a scarce commodity, there is an advantage to being first in line. That is what is going on here. The budget summit will require cuts in entitlements, not expansions. But there are many worthy candidates for expansion all trying to get in before the gates slam shut. In terms of 5-year costs, here are some of the competitors: Child care, \$29 billion; child welfare, \$4.7 billion; Medicaid expansions, \$7.2 billion; and Social Security, \$0.9 billion.

Each of these initiatives is trying to preempt any moneys the budget summit allows for domestic initiatives. Thus, a vote against my amendment is a vote to put the food stamp priority ahead of child care, housing assistance, child welfare, Medicaid, and Social Security. All I ask is that we oppose all major program expansions until after the summit when we will know how much is in the pot, and everyone has an opportunity to state their claims.

We simply cannot continue business as usual if we are to reduce in our enormous budget deficits. At some point, we have to say "no" to creating new programs and expanding old ones.

Once again, I urge my colleagues to oppose the program expansions within this bill by voting in favor of my amendment.

Mr. RUSSO. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the distinguished gentleman from Illinois.

□ 1955

Mr. RUSSO. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I take this opportunity to announce to the membership that at 8:000 this evening on the center steps of the House of Representatives we are going to have a vigil in honor of the anniversary of Mickey Leland's death. I do not know if Members know that. But I would appreciate it if Members would attend the memorial vigil on the center steps at 8:00, and I thank the gentleman again for yielding.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman for giving the

committee that important information.

Mr. Chairman, I urge adoption of my amendment.

I know I have given the body many other opportunities to save money, which they have eschewed. I think it unlikely that they are going to take advantage of this splendid opportunity.

Mr. Chairman, I reserve the balance of my time.

Mr. DE LA GARZA. Mr. Chairman, I rise in opposition to the amendments.

The CHAIRMAN. The gentleman is recognized for 20 minutes.

Mr. DE LA GARZA. Mr. Chairman, I yield 1½ minutes to my friend, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding time to me.

Mr. Chairman, I am pleased to rise in support of the Mickey Leland Memorial Domestic Hunger Relief Act, title 17 of the bill currently before us would like to take this opportunity to encourage my colleagues to support this language as well.

The Leland Act is important domestic anti-hunger legislation. It would provide desperately needed food assistance to families with children, the homeless, and those on the brink of homelessness. The bill also promotes self-sufficiency and cuts red tape and barriers to food stamp participation.

No American family should have to choose between paying rent and putting food on the table. No child should be forced to go to school hungry. The least we can do in the Congress is ensure that our most vulnerable citizens—the poor, the elderly, those out of work and, most importantly, children—have access to an adequate diet and decent shelter. The Leland Act is a critical component in our effort to protect these citizens.

These provisions have widespread, bipartisan support in the House and have been endorsed by dozens of national organizations whose constituencies represent millions of Americans. Perhaps most importantly, in this time of fiscal constraint, the Leland Act provides a fiscally responsible, pragmatic approach for responding to our domestic hunger problem.

Finally, the Leland Act clearly reflects our late colleague Mickey Leland's commitment to alleviate hunger in America. In the spirit of Mickey, and for the sake of the millions who rely on the Congress for food assistance, I strongly endorse the Leland Act and urge my colleagues to oppose any amendments which would weaken or eliminate any of its provisions.

Mr. DE LA GARZA. Mr. Chairman, it had been my intention to yield to our distinguished colleague, the gentleman from Missouri [Mr. EMERSON], the ranking member, but I have a couple

of Members who have to participate in the Mickey Leland vigil at 8:00.

Mr. EMERSON. Mr. Chairman, I apologize to the gentleman from Texas [Mr. DE LA GARZA] for not notifying him, but as the ranking member of the Nutrition Subcommittee and the ranking member of the Select Committee on Hunger, I had intended to participate in the vigil also. However, I am delighted to have the chairman yield to the gentlemen who will also be attending.

Mr. DE LA GARZA. Mr. Chairman, I yield 2½ minutes to the gentleman from Ohio [Mr. HALL], the chairman of the Select Committee on Hunger.

Mr. HALL of Ohio. Mr. Chairman, ladies and gentlemen and colleagues, I want to thank my colleague, the chairman of the Committee on Agriculture, for yielding to me.

Mr. Chairman, I stand in opposition to this amendment.

Mr. Chairman, I applaud my colleagues on the Agriculture Committee for their success in fashioning the Mickey Leland Domestic Hunger Relief Act. The Select Committee on Hunger, which I chair, has conducted hearings in isolated rural communities, on Indian reservations, in impoverished innercity neighborhoods and even in prosperous suburban locales to assess the reasons that residents of these areas suffer from food insecurity. These activities have also given us the opportunity to examine how we can make our network of food assistance programs more responsive. Based on our findings—on the things we have learned from program administrators, emergency food providers and from private citizens who rely on food assistance programs—the bill before us today proposes a comprehensive strategy for addressing existing food program inequities and shortfalls.

Mr. Chairman, this is not a Government giveaway bill. It is an imperative investment in the health and nutritional well being of millions of Americans. It is a sensitive bill; it is a cost-effective bill. It would empower us to make a significant attack on the hunger problems plaguing this country and it does so in a way that targets the most vulnerable among us.

I am going to cast my vote in support of these provisions as sent to us by the House Agriculture Committee and I encourage all who are serious about ending the scourge of hunger in this country to join me.

Mr. Chairman, in a few minutes many of us will be taking part in a ceremony, a vigil to honor Mickey Leland, who started the Select Committee on Hunger. I think if he were here today, he would say to us that this issue we can end, this hunger issue we can end. We do not need to invent a new type of weapon or a new type of machinery. We can end this

because we can feed people, we have the resources, we can develop a strategy to immunize and to work with the child survival activities of the world.

□ 2000

But what it really takes is a political will. We do a lot of things around here in this Congress, many of which are frivolous, that many would consider frivolous. I know that I do. However, I cannot think of a more important thing that we can do than to save lives. This amendment does just the opposite of what I am talking about. I would urge my colleagues to vote against it.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to our distinguished colleague, the gentleman from Missouri [Mr. EMERSON].

Mr. EMERSON. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. COLEMAN].

Mr. COLEMAN of Missouri. Mr. Chairman, title XVI further defines this Nation's soil and water conservation goals so that American agriculture will continue to be the most productive in the world.

In the matter of wetlands, the committee has restated the definition of the 1985 act, clarifying the standards for a wetland determination. A wetland is land that 1) has a predominance or hydric soils; 2) is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support a prevalence of hydrophytic vegetation typically adapted for life in saturated soil conditions; and 3) under normal circumstances does support a prevalence of such vegetation.

During committee consideration of this legislation, we took a close look at the delineation manual used by the Soil Conservation Service, among others, to make wetland determinations. It is clear from a careful reading of the manual that only one part of the definition of wetland was being used to make determinations. Because this clearly is not the intent of Congress, the committee decided to state—clearly—what constitutes a wetland.

The committee legislation also makes certain that if a parcel of land lacks one of these characteristics it is exempt under the swampbuster provisions of the law.

In an effort to make certain producers know their land has been designated as wetland, the committee also will require the Secretary of Agriculture to delineate wetlands on maps, to notify affected landowners and then—prior to certifying the map as valid for a wetland determination—provide affected parties a right to appeal the determination. Under the appeal provisions, the Secretary is required to make an on-site examination.

The committee also chose to provide exemptions for minimal effects of wetland conversions and to give landowners a way to establish a wetland in mitigation for the conversion of another parcel of land. The landowner is given an appeal right should any mitigation require giving up more than on a one for one basis.

Mr. Chairman, I urge the adoption of title XVI.

Mr. EMERSON. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Minnesota [Mr. FRENZEL]. I do so because this title of the bill provides for the most basic aspect of our social safety net. Our budget problems are serious and I have joined in many efforts to address them in a responsible manner. Tearing a hole in the net is not the way to balance the budget. The provisions of this title are in accord with the House-passed budget resolution. I do so because the Mickey Leland Domestic Hunger Relief Act, which is title XVII(17) of the 1990 farm bill, represents significant substantive improvements in the Federal food assistance programs, specifically the Food Stamp Program and the Temporary Emergency Food Assistance Program (TEFAP). Our goals are to reduce hunger and malnutrition for children; promote self-sufficiency; simplify, streamline and make more efficient the programs; promote access for the elderly and disabled; and expand the commodity distribution programs, which is the most basic program of supply to our food banks and kitchens. A significant majority of poor families in this country pay over half of their incomes for rent. Included in the title is a provision that specifically addresses this problem by allowing families to deduct a greater portion of the income spent on rent, heat and other shelter costs. The effect of this is to reduce the impact on the poor of high shelter costs and help the poorest individuals and families to combat homelessness.

The title also provides for increases in the basic food stamp benefits—resulting in families being able to purchase more food for their children—so that they can stretch their food benefits until the end of the month.

Another provision allows families to keep the first \$50 per month that is received as child support payments. It is vitally important that parents be required to support their children, including those parents not residing with their families. This provision will encourage support and provide incentives for parents to both pursue and pay for the support for their children.

The Food Stamp Employment and Training Program is strengthened and the committee bill provides an increase in the limit for reimbursements for expenses related to employment and training from \$25 per month to \$75 per month. The goal of any assistance program should be to move able-bodied participants off of the program and to make taxpayers out of them. That is the purpose of the Food Stamp Employment and Training Program and since its inception in 1985 we have seen States initiate innovative programs. The increase in the level of reimbursement is aimed at having more people participate in the pro-

gram and become successful in obtaining training and ultimately a job.

Automation in the food stamp program will serve to improve the program operation. This title requires USDA to develop standards for State automated systems and provides enhanced funding of the costs of the systems, to encourage States to operate more effective and efficient systems.

We reauthorize TEFAP, the program that provides food to needy families. This is a very valuable program—one that I believe that we would have to invent if it did not already exist. TEFAP expires on September 30, 1990. We continue the program and increase the funding from the current level of \$120 million to \$175 million in 1991 and to \$190 million in 1992. Authorization of the program continues through 1995 at a level of \$220 million. TEFAP is an especially valuable program for elderly individuals, who may not want or are unable to participate in the Food Stamp Program.

I urge my colleagues to oppose the amendment offered by Mr. FRENZEL. The committee bill provides food for needy families, a basic necessity of life and an appropriate inclusion in the farm bill. Farm programs offer the American consumer, and especially the low-income consumer, an affordable, stable food supply. Food assistance programs complement and enhance these programs.

Agriculture is a way of life in the United States and touches each and every one of us on a daily basis. Many people contribute to the bountiful harvest we all enjoy. No one should be left out of this harvest; and yet we know there are people among us who are in dire need and lack the resources to obtain nutritious diets. We are a generous country, that is why we have programs like the Food Stamp Program and the commodity distribution programs. When these programs do not work or provide insufficient help, we have a responsibility to find out why and then do something about it. That is what this title does.

I urge you to support the committee's work and oppose amendments to weaken the programs the poor of our country depend upon.

The Committee on Agriculture is bringing to the House a title of the 1990 Food and Agricultural Resources Act that commemorates our late colleague, Mickey Leland. I served with Mickey on the Select Committee on Hunger and I believe this title is a fitting tribute to him. I wish to congratulate the gentleman from California [Mr. PANETTA] and the gentleman from Georgia [Mr. HATCHER] for their work on this title. It represents an attempt to provide food assistance to needy families through the Food Stamp Program and through the Emergency Food Assistance Program.

Agriculture is a way of life in the United States and touches each and every one of us on a daily basis. Many people contribute to the bountiful harvest we all enjoy. No one should be left out of this harvest; and yet we know there are people among us who are in dire need and lack the resources to obtain nutritious diets. That is why I have joined with my colleagues to present this title that will provide food assistance to needy families through the Food Stamp Program and through the Emergency Food Assistance Program, better known as TEFAP.

It is fitting that this bill is named after my close personal friend and colleague, Mickey Leland. Mickey and I shared a dream of a world in which no person ever went hungry. He and I had long discussions on this topic in the halls of the Congress and whenever we traveled here and abroad. I particularly remember our last trip to Ethiopia in the spring of 1989. I remember Mickey with children who had not eaten a decent meal in their brief lives. I remember how much he cared and wanted to help, and I believe this title furthers the goals to which he and I and so many others aspire.

I firmly believe that in our Nation of abundance, it is a tragedy for any child, elderly person, or anyone to go hungry. We are a generous country. That is why we have programs like the \$17 billion Food Stamp Program and other supplementary programs to feed needy people. When these programs do not work or provide insufficient help we have a responsibility to know why and then do something about it. That is what I hope this title will do.

The costs of title 17 are accommodated within the House-passed budget resolution and they represent initiatives that will provide that most basic of necessities to needy families—food.

This title reflects what we hope to be able to do to improve the Federal food assistance programs. Whatever additional funding that is provided in the final budget resolution will dictate the parameters of our efforts in the food assistance area. Additionally, as we have done in the past, should there be sequestration, as provided for by Gramm-Rudman-Hollings, the additional spending provided in the food assistance title will be adjusted.

The manner in which we, as a country, provide assistance to needy families should be governed by a sense of compassion, a desire to help people get back on their own feet when their need is temporary, and a clear view that the system now in place must be reformed from one in which we have programs for food, programs for financial assistance, and programs for special needs. Remember, we are trying to help whole people, not just parts of them. A program that provides help for those unable to help themselves

and makes taxpayers out of the able-bodied is my ultimate goal.

This title accomplishes several important goals. Most importantly, it reauthorizes the Food Stamp Program and the Emergency Food Assistance Program (TEFAP). From the aspect of Federal food assistance programs the mainstay of feeding programs is the Food Stamp Program. It is a program that will provide \$7 billion in benefits this year, as compared to the \$9 billion provided in 1980.

FOOD STAMP PROGRAM

Several changes are made in the Food Stamp Program. Food stamp benefits are increased across the board through an increase in the thrifty food plan. Participants will have their benefits based on 105 percent of the thrifty food plan by 1995. In addition, by 1994 the ceiling on the excess shelter expense deduction will be lifted. Currently 25 percent of the food stamp households are not able to deduct full shelter and heating expenses because of the ceiling on that deduction. Lifting the ceiling will allow full accommodation of shelter costs of food stamp participants.

The definition of a household for food stamp purposes is simplified. This has been one area that has proved to be a significant problem for states administering the Food Stamp Program. Under this title, the household, for food stamp purposes, will consist of persons purchasing and preparing food together. Parents and their minor children and husband and wives must apply together as a single household.

This title also proposes to exclude the first \$50 a month paid as child support from consideration as income in the food stamp program, consistent with the AFDC regulations. This provision highlights the importance of securing child support payments from absent parents, who, I believe, have the obligation to support their children. It is extremely important that federal assistance programs stress this responsibility.

Other changes proposed to be made to the Food Stamp Program include an increase in the \$4,500 limit on cars to \$5,500; allowing persons 50 years and older who are college students to participate in the Food Stamp Program, if otherwise eligible; and, an increase to \$75 per month the amount of actual expenses that may be reimbursed during participation in the Food Stamp Employment and Training Program.

In addition, States will be required to implement automated data processing systems by 1994, with annual review by the Secretary. The Secretary will be permitted to waive these requirements for small States and in certain other circumstances. This provision will contribute to the efficient administration of the Food Stamp,

Program, provide necessary help to overworked administrators, and help provide a means to deliver the correct amount of benefits in an effective manner.

An extremely important provision in the title concerns the complicated nature of the Food Stamp Program and the AFDC Program. Both programs are designed to serve needy families. However, the rules and regulations differ to a great degree providing confusion and inefficiency for participants and administrators alike. For those families receiving AFDC, we ought to be able to provide food stamp benefits without requiring them to go through a maze of applications, forms, verifications and procedures that are different from those applicable to the AFDC program. After all we are talking about needy families—families needing income and food assistance.

When a family is in need of help, that need often crosses program lines. Need for income assistance often means need for housing assistance, food assistance, and for some, help in finding and keeping a job. The hurdles that families must scale in applying for help are immense. They often must go to different agencies, different eligibility workers, meet different eligibility standards and abide by different rules and regulations. That they are able to receive help is often a reflection of their abilities, rather than the system presented to them.

Administrators of these program—both on the State and local levels—have similar problems. The resolution of the differences in the Federal assistance programs is often not within their ability to achieve. Many efforts have been made by States; but they may have gone as far as they can go. The proposal in this title makes an initial step to resolving the differences between the two major assistance programs—AFDC and food stamps. We are proposing that certain sites be allowed to determine food stamp eligibility based on the AFDC regulations, for those AFDC families in which all members receive AFDC. While we propose that AFDC rules be applied in almost all instances, food stamp rules will be used for income deductions and processing standards, including the provision of expedited service for families in immediate need.

This important, innovative procedure is a first step in the process of resolving the differences among the several Federal assistance programs. Needy families are not well served by the complicated, confusing process now in place. Administrators on the State and local level cannot get a handle on the myriad of programs and deliver services to needy families in an effective and efficient manner. The current system does not deliver benefits to needy families in either a com-

passionate or efficient manner. I hope this provision will change that.

COMMODITY DISTRIBUTION PROGRAMS

On of the debates that arose during the consideration of the Hunger Prevention Act of 1988 concerned the differences between the Food Stamp Program and TEFAP. Both programs are valuable and necessary programs. However, for some the ability to receive commodities through TEFAP may mean the only assistance they receive. Some needy families, especially elderly families, were much more likely to desire and receive commodities through TEFAP. That is why this title requires the purchase of \$175 million in commodities for TEFAP for 1991 and \$190 million for 1992; \$220 million is authorized each year for 1993, 1994 and 1995. I am an ardent supporter of the commodity distribution programs. I believe this is an efficient and effective means by which we can provide food to needy people. The rural, elderly poor are able to benefit from commodity distribution programs much more readily than the Food Stamp Program. I truly believe that if we did not have this program we would have to invent it.

Homeless people are also in need of food assistance. Therefore this title continues the Commodity Homeless Program at the level established in the Hunger Prevention Act—at \$32 million. This program is continued through 1995, so that soup kitchens and food banks can receive commodities and serve needy people without permanent homes.

Other changes to the commodity distribution program include establishment of a commodity supplemental food program for elderly persons, permanent Food Bank projects, and a requirement that the Secretary of Agriculture make surplus commodities available to emergency feeding organizations when available and if necessary, on an irregular or seasonal basis, depending on availability.

I hope my colleagues will join with me to work to provide food assistance to needy families and individuals in a compassionate and efficient manner. My ultimate goal is to see true reform of the welfare system—through which we provide benefits to needy people through coordinated and simplified programs and also provide employment and training to able-bodied participants.

We have a responsibility to maintain programs for those who are aged or disabled; but we also must simplify the programs we have now and provide a method to make taxpayers out of those able-bodied people now in need of help.

I urge my colleagues to support title 17.

Mr. DE LA GARZA. Mr. Chairman, I yield 3 minutes to our distinguished

colleague, the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I think it is a sad commentary that at the very moment that there is a vigil on behalf of Mickey Leland, that there is an effort on the floor of the House to basically eliminate the Mickey Leland Hunger Relief Act from this bill.

The argument that is presented by my distinguished colleague, and I have a great deal of respect for the gentleman from Minnesota [Mr. FRENZEL] and his sincerity, but the argument is somehow presented in the form that spending and spending and spending no matter what the spending is for. The fundamental question here is not just spending, it is the priorities of this Nation.

I do not think there is much question but that hunger is one of the major priorities that faces this Nation. The governments have acknowledged that, the mayors have acknowledged it, the administration has acknowledged that.

This is a bipartisan effort. The gentleman from Missouri [Mr. EMERSON] and I have been working on hunger issues for the last number of years, confronting what is a serious problem in our society. What is expected this year is a 25-percent increase in hunger in our society. The purpose of this legislation is to try to confront a major problem that is facing the hungry right now, which is the choice between whether they put a roof over their head, or whether they put food in their mouths. At the present time, some 50 to 70 percent of the income of the poor have to go for housing. What this legislation does is provide a full deduction, as we do for the elderly, as we do for the disabled, so that they can get more of their benefits in the food stamps that they receive, and it also provides an increase. How much of an increase? Right now people get 50 cents per meal under the Food Stamp Program. This provides about a penny more with this.

In addition to that, it obviously continues the temporary emergency assistance program. The costs of this bill are included within the budget resolution, and they meet the requirements of the budget resolution. In addition to that, we can provide sequester language with the help of the gentleman from Illinois [Mr. MADIGAN].

Let me just state that there is a double standard that sometimes is presented on this floor that says that benefits that flow to the poorest of the poor are spending, and benefits that flow to the wealthy are somehow an investment in our society. The best example of that, I believe, is on the capital gains provision. A lot of people here support capital gains, including the author of this amendment. Capital gains benefits: 80 percent of them

would flow to people over \$100,000, at a cost of \$12.5 billion over 5 years; on this provision, 98 percent of the benefits flow to people at or below the poverty line, at a cost of \$5 billion over 5 years. That is a double standard, I think, that does not make a great deal of sense.

In the name of Mickey Leland, in the name of the right kind of priorities, in the name of just sheer human decency, vote against this amendment.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Michigan [Mr. TRAXLER].

Mr. TRAXLER. Mr. Chairman, I rise in support of title XVII, food stamp and related provisions, including the reauthorization of the Commodity Supplemental Food Program for mothers, infants, children, and the elderly.

I want to offer my sincere thanks to the chairman of the subcommittee, the gentleman from Georgia [Mr. HATCHER], and the ranking minority member, the gentleman from Missouri [Mr. EMERSON], for their cooperation in certain provisions of the Commodity Supplemental Food Program of importance to its beneficiaries, including many people in Michigan. I also thank them for their devotion to working on a title that is designed to make sure that every effort is made to make sure that no American goes without food. It is a difficult task, and often one that inspires the ire of those who have been fortunate enough to never have been in need, but it is an essential task that should earn these gentlemen every possible accolade.

Mr. Chairman, the Commodity Supplemental Food Program is the lowest cost food program that we offer. It is designed to provide a food supplemental to people of low income at particular nutritional risk. It is very similar to the more widely known Women, Infants, and Children [WIC] Program, but is no less important to the thousands of people who are helped by it each day.

For the most part, this bill provides a basic reauthorization of the program. There are certain improvements made in the program which should earn the support of every caring member of this body. The authorization is modified to make absolutely clear that it is indeed possible for program operators to offer an elderly only program. Prior policy required that an area demonstrate that it has met the need for mothers, infants, and children before being able to serve the elderly. This policy gave no credit to effective WIC programs in an area, and effectively forced operators to start mothers, infants, and children CSFPs in order to hope—and I emphasize hope—to be able to serve the elderly. The bill corrects this problem

by clarifying that there may be elderly only programs.

Mr. Chairman, the Secretary of Agriculture in a letter to the Speaker criticized this language. I cannot for the life of me understand how the Secretary of Agriculture is reluctant to help people who are in need. I can only assume it is because he does not understand the responses that exist to the criticisms raised by the Department to the elderly CSFP over the past 5 years.

First, and foremost, we need to re-evaluate our goals. Is it our goal to help needy mothers, infants, and children, or to help needy elderly? I respectfully submit that it should be our goal to help the needy—regardless of age. I know that some people want to prioritize the needy because of budgetary limitations, but I continue to believe that we must find some way to make sure that our budget recognizes real needs. I am not Solomon to say that one needy individual is more deserving than another. I dare say none of us in this body have that capability. Yet when USDA says that one group is a higher priority than another, they are attempting to make that Solomon-like assessment.

As the ranking majority member of the Subcommittee on Agricultural Appropriations, I feel particularly incensed when someone suggests that assistance to the elderly will be a "diversion of resources" from mothers, infants, and children, as suggested by Secretary Yentler's letter. Our subcommittee has never—repeat never—in capital letters NEVER—diverted dollars from one needy group to another. We have consistently added dollars to the program—despite administration objections, despite administration budget requests that attempted to eliminate the program, and despite administration references to alternative programs. One need look no further than the supplemental appropriations bill that was adopted just a few weeks ago to see that our committee worked to provide additional funds to be sure that anyone who needed assistance was served. This supplemental was provided over the objections of the administration. In the fiscal 1991 bill we provided an increase of about \$18 million over the administration's request, which falsely assumed that nonfat dry milk would be donated to the program from CCC stocks. Granted, our numbers were partially based on reassessments from the Food and Nutrition Service. But I must question whether or not those reassessments would have been made if Members of this body had not pushed for them.

Some say that this program will create an inevitable conflict between the two eligible groups for the program which the Department will have to resolve. There is nothing inevitable about any conflict. There does not

need to be a conflict, nor should there be so long as we keep our focus on serving the needy, not creating a competition among the needy. There is no reason to establish restrictions on elderly only sites or to establish preconditions—unless the intent behind those proposing such limitations is a back-door way of killing a program that so far they have failed to kill. Leave the matter to local program operators who are absolutely in the best position to recognize what is the need in their areas. Trust their judgment, their good intentions, and their good work. Do not undercut them because their desires may not meet some pre-ordained agenda.

The Secretary says people can use the feeding program under the Older Americans Act. We have argued time and time again that this program is insufficient. In some areas of the country one meal is provided each day for only 3 days each week. People tend to want to eat each day, not just some days. Elderly have been seen saving a portion of their meal for another time, rather than getting the full benefit of the meal at the time at which it was served. The Washington Post reported only this morning that there is a waiting list for this program in the District of Columbia, much as might be the case in so many other communities around the country. And the program is not available in all areas of the country.

The Secretary says there are special food stamp benefits. The elderly have historically had the lowest participation in the Food Stamp Program. They dislike the image of the program as welfare. They dislike the lengthy delays in the application process, including the wait in processing offices. Many of them find that they receive only the minimum monthly benefit, and they have to spend nearly that much money to get to the office to apply for and receive food stamps. This is not meaningful assistance.

The Secretary says there is assistance to long-term care facilities and the Adult Care Food Program. But what happens to those people who are not in long-term care facilities? What happens to people who are not in the Adult Care Food Program, or if these programs are not offered in their areas?

We have argued again and again that we need to have a variety of ways to provide assistance to those in need. We should not be as concerned as much about the method by which people receive help as we are about whether or not they receive help. CSFP for the elderly should be considered as another tool for dealing with a need, not as a competitor to some other program.

I want to also offer my thanks to the committee for its agreement to expand administrative funds from 15 to 20

percent for CSFP. This will put the program closer to par with the administrative funding situation for WIC. And the language of the bill allowing "not less than 20 percent" leaves open the possibility of USDA approving higher funds in special cases. There has been the capability in the past to recognize higher than ordinary administrative expenses during the start-up of programs. There have also been situations in which small program operators say that the percentage works well when a program has achieved a scale of operation, but does not work well for small operators. The bill language will allow the Department the flexibility to address these situations on an as-needed basis.

I also want to thank the committee for its report language on caseload allocation for new program sites. The Food and Nutrition Service recognizes this program on a State basis rather than a site-specific basis. Current regulatory policy allows a new program State to protect its caseload assignment for an additional cycle because of the difficulties in starting up. However, the same protections are not afforded to a new site within an existing State.

Some have suggested—including the Department—that this is an issue for the State contracting authority. I respectfully disagree. This past year we had three new programs start in Michigan. We also had another very successful program—Focus: HOPE—that was at caseload levels. Because the total State caseload not fully utilized, the State's caseload was cut in the next cycle. This meant that the State authority had to either cut people who were actually being served at Focus: HOPE, or it could cut not yet used caseload at the new sites. The State authority chose to cut the not yet used caseload at the new sites. This was the only real choice the State authority could make when it was faced with an unacceptable total caseload.

The committee's report directs the Department to review the matter to try to develop alternative ways of establishing caseload so that new sites within a State have their caseloads protected in a manner similar to the protection currently afforded to new program States. This language is in line with similar directives also provided by the Appropriation Committee, and should demonstrate to the Department that this is an issue with which we as a body are concerned.

Mr. Chairman, the Commodity Supplemental Food Program is a good one worthy of our support. The work done by the House Agriculture Committee is outstanding, and the committee's members have my pledge of continuing support for the successful and fair implementation of the program.

Mr. DE LA GARZA. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentleman from Georgia [Mr. HATCHER].

Mr. HATCHER. Mr. Chairman, Mr. FRENZEL's amendments would strike the most important provisions of the Mickey Leland Act. I understand the concern about the budget, and I share that concern. However, the poor and hungry of this Nation present a very compelling need. We know that hunger among the poor not only persists but is increasing. The House-passed budget resolution acknowledges this need and permits a modest expansion of the nutrition programs. The cost of title 17 is within the spending limits of the budget resolution. We've agreed that the key provisions of the title would be phased in over a period of years, rather than fully implemented in fiscal year 1991, to spread the costs over several years. We further modified the provisions of the title in committee once the budget resolution passed the House to make sure that the title is consistent with that resolution. The authors of title 17 are committed to the principle that the title will be within the budget, and changes will be made to it, if necessary, to bring it in line with the budget that is ultimately adopted by the Congress.

The provisions that would be struck by Mr. FRENZEL's amendments are the product of long and difficult negotiation. The Mickey Leland bill is sponsored by a large number of Members of the House. I would urge that you honor both the process used to develop this vital legislation and the commitment we have made to keep it within the budget guidelines, and that you vote against Mr. FRENZEL's amendments.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from West Virginia [Mr. STAGGERS].

Mr. STAGGERS. Mr. Chairman, I understand what the gentleman from Minnesota [Mr. FRENZEL] is trying to do. I respect him. From a dollar and cents standpoint, it does make sense to cut \$430 million, but from a people standpoint it does not make any sense at all.

What theory would we be looking to make these cuts that feed hungry people. There is still a lot of hunger in the United States.

□ 2010

Mr. Chairman, it does not make any difference at all that we would be taking this action, but the gentleman makes some reference that this would put food stamps ahead of some of the other entitlement programs like child care.

Mr. Chairman, I do not understand that. Food stamps was previously singled out to be treated in an unfair fashion. In my mind, when we are

trying to restore to some extent, I do not think it goes far enough, but we have made that effort.

I agree with the previous speakers. Now is not the time to make these cuts, not this year when there is hunger in the United States, and especially not tonight when we are honoring our colleague, Mickey Leland. I think this is the worst time.

Mr. Chairman, I would ask my colleagues to vote no.

Mr. DE LA GARZA. Mr. Chairman, I yield 1 minute to our distinguished colleague, the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, my colleague, the gentleman from Illinois [Mr. Russo] just took the well to announce to the House that there will be a vigil on the front steps of the Capitol, a ceremony, honoring the life of our late colleague, Mickey Leland, and calling attention to the fact that he has been gone from this body for about 1 year.

Mr. Chairman, there could be no more fitting tribute than the defeat of this particular amendment because we would then nullify the life's work of our colleague. That is why I rise in strong opposition to this particular amendment.

Mr. Chairman, hunger in America is on the rise. We have 1 million more people on food stamps in April 1990 than we did in April 1989. There are credible estimates that 2 to 5 million American children are hungry and that as many as 8 to 9 million children are either at hunger or at risk of hunger right now in the United States of America in 1990.

Mr. Chairman, at a time when we are spending hundreds of millions of dollars sending food and aid to foreign countries, we must not neglect those who go hungry every day in our own Nation. That is why I oppose this amendment. I believe it takes money out of the pocket of the American farmer and food out of the mouths of hungry American children.

Mr. AUCCOIN. Mr. Chairman, I rise in opposition to the amendments offered by the gentleman from Minnesota [Mr. FRENZEL].

Mr. AUCCOIN. Mr. Chairman, I rise in strong opposition to the amendment. I appreciate efforts to reduce the Federal deficit—but I oppose this amendment because it forces a disproportionate share of that burden onto the backs of the most vulnerable citizens in America.

The immediate negative impact of this amendment will be fast and furious, particularly with respect to the Temporary Emergency Food Assistance Program. Without an increase in TEFAP, as currently provided by the Leland bill, the emergency food assistance network in this country will collapse. That's right—collapse. This is not rhetoric and its not fiction. It's a fact. The Select Committee on Hunger held a field hearing in my district just last month. We heard an unbelievable number

of people are hungry. Women, children, Senior citizens. And local emergency food providers spoke to us with a single voice: they pleaded with us to increase TEFAP funding levels; not cut them back.

Last year, Oregon lost 6 million pounds in the flow of food into this program. Private charitable sources of food have dried up because of corporate mergers, acquisitions, and changes in the Tax Code. Food closets and food banks are already closing. In Oregon, alone, we expect more than 17 percent of the State's population to seek food assistance from an emergency food provider. Unless we do the right thing here, there won't be anything or anyone there to assist those hungry Americans.

The Mickey Leland Memorial Domestic Hunger Relief Act is a comprehensive, well-crafted, and cost-effective series of proposals to improve the likelihood of self-sufficiency for our most vulnerable citizens. The Chairman, Mr. HATCHER, and the ranking minority member, Mr. EMERSON, worked closely with the chairman of the Budget Committee, Mr. PANETTA, to be sure it met budget criteria. The Mickey Leland Memorial Domestic Hunger Relief Act is not a budget buster by any stretch of the imagination. It is a responsible Government investment and a moral Government response to a disgraceful social condition and the Emergency Food Assistance Program should be supported in its current form.

I urge my colleagues to vote against the Frenzel amendments.

Mr. FRENZEL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am overwhelmed by the interest in this particular amendment and, perhaps, somewhat flattered. The lot of a curmudgeon is not always a happy one. It takes some real talent to be a grinch.

However, Mr. Chairman, I would like to discuss just for a minute what some of these amendments are.

Amendment No. 1 increases the deduction that one can take against housing to qualify for food stamps and eventually takes off the limitation completely.

Amendment No. 2 increases the basic benefit to 105 percent of the thrifty food plan, increasing the benefits over what the Department of Agriculture says is necessary.

Then, as we go through the rest of the amendments, it eliminates a missed pay period for those who missed recertification. There is a section in which the States owe money to the Federal Government for mischaracterizations, and whatever the States owe is waived in that section. There is a section that mandates States disregard the first \$50 in child support. States now have the ability to decide whether they want to waive that or not.

Each of these is a little addition to the program. None of them, at least that I have found yet, seem to get at the neediest cases, but rather to repre-

sent a very large expansion and, in some cases, mandates to the States that they would prefer not to accept.

Mr. Chairman, there is no need to belabor the question any further. I believe that the House makes an unwise decision if it leaves these increases in the system as they are presented in the bill.

Remember that the Food Stamp Program, absent the amendments of the gentleman from California [Mr. PANETTA] is already increasing at a rate greater than 15 percent a year.

Mr. Chairman, I reserve the balance of my time.

Mr. TALLON. Mr. Chairman, I rise in opposition to the amendments offered by the gentleman from Minnesota [Mr. FRENZEL].

Mr. Chairman, I am opposed to the Frenzel amendments to delete money for the Mickey Leland Memorial Domestic Hunger Relief provisions to the Food Stamp title.

In honor of our deceased colleague, the House Agriculture Committee has committed itself for over a year in enacting legislation to combat the growing problems of hunger and poverty in this country.

The provisions that Mr. FRENZEL wants to delete are in line with House passed budget resolution. Every Member knows that every issue is up for grabs during the prolonged budget summit.

But today let us give the poorest of American families a real shot by voting against the Frenzel amendment.

Mr. DE LA GARZA. Mr. Chairman, to finalize, let me state to my distinguished colleague, the gentleman from Minnesota [Mr. FRENZEL] that we appreciate what he is trying to do. We basically agree with his philosophy, and we have been frugal, and we have cut, I keep repeating, over \$30 billion in the past 10 years.

Mr. Chairman, we will accommodate the budget in this bill, and accommodation will be made by the Committee on the Budget, and even, hopefully, in the summit, to accommodate these increases. We have been responsible. We will continue to be responsible. The gentleman from Minnesota [Mr. FRENZEL] knows, and he can verify the fact, that we have been responsible throughout the process.

I would just state to my colleagues that for the reasons that have been mentioned by all the Members that, even though we can tell the gentleman we sympathize with his efforts, we will accommodate in the budget. We will find money someplace.

However, Mr. Chairman, as far as approving this amendment, all I can say is, "Not here and not now."

Mr. FRENZEL. Mr. Chairman, I yield myself 1 additional minute.

Mr. Chairman, I am comforted by the remarks of the distinguished

chairman, the gentleman from Texas [Mr. DE LA GARZA] who is a great legislator, and my good friend and a man of his word, and I look forward to working with him to try to put this particular bill into some sort of consonance with whatever budget agreement is achieved.

The CHAIRMAN. The question is on the amendments en bloc offered by the gentleman from Minnesota [Mr. FRENZEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 83, noes 336, not voting 13, as follows:

[Roll No. 298]

AYES—83

Archer	Hastert	Roberts
Armey	Hefley	Rohrabacher
Baker	Herger	Roth
Bartlett	Hopkins	Schaefer
Barton	Hunter	Schulze
Bentley	Inhofe	Sensenbrenner
Broomfield	Ireland	Shaw
Brown (CO)	Kolbe	Shumway
Burton	Kyl	Shuster
Clinger	Lightfoot	Skeen
Combest	Livingston	Smith (NE)
Coughlin	Lowery (CA)	Smith, Denny
Cox	Madigan	(OR)
Craig	Marlenee	Smith, Robert
Crane	McCandless	(NH)
Dannemeyer	McCollum	Solomon
DeLay	McEwen	Spence
Dickinson	Meyers	Stearns
Dornan (CA)	Michel	Stump
Dreier	Miller (OH)	Sundquist
Duncan	Nielson	Thomas (CA)
Fawell	Oxley	Thomas (WY)
Frenzel	Packard	Vander Jagt
Gekas	Petri	Vucanovich
Gingrich	Porter	Walker
Goss	Pursell	Whittaker
Gradison	Quillen	Young (FL)
Hancock	Rhodes	
Hansen	Ritter	

NOES—336

Ackerman	Bryant	Dicks
Alexander	Buechner	Dingell
Anderson	Bunning	Dixon
Andrews	Bustamante	Donnelly
Annuizio	Byron	Dorgan (ND)
Anthony	Callahan	Douglas
Applegate	Campbell (CA)	Downey
Aspin	Campbell (CO)	Durbin
Atkins	Cardin	Dwyer
AuCoin	Carper	Dymally
Ballenger	Carr	Dyson
Barnard	Chandler	Early
Bateman	Chapman	Eckart
Bates	Clarke	Edwards (CA)
Beilenson	Clay	Edwards (OK)
Bennett	Clement	Emerson
Bereuter	Coble	Engel
Berman	Coleman (MO)	English
Bevill	Coleman (TX)	Erdreich
Bilbray	Collins	Espy
Bliley	Condit	Evans
Boehlert	Conte	Fascell
Boggs	Conyers	Fazio
Bonior	Cooper	Fields
Borski	Costello	Fish
Bosco	Coyne	Filippo
Boucher	Crockett	Foglietta
Boxer	Darden	Ford (MI)
Brennan	Davis	Frank
Brooks	de la Garza	Frost
Browder	Dellums	Galleghy
Brown (CA)	Derrick	Gallo
Bruce	DeWine	Gaydos

Gejdenson	Martin (IL)	Sabo
Gephardt	Martin (NY)	Saiki
Geren	Martinez	Sangmeister
Gibbons	Matsui	Sarpallus
Gillmor	Mavroules	Savage
Gilman	Mazzoli	Sawyer
Glickman	McCloskey	Saxton
Gonzalez	McCrery	Scheuer
Goodling	McCurdy	Schiff
Gordon	McDade	Schneider
Grandy	McDermott	Schroeder
Grant	McGrath	Schuetz
Gray	McHugh	Schumer
Green	McMillan (NC)	Serrano
Guarini	McMillen (MD)	Sharp
Gunderson	McNulty	Shays
Hall (OH)	Mfume	Sikorski
Hamilton	Miller (CA)	Siskiy
Hammerschmidt	Miller (WA)	Skaggs
Harris	Mineta	Skelton
Hatcher	Moakley	Slattery
Hayes (IL)	Molinar	Slaughter (NY)
Hayes (LA)	Mollohan	Slaughter (VA)
Hefner	Montgomery	Smith (FL)
Henry	Moody	Smith (IA)
Hertel	Moorhead	Smith (NJ)
Hiler	Morella	Smith (TX)
Hoagland	Morrison (CT)	Smith (VT)
Hochbrueckner	Morrison (WA)	Smith, Robert
Holloway	Mrazek	(OR)
Horton	Murphy	Snowe
Houghton	Murtha	Solarz
Hoyer	Myers	Spratt
Hubbard	Nagle	Staggers
Huckaby	Natcher	Stallings
Hughes	Neal (MA)	Stangeland
Hutto	Neal (NC)	Stark
Hyde	Nowak	Stenholm
Jacobs	Oaker	Stokes
James	Oberstar	Studds
Jenkins	Obey	Swift
Johnson (CT)	Olin	Synar
Johnson (SD)	Ortiz	Tallon
Johnston	Owens (NY)	Tanner
Jones (GA)	Owens (UT)	Tauke
Jones (NC)	Pallone	Tauzin
Jontz	Panetta	Taylor
Kanjorski	Parker	Thomas (GA)
Kaptur	Parris	Torres
Kasich	Pashayan	Torricelli
Kastenmeier	Patterson	Towns
Kennedy	Paxon	Trafficant
Kennelly	Payne (NJ)	Traxler
Kildee	Payne (VA)	Udall
Klecza	Pease	Unsoeld
Kolter	Pelosi	Upton
Kostmayer	Penny	Valentine
LaFalce	Perkins	Vento
Lagomarsino	Pickett	Visclosky
Lancaster	Pickle	Volkmer
Lantos	Poshard	Walgren
Laughlin	Price	Walsh
Leach (IA)	Rahall	Washington
Lehman (CA)	Rangel	Watkins
Lehman (FL)	Ravenel	Weber
Lent	Ray	Weiss
Levin (MI)	Regula	Weldon
Levine (CA)	Richardson	Wheat
Lewis (CA)	Ridge	Whitten
Lewis (FL)	Rinaldo	Williams
Lewis (GA)	Robinson	Wilson
Lipinski	Roe	Wise
Lloyd	Rogers	Wolf
Long	Ros-Lehtinen	Wolpe
Lowey (NY)	Rose	Wyden
Lukens, Thomas	Rostenkowski	Yates
Lukens, Donald	Rowland (CT)	Yatron
Machtley	Rowland (GA)	Young (AK)
Manton	Roybal	
Markey	Russo	

NOT VOTING—13

Bilirakis	Ford (TN)	Roukema
Courter	Hall (TX)	Waxman
DeFazio	Hawkins	Wylie
Feighan	Leath (TX)	
Flake	Nelson	

□ 2041

Messrs. GIBBONS, MARTINEZ, EDWARDS of Oklahoma, HOLLOWAY, MRAZEK, and BEREUTER changed their vote from "aye" to "no."

Mrs. MEYERS of Kansas and Mr. SPENCE changed their vote from "no" to "aye."

So the en bloc amendments were rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "yea" on rollcalls 294, 295, and 297. I would have voted "nay" on rollcalls 293, 296, and 298.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise at this time to advise Members that as far as we know there is only one more amendment pending that is a 10-minute amendment. Then we have no control over requests for votes.

Mr. Chairman, I would like to engage in a discussion with the gentleman from Georgia [Mr. HATCHER] related to a topic of great interest to all Members.

As you know, section 1751 of the bill waives food stamp quality control sanctions against States from fiscal year 1982 through 1990. The waiver will allow States to focus on the present and future administration of the Food Stamp Program.

Notwithstanding the strong likelihood of passage of legislation waiving the sanctions, the State Food Stamp Appeals Board has begun the process of scheduling evidentiary hearings on fiscal year 1984 food stamp quality control cases. According to my State, preparation for these hearings will require the investment of substantial resources.

The 33 States appealing the fiscal year 1984 sanctions now face the prospect of having to pursue lengthy and expensive litigation regarding those sanctions notwithstanding the expressed intent of the House Agriculture Committee to waive those very sanctions.

I, therefore, would like to go on the record in urging USDA to suspend all proceedings on fiscal year 1984 food stamp disallowances pending final action on the farm bill.

Mr. HATCHER. My State and several others have expressed similar concerns to me regarding the threat of being forced to redirect precious staff and fiscal resources from other critical administrative and legal matters to pursue cases that will very likely be moot upon enactment of the farm bill, and I join you in this request.

Mr. BROWN of Colorado. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Colorado.

Mr. BROWN of Colorado. Mr. Chairman, Mr. EMERSON, in title 17 of the farm bill, you and Mr. HATCHER have provided new demonstration authority

that encourages States to find ways to conform the Food Stamp Employment and Training Program with the AFDC Employment and Training Program.

I commend you and your colleagues on the Agriculture Committee for encouraging such coordination between welfare programs. This demonstration authority will provide States and counties with additional flexibility—flexibility that we can use to encourage work.

Is it your understanding that States and counties who are interested could allow the cash value of food stamps to be paid to an individual through an employer in the form of a paycheck.

Mr. EMERSON. Yes, as long as participation is optional for the recipient.

Mr. BROWN of Colorado. As you know, I have recently introduced H.R. 4916, a bill which would encourage work programs for welfare clients. Would the provisions of H.R. 4916 be allowable under title 17 of the farm bill?

Mr. EMERSON. Yes, our intention is to allow waivers to the Food Stamp Program so that program ideas, such as those contained in H.R. 4916, can be tested by States and counties.

Mr. Chairman, I commend the gentleman from Colorado [Mr. BROWN] for his leadership on this important initiative.

Mr. BROWN of Colorado. Mr. Chairman, I thank the gentleman from Missouri [Mr. EMERSON] for his responses, and for his important work in adding this to the farm bill.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I feel compelled to announce to Members that I know we are all concerned about how late the evening is going, but I think it is only fair that I should mention that should, upon completion of the bill, someone recall the Madigan amendment for a separate vote, and should that vote prevail against the Madigan amendment, I will at that time call for a separate vote on every other amendment that was passed in the consideration of this bill.

Mr. VOLKMER. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, I appreciate the gentleman from Texas [Mr. DE LA GARZA] yielding after that statement. I think every member on the floor knows that I plan to ask for a separate vote on the en bloc Madigan amendments.

The CHAIRMAN pro tempore (Mr. CARPER). The time of the gentleman from Texas [Mr. DE LA GARZA] has expired.

(By unanimous consent, Mr. DE LA GARZA was allowed to proceed for 5 additional minutes.)

Mr. DE LA GARZA. I yield to the gentleman from Missouri [Mr. VOLKMER].

Mr. VOLKMER. Mr. Chairman, the Madigan amendment was only adopted with a 9-vote margin. I thought since it does affect many of us adversely in the Midwest to a great extent, it was worthy of the House to take either 5 or 15 minutes to revote that amendment.

On the threat that if I ask for that that the gentleman from Texas [Mr. ARMEY] plans to ask for a vote on every other amendment that was adopted by the House, the gentleman from Texas just came down and told me that. I told the gentleman from Texas [Mr. ARMEY] that if he asked to do that, that is his business, but that is not going to stop me from doing what I think is right for my farmers. I just want to let the gentleman from Texas [Mr. ARMEY] know that.

Mr. ARMEY. Mr. Chairman, will the gentleman yield?

Mr. DE LA GARZA. I yield very briefly to the gentleman from Texas.

Mr. ARMEY. Mr. Chairman, I think I need to be more clear. I will reserve the right to call up each of those other amendments for a separate vote in accordance with the procedures of the House.

□ 2050

Mr. DE LA GARZA. Mr. Chairman, I want to advise the Members we have only one amendment left, and I know if there were any feelings hurt on any situation that I will take responsibility for it, and I apologize to anyone who has had their feelings hurt by any other Member. I am managing this bill on the majority side, and I hope that we will only go on the issues, that we will only request votes for good and valid reasons, and that we can proceed and finish this legislation.

I am reminded that the legislation of yesterday had more policy changes and cost considerably more than this bill, and we are still here at this hour debating whether we are going to call another vote or not. I think that we can dispose of the amendment that will now be offered, hopefully in 10 minutes, and then we will be in the process of finalizing the bill with two en bloc amendments that should not have any votes.

The CHAIRMAN. Are there any further amendments to title XVII?

The Clerk will designate title XVIII. The text of title XVIII is as follows:

TITLE XVIII—IMPROVEMENT OF THE AGRICULTURAL ECONOMY

Subtitle A—Grain Quality Improvements

SEC. 1801. COMMITTEE ON GRAIN QUALITY AND GRAIN QUALITY COORDINATOR.

(a) ESTABLISHMENT OF COMMITTEE AND COORDINATOR.—(1) COMMITTEE.—The Secretary of Agriculture (hereafter referred to in this title as the "Secretary") shall establish a Department of Agriculture Committee on

Grain Quality that shall remain in existence for at least 10 years.

(2) **COORDINATOR.**—The committee established under paragraph (1) shall be chaired by an individual who shall serve as the Grain Quality Coordinator (hereafter referred to in this subtitle as the "Coordinator") and carry out the duties described in subsection (b).

(b) **DUTIES.**—The Coordinator shall be responsible for—

(1) assembling and evaluating, in a systematic manner, concerns and problems, expressed by foreign and domestic buyers and end-users, with the quality of United States grain;

(2) developing and implementing a coordinated effort to inform and educate foreign buyers concerning the proper specification of grain purchase contracts to obtain the quality of grain they desire;

(3) reviewing the programs and activities of the Department of Agriculture with respect to United States grain to determine whether the activities are consistent with the provisions of this subtitle (and other provisions of law relating to agriculture) as such provisions relate to grain quality and grain quality competitiveness;

(4) serving as the Federal Government coordinator with respect to grain quality and grain quality competitiveness; and

(5) investigating and communicating through the Secretary, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, concerning—

(A) actions undertaken by the Department of Agriculture—

(i) to improve the quality of United States grain; and

(ii) that are inconsistent with the goal of improving grain quality;

(B) conditions in the production and marketing sectors that discourage improvements in grain quality;

(C) interrelationships of rules and actions taken by the Federal Grain Inspection Service, Animal and Plant Health Inspection Service, Agricultural Stabilization and Conservation Service, Food and Drug Administration, Environmental Protection Agency, and other Federal agencies, relating to grain production, handling, storage, transportation, and processing as such actions affect the wholesomeness and performance of grain;

(D) recommendations for legislative or regulatory changes that would address grain quality issues;

(E) progress made and benefits expected from the international harmonization of sanitary and phytosanitary requirements affecting grain;

(F) potential opportunities and benefits from the harmonization of grain grades and standards;

(G) alternative forms of financial and technical assistance available and needed by producers and elevator operators to acquire and properly utilize grain cleaning, drying, and storage equipment; and

(H) progress on requirements of other sections of this subtitle.

SEC. 1802. BENEFITS AND COSTS ASSOCIATED WITH IMPROVED GRAIN QUALITY.

The Secretary shall estimate the economic impact, including the benefits and costs and the distribution of such benefits and costs, of any major changes necessary to carry out the amendments made under this subtitle to sections 4, 6, and 7 of the United States Grain Standards Act prior to making such changes.

SEC. 1803. CLASSIFICATION, GRADES AND STANDARDS DESIGN FRAMEWORK.

Section 2(b) of the United States Grain Standards Act (7 U.S.C. 74(b)) is amended by—

(1) striking the "and" at the end of paragraph (3)(C)

(2) striking the period at the end of paragraph (3)(D) and inserting "; and"; and

(3) adding at the end of paragraph (3) the following new subparagraphs:

"(E) reflect the economic value-based characteristics in the end uses of grain; and

"(F) accommodate scientific advances in testing and new knowledge concerning factors related to, or highly correlated with, the end use performance of grain."

SEC. 1804. IMPROVING THE CLEANLINESS OF GRAIN.

Section 4(b) of the United States Grain Standards Act (7 U.S.C. 76(b)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2)(A)(i) The Administrator shall conduct a study to determine the costs and benefits to the United States grain industry, from producer to end user, of marketing cleaner grain. The study shall identify—

"(I) the need to establish new or revised current factors relating to grain cleanliness; and

"(II) appropriate limits for cleanliness factors taking into consideration the technical ability and practicability of the commercial market to comply with such limits, the economic benefits and costs to the grain industry, and domestic and international demand.

"(ii) If the Administrator determines, after evaluating the results of the study required by clause (i), that establishing new or revised current factors relating to cleanliness would be in the best economic interest of United States agriculture, the Administrator shall establish or amend the standards to include economically and commercially practical levels of cleanliness for the grain. The Administrator shall make a determination under this clause no later than 2 years after enactment of this paragraph.

"(B) In setting requirements for cleanliness characteristics, the Administrator shall—

"(i) consider technical constraints, economic benefits and costs to producers and industry, domestic and international demand; and

"(ii) follow established rule-making procedures, including the solicitation of public comment.

"(C) If the Administrator establishes limits on cleanliness characteristics under this section, the limits shall be fully implemented not later than 3 years after the determination required under subparagraph (A)(ii). Subsequent revision of cleanliness limits shall be conducted consistent with the schedule of the Administrator for reviewing grain standards."

SEC. 1805. GRADE DETERMINING FACTORS RELATED TO PHYSICAL SOUNDNESS AND PURITY.

Section 4 of the United States Grain Standards Act (7 U.S.C. 76), as amended by section 1804, is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) In establishing standards under subsection (a) the Administrator shall establish for each grain official grade-determining factors and factor limits that reflect the levels of soundness and purity that are con-

sistent with end-use performance goals of the major foreign and domestic users of each grain for which official grades are established. The soundness and purity levels established for grades No. 3 and better shall provide users of such standards the best possible information from which to determine end-use product quality. The Administrator shall establish factor limits that will provide that grain meeting the requirements for grades No. 3 and better will perform in accordance with general trade expectations for the predominant uses of such grain."

SEC. 1806. TESTING FOR AFLATOXIN CONTAMINATION OF CORN SHIPPED IN FOREIGN COMMERCE; DOMESTIC TESTING STANDARDS AND PROCEDURES.

(a) **MANDATORY AFLATOXIN TESTING.**—Section 5 of the United States Grain Standards Act (7 U.S.C. 77) is amended by inserting at the end the following new subsection:

"(d) The Administrator is authorized and directed to require that all corn exported from the United States be tested to ascertain whether it exceeds acceptable levels of aflatoxin contamination."

(b) **ESTABLISHMENT OF STANDARDIZED TESTING EQUIPMENT AND PROCEDURES.**—The Secretary of Agriculture shall—

(1) establish uniform standards for testing equipment; and

(2) establish uniform testing procedures and sampling techniques;

that may be used by processors, refiners, the operators of grain elevators and terminals, and others to accurately detect the level of aflatoxin contamination of corn in the United States.

SEC. 1807. CARGO LOADING REQUIREMENTS.

Section 7 of the United States Grain Standards Act (7 U.S.C. 79) is amended by adding at the end the following new subsection:

"(k) Except as otherwise authorized by the Administrator, or except on the request of a purchaser, all export grain that is officially inspected shall be loaded aboard the final carrier according to a plan that provides for certification of quality as accurately as practical."

SEC. 1808. PROHIBITION OF CONTAMINATION.

Section 13 of the United States Grain Standards Act (7 U.S.C. 87b) is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may prohibit the contamination of sound and pure grain through the introduction of—

"(A) nongrain substances; and

"(B) grain that is unfit for the ordinary commercial purposes for which such grain is intended to be used (to the extent that its combination with grades No. 3 or better will preclude the resultant combination from meeting the performance levels expected of such grades and as is required by section 4(c)(1)).

"(2) In no case shall the Administrator prohibit the blending of an entire grade of grain unless the grade-determining factors are determined to render such mixture unfit for the commercial purposes for which such grain is to be used.

"(3) Prior to taking action under this subsection, the Administrator shall follow established rule-making procedures, including the solicitation of public comment, in identifying and defining actions and conditions subject to prohibition."

SEC. 1809. SENSE OF CONGRESS CONCERNING TESTS FOR PURITY.

(a) **FINDING.**—Congress finds that consumers, both internationally and domestically,

are aware of, and concerned with, the purity of their food supply.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that in order to assure buyers of the purity of United States grain, the Federal Grain Inspection Service should, as soon as technically and economically practical, develop tests of mycotoxins and pesticide residues and make such tests available on such impurities in conjunction with official grain inspections established under the United States Grain Standards Act (7 U.S.C. 71 et seq.).

SEC. 1810. SENSE OF CONGRESS CONCERNING COOPERATIVE ENFORCEMENT OF FEDERAL GRAIN PURITY REQUIREMENTS.

(a) **FINDINGS.**—Congress finds that the laws and regulations related to the purity and safety of grain that are administered by the Food and Drug Administration and the Environmental Protection Agency serve to insure the integrity of the United States as a supplier of wholesome grain.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that Federal agencies that are responsible for enforcing the laws and regulations relating to the quality, purity, and safety of grain marketed both domestically and to foreign nations should seek assistance from and cooperate with the Federal Grain Inspection Service in the enforcement of the laws and regulations.

SEC. 1811. ENTRY QUALITY STANDARDS FOR ALL FARMER-OWNED RESERVE GRAINS.

Section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended by adding at the end the following new subsection:

"(k) In announcing the terms and conditions of the producer storage program under subsection (e)(1), the Secretary shall review standards concerning the quality of grain that shall be allowed to be stored under the program, and such standards should encourage only quality grain, as determined by the Secretary, to be pledged as collateral for such loans. The Secretary shall review inspection, maintenance, and stock rotation requirements and take the necessary steps to maintain the quality of such grain."

SEC. 1812. PRICE SUPPORT LOAN INCENTIVES FOR QUALITY GRAIN.

(a) **AMENDMENT TO 1949 ACT.**—Section 403 of the Agricultural Act of 1949 (U.S.C. 1423) is amended by inserting after the second sentence: "For each of the crops of wheat, feed grains, and soybeans, the Secretary shall establish premiums and discounts relating to cleanliness factors in addition to any other adjustments in the support price related to quality."

(b) **EFFECTIVE DATE.**—The amendment made by subsection (a) shall be effective beginning with the 1991 crops of wheat, feed grains, and soybeans.

SEC. 1813. QUALITY REQUIREMENTS FOR COMMODITY CREDIT CORPORATION-OWNED GRAIN.

The Agricultural Act of 1949 (7 U.S.C. 1427) is amended by inserting after section 407 the following new section:

SEC. 407A. QUALITY REQUIREMENTS FOR COMMODITY CREDIT CORPORATION OWNED GRAIN.

"(a) **ESTABLISHMENT OF MINIMUM STANDARDS.**—Notwithstanding any other provision of law, the Secretary shall establish minimum quality standards that shall apply to grain that is deposited for storage for the account of the Commodity Credit Corporation. In establishing such standards, the Secretary shall take into consideration factors related to the ability of grain to withstand storage and assurance of acceptable end-use performance.

"(b) **INSPECTION OF GRAIN ACQUISITIONS.**—The Commodity Credit Corporation shall

utilize Federal Grain Inspection Service approved procedures to inspect and evaluate the condition of the grain it acquires from producers. In no case shall this section require the use of an official inspection unless the producer so requests."

SEC. 1814. ESTABLISHING QUALITY AS A GOAL FOR COMMODITY CREDIT CORPORATION PROGRAMS.

In carrying out its activities the Commodity Credit Corporation shall, to the extent practicable, provide for program provisions that promote quality in the production and marketing of crops and livestock in the United States.

SEC. 1815. SEED VARIETY INFORMATION.

(a) **IN GENERAL.**—Grain submitted for public testing shall be evaluated for selected specific agronomic performance characteristics and intrinsic end-use performance characteristics, as determined by the Secretary, with the results of the evaluations made available to the Secretary.

(b) **DISSEMINATION OF INFORMATION.**—The Secretary shall disseminate varietal performance information to plant breeders, producers, and end users.

SEC. 1816. SURVEY OF GRAIN VARIETIES.

The Secretary shall periodically conduct, compile, and publish a survey of grain varieties commercially produced in the United States.

SEC. 1817. ANALYSIS OF VARIETY SURVEY DATA.

The Secretary shall analyze the variety surveys conducted, in conjunction with available applied research information on intrinsic quality attributes of the varieties, to evaluate general intrinsic crop quality characteristics and trends in production related to intrinsic quality characteristics. This information shall be disseminated as required by section 1815(b).

SEC. 1818. SENSE OF CONGRESS CONCERNING END-USE PERFORMANCE RESEARCH.

(a) **FINDINGS.**—Congress finds that—

(1) research concerning the end-use performance of grain conducted by the Agricultural Research Service and land-grant universities is critical to improving the quality and competitiveness of United States grains in domestic and world markets;

(2) the work done by the Agricultural Research Service wheat quality laboratories has proven valuable to improving the understanding of individuals concerning the relationships between the physical and chemical properties of wheat and the performance of wheat in milling and baking; and

(3) research conducted by the Agricultural Research Service and at land-grant universities concerning the composition of corn and soybean varieties has proven valuable to feed and food users.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the Secretary, and in particular the Agricultural Research Service and land-grant universities, should adjust their financial priorities to place increased emphasis on grain variety evaluation and the development of objective tests for the end-use properties of grains.

SEC. 1819. SENSE OF CONGRESS CONCERNING COOPERATION IN OBJECTIVE TESTING.

(a) **FINDING.**—Congress finds that the close cooperative relationship that exists between the Federal Grain Inspection Service, the Agricultural Research Service, and land-grant universities has proven highly beneficial in identifying grain quality-related characteristics, developing tests, and designing grain standards.

(b) **SENSE OF CONGRESS.**—It is the sense of Congress that the cooperative efforts de-

scribed in subsection (a), including the sharing of funds and personnel, should be expanded, and that the Federal Grain Inspection Service should continue to utilize the research capabilities of the Agricultural Research Service and the land-grant universities.

SEC. 1820. AUTHORITY TO ASSIST FARMERS AND ELEVATOR OPERATORS.

The Secretary may provide technical assistance (including information on such financial assistance as may be available) to grain producers and elevator operators to assist such producers and operators in installing or improving grain cleaning, drying or storage equipment.

SEC. 1821. STANDARDIZING COMMERCIAL INSPECTIONS.

(a) **TESTING EQUIPMENT.**—To promote greater uniformity in commercial grain inspection results, the Secretary may work in conjunction with the National Institute for Standards and Technology and the National Conference on Weights and Measures to—

(1) identify inspection instruments requiring standardization under subsection (b);

(2) establish commercial performance criteria for the grain inspection instruments;

(3) develop a National Type Evaluation Program to approve grain inspection instruments for commercial inspection; and

(4) develop standard reference materials or other means necessary for calibration or testing of approved instruments.

(b) **GENERAL INSPECTION PROCEDURES.**—To ensure that producers are treated uniformly in delivering grain, the Secretary shall develop practical and cost-effective procedures for conducting commercial inspections resulting in price adjustments related to premiums and discounts for quality factors for the grain. The procedures shall be made available to country elevators and others making first-point-of-delivery inspections.

(c) To encourage the use of equipment and procedures developed under subsections (a) and (b), the Administrator of the Federal Grain Inspection Service shall provide for official inspection services by delegated and designated inspection agencies and provide information on the proper use of sampling and inspection equipment, application of the grain standards, and availability of official inspection services, including appeal inspection service, under the United States Grain Standards Act.

Subtitle B—Agricultural Cooperation and Development

SEC. 1831. CONTROL AND ERADICATION OF PLANT PESTS.

Section 102(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 147a(b)) is amended—

(1) by striking "all countries of the Western Hemisphere" and inserting "foreign countries"; and

(2) by inserting "foreign or" before "international".

SEC. 1832. COOPERATION IN ANIMAL DISEASE CONTROL.

Section 11 of the Act of May 29, 1884 (21 U.S.C. 114b) is amended—

(1) by striking "Mexico, Guatemala, El Salvador, Costa Rica, Honduras, Nicaragua, Belize, Panama, Columbia, and Canada, the Bahama Islands, the Greater Antilles, and the Lesser Antilles" and inserting "foreign countries"; and

(2) by inserting "foreign or" before "international".

SEC. 1833. DEBT FOR AGRICULTURAL DEVELOPMENT EXCHANGES.

(a) **DEFINITION.**—For purposes of this section, the term "debt for agricultural development exchange" means the voluntary cancellation of the external debt of the government of a foreign country in exchange for—

(1) that government's making available, to a grantee under subsection (b), local currencies (including through the issuance of bonds) to be used only for eligible projects involving the development, research, control, and study of agriculturally related activities in that country; or

(2) that government's financial resources, and policy commitment, to take specific actions to ensure the development, research, control, and study of agricultural activities within that country.

(b) **ASSISTANCE FOR COMMERCIAL DEBT EXCHANGES.**—(1) **GRANTS.**—The Secretary is authorized to furnish assistance in the form of grants, on such terms and conditions as the Secretary determines to be necessary, to United States non-governmental organizations, colleges, and universities, for the purchase on the secondary market of discounted external commercial debt of a foreign government to be canceled under the terms of an agreement with that government as part of a debt for agricultural development exchange.

(2) **INTEREST ON GRANTS.**—The grantee (or any subgrantee) of the grants referred to in paragraph (1) may retain interest earned on the proceeds of any resulting debt for agricultural development exchange pending the disbursement of such funds for approved program purposes without deposit in the Treasury of the United States and without further appropriations by the Congress.

(3) **REINVESTMENT OF INTEREST.**—Such interest accrued in accordance with paragraph (2) shall be reinvested by the grantee in the approved project in the host country or used for the establishment of an endowment for the purpose for which the grant was provided to the grantee.

(c) **ELIGIBLE PROJECTS.**—(1) The Secretary shall ensure that the debt for agricultural development exchange under this section is designed to be of mutual benefit to both the agricultural sector of the United States and the agricultural sector of the host country.

(2) In cooperation with international organizations, domestic or foreign non-governmental organizations, colleges, and universities, the Secretary shall seek to identify those areas which, because of their imminent threat to agriculture, are in particular need of immediate attention to support and promote the control of plant and animal diseases in the Western Hemisphere.

(3) The Secretary shall encourage as many countries as possible to propose such exchanges with the purpose of demonstrating to a large number of governments the feasibility and benefits of efficient and successful agricultural development.

(d) **ELIGIBILITY.**—Before awarding a grant under this section, the Secretary shall determine that—

(1) the grantee and the host country are committed to the long-term viability of the activity that is to be undertaken through the debt for agricultural development exchange;

(2) a plan has been prepared in advance by both the grantee and the host country, which, when implemented, will adequately provide for the viability of the activity that is to be undertaken through the debt for agricultural development exchange;

(3) there is a government agency or a local non-governmental organization, or combination thereof, in the host country with the

capability, commitment, and record of agricultural development to oversee the long-term viability of the activity that is to be undertaken through the debt for agricultural development exchange; and

(4) the United States non-governmental organization, college, or university certifies that the host government has accepted the terms of the exchange.

(e) **TERMS AND CONDITIONS OF THE EXCHANGE.**—(1) Not later than 180 days after the date of enactment of this section, the Secretary shall issue regulations to implement this section. Such regulations shall include provisions to—

(A) detail the general terms and conditions necessary for any proposed exchange to gain approval under paragraph (2); and

(B) protect against the misuse of any assistance provided under subsection (b) contrary to the provisions of this section.

(2) The terms and conditions of any exchange under this section shall be subject to approval by the Secretary.

(3) Grants made under this section are intended to complement, and not to act as a substitute for, assistance otherwise available to a foreign country from the Department of Agriculture.

(4) The Department of Agriculture is prohibited from demanding or accepting any title or interest in any project or program under this section, or any interest accrued by the awarded grant, as a condition of the debt for agricultural development exchange.

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

Subtitle C—Other Provisions

SEC. 1841. AGRICULTURAL PRODUCT PROMOTION AND ENHANCEMENT.

(a) **FINDINGS.**—The Congress finds that—

(1) United States agricultural producers and importers contribute approximately \$600,000,000 annually to commodity promotion and research programs to maintain and expand markets for their products;

(2) these commodity checkoff programs are funded entirely by producers and importers in a self-help effort to enhance the economic viability of their industries;

(3) these commodity checkoff programs are intended to enhance efforts to market agricultural products, rather than to facilitate advances in production that do not directly relate to strengthening markets of the products;

(4) marketing conditions for agricultural products are dramatically affected by consumer perceptions relating to environmental issues, food safety concerns, animal husbandry practices, and other similar issues; and

(5) advances of technology continue to provide new uses for agricultural products, both in food and nonfood applications, and such new uses present opportunities for increased marketing efforts.

(b) **SENSE OF THE CONGRESS.**—It is the sense of Congress that—

(1) commodity checkoff programs should focus their efforts on improving the marketing conditions for their products and not on efforts to increase production or enhance production techniques of their products where such enhancements do not relate directly to a stronger market for the product;

(2) the boards or councils that oversee commodity checkoff programs under the supervision of the Secretary should implement programs to provide consumers with adequate information on such public issues as environmental developments, food safety,

animal husbandry practices, biotechnology, and other similar issues so that the perception of consumers accurately and fairly reflects the relationship between agriculture and these public issues; and

(3) such boards or councils should pursue new food and nonfood uses for agricultural products developed through technological advances that hold promise for increasing the marketability of these products.

SEC. 1842. AGRICULTURAL ASSISTANCE PROGRAM FOR FARMERS WITH DISABILITIES.

(a) **SPECIAL DEMONSTRATION GRANTS.**—(1) **IN GENERAL.**—The Secretary shall make demonstration grants to support cooperative programs between State extension service agencies and private nonprofit disability organizations to provide on-the-farm agricultural education and assistance directed at accommodating disability in farm operations for individuals with physical disabilities, and their families, who are engaged in farming or farm-related occupations.

(2) **EXTENSION SERVICE AGENCIES.**—Grants shall be awarded under this subsection directly to State extension service agencies to enable such agencies to enter into contracts, on a multi-year basis, with private nonprofit community-based direct service organizations to initiate, expand or sustain cooperative on-the-farm agricultural education and direct assistance to farmers with disabilities to utilize farm-oriented expertise to promote accommodation of their disabilities in performing farm operations.

(3) **MINIMUM AMOUNT.**—No grant shall be awarded under this subsection in an amount that is less than \$150,000.

(4) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$3,000,000 for each of the fiscal years 1991 through 1992 and \$5,000,000 for each of the fiscal years 1993 through 1996 to carry out this subsection.

(b) **NATIONAL GRANT FOR TECHNICAL ASSISTANCE, TRAINING, AND DISSEMINATION.**—(1) **IN GENERAL.**—The Secretary shall award grants to national private nonprofit disability organizations to enable such organizations to provide technical assistance, training, information dissemination and other activities to support services provided under subsection (a).

(2) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated \$1,000,000 for each of the fiscal years 1991 through 1995 to carry out this subsection.

SEC. 1843. EMERGENCY GRANTS TO ASSIST LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

(a) **IN GENERAL.**—The Secretary may make grants, not to exceed \$20,000,000 annually, to public agencies or private organizations with tax exempt status under section 501(c)(3) of the Internal Revenue Code of 1986 that have experience in providing emergency services to low-income migrant and seasonal farmworkers when the Secretary determines that a local, State or national emergency or disaster has caused low-income migrant or seasonal farmworkers to lose income, or to be unable to work, or to stay home or return home in anticipation of work shortages. Emergency services to be provided under this section may include such types of assistance as the Secretary determines to be necessary.

(b) **DEFINITION.**—For the purposes of this section, a "low-income migrant or seasonal farmworker" is an individual who has, during any consecutive 12 month period within the preceding 24 month period, performed farm work for wages, and who has

received at least one-half of total income or been employed at least one-half of total work time in farm work, and whose annual family income within such 12 month period did not exceed the higher of the poverty level or 70 percent of the lower living standard income level.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as are necessary to carry out this section.

SEC. 1844. NARROWING THE DEFENSE EXCEPTION TO THE FARMLAND PROTECTION POLICY ACT.

Section 1547(b) of the Farmland Protection Policy Act (7 U.S.C. 4208) is amended by inserting "during a national emergency" after "purposes".

SEC. 1845. FORAGE RANGELAND INVENTORY SURVEY.

The Secretary shall initiate and collect inventory survey data and statistics on the availability and quality of forage, grasslands and range crops. Such data shall be made available to the public each year.

SEC. 1846. ACCURATE TRACKING OF COSTS OF COMMODITY CERTIFICATE PROGRAM.

The Congress finds that, to ensure proper congressional scrutiny of commodities certificate costs, the Department of Agriculture should develop a new set of budget terms and totals that include commodity certificates in the budget totals submitted by the Administration to the Congress.

SEC. 1847. IMPROVING THE ACCURACY OF COMMODITY PROGRAM BUDGET FORECASTS.

The Congress finds that, to improve the accuracy of commodity program benefit forecasts, the Secretary should designate a single organization to manage its commodity program forecasting and establish a quality control program to—

- (1) systematically identify the source of forecasting errors;
- (2) maintain records of data used for supply and demand forecasts;
- (3) document its forecasting methods; and
- (4) correct weaknesses in its various forecasting components.

Subtitle D—Reports and Studies

SEC. 1851. PASS THROUGH OF SAVINGS.

(a) **ESTABLISHMENT OF MEASUREMENT SYSTEM.**—The Secretary of Agriculture (hereafter in this title referred to as the "Secretary") shall by regulation establish a system to measure the extent to which any reduction in the prices of agricultural commodities or products thereof are passed through to the ultimate consumer. The Secretary shall report annually to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate on the results of such measurements and shall also publish such results in the Federal Register.

(b) **PUBLICATION.**—To the extent that the Secretary finds that any such price reductions are passed through in an article containing the agricultural commodity or product thereof as savings to the ultimate consumer, the Secretary shall publish the names of any such article, the amount of savings that were passed through to the ultimate consumer, and the seller or manufacturer of the article.

(c) **CERTIFICATION REQUIRED.**—Prior to publishing such information in the Federal Register, the Secretary shall require a certification from the seller or manufacturer of such article that savings were intended and actually passed through to the ultimate consumer.

SEC. 1852. FARM VALUE OF AGRICULTURAL PRODUCTS.

(a) **IN GENERAL.**—The Secretary of Agriculture shall provide by rule a system for informing the ultimate consumer of an agricultural commodity or a product thereof, whether produced inside or outside of the United States, of the approximate amount of money (in terms of United States currency) paid the agricultural producer for that commodity, or each commodity contained in that product.

(b) **ANNUAL REPORT BY SECRETARY.**—The Secretary shall annually report to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, by type of commodity or product, a summary of the information required to be made available to the consumer under subsection (a). The Secretary may by rule require the submission of such data from such persons as is necessary to enable the Secretary to carry out this subsection. The Secretary shall provide for the timely publication and wide distribution of such reports.

SEC. 1853. STUDY OF THE CONCENTRATION OF THE MEAT PACKING INDUSTRY.

(a) **STUDY REQUIRED.**—The Comptroller General, in consultation with the Secretary, shall conduct a study regarding vertical and horizontal concentration in the meat packing industry. In conducting such study, the Comptroller General shall consider the following:

- (1) The impact, both short and long term, of such concentration on farm income of livestock producers.
- (2) The impact, both short and long term, of such concentration on prices paid by consumers for meat and poultry products.
- (3) The impact of such concentration on economic development in agricultural areas, including employment levels, wage rates, the financial condition and competitiveness of the meat industry, and distribution of employment opportunities.
- (4) The extent and nature of packer contracting and the pricing arrangements that are typical of packer contracting, including any evidence of price premiums or discounts and the justification of such premiums or discounts.
- (5) An evaluation of the adequacy of the voluntary price reporting system of the Department of Agriculture.
- (6) The relationship between packer concentration and contracting and the role of packers in the futures market.
- (7) The impact of captive supplies on price levels, price variability, and the level of competition in slaughter livestock markets.
- (8) The degree of concentration throughout the food chain from producer through the retailer and the impact of such concentration on meat and poultry processors.
- (9) An evaluation of alternative marketing systems including a national electronic marketing system, a national market for forward contracts and other alternatives with potential to enhance competitive price discovery in a national market with negotiations between buyers and sellers that are publicly visible so that they may be assessed by the public.

(b) **DEFINITION OF PACKER.**—For the purposes of this section the term "packer" means any person engaged in the business—

- (1) of buying livestock in commerce for purposes of slaughter,
- (2) of manufacturing or preparing meats or meat food products for sale or shipment in commerce, or
- (3) of marketing meats, meat food products, or livestock products in an unmanu-

factured form acting as a wholesale broker, dealer, or distributor in commerce.

(c) **SUBMISSION OF STUDY.**—The study specified in subsection (a) shall be submitted to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

The text of title XIX, added as a modification from Report No. 101-609 of the Committee on Rules, is as follows:

TITLE XIX—SHIPPING PROVISIONS

SEC. 1901. EXEMPTION OF AMERICAN GREAT LAKES VESSELS FROM RESTRICTION ON CARRIAGE OF PREFERENCE CARGOES.

(a) **EXEMPTION FROM RESTRICTION.**—The restriction described in subsection (b) shall not apply to an American Great Lakes vessel.

(b) **RESTRICTION DESCRIBED.**—The restriction referred to in subsection (a) is the restriction in section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1)), that a vessel which is—

- (1) built outside the United States;
- (2) rebuilt outside the United States; or
- (3) documented under any foreign registry; shall not be a privately owned United States-flag vessel under that section until the vessel is documented under the laws of the United States for a period of 3 years.

SEC. 1902. DESIGNATION OF AMERICAN GREAT LAKES VESSELS.

(a) **IN GENERAL.**—The Secretary shall designate a vessel to be an American Great Lakes vessel for purpose of this title if—

- (1) the vessel is documented under the laws of the United States;
- (2) the Secretary receives an application for such designation submitted in accordance with regulations issued by the Secretary under subsection (d);
- (3) the owner of the vessel enters into an agreement in accordance with subsection (b); and
- (4)(A) the vessel was built after January 1, 1985, and before January 1, 1991; or

(B) the vessel was built after January 1, 1980, and before January 1, 1991, and the Secretary determines that suitable vessels are not available for providing the type of service for which the vessel will be used after designation.

(b) **CONSTRUCTION AND PURCHASE AGREEMENT.**—As a condition of designating a vessel as an American Great Lakes vessel under this section, the Secretary shall require the person who will be the owner of the vessel at the time of that designation to enter into an agreement with the Secretary which provides that—

- (1) all repair, maintenance, reconditioning, and other construction—

(A) required to be performed on the vessel for it to qualify for such designation; or

(B) performed on the vessel during the period of that designation; shall be performed in the United States, except emergency repairs which are necessary to enable the vessel to sail safely from a port outside of the United States; and

(2) if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government shall have, during the 120-day period following the date of any revocation of such designation under section 1904, an exclusive right to purchase the vessel for a price equal to—

- (A) the approximate world market value of the vessel; or

(B) the cost of the vessel to the owner less than an amount representing reasonable depreciation of the vessel; whichever is greater.

(c) **CERTAIN FOREIGN REGISTRY AND SALE NOT PROHIBITED.**—Notwithstanding any other law, if the United States does not purchase a vessel in accordance with its right of purchase under a construction and purchase agreement under subsection (b), and owner of the vessel shall not be prohibited from—

(1) transferring the vessel to a foreign registry; or

(2) selling the vessel to a person who is not a citizen of the United States.

(d) **ISSUANCE OF REGULATIONS.**—Not later than 60 days after the date of the enactment of this Act, the Secretary shall issue regulations establishing requirements for submission of applications for designation of vessels as American Great Lakes vessels under this section.

SEC. 1903. RESTRICTIONS ON OPERATIONS OF AMERICAN GREAT LAKES VESSELS.

(a) **IN GENERAL.**—Subject to subsection (b), an American Great Lakes vessel shall not be used—

(1) to engage in trade—

(A) from a port in the United States that is not located on the Great Lakes;

(B) between ports in the United States; or
(C) between Great Lakes ports in the United States and Great Lakes ports in Canada;

(2) to carry bulk cargo (as that term defined in section 3 of the Shipping Act of 1984 (46 U.S.C. App. 1702(4))); or

(3) to provide any service other than ocean freight service—

(A) as a contract carrier; or

(B) as a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign commerce of the United States.

(b) **OFF-SEASON CARRIAGE EXCEPTION.**—

(1) **IN GENERAL.**—Subject to paragraph (2), an American Great Lakes vessel may be used to engage in trade otherwise prohibited by subsection (a)(1)(A) for not more than 90 days during any 12-month period.

(2) **LIMITATION.**—An American Great Lakes vessel shall not be used during the Great Lakes shipping season to engage in trade referred to in paragraph (1).

SEC. 1904. REVOCATION OF DESIGNATION.

(a) **REVOCATION.**—The Secretary, after notice and an opportunity for a hearing, may revoke the designation of a vessel under section 1902 as an American Great Lakes vessel if the Secretary determines that—

(1) the vessel does not meet a requirement for such designation;

(2) the vessel has been operated in violation of this title; or

(3) the owner or operator of the vessel has violated a construction and purchase agreement under section 1902(b).

(b) **CIVIL PENALTY.**—The Secretary, after notice and an opportunity for a hearing, may assess a civil penalty of not more than \$1,000,000 against the owner of an American Great Lakes vessel, for any act for which the designation of that vessel as an American Great Lakes vessel may be revoked under subsection (a).

SEC. 1905. ELIGIBILITY OF AMERICAN GREAT LAKES VESSELS FOR OPERATING DIFFERENTIAL SUBSIDY.

(a) **CERTAIN VESSELS DEEMED BUILT IN THE UNITED STATES.**—Notwithstanding any other law, an American Great Lakes vessel is deemed to have been built in the United States—

(1) for purposes of title VI of the Merchant Marine Act, 1936 (46 U.S.C. App. 1171 et

seq.), except for purposes of section 607 of that title; and

(2) for purposes of chapter 37 of title 46, United States Code.

(b) OPERATING DIFFERENTIAL SUBSIDY CONTRACTS.

(1) **IN GENERAL.**—Upon application by an operator of an American Great Lakes vessel that otherwise qualifies, the Secretary shall enter into a contract or contracts under title VI of the Merchant Marine Act, 1936, for the payment of operating differential subsidy for that vessel.

(2) **CONTRACT TERMS.**—A contract or contracts entered into by the Secretary under this subsection—

(A) shall be for a term of not less than 15 years; and

(B) shall include provisions for the payment by the United States of wage, insurance, maintenance, and repair expenses with respect to the vessel covered by the contract or contracts.

(c) **LIMITATION ON CONTRACTS.**—Contracts entered into by the Secretary under this section shall not provide for payment in any year of operating differential subsidy under all such contracts for more than 6 ship years.

(d) **ADDITIONAL TRADE ROUTE RESTRICTIONS PROHIBITED.**—The Secretary shall not impose any route or geographic restrictions on the operations of a vessel for which a contract is entered into pursuant to this section, other than the restrictions established by section 1903.

SEC. 1906. GREAT LAKES SET-ASIDE.

Section 901b(c)(2)(B) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241f(c)(2)(B)) is amended—

(1) by inserting "(i)" after "(B)";

(2) in clause (i) (as so designated by paragraph (1) of this section) by striking "1986, 1987, 1988, and 1989" and inserting "1991"; and

(3) by adding at the end the following:

"(i) For each of the calendar years 1992, 1993, 1994, and 1995, the Secretary shall preserve during that year in accordance with clause (i) the metric tonnage required to be preserved for the preceding year, reduced by an amount equal to—

"(I) for 1992, 10 percent of the metric tonnage required to be preserved for 1991;

"(II) for 1993, 20 percent of the metric tonnage required to be preserved for 1991;

"(III) for 1994, 30 percent of the metric tonnage required to be preserved for 1991; and

"(IV) for 1995, 20 percent of the metric tonnage required to be preserved for 1991."

SEC. 1907. DEFINITIONS.

In this title—

(1) **GREAT LAKES.**—The term "Great Lakes" means Lake Superior; Lake Michigan; Lake Huron; Lake Erie; Lake Ontario; the Saint Lawrence River west of Saint Regis, New York; and their connecting and tributary waters.

(2) **GREAT LAKES SHIPPING SEASON.**—The term "Great Lakes shipping season" means the period of each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation created by the Act of May 13, 1954 (33 U.S.C. 981 et seq.).

(3) **AMERICAN GREAT LAKES VESSEL.**—The term "American Great Lakes vessel" means a vessel which is so designated by the Secretary in accordance with section 1902.

(4) **SECRETARY.**—The term "Secretary" means the Secretary of Transportation.

(5) **UNITED STATES.**—The term "United States" means the 50 States.

Amend the table of contents for the bill accordingly.

AMENDMENT OFFERED BY MR. ROTH

Mr. ROTH. Mr. Chairman, I offer an amendment.

Mr. STENHOLM. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman's point of order is reserved, and the Clerk will report the amendment.

The Clerk read as follows:

Amendment offered by Mr. ROTH: At the end of title XVIII, insert the following:

Subtitle E—Animal Protection

SEC. 1861. SANCTIONS.

(a) The last sentence of section 16(c) of the Animal Welfare Act (7 U.S.C. 2164) is amended by inserting immediately after "Act" where it first appears the following: "and the regulations and standards promulgated thereunder".

(b) The Animal Welfare Act (7 U.S.C. 2131 et seq.) is amended by adding at the end the following new section:

"SEC. 28. Whenever the secretary has reason to believe that any dealer, carrier, exhibitor, or intermediate handler is dealing in stolen animals, or is placing the health of any animal in serious danger in violation of this Act or the regulations or standards promulgated thereunder, the Secretary shall notify the Attorney General, who may apply to the United States district court in which such dealer, carrier, exhibitor, or intermediate handler resides or conducts business for a temporary restraining order or injunction to prevent any such person from operating in violation of the Act or the regulations and standards. The court shall, upon a proper showing, issue a temporary restraining order or injunction without bond. Such injunction or order shall remain in effect until a complaint pursuant to section 19 is issued and dismissed by the Secretary or until an order to cease and desist made thereon by the Secretary has become final and effective or is set aside on appellate review. Attorneys of the United States Department of Agriculture may, with the approval of the Attorney General, appear in the United States district court representing the Secretary in any action brought under this section."

Mr. ROTH (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. ROTH. Mr. Chairman, this amendment will put a stop to those operations which flagrantly disregard the Animal Welfare Act.

In the 1985 farm bill we set out certain guidelines that people cannot mistreat and maltreat animals. What we are doing here is to strengthen that, because in that legislation we did not give the Secretary of Agriculture injunctive power. Therefore, if the Department of Agriculture sees people maltreating animals, abusing animals, they cannot come in and stop this abuse. What they have to do is take it

through the courts, and it takes many months, sometimes years.

What this amendment will do is to give the Secretary of Agriculture that injunctive power so he can go in and stop the abuse that is taking place.

I would ask, Mr. Chairman, that this amendment be ruled as germane and that the committee would vote for it and the House.

POINT OF ORDER

The CHAIRMAN. Does the gentleman from Texas [Mr. STENHOLM] insist on his point of order?

Mr. STENHOLM. Yes, Mr. Chairman.

Mr. Chairman, I make a point of order that the amendment offered by the gentleman from Wisconsin is not in order because it violates rule XV, clause 7, the rule of germaneness.

The gentleman's amendment proposes to add at the end of title 18 "Improvement of the Agricultural Economy" a new subtitle E dealing with animal protection. His amendment specifically amends section 16(c) and adds a new section 28 to the Animal Welfare Act (7 U.S.C. 2131 et seq.).

Subtitles A through D of title 18 deal with grain quality improvements, agricultural cooperation and development, other provisions, and reports and studies.

The gentleman's amendment, however, would amend the Animal Welfare Act, a statute not mentioned in title 18, or for that matter, anywhere else in the bill.

In other words the gentleman is attempting to amend a statute that is within the jurisdiction of the Committee on Agriculture but is not included in H.R. 3950.

It is well established under the rule of germaneness that an amendment must relate to the subject matter under consideration and that it must be related to the fundamental purpose of the bill.

In this case the subject matter under consideration has nothing to do with the issues addressed under the legislation before us today.

Mr. Chairman, if the gentleman's amendment were to be held in order it could mean that any statute with the jurisdiction of a House committee would be open for amendment every time an omnibus bill was considered in the House. This would result in a most chaotic situation when dozens, maybe even hundreds, of statutes within any committee's jurisdiction would be fair game for floor amendment.

The CHAIRMAN. Does the gentleman from Wisconsin [Mr. ROTH] wish to be heard on the point of order?

Mr. ROTH. Yes, Mr. Chairman.

Mr. Chairman, there is ample precedent for the germaneness of this amendment. The 1985 farm bill included amendments to the Animal Welfare Act.

In essence, what we did in the 1985 farm bill was to amend the Animal Welfare Act and to place regulations on the use of laboratory animals. And what this amendment does is give the U.S. Department of Agriculture authority to enforce those guidelines we set forth in the 1985 farm bill, and it follows that or should follow that a law set down in the 1985 farm bill is germane and can be amended under this provision of the 1990 farm bill, because all we are doing is really amending the 1985 farm bill, and that is basically all we are doing with this particular bill.

So I think it is germane.

The CHAIRMAN [Mr. BONIOR]. The gentleman from Texas makes a point of order that the amendment offered by the gentleman from Wisconsin is not germane to title XVIII. The amendment is a direct change in the Animal Welfare Act to provide an additional sanction by way of an action in Federal district court to restrain the endangering of any animal in violation of the act, its regulations or standards. The Animal Welfare Act defined "animal" broadly, but is not limited to animals in the agricultural context by protecting; for example, racing greyhounds. Neither the pending title, nor the bill, amends that act, nor addresses the protection of any animal.

Therefore, the amendment goes beyond the scope of the title and is not germane, and the Chair sustains the point of order of the gentleman from Texas.

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Wisconsin [Mr. ROTH].

As I have discussed with the gentleman, the Agriculture Committee is currently engaged in the process of reviewing and will soon consider legislation to consolidate the various legislative authorities under which the Animal and Plant Health Inspection Service of USDA operates. It is the intent of the committee to bring the statutory base for this Federal agency up to date, which would include issues that the gentleman's amendment addresses.

Through the proper committee process, I assure the gentleman of my support in regards to addressing additional authorities which might be appropriately given to the Secretary of Agriculture to deal with serious violations of the Animal Welfare Act.

Therefore, I urge my colleagues to support the committee and vote no on the gentleman's amendment.

The CHAIRMAN. Are there further amendments to title XVIII?

AMENDMENT OFFERED BY MR. BENNETT

Mr. BENNETT. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BENNETT: At the end of title 18, insert the following:

Subtitle E—Veal Calf Protection

SEC. 1861. PROHIBITIONS.

Effective 4 years after the date of enactment of this Act, no person shall raise a calf

for the production of veal unless the following requirements are complied with:

(1) The calf is free to turn around without difficulty, lie with its legs outstretched, and groom itself, without any impediment such as too small an enclosure or chaining or tethering.

(2) The calf is fed a daily diet containing sufficient iron and, if the calf is more than 14 days old, sufficient digestible fiber to prevent anemia and to sustain full health.

SEC. 1862. ENFORCEMENT.

A person who violates this subtitle shall be subject to the same remedies, civil and criminal, as are provided in subsections (b) and (d) of section 19 of the Animal Welfare Act (7 U.S.C. 2131 et seq.) for violations of that Act. The same procedure shall apply with respect to remedies under either that Act or this subtitle. For purposes of enforcement of this subtitle, the Secretary of Agriculture or any representative duly designated by the Secretary may inspect any facility where calves are kept for the production of veal.

Mr. BENNETT. Mr. Chairman, about a year or year and a half ago I watched on TV, I think it was public television, a program about how veal is being raised increasingly in numbers in the United States. It was an excruciatingly painful thing to see.

I had no previous interest in the matter at all, but when I saw what was being done with regard to these veal calves, I concluded something ought to be done about it. When I looked into it I found it was worse than I thought it was, because I found it is not only very cruel raising these calves, but also very injurious to the consumer, because these calves have to be sick to make white meat. That is what white veal is, it is sick meat. So they have to give them antibiotics to even keep them alive, and that is what the people in the veal industry know themselves.

Here I am going to quote now from the Meat Processing magazine. In the Meat Processing magazine this editorial says:

Over the years veal growers have tap danced around the problem. The fact is it isn't the end of the world if the public can't dine on white veal produced in part by restricting the movement of calves in veal crates, nor will hurt the food, nor will the market for veal be shattered.

The confinement has no validity on the production side. The entire industry from the grower to end user, the consumer, should unite in public repudiation of the entire concept of confinement.

□ 2100

From the standpoint of medical observations, Dr. R.G. Wagner of the Department of Animal Science in Cornell writes, "This kind of veal has been confined to highly anemic calves, white meat, substantial fat on the carcass, low in iron, it can be condemned from a human nutritional standpoint." So therefore this veal is not only being raised in an inhumane manner but it is also being raised in a way in which it can only be kept alive, in most instances, by feeding it antibiotics,

which we in turn, the consumers, consume.

So this measure, it seems to me, is a very wise measure to pursue. There is no reason to think Americans or any other people would eat or have the tendency of preference to eat white veal.

As a matter of fact, the market for veal has been falling off tremendously in recent years, largely because people found out about this. They found out about a lot of other things, too, cholesterol and everything else. Now they find out that white veal is bad for you because it often has medicine in it, put in the calves in order for the calf to even survive.

But if you saw the cruelty involved, you would be very touched. I was very touched by it myself.

I am not a fanatic on any subject, myself, but I was touched in my heart when I saw these calves that could not lay down, could not move at all, they are bigger than the stalls they are in, and they are kept there for their entire lifetimes.

Mr. JACOBS. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield such time as he may consume to the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I thank the gentleman for yielding to me and I rise in support of the gentleman's amendment.

Mr. Chairman, I think that most Americans think it is all right to kill animals and eat them. I do not. But most Americans do, the overwhelming majority.

I think hardly any Americans would want animals tortured, though, before they are slaughtered. We have a Humane Slaughter Act, with one unfortunate exception, in this country, and that means that the animal never knew what hit the animal when the animal is slaughtered.

In this case, as our colleague says, chaining these little animals up and putting them in cages so they cannot even turn and groom themselves, that is a bit much. I do not think it is asking very much at all.

I think there is a 2-year leadtime.

Mr. BENNETT. It is 4 years.

Mr. JACOBS. Four years for the producers to change the size of the cages. I really do not think it is asking too much. I believe it would ease the conscience of the Nation to accept this amendment. I am proud to support it.

Mr. GILMAN. Mr. Chairman, will the gentleman yield?

Mr. BENNETT. I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. I thank the gentleman for yielding.

Mr. Chairman, I am pleased to rise in support of the amendment offered by the gentleman from Florida [Mr.

BENNETT] which will require the humane treatment of veal calves.

Veal calves are taken from their mothers when they are only a few days old and live the rest of their lives chained in individual wooden crates. They are fed only milk replacers and live in dark areas in order to keep them anemic.

In addition to the calves being treated so inhumanely, they also pose a health threat to humans. Since the veal calves are anemic, they are often infected with diseases. Therefore, farmers routinely feed the calves antibiotics to ward off these infections.

Recently, the centers for disease control traced a food poisoning outbreak in California to antibiotic use on farms. They concluded that drug-resistant salmonella bacteria are transferred from farm animals to humans, and that routine use of antibiotics in farm animals contributes to the problem.

In addition to the use of antibiotics, farmers use other drugs that have not been approved for use in calves. The two commonly used drugs are nitrofurazone, which is a carcinogen, and chloramphenicol, which can produce a fatal bone marrow disease. Furthermore, these two drugs can only be obtained illegally.

Mr. Speaker the passage of this measure will require farmers to make sure the calf is free to move around without difficulty, lie with its legs outstretched, and groom itself, without any impediment, as well as ensure the calf is fed a daily diet containing sufficient iron and digestible fiber to prevent anemia and to sustain full health. Accordingly, I urge my colleagues to join in support of this amendment.

The CHAIRMAN. The Chair would rule that under the rule the gentleman from Florida [Mr. BENNETT] had 5 minutes in support of the amendment.

Mr. SHAW. Mr. Chairman, I rise in support of the amendment.

Mr. SHAW. Mr. Chairman, I rise in support of the amendment by my colleague from Florida because I, like many of my other colleagues and constituents, used to feel that white veal is a good, healthy alternative to other types of red meat in the diet.

I no longer feel that way. After learning how white veal is raised and how unhealthy the meat is, I decided to become a cosponsor of H.R. 84, the Veal Calf Protection Act.

Raised under normal conditions, veal meat is pink. However, milk-fed veal, or fancy veal, is white. The reason the meat is white is not because it is healthier, but just the opposite, because the calf is anemic due to its cramped living quarters and insufficient diet.

The calf is then fed antibiotics to help it fight off disease due to its weakened state.

This process is unhealthy and cruel for the calf, and unhealthy for those who eat white veal. A recent outbreak of food poisoning in California was linked to high residues of antibiotics found in veal.

Mr. BENNETT's amendment will set guidelines to allow for more humane treatment for veal calves, which will in turn provide healthier, safer meat for the consumer. I feel that this is an important amendment and urge its adoption.

Mr. STENHOLM. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, let us understand some basic ABC's of the dairy industry.

The reason cows have calves is so they can give milk. And if it is a male calf, it cannot give milk when it grows up. That is what the veal industry is all about.

Now let us understand, second—where are DICK ARMEY and SIL CONTE when I need them?—because what this says, this amendment says, at a time of budget constraint, when we are trying to cut the farm bill and cut the budget, we are going to set up a nationwide inspection system out of the Department of Agriculture.

The role of the USDA is research and education. If we are going to get into the business of animal regulation, we ought to be doing that at the State level.

I yield to my colleague from Minnesota.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Minnesota [Mr. WEBER].

Mr. WEBER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in strong opposition to the Bennett amendment. This amendment is based on emotion, not on fact, and threatens the future of the livestock industry.

Mr. Chairman, the amendment being offered here today is a slap in the face of the American farmer. It is based on the premise that livestock producers do not inherently have the best interest of their animals in mind. It assumes that the Federal bureaucracy has a better knowledge of how farmers should raise their livestock. Just as importantly, it would directly bring the livestock for the first time under the penalties of the Animal Welfare Act.

The Members of this body, Mr. Chairman, need to understand that this amendment is not really about the need for additional living space for calves, or what type of diet they should have. Rather, it is the first step in an attempt to implement erroneous regulations on the entire livestock industry. These regulations could force producers out of business and destroy whole segments of the livestock industry as we know it today. It is a goal which has been advocated by a

number of animal rights organizations, a goal I strongly oppose.

Although it is only about 30 years old, the veal industry today includes more than 1,800 farmers who raise approximately 3.2 million calves a year. Mr. Chairman, I am sure you will hear a number of emotional statements about how badly these farmers are treating their calves. However, if you look at the facts of how veal calves are raised, you would find that this is really not the issue before us today.

Far from being the four-sided box portrayed by proponents of this amendment, modern veal stalls have afforded farmers the opportunity to give individual care to their calves. Because of this type of care, the mortality rate of veal calves is approximately 5 percent. This compares to a 15-percent mortality rate for calves raised on dairy farms.

In conjunction with the American Veterinary Medical Association, veal calf producers have developed specific guidelines for veal calf care and production. Guidelines which require that each stall be constructed so that the calves will have adequate room to stand, lie in a natural position, groom themselves, and make normal postural adjustments. These are self imposed requirements, that the industry supports and has already implemented.

Contrary to opponents' claims, Mr. Chairman, veal calves receive diets with sufficient iron to meet the animals normal requirements. In fact, an important study published by British scientists in 1976 demonstrated conclusively that the amount of iron added to milk replacer formulas provided enough of the mineral to produce sufficient red blood cells for normal appetite and growth.

As the Members of this body should be able to see the facts do not bear out what the proponents of this amendment claim. Since this is the case, we need to closely examine what the real intent of this amendment is.

Under the enforcement provision of this amendment, a person who violated this subtitle would be subject to penalties under the 1985 Animal Welfare Act. This is the real objective. The Members of the body need to understand that this provision would open the door for the Animal and Plant Health Inspection Service to regulate all segments of livestock production. This would set a precedent that is not consistent with the intent of the 1985 act and would be devastating to the livestock industry.

The act was drafted with the explicit purpose of regulating the care and welfare of animals used in research. The amendment as drafted, would substantially change the intent of that act by applying these sanctions for the first time to farmers. I would argue that this is the real purpose of this amendment.

Mr. Chairman, I would like to take this opportunity to submit a letter from Secretary of Agriculture Clayton Yeutter for the RECORD. The Secretary clearly states that the language of the bill, which directs him to issue rules on raising calves for veal, is an unnecessary expansion of Federal regulatory authority.

Finally if the Members of this body want to take the first step in eliminating the livestock industry as we know it today, they should vote for this amendment. However, if the Members believe in the integrity of the family farmer and the livestock industry, they should oppose this amendment.

U.S. DEPARTMENT OF AGRICULTURE,

Washington, DC, July 20, 1989.

HON. E. (KIKI) DE LA GARZA,
Chairman, Committee on Agriculture, U.S.
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for a report on H.R. 84, a bill "To prohibit certain practices in the raising of calves for veal, and for other purposes."

This Department opposes enactment of this bill.

H.R. 84 would make it unlawful for any person who raises a calf (less than 9 months old) for veal to knowingly keep the calf in a primary enclosure that does not meet specified dimensions; or prevents the calf from having an appropriate amount of physical contact with other members of the same species; or to knowingly feed a calf food which does not meet the standards established under the Act by the Secretary of Agriculture; or transport, sell, or purchase a calf which was kept or fed in violation of the Act or standards established under the Act; or to fail or refuse to allow the Secretary or the Secretary's representative to make reasonable inspections of any facility where calves are kept for the production of veal, any calf sale or auction, and inspections of any calf at such facility, sale, or auction.

The bill directs the Secretary to issue rules to carry out the Act, and authorizes rules on training and other education programs in appropriate methods for raising calves for veal for persons engaged in raising, keeping, transporting, selling, or purchasing calves.

Further, the bill directs the Secretary, by written order, to assess a civil penalty of not more than \$3,000 for each violation of the Act or any rule prescribed under the Act, after notice and opportunity for a hearing; allows any person against whom a violation is found and a civil penalty assessed to appeal the Secretary's order to the Federal courts; directs the Secretary, after the appeal procedure is exhausted, or after final judgment in favor of the Secretary, to refer any failure to pay such a penalty to the Attorney General for collection.

In addition, the bill spells out the conditions under which the provisions of the Act would preempt State law on the same subject matter; specifies that it is the intent of Congress to establish Federal-State concurrent jurisdiction within any State, whether or not there is State law on the same subject matter; and prohibits a State from taking any action involving a violation of State law that would preclude the Federal Government from enforcing the Act against any person.

We believe that the language of the bill which directs the Secretary of Agriculture to issue rules on raising calves for veal is an unnecessary expansion of Federal regulatory authority. We have research programs both completed and currently being conducted to achieve the objectives of the bill. Agricultural Research Service (ARS) scientists are continually conducting research on ways to identify and quantify stress in farm animals. Research findings help us to recommend changes in facilities and management practices to enhance the well-being of farm animals. The USDA Extension Service, using the findings, provides educational programs for veal producers and marketers on best management practices, taking into account geographic and environmental variations. These practices are designed to optimize animal health, food safety and humane treatment. We believe these activities already are achieving many of the objectives of the bill. Therefore, we do not believe legislative action is necessary.

Any estimate of a dollar amount of the cost of enacting this legislation would be speculative. However, if enacted, the legislation would require an increase in staff workload for the development and promulgation of rules to carry out the legislation, and additional costs would be required to train personnel for enforcement of such rules. The total cost would also depend on the number and complexity of enforcement actions.

The Office of Management and Budget advises there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CLAYTON YEUTTER,
Secretary.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Indiana [Mr. JONTZ].

Mr. JONTZ. I thank the gentleman for yielding.

Mr. Chairman, I know when you see the advertisements in the magazines or whatever, you say, "What is going on here with veal production in this country?" I wish I could have all of you, my colleagues in the House, join me out on some of the veal farms in Indiana and Wisconsin and other places around our Nation, because you would see that there are very good reasons for the practices which are used.

The reason that you have veal calves raised in pens with tethers is so that you can regulate the amount of feed going to each individual animal. You can feed them according to their individual needs. You do not have to worry about one guy getting into the other guy's feed.

That is the reason you do it.

The ability of the farmer to make a profit depends on his ability to sell a healthy animal. If all of these things that the gentleman, the author of the amendment, alleges were true, you would not have anybody in veal production because there would not be any healthy animals to sell.

This legislation before us today includes research provisions which address very important issues which ought properly to be researched to allow advances in veal production. But

do not support this Bennett amendment, it would be a bad mistake. It would unfairly penalize many legitimate family farm operations in this country who are trying to do a good job and who are treating their animals humanely.

Mr. STENHOLM. Mr. Chairman, I yield 1 minute to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. I thank the gentleman for yielding.

Mr. Chairman, I want to concur with my friend from Indiana's remarks. There is an odious nature to this amendment that makes it, I think—I think it makes it appear that farmers are somehow not good custodians of livestock. They are traditionally the best custodians of livestock.

But let me just point to one enormous fallacy in this amendment. This amendment would provide that a calf must be able to lie with its legs outstretched. It only does that at two times: Once when it is bloated, and the other time when it is dead.

This amendment is misguided, it is misinterpreted. As Mr. JONTZ suggested, there is an animal care delivery system study in this legislation that is looking for effective animal health care delivery and veterinary policy. Let us stay with the committee and oppose this amendment.

Mr. BRENNAN. Mr. Chairman, I rise in support of the amendment offered by my good friend and colleague CHARLIE BENNETT to require the more humane treatment of calves raised for the production of veal.

This amendment will not unfairly burden producers nor impose undue economic costs. It will make an important statement that with the advance of technology this Nation will not sacrifice the humane values that are part of our heritage.

I urge support for the amendment.

Mr. CHAIRMAN. The time of the gentleman from Texas has expired. The question is on the amendment offered by the gentleman from Florida [Mr. BENNETT].

The question was taken, and the Chairman announced that the yeas appeared to have it.

Mr. JACOBS. Mr. Chairman, I demand a recorded vote.

A recorded vote was refused.

So the amendment was rejected.

The CHAIRMAN. Are there other amendments to title XVIII?

Mr. DE LA GARZA. Mr. Chairman, I ask unanimous consent that the remainder of the bill be open for amendment.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

AMENDMENT OFFERED BY MR. SYNAR

Mr. SYNAR. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. SYNAR: Page 385, after line 22, insert the following new subtitle:

Subtitle F—Pesticide Export Reform

SEC. 1251. SHORT TITLE.

(a) SHORT TITLE.—This subtitle may be cited as the "Pesticide Export Reform Act of 1990".

(b) REFERENCE.—Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act.

PART 1—EXPORTED PESTICIDES

SEC. 1252. DEFINITIONS.

(a) IN GENERAL.—Section 2 (7 U.S.C. 136) is amended by adding at the end the following new subsections:

"(hh) COUNTRY OF USE.—The term 'country of use' means any foreign country in which a pesticide—

"(1) is intended by the exporter to be used or formulated; or

"(2) on the basis of information reasonably available to the exporter, the use or formulation of such pesticide being exported is foreseeable.

"(ii) EXPORTER.—The term 'exporter' means any person who arranges to transport, or who transports, any pesticide from the United States or any territory or possession of the United States to any country other than the United States."

(b) MISBRANDED.—Section 2(q)(1) (7 U.S.C. 136(q)(1)) is amended—

(1) in subparagraph (G), by striking "or" at the end thereof;

(2) in subparagraph (H), by striking the period and inserting "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(I) in the case of a pesticide intended for export from the United States, the labeling does not meet the requirements of section 17(a)(8)."

SEC. 1253. REGISTRATION OF ESTABLISHMENTS.

Paragraph (1) of section 7(c) (7 U.S.C. 136(c)(1)) is amended to read as follows:

"(1)(A) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after the establishment is registered of the types and quantities of pesticides and active ingredients used in producing pesticides that the producer—

"(i) is currently producing;

"(ii) has produced in the past 365-day period; and

"(iii) has sold or distributed during the past 365-day period.

"(B) Any producer operating an establishment registered under this section shall inform the Administrator within 30 days after the establishment is registered of—

"(i) the types and quantities of pesticides, and active ingredients used in producing pesticides, for export to a foreign country; and

"(ii) the date of export and quantity of pesticides and active ingredients exported to each foreign country to which the producer has exported during the past 365-day period.

The information required by this paragraph shall be kept current and submitted to the Administrator annually as required under such regulations as the Administrator may prescribe."

SEC. 1254. PROTECTION OF TRADE SECRETS AND OTHER INFORMATION.

Section 10(d) (7 U.S.C. 136h(d)) is amended by adding at the end the following new paragraph:

"(4) The information submitted to the Administrator under sections 7(c)(1)(B)(ii) and 17(a)(6)(C) shall not be entitled to confidential treatment under subsection (b).

"(5) The data, summaries, and reviews described in section 17(a)(2)(A)(ii) shall be available to the public and shall be subject to the restrictions on use prescribed by section 3(c)(1)(D) as if they were submitted for purposes of registration under section 3."

SEC. 1255. UNLAWFUL ACTS.

Section 12(a)(2) (7 U.S.C. 136j(a)(2)) is amended—

(1) by striking "or" at the end of subparagraph (R);

(2) by striking the period at the end of subparagraph (S) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(T) to knowingly or recklessly export a pesticide or device in violation of section 17."

SEC. 1256. EXPORTS.

(a) SUBSECTIONS (A) AND (B).—Subsections (a) and (b) of section 17 (7 U.S.C. 136o) are amended to read as follows:

"(a) PESTICIDES OR DEVICES INTENDED FOR EXPORT.—

"(1) IN GENERAL.—

"(A) Notwithstanding any other provision of this Act, no pesticide or device may be exported to a foreign country unless such pesticide or device is prepared and packaged according to the specifications of the foreign purchaser and the legal requirements of the country of use is not considered misbranded under section 2(q).

"(B) The producers and exporters of any such pesticide or device shall be subject to the requirements of paragraphs (1), (2), (6), (7), and (9) of this subsection and sections 2(q), 7, 8, 19(a), and 19(e).

"(2) EXPORT OF PESTICIDES.—

"(A) No person shall export to any country of use a pesticide unless—

"(i)(I) that pesticide is registered with the Administrator under section 3; or the active ingredients in that pesticide are the subject of a food tolerance established under section 408 of the Federal Food, Drug, and Cosmetic Act;

"(II) if that pesticide is for use in connection with agricultural production related to food use unless that pesticide is registered with the Administrator for use in connection with agricultural production related to food under section 3; or the active ingredients of that pesticide are the subject of a food tolerance established under section 408 of the Federal Food, Drug, and Cosmetic Act; or

"(ii)(I) the pesticide is not registered under section 3, it has not been denied registration under section 3, it has not been the subject of an application for registration under such section that had not been granted because the Administrator had raised significant concerns about adverse human health effects, or the registration of the pesticide has not been canceled or suspended;

"(II) the exporter of the pesticide has provided the Administrator with a set of data and summaries of the data for acute effects, subchronic effects, teratology, oncogenicity, neurotoxicity, mutagenicity, and metabolic and pharmacokinetic characteristics according to United States or foreign standards which

the Administrator has determined by rule are sufficient to make a preliminary determination of the human health effects of the active ingredients in the pesticide;

"(III) the exporter of the pesticide has provided the Administrator with all methods known to the exporter for detecting residues of the active ingredients of the pesticide in food;

"(IV) the active ingredients in the pesticide are registered for use in a country which is a member of the Organization for Economic Cooperation and Development;

"(V) the Administrator has reviewed the data and summaries submitted under subclause (II) and has determined that they meet the requirements of the rule described in subclause (II), and has made a preliminary determination that the active ingredient does not pose an unreasonable risk to human health;

"(VI) the Administrator has determined that there is a practical method for detecting and measuring the presence of such pesticide chemical on such raw agricultural commodity or processed food that the Secretary of Health and Human Services is able to perform on a routine basis as part of surveillance and compliance sampling of raw agricultural commodities and processed foods for pesticide chemicals; and

"(VII) all data and information described in this clause and the Administrator's evaluation of the data and information are available to a country of use receiving a notice under paragraph (6)(D) upon request and the country has granted consent to accept such pesticide.

The consent of a country of use described in clause (ii)(VII) shall be effective for not more than 24 months after the date of issuance of such response and such country of use may withdraw such consent at any time on or after the date of issuance of such consent.

"(B) A pesticide shall be considered to be for use in conjunction with agricultural production related to food use under the requirements of subparagraph (A)(i) if in the country of use—

"(i) on the basis of the advertising, promotion, packaging, distribution, labeling of such pesticide, or other circumstance, it is probable that such pesticide may be used in connection with agricultural production related to food use;

"(ii) patterns of pesticide use in the country indicate that it is probable that such pesticide may be used in connection with agricultural production related to food use;

"(iii) such pesticide is in use in connection with agricultural production related to food use; or

"(iv) the quantity of such pesticide that an exporter intends to export to a country of use exceeds the quantity, on the basis of expectations of use, that could be used in the country of use for use other than in connection with agricultural production related to food use.

"(3) TEMPORARY WAIVER FOR THE CONTROL OF COMMUNICABLE DISEASE.—On the request of a country of use, the Administrator may issue a temporary waiver from any requirement under paragraph (2) or (6) to permit the export to a country of use of a pesticide that does not otherwise meet the requirements for export under paragraph (2) or (6) to prevent the imminent spread or to arrest the spread of a communicable disease of humans that poses a serious threat to public health in such country of use if—

"(A) based on the certification of the country of use and information readily

available to the Administrator, the Administrator makes a determination that—

"(i) the pesticide is to be used on a temporary basis for a period of time that shall not exceed 180 days;

"(ii) there is no practical chemical or non-chemical alternative to using the pesticide to prevent the imminent spread or arrest the spread of the communicable disease; and

"(iii) the pesticide will not be used as part of a routine continuing pest control program;

"(B) no quantity of the pesticide shall be exported in excess of a quantity that the Administrator, in consultation with the country of use, determines to be necessary to accomplish the purpose for the use of such pesticide under this paragraph;

"(C) the exporter agrees to assist in providing for the disposition or removal from the country of use of any unused or excess quantities of the pesticide at the time the purpose for the use of such pesticide under this paragraph has been accomplished; and

"(D) the Administrator publishes a notice in the Federal Register prior to the exportation of such pesticide, or as soon thereafter as practicable, that includes—

"(i) the factual basis for any determination that the Administrator makes under this paragraph;

"(ii) the identity of the exporter and the country of use;

"(iii) the quantity and identity of the pesticide (including a complete chemical description of the active ingredient of such pesticide that includes any commonly accepted chemical (generic), or abbreviated chemical name of such active ingredient) that the Administrator authorizes for export under this paragraph; and

"(iv) the estimated dates of export for the pesticide.

"(4) TEMPORARY WAIVER IN CIRCUMSTANCES OF FAMINE.—On the request of the country of use, the Administrator may issue a temporary waiver from any requirement under paragraph (2) or (6) to permit the export of a pesticide that does not otherwise meet the requirements for export under paragraph (2) or (6) to stop the spread or to prevent the imminent spread of a pest that is destroying or will destroy sufficient quantities of the food supply of the country of use so as to result in widespread famine or human starvation in the country of use if—

"(A) based on the certification of the country of use and information readily available to the Administrator, the Administrator makes a determination that—

"(i) the pesticide is to be used on a temporary basis for a period of not to exceed 180 days;

"(ii) the pesticide will only be used to stop the spread or to prevent the imminent spread of a pest that is destroying or will destroy sufficient quantities of the food supply of the country of use as to result in widespread famine or human starvation in the country of use;

"(iii) there is no practical chemical or non-chemical alternative to the use of the pesticide to stop the spread or to prevent the imminent spread of the pest in the country of use in time to prevent the destruction of such quantities of the food supply of the country of use as to result in human starvation in the country of use;

"(iv) the pesticide will not be used as part of a routine continuing pest control program; and

"(v) based on information provided by the country of use, food supplies stored in the

country of use or that are available for purchase by the country of use or that are likely to be made otherwise available to the country of use are not likely to be adequate to prevent widespread famine or human starvation caused by the pest in the country of use;

"(B) no quantity of the pesticide shall be exported in excess of a quantity that the Administrator, in consultation with the country of use, determines to be necessary to accomplish the purpose for the use of such pesticide under this paragraph;

"(C) the exporter agrees to assist in providing for the disposition or removal from the country of use of any unused or excess quantities of the pesticide at the time the purpose for the use of such pesticide under this paragraph has been accomplished; and

"(D) the Administrator publishes a notice in the Federal Register prior to the exportation of such pesticide, or as soon thereafter as practicable, that includes—

"(i) the factual basis for any determination that the Administrator makes under this paragraph;

"(ii) the identity of the exporter and the country of use;

"(iii) the quantity and identity of the pesticide (including a complete chemical description of the active ingredient of such pesticide that includes any commonly accepted chemical (generic), or abbreviated chemical name of such active ingredient) that the Administrator authorizes for export under this paragraph; and

"(iv) the estimated dates of export for the pesticide.

"(5) STATUTORY CONSTRUCTION.—Except as specifically provided in this section, paragraphs (1) and (2) shall not be construed so as to allow the Administrator to exempt any pesticide or device from any requirement under this section except in the case of a pesticide that is exempted from the provisions of this Act pursuant to section 25(b).

"(6) ADDITIONAL REQUIREMENTS FOR THE EXPORT OF CERTAIN PESTICIDES.—

"(A) This paragraph applies to a pesticide—

"(i) for which a restricted use classification for reasons of human health risk is effective under section 3;

"(ii) that is subject to an order of suspension under section 6(c);

"(iii) that is the subject of a cancellation proceeding under section 6(b);

"(iv) that is the subject of a conditional registration under section 3(c)(7)(C);

"(v) that is the subject of an interim administrative review described in section 3(c)(8) in which the Administrator proposes to cancel the product;

"(vi) that contains an active ingredient that is included on the World Health Organization list of Class 1A, 'extremely hazardous', or Class 1B, 'highly hazardous' pesticides;

"(vii) that contains an active ingredient that was the subject of a registration under section 3 that was canceled, or was amended to delete a registered use because of human health risk associated with the registered use; or

"(viii) that is described in paragraph (2)(A)(ii).

"(B) No pesticide described in subparagraph (A) shall be exported if—

"(i) the exporter has not provided the notice required in subparagraph (C);

"(ii) the exporter has received from the Administrator, or the Administrator has published in the Federal Register, a written notice that the country of use has refused

to consent to the importation of such pesticide pursuant to paragraph (7)(B); or

"(iii) to the extent not in conflict with requirements of the country of use, the pesticide is not packaged, and stored in conformity with standards for composition and quality of the Food and Agriculture Organization of the United Nations.

"(C) No pesticide described in subparagraph (A) may be exported unless, prior to shipment of such pesticide, the exporter provides to the Administrator—

"(i) the common or trade names by which such pesticide is known in the country of use and a complete chemical description of the active ingredients of such pesticide, including any commonly accepted, chemical (generic), or abbreviated chemical name known in the country of use for such active ingredients;

"(ii) the name and the address of the producer and exporter;

"(iii) the name and address of the foreign purchaser;

"(iv) the intended date and quantity of shipment of such pesticide;

"(v) the manner of transport of such shipment;

"(vi) the country of use that is the ultimate destination of such shipment; and

"(vii) the raw agricultural commodity, as defined in section 201(r) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(r)), or processed food, if any, on which such pesticide is intended or likely to be used.

"(D) For each pesticide identified in a notice submitted under subparagraph (C), if such notice is the first such notice that identifies a country of use for that pesticide that is received by the Administrator in the 12-month period immediately preceding the date of the receipt of such notice, the Administrator shall, within 60 days of the receipt of such notice submitted under subparagraph (C), notify the appropriate official in the appropriate regulatory department or agency designated by the country of use and the office responsible for the International Register of Potentially Toxic Chemicals of the intended export. Such notice by the Administrator shall contain a description in English, and in an official language of the country of use, of—

"(i) the information required by subparagraph (C);

"(ii) if the pesticide is subject to a conditional registration under section 3(c)(7)(C), an interim administrative review or suspension or cancellation proceeding, or is classified for restricted use under this Act, a statement explaining the reasons for such status;

"(iii) alternatives known to the Administrator, including nonchemical alternatives, to the use of such pesticide;

"(iv) if the pesticide is described in paragraph (2)(A)(ii), a statement that a set of data, summaries, and reviews on the pesticide are available upon request; and

"(v) the name and address of the office of the Environmental Protection Agency that, on request of an appropriate official of the country of use, will provide additional information concerning such pesticide and alternatives to the use of such pesticide.

"(7) RESTRICTION ON THE EXPORT OF CERTAIN PESTICIDES.—

"(A) The Administrator shall publish a notice in the Federal Register disclosing that a country of use has informed the Administrator, or an international agency of which the United States is a member, that such country does not wish to import a pes-

ticide, not later than 10 days of the receipt by the Administrator of such information.

"(B) The Administrator shall publish a notice under subparagraph (A) concerning a specific country of use only if—

"(i) the country of use has indicated that it does not wish to import the pesticide pursuant to an international system of pesticide export and import controls—

"(I) adopted by an international agency, if the United States is a member of the international agency and has consented to the adoption of the system; or

"(II) reached through an international agreement to which the United States is a signatory; or

"(ii) on the basis of a notice issued in accordance with paragraph (6)(D), the country of use does not consent, or has given conditional consent, to the importation of a pesticide.

"(C) Any refusal of consent by a country of use shall be considered as a continuing refusal that shall be effective until the country of use modifies or withdraws such refusal.

"(D) A refusal by a country of use to consent to the importation of a pesticide shall not be effective unless the country of use has certified that it—

"(i) is not producing and will not produce the pesticide or a similar product with the same active ingredient for use in the country of use; and

"(ii) is not importing and will not consent to the importation of the pesticide or a similar product with the same active ingredient from any other country.

"(E) If the Administrator makes a determination that the country of use is not in compliance with the certification provided under subparagraph (D), the Administrator shall withdraw the notice published under subparagraph (A).

"(8) LABELS.—The label of any pesticide intended for export from the United States shall—

"(A) be written in English and the official language of the country of use or in the major language of international relations of the country of use; and

"(B) to the extent not in conflict with requirements of the country of use, contain any health, safety, environmental and other related information, as determined by the Administrator to be applicable to the country of use and required to be included under section 3 in the labeling for such pesticide for use in the United States.

"(9) SPECIAL EXEMPTION FOR THE EXPORT OF RESEARCH OR EXPERIMENTAL PESTICIDES.—

"(A) Notwithstanding paragraphs (2) and (6), an exporter may export a pesticide for research or experimental use for use in a country of use if such pesticide for research or experimental use—

"(i) is not and has not been the subject of any registration under section 3; and

"(ii) is to be used only for research or experimental purposes.

"(B) Nothing in this paragraph shall be interpreted so as to authorize the export of a pesticide for research or experimental use without the written consent of the government of the country of use. Such consent shall be obtained in the manner prescribed under subparagraph (C).

"(C)(i) In order to obtain the written consent of the government of country of use, the exporter shall submit a written request for consent to export the pesticide for research or experimental use to the Administrator and to the government of the country of use.

"(ii) The Administrator shall transmit to the appropriate official in the appropriate agency responsible for the regulation of pesticides in the country of use—

"(I) such written request;

"(II) a summary of all available information relating to the actual and potential adverse effects of the pesticide for research or experimental use on human health and the environment prepared by the Administrator; and

"(III) a complete statement of the factual basis for the issuance by the Administrator of an experimental use permit under section 5(a) for such pesticide if such permit has been issued for such pesticide.

"(iii) Not later than 60 days after the receipt of a request under clause (ii)(I), the Administrator shall certify whether such request meets the requirements of subparagraph (D).

"(D) A written request for consent that is submitted to the Administrator for transmittal to the country of use, and submitted to the country of use, shall identify the pesticide for experimental use and the active ingredients of such pesticide and include—

"(i) the name of the exporter;

"(ii) the trade names and chemical names of the active ingredients of the pesticide (including any commonly accepted, generic, or abbreviated chemical names);

"(iii) a complete description of the proposed experimental activity, including the formulation of the pesticide, the application rates and methods, the pests that are sought to be controlled, the locations where the experimental use will be made, the size of the areas where the experimental pesticide will be applied, the dates on which the experiment will be conducted, and the manner in which experimental data will be collected and recorded;

"(iv) the name of the persons who shall be responsible for the design and execution of the experiment and for the evaluation of the results of the experiment, along with the qualifications of these persons;

"(v) the name, address and qualifications of the person who will be the representative of the exporter in the country of use and, if different, the named address and qualifications of the person in the country of use who will supervise the experiment;

"(vi) the location and manner of storage of the pesticide in the country of use;

"(vii) the protective techniques, devices and measures that will be provided to protect the health and safety of workers who will apply the pesticide and the health and safety of persons who live or work near the location of the experiment;

"(viii) a complete description of the results of all information known to the exporter of the toxic effects of the pesticide, including its effects on the pest that is to be controlled, its effects on plants and animals other than the pest that is likely to be controlled (with special reference to plant and animal species at and near the location of the experiment, including any crops or livestock to which the pesticide may be applied), and its chronic and acute effects on human health;

"(ix) a complete description of all information known by the exporter concerning the environmental persistence and fate of the pesticide, including the rate and manner of its degradation, its retention within plants and livestock, and its movement within water supplies;

"(x) such other disclosures as the Administrator may by regulation require;

"(xi) a written undertaking by the exporter to promptly advise the country of use of any changes, revisions or additions in the facts, circumstances and information that relate to the disclosures and that are required by this paragraph;

"(xii) a written certification by the exporter that the pesticide will be used only for experimental purposes, and will not be used for any nonexperimental commercial purpose; and

"(xiii) a written undertaking by the exporter that the exporter will destroy any crops or livestock to which the pesticide is applied or that the crops or livestock will be fed only to experimental animals that will be destroyed and not used for food purposes.

"(E) On the request of the appropriate official of the country of use, the Administrator shall provide a copy of any records in the files of the Administrator that are associated with the issuance of an experimental use permit issued pursuant to section 5(a) for the pesticide for research or experimental use that is the subject of a request under this paragraph if such permit has been issued for such pesticide, except that a complete confidential statement of the composition of the formula to be tested shall not be required to be provided.

"(F) The appropriate official of the country of use may consent, deny consent, or consent to such request on such terms and conditions as such official determines to be appropriate and shall transmit the response of the government of the country of use to the Administrator and the exporter. If the official sends a written notice of consent to the use of the pesticide for research or experimental use to the Administrator, the Administrator shall, not later than 5 working days after receipt of such notice, notify the exporter of such pesticide. On receipt of such written notice of consent from the Administrator or the country of use, the exporter of such pesticide may export such pesticide in accordance with—

"(i) the terms of the request submitted under subparagraph (D);

"(ii) any term or condition in the written notice of consent issued by the official of the country of use; and

"(iii) the requirements of this section.

"(G) The written notice of consent issued by the official of the country of use shall be subject to public review and inspection.

"(H) A producer or exporter of a pesticide that exports a pesticide for research or experimental use to a country of use pursuant to this paragraph shall be subject to the requirements of sections 2(p), 2(q), 7, and 8.

"(b) NOTICES OF REGULATORY EVENTS FURNISHED TO FOREIGN GOVERNMENTS.—

"(1) IN GENERAL.—The Administrator shall, not more than 30 days after the effective date of the actions described in subparagraphs (A) through (D), transmit a notice to the appropriate officials of the appropriate departments or agencies of all countries, and to the office responsible for the International Register of Potentially Toxic Chemicals. The Administrator shall provide such notice each time—

"(A) a registration or a cancellation (whether voluntary or involuntary) or suspension, due in whole or in part to human health or environmental risks, of the registration of a pesticide becomes effective or ceases to be effective under this Act;

"(B) a pesticide is first classified for restricted use under this Act;

"(C) a registration of a pesticide is made subject to conditions under section 3(c)(7)(C); or

"(D) a pesticide is made subject to an interim administrative review under section 3(c)(8).

"(2) CONTENTS OF NOTICE.—A notice described in paragraph (1) shall include—

"(A) the factual basis on which the Administrator issued findings in support of any regulatory action described in subparagraphs (A) through (D) of paragraph (1);

"(B) an explanation of the legal significance of such regulatory action;

"(C) information reasonably available to the Administrator in the case of any action that causes a pesticide to be subject to subsection (a)(2)—

"(i) concerning other pesticides registered under section 3 that could be used as an alternative to such pesticide including—

"(I) a complete summary of the regulatory status under this Act of any alternative pesticide; and

"(II) a summary of possible adverse effects on human health or on the environment that any alternative pesticide may cause;

"(ii) nonchemical alternatives to such pesticide;

"(iii) the names and addresses of international organizations that the Administrator determines to be capable of providing information concerning nonchemical alternatives to such pesticide; and

"(iv) the name and address of the office of the Environmental Protection Agency that will, on request, provide additional information concerning any pesticide that is subject to regulatory action, and alternatives to such pesticide.

(b) SUBSECTION (d).—Subsection (d) of section 17 (7 U.S.C. 133o) is amended to read as follows:

"(d) COOPERATION IN INTERNATIONAL EFFORTS.—The Administrator should—

"(1) convene, in cooperation with the Agency for International Development of the Department of State, the Food and Drug Administration of the Department of Health and Human Services, the United States Department of Agriculture, the United Nations Environment Program and agencies, Food and Agriculture Organization, and any other appropriate Federal agencies or departments, not later than 1 year after the date of the enactment of this section, a meeting of representatives of foreign governments, nongovernmental organizations, and other interested parties, and sponsor such additional meetings, as the Administrator determines to be necessary to promote the development and implementation of improved research and regulatory programs for pest management, and improved strategies for sustainable agriculture, including the promotion and development of integrated pest management;

"(2) provide foreign countries with technical assistance to develop comprehensive pesticide regulatory programs; and

"(3) not later than 1 year after the date of enactment of this section, convene, a meeting of representatives of foreign governments, nongovernmental organizations, and other interested parties, and sponsor such other meetings as may be necessary, to actively encourage the adoption of a binding multilateral convention requiring standard, mandatory notice and export control measures for pesticides."

(c) STUDY.—Subsection (h) of section 17 (7 U.S.C. 136o) is redesignated as subsection (i) and the following is inserted after subsection (g):

"(h) STUDY OF COUNTRIES THAT IMPORT PESTICIDES.—

"(1) Not later than 1 year after the date of enactment of this section, and every 3 years thereafter, the Administrator shall conduct, publish, and transmit to Congress a study of countries that import pesticides from United States exporters and from which the United States imports agricultural commodities, to—

"(A) ascertain the procedures that are implemented by each such country regarding registration, labeling, and training to ensure safe handling, transportation, application, and disposal of pesticides; and

"(B) ascertain the procedures that are implemented by each such country to control residues on foods in order to meet tolerances established under United States law.

"(2) Not later than 1 year after the date of enactment of this section, the Administrator shall conduct a study, in cooperation with the Food and Drug Administration and the Department of Agriculture, on the ability of such agencies to test effectively for residues of pesticides."

SEC. 1257. CONFORMING AMENDMENTS TO TABLE OF CONTENTS.

The table of contents in section 1(b) (7 U.S.C. prec. 121) is amended—

(1) by adding at the end of the items relating to section 2 the following new items:

"(hh) Country of use.

"(ii) Exporter."

(2) by striking the items relating to subsections (a) and (b) of section 17 and inserting the following:

"(a) Pesticides or devices intended for export.

"(1) In general.

"(2) Export of pesticides.

"(3) Temporary waiver for the control of communicable disease.

"(4) Temporary waiver in circumstances of famine.

"(5) Statutory construction.

"(6) Additional requirements for the export of certain pesticides.

"(7) Restriction on the export of certain pesticides.

"(8) Labels.

"(9) Special exemption for the export of research or experimental pesticides.

"(b) Notices of regulatory events furnished to foreign government.

"(1) In general.

"(2) Contents of notice."

(3) by striking the item relating to subsection (d) of section 17 and inserting the following:

"(d) Cooperation in international efforts."

(4) by striking the item relating to subsection (h) and inserting the following:

"(h) Study of countries that import pesticides.

"(i) Relationship to Solid Waste Disposal Act."

PART 2—STUDY

SEC. 1258. STUDY OF EXPORTS OF UNREGISTERED PESTICIDES.

(a) Within 6 months of the date of the enactment of this title, the General Accounting Office shall conduct a study of those pesticides for use in connection with agricultural products related to food use or those which have an active ingredient which is the subject of a food tolerance established under section 408 of the Federal Food, Drug, and Cosmetic Act which are exported

from the United States and which contain active ingredients that are not contained in any pesticide product registered under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act. The study shall identify each such active ingredient, the pesticides containing such active ingredient exported from the United States in the calendar year preceding the date of the enactment of this title and their destination, the volume and value of such pesticides, the countries which are members of the Organization for Economic Cooperation and Development in which pesticides containing such active ingredient are registered for use, available information about the health and environmental effects of such active ingredient, the food products on which such active ingredients are likely to be used, and their potential for import into the United States.

(b) In conducting the study described in subsection (a), the General Accounting Office shall use readily available information sources and shall solicit cooperation of persons engaged in exporting pesticides from the United States.

(c) The study described in subsection (a) shall be transmitted to the Speaker of the House of Representatives and the President pro tempore of the Senate within 6 months after the date of the enactment of this title.

PART 3—EFFECTIVE DATES

SEC. 1259. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), this subtitle, and the amendments made by this subtitle, shall become effective 6 months after the date of the enactment of this title.

(b) SECTION 17.—

(1) SECTION 17(A)(2)(A)(i).—The provisions of section 17(a)(2)(A)(i) of the Federal Insecticide, Fungicide, and Rodenticide Act (as amended by section 1256) shall become effective 6 months after the date of enactment of this title, except that such provisions shall become effective 36 months after the date of enactment of this title with respect to any pesticide that—

(A) on the date of enactment of this title, has not been the subject of a food tolerance under section 408 of the Federal Food Drug and Cosmetic Act, or an application for registration under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136a) all of which have been denied, revoked, canceled, or suspended; and

(B) is the subject of a food tolerance petition under section 408 of the Federal Food, Drug, and Cosmetic Act or an application for registration under section 3 of the Federal Insecticide, Fungicide, and Rodenticide Act that is filed not later than 6 months after the date of enactment of this title.

(2) SECTION 17(A)(2)(A)(ii).—The provisions of subclauses (III), (IV), (VI), and (VII) of section 17(a)(2)(A)(ii) of the Federal Insecticide, Fungicide, and Rodenticide Act (as amended by section 1256) shall become effective 6 months after the date of enactment of this title. The provisions of subclauses (II) and (V) of such section shall become effective 18 months after the date of enactment of this title with respect to any pesticide that is described in such section 17(a)(2)(A)(ii).

(3) EXTENSION.—

(A) The Administrator of the Environmental Protection Agency may grant up to a 1-year extension of the 36 month period described under paragraph (1) for good cause shown if the applicant for a food tolerance petition filed pursuant to paragraph (1)(B) has filed a complete petition in accordance with paragraph (1)(B) that has

not been denied by the Administrator and if such applicant has exercised due diligence in pursuing such petition.

(B) The Administrator may grant up to a 1-year extension of the 18-month period described under paragraph (2) if the exporter has submitted the data, summaries, and other information described in paragraph (2) in a timely fashion, and the Administrator has not completed review of the submissions and made final determinations with respect to such submissions.

(c) SENSE OF CONGRESS.—It is the sense of Congress that the Administrator of the Environmental Protection Agency shall, within 1 year of the date of the enactment of this title, promulgate regulations to implement section 17(a)(2)(A)(ii) of the Federal Insecticide, Fungicide, and Rodenticide Act.

Mr. SYNAR (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

The CHAIRMAN. The gentleman is recognized for 5 minutes.

Mr. SYNAR. Mr. Chairman, I yield to the gentleman from Virginia [Mr. OLIN].

Mr. OLIN. Mr. Chairman, I thank the gentleman for yielding. I rise in support of the gentleman's amendment. I want to personally thank the gentleman from Oklahoma [Mr. SYNAR], the gentleman from California [Mr. PANETTA], the members of their staffs, and the members of the agriculture staff for their efforts to bring us this compromise on pesticide exports.

The commitment of this Congress to assure a continued safe and abundant supply of food for our citizens is very strong. Through this legislation, American-made pesticides which have had their U.S. registrations canceled, suspended, or denied for human health reasons could not be exported. The legislation also sets up what is intended to be a workable, practical system for allowing pesticides which have never been registered in the United States—but which have valid and safe uses in other countries—to be exported.

On these never-registered pesticides, exporters would have to meet all of these four criteria: First, the pesticide would have to be registered in at least one of the member countries of the Organization for Economic Cooperation and Development; second, the exporter would have to submit to the Environmental Protection Agency enough core data about the pesticide so that a determination could be about potential human health effects; third, EPA would have to determine that there is a practical method for detecting residues on food returning to the United States, and fourth, the importing country would have to give affirmative consent for the pesticide to enter that country.

Mr. Chairman, the system established for approving never-registered pesticides is intended to be much less time-consuming and much less costly than seeking a full registration of a pesticide in this country. And a full

registration is not needed—these are pesticides that relate to crops, pests, or climates not encountered by our farmers. They have no use in this country and should not have to be registered here.

At the same time, however, this streamlined review process also is intended to provide sufficient assurance that pesticides exported from the United States do not threaten human health in the importing country or on imported food coming into this country.

Provisions also are made for the continuing ability to ship very small amounts of unregistered pesticides to other countries for research and development. This is an essential part of our U.S. research effort. The country where the research is being conducted would be given sufficient information about the research effort to affirm its willingness to have the work conducted there. Confidentiality of the R&D information will be protected; our current research structure, including the 10-acre exemption, would continue in effect.

The legislation is not perfect. I am encouraged by the cooperative spirit in which this compromise has been developed, but the work was done under pressures of limited time and the need to address other issues simultaneously. That cooperative spirit must continue, because there remain areas of concern that deserve and require further consideration.

This new legislation must be workable; it must be practical; it must be able to be administered; it must have the confidence of the Congress and the public.

I urge the adoption of this amendment and pledge my efforts to continue to work with the others interested in this issue to assure that we do have a workable, reliable system for review of pesticides going into the export market.

Mr. SYNAR. Mr. Chairman, I yield to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I urge adoption of this very important environmental amendment and compliment the gentleman from Oklahoma for his leadership.

Mr. SYNAR. Mr. Chairman, I yield to the gentleman from Delaware [Mr. CARPER].

Mr. CARPER. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in support of the amendment and to acknowledge the leadership of the gentleman from Oklahoma [Mr. SYNAR] in helping to craft legislation designed to safeguard the quality of our food supply both at home and overseas. A key element in the protection of that food supply is the development of newer, safer pesticides so that farmers can increase their yields and enable our global food supply to keep pace with worldwide population growth.

□ 2110

Some of those newer, safer pesticides will be developed in my own State of Delaware by chemical companies such as DuPont and ICI. I under-

stand that it was the gentleman's intention and that of other Members who worked on the compromise amendment to provide protection for confidentiality of research and pesticide information.

Mr. SYNAR. The gentleman is correct.

Mr. Chairman, the amendment which I am offering to the farm bill is long overdue. There is no excuse for the United States to export pesticides which can't be used here at home. It's unfair to America's farmers who are forced to compete against cheap and dirty products used abroad. It's unfair to U.S. consumers who may be exposed to residues of these illegal chemicals on imported foods. And it's potentially dangerous to the public health of countries which import these products. We must break this circle of poison.

In May 1989, the Government Operations Subcommittee on Environment, Energy and Natural Resources which I chair held a hearing on the uncontrolled export of banned and unregistered pesticides. Although the 1978 amendments to the Federal Insecticide, Fungicide and Rodenticide Act, or FIFRA, require foreign governments to receive information about exports of pesticides which can't be used here, the GAO reported at the hearing that because of loopholes, notice was never given for 90 percent of the shipments. Clearly, stronger legislation was needed. This amendment is that legislation.

In the last 10 years the global pesticide market doubled and U.S. exports accounted for one quarter of the world's supply. But many importing countries didn't have the resources or expertise to regulate the chemicals that they were shipped.

According to a U.N. survey of 115 countries released at our hearing, many nations, especially in the Third World, lacked the ability to assure safe pesticide practices. GAO and congressional investigations show that high rates of chemical residue violations commonly occur. For some commodities like cabbages, the Food and Drug Administration found 14 percent of imports had violations. Imported blackberries had an even greater rate of violations, at 38 percent.

American farmers have a right to be angry when they see foreign producers competing against them using chemicals they can't and don't use here. And American consumers have a right to be angry since almost no foreign agricultural products get tested at our borders. Even worse, many residues are virtually untestable at entry into the U.S. market, and border inspectors often do not even know what pesticide residues to look for.

While EPA has attempted to make some changes in this program since our hearing, their proposed regula-

tions do not go far enough. The Agency proposed to merely tighten up the requirements on export labels, trusting users, importers and food inspection agencies to prevent the re-introduction of unregistered products. This is like putting a bandage on a broken leg. Only one solution will work—a prohibition on the export of banned pesticides and a new system which strictly regulates never-registered pesticides.

Under section 1256 of the amendment which amends section 17 (a)(2)(A)(ii) of FIFRA, there are three classes of unregistered pesticides which can't be exported: those whose registration was denied under section 3; those which were cancelled or suspended; and, those which were the subject of an application for a registration that was not granted because the Administrator raised significant health concerns.

Pesticides never registered in the United States but which have OECD approval can be exported if the exporter supplies the EPA with a set of data on health effects tests, and provides practical methods for detecting residues at the border. Practical methods are those which can be used as routine sampling techniques by the U.S. Department of Agriculture or the Food and Drug Administration. Before the pesticide can be shipped, EPA must make an independent determination, based on the test data, that the pesticide active ingredient does not pose an unreasonable risk to public health and the importing country must give its consent. While data generated for the foreign registration standard may be used for this purpose it can't be a substitute unless it meets the U.S. requirements for making an independent determination of health risk. The determination is intended to be based solely on health and not on economic consideration.

The prescribed tests for acute effects, subchronic effects, teratology, mutagenicity, oncogenicity, neurotoxicity, and metabolic and pharmacokinetic characteristics are those determined as sufficient to make the health finding. The types of tests selected must be adequate to make the determination. We do not intend that EPA rely solely on the use of preliminary cancer-screening tests such as the Ames test as sufficient for meeting the requirements of this provision. However, tests need not be the longest and costliest ones if shorter-term and cheaper tests could provide a comparable means of assessing the risk to public health.

The amendment also provides additional requirements for the export of certain pesticides whose use is legal in the United States but which are known or suspected of being particularly dangerous. These include pesticides which are: restricted use pesticides; subject to an order of suspen-

sion; subjects of cancellation proceedings; subjects of a conditional registration; and, subjects of interim administrative reviews. These requirements also apply to pesticides which contain an active ingredient included on the World Health Organization's list of Class 1A, "extremely hazardous" or 1B, "highly hazardous" chemicals. Under the amendment, importing countries are given the opportunity to object to shipments of these chemicals.

The amendment also includes temporary waivers to combat famine and communicable disease as well as special provisions for research and experimental pesticides. It includes new requirements for the contents of labels and new notice requirements to foreign countries regarding changes made by the United States in a pesticide's regulatory status. Finally, the amendment includes a 6-month study by the GAO of exports of unregistered pesticides so that Congress and EPA will have accurate information if further regulation of unregistered products is needed.

It is not the intention of the drafters that this amendment apply where a product has a registration but a technical grade of the product is to be exported. This does not mean that any pesticide product which contains a registered active ingredient may be exported. This issue has been raised with the other body. If further clarification is needed, it will be provided for in conference.

I would like to thank Congressmen PANETTA and GLICKMAN for their invaluable assistance in helping craft both the original amendment and the compromise which is before us today. In addition, this amendment would not have been possible without the hard work of Congressmen OLIN and STENHOLM and the backing of both the chairman and ranking minority member of the Agriculture Committee.

The amendment strengthens protection for Americans and citizens of other countries and levels the playing field for U.S. farmers. I urge my colleagues to accept it.

Mr. STENHOLM. Mr. Chairman, I rise in support of title XVIII as established in H.R. 3950.

Moreover, I would draw specific attention to sections 1414 and 1841 of the bill which address the sense of the Congress as to producer research and promotion board accountability and the utilization of producer funds for agricultural product promotion and enhancement.

U.S. agricultural producers and importers contribute approximately \$600 million annually to commodity promotion and research programs authorized by Congress to maintain and expand markets for agricultural products. These promotion and research programs are funded entirely by assessments paid by pro-

ducers and importers in a self-help effort to enhance the economic viability of their industries. In the complex field of today's agriculture, many of the issues faced by producers are nationwide in their impact and demand a national commitment to address them. As a result of increased competition for the consumer's dollar, it is necessary that agricultural producers be allowed to collectively promote and research their products to ensure increasing demand, and as a result, the economic viability of their industries. In the design of these programs, Congress has provided the Secretary of Agriculture with authority to appoint boards or councils comprised of producers, and in those cases where imported product is assessed, importers, to administer and fund programs under the oversight of the Secretary of Agriculture.

The producer boards' efforts to promote their commodities to retailers and consumers have made an important contribution to the economic health of U.S. agriculture. Producers have come to understand that their ability to increase demand for their products depends on their ability to work with industry, academia, and government to develop new products and new uses for their commodities.

These boards and councils are responsible for the management and effectiveness of these programs. In addition, they provide valuable link between the industry members funding the programs and the Department of Agriculture. Continued support for these programs depends on the boards or councils faithfully and diligently performing the functions assigned to them, under the supervision of the Secretary, by the authorizing legislation. It is the sense of the committee that these boards should regularly review the responsibilities delegated to them, under the oversight of the Secretary, to ensure that those responsibilities are being carried out.

Producers are beginning to recognize that if they are to change the consumer's attitude, they must approach the task with a carefully planned, long-term series of activities. Enhanced efforts are being directed at identifying potentially productive research areas in the development and marketing of new consumer products.

In addition, these promotion and research programs have taken on a new importance with the advance of technology. As technology advances, new opportunities for agricultural products in both food and nonfood applications arise. It is imperative that these boards and councils review the opportunities for increased utilization of their products in both food and nonfood applications to ensure that they are able to maintain and expand markets at a time of increased competition from other sources. With this challenge to boards and councils administering these programs to look for additional food and nonfood opportunities for use of their products, it is not the intent to expand the scope of these promotion programs to activities which were not covered under the legislation authorizing the programs. However, in interpreting the legislation authorizing these programs, it is the sense of the committee that these boards and councils, and the Secretary of Agriculture, have been given extensive flexibility with regard to the

pursuit of new uses of food and nonfood applications for their products.

As stated in all legislation authorizing these checkoff programs, maintaining and expanding markets for their products are the underlying goals of each program. Issues such as food safety, environmental concerns, animal husbandry practices, and other matters which affect the perception of consumers with regard to products may have a detrimental effect on demand should those perceptions be based on misinformation. In view of this, there is a need for these boards and councils that oversee the commodity checkoff programs, under the supervision of the Secretary of Agriculture, to provide consumers with adequate information on these issues so that the perception of consumers and the public will fairly reflect the relationship between agriculture and these public issues.

The goal of producer checkoff programs is to find solutions to critical industry problems. In establishing these programs, it was the intent of Congress that producers and importers have the opportunity to expand demand and market opportunities for their products. This philosophy is based on a market-pull as opposed to a production-push philosophy. Therefore, these commodity promotion programs should focus their efforts toward increasing demand and market opportunities as opposed to increasing efficiency of production of agricultural products. However, to the extent that changes in production systems can enhance the industry's position in the marketplace, and to the extent that changes in production practices can lead to products better suited to the demands of consumers, funds from checkoff programs can and should be applied to solving production-related problems.

Mr. PANETTA. Mr. Chairman, I rise in strong support of the Synar amendment.

As an original author of the bill which served as the substance for this amendment, I share the concerns of my colleagues—Mr. SYNAR and Mr. GLICKMAN—for the need for this legislation which would substantially reform the manner in which pesticides are exported from the United States.

This amendment would ensure that no pesticide is exported from the United States that could have adverse effects on human health—a standard that is similar to one which is used by the Environmental Protection Agency to screen pesticides used in the United States.

The need for this amendment is simple and clearcut.

First, under current law, dangerous pesticides can be exported to other nations without regard to their effects on people. As a result, companies continue to dump chemicals which they cannot sell in the United States into other countries. These chemicals can harm consumers in other countries as well as consumers in the United States when these same chemicals return here as residue on imported produce. This is the "circle of poison" that must be broken and will be broken with the adoption and enactment of this amendment.

Second, this amendment will help to level the playing field for our own producers who, for health and safety reasons, cannot use unregistered pesticides. Our own producers must

meet the most stringent requirements for the use of pesticides in the world. Yet, we continue to allow their competitors in foreign countries to use the same chemicals. This situation must be corrected and will be with the adoption of this amendment.

Mr. Chairman, I am pleased to be associated with this amendment and urge its adoption.

SUMMARY OF THE SYNAR-PANETTA-GLICKMAN AMENDMENT TO H.R. 3950

KEY ELEMENTS:

1. U.S. companies would be prohibited from exporting any pesticides that, for human health reasons, have been suspended, cancelled, denied registration, or withdrawn from the registration process.

2. In the case of pesticides never registered in the U.S., they can continue to be exported if the following provisions are met—

Have a registration in an OECD country;
Have a method for residue detection;

Have received consent to export from the importing country;

Have provided EPA with the data required to make a preliminary determination regarding the potential human health risks; and

Have a preliminary determination from EPA that it does not pose such a risk.

3. Research and development pesticides could still be exported, provided that the country into which the product is going to be exported would be given prior notification and consent.

4. Confidentiality for R&D chemicals would be maintained.

5. Confidentiality for commercial products which meet the above conditions for exports would be maintained for "confidential business information".

6. In the case of famine or communicable diseases, producers can be exported in controlled amounts with the affirmative consent of the importing country and with the cooperation of the exported to dispose any amounts of the chemical not needed.

7. Labelling information on exported chemicals will be both in English and the major language of international trade of the importing country.

8. Within 6 months of enactment, GAO is to conduct a study to determine the extent of export of unregistered pesticides and the potential health risks, including prospects for use on products exported to the U.S.

9. Timetable for implementation:

Within 6 months from the date of enactment, complete GAO study regarding the export of unregistered pesticides;

6 months from the date of enactment to 18 months—exporters of unregistered pesticides would have to meet all the requirements cited above, except for the delivery of preliminary health data and a preliminary finding of "no adverse health effect" by EPA

18 months after the date of enactment—all requirements for the registration of unregistered exports must be met.

10. In the case of:

Restricted use pesticides,

Those with conditional EPA registrations, Those under review for cancellation or suspension,

Those identified by the WHO as "extremely hazardous" or "highly hazardous"—the importing country would be given prior notice of the status of the pesticide before it is shipped.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. SYNAR].

The amendment was agreed to.

AMENDMENTS EN BLOC OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, pursuant to the rule, I offer amendments en bloc.

The Clerk read as follows:

Amendments en bloc offered by Mr. DE LA GARZA: On page 999 amend section 1842(a) to read:

"(a) SPECIAL DEMONSTRATION GRANTS.—(1) In general.—The Secretary, in consultation with other appropriate Federal agencies including the Secretary of Education, shall make demonstration grants to support cooperative programs between State extension service agencies and private nonprofit disability organizations to provide on-the-farm agricultural education and assistance directed at accommodating disability in farm operations for individuals with disabilities, and their families, who are engaged in farming or farm-related occupations."

Page 1002, after line 21, insert the following new section:

SEC. 1848. AMENDMENTS TO THE DISASTER ASSISTANCE ACT OF 1989.

(a) DOUBLE CROPPING OF NONPROGRAM CROPS GROWN IN A PRESIDENTIAL DISASTER AREA.—Section 104(a) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended by adding at the end the following new paragraph:

"(5) Double cropping.—

"(A) TREATED SEPARATELY.—In the case of a 1989 nonprogram crop that is historically double cropped by the producers separately for purposes of determining under paragraph (1)—

"(i) whether the crop was affected by damaging weather or related conditions in 1989; and

"(ii) the total quantity of the crop that the producers are able to harvest.

"(B) APPLICATION OF PARAGRAPH.—This paragraph shall—

"(i) apply only in the case of a 1989 nonprogram crop that is grown in a county declared to be a Presidential disaster area for that crop; and

"(ii) not apply in the case of a replacement crop described in section 110."

(b) EXCLUSIONS FROM HARVESTED QUANTITIES.—Section 104(a)(4) of that Act is amended by adding at the end the following new sentence: "For a 1989 nonprogram crop that is grown in a county declared to be a Presidential disaster area for that crop, the exclusion required by the preceding sentence shall be 100 percent."

(c) COVERAGE FOR ORNAMENTALS AND VALENCIA ORANGES.—(1) Section 104(a)(1)(A) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended to read:

"(A) ELIGIBILITY.—Effective only for the 1989 crops of soybeans and nonprogram crops, and any crop of valencia oranges affected by a freeze, if the Secretary of Agriculture determines that, because of damaging weather or related condition in 1988 or 1989, or freeze, the total quantity of the 1989 crop of the commodity, or the total quantity of any crop of valencia oranges, that the producer on a farm are able to harvest in less than—"

(2) Section 104(d)(1) of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 note) is amended:

(A) by inserting after "(1)" Definition of nonprogram crops.—" a new subparagraph designation "(A)";

(B) by inserting after "earthquake" the following: "or grown in a county declared a Presidential disaster area, and shall include any valencia oranges, affected by a freeze, grown in a county declared a Presidential disaster area in 1989"; and

(C) by adding at the end a new subparagraph to read as follows:

"(B) For purposes of this Act, the term "1989 crop" shall include any crop of valencia oranges damaged by freeze in 1989.

(d) APPLICATION OF AMENDMENTS.—Section 152(a) of the Disaster Assistance Act of 1989 is amended by adding at the end the following new paragraph:

"(3) EXTENDED APPLICATION PERIOD.—In the case of producers of a nonprogram crop affected by the amendments made to section 104(a) by section 1848 of the Food and Agricultural Resources Act of 1990, the Secretary shall—

"(A) allow such producers to submit applications for payments under section 104 until December 31, 1990, and

"(B) in the case of applications submitted by such producers before the date of the enactment of that Act, recompute (not later than 90 days after such date) the payment to such producers under section 104 in light of those amendments."

(e) HURRICANE HUGO FORESTRY ASSISTANCE ACT; COST-SHARE ASSISTANCE.—(1) Establishment.—For the purposes of encouraging tree owners to reestablish stands of trees damaged by Hurricane Hugo, the Secretary of Agriculture (hereafter in this subsection referred to as the "Secretary") shall develop and implement a cost-share program to provide financial assistance to owners of private timber stands that were damaged, as determined by the Secretary, in 1989 by Hurricane Hugo. This assistance shall only be made available in those counties in South Carolina, North Carolina, Virginia, Puerto Rico, and the United States Virgin Islands declared by the President to be disaster areas as a result of Hurricane Hugo and any county contiguous to those counties.

(2) ELIGIBLE PRACTICES.—Practices eligible for cost-share assistance under this subsection are—

(A) reforestation;

(B) site preparation; and

(C) such other timber stand reestablishment practices as may be prescribed by the Secretary.

(3) PRIVATE TIMBER STANDS.—(A) For the purpose of this subsection, the term "private timber stand" means a stand of trees damaged by Hurricane Hugo held continuously during the period described in paragraph (b) for commercial purposes by a private individual, group, association, corporation, Indian tribe or other native Indian group, or other legal entity, owning 1,000 acres or less of land planted to trees, except agencies of Federal, State, or local governments. Such term does not include a stand of trees transferred after the date on which such stand was damaged by Hurricane Hugo except for a stand of trees transferred by bequest, devise or inheritance, or acquired from a decedent by reason of death because of the form of ownership or other condition (including trees acquired through the exercise or nonexercise of a power of appointment).

(B) The period referred to in subparagraph (A) is the period beginning on the date on which such trees were damaged by

Hurricane Hugo and ending at the time the request is made for assistance under this subsection.

(4) INDIVIDUAL FOREST MANAGEMENT PLANS.—The Secretary may provide assistance under this subsection only after a management plan for the private timber stand has been developed by the holder of the stand in cooperation with, and approved by, the State forester or equivalent State official. Such management plan shall—

(A) include provision for the replacement of the timber stand through reforestation by tree plantings or other means; and

(B) be the basis for an agreement between the holder and the Secretary under paragraph (5).

(5) COST SHARE.—The Secretary shall enter into agreements to share the cost of implementing eligible practices set forth in the agreement with holders who agree to implement those eligible practices. The amount of the Federal cost-share (including labor) for an eligible practice shall be 75 percent of the total cost of implementing eligible practices. The Secretary may consider, in determining the total cost of implementing eligible practices, any revenues from the sale of timber from private timber stands.

(6) DEADLINE.—Requests for assistance under this subsection must be filled with the Secretary not later than December 31, 1993.

(7) PAYMENT LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subsection may not exceed \$50,000. The Secretary shall issue regulations defining the term "person" which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985 (7 U.S.C. 1308).

(8) REGULATIONS.—The Secretary shall issue regulations to implement the provisions of this subsection as soon as practicable after the date of the enactment of this Act, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code.

(f) AUTHORIZATION OF APPROPRIATIONS.—Any benefits or assistance provided under this section, or under the amendments made by this section to the Disaster Assistance Act of 1989, shall be provided only to the extent provided for in advance by appropriations acts. To carry out this section, and the amendments made by this section to the Disaster Assistance Act of 1989, there are hereby authorized to be appropriated for fiscal year 1991 through 1995 such sums as are necessary.

Title XVIII—Improvement of the Agricultural Economy is amended by inserting, on page 1006, after line 20, the following:

SEC. 1854. COMMODITY REPORTS.

(a) CROP REPORTS.—The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall gather from producers a monthly crop report, which shall be printed and distribution on or before the twelfth day of each month during the growing season, and shall contain statements of the conditions of crops by States, with such explanations, comparisons, and information as may be useful for illustrating such reports. Reports shall be submitted to and officially approved by the Secretary before being issued or published.

(b) SPECIAL REPORTS.—(1) In addition to the reports compiled pursuant to subsection (a), the Secretary shall survey producers for

information for reports regarding supply, acreage, production, disposition, and prices for the following commodities as determined by the Secretary:

- (A) fresh market vegetables;
- (B) processing vegetables;
- (C) fruits and nuts;
- (D) forage and turf seeds;
- (E) vegetable seeds; and
- (F) maple syrup.

(2) The Secretary shall conduct and report the results of the surveys described in paragraph (1) at least annually in such States as determined by the Secretary. Reports shall be submitted to and officially approved by the Secretary before being issued or published.

(c) **TREE INVENTORIES.**—The Secretary shall survey producers for information for reports regarding fruit and nut tree inventories. Such surveys and reports shall be conducted, printed, and distributed on a regular basis every three to five years as determined by the Secretary. Reports shall be submitted to and officially approved by the Secretary before being issued or published.

(d) **CONFORMING AMENDMENTS.**—The proviso under the heading "Bureau of Crop Estimates" in the Act of March 4, 1917 (Chapter 179; 39 Stat. 1157) and the first proviso under the heading of the "Bureau of Statistics" in the Act of March 4, 1909 (Chapter 301; 35 Stat. 1053) (7 U.S.C. 441a) are repealed.

SEC. 1855. RECORDKEEPING.

(a) Not later than 240 days after the date of enactment of this Act, the Secretary of Agriculture shall prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report which contains specific proposals for reducing and simplifying the recordkeeping and other paperwork required of agricultural producers and cooperatives (hereinafter referred to in this section as "producers") who apply for participation in, or in complying with the requirements of—

(1) agricultural price and income support programs administered by the Secretary, including programs under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.);

(2) voluntary or mandatory soil or water conservation programs administered by the Secretary, including programs under the Food Security Act of 1985 (7 U.S.C. 1281 note); and

(3) any other related programs administered by the Secretary, including programs under the Consolidated Farm and Rural Development Act (7 U.S.C. 1981 et seq.), marketing order programs, and programs of crop insurance under the Federal Crop Insurance Corporation.

(b)(1) In the report required by subsection (a) of this section, the Secretary shall set forth the results of a thorough examination of the feasibility of reducing current levels of paperwork and recordkeeping required of producers by providing such producer with access to a computerized Departmental network or system (including the utilization of computer capability and equipment which has been or will be acquired by the Department of Agriculture and its various agencies) and which network or system could be used by producers: (A) to communicate voice, data, video, or a combination thereof for the purpose of submitting electronically all of (or a significant portion of) any necessary and appropriate applications, reports, or other documentation, and (B) to provide updated electronic information and data pertinent to the producer's agricultural op-

eration and marketing activities, or information-sharing by means of video conferencing. For the purpose of preparing the report required by this section, the Secretary shall retain the consulting services of at least one private sector business firm having experience and possessing technical expertise in the fields of wide area computer network design, function, installation, and maintenance, integrated video conferencing, and data base management systems and may in his discretion award a contract for such services on a sole source basis.

(2) In determining the feasibility and costs of providing a computerized network or system as described in paragraph (1) of this subsection, the Secretary may also recommend a schedule of nominal fees which could be charged to producers and others for a pro-rata share of a portion of the costs associated with access to and use of such system, which fees would partially or entirely defray the costs (after taking into consideration any ongoing savings to the Department) associated with the operation and maintenance and future expansion of such portion of the network or system and its capabilities, but not to include any reimbursement for existent equipment and capabilities nor for the costs associated with the initial establishment of the network or system. The report should also contain initial recommendations outlining additional categories of users who might also be permitted access to the network or system for a fee, and the types of safeguards which would be reasonably necessary to limit file access as may be necessitated in accordance with provisions of the Privacy Act of 1974 (5 U.S.C. 552a) and other relevant authorities governing the disclosure of individual or proprietary information.

(c)(1) Insofar as practicable, in preparing the report required by subsection (a) of this section, the Secretary of Agriculture shall take into consideration and incorporate the recommendations of the commission created by title V, section 501 of the Farm Credit Amendments Act of 1985 as contained in the Report of the National Commission on Agricultural Finance, dated February 22, 1989, insofar as such recommendations relate to the need to develop a universal loan application form and uniform accounting standards for farm businesses. In considering such recommendations, the Secretary shall strive to design and adopt forms and standards which are as brief and succinct as possible, and shall consult with representatives of the Farm Credit System and with representatives of the commercial banking system as well as with those representing other significant providers of farm ownership and operating credit.

(2) In order to increase the efficiency of agricultural programs administered by the Department of Agriculture and to reduce the burden of paperwork on participants in such programs, the Secretary shall design and adopt, insofar as practicable, one brief application form to be used by applicants for participation in the agricultural programs of the Department of Agriculture, including, but not limited to, the programs described in subsection (a) of this section. The report required by subsection (a) shall include information with regard to the progress made by the Department toward compliance with this subsection, and shall also identify any statutory impediments to the use of such single brief form.

(d) Notwithstanding the foregoing provisions of this section, the Secretary shall take appropriate action to integrate the var-

ious data bases of the Department of Agriculture relating to agricultural program data, and shall facilitate the sharing of relevant data among the various agencies of the Department, including, but not limited to, the Agricultural Stabilization and Conservation Service and the Soil Conservation Service and the Farmers Home Administration".

SEC. 1856. BUY AMERICA.

(a) It is the sense of Congress that a recipient (including a nation, individual, group, or organization) of any form of farm subsidy, aid, or other Federal assistance under this Act should, in expending that assistance, purchase American-made equipment and products.

(b) The Secretary of Agriculture shall provide procedures to inform recipients under subsection (a) of the Sense of Congress under that subsection.

Subtitle E—Food Marketing Research

SEC. 1861. SHORT TITLE.

This subtitle may be cited as the "Agricultural Marketing Research and Reform Act of 1990."

SEC. 1862. DEFINITION.

The term "Cosmetic" means superficial damage to, or alteration of, the exterior appearance of an agricultural commodity that does not significantly affect yield, taste, or nutritional value.

SEC. 1863. RESEARCH.

(a) The Secretary of Agriculture shall provide for the conduct of research, through the Economic Research Service and the Cooperative State Research Service, in consultation with other agencies within USDA.

(b) The research shall examine the effects, to the extent listed in the following subsection (c) ("scope of research"), of grade standards and other regulations, as developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 et seq.), and other statutes governing cosmetic appearance.

(c) **SCOPE OF RESEARCH.**—The primary goal of this research is to investigate the extent to which grade standards and other regulations governing cosmetic appearance affect pesticide use in the production of perishable commodities. The research shall also—

(1) determine pesticide application levels for U.S. perishable commodity production and assess trends and factors influencing those trends of such pesticide application levels since 1975;

(2) determine the extent to which federal grade standards and other regulations affect pesticide use in agriculture for cosmetic appearance;

(3) determine the effect of reducing emphasis on cosmetic appearance in grade standards and other regulations on:

(A) the application and availability of pesticides in agriculture;

(B) the adoption of agricultural practices that result in reduced pesticide use;

(C) production and marketing costs;

(D) domestic and international markets and trade for perishable commodities;

(4) determine the extent to which grade standards and other regulations reflect consumer preferences;

(5) develop options for implementation of food marketing policies and practices that will remove obstacles that may exist to pesticide use reduction, based on the findings of research conducted under this section; and

(6) field research.—

(A) The Secretary of Agriculture shall implement, not later than 12 months after en-

actment of this Act, or upon completion of the first phase of the research, a minimum of three, 2-year market research projects, in at least 3 states, to demonstrate and evaluate the feasibility of consumer education and information programs;

(B) Scope of field research—research shall be conducted to evaluate programs designed to—

(i) offer consumers choices among perishable commodities produced with different production practices;

(ii) provide consumers with information about agricultural practices used in the production of perishable commodities; and

(iii) educate the public about the relationship, as determine in the research conducted under this subtitle, between cosmetic appearance of perishable commodities and pesticide use.

(d) DISSEMINATION OF RESULTS.—the Secretary of Agriculture shall disseminate to concerned parties the results obtained from prior scientifically valid research concerning federal marketing policies and practices described in this section to avoid any duplication of effort and to ensure that current knowledge concerning such policies and practices is enhanced.

(e) Advisory committee—

(1) The Secretary of Agriculture shall establish an advisory committee for the purpose of providing ongoing review of the implementation of the requirements in this section and providing the Secretary of Agriculture with recommendations regarding the implementation of those requirements.

(2) MEMBERSHIP.—the Advisory Committee shall consist of twelve members comprising of three representatives from not-for-profit consumer organizations, three representatives from not-for-profit environmental organizations, three representatives from production agriculture and the perishable commodity grower/shipper community, and three representatives from the food retailing sector, each with experience in the policy issues discussed in this section.

(3) The Advisory Committee shall cease to exist no later than September 30, 1993.

(f) REPORT.—The Secretary of Agriculture shall report to Congress on the findings of research under this section no later than September 30, 1992 with the exception of the findings under subsection (6) which shall be reported no later than September 30, 1993.

SEC. 1864. CHANGES IN PROCEDURAL REGULATIONS.

With regard to federal grade standards developed and promulgated pursuant to the Agricultural Marketing Act of 1946 (7 U.S.C. 1621 *et seq.*), the Secretary of Agriculture shall—

(1) take into account the impact of those standards on perishable commodity growers' ability to reduce the use of pesticides;

(2) provide for citizens outside of the perishable commodity industry fair and reasonable opportunity to formally petition a change in grade standards; and

(3) provide for a comment period after a formal petition to change grade standards has been made to enable all interested parties to submit information. The Secretary of Agriculture shall evaluate the information and consider it in the revision process.

SEC. 1865. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subtitle.

"SEC. . (a) SHORT TITLE.—This section may be referred to as the Farm Spouse Fairness and Equity Act of 1990.

"(b) Effective beginning with the 1991 crop year, section 1001(5)(B) of the Food Security Act of 1985 (7 U.S.C. 1308(5)(B)) is amended by adding the following new clause:

"(iv) Notwithstanding clause (iii), the Secretary may modify such regulations to provide that, with respect to any married couple, the husband and wife shall be considered to be one person, except—

"(I) in the case of a married couple which owns or operates a farming operation otherwise eligible for farm program payments under paragraph (1) of this section, the couple may designate one spouse as the 'primary recipient' for the purpose of receiving such payments and the other spouse (secondary recipient) may be considered to be a separate person actively engaged in farming for the purpose of receiving farm program payments not to exceed the per-person limitation amount contained in paragraph (1) of this section, provided such other spouse makes a significant contribution (based on the total value of the farming operation) of active personal management or personal labor; or

"(II) in the case of a married couple consisting of spouses who, prior to their marriage, were separately engaged in unrelated farming operations, each spouse shall be treated as a separate person actively engaged in farming with respect to the farming operation brought into the marriage by such spouse, so long as such spouse continues to provide a significant contribution of active personal management or labor in relation to the farming operation brought into the marriage; or

"(III) in the case of a married couple wherein, following their marriage, either of the spouses becomes the owner of an unrelated farming operation by way of gift (in anticipation of death or upon disability of the donor), devise, or descent, such spouse may be treated as a separate person actively engaged in farming with respect to the acquired farming operation, so long as such spouse shall provide a significant contribution of active personal management or labor in relation to the farming operation so acquired."

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, these amendments are one by our distinguished colleague, the gentleman from Michigan [Mr. FORD], on disabilities for farmers, a paperwork reduction amendment from the gentleman from Montana [Mr. MARLENEE], a commodity report by the gentleman from Michigan [Mr. SCHUETTE], one by the gentleman from South Carolina [Mr. TALLON], and a "buy American" amendment by the gentleman from Ohio [Mr. TRAFICANT].

Mr. TALLON. Mr. Chairman, I have a two-part amendment to help the agriculture producers of South Carolina who were badly damaged by Hurricane Hugo last fall.

The first part of my amendment deals with timber farmers. It would authorize assistance for clearing and replanting for the thousands

of small timber farmers who were hurt by Hurricane Hugo.

The second part is to clear up a bureaucratic problem with the USDA over the classification of repeat crops under the Disaster Assistance Act of 1989.

Almost 10 months ago, my district was devastated by the worst storm of this century. It left a half million people displaced, a quarter of a million out of work and damage to physical property exceeding \$4 billion. It will take us years to recover.

But, as the people of South Carolina begin the long, painful process of piecing their lives and belongings back together, it has become clear that one of the greatest casualties was our forests.

This shouldn't come as a great surprise. Timber land accounts for 12.2 million acres or 63 percent of South Carolina's total land area. Of that, 68 percent is owned by nonindustrial private landowners. Little guys who use this as a savings account.

Yet Hugo prematurely harvested over 3 years' worth of South Carolina's timber—the State's largest cash crop.

It left over 6.5 billion board feet of saw timber on the ground crippling our \$4.3 billion timber industry and severely damaging the entire South Carolina economy.

Equally as threatening is the enormous amount of debris from the pine forests littering almost all of the acreage in my district and much across the State. Right now my district is a forest fire waiting to happen. It's a powder keg.

Yet unlike other crop producers, timber farmers have no real Federal assistance program to fall back on.

This is bad news for those concerned about the production and conservation of the 4 million plus acres affected by Hurricane Hugo.

My amendment, which was originally introduced by the entire South Carolina delegation, would set up a cost-sharing program for the clearing and reforestation of timber acreage damaged by Hurricane Hugo.

It will encourage tree owners to reestablish their damaged stands by assisting in the reforestation of damaged stands, site preparation, and other necessary timber stand reestablishment.

Mr. Chairman, timber is a costly, long-term investment. Most of South Carolina's small timber owners simply don't have the means to clear debris or replant damaged and destroyed stands.

In the long term this will be a severe blow to our national conservation efforts and to South Carolina's economy. In the short term it will mean forest fires the likes of which this country has never seen.

I urge the members of this committee to help prevent even further disaster and to let South Carolina begin to restore her most important natural resource—her forests.

The second part of my amendment would settle a dispute South Carolina's vegetable farmers are having with USDA over the interpretation of the Disaster Assistance Act which has blocked payments to farmers who grow repeat crops.

Farmers in our area have always grown spring and fall vegetable crops. Yet USDA is

saying that the yields of both crops must be counted together, effectively eliminating the possibility of these producers reaching the 50-percent loss threshold of eligibility for disaster payment.

For example, if you grow spring tomatoes and fall cucumbers, USDA counts these as two crops, but if you grow spring tomatoes and fall tomatoes, they're one. It's crazy.

I ask my colleagues to try to put themselves in the position of trying to explain this to their farmers.

My amendment will clarify that crops traditionally planted in two separate seasons are indeed two crops under the Disaster Assistance Act, thereby qualifying vegetable farmers who plant repeat crops for assistance.

I urge my colleagues to support it.

AMENDMENT OFFERED BY MR. ENGLISH TO THE EN BLOC AMENDMENTS OFFERED BY MR. DE LA GARZA

Mr. ENGLISH. Mr. Chairman, I offer an amendment to the en bloc amendments.

The Clerk read as follows:

Amendment offered by Mr. ENGLISH to the en bloc amendments offered by Mr. DE LA GARZA: At the end of the amendment insert "At the end of title XVIII insert the following new section:"

SEC. . SENSE OF CONGRESS CONCERNING CROP INSURANCE.

It is the sense of Congress that a sound system of crop insurance is desirable in that it will promote the national welfare by improving the economic stability of American agriculture and provide reasonable protection against natural disasters; that cancellation of the current crop insurance program would create unequal treatment among farmers; that improvements aimed at increasing the participation and effectiveness of the Crop Insurance Program are being devised, therefore, funding should be continued.

Mr. ENGLISH. Mr. Chairman, the reason that I am offering this amendment to the en bloc amendment is to present the House with an opportunity to speak on this issue of crop insurance. This is one in which the Committee on Agriculture feels very strongly that we should be given the opportunity to deal with the crop insurance situation. Our committee has been working on revising the crop insurance program for several months now. The Subcommittee on Conservation, Credit, and Rural Development, which I chair, has numerous proposals before it, and our members are working diligently to deal with this.

We feel this is a very important program and one which is important not only to farmers but also to the taxpayer. We think that certainly it is time in which to hold together the so-called disaster programs as we have known them in the past as they have occurred. It seems that every other year, hold that interest, an overall comprehensive crop insurance program that works. We think that that is possible to do.

However, it is not going to be possible to do if, in fact, we eliminate this particular program. So what we are

asking here is a sense of the Congress for the Congress to speak on this issue as the Committee on Agriculture should be given the opportunity to deal with this problem, to come forward to the House of Representatives with a comprehensive program that does a good job.

Mr. Chairman, I yield to the ranking minority member of the Committee on Agriculture, the gentleman from Illinois [Mr. MADIGAN].

Mr. MADIGAN. Mr. Chairman, I want to thank the gentleman for yielding, and I know the gentleman from Oklahoma [Mr. SYNAR], the gentleman from Iowa [Mr. GRANDY], the gentleman from Missouri [Mr. COLEMAN], and others have worked very hard to try to come to this House with a workable insurance program this year. We have not got the job done yet, but I think it is important that we show the sense of Congress, that we want to continue the crop insurance program. If we are ever going to get rid of the disaster program, which are disasters unto themselves, we will have to have a workable crop insurance program. While we do not have it yet, I know the gentleman from Oklahoma and others are working on it. I think this is an important expression of support for your effort, and I hope that it will be adopted.

Mr. ENGLISH. Mr. Chairman, I yield to the gentleman from Iowa [Mr. GRANDY].

Mr. GRANDY. Mr. Chairman, I thank the distinguished chairman of the subcommittee, and as a Member who has worked all spring on trying to craft a crop insurance risk management tool that farmers can use, I applaud this effort to save this program.

I would point out in the time that I have, farmers probably want crop insurance more than they want many provisions in the bill. There are wheat growers that will lose their policies if we cannot continue this program through the fall. There are corn growers that will lose their policies if we do not continue this program some time next year. There are bankers that will deny credit to farmers or increase their rates and make it prohibitive for them to borrow if we do not change this risk management tool.

Again, I thank the gentleman for keeping this program alive on the farm bill.

Mr. ENGLISH. Mr. Chairman, I certainly say that I would also feel that it is important that we have a record vote on this issue so that the House has spoken on continuing crop insurance. I hope my colleagues will join me on that.

Mr. FRENZEL. Mr. Chairman, I rise in opposition of the amendment. I have no reason to rain on this picnic, and I have no particular grief against crop insurance. As a matter of fact, I think it is not a bad idea.

The problem, however, is that our friends on the Committee on Appropriations, and our friends on the Committee on Agriculture have a wonderful competition to see who can buoy up agriculture most vigorously with the taxpayers' money. So we find ourselves now in a situation where we pay the premium for the full farmer, then we pay the premium so we help the insurance companies who are writing the crop insurance. That's No. 1. No. 2, then we come around for the third leg of the triple whammy, and we pay everybody disaster payments through the Committee on Appropriations. Now, I do not care which one of these programs we do, and I hope we get a good one, but I just want all Members to know that the Government is not going to continue to pay three kinds of disaster or crop loss insurance, and that game is going to be over this year. If Members can find a better way to do it then those who dole out the money after the disasters, God bless them. I hope they can.

□ 2120

However, Mr. Chairman, for the meantime, as long as we have got disaster insurance or, I mean, we got disaster payments in the ag appropriation, this particular resolution or statement on the part of the House does not seem to make any sense to me.

Mr. ENGLISH. Mr. Chairman, will the gentleman yield?

Mr. FRENZEL. I yield to the gentleman from Oklahoma [Mr. ENGLISH], the distinguished mover of the amendment.

Mr. ENGLISH. Mr. Chairman, I would point out to the gentleman from Minnesota [Mr. FRENZEL] there is no disaster appropriation in the appropriation bill. All that the appropriation bill did is end the crop insurance program.

Obviously we cannot reform something there is no money for. All we are saying is, "Give us a chance to finish the work that we're doing to reform this program to eliminate the disaster program and go with a single program." I think we are looking for the same goal.

Mr. FRENZEL. Mr. Chairman, I thank the gentleman from Oklahoma [Mr. ENGLISH] for clarifying that point.

Mr. Chairman, I still would like the House to understand that there is no way we can continue to pay three times for these accidents, and I hope that we will find the best way to take care of the problem.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Oklahoma [Mr. ENGLISH] to the en bloc amendments offered by

the gentleman from Texas [Mr. DE LA GARZA].

The amendment to the en bloc amendments was agreed to.

The CHAIRMAN. The question is on the en bloc amendments offered by the gentleman from Texas [Mr. DE LA GARZA], as amended.

The en bloc amendments as amended, were agreed to.

EN BLOC AMENDMENT OFFERED BY MR. DE LA GARZA

Mr. DE LA GARZA. Mr. Chairman, I offer amendments en bloc.

The Clerk read as follows:

En bloc amendment offered by Mr. DE LA GARZA: on page 83—

(1) line 22, strike "(a)" and insert "(1)"; and

(2) line 23, strike "subparagraph:" and insert "subparagraphs:".

On page 84, strike line 14 and insert the following: "ments under this subsection.

"(C) There are authorized to be appropriated such sums as may be necessary to carry out subparagraph (B)."

On page 253, line 16, strike "shall" and insert "may".

On page 266, line 4, strike "shall" and insert "may".

On page 274—

(1) line 14, strike "and";

(2) after line 14, insert the following new paragraph:

"(2) by striking paragraph (4) and inserting the following:

"(4) There are authorized to be appropriated such sums as may be necessary to carry out this section.; and"; and

(3) on line 15, by striking "(2)" and inserting "(3)".

On page 282, strike 23 and all that follows through line 3 on page 283 and insert the following:

"(3) in clause (2) of the third sentence of subsection (b) by inserting after 'program' the following:

', taking into account, to the extent practicable, average rates paid for commercial storage in the State, such storage payments to be made to each producer at the end of the first calendar quarter after the grain enters such storage';"

On page 114, line 7 through 8, strike "\$0.8150 in fiscal year 1991 through 1993," and insert "\$0.9825 in fiscal year 1991, \$0.8150 in fiscal years 1992 and 1993."

On page 117, strike lines 4 through 10, and on line 11, redesignate clause "(iii)" as clause "(ii)".

On page 126, line 16, after "commercial trade," insert: Notwithstanding any other provision of this section, the Secretary of Agriculture shall sell for export in fiscal year 1991 at least 184 million pounds of butter without regard for the effect of such sale upon world prices of agricultural commodities or normal patterns of commercial trade.

Page 289, after line 15, insert the following new section:

SEC. 1121. END ROWS IN SET-ASIDE.

(1) IN GENERAL.—Producers shall, subject to subsection (b), be allowed to meet acreage limitation or set-aside requirements by idling end rows, regardless of whether they meet the minimum acreage limitation or set-aside width and acreage if—

(1) the end rows are planted to a perennial cover crop;

(2) it would be in substantial soil loss reductions, relative to idling other land, as de-

termined by the Soil Conservation Service; and

(3) each acre idled under this provision shall count as .9 acres toward meeting the acreage limitation or set-aside requirement, except that an Agricultural Stabilization and Conservation Service county committee may, on a case-by-case basis, reduce the set-aside credit if it determines that actual production adjustment afforded by the practice on a farm is less than the production adjustment afforded by enrolling other eligible acres.

(b) BUDGET NEUTRALITY LIMITATION.—A producer shall be allowed to exercise the option to meet acreage limitation or set-aside requirements by idling end rows, as provided under subsection (a), only to the extent that the total payments to the producer exercising such option are no greater than they would otherwise have been if the producer had not exercised such option.

Redesignate section 1121 as section 1122.

Table of Contents

On page 8, strike "Sec. 1396. Agricultural assistance program for farmers with disabilities."

On page 8, strike "TITLE XIV—MARKETING" and insert "TITLE XIV—FRUITS, VEGETABLES, AND MARKETING".

On page 10, insert "Sec. 1513. Semiarid agroforestry research center."

TITLE II—SUGAR

On page 54, line 17, strike "before".

On page 57—

(a) line 17, strike "that" and insert "than"; and

(b) line 19, strike "In general, for" and insert "For".

On page 59, line 7, strike "U.S." and insert "United States".

On page 61, line 2, strike "202" and insert "209".

On page 63, line 9, after "processor's" insert "reduced".

On page 68, line 2, strike "number of acres in the State" and insert "sum of all acreage bases in the State, as determined by the Secretary."

On page 84, line 12, after "than" insert "60".

TITLE III—RICE

On page 100, lines 21 and 22, strike "total disappearance" and insert "total disappearance".

On page 108, line 4, insert an open quotation mark before "(m)".

TITLE IV—DAIRY

On page 127, line 17 at the end, insert a close quotation mark and a period.

On page 127, line 7, strike the period before the final quotation mark.

On page 128, line 7, strike "and" and insert "and".

TITLE VIII—PEANUTS

On page 160, lines 8 and 9, strike "or any portion thereof".

TITLE IX—WHEAT

On page 200, line 7, insert an open quotation mark before "(ii)".

On page 219, line 19, strike "REDUCTION—" and insert "REDUCTION.—".

On page 222, insert a period after the quotation marks on line 17.

TITLE XI—GENERAL COMMODITY PROVISIONS

On page 264, amend line 18 to read as follows: "section" and all that follows through "respectively,".

On page 277—

(1) line 17, strike "(A)" and insert "(i)"; and

(2) line 20, strike "(B)" and insert "(ii)".

On page 278—

(1) strike lines 18 and 19;

(2) line 20, redesignate paragraph (2) as paragraph (1);

(3) line 22, redesignate paragraph (3) as paragraph (2);

(4) redesignate paragraph (4) as paragraph (3); and

On page 280, line 17, strike "(b)(1)" and insert "(b)(2)".

On page 283, line 6, strike "discretion" and insert "discretion; and".

On page 292, line 17, insert "popcorn," after "sweet sorghum,".

On page 293, at the end of line 16, insert "(including any loan made under section 107A(a), 105A(a), 201(g), 103B(a), or 101B(a))".

On page 294, at the end of line 18, delete the close quotation marks and the period.

On page 298, line 23, delete "established price" and insert "deficiency".

TITLE XIII—RESEARCH

On page 389, line 6, insert a comma after "1995".

On page 400, line 18, strike "—".

On page 411, line 9, strike "(A)" and insert "(a)".

On page 421, line 17, insert "(a)" after "1432".

On page 436, line 13, strike "SEC" and insert "Sec".

On page 453, line 12, insert "2662" after "U.S.C".

On page 453, line 22, strike "the subparagraph heading" and insert "(B) Services to be provided".

TITLE XIV—FRUITS, VEGETABLES, AND MARKETING

On page 617, line 14, insert "of 1930" after "Act".

TITLE XV—STATE AND PRIVATE FORESTRY

On page 767, line 17, insert a period after "SEC".

On page 770, line 20, insert a period after "4A".

On page 773, line 12, strike "EDUCATION, TECHNICAL ASSISTANCE, AND RESEARCH ACTIVITIES.—".

On page 773, line 15, strike "(h)" and insert "(i)".

On page 790, line 14, strike the quotation marks.

TITLE XVI—CONSERVATION

On page 806, line 12, strike "set aside" and insert "set aside".

On page 817, line 19, strike "section." and insert "section."

(a) On page 833—

(1) on line 25, strike "(e)"; and

(2) on line 26, insert after "amended" the words "by adding the following new subsection".

On page 834 strike line 1 through 6 and insert the following:

"(e)(1) Except as provided in paragraph (2) and for the purpose of carrying out this subtitle, the Secretary shall enter into contracts of not less than 10, nor more than 15, years.

On page 835, line 22, strike "(h)" and insert "(i)".

On page 864, line 9, remove the indentation, strike "on", and insert "—On".

On page 864, line 12, strike "(i)" and insert "(A)".

On page 864, line 18, strike "(ii)" and insert "(B)".

On page 892, line 21, line 22, line 23, and line 24 strike the single quotation marks and insert double quotation marks.

On page 893, line 14, 18, and line 20 redesignate clauses (i), (ii), and (iii) as subparagraphs (A), (B), and (C) respectively.

- (a) On page 818, line 6 and line 24;
- (b) On page 832, line 2,
- (c) On page 837, line 2,
- (d) On page 840, line 2,
- (e) On page 844, line 11, and
- (f) On page 859, line 12, strike "XVI" and insert "XII".

TITLE XVII—FOOD STAMPS

On page 906, line 1, remove the indentation.

On page 910, line 16, strike the period before the final quotation mark.

On page 912, line 20 at the end, strike the dash and line 21, strike "(A)".

On page 913, line 15, strike the dash.

On page 914, line 18, strike the dash.

On page 915, line 19, strike the quotation marks.

On page 929, line 19 at the end, insert a period.

On page 932, line 23 and page 933, line 11, strike "1990" and insert "1988".

On page 935, line 17 at the beginning, insert opening quotation marks.

On page 948, line 25 strike "one million" and insert "1,000,000".

On page 949, line 3, strike "\$25 million" and insert "\$25,000,000".

On page 952—

(a) line 15 after "the end", insert "and inserting"; or

(b) line 13 after "(1)", line 14 after "(2)", and line 18 after "(4)", insert "by".

On page 956, line 2, strike the space after the dash.

On page 964, line 18 after "note)", insert ", as redesignated by section 1771,".

On page 968, line 4, strike "Secretary" and insert "Secretary".

TITLE XVIII—IMPROVEMENT OF THE AGRICULTURAL ECONOMY

On page 979, line 25, by striking "and inserting"; and,".

On page 982, line 9, strike "(1)".

On page 983, line 3, strike "(d)" and insert "(c)".

On page 992, line 18, strike "11" and insert "1".

On page 986, line 19 through 20, strike "Section 403 of the Agricultural Act of 1949 (U.S.C. 1423) is amended" and insert "Section 403 of the Agricultural Act of 1949 (7 U.S.C. 1423), as amended by section 108, is amended in subsection (a)".

At the end of Subtitle A of title XI insert the following:

SECTION . INCREASE IN SUPPORT LEVELS.

Section 402 of the Agricultural Act of 1949 is amended by—

- (1) inserting "(a)" after "402"; and
- (2) adding at the end of the following:

"(b) Effective only for the 1991 through 1995 crops of wheat, feed grains, cotton, and rice, the Secretary of Agriculture may provide for annual adjustments in the established prices for such program crops to reflect any change during the last calendar year ending before the beginning of each such crop year in the index of prices paid by farmers for production items, interest, taxes, and wage rates in such calendar year."

Add the following new part at the end of subtitle I of title XIII:

PART 3—AGRICULTURE ENVIRONMENTAL RESTORATION

SEC. 1376A. ENVIRONMENTAL RESTORATION PROGRAM.

(a) ESTABLISHMENT.—The Secretary of Agriculture shall establish an environmental restoration program in the Department of Agriculture for the purposes of further assessing and identifying any releases of hazardous substances, including groundwater contaminants, from facilities owned, operated, or formerly operated by the Department of Agriculture (including grain storage facilities).

(b) PROGRAM REQUIREMENTS.—Under the program, the Secretary of Agriculture shall—

(1) locate and identify each facility owned, operated, or formerly operated by the Department of Agriculture, including grain storage facilities, at which hazardous substances were used, stored, or disposed of and determine, in cooperation with the Administrator of the Environmental Protection Agency and appropriate State officials, whether there has been any release of hazardous substances at such facilities, including any release that may have contaminated the groundwater;

(2) after consultation with the Administrator of the Environmental Protection Agency and appropriate State officials, ensure that, in the case of a facility identified under paragraph (1) where groundwater contamination is known to exist and where the Department of Agriculture may be responsible, proper notification is made to persons living in the vicinity of the facility of any possible contamination of drinking water; and

(3) submit a report to Congress each year on progress in implementing this section.

(c) COST ESTIMATE.—The Secretary shall prepare a cost estimate and work schedule for response actions with respect to those facilities where the Department of Agriculture has been found by the Environmental Protection Agency or appropriate State agency to be a party potentially responsible for releases at the facility.

(d) APPLICATION OF SECTION 120 OF CERCLA.—Activities of the program shall be carried out subject to, and in a manner consistent with, section 120 (relating to Federal facilities) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620).

(e) CONSULTATION WITH EPA.—The program shall be carried out in consultation with the Administrator of the Environmental Protection Agency.

(f) DEFINITIONS.—In this section, the terms 'facility', 'hazardous substance', 'release' and 'response action' have the meaning given those terms by section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

At the end of title XVI, insert the following new section:

SEC. 1618. AGRICULTURAL RESOURCE CONSERVATION DEMONSTRATION PROGRAM.

(a) DEFINITIONS.—As used in this section:

(1) ELIGIBLE LOAN.—The term "eligible loan" means loans entered into on or after January 1, 1991, with terms of not less than 10 years made by lending institutions to State trust funds to further the purposes of this section. No principal payments shall be due on such loans for the first 10 years after each is made and the principal amount shall be paid by the State trust fund at the end of the tenth year. For each such eligible loan, each State trust fund shall be entitled to re-

ceive an interest rate subsidy from the Secretary as provided in subsection (b)(2).

(2) ELIGIBLE STATE.—The term "eligible State" means any State which, on or before August 1, 1991—

(A) operates or administers a land preservation fund which invests funds in the protection or preservation of farmland for agricultural purposes; and

(B) works in coordination with the governing bodies of counties, towns, townships, villages, or other units of general government below the State level, or with private non-profit or public organizations, to assist in the preservation of farmland for agricultural purposes.

(3) LENDING INSTITUTION.—The term "lending institution" means any Federal or State chartered bank, savings association, cooperative lending agency, or other legally organized lending agency.

(4) PROGRAM.—The term "program" means the farmland preservation program established under this section.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) STATE.—The term "State" means any State of the United States, the Commonwealth of Puerto Rico, and the Virgin Islands of the United States.

(7) STATE TRUST FUND.—The term "State trust fund" means a trust fund or an account established by an eligible State which is used for the protection or preservation of land for agricultural purposes, primarily through the purchase of development rights, and which is approved by the Secretary to participate in the program.

(8) ALLOWABLE INTEREST RATE.—The term "allowable interest rate" refers to an interest rate which shall be the current average rate of interest which each State pays on 10-year notes or other similar obligations of the State, or a comparable interest rate as determined by the Secretary.

(b) ESTABLISHMENT OF PROGRAM BY THE SECRETARY.—

(1) IN GENERAL.—(A) The Secretary shall establish and administer a program under this section to provide Federal guarantees and interest rate assistance for loans made by lending institutions to State trust funds, for the purpose of—

(i) protecting farmland for agricultural purposes; and

(ii) assisting in the preservation of the farmland through the establishment of conservation easements and related activities.

(B) Under the program, the Secretary shall guarantee the timely payment of the principal amount and interest due on eligible loans made by lending institutions to State trust funds and shall subsidize the interest on such loans at the allowable interest rate for the first 5 years in accordance with regulations set forth under paragraph (2). Each State trust fund shall pay the rate of interest, and the principal at the end of the tenth year, as set forth in the loan agreement regarding each eligible loan.

(2) ASSISTANCE TO EACH STATE TRUST FUND.—Subject to the availability of appropriations for such purpose, the Secretary shall—

(A) fully insure or guarantee each eligible loan made by lending institutions to each State trust fund under regulations issued by the Secretary; and

(B) annually pay to each State trust fund an amount calculated by applying the allowable interest rate to the amount of each loan the State trust fund receives, as determined under regulations issued by the Sec-

retary, during each of the first 5 years after each such loan is made.

(3) **REGULATIONS.**—The Secretary shall issue such proposed and final regulations, in accordance with the prior public comment provisions of section 553 of title 5, United States Code, as may be necessary to carry out this program.

(d) **ADMINISTRATION.**—

(1) **ANNUAL APPLICATIONS.**—Eligible States may apply for Federal assistance under this section on an annual basis.

(2) **MATCH AND MAXIMUM AMOUNT.**—The total amount of any guarantees provided by the Secretary under this program shall not exceed an amount that is equal to 50 percent of the amount that each eligible State makes available for acquiring interests in land to protect and preserve important farmlands for future agricultural use but in no event shall the total Federal share exceed \$10,000,000 in any fiscal year for any State.

(e) **DURATION OF PROGRAM.**—The program shall expire on September 30, 1995, except that any financial obligations of the Secretary entered into under this section on or before such date shall continue to be met as required by this section.

(f) **IMPLEMENTATION AND EFFECTIVE DATE.**—The Secretary shall issue final regulations to implement this section within 180 days after enactment of this section. This section shall take effect on October 1, 1990.

(g) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated such sums as may be necessary to implement this section.

On page 808, after line 13, insert the following:

(e) **RESOURCE-CONSERVING CROP.**—(1) Subject to paragraph (2) and notwithstanding any other provision of law, that portion of a producer's cropland, up to 25 percent of the producer's total crop acreage base, that—

(A) is highly erodible (as defined by section 1201(a) of the Food Security Act of 1985);

(B) is devoted to a resource-conserving crop (as defined in section 1611 of this Act) in accordance with a conservation plan (referred to in section 1212(a)(2) of the Food Security Act of 1985); and

(C) was planted or considered planted to a program crop during at least one of the 1986 through 1990 crop years,

shall be considered planted to such program crop for the purpose of determining crop acreage base and farm program payments.

(2) Unless the Secretary has permitted haying or grazing of the acreage under paragraph (3), if the producer—

(A) hays such acreage at any time during the year; or

(B) grazes such acreage during the 5-month period in each State during which haying and grazing of conserving use acres is not allowed under sections 101B(e)(3), 103B(e)(3), 105A(f)(4), or 107A(f)(4) of the Agricultural Act of 1949,

the Secretary shall withhold any farm program payment a producer is otherwise eligible to receive on such acreage and reduce the crop acreage base by the amount attributable to the acreage planted to resource-conserving crops under this subsection.

(3) In the case of a drought or other natural disaster, the Secretary may permit haying or grazing of acreage planted to a resource-conserving crop under this section.

(4) The Secretary shall not reduce a producer's farm program payment yields as result of planting resource-conserving crops under this subsection.

(5) No producer's individual farm program acreage base shall be greater, due to the operation of this section, than it otherwise would have been if determined in accordance with title V of the Agricultural Act of 1949.

Mr. DE LA GARZA (during the reading). Mr. Chairman, I ask unanimous consent that the en bloc amendments be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. DE LA GARZA. Mr. Chairman, this is an amendment that has several amendments agreed to by all parties. It contains various and sundry amendments, and I would urge approval of the amendment.

The CHAIRMAN. The question is on the en bloc amendments offered by the gentleman from Texas [Mr. DE LA GARZA].

The en bloc amendments were agreed to.

Mr. DE LA GARZA. Mr. Chairman, I move to strike the last word.

Mr. Chairman, let me thank all of the Members for their patience, thank the staff for all the work they have done and, especially, the Members that have supported the committee.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

Mr. JONES of North Carolina. Mr. Chairman, title XIX of the substitute, made in order as original text, includes several shipping provisions within the sole jurisdiction of the Committee on Merchant Marine and Fisheries.

In the 1985 farm bill, cargo preference laws within the Merchant Marine Act, 1936, were amended to increase the amount of donational cargo, such as Public Law 480 cargo, required to be carried on U.S.-flag vessels. A compromise was reached between the agricultural and maritime communities to eliminate certain nongiveaway agricultural export programs of USDA from cargo preference in return for increasing the requirements to carry donational cargo from 50 to 75 percent. In addition, the law established what has come to be known as the Great Lakes set-aside. That provision established a minimum amount of bagged, processed, or fortified commodities under title II of the Public Law 480 program were to be shipped through the Great Lakes ports. The set-aside was established at the lower of percentage share or metric tonnage of those cargoes exported from Great Lakes ports in 1984. Members from the Great Lakes claimed that by increasing the percentages for U.S. vessels to carry preference cargoes, their ports would be damaged because of the absence of U.S.-flag liner service to the Great Lakes, a fact caused in part because most U.S. vessels are too large for the locks in the St. Lawrence Seaway.

The Great Lakes set-aside expired in 1989. This year, the 1990 farm bill as originally re-

ported by the House Committee on Agriculture did not include any language that amended the Merchant Marine Act, 1936; it did not extend the Great Lakes set-aside. However, when the Committee on Foreign Affairs acted upon H.R. 3950, a provision was added to extend the Great Lakes set-aside for 3 years. Because this set-aside is an amendment to the Merchant Marine Act, 1936, the Committee on Merchant Marine and Fisheries received a sequential referral of the set-aside provision to H.R. 3950, as reported by the Committee on Foreign Affairs.

Recognizing the political reality that the Great Lakes issue must be resolved, I proposed a compromise that would extend the set-aside for another 5 years, reduce the amount of cargo reserved to the lakes by a varying percentage each year, and create a mechanism for attracting more U.S. vessels to the Great Lakes region. The compromise would enable the lakes to attract more U.S. vessels while gradually eliminating the set-aside, which has been understandably opposed by non-Great Lakes ports, especially the Gulf of Mexico ports.

Let's examine the specific sections of title XIX.

Section 1901 exempts American Great Lakes vessels, as designated under this title, from the restriction in the Merchant Marine Act, 1936, that imposes on a reflagged vessel a 3-year waiting period for eligibility to carry preference cargoes. This change will enable a shipowner to obtain a foreign flag vessel, bring it to the U.S. flag as an American Great Lakes vessel, and have it eligible to carry Government-impelled cargoes subject to the preference laws immediately.

The Secretary of Transportation is charged with the designation of these American Great Lakes vessels.

All repair, maintenance, and other construction must be done in the United States, and the United States has the right to purchase the vessel if necessary for the defense of the United States, as is the case with other U.S. vessels.

Under section 1903, the vessels designated as American Great Lakes vessels under this provision may not serve other ports in the United States during the Great Lakes shipping season; however, for not more than 90 days in the off-season, these vessels may carry cargo from other U.S. ports. The designated vessels may not carry bulk cargo.

Under section 1905, the designated Great Lakes vessels shall be eligible for operating differential subsidies, and the Secretary must enter into a contract to pay differential subsidies, including wage and repair differentials. Contracts entered into under this section shall not provide for payment in any year of ODS for more than 6 ship years.

Finally, under section 1906, the set-aside of cargo for the Great Lakes ports will expire by 1996. In 1991, the minimum set-aside level will be the same as it was in 1984, approximately 245,000 metric tons. The minimum amount of cargo required to be carried in 1991 will be reduced by 10 percent in 1992, by 20 percent in 1993, by 30 percent in 1994, and by 20 percent in 1995. Again, the set-aside will expire at the end of 1995, and there

will be no set-aside for the 1996 season in the Great Lakes.

I believe this is a fair compromise. The set-aside will expire, gradually, as the lakes move to achieve more U.S. liner vessel service. The purpose of the compromise is to end port preference and simultaneously assist the Great Lakes region in attracting U.S. vessels.

Ms. SCHNEIDER. Mr. Chairman, no one would dispute the very laudable goals that serve as the foundation of our farm legislation. We all strongly support the goal of thriving farms and health farm communities. We all strongly support farming methods that are ecologically sustainable, and stewardship practices which protect the soil from erosion, wetlands from needless destruction, and food from pesticide contamination. We all strongly support a food system that provides a decent living for farmers and reasonable food prices for consumers. These are goals we all can agree on.

Where I diverge from the proponents of the bill, I am sorry to say, is in our pursuit of these goals. The enormous bill before us poses one fundamental problem: its enormous price tag. Just 2 weeks ago, the House was engaged in heated debate over the need for a constitutional amendment that would ensure a balanced Federal budget. The reason is obvious: We have multihundred billion dollar annual deficits, and we face a staggering \$170 billion yearly interest payment on the Nation's \$3 trillion and growing Federal debt.

The farm bill before us fails to reflect any semblance of fiscal restraint that would help us to reduce our Nation's debt and deficit. Instead, we see lavish, ongoing subsidies for sugar growers. Ongoing subsidies for peanut farmers. Ongoing subsidies for farmers to grow surplus crops with subsidized water. And on and on. I ask you:

How can I explain to my constituents a bill that maintains subsidies for sugar producers that have cost consumers nearly \$2 billion per year over the last 3 years, and then tell them we don't have enough funds for student education loans.

How can I explain to my constituents a bill that provides some \$900 million per year in income support payments to wealthy individuals, while telling my constituents that we can't find more money to help the homeless and unemployed.

How can I explain to my constituents a bill that provides multihundred million dollar water subsidies to grow surplus crops while paying additional huge amounts in commodity payments to limit production and support sagging prices for these same crops, and then tell my constituents we don't have enough funds for the elderly and disabled.

How can I explain a bill that maintains a price-support system for a few large honey producers that costs consumers an extra \$40 to \$100 million per year, and then tell my constituents that we can't find sufficient funds for one of their top concerns, drug prevention.

How can I explain a bill that contains huge loopholes that allow large farmers to reap several hundred million dollars per year in extra farm deficiency and subsidy payments, while telling my constituents that we can't find enough funds to protect our drinking water from contamination.

The bottom line is—I can't. This bill is federally flawed on both fiscal and policy grounds. I can unequivocally say that this bill is a budget buster that robs many more important programs of desperately needed funds. As such I cannot support it.

Mr. EMERSON. Mr. Chairman, I am glad that we have the opportunity to discuss wetlands issues there today. I will waste no time in getting to the point: While I consider myself a conservationist, I have strong reservations about the current memorandum of agreement and the efforts by nonlegislative interests to change the definition of wetlands to further their own particular agenda, while ignoring the needs of our rural communities, particularly farmers.

I have been a strong supporter for many years of providing natural wetlands for wildlife habitat. I am a member of Ducks Unlimited, which has been promoting protection of our wetlands long before it was even fashionable. Unfortunately, the current direction of our wetlands policy is progressing in ways that were never envisioned by Congress. The changes that are being attempted do not follow congressional intent. Rules and regulations are being written by bureaucrats who believe they have long been stifled over at EPA during the past 8 years, and now, given them an inch, they are taking a mile.

The Federal Manual for Identifying and Delineating Jurisdictional Wetlands, written from within the bowels of the Interior Department makes serious changes in our definition of wetlands. These changes were never proposed or discussed before a committee of this Congress, nor were the changes proposed in the Federal Register. This new definition substantially impacts our Nation, particularly rural areas, and enhances our Government's land grab abilities.

The EPA has not kept it a secret that one of their goals is not only no net loss of wetlands, but to also restore former wetlands. This is a very significant change in our wetlands policy. If this is the case, much of my congressional district will be under water. Over 1 million acres in my home area were swamps until the mid-1800's and putting them back in their native state would be disastrous. The Mississippi River drains over 40 percent of the naturally occurring water in this Nation. Moreover, our very own national capital, Washington, DC will revert to a swamp.

Wetlands definitions should not be applied to lands that have already been developed or are under cultivation. The U.S. Government does not need the headache, expense, and legal woes of conducting a takings implication assessment as required by law, and then payment of just compensation for taking or diminishing the value of the private property. The framers of our very own Constitution had the foresight to prevent the Federal Government from being a land grabber.

If we want to shut down our farms—our agriculture producers, the breadbasket of the world—then, yes, include our farms and agricultural productive land. This will have a tremendous, untold effect on rural America. And if that is the case, let us talk about just compensation for the taking of privately held land. Landowners in this country deserve respect and rights that many other countries in this

world do not even acknowledge. We cannot in good conscious trample one of our most basic freedoms in this country.

Congress needs to decide—not the bureaucracy—and maybe the President needs to decide too—is a wetland an area with trees, and cattails and standing water, and old decaying logs, or is it to include farmland that has been planted through generations. In my own congressional district, legislation was set up in 1849—by this legislative body—to drain a swamp area that was a public nuisance—a breeding ground for disease and a transportation irritation.

Until Congress has determined a proper definition of wetlands and legislates its intent, the definition of wetlands that was in place prior to January 10, 1989 should remain intact. Wetlands definitions should not be changed willy-nilly by the bureaucracy without going through the proper congressional discussion and debate.

Some environmental organizations advocate measures to protect the environment which would totally stifle industry. They do not take into account the need for economic growth, for increased energy sources for domestic use, for employment opportunities, and for the need to uphold treaties with our allies to provide vital resources in case of a world emergency.

It is naive to think the EPA and certain elements of the environmental community will be happy with just a working definition of no net loss of wetlands. The ultimate victory for them is to delay the process and inject enough hurdles into the permit process, that projects die before they ever get off the ground. Shall we turn substantial property holdings in this country into economically worthless property? I think not.

"No net loss" of wetlands implies a requirement to create an acre of wetland from a non-wetland area. Yes, it is a fact that 50 percent of the original wetlands in the United States alone have been lost. But, let's not lump agriculturally productive land and actual swamps and the city of Washington DC, into one definition of wetlands.

So, I look forward to this discussion and debate with my colleagues. We have a very serious issue here that needs our most thoughtful and careful attention. I urge my colleagues to look deeply at their own interests, including the interest of having a productive agriculture community to put produce on the kitchen tables of your constituents. Remember, one environmentalist's endangered wetland waiting to be saved is a farmer's agriculturally productive land waiting to produce food for the world.

Mr. MILLER of California. Mr. Chairman, I support the pesticide record-keeping amendment offered by my colleague Mr. JONTZ to H.R. 3950, the 1990 farm bill. This amendment is an important step forward to protect the health of adults and children—both consumers and those who work in agriculture; and to protect rural water supplies and the environment.

What does this amendment do? It requires that persons who use pesticides for agricultural production or other commercial purposes keep records of all of their pesticide applica-

tions—restricted and general use pesticides alike. This information will be promptly made available to health professionals providing medical treatment or first aid to persons with known or suspected exposure to pesticides. It will also be available to employees who may have been exposed to pesticides. In addition, any records required to be filed with the Government will be available to the public under the Freedom of Information Act except for the name and address of the person keeping the records and the specific location of the pesticide application. However, the county where the application occurred will be disclosed under the Freedom of Information Act.

These limitations on what is disclosable to the general public give special concessions to pesticide users, particularly those in agriculture, which other employers do not enjoy, given their responsibilities under the 1986 Superfund Community Right-to-Know Act or the Occupational Safety and Health Administration's [OSHA's] Hazard Communication Standard. Superfund gives neighbors, employees, and interested citizens the right to know how hazardous chemicals are used, stored, or disposed. The records which report how all American businesses use other hazardous chemicals are fully disclosable.

I thought long and hard about these exceptions to disclosure under the Freedom of Information Act. My esteemed colleagues in the House Agriculture Committee tell me, as does the American Farm Bureau, that growers fear that record-keeping and public access to the records will result in harassment and frivolous nuisance requests. I have no evidence from States with record-keeping provisions for private applicators which include public access to the information that such harassment occurs. Indeed, in my home State of California, with the highest agricultural production in the country, pesticide users must keep records of all pesticides they apply. These records are fully disclosable to the public. This has served all segments of the public and should be replicated on a Federal level as well.

Nevertheless, I can agree to the limitations on what is disclosable to the general public to allay these fears—though they appear to me to be completely unfounded and unsubstantiated—because the pesticide records required under this amendment will provide important information for health professionals, workers, researchers, and regulators. And this is a good and solid beginning.

Of course, the pesticide records will also be fully available, where appropriate, under the Federal Rules of Civil Procedure.

Federal, State, and local agencies that deal with pesticide use or any health or environmental issues related to the use of pesticides will have access to these records, at the Federal level through the U.S. Department of Agriculture and at the State or local level through the designated State agency. This arrangement will ensure that farmers and other pesticide users are not besieged by multiple agency requests for pesticide records. However, I must emphasize here that these records of both agricultural and non-agricultural pesticides are extremely important for the Environmental Protection Agency's use.

What will these records include? The records will include the product name, amount and rate of application, method of application, target pest, crop treated—or, in the case of a nonagricultural pesticide, the site treated—date and approximate time of application, and location of application of each pesticide. These records must be kept for a 2-year period after such use.

Requiring comprehensive records of pesticide users will give researchers and regulators a more complete picture of what is being used, when, and where. Under current Federal law, only commercial pesticide applicators are required to keep records of the restricted use pesticides they apply. As a result, most farmers are not required to keep records of their pesticide usage. Yet the Environmental Protection Agency has linked groundwater contamination in 26 States to 46 pesticides used in farming—not to improper disposal, spills, or other accidents. Important environmental uses of these pesticide records will include research, monitoring, and protection of ground and surface water quality.

A number of pesticides known or suspected to cause cancer or birth defects are general use pesticides. These include such widely used pesticides as atrazine, chlorothalonil—Bravo—and glyphosate—Roundup. The neurological and immune system effects of pesticides are just beginning to be investigated. Comprehensive pesticide use data will aid health researchers in correlating use and exposure with long-term health effects.

I have here two sample records, one required of growers in the State of Texas, the other by Washington State. The records are simple and straightforward. Besides my own State of California, Texas, and Washington, eight other States require private applicators to keep records, including Arizona, New Jersey, New York, Kansas, Maine, New Hampshire, Massachusetts, and Connecticut. This amendment will in no way preempt States' rights to require more rigorous pesticide record-keeping measures nor will it affect provisions of other Federal laws.

Graphics not reproducible in the RECORD.

The private sector has also seen the wisdom of keeping track of pesticide usage. Food processing companies and grower cooperatives such as Campbell Soup Co., Heinz (USA), Viasic Foods, Inc., Gerber Products Co., Ocean Spray Cranberries Inc., Diamond Fruit Growers Inc., and the Del Monte Corp. all require growers to keep records of pesticide applications. These records help companies do cost-effective, targeted pesticide residue testing on their foodstuffs.

As you can see, the Jontz pesticide record-keeping amendment will meet health, research, and environmental needs. Let me more fully address worker and consumer health uses now.

First of all, expanded record-keeping will help to protect farmworkers. Over 3 million adults and children do farmwork, our Nation's most dangerous occupation. Thousands of farmworkers become ill each year due to pesticide exposure. Yet farmworkers and other workers who apply pesticides are the only workers without the right to know which hazardous chemicals are used at their workplace.

Although the Environmental Protection Agency [EPA] does not keep track of pesticide poisonings because there is no national pesticide illness reporting system, the Agency notes: "that there continue to be significant numbers of pesticide poisonings among agricultural workers every year, and in some cases a trend toward increasing numbers of poisonings."

In an April 1990 report on neurotoxicity, the Office of Technology Assessment estimates that there are more than 300,000 pesticide-related illnesses among farmworkers nationwide each year. And the U.S. Food and Drug Administration has data indicating that nationally 800 to 1,000 field workers die annually from exposure to agricultural pesticides.

Second, health care providers need pesticide records to help diagnose and treat their patients who have known or suspected pesticide-related illnesses or injuries. Since exposure symptoms frequently mirror other maladies like the flu, pesticide application records are crucial to diagnosing pesticide-related illnesses. Since some injuries like birth defects do not show up for months after the exposure, records are needed to pinpoint the chemical involved. This amendment will require pesticide users to immediately provide such health professionals with pesticide record information in an emergency and to provide information promptly in non-emergency situations. Thus, in both emergency and non-emergency cases, physicians, physician's assistants, nurses, nurse practitioners, paramedics, and other health care personnel who need information from the pesticide records to treat and advise their patients will be able to get it.

Widespread record-keeping as required under this amendment also has implications for consumers' health. With application-by-application information available to them, Government agencies responsible for pesticide residue testing of food can do targeted testing rather than scattershot guesswork tests for what may have been used on particular crops. Good record-keeping will help the Government ensure consumers a safe food supply.

Finally, is record-keeping good for farmers? Unqualifiedly yes. Recording and maintaining pesticide application information is good business. The records enable farmers to track the cost and efficacy of the expensive pesticides they use. Information about where pesticides were used and in what rates can help growers assess what method has worked best for controlling pests and minimizing agricultural chemical expenses on a particular farm, ranch, or orchard. Growers may also be able to determine whether their pesticide uses are unusually high or uncommonly low relative to similar growers in the region, inducing some farmers to investigate alternatives for reducing pesticide use. Moreover, agricultural extension agents will use the records to advise farmers on integrated pest management [IPM] or other techniques.

In addition, farmers need to keep track of pesticide applications so they know when it is safe and legally permissible to harvest their crops and when workers can safely and legally reenter the fields.

Pesticide records also will aid research efforts to study the health effects of pesticide

exposure on farm families. Already various studies, including several by the National Cancer Institute, have associated higher than expected rates of leukemia and non-Hodgkin's lymphoma among farmers with pesticide exposure. Other studies have linked children's exposure to pesticides with brain cancer and leukemia.

Growers who have successfully minimized pesticide use may find that records can help substantiate their successes. Growers may also be able to use records to show that certain potentially worrisome pesticides, like Alar, were avoided. Indeed, Washington State passed a pesticide record-keeping law in April 1989 to protect its apple growers who wanted to document the elimination of Alar use, after several years of heightened public concern about Alar use on apples and children's exposure to Alar residues.

It is time for the House of Representatives to better protect consumers, workers, and farmers alike from the hazards of pesticides. It is time for my colleagues to join with me to take this prudent step to require record-keeping and access to these records as I have outlined. It is time that we take this modest but important step.

A "yes" vote for the Jontz amendment is a vote for safer farms, safer workers, safer food, and a safer environment.

Mr. BROWN of Colorado. Mr. Chairman, I rise in support of the Glickman amendment which would prohibit the extension of credit guarantees by the Commodity Credit Corporation to Iraq unless the President determines that certain conditions have been met.

The issue here is whether the United States should continue to extend \$1 billion in credit guarantees to a country that has repeatedly threatened to destroy our friend and democratic ally—Israel—and has the military capability to do so—has used chemical weapons against its own Kurdish citizens, and that has, according to the State Department, an "abysmal" human rights record. The fact is that Saddam Hussein is an extremely dangerous man who poses a real threat to world peace and stability.

On April 2, Hussein threatened to "let our fire eat half of Israel if it tries to wage anything against Iraq." Considering Iraq's extensive chemical weapons capability and its use of chemical weapons against its own citizens, we must take Hussein's threats very seriously. Hussein himself claimed that only the United States and the Soviet Union could match Iraq's chemical weapons capability.

Iraq is also continuing to build up its conventional, biological and nuclear weapons capabilities. Earlier this year, a plot to smuggle 40 United States-made nuclear detonators to Iraq was uncovered and Hussein admitted that Iraq is conducting research on biological weapons. Just recently, the administration blocked the shipment of four titanium processing furnaces that metallurgists concluded were intended for military uses. The experts said that the furnaces can be used to make missile parts, aerospace equipment, gas turbines and parts, turbines for fighter aircraft, nuclear reactor facilities and components of nuclear devices. The furnaces also have the capability of producing a metal that can be used in the

nose cones of Iraqi missiles to increase their range and impact.

Since 1980, Iraq has more than tripled its army and has imported more than \$3 billion in arms. Iraq's recent decision to deploy 30,000 troops to the Kuwaiti border to bully Kuwait into raising oil prices reveals Hussein's willingness to use Iraq's military might to achieve his ends.

The fact is, Mr. Chairman, that Iraq has the ballistic delivery vehicles necessary to use chemical, nuclear, or biological weapons. It is deploying approximately a dozen intermediate-range missiles with a range of 560 miles, which makes Israel an easy target. The seizure of sections of a 130-foot cannon destined for Iraq is another indication of Iraq's destructive intentions.

We simply should not subsidize Iraq so that it can strengthen its already substantial military capability. As a matter of fact, since the USDA and Justice Department have initiated an investigation into allegations of unauthorized use of CCC loans by Iraq, including illegally diverting funds to develop its chemical and nuclear capabilities, all CCC credits to Iraq have been suspended.

We must also consider the moral implications of supporting a regime that has a deplorable human rights record. According to the State Department's 1989 country-by-country report on human rights practices, Iraq's human rights record remained abysmal in 1989. The report states that: "Intelligence services engage in * * * torture and summary execution to deal with antiregime activity," and there are "continuing disappearances and arbitrary detentions, lack of fair trial, widespread interference with privacy, excessive use of force against Kurdish civilians, and an almost total lack of worker rights."

Mr. Chairman, the United States cannot continue to extend credit blindly. Continuing the guarantee program to Iraq would enhance Iraq's threat to the State of Israel, and its recent destabilizing actions in the Persian Gulf. We must put an end to this imprudent policy now.

Mr. BRENNAN. Mr. Chairman, today I rise in opposition to the 1990 farm bill. While I am pleased with the contributions this bill makes regarding important conservation and nutrition programs, particularly the TEFAB and Food Stamp program, I cannot support final passage because I am simply and fundamentally at odds with our current U.S. farm policy.

I believe that the present cumbersome system of loan rates, price supports and quotas inhibits the free market, constrains international competition and in the end hurts the American consumer. As a number of my colleagues have noted during the course of debate, many current farm programs were created for purposes and conditions, like World War II, that no longer exist. During debate on this bill I have consistently supported amendments that would be favorable to the consumer, curb windfalls of Government support to rich farmers, and modernize our Nation's farm policy.

In addition, at a time of extraordinary budget constraints, I cannot support a measure that will pledge the American taxpayer to \$53 billion over the next 5 years in spending on programs of dubious value to our economy. The

current budget deficit requires Federal spending to be drastically reduced. Our defense segment is beginning to be reined in; today we could focus our efforts on another large segment of the budget—agriculture.

In my own State of Maine, our potato and blueberry growers do not need such overly generous Federal supports or elaborate programs to grow and market their crops, and you can be sure that they are important to our economy. Would it not seem that honey, wool and mohair, wheat, cotton, dairy, rice, peanut, corn and sugar producers have their largesse curbed?

Mr. Chairman, our Nation's farmers are the most productive in the world. Without their efforts and know-how, our Nation would be a profoundly different place. But I am not convinced that this productivity is a result of what happens in this Chamber or at the Department of Agriculture. I believe this bill requires a more market- and consumer-oriented approach. This approach would ensure a better bill that would continue the remarkable bounty of our land, which not only nourishes our Nation, but much of the world. I support a different approach to agriculture than provided in this measure and therefore will vote No.

Mr. HOAGLAND. Mr. Chairman, I rise today to vote in favor of the final passage on the 1990 farm bill.

I believe the House Agriculture has done an excellent job under the leadership of Chairman DE LA GARZA bringing this bill to the floor and to a vote.

The farmers of our country need a 5-year commitment to improve our farm program. I believe the bill we will be voting on today is the best program for the money, particularly at a time of rising deficits and budget cutting.

I opposed the efforts that were made to cut payments to farmers at certain income levels, as well as the attempt to cut our sugar program—a program very important to Nebraska.

In particular, I know the soybean farmers of my district will be pleased at the commitment the U.S. farm program is making to them by slightly raising their support levels.

It is crucial we pass this bill before the Uruguay GATT negotiations are concluded this fall, so we can put our farmers in a stronger position.

Mr. Chairman, this 1990 farm bill should be passed today.

Mr. DORGAN of North Dakota. Mr. Chairman, I rise in support of Mr. JOHNSON's amendment to establish extension education programs on Indian reservations and in tribal jurisdictions and to thank Mr. DE LA GARZA and the Agriculture Committee for recognizing its importance by including it in the title XIII en bloc amendments. Extension programs will help strengthen agriculture and education in native American communities.

The needs of American Indian communities have too long been overlooked by the agricultural establishment. Not by intent, but by omission. This amendment is an attempt to correct this situation and provide tribal communities with extension services.

Native American colleges and communities in the State of North Dakota stand to benefit from improved educational opportunities. And

the State, in turn, will benefit through the communities' enhanced contributions.

I hope that my colleagues will join me in supporting Mr. JOHNSON's amendment.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore [Mr. HUGHES] having assumed the chair, Mr. BONIOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 3950) entitled the "Food and Agricultural Resources Act of 1990," pursuant to House Resolution 439, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole?

Mr. VOLKMER. Mr. Speaker, I demand a separate vote on the amendments offered by the gentleman from Illinois [Mr. MADIGAN] to titles IX and X adopted in the Committee of the Whole en bloc.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment?

Mr. ARMEY. Mr. Speaker, I demand a separate vote on every amendment adopted in the Committee of the Whole after titles IX and X.

The SPEAKER pro tempore. Is a separate vote demanded on any other amendment? If not, the Clerk will report the first amendments on which a separate vote has been demanded in the order appearing in the bill.

The Clerk read as follows:

Amendments en bloc: Section 107A of the Agricultural Act of 1949, as amended by section 901 of the bill, is amended by:

In subsection (a)(3)(C) (page 193, lines 4 and 5) striking "not to exceed 5 percent" and inserting "not to exceed 10 percent"; and

In subsection (c)(1)(E)(ii) (page 200, at lines 11 and 12 and at lines 16 and 17) striking "7.5 percent (10 percent in the case of the 1994 and 1995 crops)" and inserting at those two points "22.5 percent"

Section 105A of the Agricultural Act of 1949, as amended by section 1001 of the bill, is amended by:

In subsection (a)(3)(C) (page 226, lines 16 and 17) striking "not to exceed 5 percent" and inserting "not to exceed 10 percent"; and

In subsection (c)(1)(E)(ii) (page 233, lines 17 and 18, and lines 22) striking "15 percent" and inserting at those two points "17.5 percent".

Mr. DE LA GARZA (during the reading). Mr. Speaker, I ask unanimous consent that the amendments en bloc be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the amendment en bloc.

The amendments en bloc were agreed to.

Mr. ARMEY. Mr. Speaker, I ask unanimous consent to withdraw my earlier request.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. The question is on the committee amendment in the nature of a substitute, as modified, as amended.

The committee amendment in the nature of a substitute, as modified, as amended, was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. MADIGAN

Mr. MADIGAN. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. MADIGAN. I am, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. MADIGAN moves to recommit the bill H.R. 3950 to the Committee on Agriculture with instructions to report back the same forthwith with the following amendment:

Section 503(c) is amended to read as follows:

(1) Paragraph (1)(A) (page 291, line 21, through page 292, line 13) is amended to read as follows:

"(A) any program crop.", and

(2) Paragraph (4) is amended to read as follows:

"(4) LIMITATIONS ON BENEFITS.—(A) Except as provided in subparagraph (B), the Secretary shall not make program benefits, other than price support loans (including any loan made under section 107(A)(a), 105(A)(a), 201(g), 103(B)(a) or 101(B)(a)) authorized under this Act for the program crop, available to producers with respect to a program crop planted on flexible crop acreage under paragraph (1), and shall ensure that the crop acreage bases and the flexible acreage base established for the farm are not increased due to such plantings."

"(B) Notwithstanding any other provision of this Act, when the flexible crop acreage designated by the producer under paragraph (1) is planted for harvest to the commodity options (herein also referred to as optional crop) listed in paragraph (1) (B), (C), (D) and (E), the Secretary shall—

"(i) make deficiency payments authorized under this Act for the production on the permitted acres of the program crop (on the same terms and conditions as are provided to participants in the production adjustment program) that are planted to the optional crops.

"(ii) make price support loans authorized under this Act for the optional oilseed crops as provided in section 201(g)(1) of this Act, except that the level of price support in the case of the 1991 through 1995 crops of soybeans shall not be less than \$4.53 per bushel and in the case of the 1991 through 1995 crops of other named oilseeds, or other oilseeds the Secretary may designate, the level of price support shall be set for each such oilseed at such level as the Secretary determines is fair and reasonable in relation to the level of price support available for soybeans, but, except in the case of cottonseed, in no event less than the level established for soybeans on a per-pound basis for the same crop year;

"(iii) permit a producer to repay a price support loan made under this subparagraph for any crop of soybeans or such other oilseeds at a level that is the lesser of the loan level determined for such crop, or the prevailing world market price for such crop, as determined by the Secretary; and

"(iv) ensure that the crop acreage bases and the flexible acreage base established for the farm are not increased due to the plantings provided for in this paragraph."

Mr. MADIGAN. Mr. Speaker, I ask unanimous consent that the motion be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. MADIGAN] is recognized for 5 minutes in support of his motion to recommit.

Mr. MADIGAN. Mr. Speaker, this motion to recommit has nothing to do with the issue that was just previously discussed, and it is something that I hope we would be able to dispose of a division vote here and get to the vote to pass the bill.

Mr. Speaker, the motion to recommit contains instructions. These instructions would save approximately one and a half billions of dollars over the 5-year life of the bill. What the instructions propose to do is to allow farmers more flexibility in their planting intentions. The instructions would not allow those farmers to engage in any type of double dipping, but it would allow farmers to plant on programmed crop land oilseeds and experimental crops.

Mr. Speaker, the adoption of these instructions is supported by environmental groups, farm organizations, and the USDA.

The instructions would reduce the use of chemicals, encourage crop rotation, reduce production of crops that are already in surplus, and encourage production of crops that could move in export.

As I said, Mr. Speaker, this motion to recommit is supported by environmental groups, by the U.S. Department of Agriculture, by farm organizations. It would enable farmers to get more money from the marketplace, less money from the Government, and

would discourage the use of farm chemicals.

Mr. Speaker, I yield back the balance of my time.

□ 2130

Mr. DE LA GARZA. Mr. Speaker, I rise in opposition to the motion to recommit.

I yield to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Speaker, I rise in opposition to this motion to recommit.

I admire the gentleman from Illinois. This amendment was discussed previously, but rejected.

Simply put, it will mean that farmers will be paid as if they grew a crop, but did not grow it, and then planted another crop in the same acreage and received full market price as well. A farmer who grows corn could get a full deficiency payment on that part of his corn eligible under the amendment, or 75 cents a bushel, or \$100 an acre, hypothetically, and then go out and grow soybeans, sunflowers, and a variety of alternative crops and get the full market price as well.

Mr. MADIGAN. Mr. Speaker, will the gentleman yield?

Mr. DE LA GARZA. I yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Speaker, I thank the gentleman for yielding to me.

I do not want to belabor this, but this has not been considered before. I did discuss this with the gentleman. When I described it to him, the gentleman told me he thought he might vote for it.

Mr. GLICKMAN. I now have read it carefully, however.

I would say this, we have discussed it in the committee informally. It is an amendment which may be adopted one of these days, but at this stage it would destroy the flexibility provision of the bill, and I urge a no vote on it.

Mr. DE LA GARZA. Mr. Speaker, I yield to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Speaker, I thank the gentleman for yielding to me.

I also rise in opposition to this proposal. It was discussed and debated in committee. It was an amendment to the Huckaby flexibility bill, which is a part of the committee print.

Basically it is bad agriculture policy. It pits one region against another, one commodity against another.

Mr. Speaker, I would urge the House to reject this motion.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and on a division (demanded by Mr. MADIGAN) there were—ayes 38, noes 92.

So the motion to recommit was rejected.

The SPEAKER pro tempore. The question is on final passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. HUCKABY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 327, noes 91, not voting 14, as follows:

[Roll No. 299]

AYES—327

Ackerman	Emerson	Klecza
Alexander	Engel	Kolbe
Anderson	English	Kolter
Andrews	Erdreich	Kostmayer
Annuzio	Espy	LaFalce
Anthony	Evans	Lancaster
Applegate	Fascell	Lantos
Aspin	Fazio	Laughlin
AuCoin	Feighan	Leach (IA)
Baker	Flippo	Lehman (CA)
Barnard	Foglietta	Lehman (FL)
Barton	Ford (MI)	Levin (MI)
Bateman	Frost	Levine (CA)
Bentley	Gaydos	Lewis (CA)
Bereuter	Gedjenson	Lewis (FL)
Bevill	Gekas	Lewis (GA)
Bilbray	Gephardt	Lightfoot
Bliley	Geren	Livingston
Boehlert	Gillmor	Lloyd
Boggs	Gilman	Long
Bonior	Grinch	Lowery (CA)
Borski	Glickman	Lowey (NY)
Bosco	Gonzalez	Lukens, Thomas
Boucher	Goodling	Machtley
Boxer	Gordon	Manton
Brooks	Grandy	Markey
Browder	Grant	Marlenee
Brown (CA)	Gray	Martin (IL)
Bruce	Gunderson	Martin (NY)
Bryant	Hall (OH)	Martinez
Buechner	Hamilton	Matsui
Bunning	Hammerschmidt	Mavroules
Burton	Hansen	Mazzoli
Bustamante	Harris	McCandless
Byron	Hastert	McCloskey
Callahan	Hatcher	McCrery
Campbell (CO)	Hayes (IL)	McCurdy
Carper	Hayes (LA)	McDade
Carr	Hefley	McDermott
Chandler	Hefner	McEwen
Chapman	Henry	McHugh
Clarke	Herger	McMillan (NC)
Clay	Hiler	McMillen (MD)
Clement	Hoagland	McNulty
Clinger	Hochbrueckner	Meyers
Coble	Holloway	Mfume
Coleman (MO)	Hopkins	Michel
Coleman (TX)	Horton	Miller (OH)
Collins	Houghton	Mineta
Combest	Hoyer	Moakley
Condit	Hubbard	Molinari
Cooper	Huckaby	Mollohan
Costello	Hughes	Montgomery
Coyne	Hunter	Morella
Craig	Hutto	Morrison (WA)
Darden	Hyde	Mrazek
Davis	Inhofe	Murphy
de la Garza	James	Murtha
DeFazio	Jenkins	Myers
Derrick	Johnson (CT)	Natcher
DeWine	Johnston	Neal (NC)
Dickinson	Jones (GA)	Nowak
Dicks	Jones (NC)	Oakar
Dingell	Jontz	Oberstar
Dixon	Kanjorski	Obey
Durbin	Kaptur	Olin
Dymally	Kasich	Ortiz
Dyson	Kennedy	Owens (NY)
Eckart	Kennelly	Oxley
Edwards (OK)	Kildee	Panetta

Parker	Savage	Synar
Parris	Sawyer	Tallon
Pashayan	Schaefer	Tanner
Patterson	Schiff	Tauke
Paxon	Schuetz	Tauzin
Payne (NJ)	Schulze	Taylor
Payne (VA)	Schumer	Thomas (CA)
Pease	Serrano	Thomas (GA)
Pelosi	Sharp	Thomas (WY)
Penny	Shaw	Torres
Perkins	Shuster	Torricelli
Petri	Sikorski	Towns
Pickett	Sisisky	Trafigant
Pickle	Skaggs	Traxler
Poshard	Skeen	Udall
Price	Skelton	Unsoeld
Pursell	Slattery	Upton
Quillen	Slaughter (NY)	Valentine
Rahall	Slaughter (VA)	Vander Jagt
Rangel	Smith (FL)	Vento
Ravenel	Smith (IA)	Visclosky
Ray	Smith (NE)	Volkmeyer
Regula	Smith (NJ)	Walgren
Rhodes	Smith (TX)	Walsh
Richardson	Smith, Denny	Washington
Ridge	(OR)	Watkins
Ritter	Smith, Robert	Waxman
Roberts	(OR)	Weber
Robinson	Snowe	Weiss
Roe	Solarz	Wheat
Rogers	Solomon	Whittaker
Ros-Lehtinen	Spence	Whitten
Rose	Spratt	Wilson
Rostenkowski	Staggers	Wise
Roth	Stallings	Wolf
Rowland (CT)	Stangeland	Wolpe
Rowland (GA)	Stenholm	Wyden
Sabo	Stokes	Yatron
Saiki	Sundquist	Young (AK)
Sarpalius	Swift	

NOES—91

Archer	Fawell	Nielson
Army	Fields	Owens (UT)
Atkins	Frank	Packard
Ballenger	Frenzel	Pallone
Bartlett	Gallegly	Porter
Bates	Gallo	Rinaldo
Beilenson	Gibbons	Rohrabacher
Bennett	Goss	Roybal
Berman	Gradison	Russo
Brennan	Green	Sangmeister
Broomfield	Guarini	Saxton
Brown (CO)	Hancock	Scheuer
Campbell (CA)	Hertel	Schneider
Cardin	Ireland	Schroeder
Conte	Jacobs	Sensenbrenner
Conyers	Johnson (SD)	Shays
Coughlin	Kastenmeier	Shumway
Cox	Kyl	Smith (VT)
Crane	Lagomarsino	Smith, Robert
Dannemeyer	Lent	(NH)
DeLay	Lipinski	Stark
Dellums	Lukens, Donald	Stearns
Donnelly	Madigan	Studds
Dorgan (ND)	McCollum	Stump
Dornan (CA)	McGrath	Vucanovich
Douglas	Miller (CA)	Walker
Downey	Miller (WA)	Weldon
Dreier	Moody	Williams
Duncan	Moorhead	Yates
Early	Nagle	Young (FL)
Edwards (CA)	Neal (MA)	

NOT VOTING—14

Bilirakis	Flake	Morrison (CT)
Courter	Ford (TN)	Nelson
Crockett	Hall (TX)	Roukema
Dwyer	Hawkins	Wylie
Fish	Leath (TX)	

□ 2154

The Clerk announced the following pairs:

On this vote:

Mr. Flake for, with Mr. Morrison of Connecticut against.

Mr. Nelson of Florida for, with Mrs. Roukema against.

Mr. LENT and Mr. RINALDO changed their vote from "aye" to "no."

Mrs. KENNELLY changed her vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 3086. An act to amend title 5, United States Code, to grant appeal rights to members of the excepted service affected by adverse personnel actions, and for other purposes.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2830. An act to extend and revise agricultural price support and related programs, to provide for agricultural export, resource conservation, farm credit, and agricultural research and related programs, to ensure consumers an abundance of food and fiber at reasonable prices, and for other purposes.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 3950, FOOD AND AGRICULTURAL RESOURCES ACT

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 3950, the Clerk be authorized to correct section numbers, punctuation, and cross-references, and to make such other conforming changes as may be necessary to reflect the actions of the House in amending and adopting the bill, H.R. 3950.

The SPEAKER pro tempore (Mr. OWENS of Utah). Is there objection to the request of the gentleman from Texas?

There was no objection.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material on H.R. 3950.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1594, EXTENSION OF NONDISCRIMINATORY TREATMENT TO PRODUCTS OF HUNGARY, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-654) on the resolution (H. Res. 447) waiving certain points of order against the conference report on the bill (H.R. 1594) the Customs and Trade Act of 1990, and against the consideration of such conference report which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5350, TEMPORARY INCREASE IN PUBLIC DEBT LIMIT

Mr. MOAKLEY, from the Committee on Rules, submitted a privilege report (Rept. No. 101-655) on the resolution (H. Res. 448) providing for the consideration of the bill (H.R. 5350) to provide for a temporary increase in the public debt limit, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4000, CIVIL RIGHTS ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-656) on the resolution (H. Res. 449) providing for the consideration of the bill (H.R. 4000) to amend the Civil Rights Act of 1964, to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, which was referred to the House Calendar and ordered to be printed.

POTENTIAL ADDITION OF ST. MARY'S RIVER IN FLORIDA AND GEORGIA TO WILD AND SCENIC RIVERS SYSTEM

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 76) to amend the Wild and Scenic Rivers Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment as follows:

Strike out all after the enacting clause and insert:

SECTION 1. ST. MARYS RIVER STUDY

(a) STUDY.—Section 5(a) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(a)), is further amended by adding the following new paragraph at the end thereof:

"(106) ST. MARYS RIVER, FLORIDA AND GEORGIA.—The segment from its headwaters to its confluence with the Bells River."

(b) COMPLETION DATE.—Section 5(b) of the Wild and Scenic Rivers Act, as amended (16 U.S.C. 1276(b)), is further amended by adding the following new paragraph at the end thereof:

"(8) The study of the river named in paragraph (106) of subsection (a) shall be completed not later than three years after the date of enactment of this paragraph. In carrying out the study, the Secretary of the Interior shall consult with the Governors of the States of Florida and Georgia or their representatives, representatives of affected local governments, and owners of land adjacent to the river. Such consultation shall include participation in the assessment of resource values and the development of alternatives for the protection of those resource values, and shall be carried out through public meetings and media notification. The study shall also include a recommendation on the part of the Secretary as to the role the States, local governments and landowners should play in the management of the river if it were designated as a component of the National Wild and Scenic Rivers System."

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. RHODES. Mr. Speaker, reserving the right to object, I yield to the gentleman from Minnesota to explain the Senate amendment.

Mr. VENTO. Mr. Speaker, H.R. 76 provides for a wild and scenic river study of the St. Marys River in Florida and Georgia. The legislation originally passed the House on October 16, 1989. Subsequently, the Senate considered the measure on June 14, 1990 and has returned the bill to the House with an amendment.

The Senate amendment provides that the Secretary of the Interior consult with various affected parties during the preparation of the study. Sections 4 and 5 of the Wild and Scenic Rivers Act already provide for such consultation and coordination in the preparation of wild and scenic river studies. While the Senate amendment is thus redundant of current law, I believe this is not a major point of issue and am willing to accept the amendment in the interest of moving forward with the study of this significant riverine resource.

Mr. Speaker, I want to take this brief opportunity to commend representative BENNETT, the sponsor of the

bill, for his unwavering interest and foresight in seeking ways to conserve and enhance the resource values of lands and rivers in the Florida region. Concurrence by the House today will complete legislative action on H.R. 76. I support H.R. 76, as amended, and commend it to the House.

Mr. RHODES, Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

□ 2000

JUAN BAUTISTA DE ANZA NATIONAL HISTORIC TRAIL

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 1159) to amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Page 2, line 14 after "Interior," insert "No lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Juan Bautista de Anza National Historic Trail without the consent of the owner thereof."

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore (Mr. OWENS of Utah). Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. RHODES. Mr. Speaker, reserving the right to object, will the gentleman from Minnesota please explain the Senate amendment? I am happy to yield to the gentleman for that purpose.

Mr. VENTO. Mr. Speaker, H.R. 1159 would amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail in Arizona and California. The legislation originally passed the House on March 6, 1990. Subsequently, the Senate considered the measure on May 22, 1990 and has returned the bill to the House with an amendment.

The Senate amendment provides that no lands or interests therein outside the exterior boundaries of any federally administered area may be acquired by the Federal Government for the Juan Bautista de Anza National

Historic Trail without the consent of the owners thereof. While this is a further restriction on the limited acquisition authority provided for in the National Trails System Act, it has been common practice to include such language for national historic trail designations made in the last decade. In fact, the last five trails added to the National Trails System have included identical language. As such, I am willing to accept the amendment since it is consistent with similar trail designations.

Mr. Speaker, the de Anza Expedition was an important event in the exploration and settlement of the Arizona and California regions. Designation as a national historic trail will assist in providing appropriate commemoration and education of this event. I want to commend the gentleman from California [Mr. MILLER], the sponsor of the bill, for his interest and initiative on this matter. I know of no controversy with the legislation and urge its passage by the House.

Mr. RHODES. Mr. Speaker, I thank the gentleman for his explanation.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

ENROLLING 20 INDIVIDUALS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 666) entitled "An Act to enroll twenty individuals under the Alaska Native Claims Settlement Act" with Senate amendments to the House amendments thereto, and concur in the Senate amendments to the House amendments.

The Clerk read the title of the Senate bill.

The Clerk read the Senate amendments to the House amendments, as follows:

Page 2, line 22, of the House engrossed amendment, strike out "101" and insert "201".

Page 5, line 2, of the House engrossed amendment, strike out "Incorporated." and insert "Incorporated."

Page 5, after line 2, of the House engrossed amendment, insert "Nothing in subparagraphs (C) or (D) shall create a right or cause of action by Kootznoowoo, Incorporated, or any other party against the United States."

Page 5, line 19, of the House engrossed amendment, strike out "Cooper" and insert "Copper".

Page 5, line 20, of the House engrossed amendment, strike out "Cooper" and insert "Copper".

Page 6, line 5, of the House engrossed amendment, strike out "8756" and insert "3756".

Page 6, line 9, of the House engrossed amendment, strike out "876.60" and insert "376.60".

Page 6, line 13, of the House engrossed amendment, strike out "876.60" and insert "376.60".

Page 6, line 14, of the House engrossed amendment, strike out "8756" and insert "3756".

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the Senate amendments to the House amendments be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. YOUNG of Alaska. Mr. Speaker, reserving the right to object, I would ask the gentleman from Minnesota to explain his request.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. YOUNG of Alaska. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, I appreciate the gentleman yielding on his initiative here. It is a good bill.

Mr. Speaker, as passed by the Senate on June 6, 1990, S. 666 authorized the Secretary of the Interior to enroll 20 named individuals under the Alaska Native Claims Settlement Act.

On June 10, 1990, the House Interior Committee reported the bill with amendments adding two new titles. The first made certain amendments to the Alaska National Interest Lands Conservation Act to resolve several longstanding issues regarding the management of certain lands on Admiralty Island and the land entitlement of the Kootznoowoo Native corporations.

The second amended the Alaska Native Claims Settlement Act, as amended in 1988, to resolve certain problems relating to the extension of the period of inalienability of shares of stock in Native corporations.

The House passed S. 666 with these amendments on July 10, 1990, under suspension of the rules by a vote of 361 to 43.

On July 23, 1990, the Senate concurred in the House amendments with seven amendments. Six are purely technical in nature, correcting certain land descriptions in title II regarding the Admiralty Island lands. The seventh amends title II to ensure that any exchange of lands, pursuant to such title, between the Forest Service and Kootznoowoo is one mutually agreed upon by both parties.

Mr. Speaker, the Senate amendments to S. 666 are noncontroversial

and I urge House concurrence in the amendments.

Mr. YOUNG of Alaska. Mr. Speaker, I thank the gentleman for his explanation, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

INDIAN LAW ENFORCEMENT REFORM ACT

Mr. VENTO. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 498) to clarify and strengthen the authority for certain Department of the Interior law enforcement services, activities, and officers in Indian country, and for other purposes, with House amendments to the Senate amendment thereto, and concur in the House amendments to the Senate amendment.

The Clerk read the title of the bill:

The Clerk read the House amendments to the Senate amendment, as follows:

Strike all of section 11 and renumber subsequent sections accordingly.

Strike all of section 13 and renumber subsequent sections accordingly.

Mr. VENTO (during the reading). Mr. Speaker, I ask unanimous consent that the House amendments to the Senate amendment be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

Mr. RHODES. Mr. Speaker, reserving the right to object, I ask the gentleman from Minnesota to explain what is involved, and I yield to the gentleman from Minnesota for that purpose.

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding. Of course he is familiar with this bill as he has worked on it.

Mr. Speaker, H. R. 498 is a bill to clarify and strengthen the law enforcement responsibilities of the Bureau of Indian Affairs. The bill passed the House on May 23, 1989, by voice vote under suspension of the rules.

On November 18, 1989, the Senate passed the bill with an amendment in the nature of a substitute. The substitute made certain germane amendments to H. R. 498 as passed by the House. The changes were made in response to concerns of the administration and are acceptable to the Interior Committee.

In addition, the Senate amendment added four nongermane items.

Two of the items, one amending the Hoopa-Yurok Indian Settlement Act and one amending the Indian Gaming Regulatory Act, have since been enacted into law by another bill. The further House amendment will strike these two items from H. R. 498 as unnecessary.

One of the remaining nongermane items would permit the Eastern Band of Cherokee Indians of North Carolina to sell its interest in certain real estate. The matter is noncontroversial and is supported by the committee.

The other remaining item would establish a joint Federal-State Commission to make a study of the problems of the Natives of the State of Alaska. Both the State and the Federal Government have appropriated funds on hand to support the work of this commission and are merely awaiting the authorization.

Mr. Speaker, I know of no opposition to the bill with the Senate amendment and urge the House to concur in the Senate amendment with the further House amendment.

Mr. Speaker, I want to commend the gentleman from Alaska [Mr. YOUNG] and the gentleman from California [Mr. MILLER], who are interested in this issue. I hope that commission can provide us the answer.

Mr. RHODES. Mr. Speaker, I thank the gentleman from Minnesota for his explanation.

Further reserving the right to object, Mr. Speaker, I yield to the gentleman from Alaska [Mr. YOUNG].

Mr. YOUNG of Alaska. Mr. Speaker, I want to thank the chairman of the subcommittee for his work and diligence, especially on the commission end of this, and I thank the gentleman from Arizona for his work on the other part of this legislation.

Primarily the commission is so very, very important to Alaskan Natives; this bill has been waiting around and is badly needed. I do compliment both gentlemen for working very hard on this legislation.

Mr. RHODES. Mr. Speaker, further reserving the right to object, I yield to the gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding. I want to recognize the efforts of the gentleman from Alaska on behalf of this legislation. It is consistent with his outstanding efforts on the Alaska Natives, and I hope that we do pass this legislation.

Mr. Speaker, I rise in support of this legislation. Section 14 provides for a joint Federal-State Commission to review the policies and programs affecting Alaska Natives. Establishment of this Commission is a top priority of the Alaska Federation of Natives, an organization which has a distinguished

history of effective advocacy on behalf of Alaska Native peoples.

The Commission bill was introduced in the House by the gentleman from Alaska who should be recognized for his longstanding efforts to help Alaska natives. I would also like to acknowledge the strong support for this legislation by Alaska Gov. Steve Cowper. The State of Alaska has committed to funding one-half of the Commission's costs.

Mr. Speaker, last year the Alaska Federation of Natives published a comprehensive study which detailed serious social problems, poor health conditions, disadvantaged educational position, and lack of economic opportunities, especially for Alaska Natives in rural villages. The AFN report points out that those most at risk are children and young adults. This situation is of special concern for me as chairman of the Select Committee on Children, Youth and Families.

Mr. Speaker, there are no easy solutions to the problems identified by the AFN report. It is my sincere hope that the Commission will be successful in getting existing Federal and State programs to work more effectively and in developing creative approaches to deal with the many challenges confronting the Alaska Native community.

Mr. RHODES. Mr. Speaker, further reserving the right to object, the law enforcement portion of this bill related to the Indian country is extremely important, and unfortunately got tangled in other matters. I want to thank the gentleman from California [Mr. MILLER], and the gentleman from Alaska [Mr. YOUNG], and I appreciate as well the help of the gentleman from Minnesota [Mr. VENTO] in finally letting my bill go.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Minnesota?

There was no objection.

A motion to reconsider was laid on the table.

PERMISSION FOR COMMITTEE ON INTERIOR AND INSULAR AFFAIRS TO SIT ON FRIDAY, AUGUST 3, 1990, DURING THE 5-MINUTE RULE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be permitted to meet on Friday, August 3, 1990, while the House is meeting under the 5-minute rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. RHODES. Mr. Speaker, reserving the right to object, may I ask the gentleman from Minnesota, it is my understanding that this leave request

is for the purpose of considering H.R. 3764, which amends the Wild and Scenic Rivers Act related to the Delaware River; H.R. 5063, relating to the Fort McDowell Indian Community Water Rights Settlement Act of 1990; and an unnumbered House bill relating to the Puerto Rico Self-Determination Act?

Mr. VENTO. If the gentleman will yield, that is my understanding of the business at hand.

I would further add that while we may or may not be under the 5-minute rule, I think in order to provide for a continuity of consideration of this matter, granting the request would be appreciated.

Mr. RHODES. Further reserving the right to object, Mr. Speaker, I will not object to the unanimous-consent request as it relates to those three bills, but would observe to the gentleman that if additions are to be made to the calendar for Friday, we would need an additional unanimous-consent request.

Mr. VENTO. Mr. Speaker, if the gentleman will yield further, I understand that those are the only three bills that have been noticed and can properly be considered at that time under the rules of the committee and the House.

Mr. RHODES. Mr. Speaker, I thank the gentleman, and I withdraw my reservation for objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the amendments considered this evening to H.R. 76, H.R. 1159, S. 666, and H.R. 498.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

□ 2210

BILL RELATING TO ESTATE VALUATION FREEZES

The SPEAKER pro tempore (Mr. OWENS of Utah). Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI], is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, today I am introducing legislation to repeal and replace the provisions of section 2036(c) of the Internal Revenue Code, relating to estate valuation freezes.

The estate freeze provisions of section 2036(c) were enacted in the Omnibus Budget Reconciliation Act of 1987. Congress enacted these provisions to curb abusive avoidance of the Federal estate and gift tax. Since these provisions were enacted, concern has been

expressed about their complexity and breadth. Modifications made in the Technical and Miscellaneous Revenue Act of 1988 were intended to address some of these concerns.

In response to concerns that continue to be expressed about the estate freeze provisions, on March 22, 1990, I released a discussion draft of a bill designed to replace current section 2036(c) with other provisions that would be less burdensome and more focused. This discussion draft was intended to begin an informed discussion about possible modifications to section 2036(c). It has accomplished that purpose.

On April 24, 1990, the Committee on Ways and Means held a public hearing to consider the discussion draft and other proposals to modify section 2036(c). At the hearing, the committee received testimony from a wide variety of interested business groups and tax practitioners, as well as from the Department of the Treasury. The overwhelming consensus of the witnesses was that the discussion draft was a significant improvement over current law and an important step in the right direction.

At the hearing and subsequently, the committee has received a number of constructive suggestions about ways in which the discussion draft might be improved. Many of these suggestions are technical in nature, addressing the mechanical working of the proposed statutory language. Other suggestions address more fundamental questions as to the scope and design of the discussion draft. Most of these suggestions, however, recognize the need for replacing current section 2036(c) with some statutory provision to prevent abusive avoidance of the Federal estate and gift tax system. Virtually all of these suggestions recognize the legitimacy of the basic approach of the discussion draft.

Consequently, Mr. Speaker, the bill which I am introducing today is based on the discussion draft, modified to reflect numerous technical refinements as suggested by the public and the Treasury Department. A principal purpose of introducing this bill is to give the interested public a further opportunity to consider and comment upon these modifications. This bill as introduced today does not purport to address or resolve all of the substantive issues that have been raised with respect to the scope or design of the discussion draft. These issues can be addressed at a later point in the legislative process. Rather, this bill is the good-faith product of an ongoing interchange of technical expertise between the public and private sectors.

It is my hope that this process of public review and comment will assist the Committee on Ways and Means in proceeding responsibly to address this difficult and important tax policy issue.

A brief explanation of the bill accompanies this statement.

EXPLANATION OF H.R. 5425

PRESENT LAW

The estate and gift tax is imposed on the value of property passing by gift or bequest. This value is the price at which the property would change hands between a willing buyer and willing seller. The statute of limitations for the gift tax is three years from the filing of the gift tax return.

If a person holds a substantial interest in an enterprise and, in effect, transfers property having a disproportionately large share of the potential appreciation in such person's interest while retaining an interest in the income of, or rights in, the enterprise, then the transferred property is includible in such person's gross estate (sec. 2036(c)).

EXPLANATION OF PROVISIONS

In general

The bill generally follows the discussion draft released by Chairman Rostenkowski on March 22, 1990. That draft would repeal section 2036(c) and enact in its place rules generally intended to modify the gift tax valuation rules so as to value more accurately the initial transfer. The bill makes numerous, generally technical, modifications to the draft. The principal modifications are described below.

Preferred interests in corporations and partnerships

The bill excludes transfers of publicly traded interests from the special valuation rules governing preferred interests in corporations and partnerships. The bill also limits those rules to interests retained by the transferor and family members of the transferor in generations higher than the transferee. The bill makes explicit the assumption of the discussion draft that the value of the transferred interest in a corporation or partnership is determined by subtracting the value of the interests in the entity retained by the transferor and certain family members from the value or all the interests held by such persons prior to the transfer.

The bill also provides that any amounts required to be paid under debt instruments and leases are valued on the assumption that payments will be made as provided in the instrument. In addition, any right to receive noncumulative distributions with respect to a stock or partnership interest may, upon election, be treated as a qualified payment.

Trusts and term interests in property

The rules governing trusts and term interests in property are placed in a separate section from those governing corporations and partnerships.

Restricted property

The bill eliminates the 3-year review requirement applicable to formula price buy-sell agreements. Thus, the option price contained in an agreement generally is not disregarded under the bill if the price is determined pursuant to a formula which was reasonably expected to produce a price approximating fair market value at the time of exercise.

The bill adds second exception under which the option price is not disregarded in valuing stock or partnership interests if more than 50 percent of such stock or interest sold pursuant to the option or agreement is sold to persons unrelated to the decedent.

Treatment of lapsing rights

The bill adds rules governing the transfer tax consequences of lapsing rights and restrictions. These rules are intended to prevent results similar to those of *Estate of Harrison v. Commissioner*, 52 T.C.M. (CCH) 1306 (1987).

Statute of limitations

The bill eliminates the provision of the discussion draft extending the statute of limitations from three to six years.

EFFECTIVE DATE

The bill repeals section 2036(c) retroactively from the date of its enactment. The valuation rules for transfers of interests in corporations and partnerships and transfers in trust are effective for gifts made after July 31, 1990. The rule regarding options and buy-sell agreements applies to agreements and options entered into, granted, or substantially modified after July 31, 1990. The rules regarding lapsing rights apply to restrictions, rights, or limitations on rights created after July 31, 1990. The extension of the gift tax statute of limitations for unreported gifts applies to gifts made after July 31, 1990.

LIKE JACKRABBITS, IRS ACCOUNTS RECEIVABLE KEEP MULTIPLYING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. PICKLE] is recognized for 5 minutes.

Mr. PICKLE. Mr. Speaker, I come before you today to shed some light on a very serious situation. Facing a deficit that can use all the help we have to offer it, we must turn our heads in the direction of that unpopular arm of revenue collection, the Internal Revenue Service.

Today's Internal Revenue Service, through a serious lack of management controls and accounting procedures, finds itself facing billions of dollars in the accounts receivable inventory. Back in February of this year, the Ways and Means Committee's Subcommittee on Oversight found that taxpayers have neglected to pay, or simply have been unable to pay up to \$87 billion owed in taxes.

Unfortunately, however, the problem is not one that can be clearly and concisely cleaned up with a few simple steps, nor is it a problem that can continually be ignored. Today, the Committee on Governmental Affairs in the other body has considered the problems involved in the giant and growing inventory of these accounts receivable. I am pleased to see they share the House Oversight Subcommittee's concern and realize the importance of this issue.

This week the General Accounting Office [GAO] provided the Oversight Subcommittee with the first of a series of reports on IRS accounts receivable that my subcommittee has requested. I would like to share with you at this time the findings of this report.

The most startling discovery concerning this large amount of unpaid taxes is that they just won't quit growing. Just like the jackrabbits that continually rob cattle of their grass, these folks who won't pay the IRS what they owe, rob our Nation of its much-needed revenue. Along the same lines, these rabbits seem to keep multiplying. As of June 30, only 4 months after our initial investigation, the accounts receivable inventory has risen by over \$8 billion, to in excess of \$95 billion

dollars now. I recognize that it is not realistic to say \$95 billion is out there hanging on a tree limb waiting to be picked. But, the IRS testified that \$30 billion to \$40 billion is collectable. We should take them at their word and send IRS a bill for \$30 billion.

GAO reports that in 1988, the IRS developed data bases to hold information on the collection status and the age of accounts receivable. Even with the new information, the GAO report shows that the inventory is still increasing while time is running out. In general, the longer taxes go unpaid the harder they are to collect, and the IRS has only 6 years to collect them. Unfortunately, GAO states that over \$6 billion of the 1989 accounts were over 5 years old. Over 55 percent of the total receivables in 1989 were over 1 year old as compared with 46 percent in 1986.

In addition, this inventory seems to be snowballing at an alarming rate. According to GAO, from the 3-year period of 1986 to 1989, there was a 32 percent overall growth in the dollar amounts of accounts receivable inventory. Sadly, two-thirds of this growth rate appears to be developing from individual accounts.

To add more confusion to an already jumbled issue, GAO further reports that most of the growth in the dollar value of the business accounts receivable over the past 3 years stems from a large number of the receivables that are deemed inactive, which warrants suspension of the IRS collection efforts. These are cases where the amount owed is below a predetermined dollar level, where the taxpayer is in bankruptcy, deemed unable to pay, cannot be located, or where a corporation no longer exists.

Unfortunately, the problems do not stop here, and this Gordian Knot at this point doesn't have a Sword of Damocles to cut straight through the middle of the issue. But the House Oversight Subcommittee is concerned and has the will to get to the bottom of the problem. So, I would like to state for the record that the Oversight Subcommittee, with the assistance of GAO, will further research this issue and inform you of any light we may find at the end of this tunnel. We intend to hold a hearing on this issue in September. Until then, keep your shotguns cocked, 'cause those jackrabbits are out there.

HUMAN RIGHTS ABUSES IN YUGOSLAVIA AGAINST ETHNIC ALBANIANS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Colorado [Mr. BROWN] is recognized for 5 minutes.

Mr. BROWN of Colorado. Mr. Speaker, ethnic Albanians in Kosovo continue to be deprived of their basic

rights to live in freedom. Economic assistance to Yugoslavia should be suspended until Serbia alters their policy of human rights violations against the ethnic Albanian population of Kosovo and until it agrees to true democratic reforms.

Our own Secretary of State Baker recently announced five criteria which nations should meet if they are to receive U.S. economic assistance.

I think they are instructive here. The criteria include: Adherence to the rule of law, respect for human rights, multiparty political systems, free and fair elections, and the movement within that nation toward a market-oriented economy.

Mr. Speaker, the Government of Yugoslavia clearly does not meet these criteria. The Serbian President of Yugoslavia, in his inaugural address this past spring, announced that Serbia would resolutely oppose democratic movements in Kosovo. Tragically, 70 Albanians have been killed by Serbian police in this last year. Many of them were unarmed. They were peaceful protestors, simply asking for return of autonomy, basic democratic reforms.

The Serbian Parliament has reintroduced a state of emergency in Kosovo and has suspended the assembly after they passed a declaration calling for the return of their autonomous status.

Serbia retains a state-controlled economy and has resisted attempts to introduce market-oriented reforms. Helsinki Watch, Freedom House, and other human rights organizations have identified Serbia as a violator of accepted human rights practices.

□ 2220

Since Serbia continues to engage in activities which clearly run contrary to the criteria that our own Secretary of State has set forth, why in the world should the United States continue to give economic assistance to the Yugoslavia Government that can go to that Serbian state?

Mr. Speaker, it is time to put our money where our mouth is. It is time to suggest that the criteria the administration has brought forth be implemented with regard to aid to Yugoslavia.

INTRODUCTION OF BILL TO SUSPEND MOST-FAVORED-NATION STATUS OF YUGOSLAVIA

The SPEAKER, pro tempore. (Mr. OWENS of Utah). Under a previous order of the House, the gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, I want to associate myself with the remarks of my colleague who just addressed the issue of ethnic Albanians in Yugoslavia. What has happened

here is a most unusual situation. I have developed quite an awful lot of steam because of the bill that I have introduced, which would strip the most-favored-nation trading status for that of Yugoslavia because of their treatment of ethnic Albanians.

I do not have too many Albanians in my district, and I have an awful lot of Serbians, all fine people. It is very hard to explain the issue in my community. However, very simply it is this: We have a Communist government that is running roughshod over ethnic Albanians, with tremendous numbers of Albanians in jails, without due process, and the firings of instructors and teachers and broadcasters and economic leaders. There is an apartheid that exists not only in South Africa but in another nation, and it is a Communist nation.

Congress stands as a beacon of light and hope against human rights violations, and specifically, my bill, H.R. 5178, states very clearly that any person with reasonable eyesight can identify the fact that the Government of the Socialist Federal Republic of Yugoslavia has failed to meet its obligations as a signatory to the Helsinki Final Act of the Conference on Security and Cooperation in Europe with respect to its treatment of ethnic Albanians; No. 2, recognizes and emphasizes the continued dedication of the United States to fundamental human rights and is concerned with the Socialist Federal Republic of Yugoslavia's lack of commitment to those rights, and further recognizes that our extension of nondiscriminatory treatment for products of the Socialist Federal Republic of Yugoslavia can be construed as an endorsement of that nation's abusive internal practices.

Without question, I have submitted a bill that calls for the stripping of the most-favored trade status to Yugoslavia, and I believe that the ethnic Serbians in Yugoslavia are endangered as much by the human rights violations of ethnic Albanians as anyone else. And if we are going to be the beacon of hope, and we are going to stand for rights, then we just cannot stand for the right cases when it is not politically popular. When it is politically expedient, we cannot just stand up in this case. I understand what the other speakers will say, and this is a complicated issue. However, I am saying here today that apartheid does exist. We should not tolerate it. The Berlin Wall has become a speed bump, the Iron Curtain has become a screen door, and there is no reason why this should exist, and there is only one way to deal with it. That is, get the pocketbook of that Communist regime that is ripping off ethnic Albanians.

That is what my bill stands for. I have never taken a special order, and I would like to say this to the Members of the House: If we are going to stand

for human rights, let Members stand for them not just stand for the human rights cases that are politically expedient.

PEACE FOR KOSOVO

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Speaker, while we celebrate the fact that the yoke of communism has been lifted throughout central and Eastern Europe, we cannot forget that there are still places where repression has not been lifted and where people live without respect for human rights. These are the same places where communism continues to exist. Coincidentally, it is in these same places that ethnic tension has resulted tragically in violence and bloodshed. The Bulgarians repress the ethnic Turks, the Romanians persecute the ethnic Hungarians and the Serbs and ethnic Albanians are currently at a tense stand-off in the Kosovo region.

Today respect for human rights is nonexistent in Kosovo. The ethnic Albanians population, which comprises almost 90 percent of the population in the province, has been almost completely suppressed by Serbian authorities in response to calls for human rights and political autonomy. Amnesty International reports that 1,700 ethnic Albanians were detained last February for taking part in nonviolent protest strikes in Kosovo. Some were reportedly beaten while in custody and the police have been accused of using excessive force against other demonstrators. Dozens were reported killed during this violence.

The heavy-handed response of the authorities to the situation in Kosovo, which led to many human rights violations and not to solutions, threatens to tear the province apart. Further unrest in Kosovo can only be averted if all parties involved agree to peaceful dialog. The continued democratization of Yugoslavia and the unity of this multiethnic federation depends upon a resolution to this crisis.

I am pleased to say that the House has not been silent on this issue. The Appropriations Committee sent a strong message to Yugoslavia's Government in its fiscal year 1991 report to the foreign operations appropriations bill which was approved by the House of June 27. The committee on my amendment put the Yugoslav Government on notice that in reviewing planned obligations through the notification process for Yugoslavia, it will closely watch the human rights situation in Kosovo and will not tolerate the level of abuses that the region has seen in the last year.

The committee also highlighted the Helsinki Commission's finding that

the abuses in Kosovo are among the worst remaining human rights problems in Europe and emphasized that the changing political landscape is not an excuse for the reemergence of old ethnic hatreds.

While this action by the committee alone will not solve the terrible problem that exists in Kosovo it is an important first step in bringing influence to bear on the Yugoslav Government. This recognition sends a strong message that violation of basic human rights will not go unnoticed by this Congress and is a beacon of hope for ethnic Albanians in Kosovo.

The potential exists for the Serbs and ethnic Albanians to live in harmony, but they must be aware that to make progress, there must be an end to the atrocities and they must respect each other's rights. Hatred and bloodshed will engender only more violence. Cooperation and understanding will lead to peace and hope for the future in the Kosovo region.

Mr. Speaker, in addition to those comments about the Kosovo situation, I am very unhappy to report to the House that our former colleague, Congressman DioGuardi of New York who was visiting Yugoslavia recently has been banned by the Government of Yugoslavia from visiting that country for a 5-year period. This is an outrageous totalitarian action against a former Member of this body that cannot be tolerated. Mr. DioGuardi was there to look into and advocate in behalf of the ethnic Albanian population, did not violate any laws of any civilized nation regarding his right to speak his mind, and should be entitled as all the citizens of Yugoslavia should be entitled to the same civil and human rights of all people in any civilized nation. We in the United States protest the action of the Government in Yugoslavia in banning former Congressman DioGuardi, and believe that the Yugoslavian Government must reverse this action if we are to continue to have a firm and friendly relationship with that country.

Finally, let me report to the House of Representatives that the European Parliament has taken very strong action regarding the situation in Kosovo. They have passed a resolution recently that condemns the suspension of the Kosovo Parliament and the subjugation of radio and television in Kosovo to control of the Serbian authorities, and call for the immediate listing of a state of emergency in the measures contrary to the freedom of expression or assembly. They also called on the Government of Yugoslavia to enter into negotiations to find a solution to Kosovo's problems that respect the principles of human rights. That is a very serious situation, Mr. Speaker. I am glad to report to the House that the European Parlia-

ment has spoken so strongly in regard to it.

□ 2230

HUMAN RIGHTS IN KOSOVO

The SPEAKER pro tempore (Mr. OWENS of Utah). Under a previous order of the House, the gentleman from New York [Mr. ENGEL] is recognized for 5 minutes.

Mr. ENGEL. Mr. Speaker, I rise today to add my voice to those who condemn the human rights abuses which are occurring in the Yugoslavian Province of Kosovo. The struggle of ethnic Albanians to exercise rights guaranteed to all peoples under the Universal Declaration of Human Rights must be our struggle as well.

Ethnic Albanians, who make up more than 90 percent of Kosovo's population, have almost no political representation. Serbian authorities have, over the past year, repeatedly moved to suspend Kosovo's autonomy and impose direct rule. The most recent example of the continuing deprivation of fundamental liberties and freedoms came on July 2, 1990. On that date members of the Assembly of the Socialist Autonomous Province of Kosovo were denied entry into the Assembly's main hall by Serbian police. The legitimate political expression of the people of Kosovo was thus squashed in a most insidious fashion.

Unfortunately, this latest transgression is one in a line of many recent abuses. Amnesty International's 1990 report stated that at least 4,000 people, the majority of them ethnic Albanians, were detained for political reasons in 1989. Of this number some 1,700 were estimated by Amnesty International to be prisoners of conscience. Political prisoners were often denied a fair trial, and there were numerous reports of the brutal treatment of ethnic Albanians held in administrative detention for political reasons. This treatment is clearly incompatible with universally accepted principles of justice and human rights, and it certainly runs against the grain of the democratization movement in other Eastern European states.

Even more troubling, in some respects, is the use of inflammatory rhetoric by Serbian President Slobodan Milosevic. His calling upon "hundreds of thousands" of Serbian settlers to move to Kosovo to aid their country represents a dangerous escalation of the stakes surrounding the ethnic and political turmoil in Kosovo. Such appeals to ethnic separatism have no place. They offer nothing but the prospect of increased human rights violations, and deserve to be unequivocally condemned.

Yugoslavian leaders must reconfirm their commitment to the rule of law and a functioning multiparty parliamentary system. There is no place in

Yugoslavia for political prisoners or martial law.

Mr. Speaker, at a time when apartheid is being torn down in South Africa and other places in the world, it is no time for an apartheid-like system to continue to rear its ugly head in Yugoslavia.

I must also say, Mr. Speaker, that I, too, am outraged that a former Member of this House, former Congressman Joseph DioGuardi, has been banned from coming to Yugoslavia for the next 5 years. Congressman DioGuardi is president of the Albanian American Civic League and certainly is well respect on these issues. It is an outrage that a former Congressman can be treated in such fashion.

The enduring commitment of the United States to individual freedoms and respect for human rights has been vindicated by the recent movement towards democracy in Eastern Europe. Now is not the time, however, to allow your voices to be stifled by a sense of self-satisfaction. We should, and must, speak out even louder against human rights abuses when clear evidence of them exists.

The European Parliament recently passed a resolution on the human rights situation in Kosovo which condemned the suspension of the Kosovo parliament and appeals to all parties to recognize that "the only sound basis for a stable form of government is democracy", and that it should also aspire "to unity in diversity, the introduction of political pluralism and proper respect for human rights."

I join with my European colleagues in calling upon all parties to allow reason to prevail over the passions of nationalism and separatism. Human rights must be respected as the foundation of true democratic reforms. Serbs and Albanians alike must acknowledge that without the commitment to the freedom and prosperity of the individual over that of the state the development of political pluralism is in jeopardy.

Mr. Speaker, as a member of the Committee on Foreign Affairs I also urge all Americans to lend their voices to those calling upon the Yugoslavian federal authorities to mediate the conflict in Kosovo, while protecting the legitimate aspirations of ethnic Albanians to exercise their fundamental political and civil freedoms.

OPEN UP THE RULE, MR. SPEAKER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. BUECHNER] is recognized for 5 minutes.

Mr. BUECHNER. Mr. Speaker, the hour is late, but probably later than this particular hour is the life of a meaningful campaign spending bill, and the reason I say that is because it

appeared that the majority party is going to use a gag on the rule, and that is to not allow a free and open debate on a variety of amendments.

Mr. Speaker, why is that important? Well, it is important because I think the American public is looking to this body and asking us to do something about what, not only is their perception of an abuse of special interest money, but the reality.

We only need to hear about the Keating 5. We only need to read books like "Honest Graft." We only need to listen to Charles Wertheimer. We only need to talk to our constituents to know that they do not like the way in which current campaigns are run. They ask, not just rhetorically, but from their hearts, why is it that money from Beverly Hills, and New York City and Connecticut determines who is elected to the U.S. Senate and the House of Representatives in Idaho, Missouri, Nebraska, Louisiana, Colorado. They ask that because they have a legitimate right to wonder exactly where do we get the resources to win and why is it that so few races are competitive.

Mr. Speaker, the American public is looking to us for a real response, not political rhetoric, not a game, not partisan politics, but they are looking to us for meaningful answers, and, if we are going to deny this body the opportunity to pose meaningful alternatives, then I would suggest, Mr. Speaker, there will not be any meaningful answers.

You, Mr. Speaker, and your party may be able to flimflam the public and say, "Well, we're going to offer one bill and another alternative that we offer, and we're going to let the minority party offer one big substitute, which we can amend," and that is a free and open debate? And at the same time, at the same time, the American public can take a look at the Senate, where there is a genuine debate, where each issue is being slugged out item by item.

Mr. Speaker, I may not agree with each winning amendment, but I do agree with the opportunity to have a free and open debate.

I ask the Speaker, "What is it that you and your party is afraid of? Why is it you would have a closed rule?"

Mr. Speaker, that is the way it looks when you determine that there is only going to be a little bit of debate.

Let us take tax. A few months ago we began a series of debates within a select subcommittee that the Speaker appointed, the minority leader appointed, and that was to try to hammer out a real campaign reform bill, and there was a lot of give and take in there, and there was a lot of ideas.

Mr. Speaker, one of them that came from the minority party was: Why not limit the total amount of money that

can come from outside of the district by saying that no more than half of the money can come from outside of the district? That is an automatic cap on PAC's. That is an automatic elimination of money that comes from outside interests.

Mr. Speaker, it was expanded because both sides recognize there are some problems about reporting back to the same State. That was an idea that the minority party came up with.

I heard the majority party leader say on St. Louis television, St. Louis radio, that that was an idea that the Democrats had. OK; authorship is no pride item here. It is good reform. But where is that in the Democrats' bill? I mean, if they are going to take credit for it, should they not at least stick it in the bill?

Mr. Speaker, the reason why the American public is skeptical is just because of things like that. They want to know exactly where this money is coming from, and we are going to deny them the opportunity to have a debate that will disclose that.

When the Democrats say that there will be a lid on PAC's, what they mean is \$275,000 out of a \$550,000 cap, \$275,000 in PAC money per campaign, per congressional district. Talk about abuse.

Mr. Speaker, one only needs to pick up the Washington Post in the last few days and take a look at where Members get their money, and it is a sin to see that some Senators receive 95 percent of their money from outside of their State.

□ 2240

There are just as many Congressmen who abuse it the same way. Now, I know, Mr. Speaker, that there are people who come here and say that their job is to protect the Nation and they cannot go running back home. Well, I think we deserve to let them run back home and to be responsible.

Open up the rule, Mr. Speaker.

ANNUNZIO CRACKS DOWN ON CRIME IN THE STREETS AND IN BOARD ROOMS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, crime is on the rampage in the United States. Every day, we read in the newspapers, hear on radio, or watch on television about the terrible onslaught against human life. And, in our major cities, there is the constant reminder that the latest homicide has set yet another record for the number of killings in that area. Many of the homicides are a result of the gang wars between drug pushers over whose turf will be used to sell the illicit narcotics, another vastly expanding crime.

Unfortunately, the drug pushers don't only kill each other. I watched a national television

news program recently which told the story of a New York woman who sat on her front porch with her husband and was slain by an errant bullet fired from a semiautomatic weapon of a youthful drug dealer. Neighbors were quoted as saying that not a night goes by without the silence being broken by the jackhammer rat-tat-tat of an Uzi semiautomatic gun, the weapon of choice of the drug dealing gangs.

Last week, three children were killed in New York City by bullets apparently intended for someone else. There have been 14 innocent bystanders killed in New York this year, at least 4 of them under the age of 16, as gunplay with increasingly powerful weapons has become commonplace. And it is not only New York. It is happening here in Washington, DC, Philadelphia, Los Angeles, and even my home of Chicago, as well as other cities across the country.

However, we are not only beset by the crime in the streets which has become so severe that many citizens are afraid to move from behind the locked doors of their homes after dark for fear of losing their lives. But, crime has now, more than ever, moved inside to the board room. We have seen the fraud and deception in the savings and loan disaster, the housing fiasco, the Defense Department procurement scandals, and many, many other white collar crimes associated with Government programs. This is crime being committed not by youngsters in blue jeans with leather jackets and tennis shoes, but grown men in blue pin-striped suits, white buttoned-down shirts, and rep ties who prey on the innocent taxpayers. The insiders have used fraud, abuse, and malpractice to rob the American public.

Mr. Speaker, in my 26 years in Congress, I have supported efforts to fight the criminals. The current session has been no different. I have cosponsored legislation to provide for a waiting period before the purchase of a handgun, to prohibit the sale of semiautomatic weapons, to prevent child abuse, to provide for the imposition of the death penalty for the terrorist murder of U.S. nationals abroad, and the comprehensive bill to control crime which has passed the Senate and soon will come before the House after having been approved by the Judiciary Committee.

As chairman of the House Banking Subcommittee on Financial Institutions, I introduced legislation, which should soon be signed into law by President Bush, to give Federal regulators the power to revoke a bank's charter if the institution and its directors or officers have been convicted of money laundering, the primary and best source of clean cash for drug dealers. The legislation contains a powerful incentive not to take part in money laundering. In plain language, the provisions hold out the death penalty for the management and for any financial institution itself convicted of money laundering.

In the savings and loan reform bill, signed into law by Bush last August, my amendment was approved to increase the penalties up to \$1 million for criminal actions by directors, officers, and other professionals of the thrifts. I also sponsored legislation in that bill to authorize \$75 million a year for each of 3 years to increase the number of investigators and

prosecutors to deal with white collar crime at financial institutions.

Recently, my subcommittee reported out legislation authorizing an additional \$154 million to investigate and prosecute savings and loan fraud, and which will make it easier for the Federal Government to seize property, including homes, and recover funds from former thrift executives involved in criminal activities. The subcommittee strengthened the criminal laws for financial institutions crime. It lengthened the statute of limitations for prosecuting the crooks. It authorized millions of dollars to investigate cases.

A top Government investigator testified not so long ago that massive fraud caused the failure of 40 percent of the 450 savings and loans seized so far by the Federal Government. Moreover, he said, accountants, lawyers, brokers, and other professionals may be guilty in about 20 percent of the failed thrifts. As many as 15 percent of the failed S&L's hid their insolvencies for years, committing fraud by exchanging worthless loans with each other in an effort to hide the truth from Government financial examiners.

The financial institutions regulators and enforcement officers need all the tools they can get, and I am glad to help provide them. As recent testimony has shown, the average prison term for an S&L offender was only 1.9 years. By contrast, the average bank robber was sentenced to serve 9.4 years behind bars—almost five times what an S&L crook received. And the only difference is that a robber uses a gun as a weapon, while an executive uses a pencil.

I also want to point out that a major portion of the bill to prosecute financial crimes has been woven into the Judiciary Committee's legislation. The Judiciary package, similar to my subcommittee's bill, includes increased spending for enforcement, new criminal penalties for fraud, and the creation of a national commission to determine the origins of the S&L debacle and recommend solutions. As in the Financial Institution Subcommittee's measure, it would require life sentences for the kingpins in S&L fraud schemes.

The House bills would create new criminal offenses for concealing assets from a receiver of a failed thrift and for obstructing a Government examination of a financial institution. The measures also would authorize more than \$150 million for each of the next 3 years to hire more prosecutors and agents devoted strictly to cases involving financial institutions.

Mr. Speaker, once these measures I have listed become law, there is only one more necessary step: Vigorous use of the tools by the administration. We in Congress can provide the weapons, but it is up to the administration to go to war. One of the major causes of the savings and loan disaster is that the Reagan and Bush administration, in their desire to encourage deregulation, reduced the number of necessary personnel and abdicated their oversight responsibilities. We can't let another S&L fiasco occur. If we do, our children and our grandchildren will be saddled with the financial consequences for the rest of their lives.

CAMPAIGN FINANCE REFORM

The SPEAKER. Under a previous order of the House, the gentleman from California [Mr. THOMAS] is recognized for 5 minutes.

Mr. THOMAS of California. Mr. Speaker, I want to take a few minutes to continue the discussion about campaign finance reform.

The leadership has said that we are going to bring it up on getaway day, Friday, the last day we are going to be here trying to wrap up a number of issues and that we are really not going to be able under the rule to have a free and open debate about areas that I think the American people are more and more concerned with.

As my colleague, the gentleman from Missouri said, the 101st Congress started out with the Speaker, then Speaker Jim Wright, creating a bipartisan task force composed of Democrats and Republicans to sit down and try to see if there was some common ground for us to come together on the question of campaign finance reform.

Now, I am the ranking member on the Elections Subcommittee, and the gentleman from Washington [Mr. SWIFT] is the chairman of that Elections Subcommittee. We over the past few years have held a number of hearings on ideas. There are not an unlimited number of ideas to deal with the problems that we have in front of us, or the perceived problems that the American people have with the current campaign finance system, but we did not use the committee system. We did not have hearings. We met closed-door for several meetings, Democrats and Republicans, each appointed by their respective leaders to talk about some common ground on campaign finance reform.

After a few meetings, some worthwhile discussions and some general agreement that there is a large body of reform that we can agree on without too much difficulty, the question of bundling, pulling money together and then transmitting it through an individual as a conduit to another person, that probably is not desirable; independent expenditures is a question we can talk about, the question of soft money, not well-defined, if it was done correctly, is something that we need to look at, and on and on in terms of an area where there probably was some general agreement that could be reached.

The core problem, as it always has been, is how much and from where? We never continued meeting as a bipartisan group on those issues. Democrats went their separate way and began meeting as the majority to decide what they were going to do on the issue.

Interestingly enough, over all those months the Democrats were not able to come together with a campaign finance proposal. They are divided.

The Republicans spend months fighting it out inside their own Republican conference to come up with a consensus. Consensus is always difficult. Why? Everybody has to give a little bit.

But you know, in the process of Republicans talking to each other about what was core, what was fundamental, what was important, what did the American people really want to see in terms of a change, I think we were able to better understand the issue.

My understanding is that on the Democrat side they were not able to come together. As a matter of fact, the rule that they are going to be proposing will offer alternatives from the Democrat side, and the Republicans get to offer one option on the last day, getaway day, with very limited time, your version, our version, no ability to compare all of those specific areas that encompass a comprehensive campaign finance reform question.

As my colleague, the gentleman from Missouri said, what a difference over in the other body. I oftentimes have criticized the way in which the other body operates, but wish people would focus on the debate that has been going on for the last several weeks, not just on campaign finance reform, but that closely related and associated area of incumbents and their ability to frank, their ability to use taxpayer dollars for mailings to people back home.

The Senate is carrying on that debate openly, a free debate, amendment by amendment, you have an idea, we have an idea, let us put it up and examine it and then see where the votes are. Of course, to a very great degree those votes are partisan votes, but at least you have the opportunity to express your particular view about that particular area and the way in which it should be handled. That is not going to occur over here.

What is going to occur over here if in fact the rule is adopted is no discussion on what the fundamental problem is. Most people would automatically say the problem is simply dollars, too many dollars in the system. The Democrats answer is to put a spending limit. You cannot spend more than how much? What is the significant limit for congressional campaigns? It is \$550,000, more than half a million dollars will be the limit, and out of that you can have half of it from PAC's, or a \$275,000 limit on PAC's.

Now, that might sound like a significant change, but if you will examine that number, \$275,000 of political action committee money, and by the way, you do not have to have the other \$275,000 from individuals to get \$275,000 from PAC's. It is not 50 percent of your money. It is \$275,000.

Mr. Speaker, we are going to continue this discussion over the next several days so that you will have an idea

what is in that bill, regardless of the kind of gag rule under which we will consider the bill on Friday.

IN SUPPORT OF H.R. 5323, STATE THRIFT DEPOSIT INSURANCE PREMIUM ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. FORD] is recognized for 5 minutes.

Mr. FORD of Michigan. Mr. Speaker, I would like to urge my colleagues to support H.R. 5323, the State Thrift Deposit Insurance Premium Act. Nothing can undo all of the damage done by the savings and loan scandal, but H.R. 5323 can at least help assure that the bailout is reasonably fair. It will put into the law a simple and incontestably just rule: The States that were responsible for the biggest part of the scandal should pay the biggest share of the bailout.

I voted against the savings and loan bailout bill last year and I am proud of that vote. One of the principal reasons I voted against it was the failure of the legislation to take into account a sad fact about the S&L crisis: 90 percent of the failed, State-chartered thrifts were located in just two States, Texas and California.

It is no accident that the bulk of the problems occurred in Texas and California. Those States are big and had a lot of savings and loan institutions. But what sets Texas apart was its totally irresponsible deregulation of its State-chartered thrifts.

Congress made a mistake when it deregulated the thrifts in the early eighties. But Texas went even farther. They let the worst elements of the industry charter underfinanced institutions, make billions of dollars of loans tainted by conflicts of interest or outright self-dealing, and encouraged investments in activities having no relationship to home mortgages—from junk bonds to shopping malls.

The Reagan administration made a religion out of getting government off the back of business. Texas, in particular, practiced that religion with the zeal of a fanatic. The Texas State banking regulators let the high flyers know that they were free to do as they pleased.

No one intervened as Texas thrifts promised higher and higher interest rates on their certificates of deposit and invested the revenues that flooded in into high-risk office buildings and other commercial projects. The Texas savings and loan institutions lent to crooks and con artists by the dozens. After all, it wasn't their money; but a lot of Texans were getting mighty rich. While the rest of the industry grew 26 percent in 5 years, Texas S&L deposits increased 186 percent.

The situation was out of control, but no one in Texas or at the Federal Home Loan Bank Board took the steps necessary to bring the situation under control. We will be paying for their failure for decades.

When the risky deals failed, when the loans went bad and the security for the loans turned out to be worthless or nonexistent, the Texas thrifts went bankrupt. But it wasn't the Texas government, Texas banks or Texas citizens

who were left holding the bag. It was the Federal Government and Federal taxpayers.

For that and other reasons, I opposed the bailout legislation last year and support H.R. 5323 today. Representative WOLPE was not permitted to offer his burden-sharing amendment to the bailout bill because the Rules Committee thought it was an attack on Texas that would divide the House and make the bailout harder to pass and get President Bush's signature.

It's not an attack on Texas. It is a modest attempt to make the people who benefited from and who are responsible for the S&L crisis pay their fair share to clean up the mess.

My constituents are being told to pay almost 20 times their share of the thrift industry's losses. H.R. 5323 will not save Michigan or any other State from contributing to the bailout. But it will allocate the burden more fairly and shift part of it from the responsible States and their taxpayers.

I urge all of my colleagues to support this obviously just legislation.

OUR INFRASTRUCTURE CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. ANTHONY] is recognized for 5 minutes.

Mr. ANTHONY. Mr. Speaker, today, I introduce legislation the purpose of which is to provide State and local governments with relief from the administrative burden and complexity imposed by certain provisions of the Internal Revenue Code of 1986 as they issue tax-exempt bonds to finance the infrastructure of this country.

Many will remember the 1980's as the decade of disinvestment, when the leaders of this country, after inheriting an infrastructure second to none, allowed it to deteriorate thereby threatening our international competitiveness. America currently ranks 55th in the world in public capital investment.

The extent of our infrastructure crisis is appalling. Over 41 percent of our bridges are either structurally deficient or functionally obsolete. Sixty percent of the Nation's paved roads and 25 percent of our Interstate Highway System need resurfacing or reconstruction. Travelers at each of the country's 21 primary airports experience more than 20,000 hours of flight delays. Urban highway delays now total more than 2 billion hours annually.

Not only have our leaders fiddled while our infrastructure crumbled, the Federal Government which set infrastructure policy and assumed a corresponding role in financing these policies during the 1950's and 1960's has completely walked away from its responsibilities. In other words, the full burden of infrastructure policy for the next century falls entirely on the backs of the State and local governments.

All of us are painfully aware of the budget crisis faced by the Federal Government—it is the single most important problem that must be dealt with. However, because of our preoccupation with Federal budgetary problems, too many of us are not fully aware of the fiscal problems plaguing State and local governments. Faced with the twin pressures of Fed-

eral cutbacks and increasing social demands, the tax bases of State and local governments have been squeezed. Although 45 States enacted tax increases in 1989, enhancing revenues by \$4.2 billion, these increases are not sufficient to halt the deterioration of this Nation's infrastructure.

At the same time that the Federal Government has placed an increasing financial burden on State and local governments, it has also made the cost of borrowing more expensive with the enactment of complex Federal income tax rules. Last year, with the cooperation of Chairman ROSTENKOWSKI and the assistance of countless State and local officials, we achieved a significant victory with the enactment of the 2-year exception to the arbitrage rebate regulations. That effort drew so much attention to the flaws in the regulations that both the Ways and Means tax staff and the staff of the Joint Committee on Taxation recently recommended that enforcement of the regulations be suspended.

I am committed to continue to lead the effort to reduce unnecessary burden placed on State and local governments when they issue tax-exempt bonds. However, as always, I will remain mindful of potential abuse as these burdensome provisions are revised. The public finance world has done too much in the last 2 years to restore its credibility to allow the floodgates of abuse to open again.

Many of the provisions of the bill I am introducing are contained in the Anthony Commission report which was released last year. Others are staff recommendations which are a part of Chairman ROSTENKOWSKI's simplification effort. I applaud the chairman's commitment to simplify the Internal Revenue Code, but realize he must focus his attention on budget deficit reduction this year. That is why I am moving forward today because good tax policy that will benefit State and local governments should not be delayed.

The provisions of my bill are not broad enough to rid the Internal Revenue Code of the myriad rules which provide little or no benefit to the Federal Government, while substantially inhibiting the ability of State and local governments to shoulder the burden of their own responsibilities to their citizens. Nonetheless, the enactment of this bill would be another positive step in reestablishing the Federal-State-local partnership which is imperative if the infrastructure needs of this country are to be met efficiently.

RETHINKING RADIO FREE EUROPE-RADIO LIBERTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. CROCKETT] is recognized for 5 minutes.

Mr. CROCKETT. Mr. Speaker, I recently received an unpublished manuscript from a former U.S. Foreign Service Officer. As a member of the House Foreign Affairs Committee for the past 10 years, I have had the privilege of getting to know many dedicated, experienced members of our Foreign Service, and have been especially pleased to work with so many minority FSO's in attempting to more fully bring their perspectives and experience

into the foreign policymaking structure of our Nation.

The article I received contained a thoughtful and objective analysis of the costs and benefits of Radio Free Europe and Radio Liberty. This analysis was done by Norris D. Garnett, an African-American with extensive experience in the U.S. Foreign Service. Mr. Garnett served with the USIA as a Special Projects Officer in the Office of European Affairs, and the Voice of America, where for 3 years he served as the Chief of the North Africa, Near East, and South Asia Division. He also served in posts with United States embassies in Eastern Europe, including Austria, Romania, and the Soviet Union.

Mr. Garnett talks about the changing realities of our relationship with the Soviet Union, and the need to rethink the time, money, and resources we continue to put into what may be a costly anachronism of the cold war.

I commend his very insightful comments on this issue to my colleagues:

RADIO FREE EUROPE/RADIO LIBERTY: RELICS OF THE COLD WAR?

(By Norris D. Garnett)

Although most Americans know nothing about it, Radio Free Europe/Radio Liberty (RFE/RL) is an organization costing the American taxpayer about \$228 million a year. Recent changes and improvements in East-West relations, however, call into question the continuing need and justification for this symbol of the darkest days of the Cold War.

RFE/RL, which is headquartered in Munich, West Germany, and employs some 1740 persons, is on the air 639 hours a week to East Europe and 458 hours weekly to the Soviet Union. RFE broadcasts to East Europe and the Baltic States, while RL concentrates on the Soviet Union and Afghanistan. RFE estimates a weekly audience of 34 million; RL of 22.5 million listeners. How accurate these figures are is anyone's guess because it is almost impossible for international radio to measure accurately its listenership.

My own experience in the Soviet Union and Eastern Europe left me with the impression that while RFE/RL did have a substantial listenership, it was not extremely large. This was probably because of jamming and the fear of listening to officially banned international broadcasts. But some people told me that they didn't listen to RFE/RL because it put too much emphasis on their own domestic affairs, and not enough on what was happening in the West. This criticism has merit because RFE/RL's own main justification for its existence is that it acts as a surrogate "home" radio station broadcasting the local news of the country.

This surrogate "home" radio function is the main thing that differentiates RFE/RL from The Voice of America (VOA). VOA is the global radio network of The United States Information Agency (USIA), an independent U.S. Government agency, which directly broadcasts approximately 1200 hours a week in 43 different languages in addition to English. At least 18 of these languages are the same ones in which RFE/RL broadcasts. VOA has 2786 employees (mostly in the US), and an annual budget of \$170.235 million for fiscal year 1989. In addition to its direct broadcasts, however, VOA places programs on approximately 2650 radio stations in Latin America, West Europe, Asia,

Africa and the Middle East. Because of its active radio placement program, it is a formidable task for VOA to get an accurate counting of its actual listening audience. Its rough estimate for 1989 of 127 million adults listening at least once a week, however, may be too low. As the recent events in Beijing's Tiananmen Square demonstrated, VOA has an extraordinarily large Chinese listening audience, and its estimate of 17 million listeners in China will probably have to be increased.

The new Soviet policy of "Glasnost" has resulted in the cessation of jamming of foreign broadcasts by the USSR and East European countries. Last November, the Soviet Union even ceased jamming the "home" radio broadcasts of Radio Liberty, and the Estonian, Latvian and Lithuanian broadcasts of Radio Free Europe. This not withstanding, the governments of the USSR and some East European countries have made it clear in the past that while they didn't object to VOA, BBC, Deutsche Welle (West Germany) and some other foreign radio broadcasts, they considered RFE/RL "home" radio broadcasts to be interference in their internal affairs. It is ironic, however, that Hungary recently agreed to the stationing of an RFE correspondent in Budapest—as did Poland—because there was considerable criticism of RFE after the Hungarian revolution of 1956 was crushed. RFE, then controlled by the CIA, was accused of inciting the Hungarians to revolt against the Soviets and of encouraging them to believe erroneously that the United States would come to their assistance. The severest critics of RFE at that time were Hungarians themselves.

When I served in Eastern Europe in the late 1970's, the criticism of RFE I heard most often from local listeners was that the "home" radio broadcasts at times were more rumor than fact. The official view of RFE, however, was that its broadcasts were not only interference in the internal affairs of the country, but often personal attacks on government leaders. I also got the impression that many of the local people thought that RFE was still sponsored by the CIA.

To understand this critical commentary about RFE/RL, it's helpful to know something about its forty years' history. Today RFE/RL is a peculiar institution which is neither fish nor fowl. That is, it is neither a U.S. Government agency nor a real private corporation, but combines elements of both. It is funded by the U.S. Government via Congressional appropriations to The Board for International Broadcasting. The BIB is an independent Federal agency consisting of nine Board members, appointed by the President and approved by the Senate, and a small support staff. BIB allocates money to RFE/RL, has oversight responsibilities, and selects the President of RFE/RL, who manages the two radios. Before BIB was created, RFE and RL, which were founded in 1950, were privately operated, but secretly funded and controlled by the CIA. So, even though the CIA no longer has any connection with RFE/RL, it is hard to convince many Soviet and East European officials of this.

The location of RFE/RL in Munich has sometimes proved to be an embarrassment to the Government of the Federal Republic of Germany. Now that our NATO allies—with the possible exception of Thatcher's United Kingdom—see little to fear from Gorbachev's Soviet Union, and, consequently, have a diminished desire to participate in the Cold War between the two superpowers,

they may well question the necessity of a Cold War instrument like RFE/RL remaining in Europe. With the creation of a single economic European Community in 1992, and with West Germany being the leading proponent of increased and better relations with the Warsaw Pact countries, including reunification with East Germany, RFE/RL could soon become an embarrassing anachronism. Indeed, the very names Radio Free Europe and Radio Liberty may be viewed by a united Western Europe as an insult to its sovereignty. Before that day comes, however, we should begin planning now on ways to preserve the most important functions of RFE/RL while doing away with the institution itself.

I believe there is a simple and economic way to do this. Those functions of RFE/RL which deserve to be saved should be incorporated into The Voice of America. VOA-Europe already operates out of Munich, so it would not be difficult to absorb the RFE/RL research operation, which is outstanding, and those languages important to our national interests in which VOA doesn't broadcast. Aside from the obvious economic savings—it was reported recently that VOA will have to drop six of its 43 languages because of budget problems—I believe there are sound political reasons for moving these RFE/RL functions to VOA.

First is the fact that VOA is accepted as the creditable global radio of the U.S. Government, which has three main functions: (1) report the news accurately and objectively; (2) present a balanced and comprehensive projection of significant American thoughts and institutions, and (3) present the policies of the U.S. clearly and effectively. The importance of these VOA functions can only increase in a world becoming more open and accessible. Additionally, there would be financial savings at no real cost to our foreign policy interests.

Secondly, the dramatic political changes taking place in Eastern Europe and within the Soviet Union itself are extremely delicate and volatile. For America to attempt to function as a surrogate "home" radio for these countries and Republics could well lead to Soviet accusations that the U.S. is inciting and encouraging these revolutionary events. This would be especially unfortunate since these events were actually set in place by the top Soviet leadership.

Finally, RFE and RL are relics of the Cold War which have outlived their usefulness. Glasnost has already produced a great improvement in the objective reporting of domestic events by state-controlled media in all of the Warsaw Pact countries. Whether one believes the Cold War is really over, or that only the ways and means in which it is being fought have changed, the fact is the changes have been profound enough that Europe can never again return to the 1950's. Perhaps the tanks will return to Tiananmen Square again, but it is extremely doubtful Soviet tanks will again return to the streets of Budapest and Prague.

TENTH ANNIVERSARY OF "MADD"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. MINETA] is recognized for 5 minutes.

Mr. MINETA. Mr. Speaker, I rise today to express my appreciation for an organization that has played a crucial role in saving thousands of lives. That organization, Mothers

Against Drunk Driving, known by its acronym "MADD," is this year celebrating its 10th anniversary.

When MADD was founded 10 years ago in my State of California, it was the beginning of a grassroots movement that resulted in tougher drunk driving laws in every State and at the Federal level. MADD has since been instrumental in bringing the drunk driving issue to the political and social forefront. In 1982, highway fatalities were at an all-time low, largely due to the effectiveness of these laws and the raising of social awareness through the efforts of MADD and the many other groups that followed MADD's lead.

Federal legislation supported by MADD that contributed to the reduction in alcohol-related fatalities included the Alcohol Traffic Safety Programs enacted in 1982, the 21-year-old drinking age enacted in 1984, and the administrative license revocation provision in the Omnibus Drug Act of 1988.

In the last decade, alcohol-related fatalities decreased from 50 percent of all fatalities to 40 percent. Much of that is due to the efforts of MADD in changing public attitudes and influencing the legislative process. These efforts give us hope that the fatality rate can be reduced even further.

For their impact on highway safety, the members of MADD have much to be proud of, and I, for one, look forward to working with them on future issues that one day may make drinking and driving a thing of the past.

THE CRISIS IN INTERCOLLEGIATE ATHLETICS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. McMILLEN] is recognized for 60 minutes.

Mr. McMILLEN of Maryland. Mr. Speaker, I know the hour is late, but I did want to come here tonight to discuss a matter which is disturbing to me not only as a Member of this body and as a former athlete, but I think it is an issue that should be of concern to all Americans, and that is I would like to talk about the crisis that is facing intercollegiate athletics in this country.

We open up the newspapers daily and we read about scandal after scandal occurring in our institutions of higher learning in this country, scandals that are tarnishing really the colleges and universities who have a very important educational objective and mission for this country.

As many know, athletics have been very good to me in my life, and I was one of the lucky few to land a job in professional basketball.

At an early age, my parents drummed into my head that athletics were not the ticket to success—That I needed an insurance policy, an education, if my jump shot failed.

Unfortunately, this is not the message that is being sent to our young people today. The glorification of the

athlete at every age is distorting our national priorities.

The balance between athletics and academics has shifted in the wrong direction, and I fear our young people, and our Nation, will suffer for years to come. Today our young people, with not only our approval but our encouragement, are mortgaging their education to pursue the all but impossible dream of professional athletics. We have a responsibility to these young people and those who follow to help guide them to the right decisions as athletes and students.

There are many reasons for the imbalance of our priorities. Certainly the media is in part to blame; at the junior high and high school level, there are many examples of coaches changing grades of the star athlete so that he can score the winning touchdown on Friday night.

But, the most disturbing to me is the number of growing scandals in intercollegiate athletics. I firmly believe that athletics and academics can be properly balanced in college. I am a product of that system, and I am not here today to indict every college and university.

The organization that has power to correct this imbalance, the NCAA, to date has a tarnished and abysmal history when it comes to reform. The NCAA has approached this process kicking and screaming, instead of leading the call for solutions. There are forces within the NCAA that believe that money is more important than learning—that winning on the ball-field is more important than winning in the classroom. The NCAA has failed in its mission, and it desperately needs corrective surgery.

Intercollegiate athletics is sick, and the NCAA is merely dealing with the symptoms, rather than the cause. Instead of adopting real reform over the past few years, the NCAA has resorted to public relations plays * * * slapping institutions with tough penalties, millions of dollars in fines, making it appear as if these penalties will change the system. But, in fact, the NCAA's punitive action is merely masquerading for reform.

Today, the University of Maryland, my alma mater, went before the NCAA to appeal punishment for a series of infractions. While the findings indicate that some previous employees of the university did not cooperate with the NCAA investigators, those individuals are no longer employed by Maryland.

Other colleges and universities are in similar situations—trying to live up to the arcane and complicated regulations passed down by the NCAA, while still fulfilling the urging from alumni and boosters to win at all costs.

In Maryland's case, the school could lose up to nearly \$4 million because of the actions of a few individuals. Yet,

oftentimes the ones hurt by this decision are those least responsible for the crimes.

Minor sports could have their season cut back—women's sports could be dramatically hurt—students who are freshmen now, who were not even at the institution at the time, are now barred from postseason play.

What is the logic in these penalties? Why should innocent freshmen be penalized for the crimes they had nothing to do with?

In Maryland's case, the infractions appeared quite minor: A recruit receives some free clothing, a player gets transportation assistance to attend the funeral of a relative, one of the penalties, ironically, is a coach giving a student a ride to class. Yet, the most serious crimes, those of misleading investigators, were committed by people no longer at the university.

In Maryland's case, we have to ask the question: Does the punishment fit the crime? Should the university be hit with the equivalent of a \$4 million sentence for what, by all accounts, have been termed minor infractions.

Unfortunately these scandals, blown out of proportion by the NCAA, tarnishes the entire image of a great university. In Maryland's case, they have dramatically increased their recruitment standards of the entire student body—they've had numerous successes in all departments—yet, what's prominently reported in the paper are the abuses in the athletic department.

The physics department recently hired an eminent Soviet scientist who turned down offers from other universities; engineering students have just built one of the nation's fastest solar cars, and will race it in Australia in an upcoming international competition; and the National Archives picked the College Park campus as the site of a new 1.7 million square foot research center.

This is what the University of Maryland should be known for, not giving a few pieces of athletic clothing to recruits.

Instead of reforming its own house and its own rules, the NCAA is seeking scapegoats, like Maryland, handing out severe penalties that do little to truly contribute to correcting the mess in intercollegiate athletics. It spends thousands in enforcement, appearing tough, nibbling at the edge of the problem, instead of looking at the source of the crisis which is within NCAA.

The NCAA has talked about adopting new rules and reform its regulations, but up to this date, all we've heard is the talk. As the popular phrase went a few years ago, "Where's the beef?"

If the NCAA does not take the necessary reform action, the U.S. Congress will and should. The NCAA should understand that pressure will

continue at the Federal level. The American taxpayers put up \$24 billion a year for education in America at the Federal level, and the U.S. Congress has a vested interest to keep an eye on the schools that receive that money.

The Congress has involved itself in higher education in the past and will do so again—Grove City and title 9 are just two examples. Congress will not allow its significant investment in higher education to be compromised by athletic programs.

In Congress we are close to passing the Student-Athlete Right To Know Act. This bill would require colleges and universities to disclose their graduation rates to both student-athletes and students.

It is astonishing that the NCAA initially fought this bill. It's hard to believe that they didn't even want prospective student-athletes to know the graduation rates of the colleges and universities. While the NCAA has now adopted graduation reporting standards of its own, its fair to assume that it would not have done so without outside pressure.

Americans don't want any more piecemeal attempts at reform, they're demanding real action. A recent Harris poll quizzed Americans about their opinions on college sports, and 80 percent felt that there is a severe imbalance between athletics and academics.

How many more students need to struggle in the work world because they were exploited during college by a system more interested in a student's athletic skills than their academic skills. How many more scandals do we need to read about before the NCAA cleans up its act?

We need to ask serious questions regarding college athletics.

Do athletes receive special privileges? Can student-athletes really be students with the grueling playing schedule the television networks demand? Is it worth all this money, if our students and our institutions' credibility suffer? Should winning games be the only criteria for selecting a coach?

Where is the logic in allowing coaches to earn hundreds of thousands of dollars in sneaker endorsements, while students are prohibited from a small stipend so they can afford a pizza on a Friday night.

These are the questions the NCAA should be asking.

There are a host of reform areas that have been proposed by many groups. I have the pleasure of serving on a panel, known as the Knight Commission, that is developing a new model for college sports. It is a select group of university presidents and business leaders who are searching for answers to the crisis in intercollegiate athletics. The Knight Commission is the first group in nearly 60 years to

ask the serious questions necessary to redress these problems.

The NCAA's Dick Shultz should be credited with trying to get this process moving. And the conference has proposed a number of reforms.

These are not new ideas, but they have been largely ignored by the NCAA in the past. They revolve around many areas of college sports:

First, reducing the influence of big money; the billion dollar TV contracts need to be redistributed. This new formula will not give the lion's share of money to only the winners of big championship games, but will be distributed to schools based on their official certification as institutions that properly balance academics and athletics.

These moneys could be used for tutorial help for student-athletes, summer school assistance and other academic uses.

Second, the NCAA needs to address recruiting restraints. There's something wrong when we spend more to recruit an 18-year-old basketball star to attend a university than we spend on recruiting a prospective college president to the institution.

Recruitment visits and contacts need to be drastically curtailed.

Third, academic integrity seriously needs to be addressed. Genuine pass-to-play standard should be adopted. Requiring a student to maintain a minimal grade point average in order to be certified to play a sports. This should be coupled with strong academic progress standards to ensure an athlete is working toward a degree. No more college athletes should have graduated with a third-grade reading level.

Severely restrict practice time, both during the season and in the off-season. Instead of having student-athletes spending 40 hours a week on football and 20 hours on school, how about the other way around.

The playing season should be dictated by academic necessities, not financial necessities as determined by the television networks. It is appalling that a network president can determine whether a student is going to miss his chemistry test, based on when he feels he can get the best ratings.

I also firmly believe that freshman should not play varsity athletics. The transition from high school to college is difficult enough, without forcing a student onto a full-time practice and playing schedule. This simple reform would provide young people the time they need to get their academic skills in order, before they concentrate on their athletic skills.

Fourth, it has been suggested that the NCAA needs a due process provision. Either an independent court of peers, like a supreme court, or alternatively, giving athletes, coaches and institutions due process under the law.

In my own university's case, the university of Maryland appealing to the same jury that ruled on the original probation order.

Student-athletes should also not be separated from the general student body, which alienates both the athletes and the other students. In polls conducted by the NCAA, they've found that former student-athletes cite this is a serious concern.

A final principle that needs much more attention is the concept of increasing presidential control. The chief executive of every institution must take a hands-on approach to their athletic programs. Some such presidents have taken the courageous steps necessary—often facing off against popular and entrenched coaches.

Only if presidents are held accountable for the actions of the athletic departments will we see a shift in the balance between athletic and academics. Presidents have to end their hands-off attitude toward the athletic department and get involved.

What this comes down to is that the NCAA needs to develop a new model of college sports. They need to change students attitudes from the moment they get the first recruiting phone call.

There are a host of others that can be considered by the NCAA, and will be considered by the Knight Commission. I am hopeful the leaders of the NCAA will take these recommendations seriously, and begin the process of real reform.

What action the NCAA takes this week, or doesn't take, has ramifications beyond just college athletics. It can send a signal to students at every age that you must learn as well as practice.

Unfortunately, the problem of intercollegiate athletics is now seeping down to the high school level. I am one who believes we need more accountability at the high school and junior high to show students at an early age that athletics is not the ticket to success.

To this end, I have introduced the Student Incentive Act, or STUDI Act. The bill would encourage school districts to establish a 2.0 grade point average in order for students to participate in extracurricular activities—and reward those schools adopting the standard with the 10-percent bonus in Federal chapter 1 funding.

For years we have been hearing of abuses in the collegiate athletic system. Athletes becoming All-American linebackers, but who cannot read after 4 years of college. But the problems begin much sooner—in America's high schools and junior high schools.

We need reform at every level of our educational system if we are to restore the confidence in it—but, the place

that can set the trend for this reform is our colleges and universities.

These institutions are the crowning jewel of America. Students come from all over the world to learn in the United States. Yet, the NCAA is allowing this reputation to crumble for the sake of a winning record or a fat TV contract.

The NCAA needs to stop being a schoolyard bully with petty grievances against schools, and begin the process of fundamental reform. Many outside groups, including the Knight Commission, will provide the NCAA with an excellent starting point.

It will then be up to the NCAA to decide it's fate—will it make its priorities the education of our youth, or will it take up other half-measures and impose punitive, haphazard penalties on the schools that are caught.

There is more at stake than just a few lost ball games, the credibility of America's entire educational system is on the line.

PERSONAL EXPLANATION

Mr. McMILLEN of Maryland. Mr. Speaker, I made a statement on the floor of the House of Representatives concerning the state of reform in intercollegiate athletics. In his statement, I erroneously said that student athletics are not provided any assistance by colleges or universities to attend the funeral of a relative. I have now discovered that, under NCAA rules, reimbursements are allowed for this purpose. I would like the RECORD to reflect this correction.

□ 2300

A REGIONAL TRANSFER OF WEALTH

The SPEAKER pro tempore. The Chair recognizes the gentleman from Michigan [Mr. WOLPE] for 60 minutes.

Mr. WOLPE. Mr. Speaker, as cochair of the bipartisan Northeast-Midwest Congressional Coalition, I have requested tonight's special order to discuss the massive transfer of wealth that is occurring as a direct result of the savings and loan crisis. I should indicate that this is but the first of what I anticipate will be several special orders on this subject, a subject of increasingly intense concern to Members on both sides of the aisle.

On July 19, Representatives FRANK HORTON, MARCY KAPTUR, and many other members of the coalition introduced H.R. 5323, the State Thrift Deposit Insurance Premium Act of 1990. Our bill is an attempt to introduce a small measure of accountability and equity into the bailout. Our proposal would require any State which has caused excessive costs through poor regulation of its State-chartered thrifts to pay a premium if such thrifts are to remain eligible for Federal deposit insurance. Our bill has

gathered 75 cosponsors in the last 3 weeks.

To fully understand our concern about the implications of the savings and loan bailout on the Northeast-Midwest region, it is necessary to put the bailout in the context of the history of regional development in America.

The Northeast-Midwest region has historically been the Nation's most prosperous. During our heyday, we helped to finance development across the Nation: The Tennessee Valley Authority that brought electricity to Appalachia, the Interstate Highway System that opened the Sunbelt up for development, the Federal power projects that brought subsidized energy to the Northwest, the tax breaks that encouraged oil production in the oil States, the Federal water projects that caused the desert to bloom in the Southwest. Our Federal system has traditionally encouraged the transfer of wealth from affluent regions to less affluent regions.

However, as we entered the 1980's it was very clear that things had changed. In the wake of two oil shocks, our region had become known as the "Rustbelt." We are experiencing high unemployment, declining population, crumbling infrastructure, and serious environmental problems. We were now the region most in need of Federal assistance. Investment was needed to retrain the work force, revitalize blighted neighborhoods, clean up the environment, and rebuild the public infrastructure.

However, the needs of our region were swept aside in the early 1980's by a redirection in Federal spending priorities. A Pentagon buildup was launched while programs to encourage economic growth were drastically cut. After the Northeast-Midwest region had helped to finance such efforts across the Nation—and now needed such assistance itself—it was claimed that such programs "distorted the market place" and should be the responsibility of the private sector and local governments. A policy emerged which favored one form of economic development—defense spending—over all others.

Tremendous economic stimulus was provided to those States and regions that enjoyed the benefit of increased defense spending. While New England clearly benefited from such spending, our region as a whole has very few military bases or major defense contractors. Our region registered a return on a dollar of only 69 cents for defense spending in the 1980's.

While the Pentagon prospered, several economic and community development programs important to the revitalization of our region were severely cut or eliminated. These included urban development action grants, community development block grants, EPA wastewater treatment grants,

general revenue sharing, and Urban Mass Transit Administration programs.

Despite our region's need for reinvestment in the 1980's, we only received 87 cents in Federal spending for every tax dollar we sent to Washington in the 1980's.

For a brief time, it looked like that trend might change in the 1990's. The dramatic events in Eastern Europe offered the first chance in a decade to redirect Federal spending priorities. It looked as if a peace dividend might provide us the opportunity to turn national priorities toward repairing the public infrastructure, cleaning up the environment, revitalizing blighted neighborhoods, educating our children, and retraining our work force.

And that it, where the savings and loan bailout, comes into the story. It appears as if any hope of using the peace dividend to increase Federal investment in our region has vanished due to the spiralling cost of cleaning-up insolvent savings and loans in the Southwest. At the present, it appears that any increase in spending for domestic discretionary spending will be lavished upon the space program and the super collider—only further increasing this regional transfer of wealth.

While disdain for Federal involvement in the marketplace curtailed Federal economic development activities in our region in the 1980's, this disdain for Government actually spurred economic activity in the Southwest. When the Federal Government loosened regulations on federally chartered thrifts, the State of Texas went even further. The deregulation of the Nation's thrift industry started out as an effort to reduce the role of Government in the marketplace. It ended up as the Government's largest regional economic development program in our Nation's history.

Few people realize that we have a "dual banking system" based upon a Federal-State partnership with States regulating State-chartered thrifts, while the Federal Government provides deposit insurance. Unfortunately, in recent years this Federal-State partnership was badly abused by State regulators in Texas—and other States—who gave owners of State regulated thrifts free rein to engage in highly risky activities with funds backed by Federal deposit insurance. Many State-chartered thrifts were acquired by developers who used them as their private banks to finance the development of office buildings, shopping centers, and apartment complexes.

These thrifts attracted deposits like a magnet by offering the highest interest rates in the Nation. From 1980 to 1985, federally insured deposits in State-chartered Texas thrifts grew by a staggering 186 percent. But these

thrift owner/developers did not worry about the risk associated with their ventures. When the bottom fell out of the Texas economy in 1986, taxpayers across the country were left holding the bag. And Texas was left with all the property.

The sheer magnitude of this regional economic development program can be illustrated by looking at the inventory of property held by the Resolution Trust Corporation (RTC). In March 1990, the RTC held 15 billion dollars worth of repossessed property. Of that, \$10.2 billion—or 68 percent—was located in the State of Texas. During the recent economic summit in Houston, the city pulled out all stops to convince the international press that Houston was an excellent place for investment. One of their major selling points: low-cost office space.

The costs to date to clean up State-chartered thrifts in Texas are staggering. Since the bailout began in 1988, \$29 billion in costs have resulted from insolvent State-chartered thrifts across the Nation. The 18 States of the Northeast-Midwest region caused only \$1.3 billion—or 5 percent—of that \$29 billion. However, \$21 billion—or 72 percent—is due to insolvent State-chartered thrifts in Texas.

□ 2310

So that our region is being hit with a triple whammy.

First, although we have rigorously regulated our State-chartered thrifts, we are being stuck with billions of dollars in costs from a State which did not.

Mr. ROTH. Mr. Speaker, will the gentleman yield on that?

Mr. WOLPE. I am glad to yield to my good friend, the gentleman from Wisconsin, who has been involved in leading the effort in trying to focus the attention of this body and of the country on this regional transfer of wealth.

Mr. ROTH. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman from Michigan [Mr. WOLPE] for arranging this special order so we can discuss the vital importance of enacting our bill, H.R. 5323. We have a simple goal: To inject some element of fairness into this half-trillion-dollar cleanup of the savings and loan mess.

Under the current system, the American taxpayer is footing most of the bill for covering the insured accounts, providing the working capital for the cleanup operation, paying the interest on the money borrowed for the RTC and covering the cost of the subsidies handed out in 1988 by the old home loan bank board. The cost is therefore distributed in line around the country in line with Federal tax payments.

Since most of the failures have occurred in just 13 States, this results in

a massive transfer of wealth from Wisconsin and 36 other Northern and Eastern States to the region of the country which caused the problem. It is unfair to my constituents and to the constituents of most Members of this House. Our bill would put some of the cost back onto those who caused the problem.

There is no reason why Wisconsin should send \$592 per citizen to the States which reaped the benefits of a fast and loose regulatory climate, and which are now sticking us with the bill. There is no reason why Texas should get \$4,700 per resident from the rest of America's taxpayers, when their Government fostered a climate like a wide-open frontier town, where anything goes. At the very least, these States should pay a portion of the cost of restoring the deposit insurance system which their governments did so much to deplete. And that is what our bill does.

The fact is inescapable that the worst part of this crisis has occurred in a handful of States. Texas alone is responsible for 72 percent of the S&L bankruptcies. These 13 States are responsible for 90 percent of the failures, by letting their S&Ls run wild. They provided a safe haven for the thousands of incompetents, financial gunslingers, and outright crooks who invaded the thrift industry. With some 21,000 criminal referrals now at the Justice Department—1,300 of which are major crimes—we know that 40 percent of the S&L failures were directly caused by criminal activity, and in 60 percent this was a factor.

There are many tough issues in the savings and loan mess, but none is more important to the American taxpayer than who will pay the bill. Unfortunately, but not surprisingly, the Federal bureaucracy can't seem to grasp the fact that the American taxpayer is angry at the fundamental inequity of how the cost is now distributed. The lack of public support for this cleanup is due in large measure to this basic unfairness.

When I questioned Treasury Under Secretary Glauber this week about our bill, his criticism betrayed a lack of sensitivity to what my constituents are telling me. So I guess he was shocked when I told him there won't be any more taxpayer funds until these problems are corrected.

The bottom line is, the RTC will not get another dollar from Congress as long as the taxpayers of Wisconsin—and the 36 other States now stuck with the bill—see their money going down the road to Texas while Texas goes along for the ride.

In the last several days, many Members have come up to me and tried to argue that our bill is unfair in itself. Their most common complaint is that since depositors from around the country benefited from the high-inter-

est rates, we shouldn't put all the blame on these States.

Frankly, that makes no sense to me. The dual banking system and our deposit insurance system impose obligations on Federal and State Governments alike. Everyone must do their part to maintain safety and soundness. If we can't depend on each State to regulate effectively for safety and soundness, then our banking system cannot survive in its current form. We cannot have Federal deposit insurance and State-regulated institutions in States which do not measure up.

Second, the real beneficiaries of the anything goes mentality were the businesses and other borrowers who had a virtual unlimited line of credit at these institutions. These States benefited handsomely from this climate, and now they must shoulder some of the load.

And finally, their argument is irrelevant to our bill. We do not impose all the costs on these States, nor even a majority of the costs. All we ask is that they pay a portion of the burden for a problem they caused through their own failures. If they choose not to, then they can set up their own deposit insurance system and assume the risk of their own policies. To oppose this bill means they deny all responsibility for their State governments. That extremism will not stand up in this House.

The day of reckoning is coming, however. This week, the Treasury and the FDIC told our committee they will ask for more RTC funds, perhaps as early as September. They will need an act of Congress. And we will be ready with this bill, as an amendment to any request for more taxpayer funds. If all the Members from the 37 States stick together, we will have a solid majority in the House and in the other body. And we can win this one for our constituents.

I again congratulate the gentleman from Michigan for really spearheading and taking the lead in this effort. He is providing the leadership, and we are going to see to it that we are going to have more than rhetoric on this issue.

When we have an amendment on the RTC funding that comes up again, that RTC funding is not going to be passed in this House until we get some remedy. So I thank the gentleman for taking the lead and for focusing in on this issue and for sensitizing the other Members of Congress to it.

Mr. WOLPE. Let me express my appreciation to the gentleman from Wisconsin for this contribution this evening and for his earlier cosponsorship of this legislation, and for this assistance in moving this very important bill forward.

I know that in this instance we are really speaking the feelings of constituents in our two States and all across our region. The gentleman

spoke of the unfairness from the standpoint of the State of Wisconsin in terms of what has happened here. Let me cite the Michigan data.

Of that \$29 billion in costs so far that have been associated with resolving these insolvent State-chartered thrifts, Michigan, which had a well-regulated system and well-managed thrifts was responsible for no more than \$50 million of the costs, and yet Michigan taxpayers are being asked to pick up over \$800 million of the cost of the bailout, so far established, and those number are going to go up in the years ahead as they go by.

That is not right. That is not fair. People understandably are angry about the inequity in what has happened here. That is really the first element of this triple whammy that I was describing, because although we have regulated our State-chartered thrifts well and carefully, we are being stuck with billions of dollars in cost from a State which did not.

There is a second dimension of the impact upon our region, and that is that the enormous cost of the scandal will reduce the Federal Government's flexibility to make the much needed investments in economic development that our region requires.

Then the third element of this triple whammy, if you will, is our taxpayers have financed billions of dollars worth of development in an area with which we will compete for private investment for years to come. It was really remarkable to see Houston business leaders on television during the international summit that took place in that city not long ago boasting of the marvelous investment climate in Houston and in the State of Texas because of low land values. Who was responsible for those land values? Our taxpayers, our constituents who subsidized that regional development program in the State of Texas.

Mr. ROTH. Will the gentleman yield for 30 seconds?

Mr. WOLPE. I am happy to yield to the gentleman from Wisconsin.

Mr. ROTH. Mr. Speaker, I appreciate the gentleman yielding because I want to add a personal note to underscore what he just mentioned.

I was very much concerned with what is happening in the savings and loan industry, and our savings and loans are getting a very bad rap in it, and in the Northern States also because they are painted with the same brush. To show that I had faith and confidence in our savings and loans in our State, because I received so many letters on this issue, I took some of our personal savings and put them into a savings and loan, and I received 8.2 percent interest. But in Texas, if I would have put it in a savings and loan in Texas, I would have received 11 percent interest.

When the Secretary of the Treasury was before our committee, and this is a matter of record, I had mentioned this to him, and I said, "Look, in Wisconsin you get 8.2 percent. If I would have transferred to Texas, I would have gotten 11 percent." I said, "How can the savings and loans in Wisconsin operate like this?"

Do you know what his answer was? He said maybe the people in Wisconsin will not find out that they can get 11 percent in Texas.

□ 2320

Now you just have to sit there and scratch your head. First of all, when they were giving away the big interests, giving away in Texas these interests and our people were getting less interest in Wisconsin, and now our people in the northern part of the country are to help out the big spenders who got the big interests before.

There is a basic inequity here. That has to be addressed. That is why, when this issue comes up, I know the gentleman from Michigan is going to fight for it, and so will others, to see if we cannot restore some equity here.

Mr. WOLPE. I certainly look forward to working with the gentleman from Wisconsin on this in the weeks ahead.

In closing, I would like to address one red herring that continually comes up. Some people vigorously deny that a regional transfer of wealth is underway. They claim that the crisis was caused by irresponsible thrifts that sought large deposits from wealthy investors across the country with the help of Wall Street brokers. With the depositors spread over the country, this line of reasoning goes, the bail out is not causing a flood of money into any particular region. This argument is frequently advanced by southwesterners trying to distract attention from their region's role in the S&L debacle.

There are two major problems with this argument. First, while some thrifts have relied heavily on brokered deposits, their role in the thrift industry as a whole has been greatly exaggerated. In December 1989, brokered deposits comprised only 7 percent of thrift deposits nationwide, and only 9 percent of deposits in Texas, where the vast majority of thrift failures have been concentrated. There is no evidence to support the claim that a majority of deposits in insolvent Southwestern thrifts came from other regions.

Second, the location of the depositors is actually beside the point. The important question in determining whether a transfer of wealth is occurring is not where the depositors live, but where their money was invested. And there is no doubt that these depositors' money was spent in the Southwest.

Some people may not want to call it a transfer of wealth, but it comes down to this: through State policy, Texas encouraged a massive construction boom and—by abusing the Federal deposit insurance system—has levied a tax on our citizens to pay for it. If that isn't a transfer of wealth, we don't know what is.

Enacting the State Thrift Deposit Insurance Act would add a small measure of accountability and equity to multibillion bailout now underway.

I urge my colleagues to examine this legislation carefully and to join in its cosponsorship and to move it through the Congress.

Mrs. MARTIN of Illinois. Mr. Speaker, from the days of the earliest settlers in Jamestown and the New England Colony, Americans have had a tradition of helping one another. When a barn needed to be raised, a field to be plowed, or a sick child to be nursed, people helped each other, knowing when their time of need came, they could expect the same assistance.

Once again, Americans are being asked to help other citizens in need, who through no fault of their own, may lose a lifetime accumulation of savings. The Federal Government made a commitment to these people to insure their savings—the problem is that the Federal Government will not be picking up the tab—the hardworking taxpayer will. With the costs of the bailout estimated at \$500 billion, however, this time there can be no expectation of a returned favor.

Instead, the people who live in States outside of the Southwest, including my State of Illinois, will be expected to pay—at least \$500 from every man, woman, and child—to subsidize the losses incurred. And these losses are not due to natural disaster or bad luck, instead, we are paying for the illegal deals, exorbitant spending, fraud, and downright mismanagement by inexperienced, if not corrupt, individuals.

While some of the blame can be attributed to the relaxed Federal laws which regulated thrifts, it was the flagrant abuse of the dual banking system—State chartered, yet federally insured institutions—by certain States that fanned the flames of the inferno now raging out of control.

That is precisely why legislation has been introduced to require these States which have allowed—through lax State charters—this mess to occur, to pay a Federal deposit insurance premium if the State's State-chartered thrifts are to continue to be eligible for Federal deposit insurance.

The American people have experienced a barrage of explanations and excuses in regard to the savings and loan fiasco. The rhetoric emanating from the bureaucrats and the politicians will soon start to fall on deaf ears. It is our duty in the Congress to take forward strides in ensuring not only that the perpetrators of the savings and loan crisis pay, but also that the entire dual banking system of free-market savings and socialized losses is significantly changed to make States, institutions, and people financially accountable and responsible for the sound investment and saving of their money.

Mr. BONIOR. Mr. Speaker, I am pleased to join my colleagues today speaking in a special order on H.R. 5323, the State Thrift Deposit Insurance Premium Act of 1990.

I am an original cosponsor of H.R. 5323, and I urge my colleagues to join me in cosponsoring this bill. H.R. 5323 would require States that have excessive costs due to State-chartered thrift failures to accept higher deposit insurance premiums.

This legislation is needed to ensure fairness and equity for the States that had responsible regulations and, therefore, did not experience many State thrift failures. Only .02 percent of the overall number of failures have occurred in my home State, Michigan. Yet, Michigan taxpayers are being asked to pay for 3.8 percent of the bailout. Is this fair when another State with tax regulations that is 72 percent of the problem is only going to pay 6 percent of the bailout? No; it is not fair.

The dual banking system is based on a partnership between the Federal and State Governments. Some State regulators abused this partnership, this responsibility. They allowed thrift managers to speculate on risky real estate deals and to invest in uncertain and unproductive commercial enterprises. Regulators did not intervene despite flagrant cases of conflict of interest on the part of thrift owners and managers. Now taxpayers are being asked to pay for their mistakes to the tune of billions of dollars. Michigan taxpayers are being asked to pay much more than they will ever gain from the bailout.

Irresponsible States have had their party. Now it's time for them to pay the piper. H.R. 5323 is asking those States with massive S&L failures to take responsibility. They just can't push responsibility off onto the States who played by the rules and kept S&L's solvent.

Mr. Speaker, I believe that the Federal Government must live up to its commitments, but I believe that the State governments must be held accountable as well. It is up to Congress to hold States accountable. Irresponsible States must learn their lesson from the S&L crisis or they are doomed to repeat it. We can't afford to waste another moment. I urge my colleagues to cosponsor H.R. 5323 and to help bring it to the floor for a vote.

Mr. SHARP. Mr. Speaker, I rise to join my colleagues in urging speedy approval of legislation to require greater equity in financing the bailout of savings and loan associations.

A number of us voted against the rule for the bailout bill last year because we felt this and other issues should have been debated by the House. There is no less compelling a reason for doing so now. A substantial portion of the cause of the collapse of the industry can be traced directly to lax State regulation of federally insured institutions in the Southwest and West where high-flying speculators got away with fraud, embezzlement and simply gross mismanagement. We are now requiring all to pay equally for the mistakes made clearly in specific, definable areas. In effect, we have penalized taxpayers in States where competent management and regulation avoided the debacle which will now cost very conservatively \$2,000 for every person in America. That is not acceptable.

We are not asking those States to pay the entire cost, or anything close to it. What we are asking is that at least a token additional cost be borne by those States, or their savings institutions lose Federal deposit insurance. It is only fair that those States which created the vast majority of the problem pay a comparatively small additional amount. That acknowledgement will build credibility with the rest of the country, whose support will be crucial when the administration returns to us, as it must, in the near future for additional funding.

There has been a great deal of discussion of regional interest. All taxpayers will be paying for a long time to clean up a regional problem. If those States in which the problem is centered cannot accept that they have an additional responsibility, as the rest of the country says the Midwest must bear in the cost of the acid rain problem, I cannot predict my support or that of other midwesterners in backing additional savings and loan rescue funds in the months ahead.

GENERAL LEAVE

Mr. WOLPE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. OWENS of Utah). Is there objection to the request of the gentleman from Michigan?

There was no objection.

HARMFUL EFFECTS OF NUCLEAR-RADIOACTIVE POISONING: HANFORD NUCLEAR WEAPONS PLANT AND NUCLEAR TESTS IN THE PACIFIC

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from American Samoa [Mr. FALEOMAVAEGA] is recognized for minutes.

Mr. FALEOMAVAEGA. Mr. Speaker, I would like to take this time to bring to the attention of my colleagues some facts concerning radioactive poisoning that I believe we should all be aware of and indeed pay much closer attention to. Over the years, Mr. Speaker, the United States and certain other nations of the world have been playing with fire and have somewhat ignored the consequences. We have experimented with nuclear power, built and tested nuclear weapons, and tried to dispose of nuclear waste, knowing full well that every aspect of these actions endangers the health and lives of not only those who are involved but also the health and lives of millions of innocent people all over the world. Only recently has the public become aware of the Hanford nuclear weapons plant, and I believe that it is time that our Nation considers past actions and mistakes and

begins to do something to rectify the situation.

Earlier last month, Mr. Speaker, the Department of Energy has finally admitted publicly that enough radiation was released in eastern Washington State to cause long-term illness to many residents outside the 560-square-mile Hanford nuclear weapons plant. This event took place between 1944 and 1947, and in 3 years one-fifth of the population, in 10 different counties surrounding the Hanford plant, had received what the Department of Energy claims to be "significant" amounts of radioactive poisoning. I would like to quote from Mr. Keith Schneider in his article in the New York Times, "Report Warns of Impact of Hanford's Radiation," and I quote in part:

The study found that in three years 13,700 residents, or 5 percent of the 10 county population, absorbed a level of radiation equivalent to 1,200 times the level of airborne contamination the Department of Energy now considers safe for civilians living around its nuclear weapons plants.

"That's significant exposure and that's a lot of folks," said Dr. John E. Till, a radiation scientist from Neeses, S.C. "That dose is significant enough to strongly justify a need for a thyroid disease study."

Dr. Till is head of an 18-member panel of scientific and technical experts that today (July 12, 1990) made public the first part of a five-year, \$15 million study of secret radioactive emissions from the Hanford nuclear reservation.

The study, financed by the Department of Energy, makes clear that hundreds of thousands of residents of eastern Washington State, Oregon, and Idaho, were continually and secretly exposed for a quarter of a century to large quantities of radiation from Hanford in air, drinking water and food.

No other group of civilians in the world is known to have been exposed to as much radiation over a longer period of time than residents of this region, said Allen W. Conklin, a radiation specialist with the Washington State Department of Health.

The report *** focused on the 270,000 people who lived in 10 counties in Washington, and Oregon surrounding the Hanford plant during and after World War II. From late 1944, when Hanford began to turn uranium into plutonium, until December 1947, the plant's officials secretly authorized the largest release of radiation from a nuclear weapons plant yet made public.

Some 400,000 curies of radioactive iodine, 26,000 times the radioactive iodine released from the Pennsylvania nuclear accident at Three Mile Island in 1979, poured into the atmosphere over the Pacific Northwest. The radioactive iodine, produced as a byproduct of irradiating uranium fuel, was set free when the fuel rods were dissolved in acid to extract plutonium.

While the most specific conclusion was that 5 percent of the population had each absorbed 33 rads of radiation, the report also concluded that an undetermined number of infants and children born and raised in this region . . . during those years may have received doses of radiation to their thyroid of 2,900 rads.

The current level of airborne radiation considered safe by the Energy Department for civilians living near nuclear weapons plants is .025 rads.

Dr. Till and the other panel members also estimated radiation doses absorbed by residents who drank water from the Columbia River and ate the river's fish and shellfish from 1964 to 1966. Eight of the nine nuclear reactors built on the 560-square-mile atomic reservation were cooled by drawing the river water directly through the reactor core and then discharged it back into the river.

The process caused millions of curies of radioactive particles to be flushed into the river, the region's prime drinking water source and a focus of recreational activities for years. The contamination was halted in 1971 when the last of the old reactors was shut. . . . People who grew up in the path of the contamination, viewed the secret emissions as a betrayal by the government.

Mr. Speaker, I would like to continue by quoting from Mr. Rudy Abramson, New York Times staff writer, in his July 12 article, "United States Tells of '40s Radiation in Northwest," and he states:

Residents of the Pacific Northwest were exposed to large doses of radioactive iodine released at the Hanford, Washington, nuclear weapons plant during the 1940s, the Department of Energy acknowledged Wednesday. . . . While the Government has previously confirmed the release of radioactive iodine from the plant, the statement Wednesday by Energy Secretary James D. Watkins is the first official acknowledgment that the radiation could have affected the health of the people living in the region. . . . "The implications of the report are serious," Watkins said. . . . Watkins said the scientific report would estimate that some residents had been exposed over this period to as much as 3,000 rads. A rad is a measure of radiation equal to what is absorbed in about a dozen chest x-rays. By comparison, nuclear plant workers are limited by the Government to an annual radiation exposure of five rads. . . . A former admiral in the nuclear Navy, Watkins said he was shocked when he took over the Nation's nuclear weapons complex to find that it lagged far behind the civilian nuclear industry in dealing with waste problems.

"When we start rattling the trees here, we get a lot more rotten apples down than we expected," he said.

Our Secretary of Energy, Mr. Watkins continued in an article taken from the New York Times, "U.S. Sees Danger in 1940's Radiation in the Northwest," and I quote:

It came about at a time when we knew little about the effects of radiation," said Mr. Watkins. Many residents have felt betrayed by the government. "You can't print what I want to say," Tom Ballie said today. He is a 43-year-old farmer raised in Mesa, East of Hanford and in the path of the radioactive clouds, whose family has been affected by thyroid diseases. "Without our consent, without our knowledge, this was done to us. We want to know why they placed children like me on the front lines of the cold war."

Mr. Speaker, all of this is the result of unintentional errors made almost 50 years ago but today innocent people are now suffering from these unintended mistakes. If this had been an isolated incident, or if it had been the result of complete ignorance, perhaps it would be a littler easier to tolerate,

however other events have proven this to be false. We now know that what happened at the Hanford nuclear weapons plant is only one of an increasing number of such incidents. We also know that ignorance cannot be blamed for these past mistakes. Any intelligent person knows how harmful the effects of radiation are to human beings.

I would like to remind my colleagues of an incident that took place in the South Pacific in 1954, and I would like to point out, Mr. Speaker, that at the time of this incident, the dangers of nuclear testing were already known to be harmful, yet no attempt was made to ensure the safety of the people involved.

The "Bravo" nuclear testing of a hydrogen bomb explosion in 1954 in the Bikini Atoll, is a classic example of total disregard for the health and well-being of the island residents of Rongelap in the Marshall Islands. To date these people are still suffering from radioactive poisoning.

I would like to share with my colleagues the effects of radioactive poisoning on the people of these islands, and I quote from Jane Dibblin's Book, "Day of Two Suns":

At 6:45 on the morning of 1 March 1954, eight years after testing in the Marshall Islands began, the U.S. detonated a bomb codenamed "Bravo" on the Island of Bikini. The bomb was equivalent to 17 megatons of TNT, 1,300 times the destructive force of the bomb dropped on Hiroshima, and was specifically designed to create a vast amount of lethal fallout. That morning the wind was blowing in the direction of two inhabited atolls, Rongelap and Utrik, roughly 100 and 300 miles from Bikini. During previous tests Rongelap and Utrik had been evacuated. For some reason never yet divulged, there was no attempt to evacuate them before Bravo.

The first the islanders knew of Bravo was an intense light, like a strange sun dawning in the west. Later they heard the explosion. By mid-day the fallout, a fine powder which fell from the sky, had reached Rongelap.

I share with my colleagues the personal testimony of one of the residents of Rongelap Island when the explosion occurred. Lemoyo Abon, now a teacher, shares her experience:

I was 14 at the time and my sister Roko was 12. That day our teacher had asked us—my sister and I and our two cousins—to cook rice for the other children. We got up early to do it. When we saw the bright light and heard a sound—boom—we were really scared. At that time we had no idea what it was. After noon, something powdery fell from the sky. Only later were we told it was fallout. With Roko and several cousins, I went to our village on the end of Rongelap Island to gather some sprouted coconuts. One cousin climbed the coconut tree and got something in her eyes, so we sent another one up. The same thing happened to her. When we went home—ours was the main village on Rongelap—it was raining. We saw something on the leaves, something yellow. Our parents asked, "What's happened to your hair?" It look like we'd rubbed soap powder in it.

That night we couldn't sleep, our skin itched so much. On our feet were burns, as if from hot water. Our hair fell out. We'd look at each other and laugh—you're bald, you look like an old man. But really we were frightened and sad.

Mr. Speaker, I continue the story from "Day of Two Suns," and I quote:

The pale powder continued to fall until late afternoon, by which time it was about one and a half inches deep. Later it emerged that it was in fact particles of lime (calcium oxide) formed when Bikini's coral reef (a formation of calcium carbonate) melted in the intense heat of the bomb and was sucked up and scattered for miles. The exact dose of radiation received by the islanders was never measured, but it was estimated that people on Utrik received 14 rem and those on Rongelap 175 rem. The International Commission on Radiological Protection now recommends that a maximum permission total body dose to a member of the general public be 0.5 rem a year.

John Anjain, a magistrate on Rongelap at the time, tells what happened over the next two days—and why his people sometimes refer to the event as the "Day of Two Suns":

"On the morning of the 'bomb' I was awake and drinking coffee. I thought I saw what appeared to be the sunrise, but it was in the west. It was truly beautiful with many colours—red, green and yellow—and I was surprised. A little while later, the sun rose in the east. Then some time later something like smoke filled the entire sky and shortly after that a strong and warm wind—as a typhoon—swept across Rongelap. Then all of the people heard the great sound of the explosion. Some people began to cry with fright. Several hours later the powder began to fall on Rongelap. We saw four planes fly overhead, and we thought perhaps the planes had dropped this powder, which covered our island and stuck to our bodies. The visibility was less than one half mile at the time, due to the haze in the sky.

"The next day, early in the morning, I looked at all of the catchments with Jabwe [the health aide] and Billiet [the school principal] and we noticed the water had turned to yellow. I then warned the people not to drink from these water catchments, and told them to drink only Ni [coconut milk]. The people began to get sick with vomiting, aches all over the body, eye irritations and general weakness and fatigue. After the second day most of the people were unable to move around as usual due to their fatigue. Just a few strong young men were up and about at that time and I asked them to fetch some coconuts for the rest of us to drink. On the evening of the second day a seaplane arrived from Emewetak with two men who brought some strange machines. They stayed only about 20 minutes and they took some readings of water catchments and soil, then took off again. They really did not tell us very much."

Not far from Rongelap, U.S. Navy ships were measuring the intensity of radioactivity. They were not instructed to rescue the Rongelap people; indeed, the task force command ordered them to sail away from the area. Twenty-eight American service personnel stationed on Rongelap Atoll to provide hourly weather reports were also exposed to radiation, and were not told when Bravo would be exploded. It was two days before the Navy arrived to pick up the Rongelap islanders and the U.S. personnel—two days in which they breathed, slept and ate the fallout.

No satisfactory answer has been given as to why they were not rescued as soon as it was known that they had been in the path of the fallout. Immediate decontamination on board ship would have at least minimized some of the horrific effects of radiation sickness. Instead, belatedly, the ships took the Rongelapese to the U.S. military base on Kwajalein Island, as Etry Enos explains:

"When we arrived on Kwajalein we started getting burns all over our bodies, and people were feeling dizzy and weak. At that time we did not know if we would ever return to Rongelap and we were afraid. After two days something appeared under my fingernails and then my fingernails came off and my fingers bled. We all had burns on our ears, shoulders, necks and feet, and our eyes were very sore."

Billiet Edmond kept a diary at the time. In one of his entries he described the injuries as follows:

"After two days on Kwajalein, a group of military doctors began their studying on the victims. Nausea, skin-burns, diarrhoea, headaches, eye pain, hair fall-out, numbness, skin discoloration were among common complaints. It had been so for quite a while. The children were more critical. My 10-year old adopted son had severe burns on his body, feet, head, neck and ears. I cannot help remembering those sleepless nights we had to hold him down onto his bed as he would have jumped up and down, scratching, rolling, as though insane.

"Although I had also some burns on my back, feet and hands, and my hair was falling out, I knew I had been the least affected and I deeply felt pity about those who suffered the most."

"On Kwajalein the Rongelapese were given medical treatment. It was cursory, to say the least. Film footage of that time shows lines of Marshalese people being 'inspected'. Jabwe Jojour, health aide on Rongelap, was angered by the lack of information given to the islanders about their injuries, and he states:

"When we arrived in Kwajalein we immediately showered for several hours at the military base there. After some days a medical team flew out from the U.S., and they are still treating us today. After three days we had burns all over our bodies, and our hair began to fall out: some people actually went bald. When we asked the Atomic Energy Commission doctors to help us understand what had happened, they did not tell us, and today they do not tell us the truth about our problems."

"A Japanese tuna fishing boat, the Lucky Dragon, was also caught in the path of Bravo's fallout. It was 100 miles east of Bikini when the bomb was detonated. The crew members suffered headaches and nausea and by the time they reached Japan two weeks later all 23 were suffering from radiation sickness, with skin blisters and falling hair. One of the crew members, Aikichi Kuboyama, died of liver and blood damage on 23 September. The fisherman's injuries caused an international outcry and two years later the U.S. handed over \$2 million in compensation to the Japanese Government.

For three years the people of Rongelap led an uncertain and unsettled existence, shunted around different islands, first Ebeye, then Ejit Island in Majuro Atoll, waiting to be told it was safe to return home.

The Rongelap people had a long wait before they saw their land again, but they

too returned with mixed feelings. Etry Eno recalls:

"I was afraid to return to Rongelap in 1957 but they said it was safe for us. We did not understand what 'poison' [radiation] was, and if we had we would not have returned. Now we really understand that the 'poison' is dangerous and that Rongelap is contaminated. In 1957 [we were told] that we could eat anything we wanted except the coconut crab. When we ate the arrowroot it really burned our mouths. Everything we were used to eating had changed color and we were surprised that we were allowed to eat our foods on Rongelap, even though we knew that the foods were unusual in colour."

John Anjan remembers:

"At the time of our return the High Commissioner and some representatives from the United Nations Trusteeship Council came to our island. We asked them if it was safe to return to our island and they all agreed that there was still a little bit of radiation left on Rongelap and that it might injure our health, but not very much. With that slight reassurance we returned, but we had much fear then."

"For 22 years the people of Utrik were told that the dose of radiation they allegedly received, 14 rems, was too low to cause any concern. The exposed people were therefore examined only once every year, and those not directly exposed to fallout—who nevertheless returned to the atoll and were living off irradiated food—were not examined at all. That in itself caused resentment, with the 'unexposed' group feeling they too should be monitored and both groups feeling that radiation was taking its toll."

"How exactly did radiation affect the health of the islanders? Even before returning to Rongelap and Utrik, people began to realize that the burns, intense itching, nausea and hair loss they had experienced in the first weeks after Bravo were not the end of their problems. One of the most disturbing and terrifying effects was on women's reproductive systems and on children yet to be born. Some women who became pregnant in the years following Bravo found they suffered an unexpectedly high number of miscarriages and severely deformed babies, many of whom died. Almira Matayoshi was 17 and living on Rongelap at the time of Bravo, and she states:

"One of my babies was born in 1955 [the year after Bravo] and it did not have any bones in its body. After that I had problems with the next pregnancy and they had to rush me to Kwajelein Hospital because I was bleeding. There they gave me a D and C and it caused me so much pain that I was temporarily blinded—they had to give me ten pints of blood."

Mary Sampson was only seven when she was caught in the fallout on Rongelap. When she reached child-bearing age she suffered similar experiences:

"I have had very many problems with childbearing. My first baby lived for a very short time—several minutes—but it was not healthy and did not move around very much when it was born. I was very sad and confused because I was healthy then, and then when I thought about it I remembered that I had 'poison' in my body and that is why the baby died, later another baby was born and it too died shortly after birth. Then I had a miscarriage after four months. Now I am always afraid when I am pregnant and this fear is shared by all women on Utrik and Rongelap. Even my healthy children may someday get radiation diseases."

"Women on Wotje and Utrik too have had deeply traumatic births. Kathe Judo lives on Wotje and describes what the Marshallese women now call 'jellyfish babies':

"I saw three different women give birth to strange things after the 'bomb.' One was like the bark of a coconut tree. One was like a watery mass that was not human-like. Another was again like a watery mass of grapes or something like that. I believe that these things are all caused by 'the bomb.'"

Nelly Aplos was 19 when she heard bravo explode from her home island of Utrik:

"Now I have lots of aches and pains in my body, notably in my back, chest and under my breast. I have lost three babies after 'the bomb'—and never had any problems before. The first baby lived for two days and then the baby's skin turned blue and it died. Later when I was six month pregnant the baby died and I was very sick at the time. After that I was pregnant for two months and then I had a jibun [miscarriage]. I know now that I have a lot of poison in my body and I am certain that this makes the babies weak. I was never sick during any of my pregnancies (except after I lost my babies) and this never happened before the bomb. I have heard from other women in Utrik about many cases of jibun . . . I also have heard of some babies who do not know how to suck from their mother's breast and who eventually die of hunger."

When I spent time with the Rongelap people in 1986, I met one evening with the women on Mejato. We talked about why I was there, the problems they were facing and how women's groups and peace group in the West could work with them. Suddenly one woman who had been sitting silently in a corner spoke up. She was Katherine Jilel, the midwife and a grandmother. She spoke forcefully through her tears:

"We are very angry at the U.S. and I'll tell you why. Have you ever seen a jellyfish baby born looking like a bunch of grapes, so the only reason we knew it was a baby was because we could see the brain? We've had these babies—they died soon after they were born."

Later she told me about her own baby:

"Our first baby was born in October 1960, after the bomb, when we'd returned to Rongelap. He was born with a big lump on his head and died very, very young. All the food we were eating was irradiated but we didn't know. I wasn't even on Rongelap the day the test happened but I went back there in 1957 and I was irradiated from eating the food. I think that's why my son died."

The testimonies of women who have given birth to an unformed fetus or who have suffered repeated miscarriages are too numerous to include them all here. Many women have chosen not to show the babies to their partners; some cannot bear to see them themselves, says Marshallese health worker Darlene Keju-Johnson:

"When they die they are buried right away, a lot of times they don't allow the mother to see this kind of baby because she'll go crazy."

Radiation can damage an unborn child in various ways. firstly, A fetus can be damaged by being exposed to radiation while in the mother's womb. Almost a Quarter of pregnant women exposed within a mile and a quarter of the explosion in Hiroshima lost their pregnancies through miscarriages or stillbirths. Of the live births, a quarter died when they were less than one year old, and a quarter of the children who survived had mental handicaps. Many children suffered microcephaly: an abnormally small head cir-

cumference and severe mental handicaps. Japanese Hibakusha (radiation survivors) were mostly unable to have children during the first three years after the bombing: Those who conceived of then aborted unformed, unrecognizable fetuses late in the pregnancy."

Mr. Speaker, the damages of nuclear testing in the Pacific are very extensive and still we do not have the details of this sad moment in our Nation's quest for supremacy in the nuclear arms race. What we do know for a fact is that we will never be able to give those people back their health or the lives of their unborn children or in any way make up for the pain and suffering they have endured.

To add to this insult, Mr. Speaker, the French Government is still conducting underwater nuclear tests in the South Pacific, and while French Government officials have chosen to believe that they are not causing any harm, there is more than sufficient evidence to prove that, as in most cases concerning the french and nuclear testing, they are wrong, totally wrong. Aside from the direct effect on humans, nuclear testing is seriously harming the marine environment, the food chain and ultimately the consumers. This includes people all over the South Pacific and not just in french Polynesia.

The following article which appeared in the July 1989 issue of Australian Society. I would like to share with my colleagues an article written by Mr. Tilman Ruff, and he states in part:

Over the past six weeks, with a cheerful disregard for international opinion, the French Government has again been testing nuclear weapons in the Pacific.

The risks of radiation are relatively well known, although the appalling state of health data in French Polynesia prevents a meaningful assessment of any radiation related effects of the French actions. Less commonly known is the role the tests play in increasing the risk that islanders will contract ciguatera, a form of food poisoning that can run for weeks, months or years, and sometimes results in death.

"Ciguatera sufferers are victims of toxins produced by certain dinoflagellate plankton species found in coral reefs. The fish that eat the plankton suffer no ill effects, but people who eat the fish experience any number of a range of symptoms, including vomiting, diarrhea, abdominal pain, and sensory and motor dysfunction. During pregnancy the disease may result in abortion, premature labour, and neurological disorders in the new born. Subsequent attacks tend to be more severe, and a recurrence of symptoms can be triggered by consuming non-toxic fish, alcohol or other foods.

"Outbreaks tend to follow disturbances of the ecology of coral reefs: storms, for example, or earthquakes, tidal waves and heavy rains. Since the Second World War military activity appears to have played an increasingly significant role in promoting the disease. Nuclear explosions can damage atolls and coral reefs or, in some cases trigger earthquakes. Military infrastructure, includ-

ing airfields, monitoring stations and ports, disrupts island and reef ecology.

"Hao Atoll is situated in the Tuamotu Archipelago, part of French Polynesia. No cases of ciguatera had been recorded on the atoll before 1965. In January of that year the French Atomic Energy Commission began converting the atoll into a staging base for its Moruroa and Vangataufa test sites, several hundred kilometers to the south. Construction included piers, a camp for 2,000 soldiers and a large airfield with a 3,500-metre runway. Large quantities of coral were dredged to help build the largest military base in the South Pacific.

"Hao Atoll's first reported case of ciguatera was brought on by fish caught in August 1966 at the original French landing site. Toxicity spread outward from that point over the next two years. In mid-1968 the French researcher, R. Bagnis, found that 43 percent of the atoll's 650 inhabitants had contracted ciguatera. Not until 1975 did toxicity in herbivorous fish begin to fall.

"Ciguatera outbreaks in the Marshall Islands date back a further twenty years. The islands, to the northeast of Australia, were the site of several battles during the Second World War. Military activity brought an increase in population on Kwajalein and Majuro, and ciguatera was reported at Majuro in particular. Reports of the disease rose in the fifties.

"In the eighties, more thorough records reveal a dramatic picture. Only since 1982 have health statistics for the former U.S. strategic Trust Territory of the Pacific Islands been recorded separately for its components, the North Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau. Between 1982 and 1987, the reported annual incidence of ciguatera was more than three times the rate on any other Micronesian territory. The most plausible explanation is the extensive military infrastructure and activities related to the 66 United States nuclear test explosions in the area between 1946 and 1958. No alternative explanations have been proposed.

"A register of ciguatera cases has been kept in French Polynesia since 1960. Coincident with the onset of the French nuclear testing program in 1966 was a massive increase in the number of reported cases of the disease. The reported incidence rose through the sixties, peaking in 1972-75 at ten times the 1960 figure. Improved case reporting over time has never been presented as a major reason for the increase.

"Apart from the suffering it causes, the nexus between French tests and ciguatera outbreaks is significant in another way. The French Government repeatedly claims that the nuclear experiments have no adverse effects on the environment or human health."

What the French are doing within their own territories is inhuman. The complete and total disregard for human life and the welfare of the environment is almost unforgivable. They are completely denying the rights of the inhabitants of French Polynesia and the rest of the South Pacific.

On September 10, 1966 the French exploded a 120-kiloton device at their new Moruroa testing site. Heavy radioactive fallout was registered by New Zealand National Radiation Laboratories in the Cook Islands, Niue, Samoa,

Tonga, Fiji, and Tuvalu. Since that time these monitoring stations have continued to regularly register heavy fallout from the French testings.

I am wondering, Mr. Speaker, just how long this will be allowed to continue. The French Government has clearly abused its administrative authority in the South Pacific by endangering other nations and territories and all the while maintaining a "people who live in glass houses" attitude. They have made it very clear that they will not stop until the United States, Soviet Union, and Britain all stop. But that is not the issue. The issue is whether France is endangering the marine environment which is undeniably connected to the rest of the Pacific's marine resources that all countries—which incidentally, Mr. Speaker, include the States of Hawaii, California, Oregon, Washington, and Alaska—all countries of our Asian/Pacific region depend upon directly for food and sustenance. I submit, Mr. Speaker, French nuclear testings in the Pacific have a direct impact on American citizens living on the entire west coast, Hawaii, Micronesia, and United States territories. Mr. Speaker, is the State Department and our Government going to wait 20 years more before we rediscover another Hanford mistake? The trouble is Mr. Speaker, the French Government and the good people of France live in Europe, not in the Pacific—do they care about the health and lives of French citizens living in the Pacific? I doubt it.

Mr. Speaker, I would like to suggest that we stop this madness. We can talk and negotiate forever and the only thing that will be accomplished is that more innocent people will suffer. What France is doing in the South Pacific is wrong, and their treatment of the entire situation borders on total disrespect for the lives of Pacific peoples.

Mr. Speaker, early last week, France became the ninth nation to ratify the South Pacific Regional Environmental Convention which was originally drawn up in the Cook Islands in 1982 by Pacific forum countries.

The convention which has been signed by Australia, the Cook Islands, the Federated States of Micronesia, Fiji, the Republic of the Marshall Islands, the Solomon Islands, Papua New Guinea, New Zealand, and now France, is aimed at preventing the dumping of waste or dangerous materials in the South Pacific.

Mr. Chairman, this latest move by France is a smokescreen designed to placate some of the worldwide criticism of their continued nuclear testing. While they have signed the overall protocol, they have refused to recognize the convention's antinuclear provisions. France's signature is conditioned on its ability to retain its right

to continue nuclear testing in the South Pacific.

France's signature makes a mockery of the principles of the convention and perpetuates their arrogance in dealing with the inhabitants of the various Pacific island nations.

France's ratification leaves the United States as the only country who has not signed the protocol. Our refusal merely confirms the long held belief that we are insensitive to the needs of the South Pacific. * * * And in that context, we are just as guilty as France.

Mr. Speaker, each year this Nation spends millions of dollars to educate our children on the environmental dangers of the world around them, yet as a nation we continue to make that world a much more dangerous place to live. We do everything we can to ensure the health and safety of our children so that they can grow up in a world that we will hopefully clean up for them and their children to live in. We know that what we are doing is harmful yet we continue to do it. We wait for the other nations to make the first move and we play this childish game of "if you do it so will we" and "lets all count to three and then we'll stop at the same time".

It is time, Mr. Speaker, for us to grow up and listen to the advice we receive from our children. It is time for us to stop waiting to see what our neighbors are going to do and put an end to nuclear testings everywhere.

It is my hope, Mr. Speaker, that my colleagues will join with me in saying that the time has come to reexamine this whole madness on the conduct of nuclear testings. Many innocent Japanese citizens suffered and died from the effects or radioactive poisoning as a result of war. Pacific islanders have suffered and died after heavy exposure to radioactive poisoning as a result of our Nation's nuclear testing program in the 1950's. We are now confronted with Americans who were exposed unknowingly from the Hanford Nuclear Weapons Plant. We also need to be reminded of the Three-Mile Island fiasco and Chernobyl.

Mr. Speaker, I ask my colleagues, the State Department and the administration—why are we so silent on France's continuous underwater nuclear testing program in the South Pacific? Must I remind my colleagues that there are over 40 million Americans living in the Pacific? Must we wait until we receive contaminated fish and other marine life forms due to French nuclear testings?

Mr. Speaker, I challenge President Mitterand and the French Government to give me assurances that the Polynesian Tahitians exposed to radiation from its nuclear testings program are treated with utmost care. Mr. Speaker, it is my understanding

the Polynesian Tahitians have become victims of radioactive poisoning and that French Government officials conducting the tests simply do not care, neither do they show concern for the health, welfare, and safety of the native inhabitants.

Mr. Speaker, I also challenge the world-famous French oceanographer, Jacques Cousteau, who claims French underwater nuclear testings in the Pacific do not harm the marine environment. Mr. Speaker, I submit, when did Mr. Cousteau become such an expert on the effects of nuclear detonations on the marine environment, or on human beings for that matter? While I have great respect for Mr. Cousteau as an oceanographer, he is certainly not a nuclear scientist. My understanding is Mr. Cousteau's research on the Moruroa Atoll, where the nuclear tests take place, is that his findings were only at the midpoint level of the depth of where actual detonations take place.

France claims it would take 10,000 years before any nuclear waste comes to surface. However, a New Zealand scientist, Prof. Manfred Hochstein, head of Auckland University's Geothermal Institute, recently reported in the July issue of Pacific magazine, "the presence of cesium-137 in lagoon water that had a half-life of 2 years. Hochstein said United States scientists had pointed out that the cesium in the lagoon couldn't have come from the atmospheric tests *** in the early 1970's *** he wouldn't put a foot into the lagoon sediments and certainly wouldn't eat the fish there. Hochstein said the worst effects of radioactive contamination in the area would be felt in 30 years."

Mr. Speaker, let's not wait for another Hanford incident. I sincerely hope the good people and citizens of France will appreciate the importance of our global need for a safer and healthier environment, just as much as Polynesian Tahitians and other Pacific islanders who have become victims of this nuclear madness.

Mr. Speaker, I yield back the balance of my time, and I submit for the RECORD related articles on this matter.

REPORT WARNS OF IMPACT OF HANFORD'S RADIATION

(By Keith Schneider)

RICHLAND, WA., July 12.—One in every 20 resident of 10 counties surrounding the Hanford nuclear weapons plant here absorbed "significant" amounts of radiation in three years ending December 1947, a panel of radiation and health experts said in a report released today.

That was among the most specific conclusions of the report, a sweeping look at the amount of radiation absorbed by residents of the Pacific Northwest from secret Hanford emissions during and after World War II.

Some independent radiation specialists said the levels of radiation described in the report would lead to additional diseases and deaths among the exposed population.

The report and a brief statement about it by Energy Secretary James D. Watkins on Wednesday stated no specific conclusion about the level of radiation-linked disease among residents here, but they are the first acknowledgement from the Government that it had released enough radiation to cause illness to residents beyond the 560-square-mile plant sprawling along a bend in the Columbia River in eastern Washington State.

HIGHLY PERILOUS EXPOSURE

The study found that in three years 13,700 residents, or 5 percent of the 10-county population, absorbed a level of radiation equivalent to 1,200 times the level of airborne contamination the Department of Energy now considers safe for civilians living around its nuclear weapons plants.

"That's significant exposure and that's a lot of folks," said Dr. John E. Till, a radiation scientist from Neeses, S.C. "That dose is significant enough to strongly justify a need for a thyroid disease study."

Dr. Till is head of an 18-member panel of scientific and technical experts that today made public the first part of a five-year, \$15 million study of secret radioactive emissions from the Hanford nuclear reservation.

The study, financed by the Department of Energy, makes clear that hundreds of thousands of residents of eastern Washington state, Oregon, and Idaho, were continually and secretly exposed for a quarter of a century to large quantities of radiation from Hanford in air, drinking water and food.

No other group of civilians in the world is known to have been exposed to as much radiation over a longer period of time than residents of this region, said Allen W. Conklin, a radiation specialist with the Washington State Department of Health.

SECRET RELEASE OF RADIATION

The report today focused on the 270,000 people who lived in 10 counties in Washington and Oregon surrounding the Hanford plant during and after World War II. From late 1944, when Hanford began to turn uranium into plutonium, until December 1947, the plant's officials secretly authorized the largest releases of radiation from a nuclear weapon plant yet made public.

Some 400,000 curies of radioactive iodine, 26,000 times the radioactive iodine released from the Pennsylvania nuclear accident at Three Mile Island in 1979, poured into the atmosphere over the Pacific Northwest. The radioactive iodine, produced as a byproduct of irradiating uranium fuel, was set free when the fuel rods were dissolved in acid to extract plutonium.

While the most specific conclusion was that 5 percent of the population had each absorbed 33 rads of radiation, the report also concluded that an undetermined number of infants and children born and raised in this region from during those years may have received doses of radiation to their thyroid of 2,900 rads.

The current level of airborne radiation considered safe by the Energy Department for civilians living near nuclear weapons plants is .025 rads.

Dr. Till and the other panel members also estimated radiation doses absorbed by residents who drank water from the Columbia River and ate the river's fish and shellfish from 1964 to 1966. Eight of the nine nuclear reactors built on the 560-square-mile atomic reservation were cooled by drawing the river water directly through the reactor core and then discharging it back into the river.

CONTAMINATION OF RIVER

The process caused millions of curies of radioactive particles to be flushed into the river, the region's prime drinking water source and a focus of recreational activities for years. The contamination was halted in 1971 when the last of the old reactors was shut.

Dr. Till and other panel members said today the radioactive emissions from the plant have virtually stopped and people beyond Hanford's boundaries no longer are at risk from day-to-day operations.

In Richland, where almost everybody is connected to Hanford, which employs 13,000 people, the response was defiance and defensiveness.

Russell L. Brown, a 57-year-old electrical engineer who worked at Hanford for 30 years before retiring recently, said: "This was one of the prices of the cold war. In the nuclear age, everybody is on the front line since in a nuclear war everybody gets incinerated. That's the way life is."

But people who grew up in the path of the contamination, viewed the secret emissions as a betrayal by the Government.

"For a lot of years, I hunted every scrap of newspaper to see if I could find what caused the problems we've had in my family," said Mary Pengelly, 59, who was raised in Pendleton, Ore., 745 miles southeast of Hanford. Mrs. Pengelly said she and six other brothers and sisters have been treated for thyroid disorders.

"It's hard to believe the Government would do this to us," she added. "I don't think we have the full picture yet. I do know we paid too high a price."

U.S. TELLS OF 1940'S RADIATION IN NORTHWEST

(By Rudy Abramson)

WASHINGTON.—Residents of the Pacific Northwest were exposed to large doses of radioactive iodine released at the Hanford, Wash., nuclear weapons plant during the 1940s, the Department of Energy acknowledged Wednesday.

The radiation exposure, which will be detailed today in a report to be released in Richland, Wash., by an independent panel of scientists, was sufficient to cause illness among people living in parts of Washington, Oregon and Idaho, the department said.

While the government has previously confirmed the release of radioactive iodine from the plant, the statement Wednesday by Energy Secretary James D. Watkins is the first official acknowledgment that the radiation could have affected the health of people living in the region.

Watkins said he had conferred with John Till, a nuclear engineer leading the scientific study, and conceded that it will show "significantly high" doses of iodine were released from 1944 to 1947 at the site. "The implications of the report are serious," Watkins said.

Watkins said the total radioactivity released during a single episode at Hanford in 1945 was between 350,000 and 400,000 curies. A curie is the amount of radiation emitted in one second by 1,400 pounds of enriched uranium.

Watkins said the scientific report would estimate that some residents had been exposed over this period to as much as 3,000 rads. A rad is a measure of radiation equal to what is absorbed in about a dozen chest X-rays. By comparison, nuclear plant workers are limited by the government to an annual radiation exposure of five rads.

Watkins said it was unclear what the exact health effects of the releases were. "We don't know who was at the right spot at the wrong time," he said, "We're primarily interested, of course, in the infants," who are substantially more vulnerable than adults to such radiation.

A separate study by the federal Centers for Disease Control is addressing the actual cases of illness that may have resulted.

Anticipating today's new disclosures about nuclear waste problems at the Hanford weapons complex, the department Wednesday shook up management of the sprawling plutonium production facility. It also announced it will sign an agreement today giving the Army Corps of Engineers a major role in the cleanup.

Watkins said Hanford's future will be devoted to waste management and environmental restoration rather than production of fuel for nuclear warheads. He added that its new director and three deputies will report directly to the chief of the multibillion-dollar cleanup of the department's contaminated weapons facilities.

Hanford now has some 600,000 cubic yards of radioactive waste in storage, including 2,100 tons of spent fuel rods from plutonium production reactors and 149 contaminated underground tanks that once held liquid wastes. So far, some 1,100 sites on the 560-square-mile reservation have been identified as requiring remediation.

Investigators from Energy Department headquarters are now completing another seven-week assessment and will shortly be reporting details of the cleanup requirements, Watkins said.

In the management shake-up announced Wednesday, Watkins chose John Wagoner, a veteran of both civilian and military nuclear power programs, to replace Michael Lawrence, who will leave the department at the end of July.

While he praised Lawrence as a "wonderful person," Watkins acknowledged that he wanted a more aggressive management organization to tackle the cleanup, whose cost is still a subject of widely varying estimates.

A former admiral in the nuclear Navy, Watkins, said he was shocked when he took over the nation's nuclear weapons complex to find that it lagged far behind the civilian nuclear industry in dealing with waste problems.

"When we start rattling the trees here, we get a lot more rotten apples down than we expected," he said.

The memorandum of understanding to be signed with the Army Corps of Engineers will lay out national guidelines for the corps' participation in the cleanup of weapons installations across the country.

U.S. SEES A DANGER IN 1940'S RADIATION IN THE NORTHWEST

(By Keith Schneider)

RICHLAND, WA., July 11—The Energy Department today acknowledged for the first time that the doses of radiation produced by an atomic weapons plant here in the 1940's and 1950's were high enough to cause illnesses, including cancer, in residents of the Pacific Northwest.

While the Government released documents in 1986 confirming that radioactive iodine from the plant reached the civilian population in the region, the announcement today by Energy Secretary James D. Watkins was the first statement by the Government that the doses were high enough to affect the health of people living near the plant, the Hanford Nuclear Reservation,

part of the Government's multistate system for making nuclear bombs.

The Government has reached no conclusions yet about how many actual cases of illness may have been caused. That information is the subject of a separate study by the Federal Centers for Disease Control in Atlanta, which has been conducting a broad survey of thyroid diseases.

TAKING THE EDGE OFF?

Mr. Watkins's announcement today, at a news conference in Washington, appeared to be intended to disclose beforehand the most startling aspects of a report that the Government will release Thursday. That report, produced by a panel of scientists and civilians from the region, is the result of a two-year study to estimate the doses of the radiation absorbed by thousands of residents of eastern Washington State, Oregon and Idaho.

While Mr. Watkins did not address the question of potential compensation to victims, presumably his announcement opens the way for lawsuits and legislation that would do so.

Radiation health specialists said today that those most vulnerable to the radioactive iodine, and those who would have received the largest exposures, were infants and children who drank milk from cows that were fed contaminated grasses. They said that such high doses could have put the children at risk for thyroid diseases, including cancer.

EXPERTS ARE SURPRISED

In a news conference in Washington today, Mr. Watkins said that some residents received 3,000 rads to their thyroids. A rad is a measure of radiation equal to what is absorbed in about a dozen chest X-rays. Nuclear weapons plant workers are limited by the Federal Government to an exposure of five rads a year to their entire bodies.

The estimate that some infants and children received accumulations of 3,000 rads to their thyroid glands took some radiation specialists by surprise today. "That's a very high dose," said Dr. Gregg Wilkinson, an associate professor of epidemiology at the University of Texas Medical Branch in Galveston. "It raises the risk of developing thyroid diseases, thyroid nodules."

Soviet studies show that residents of the Ukraine received far less radiation to their thyroids from iodine after the Chernobyl nuclear accident in 1986 than the Energy Department now says was absorbed by residents near Hanford.

The worst nuclear accident in the Western democracies occurred in 1957 in Britain, when a large amount of radiation was released as a result of a fire in a reactor. But British health authorities took precautions against exposure to iodine by impounding milk.

CHILDREN MOST VULNERABLE

Some radiation specialists said today that the 3,000 rad dose estimated to have been received by some residents of the Northwest was comparable to the radiation exposures of natives of the Marshall Islands following the test of a hydrogen bomb in 1954.

Radioactive iodine is absorbed by the thyroid from fruits, vegetables and from milk, and it is well known scientifically that children are most vulnerable. Once inside the thyroid, the radiation can alter cells, affecting the functioning of the thyroid and other glands.

It has been estimated by the State of Washington that 20,000 babies were born in the region affected by the radiation releases

from 1944 to 1960. This is the group that is most at risk of developing diseases.

The radioactive emissions, which began soon after the first of nine reactors at the plant was started in September 1944, are the largest ever documented from an American nuclear plant. The practice, which was kept a secret, became public in February 1986 after an environmental group in Spokane, the Hanford Education Action League, filed a legally enforceable request under the Freedom of Information Act that led to the release of 19,000 pages of documentation by the Government.

The papers showed that from 1944 to 1955, the plant poured 530,000 curies of radioactive iodine into the air over the plant—thousands of times more than was released during the nuclear accident at Three Mile Island in 1979 and comparable to the radioactive iodine released during the 1986 accident at the Chernobyl nuclear plant.

In 1988, the Energy Department agreed to pay for a study to estimate the radiation doses residents could have received. In the last two years, scientists have spent \$8 million reconstructing the atmospheric conditions, vegetation patterns, eating habits and other factors to estimate how much radiation residents could have received. The details of the report led by an 18-member panel, will be made public here on Thursday. A member of the panel, Mary Lou Blazek, a radiation specialist from the Oregon Department of Energy, declined tonight to discuss the group's findings.

Other specialists who have seen the study, however, said the group that received the highest doses were infants and children. "The key is how much milk from backyard cows that grazed on contaminated grass a child drank in those years," said Albert Conklin, a radiation health specialist with the Washington State Department of Social and Health Services.

The latest estimates of accumulated radiation doses exceed estimates made in 1986 by the Washington State Department of Social and Health Services.

In making the announcement, Mr. Watkins sought today to separate the actions of former officials from those in charge of the 560-square mile atomic reservation. "It came about at a time when we knew little about the effects of radiation," said Mr. Watkins. "As years went along, we got a little smarter." He added: "I don't want you to relate it to what's going on today."

MANY FEEL BETRAYED

But the secret releases have been a leading political issue in the Pacific Northwest ever since they were made public in February 1986. Many residents have felt betrayed by the Government.

"You can't print what I want to say," Tom Bailie said today. He is a 43-year-old farmer raised in Mesa, east of Hanford and in the path of the radioactive clouds, whose family has been affected by thyroid diseases. "Without our consent, without our knowledge, this was done to us. It sounds like something done in Russia. But it was done here. We want to know why they placed children like me on the front lines of the cold war."

For decades after construction began in 1943 on the reactors and processing plants that manufactured plutonium used in the first atomic bombs, the leaders of the Hanford plant consistently maintained that civilians living on the desert and high bluffs beyond the boundaries were absolutely safe.

Nobody doubted their word until the late 1960's and early 1970's, when Hanford radiation specialists revealed that millions of curies of radiation, enough to build several atomic bombs, was routinely dumped into the Columbia River. Shellfish hundreds of miles downstream from the plant became too radioactive to eat.

Later, the plant's haphazard management of its nuclear wastes was revealed. In 1972, the Atomic Energy Commission, the predecessor of the Energy Department, discovered that underground tanks containing millions of gallons of the most lethal radioactive wastes were leaking. One had leaked 115,000 gallons of liquid wastes.

In the mid-1980's, residents of the small towns east of the reservation began to notice that neighbors were becoming ill from thyroid diseases. Some were diving.

NE MANGE PAS LES POISSONS

(By Tilman Ruff)

Over the past six weeks, with a cheerful disregard for international opinion, the French government has again been testing nuclear weapons in the Pacific.

The risks of radiation are relatively well known, although the appalling state of health data in French Polynesia prevents a meaningful assessment of any radiation-related effects of the French actions. Less commonly known is the role the tests play in increasing the risk that islanders will contract ciguatera, a form of food poisoning that can run for weeks, months of years, and sometimes results in death.

Ciguatera sufferers are victims of toxins produced by certain dinoflagellate plankton species found in coral reefs. The fish that eat the plankton suffer no ill effects, but people who eat the fish experience any number of a range of symptoms, including vomiting, diarrhoea, abdominal pain, and sensory and motor dysfunction. During pregnancy the disease may result in abortion, premature labour, and neurological disorders in the new born. Subsequent attacks tend to be more severe, and a recurrence of symptoms can be triggered by consuming non-toxic fish, alcohol or other foods.

Outbreaks tend to follow disturbances of the ecology of coral reefs: storms, for example, or earthquakes, tidal waves and heavy rains. Since the second world war military activity appears to have played an increasingly significant role in promoting the disease. Nuclear explosions can damage atolls and coral reefs or, in some cases, trigger earthquakes. Military infrastructure, including airfields, monitoring stations and ports, disrupts island and reef ecology.

Any attempt to map ciguatera outbreaks faces a major problem. The overwhelming majority of cases go unreported: the South Pacific Commission estimates that official statistics reflect only 10 to 20 percent of ciguatera victims. But there is a striking pattern among the cases that are reported. Events on Hao Atoll and in the Marshall and Gambier Islands provides a good illustration of the relationship between ciguatera and military activity.

Hao Atoll is situated in the Tuamotu Archipelago, part of French Polynesia. No cases of ciguatera had been recorded on the atoll before 1965. In January of that year the French Atomic Energy Commission began converting the atoll into a staging base for its Moruroa and Fangatauta test sites, several hundred kilometres to the south. Construction included piers, a camp for 2000 soldiers and a large airfield with a

3500-metre runway. Large quantities of coral were dredged to help build the largest military base in the South Pacific.

Hao Atoll's first reported case of ciguatera was brought on by fish caught in August 1966 at the original French landing site. Toxicity spread outwards from that point over the next two years. In mid-1968 the French researcher, R. Bagnis, found that 43 percent of the atoll's 650 inhabitants had contracted ciguatera. Not until 1975 did toxicity in herbivorous fish begin to fall.

Ciguatera outbreaks in the Marshall Islands date back a further twenty years. The islands, to the north-east of Australia, were the site of several battles during the second world war. Military activity brought an increase in population on Kwajalein and Majuro, and ciguatera was reported at Majuro in particular. Reports of the disease rose in the fifties.

Despite the reported absence of ciguateric fish following nuclear test explosions at Enewetak, severe outbreaks occurred in other Marshall atolls. The outpatient records of the Memorial Hospital in Uliga Island in the Majuro Atoll suggested an average annual fish poisoning attack rate of 9.3 per cent among the local population between 1955 and 1957. While clinic visits increased overall by 60 per cent during that period, gastrointestinal illness (much of which may have been ciguatera) and fish poisoning more than doubled.

In the eighties, more thorough records reveal a dramatic picture. Only since 1982 have health statistics for the former US Strategic Trust Territory of the Pacific Islands been recorded separately for its components, the North Mariana Islands, the Federated States of Micronesia, the Marshall Islands, and Palau. Between 1982 and 1987, the reported annual incidence of ciguatera was more than three times the rate in any other Micronesian territory. The most plausible explanation is the extensive military infrastructure and activities related to the 66 United States nuclear test explosions in the area between 1946 and 1958. No alternative explanations have been proposed.

Back in French Polynesia, the Gambier Islands were selected by the French in 1967 as the site for a further military base. Before the detonation of the first hydrogen bomb in August 1968 a fall-out shelter was built for the local population on Mangareva. Not only were construction materials dumped in the lagoon. Army personnel were evacuated from the test area in ships that were, to a greater or lesser extent, radioactive; these were washed down with seawater in this and neighboring waters. Between 1971 and 1980 the incidence of ciguatera in the Gambiers stayed above 30 per cent, with a peak of 56 per cent in 1975. Between 1960 and 1984, the inhabitants of Mangareva had an average of 5.7 attacks of ciguatera each.

A register of ciguatera cases has been kept in French Polynesia since 1960. Coincident with the onset of the French nuclear testing program in 1966 was a massive increase in the number of reported cases of the disease. The reported incidence rose through the sixties, peaking in 1972-75 at ten times the 1960 figure. Improved case reporting over time has never been presented as a major reason for the increase.

Apart from the suffering it causes, the nexus between French tests and ciguatera outbreaks is significant in another way. The French government repeatedly claims that the 'nuclear experiments' have no adverse effects on the environment or human health. The story of ciguatera, largely docu-

mented by French researchers, some of them military personnel, demonstrates a major adverse effect of the tests. Indeed, many Polynesians regard the increased risk of contracting ciguatera as part of a 'social bomb' in many ways at least as harmful as the explosion version.

For islanders in the affected areas, the main issue is how best to reduce the number of ciguatera victims. Not enough work has been done on the precise factors controlling production and accumulation of the toxins in marine food chains. A simple, reliable and cheap field test for toxic fish would help reduce incidence, and effective therapies will relieve the impact on victims. More comprehensive epidemiological monitoring will increase our understanding of ciguatera.

But as long as massive ecological disruption continues, ciguatera will continue to plague the region. The military activities of nations distant from the affected islands is a major contributor to the ecological damage that appears closely related to the disease. Yet, for reasons d'etat, weapons testing and military exercises continue.

□ 2400

THE CIVIL RIGHTS ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland [Mr. MFUME] is recognized for 60 minutes.

Mr. MFUME. Mr. Speaker, I recognize that the hour is late. However, for many of use who have worked very diligently on behalf of the Civil Rights Act of 1990, perhaps in fact the hour is later than we think.

Many of us have, through our work on committees and through our interactions with colleagues, worked in a bipartisan fashion to create along with the help of the civil rights community nationwide a piece of legislation that takes a quantum leap in moving us back as a nation to where we were prior to January 1989, and prior to the five or six Supreme Court decisions of that year that, for all intents and purposes, gutted civil rights and the civil rights protections under the law as we once knew them to be.

So out of that great collection of individuals and thought, not that anyone was a genius on the subject, but that all came to the table with a basic understanding that we had to find a way to put us back where we were with respect to the civil rights of all of our citizens. Out of that was fashioned the Civil Rights Act of 1990, and it is that act that this House will be considering tomorrow morning for passage, and it is that particular act which right now stands in a great deal of jeopardy.

I would ask people around this Nation who listen to these remarks, who have some concern and some appeal about what is taking place and how it is taking place as it relates to the passage of the Civil Rights Act of 1990, to tomorrow morning with great haste and great dispatch contact your

Representative, Member of the House of Representatives, your Congressperson, and to say to them by phone or any other way tomorrow that we in fact need their support on this landmark Civil Rights Act.

For the purposes of clarification, Mr. Speaker, I would like to definitively talk about the major points of the Civil Rights Act of 1990 and to discuss some of the controversy surrounding it and to also, with all due respect, talk about the attempts that will be offered tomorrow, Thursday, in this body by several Members to weaken a compromise package that has been put together and fashioned by people all across this Nation whose only desire is to protect the civil rights of all persons.

The Civil Rights Act of 1990 reverses or modifies a number of 1989 Supreme Court decisions affecting the application of laws prohibiting employment discrimination. The measure also, for the first time, extends the option of providing compensatory and punitive damages long available, I might add, to victims of racial job discrimination, to now apply to victims of solely job discrimination on the basis of sex, religion or national origin.

The controversy centers on the bill's provisions that make it easier to challenge employment practices that have an adverse effect on women and minorities which opponents claim, and I think wrongfully so, will force employers to adopt hiring and promotion quotas. The bill's authorization of compensatory and punitive damages for employment discrimination is also a point of controversy that will, in fact, attract a number of amendments.

By way of background, it is important to point out that the Civil Rights Act of 1964 bars discrimination on the basis of race, color, religion, sex, or national origin, in public accommodations, in employment and the provision of State and local government services.

Title VII of the Civil Rights Act is the specific title governing employment discrimination claims. Currently under title VII, plaintiffs are only entitled to injunctive relief, to back pay, and attorneys' fees. In addition, the 1866 Federal statute also known as 1866, bans racial discrimination in the making and the enforcing of private contracts including employment contracts. Thus, the victim of job discrimination on the basis of race is entitled to file a section 1866 claim, a title VII claim, or is entitled to file both. Under section 1866, plaintiffs are entitled to compensatory and punitive damages in addition to injunctive relief.

In 1989 the Supreme Court, as I indicated earlier, issued five major controversial decisions regarding title VII and regarding section 1866, that, not just myself, many legal experts contend made significant changes in pre-

vailing courts' interpretations of these employment discrimination statutes. The five controversial 1989 decisions were as follows: Patterson versus McClean Credit Union; Ward's Cove Packing Co. versus Atonio; Martin versus Wilkes; Lorraine versus AT&T Technologies; and Price Waterhouse versus Hopkins.

This bill that we will be considering tomorrow for passage reverses or modifies the five major Supreme Court decisions, those that I have just run off to you, regarding laws prohibiting employment discrimination as well as several other minor ones of recent years and also authorizes for the first time compensatory and punitive damages in certain title VII cases.

Now, in overturning or in modifying the Supreme Court decisions, those decisions that many of us think reflect a sort of judicial activism in the Court that had not been evidenced previously, in overturning those decisions, the bill clarifies now that section 1866 prohibits racial discrimination in all aspects of an employment contract, not just the formation of the contract, thus prohibiting such things as racial harassment on the job.

The bill that we will consider tomorrow, the Civil Rights Act of 1990, restores the burden of proof to the employer to show that an employment practice has a disparate impact on women or minorities and must justify that by being able to prove that it is being done because of business necessity.

This idea of necessity is something that we have sought to define and something that I want to spend a little time on a bit later in my remarks this evening. But let me go on to point out two other things that the bill will in fact do. It will set up a procedure to limit the ability of nonparties to later challenge a court decree resolving an employment discrimination claim, and, secondly, it clarifies that the statute of limitations begins to run when either a discriminatory employment practice is implemented or when it has an adverse effect on the plaintiff, whichever is latter.

These points of controversy that opponents of this bill raise are very interesting. Those who are against this bill have cloaked their opposition under the guise of the substitute amendment that will be offered tomorrow morning by the gentleman from Illinois [Mr. MICHEL] and the gentleman from New York [Mr. LAFALCE]. Their points of controversy are weak. They demand an open and thorough and public debate. Those of us who are supporters of this measure look forward to that debate. I would ask Members of the House of Representatives who have not studied fully the issue to take the time this evening and tomorrow morning point by point to either understand analytically the

differences or to listen to the reasoned debate that will occur on those differences.

One major point of controversy surrounding the bill is the bill's provisions overturning the Ward's Cove case and restoring the burden of proof to the employer in cases involving disparate impacts of employment practices on women and on minorities. Opponents charge and will be charging tomorrow that these provisions will force businesses to resort to quotas.

How nonsensical can one be? It is anticipated that an amendment or amendments may be made in order that would either strike or modify these provisions.

A second major point of controversy surrounding the bill is the bill's provisions that allow courts to award compensatory damages for intentional discrimination under title VII, and punitive damages in particular situations.

It is expected that an amendment may be made in order to strike those provisions.

It is my understanding that the rule adopted earlier today by the Rules Committee will permit the introduction of an amendment that relates to caps, and I am unclear at this particular point what the other amendment that has been agreed to under the Rules Committee will do. However, let me just say again that these points of controversy deserve a legitimate discussion, an open and public debate tomorrow, and I would encourage Members of the House of Representatives who understand that this is perhaps the most significant piece of civil rights legislation that this body has had to deal with for some time, to come to grips with the reality that group after group across this Nation, regardless of region, regardless of motivation, regardless of the peculiarities of the genesis of their organization, regardless of their previous philosophical differences, have come together to help craft this.

This is not some wishy-washy bill that has come out of nowhere. It is a bill that has come out of many, many hours of deliberation, and give and take I might add, on both sides.

The bill is supported by over 100 organizations, including the Leadership Conference on Civil Rights, the NAACP, the National Urban League, the Lawyers Committee for Civil Rights Under Law, the National Organization for Women, the National Women's Political Caucus, the AFL-CIO AFSCME, United Auto Workers, Service Employees International Union, Communication Workers of America, the U.S. Steel Workers, the American Bar Association, Common Cause, the U.S. Conference of Mayors, the National Council of Churches, and the list goes on and on.

The bill is opposed by the National Association of Manufacturers, the Labor Policy Association, and the Society for Human Resource Management.

As you all know, in April of this year, wisely so, I believe, President Bush threatened to veto the bill as introduced, and reportedly he continues to hold to this position, even as we discuss the matter this evening.

I want to go back, if I might, to some other controversial aspects of the bill. Not controversial for all those groups I just named, not controversial for the hundreds of thousands of Americans who recognize the need to codify and to put into some sort of statutory framework what this bill does, but by those people who for whatever reason are walking backward in time, are turning the hands of the clock in the opposite direction, who are in my estimation hiding under rocks and sticking their heads in the sand. They think, wrongly so, that to adopt the bill in its current version somehow is insulting to the business community and that adopting the bill in its present form is somehow insulting to the White House. And while they say they are for civil rights and equal rights under the law, conveniently are finding a way I think to find cover under a substitute amendment to be offered tomorrow by the ranking minority leader.

Let me say this in support of the bill and the bill's provisions, particularly as they relate to the overturning of the Ward's Cove case.

All these provisions in the bill do regarding this aspect is to simply restore the law to the Supreme Court's unanimous decision in the 1971 landmark case of *Duke Power Company versus Griggs*. It is totally absurd to argue that these provisions will somehow lead to quotas.

The Griggs decision established the standards to be used in litigating title VII disparate impact cases. These Griggs standards were followed by the Supreme Court and were followed by lower courts for 18 consecutive years, from 1971 until June 1989, when they were dramatically altered by the Ward's Cove decision.

Employers were not restoring quotas between 1971 and June of 1989 when the Griggs standards were being followed. Thus, it is nonsensical to argue that restoring these standards would somehow mysteriously force employers to resort to quotas now.

I would ask Members to go and look at the record. During the hearings on this bill employers were asked repeatedly to come forward with any evidence that quotas were being employed in response to the Griggs standards during that 1971 to 1989 period.

For the record, let it reflect that not one of those employers testifying on the bill came forth with that. No one

had that kind of proof. If simply did not exist.

The intent of the bill's sponsors has always been to simply restore the Griggs standard. In response to criticisms that the bill went beyond the Griggs standards, a series of changes have been made in the bill in bipartisan fashion in an effort to compromise, to ensure that the bill is identical to the standards enunciated in the Griggs decision.

First of all, the definition of business necessity has been modified to exactly conform to the wording in the Griggs decision.

Second, a provision has been added to explicitly state that the bill is meant to codify the meaning of business necessity as it has been used and known in the Griggs decision.

Third, a provision has been added to explicitly state that nothing, absolutely nothing in the bill, shall be construed to require an employer to adopt hiring or promotion quotas.

The bill restores the Griggs burden of proof by stating that the employer has the burden of proof regarding whether an employment practice with a disparate impact is required by business necessity.

The Ward's Cove decision held that the plaintiff had to prove that the employment practice was not required by business necessity, a burden, I might add that very few plaintiffs could ever meet.

Some opponents of the bill have made the very far-fetched argument that the burden of proof was never actually on the employer under the Griggs decision, and that Ward's Cove does not have to be overturned simply because it reinstates the Griggs rule. This argument has no support in law. The circuit courts have recognized that the burden of proof in the Ward's Cove case represents a dramatic departure from longstanding precedent.

□ 0020

The bill restores the Griggs definition of business necessity. The Griggs definition has used the definition of business necessity to mean significantly related to successful job performance. The bill that we will consider tomorrow in this body uses the same definition word for word.

By contrast the Ward's Cove court dramatically lowered the standard of business necessity to "whether a challenge practice serves in a significant way the legitimate goals of the employer," a standard, I might add, that was so low that virtually any employment practice could meet it. In fact, Judge Richard Posner of the Seventh Circuit Court of Appeals also stated that the Ward's Cove definition is so lenient that it permits the use of any practice that excludes women or minorities so long as it is not unreasonable and has pointed out that the

Ward's Cove decision dilutes the necessity in the business necessity defense.

I do not mean to confuse or to cloud in the minds of persons who may be watching this discussion or reading the transcript later any of the cogent, pertinent facts regarding what is actually in the bill. But it is important to point out for critics who wrongly make suggestions that cannot be verified that the bill takes this Nation and takes this Congress to new heights by establishing in law again what had previously been law prior to the judicial activism of the Supreme Court beginning in January 1989.

Let me now just take a few moments to talk about damages and then to talk about the damaging efforts that will be made on this floor tomorrow morning, Thursday, by people who seek to dilute this bill, by people who are trying to cloak themselves in some great shield of caring, by individuals who are not concerned about what the bill does in its long-term implications, but are more concerned instead with what they can say it does in the short term.

Let me just talk about this matter of damages, because controversy centers on the bill's provisions that allow courts for the first time to award compensatory damages in cases of intentional, and I want to underscore that, intentional discrimination under title VII, and to award punitive damages in other certain situations.

Those of us who have worked long and hard on this bill, who have spent a great deal of time in subcommittee, many hours in several of the full committees and many more hours working with groups across this Nation such as the groups I listed before, just a few of the 100 organizations nationally that have embraced the Civil Rights Act of 1990, we understand that the bill's provisions authorizing compensatory and punitive damages are clear, and argue that all victims of intentional employment discrimination should be entitled to the same remedies.

Currently the victims of intentional job discrimination on the basis of race are entitled to compensatory and punitive damages under section 1981, and this bill simply provides that the victims of intentional job discrimination on the basis of sex, religion, and national origin also be entitled to these same remedies. It is not true that title VII has worked satisfactorily without these remedies, and many legal experts have testified before many Members of this House that the failure to provide compensatory and punitive damages in title VII has left the statute without meaningful deterrence for intentional discrimination on the job. They have come before us in hearing after hearing and testified that the statute needs more monetary disincen-

tives to discourage employers from engaging in intentional discrimination, not less, not fewer disincentives.

Finally, it is also not true that permitting the award of damages in intentional discrimination cases under title VII would interfere with the conciliation after adjudication of claims by the EEOC. Under current law, persons who bring race discrimination claims before the EEOC often have claims under both section 1981 and under title VII, and that there is absolutely no evidence, none whatsoever, that the availability of damages under section 1981 has interfered with the conciliation by the EEOC of these racial discrimination claims, and that is very very important to recognize, and I would argue, over and over again, in fact until hell freezes over for those who are seeking now and trying to find a way to cloak themselves with this dual shield, one that says I am for equal rights and civil rights for all Americans, but I am not prepared to take a giant step and embrace this particular bill, I will argue the time is running out and that we do a disservice not just to ourselves, those of us who serve in this body, we do a disservice to the people of this country who recognize that the Nation's greatest asset is not the Congress of the United States, it is not the President, it is perhaps even not the Supreme Court, but the people of the United States who have and ought to have basic guarantees and protections under the law regardless of their race or their sex or their national origin.

So let me just take a few more moments to set the record straight for those opponents, those persons who would resist the change, those who want to maintain the status quo, those who are looking for a rock to hide behind or a hole to stick their heads down into to bury themselves in the sand.

You have argued over and over again that your questions you thought were not being answered, and so you have posed, I think, and rightfully so, a question or two that deserves a response or two. You want to know does the Civil Rights Act of 1990 shift the burden of proof to employers. The answer is no. No. The burden of proof does not shift to employers simply because an accusation of discrimination is made. Rather employees must prove discrimination i.e., that is, an employment practice results in the exclusion of qualified women and minorities. And then, only after the employee meets that burden is the employer then required to justify the practice.

You want to know does the Civil Rights Act of 1990 provide punitive damages for the first time, and again the answer is no. Unlimited punitive damages have been available in cases of racial discrimination for 20 years in this country, and the average jury

award in such cases has been \$50,000. Unlimited damage awards are already available in the Fair Housing Act which we passed in this Congress 2 years ago, and for the first time H.R. 4000, if the Brooks-Hawkins-Tallon amendment passes tomorrow, will even cap punitive damages in civil rights cases.

You ask and deserve an answer, does the Civil Rights Act of 1990 apply retroactively, and the answer again is no. In a significant compromise reached last night the bill will apply only to cases presently pending in the courts.

□ 0030

The bill will not apply to cases which have resulted in a final and unappealable judgment. You wanted to know: Will the Civil Rights Act of 1990 result in quotas? The answer is "no." The Andrews-Neal amendment, if that passes, the act will actually clarify that employers are not obligated to hire or promote according to quotas.

The amendment will also state that a mere statistical imbalance in an employer's work force is not sufficient to establish a case of discrimination.

So if you want answers to your questions, we are prepared to give those answers, but let us at least talk about them in an open and public debate and not talk about them through a whisper campaign in the hopes of generating support, support that would in fact gut the intent of this bill.

I indicated earlier that the hour is late. Well, in fact it is. It is about 12:30 eastern standard time. But as I indicated earlier, also for those of us who are trying to bring meaningful protection under the law, to codify and to embrace one of the basic tenets of this Nation that all people are created equal, those of us who understand that in this House, this House we like to refer to as the House of the people, the House of Representatives, that we must not take second seat to the other body, which passed just a few days ago their version of this bill.

We cannot pass anything weaker. We must understand, those of us who recognize the truth from the trick, that people are watching us and they are in all 50 States. They are nameless, faceless people out on the American horizon, that silent majority that oftentimes has been tricked into believing things that are not true, that have oftentimes been given half-truths, that oftentimes have been ignored or taken for granted. They are watching what happens with this bill and whether or not we take a giant step together into the future as a nation or whether we shrink and take a giant step back into the past.

Well, tomorrow morning, the ranking minority leader will offer what will be known as the Michel-LaFalce amendment. Let me just say for the

record that that amendment, if adopted, would devastate the Civil Rights Act of 1990 in five important ways.

First of all, it would make it impossible, impossible for women and religious minorities who are bias victims to recover any damages whatsoever. And that is because the amendment's so-called \$100,000 equitable relief provision is patently unconstitutional because it violates the fundamental constitutional right to a jury trial in damage cases as we know them under the seventh amendment.

In the Michel-LaFalce substitute amendment, if it is adopted tomorrow, amending the Civil Rights Act of 1990, it would adopt rather than overrule the damaging Ward's Cove decision; it would require bias victims to bear the burden of proof on business necessity; and it would adopt the weakened Ward's Cove definition of business necessity that I spoke about earlier.

If in fact the Michel-LaFalce substitute to the Civil Rights Act of 1990 is adopted tomorrow, it will require bias victims prove that race or any other prohibited motive was a major contributing factor in job discrimination.

Let me just say this about victims having to prove the intent of the person who sought to do the victimizing: You cannot prove intent in a court of law. Intent requires heart surgery, which is illegal and unreasonable. That is the only way you prove what is in a person's heart, what is in their mind.

No one can win a case in a court of law having to go in as the person who is victimized to prove there was an intent on behalf of someone else to do it.

I say there was, and the other person simply says there was not.

It makes no sense, but that would make the law even worse than under the Supreme Court's Price Waterhouse decision and would actually allow employers to make job decisions then partly on a bias and on other factors.

If the Michel-LaFalce amendment is adopted tomorrow, it would endorse and codify all or part of each of the restrictive Supreme Court decisions which this bill was put together to overrule, each of them.

Finally, if we fail to recognize the danger in the Michel-LaFalce amendment tomorrow to the Civil Rights Act, and if we go out and embrace it, we must realize that it would even codify the holding in the Patterson case that on-the-job racial harassment is legal under section 42 of the United States Code 1981 by failing explicitly to prohibit bias with respect to "the terms and conditions of a contract" as it would have to do under the Civil Rights Act of 1990.

So, my colleagues, it is easy, I think, for those of us who come from all

parts of this Nation, who represent all regions around this great country, who have different constituencies, who are motivated by different causes, by those of use who have fought hard to have the solemn trust of being a Member of this body and who stand here proudly day in and day out and talk about how it is the greatest deliberative body in the world, for all of use, all 435, we cannot enjoy the comfort of opinion without the discomfort of thought. And though requires several things.

It requires that we analyze carefully, that we critically look at all aspects and implications of what we do, that we look in the reverse perspective, at not how we might feel about something but how the people we represent might feel, and that we be visionaries to some extent and look beyond the present and recognize that the greatest America is before us, not behind us, and we get there by taking giant steps, not by crawling.

No, we cannot enjoy the comfort of opinion without the discomfort of thought because then we really should not be here at all. I guess I get a little passionate about this subject because I recognize the tears and agony, the heartbreak, the sacrifice of all those nameless, faceless Americans who just decided that they would lay down over the course of history and make their bodies bridges that we might run across and get to 1990, that we might run across and build a better country, create a better world, provide a better sense of leadership.

Those persons whom we had no chance of knowing, or knowing of, who year after year in every nook and cranny around this country gave of themselves, held fast to beliefs that America was the greatest country on the face of the Earth and who were prepared not just to believe that but to put action behind their words, I think those people, most of whom are into the spirit world, must now cringe at the thought of us failing to recognize that opportunity really is now.

□ 0040

It is now tomorrow that the chance to make a difference is before Members, and that we must do that together as a nation not to the despair for faults of someone else or some other group, not some kind of arrogance, in a know-it-all fashion. But with a sense of humility and a sense of justice that causes Members to understand why America has survived as she has so long and why she is so revered by billions of the world's population, as, perhaps, the last symbol of freedom, justice, and equality.

Just the other day I went to visit a proud lady. She is celebrating her 108th or 109th anniversary, and she stands now, even as I speak, standing in the New York Harbor, overlooking

this Nation and the world. In her right hand is the great torch, and in her left she clings the Declaration of Independence close to her breast. On her head is a crown of spikes, and on her feet are broken shackles that symbolize freedom from tyranny. As the plane flew over I could still look out through that portal and hear her cry out through those silent concrete lips, saying, "give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shores, send those, the homeless, tempest tossed, to me; I lift my lamp beside the golden door." And so we came, each of us and all of us, some looking for a thrill, some against our will, all of us looking for a better way. We came and then became those children of 1990 who knew and put new meaning in the words "my country 'tis of thee, sweet land of liberty, of thee I sing, land of the pilgrims pride, land where my father died, from every mountain side, let freedom ring."

We do not allow freedom to ring by destroying opportunity. We do it by creating them. So tomorrow when we gather in this body, and the hour will not be so late when we walk into this Chamber, we must come to grips with the basic reality, and that reality is that we were sent here to create positive change, not here to play games. When the Michel-LaFalce substitute amendment is offered to the Civil Rights Act of 1990, we must be prepared to defeat that, not to gloat about the defeat, but to defeat it because it is bad, because it guts the very essence of this bill, and because it pushes Members back as a nation into a time and into an era that we worked so hard to get out of.

I want to thank all of those groups across this Nation, hundreds of them, who have gotten together with their memberships and through their leadership to give others an opportunity to put together in a bipartisan, I thought, and in an era of conciliation, a bill that came to be known as the civil rights bill of 1990. It is crucial, absolutely crucial, that tomorrow when we enter this Chamber, that we step up to the plate and accept the challenge and move this Nation forward into the future by rejecting the Michel-LaFalce substitute, and by adopting the bill as reported by committee.

CONFERENCE REPORT ON 1465

Mr. JONES of North Carolina submitted the following conference report and statement on the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation of such damages, and for other purposes:

CONFERENCE REPORT (H. REPT. 101-653)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Oil Pollution Act of 1990".

SEC. 2. TABLE OF CONTENTS.

The contents of this Act are as follows:

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

- Sec. 1001. Definitions.*
- Sec. 1002. Elements of liability.*
- Sec. 1003. Defenses to liability.*
- Sec. 1004. Limits on liability.*
- Sec. 1005. Interest.*
- Sec. 1006. Natural resources.*
- Sec. 1007. Recovery by foreign claimants.*
- Sec. 1008. Recovery by responsible party.*
- Sec. 1009. Contribution.*
- Sec. 1010. Indemnification agreements.*
- Sec. 1011. Consultation on removal actions.*
- Sec. 1012. Uses of the Fund.*
- Sec. 1013. Claims procedure.*
- Sec. 1014. Designation of source and advertisement.*
- Sec. 1015. Subrogation.*
- Sec. 1016. Financial responsibility.*
- Sec. 1017. Litigation, jurisdiction, and venue.*
- Sec. 1018. Relationship to other law.*
- Sec. 1019. State financial responsibility.*
- Sec. 1020. Application.*

TITLE II—CONFORMING AMENDMENTS

- Sec. 2001. Intervention on the High Seas Act.*
- Sec. 2002. Federal Water Pollution Control Act.*
- Sec. 2003. Deepwater Port Act.*
- Sec. 2004. Outer Continental Shelf Lands Act Amendments of 1978.*

TITLE III—INTERNATIONAL OIL POLLUTION PREVENTION AND REMOVAL

- Sec. 3001. Sense of Congress regarding participation in international regime.*
- Sec. 3002. United States-Canada Great Lakes oil spill cooperation.*
- Sec. 3003. United States-Canada Lake Champlain oil spill cooperation.*
- Sec. 3004. International inventory of removal equipment and personnel.*
- Sec. 3005. Negotiations with Canada concerning tug escorts in Puget Sound.*

TITLE IV—PREVENTION AND REMOVAL Subtitle A—Prevention

- Sec. 4101. Review of alcohol and drug abuse and other matters in issuing licenses, certificates of registry, and merchant mariners' documents.*
- Sec. 4102. Term of licenses, certificates of registry, and merchant mariners' documents; criminal record reviews in renewals.*

- Sec. 4103. Suspension and revocation of licenses, certificates of registry, and merchant mariners' documents for alcohol and drug abuse.
- Sec. 4104. Removal of master or individual in charge.
- Sec. 4105. Access to National Driver Register.
- Sec. 4106. Manning standards for foreign tank vessels.
- Sec. 4107. Vessel traffic service systems.
- Sec. 4108. Great Lakes pilotage.
- Sec. 4109. Periodic gauging of plating thickness of commercial vessels.
- Sec. 4110. Overfill and tank level or pressure monitoring devices.
- Sec. 4111. Study on tanker navigation safety standards.
- Sec. 4112. Dredge modification study.
- Sec. 4113. Use of liners.
- Sec. 4114. Tank vessel manning.
- Sec. 4115. Establishment of double hull requirement for tank vessels.
- Sec. 4116. Pilotage.
- Sec. 4117. Maritime pollution prevention training program study.
- Sec. 4118. Vessel communication equipment regulations.

Subtitle B—Removal

- Sec. 4201. Federal removal authority.
- Sec. 4202. National planning and response system.
- Sec. 4203. Coast Guard vessel design.
- Sec. 4204. Determination of harmful quantities of oil and hazardous substances.
- Sec. 4205. Coastwise oil spill response endorsements.

Subtitle C—Penalties and Miscellaneous

- Sec. 4301. Federal Water Pollution Control Act penalties.
- Sec. 4302. Other penalties.
- Sec. 4303. Financial responsibility civil penalties.
- Sec. 4304. Deposit of certain penalties into oil spill liability trust fund.
- Sec. 4305. Inspection and entry.
- Sec. 4306. Civil enforcement under Federal Water Pollution Control Act.

TITLE V—PRINCE WILLIAM SOUND PROVISIONS

- Sec. 5001. Oil spill recovery institute.
- Sec. 5002. Terminal and tanker oversight and monitoring.
- Sec. 5003. Bligh Reef light.
- Sec. 5004. Vessel traffic service system.
- Sec. 5005. Equipment and personnel requirements under tank vessel and facility response plans.
- Sec. 5006. Funding.
- Sec. 5007. Limitation.

TITLE VI—MISCELLANEOUS

- Sec. 6001. Savings provisions.
- Sec. 6002. Annual appropriations.
- Sec. 6003. Outer Banks protection.
- Sec. 6004. Cooperative development of common hydrocarbon-bearing areas.

TITLE VII—OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

- Sec. 7001. Oil pollution research and development program.

TITLE VIII—TRANS-ALASKA PIPELINE SYSTEM

- Sec. 8001. Short title.
- Subtitle A—Improvements to Trans-Alaska Pipeline System
- Sec. 8101. Liability within the State of Alaska and cleanup efforts.
- Sec. 8102. Trans-Alaska Pipeline Liability Fund.

- Sec. 8103. Presidential task force.

Subtitle B—Penalties

- Sec. 8201. Authority of the Secretary of the Interior to impose penalties on Outer Continental Shelf facilities.
- Sec. 8202. Trans-Alaska pipeline system civil penalties.

Subtitle C—Provisions Applicable to Alaska Natives

- Sec. 8301. Land conveyances.
- Sec. 8302. Impact of potential spills in the Arctic Ocean on Alaska Natives.

TITLE IX—AMENDMENTS TO OIL SPILL LIABILITY TRUST FUND, ETC

- Sec. 9001. Amendments to Oil Spill Liability Trust Fund.
- Sec. 9002. Changes relating to other funds.

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 1001. DEFINITIONS.

For the purposes of this Act, the term—

(1) "act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character the effects of which could not have been prevented or avoided by the exercise of due care or foresight;

(2) "barrel" means 42 United States gallons at 60 degrees Fahrenheit;

(3) "claim" means a request, made in writing for a sum certain, for compensation for damages or removal costs resulting from an incident;

(4) "claimant" means any person or government who presents a claim for compensation under this title;

(5) "damages" means damages specified in section 1002(b) of this Act, and includes the cost of assessing these damages;

(6) "deepwater port" is a facility licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524);

(7) "discharge" means any emission (other than natural seepage), intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying, or dumping;

(8) "exclusive economic zone" means the zone established by Presidential Proclamation Numbered 5030, dated March 10, 1983, including the ocean waters of the areas referred to as "eastern special areas" in Article 3(1) of the Agreement between the United States of America and the Union of Soviet Socialist Republics on the Maritime Boundary, signed June 1, 1990;

(9) "facility" means any structure, group of structures, equipment, or device (other than a vessel) which is used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil. This term includes any motor vehicle, rolling stock, or pipeline used for one or more of these purposes;

(10) "foreign offshore unit" means a facility which is located, in whole or in part, in the territorial sea or on the continental shelf of a foreign country and which is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the seabed beneath the foreign country's territorial sea or from the foreign country's continental shelf;

(11) "Fund" means the Oil Spill Liability Trust Fund, established by section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509);

(12) "gross ton" has the meaning given that term by the Secretary under part J of title 46, United States Code;

(13) "guarantor" means any person, other than the responsible party, who provides evidence of financial responsibility for a responsible party under this Act;

(14) "incident" means any occurrence or series of occurrences having the same origin, involving one or more vessels, facilities, or any combination thereof, resulting in the discharge or substantial threat of discharge of oil;

(15) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, but not including any Alaska Native regional or village corporation, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and has governmental authority over lands belonging to or controlled by the tribe;

(16) "lessee" means a person holding a leasehold interest in an oil or gas lease on lands beneath navigable waters (as that term is defined in section 2(a) of the Submerged Lands Act (43 U.S.C. 1301(a))) or on submerged lands of the outer Continental Shelf, granted or maintained under applicable State law or the Outer Continental Shelf Lands Act (43 U.S.C. 1331 et seq.);

(17) "liable" or "liability" shall be construed to be the standard of liability which obtains under section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321);

(18) "mobile offshore drilling unit" means a vessel (other than a self-elevating lift vessel) capable of use as an offshore facility;

(19) "National Contingency Plan" means the National Contingency Plan prepared and published under section 311(d) of the Federal Water Pollution Control Act, as amended by this Act, or revised under section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9605);

(20) "natural resources" includes land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the exclusive economic zone), any State or local government or Indian tribe, or any foreign government;

(21) "navigable waters" means the waters of the United States, including the territorial sea;

(22) "offshore facility" means any facility of any kind located in, on, or under any of the navigable waters of the United States, and any facility of any kind which is subject to the jurisdiction of the United States and is located in, on, or under any other waters, other than a vessel or a public vessel;

(23) "oil" means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse, and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under subparagraphs (A) through (F) of section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601) and which is subject to the provisions of that Act;

(24) "onshore facility" means any facility (including, but not limited to, motor vehicles and rolling stock) of any kind located in, on, or under, any land within the United States other than submerged land;

(25) the term "Outer Continental Shelf facility" means an offshore facility which is located, in whole or in part, on the Outer Continental Shelf and is or was used for one or more of the following purposes: exploring for, drilling for, producing, storing, handling, transferring, processing, or transporting oil produced from the Outer Continental Shelf;

(26) "owner or operator" means (A) in the case of a vessel, any person owning, operating, or chartering by demise, the vessel, and (B) in the case of an onshore facility, and an offshore facility, any person owning or operating such onshore facility or offshore facility, and (C) in the case of any abandoned offshore facility, the person who owned or operated such facility immediately prior to such abandonment;

(27) "person" means an individual, corporation, partnership, association, State, municipality, commission, or political subdivision of a State, or any interstate body;

(28) "permittee" means a person holding an authorization, license, or permit for geological exploration issued under section 11 of the Outer Continental Shelf Lands Act (43 U.S.C. 1340) or applicable State law;

(29) "public vessel" means a vessel owned or bareboat chartered and operated by the United States, or by a State or political subdivision thereof, or by a foreign nation, except when the vessel is engaged in commerce;

(30) "remove" or "removal" means containment and removal of oil or a hazardous substance from water and shorelines or the taking of other actions as may be necessary to minimize or mitigate damage to the public health or welfare, including, but not limited to, fish, shellfish, wildlife, and public and private property, shorelines, and beaches;

(31) "removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize, or mitigate oil pollution from such an incident;

(32) "responsible party" means the following:

(A) **VESSELS.**—In the case of a vessel, any person owning, operating, or demise chartering the vessel.

(B) **ONSHORE FACILITIES.**—In the case of an onshore facility (other than a pipeline), any person owning or operating the facility, except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as the owner transfers possession and right to use the property to another person by lease, assignment, or permit.

(C) **OFFSHORE FACILITIES.**—In the case of an offshore facility (other than a pipeline or a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.)), the lessee or permittee of the area in which the facility is located or the holder of a right of use and easement granted under applicable State law or the Outer Continental Shelf Lands Act (43 U.S.C. 1301-1356) for the area in which the facility is located (if the holder is a different person than the lessee or permittee), except a Federal agency, State, municipality, commission, or political subdivision of a State, or any interstate body, that as owner transfers possession and right to use the property to another person by lease, assignment, or permit.

(D) **DEEPWATER PORTS.**—In the case of a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524), the licensee.

(E) **PIPELINES.**—In the case of a pipeline, any person owning or operating the pipeline.

(F) **ABANDONMENT.**—In the case of an abandoned vessel, onshore facility, deepwater port, pipeline, or offshore facility, the persons who would have been responsible parties immediately prior to the abandonment of the vessel or facility.

(33) "Secretary" means the Secretary of the department in which the Coast Guard is operating;

(34) "tank vessel" means a vessel that is constructed or adapted to carry, or that carries, oil or hazardous material in bulk as cargo or cargo residue, and that—

(A) is a vessel of the United States;

(B) operates on the navigable waters; or

(C) transfers oil or hazardous material in a place subject to the jurisdiction of the United States;

(35) "territorial seas" means the belt of the seas measured from the line of ordinary low water along that portion of the coast which is in direct contact with the open sea and the line marking the seaward limit of inland waters, and extending seaward a distance of 3 miles;

(36) "United States" and "State" mean the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Marianas, and any other territory or possession of the United States; and

(37) "vessel" means every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water, other than a public vessel.

SEC. 1002. ELEMENTS OF LIABILITY.

(a) **IN GENERAL.**—Notwithstanding any other provision or rule of law, and subject to the provisions of this Act, each responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, into or upon the navigable waters or adjoining shorelines or the exclusive economic zone is liable for the removal costs and damages specified in subsection (b) that result from such incident.

(b) **COVERED REMOVAL COSTS AND DAMAGES.**—

(1) **REMOVAL COSTS.**—The removal costs referred to in subsection (a) are—

(A) all removal costs incurred by the United States, a State, or an Indian tribe under subsection (c), (d), (e), or (f) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, under the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.), or under State law; and

(B) any removal costs incurred by any person for acts taken by the person which are consistent with the National Contingency Plan.

(2) **DAMAGES.**—The damages referred to in subsection (a) are the following:

(A) **NATURAL RESOURCES.**—Damages for injury to, destruction of, loss of, or loss of use of, natural resources, including the reasonable costs of assessing the damage, which shall be recoverable by a United States trustee, a State trustee, an Indian tribe trustee, or a foreign trustee.

(B) **REAL OR PERSONAL PROPERTY.**—Damages for injury to, or economic losses resulting from destruction of, real or personal property, which shall be recoverable by a claimant who owns or leases that property.

(C) **SUBSISTENCE USE.**—Damages for loss of subsistence use of natural resources, which

shall be recoverable by any claimant who so uses natural resources which have been injured, destroyed, or lost, without regard to the ownership or management of the resources.

(D) **REVENUES.**—Damages equal to the net loss of taxes, royalties, rents, fees, or net profit shares due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by the Government of the United States, a State, or a political subdivision thereof.

(E) **PROFITS AND EARNING CAPACITY.**—Damages equal to the loss of profits or impairment of earning capacity due to the injury, destruction, or loss of real property, personal property, or natural resources, which shall be recoverable by any claimant.

(F) **PUBLIC SERVICES.**—Damages for net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards, caused by a discharge of oil, which shall be recoverable by a State, or a political subdivision of a State.

(c) **EXCLUDED DISCHARGES.**—This title does not apply to any discharge—

(1) permitted by a permit issued under Federal, State, or local law;

(2) from a public vessel; or

(3) from an onshore facility which is subject to the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.).

(d) **LIABILITY OF THIRD PARTIES.**—

(1) **IN GENERAL.**—

(A) **THIRD PARTY TREATED AS RESPONSIBLE PARTY.**—Except as provided in subparagraph (B), in any case in which a responsible party establishes that a discharge or threat of a discharge and the resulting removal costs and damages were caused solely by an act or omission of one or more third parties described in section 1003(a)(3) (or solely by such an act or omission in combination with an act of God or an act of war), the third party or parties shall be treated as the responsible party or parties for purposes of determining liability under this title.

(B) **SUBROGATION OF RESPONSIBLE PARTY.**—If the responsible party alleges that the discharge or threat of a discharge was caused solely by an act or omission of a third party, the responsible party—

(i) in accordance with section 1013, shall pay removal costs and damages to any claimant; and

(ii) shall be entitled by subrogation to all rights of the United States Government and the claimant to recover removal costs or damages from the third party or the Fund paid under this subsection.

(2) **LIMITATION APPLIED.**—

(A) **OWNER OR OPERATOR OF VESSEL OR FACILITY.**—If the act or omission of a third party that causes an incident occurs in connection with a vessel or facility owned or operated by the third party, the liability of the third party shall be subject to the limits provided in section 1004 as applied with respect to the vessel or facility.

(B) **OTHER CASES.**—In any other case, the liability of a third party or parties shall not exceed the limitation which would have been applicable to the responsible party of the vessel or facility from which the discharge actually occurred if the responsible party were liable.

SEC. 1003. DEFENSES TO LIABILITY.

(a) **COMPLETE DEFENSES.**—A responsible party is not liable for removal costs or damages under section 1002 if the responsible party establishes, by a preponderance of the evidence, that the discharge or substantial

threat of a discharge of oil and the resulting damages or removal costs were caused solely by—

- (1) an act of God;
- (2) an act of war;

(3) an act or omission of a third party, other than an employee or agent of the responsible party or a third party whose act or omission occurs in connection with any contractual relationship with the responsible party (except where the sole contractual arrangement arises in connection with carriage by a common carrier by rail), if the responsible party establishes, by a preponderance of the evidence, that the responsible party—

(A) exercised due care with respect to the oil concerned, taking into consideration the characteristics of the oil and in light of all relevant facts and circumstances; and

(B) took precautions against foreseeable acts or omissions of any such third party and the foreseeable consequences of those acts or omissions; or

(4) any combination of paragraphs (1), (2), and (3).

(b) DEFENSES AS TO PARTICULAR CLAIMANTS.—A responsible party is not liable under section 1002 to a claimant, to the extent that the incident is caused by the gross negligence or willful misconduct of the claimant.

(c) LIMITATION ON COMPLETE DEFENSE.—Subsection (a) does not apply with respect to a responsible party who fails or refuses—

(1) to report the incident as required by law if the responsible party knows or has reason to know of the incident;

(2) to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities; or

(3) without sufficient cause, to comply with an order issued under subsection (c) or (e) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, or the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.).

SEC. 1004. LIMITS ON LIABILITY.

(a) GENERAL RULE.—Except as otherwise provided in this section, the total of the liability of a responsible party under section 1002 and any removal costs incurred by, or on behalf of, the responsible party, with respect to each incident shall not exceed—

(1) for a tank vessel, the greater of—
(A) \$1,200 per gross ton; or
(B)(i) in the case of a vessel greater than 3,000 gross tons, \$10,000,000; or
(ii) in the case of a vessel of 3,000 gross tons or less, \$2,000,000;

(2) for any other vessel, \$600 per gross ton or \$500,000, whichever is greater;

(3) for an offshore facility except a deepwater port, the total of all removal costs plus \$75,000,000; and

(4) for any onshore facility and a deepwater port, \$350,000,000.

(b) DIVISION OF LIABILITY FOR MOBILE OFFSHORE DRILLING UNITS.—

(1) TREATED FIRST AS TANK VESSEL.—For purposes of determining the responsible party and applying this Act and except as provided in paragraph (2), a mobile offshore drilling unit which is being used as an offshore facility is deemed to be a tank vessel with respect to the discharge, or the substantial threat of a discharge, of oil on or above the surface of the water.

(2) TREATED AS FACILITY FOR EXCESS LIABILITY.—To the extent that removal costs and damages from any incident described in paragraph (1) exceed the amount for which a responsible party is liable (as that amount

may be limited under subsection (a)(1)), the mobile offshore drilling unit is deemed to be an offshore facility. For purposes of applying subsection (a)(3), the amount specified in that subsection shall be reduced by the amount for which the responsible party is liable under paragraph (1).

(c) EXCEPTIONS.—

(1) ACTS OF RESPONSIBLE PARTY.—Subsection (a) does not apply if the incident was proximately caused by—

(A) gross negligence or willful misconduct of, or

(B) the violation of an applicable Federal safety, construction, or operating regulation by,

the responsible party, an agent or employee of the responsible party, or a person acting pursuant to a contractual relationship with the responsible party (except where the sole contractual arrangement arises in connection with carriage by a common carrier by rail).

(2) FAILURE OR REFUSAL OF RESPONSIBLE PARTY.—Subsection (a) does not apply if the responsible party fails or refuses—

(A) to report the incident as required by law and the responsible party knows or has reason to know of the incident;

(B) to provide all reasonable cooperation and assistance requested by a responsible official in connection with removal activities; or

(C) without sufficient cause, to comply with an order issued under subsection (c) or (e) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, or the Intervention on the High Seas Act (33 U.S.C. 1471 et seq.).

(3) OCS FACILITY OR VESSEL.—Notwithstanding the limitations established under subsection (a) and the defenses of section 1003, all removal costs incurred by the United States Government or any State or local official or agency in connection with a discharge or substantial threat of a discharge of oil from any Outer Continental Shelf facility or a vessel carrying oil as cargo from such a facility shall be borne by the owner or operator of such facility or vessel.

(d) ADJUSTING LIMITS OF LIABILITY.—

(1) ONSHORE FACILITIES.—Subject to paragraph (2), the President may establish by regulation, with respect to any class or category of onshore facility, a limit of liability under this section of less than \$350,000,000, but not less than \$8,000,000, taking into account size, storage capacity, oil throughput, proximity to sensitive areas, type of oil handled, history of discharges, and other factors relevant to risks posed by the class or category of facility.

(2) DEEPWATER PORTS AND ASSOCIATED VESSELS.—

(A) STUDY.—The Secretary shall conduct a study of the relative operational and environmental risks posed by the transportation of oil by vessel to deepwater ports (as defined in section 3 of the Deepwater Port Act of 1974 (33 U.S.C. 1502)) versus the transportation of oil by vessel to other ports. The study shall include a review and analysis of offshore lightering practices used in connection with that transportation, an analysis of the volume of oil transported by vessel using those practices, and an analysis of the frequency and volume of oil discharges which occur in connection with the use of those practices.

(B) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under subparagraph (A).

(C) RULEMAKING PROCEEDING.—If the Secretary determines, based on the results of the study conducted under this subparagraph (A), that the use of deepwater ports in connection with the transportation of oil by vessel results in a lower operational or environmental risk than the use of other ports, the Secretary shall initiate, not later than the 180th day following the date of submission of the report to the Congress under subparagraph (B), a rulemaking proceeding to lower the limits of liability under this section for deepwater ports as the Secretary determines appropriate. The Secretary may establish a limit of liability of less than \$350,000,000, but not less than \$50,000,000, in accordance with paragraph (1).

(3) PERIODIC REPORTS.—The President shall, within 6 months after the date of the enactment of this Act, and from time to time thereafter, report to the Congress on the desirability of adjusting the limits of liability specified in subsection (a).

(4) ADJUSTMENT TO REFLECT CONSUMER PRICE INDEX.—The President shall, by regulations issued not less often than every 3 years, adjust the limits of liability specified in subsection (a) to reflect significant increases in the Consumer Price Index.

SEC. 1005. INTEREST.

(a) GENERAL RULE.—The responsible party or the responsible party's guarantor is liable to a claimant for interest on the amount paid in satisfaction of a claim under this Act for the period described in subsection (b).

(b) PERIOD.—

(1) IN GENERAL.—Except as provided in paragraph (2), the period for which interest shall be paid is the period beginning on the 30th day following the date on which the claim is presented to the responsible party or guarantor and ending on the date on which the claim is paid.

(2) EXCLUSION OF PERIOD DUE TO OFFER BY GUARANTOR.—If the guarantor offers to the claimant an amount equal to or greater than that finally paid in satisfaction of the claim, the period described in paragraph (1) does not include the period beginning on the date the offer is made and ending on the date the offer is accepted. If the offer is made within 60 days after the date on which the claim is presented under section 1013(a), the period described in paragraph (1) does not include any period before the offer is accepted.

(3) EXCLUSION OF PERIODS IN INTERESTS OF JUSTICE.—If in any period a claimant is not paid due to reasons beyond the control of the responsible party or because it would not serve the interests of justice, no interest shall accrue under this section during that period.

(4) CALCULATION OF INTEREST.—The interest paid under this section shall be calculated at the average of the highest rate for commercial and finance company paper of maturities of 180 days or less obtaining on each of the days included within the period for which interest must be paid to the claimant, as published in the Federal Reserve Bulletin.

(5) INTEREST NOT SUBJECT TO LIABILITY LIMITS.—

(A) IN GENERAL.—Interest (including pre-judgment interest) under this paragraph is in addition to damages and removal costs for which claims may be asserted under section 1002 and shall be paid without regard to any limitation of liability under section 1004.

(B) **PAYMENT BY GUARANTOR.**—The payment of interest under this subsection by a guarantor is subject to section 1016(g).

SEC. 1006. NATURAL RESOURCES.

(a) **LIABILITY.**—In the case of natural resource damages under section 1002(b)(2)(A), liability shall be—

(1) to the United States Government for natural resources belonging to, managed by, controlled by, or appertaining to the United States;

(2) to any State for natural resources belonging to, managed by, controlled by, or appertaining to such State or political subdivision thereof;

(3) to any Indian tribe for natural resources belonging to, managed by, controlled by, or appertaining to such Indian tribe; and

(4) in any case in which section 1007 applies, to the government of a foreign country for natural resources belonging to, managed by, controlled by, or appertaining to such country.

(b) DESIGNATION OF TRUSTEES.—

(1) **IN GENERAL.**—The President, or the authorized representative of any State, Indian tribe, or foreign government, shall act on behalf of the public, Indian tribe, or foreign country as trustee of natural resources to present a claim for and to recover damages to the natural resources.

(2) **FEDERAL TRUSTEES.**—The President shall designate the Federal officials who shall act on behalf of the public as trustees for natural resources under this Act.

(3) **STATE TRUSTEES.**—The Governor of each State shall designate State and local officials who may act on behalf of the public as trustee for natural resources under this Act and shall notify the President of the designation.

(4) **INDIAN TRIBE TRUSTEES.**—The governing body of any Indian tribe shall designate tribal officials who may act on behalf of the tribe or its members as trustee for natural resources under this Act and shall notify the President of the designation.

(5) **FOREIGN TRUSTEES.**—The head of any foreign government may designate the trustee who shall act on behalf of that government as trustee for natural resources under this Act.

(c) FUNCTIONS OF TRUSTEES.—

(1) **FEDERAL TRUSTEES.**—The Federal officials designated under subsection (b)(2)—

(A) shall assess natural resource damages under section 1002(b)(2)(A) for the natural resources under their trusteeship;

(B) may, upon request of and reimbursement from a State or Indian tribe and at the Federal officials' discretion, assess damages for the natural resources under the State's or tribe's trusteeship; and

(C) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

(2) **STATE TRUSTEES.**—The State and local officials designated under subsection (b)(3)—

(A) shall assess natural resource damages under section 1002(b)(2)(A) for the purposes of this Act for the natural resources under their trusteeship; and

(B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

(3) **INDIAN TRIBE TRUSTEES.**—The tribal officials designated under subsection (b)(4)—

(A) shall assess natural resource damages under section 1002(b)(2)(A) for the purposes of this Act for the natural resources under their trusteeship; and

(B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

(4) **FOREIGN TRUSTEES.**—The trustees designated under subsection (b)(5)—

(A) shall assess natural resource damages under section 1002(b)(2)(A) for the purposes of this Act for the natural resources under their trusteeship; and

(B) shall develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent, of the natural resources under their trusteeship.

(5) **NOTICE AND OPPORTUNITY TO BE HEARD.**—Plans shall be developed and implemented under this section only after adequate public notice, opportunity for a hearing, and consideration of all public comment.

(d) MEASURE OF DAMAGES.—

(1) **IN GENERAL.**—The measure of natural resource damages under section 1002(b)(2)(A) is—

(A) the cost of restoring, rehabilitating, replacing, or acquiring the equivalent of, the damaged natural resources;

(B) the diminution in value of those natural resources pending restoration; plus

(C) the reasonable cost of assessing those damages.

(2) **DETERMINE COSTS WITH RESPECT TO PLANS.**—Costs shall be determined under paragraph (1) with respect to plans adopted under subsection (c).

(3) **NO DOUBLE RECOVERY.**—There shall be no double recovery under this Act for natural resource damages, including with respect to the costs of damage assessment or restoration, rehabilitation, replacement, or acquisition for the same incident and natural resource.

(e) DAMAGE ASSESSMENT REGULATIONS.—

(1) **REGULATIONS.**—The President, acting through the Under Secretary of Commerce for Oceans and Atmosphere and in consultation with the Administrator of the Environmental Protection Agency, the Director of the United States Fish and Wildlife Service, and the heads of other affected agencies, not later than 2 years after the date of the enactment of this Act, shall promulgate regulations for the assessment of natural resource damages under section 1002(b)(2)(A) resulting from a discharge of oil for the purpose of this Act.

(2) **REBUTTABLE PRESUMPTION.**—Any determination or assessment of damages to natural resources for the purposes of this Act made under subsection (d) by a Federal, State, or Indian trustee in accordance with the regulations promulgated under paragraph (1) shall have the force and effect of a rebuttable presumption on behalf of the trustee in any administrative or judicial proceeding under this Act.

(f) **USE OF RECOVERED SUMS.**—Sums recovered under this Act by a Federal, State, Indian, or foreign trustee for natural resource damages under section 1002(b)(2)(A) shall be retained by the trustee in a revolving trust account, without further appropriation, for use only to reimburse or pay costs incurred by the trustee under subsection (c) with respect to the damaged natural resources. Any amounts in excess of those required for these reimbursements and costs shall be deposited in the Fund.

(g) **COMPLIANCE.**—Review of actions by any Federal official where there is alleged to be a failure of that official to perform a duty under this section that is not discretionary with that official may be had by any person in the district court in which the person resides or in which the alleged damage to nat-

ural resources occurred. The court may award costs of litigation (including reasonable attorney and expert witness fees) to any prevailing or substantially prevailing party. Nothing in this subsection shall restrict any right which any person may have to seek relief under any other provision of law.

SEC. 1007. RECOVERY BY FOREIGN CLAIMANTS.

(a) **REQUIRED SHOWING BY FOREIGN CLAIMANTS.**—

(1) **IN GENERAL.**—In addition to satisfying the other requirements of this Act, to recover removal costs or damages resulting from an incident a foreign claimant shall demonstrate that—

(A) the claimant has not been otherwise compensated for the removal costs or damages; and

(B) recovery is authorized by a treaty or executive agreement between the United States and the claimant's country, or the Secretary of State, in consultation with the Attorney General and other appropriate officials, has certified that the claimant's country provides a comparable remedy for United States claimants.

(2) **EXCEPTIONS.**—Paragraph (1)(B) shall not apply with respect to recovery by a resident of Canada in the case of an incident described in subsection (b)(4).

(b) **DISCHARGES IN FOREIGN COUNTRIES.**—A foreign claimant may make a claim for removal costs and damages resulting from a discharge, or substantial threat of a discharge, of oil in or on the territorial sea, internal waters, or adjacent shoreline of a foreign country, only if the discharge is from—

(1) an Outer Continental Shelf facility or a deepwater port;

(2) a vessel in the navigable waters;

(3) a vessel carrying oil as cargo between 2 places in the United States; or

(4) a tanker that received the oil at the terminal of the pipeline constructed under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), for transportation to a place in the United States, and the discharge or threat occurs prior to delivery of the oil to that place.

(c) **FOREIGN CLAIMANT DEFINED.**—In this section, the term "foreign claimant" means—

(1) a person residing in a foreign country;

(2) the government of a foreign country; and

(3) an agency or political subdivision of a foreign country.

SEC. 1008. RECOVERY BY RESPONSIBLE PARTY.

(a) **IN GENERAL.**—The responsible party for a vessel or facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, may assert a claim for removal costs and damages under section 1013 only if the responsible party demonstrates that—

(1) the responsible party is entitled to a defense to liability under section 1003; or

(2) the responsible party is entitled to a limitation of liability under section 1004.

(b) **EXTENT OF RECOVERY.**—A responsible party who is entitled to a limitation of liability may assert a claim under section 1013 only to the extent that the sum of the removal costs and damages incurred by the responsible party plus the amounts paid by the responsible party, or by the guarantor on behalf of the responsible party, for claims asserted under section 1013 exceeds the amount to which the total of the liability under section 1002 and removal costs and damages incurred by, or on behalf of, the responsible party is limited under section 1004.

SEC. 1009. CONTRIBUTION.

A person may bring a civil action for contribution against any other person who is liable or potentially liable under this Act or another law. The action shall be brought in accordance with section 1017.

SEC. 1010. INDEMNIFICATION AGREEMENTS.

(a) **AGREEMENTS NOT PROHIBITED.**—Nothing in this Act prohibits any agreement to insure, hold harmless, or indemnify a party to such agreement for any liability under this Act.

(b) **LIABILITY NOT TRANSFERRED.**—No indemnification, hold harmless, or similar agreement or conveyance shall be effective to transfer liability imposed under this Act from a responsible party or from any person who may be liable for an incident under this Act to any other person.

(c) **RELATIONSHIP TO OTHER CAUSES OF ACTION.**—Nothing in this Act, including the provisions of subsection (b), bars a cause of action that a responsible party subject to liability under this Act, or a guarantor, has or would have, by reason of subrogation or otherwise, against any person.

SEC. 1011. CONSULTATION ON REMOVAL ACTIONS.

The President shall consult with the affected trustees designated under section 1006 on the appropriate removal action to be taken in connection with any discharge of oil. For the purposes of the National Contingency Plan, removal with respect to any discharge shall be considered completed when so determined by the President in consultation with the Governor or Governors of the affected States. However, this determination shall not preclude additional removal actions under applicable State law.

SEC. 1012. USES OF THE FUND.

(a) **USES GENERALLY.**—The Fund shall be available to the President for—

(1) the payment of removal costs, including the costs of monitoring removal actions, determined by the President to be consistent with the National Contingency Plan—

(A) by Federal authorities; or

(B) by a Governor or designated State official under subsection (d);

(2) the payment of costs incurred by Federal, State, or Indian tribe trustees in carrying out their functions under section 1006 for assessing natural resource damages and for developing and implementing plans for the restoration, rehabilitation, replacement, or acquisition of the equivalent of damaged resources determined by the President to be consistent with the National Contingency Plan;

(3) the payment of removal costs determined by the President to be consistent with the National Contingency Plan as a result of, and damages resulting from, a discharge, or a substantial threat of a discharge, of oil from a foreign offshore unit;

(4) the payment of claims in accordance with section 1013 for uncompensated removal costs determined by the President to be consistent with the National Contingency Plan or uncompensated damages;

(5) the payment of Federal administrative, operational, and personnel costs and expenses reasonably necessary for and incidental to the implementation, administration, and enforcement of this Act (including, but not limited to, sections 1004(d)(2), 1006(e), 4107, 4110, 4111, 4112, 4117, 5006, 8103, and title VII) and subsections (b), (c), (d), (f), and (l) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321), as amended by this Act, with respect to prevention, removal, and enforcement related to oil discharges, provided that—

(A) not more than \$25,000,000 in each fiscal year shall be available to the Secretary for operating expenses incurred by the Coast Guard;

(B) not more than \$30,000,000 each year through the end of fiscal year 1992 shall be available to establish the National Response System under section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, including the purchase and prepositioning of oil spill removal equipment; and

(C) not more than \$27,250,000 in each fiscal year shall be available to carry out title VII of this Act.

(b) **DEFENSE TO LIABILITY FOR FUND.**—The Fund shall not be available to pay any claim for removal costs or damages to a particular claimant, to the extent that the incident, removal costs, or damages are caused by the gross negligence or willful misconduct of that claimant.

(c) **OBLIGATION OF FUND BY FEDERAL OFFICIALS.**—The President may promulgate regulations designating one or more Federal officials who may obligate money in accordance with subsection (a).

(d) **ACCESS TO FUND BY STATE OFFICIALS.**—

(1) **IMMEDIATE REMOVAL.**—In accordance with regulations promulgated under this section, the President, upon the request of the Governor of a State or pursuant to an agreement with a State under paragraph (2), may obligate the Fund for payment in an amount not to exceed \$250,000 for removal costs consistent with the National Contingency Plan required for the immediate removal of a discharge, or the mitigation or prevention of a substantial threat of a discharge, of oil.

(2) **AGREEMENTS.**—

(A) **IN GENERAL.**—The President shall enter into an agreement with the Governor of any interested State to establish procedures under which the Governor or a designated State official may receive payments from the Fund for removal costs pursuant to paragraph (1).

(B) **TERMS.**—Agreements under this paragraph—

(i) may include such terms and conditions as may be agreed upon by the President and the Governor of a State;

(ii) shall provide for political subdivisions of the State to receive payments for reasonable removal costs; and

(iii) may authorize advance payments from the Fund to facilitate removal efforts.

(e) **REGULATIONS.**—The President shall—

(1) not later than 6 months after the date of the enactment of this Act, publish proposed regulations detailing the manner in which the authority to obligate the Fund and to enter into agreements under this subsection shall be exercised; and

(2) not later than 3 months after the close of the comment period for such proposed regulations, promulgate final regulations for that purpose.

(f) **RIGHTS OF SUBROGATION.**—Payment of any claim or obligation by the Fund under this Act shall be subject to the United States Government acquiring by subrogation all rights of the claimant or State to recover from the responsible party.

(g) **AUDITS.**—The Comptroller General shall audit all payments, obligations, reimbursements, and other uses of the Fund, to assure that the Fund is being properly administered and that claims are being appropriately and expeditiously considered. The Comptroller General shall submit to the Congress an interim report one year after the date of the enactment of this Act. The Comptroller

General shall thereafter audit the Fund as is appropriate. Each Federal agency shall cooperate with the Comptroller General in carrying out this subsection.

(h) **PERIOD OF LIMITATIONS FOR CLAIMS.**—

(1) **REMOVAL COSTS.**—No claim may be presented under this title for recovery of removal costs for an incident unless the claim is presented within 6 years after the date of completion of all removal actions for that incident.

(2) **DAMAGES.**—No claim may be presented under this section for recovery of damages unless the claim is presented within 3 years after the date on which the injury and its connection with the discharge in question were reasonably discoverable with the exercise of due care, or in the case of natural resource damages under section 1002(b)(2)(A), if later, the date of completion of the natural resources damage assessment under section 1006(e).

(3) **MINORS AND INCOMPETENTS.**—The time limitations contained in this subsection shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for the minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for the incompetent.

(i) **LIMITATION ON PAYMENT FOR SAME COSTS.**—In any case in which the President has paid an amount from the Fund for any removal costs or damages specified under subsection (a), no other claim may be paid from the Fund for the same removal costs or damages.

(j) **OBLIGATION IN ACCORDANCE WITH PLAN.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), amounts may be obligated from the Fund for the restoration, rehabilitation, replacement, or acquisition of natural resources only in accordance with a plan adopted under section 1006(c).

(2) **EXCEPTION.**—Paragraph (1) shall not apply in a situation requiring action to avoid irreversible loss of natural resources or to prevent or reduce any continuing danger to natural resources or similar need for emergency action.

(k) **PREFERENCE FOR PRIVATE PERSONS IN AREA AFFECTED BY DISCHARGE.**—

(1) **IN GENERAL.**—In the expenditure of Federal funds for removal of oil, including for distribution of supplies, construction, and other reasonable and appropriate activities, under a contract or agreement with a private person, preference shall be given, to the extent feasible and practicable, to private persons residing or doing business primarily in the area affected by the discharge of oil.

(2) **LIMITATION.**—This subsection shall not be considered to restrict the use of Department of Defense resources.

SEC. 1013. CLAIMS PROCEDURE.

(a) **PRESENTATION.**—Except as provided in subsection (b), all claims for removal costs or damages shall be presented first to the responsible party or guarantor of the source designated under section 1014(a).

(b) **PRESENTATION TO FUND.**—

(1) **IN GENERAL.**—Claims for removal costs or damages may be presented first to the Fund—

(A) if the President has advertised or otherwise notified claimants in accordance with section 1014(c);

(B) by a responsible party who may assert a claim under section 1008;

(C) by the Governor of a State for removal costs incurred by that State; or

(D) by a United States claimant in a case where a foreign offshore unit has discharged oil causing damage for which the Fund is liable under section 1012(a).

(2) **LIMITATION ON PRESENTING CLAIM.**—No claim of a person against the Fund may be approved or certified during the pendency of an action by the person in court to recover costs which are the subject of the claim.

(c) **ELECTION.**—If a claim is presented in accordance with subsection (a) and—

(1) each person to whom the claim is presented denies all liability for the claim, or

(2) the claim is not settled by any person by payment within 90 days after the date upon which (A) the claim was presented, or (B) advertising was begun pursuant to section 1014(b), whichever is later,

the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Fund.

(d) **UNCOMPENSATED DAMAGES.**—If a claim is presented in accordance with this section and full and adequate compensation is unavailable, a claim for the uncompensated damages and removal costs may be presented to the Fund.

(e) **PROCEDURE FOR CLAIMS AGAINST FUND.**—The President shall promulgate, and may from time to time amend, regulations for the presentation, filing, processing, settlement, and adjudication of claims under this Act against the Fund.

SEC. 1014. DESIGNATION OF SOURCE AND ADVERTISEMENT.

(a) **DESIGNATION OF SOURCE AND NOTIFICATION.**—When the President receives information of an incident, the President shall, where possible and appropriate, designate the source or sources of the discharge or threat. If a designated source is a vessel or a facility, the President shall immediately notify the responsible party and the guarantor, if known, of that designation.

(b) **ADVERTISEMENT BY RESPONSIBLE PARTY OR GUARANTOR.**—If a responsible party or guarantor fails to inform the President, within 5 days after receiving notification of a designation under subsection (a), of the party's or the guarantor's denial of the designation, such party or guarantor shall advertise the designation and the procedures by which claims may be presented, in accordance with regulations promulgated by the President. Advertisement under the preceding sentence shall begin no later than 15 days after the date of the designation made under subsection (a). If advertisement is not otherwise made in accordance with this subsection, the President shall promptly and at the expense of the responsible party or the guarantor involved, advertise the designation and the procedures by which claims may be presented to the responsible party or guarantor. Advertisement under this subsection shall continue for a period of no less than 30 days.

(c) **ADVERTISEMENT BY PRESIDENT.**—If—

(1) the responsible party and the guarantor both deny a designation within 5 days after receiving notification of a designation under subsection (a),

(2) the source of the discharge or threat was a public vessel, or

(3) the President is unable to designate the source or sources of the discharge or threat under subsection (a),

the President shall advertise or otherwise notify potential claimants of the procedures by which claims may be presented to the Fund.

SEC. 1015. SUBROGATION.

(a) **IN GENERAL.**—Any person, including the Fund, who pays compensation pursuant to this Act to any claimant for removal costs or damages shall be subrogated to all rights, claims, and causes of action that the claimant has under any other law.

(b) **ACTIONS ON BEHALF OF FUND.**—At the request of the Secretary, the Attorney General shall commence an action on behalf of the Fund to recover any compensation paid by the Fund to any claimant pursuant to this Act, and all costs incurred by the Fund by reason of the claim, including interest (including prejudgment interest), administrative and adjudicative costs, and attorney's fees. Such an action may be commenced against any responsible party or (subject to section 1016) guarantor, or against any other person who is liable, pursuant to any law, to the compensated claimant or to the Fund, for the cost or damages for which the compensation was paid. Such an action shall be commenced against the responsible foreign government or other responsible party to recover any removal costs or damages paid from the Fund as the result of the discharge, or substantial threat of discharge, of oil from a foreign offshore unit.

SEC. 1016. FINANCIAL RESPONSIBILITY.

(a) **REQUIREMENT.**—The responsible party for—

(1) any vessel over 300 gross tons (except a non-self-propelled vessel that does not carry oil as cargo or fuel) using any place subject to the jurisdiction of the United States; or

(2) any vessel using the waters of the exclusive economic zone to transship or lighter oil destined for a place subject to the jurisdiction of the United States;

shall establish and maintain, in accordance with regulations promulgated by the Secretary, evidence of financial responsibility sufficient to meet the maximum amount of liability to which, in the case of a tank vessel, the responsible party could be subject under section 1004 (a)(1) or (d) of this Act, or to which, in the case of any other vessel, the responsible party could be subjected under section 1004 (a)(2) or (d), in a case where the responsible party would be entitled to limit liability under that section. If the responsible party owns or operates more than one vessel, evidence of financial responsibility need be established only to meet the amount of the maximum liability applicable to the vessel having the greatest maximum liability.

(b) **SANCTIONS.**—

(1) **WITHHOLDING CLEARANCE.**—The Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes of the United States of any vessel subject to this section that does not have the evidence of financial responsibility required for the vessel under this section.

(2) **DENYING ENTRY TO OR DETAINING VESSELS.**—The Secretary may—

(A) deny entry to any vessel to any place in the United States, or to the navigable waters, or

(B) detain at the place,

any vessel that, upon request, does not produce the evidence of financial responsibility required for the vessel under this section.

(3) **SEIZURE OF VESSEL.**—Any vessel subject to the requirements of this section which is found in the navigable waters without the necessary evidence of financial responsibility for the vessel shall be subject to seizure by and forfeiture to the United States.

(c) **OFFSHORE FACILITIES.**—

(1) **IN GENERAL.**—Except as provided in paragraph (2), each responsible party with respect to an offshore facility shall establish and maintain evidence of financial responsibility of \$150,000,000 to meet the amount of liability to which the responsible party could be subjected under section 1004(a) in a case in which the responsible party would be entitled to limit liability under that section. In a case in which a person is the responsible party for more than one facility subject to this subsection, evidence of financial responsibility need be established only to meet the maximum liability applicable to the facility having the greatest maximum liability.

(2) **DEEPWATER PORTS.**—Each responsible party with respect to a deepwater port shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability to which the responsible party could be subjected under section 1004(a) of this Act in a case where the responsible party would be entitled to limit liability under that section. If the Secretary exercises the authority under section 1004(d)(2) to lower the limit of liability for deepwater ports, the responsible party shall establish and maintain evidence of financial responsibility sufficient to meet the maximum amount of liability so established. In a case in which a person is the responsible party for more than one deepwater port, evidence of financial responsibility need be established only to meet the maximum liability applicable to the deepwater port having the greatest maximum liability.

(e) **METHODS OF FINANCIAL RESPONSIBILITY.**—Financial responsibility under this section may be established by any one, or by any combination, of the following methods which the Secretary (in the case of a vessel) or the President (in the case of a facility) determines to be acceptable: evidence of insurance, surety bond, guarantee, letter of credit, qualification as a self-insurer, or other evidence of financial responsibility. Any bond filed shall be issued by a bonding company authorized to do business in the United States. In promulgating requirements under this section, the Secretary or the President, as appropriate, may specify policy or other contractual terms, conditions, or defenses which are necessary, or which are unacceptable, in establishing evidence of financial responsibility to effectuate the purposes of this Act.

(f) **CLAIMS AGAINST GUARANTOR.**—Any claim for which liability may be established under section 1002 may be asserted directly against any guarantor providing evidence of financial responsibility for a responsible party liable under that section for removal costs and damages to which the claim pertains. In defending against such a claim, the guarantor may invoke (1) all rights and defenses which would be available to the responsible party under this Act, (2) any defense authorized under subsection (e), and (3) the defense that the incident was caused by the willful misconduct of the responsible party. The guarantor may not invoke any other defense that might be available in proceedings brought by the responsible party against the guarantor.

(g) **LIMITATION ON GUARANTOR'S LIABILITY.**—Nothing in this Act shall impose liability with respect to an incident on any guarantor for damages or removal costs which exceed, in the aggregate, the amount of financial responsibility required under this Act which that guarantor has provided for a responsible party.

(h) **CONTINUATION OF REGULATIONS.**—Any regulation relating to financial responsibility, which has been issued pursuant to any provision of law repealed or superseded by this Act, and which is in effect on the date immediately preceding the effective date of this Act, is deemed and shall be construed to be a regulation issued pursuant to this section. Such a regulation shall remain in full force and effect unless and until superseded by a new regulation issued under this section.

(i) **UNIFIED CERTIFICATE.**—The Secretary may issue a single unified certificate of financial responsibility for purposes of this Act and any other law.

SEC. 1017. LITIGATION, JURISDICTION, AND VENUE.

(a) **REVIEW OF REGULATIONS.**—Review of any regulation promulgated under this Act may be had upon application by any interested person only in the Circuit Court of Appeals of the United States for the District of Columbia. Any such application shall be made within 90 days from the date of promulgation of such regulations. Any matter with respect to which review could have been obtained under this subsection shall not be subject to judicial review in any civil or criminal proceeding for enforcement or to obtain damages or recovery of response costs.

(b) **JURISDICTION.**—Except as provided in subsections (a) and (c), the United States district courts shall have exclusive original jurisdiction over all controversies arising under this Act, without regard to the citizenship of the parties or the amount in controversy. Venue shall lie in any district in which the discharge or injury or damages occurred, or in which the defendant resides, may be found, has its principal office, or has appointed an agent for service of process. For the purposes of this section, the Fund shall reside in the District of Columbia.

(c) **STATE COURT JURISDICTION.**—A State trial court of competent jurisdiction over claims for removal costs or damages, as defined under this Act, may consider claims under this Act or State law and any final judgment of such court (when no longer subject to ordinary forms of review) shall be recognized, valid, and enforceable for all purposes of this Act.

(d) **ASSESSMENT AND COLLECTION OF TAX.**—The provisions of subsections (a), (b), and (c) shall not apply to any controversy or other matter resulting from the assessment or collection of any tax, or to the review of any regulation promulgated under the Internal Revenue Code of 1986.

(e) **SAVINGS PROVISION.**—Nothing in this title shall apply to any cause of action or right of recovery arising from any incident which occurred prior to the date of enactment of this title. Such claims shall be adjudicated pursuant to the law applicable on the date of the incident.

(f) **PERIOD OF LIMITATIONS.**—

(1) **DAMAGES.**—Except as provided in paragraphs (3) and (4), an action for damages under this Act shall be barred unless the action is brought within 3 years after—

(A) the date on which the loss and the connection of the loss with the discharge in question are reasonably discoverable with the exercise of due care, or

(B) in the case of natural resource damages under section 1002(b)(2)(A), the date of completion of the natural resources damage assessment under section 1006(c).

(2) **REMOVAL COSTS.**—An action for recovery of removal costs referred to in section 1002(b)(1) must be commenced within 3 years after completion of the removal

action. In any such action described in this subsection, the court shall enter a declaratory judgment on liability for removal costs or damages that will be binding on any subsequent action or actions to recover further removal costs or damages. Except as otherwise provided in this paragraph, an action may be commenced under this title for recovery of removal costs at any time after such costs have been incurred.

(3) **CONTRIBUTION.**—No action for contribution for any removal costs or damages may be commenced more than 3 years after—

(A) the date of judgment in any action under this Act for recovery of such costs or damages, or

(B) the date of entry of a judicially approved settlement with respect to such costs or damages.

(4) **SUBROGATION.**—No action based on rights subrogated pursuant to this Act by reason of payment of a claim may be commenced under this Act more than 3 years after the date of payment of such claim.

(5) **COMMENCEMENT.**—The time limitations contained herein shall not begin to run—

(A) against a minor until the earlier of the date when such minor reaches 18 years of age or the date on which a legal representative is duly appointed for such minor, or

(B) against an incompetent person until the earlier of the date on which such incompetent's incompetency ends or the date on which a legal representative is duly appointed for such incompetent.

SEC. 1018. RELATIONSHIP TO OTHER LAW.

(a) **PRESERVATION OF STATE AUTHORITIES; SOLID WASTE DISPOSAL ACT.**—Nothing in this Act or the Act of March 3, 1951 shall—

(1) affect, or be construed or interpreted as preempting, the authority of any State or political subdivision thereof from imposing any additional liability or requirements with respect to—

(A) the discharge of oil or other pollution by oil within such State; or

(B) any removal activities in connection with such a discharge; or

(2) affect, or be construed or interpreted to affect or modify in any way the obligations or liabilities of any person under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or State law, including common law.

(b) **PRESERVATION OF STATE FUNDS.**—Nothing in this Act or in section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) shall in any way affect, or be construed to affect, the authority of any State—

(1) to establish, or to continue in effect, a fund any purpose of which is to pay for costs or damages arising out of, or directly resulting from, oil pollution or the substantial threat of oil pollution; or

(2) to require any person to contribute to such a fund.

(c) **ADDITIONAL REQUIREMENTS AND LIABILITIES; PENALTIES.**—Nothing in this Act, the Act of March 3, 1951 (46 U.S.C. 183 et seq.), or section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509), shall in any way affect, or be construed to affect, the authority of the United States or any State or political subdivision thereof—

(1) to impose additional liability or additional requirements; or

(2) to impose, or to determine the amount of, any fine or penalty (whether criminal or civil in nature) for any violation of law; relating to the discharge, or substantial threat of a discharge, of oil.

(d) **FEDERAL EMPLOYEE LIABILITY.**—For purposes of section 2679(b)(2)(B) of title 28, United States Code, nothing in this Act shall be construed to authorize or create a cause

of action against a Federal officer or employee in the officer's or employee's personal or individual capacity for any act or omission while acting within the scope of the officer's or employee's office or employment.

SEC. 1019. STATE FINANCIAL RESPONSIBILITY.

A State may enforce, on the navigable waters of the State, the requirements for evidence of financial responsibility under section 1016.

SEC. 1020. APPLICATION.

This Act shall apply to an incident occurring after the date of the enactment of this Act.

TITLE II—CONFORMING AMENDMENTS

SEC. 2001. INTERVENTION ON THE HIGH SEAS ACT.

Section 17 of the Intervention on the High Seas Act (33 U.S.C. 1486) is amended to read as follows:

"SEC. 17. The Oil Spill Liability Trust Fund shall be available to the Secretary for actions taken under sections 5 and 7 of this Act."

SEC. 2002. FEDERAL WATER POLLUTION CONTROL ACT.

(a) **APPLICATION.**—Subsections (f), (g), (h), and (i) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) shall not apply with respect to any incident for which liability is established under section 1002 of this Act.

(b) **CONFORMING AMENDMENTS.**—Section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended as follows:

(1) Subsection (i) is amended by striking "(1)" after "(i)" and by striking paragraphs (2) and (3).

(2) Subsection (k) is repealed. Any amounts remaining in the revolving fund established under that subsection shall be deposited in the Fund. The Fund shall assume all liability incurred by the revolving fund established under that subsection.

(3) Subsection (l) is amended by striking the second sentence.

(4) Subsection (p) is repealed.

(5) The following is added at the end thereof:

"(s) The Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509) shall be available to carry out subsections (b), (c), (d), (j), and (l) as those subsections apply to discharges, and substantial threats of discharges, of oil. Any amounts received by the United States under this section shall be deposited in the Oil Spill Liability Trust Fund."

SEC. 2003. DEEPWATER PORT ACT.

(a) **CONFORMING AMENDMENTS.**—The Deepwater Port Act of 1974 (33 U.S.C. 1502 et seq.) is amended—

(1) in section 4(c)(1) by striking "section 18(f) of this Act," and inserting "section 1016 of the Oil Pollution Act of 1990"; and

(2) by striking section 18.

(b) **AMOUNTS REMAINING IN DEEPWATER PORT FUND.**—Any amounts remaining in the Deepwater Port Liability Fund established under section 18(f) of the Deepwater Port Act of 1974 (33 U.S.C. 1517(f)) shall be deposited in the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509). The Oil Spill Liability Trust Fund shall assume all liability incurred by the Deepwater Port Liability Fund.

SEC. 2004. OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978.

Title III of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1811-1824) is repealed. Any amounts re-

maintaining in the Offshore Oil Pollution Compensation Fund established under section 302 of that title (43 U.S.C. 1812) shall be deposited in the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509). The Oil Spill Liability Trust Fund shall assume all liability incurred by the Offshore Oil Pollution Compensation Fund.

TITLE III—INTERNATIONAL OIL POLLUTION PREVENTION AND REMOVAL

SEC. 3001. SENSE OF CONGRESS REGARDING PARTICIPATION IN INTERNATIONAL REGIME.

It is the sense of the Congress that it is in the best interests of the United States to participate in an international oil pollution liability and compensation regime that is at least as effective as Federal and State laws in preventing incidents and in guaranteeing full and prompt compensation for damages resulting from incidents.

SEC. 3002. UNITED STATES-CANADA GREAT LAKES OIL SPILL COOPERATION.

(a) **REVIEW.**—The Secretary of State shall review relevant international agreements and treaties with the Government of Canada, including the Great Lakes Water Quality Agreement, to determine whether amendments or additional international agreements are necessary to—

- (1) prevent discharges of oil on the Great Lakes;
- (2) ensure an immediate and effective removal of oil on the Great Lakes; and
- (3) fully compensate those who are injured by a discharge of oil on the Great Lakes.

(b) **CONSULTATION.**—In carrying out this section, the Secretary of State shall consult with the Department of Transportation, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the Great Lakes States, the International Joint Commission, and other appropriate agencies.

(c) **REPORT.**—The Secretary of State shall submit a report to the Congress on the results of the review under this section within 6 months after the date of the enactment of this Act.

SEC. 3003. UNITED STATES-CANADA LAKE CHAMPLAIN OIL SPILL COOPERATION.

(a) **REVIEW.**—The Secretary of State shall review relevant international agreements and treaties with the Government of Canada, to determine whether amendments or additional international agreements are necessary to—

- (1) prevent discharges of oil on Lake Champlain;
- (2) ensure an immediate and effective removal of oil on Lake Champlain; and
- (3) fully compensate those who are injured by a discharge of oil on Lake Champlain.

(b) **CONSULTATION.**—In carrying out this section, the Secretary of State shall consult with the Department of Transportation, the Environmental Protection Agency, the National Oceanic and Atmospheric Administration, the States of Vermont and New York, the International Joint Commission, and other appropriate agencies.

(c) **REPORT.**—The Secretary of State shall submit a report to the Congress on the results of the review under this section within 6 months after the date of the enactment of this Act.

SEC. 3004. INTERNATIONAL INVENTORY OF REMOVAL EQUIPMENT AND PERSONNEL.

The President shall encourage appropriate international organizations to establish an international inventory of spill removal equipment and personnel.

SEC. 3005. NEGOTIATIONS WITH CANADA CONCERNING TUG ESCORTS IN PUGET SOUND.

Congress urges the Secretary of State to enter into negotiations with the Government of Canada to ensure that tugboat escorts are required for all tank vessels with a capacity over 40,000 deadweight tons in the Strait of Juan de Fuca and in Haro Strait.

TITLE IV—PREVENTION AND REMOVAL

Subtitle A—Prevention

SEC. 4101. REVIEW OF ALCOHOL AND DRUG ABUSE AND OTHER MATTERS IN ISSUING LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS.

(a) **LICENSES AND CERTIFICATES OF REGISTRY.**—Section 7101 of title 46, United States Code, is amended by adding at the end the following:

"(g) The Secretary may not issue a license or certificate of registry under this section unless an individual applying for the license or certificate makes available to the Secretary, under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), any information contained in the National Driver Register related to an offense described in section 205(a)(3) (A) or (B) of that Act committed by the individual.

"(h) The Secretary may review the criminal record of an individual who applies for a license or certificate of registry under this section.

"(i) The Secretary shall require the testing of an individual who applies for issuance or renewal of a license or certificate of registry under this chapter for use of a dangerous drug in violation of law or Federal regulation."

(b) **MERCHANT MARINERS' DOCUMENTS.**—Section 7302 of title 46, United States Code, is amended by adding at the end the following:

"(c) The Secretary may not issue a merchant mariner's document under this chapter unless the individual applying for the document makes available to the Secretary, under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), any information contained in the National Driver Register related to an offense described in section 205(a)(3) (A) or (B) of that Act committed by the individual.

"(d) The Secretary may review the criminal record of an individual who applies for a merchant mariner's document under this section.

"(e) The Secretary shall require the testing of an individual applying for issuance or renewal of a merchant mariner's document under this chapter for the use of a dangerous drug in violation of law or Federal regulation."

SEC. 4102. TERM OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS; CRIMINAL RECORD REVIEWS IN RENEWALS.

(a) **LICENSES.**—Section 7106 of title 46, United States Code, is amended by inserting "and may be renewed for additional 5-year periods" after "is valid for 5 years".

(b) **CERTIFICATES OF REGISTRY.**—Section 7107 of title 46, United States Code, is amended by striking "is not limited in duration." and inserting "is valid for 5 years and may be renewed for additional 5-year periods."

(c) **MERCHANT MARINERS' DOCUMENTS.**—Section 7302 of title 46, United States Code, is amended by adding at the end the following:

"(f) A merchant mariner's document issued under this chapter is valid for 5 years and may be renewed for additional 5-year periods."

(d) **TERMINATION OF EXISTING LICENSES, CERTIFICATES, AND DOCUMENTS.**—A license,

certificate of registry, or merchant mariner's document issued before the date of the enactment of this section terminates on the day it would have expired if—

- (1) subsections (a), (b), and (c) were in effect on the date it was issued; and
- (2) it was renewed at the end of each 5-year period under section 7106, 7107, or 7302 of title 46, United States Code.

(e) **CRIMINAL RECORD REVIEW IN RENEWALS OF LICENSES AND CERTIFICATES OF REGISTRY.**—

(1) **IN GENERAL.**—Section 7109 of title 46, United States Code, is amended to read as follows:

"§ 7109. Review of criminal records

"The Secretary may review the criminal record of each holder of a license or certificate of registry issued under this part who applies for renewal of that license or certificate of registry."

(2) **CLERICAL AMENDMENT.**—The analysis for chapter 71 of title 46, United States Code, is amended by striking the item relating to section 7109 and inserting the following:

"7109. Review of criminal records."

SEC. 4103. SUSPENSION AND REVOCATION OF LICENSES, CERTIFICATES OF REGISTRY, AND MERCHANT MARINERS' DOCUMENTS FOR ALCOHOL AND DRUG ABUSE.

(a) **AVAILABILITY OF INFORMATION IN NATIONAL DRIVER REGISTER.**—

(1) **IN GENERAL.**—Section 7702 of title 46, United States Code, is amended by adding at the end the following:

"(c)(1) The Secretary shall request a holder of a license, certificate of registry, or merchant mariner's document to make available to the Secretary, under section 206(b)(4) of the National Driver Register Act of 1982 (23 U.S.C. 401 note), all information contained in the National Driver Register related to an offense described in section 205(a)(3) (A) or (B) of that Act committed by the individual.

"(2) The Secretary shall require the testing of the holder of a license, certificate of registry, or merchant mariner's document for use of alcohol and dangerous drugs in violation of law or Federal regulation. The testing may include preemployment (with respect to dangerous drugs only), periodic, random, reasonable cause, and post accident testing.

"(d)(1) The Secretary may temporarily, for not more than 45 days, suspend and take possession of the license, certificate of registry, or merchant mariner's document held by an individual if, when acting under the authority of that license, certificate, or document—

"(A) that individual performs a safety sensitive function on a vessel, as determined by the Secretary; and

"(B) there is probable cause to believe that the individual—

"(i) has performed the safety sensitive function in violation of law or Federal regulation regarding use of alcohol or a dangerous drug;

"(ii) has been convicted of an offense that would prevent the issuance or renewal of the license, certificate, or document; or

"(iii) within the 3-year period preceding the initiation of a suspension proceeding, has been convicted of an offense described in section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982.

"(2) If a license, certificate, or document is temporarily suspended under this section, an expedited hearing under subsection (a) of this section shall be held within 30 days after the temporary suspension."

(2) **DEFINITION OF DANGEROUS DRUG.**—(A) Section 2101 of title 46, United States Code, is amended by inserting after paragraph (8) the following new paragraph:

"(8a) 'dangerous drug' means a narcotic drug, a controlled substance, or a controlled substance analog (as defined in section 102 of the Comprehensive Drug Abuse and Control Act of 1970 (21 U.S.C. 802))."

(B) Sections 7503(a) and 7704(a) of title 46, United States Code, are repealed.

(b) **BASES FOR SUSPENSION OR REVOCATION.**—Section 7703 of title 46, United States Code, is amended to read as follows:

"§ 7703. Bases for suspension or revocation

"A license, certificate of registry, or merchant mariner's document issued by the Secretary may be suspended or revoked if the holder—

"(1) when acting under the authority of that license, certificate, or document—

"(A) has violated or fails to comply with this subtitle, a regulation prescribed under this subtitle, or any other law or regulation intended to promote marine safety or to protect navigable waters; or

"(B) has committed an act of incompetence, misconduct, or negligence;

"(2) is convicted of an offense that would prevent the issuance or renewal of a license, certificate of registry, or merchant mariner's document; or

"(3) within the 3-year period preceding the initiation of the suspension or revocation proceeding is convicted of an offense described in section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982 (23 U.S.C. 401 note)."

(c) **TERMINATION OF REVOCATION.**—Section 7701(c) of title 46, United States Code, is amended to read as follows:

"(c) When a license, certificate of registry, or merchant mariner's document has been revoked under this chapter, the former holder may be issued a new license, certificate of registry, or merchant mariner's document only after—

"(1) the Secretary decides, under regulations prescribed by the Secretary, that the issuance is compatible with the requirement of good discipline and safety at sea; and

"(2) the former holder provides satisfactory proof that the bases for revocation are no longer valid."

SEC. 4104. REMOVAL OF MASTER OR INDIVIDUAL IN CHARGE.

Section 8101 of title 46, United States Code, is amended by adding at the end the following:

"(i) When the 2 next most senior licensed officers on a vessel reasonably believe that the master or individual in charge of the vessel is under the influence of alcohol or a dangerous drug and is incapable of commanding the vessel, the next most senior master, mate, or operator licensed under section 7101(c) (1) or (3) of this title shall—

"(1) temporarily relieve the master or individual in charge;

"(2) temporarily take command of the vessel;

"(3) in the case of a vessel required to have a log under chapter 113 of this title, immediately enter the details of the incident in the log; and

"(4) report those details to the Secretary—

"(A) by the most expeditious means available; and

"(B) in written form transmitted within 12 hours after the vessel arrives at its next port."

SEC. 4105. ACCESS TO NATIONAL DRIVER REGISTER.

(a) **ACCESS TO REGISTER.**—Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) is amended—

(1) by redesignating the second paragraph (5) (as added to the end of that section by section 4(b)(1) of the Rail Safety Improvement Act of 1988) as paragraph (6); and

(2) by adding at the end the following:

"(7)(A) Any individual who holds or who has applied for a license or certificate of registry under section 7101 of title 46, United States Code, or a merchant mariner's document under section 7302 of title 46, United States Code, may request the chief driver licensing official of a State to transmit to the Secretary of the department in which the Coast Guard is operating in accordance with subsection (a) information regarding the motor vehicle driving record of the individual.

"(B) The Secretary—

"(i) may receive information transmitted by the chief driver licensing official of a State pursuant to a request under subparagraph (A);

"(ii) shall make the information available to the individual for review and written comment before denying, suspending, or revoking the license, certificate of registry, or merchant mariner's document of the individual based on that information and before using that information in any action taken under chapter 77 of title 46, United States Code; and

"(iii) may not otherwise divulge or use that information, except for the purposes of section 7101, 7302, or 7703 of title 46, United States Code.

"(C) Information regarding the motor vehicle driving record of an individual may not be transmitted to the Secretary under this paragraph if the information was entered in the Register more than 3 years before the date of the request for the information, unless the information relates to revocations or suspensions that are still in effect on the date of the request. Information submitted to the Register by States under the Act of July 14, 1960 (74 Stat. 526), or under this title shall be subject to access for the purpose of this paragraph during the transition to the Register described under section 203(c) of this title."

(b) **CONFORMING AMENDMENTS.**—

(1) **REVIEW OF INFORMATION RECEIVED FROM REGISTER.**—Chapter 75 of title 46, United States Code, is amended by adding at the end the following:

"§ 7505. Review of information in National Driver Register

"The Secretary shall make information received from the National Driver Register under section 206(b)(7) of the National Driver Register Act of 1982 (23 U.S.C. 401 note) available to an individual for review and written comment before denying, suspending, revoking, or taking any other action relating to a license, certificate of registry, or merchant mariner's document authorized to be issued for that individual under this part, based on that information."

(2) **PENALTY FOR NEGLIGENT OPERATION OF VESSEL.**—Section 2302(c) of title 46, United States Code, is amended by striking "intoxicated" and inserting "under the influence of alcohol, or a dangerous drug in violation of a law of the United States".

(c) **CLERICAL AMENDMENT.**—The analysis for chapter 75 of title 46, United States Code, is amended by adding at the end the following: "7505. Review of information in National Driver Register."

SEC. 4106. MANNING STANDARDS FOR FOREIGN TANK VESSELS.

(a) **STANDARDS FOR FOREIGN TANK VESSELS.**—Section 9101(a) of title 46, United States Code, is amended to read as follows:

"(a)(1) The Secretary shall evaluate the manning, training, qualification, and watchkeeping standards of a foreign country that issues documentation for any vessel to which chapter 37 of this title applies—

"(A) on a periodic basis; and

"(B) when the vessel is involved in a marine casualty required to be reported under section 6101(a) (4) or (5) of this title.

"(2) After each evaluation made under paragraph (1) of this subsection, the Secretary shall determine whether—

"(A) the foreign country has standards for licensing and certification of seamen that are at least equivalent to United States law or international standards accepted by the United States; and

"(B) those standards are being enforced.

"(3) If the Secretary determines under this subsection that a country has failed to maintain or enforce standards at least equivalent to United States law or international standards accepted by the United States, the Secretary shall prohibit vessels issued documentation by that country from entering the United States until the Secretary determines those standards have been established and are being enforced.

"(4) The Secretary may allow provisional entry of a vessel prohibited from entering the United States under paragraph (3) of this subsection if—

"(A) the owner or operator of the vessel establishes, to the satisfaction of the Secretary, that the vessel is not unsafe or a threat to the marine environment; or

"(B) the entry is necessary for the safety of the vessel or individuals on the vessel."

(b) **Reporting Marine Casualties.**—

(1) **Reporting requirement.**—Section 6101(a) of title 46, United States Code, is amended by adding at the end the following:

"(5) significant harm to the environment."

(2) **Application to foreign vessels.**—Section 6101(d) of title 46, United States Code, is amended—

(A) by inserting "(1)" before "This part"; and

(B) by adding at the end the following:

"(2) This part applies, to the extent consistent with generally recognized principles of international law, to a foreign vessel constructed or adapted to carry, or that carries, oil in bulk as cargo or cargo residue involved in a marine casualty described under subsection (a) (4) or (5) in waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone."

(c) **TECHNICAL AND CONFORMING AMENDMENTS.**—Section 9(a) of the Ports and Waterways Safety Act (33 U.S.C. 1228(a)) is amended—

(1) in the matter preceding paragraph (1), by striking "section 4417a of the Revised Statutes, as amended," and inserting "chapter 37 of title 46, United States Code,";

(2) in paragraph (2), by striking "section 4417a of the Revised Statutes, as amended," and inserting "chapter 37 of title 46, United States Code,"; and

(3) in paragraph (5), by striking "section 4417a(11) of the Revised Statutes, as amended," and inserting "section 9101 of title 46, United States Code,".

SEC. 4107. VESSEL TRAFFIC SERVICE SYSTEMS.

(a) **IN GENERAL.**—Section 4(a) of the Ports and Waterways Safety Act (33 U.S.C. 1223(a)) is amended—

(1) by striking "Secretary may—" and inserting "Secretary—";

(2) in paragraph (1) by striking "establish, operate, and maintain" and inserting "may

construct, operate, maintain, improve, or expand";

(3) in paragraph (2) by striking "require" and inserting "shall require appropriate";

(4) in paragraph (3) by inserting "may" before "require";

(5) in paragraph (4) by inserting "may" before "control"; and

(6) in paragraph (5) by inserting "may" before "require".

(b) DIRECTION OF VESSEL MOVEMENT.—

(1) **STUDY.**—The Secretary shall conduct a study—

(A) of whether the Secretary should be given additional authority to direct the movement of vessels on navigable waters and should exercise such authority; and

(B) to determine and prioritize the United States ports and channels that are in need of new, expanded, or improved vessel traffic service systems, by evaluating—

(i) the nature, volume, and frequency of vessel traffic;

(ii) the risks of collisions, spills, and damages associated with that traffic;

(iii) the impact of installation, expansion, or improvement of a vessel traffic service system; and

(iv) all other relevant costs and data.

(2) **REPORT.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit to the Congress a report on the results of the study conducted under paragraph (1) and recommendations for implementing the results of that study.

SEC. 4108. GREAT LAKES PILOTAGE.

(a) **INDIVIDUALS WHO MAY SERVE AS PILOT ON UNDESIGNATED GREAT LAKE WATERS.**—Section 9302(b) of title 46, United States Code, is amended to read as follows:

"(b) A member of the complement of a vessel of the United States operating on register or of a vessel of Canada may serve as the pilot required on waters not designated by the President if the member is licensed under section 7101 of this title, or under equivalent provisions of Canadian law, to direct the navigation of the vessel on the waters being navigated."

(b) **PENALTIES.**—Section 9308 of title 46, United States Code, is amended in each of subsections (a), (b), and (c) by striking "\$500" and inserting "no more than \$10,000".

SEC. 4109. PERIODIC GAUGING OF PLATING THICKNESS OF COMMERCIAL VESSELS.

Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations for vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue—

(1) establishing minimum standards for plating thickness; and

(2) requiring, consistent with generally recognized principles of international law, periodic gauging of the plating thickness of all such vessels over 30 years old operating on the navigable waters or the waters of the exclusive economic zone.

SEC. 4110. OVERFILL AND TANK LEVEL OR PRESSURE MONITORING DEVICES.

(a) **STANDARDS.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall establish, by regulation, minimum standards for devices for warning persons of overfills and tank levels of oil in cargo tanks and devices for monitoring the pressure of oil cargo tanks.

(b) **USE.**—Not later than 1 year after the date of the enactment of this Act, the Secretary shall issue regulations establishing, consistent with generally recognized principles of international law, requirements concerning the use of—

(1) overfill devices, and

(2) tank level or pressure monitoring devices,

which are referred to in subsection (a) and which meet the standards established by the Secretary under subsection (a), on vessels constructed or adapted to carry, or that carry, oil in bulk as cargo or cargo residue on the navigable waters and the waters of the exclusive economic zone.

SEC. 4111. STUDY ON TANKER NAVIGATION SAFETY STANDARDS.

(a) **IN GENERAL.**—Not later than 1 year after the date of enactment of this Act, the Secretary shall initiate a study to determine whether existing laws and regulations are adequate to ensure the safe navigation of vessels transporting oil or hazardous substances in bulk on the navigable waters and the waters of the exclusive economic zone.

(b) **CONTENT.**—In conducting the study required under subsection (a), the Secretary shall—

(1) determine appropriate crew sizes on tankers;

(2) evaluate the adequacy of qualifications and training of crewmembers on tankers;

(3) evaluate the ability of crewmembers on tankers to take emergency actions to prevent or remove a discharge of oil or a hazardous substance from their tankers;

(4) evaluate the adequacy of navigation equipment and systems on tankers (including sonar, electronic chart display, and satellite technology);

(5) evaluate and test electronic means of position-reporting and identification on tankers, consider the minimum standards suitable for equipment for that purpose, and determine whether to require that equipment on tankers;

(6) evaluate the adequacy of navigation procedures under different operating conditions, including such variables as speed, daylight, ice, tides, weather, and other conditions;

(7) evaluate whether areas of navigable waters and the exclusive economic zone should be designated as zones where the movement of tankers should be limited or prohibited;

(8) evaluate whether inspection standards are adequate;

(9) review and incorporate the results of past studies, including studies conducted by the Coast Guard and the Office of Technology Assessment;

(10) evaluate the use of computer simulator courses for training bridge officers and pilots of vessels transporting oil or hazardous substances on the navigable waters and waters of the exclusive economic zone, and determine the feasibility and practicality of mandating such training;

(11) evaluate the size, cargo capacity, and flag nation of tankers transporting oil or hazardous substances on the navigable waters and the waters of the exclusive economic zone—

(A) identifying changes occurring over the past 20 years in such size and cargo capacity and in vessel navigation and technology; and

(B) evaluating the extent to which the risks or difficulties associated with tanker navigation, vessel traffic control, accidents, oil spills, and the containment and cleanup of such spills are influenced by or related to an increase in tanker size and cargo capacity; and

(12) evaluate and test a program of remote alcohol testing for masters and pilots aboard tankers carrying significant quantities of oil.

(c) **REPORT.**—Not later than 2 years after the date of enactment of this Act, the Secretary shall transmit to the Congress a report on the results of the study conducted under subsection (a), including recommendations for implementing the results of that study.

SEC. 4112. DREDGE MODIFICATION STUDY.

(a) **STUDY.**—The Secretary of the Army shall conduct a study and demonstration to determine the feasibility of modifying dredges to make them usable in removing discharges of oil and hazardous substances.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the Secretary of the Army shall submit to the Congress a report on the results of the study conducted under subsection (a) and recommendations for implementing the results of that study.

SEC. 4113. USE OF LINERS.

(a) **STUDY.**—The President shall conduct a study to determine whether liners or other secondary means of containment should be used to prevent leaking or to aid in leak detection at onshore facilities used for the bulk storage of oil and located near navigable waters.

(b) **REPORT.**—Not later than 1 year after the date of enactment of this Act, the President shall submit to the Congress a report on the results of the study conducted under subsection (a) and recommendations to implement the results of the study.

(c) **IMPLEMENTATION.**—Not later than 6 months after the date the report required under subsection (b) is submitted to the Congress, the President shall implement the recommendations contained in the report.

SEC. 4114. TANK VESSEL MANNING.

(a) **RULEMAKING.**—In order to protect life, property, and the environment, the Secretary shall initiate a rulemaking proceeding within 180 days after the date of the enactment of this Act to define the conditions under, and designate the waters upon, which tank vessels subject to section 3703 of title 46, United States Code, may operate in the navigable waters with the auto-pilot engaged or with an unattended engine room.

(b) **WATCHES.**—Section 8104 of title 46, United States Code, is amended by adding at the end the following new subsection:

"(n) On a tanker, a licensed individual or seaman may not be permitted to work more than 15 hours in any 24-hour period, or more than 36 hours in any 72-hour period, except in an emergency or a drill. In this subsection, 'work' includes any administrative duties associated with the vessel whether performed on board the vessel or onshore."

(c) **MANNING REQUIREMENT.**—Section 8101(a) of title 46, United States Code, is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) a tank vessel shall consider the navigation, cargo handling, and maintenance functions of that vessel for protection of life, property, and the environment."

(d) **STANDARDS.**—Section 9102(a) of title 46, United States Code, is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(8) instruction in vessel maintenance functions."

(e) RECORDS.—Section 7502 of title 46, United States Code, is amended by striking "maintain records" and inserting "maintain computerized records".

SEC. 4115. ESTABLISHMENT OF DOUBLE HULL REQUIREMENT FOR TANK VESSELS.

(a) **DOUBLE HULL REQUIREMENT.**—Chapter 37 of title 46, United States Code, is amended by inserting after section 3703 the following new section:

"3703a. Tank vessel construction standards

"(a) Except as otherwise provided in this section, a vessel to which this chapter applies shall be equipped with a double hull—

"(1) if it is constructed or adapted to carry, or carries, oil in bulk as cargo or cargo residue; and

"(2) when operating on the waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone.

"(b) This section does not apply to—

"(1) a vessel used only to respond to a discharge of oil or a hazardous substance;

"(2) a vessel of less than 5,000 gross tons equipped with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil; or

"(3) before January 1, 2015—

"(A) a vessel unloading oil in bulk at a deepwater port licensed under the Deepwater Port Act of 1974 (33 U.S.C. 1501 et seq.); or

"(B) a delivering vessel that is offloading in lightering activities—

"(i) within a lightering zone established under section 3715(b)(5) of this title; and

"(ii) more than 60 miles from the baseline from which the territorial sea of the United States is measured.

"(c)(1) In this subsection, the age of a vessel is determined from the later of the date on which the vessel—

"(A) is delivered after original construction;

"(B) is delivered after completion of a major conversion; or

"(C) had its appraised salvage value determined by the Coast Guard and is qualified for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14).

"(2) A vessel of less than 5,000 gross tons for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel of less than 5,000 gross tons that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14) before January 1, 1994, may not operate in the navigable waters or the Exclusive Economic Zone of the United States after January 1, 2015, unless the vessel is equipped with a double hull or with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil.

"(3) A vessel for which a building contract or contract for major conversion was placed before June 30, 1990, and that is delivered under that contract before January 1, 1994, and a vessel that had its appraised salvage value determined by the Coast Guard before June 30, 1990, and that qualifies for documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14) before January 1, 1994, may not operate in the navigable waters or Exclusive Eco-

nomie Zone of the United States unless equipped with a double hull—

"(A) in the case of a vessel of at least 5,000 gross tons but less than 15,000 gross tons—

"(i) after January 1, 1995, if the vessel is 40 years old or older and has a single hull, or is 45 years old or older and has a double bottom or double sides;

"(ii) after January 1, 1996, if the vessel is 39 years old or older and has a single hull, or is 44 years old or older and has a double bottom or double sides;

"(iii) after January 1, 1997, if the vessel is 38 years old or older and has a single hull, or is 43 years old or older and has a double bottom or double sides;

"(iv) after January 1, 1998, if the vessel is 37 years old or older and has a single hull, or is 42 years old or older and has a double bottom or double sides;

"(v) after January 1, 1999, if the vessel is 36 years old or older and has a single hull, or is 41 years old or older and has a double bottom or double sides;

"(vi) after January 1, 2000, if the vessel is 35 years old or older and has a single hull, or is 40 years old or older and has a double bottom or double sides; and

"(vii) after January 1, 2005, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides;

"(B) in the case of a vessel of at least 15,000 gross tons but less than 30,000 gross tons—

"(i) after January 1, 1995, if the vessel is 40 years old or older and has a single hull, or is 45 years old or older and has a double bottom or double sides;

"(ii) after January 1, 1996, if the vessel is 38 years old or older and has a single hull, or is 43 years old or older and has a double bottom or double sides;

"(iii) after January 1, 1997, if the vessel is 36 years old or older and has a single hull, or is 41 years old or older and has a double bottom or double sides;

"(iv) after January 1, 1998, if the vessel is 34 years old or older and has a single hull, or is 39 years old or older and has a double bottom or double sides;

"(v) after January 1, 1999, if the vessel is 32 years old or older and has a single hull, or is 37 years old or older and has a double bottom or double sides;

"(vi) after January 1, 2000, if the vessel is 30 years old or older and has a single hull, or is 35 years old or older and has a double bottom or double sides;

"(vii) after January 1, 2001, if the vessel is 29 years old or older and has a single hull, or is 34 years old or older and has a double bottom or double sides;

"(viii) after January 1, 2002, if the vessel is 28 years old or older and has a single hull, or is 33 years old or older and has a double bottom or double sides;

"(ix) after January 1, 2003, if the vessel is 27 years old or older and has a single hull, or is 32 years old or older and has a double bottom or double sides;

"(x) after January 1, 2004, if the vessel is 26 years old or older and has a single hull, or is 31 years old or older and has a double bottom or double sides; and

"(xi) after January 1, 2005, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides; and

"(C) in the case of a vessel of at least 30,000 gross tons—

"(i) after January 1, 1995, if the vessel is 28 years old or older and has a single hull, or is 33 years old or older and has a double bottom or double sides;

"(ii) after January 1, 1996, if the vessel is 27 years old or older and has a single hull, or is 32 years old or older and has a double bottom or double sides;

"(iii) after January 1, 1997, if the vessel is 26 years old or older and has a single hull, or is 31 years old or older and has a double bottom or double sides;

"(iv) after January 1, 1998, if the vessel is 25 years old or older and has a single hull, or is 30 years old or older and has a double bottom or double sides;

"(v) after January 1, 1999, if the vessel is 24 years old or older and has a single hull, or is 29 years old or older and has a double bottom or double sides; and

"(vi) after January 1, 2000, if the vessel is 23 years old or older and has a single hull, or is 28 years old or older and has a double bottom or double sides.

"(4) Except as provided in subsection (b) of this section—

"(A) a vessel that has a single hull may not operate after January 1, 2010; and

"(B) a vessel that has a double bottom or double sides may not operate after January 1, 2015."

(b) **RULEMAKING.**—The Secretary shall, within 12 months after the date of the enactment of this Act, complete a rulemaking proceeding and issue a final rule to require that tank vessels over 5,000 gross tons affected by section 3703a of title 46, United States Code, as added by this section, comply until January 1, 2015, with structural and operational requirements that the Secretary determines will provide as substantial protection to the environment as is economically and technologically feasible.

(c) **CLERICAL AMENDMENT.**—The analysis for chapter 37 of title 46, United States Code, is amended by inserting after the item relating to section 3703 the following:

"3703a. Tank vessel construction standards."

(d) **LIGHTERING REQUIREMENTS.**—Section 3715(a) of title 46, United States Code, is amended—

(1) in paragraph (1), by striking "and" and inserting a semicolon;

(2) in paragraph (2), by striking the period and inserting "and"; and

(3) by adding at the end the following:

"(3) the delivering and the receiving vessel had on board at the time of transfer, a certificate of financial responsibility as would have been required under section 1016 of the Oil Pollution Act of 1990, had the transfer taken place in a place subject to the jurisdiction of the United States;

"(4) the delivering and the receiving vessel had on board at the time of transfer, evidence that each vessel is operating in compliance with section 311(j) of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)); and

"(5) the delivering and the receiving vessel are operating in compliance with section 3703a of this title."

(e) **SECRETARIAL STUDIES.**—

(1) **OTHER REQUIREMENTS.**—Not later than 6 months after the date of enactment of this Act, the Secretary shall determine, based on recommendations from the National Academy of Sciences or other qualified organizations, whether other structural and operational tank vessel requirements will provide protection to the marine environment equal to or greater than that provided by double hulls, and shall report to the Congress that determination and recommendations for legislative action.

(2) **REVIEW AND ASSESSMENT.**—The Secretary shall—

(A) periodically review recommendations from the National Academy of Sciences and other qualified organizations on methods for further increasing the environmental and operational safety of tank vessels;

(B) not later than 5 years after the date of enactment of this Act, assess the impact of this section on the safety of the marine environment and the economic viability and operational makeup of the maritime oil transportation industry; and

(C) report the results of the review and assessment to the Congress with recommendations for legislative or other action.

(f) **VESSEL FINANCING.**—Section 1104 of the Merchant Marine Act of 1936 (46 App. U.S.C. 1274) is amended—

(1) by striking "SEC. 1104." and inserting "SEC. 1104A."; and

(2) by inserting after section 1104A (as redesignated by paragraph (1)) the following:

"SEC. 1104A. (a) Notwithstanding the provisions of this title, except as provided in subsection (d) of this section, the Secretary, upon the terms the Secretary may prescribe, may guarantee or make a commitment to guarantee, payment of the principal of and interest on an obligation which aids in financing and refinancing, including reimbursement to an obligor for expenditures previously made, of a contract for construction or reconstruction of a vessel or vessels owned by citizens of the United States which are designed and to be employed for commercial use in the coastwise or intercoastal trade or in foreign trade as defined in section 905 of this Act if—

"(1) the construction or reconstruction by an applicant is made necessary to replace vessels the continued operation of which is denied by virtue of the imposition of a statutorily mandated change in standards for the operation of vessels, and where, as a matter of law, the applicant would otherwise be denied the right to continue operating vessels in the trades in which the applicant operated prior to the taking effect of the statutory or regulatory change;

"(2) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section, and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by changes in operating standards imposed by statute;

"(3) the capacity of the vessels to be constructed or reconstructed under this title will not increase the cargo carrying capacity of the vessels being replaced;

"(4) the Secretary has not made a determination that the market demand for the vessel over its useful life will diminish so as to make the granting of the guarantee fiduciarily imprudent; and

"(5) the Secretary has considered the provisions of section 1104A(d)(1)(A)(iii), (iv), and (v) of this title.

"(b) For the purposes of this section—

"(1) the maximum term for obligations guaranteed under this program may not exceed 25 years;

"(2) obligations guaranteed may not exceed 75 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel; and

"(3) reconstruction cost obligations may not be guaranteed unless the vessel after reconstruction will have a useful life of at least 15 years.

"(c)(1) The Secretary shall by rule require that the applicant provide adequate security against default. The Secretary may, in addition to any fees assessed under section 1104A(e), establish a Vessel Replacement Guarantee Fund into which shall be paid by obligors under this section—

"(A) annual fees which may be an additional amount on the loan guarantee fee in section 1104A(e) not to exceed an additional 1 percent; or

"(B) fees based on the amount of the obligation versus the percentage of the obligor's fleet being replaced by vessels constructed or reconstructed under this section.

"(2) The Vessel Replacement Guarantee Fund shall be a subaccount in the Federal Ship Financing Fund, and shall—

"(A) be the depository for all moneys received by the Secretary under sections 1101 through 1107 of this title with respect to guarantee or commitments to guarantee made under this section;

"(B) not include investigation fees payable under section 1104A(f) which shall be paid to the Federal Ship Financing Fund; and

"(C) be the depository, whenever there shall be outstanding any notes or obligations issued by the Secretary under section 1105(d) with respect to the Vessel Replacement Guarantee Fund, for all moneys received by the Secretary under sections 1101 through 1107 from applicants under this section.

"(d) The program created by this section shall, in addition to the requirements of this section, be subject to the provisions of sections 1101 through 1103; 1104A(b)(1), (4), (5), (6); 1104A(e); 1104A(f); 1104A(h); and 1105 through 1107; except that the Federal Ship Financing Fund is not liable for any guarantees or commitments to guarantee issued under this section."

SEC. 4116. PILOTAGE.

(a) **PILOT REQUIRED.**—Section 8502(g) of title 46, United States Code, is amended to read as follows:

"(g)(1) The Secretary shall designate by regulation the areas of the approaches to and waters of Prince William Sound, Alaska, if any, on which a vessel subject to this section is not required to be under the direction and control of a pilot licensed under section 7101 of this title.

"(2) In any area of Prince William Sound, Alaska, where a vessel subject to this section is required to be under the direction and control of a pilot licensed under section 7101 of this title, the pilot may not be a member of the crew of that vessel and shall be a pilot licensed by the State of Alaska who is operating under a Federal license, when the vessel is navigating waters between 60°49' North latitude and the Port of Valdez, Alaska."

(b) **SECOND PERSON REQUIRED.**—Section 8502 of title 46, United States Code, is amended by adding at the end the following:

"(h) The Secretary shall designate waters on which tankers over 1,600 gross tons subject to this section shall have on the bridge a master or mate licensed to direct and control the vessel under section 7101(c)(1) of this title who is separate and distinct from the pilot required under subsection (a) of this section."

(c) **ESCORTS FOR CERTAIN TANKERS.**—Not later than 6 months after the date of the enactment of this Act, the Secretary shall initiate issuance of regulations under section 3703(a)(3) of title 46, United States Code, to define those areas, including Prince William Sound, Alaska, and Rosario Strait and Puget Sound, Washington (including those portions of the Strait of Juan de Fuca east of Port Angeles, Haro Strait, and the Strait

of Georgia subject to United States jurisdiction), on which single hulled tankers over 5,000 gross tons transporting oil in bulk shall be escorted by at least two towing vessels (as defined under section 2101 of title 46, United States Code) or other vessels considered appropriate by the Secretary.

(d) **TANKER DEFINED.**—In this section the term "tanker" has the same meaning the term has in section 2101 of title 46, United States Code.

SEC. 4117. MARITIME POLLUTION PREVENTION TRAINING PROGRAM STUDY.

The Secretary shall conduct a study to determine the feasibility of a Maritime Oil Pollution Prevention Training program to be carried out in cooperation with approved maritime training institutions. The study shall assess the costs and benefits of transferring suitable vessels to selected maritime training institutions, equipping the vessels for oil spill response, and training students in oil pollution response skills. The study shall be completed and transmitted to the Congress no later than one year after the date of the enactment of this Act.

SEC. 4118. VESSEL COMMUNICATION EQUIPMENT REGULATIONS.

The Secretary shall, not later than one year after the date of the enactment of this Act, issue regulations necessary to ensure that vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203) are also equipped as necessary to—

(1) receive radio marine navigation safety warnings; and

(2) engage in radio communications on designated frequencies with the Coast Guard, and such other vessels and stations as may be specified by the Secretary.

Subtitle B—Removal

SEC. 4201. FEDERAL REMOVAL AUTHORITY.

(a) **IN GENERAL.**—Subsection (c) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) is amended to read as follows:

"(c) **FEDERAL REMOVAL AUTHORITY.**—

"(1) **GENERAL REMOVAL REQUIREMENT.**—(A) The President shall, in accordance with the National Contingency Plan and any appropriate Area Contingency Plan, ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or a hazardous substance—

"(i) into or on the navigable waters;

"(ii) on the adjoining shorelines to the navigable waters;

"(iii) into or on the waters of the exclusive economic zone; or

"(iv) that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States.

"(B) In carrying out this paragraph, the President may—

"(i) remove or arrange for the removal of a discharge, and mitigate or prevent a substantial threat of a discharge, at any time;

"(ii) direct or monitor all Federal, State, and private actions to remove a discharge; and

"(iii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

"(2) **DISCHARGE POSING SUBSTANTIAL THREAT TO PUBLIC HEALTH OR WELFARE.**—(A) If a discharge, or a substantial threat of a discharge, of oil or a hazardous substance from a vessel, offshore facility, or onshore facility is of such a size or character as to be a substantial threat to the public health or wel-

fare of the United States (including but not limited to fish, shellfish, wildlife, other natural resources, and the public and private beaches and shorelines of the United States), the President shall direct all Federal, State, and private actions to remove the discharge or to mitigate or prevent the threat of the discharge.

"(B) In carrying out this paragraph, the President may, without regard to any other provision of law governing contracting procedures or employment of personnel by the Federal Government—

"(i) remove or arrange for the removal of the discharge, or mitigate or prevent the substantial threat of the discharge; and

"(ii) remove and, if necessary, destroy a vessel discharging, or threatening to discharge, by whatever means are available.

"(3) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—(A) Each Federal agency, State, owner or operator, or other person participating in efforts under this subsection shall act in accordance with the National Contingency Plan or as directed by the President.

"(B) An owner or operator participating in efforts under this subsection shall act in accordance with the National Contingency Plan and the applicable response plan required under subsection (j), or as directed by the President.

"(4) EXEMPTION FROM LIABILITY.—(A) A person is not liable for removal costs or damages which result from actions taken or omitted to be taken in the course of rendering care, assistance, or advice consistent with the National Contingency Plan or as otherwise directed by the President.

"(B) Subparagraph (A) does not apply—

"(i) to a responsible party;

"(ii) to a response under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.);

"(iii) with respect to personal injury or wrongful death; or

"(iv) if the person is grossly negligent or engages in willful misconduct.

"(C) A responsible party is liable for any removal costs and damages that another person is relieved of under subparagraph (A).

"(5) OBLIGATION AND LIABILITY OF OWNER OR OPERATOR NOT AFFECTED.—Nothing in this subsection affects—

"(A) the obligation of an owner or operator to respond immediately to a discharge, or the threat of a discharge, of oil; or

"(B) the liability of a responsible party under the Oil Pollution Act of 1990.

"(6) RESPONSIBLE PARTY DEFINED.—For purposes of this subsection, the term 'responsible party' has the meaning given that term under section 1001 of the Oil Pollution Act of 1990."

(b) NATIONAL CONTINGENCY PLAN.—Subsection (d) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321(d)) is amended to read as follows:

"(d) NATIONAL CONTINGENCY PLAN.—

"(1) PREPARATION BY PRESIDENT.—The President shall prepare and publish a National Contingency Plan for removal of oil and hazardous substances pursuant to this section.

"(2) CONTENTS.—The National Contingency Plan shall provide for efficient, coordinated, and effective action to minimize damage from oil and hazardous substance discharges, including containment, dispersal, and removal of oil and hazardous substances, and shall include, but not be limited to, the following:

"(A) Assignment of duties and responsibilities among Federal departments and agencies in coordination with State and local agencies and port authorities including, but not limited to, water pollution control and conservation and trusteeship of natural resources (including conservation of fish and wildlife).

"(B) Identification, procurement, maintenance, and storage of equipment and supplies.

"(C) Establishment or designation of Coast Guard strike teams, consisting of—

"(i) personnel who shall be trained, prepared, and available to provide necessary services to carry out the National Contingency Plan;

"(ii) adequate oil and hazardous substance pollution control equipment and material; and

"(iii) a detailed oil and hazardous substance pollution and prevention plan, including measures to protect fisheries and wildlife.

"(D) A system of surveillance and notice designed to safeguard against as well as ensure earliest possible notice of discharges of oil and hazardous substances and imminent threats of such discharges to the appropriate State and Federal agencies.

"(E) Establishment of a national center to provide coordination and direction for operations in carrying out the Plan.

"(F) Procedures and techniques to be employed in identifying, containing, dispersing, and removing oil and hazardous substances.

"(G) A schedule, prepared in cooperation with the States, identifying—

"(i) dispersants, other chemicals, and other spill mitigating devices and substances, if any, that may be used in carrying out the Plan,

"(ii) the waters in which such dispersants, other chemicals, and other spill mitigating devices and substances may be used, and

"(iii) the quantities of such dispersant, other chemicals, or other spill mitigating device or substance which can be used safely in such waters,

which schedule shall provide in the case of any dispersant, chemical, spill mitigating device or substance, or waters not specifically identified in such schedule that the President, or his delegate, may, on a case-by-case basis, identify the dispersants, other chemicals, and other spill mitigating devices and substances which may be used, the waters in which they may be used, and the quantities which can be used safely in such waters.

"(H) A system whereby the State or States affected by a discharge of oil or hazardous substance may act where necessary to remove such discharge and such State or States may be reimbursed in accordance with the Oil Pollution Act of 1990, in the case of any discharge of oil from a vessel or facility, for the reasonable costs incurred for that removal, from the Oil Spill Liability Trust Fund.

"(I) Establishment of criteria and procedures to ensure immediate and effective Federal identification of, and response to, a discharge, or the threat of a discharge, that results in a substantial threat to the public health or welfare of the United States, as required under subsection (c)(2).

"(J) Establishment of procedures and standards for removing a worst case discharge of oil, and for mitigating or preventing a substantial threat of such a discharge.

"(K) Designation of the Federal official who shall be the Federal On-Scene Coordinator for each area for which an Area Contingency Plan is required to be prepared under subsection (j).

"(L) Establishment of procedures for the coordination of activities of—

"(i) Coast Guard strike teams established under subparagraph (C);

"(ii) Federal On-Scene Coordinators designated under subparagraph (K);

"(iii) District Response Groups established under subsection (j); and

"(IV) Area Committees established under subsection (j).

"(M) A fish and wildlife response plan, developed in consultation with the United States Fish and Wildlife Service, the National Oceanic and Atmospheric Administration, and other interested parties (including State fish and wildlife conservation officials), for the immediate and effective protection, rescue, and rehabilitation of, and the minimization of risk of damage to, fish and wildlife resources and their habitat that are harmed or that may be jeopardized by a discharge.

"(3) REVISIONS AND AMENDMENTS.—The President may, from time to time, as the President deems advisable, revise or otherwise amend the National Contingency Plan.

"(4) ACTIONS IN ACCORDANCE WITH NATIONAL CONTINGENCY PLAN.—After publication of the National Contingency Plan, the removal of oil and hazardous substances and actions to minimize damage from oil and hazardous substance discharges shall, to the greatest extent possible, be in accordance with the National Contingency Plan."

(b) DEFINITIONS.—Section 311(a) of the Federal Water Pollution Control Act (33 U.S.C. 1321(a)) is amended—

(1) in paragraph (8), by inserting "containment and" after "refers to"; and

(2) in paragraph (16) by striking the period at the end and inserting a semicolon;

(3) in paragraph (17)—

(A) by striking "Otherwise" and inserting "otherwise"; and

(B) by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(18) 'Area Committee' means an Area Committee established under subsection (j);

"(19) 'Area Contingency Plan' means an Area Contingency Plan prepared under subsection (j);

"(20) 'Coast Guard District Response Group' means a Coast Guard District Response Group established under subsection (j);

"(21) 'Federal On-Scene Coordinator' means a Federal On-Scene Coordinator designated in the National Contingency Plan;

"(22) 'National Contingency Plan' means the National Contingency Plan prepared and published under subsection (d);

"(23) 'National Response Unit' means the National Response Unit established under subsection (j); and

"(24) 'worst case discharge' means—

"(A) in the case of a vessel, a discharge in adverse weather conditions of its entire cargo; and

"(B) in the case of an offshore facility or onshore facility, the largest foreseeable discharge in adverse weather conditions."

(c) REVISION OF NATIONAL CONTINGENCY PLAN.—Not later than one year after the date of the enactment of this Act, the President shall revise and republish the National Contingency Plan prepared under section 311(c)(2) of the Federal Water Pollution Control Act (as in effect immediately before the date of the enactment of this Act) to implement the amendments made by this section and section 4202.

SEC. 4202. NATIONAL PLANNING AND RESPONSE SYSTEM.

(a) IN GENERAL.—Subsection (j) of section 311 of the Federal Water Pollution Control Act (33 U.S.C. 1321(j)) is amended—

(1) by striking "(j)" and inserting the following:

"(j) NATIONAL RESPONSE SYSTEM.—";

(2) by moving paragraph (1) so as to begin immediately below the heading for subsection (j) (as added by paragraph (1) of this subsection);

(3) by moving paragraph (1) two ems to the right, so the left margin of that paragraph is aligned with the left margin of paragraph (2) of that subsection (as added by paragraph (6) of this subsection);

(4) in paragraph (1) by striking "(1)" and inserting the following:

"(1) IN GENERAL.—";

(5) by striking paragraph (2); and

(6) by adding at the end the following:

"(2) NATIONAL RESPONSE UNIT.—The Secretary of the department in which the Coast Guard is operating shall establish a National Response Unit at Elizabeth City, North Carolina. The Secretary, acting through the National Response Unit—

"(A) shall compile and maintain a comprehensive computer list of spill removal resources, personnel, and equipment that is available worldwide and within the areas designated by the President pursuant to paragraph (4), which shall be available to Federal and State agencies and the public;

"(B) shall provide technical assistance, equipment, and other resources requested by a Federal On-Scene Coordinator;

"(C) shall coordinate use of private and public personnel and equipment to remove a worst case discharge, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near an area designated by the President pursuant to paragraph (4);

"(D) may provide technical assistance in the preparation of Area Contingency Plans required under paragraph (4);

"(E) shall administer Coast Guard strike teams established under the National Contingency Plan;

"(F) shall maintain on file all Area Contingency Plans approved by the President under this subsection; and

"(G) shall review each of those plans that affects its responsibilities under this subsection.

"(3) COAST GUARD DISTRICT RESPONSE GROUPS.—(A) The Secretary of the department in which the Coast Guard is operating shall establish in each Coast Guard district a Coast Guard District Response Group.

"(B) Each Coast Guard District Response Group shall consist of—

"(i) the Coast Guard personnel and equipment, including firefighting equipment, of each port within the district;

"(ii) additional prepositioned equipment; and

"(iii) a district response advisory staff.

"(C) Coast Guard district response groups—

"(i) shall provide technical assistance, equipment, and other resources when required by a Federal On-Scene Coordinator;

"(ii) shall maintain all Coast Guard response equipment within its district;

"(iii) may provide technical assistance in the preparation of Area Contingency Plans required under paragraph (4); and

"(iv) shall review each of those plans that affect its area of geographic responsibility.

"(4) AREA COMMITTEES AND AREA CONTINGENCY PLANS.—(A) There is established for each

area designated by the President an Area Committee comprised of members appointed by the President from qualified personnel of Federal, State, and local agencies.

"(B) Each Area Committee, under the direction of the Federal On-Scene Coordinator for its area, shall—

"(i) prepare for its area the Area Contingency Plan required under subparagraph (C);

"(ii) work with State and local officials to enhance the contingency planning of those officials and to assure preplanning of joint response efforts, including appropriate procedures for mechanical recovery, dispersal, shoreline cleanup, protection of sensitive environmental areas, and protection, rescue, and rehabilitation of fisheries and wildlife; and

"(iii) work with State and local officials to expedite decisions for the use of dispersants and other mitigating substances and devices.

"(C) Each Area Committee shall prepare and submit to the President for approval an Area Contingency Plan for its area. The Area Contingency Plan shall—

"(i) when implemented in conjunction with the National Contingency Plan, be adequate to remove a worst case discharge, and to mitigate or prevent a substantial threat of such a discharge, from a vessel, offshore facility, or onshore facility operating in or near the area;

"(ii) describe the area covered by the plan, including the areas of special economic or environmental importance that might be damaged by a discharge;

"(iii) describe in detail the responsibilities of an owner or operator and of Federal, State, and local agencies in removing a discharge, and in mitigating or preventing a substantial threat of a discharge;

"(iv) list the equipment (including firefighting equipment), dispersants or other mitigating substances and devices, and personnel available to an owner or operator and Federal, State, and local agencies, to ensure an effective and immediate removal of a discharge, and to ensure mitigation or prevention of a substantial threat of a discharge;

"(v) describe the procedures to be followed for obtaining an expedited decision regarding the use of dispersants;

"(vi) describe in detail how the plan is integrated into other Area Contingency Plans and vessel, offshore facility, and onshore facility response plans approved under this subsection, and into operating procedures of the National Response Unit;

"(vii) include any other information the President requires; and

"(viii) be updated periodically by the Area Committee.

"(D) The President shall—

"(i) review and approve Area Contingency Plans under this paragraph; and

"(ii) periodically review Area Contingency Plans so approved.

"(5) TANK VESSEL AND FACILITY RESPONSE PLANS.—(A) The President shall issue regulations which require an owner or operator of a tank vessel or facility described in subparagraph (B) to prepare and submit to the President a plan for responding, to the maximum extent practicable, to a worst case discharge, and to a substantial threat of such a discharge, of oil or a hazardous substance.

"(B) The tank vessels and facilities referred to in subparagraph (A) are the following:

"(i) A tank vessel, as defined under section 2101 of title 46, United States Code.

"(ii) An offshore facility.

"(iii) An onshore facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines, or the exclusive economic zone.

"(C) A response plan required under this paragraph shall—

"(i) be consistent with the requirements of the National Contingency Plan and Area Contingency Plans;

"(ii) identify the qualified individual having full authority to implement removal actions, and require immediate communications between that individual and the appropriate Federal official and the persons providing personnel and equipment pursuant to clause (iii);

"(iii) identify, and ensure by contract or other means approved by the President the availability of, private personnel and equipment necessary to remove to the maximum extent practicable a worst case discharge (including a discharge resulting from fire or explosion), and to mitigate or prevent a substantial threat of such a discharge;

"(iv) describe the training, equipment testing, periodic unannounced drills, and response actions of persons on the vessel or at the facility, to be carried out under the plan to ensure the safety of the vessel or facility and to mitigate or prevent the discharge, or the substantial threat of a discharge;

"(v) be updated periodically; and

"(vi) be resubmitted for approval of each significant change.

"(D) With respect to any response plan submitted under this paragraph for an onshore facility that, because of its location, could reasonably be expected to cause significant and substantial harm to the environment by discharging into or on the navigable waters or adjoining shorelines or the exclusive economic zone, and with respect to each response plan submitted under this paragraph for a tank vessel or offshore facility, the President shall—

"(i) promptly review such response plan;

"(ii) require amendments to any plan that does not meet the requirements of this paragraph;

"(iii) approve any plan that meets the requirements of this paragraph; and

"(iv) review each plan periodically thereafter.

"(E) A tank vessel, offshore facility, or onshore facility required to prepare a response plan under this subsection may not handle, store, or transport oil unless—

"(i) in the case of a tank vessel, offshore facility, or onshore facility for which a response plan is reviewed by the President under subparagraph (D), the plan has been approved by the President; and

"(ii) the vessel or facility is operating in compliance with the plan.

"(F) Notwithstanding subparagraph (E), the President may authorize a tank vessel, offshore facility, or onshore facility to operate without a response plan approved under this paragraph, until not later than 2 years after the date of the submission to the President of a plan for the tank vessel or facility, if the owner or operator certifies that the owner or operator has ensured by contract or other means approved by the President the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

"(G) The owner or operator of a tank vessel, offshore facility, or onshore facility

may not claim as a defense to liability under title I of the Oil Pollution Act of 1990 that the owner or operator was acting in accordance with an approved response plan.

"(H) The Secretary shall maintain, in the Vessel Identification System established under chapter 125 of title 46, United States Code, the dates of approval and review of a response plan under this paragraph for each tank vessel that is a vessel of the United States.

"(6) EQUIPMENT REQUIREMENTS AND INSPECTION.—Not later than 2 years after the date of enactment of this section, the President shall require—

"(A) periodic inspection of containment booms, skimmers, vessels, and other major equipment used to remove discharges; and

"(B) vessels operating on navigable waters and carrying oil or a hazardous substance in bulk as cargo to carry appropriate removal equipment that employs the best technology economically feasible and that is compatible with the safe operation of the vessel.

"(7) AREA DRILLS.—The President shall periodically conduct drills of removal capability, without prior notice, in areas for which Area Contingency Plans are required under this subsection and under relevant tank vessel and facility response plans. The drills may include participation by Federal, State, and local agencies, the owners and operators of vessels and facilities in the area, and private industry. The President may publish annual reports on these drills, including assessments of the effectiveness of the plans and a list of amendments made to improve plans.

"(8) UNITED STATES GOVERNMENT NOT LIABLE.—The United States Government is not liable for any damages arising from its actions or omissions relating to any response plan required by this section."

(b) IMPLEMENTATION.—

(1) AREA COMMITTEES AND CONTINGENCY PLANS.—(A) Not later than 6 months after the date of the enactment of this Act, the President shall designate the areas for which Area Committees are established under section 311(j)(4) of the Federal Water Pollution Control Act, as amended by this Act. In designating such areas, the President shall ensure that all navigable waters, adjoining shorelines, and waters of the exclusive economic zone are subject to an Area Contingency Plan under that section.

(B) Not later than 18 months after the date of the enactment of this Act, each Area Committee established under that section shall submit to the President the Area Contingency Plan required under that section.

(C) Not later than 24 months after the date of the enactment of this Act, the President shall—

(i) promptly review each plan;

(ii) require amendments to any plan that does not meet the requirements of section 311(j)(4) of the Federal Water Pollution Control Act; and

(iii) approve each plan that meets the requirements of that section.

(2) NATIONAL RESPONSE UNIT.—Not later than one year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish a National Response Unit in accordance with section 311(j)(2) of the Federal Water Pollution Control Act, as amended by this Act.

(3) COAST GUARD DISTRICT RESPONSE GROUPS.—Not later than 1 year after the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall establish Coast Guard Dis-

trict Response Groups in accordance with section 311(j)(3) of the Federal Water Pollution Control Act, as amended by this Act.

(4) TANK VESSEL AND FACILITY RESPONSE PLANS; TRANSITION PROVISION; EFFECTIVE DATE OF PROHIBITION.—(A) Not later than 24 months after the date of the enactment of this Act, the President shall issue regulations for tank vessel and facility response plans under section 311(j)(5) of the Federal Water Pollution Control Act, as amended by this Act.

(B) During the period beginning 30 months after the date of the enactment of this paragraph and ending 36 months after that date of enactment, a tank vessel or facility for which a response plan is required to be prepared under section 311(j)(5) of the Federal Water Pollution Control Act, as amended by this Act, may not handle, store, or transport oil unless the owner or operator thereof has submitted such a plan to the President.

(C) Subparagraph (E) of section 311(j)(5) of the Federal Water Pollution Control Act, as amended by this Act, shall take effect 36 months after the date of the enactment of this Act.

(c) STATE LAW NOT PREEMPTED.—Section 311(o)(2) of the Federal Water Pollution Control Act (33 U.S.C. 1321(o)(2)) is amended by inserting before the period the following: "or with respect to any removal activities related to such discharge".

SEC. 4203. COAST GUARD VESSEL DESIGN.

The Secretary shall ensure that vessels designed and constructed to replace Coast Guard buoy tenders are equipped with oil skimming systems that are readily available and operable, and that complement the primary mission of servicing aids to navigation.

SEC. 4204. DETERMINATION OF HARMFUL QUANTITIES OF OIL AND HAZARDOUS SUBSTANCES.

Section 311(b)(4) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(4)) is amended by inserting "or the environment" after "the public health or welfare".

SEC. 4205. COASTWISE OIL SPILL RESPONSE COOPERATIVES.

Section 12106 of title 46, United States Code, is amended by adding at the end the following:

"(d)(1) A vessel may be issued a certificate of documentation with a coastwise endorsement if—

"(A) the vessel is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative who dedicate the vessel to use by the cooperative;

"(B) the vessel is at least 50 percent owned by persons or entities described in section 12102(a) of this title;

"(C) the vessel otherwise qualifies under section 12106 to be employed in the coastwise trade; and

"(D) use of the vessel is restricted to—

"(i) the deployment of equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States, or within the Exclusive Economic Zone, or

"(ii) for training exercises to prepare to respond to such a discharge.

"(2) For purposes of the first proviso of section 27 of the Merchant Marine Act, 1920, section 2 of the Shipping Act of 1916, and section 12102(a) of this title, a vessel meeting the criteria of this subsection shall be considered to be owned exclusively by citizens of the United States."

Subtitle C—Penalties and Miscellaneous

SEC. 4301. FEDERAL WATER POLLUTION CONTROL ACT PENALTIES.

(a) NOTICE TO STATE AND FAILURE TO REPORT.—Section 311(b)(5) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)(5)) is amended—

(1) by inserting after the first sentence the following: "The Federal agency shall immediately notify the appropriate State agency of any State which is, or may reasonably be expected to be, affected by the discharge of oil or a hazardous substance.";

(2) by striking "fined not more than \$10,000, or imprisoned for not more than one year, or both" and inserting "fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both"; and

(3) in the last sentence by—

(A) striking "or information obtained by the exploitation of such notification"; and

(B) inserting "natural" before "person".

(b) PENALTIES FOR DISCHARGES AND VIOLATIONS OF REGULATIONS.—Section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)) is amended by striking paragraph (6) and inserting the following new paragraphs:

"(6) ADMINISTRATIVE PENALTIES.—

"(A) VIOLATIONS.—Any owner, operator, or person in charge of any vessel, onshore facility, or offshore facility—

"(i) from which oil or a hazardous substance is discharged in violation of paragraph (3), or

"(ii) who fails or refuses to comply with any regulation issued under subsection (j) to which that owner, operator, or person in charge is subject,

may be assessed a class I or class II civil penalty by the Secretary of the department in which the Coast Guard is operating or the Administrator.

"(B) CLASSES OF PENALTIES.—

"(i) CLASS I.—The amount of a class I civil penalty under subparagraph (A) may not exceed \$10,000 per violation, except that the maximum amount of any class I civil penalty under this subparagraph shall not exceed \$25,000. Before assessing a civil penalty under this clause, the Administrator or Secretary, as the case may be, shall give to the person to be assessed such penalty written notice of the Administrator's or Secretary's proposal to assess the penalty and the opportunity to request, within 30 days of the date the notice is received by such person, a hearing on the proposed penalty. Such hearing shall not be subject to section 554 or 556 of title 5, United States Code, but shall provide a reasonable opportunity to be heard and to present evidence.

"(ii) CLASS II.—The amount of a class II civil penalty under subparagraph (A) may not exceed \$10,000 per day for each day during which the violation continues; except that the maximum amount of any class II civil penalty under this subparagraph shall not exceed \$125,000. Except as otherwise provided in this subsection, a class II civil penalty shall be assessed and collected in the same manner, and subject to the same provisions, as in the case of civil penalties assessed and collected after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. The Administrator and Secretary may issue rules for discovery procedures for hearings under this paragraph.

"(C) RIGHTS OF INTERESTED PERSONS.—

"(i) PUBLIC NOTICE.—Before issuing an order assessing a class II civil penalty under

this paragraph the Administrator or Secretary, as the case may be, shall provide public notice of and reasonable opportunity to comment on the proposed issuance of such order.

"(ii) **PRESENTATION OF EVIDENCE.**—Any person who comments on a proposed assessment of a class II civil penalty under this paragraph shall be given notice of any hearing held under this paragraph and of the order assessing such penalty. In any hearing held under this paragraph, such person shall have a reasonable opportunity to be heard and to present evidence.

"(iii) **RIGHTS OF INTERESTED PERSONS TO A HEARING.**—If no hearing is held under subparagraph (B) before issuance of an order assessing a class II civil penalty under this paragraph, any person who commented on the proposed assessment may petition, within 30 days after the issuance of such order, the Administrator or Secretary, as the case may be, to set aside such order and to provide a hearing on the penalty. If the evidence presented by the petitioner in support of the petition is material and was not considered in the issuance of the order, the Administrator or Secretary shall immediately set aside such order and provide a hearing in accordance with subparagraph (B)(ii). If the Administrator or Secretary denies a hearing under this clause, the Administrator or Secretary shall provide to the petitioner, and publish in the Federal Register, notice of and the reasons for such denial.

"(D) **FINALITY OF ORDER.**—An order assessing a class II civil penalty under this paragraph shall become final 30 days after its issuance unless a petition for judicial review is filed under subparagraph (G) or a hearing is requested under subparagraph (C)(iii). If such a hearing is denied, such order shall become final 30 days after such denial.

"(E) **EFFECT OF ORDER.**—Action taken by the Administrator or Secretary, as the case may be, under this paragraph shall not affect or limit the Administrator's or Secretary's authority to enforce any provision of this Act; except that any violation—

"(i) with respect to which the Administrator or Secretary has commenced and is diligently prosecuting an action to assess a class II civil penalty under this paragraph, or

"(ii) for which the Administrator or Secretary has issued a final order assessing a class II civil penalty not subject to further judicial review and the violator has paid a penalty assessed under this paragraph, shall not be the subject of a civil penalty action under section 309(d), 309(g), or 505 of this Act or under paragraph (7).

"(F) **EFFECT OF ACTION ON COMPLIANCE.**—No action by the Administrator or Secretary under this paragraph shall affect any person's obligation to comply with any section of this Act.

"(G) **JUDICIAL REVIEW.**—Any person against whom a civil penalty is assessed under this paragraph or who commented on the proposed assessment of such penalty in accordance with subparagraph (C) may obtain review of such assessment—

"(i) in the case of assessment of a class I civil penalty, in the United States District Court for the District of Columbia or in the district in which the violation is alleged to have occurred, or

"(ii) in the case of assessment of a class II civil penalty, in United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business,

by filing a notice of appeal in such court within the 30-day period beginning on the

date the civil penalty order is issued and by simultaneously sending a copy of such notice by certified mail to the Administrator or Secretary, as the case may be, and the Attorney General. The Administrator or Secretary shall promptly file in such court a certified copy of the record on which the order was issued. Such court shall not set aside or remand such order unless there is not substantial evidence in the record, taken as a whole, to support the finding of a violation or unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion and shall not impose additional civil penalties for the same violation unless the Administrator's or Secretary's assessment of the penalty constitutes an abuse of discretion.

"(H) **COLLECTION.**—If any person fails to pay an assessment of a civil penalty—

"(i) after the assessment has become final, or

"(ii) after a court in an action brought under subparagraph (G) has entered a final judgment in favor of the Administrator or Secretary, as the case may be,

the Administrator or Secretary shall request the Attorney General to bring a civil action in an appropriate district court to recover the amount assessed (plus interest at currently prevailing rates from the date of the final order or the date of the final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review. Any person who fails to pay on a timely basis the amount of an assessment of a civil penalty as described in the first sentence of this subparagraph shall be required to pay, in addition to such amount and interest, attorneys fees and costs for collection proceedings and a quarterly nonpayment penalty for each quarter during which such failure to pay persists. Such nonpayment penalty shall be in an amount equal to 20 percent of the aggregate amount of such person's penalties and nonpayment penalties which are unpaid as of the beginning of such quarter.

"(I) **SUBPOENAS.**—The Administrator or Secretary, as the case may be, may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, or documents in connection with hearings under this paragraph. In case of contumacy or refusal to obey a subpoena issued pursuant to this subparagraph and served upon any person, the district court of the United States for any district in which such person is found, resides, or transacts business, upon application by the United States and after notice to such person, shall have jurisdiction to issue an order requiring such person to appear and give testimony before the administrative law judge or to appear and produce documents before the administrative law judge, or both, and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(7) **CIVIL PENALTY ACTION.**—

"(A) **DISCHARGE, GENERALLY.**—Any person who is the owner, operator, or person in charge of any vessel, onshore facility, or offshore facility from which oil or a hazardous substance is discharged in violation of paragraph (3), shall be subject to a civil penalty in an amount up to \$25,000 per day of violation or an amount up to \$1,000 per barrel of oil or unit of reportable quantity of hazardous substances discharged.

"(B) **FAILURE TO REMOVE OR COMPLY.**—Any person described in subparagraph (A) who, without sufficient cause—

"(i) fails to properly carry out removal of the discharge under an order of the President pursuant to subsection (c); or

"(ii) fails to comply with an order pursuant to subsection (e)(1)(B);

shall be subject to a civil penalty in an amount up to \$25,000 per day of violation or an amount up to 3 times the costs incurred by the Oil Spill Liability Trust Fund as a result of such failure.

"(C) **FAILURE TO COMPLY WITH REGULATION.**—Any person who fails or refuses to comply with any regulation issued under subsection (j) shall be subject to a civil penalty in an amount up to \$25,000 per day of violation.

"(D) **GROSS NEGLIGENCE.**—In any case in which a violation of paragraph (3) was the result of gross negligence or willful misconduct of a person described in subparagraph (A), the person shall be subject to a civil penalty of not less than \$100,000, and not more than \$3,000 per barrel of oil or unit of reportable quantity of hazardous substance discharged.

"(E) **JURISDICTION.**—An action to impose a civil penalty under this paragraph may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to assess such penalty.

"(F) **LIMITATION.**—A person is not liable for a civil penalty under this paragraph for a discharge if the person has been assessed a civil penalty under paragraph (6) for the discharge.

"(8) **DETERMINATION OF AMOUNT.**—In determining the amount of a civil penalty under paragraphs (6) and (7), the Administrator, Secretary, or the court, as the case may be, shall consider the seriousness of the violation or violations, the economic benefit to the violator, if any, resulting from the violation, the degree of culpability involved, any other penalty for the same incident, any history of prior violations, the nature, extent, and degree of success of any efforts of the violator to minimize or mitigate the effects of the discharge, the economic impact of the penalty on the violator, and any other matters as justice may require.

"(9) **MITIGATION OF DAMAGE.**—In addition to establishing a penalty for the discharge of oil or a hazardous substance, the Administrator or the Secretary of the department in which the Coast Guard is operating may act to mitigate the damage to the public health or welfare caused by such discharge. The cost of such mitigation shall be deemed a cost incurred under subsection (c) of this section for the removal of such substance by the United States Government.

"(10) **RECOVERY OF REMOVAL COSTS.**—Any costs of removal incurred in connection with a discharge excluded by subsection (a)(2)(C) of this section shall be recoverable from the owner or operator of the source of the discharge in an action brought under section 309(b) of this Act.

"(11) **LIMITATION.**—Civil penalties shall not be assessed under both this section and section 309 for the same discharge."

(c) **CRIMINAL PENALTIES.**—Section 309(c) of the Federal Water Pollution Control Act (33 U.S.C. 1319(c)) is amended by inserting after "308," each place it appears the following: "311(b)(3)."

SEC. 4302. OTHER PENALTIES.

(a) **NEGLIGENT OPERATIONS.**—Section 2302 of title 46, United States Code, is amended—
(1) in subsection (b) by striking "shall be fined not more than \$5,000, imprisoned for

not more than one year, or both.", and inserting "commits a class A misdemeanor."; and

(2) in subsection (c)—

(A) by striking "shall be" in the matter preceding paragraph (1);

(B) by inserting "is" before "liable" in paragraph (1); and

(C) by amending paragraph (2) to read as follows:

"(2) commits a class A misdemeanor."

(b) INSPECTIONS.—Section 3318 of title 46, United States Code, is amended—

(1) in subsection (b) by striking "shall be fined not more than \$10,000, imprisoned for not more than 5 years, or both." and inserting "commits a class D felony.";

(2) in subsection (c) by striking "shall be fined not more than \$5,000, imprisoned for not more than 5 years, or both." and inserting "commits a class D felony.";

(3) in subsection (d) by striking "shall be fined not more than \$5,000, imprisoned for not more than 5 years, or both." and inserting "commits a class D felony.";

(4) in subsection (e) by striking "shall be fined not more than \$10,000, imprisoned for not more than 2 years, or both." and inserting "commits a class A misdemeanor."; and

(5) in the matter preceding paragraph (1) of subsection (f) by striking "shall be fined not less than \$1,000 but not more than \$10,000, and imprisoned for not less than 2 years but not more than 5 years," and inserting "commits a class D felony.";

(c) CARRIAGE OF LIQUID BULK DANGEROUS CARGOES.—Section 3718 of title 46, United States Code, is amended—

(1) in subsection (b) by striking "shall be fined not more than \$50,000, imprisoned for not more than 5 years, or both." and inserting "commits a class D felony."; and

(2) in subsection (c) by striking "shall be fined not more than \$100,000, imprisoned for not more than 10 years, or both." and inserting "commits a class C felony.";

(d) LOAD LINES.—Section 5116 of title 46, United States Code, is amended—

(1) in subsection (d) by striking "shall be fined not more than \$10,000, imprisoned for not more than one year, or both." and inserting "commits a class A misdemeanor."; and

(2) in subsection (e) by striking "shall be fined not more than \$10,000, imprisoned for not more than 2 years, or both." and inserting "commits a class A misdemeanor.";

(e) COMPLEMENT OF INSPECTED VESSELS.—Section 8101 of title 46, United States Code, is amended—

(1) in subsection (e) by striking "\$50" and inserting "\$1,000";

(2) in subsection (f) by striking "\$100, or, for a deficiency of a licensed individual, a penalty of \$500." and inserting "\$10,000."; and

(3) in subsection (g) by striking "\$500." and inserting "\$10,000.";

(f) WATCHES.—Section 8104 of title 46, United States Code, is amended—

(1) in subsection (i) by striking "\$100." and inserting "\$10,000."; and

(2) in subsection (j) by striking "\$500." and inserting "\$10,000.";

(g) COASTWISE PILOTAGE.—Section 8502 of title 46, United States Code, is amended—

(1) in subsection (e) by striking "\$500." and inserting "\$10,000."; and

(2) in subsection (f) by striking "\$500." and inserting "\$10,000.";

(h) FOREIGN COMMERCE PILOTAGE.—Section 8503(e) of title 46, United States Code, is amended by striking "shall be fined not more than \$50,000, imprisoned for not more

than five years, or both." and inserting "commits a class D felony.";

(i) CREW REQUIREMENTS.—Section 8702(e) of title 46, United States Code, is amended by striking "\$500." and inserting "\$10,000.";

(j) PORTS AND WATERWAYS SAFETY ACT.—Section 13(b) of the Port and Waterways Safety Act (33 U.S.C. 1232(b)) is amended—

(1) in paragraph (1) by striking "shall be fined not more than \$50,000 for each violation or imprisoned for not more than five years, or both." and inserting "commits a class D felony."; and

(2) in paragraph (2) by striking "shall, in lieu of the penalties prescribed in paragraph (1), be fined not more than \$100,000, or imprisoned for not more than 10 years, or both." and inserting "commits a class C felony.";

(k) VESSEL NAVIGATION.—Section 4 of the Act of April 28, 1908 (33 U.S.C. 1236), is amended—

(1) in subsection (b) by striking "\$500." and inserting "\$5,000.";

(2) in subsection (c) by striking "\$500." and inserting "\$5,000."; and

(3) in subsection (d) by striking "\$250." and inserting "\$2,500.";

(l) INTERVENTION ON THE HIGH SEAS ACT.—Section 12(a) of the Intervention of the High Seas Act (33 U.S.C. 1481(a)) is amended—

(1) in the matter preceding paragraph (1) by striking "Any person who" and inserting "A person commits a class A misdemeanor if that person"; and

(2) in paragraph (3) by striking "shall be fined not more than \$10,000 or imprisoned not more than one year, or both.";

(m) DEEPWATER PORT ACT OF 1974.—Section 15(a) of the Deepwater Port Act of 1974 (33 U.S.C. 1514(a)) is amended by striking "shall on conviction be fined not more than \$25,000 for each day of violation or imprisoned for not more than 1 year, or both." and inserting "commits a class A misdemeanor for each day of violation.";

(n) ACT TO PREVENT POLLUTION FROM SHIPS.—Section 9(a) of the Act to Prevent Pollution from Ships (33 U.S.C. 1908(a)) is amended by striking "shall, for each violation, be fined not more than \$50,000 or be imprisoned for not more than 5 years, or both." and inserting "commits a class D felony.";

SEC. 4303. FINANCIAL RESPONSIBILITY CIVIL PENALTIES.

(a) ADMINISTRATIVE.—Any person who, after notice and an opportunity for a hearing, is found to have failed to comply with the requirements of section 1016 or the regulations issued under that section, or with a denial or detention order issued under subsection (c)(2) of that section, shall be liable to the United States for a civil penalty, not to exceed \$25,000 per day of violation. The amount of the civil penalty shall be assessed by the President by written notice. In determining the amount of the penalty, the President shall take into account the nature, circumstances, extent, and gravity of the violation, the degree of culpability, any history of prior violation, ability to pay, and such other matters as justice may require. The President may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this paragraph. If any person fails to pay an assessed civil penalty after it has become final, the President may refer the matter to the Attorney General for collection.

(b) JUDICIAL.—In addition to, or in lieu of, assessing a penalty under subsection (a), the President may request the Attorney General

to secure such relief as necessary to compel compliance with this section 1016, including a judicial order terminating operations. The district courts of the United States shall have jurisdiction to grant any relief as the public interest and the equities of the case may require.

SEC. 4304. DEPOSIT OF CERTAIN PENALTIES INTO OIL SPILL LIABILITY TRUST FUND.

Penalties paid pursuant to section 311 of the Federal Water Pollution Control Act, section 309(c) of that Act, as a result of violations of section 311 of that Act, and the Deepwater Port Act of 1974, shall be deposited in the Oil Spill Liability Trust Fund created under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

SEC. 4305. INSPECTION AND ENTRY.

Section 311(m) of the Federal Water Pollution Control Act (33 U.S.C. 1321(m)) is amended to read as follows:

"(m) ADMINISTRATIVE PROVISIONS.—

"(1) FOR VESSELS.—Anyone authorized by the President to enforce the provisions of this section with respect to any vessel may, except as to public vessels—

"(A) board and inspect any vessel upon the navigable waters of the United States or the waters of the contiguous zone,

"(B) with or without a warrant, arrest any person who in the presence or view of the authorized person violates the provisions of this section or any regulation issued thereunder, and

"(C) execute any warrant or other process issued by an officer or court of competent jurisdiction.

"(2) FOR FACILITIES.—

"(A) RECORDKEEPING.—Whenever required to carry out the purposes of this section, the Administrator or the Secretary of the Department in which the Coast Guard is operating shall require the owner or operator of a facility to which this section applies to establish and maintain such records, make such reports, install, use, and maintain such monitoring equipment and methods, and provide such other information as the Administrator or Secretary, as the case may be, may require to carry out the objectives of this section.

"(B) ENTRY AND INSPECTION.—Whenever required to carry out the purposes of this section, the Administrator or the Secretary of the Department in which the Coast Guard is operating or an authorized representative of the Administrator or Secretary, upon presentation of appropriate credentials, may—

"(i) enter and inspect any facility to which this section applies, including any facility at which any records are required to be maintained under subparagraph (A); and

"(ii) at reasonable times, have access to and copy any records, take samples, and inspect any monitoring equipment or methods required under subparagraph (A).

"(C) ARRESTS AND EXECUTION OF WARRANTS.—Anyone authorized by the Administrator or the Secretary of the department in which the Coast Guard is operating to enforce the provisions of this section with respect to any facility may—

"(i) with or without a warrant, arrest any person who violates the provisions of this section or any regulation issued thereunder in the presence or view of the person so authorized; and

"(ii) execute any warrant or process issued by an officer or court of competent jurisdiction.

"(D) PUBLIC ACCESS.—Any records, reports, or information obtained under this paragraph shall be subject to the same public

access and disclosure requirements which are applicable to records, reports, and information obtained pursuant to section 308."

SEC. 4306. CIVIL ENFORCEMENT UNDER FEDERAL WATER POLLUTION CONTROL ACT.

Section 311(e) of the Federal Water Pollution Control Act (33 U.S.C. 1321) is amended to read as follows:

"(e) CIVIL ENFORCEMENT.—

"(1) ORDERS PROTECTING PUBLIC HEALTH.—In addition to any action taken by a State or local government, when the President determines that there may be an imminent and substantial threat to the public health or welfare of the United States, including fish, shellfish, and wildlife, public and private property, shorelines, beaches, habitat, and other living and nonliving natural resources under the jurisdiction or control of the United States, because of an actual or threatened discharge of oil or a hazardous substance from a vessel or facility in violation of subsection (b), the President may—

"(A) require the Attorney General to secure any relief from any person, including the owner or operator of the vessel or facility, as may be necessary to abate such endangerment; or

"(B) after notice to the affected State, take any other action under this section, including issuing administrative orders, that may be necessary to protect the public health and welfare.

"(2) JURISDICTION OF DISTRICT COURTS.—The district courts of the United States shall have jurisdiction to grant any relief under this subsection that the public interest and the equities of the case may require."

TITLE V—PRINCE WILLIAM SOUND PROVISIONS

SEC. 5001. OIL SPILL RECOVERY INSTITUTE.

(a) ESTABLISHMENT OF INSTITUTE.—The Secretary of Commerce shall provide for the establishment of a Prince William Sound Oil Spill Recovery Institute (hereinafter in this section referred to as the "Institute") to be administered by the Secretary of Commerce through the Prince William Sound Science and Technology Institute and located in Cordova, Alaska.

(b) FUNCTIONS.—The Institute shall conduct research and carry out educational and demonstration projects designed to—

(1) identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the arctic and subarctic marine environment; and

(2) complement Federal and State damage assessment efforts and determine, document, assess, and understand the long-range effects of the EXXON VALDEZ oil spill on the natural resources of Prince William Sound and its adjacent waters (as generally depicted on the map entitled "EXXON VALDEZ oil spill dated March 1990"), and the environment, the economy, and the lifestyle and well-being of the people who are dependent on them, except that the Institute shall not conduct studies or make recommendations on any matter which is not directly related to the EXXON VALDEZ oil spill or the effects thereof.

(c) ADVISORY BOARD.—

(1) IN GENERAL.—The policies of the Institute shall be determined by an advisory board, composed of 18 members appointed as follows:

(A) One representative appointed by each of the Commissioners of Fish and Game, Environmental Conservation, Natural Resources, and Commerce and Economic Development of the State of Alaska, all of whom shall be State employees.

(B) One representative appointed by each of—

(i) the Secretaries of Commerce, the Interior, Agriculture, Transportation, and the Navy; and

(ii) the Administrator of the Environmental Protection Agency;

all of whom shall be Federal employees.

(C) 4 representatives appointed by the Secretary of Commerce from among residents of communities in Alaska that were affected by the EXXON VALDEZ oil spill who are knowledgeable about fisheries, other local industries, the marine environment, wildlife, public health, safety, or education. At least 2 of the representatives shall be appointed from among residents of communities located in Prince William Sound. The Secretary shall appoint residents to serve terms of 2 years each, from a list of 8 qualified individuals to be submitted by the Governor of the State of Alaska based on recommendations made by the governing body of each affected community. Each affected community may submit the names of 2 qualified individuals for the Governor's consideration. No more than 5 of the 8 qualified persons recommended by the Governor shall be members of the same political party.

(D) 3 Alaska Natives who represent Native entities affected by the EXXON VALDEZ oil spill, at least one of whom represents an entity located in Prince William Sound, to serve terms of 2 years each from a list of 6 qualified individuals submitted by the Alaska Federation of Natives.

(E) One nonvoting representative of the Institute of Marine Science.

(F) One nonvoting representative appointed by the Prince William Sound Science and Technology Institute.

(2) CHAIRMAN.—The representative of the Secretary of Commerce shall serve as Chairman of the Advisory Board.

(3) POLICIES.—Policies determined by the Advisory Board under this subsection shall include policies for the conduct and support, through contracts and grants awarded on a nationally competitive basis, of research, projects, and studies to be supported by the Institute in accordance with the purposes of this section.

(d) SCIENTIFIC AND TECHNICAL COMMITTEE.—

(1) IN GENERAL.—The Advisory Board shall establish a scientific and technical committee, composed of specialists in matters relating to oil spill containment and cleanup technology, arctic and subarctic marine ecology, and the living resources and socio-economics of Prince William Sound and its adjacent waters, from the University of Alaska, the Institute of Marine Science, the Prince William Sound Science and Technology Institute, and elsewhere in the academic community.

(2) FUNCTIONS.—The Scientific and Technical Committee shall provide such advice to the Advisory Board as the Advisory Board shall request, including recommendations regarding the conduct and support of research, projects, and studies in accordance with the purposes of this section. The Advisory Board shall not request, and the Committee shall not provide, any advice which is not directly related to the EXXON VALDEZ oil spill or the effects thereof.

(e) DIRECTOR.—The Institute shall be administered by a Director appointed by the Secretary of Commerce. The Prince William Sound Science and Technology Institute, the Advisory Board, and the Scientific and Technical Committee may each submit independent recommendations for the Secre-

tary's consideration for appointment as Director. The Director may hire such staff and incur such expenses on behalf of the Institute as are authorized by the Advisory Board.

(f) EVALUATION.—The Secretary of Commerce may conduct an ongoing evaluation of the activities of the Institute to ensure that funds received by the Institute are used in a manner consistent with this section.

(g) AUDIT.—The Comptroller General of the United States, and any of his or her duly authorized representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Institute and its administering agency that are pertinent to the funds received and expended by the Institute and its administering agency.

(h) STATUS OF EMPLOYEES.—Employees of the Institute shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(i) TERMINATION.—The Institute shall terminate 10 years after the date of the enactment of this Act.

(j) USE OF FUNDS.—All funds authorized for the Institute shall be provided through the National Oceanic and Atmospheric Administration. No funds made available to carry out this section may be used to initiate litigation. No funds made available to carry out this section may be used for the acquisition of real property (including buildings) or construction of any building. No more than 20 percent of funds made available to carry out this section may be used to lease necessary facilities and to administer the Institute. None of the funds authorized by this section shall be used for any purpose other than the functions specified in subsection (b).

(k) RESEARCH.—The Institute shall publish and make available to any person upon request the results of all research, educational, and demonstration projects conducted by the Institute. The Administrator shall provide a copy of all research, educational, and demonstration projects conducted by the Institute to the National Oceanic and Atmospheric Administration.

(l) DEFINITIONS.—In this section, the term "Prince William Sound and its adjacent waters" means such sound and waters as generally depicted on the map entitled "EXXON VALDEZ oil spill dated March 1990".

SEC. 5002. TERMINAL AND TANKER OVERSIGHT AND MONITORING.

(a) SHORT TITLE AND FINDINGS.—

(1) SHORT TITLE.—This section may be cited as the "Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Act of 1990".

(2) FINDINGS.—The Congress finds that—

(A) the March 24, 1989, grounding and rupture of the fully loaded oil tanker, the EXXON VALDEZ, spilled 11 million gallons of crude oil in Prince William Sound, an environmentally sensitive area;

(B) many people believe that complacency on the part of the industry and government personnel responsible for monitoring the operation of the Valdez terminal and vessel traffic in Prince William Sound was one of the contributing factors to the EXXON VALDEZ oil spill;

(C) one way to combat this complacency is to involve local citizens in the process of preparing, adopting, and revising oil spill contingency plans;

(D) a mechanism should be established which fosters the long-term partnership of

industry, government, and local communities in overseeing compliance with environmental concerns in the operation of crude oil terminals;

(E) such a mechanism presently exists at the Sullom Voe terminal in the Shetland Islands and this terminal should serve as a model for others;

(F) because of the effective partnership that has developed at Sullom Voe, Sullom Voe is considered the safest terminal in Europe;

(G) the present system of regulation and oversight of crude oil terminals in the United States has degenerated into a process of continual mistrust and confrontation;

(H) only when local citizens are involved in the process will the trust develop that is necessary to change the present system from confrontation to consensus;

(I) a pilot program patterned after Sullom Voe should be established in Alaska to further refine the concepts and relationships involved; and

(J) similar programs should eventually be established in other major crude oil terminals in the United States because the recent oil spills in Texas, Delaware, and Rhode Island indicate that the safe transportation of crude oil is a national problem.

(b) DEMONSTRATION PROGRAMS.—

(1) ESTABLISHMENT.—There are established 2 Oil Terminal and Oil Tanker Environmental Oversight and Monitoring Demonstration Programs (hereinafter referred to as "Programs") to be carried out in the State of Alaska.

(2) ADVISORY FUNCTION.—The function of these Programs shall be advisory only.

(3) PURPOSE.—The Prince William Sound Program shall be responsible for environmental monitoring of the terminal facilities in Prince William Sound and the crude oil tankers operating in Prince William Sound. The Cook Inlet Program shall be responsible for environmental monitoring of the terminal facilities and crude oil tankers operating in Cook Inlet located South of the latitude at Point Possession and North of the latitude at Amatuli Island, including offshore facilities in Cook Inlet.

(4) SUITS BARRED.—No program, association, council, committee or other organization created by this section may sue any person or entity, public or private, concerning any matter arising under this section except for the performance of contracts.

(c) OIL TERMINAL FACILITIES AND OIL TANKER OPERATIONS ASSOCIATION.—

(1) ESTABLISHMENT.—There is established an Oil Terminal Facilities and Oil Tanker Operations Association (hereinafter in this section referred to as the "Association") for each of the Programs established under subsection (b).

(2) MEMBERSHIP.—Each Association shall be comprised of 4 individuals as follows:

(A) One individual shall be designated by the owners and operators of the terminal facilities and shall represent those owners and operators.

(B) One individual shall be designated by the owners and operators of the crude oil tankers calling at the terminal facilities and shall represent those owners and operators.

(C) One individual shall be an employee of the State of Alaska, shall be designated by the Governor of the State of Alaska, and shall represent the State government.

(D) One individual shall be an employee of the Federal Government, shall be designated by the President, and shall represent the Federal Government.

(3) RESPONSIBILITIES.—Each Association shall be responsible for reviewing policies re-

lating to the operation and maintenance of the oil terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of their respective terminals. Each Association shall provide a forum among the owners and operators of the terminal facilities, the owners and operators of crude oil tankers calling at those facilities, the United States, and the State of Alaska to discuss and to make recommendations concerning all permits, plans, and site-specific regulations governing the activities and actions of the terminal facilities which affect or may affect the environment in the vicinity of the terminal facilities and of crude oil tankers calling at those facilities.

(4) DESIGNATION OF EXISTING ORGANIZATION.—The Secretary may designate an existing nonprofit organization as an Association under this subsection if the organization is organized to meet the purposes of this section and consists of at least the individuals listed in paragraph (2).

(d) REGIONAL CITIZENS' ADVISORY COUNCILS.—

(1) MEMBERSHIP.—There is established a Regional Citizens' Advisory Council (hereinafter in this section referred to as the "Council") for each of the programs established by subsection (b).

(2) MEMBERSHIP.—Each Council shall be composed of voting members and non-voting members, as follows:

(A) VOTING MEMBERS.—Voting members shall be Alaska residents and, except as provided in clause (vii) of this paragraph, shall be appointed by the Governor of the State of Alaska from a list of nominees provided by each of the following interests, with one representative appointed to represent each of the following interests, taking into consideration the need for regional balance on the Council:

(i) Local commercial fishing industry organizations, the members of which depend on the fisheries resources of the waters in the vicinity of the terminal facilities.

(ii) Aquaculture associations in the vicinity of the terminal facilities.

(iii) Alaska Native Corporations and other Alaska Native organizations the members of which reside in the vicinity of the terminal facilities.

(iv) Environmental organizations the members of which reside in the vicinity of the terminal facilities.

(v) Recreational organizations the members of which reside in or use the vicinity of the terminal facilities.

(vi) The Alaska State Chamber of Commerce, to represent the locally based tourist industry.

(vii)(I) For the Prince William Sound Terminal Facilities Council, one representative selected by each of the following municipalities: Cordova, Whittier, Seward, Valdez, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough.

(II) For the Cook Inlet Terminal Facilities Council, one representative selected by each of the following municipalities: Homer, Seldovia, Anchorage, Kenai, Kodiak, the Kodiak Island Borough, and the Kenai Peninsula Borough.

(B) NONVOTING MEMBERS.—One ex-officio, nonvoting representative shall be designated by, and represent, each of the following:

(i) The Environmental Protection Agency.

(ii) The Coast Guard.

(iii) The National Oceanic and Atmospheric Administration.

(iv) The United States Forest Service.

(v) The Bureau of Land Management.

(vi) The Alaska Department of Environmental Conservation.

(vii) The Alaska Department of Fish and Game.

(viii) The Alaska Department of Natural Resources.

(ix) The Division of Emergency Services, Alaska Department of Military and Veterans Affairs.

(3) TERMS.—

(A) DURATION OF COUNCILS.—The term of the Councils shall continue throughout the life of the operation of the Trans-Alaska Pipeline System and so long as oil is transported to or from Cook Inlet.

(B) THREE YEARS.—The voting members of each Council shall be appointed for a term of 3 years except as provided for in subparagraph (C).

(C) INITIAL APPOINTMENTS.—The terms of the first appointments shall be as follows:

(i) For the appointments by the Governor of the State of Alaska, one-third shall serve for 3 years, one-third shall serve for 2 years, and one-third shall serve for one year.

(ii) For the representatives of municipalities required by subsection (d)(2)(A)(vii), a drawing of lots among the appointees shall determine that one-third of that group serves for 3 years, one-third serves for 2 years, and the remainder serves for 1 year.

(4) SELF-GOVERNING.—Each Council shall elect its own chairperson, select its own staff, and make policies with regard to its internal operating procedures. After the initial organizational meeting called by the Secretary under subsection (i), each Council shall be self-governing.

(5) DUAL MEMBERSHIP AND CONFLICTS OF INTEREST PROHIBITED.—(A) No individual selected as a member of the Council shall serve on the Association.

(B) No individual selected as a voting member of the Council shall be engaged in any activity which might conflict with such individual carrying out his functions as a member thereof.

(6) DUTIES.—Each Council shall—

(A) provide advice and recommendations to the Association on policies, permits, and site-specific regulations relating to the operation and maintenance of terminal facilities and crude oil tankers which affect or may affect the environment in the vicinity of the terminal facilities;

(B) monitor through the committee established under subsection (e), the environmental impacts of the operation of the terminal facilities and crude oil tankers;

(C) monitor those aspects of terminal facilities' and crude oil tankers' operations and maintenance which affect or may affect the environment in the vicinity of the terminal facilities;

(D) review through the committee established under subsection (f), the adequacy of oil spill prevention and contingency plans for the terminal facilities and the adequacy of oil spill prevention and contingency plans for crude oil tankers, operating in Prince William Sound or in Cook Inlet;

(E) provide advice and recommendations to the Association on port operations, policies and practices;

(F) recommend to the Association—

(i) standards and stipulations for permits and site-specific regulations intended to minimize the impact of the terminal facilities' and crude oil tankers' operations in the vicinity of the terminal facilities;

(ii) modifications of terminal facility operations and maintenance intended to minimize the risk and mitigate the impact of terminal facilities, operations in the vicinity of the terminal facilities and to minimize the risk of oil spills;

(iii) modifications of crude oil tanker operations and maintenance in Prince William Sound and Cook Inlet intended to minimize the risk and mitigate the impact of oil spills; and

(iv) modifications to the oil spill prevention and contingency plans for terminal facilities and for crude oil tankers in Prince William Sound and Cook Inlet intended to enhance the ability to prevent and respond to an oil spill; and

(G) create additional committees of the Council as necessary to carry out the above functions, including a scientific and technical advisory committee to the Prince William Sound Council.

(7) **NO ESTOPPEL.**—No Council shall be held liable under State or Federal law for costs or damages as a result of rendering advice under this section. Nor shall any advice given by a voting member of a Council, or program representative or agent, be grounds for estopping the interests represented by the voting Council members from seeking damages or other appropriate relief.

(8) **SCIENTIFIC WORK.**—In carrying out its research, development and monitoring functions, each Council is authorized to conduct its own scientific research and shall review the scientific work undertaken by or on behalf of the terminal operators or crude oil tanker operators as a result of a legal requirement to undertake that work. Each Council shall also review the relevant scientific work undertaken by or on behalf of any government entity relating to the terminal facilities or crude oil tankers. To the extent possible, to avoid unnecessary duplication, each Council shall coordinate its independent scientific work with the scientific work performed by or on behalf of the terminal operators and with the scientific work performed by or on behalf of the operators of the crude oil tankers.

(e) **COMMITTEE FOR TERMINAL AND OIL TANKER OPERATIONS AND ENVIRONMENTAL MONITORING.**—

(1) **MONITORING COMMITTEE.**—Each Council shall establish a standing Terminal and Oil Tanker Operations and Environmental Monitoring Committee (hereinafter in this section referred to as the "Monitoring Committee") to devise and manage a comprehensive program of monitoring the environmental impacts of the operations of terminal facilities and of crude oil tankers while operating in Prince William Sound and Cook Inlet. The membership of the Monitoring Committee shall be made up of members of the Council, citizens, and recognized scientific experts selected by the Council.

(2) **DUTIES.**—In fulfilling its responsibilities, the Monitoring Committee shall—

(A) advise the Council on a monitoring strategy that will permit early detection of environmental impacts of terminal facility operations and crude oil tanker operations while in Prince William Sound and Cook Inlet;

(B) develop monitoring programs and make recommendations to the Council on the implementation of those programs;

(C) at its discretion, select and contract with universities and other scientific institutions to carry out specific monitoring projects authorized by the Council pursuant to an approved monitoring strategy;

(D) complete any other tasks assigned by the Council; and

(E) provide written reports to the Council which interpret and assess the results of all monitoring programs.

(f) **COMMITTEE FOR OIL SPILL PREVENTION, SAFETY, AND EMERGENCY RESPONSE.**—

(1) **TECHNICAL OIL SPILL COMMITTEE.**—Each Council shall establish a standing technical committee (hereinafter referred to as "Oil Spill Committee") to review and assess measures designed to prevent oil spills and the planning and preparedness for responding to, containing, cleaning up, and mitigating impacts of oil spills. The membership of the Oil Spill Committee shall be made up of members of the Council, citizens, and recognized technical experts selected by the Council.

(2) **DUTIES.**—In fulfilling its responsibilities, the Oil Spill Committee shall—

(A) periodically review the respective oil spill prevention and contingency plans for the terminal facilities and for the crude oil tankers while in Prince William Sound or Cook Inlet, in light of new technological developments and changed circumstances;

(B) monitor periodic drills and testing of the oil spill contingency plans for the terminal facilities and for crude oil tankers while in Prince William Sound and Cook Inlet;

(C) study wind and water currents and other environmental factors in the vicinity of the terminal facilities which may affect the ability to prevent, respond to, contain, and clean up an oil spill;

(D) identify highly sensitive areas which may require specific protective measures in the event of a spill in Prince William Sound or Cook Inlet;

(E) monitor developments in oil spill prevention, containment, response, and clean-up technology;

(F) periodically review port organization, operations, incidents, and the adequacy and maintenance of vessel traffic service systems designed to assure safe transit of crude oil tankers pertinent to terminal operations;

(G) periodically review the standards for tankers bound for, loading at, exiting from, or otherwise using the terminal facilities;

(H) complete any other tasks assigned by the Council; and

(I) provide written reports to the Council outlining its findings and recommendations.

(g) **AGENCY COOPERATION.**—On and after the expiration of the 180-day period following the date of the enactment of this section, each Federal department, agency, or other instrumentality shall, with respect to all permits, site-specific regulations, and other matters governing the activities and actions of the terminal facilities which affect or may affect the vicinity of the terminal facilities, consult with the appropriate Council prior to taking substantive action with respect to the permit, site-specific regulation, or other matter. This consultation shall be carried out with a view to enabling the appropriate Association and Council to review the permit, site-specific regulation, or other matters and make appropriate recommendations regarding operations, policy or agency actions. Prior consultation shall not be required if an authorized Federal agency representative reasonably believes that an emergency exists requiring action without delay.

(h) **RECOMMENDATIONS OF THE COUNCIL.**—In the event that the Association does not adopt, or significantly modifies before adoption, any recommendation of the Council made pursuant to the authority granted to the Council in subsection (d), the Association shall provide to the Council, in writing, within 5 days of its decision, notice of its decision and a written statement of reasons for its rejection or significant modification of the recommendation.

(i) **ADMINISTRATIVE ACTIONS.**—Appointments, designations, and selections of indi-

viduals to serve as members of the Associations and Councils under this section shall be submitted to the Secretary prior to the expiration of the 120-day period following the date of the enactment of this section. On or before the expiration of the 180-day period following that date of enactment of this section, the Secretary shall call an initial meeting of each Association and Council for organizational purposes.

(j) **LOCATION AND COMPENSATION.**—

(1) **LOCATION.**—Each Association and Council established by this section shall be located in the State of Alaska.

(2) **COMPENSATION.**—No member of an Association or Council shall be compensated for the member's services as a member of the Association or Council, but shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Association or Council not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code. However, each Council may enter into contracts to provide compensation and expenses to members of the committees created under subsections (d), (e), and (f).

(k) **FUNDING.**—

(1) **REQUIREMENT.**—Approval of the contingency plans required of owners and operators of the Cook Inlet and Prince William Sound terminal facilities and crude oil tankers while operating in Alaskan waters in commerce with those terminal facilities shall be effective only so long as the respective Association and Council for a facility are funded pursuant to paragraph (2).

(2) **PRINCE WILLIAM SOUND PROGRAM.**—The owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound shall provide, on an annual basis, an aggregate amount of not more than \$2,000,000, as determined by the Secretary. Such amount—

(A) shall provide for the establishment and operation of the environmental oversight and monitoring program in Prince William Sound;

(B) shall be adjusted annually by the Anchorage Consumer Price Index; and

(C) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities or crude oil tankers operating in Prince William Sound and the Prince William Sound terminal facilities Council.

(3) **COOK INLET PROGRAM.**—The owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet shall provide, on an annual basis, an aggregate amount of not more than \$1,000,000, as determined by the Secretary. Such amount—

(A) shall provide for the establishment and operation of the environmental oversight and monitoring program in Cook Inlet;

(B) shall be adjusted annually by the Anchorage Consumer Price Index; and

(C) may be adjusted periodically upon the mutual consent of the owners or operators of terminal facilities, offshore facilities, or crude oil tankers operating in Cook Inlet and the Cook Inlet Council.

(l) **REPORTS.**—

(1) **ASSOCIATIONS AND COUNCILS.**—Prior to the expiration of the 36-month period following the date of the enactment of this section, each Association and Council established by this section shall report to the President and the Congress concerning its activities under this section, together with its recommendations.

(2) GAO.—Prior to the expiration of the 36-month period following the date of the enactment of this section, the General Accounting Office shall report to the President and the Congress as to the handling of funds, including donated funds, by the entities carrying out the programs under this section, and the effectiveness of the demonstration programs carried out under this section, together with its recommendations.

(m) DEFINITIONS.—As used in this section, the term—

(1) "terminal facilities" means—

(A) in the case of the Prince William Sound Program, the entire oil terminal complex located in Valdez, Alaska, consisting of approximately 1,000 acres including all buildings, docks (except docks owned by the City of Valdez if those docks are not used for loading of crude oil), pipes, piping, roads, ponds, tanks, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, vehicles, and other facilities associated with and necessary for assisting tanker movement of crude oil into and out of the oil terminal complex; and

(B) in the case of the Cook Inlet program, the entire oil terminal complex including all buildings, docks, pipes, piping, roads, ponds, tanks, vessels, vehicles, crude oil tankers only while at the terminal dock, tanker escorts owned or operated by the operator of the terminal, emergency spill response vessels owned or operated by the operator of the terminal, and other facilities associated with, and necessary for, assisting tanker movement of crude oil into and out of the oil terminal complex;

(2) "crude oil tanker" means a tanker (as that term is defined under section 2101 of title 46, United States Code)—

(A) in the case of the Prince William Sound Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries, operating north of Middleton Island and bound for or exiting from Prince William Sound; and

(B) in the case of the Cook Inlet Program, calling at the terminal facilities for the purpose of receiving and transporting oil to refineries and operating in Cook Inlet and the Gulf of Alaska north of Amatuli Island, including tankers transiting to Cook Inlet from Prince William Sound;

(3) "vicinity of the terminal facilities" means that geographical area surrounding the environment of terminal facilities which is directly affected or may be directly affected by the operation of the terminal facilities; and

(4) "Secretary" means the Secretary of Transportation.

(n) SAVINGS CLAUSE.—

(1) REGULATORY AUTHORITY.—Nothing in this section shall be construed as modifying, repealing, superseding, or preempting any municipal, State or Federal law or regulation, or in any way affecting litigation arising from oil spills or the rights and responsibilities of the United States or the State of Alaska, or municipalities thereof, to preserve and protect the environment through regulation of land, air, and water uses, of safety, and of related development. The monitoring provided for by this section shall be designed to help assure compliance with applicable laws and regulations and shall only extend to activities—

(A) that would affect or have the potential to affect the vicinity of the terminal facilities and the area of crude oil tanker operations included in the Programs; and

(B) are subject to the United States or State of Alaska, or municipality thereof, law, regulation, or other legal requirement.

(2) RECOMMENDATIONS.—This subsection is not intended to prevent the Association or Council from recommending to appropriate authorities that existing legal requirements should be modified or that new legal requirements should be adopted.

(c) ALTERNATIVE VOLUNTARY ADVISORY GROUP IN LIEU OF COUNCIL.—The requirements of subsections (c) through (l), as such subsections apply respectively to the Prince William Sound Program and the Cook Inlet Program, are deemed to have been satisfied so long as the following conditions are met:

(1) PRINCE WILLIAM SOUND.—With respect to the Prince William Sound Program, the Alyeska Pipeline Service Company or any of its owner companies enters into a contract for the duration of the operation of the Trans-Alaska Pipeline System with the Alyeska Citizens Advisory Committee in existence on the date of enactment of this section, or a successor organization, to fund that Committee or organization on an annual basis in the amount provided for by subsection (k)(2)(A) and the President annually certifies that the Committee or organization fosters the general goals and purposes of this section and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Prince William Sound.

(2) COOK INLET.—With respect to the Cook Inlet Program, the terminal facilities, offshore facilities, or crude oil tanker owners and operators enter into a contract with a voluntary advisory organization to fund that organization on an annual basis and the President annually certifies that the organization fosters the general goals and purposes of this section and is broadly representative of the communities and interests in the vicinity of the terminal facilities and Cook Inlet.

SEC. 5003. BLIGH REEF LIGHT.

The Secretary of Transportation shall within one year after the date of the enactment of this title install and ensure operation of an automated navigation light on or adjacent to Bligh Reef in Prince William Sound, Alaska, of sufficient power and height to provide long-range warning of the location of Bligh Reef.

SEC. 5004. VESSEL TRAFFIC SERVICE SYSTEM.

The Secretary of Transportation shall within one year after the date of the enactment of this title—

(1) acquire, install, and operate such additional equipment (which may consist of radar, closed circuit television, satellite tracking systems, or other shipboard dependent surveillance), train and locate such personnel, and issue such final regulations as are necessary to increase the range of the existing VTS system in the Port of Valdez, Alaska, sufficiently to track the locations and movements of tank vessels carrying oil from the Trans-Alaska Pipeline when such vessels are transiting Prince William Sound, Alaska, and to sound an audible alarm when such tankers depart from designated navigation routes; and

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a report on the feasibility and desirability of instituting positive control of tank vessel movements in Prince William Sound by Coast Guard personnel using the Port of Valdez, Alaska, VTS system, as modified pursuant to paragraph (1).

SEC. 5005. EQUIPMENT AND PERSONNEL REQUIREMENTS UNDER TANK VESSEL AND FACILITY RESPONSE PLANS.

(a) IN GENERAL.—In addition to the requirements for response plans for vessels established by section 311(j) of the Federal Water Pollution Control Act, as amended by this Act, a response plan for a tank vessel operating on Prince William Sound, or a facility permitted under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.), shall provide for—

(1) prepositioned oil spill containment and removal equipment in communities and other strategic locations within the geographic boundaries of Prince William Sound, including escort vessels with skimming capability; barges to receive recovered oil; heavy duty sea boom, pumping, transferring, and lightening equipment; and other appropriate removal equipment for the protection of the environment, including fish hatcheries;

(2) the establishment of an oil spill removal organization at appropriate locations in Prince William Sound, consisting of trained personnel in sufficient numbers to immediately remove, to the maximum extent practicable, a worst case discharge or a discharge of 200,000 barrels of oil, whichever is greater;

(3) training in oil removal techniques for local residents and individuals engaged in the cultivation or production of fish or fish products in Prince William Sound;

(4) practice exercises not less than 2 times per year which test the capacity of the equipment and personnel required under this paragraph; and

(5) periodic testing and certification of equipment required under this paragraph, as required by the Secretary.

(b) DEFINITIONS.—In this section—

(1) the term "Prince William Sound" means all State and Federal waters within Prince William Sound, Alaska, including the approach to Hinchinbrook Entrance out to and encompassing Seal Rocks; and

(2) the term "worst case discharge" means—

(A) in the case of a vessel, a discharge in adverse weather conditions of its entire cargo; and

(B) in the case of a facility, the largest foreseeable discharge in adverse weather conditions.

SEC. 5006. FUNDING.

(a) SECTION 5001.—Amounts in the Fund shall be available, subject to appropriations, and shall remain available until expended, to carry out section 5001 as follows:

(1) \$5,000,000 shall be available for the first fiscal year beginning after the date of enactment of this Act.

(2) \$2,000,000 shall be available for each of the 9 fiscal years following the fiscal year described in paragraph (1).

(b) SECTIONS 5003 AND 5004.—Amounts in the Fund shall be available, without further appropriations and without fiscal year limitation, to carry out sections 5003 and 5004, in an amount not to exceed \$5,000,000.

SEC. 5007. LIMITATION.

Notwithstanding any other law, tank vessels that have spilled more than 1,000,000 gallons of oil into the marine environment after March 22, 1989, are prohibited from operating on the navigable waters of Prince William Sound, Alaska.

TITLE VI—MISCELLANEOUS

SEC. 6001. SAVINGS PROVISIONS.

(a) CROSS-REFERENCES.—A reference to a law replaced by this Act, including a refer-

ence in a regulation, order, or other law, is deemed to refer to the corresponding provision of this Act.

(b) **CONTINUATION OF REGULATIONS.**—An order, rule, or regulation in effect under a law replaced by this Act continues in effect under the corresponding provision of this Act until repealed, amended, or superseded.

(c) **RULE OF CONSTRUCTION.**—An inference of legislative construction shall not be drawn by reason of the caption or catch line of a provision enacted by this Act.

(d) **ACTIONS AND RIGHTS.**—Nothing in this Act shall apply to any rights and duties that matured, penalties that were incurred, and proceedings that were begun before the date of enactment of this Act, except as provided by this section, and shall be adjudicated pursuant to the law applicable on the date prior to the date of the enactment of this Act.

(e) **ADMIRALTY AND MARITIME LAW.**—Except as otherwise provided in this Act, this Act does not affect—

- (1) admiralty and maritime law; or
- (2) the jurisdiction of the district courts of the United States with respect to civil actions under admiralty and maritime jurisdiction, saving to suitors in all cases all other remedies to which they are otherwise entitled.

SEC. 6002. ANNUAL APPROPRIATIONS.

(a) **REQUIRED.**—Except as provided in subsection (b), amounts in the Fund shall be available only as provided in annual appropriation Acts.

(b) **EXCEPTIONS.**—Subsection (a) shall not apply to sections 1006(f), 1012(a)(4), or 5006(b), and shall not apply to an amount not to exceed \$50,000,000 in any fiscal year which the President may make available from the Fund to carry out section 311(c) of the Federal Water Pollution Control Act, as amended by this Act, and to initiate the assessment of natural resources damages required under section 1006. Sums to which this subsection applies shall remain available until expended.

SEC. 6003. OUTER BANKS PROTECTION.

(a) **SHORT TITLE.**—This section may be cited as the "Outer Banks Protection Act".

(b) **FINDINGS.**—The Congress finds that—

- (1) the Outer Banks of North Carolina is an area of exceptional environmental fragility and beauty;
- (2) the annual economic benefits of commercial and recreational fishing activities to North Carolina, which could be adversely affected by oil or gas development offshore the State's coast, exceeds \$1,000,000,000;
- (3) the major industry in coastal North Carolina is tourism, which is subject to potentially significant disruption by offshore oil or gas development;

(4) the physical oceanographic characteristics of the area offshore North Carolina between Cape Hatteras and the mouth of the Chesapeake Bay are not well understood, being affected by Gulf Stream western boundary perturbations and accompanying warm filaments, warm and cold core rings which separate from the Gulf Stream, wind stress, outflow from the Chesapeake Bay, Gulf Stream meanders, and intrusions of Virginia coastal waters around and over the Diamond shoals;

(5) diverse and abundant fisheries resources occur in the western boundary area of the Gulf Stream offshore North Carolina, but little is understood of the complex ecological relationships between the life histories of those species and their physical, chemical, and biological environment;

(6) the environmental impact statements prepared for Outer Continental Shelf lease

sales numbered 56 (1981) and 78 (1983) contain insufficient and outdated environmental information from which to make decisions on approval of additional oil and gas leasing, exploration, and development activities;

(7) the draft environmental report, dated November 1, 1989, and the preliminary final environmental report dated June 1, 1990, prepared pursuant to a July 14, 1989 memorandum of understanding between the State of North Carolina, the Department of the Interior, and the Mobil Oil Company, have not allayed concerns about the adequacy of the environmental information available to determine whether to proceed with additional offshore leasing, exploration, or development offshore North Carolina; and

(8) the National Research Council report entitled "The Adequacy of Environmental Information for Outer Continental Shelf Oil and Gas Decisions: Florida and California", issued in 1989, concluded that—

(A) information with respect to those States, which have received greater scrutiny than has North Carolina, is inadequate; and

(B) there are serious generic defects in the Minerals Management Service's methods of environmental analysis,

reinforcing concerns about the adequacy of the scientific and technical information which are the basis for a decision to lease additional tracts or approve an exploration plan offshore North Carolina, especially with respect to oceanographic, ecological, and socioeconomic information.

(c) **PROHIBITION OF OIL AND GAS LEASING, EXPLORATION, AND DEVELOPMENT.**—

(1) **PROHIBITION.**—The Secretary of the Interior shall not—

- (A) conduct a lease sale;
- (B) issue any new leases;
- (C) approve any exploration plan;
- (D) approve any development and production plan;
- (E) approve any application for permit to drill; or
- (F) permit any drilling,

for oil or gas under the Outer Continental Shelf Lands Act on any lands of the Outer Continental Shelf offshore North Carolina.

(2) **BOUNDARIES.**—For purposes of paragraph (1), the term "offshore North Carolina" means the area within the lateral seaward boundaries between areas offshore North Carolina and areas offshore—

(A) Virginia as provided in the joint resolution entitled "Joint resolution granting the consent of Congress to an agreement between the States of North Carolina and Virginia establishing their lateral seaward boundary" approved October 27, 1972 (86 Stat. 1298); and

(B) South Carolina as provided in the Act entitled "An Act granting the consent of Congress to the agreement between the States of North Carolina and South Carolina establishing their lateral seaward boundary" approved October 9, 1981 (95 Stat. 988).

(3) **DURATION OF PROHIBITION.**—

(A) **IN GENERAL.**—The prohibition under paragraph (1) shall remain in effect until the later of—

- (i) October 1, 1991; or
- (ii) 45 days of continuous session of the Congress after submission of a written report to the Congress by the Secretary of the Interior, made after consideration of the findings and recommendations of the Environmental Sciences Review Panel under subsection (e)—

(1) certifying that the information available, including information acquired pursuant to subsection (d), is sufficient to enable

the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing the activities described in paragraph (1); and

(II) including a detailed explanation of any differences between such certification and the findings and recommendations of the Environmental Sciences Review Panel under subsection (e), and a detailed justification of each such difference.

(B) **CONTINUOUS SESSION OF CONGRESS.**—In computing any 45-day period of continuous session of Congress under subparagraph (A)(ii)—

(i) continuity of session is broken only by an adjournment of the Congress sine die; and

(ii) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain are excluded.

(d) **ADDITIONAL ENVIRONMENTAL INFORMATION.**—The Secretary of the Interior shall undertake ecological and socioeconomic studies, additional physical oceanographic studies, including actual field work and the correlation of existing data, and other additional environmental studies, to obtain sufficient information about all significant conditions, processes, and environments which influence, or may be influenced by, oil and gas leasing, exploration, and development activities offshore North Carolina to enable the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing the activities described in subsection (c)(1). During the time that the Environmental Sciences Review Panel established under subsection (e) is in existence, the Secretary of the Interior shall consult with such Panel in carrying out this subsection.

(e) **ENVIRONMENTAL SCIENCES REVIEW PANEL.**—

(1) **ESTABLISHMENT AND MEMBERSHIP.**—There shall be established an Environmental Sciences Review Panel, to consist of—

- (A) 1 marine scientist selected by the Secretary of the Interior;
- (B) 1 marine scientist selected by the Governor of North Carolina; and

(C) 1 person each from the disciplines of physical oceanography, ecology, and social science, to be selected jointly by the Secretary of the Interior and the Governor of North Carolina from a list of individuals nominated by the National Academy of Sciences.

(2) **FUNCTIONS.**—Not later than 6 months after the date of the enactment of this Act, the Environmental Sciences Review Panel shall—

(A) prepare and submit to the Secretary of the Interior findings and recommendations—

(i) assessing the adequacy of available physical oceanographic, ecological, and socioeconomic information in enabling the Secretary to carry out his responsibilities under the Outer Continental Shelf Lands Act with respect to authorizing the activities described in subsection (c)(1); and

(ii) if such available information is not adequate for such purposes, indicating what additional information is required to enable the Secretary to carry out such responsibilities; and

(B) consult with the Secretary of the Interior as provided in subsection (d).

(3) **EXPENSES.**—Each member of the Environmental Sciences Review Panel shall be reimbursed for actual travel expenses and shall receive per diem in lieu of subsistence for each day such member is engaged in the

business of the Environmental Sciences Review Panel.

(4) **TERMINATION.**—The Environmental Sciences Review Panel shall be terminated after the submission of all findings and recommendations required under paragraph (2)(A).

(f) **AUTHORIZATION OF APPROPRIATIONS.**—There are authorized to be appropriated to the Secretary of the Interior to carry out this section not to exceed \$500,000 for fiscal year 1991, to remain available until expended.

SEC. 6004. COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.

(a) **AMENDMENT TO OUTER CONTINENTAL SHELF LANDS ACT.**—Section 5 of the Outer Continental Shelf Lands Act, as amended (43 U.S.C. 1334), is amended by adding a new subsection (j) as follows:

"(j) **COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS.**—

"(1) **FINDINGS.**—

"(A) The Congress of the United States finds that the unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing geological area underlying the Federal and State boundary may result in a number of harmful national effects, including—

"(I) the drilling of unnecessary wells, the installation of unnecessary facilities and other imprudent operating practices that result in economic waste, environmental damage, and damage to life and property;

"(II) the physical waste of hydrocarbons and an unnecessary reduction in the amounts of hydrocarbons that can be produced from certain hydrocarbon-bearing areas; and

"(III) the loss of correlative rights which can result in the reduced value of national hydrocarbon resources and disorders in the leasing of Federal and State resources.

"(2) **PREVENTION OF HARMFUL EFFECTS.**—The Secretary shall prevent, through the cooperative development of an area, the harmful effects of unrestrained competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary."

(b) **EXCEPTION FOR WEST DELTA FIELD.**—Section 5(j) of the Outer Continental Shelf Lands Act, as added by this section, shall not be applicable with respect to Blocks 17 and 18 of the West Delta Field offshore Louisiana.

(c) **AUTHORIZATION OF APPROPRIATIONS.**—There are hereby authorized to be appropriated such sums as may be necessary to provide compensation, including interest, to the State of Louisiana and its lessees, for net drainage of oil and gas resources as determined in the Third Party Facfinder Louisiana Boundary Study dated March 21, 1989. For purposes of this section, such lessees shall include those persons with an ownership interest in State of Louisiana leases SL10087, SL10088 or SL10187, or ownership interests in the production or proceeds therefrom, as established by assignment, contract or otherwise. Interest shall be computed for the period March 21, 1989 until the date of payment.

TITLE VII—OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

SEC. 7001. OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.

(a) **INTERAGENCY COORDINATING COMMITTEE ON OIL POLLUTION RESEARCH.**—

(1) **ESTABLISHMENT.**—There is established an Interagency Coordinating Committee on Oil Pollution Research (hereinafter in this section referred to as the "Interagency Committee").

(2) **PURPOSES.**—The Interagency Committee shall coordinate a comprehensive program of oil pollution research, technology development, and demonstration among the Federal agencies, in cooperation and coordination with industry, universities, research institutions, State governments, and other nations, as appropriate, and shall foster cost-effective research mechanisms, including the joint funding of research.

(3) **MEMBERSHIP.**—The Interagency Committee shall include representatives from the Department of Commerce (including the National Oceanic and Atmospheric Administration and the National Institute of Standards and Technology), the Department of Energy, the Department of the Interior (including the Minerals Management Service and the United States Fish and Wildlife Service), the Department of Transportation (including the United States Coast Guard, the Maritime Administration, and the Research and Special Projects Administration), the Department of Defense (including the Army Corps of Engineers and the Navy), the Environmental Protection Agency, the National Aeronautics and Space Administration, and the United States Fire Administration in the Federal Emergency Management Agency, as well as such other Federal agencies as the President may designate.

A representative of the Department of Transportation shall serve as Chairman.

(b) **OIL POLLUTION RESEARCH AND TECHNOLOGY PLAN.**—

(1) **IMPLEMENTATION PLAN.**—Within 180 days after the date of enactment of this Act, the Interagency Committee shall submit to Congress a plan for the implementation of the oil pollution research, development, and demonstration program established pursuant to subsection (c). The research plan shall—

(A) identify agency roles and responsibilities;

(B) assess the current status of knowledge on oil pollution prevention, response, and mitigation technologies and effects of oil pollution on the environment;

(C) identify significant oil pollution research gaps including an assessment of major technological deficiencies in responses to past oil discharges;

(D) establish research priorities and goals for oil pollution technology development related to prevention, response, mitigation, and environmental effects;

(E) estimate the resources needed to conduct the oil pollution research and development program established pursuant to subsection (c), and timetables for completing research tasks; and

(F) identify, in consultation with the States, regional oil pollution research needs and priorities for a coordinated, multidisciplinary program of research at the regional level.

(2) **ADVICE AND GUIDANCE.**—The Chairman, through the Department of Transportation, shall contract with National Academy of Sciences to—

(A) provide advice and guidance in the preparation and development of the research plan; and

(B) assess the adequacy of the plan as submitted, and submit a report to Congress on the conclusions of such assessment.

The National Institute of Standards and Technology shall provide the Interagency Committee with advice and guidance on issues relating to quality assurance and standards measurements relating to its activities under this section.

(c) **OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.**—

(1) **ESTABLISHMENT.**—The Interagency Committee shall coordinate the establishment, by the agencies represented on the Interagency Committee, of a program for conducting oil pollution research and development, as provided in this subsection.

(2) **INNOVATIVE OIL POLLUTION TECHNOLOGY.**—The program established under this subsection shall provide for research, development, and demonstration of new or improved technologies which are effective in preventing or mitigating oil discharges and which protect the environment, including—

(A) development of improved designs for vessels and facilities, and improved operational practices;

(B) research, development, and demonstration of improved technologies to measure the ullage of a vessel tank, prevent discharges from tank vents, prevent discharges during lightering and bunkering operations, contain discharges on the deck of a vessel, prevent discharges through the use of vacuums in tanks, and otherwise contain discharges of oil from vessels and facilities;

(C) research, development, and demonstration of new or improved systems of mechanical, chemical, biological, and other methods (including the use of dispersants, solvents, and bioremediation) for the recovery, removal, and disposal of oil, including evaluation of the environmental effects of the use of such systems;

(D) research and training, in consultation with the National Response Team, to improve industry's and Government's ability to quickly and effectively remove an oil discharge, including the long-term use, as appropriate, of the National Spill Control School in Corpus Christi, Texas;

(E) research to improve information systems for decisionmaking, including the use of data from coastal mapping, baseline data, and other data related to the environmental effects of oil discharges, and cleanup technologies;

(F) development of technologies and methods to protect public health and safety from oil discharges, including the population directly exposed to an oil discharge;

(G) development of technologies, methods, and standards for protecting removal personnel, including training, adequate supervision, protective equipment, maximum exposure limits, and decontamination procedures;

(H) research and development of methods to restore and rehabilitate natural resources damaged by oil discharges;

(I) research to evaluate the relative effectiveness and environmental impacts of bioremediation technologies; and

(J) the demonstration of a satellite-based, dependent surveillance vessel traffic system in Narragansett Bay to evaluate the utility of such system in reducing the risk of oil discharges from vessel collisions and groundings in confined waters.

(3) **OIL POLLUTION TECHNOLOGY EVALUATION.**—The program established under this subsection shall provide for oil pollution prevention and mitigation technology evaluation including—

(A) the evaluation and testing of technologies developed independently of the research and development program established under this subsection;

(B) the establishment, where appropriate, of standards and testing protocols traceable to national standards to measure the performance of oil pollution prevention or mitigation technologies; and

(C) the use, where appropriate, of controlled field testing to evaluate real-world

application of oil discharge prevention or mitigation technologies.

(4) **OIL POLLUTION EFFECTS RESEARCH.**—(A) The Committee shall establish a research program to monitor and evaluate the environmental effects of oil discharges. Such program shall include the following elements:

(i) The development of improved models and capabilities for predicting the environmental fate, transport, and effects of oil discharges.

(ii) The development of methods, including economic methods, to assess damages to natural resources resulting from oil discharges.

(iii) The identification of types of ecologically sensitive areas at particular risk to oil discharges and the preparation of scientific monitoring and evaluation plans, one for each of several types of ecological conditions, to be implemented in the event of major oil discharges in such areas.

(iv) The collection of environmental baseline data in ecologically sensitive areas at particular risk to oil discharges where such data are insufficient.

(B) The Department of Commerce in consultation with the Environmental Protection Agency shall monitor and scientifically evaluate the long-term environmental effects of oil discharges if—

(i) the amount of oil discharged exceeds 250,000 gallons;

(ii) the oil discharge has occurred on or after January 1, 1989; and

(iii) the Interagency Committee determines that a study of the long-term environmental effects of the discharge would be of significant scientific value, especially for preventing or responding to future oil discharges.

Areas for study may include the following sites where oil discharges have occurred: the New York/New Jersey Harbor area, where oil was discharged by an Exxon underwater pipeline, the T/B CIBRO SAVANNAH, and the M/V BT NAUTILUS; Narragansett Bay where oil was discharged by the WORLD PRODIGY; the Houston Ship Channel where oil was discharged by the RACHEL B; the Delaware River, where oil was discharged by the PRESIDENTE RIVERA, and Huntington Beach, California, where oil was discharged by the AMERICAN TRADER.

(C) Research conducted under this paragraph by, or through, the United States Fish and Wildlife Service shall be directed and coordinated by the National Wetland Research Center.

(5) **MARINE SIMULATION RESEARCH.**—The program established under this subsection shall include research on the greater use and application of geographic and vessel response simulation models, including the development of additional data bases and updating of existing data bases using, among others, the resources of the National Maritime Research Center. It shall include research and vessel simulations for—

(A) contingency plan evaluation and amendment;

(B) removal and strike team training;

(C) tank vessel personnel training; and

(D) those geographic areas where there is a significant likelihood of a major oil discharge.

(6) **DEMONSTRATION PROJECTS.**—The United States Coast Guard, in conjunction with other such agencies in the Department of Transportation as the Secretary of Transportation may designate, shall conduct 3 port oil pollution minimization demonstration projects, one each with (A) the Port Au-

thority of New York and New Jersey, (B) the Ports of Los Angeles and Long Beach, California, and (C) the Port of New Orleans, Louisiana, for the purpose of developing and demonstrating integrated port oil pollution prevention and cleanup systems which utilize the information and implement the improved practices and technologies developed from the research, development, and demonstration program established in this section. Such systems shall utilize improved technologies and management practices for reducing the risk of oil discharges, including, as appropriate, improved data access, computerized tracking of oil shipments, improved vessel tracking and navigation systems, advanced technology to monitor pipeline and tank conditions, improved oil spill response capability, improved capability to predict the flow and effects of oil discharges in both the inner and outer harbor areas for the purposes of making infrastructure decisions, and such other activities necessary to achieve the purposes of this section.

(7) **SIMULATED ENVIRONMENTAL TESTING.**—Agencies represented on the Interagency Committee shall ensure the long-term use and operation of the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT) Research Center in New Jersey for oil pollution technology testing and evaluations.

(8) **REGIONAL RESEARCH PROGRAM.**—(A) Consistent with the research plan in subsection (b), the Interagency Committee shall coordinate a program of competitive grants to universities or other research institutions, or groups of universities or research institutions, for the purposes of conducting a coordinated research program related to the regional aspects of oil pollution, such as prevention, removal, mitigation, and the effects of discharged oil on regional environments. For the purposes of this paragraph, a region means a Coast Guard district as set out in part 3 of title 33, Code of Federal Regulations (1989).

(B) The Interagency Committee shall coordinate the publication by the agencies represented on the Interagency Committee of a solicitation for grants under this subsection. The application shall be in such form and contain such information as may be required in the published solicitation. The applications shall be reviewed by the Interagency Committee, which shall make recommendations to the appropriate granting agency represented on the Interagency Committee for awarding the grant. The granting agency shall award the grants recommended by the Interagency Committee unless the agency decides not to award the grant due to budgetary or other compelling considerations and publishes its reasons for such a determination in the Federal Register. No grants may be made by any agency from any funds authorized for this paragraph unless such grant award has first been recommended by the Interagency Committee.

(C) Any university or other research institution, or group of universities or research institutions, may apply for a grant for the regional research program established by this paragraph. The applicant must be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program. With respect to a group application, the entity or entities which will carry out the substantial portion of the proposed research must be located in the region, or in a State a part of which is in the region, for which the project is proposed as part of the regional research program.

(D) The Interagency Committee shall make recommendations on grants in such a manner as to ensure an appropriate balance within a region among the various aspects of oil pollution research, including prevention, removal, mitigation, and the effects of discharged oil on regional environments. In addition, the Interagency Committee shall make recommendations for grants based on the following criteria:

(i) There is available to the applicant for carrying out this paragraph demonstrated research resources.

(ii) The applicant demonstrates the capability of making a significant contribution to regional research needs.

(iii) The projects which the applicant proposes to carry out under the grant are consistent with the research plan under subsection (b)(1)(F) and would further the objectives of the research and development program established in this section.

(E) Grants provided under this paragraph shall be for a period up to 3 years, subject to annual review by the granting agency, and provide not more than 80 percent of the costs of the research activities carried out in connection with the grant.

(F) No funds made available to carry out this subsection may be used for the acquisition of real property (including buildings) or construction of any building.

(G) Nothing in this paragraph is intended to alter or abridge the authority under existing law of any Federal agency to make grants, or enter into contracts or cooperative agreements, using funds other than those authorized in this Act for the purposes of carrying out this paragraph.

(9) **FUNDING.**—For each of the fiscal years 1991, 1992, 1993, 1994, and 1995, \$6,000,000 of amounts in the Fund shall be available to carry out the regional research program in paragraph (8), such amounts to be available in equal amounts for the regional research program in each region; except that if the agencies represented on the Interagency Committee determine that regional research needs exist which cannot be addressed within such funding limits, such agencies may use their authority under paragraph (10) to make additional grants to meet such needs. For the purposes of this paragraph, the research program carried out by the Prince William Sound Oil Spill Recovery Institute established under section 5001, shall not be eligible to receive grants under this paragraph.

(10) **GRANTS.**—In carrying out the research and development program established under this subsection, the agencies represented on the Interagency Committee may enter into contracts and cooperative agreements and make grants to universities, research institutions, and other persons. Such contracts, cooperative agreements, and grants shall address research and technology priorities set forth in the oil pollution research plan under subsection (b).

(11) In carrying out research under this section, the Department of Transportation shall continue to utilize the resources of the Research and Special Programs Administration of the Department of Transportation, to the maximum extent practicable.

(d) **INTERNATIONAL COOPERATION.**—In accordance with the research plan submitted under subsection (b), the Interagency Committee shall coordinate and cooperate with other nations and foreign research entities in conducting oil pollution research, development, and demonstration activities, including controlled field tests of oil discharges.

(e) **BIENNIAL REPORTS.**—The Chairman of the Interagency Committee shall submit to Congress every 2 years on October 30 a report on the activities carried out under this section in the preceding 2 fiscal years, and on activities proposed to be carried out under this section in the current 2 fiscal year period.

(f) **FUNDING.**—Not to exceed \$21,250,000 of amounts in the Fund shall be available annually to carry out this section except for subsection (c)(8). Of such sums—

(1) funds authorized to be appropriated to carry out the activities under subsection (c)(4) shall not exceed \$5,000,000 for fiscal year 1991 or \$3,500,000 for any subsequent fiscal year; and

(2) not less than \$2,250,000 shall be available for carrying out the activities in subsection (c)(6) for fiscal years 1992, 1993, 1994, and 1995.

All activities authorized in this section, including subsection (c)(8), are subject to appropriations.

TITLE VIII—TRANS-ALASKA PIPELINE SYSTEM

SEC. 8001. SHORT TITLE.

This title may be cited as the "Trans-Alaska Pipeline System Reform Act of 1990".

Subtitle A—Improvements to Trans-Alaska Pipeline System

SEC. 8101. LIABILITY WITHIN THE STATE OF ALASKA AND CLEANUP EFFORTS.

(a) **CAUSE OF ACCIDENT.**—Section 204(a)(1) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(a)(1)) is amended by striking out "caused by" in the first sentence and inserting in lieu thereof "caused solely by".

(b) **LIMITATION OF LIABILITY.**—Section 204(a)(2) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(a)(2)) is amended by striking "\$50,000,000" each place it occurs and inserting in lieu thereof "\$350,000,000".

(c) **CLEANUP EFFORTS.**—Section 204(b) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(b)) is amended in the first sentence—

(1) by inserting after "any area" the following: "in the State of Alaska";

(2) by inserting after "any activities" the following: "related to the Trans-Alaska Pipeline System, including operation of the terminal,"; and

(3) by inserting after "other Federal" the first place it appears the following: "or State".

SEC. 8102. TRANS-ALASKA PIPELINE LIABILITY FUND.

(a) TERMINATION OF CERTAIN PROVISIONS.—

(1) **REPEAL.**—Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is repealed, effective as provided in paragraph (5).

(2) DISPOSITION OF FUND BALANCE.—

(A) **RESERVATION OF AMOUNTS.**—The trustees of the Trans-Alaska Pipeline Liability Fund (hereafter in this subsection referred to as the "TAPS Fund") shall reserve the following amounts in the TAPS Fund—

(i) necessary to pay claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)); and

(ii) administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of that Act.

(B) **DISPOSITION OF THE BALANCE.**—After the Comptroller General of the United States certifies that the requirements of subparagraph (A) have been met, the trustees of the TAPS Fund shall dispose of the balance in the TAPS Fund after the reservation of

amounts are made under subparagraph (A) by—

(i) rebating the pro rata share of the balance to the State of Alaska for its contributions as an owner of oil; and then

(ii) transferring and depositing the remainder of the balance into the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

(C) **DISPOSITION OF THE RESERVED AMOUNTS.**—After payment of all claims arising from an incident for which funds are reserved under subparagraph (A) and certification by the Comptroller General of the United States that the claims arising from that incident have been paid, the excess amounts, if any, for that incident shall be disposed of as set forth under subparagraphs (A) and (B).

(D) **AUTHORIZATION.**—The amounts transferred and deposited in the Fund shall be available for the purposes of section 1012 of the Oil Pollution Act of 1990 after funding sections 5001 and 8103 to the extent that funds have not otherwise been provided for the purposes of such sections.

(3) **SAVINGS CLAUSE.**—The repeal made by paragraph (1) shall have no effect on any right to recover or responsibility that arises from incidents subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) occurring prior to the date of enactment of this Act.

(4) **TAPS COLLECTION.**—Paragraph (5) of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is amended by striking the period at the end of the second sentence and adding at the end the following: "; except that after the date of enactment of the Oil Pollution Act of 1990, the amount to be accumulated shall be \$100,000,000 or the amount determined by the trustees and certified to the Congress by the Comptroller General as necessary to pay claims arising from incidents occurring prior to the date of enactment of that Act and administrative costs, whichever is less.".

(5) **EFFECTIVE DATE.**—(A) The repeal by paragraph (1) shall be effective 60 days after the date on which the Comptroller General of the United States certifies to the Congress that—

(i) all claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) have been resolved,

(ii) all actions for the recovery of amounts subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act have been resolved, and

(iii) all administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of the Trans-Alaska Pipeline Authorization Act have been paid.

(B) Upon the effective date of the repeal pursuant to subparagraph (A), the trustees of the TAPS Fund shall be relieved of all responsibilities under section 204(c) of the Trans-Alaska Pipeline Authorization Act, but not any existing legal liability.

(6) **TUCKER ACT.**—This subsection is intended expressly to preserve any and all rights and remedies of contributors to the TAPS Fund under section 1491 of title 28, United States Code (commonly referred to as the "Tucker Act").

(b) **CAUSE OF ACCIDENT.**—Section 204(c)(2) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(2)) is amended by striking out "caused by" in the first sentence and inserting in lieu thereof "caused solely by".

(c) **DAMAGES.**—Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)), as amended by this title, is further amended by adding at the end the following new paragraphs:

"(13) For any claims against the Fund, the term 'damages' shall include, but not be limited to—

"(A) the net loss of taxes, revenues, fees, royalties, rents, or other revenues incurred by a State or a political subdivision of a State due to injury, destruction, or loss of real property, personal property, or natural resources, or diminished economic activity due to a discharge of oil; and

"(B) the net cost of providing increased or additional public services during or after removal activities due to a discharge of oil, including protection from fire, safety, or health hazards, incurred by a State or political subdivision of a State.

"(14) Paragraphs (1) through (13) shall apply only to claims arising from incidents occurring before the date of enactment of the Trans-Alaska Pipeline System Reform Act of 1990. The Oil Pollution Act of 1990 shall apply to any incident, or any claims arising from an incident, occurring on or after the date of the enactment of that Act.".

(d) **PAYMENT OF CLAIMS BY FUND.**—Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(3)) is amended by adding at the end the following: "The Fund shall expeditiously pay claims under this subsection, including such \$14,000,000, if the owner or operator of a vessel has not paid any such claim within 90 days after such claim has been submitted to such owner or operator. Upon payment of any such claim, the Fund shall be subrogated under applicable State and Federal laws to all rights of any person entitled to recover under this subsection. In any action brought by the Fund against an owner or operator or an affiliate thereof to recover amounts under this paragraph, the Fund shall be entitled to recover prejudgment interest, costs, reasonable attorney's fees, and, in the discretion of the court, penalties.".

(e) **OFFICERS OR TRUSTEES.**—Section 204(c)(4) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(4)) is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following: "(B) No present or former officer or trustee of the Fund shall be subject to any liability incurred by the Fund or by the present or former officers or trustees of the Fund, other than liability for gross negligence or willful misconduct.

"(C)(i) Subject to clause (ii), each officer and each trustee of the Fund—

"(I) shall be indemnified against all claims and liabilities to which he or she has or shall become subject by reason of serving or having served as an officer or trustee, or by reason of any action taken, omitted, or neglected by him or her as an officer or trustee; and

"(II) shall be reimbursed for all attorney's fees reasonably incurred in connection with any claim or liability.

"(ii) No officer or trustee shall be indemnified against, or be reimbursed for, any expenses incurred in connection with, any claim or liability arising out of his or her gross negligence or willful misconduct.".

SEC. 8103. PRESIDENTIAL TASK FORCE.

(a) **ESTABLISHMENT OF TASK FORCE.**—(1) **ESTABLISHMENT AND MEMBERS.**—(A) There is hereby established a Presidential Task Force on the Trans-Alaska Pipeline

System (hereinafter referred to as the "Task Force") composed of the following members appointed by the President:

(i) Three members, one of whom shall be nominated by the Secretary of the Interior, one by the Administrator of the Environmental Protection Agency, and one by the Secretary of Transportation.

(ii) Three members nominated by the Governor of the State of Alaska, one of whom shall be an employee of the Alaska Department of Natural Resources and one of whom shall be an employee of the Alaska Department of Environmental Conservation.

(iii) One member nominated by the Office of Technology Assessment.

(B) Any member appointed to fill a vacancy occurring before the expiration of the term for which his or her predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his or her term until a successor, if applicable, has taken office.

(2) COCHAIRMAN.—The President shall appoint a Federal cochairman from among the Federal members of the Task Force appointed pursuant to paragraph (1)(A) and the Governor shall designate a State cochairman from among the State members of the Task Force appointed pursuant to paragraph (1)(B).

(3) COMPENSATION.—Members shall, to the extent approved in appropriations Acts, receive the daily equivalent of the minimum annual rate of basic pay in effect for grade GS-15 of the General Schedule for each day (including travel time) during which they are engaged in the actual performance of duties vested in the Task Force, except that members who are State, Federal, or other governmental employees shall receive no compensation under this paragraph in addition to the salaries they receive as such employees.

(4) STAFF.—The cochairman of the Task Force shall appoint a Director to carry out administrative duties. The Director may hire such staff and incur such expenses on behalf of the Task Force for which funds are available.

(5) RULE.—Employees of the Task Force shall not, by reason of such employment, be considered to be employees of the Federal Government for any purpose.

(b) DUTIES OF THE TASK FORCE.—

(1) AUDIT.—The Task Force shall conduct an audit of the Trans-Alaska Pipeline System (hereinafter referred to as "TAPS") including the terminal at Valdez, Alaska, and other related onshore facilities, make recommendations to the President, the Congress, and the Governor of Alaska.

(2) COMPREHENSIVE REVIEW.—As part of such audit, the Task Force shall conduct a comprehensive review of the TAPS in order to specifically advise the President, the Congress, and the Governor of Alaska concerning whether—

(A) the holder of the Federal and State right-of-way is, and has been, in full compliance with applicable laws, regulations, and agreements;

(B) the laws, regulations, and agreements are sufficient to prevent the release of oil from TAPS and prevent other damage or degradation to the environment and public health;

(C) improvements are necessary to TAPS to prevent release of oil from TAPS and to prevent other damage or degradation to the environment and public health;

(D) improvements are necessary in the onshore oil spill response capabilities for the TAPS; and

(E) improvements are necessary in security for TAPS.

(3) CONSULTANTS.—(A) The Task Force shall retain at least one independent consulting firm with technical expertise in engineering, transportation, safety, the environment, and other applicable areas to assist the Task Force in carrying out this subsection.

(B) Contracts with any such firm shall be entered into on a nationally competitive basis, and the Task Force shall not select any firm with respect to which there may be a conflict of interest in assisting the Task Force in carrying out the audit and review. All work performed by such firm shall be under the direct and immediate supervision of a registered engineer.

(4) PUBLIC COMMENT.—The Task Force shall provide an opportunity for public comment on its activities including at a minimum the following:

(A) Before it begins its audit and review, the Task Force shall review reports prepared by other Government entities conducting reviews of TAPS and shall consult with those Government entities that are conducting ongoing investigations including the General Accounting Office. It shall also hold at least 2 public hearings, at least 1 of which shall be held in a community affected by the Exxon Valdez oil spill. Members of the public shall be given an opportunity to present both oral and written testimony.

(B) The Task Force shall provide a mechanism for the confidential receipt of information concerning TAPS, which may include a designated telephone hotline.

(5) TASK FORCE REPORT.—The Task Force shall publish a draft report which it shall make available to the public. The public will have at least 30 days to provide comments on the draft report. Based on its draft report and the public comments thereon, the Task Force shall prepare a final report which shall include its findings, conclusions, and recommendations made as a result of carrying out such audit. The Task Force shall transmit (and make available to the public), no later than 2 years after the date on which funding is made available under paragraph (7), its final report to the President, the Congress, and the Governor of Alaska.

(6) PRESIDENTIAL REPORT.—The President shall, within 90 days after receiving the Task Force's report, transmit a report to the Congress and the Governor of Alaska outlining what measures have been taken or will be taken to implement the Task Force's recommendations. The President's report shall include recommended changes, if any, in Federal and State law to enhance the safety and operation of TAPS.

(7) EARMARK.—Of amounts in the Fund, \$5,000,000 shall be available, subject to appropriations, annually without fiscal year limitation to carry out the requirements of this section.

(c) GENERAL ADMINISTRATION AND POWERS OF THE TASK FORCE.—

(1) AUDIT ACCESS.—The Comptroller General of the United States, and any of his or her duly appointed representatives, shall have access, for purposes of audit and examination, to any books, documents, papers, and records of the Task Force that are pertinent to the funds received and expended by the Task Force.

(2) TERMINATION.—The Task Force shall cease to exist on the date on which the final report is provided pursuant to subsection (b)(5).

(3) FUNCTIONS LIMITATION.—With respect to safety, operations, and other matters related to the pipeline facilities (as such term is de-

fined in section 202(4) of the Hazardous Liquid Pipeline Safety Act of 1979) of the TAPS, the Task Force shall not perform any functions which are the responsibility of the Secretary of Transportation under the Hazardous Liquid Pipeline Safety Act of 1979, as amended. The Secretary may use the information gathered by and reports issued by the Task Force in carrying out the Secretary's responsibilities under that Act.

(4) POWERS.—The Task Force may, to the extent necessary to carry out its responsibilities, conduct investigations, make reports, issue subpoenas, require the production of relevant documents and records, take depositions, and conduct directly or, by contract, or otherwise, research, testing, and demonstration activities.

(5) EXAMINATION OF RECORDS AND PROPERTIES.—The Task Force, and the employees and agents it so designates, are authorized, upon presenting appropriate credentials to the person in charge, to enter upon, inspect, and examine, at reasonable times and in a reasonable manner, the records and properties of persons to the extent such records and properties are relevant to determining whether such persons have acted or are acting in compliance with applicable laws and agreements.

(6) FOIA.—The information gathered by the Task Force pursuant to subsection (b) shall not be subject to section 552 of title 5, United States Code (commonly referred to as the "Freedom of Information Act"), until its final report is issued pursuant to subsection (b)(6).

Subtitle B—Penalties

SEC. 8201. AUTHORITY OF THE SECRETARY OF THE INTERIOR TO IMPOSE PENALTIES ON OUTER CONTINENTAL SHELF FACILITIES.

Section 24(b) of the Outer Continental Shelf Lands Act (43 U.S.C. 1350(b)) is amended—

(1) by striking out "If any" and inserting in lieu thereof "(1) Except as provided in paragraph (2), if any";

(2) by striking out "\$10,000" and inserting in lieu thereof "\$20,000";

(3) by adding at the end of paragraph (1) the following new sentence: "The Secretary shall, by regulation at least every 3 years, adjust the penalty specified in this paragraph to reflect any increases in the Consumer Price Index (all items, United States city average) as prepared by the Department of Labor."; and

(4) by adding at the end the following new paragraph:

"(2) If a failure described in paragraph (1) constitutes or constituted a threat of serious, irreparable, or immediate harm or damage to life (including fish and other aquatic life), property, any mineral deposit, or the marine, coastal, or human environment, a civil penalty may be assessed without regard to the requirement of expiration of a period allowed for corrective action."

SEC. 8202. TRANS-ALASKA PIPELINE SYSTEM CIVIL PENALTIES.

The Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1651 et seq.) is amended by adding at the end thereof the following new section:

"CIVIL PENALTIES

"SEC. 207. (a) PENALTY.—Except as provided in subsection (c)(4), the Secretary of the Interior may assess and collect a civil penalty under this section with respect to any discharge of oil—

"(1) in transit from fields or reservoirs supplying oil to the trans-Alaska pipeline; or

"(2) during transportation through the trans-Alaska pipeline or handling at the terminal facilities, that causes damage to, or threatens to damage, natural resources or public or private property.

"(b) PERSONS LIABLE.—In addition to the person causing or permitting the discharge, the owner or owners of the oil at the time the discharge occurs shall be jointly, severally, and strictly liable for the full amount of penalties assessed pursuant to this section, except that the United States and the several States, and political subdivisions thereof, shall not be liable under this section.

"(c) AMOUNT.—(1) The amount of the civil penalty shall not exceed \$1,000 per barrel of oil discharged.

"(2) In determining the amount of civil penalty under this section, the Secretary shall consider the seriousness of the damages from the discharge, the cause of the discharge, any history of prior violations of applicable rules and laws, and the degree of success of any efforts by the violator to minimize or mitigate the effects of such discharge.

"(3) The Secretary may reduce or waive the penalty imposed under this section if the discharge was solely caused by an act of war, act of God, or third party action beyond the control of the persons liable under this section.

"(4) No civil penalty assessed by the Secretary pursuant to this section shall be in addition to a penalty assessed pursuant to section 311(b) of the Federal Water Pollution Control Act (33 U.S.C. 1321(b)).

"(d) PROCEDURES.—A civil penalty may be assessed and collected under this section only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code. In any proceeding for the assessment of a civil penalty under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents and may promulgate rules for discovery procedures. Any person who requested a hearing with respect to a civil penalty under this subsection and who is aggrieved by an order assessing the civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(e) STATE LAW.—(1) Nothing in this section shall be construed or interpreted as preempting any State or political subdivision thereof from imposing any additional liability or requirements with respect to the discharge, or threat of discharge, of oil or other pollution by oil.

"(2) Nothing in this section shall affect or modify in any way the obligations or liabilities of any person under other Federal or State law, including common law, with respect to discharges of oil."

Subtitle C—Provisions Applicable to Alaska Natives

SEC. 8301. LAND CONVEYANCES.

The Alaska National Interest Lands Conservation Act (Public Law 96-487) is amended by adding the following after section 1437:

"SEC. 1438. Solely for the purpose of bringing claims that arise from the discharge of oil, the Congress confirms that all right, title, and interest of the United States in and to the lands validly selected pursuant to

the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) by Alaska Native corporations are deemed to have vested in the respective corporations as of March 23, 1989. This section shall take effect with respect to each Alaska Native corporation only upon its irrevocable election to accept an interim conveyance of such land and notice of such election has been formally transmitted to the Secretary of the Interior."

SEC. 8302. IMPACT OF POTENTIAL SPILLS IN THE ARCTIC OCEAN ON ALASKA NATIVES.

Section 1005 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3145) is amended—

(1) by amending the heading to read as follows:

"WILDLIFE RESOURCES PORTION OF STUDY AND IMPACT OF POTENTIAL OIL SPILLS IN THE ARCTIC OCEAN";

(2) by inserting "(a)" after "SEC. 1005."; and

(3) by adding at the end the following:

"(b)(1) The Congress finds that—

"(A) Canada has discovered commercial quantities of oil and gas in the Amalagak region of the Northwest Territory;

"(B) Canada is exploring alternatives for transporting the oil from the Amalagak field to markets in Asia and the Far East;

"(C) one of the options the Canadian Government is exploring involves transshipment of oil from the Amalagak field across the Beaufort Sea to tankers which would transport the oil overseas;

"(D) the tankers would traverse the American Exclusive Economic Zone through the Beaufort Sea into the Chuckchi Sea and then through the Bering Straits;

"(E) the Beaufort and Chuckchi Seas are vital to Alaska's Native people, providing them with subsistence in the form of walrus, seals, fish, and whales;

"(F) the Secretary of the Interior has conducted Outer Continental Shelf lease sales in the Beaufort and Chuckchi Seas and oil and gas exploration is ongoing;

"(G) an oil spill in the Arctic Ocean, if not properly contained and cleaned up, could have significant impacts on the indigenous people of Alaska's North Slope and on the Arctic environment; and

"(H) there are no international contingency plans involving our two governments concerning containment and cleanup of an oil spill in the Arctic Ocean.

"(2)(A) The Secretary of the Interior, in consultation with the Governor of Alaska, shall conduct a study of the issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

"(B) The Secretary shall, no later than January 31, 1991, transmit a report to the Congress on the findings and conclusions reached as the result of the study carried out under this subsection.

"(c) The Congress calls upon the Secretary of State, in consultation with the Secretary of the Interior, the Secretary of Transportation, and the Governor of Alaska, to begin negotiations with the Foreign Minister of Canada regarding a treaty dealing with the complex issues of recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

"(d) The Secretary of State shall report to the Congress on the Secretary's efforts pursuant to this section no later than June 1, 1991."

TITLE IX—AMENDMENTS TO OIL SPILL LIABILITY TRUST FUND, ETC.

SEC. 9001. AMENDMENTS TO OIL SPILL LIABILITY TRUST FUND.

(a) TRANSFERS TO TRUST FUND.—Subsection (b) of section 9509 of the Internal Revenue Code of 1986 is amended by striking all that follows paragraph (1) and inserting the following:

"(2) amounts recovered under the Oil Pollution Act of 1990 for damages to natural resources which are required to be deposited in the Fund under section 1006(f) of such Act,

"(3) amounts recovered by such Trust Fund under section 1015 of such Act,

"(4) amounts required to be transferred by such Act from the revolving fund established under section 311(k) of the Federal Water Pollution Control Act,

"(5) amounts required to be transferred by the Oil Pollution Act of 1990 from the Deepwater Port Liability Fund established under section 18(f) of the Deepwater Port Act of 1974,

"(6) amounts required to be transferred by the Oil Pollution Act of 1990 from the Offshore Oil Pollution Compensation Fund established under section 302 of the Outer Continental Shelf Lands Act Amendments of 1978,

"(7) amounts required to be transferred by the Oil Pollution Act of 1990 from the Trans-Alaska Pipeline Liability Fund established under section 204 of the Trans-Alaska Pipeline Authorization Act, and

"(8) any penalty paid pursuant to section 311 of the Federal Water Pollution Control Act, section 309(c) of such Act (as a result of violations of such section 311), the Deepwater Port Act of 1974, or section 207 of the Trans-Alaska Pipeline Authorization Act."

(b) EXPENDITURES FROM TRUST FUND.—Paragraph (1) of section 9509(c) of such Code is amended to read as follows:

"(1) EXPENDITURE PURPOSES.—Amounts in the Oil Spill Liability Trust Fund shall be available, as provided in appropriation Acts or section 6002(b) of the Oil Pollution Act of 1990, only for purposes of making expenditures—

"(A) for the payment of removal costs and other costs, expenses, claims, and damages referred to in section 1012 of such Act,

"(B) to carry out sections 5 and 7 of the Intervention on the High Seas Act relating to oil pollution or the substantial threat of oil pollution,

"(C) for the payment of liabilities incurred by the revolving fund established by section 311(k) of the Federal Water Pollution Control Act,

"(D) to carry out subsections (b), (c), (d), (j), and (l) of section 311 of the Federal Water Pollution Control Act with respect to prevention, removal, and enforcement related to oil discharges, (as defined in such section),

"(E) for the payment of liabilities incurred by the Deepwater Port Liability Fund, and

"(F) for the payment of liabilities incurred by the Offshore Oil Pollution Compensation Fund."

(c) INCREASE IN EXPENDITURES PERMITTED PER INCIDENT.—Subparagraph (A) of section 9509(c)(2) of such Code is amended—

(1) by striking "\$500,000,000" each place it appears and inserting "\$1,000,000,000", and

(2) by striking "\$250,000,000" and inserting "\$500,000,000".

(d) INCREASE IN BORROWING AUTHORITY.—

(1) INCREASE IN BORROWING PERMITTED.—Paragraph (2) of section 9509(d) of such

Code is amended by striking "\$500,000,000" and inserting "\$1,000,000,000".

(2) CHANGE IN FINAL REPAYMENT DATE.—Subparagraph (B) of section 9509(d)(3) of such Code is amended by striking "December 31, 1991" and inserting "December 31, 1994".

(e) OTHER CHANGES.—

(1) Paragraph (2) of section 9509(e) of such Code is amended by striking "Comprehensive Oil Pollution Liability and Compensation Act" and inserting "Oil Pollution Act of 1990".

(2) Subparagraph (B) of section 9509(c)(2) of such Code is amended by striking "described in paragraph (1)(A)(i)" and inserting "of removal costs".

(3) Subsection (f) of section 9509 of such Code is amended to read as follows:

"(f) REFERENCES TO OIL POLLUTION ACT OF 1990.—Any reference in this section to the Oil Pollution Act of 1990 or any other Act referred to in a subparagraph of subsection (c)(1) shall be treated as a reference to such Act as in effect on the date of the enactment of this subsection."

SEC. 9002. CHANGES RELATING TO OTHER FUNDS.

(a) REPEAL OF PROVISION RELATING TO TRANSFERS TO OIL SPILL LIABILITY FUND.—Subsection (d) of section 4612 of the Internal Revenue Code of 1986 is amended by striking the last sentence.

(b) CREDIT AGAINST OIL SPILL RATE ALLOWED ON AFFILIATED GROUP BASIS.—Subsection (d) of section 4612 of such Code is amended by adding at the end thereof the following new sentence: "For purposes of this subsection, all taxpayers which would be members of the same affiliated group (as defined in section 1504(a)) if section 1504(a)(2) were applied by substituting '100 percent' for '80 percent' shall be treated as 1 taxpayer."

And the Senate agree to the same.

From the Committee on Merchant Marine and Fisheries, for consideration of the House bill (except title VIII), and the Senate amendment (except secs. 601 and 602), and modifications committed to conference:

WALTER B. JONES,
GERRY STUDDS,
BILLY TAUZIN,
THOMAS C. CARPER,
BILL HUGHES,
BOB DAVIS,
DON YOUNG,
NORMAN F. LENT,

(Provided, Mr. Shumway is appointed in place of Mr. Young of Alaska for consideration of title I and sec. 2004 of the House bill, and title I and sec. 405 of the Senate amendment),

From the Committee on Public Works and Transportation, for consideration of the House bill (except title VIII), and the Senate amendment (except secs. 601 and 602), and modifications committed to conference:

GLENN M. ANDERSON,
ROBERT A. ROE,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
JOHN PAUL
HAMMERSCHMIDT,
BUD SHUSTER,
ARLAN STANGELAND,

(Provided, Mr. Kolter is appointed in place of Mr. Anderson for consideration of sec. 4114 of the House bill; Mr. Rahall is appointed in place of Mr. Roe for consideration of title VII of the House bill, and secs. 205, 309, 354, and 356 of the Senate amend-

ment; Mr. Laughlin is appointed in place of Mr. Roe for consideration of secs. 1002 and 1004 of the House bill, and corresponding portions of sec. 102 of the Senate amendment; Mr. Borski is appointed in place of Mr. Roe for consideration of secs. 4101 through 4205 of the House bill, and corresponding portions of the Senate amendment; and Mr. Upton is appointed in place of Mr. Shuster for consideration of sec. 4203 of the House bill and sec. 203 of the Senate amendment),

JOE KOLTER,
NICK RAHALL,
GREG LAUGHLIN,
BOB BORSKI,
FRED UPTON,

From the Committee on Foreign Affairs, for consideration of title III of the House bill, and secs. 603 and 604 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
GUS YATRON,
WAYNE OWENS,
TOM LANTOS,
EDWARD F. FEIGHAN,
WM. BROOMFIELD,
DOUG BEREUTER,
JOHN MILLER,

From the Committee on Science, Space, and Technology, for consideration of title VII of the House bill, and secs. 205, 309, 354, and 506 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
JIM H. SCHEUER,
GEORGE E. BROWN, Jr.,
MARILYN LLOYD,
DOUG WALGREN,
ROBERT A. WALKER,
CLAUDINE SCHNEIDER,
SID MORRISON,

From the Committee on Interior and Insular Affairs, for consideration of title I and sec. 2004 of the House bill, and title I and sec. 405 of the Senate amendment, and modifications committed to conference:

MOE UDALL,
G. MILLER,
PHIL SHARP,
DON YOUNG,
LARRY E. CRAIG,

From the Committee on Interior and Insular Affairs, for consideration of title VIII of the House bill, and secs. 601 and 602 of the Senate amendment, and modifications committed to conference:

MOE UDALL,
G. MILLER,
PHIL SHARP,
BRUCE F. VENTO,
PETER DEFazio,
DON YOUNG,
RON MARLENEE,
LARRY E. CRAIG,

From the Committee on Energy and Commerce, for consideration of secs. 8103, 8201, and 8202 of the House bill, and sec. 601 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
RALPH M. HALL,
NORMAN F. LENT,

From the Committee on Merchant Marine and Fisheries, for consideration of title VIII of the House bill, and secs. 601 and 602 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
BILLY TAUZIN,
TOM CARPER,
BOB DAVIS,
JACK FIELDS,

From the Committee on Public Works and Transportation, for consideration of title VIII of the House bill, and secs. 601 and 602 of the Senate amendment, and modifications committed to conference:

GLENN M. ANDERSON,
NORMAN Y. MINETA,
HENRY J. NOWAK,
JOHN PAUL
HAMMERSCHMIDT,
ARLAN STANGELAND,

From the Committee on Ways and Means, for consideration of title VII and secs. 1001(10), 1006(f), 1006(g)(4), 4302, 8102(f) of the House bill and so much of sec. 8202 of the House bill as would add a new sec. 210(c)(5) to the Trans-Alaska Pipeline Authorization Act, and secs. 103(b), 103(c), 356, 401(b), and 512 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J. J. PICKLE,
C. B. RANGEL,
PETE STARK,
BILL ARCHER,
GUY VANDER JAGT,
PHIL CRANE,

Managers on the Part of the House.

From the Committee on Environment and Public Works:

QUENTIN BURDICK,
DANIEL PATRICK
MOYNIHAN,
GEORGE MITCHELL,
MAX BAUCUS,
FRANK R. LAUTENBERG,
JOHN BREAUX,
JOHN CHAFEE,
DAVE DURENBERGER,
JOHN WARNER,
JIM JEFFORDS,
GORDON HUMPHREY,

From the Committee on Commerce, Science, and Transportation:

Fritz HOLLINGS,
DANIEL INOUE,
JOHN F. KERRY,
JOHN BREAUX,
JOHN C. DANFORTH,
BOB PACKWOOD,
TED STEVENS,

From the Committee on Finance:

LLOYD BENTSEN,
MAX BAUCUS,
BOB PACKWOOD,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming

changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—OIL POLLUTION LIABILITY AND COMPENSATION

SEC. 1001. DEFINITIONS

Section 101 of the Senate amendment contains definitions of terms used in the Act. The terms "vessel", "public vessel", "owner or operator", "onshore facility", "offshore facility", "barrel", "person", "navigable waters", "remove" and "removal" and "territorial seas" are defined by reference to existing definitions contained in either section 311 or section 502 of the Federal Water Pollution Control Act (FWPCA) (33 U.S.C. 1321, 1362). The remaining terms are either not defined in the FWPCA or reflect the generally broader scope of the Senate amendment as opposed to existing law.

Section 1001 of the House bill contains definitions of many of the same terms. Rather than define terms by reference to the FWPCA, the House bill contains free-standing definitions even for terms that are defined in that Act.

The Conference substitute generally adopts the format of the House bill with respect to definitions. Specifically, the terms "act of God", "claim", "damages", "deepwater port", "discharge", "facility", "Fund", "gross ton", "guarantor", "incident", "lessee", "mobile offshore drilling unit", "National Contingency Plan", "natural resources", "permittee", "responsible party", "tank vessel", and "United States" and "State" are taken from the House bill.

The terms "offshore facility", "onshore facility", "owner or operator", "public vessel" and "vessel" are re-stated verbatim from section 311(a) of the FWPCA. The terms "navigable waters", "person" and "territorial seas" are re-stated verbatim from section 502 of the FWPCA. The term "remove" or "removal" under section 311(a) of the FWPCA is amended by this act to include containment of oil discharges. That amended FWPCA definition is included in section 101 of the Conference substitute. In each case, these FWPCA definitions shall have the same meaning in this legislation as they do under the FWPCA and shall be interpreted accordingly. To the extent that docks, piers, wharves, piers and other similar appurtenances that rest on submerged land and that are directly or indirectly connected to a land-based terminal are deemed to be part of an onshore facility under the FWPCA, they are likewise deemed to be part of an onshore facility under the Conference substitute.

"Incident" is defined to mean an occurrence or series of related occurrences because, as under other Federal law it is the intent of the Conferees that the entire series of events resulting in the spill of oil comprises one "incident".

The term "liable" or "liability" is taken from the Senate amendment and is to be construed to be the standard of liability which obtains under section 311 of the FWPCA for liability for removal costs and damages from discharges of oil. That standard of liability has been determined repeatedly to be strict, joint and several liability. The terms "foreign offshore unit" and "Outer Continental Shelf facility" also are taken from the Senate amendment.

The term "tank vessel" has the same meaning as that term has under section 2101 of title 46, United States Code.

The Conference substitute includes a definition of the term "oil", which is based on the definition of the term in section 311 of

the FWPCA. The definition has been modified, however, to clarify that it does not include any constituent or component of oil which may fall within the definition of "hazardous substances", as that term is defined for the purposes of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). This ensures that there will be no overlap in the liability provisions of CERCLA and the Oil Pollution Act.

SEC. 1002. ELEMENTS OF LIABILITY

Section 102(a) of the Senate amendment provides that owners or operators of vessels or facilities from which oil is discharged or which poses a threat of a discharge are liable for removal costs and damage for economic loss and loss of natural resources. The damages include injury to property, loss of use of property, injury to, or loss of use of natural resources, loss of income, and loss of taxes.

Subsections (a) and (b) of section 1002 of the House bill provide that responsible parties for vessels and facilities from which oil is discharged or which pose the substantial threat of a discharge are jointly, severally, and strictly liable for removal costs and for a wide range of damages generally comparable to those listed in the Senate amendment. Secondary liability for oil cargo owners is also established. Removal costs incurred by the United States, a State, or an Indian tribe are compensable under the House bill if they are not inconsistent with the National Contingency Plan and applicable State law. Removal costs incurred by other persons must be consistent with the National Contingency Plan and applicable State law. Subsection (c) excludes certain types of discharges from coverage. Subsection (d) addresses the liability of third parties.

The Conference substitute combines some of the provisions of the Senate amendment with those of the House bill.

Section 1002(a) of the Conference substitute establishes liability and creates a cause of action for removal costs and damages that are specified in subsection (b) and that result from an incident. The responsible party for a vessel or a facility from which oil is discharged, or which poses the substantial threat of a discharge of oil, is liable for these costs and damages. Liability under this Act is established notwithstanding any other provision or rule of the law. This means that the liability provisions of this Act would govern compensation for removal costs and damages notwithstanding any limitations under existing statutes such as the act of March 3, 1851 (46 U.S.C. 183), or under existing requirements that physical damage to the proprietary interest of the claimant be shown.

Subsection (b) identifies the removal costs and damages which are compensable under the Conference substitute, and the claimants who may recover for those costs and damages. Removal costs are covered by the Conference substitute if they are: (1) incurred by the United States, a State, or an Indian tribe under the appropriate sections of the FWPCA, under the Intervention on the High Seas Act, or under applicable State law; or (2) incurred by a person acting in a manner consistent with the National Contingency Plan.

Six categories of damages are compensable under the substitute. Under section 1002(b)(2)(A), damages for injury to, destruction of, loss of, or loss of use of natural resources, including the reasonable costs of assessing the injury, destruction, or loss are

recoverable by trustees. Subsection (b)(2)(B) allows a person who owns or leases real or personal property to recover for injury to, or economic losses resulting from the destruction of that property. Subsection (b)(2)(C) provides a right of recovery for loss of subsistence use of natural resources, without regard to the ownership or management of those resources.

Section 1002(b)(2)(D) of the Conference substitute provides that the United States, a State, or a political subdivision of a State may recover for any net loss of taxes, royalties, rents, fees, or net profit shares resulting from the injury, destruction, or loss of real or personal property or natural resources resulting from an incident. Subsection (b)(2)(E) provides that any claimant may recover for loss of profits or impairment of earning capacity resulting from injury to property or natural resources. The claimant need not be the owner of the damaged property or resources to recover for lost profits or income. For example, a fisherman may recover lost income due to damaged fisheries resources, even though the fisherman does not own those resources.

Subsection (b)(2)(F) provides that a State or local government may recover damages for the net costs of providing increased or additional public services during or after removal actions.

Subsection (c) excludes from coverage under this substitute any discharge of oil that (1) is authorized by law, (2) emanates from a public vessel, or (3) is discharged from onshore facilities subject to the Trans-Alaska Pipeline Authorization Act which are covered by the liability regime under section 204 of that Act. Liability for discharges from vessels once the oil is loaded is covered under the Conference substitute.

Subsection (d) provides that if a responsible party can establish that the removal costs and damages resulting from an incident were caused solely by an act or omission of a third party, the third party shall be treated as the responsible party for the removal costs and damages resulting from that incident. In such a case, the responsible party is still required to settle claims in accordance with section 1013, but shall be entitled by subrogation, to the extent of any claim paid, to all rights of the claimant to recover costs or damages from the third party or the Fund. Subsection (d)(2) describes the liability of a third party under this section.

SEC. 1003. DEFENSES TO LIABILITY

Section 1003 of the House bill provides for a complete defense to liability if the responsible party proves that an incident resulted from an act of God, an act of war, hostilities, civil war, or an insurrection. It also provides that a responsible party is not liable if the responsible party proves that the incident was solely caused by an act or omission of a person other than a responsible party, an employee or agent of a responsible party, or one whose act or omission occurs in connection with a contractual relationship with a responsible party except when the contractual relationship involves carriage of oil by a common carrier by rail.

The section provides that a responsible party is not liable to a claimant to the extent the incident was caused by the negligence of the claimant.

The House provision also provides that the defenses to liability would not be available to a responsible party who did not (1) report the incident and knew about it or had reason to know about it; (2) cooperate

with a responsible official in connection with removal activities; or (3) without sufficient cause, comply with orders issued pursuant to sections 311(c) or 311(e) of the FWPCA. The section also makes the defenses unavailable to a tanker involved in an incident when operating without a tug escort in Puget Sound waters between Port Angeles, Washington, and Vancouver, British Columbia, Canada.

The Senate amendment similarly provides a defense to liability if an incident is caused by an act of God or an act of war. It also contains a third party defense similar to, although more detailed than, the House provision. Like the House bill, the Senate bill includes a provision exempting railroads from liability when involved in common carriage, except that it is limited to a contractual arrangement arising from a published tariff and acceptance for carriage by a common carrier by rail.

The Senate section does not contain provisions comparable to the House provisions dealing with defenses as to particular claimants; describing when the defenses to liability would not apply; or relating to the operation of tankers in the Puget Sound without a tug escort.

The Conference substitute adopts the Senate language on complete defenses to liability. The substitute refers to any contractual arrangement rather than direct or indirect contractual relationships as referred to in the Senate amendment and to responsible party rather than defendant as in the Senate amendment. The substitute also includes the House language concerning contractual arrangements arising in connection with carriage by a common carrier by rail rather than the comparable Senate language that was limited to tariffs.

The substitute adopts the House language concerning defenses to liability to a particular claimant, with the exception that the standard is changed from negligence to gross negligence or willful misconduct. The substitute also adopts the House bill's provisions describing when the defenses do not apply. The Conferees did not include the language related to Puget Sound.

Section 1003 of the Conference substitute exonerates the responsible party from the liability imposed by section 1002, provided that the responsible party proves by a preponderance of the evidence that the incident resulted from (1) an act of God; (2) an act of war; (3) an act or omission of a third party, other than an employee or agent of the responsible party or one whose act or omission occurs in connection with a contractual relationship with the responsible party; or (4) any combination of the three previous situations. In the situation involving a contractual relationship, no liability exists for a responsible party if the contractual arrangement arises in connection with carriage by a common carrier by rail. Furthermore, with regard to acts by third parties, the responsible party must prove that the responsible party exercised due care in handling the oil and took precautions against foreseeable acts of the third party and any foreseeable consequences of those actions.

Under this section, the responsible party is not liable to a claimant to the extent the incident is caused by the claimant's gross negligence or willful misconduct.

The defenses contained in this section are not available to a responsible party who fails or refuses to (1) report the incident as required by law if the responsible party knew or had reason to know about the inci-

dent; (2) cooperate with a responsible official on removal; or (3) without sufficient cause, comply with an order issued under section 311(c) or 311(e) of the FWPCA or the Intervention on the High Seas Act.

SEC. 1004. LIMITS ON LIABILITY

Section 102(c) of the Senate amendment sets limits of liability at the greater of \$1,000 per gross ton or \$10 million for tankers and barges, the greater of \$600 per gross ton or \$500,000 for other vessels, \$75 million plus removal costs for outer Continental Shelf (OCS) facilities, and \$350 million for deepwater ports and other facilities. If the discharge is caused by willful misconduct, gross negligence, or a violation of applicable Federal law concerning safety, construction, or operating standards or regulations, the owner or operator responsible for a discharge is not entitled to a limitation liability. In addition, if the owner or operator fails or refuses to report the discharge or cooperate with a responsible official in the removal action or to provide removal action at the order of such official, the liability will be the total of damages plus removal costs.

The Senate provision also requires that, notwithstanding the liability limits, the owner or operator of a facility or vessel involved in an OCS spill must pay all Federal, State and local government removal costs. In addition, section 102(c) requires the President to adjust the liability limits, at least once every three years, to reflect significant increases in the Consumer Price Index.

Section 1004 of the House bill limits liability for tank vessels to the greater of \$1,200 per gross ton or \$10 million tank vessels greater than 3,000 gross tons or \$1,200 per gross ton or \$2 million for tank vessels of 3,000 gross tons or less. Non-tank vessels may limit liability to the greater of \$600 per gross ton or \$500,000. Liability for offshore facilities is the total of removal costs plus \$75 million. Liability for onshore facilities and deepwater ports is \$350 million.

In the case of tank vessels, liability is divided between the vessel owner or operator and the cargo owner with the vessel owner or operator liable for the first 5 percent of the liability limit and the cargo owner liable for the second 50 percent. If the vessel owner or operator has unlimited liability, the cargo owner is liable for up to fifty percent of the applicable limit for the amount of liability which the vessel owner does not compensate. Mobile offshore drilling unit (MODU) discharges on or above the water are treated as if the MODU were a tank vessel, unless the removal costs and damages exceed the liability limit. In that instance the excess liability is treated as if the MODU were a facility.

Liability is unlimited if the incident was proximately caused by gross negligence, willful misconduct, or the violation of an applicable Federal safety, construction or operating regulation, or by the failure or refusal of the responsible party to report the incident, cooperate with a responsible official in the removal action, or comply with an order under section 311(c) or 311(e) of the FWPCA. Provisions also address tug escorts for tank vessels in Puget Sound.

Section 1004(d) provides for the adjustment of liability limits for onshore facilities and deepwater ports and associated vessels. Generally, the President may establish (by regulation) liability limits for onshore facilities of less than the statutorily prescribed amount of \$350 million, but not less than \$8 million, taking into account various factors. For deepwater ports (and associated ves-

sels), the Secretary must study and compare the transportation risks of using deepwater ports versus other ports. If the risks associated with deepwater ports are less, the Secretary must initiate a rulemaking to lower the liability limits to a level between \$350 million and \$50 million. The Secretary is also required to make various reports to Congress.

The Conference substitute incorporates provisions from both the Senate amendment and the House bill. The Conferees retained the dollar limits in the House bill for tank vessels and other vessels but deleted the House language on dividing liability between vessel owners or operators and cargo owners. Conferees also adopted House provisions on MODU discharges and on exceptions to liability, therefore, liability is unlimited if proximately caused by (1) gross negligence or willful misconduct or violation of applicable Federal safety, construction, or operating regulations, and (2) failure or refusal to cooperate in a removal action. Conferees deleted provisions on tug escorts in Puget Sound.

In addition, the substitute includes the Senate's language on OCS facilities and vessels. The Conference substitute adopts House language on adjusting liability limits for onshore and deepwater port facilities and the Senate language on adjusting liability based on increases in the Consumer Price Index.

SEC. 1005. INTEREST

Sections 102(c)(1) and 103(e)(3) of the Senate amendment provide for the recovery of interest, including prejudgment interest, from owners and operators without regard to limitations on liability.

Section 1005 of the House bill provides that the responsible party or the responsible party's guarantor is liable to claimants for interest on the amount paid in satisfaction of a claim, notwithstanding limitations of liability. Under this section, the responsible party or guarantor is generally liable for interest on the amount paid in settlement of a claim starting 30 days after the claim is presented, and ending on the date the claim is paid. However, if the guarantor offers a claimant an amount that is equal to or greater than the amount ultimately paid to settle the claim, there shall be no liability for interest accruing between the time the offer was made and the time it was accepted. If the offer is made within 60 days of the presentation of a claim, there shall be no liability for interest except for the period between the time the offer is accepted and the time it is paid. Section 1005(b)(4) specifies the means by which interest rates under the section shall be calculated.

The Conference substitute adopts the House provision, with the clarification that this section applies to prejudgment interest.

SEC. 1006. NATURAL RESOURCES

Section 102(d) of the Senate amendment provides that liability for injury to, destruction of, or loss of natural resources shall be to the United States government, a State government, or to a foreign government (or to some combination thereof) depending on the ownership, management or control of the injured resources involved. Federal officials designated by the President and the authorized representatives of states and foreign governments shall act on behalf of the public as trustees to recover damages under this section. Sums recovered by the United States Government are to be retained by the trustee, without further appropriation, for use only to restore, replace, or acquire

the equivalent of the harmed natural resources. The President, acting through the Administrator of the National Oceanic and Atmospheric Administration, is directed to establish a system for assessing damages to natural resources including a measure of damages equal to the costs of restoration, replacement or acquisition of equivalent resources, and the diminution in value of those resources pending restoration.

Section 1006 of the House bill is similar except that it includes Indian tribes as trustees for resources under their ownership or control. Subsection (c) spells out the responsibility of trustees to assess natural resource damages and to develop and implement restoration plans. Subsection (d) provides that the measure of damages shall be the cost of restoring, rehabilitating, replacing or acquiring the equivalent of the damaged natural resources, plus the diminution in value of those resources pending restoration. Subsection (e) requires the President to promulgate regulations within two years for the assessment of natural resource damages arising out of an incident. Subsection (f) provides that sums recovered under the House bill by a trustee shall be retained by the trustee in a revolving trust account, without further appropriation, for use only to reimburse or pay costs incurred by the trustee under subsection (c). Any amounts in excess of those required for this purpose shall be deposited in the Fund. Finally, subsection (g) authorizes the imposition of a civil penalty against a responsible party liable for damages to natural resources that cannot be restored, rehabilitated or replaced, and for which no equivalent can be acquired.

The Conference substitute accepts the House provision with six changes. First, the substitute includes a technical change to subsection (a), specifying that the section applies only to injury to natural resources under the Conference substitute. Second, subsection (e) of the substitute adopts the Senate provision vesting the Under Secretary of Commerce for Oceans and Atmosphere with the responsibility for promulgating natural resource damage assessment regulations. Third, a conforming change is made in subsection (d) to make it clear that the standard for measuring damages to natural resources shall apply to all actions for such damages brought under the Conference substitute. Fourth, the substitute adds a new subsection (d)(1)(C) providing that the measure of damages shall include the reasonable costs of assessing those damages. Fifth, the substitute deletes subsection (g) of the House bill, dealing with civil penalties. Finally, a new subsection (g) is added, dealing with judicial review.

Thus, in addition to providing remedies for removal costs and for economic damages suffered by private parties, the legislation requires trustees to act on behalf of the public to assess natural resource damages, prepare and implement a plan for repairing the injury done to the environment, and to seek compensation from the responsible party.

The substitute provides that, in addition to the reasonable costs of assessment, the measure of damages in any action for natural resource damages shall be the cost to restore, rehabilitate, replace, or acquire the equivalent of the injured resources, plus the diminution in value of those resources until they are restored. "Diminution of value" refers to the standard for measuring natural resource damages used in the recent D.C. Circuit Court decision, *Ohio et al. v. U.S. De-*

partment of the Interior, 880 F.2d 432, 462-480 (D.C. Cir. 1989).

The trustees, in developing plans under subsection (c), shall give priority to efforts to restore, rehabilitate and replace damaged resources. The alternative of acquiring equivalent resources should be chosen only when the other alternatives are not possible, or when the cost of those alternatives would, in the judgment of the trustee, be grossly disproportionate to the value of the resources involved.

"Equivalent" resources under this section are resources that the trustee determines are comparable to the injured resources. Equivalent resources should be acquired to enhance the recovery, productivity, and survival of the ecosystem affected by a discharge, preferably in proximity to the affected area.

Calculating the total measure of damages under this section will ordinarily be dependent upon the development by the trustees of the appropriate plans for mitigating the injury to those resources. This is because the estimated cost of implementing the plans will be a major component of the measure of damages. Therefore, the trustees should, in sequence, conduct the necessary assessments, develop and estimate the cost of implementing the appropriate plans, and calculate the diminution in lost use and other values of the injured resources pending restoration. At that point, the total liability of a responsible party under this section can be calculated.

There may be instances where two or more trustees share jurisdiction or control over natural resources. In such cases, trustees should exercise joint management or control of the shared resources. Thus, one class of trustee cannot preempt the right of other classes of trustees to exercise their trusteeship responsibilities. The substitute does, however, prohibit double recovery of damages. The trustees should coordinate their assessments and the development of restoration plans, but the substitute does not preclude different trustees from conducting parallel assessments and developing individual plans.

The substitute requires that the regulations for assessing natural resource damages under this section will be issued in a timely manner. These regulations, not regulations previously issued by the Department of the Interior for assessing damages to natural resources, shall apply to all oil spill incidents occurring after the enactment of this substitute. The regulations should faithfully reflect the standard of measurement referred to in subsection (d), and should be designed to simplify the trustees' task of assessing and recovering the full measure of damages resulting from an incident.

The concept in subsection (f) that sums recovered by natural resource trustees shall be available to, and used by, the trustees to repair and otherwise mitigate injury to natural resources is similar to that contained in section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.). However, trustees have had difficulty, to date, in gaining access to already recovered sums because the money has been deposited in the General Fund of the Treasury. The language in subsection (f) is intended to avoid this problem by stating explicitly that sums recovered for natural resource damages, including reimbursement for the costs of assessing those damages, shall be retained in separate, interest-bearing accounts within the Treasury and shall be directly available

to trustees to carry out the purposes specified in the substitute. Amounts that are clearly in excess of those needs shall be deposited in the Fund.

Subsection (g) provides that a person may seek review in the Federal district courts of the actions of any Federal official who is alleged to have failed to perform a non-discretionary duty under section 1006 of the substitute (dealing with the rights and responsibilities of natural resource trustees). The Conferees do not intend that this provision expand or diminish rights existing under current law.

SEC. 1007 RECOVERY BY FOREIGN CLAIMANTS

Section 102(e) of the Senate amendment provides for recovery by foreign claimants who have not been otherwise compensated. Recovery is available where there has been a discharge, or threat of a discharge, into the territorial sea, internal waters, or adjacent shoreline of the claimant's country, and one of the following is the source of the discharge or threat of a discharge: (1) an OCS or deepwater port facility; (2) a vessel within the navigable waters of the U.S.; (3) a vessel carrying oil as cargo between two ports subject to the jurisdiction of the U.S.; or (4) a tanker transporting oil from the Trans-Alaska Pipeline System (TAPS) to a U.S. port. Except for those seeking compensation for a discharge from tank vessel carrying TAPS oil, the claimant must show that recovery is either authorized by treaty or agreement between the U.S. and the claimant's country or that the Secretary of State, in consultation with the Attorney General, has certified that a comparable remedy would be available in that country for U.S. claimants.

Section 1007 of the House bill is similar, except that it does not specify recovery for a discharge, or threat of a discharge, from a vessel carrying oil as cargo between two ports subject to the jurisdiction of the United States. The section also requires foreign claimants to seek compensation under two international oil pollution conventions before presenting a claim to the Fund. Finally, the section clarifies that only Canadian residents may present claims for TAPS-related spills, notwithstanding the requirement for an authorizing treaty or certification of comparable treatment for U.S. citizens.

The Conference substitute accepts the Senate provision, with technical changes, and with the clarification in the House bill concerning the right of Canadian residents to bring claims for TAPS-related spills.

SEC. 1008. RECOVERY BY RESPONSIBLE PARTY

The Senate amendment has no comparable provision.

Section 1008 of the House bill allows a responsible party or the owner of oil on a tank vessel, or a guarantor for that responsible party or owner of oil, to assert a claim for removal costs and damages only if the responsible party or owner can show that the responsible party or owner has a defense to liability, or is entitled to a limitation of liability. In the latter case, a claim may be submitted only to the extent amounts paid by the responsible party or owner, or by a guarantor on the responsible party's or owner's behalf, exceeds the applicable limit on liability.

The Conference substitute accepts the House provision with the deletion of references to owner of oil.

SEC. 1009. CONTRIBUTION

The Senate amendment has no comparable provision.

Section 1009 of the House bill permits a person to bring an action for contribution against another person liable or potentially liable under the House bill, provided that the action shall be brought in accordance with section 1013 of the bill.

The Conference substitute accepts the House provision with a change requiring that the action for contribution be brought in accordance with section 1017. Thus, the action must be brought within three years after the date of judgment in any action under this substitute, or within three years after the date of a judicially approved settlement. This section does not bar any action for contribution that is available under other law.

The Conference substitute is also changed to allow actions for contribution against any person who is liable or may be liable under any law.

The Conferees note that this section might come into play in an instance where more than one party is involved with a spill. For example, a spill may occur when oil is being transferred between a vessel and an onshore facility. If the discharge comes from the vessel, it is the vessel that will be the responsible party for purposes of the Conference substitute. Nevertheless, if action or omission of the onshore facility contributed to the discharge, the operation of this section or section 1015 on subrogation could result in the facility being held accountable financially in part or in whole.

SEC. 1010. INDEMNIFICATION AGREEMENTS

Section 102(f) of the Senate amendment provides that no indemnification, hold harmless or similar agreement or conveyance may transfer the liability established under the amendment. However, this does not preclude agreements where one party agrees to pay for all or part of the liability to which another party is subject under the amendment. In addition, the section provides that nothing in the amendment shall bar a cause of action that an owner or operator, or a guarantor, would have by reason of subrogation or other law against another person.

Section 1010 of the House bill is similar, except that it uses the term "responsible party", rather than "owner or operator".

The Conference substitute accepts the House provision.

SEC. 1011. CONSULTATION ON REMOVAL ACTIONS

Section 106(d) of the Senate amendment requires the President to consult with an affected State or States on the appropriate removal action to be taken. The action shall be considered completed when determined by the President and the Governor or Governors of the affected States.

Section 1011 of the House bill requires that the President consult with the natural resource trustees on the appropriate removal action to be taken. For the purposes of the National Contingency Plan, removal with respect to any discharge is considered completed when so determined by the President in consultation with the Governor or Governors of the affected States. However, this determination does not preclude additional removal actions under applicable State law.

The Conference substitute adopts the House provision. However, it should be noted that, under section 1012(a) of the Conference agreement, the Fund is available to pay removal costs only if the Presi-

dent determines that the costs are consistent with the National Contingency Plan. Ordinarily, removal costs incurred by a Governor after the President has determined that cleanup is complete will not be recoverable from the Fund unless the President determines that the additional costs were necessary to maintain the level of cleanup previously approved by the President. Reimbursement may be sought, however, from the responsible party, or from the responsible party's guarantor, for all removal costs covered by this substitute.

SEC. 1012. USES GENERALLY

Section 1012(a). Uses of the Fund

Section 103(a) of the Senate amendment enumerates the purposes for which the President may use the Fund. These include the payment of: (1) all removal costs incurred by the Federal government; (2) claims for removal costs and damages that are not settled in accordance with section 103(c); (3) removal costs and damages from spills from foreign offshore units; (4) removal costs incurred by a State under section 103(d); (5) the costs of assessing damages to natural resources; (6) the costs of restoring, replacing, rehabilitating or acquiring the equivalent of the damaged resources, except that Federal efforts to acquire land or interests therein are subject to appropriations; (7) the costs, up to \$50 million, of establishing a national oil spill response system; (8) the costs, subject to appropriations, of maintaining the oil spill response system, including an oil spill research and development program; (9) the costs of a program to take enforcement and abatement action against discharges of oil; and (10) all administrative and personnel costs of administering the Fund and the substitute.

Section 1012(a) of the House bill sets out a list of seven purposes for which the President may use the Fund. These are: (1) the payment of Federal removal costs, including the cost of monitoring removal actions; (2) the costs incurred by trustees, other than foreign trustees, in assessing damages to natural resources and developing restoration plan; (3) the payment of State removal costs incurred under subsection (d); (4) the payment of removal costs and damages for discharges from a foreign offshore unit; (5) the payment of the administrative, personnel and enforcement expenses of the Act, including the research program established in title VII; (6) payments to the International Oil Spill Fund; and (7) all otherwise uncompensated removal costs and damages in accordance with the claims procedures of section 1013 of the House bill.

The Conference substitute includes provisions from both the House bill and the Senate amendment, while combining some categories that were deemed duplicative. In addition, the substitute places a limitation on certain expenditures, drops the provision in the House bill authorizing payments to the International Fund, and provides a specific authorization of payments from the Fund for certain purposes.

Under the substitute, the Fund is available to the President for five purposes:

(1) the payment of removal costs, including the cost of monitoring removal actions, by Federal authorities or by a Governor or designated State official under subsection (d) of this section. The purpose of these payments is to allow authorized Federal officials and, to a limited extent, authorized State officials to act quickly to prevent or minimize damages from an incident;

(2) the costs incurred by Federal, State, or Indian tribe trustees in carrying out their functions under section 1006 of the Act;

(3) the payment of removal costs and damages resulting from a discharge, or a substantial threat of a discharge, from a foreign offshore unit;

(4) the payment of uncompensated removal costs or damages in accordance with the claims procedure under section 1013; and

(5) the payment of Federal administrative, operational and personnel costs and expenses reasonably necessary for and incidental to, the implementation, administration and enforcement of this Act. Specific reference is made to some of the provisions of the Act for which payments of the Fund are authorized. In addition, specific authorizations are included for three categories of expenditures as follows: Not more than \$25 million in any fiscal year for Coast Guard operating expenses necessary to implement the Act, which amounts are in addition to the \$50 million made available annually without further appropriation under Section 6002(b) of the Conference substitute; not more than an additional \$30 million in each of the next two fiscal years to be used to establish the National Response System under section 311(j) of the FWPCA, as amended by the Conference substitute, including the purchase and pre-positioning of oil spill removal equipment; and not more than \$27.25 million in any fiscal year to carry out the research and development program authorized in title VII.

Payments for removal costs and natural resource damage assessment in categories (1), (2), (3), and (4) may be made only if they are deemed by the President to be consistent with the National Contingency Plan.

To understand fully the potential uses of moneys in the Fund, it is necessary to read this subsection in connection with section 6002 of the Act and section 9509 of the Internal Revenue Code. The former relates to the need for appropriations prior to the expenditure of money from the Fund; the latter restricts the total amount available from the Fund for an incident to \$1 billion and, within that overall limit, restricts damages for injury to natural resources to \$500 million per incident.

Expenditures from the Fund may occur in four ways. First, up to \$50 million is available, without further appropriation, in any fiscal year, for oil spill removal actions and to initiate the assessment of damages to natural resources under section 1006. These purposes fall within categories (1) and (2) of section 1012(a).

Second, additional amounts are available as needed, subject to appropriations, for categories (1), (2) and (3). These amounts may be obligated by the Federal official or officials designated under the regulations authorized in subsection (c), and are not necessarily subject to the claims procedures in section 1013.

Third, amounts are available under category (4), without further appropriation, to pay uncompensated claims in accordance with section 1013.

Finally, amounts are available, subject to appropriations, for the purposes listed in category 5, except that \$5 million is made available, without further appropriation, to carry out sections 5003 and 5004 of this Act (concerning safety of navigation in Prince William Sound, Alaska).

Whenever payments are made out of the Fund for the purposes listed in categories 1 through 4, vigorous efforts should be made by the Fund to seek prompt and full reim-

bursement from the responsible party or, in the case of a foreign offshore unit, from the person or government responsible for that unit.

A dispute has arisen among several Federal agencies with respect to reimbursements from the Fund established by section 311(k) of the FWPCA for costs incurred by those agencies while responding to the *Exxon Valdez* oil spill. At issue is whether Federal agencies should be reimbursed only for the incremental costs incurred as the result of a spill (primarily travel and overtime), or whether the base salaries of individuals diverted from other duties to work on oil spill response should be included. Under the Conference substitute, both incremental and base costs should be included, except for persons normally available for oil spill response, when calculating the cost of Federal efforts to respond to a spill. Reimbursement for these costs should be sought from the responsible party, and agencies that assist in oil spill response actions should be fully compensated by the Fund or by the responsible party for that assistance.

SEC. 1012 (B). DEFENSE TO LIABILITY FOR FUND

Section 103(f) of the Senate amendment provides that the Fund shall not be available to pay any claim for costs or damages to the extent the discharge or the damages were caused by the gross negligence or willful misconduct of that particular claimant.

Section 1012(b) of the House bill is a similar provision stating that the Fund shall not be available to pay a claim for removal costs or damages to a particular claimant, to the extent that the incident, removal costs, or damages are caused by the negligence of the claimant.

The Conference substitute adopts the Senate provision, with technical changes. Thus, the subsection provides a defense to liability for the Fund with respect to a particular claimant, to the extent that the incident, removal costs, or damages are caused by the gross negligence or willful misconduct of that claimant.

Section 1012(c). Obligation of Fund by Federal Officials

Section 103(c) of the Senate amendment authorizes the President to designate the Federal officials authorized to obligate money from the Fund and to perform other functions under this section. The President is also authorized to delegate authority to State officials to obligate money in the Fund or to settle claims if the State has an adequate program operating under a cooperative agreement with the Federal Government. The section also requires the Secretary of the Treasury, at the request of the Secretary of Transportation, to provide advance payments of up to \$1 billion per incident from the Fund to pay removal costs or damages.

Section 1012(c) of the House bill authorizes the President to promulgate regulations designating one or more Federal officials, in addition to the Commandant of the Coast Guard, who may obligate money in the Fund. The President may also delegate this authority to State officials operating under a cooperative agreement.

The Conference substitute provides simply that the President may promulgate regulations designating one or more Federal officials who may obligate money in accordance with subsection (a).

Section 1012 (d) and (e). Access to Fund by State Officials Regulations

Section 103(d) of the Senate amendment authorizes the Governor of a State to obli-

gate up to \$250,000 from the Fund for the payment of removal costs for an incident, subject to notification of the President within 24 hours. The President and the States are authorized to enter into agreements for further response actions by the State. Regulations governing the obligation authority and agreements are to be proposed within six months of enactment.

Section 1012(d) of the House bill is a similar provision that authorizes States to obligate up to \$250,000 for costs required to respond to a discharge of oil. A Governor must advise the Secretary within 24 hours of any obligation from the Fund. As with the Senate amendment, proposed regulations for obligations and agreements are required to be published within six months of enactment.

The Conference substitute differs from both the House bill and the Senate amendment by removing the authority of a State Governor to obligate money directly from the Fund. Instead, any decision to obligate funds must be made by the President, upon the request of a Governor, for up to \$250,000 for removal costs consistent with the National Contingency Plan.

The substitute includes language from the Senate amendment authorizing the President to enter into cooperative agreements with the States for the purpose of establishing procedures, in advance, under which a Governor may receive expedited payments under this section to respond to a discharge. This provision is intended to provide a mechanism for immediate response by State officials to discharges posing a substantial threat to the Public health or welfare. Subsection (e) requires the President to promulgate regulations within six months detailing the manner in which agreements under subsection (d) are to be developed.

Section 1012(f). Rights of Subrogation

Section 103(e) of the Senate amendment authorizes the Fund to acquire by subrogation the rights of claimants to which the Fund paid removal costs or damages and to recover those removal costs or damages from the responsible party.

Section 1012(f) of the House bill is a similar provision stating that the payment of any claim or obligation by the Fund shall be subject to the United States Government acquiring by subrogation all rights of the claimant or State to recover from the responsible party.

The Conference substitute adopts the House provision.

Section 1012(g). Audits

Section 103(g) of the Senate amendment and section 1012(g) of the House bill are similar provisions requiring the Comptroller General to submit to Congress a complete audit report on the Fund one year after enactment, and later as appropriate.

The Conference substitute adopts the House provision.

Section 1012(h). Period of Limitations for Claims

Sections 103(h) of the Senate amendment establishes a statute of limitations for presentation of claims for recovery of removal costs of six years after the completion of the removal action, and a limitation for claims for damages of three years after the date of discovery of the loss. With respect to claims for damages to natural resources, claims must be presented by the later of: (1) three years from the date of discovery of the loss; or (2) the date of completion of the natural resource damage assessment under section 1006. Exceptions to the time limita-

tions are provided for minors and incompetent persons.

Section 1012(h) of the House bill is similar except that the statute of limitations for claims for removal costs is three years.

The Conference substitute adopts the Senate provision.

Section 1012(i). Limitation on Payment for Same Costs

Section 103(i) of the Senate amendment and section 1012(i) of the House bill are similar provisions prohibiting the double payment from the Fund for any removal costs or damages.

The Conference substitute adopts the House provision.

Section 1012(j). Obligation in Accordance With Plan

Section 103(j) of the Senate amendment and section 1012(j) of the House bill are similar provisions requiring that any obligation of the Fund to repair injury to natural resources be in accordance with the plans for natural resource restoration, rehabilitation, replacement, or acquisition required to be developed by trustees under section 1006. This requirement does not apply in situations requiring immediate action to preserve natural resources.

The Conference substitute adopts the House provision.

Section 1012(k). Preference for Private Persons in Area Affected by Discharge

Section 103(k) of the Senate amendment requires that preference be given local residents when Federal funds are used for contracting for the removal of oil.

The House bill has no similar provision.

The Conference substitute adopts the Senate provision, with the stipulation that this subsection shall not be considered to restrict the use of Department of Defense resources.

SEC. 1013. CLAIMS PROCEDURE.

Section 103(c)(4)(D) of the Senate amendment provides that no claim may be asserted against the Fund unless the claim is first presented to the applicable owner or operator, and the claim is not satisfied within 180 days. No claim against the Fund may be approved or certified during the pendency of any action by the claimant in court to recover costs which are the subject of the claim. The President is required to promulgate regulations governing the consideration and settlement of claims under this Act.

Section 1013 of the House bill provides, with certain exceptions, that claims shall first be presented to the responsible party or, when appropriate, to the owner of the oil. If each person to whom the claim is presented denies liability, or if the claim is not settled within 90 days after the claim was presented, or advertising was begun pursuant to section 1014(b), whichever is later, the claimant may elect to commence an action in court against the responsible party or guarantor or to present the claim to the Fund. The section also provides that claims may be presented first to the Fund in any of the four circumstances listed in subsection (b). If full compensation is not available to settle a claim presented in accordance with this section, a claim for the uncompensated removal costs and damages may be presented to the Fund. As in the Senate provision, the President is required to promulgate regulations governing the consideration and settlement of claims.

The Conference substitutes adopts the House provision with the deletion of references to the owner of oil, and with the addi-

tion of the Senate provision, in modified form, providing that no claim by a particular claimant may be approved or certified during the pendency of an action by the claimant in court to recover the costs which are the subject of the claim.

In implementing this section, the President may use the facilities and services of private insurance and claims adjustment organizations or State agencies in processing claims against the Fund and may contract to pay compensation for those facilities and services. The Conferees also intend that the President may make advance payments to the contractor to be used for the payment of claims.

SEC. 1014. DESIGNATION OF SOURCE AND ADVERTISEMENT

Section 103(c)(4)(B) of the Senate amendment requires the President to notify an owner or operator or guarantor whenever the President receives notice of an allegation that his or her vessel or facility is or may be liable under section 102 of the amendment. The owner or operator or guarantor may deny the allegation or the liability within five days after being notified by the President. Section 103(c)(4)(C) requires the owner or operator of a vessel or facility from which oil has been discharged to provide notice of all potentially injured parties.

Section 1014 of the House bill sets out the procedures for disseminating information about an incident, taking into account that under FWPCA, the person in charge of a vessel or facility must immediately notify the appropriate Federal official of an incident. Failure to give that notice subjects the person to the penalties provided in FWPCA and, under section 1003 of the House bill, denies that person a defense to liability. Under subsection (a) of section 1014, the Secretary is required, after receiving notice of an incident, to designate, when possible and appropriate, the source of the discharge or threat of a discharge, and to notify the responsible party and guarantor, if known. As in the Senate provision, the responsible party or guarantor has five days to deny the designation. Otherwise, the responsible party or guarantor is required, within 15 days, to begin advertising the designation and the procedures by which claims may be presented. If no advertising is begun, the Secretary shall do so. Advertising shall continue for at least 30 days.

Under this section, the Secretary is only required to designate the source "where possible and appropriate". An example of when a designation might not be appropriate is an incident where the Secretary determines there is no possibility that any removal costs or damages will be sustained by any potential claimant.

The Conference substitute adopts the House provision. The Conferees intend that uniform procedures shall be established and that these procedures are used by both public and private parties.

SEC. 1015. SUBROGATION

Section 103(e)(2) of the Senate amendment and section 1015 of the House are similar provisions providing a right of subrogation to anyone who compensates a claimant for costs or damages under this Act.

The Conference substitute adopts the House provision with one technical change.

SEC. 1016. FINANCIAL RESPONSIBILITY

Section 104 of the Senate amendment and section 1016 of the House bill are generally similar provisions setting out the requirements for evidence of financial responsibility necessary to satisfy the liability provi-

sions of section 102(c) and section 1004, respectively. However, there are two significant differences in the provisions. First, the House provision gave the responsibility for promulgating regulations under this section to the Secretary, while the Senate provision gave this responsibility to the President. Second, the House bill included requirements for demonstration of financial responsibility, where appropriate, by the owner of oil transported as cargo on a vessel.

The Conference substitute adopts the House provision, except that the responsibility for promulgating regulations governing financial responsibility for facilities is vested with the President, and the requirements for demonstration of financial responsibility by a cargo owner are dropped.

Section 1016 of the Conference substitute is intended to ensure that there will be adequate funds immediately available to compensate injured parties. Since the primary responsibility to compensate victims of oil pollution rests with the person responsible for the source of the pollution, that person is required to establish the capability to meet at least the amount of liability specified in section 1004 of this Act.

Subsection (a) of this section imposes on the parties responsible for tank vessels over 300 gross tons using U.S. waters or ports, or for tank vessels using the water of the Exclusive Economic Zone to transship or lighter oil destined for a place subject to U.S. jurisdiction, the requirement that they have insurance, surety bonds, qualify as self-insurers or have other evidence of financial responsibility sufficient to meet their liability up to the level of the limitation available under section 1004. This requirement to maintain evidence of financial responsibility is imposed on the responsible party for all vessels (except a public vessel or non-self-propelled vessel that does not carry oil as cargo or fuel), including foreign vessels using navigable waters of the United States or calling at offshore facilities subject to the jurisdiction of the United States, as covered by this substitute. Each vessel must carry on board at all times a certificate, issued by the appropriate U.S. government agency, evidencing financial responsibility.

Subsection (b) provides the necessary sanctions for enforcing the financial responsibility requirements. Failure to comply with subsection (a) will trigger a refusal of necessary clearances by the Secretary of the Treasury under customs laws, and may result in the denial of entry or detention of noncomplying vessels by the Secretary. In addition, paragraph (3) subjects any vessel and any oil carried as cargo on the vessel to seizure and forfeiture if the vessel is found in the navigable waters without evidence of financial responsibility.

Comparable requirements to maintain evidence of financial responsibility are placed on the responsible parties for offshore facilities. All offshore facilities, except deepwater ports, must establish necessary evidence of financial responsibility of \$150 million.

In the case of deepwater ports, whose limits of liability may be reduced by the Secretary based on the study required under section 1004(d)(2), financial responsibility must be established to meet the maximum of liability under section 1004(a)(4), or if reduced, under section 1004(d)(2)(C).

In general, a person who is the responsible party for more than one offshore facility, more than one deepwater port, or more than one vessel, need only establish finan-

cial responsibility equal to meet the maximum liability applicable to the facility, port, or vessel having the highest potential liability under this Act. In practice, this means that if a person is the responsible party for more than one offshore facility, that person must provide evidence of \$150 million in financial responsibility. If a person is the responsible party for more than one vessel, the person will be required to provide evidence of financial responsibility equal to that required for the largest vessel. However, the financial responsibility required under this section must be applicable to each offshore facility, or deepwater port, or vessel owned or operated by the responsible party. The insurance coverage, or other evidence of financial responsibility, shall not be limited to the largest facility, port, or vessel in question.

To provide claimants with a full range of options for pursuing their claims, subsection (f) authorizes direct action against anyone providing financial responsibility, as required by this section, for a responsible party. The defenses afforded to persons providing financial responsibility are limited to facilitate prompt recovery by claimants. The person providing financial responsibility can assert rights and defenses that the responsible party could have asserted, and can invoke the defense that the responsible party caused the incident through willful misconduct. In addition, the Secretary may authorize other policy terms and defenses which are necessary or which are unacceptable in establishing evidence of financial responsibility to foster a continuing market for providers of financial responsibility. No guarantor shall be liable in excess of the amount of financial responsibility which the guarantor has provided.

In accordance with subsection (h) owners and operators required to have evidence of financial responsibility may continue to operate under their current certificates of financial responsibility issued by the Coast Guard until the new regulations are promulgated and new certificates issued. However, this does not alter the liability in section 1002.

To avoid undue administrative burdens, the regulations for financial responsibility for vessels should be consolidated, wherever possible, with those under other Federal statutes. In this manner, only one certificate would be required for vessels to meet the requirements for financial responsibility for the statutes consolidated by this Act, and other pollution laws such as the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. This unified certificate, which is authorized in subsection (i), is intended to simplify administrative procedures only. Certification under one statute by a guarantor would not necessarily result in certification under another statute.

SEC. 1017. LITIGATION, JURISDICTION, AND VENUE

Section 105 of the Senate amendment and section 1017 of the House bill are generally similar provisions establishing the rules for litigation, jurisdiction, and venue.

The Conference substitute blends the provisions of the Senate amendment and the House bill.

Under subsection (a) of the Conference substitute, review of regulations under this Act may be undertaken only in the Circuit Court of Appeals of the United States for the District of Columbia and must be sought within 90 days of the promulgation

of the regulations. Any matter which is subject to review under this provision is not subject to review in any civil or criminal proceeding for enforcement or to obtain damages or removal costs.

Subsection (b) provides that the United States District Courts shall have exclusive original jurisdiction over all controversies arising under the Act, except for regulatory review under subsection (a) and State court actions under subsection (c). Venue lies in any district in which the discharge, injury or damages occurred, or in which the defendant resides, may be found, has its principal office, or has appointed an agent for service of process.

Appropriate State courts are given jurisdiction in subsection (c) over claims for removal costs and damages, and final judgments of those courts are valid and enforceable for all purposes of this Act.

Subsection (d) provides that subsection (a), (b), and (c) shall not apply to any controversy resulting from the assessment or collection of a tax, or related regulations, under the Internal Revenue Code of 1986.

Subsection (e) clarifies that nothing in this title shall apply to a cause of action or right of recovery arising from an incident that occurred prior to the enactment of this substitute, even if no action regarding such claims has been filed as of the date of enactment of this Act.

Subsection (f) establishes the following time limitations for bringing actions for removal costs and damages under the Act:

An action for damages is barred unless it is brought within three years after the later of: (1) the date of discovery of the loss and its connection with the discharge; and (2) in the case of damages payable to natural resource trustees described in section 1002(b)(2)(A), the date of completion of the natural resource damage assessment.

An action for recovery of removal costs must be commenced within three years after the completion of the removal action. In a removal action, the court is required to enter a declaratory judgment on liability that will be binding on any subsequent action involving the same parties. An action for removal costs may be brought at any time after the costs have been incurred.

An action for contribution for removal costs or damages must be commenced within three years after the date of judgment or settlement.

An action based on rights subrogated by reason of a payment of a claim must begin within three years of the date of payment of a claim.

The rights of minors and incompetent persons are preserved until such time as they become legally competent or a guardian ad litem is appointed.

SEC. 1018. RELATIONSHIP TO OTHER LAW

Section 106 of the Senate amendment and section 1018 of the House bill are generally similar provisions preserving the authority of any State to impose its own requirements or standards with respect to discharges of oil within that State. Both provisions preserve the authority of any State to establish or maintain funds for cleanup or compensation purposes and to collect any fees or penalties imposed under State law. Both provisions also authorize States to enforce the financial responsibility requirements of this Act on their own navigable waters.

The Conference substitute blends the provisions of the House and Senate bills, and adds a new subsection (d) pertaining to the liability of Federal employees.

Thus, subsection (a) of section 1018 of the substitute states explicitly that nothing in the substitute, or the Act of March 3, 1851 (the Limitation of Liability Act), shall affect in any way the authority of a State or local government to impose additional liability or other requirements with respect to oil pollution or to the discharge of oil within that State or with respect to any removal activities in connection with such a discharge. The subsection also makes it clear that nothing in this substitute or in the Limitation of Liability Act shall affect in any way the obligations or liabilities of any person under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) or State or common law.

Subsection (b) states that nothing in the substitute or in section 9509 of the Internal Revenue Code (the provision establishing the Fund) shall affect in any way the authority of a State to establish or maintain a fund, or to require a person to contribute to a fund, the purpose of which is, in whole or in part, to pay for costs or damages resulting from an incident.

Similarly, subsection (c) clarifies that nothing in the substitute, the Limitation of Liability Act, or in section 9509 of the Internal Revenue Code shall affect in any way the authority of the United States or any State or local government to impose additional liability or requirements, or to determine the amount of, any civil or criminal penalty for any violation of law.

Finally, the substitute adds a new subsection clarifying that, for the purposes of section 2679(b)(2)(B) of title 28 of the U.S. Code, nothing in this substitute shall authorize or create a cause of action against a Federal officer or employee in that person's individual capacity for any act or omission while the person is acting within the scope of the person's office or employment.

The Conference substitute does not disturb the Supreme Court's decision in *Ray v. Atlantic Richfield Company*, 435 U.S. 151 (1978).

SEC. 1019. STATE FINANCIAL RESPONSIBILITY

Section 106(c) of the Senate amendment and section 1019 of the House bill are similar provisions providing that a State may enforce, on the navigable waters of the State, the requirements for financial responsibility imposed under section 1016 of the Act. This authority includes the right to inspect vessels and facilities, to require the display of evidence of financial responsibility and to impose sanctions for failure to comply with the requirements.

The Conference substitute adopts the House provision.

SEC. 1020. APPLICATION

The Senate amendment has no comparable provision.

Section 1020 of the House bill provides that this Act shall apply to an incident occurring after the date of enactment of this Act.

The Conference substitute adopts the House provision.

TITLE II—CONFORMING AMENDMENTS

SEC. 2001. INTERVENTION ON THE HIGH SEAS ACT

Section 403 of the Senate amendment amends the Intervention on the High Seas Act to make available to the Secretary, for intervention procedures relating to the discharge of oil authorized by that Act, the Fund implemented by this Act.

Section 2001 of the House bill provides the same availability of the Fund.

The Conference substitute adopts the House provision with a clarification that the

Fund is available for intervention procedures relating to the discharge of oil only.

SEC. 2002. FEDERAL WATER POLLUTION CONTROL ACT

Section 403 of the Senate amendment amends section 31 of the FWPCA. The amendments serve numerous purposes described in the following paragraphs.

Subsection (a) amends subsection (d) of section 311 by deleting a sentence which is made unnecessary by the Senate amendment.

Paragraph (b)(1) clarifies that subsections (f), (g), and (i) of section 311 are not applicable to any incident for which liability is established under section 1002 of the Act. Paragraph (b)(2) amends subsection (f) of section 311 specifically to provide that owners of onshore facilities are responsible for removal costs.

Subsection (c) amends subsection (i) of section 311 by deleting clauses made unnecessary by the Senate amendment.

Subsection (d) repeals subsection (k) of section 311 and transfers any remaining amounts in the account created under subsection 311(k) to the Oil Spill Liability Trust Fund. The Fund shall assume all liability incurred by the 311(k) fund in the future.

Subsection (e) makes a conforming amendment to subsection (1) by striking out the second sentence relating to expenditures from the 311(k) fund.

Subsection (f) repeals subsection (p) of section 311 relating to liability standards for vessels that are superseded by this Act.

Subsection (g) creates a new subsection 311(s) to provide that the Oil Spill Liability Trust Fund is available to carry out the provisions of section (c), (d), (i), and (1), as those subsections relate to discharges of oil.

The House bill also amends section 311 of the FWPCA in a similar fashion. The amendments serve numerous purposes described in the following paragraphs.

The first two amendments are to paragraph (c)(2) of section 311 of the FWPCA. Their effect is to modify the National Contingency Plan for removal of oil and hazardous substances, as prepared and published by the President, to include changes reflecting: (1) the continued operation and further enhancement of a system of surveillance and notice designed not only to provide notice of spills but also to help the Vessel Traffic Service System currently operated by the United States Coast Guard; and (2) authorizing reimbursement from the Fund established by this Act for reasonable costs in removing discharges of oil pursuant to the National Contingency Plan.

Subsection (d) of section 311 is amended to delete a clause made unnecessary by the House bill.

Subsection (e) of section 311 is amended to confer upon the President the authority to issue orders or seek injunctive relief through court action to compel persons to clean up oil spills. This authority is to complement the two other ways that the Act authorizes cleanup activities: voluntary cleanup activities financed by the responsible party, and fund-financed cleanups. The House bill then provides that the Attorney General may bring an action to enforce a cleanup order against a responsible party, may assess a civil penalty of no more than \$25,000 per day for each violation, and may assess treble damages if the responsible party refuses without sufficient cause to comply with an order. Lastly, the U.S. Dis-

trict Courts are given jurisdiction to grant relief under this subsection.

Subsections (f), (g), and (i) of section 311 of the FWPCA are clarified to be nonapplicable to any incident for which liability is established under section 1002 of the House bill.

Subsection (i) of section 311 is amended to delete clauses made unnecessary by the House bill.

Subsection (k) of section 311 is repealed and any amounts remaining in the fund created under section 311(k) shall be deposited in the general account of the Treasury. The newly established Oil Spill Liability Trust Fund shall assume all liability incurred by the 311(k) fund.

Subsection (l) of section 311 is amended by striking the second sentence regarding expenditures from the 311(k) fund.

Subsection (p) of section 311 is repealed because it sets out liability standards for vessels that are superseded by the House bill.

A new subsection (s) is added to provide that the Oil Spill Liability Trust Fund shall be available to carry out the provisions of section (c), (d), (i), and (l), as those sections relate to discharges of oil.

The Conference substitute adopts section 2002 (4), (5), (6), (7), (8), and (9) of the House bill. The Conference substitute amends paragraph (g) to require funding of subsections (b), (c), (d), (j), and (l) of section 311. It is important to note that following enactment, liability and compensation for oil pollution removal costs and damages caused by a discharge from a vessel or facility (as defined in this substitute) will be determined in accordance with this substitute. The Fund implemented by this substitute, however, will be available to the Coast Guard and other government agencies for immediate removal of spills of all types of oil from all sources in the same manner as the fund established by section 311(k) is presently available to respond to such spills.

SEC. 2003. DEEPWATER PORT ACT

Section 404 of the Senate amendment amends the Deepwater Port Act of 1974 (33 U.S.C. 1501-1524) by repealing various subsections in section 18 of that Act pertaining to oil pollution liability and compensation which are superseded by the Senate amendment. This subsection also provides that amounts remaining in the Deepwater Port Liability Fund shall be deposited in the Fund. The Fund will assume all liabilities of the Deepwater Port Liability Fund.

Section 2003 of the House bill contains similar provisions. In addition, it amends section 19 of the Deepwater Port Act of 1974 to make it clear that civil penalties for discharges from a deepwater port or from a vessel in a deepwater port safety zone can be assessed only under section 18 of the Deepwater Port Act, thereby eliminating overlapping and conflicting coverage of deepwater ports for civil penalties.

The Conference substitute adopts the House provisions with the exception all of section 18 of the Deepwater Port Act of 1974 is repealed because this liability provision is superseded by this substitute. Further amendments to section 19 were not adopted.

SEC. 2004. OUTER CONTINENTAL SHELF LANDS ACT AMENDMENTS OF 1978

Section 405 of the Senate amendments provides that the remaining balance of the Offshore Oil Pollution Compensation Fund established under the Outer Continental Shelf Lands Act Amendments of 1978

(OCSLA) is transferred to the Oil Spill Liability Trust Fund and that the Fund will assume all liabilities of the former fund. Title III of that law (Public Law 95-372), which established the Offshore Oil Pollution Compensation Fund, is repealed in its entirety.

Section 2004 of the House bill is virtually identical.

The Conference substitute adopts the House provision.

PROVISIONS RELATING TO EFFECTIVE DATE

Section 2005 of the House bill sets the effective dates of various provisions in this title consistent with the commencement date provided in section 4611(f)(2) of the Internal Revenue Code of 1986. This was not included in the Conference substitute because it is an erroneous cross reference.

TITLE III—INTERNATIONAL OIL POLLUTION PREVENTION AND REMOVAL

SEC. 3001. SENSE OF CONGRESS REGARDING PARTICIPATION IN INTERNATIONAL REGIME

The Senate amendment has no similar provision.

Title III of the House bill, entitled "Implementation of International Conventions", provides statutory authority to implement the International Convention on Civil Liability for Oil Pollution Damage, 1984, and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1984. These provisions would have been effective only after ratification by the Senate. The Conventions provide for United States participation in a global oil spill liability and compensation regime which grants jurisdiction over vessels operating in innocent passage and outside our territorial waters if they cause oil pollution damage to the United States. The Conventions also allow for coverage of up to approximately \$280 million per incident from the International Fund in addition to coverage provided by domestic law. The following paragraphs describe the specific House provisions.

Section 3001 of the House bill provides that the terms defined have the same meaning as defined in the International Convention on Civil Liability, 1984. Further, the section defines "Civil Liability Convention", "financial responsibility", "Fund Convention", and "International Fund".

Section 3002 of the House bill states that when the Civil Liability Convention and the Fund Convention are in place, liability shall be determined in accord with those Conventions. Subsection (b) provides that the Oil Spill Liability Trust Fund must indemnify and defend the responsible party in actions brought under any law (including State law) for any incident covered by the Civil Liability Convention. In this case, the Fund acts as the defendant, and after payment to the claimants may then collect reimbursable costs from the shipowner and the International Fund, as provided under the Conventions.

Section 3003 of the House bill provides that the International Fund is recognized as a person under U.S. law and that the Fund Director is the legal representative of the International Fund. The Secretary of State is the Fund's agent for service of process. Lastly, the Fund and its agents are exempt from all direct taxation of assessment of duties in the United States. These exemptions have their basis in paragraphs 1 and 4 of article 34 of the International Fund Convention.

Section 3004 of the House bill requires that the International Fund be served a

copy of any complaint and any subsequent pleading filed in any action brought in the U.S. under the Civil Liability Convention. It also entitles the Fund to intervene as a party in any such actions.

Section 3005 of the House bill provides that the Fund shall be responsible for the payment of annual contributions to the International Fund. The Secretary is granted the authority to require persons making contributions to the Fund to furnish all necessary information regarding oil delivered.

Section 3006 of the House bill requires U.S. courts to recognize decisions made under the International Conventions by a court of any nation which is a party to that Convention.

Section 3007 of the House bill sets out the financial responsibility requirements needed to implement the Civil Liability Convention and provide sanctions for failure to observe those requirements. This section also establishes a civil penalty of up to \$25,000 per day for violation of the requirements of this section. Lastly, the section provides for the waiver of U.S. sovereign immunity with respect to any controversy arising under the Civil Liability Convention and relating to a ship owned by the United States and used for commercial purposes.

Section 3008 of the House bill provides the Secretary with authority to issue rules and regulations necessary to implement the two International Conventions.

During the Conference, the House made a proposal modifying these provisions to clarify the relationship of the International Protocols to domestic law and to provide for the repeal of legislation implementing the participation of the United States in the international regime within five years if certain amendments to the International Conventions were not adopted. This modification was not accepted by the Senate.

The Conference substitute is a compromise proposal offered by the House to express the sense of Congress that the best interests of the United States would be served by participation in an international regime that provides for preventive measures as well as full and prompt compensation for damages resulting from oil spills at least as effective as domestic law.

SEC. 3002. UNITED STATES-CANADA GREAT LAKES OIL SPILL COOPERATION

Section 603 of the Senate amendment requires a report by the Secretary of State on agreement between the United States and Canada governing liability for potential oil spills in the Great Lakes and the St. Lawrence Seaway, and international contingency plans. The report would be due 30 days after the date of enactment.

Section 4115 of the House bill directs the Secretary of State to review the relevant international agreements with the Government of Canada, most importantly the Great Lakes Water Quality Agreement, to determine whether additional international cooperative efforts are necessary to protect the Great Lakes from oil spills and to provide fully compensation of those injured by oil spills. The review is to be conducted in consultation with the Great Lakes states, the International Joint Commission and other appropriate authorities. A report on this review is due within six months of the date of enactment.

Conference substitute adopts the House provisions.

SEC. 3003. UNITED STATES-CANADA LAKES
CHAMPLAIN OIL SPILL COOPERATION

The Senate amendment has no similar provision.

Section 4116 of the House bill directs the Secretary of State to review the relevant international agreements with the Government of Canada, to determine whether additional international cooperative efforts are necessary to protect Lake Champlain from oil spills and to provide full compensation of those injured by oil spills. The review is to be conducted in consultation with the States of Vermont and New York, the International Joint Commission, and other appropriate authorities. A report on this review is due within six months of the date of enactment.

The Conference substitute adopts the House provisions.

SEC. 3004. INTERNATIONAL INVENTORY OF
REMOVAL EQUIPMENT AND PERSONNEL

Section 202(8) of the Senate amendment adds a new section 311(c)(2)(K) to the FWPCA providing for the development and maintenance of an international inventory of equipment and personnel to remove oil and hazardous substances.

Subsection 4205(c) of the House bill calls on the President to encourage appropriate international organizations to establish an international inventory of emergency removal resources.

The Conference substitute adopts the House provision with technical changes.

SEC. 3005. NEGOTIATIONS WITH CANADA
CONCERNING TUG ESCORTS IN PUGET SOUND

The Senate amendment has no similar provision.

Section 3009 of the House bill contains a provision urging the Secretary of State to enter into negotiations with Canada regarding tug escorts for tank vessels of 40,000 deadweight tons in the Strait of Juan de Fuca and Haro Strait.

The Conference substitute adopts the House provision.

TITLE IV—PREVENTION AND REMOVAL

SEC. 4001. DEFINITIONS

Section 301 of the Senate amendment contains definitions of terms used in title III.

Section 4001 of the House bill also has definitions.

The Conference substitute deletes the definitions as unnecessary.

Subtitle A—Prevention

SEC. 4101. REVIEW OF ALCOHOL AND DRUG ABUSE
AND OTHER MATTERS IN ISSUING LICENSES,
CERTIFICATES OF REGISTRY, AND MERCHANT
MARINERS' DOCUMENTS

Subsection 303(c) of the Senate amendment requires an individual who has applied for a license, certificate of registry, or a merchant mariner's document or renewal of those documents to request the chief drivers licensing official of a State to provide to the Commandant of the Coast Guard information the Commandant deems appropriate regarding that individual's driving record.

Section 4101 of the House bill prohibits the Coast Guard from issuing a license, certificate, or document unless the individual makes available all information contained in the National Driver Register (NDR) regarding the driving record of that individual.

This section also provides for a review of the criminal record of individuals applying for a license, certificate, or document. The House bill also requires the Secretary to establish programs for drug testing individuals applying for issuance or renewal of

these documents. The Senate had no similar provisions.

The Conference substitute adopts the House provisions with modifications. This section is intended to give the Secretary additional information on the background of applicants for licenses, certificates of registry, and merchant mariners' documents. The purpose of this section (and sections 4102, 4103, and 4105) is to ensure that the Coast Guard can identify vessel personnel with motor vehicle offenses related to the use of alcohol and drugs. Abuse of these substances may evince possible unsafe vessel operations, leading to additional accidents and oil spills. Alcohol impairment may have played a role in the *Exxon Valdez* incident.

These provisions are intended to provide an additional tool in the effort to promote a drug- and alcohol-free workplace in the maritime industry. The voluntary efforts that the industry has undertaken to improve the safety of marine transportation through testing and rehabilitation of the work force are recognized and encouraged.

Section 4101(a) of the Conference substitute amends title 46 of the United States Code to receive applicants for licenses or certificates of registry to provide access to information contained in the NDR. Subsection (b) extends this requirement to applicants for a merchant mariner's document.

The NDR is a national compilation of vehicle offenses voluntarily reported by states and maintained by the Secretary of Transportation under Public Law 97-364. Under current law, locomotive operators or those seeking such a position may provide access to the NDR to a prospective employer. This provision is intended to expand and strengthen this practice for vessel personnel, given the relevancy of alcohol or drug infractions involving a motor vehicle to safe vessel navigation and the need for drug- and alcohol-free vessel operation.

Section 4101(a) also allows the Secretary to conduct a review of the criminal record of an applicant for a license. The Coast Guard is currently checking Federal Bureau of Investigation records. This provision codifies existing procedure. There is no intent to cause undue delay issuing a license.

SEC. 4102. TERM OF LICENSES, CERTIFICATES OF
REGISTRY, AND MERCHANT MARINERS' DOCU-
MENTS; CRIMINAL RECORD REVIEWS IN RE-
NEWALS

The Senate amendment had no similar provisions.

Subsection (a) of the House bill amends section 7107 of title 46, United States Code to set a five-year term for certificates of registry, with a five-year renewal period. Subsection (b) amends section 7302 of title 46 to set a five-year term for merchant mariner's documents, with a five-year renewal period. Subsection (c) sets January 1, 1990, as the effective date for subsections (a) and (b). Subsection (d) sets termination dates, calculated as though the changes under this section were in effect on the date the certificate or document was issued, for existing certificates and documents to provide for a staggered renewal period. Subsection (e) requires the Secretary to conduct a review of criminal records of individuals who seeks to renew a license.

The Conference substitute incorporates the House provision with technical changes. Providing an automatic five-year renewal period will allow the Secretary to ensure that vessel personnel continue to be qualified to operate a vessel safely.

SEC. 4103. SUSPENSION AND REVOCATION OF LI-
CENSES, CERTIFICATES OF REGISTRY, AND MER-
CHANT MARINERS' DOCUMENTS FOR ALCOHOL
AND DRUG ABUSE

Section 304 of the Senate amendment requires periodic, random, reasonable cause, and post-accident alcohol testing for personnel who perform safety sensitive functions on tankers in the navigable waters of the United States. It also directs the Coast Guard to determine whether to require holders to inform the Coast Guard when a holder is undergoing rehabilitation.

Subsection 4103(a) of the House bill authorizes the Secretary to request persons holding a license, certificate of registry, or merchant mariner's document to provide all information contained in the NDR. It also requires the Secretary to establish programs for testing persons holding a license, certificate, or document for use of alcohol and dangerous drugs. Programs may include periodic, random, reasonable cause, and post-accident testing.

The Conference substitute incorporates the House provisions and adds the requirement for pre-employment testing for dangerous drugs only.

Section 305 of the Senate amendment requires a temporary suspension of a license or document of an individual performing a safety sensitive function on a tanker if there is reason to believe that the individual was denied a motor vehicle license for cause within five years; had a motor vehicle license cancelled, revoked, or suspended for cause within the previous five years; was convicted of an alcohol offense within the previous five years; or operated a vessel while under the influence of alcohol. An expedited hearing on the suspension is required to be commenced within 15 days after the temporary suspension.

Section 4103(a)(1) of the House bill also gives the Secretary new authority to temporarily suspend a license, certificate, or document if the individual performs a safety sensitive function on a vessel and there is probable cause to believe there are grounds for suspension. The grounds include that a holder has performed the sensitive function while under the influence of, or while using alcohol or a dangerous drug; has been denied a driver's license for cause within the five-year period immediately before the temporary suspension; or has been convicted of an offense for which a license, certificate, or document can be suspended or revoked under sections 7703(2) or 7703(3) of title 46 of the U.S. Code. This subsection also requires an expedited hearing within 15 days of the temporary suspension.

Section 4103(a)(1) of the Conference substitute incorporates provisions from both the House and Senate to provide for a temporary suspension of a license, certificate, or document for not more than 45 days if the holder, when acting under authority of that license, certificate, or document, performed a safety sensitive function and there is probable cause to believe that: (1) the individual performed the function in violation of the law regarding the use of alcohol or a dangerous drug; (2) has been convicted of an offense that would prevent the issuance or renewal of a license, certificate, or document; (3) within the 3-year period preceding the initiation of the suspension hearing, has been convicted of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance, or the individual was involved in a traffic violation arising in connection with a fatal traffic ac-

cident, reckless driving, or racing on the highways. This section also provides that if a license is temporarily suspended, an expedited hearing is required to be held within 30 days after the temporary suspension.

The deadlines of 30 days for the hearing and 45 days for a decision are intended to protect the rights of an individual whose license, certificate, or document has been temporarily suspended. Unless a determination is made quickly, the individual may suffer irreparable harm.

Subsection 303(b) of the Senate amendment permits the Coast Guard to suspend or revoke a license or document if it is shown after an opportunity for hearing that the holder was convicted of a serious criminal offense that would reflect adversely on the offender's character and fitness to serve consistent with the interest of safety at sea; was convicted of a NDR offense within the prior five years; has had a driver's license denied, cancelled, revoked, or suspended for cause; or fails to meet the standards for issuance of the license or document.

Section 4103(b) of the House bill has similar provisions.

Section 4103(b) of the Conference substitute combines provisions of both bills. It expands the existing bases in law for suspending or revoking a license, certificate, or document by adding two new grounds: (1) the individual is convicted of an offense that would prevent the issuance of the license, certificate, or document; or (2) the individual is convicted of an offense described in the National Driver Register Act (such as driving under the influence of alcohol or dangerous drugs, reckless driving, or leaving the scene of an accident), within the three-year period immediately before the suspension or revocation.

The Senate amendment has no comparable provision regarding reissuance.

Section 4103(c) of the House bill adds a new requirement to existing law for reissuance of a revoked license, certificate, or document. The former holder must provide satisfactory proof that the bases for revocation are no longer valid. For example, if the basis for revocation concerns abuse of a dangerous drug, the former holder might show that he or she has successfully completed a drug treatment program and is involved in a substance abusers support group.

The Conference substitute adopts the House provision.

SEC. 4104. REMOVAL OF MASTER OR INDIVIDUAL IN CHARGE

There is no comparable provision in the Senate amendment.

House section 4104 establishes a procedure by which the two next most senior licensed officers on a vessel may temporarily relieve the master or individual in charge of a vessel when the individual in charge of a vessel is under the influence of alcohol or a dangerous drug and is incapable of commanding the vessel. Once the individual in charge of a vessel is relieved, the next most senior officer shall take command of the vessel, make a detailed entry in the vessel log, and report the incident by the most expeditious means available and in writing after reaching port. This section is intended to obligate the next most senior individuals on a vessel to remove the master if the master's ability to operate the vessel safely is impaired.

The Conference substitute adopts the House provision with technical amendments to clarify that the "next most senior officers" do not include engineers since these

officers are not qualified under their license to command a vessel.

The Conferees intend the term "individual in charge of the vessel" to mean a person who is a member of the vessel's complement. The definition of "under the influence" is meant to be that amount of alcohol as determined in regulations promulgated by the Secretary.

SEC. 4105. ACCESS TO NATIONAL DRIVER REGISTER

Section 303(a) of the Senate amendment amends the National Driver Register Act to authorize any person holding or applying for a license, certificate, or document to request the chief driver's licensing official of a State to send to the Commandant of the Coast Guard current information on his or her driving records contained in the National Driver Register. It also requires the Commandant to make that information available to the individual for comment before the information can be used as a basis for denying or otherwise affecting that person's license, certificate, or document. Information more than five years old, unless relating to sanctions still imposed, may not be transmitted.

The House provision, section 4105, is essentially the same.

Section 4105 of the Conference substitute incorporates these provisions but substitutes the Secretary as the person to whom information should be sent, and restricts transmittal of information that is more than three years old.

SEC. 4106. MANNING STANDARDS FOR FOREIGN TANK VESSELS

The Senate amendment does not have a similar provision.

Section 4106 of the House bill requires the Secretary to evaluate the manning, training, qualification, and watchkeeping standards for tank vessels of foreign countries on a periodic basis, and after a casualty involving a foreign tank vessel to ensure that those standards are equivalent to those of the United States or customary international law and that the standards are being enforced. The Secretary must deny entry to the United States to any foreign tank vessel that does not meet the equivalency and enforcement requirement, except that provisional entry for these vessels may be authorized if the vessel's owner or operator satisfies the Secretary that the vessel is not unsafe or a threat to the environment or that entry is necessary for the safety of the vessel or individuals on the vessel.

The Conference substitute includes House section 4106 with amendments. Instead of using the term "customary international law", the phrase "international standards accepted by the United States" is used in the substitute. The United States has not ratified the international Convention on Manning, Training, Certification, and Watchkeeping for Seafarers, although many maritime nations have adopted and are enforcing the Convention. Standards under United States law are more stringent than those contained in the Convention and those of many other nations. Enforcement of standards equivalent to those of the Convention should be considered as the minimum standard for meeting the requirement of this section so long as international law recognizes standards less stringent than those of the United States. The conferees intend that "standards equivalent to United States law" or "international standards accepted in the United States" may be considered to include the Convention on Stand-

ards for the Training, Certification, and Watchkeeping for Seafarers.

According to a study recently completed for the Coast Guard, the number of foreign tankers calling at United States ports has increased by more than 50 percent in the last three years. As the United States grows more dependent on foreign sources of oil and petroleum products, increased scrutiny of the growing foreign tank vessel traffic is necessary to protect the safety and the environment of United States ports.

The Conference substitute amends section 6101 of title 46, United States Code, by adding "significant harm to the environment" as a new class of casualties that must be reported by all vessels to the Secretary. It adds a new provision to 6101(d) to extend the reporting requirement to foreign tank vessels involved in certain marine casualties on waters subject to the jurisdiction of the United States, including the Exclusive Economic Zone. The marine casualties required to be reported under the new provision are those that involve material damage affecting the seaworthiness or efficiency of the vessel or when there is significant harm to the environment.

This provision is intended only to expand the Coast Guard's investigative authority in certain incidents. This language is not intended to and does not expand the authority of the National Transportation Safety Board (NTSB) to investigate incidents that occur on foreign vessels in international waters. The NTSB's sole jurisdiction is found in the Independent Safety Board Act of 1974 (49 U.S.C. 1901) and Title VII of the Federal Aviation Act of 1958 (49 U.S.C. 1441). Section 4106 does not amend either of these laws, nor does it offer any independent grant of marine investigative authority to the Board.

The Conferees do not intend that this section conflict with international comity or interfere with the right of innocent passage. This section should be interpreted to be consistent with the right of a nation to conduct activities it may deem necessary to protect the safety or environmental quality of its waters.

SEC. 4107. VESSEL TRAFFIC SERVICE SYSTEMS

Section 306 of the Senate amendment requires the Secretary, within one year of enactment, to report to certain committees of Congress a list of ports that are in need of new, expanded, or improved Vessel Traffic Service (VTS) systems. The ports are to be ranked in order of need based on factors, such as the nature, volume, and frequency of vessel traffic into and out of the ports; and the risks of collisions, spills, and damages associated with traffic that could be reduced or eliminated by a VTS system. In addition, this section authorizes the Secretary to establish and implement a system for the collection of payments by users of VTS systems in the United States.

Section 4107(a) of the House bill amends the Ports and Waterways Safety Act to require mandatory participation in VTS systems by appropriate vessels. It provides that no appropriation is to be made for a project to construct, operate, maintain, improve, or expand a VTS system unless it is approved by a resolution adopted by the House Committee on Merchant Marine and Fisheries and the Senate Committee on Commerce, Science, and Transportation. This subsection requires the Secretary to transmit to Congress a report on proposals concerning any VTS system.

Section 4107(b) of the House bill mandates the Secretary to study whether the Secretary should be given additional authority to direct the movement of vessels and should exercise that authority, and to determine and prioritize the United States ports and channels that are in need of new, expanded, or improved VTS systems by evaluating certain factors. This subsection also requires the Secretary to submit a report to Congress within a year on the results of this study along with recommendations for implementing the study.

Section 4107 of the Conference substitute adopts certain provisions from both bills. This section requires the Secretary to mandate that certain appropriate vessels participate in VTS systems. This is meant to include those vessels that pose a significant threat of pollution from oil and thereby should be mandated to participate in a VTS system to reduce the possibility of accidents.

The requirement for a study to determine and prioritize which ports and channels are in need of VTS systems is retained along with the criteria contained in both bills. The Conferees intend to give the Secretary some discretion in completing this study. Due to the expansive nature of the study, it is acceptable for the Secretary to conduct the study and submit the report in separate and distinct parts.

The proposal for a user fee for VTS systems was not included.

AUTHORITY TO REQUIRE STATE PILOTAGE FOR TANKERS

Section 302(c) of the Senate amendment includes a provision to require the Secretary to submit a report to committees of Congress on the adequacy of current pilotage regulations in minimizing the risk of oil spills and to determine which areas warrant additional pilotage requirements.

Section 4108 of the House bill amends subsections 8501(d) and 8502(d) of title 46, United States Code, to provide a limited exemption from the general prohibition against States requiring State pilotage and levying pilot charges on coastwise vessels. This exemption provision applies only to coastwise tankers whose Federal pilot's license is not endorsed for that State's waters; it does not include other coastwise vessels, such as barges.

The Conference substitute does not contain either provision.

SEC. 4108. GREAT LAKES PILOTAGE

The Senate amendment does not have a similar provision.

Section 4109 of the House bill corrects a gap in existing pilotage laws for the Great Lakes to ensure that vessels will operate safely in the largest source of fresh water in the world.

The Conference substitute incorporates a modified version of the House provision that will eliminate the use of the "B certificate" on the undesignated waters of the Great Lakes. Under current law, pilots are required on all U.S. vessels operating on register and on all foreign vessels in the Great Lakes. However, the Canadian government will grant a "B certificate" to a non-Canadian master to operate on undesignated Great Lakes waters without a U.S. or Canadian registered pilot. "B certificates" are issued to foreign masters upon satisfying the following minimum requirements: (1) three round trips across the Lakes during a two-year period; (2) English speaking ability; (3) oral exam on the rules of the road; and (4) possession of a radiotelephone operator li-

cense. This is a much lower standard than the United States imposes on its licensed pilots under sections 7101(c)(2) and 9303 of title 46, United States Code, and is not consistent with the requirement of equivalency in current law.

The United States has been working with Canada to eliminate the use of "B certificates", but progress has been extremely slow. Despite repeated efforts by the United States, Federal officials have not been able to ascertain the content or the general guidelines of the Canadian oral exam. A recent Department of Transportation report includes accounts of near misses and incidents in which foreign masters failed to respond to radio calls or failed to demonstrate knowledge of local conditions. Elimination of the "B certificate" will have minimal economic effect on foreign vessels serving the Lakes since many vessels with "B certificate" masters currently take on pilots because they are not familiar with the waters or because of insurance requirements.

The Conference substitute section acknowledges provisions of Canadian law that accept "certificates of competency" from officers of certain other countries with standards and qualifications equivalent to those under Canadian law. These certificates of competency are valid for use on Canadian-flag vessels by officers employed on such vessels who generally are permanent residents or citizens of Canada.

The Conference substitute section increases penalties under section 9308 of title 46, United States Code, for violations of the Great Lakes pilotage requirements from \$500 to allow a penalty of up to no more than \$10,000.

SEC. 4109. PERIODIC GAUGING OF PLANTING THICKNESS OF COMMERCIAL VESSELS

The Senate amendment does not have a similar provision.

Section 4110 of the House bill requires the Secretary to issue regulations within one year to establish minimum standards for the plating thickness of vessels transporting oil in bulk, and implement a program for requiring periodic gauging of vessels 30 years old or older to ensure that these standards are met.

The Conference substitute adopts the House provision with an amendment to clarify that the provision is to be applied in a manner consistent with international law. This section was added in response to the structural failure of tank barge 565 in the Chesapeake Bay last year. That vessel was built to specified standards and had been recently inspected and gauged. This provision also would apply to foreign vessels. The Conferees intend that the requirements conform to existing inspection schedules to ensure minimum disruption of vessel operations. In addition, the Coast Guard should consider gauging by classification societies, if equivalent to the Secretary's requirements, to be acceptable evidence of compliance with this section.

SEC. 4110. OVERFILL AND TANK LEVEL OR PRESSURE MONITORING DEVICES

The Senate amendment does not have a similar provision.

Section 4111 of the House bill requires the Secretary to issue regulations within one year to require warning devices to be installed on tank vessels and barges to prevent overfilling of oil tanks. The Secretary is also required to issue regulations establishing requirements concerning the use of overfill devices and tank vessel or monitoring devices.

The Conference substitute adopts the House provision with an amendment to clarify that this provision is to be applied in a manner consistent with international law. This provision would apply to foreign tank vessels.

SEC. 4111. STUDY ON TANKER NAVIGATION SAFETY STANDARDS

Section 307 of the Senate amendment requires the Secretary within a year, to complete a rulemaking to determine whether electronic means of vessel position-reporting and identification should be carried on oil tankers.

Subsection 308(b) of the Senate amendment requires the Secretary, within one year, to submit to committees of Congress a report on the size, cargo capacity, and flag-nation of oil tankers, specifying changes over the past 20 years, evaluating the extent to which the risks associated with oil tanker navigation, vessel traffic control, accidents, oil spills, and the containment and cleanup of spills are related to size and cargo capacity. The Secretary is also required to submit a report on recommendation for legislation.

Subsection 4112(a) of the House bill requires the Secretary to review existing laws and regulations to determine if they are adequate to ensure safe navigation of vessels transporting oil and hazardous substances on the navigable waters and the Exclusive Economic Zone. Subsection (b) of the House bill requires the Secretary to conduct a study to evaluate a variety of factors including crew sizes, training, and qualifications; the adequacy of navigation equipment; navigation procedures; vessel design and construction criteria; double hulls; vacuum method of tanker design; overfill and tank pressure monitoring devices; inspection standards; computer simulator courses; and remote alcohol testing, among others.

The Conference substitute combines the Senate and House provisions and calls for a comprehensive study. Subsections (b)(1) through (b)(3) require specific examination of issues related to tanker crews. Areas to be examined include: appropriate crew sizes; qualification and training of crewmembers; and the emergency response capabilities of crews in the event of a spill. It has been alleged that the size of the crew and fatigue of the crew following cargo loading may have contributed to the *Exxon Valdez* and *Presidente Rivera* groundings. These allegations and many others specific to the *Exxon Valdez* are under investigation by the U.S. Coast Guard and the National Transportation Safety Board. Without making a judgment on these specific allegations, a thorough, industry-wide examination of crew and manning standards must be undertaken. The findings of such a study will greatly contribute to Congressional consideration of international conventions and agreements, as well as legislative and regulatory actions that may be needed to improve the safety of tanker navigation.

Subsections (b) (4), (5) and (6) require specific examination of issues related to navigation. Areas to be examined include the adequacy of navigation equipment on tankers (including sonar, electronic chart display, and satellite technology); an evaluation of position-reporting and identification on tankers; and the adequacy of navigation procedures (including speed, daylight, presence of ice, tides, weather, and other conditions). Satellite technology offers great potential for improving both tanker navigation and tracking of tanker movements. In

the examination of navigation equipment, such technological innovations should be considered. On the other hand, existing tanker navigation equipment, automatic pilots for example, has been cited as potential contributing factors to tanker accidents; therefore, potential hazards of existing equipment should be examined. The Coast Guard should evaluate whether alarms for automatic pilots would be desirable. Navigation procedures have also been cited as potentially contributing factors to unsafe tanker operations. The Coast Guard should undertake a broad assessment of navigation procedures, including an analysis of existing requirements for personnel on the bridge, in engineering compartments, and at watch stations both at sea, while transiting pilotage waters, or loading in port. In addition, this study should review traffic separation schemes, tug escorts, and vessel speeds, among other things.

Subsection (b)(7) requires an evaluation of whether certain areas of the navigable waters and Exclusive Economic Zone should be declared "tanker free zones", areas where tanker movements should be limited or prohibited, particularly areas where oil and gas leasing, exploration, or development are prohibited by legislative action. Canada, for instance, has established "tanker free zones" to minimize the exposure of its sensitive shoreline areas to potential contamination from discharges of oil or hazardous substances. The Coast Guard should act expeditiously in evaluating whether tankers should be prohibited from using the channel between Montauk Point, New York, and Block Island, Rhode Island. The channel is extremely narrow and shallow and has been the site of numerous accidents. For other reasons, the Coast Guard should evaluate the advisability of declaring the Santa Barbara Channel off the coast of California a "tanker free zone". The Secretary should consider whether a "tanker free zone" would be consistent with offshore oil and gas development.

Subsection (b)(8) requires an evaluation of the adequacy of tanker inspection requirements. Adequate inspection of tankers should have a high priority in preventing spills. Consequently, the Coast Guard should review inspection standards to determine if they are adequate and if the frequency of inspections ought to be increased.

The Coast Guard has not been able to inspect on an annual basis every vessel that enters certain harbors. For instance, the Coast Guard was able to inspect only 58 percent of foreign vessels entering New York Harbor in one recent year. Of those foreign vessels inspected, 85 percent were found to have safety or other defects that warranted remediation. The Coast Guard should report to Congress about its ability to conduct annual inspections in harbors, the resources required to conduct those annual inspections, and the oil spill and emergency response benefits of the inspections.

Subsection (b)(9) requires that the comprehensive study review and incorporate the findings of past studies, including those by the Coast Guard and the Office of Technology Assessment.

Subsection (b)(10) directs the Coast Guard to evaluate computerized simulators for training bridge officers and vessel pilots. These simulators are already in limited use now, and the Coast Guard should consider the potential for expansion of this practice.

Subsection (b)(11) requires an evaluation of the size, cargo carrying capacity, and flag-nation of tankers transporting oil or

hazardous cargo on the navigable waters and the waters of the Exclusive Economic Zone.

The Coast Guard should also conduct a general review of the contribution of vessel design to maneuverability and whether impaired maneuverability contributes to collisions and groundings.

Subsection (b)(12) requires the Secretary to evaluate and test a program of remote alcohol testing for masters and pilots aboard tankers carrying significant quantities of oil.

Subsection (c) requires that the study findings, together with implementation recommendations, be transmitted to Congress not later than one year after the date of enactment of this Act.

SEC. 4112. DREDGE MODIFICATION STUDY

The Senate amendment does not have a similar provision.

Section 4113 of the House bill requires the Secretary of the Army to conduct a study and demonstration project to determine the feasibility of modifying dredges to make them usable in removing discharges of oil and hazardous substances. Subsection (b) requires the study findings, together with implementation recommendations, be transmitted to Congress within one year of enactment of this Act.

The Conference substitute adopts the House provision.

Modified dredges have been used successfully in oil recovery operations both in the United States and in Europe. The Conferees adopt the House provision by requiring the Secretary of the Army to study the feasibility of modifying dredges operated by the U.S. Army Corps of Engineers to make them usable in responding to discharges of oil and hazardous substances in section 4112 of the Conference substitute.

SEC. 4113. USE OF LINERS

The Senate amendment does not have a similar provision.

Section 4114 of the House bill requires the President to report to Congress on the utility of liners or other secondary containment means to prevent leaks, leaching, or spills from on-land oil storage tanks. Not later than six months after the report is submitted, the President is required to implement the recommendations.

Section 4113 of the Conference substitute adopts the House provision. The need for secondary containment was well illustrated by the Ashland Oil Company tank which ruptured and spilled 700,000 gallons of diesel oil into the Monongahela and Ohio Rivers in January, 1988. Following the completion of the study, the President must implement any study recommendations. Because oil storage facilities fall under the jurisdiction of both the Environmental Protection Agency and the Coast Guard, it is expected that the agencies would work together promulgate any regulations required by this section.

SEC. 4114. TANK VESSEL MANNING

The Senate amendment does not have a comparable provision.

Section 4117 of the House bill directs the Secretary to conduct a rulemaking to determine the conditions under which a tank vessel may operate with the auto-pilot engaged or with an unattended engine room. The provision also limits crew working hours to 15 hours per 24-hour period, and no more than 36 hours per 72-hour period.

The Conference substitute adopts the House provision.

SEC. 415. ESTABLISHMENT OF A DOUBLE HULL REQUIREMENT FOR TANK VESSELS

Section 308(a) of the Senate amendment requires the Secretary to require double hulls and double bottoms on newly-built oil tankers unless the Secretary determines that they would not enhance tanker navigation safety or environmental protection, or that equal or greater protections will be achieved by other structural requirements. It also provides that the Secretary may require other structural or navigation features that will enhance tanker navigation safety.

Section 4118 of the House bill amends section 3708 of title 46, United States Code, to require tank vessels to be equipped with a double hull. This requirement applies to all vessels constructed after the date of enactment of the House bills, and within 15 years of enactment for all other tank vessels.

Section 4119 of the House bill also amends section 3708 of title 46, United States Code, to require self-propelled tank vessels of at least 20,000 deadweight tons to be equipped with double bottoms within seven years.

Section 4115 of the Conference substitute requires that all newly-constructed tank vessels be equipped with double hulls, with the exception of vessels used only to respond to a discharge of oil or a hazardous substance. In addition, newly constructed tank vessels less than 5,000 gross tons are not required to have double hulls if they are equipped with a double containment system determined by the Secretary to be as effective as a double hull for the prevention of a discharge of oil.

In making the determination that a particular double containment system is as effective as a double hull for the prevention of a discharge of oil, the Secretary may consider vessel size and the environment in which the vessel operates. The Secretary may find that flexible bladders, double sides, or other combinations of technologies are of equal effectiveness to double hulls for vessels under 5,000 gross tons operating in specified environments.

The requirement for double hull construction does not apply before January 1, 2015, to a vessel unloading oil in bulk at a deepwater port, or a delivering vessel that is offloading in lightering activities within a lightering zone established under section 3715(b)(5) of title 46, United States Code, more than 60 miles from the coast of the United States.

Subsection (a) of this section exempts vessels offloading oil at licensed deepwater ports before January 1, 2015. The limited exemption is supported by Coast Guard studies and testimony by the Chairman of the Council on Environmental Quality during congressional hearings on legislation authorizing the Federal licensing of deepwater ports. The Chairman concluded that the probability of a collision or grounding is reduced by 90 percent for vessels calling at deepwater ports located beyond 15 miles offshore.

Subsection (a) provides an exemption, before January 1, 2015, to delivering vessels offloading in zones established under section 3715(b)(5) of title 46, United States Code, located more than 60 miles from the baseline from which the territorial sea of the United States is measured. The Secretary under section 3715 has broad discretion to determine whether the establishment of any lightering zone is required and to impose by regulation requirements on lightering activities within the zones to protect the marine environment, after an environ-

mental impact statement or environmental assessment has been completed and the public has been afforded an opportunity to comment on any proposed regulation.

Section 4115(c) of the Conference substitute phases out existing non-double hulled vessels beginning in 1995. By the year 2010, all vessels over 5,000 gross tons with single hulls would be prohibited from operating without double hulls. All vessels under 5,000 gross tons must be equipped with a double hull, or a double containment system determined by the Secretary to be as effective as a double hull, after January 1, 2015.

The age of the vessel for purposes of subsections (c) (2) and (3) is determined from the later of the date on which the vessel is delivered after original construction; delivered after completion of a major conversion; or had its appraised salvage value determined by the Coast Guard and qualified for documentation under section 4136 of the Revised Statutes of the United States (the Wrecked Vessel Act).

For purposes of determining whether a vessel is an existing vessel and eligible for the phaseout provisions, the building contract or contract for major conversion must have been placed before June 30, 1990, and the vessel must be delivered under that contract before January 1, 1994. For purposes of the Wrecked Vessel Act, a vessel must have had its appraised salvage value determined by the Coast Guard before June 30, 1990, and must qualify for documentation before January 1, 1994.

Subsection (c)(2) provides that existing vessels of less than 5,000 gross tons are permitted to operate without a double hull or double containment system until January 1, 2015. The Conference substitute establishes a phaseout schedule for larger vessels based on age and tonnage. Different phaseout schedules apply for vessels of at least 5,000 gross tons but less than 15,000 gross tons, for vessels of at least 15,000 gross tons but less than 30,000 gross tons, and for vessels of at least 30,000 gross tons.

Section 4115 was drafted to ensure that the requirement for double hulls or double containment systems be implemented as quickly as possible. However, the Conferees understand that there are a number of considerations that require some attention. While the goal of this provision is to ensure that the environment is protected as quickly as possible from oil spills, the Conferees also recognize that there could be a substantial impact on the maritime, oil, and shipbuilding industries, as well as on the availability of vessels to transport fuel oil. To assure that existing operators will have time to plan to replace their fleets, to assure that there is adequate shipping capacity, and to insure sufficient worldwide shipbuilding capability exists, the phaseout is staggered based on tonnage and age of vessels. The oldest vessels will be phased out beginning in 1995.

The reference in new section 3703a(a)(2) of title 46 to "a vessel to which this chapter applies . . . when operating in . . . the Exclusive Economic Zone" does not alter the jurisdictional application of chapter 37 of title 46 or the chapter's consistency with generally recognized principles of international law. The reference merely correlates with new section 3715(a)(5) concerning lightering in the marine environment, portions of which lie within the Exclusive Economic Zone. This section is not intended to apply to vessels transiting U.S. waters or transiting the Exclusive Economic Zone in innocent passage.

Vessels to which chapter 37 of title 46 apply are "tank vessels". Tank vessels include those vessels which transfer oil or hazardous substances in a place subject to the jurisdiction of the United States. The effect of new sections 3703a(a)(2) and 3715(a)(5), as applied to the Exclusive Economic Zone, is to bar a tank vessel that has received oil from another vessel at a lightering location within the Exclusive Economic Zone from transferring that oil at a place subject to the jurisdiction of the United States unless both vessels in the lightering operation are in compliance with new section 3702a.

With regard to the term "major conversion" as used in this section and defined in section 2101(14)(a), the Conferees intend this term to encompass a major recapitalization that is a major reconstruction of the hull structure that enhances environmental compatibility. The Conferees intend that such a major conversion should be exclusive of the Federally-mandated requirements of the Port and Tanker Safety Act of 1979. The Conferees intend that the *Coastal Corpus Christi* and the *Coastal Eagle Point* be deemed to have undergone a major conversion.

The Conferees recognize that it will be several years before some vessels are required to have double hulls. Subsection (b), therefore, requires the Secretary, within 12 months of enactment, to complete a rulemaking and issue a final rule to require tank vessels over 5,000 gross tons affected by the double hull requirement to comply, until January 1, 2015, with structural and operational requirements that the Secretary determines will provide as substantial protection to the environment as is economically and technologically feasible. The Conferees intend to have the Secretary evaluate other structural and operational means of environmental protection that may be imposed on existing vessels before they are required to have double hulls.

The Secretary is not required to impose both structural and operational requirements under this subsection. These requirements are not intended in any way to change the requirement that vessels be required to have double hulls as required by this section. Examples of structural and operational requirements the Secretary should evaluate and may require include hydrostatic loading, liners, spill rails, and devices to be carried on board a vessel to contain oil in the event of a spill. There may be other structural and operational requirements which the Secretary may evaluate and require on vessels over 5,000 gross tons.

Section 4115(d) of the Conference substitute amends section 3715(a) of title 46, United States Code, by adding three new paragraphs providing conditions for a receiving vessel offloading oil at a place subject to the jurisdiction of the United States.

New paragraph (3) of section 3715(a) requires that both delivering and receiving vessels have at the time of the transfer evidence of financial responsibility as required under the Oil Pollution Act of 1990. The requirements for evidence of financial responsibility are contained in section 4016 of the Conference substitute.

New paragraph (4) of section 3715(a) requires that delivering and receiving vessels have at the time of the transfer evidence that each vessel is operating in compliance with section 311(j) of the Federal Water Pollution Control Act, including amendments under title IV of the Conference substitute.

New paragraph (5) of section 3715(a) requires that delivering and receiving vessels operate in compliance with the double hull requirements and other provisions of new section 3703a of title 46, United States Code.

The substitute requires the Secretary to conduct a study not later than six months after enactment to determine, based on recommendations from the National Academy of Sciences and other organizations, whether other structural and operational tank vessel requirements will provide protection to the marine environment equal to or greater than that provided by double hulls, and report to Congress with recommendations for legislative action.

In addition, the Secretary is required to periodically review recommendations from the National Academy of Sciences and others on methods for further increasing the environmental and operational safety of tank vessels; assess the impact of this section on the safety of the marine environment and the economic viability and operational makeup of the maritime oil transportation industry; and report to Congress.

This section also provides for loan guarantees under Title XI of the Merchant Marine Act of 1936. This section allows the Secretary to make loan guarantees for the construction or reconstruction of replacement vessels if the loan applicant is presently engaged in transporting cargoes in vessels of the type and class to be replaced; the capacity of the replacement vessel will not increase the cargo-carrying capacity of the vessel being replaced; and the Secretary has made a determination that the market demand for the vessel over its useful life will not diminish so as to make the granting of the guarantee imprudent. The section requires the applicant to provide adequate security against default.

SEC. 4116. PILOTAGE

Section 302(a) of the Senate amendment requires tankers to maintain two officers on the bridge watch while in pilotage waters unless the tanker has a State-licensed pilot on board. One of the bridge watch individuals must fix the vessel's position every six minutes. It also requires at least two of the officers on board to be licensed for the waters being transited.

Section 302(b) of the Senate amendment authorizes the Coast Guard to waive or modify the requirements of subsection (a) if the Secretary determines that the requirements of subsection (a) would not substantially enhance tanker navigation safety.

Section 351 of the Senate amendment requires the Secretary to conduct a rulemaking to require tankers transiting between the Port of Valdez and Bligh Reef, Alaska, be directed by a pilot licensed by the Coast Guard and the State of Alaska.

Sections 1003 and 1004 of the House bill negated available defenses and liability limits for tank vessels over 40,000 deadweight tons that transit Puget Sound, Washington, without a tug escort.

Section 5003 of the House bill requires the Secretary to issue regulations to require tankers in Prince William Sound, Alaska, to have two escort vessels and a pilot licensed by the State of Alaska who is operating under a Federal license.

The Conference substitute incorporates provisions from both the House bill and the Senate amendment. Section 4116(a) of the Conference substitute amends section 8502(g) of title 46, United States Code. It codifies existing practice with respect to pilotage on vessels entering and departing

from Prince William Sound. This provision will require that a vessel be under the direction and control of a pilot licensed not only by the U.S. Coast Guard but also by the State of Alaska. This amendment states that the pilot will be operating under the pilot's Federal license and thus will ensure that a pilot accused of negligence or malfeasance will be answerable to the Coast Guard. The requirement that this pilot not be a member of the crew should add a degree of independence and also ensure that the pilot is not in the employ of the tanker operator or owner. Finally, this provision will extend pilotage requirements past Bligh Reef. This later requirement, as well as the dual accountability provision, will promote the level of competence necessary in the uniquely vulnerable Prince William Sound.

Section 4116(b) of the Conference substitute requires the Secretary to designate waters on which the pilot must be a person who is separate and distinct from the person who is in command of the vessel. The Conferees intend that the Secretary will use this provision to identify sensitive areas and require that two persons, i.e. the captain and a separate pilot, both be on bridge to navigate a vessel through these areas.

Section 4116(c) of the Conference substitute requires the Secretary to designate areas, including Prince William Sound, Alaska, and Puget Sound, Washington, on which single hull tankers over 5,000 gross tons must be escorted by at least two towing vessels. The Conferees intend that the Secretary use this provision to require escort vessels for single hull tankers transiting environmentally sensitive areas or other areas that pose a high potential risk of a spill. The presence of escort vessels that can assist a tanker to maneuver or provide a tow in the case of mechanical difficulties could reduce the present high incidence of groundings by such vessels.

SEC. 4117. MARITIME POLLUTION PREVENTION TRAINING PROGRAM STUDY

This provision requires the Secretary to conduct a study and report to Congress within one year to determine the feasibility of a Maritime Oil Pollution Prevention Training Program to be carried out in cooperation with approved maritime training institutions. The study shall assess the costs and benefits of transferring suitable vessels to selected maritime institutions, equipping the vessels for oil spill response, and training students in oil pollution response skills.

SEC. 4118. VESSEL COMMUNICATION EQUIPMENT REGULATIONS

Section 355 of the Senate amendment requires the Coast Guard to ensure that every vessel transiting the Mississippi River is capable of radio communications to receive warnings and to communicate with the Coast Guard and other vessels.

The House bill does not have a similar provision.

The Conference substitute adopts section 355 of the Senate amendment but deletes the references to the Mississippi River and makes the reference to vessels subject to the Vessel Bridge-to-Bridge Radiotelephone Act of 1971.

This section requires that the Secretary issue regulations within one year after the date of enactment of the Act to ensure that vessels, subject to the Vessel Bridge-to-Bridge Radiotelephone Act of 1971 (33 U.S.C. 1203), including foreign vessels, have the capability to receive navigation safety warnings and to engage in radio communications on designated frequencies with the

Coast Guard, other vessels, and such stations as may be specified by the Secretary.

Many vessels do not have the capability to receive Coast Guard marine warnings. This is apparently due to the fact that the frequency the Coast Guard uses for its broadcasts is not always available on the equipment carried by vessels operating in that area.

The Conferees believe that it is essential that certain vessels be capable of communicating with the Coast Guard and with other vessels at all times. The Conferees do not expect that all vessels will be subjected to this requirement. Clearly, however, oil tankers and other vessels posing major risk should be in contact with the Coast Guard. The Secretary is given the discretion to determine the type of equipment necessary to achieve the purposes of this section.

Subtitle B—Removal

SEC. 4201. FEDERAL REMOVAL AUTHORITY

Section 201(a) of the Senate amendment amends section 311(c)(1) of the FWPCA to require the President to clean up or arrange for the cleanup of oil or hazardous substances unless the President finds that the cleanup is being done properly and promptly by the responsible party, and that the responsible party has the financial resources and technical capability to conduct a proper cleanup. Section 201(b) amends section 311(d) of the FWPCA to require the President to coordinate and direct all public and private cleanup efforts whenever there is a substantial threat of a pollution hazard to the public health or welfare, and to allow the President to act without regard to any provisions of law governing competitive bidding, the employment of personnel or the expenditure of appropriated funds.

Section 202 of the Senate amendment amends section 311(c)(2) of the FWPCA to require the President to revise the National Contingency Plan (NCP). The revisions include development of an international inventory of oil spill equipment and personnel and establishment of criteria and procedures to ensure prompt and proper identification of, and response to, oil spills that create a substantial threat of a pollution hazard to the public health or welfare.

Section 4201 of the House bill amends FWPCA section 311(c)(1) to require the President to ensure effective and immediate removal of a discharge of oil or hazardous substance. The provision authorizes the President to remove or arrange for the removal of the discharge, direct the actions of all on-scene personnel, and monitor all removal actions. The provision exempts from liability for removal costs and damages all persons, other than the responsible party, conducting removal activities who are retained or directed by the President unless they are grossly negligent or guilty of willful misconduct. The liability exemption does not apply to removal of hazardous substances or to claims related to personal injury or wrongful death. Section 4205 of the House bill requires establishment of a comprehensive nationwide computer listing of emergency oil spill removal resources.

The Conference substitute replaces subsections (c) and (d) of section 311 of the FWPCA with a combination of the provisions in the Senate amendment and in the House bill. The substitute establishes a general requirement under new section 311(c)(1) of the FWPCA that the President ensure effective and immediate removal of a discharge, and mitigation or prevention of a substantial threat of a discharge, of oil or hazardous substances into or on the naviga-

ble waters or the waters of the Exclusive Economic Zone, on adjoining shorelines, or that may affect natural resources belonging to, appertaining to, or under the exclusive management authority of the United States. With respect to removal of any discharge or mitigation or prevention of any substantial threat of a discharge, the President may assume responsibility and costs of these actions subject to reimbursement from the responsible party (i.e., "Federalize" the effort); direct or monitor all Federal, State and private actions; and remove and, if necessary, destroy a vessel discharging or threatening to discharge. As used in this new paragraph of the FWPCA, the term "Exclusive Economic Zone" is the zone established by Presidential Proclamation 5030 of March 10, 1983.

Section 311(c)(2) of the FWPCA, as amended by the Conference substitute, replaces section 311(d) of that Act to require the President to direct all Federal, State, and private actions to remove a discharge or to mitigate or prevent a substantial threat of a discharge if the discharge is of such size or character as to be a substantial threat to the public health or welfare of the United States. The public health or welfare of the United States includes, but is not limited to fish, shellfish, wildlife, other natural resources, or public and private shorelines and beaches. Examples of spills that have posed such a substantial threat to the public health or welfare include the spills from the *Exxon Valdez* in Alaska's Prince William Sound and from the *American Trader* in California's coastal waters, and the spill and substantial threat of a larger spill from the *Mega Borg* in the waters of the Gulf of Mexico.

In addition to the requirement that the President direct a response in carrying out FWPCA section 311(c)(2), the President has the same authority as that provided under paragraph (1) of that section to Federalize removal, mitigation or prevention efforts and to remove and, if necessary, destroy a vessel; however, the President may take these actions without regard to any other provision of law governing contracting procedures or employment of personnel by the Federal Government. The exemption from laws governing contracting procedures and employment of personnel, such as the requirements of section 1012(k) of this Act, is intended to facilitate emergency response and is not intended to apply to long-term removal actions. This subsection is designed to eliminate the confusion evident in recent spills where the lack of clear delineation of command and management responsibility impeded prompt and effective response.

The Conference substitute establishes a new paragraph (4) of FWPCA section 311(c) to provide limited immunity for persons involved in oil spill cleanup. The provision is similar to that contained in section 4201(a) of the House bill except that the limited immunity is extended not only to those persons retained or directed by the Federal On-Scene Coordinator but also to those persons rendering care, assistance or advice consistent with the NCP. The substitute's provision also clarifies that it does not apply to a response under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

This subsection provides immunity from liability established under the substitute for those taking action in response to an oil spill or the threat of a spill, whether that action is performed under the aegis of the National Contingency Plan or under the di-

rection of the President. This takes into account the fact that the NCP and Presidential orders may not cover every detail or eventuality of a spill response and that actions that are in keeping with the overall objectives of the NCP or Presidential order are deemed to be within the scope of this provision. This section reflects the Conferees' intention that responses to oil spills be immediate and effective. Without such a provision the substantial financial risks and liability exposures associated with spill response could deter vessel operators, cleanup contractors, and cleanup cooperatives from prompt, aggressive response.

The term "responsible party" as used in this new FWPCA paragraph has the same meaning that term has in section 1001 of the Oil Pollution Act of 1990. Finally, the Conference substitute amends section 311(o) of the FWPCA to preserve explicitly the authority of any State to impose its own requirement or standards with respect to the liability of persons involved in the removal of oil.

The Conference substitute moves the requirements of existing section 311(c)(2) of the FWPCA, which require the President to prepare and publish the NCP for removal of oil and hazardous substances, to new section 311(d) of that Act. The substitute adds to these requirements a number of the provisions in section 202 of the Senate amendment and a fish and wildlife response plan, which was added to the NCP under section 2002 of the House bill. Under new FWPCA section 311(d), the NCP must also include establishment of procedures and standards for removing a worst-case discharge of oil and for mitigating or preventing a substantial threat of such a discharge. In preparing the schedule found in paragraph (G) the President should consider the long and short term effects on the environment of spill mitigating devices and substances, and select those which are least harmful to the environment. Additionally, the revised NCP requires establishment of procedures for coordinating the activities of Coast Guard strike teams (formerly termed "strike forces"), Federal On-Scene Coordinators, District Response Groups, and Area Committees. The revised NCP must be republished within one year of that date of enactment of this Act.

The substitute amends section 311(a) of the FWPCA to define the new terms used in the NCP provisions, including the term "worst case discharge." In the case of a vessel, a "worst case discharge" is defined as a discharge in adverse weather conditions of the vessel's entire cargo. In the case of a facility, the term means the largest foreseeable discharge in adverse weather conditions. The more general term "largest foreseeable discharge" is used in the case of facilities because it is difficult to describe the entire contents of an offshore facility or an onshore facility such as a pipeline. The largest foreseeable discharge from a given type of facility is intended to describe a case that is worse than either the largest spill to date or the maximum probable spill for that facility type.

The Conferees note that in the aftermath of the *Exxon Valdez* spill untrained workers were involved in the cleanup. As a result, approximately 1,700 workers compensation claims have been filed under federal and Alaska law. The result is that these claims have increased the burden on the Alaska workers' compensation system by 20 to 25 percent. The Conferees note that proper worker training and enforcement of the

Hazardous Waste and Emergency Response Standard of the Occupational Safety and Health Administration for members of the response teams as well as for workers employed after a spill will result in more efficient cleanup operations, increased protection of worker health and safety, and potential workers' compensation savings.

SEC. 4202. NATIONAL PLANNING AND RESPONSE SYSTEM

Section 204 of the Senate amendment amends section 311 of the FWPCA to require owners and operators of vessels and onshore and offshore facilities to prepare and submit a contingency plan for the prevention, containment and cleanup of oil spills from their vessels or facilities. If implemented, these plans must be capable, to the maximum extent practicable, of promptly and properly removing oil and minimizing environmental damage from a worst case discharge without the active participation of any federal personnel or equipment. The Senate amendment requires regular inspection of vessels, equipment and facilities; approval of contingency plans; and makes it unlawful to operate a vessel or a facility that is not in compliance with a contingency plan submitted and approved under its provisions. Section 203 of the Senate amendment adds a new provision to section 311 of the FWPCA to establish, operate and maintain at least eight regional oil spill response teams capable of promptly and properly removing oil from a worst case discharge using all available public and private equipment and personnel.

Section 4202 of the House bill amends section 311(j) of the FWPCA to require contingency plans for areas and for tank vessels and facilities. Local contingency plans apply to areas designated by the President and are required to include descriptions of environmentally-sensitive areas; descriptions of the responsibilities of the responsible party, Federal, State and local agencies; and lists of available personnel and equipment. Vessel and facility contingency plans must be consistent with the NCP; describe actions that will be taken immediately to remove the most serious potential discharge; and ensure the availability of necessary removal personnel and equipment by contract or other means. The House bill requires review and approval of contingency plans and periodic inspections of equipment. Vessels or facilities are not permitted to operate without an approved contingency plan. Section 4203 of the House bill amends section 311(c)(2) of the FWPCA to establish at least seven regional strike teams to carry out the NCP and other local vessel and facility contingency plans.

The Conference substitute combines elements of the Senate amendment and the House bill to establish a new national planning and response system under section 311(j) of the FWPCA. This system consists of a National Response Unit (NRU), Coast Guard Strike Teams, Coast Guard District Response Groups, Area Committees, Area Contingency Plans and vessel and facility response plans.

The National Response Unit is established at Elizabeth City, North Carolina, to (1) compile a list of oil spill removal resources, personnel, and equipment worldwide; (2) coordinate use of private and public personnel and equipment to remove a worst case discharge; (3) administer Coast Guard strike teams and provide technical assistance; and (4) review and maintain on file area contingency plans.

This section mandates the NRU to coordinate the use of private and public response resources. Implicit in this authority is the need for the Federal Government to avoid duplication of private initiatives. Both the House and Senate response provisions contemplated active use and involvement of private response resources, such as the Petroleum Industry Response Organization (PIRO) which may develop regional response centers. In such a case, the Federal Government should avoid duplicating private personnel and equipment.

The Conferees intend to create a system in which private parties supply the bulk of any equipment and personnel needed for oil spill response in a given area. The Conferees recognize that adequate response may require use of private and public equipment and personnel located throughout the U.S. or the world.

Section 311(c)(2) of the FWPCA previously required establishment of strike forces under the NCP, which are located in San Francisco, California, and Mobile, Alabama. The Conference substitute maintains the strike force requirement under new section 311(d) of that Act and renames these entities "Coast Guard strike teams." The Coast Guard strike teams consist of available trained personnel, adequate oil and hazardous substance pollution control equipment, and a detailed oil and hazardous substance pollution and prevention plan, including measures to protect fish and wildlife. These teams are available upon request by any Federal On-Scene Coordinator to provide assistance, guidance, and training.

A Coast Guard District Response Group is established in each of the ten Coast Guard Districts. Each group consists of Coast Guard personnel and equipment for each port within the district, additional prepositioned equipment, and district advisory staff. The Conferees instruct the Coast Guard to give priority emphasis to several factors in determining where to locate the Response Groups and preposition equipment, including: (1) the availability of facilities suitable to load and unload heavy or bulky equipment by barge; (2) the proximity to an airport capable of supporting large military transport aircraft; (3) the flight time to provide response to oil spills in all areas of the Coast Guard district which hold the potential for marine casualties; (4) the availability of trained local personnel capable of responding in an oil spill emergency; and (5) areas where large quantities of petroleum products are transported.

The Department of Defense is currently testing the tiltrotor aircraft, the V-22, *Osprey*, which takes off and lands as a helicopter yet flies through the air as a fixed wing aircraft. The V-22 *Osprey* has been developed to satisfy a variety of military requirements and appears to have the potential and flexibility to be extended to oil spill response. The V-22 would allow oil spill task forces to rapidly reach the spill area loaded with enough equipment to contain major spills. Nothing in the current or projected Coast Guard inventory has this capability. The Coast Guard should look closely at the tiltrotor technology, especially in reviewing its equipment requirements under section 4202 of this Act.

Area Committees comprised of members appointed by the President from qualified personnel of Federal, state and local agencies are established to prepare area contingency plans. These plans must be reviewed and approved by the President and are required to ensure, when implemented in con-

junction with other elements of the National Contingency Plan, the removal of a worst case spill from a vessel or facility operating in or near the area covered by the plan. All U.S. waters and adjoining shorelines would be subject to an area contingency plan.

In describing the procedures for decisions on the use of dispersants and other spill mitigating devices and substances, Area Committees should consider research conducted under section 7001(c)(2) of the substitute.

Owners and operators of vessels and facilities are required to prepare and submit individual response plans to the President. This requirement applies to all tank vessels, as defined under section 2101 of title 46, United States Code, and any facility that, because of its location, could reasonably be expected to cause substantial harm to the environment by discharging oil into or on the navigable waters, adjoining shorelines, or the Exclusive Economic Zone. Consequently, under this standard, all offshore facilities are required to have response plans. Additionally, because even small discharges from an onshore facility could result in substantial harm under certain circumstances, the requirement for these facility owners and operators to prepare and submit response plans should be applied broadly.

Under a vessel or facility response plan, an owner or operator is required to identify and ensure by contract, or other means approved by the President, the availability of private personnel and equipment sufficient to remove, to the maximum extent practicable, a worst case discharge and to mitigate or prevent a substantial threat of such a discharge. The phrase "to the maximum extent practicable" should be construed to require the President to consider the technological limitations associated with oil spill removal, and the practical and technical limits of the spill response capabilities of individual owners and operators. This should not be construed to prevent a significant increase in commercial removal resources in each area for which a response plan is required, if the President determines an increase is needed to comply with the national planning and response system.

The President is required to review vessel and facility response plans; require amendments to any plan that does not meet the requirements established under the provisions of new section 311(j)(5) of the FWPCA; and approve any plan that does comply with those provisions. The President is required to review all submitted vessel response plans and any submitted response plan for a facility that, because of its location, could reasonably be expected to cause both significant and substantial harm to the environment by discharging into or on the navigable waters, adjoining shorelines or the Exclusive Economic Zone. The addition of the qualifying term "significant" is not meant to exclude from review and approval any response plan for an offshore facility. However, with respect to review and approval of response plans for onshore facilities, the President should develop criteria to select only those submitted plans for onshore facilities that, in the event of a discharge of oil, could cause both significant and substantial harm to the environment. Only some proportion of all submitted onshore facility response plans, therefore, are expected to be reviewed and approved by the President. Nationwide criteria to determine which onshore facilities are required to submit plans and which of those submit-

ted plans are required to be reviewed and approved should be developed by regulation and with public comment under the Administrative Procedure Act.

The national criteria developed by the President should include, but not be limited to, oil storage capacity, location of environmentally sensitive areas, and location of potable water supplies. The criteria should not result in the selection of facilities based solely on the size or age of storage tanks. Specifically, the selection criteria should not necessarily omit those smaller facilities that are near major drinking water supplies or that are near environmentally-sensitive areas.

Any criteria developed by the President to select onshore facility response plans for review and approval do not preempt or supersede regulation of above-ground oil and hazardous materials storage tanks pursuant to other provisions of section 311 of the FWPCA and title III of the Superfund Amendments and Reauthorization Act (SARA), or the regulation of underground storage tanks pursuant to other provisions of FWPCA section 311 and subtitle I of the Solid Waste Disposal Act.

A substantial number of facilities that handle, store or transport hazardous substances are subject to emergency planning requirements under the Solid Waste Disposal Act, the Comprehensive Environmental Response, Compensation, and Liability Act, the Occupational Safety and Health Act, and other federal statutes. Additionally, chemical emergency planning requirements are in effect for communities under title III of SARA. The requirements under the Conference substitute may well apply to facilities that also are required to prepare and submit hazardous substance emergency plans under one or more of the above laws. The provisions of the Conference substitute do not supplant, supersede or duplicate any of the reporting and planning requirements of title III of SARA or of any other statute. Any facility response plans should be consistent with plans prepared under other laws and any information developed under this section should be made available to the State Emergency Response Commissions and Local Emergency Planning Committees established under title III of SARA.

The President should select onshore facility response plans in a manner that will avoid duplicative or conflicting response plan review requirements and should ensure that such response plans are coordinated with the community emergency planning effort under title III of SARA.

Beginning 30 months after the date of enactment, a vessel or facility for which a response plan is required to be prepared and submitted may not operate unless such a plan has been submitted to the President. Thirty-six months after enactment, a vessel or facility subject to response plan requirements may not operate unless the response plan for that vessel or facility is operating in compliance with that plan. The number of plans requiring review may prevent the President from reviewing a response plan in a timely manner, with the result that a vessel or facility that had submitted a response plan would be prohibited from operating. In this situation and in the case of vessels coming into the U.S. trade, the Conference substitute authorizes the President to allow a vessel or facility to operate for up to two years after the plan has been submitted if the owner or operator has certified that owner or operator has ensured by contract or other means approved by the Presi-

dent the availability of private personnel and equipment necessary to respond, to the maximum extent practicable, to a worst case discharge or a substantial threat of such a discharge.

Finally, the national response and planning system established by the Conference substitute requires the President to conduct periodic inspection of oil spill removal equipment and period drills of removal capability, without prior notice.

SEC. 4203. COAST GUARD VESSEL DESIGN

The Senate amendment has no comparable provision.

Section 4204 of the House bill requires the Secretary to ensure that vessels designed and constructed to replace Coast Guard buoy tenders are equipped with oil skimming systems that complement the vessels' primary mission of servicing navigation aids.

The Conference substitute accepts the House provision.

SEC. 4204. DETERMINATION OF HARMFUL QUANTITIES OF OIL AND HAZARDOUS SUBSTANCES

Section 206(e) of the Senate amendment amends section 311(b)(4) of the FWPCA to require the determination by the President of the amounts of oil that may be harmful to the public health or welfare and to determine the quantities of oil that may be harmful to the environment.

The House bill has no comparable provision.

The Conference substitute accepts the provision in the Senate amendment.

SEC. 4205. COASTWISE OIL SPILL RESPONSE COOPERATIVES

This section applies to not-for-profit oil spill response cooperatives that use vessels only to deploy equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters or Exclusive Economic Zone of the United States or for training purposes to respond to a spill. In the 100th Congress, a change in the coastwise laws required vessels transporting valueless material to meet the Jones Act requirements of U.S. ownership, construction, and manning. Because some cooperatives are partly owned by foreign citizens, they cannot operate except in violation of the law. This section would allow these cooperatives to have not more than 50 percent foreign ownership and still be coastwise qualified.

Subtitle C—Penalties and Miscellaneous

The Senate amendment and the House bill amend the FWPCA and other statutes to provide for more stringent penalties for discharges of oil and for violations of various administrative requirements.

The Conference agreement consolidates and clarifies the penalty provisions of both bills.

SEC. 4301. FEDERAL WATER POLLUTION CONTROL ACT PENALTIES

Section 4301 of the Conference agreement increases penalties under the Federal Water Pollution Control Act for discharge of oil or hazardous substances and for other violations of the FWPCA.

Subsection 4301(a) amends FWPCA section 311(b)(5) to provide for more stringent penalties for failure to notify the appropriate agency of the Federal Government of a discharge. The existing statute provides for a fine of not more than \$10,000 or imprisonment of not more than one year, or both. The Conference agreement provides for imprisonment of not more than three years (or not more than five years in the case of a

subsequent conviction) and a fine of not more than \$250,000 for an individual or not more than \$500,000 for an organization.

Section 311(b)(5) is also revised to direct the Federal Government to notify a State which is, or may reasonably be expected to be, affected by the discharge.

Section 4301(a)(3) would eliminate all use immunity arising from a spill notification by persons other than natural persons, and would eliminate derivative use immunity arising from a spill notification by natural persons.

Section 4301(b) provides for more stringent administrative and civil penalties for discharges of oil or hazardous substances, for failure to comply with regulations concerning vessel and facility response plans under FWPCA section 311(j), and for failure to comply with orders of the President.

The existing administrative penalty in FWPCA section 311(b)(6)(A) is replaced by new authority comparable to the administrative civil penalty authority established in section 309(g) of the FWPCA. This new authority is available to the Administrator of the Environmental Protection Agency as well as the Secretary of Transportation.

The adoption of civil penalty authority comparable to that of section 309(g) has the effect of increasing the penalty for a discharge or a violation of FWPCA section 311(j) from \$5,000 for each offense to the greater amounts established for Class I and Class II penalties (i.e. Class I, \$10,000/not to exceed \$25,000; Class II, \$10,000/not to exceed \$125,000).

The provisions of section 309(g) relating to rights of interested persons, finality and effect of orders, judicial review, collection, and subpoenas are generally continued in the new paragraph of section 311(b), with the exception that some provisions are limited to Class II penalties.

This subsection also revises existing civil penalty authority. This new authority is available to both the Administrator of the Environmental Protection Agency and the Secretary of Transportation.

Existing law provides for civil penalties for discharges of oil or hazardous substances of not more than \$50,000 or, in a case of "willful negligence or willful misconduct within the privity and knowledge of the owner, operator, or person in charge", not more than \$250,000.

The Conference agreement provides for a penalty of up to \$25,000 per day of violation or \$1,000 per barrel of oil or unit of reportable quantity of hazardous substance discharged. In addition, in a case of gross negligence or willful misconduct, the penalty is to be not less than \$100,000 but not more than \$3,000 per barrel of oil or unit of reportable quantity discharged.

By the phrase "unit of reportable quantity of the spill substance", the Conferees mean the quantity (whether 1 pound or, in some cases, 5,000 pounds) that would give rise to a reporting obligation if the hazardous substance is spilled. It is intended to base the amount of the penalty on a measure of the danger that the substance may pose to the environment and the relative care that should be exercised with respect to such substance.

This provision also stipulates the factors to be considered in determining the amount of administrative and civil penalties, restates authority for mitigation of damage and recovery of removal costs, and clarifies that civil penalties are not to be assessed under this section and section 309 of the FWPCA.

This provision offers general guidelines for determining the amount of civil penalty that may be assessed in the event of an oil spill. Each spill will involve a unique set of circumstances. Typically, oil spills involve a large element of human error. Civil penalties should serve primarily as an additional incentive to minimize and eliminate human error and thereby reduce the number and seriousness of oil spills. There are strong operational and economic incentives within the Conference substitute that should encourage responsible parties to prevent oil spills. In determining the amount of a civil penalty, particular weight should be given to the rapidity and effectiveness of the response actions by the responsible party.

Civil penalties are also established for failure to provide removal action under order of the President and failure to comply with an emergency order. In both cases, the penalty is an amount up to \$25,000 per day of violation or an amount up to three times the costs incurred by the Fund.

In addition, civil penalties of up to \$25,000 per day of violation are established for violations of the vessel and facility planning requirements of FWPCA section 311(j). Violations of section 311(j) are not subject to civil penalties under current law.

Section 4301(c) of the Conference substitute provides that violations of the prohibition on discharge of oil or hazardous substances are subject to criminal penalties established under section 309(c) of the Federal Water Pollution Control Act. These penalties are \$2,500-\$25,000/one year in prison for negligent violations, \$5,000-\$50,000/three years for knowing violations, and up to \$250,000 and 15 years for knowing endangerment.

SEC. 4302. OTHER PENALTIES

Section 4302 of the Conference substitute strengthens penalties under a number of other marine transportation safety laws, including penalties for dangerous operation of a vessel and penalties under the Deepwater Port Act, the Intervention on the High Seas Act, the Ports and Waterways Safety Act, the Act to Prevent Pollution from Ships, and other laws.

SEC. 4303. FINANCIAL RESPONSIBILITY CIVIL PENALTIES

Section 4303 of the Conference substitute authorizes a penalty to be assessed by the Secretary of Transportation of up to \$25,000 per day for violation of financial responsibility requirements and authorizes the Secretary of Transportation to seek a judicial order to compel compliance, including an order terminating operations.

SEC. 4304. DEPOSIT OF CERTAIN PENALTIES INTO OIL SPILL LIABILITY TRUST FUND

Section 4304 of the Conference substitute provides that penalties in connection with oil spills imposed under the FWPCA, the Oil Pollution Act, and the Deepwater Port Act are to be deposited into the Oil Spill Liability Trust Fund.

SEC. 4305. INSPECTION AND ENTRY

Section 4305 of the Conference substitute establishes new inspection, entry and recordkeeping requirements for vessels and facilities subject to the substitute and provides Federal inspection and entry authority with respect to those vessels and facilities.

SEC. 4306. CIVIL ENFORCEMENT UNDER FEDERAL WATER POLLUTION CONTROL ACT

Section 4306 of the Conference substitute amends section 311(e) of the FWPCA to clarify and expand the authority of the

President to take action in the case of imminent and substantial threat to the public health or welfare of the United States because of the actual or threatened discharge of oil or a hazardous substance.

PROVISIONS RELATING TO USER FEES

Section 207 of the Senate amendment contains a user fee for contingency plan review and approval inspection and evaluation of required equipment and personnel, and practice drills.

The House has no user fee proposal.

The Conference substitute adopts the House position and did not include an user fee provision in the legislation. However, there is authority under section 9701 of title 31, United States Code for the Secretary or EPA to collect user fees for services provided under Federal law.

TITLE V—PRINCE WILLIAM SOUND PROVISIONS

SEC. 5001. OIL SPILL RECOVERY INSTITUTE

Sections 354 and 356 of the Senate amendment provide for the establishment of the Prince William Sound Oil Spill Recovery Institute, to be administered by the Secretary of Commerce through the Prince William Sound Science and Technology Institute and located in Cordova, Alaska. In general, the Institute will conduct research and carry out educational and demonstration projects relating to the *Exxon Valdez* spill. The Senate amendment contains provisions establishing an Advisory Board and a Scientific and Technical Committee, as well as other administrative provisions. Section 356 authorizes \$5,000,000 in the first fiscal year following the date of enactment of the Act, and \$2,000,000 annually for the nine subsequent fiscal years.

The House bill contains two provisions relating to research in the Alaska region and related to the *Exxon Valdez* spill. Section 7001(b)(5) requires the Secretary of Commerce, in consultation with the Administrator of the Environmental Protection Agency, to undertake a 10-year comprehensive monitoring and research program relating to the long-term environmental effects of the *Exxon Valdez* discharge. Further, section 7001(f) establishes six regional research centers, one to be located in a region including the Alaska coastline and other Arctic and subarctic environments.

Section 5001 of the Conference substitute adopts the provisions in the Senate amendment establishing the Prince William Sound Oil Spill Recovery Institute. Section 5006 of the Conference substitute authorizes, from the Fund under this substitute and subject to appropriations, \$5,000,000 in the first fiscal year following the enactment of the substitute, and \$2,000,000 for each of the nine subsequent fiscal years, to establish and carry out the Institute. The provisions in the House bill relating to a long-term monitoring study of the environmental effects of the *Exxon Valdez* spill were not included in the Conference substitute in view of the Institute's work in that area.

As part of the national research program established in the substitute, sections 7001 (c)(8) and (c)(9) of the Conference substitute establish a regional research program to be administered in 10 regions, including an Alaska region, defined by existing Coast Guard District boundaries. However, the Prince William Sound Oil Spill Recovery Institute is specifically prohibited from receiving grants authorized by sections 7001 (c)(8) and (c)(9). The Conferees intend that qualifying entities other than the Institute may

receive grants under the regional research program established in title VII, which is discussed in more detail under Section 7001.

The Conference substitute adds language providing that none of the funds provided by this legislation for the Oil Spill Recovery Institute are to be used for any purpose which is not directly related to the *Exxon Valdez* oil spill and specifically authorized under this section. This language is intended by the Conferees to respond to the concern that the Institute or its administering body, the Prince William Sound Science Center and Technology Institute, will conduct studies and make recommendations which are unrelated to the oil spill and its effects.

SEC. 5002. TERMINAL AND TANKER OVERSIGHT AND MONITORING

Title V of the Senate amendment establishes oil terminal environmental monitoring and oversight programs for the oil terminal operations in Prince William Sound, Alaska, and Cook Inlet, Alaska. Advisory Committees composed of industry representatives, state and local officials, and public citizens are established to monitor terminal operations that affect the environment and assist in contingency planning. Money is made available from the Fund to pay for these committees.

Section 8103 of the House bill established a 10 year advisory council to monitor operation of the Trans-Alaska Pipeline Terminal in Prince William Sound, Alaska.

The Conference substitute adopts the Senate amendment with amendments to allow existing organizations to meet the requirements of this section and to specify that industry will fund these programs as a requirement for response plan approval. The Conferees expect that improved measures for the prevention and mitigation of oil spills in these areas will result through increased interaction and cooperation among local citizens, vessel and terminal operators, and public officials. The authority of the Citizens Advisory Councils is to advise, monitor, and make constructive recommendations to oil terminal and tanker operators and governmental officials. This section is not intended to affect the authority of the State of Alaska or the Federal Government with respect to the operation of oil tanker and terminal facilities.

SEC. 5003. BLIGH REEF LIGHT

Section 352 of the Senate amendment establishes a navigational light to promote marine safety on or adjacent to Bligh Reef in Prince William Sound, Alaska.

The House bill has no similar provision.

The Conference substitute incorporates section 352 of the Senate amendment.

SEC. 5004. VESSEL TRAFFIC SERVICE SYSTEM

Section 353 of the Senate amendment requires the Secretary to acquire, install, and operate additional equipment, train and provide additional personnel; and issue regulations to increase the range of the existing vessel Traffic Service System (VTS) in the Port of Valdez, Alaska. Section 353 requires the Secretary to submit to the Committees on Commerce, Science, and Transportation of the Senate and on Merchant Marine and Fisheries in the House of Representatives, a report on the feasibility and desirability of instituting positive control of tank vessel movements in Prince William Sound, Alaska, by the Coast Guard VTS System.

Section 5004 of the House bill requires the Secretary to prepare and implement a plan to modify surveillance coverage of vessels in

Prince William Sound, Alaska, by the Coast Guard VTS system.

The Conference substitute incorporates section 353 of the Senate amendment, and extends the time period during which the Secretary must upgrade the Port of Valdez VTS system and submit the VTS system report to the House and Senate Committees from 180 days after the date of enactment of the substitute to one year. In light of the immense volume of oil transported through Prince William Sound and the navigational difficulty presented by the Sound, the Conferees have determined that the VTS System in the Port of Valdez needs significant improvement in its surveillance capability; its capacity for vessel warning and avoidance; and the area it monitors. The Conferees intend this section to provide an expanded VTS system equipped with updated vessel surveillance and warning devices.

SEC. 5005. EQUIPMENT AND PERSONNEL REQUIREMENTS UNDER TANK VESSEL AND FACILITY RESPONSE PLANS

The Senate amendment has no similar provision.

Section 5005 of the House bill requires that within 18 months after enactment of this Act, the Secretary of Transportation must require specific removal equipment and personnel as part of a local contingency plan prepared for Prince William Sound under section 311(j) of the FWPCA. These requirements include: repositioning of oil spill removal equipment; establishing an oil spill removal team; requiring tank vessels operating in Prince William Sound to have appropriate equipment to remove a discharge of oil and minimize damage to the environment; requiring training in oil spill containment for local residents and the local fishing industry; and requiring practice exercises to test the effectiveness of the equipment and personnel under the contingency plan.

The Conference substitute modifies section 5005 of the House bill and makes it a free-standing provision rather than an amendment to section 311(j) of the FWPCA. The effect of these changes is to impose on facilities located in Prince William Sound and vessels transiting the Sound oil spill removal requirements that are in addition to those required under section 311(j) of the FWPCA, as amended by the Conference substitute. The near failure of removal capability during the first few days after the *Exxon Valdez* oil spill on March 23, 1989, demonstrated that the oil spill contingency plans that were in effect for Prince William Sound prior to the *Exxon Valdez* accident were wholly inadequate. The requirements of section 311(j) are intended to ensure an effective and immediate response to an oil spill similar to the *Exxon Valdez* oil spill on March 23, 1989. The added requirements of section 5005 of the Conference substitute are intended to provide an even greater margin of safety.

Subsection (a)(1) of the Conference substitute requires the repositioning of oil spill containment equipment in locations in Prince William Sound that may be adversely affected by a future oil spill. These locations include fish hatcheries and local communities, such as Valdez, Tatitlek, and Cordova. The equipment required by this section includes heavy-duty sea boom, pumping and transferring equipment, and barges to receive recovered oil. The Conferees intend that loaded tank vessels be escorted by vessels with skimming capability.

Subsection (a)(2) requires establishment of oil spill removal organizations at appro-

priate locations in Prince William Sound. These organizations should consist of trained personnel in sufficient numbers to immediately respond to a spill of 200,000 barrels, or a worst case discharge to the maximum extent practicable, whichever is greater. The Conferees intend that residents of the communities in Prince William Sound receive training in basic oil spill response techniques so that they may assist in cleanup and containment efforts in the event of a future catastrophic spill. This will allow local residents to assist in the cleanup and containment of oil spills as a means of protecting their property and economic interests from the adverse effects of a spill. Basic training should occur in areas including Valdez, Cordova, Whittier, Tatitlek, and Chenega.

Subsection (a)(3) requires special training in oil spill removal and containment techniques for those residents and individuals engaged in the cultivation or production of fish or fish products. This provision is essential to protect the environmental and economic integrity of several fish hatcheries and other fish cultivation projects. These hatcheries and cultivation projects are critical elements of the fishing industry and must be protected in the event of a future spill.

Subsection (a)(4) and (5) require periodic practice exercises and testing of equipment to ensure that the regional oil spill response readiness remains adequate to respond to a worst case discharge to the maximum extent practicable.

SEC. 5006. FUNDING

Section 356 of the Senate amendment provides funding without further appropriation from the Fund for the Prince William Sound Oil Spill Recovery Institute, the construction of a warning light on Bligh Reef, and the upgrade of the Prince William Sound Vessel Traffic Service System.

Section 512 of the Senate amendment provides funding from without further appropriation from the Fund for operation of the Oil Terminal Monitoring and Oversight program.

The House bill has no comparable provisions.

The Conference substitute provides funding without further appropriation from the Fund for sections 5003 and 5004, the Bligh Reef Light and Prince William Sound VTS upgrade. Authorization is provided for funding section 5001, Prince William Sound Oil Spill Recovery Institute, which would be subject to annual appropriations. No funds are authorized for section 5002 because the Conference substitute requires establishment and operation of the oversight and monitoring programs as a condition of response plan approval.

SEC. 5007. LIMITATION

Section 5007 of the Conference substitute prohibits a vessel that has spilled more than one million gallons of oil into the marine environment after March 22, 1989, from operating on the navigable waters of the Prince William Sound, Alaska.

TITLE VI—MISCELLANEOUS

SEC. 6001. SAVINGS CLAUSE

The Senate amendment has no savings provision regarding admiralty and maritime laws or jurisdiction.

Section 6001 of the House bill clarifies that the House bill does not affect admiralty and maritime law or the jurisdiction of the District Courts of the United States with respect to civil actions under admiralty

and maritime jurisdiction, saving to suitors in all cases other remedies to which they are otherwise entitled. Article III, clause 2, of the Constitution creates the basis for admiralty and maritime law of the United States. This section is intended to clarify that the House bill does not supersede that law, nor does it change the jurisdiction of the District Courts under section 1333 of title 28, United States Code (the codified section of the Judiciary Act of 1789).

The Conference substitute also adds certain other boilerplate savings provisions, including those regarding repealed laws and legislative construction.

The Conference substitute adopts the House provision with respect to admiralty and maritime laws with an amendment clarifying that the provision was subject to the provisions of the substitute. Section 1002 of the Conference substitute establishes liability notwithstanding any other provision or rule of law, including the Act of March 3, 1851 (46 U.S.C. 183). Therefore, there is no change in current law unless there is a specific provision to the contrary.

It is not the intent of the Conferees to change the jurisdiction in incidents that are within the admiralty and maritime laws of the United States. The Conferees wish to promote uniformity regarding these laws.

SEC. 6002. ANNUAL APPROPRIATIONS

The Senate amendment has no similar provision.

Section 6003 of the House bill made amounts in the Oil Pollution Liability Trust Fund subject to annual appropriations except for certain funds recovered for natural resource damages or penalties under section 1006 (f) and (g)(4), of the House bill and for \$30 million for use by the President to immediately respond to an oil spill. Sums appropriated are available until expended.

The Conference substitute modifies the House provision to make amounts in the Fund available without further appropriation with respect to (1) section 1006(f), regarding funds recovered by trustees for natural resource damages; (2) section 1012(a)(4), regarding payment of claims for uncompensated removal costs and damages that the President determines to be consistent with the National Contingency Plan; (3) section 5006(b), regarding a navigation light and Vessel Traffic Service system in Prince William Sound, Alaska; and (4) removal actions under section 311(c) of the FWPCA and initiation of natural resource damage assessments under section 1006. The Conference substitute makes up to \$50 million directly available to the President in any fiscal year for category (4).

SEC. 6003. OUTER BANKS PROTECTION

This section adds provisions from H.R. 3861, the Outer Banks Protection Act. Although encompassing the entire area offshore the State of North Carolina, the section essentially addresses the proposal by the Mobil Oil Corporation and seven partners to drill an exploratory well about 40 miles off Cape Hatteras.

One of the principal and long-standing concerns expressed by the State of North Carolina has been the potential for oil spills and the environmental and economic impacts that may result from such spills. The State has consistently maintained that oil spill trajectory models are inadequate due to insufficient understanding of ocean currents offshore Cape Hatteras. While the Mobil Oil Company expects exploration offshore North Carolina to yield a natural gas discovery, they have indicated a possibility

that oil may be discovered, and the State insists that this potential requires adequate preparation for oil spill contingency and response. Providing adequate information and assessments to address potential oil pollution problems, one of the key purposes of the Oil Pollution Act of 1990, is also one of the primary purposes of Section 6003.

Subsection (a) provides that this section may be cited as the "Outer Banks Protection Act."

Subsection (b) contains the findings characterizing the Outer Banks of North Carolina as an area of exceptional environmental fragility and beauty. The subsection notes that the area offshore North Carolina is extremely important to the recreational and commercial fishing industries, and to the tourism industry of the State. The subsection also notes that the physical oceanographic characteristics of the area offshore North Carolina between Cape Hatteras and the mouth of the Chesapeake Bay are not well understood. In addition, the subsection finds that more information needs to be gathered on the ecological relationships of the fisheries resources in the area.

In addition, the subsection points out two weaknesses in the Department of the Interior's gathering of environmental data offshore North Carolina. First, neither the draft environmental report, dated November 1, 1989, nor the preliminary final environmental report, dated June 1, 1990, prepared pursuant to a July 14, 1989 memorandum of understanding between the State of North Carolina, the Department of the Interior, and the Mobil Oil Corporation, have allayed the concerns about the adequacy of environmental information. Second, the National Research Council (NRC) report entitled "The Adequacy of Environmental Information for Outer Continental Shelf Oil and Gas Decisions: Florida and California" issued in 1989, concluded that the available environmental information for those two states was inadequate. Both of those States have been the subject of more intense environmental review than North Carolina. The NRC report also noted that there are serious defects in the Minerals Management Service's (MMS) method of environmental analysis, reinforcing concerns about the adequacy of the scientific and technical information that has been gathered offshore North Carolina.

Subsection (c) specifies the scope and duration of a statutory moratorium and the procedural steps that are to guide the Secretary of the Interior regarding OCS oil and gas activities offshore North Carolina. Paragraph (1) prohibits the Secretary of the Interior from conducting a lease sale, issuing any new leases, approving any exploration plan, approving any development and production plan, approving any application for a permit to drill or permitting any drilling for oil or gas under the Outer Continental Shelf Lands Act (OCSLA) on any lands of the outer Continental Shelf offshore North Carolina.

Paragraph (2) of subsection (c) defines the boundaries of the term "offshore North Carolina" as being those reached by agreement between the State of North Carolina and the States of Virginia and South Carolina. These boundary agreements have been codified in the case of Virginia at 86 Stat. 1298, and in the case of South Carolina at 95 Stat. 988.

Paragraph (3) specifies the duration of the prohibition under paragraph (1) as being the later of October 1, 1991, or 45 days of continuous session of Congress after

submission of a written report to Congress by the Secretary of the Interior certifying that the environmental information available, including the information acquired pursuant to subsection (d), is sufficient to enable the Secretary to carry out his responsibilities under the OCSLA. The written report certified by the Secretary shall contain a detailed explanation of any differences between the report and the findings and recommendations of the Environmental Sciences Review Panel (ESRP) described under subsection (e), and a detailed justification of any differences.

The Conferees understand that the written report will not be issued until after the Secretary has taken the time to consider thoroughly the findings and recommendations of the ESRP. However, the Secretary has it within his authority to make certain that the prohibition will end no later than October 1, 1991, provided that, at least 45 days of continuous session of the Congress prior to that date, the Secretary certifies to the Congress that environmental information is sufficient to authorize the prohibited activities. While the Secretary is not bound by the recommendations of the ESRP, the Secretary must address those recommendations in the report to Congress, with particular attention to any recommendations which have not been implemented.

Paragraph (3)(B) describes the method of computing a 45-day period of continuous session of Congress. Specifically, continuity of session is broken only by an adjournment of the Congress sine die. In addition, the days on which either House of Congress is not in session because of a time certain adjournment of more than three days are excluded.

Subsection (d) requires the Secretary of the Interior to undertake additional environmental studies in specified areas: ecology, socioeconomics, and physical oceanography. The Secretary is required to consult the ESRP in the design and conduct of these studies.

Subsection (e)(1) establishes the mechanism for determining the five members of the ESRP. One marine scientist each is to be chosen by the Governor of North Carolina and the Secretary of the Interior. The remaining three ESRP members, one each from the disciplines of physical oceanography, ecology, and social science, are to be chosen jointly by the Governor and the Secretary from a list of nominees provided by the National Academy of Sciences.

Subsection (e)(2) describes the functions of the ESRP. The panel is to prepare and submit to the Secretary of the Interior, not later than six months after enactment of this Act, findings and recommendations assessing the adequacy of physical oceanographic, ecological, and socioeconomic information available to the Secretary to carry out his responsibilities under the OCSLA with respect to authorizing OCS activities offshore North Carolina. If the ESRP determines that the available information is inadequate for such purpose, then the findings and recommendations should indicate, with as much specificity as possible, what additional information is required to enable the Secretary to carry out his responsibilities under the OCSLA. Finally, the ESRP is expected to consult with the Secretary in the development of additional environmental information under subsection (d).

The Conferees expect the Interior Department, in cooperation with the State of North Carolina, to move expeditiously to establish the ESRP and begin whatever envi-

ronmental studies are necessary to carry out the provisions of this section.

Subsection (e)(3) provides for the reimbursement of each member of the ESRP for actual travel expenses and a per diem in lieu of subsistence for each day a member is engaged in the business of the ESRP.

Subsection (e)(4) requires that the ESRP be terminated after the submission of all findings and recommendations required under paragraph (2)(A).

Subsection (f) authorizes an appropriation of \$500,000 to the Secretary of the Interior for fiscal year 1991, which shall remain available until expended, for the purpose of carrying out this section. Nothing in this subsection shall preclude the Secretary from earmarking additional sums from the MMS's fiscal year 1991 environmental studies budget for the purpose of carrying out the provisions of this section.

Finally, the Conferees considered the potential for financial liability to the Federal Government as a result of this provision. The Conferees are confident that no financial liability arises because this provision enacts only a temporary delay in approval of activities on existing leases offshore North Carolina. On or subsequent to October 1, 1991, the Secretary may proceed, at his discretion, subject to the 45 day period for Congressional review of the report required under subsection (c)(3). Therefore, this delay is temporary and definite in duration.

In addition, the delay is related to a legitimate and broad-based public purpose—environmental protection. This delay is imposed to provide for the collection and analysis of crucial oceanographic, ecological, and socioeconomic data, and therefore, is a reasonable action to prevent a public harm that could result from the lack of such information.

The Conferees understand that, under Department of the Interior regulations, the lease terms of all affected OCS tracts will be extended for the period of this moratorium, and therefore, the interests of the lessees will not be adversely affected to achieve the legitimate purposes of this section.

SEC. 6004. COOPERATIVE DEVELOPMENT OF COMMON HYDROCARBON-BEARING AREAS

Subsection 602(a) of the Senate amendment amends section 5 of the OCSLA by adding a new subsection (j). This subsection makes certain findings and requires the Secretary of the Interior to prevent, through the cooperative development of an area, the harmful effects of unrestricted competitive production of hydrocarbons from a common hydrocarbon-bearing area underlying the Federal and State boundary.

Section 602(b) makes new subsection 6(j) of the Outer Continental Shelf Lands Act inapplicable to Blocks 17 and 18 of the West Delta Field.

Section 602(c) authorizes appropriations to provide compensation, including interest, to the State of Louisiana and its lessees for net drainage of offshore oil and gas resources as determined in the Third Party Factfinder Louisiana Boundary Study dated March 21, 1989.

The House bill has no similar provision.

The Conference substitute adopts the Senate provision.

PROVISIONS RELATING TO DRUG-FREE WORKPLACE

The Senate bill has no similar provision.

Section 6004 of the House bill contains a provision regarding drug-free workplace requirements for activities paid for by the Oil

Spill Liability Trust Fund and contracts for removal activities.

The Conference substitute does not adopt the House provision.

PROVISIONS RELATING TO STATUTORY WAIVERS

The Senate amendment has no similar provision.

Section 6001(a) of the House bill narrows the authority to waive navigation and safety laws under section 2113 of title 46 United States Code. The waiver authority would be limited to part B, which deals with inspection and regulation of vessels; part C, which deals with load lines of vessels; part F (except section 8103), which deals with manning of vessels; and part H, which deals with documentation of vessels.

The section further clarifies that crises warranting waivers are limited to those involving national defense or discharges, or threats of discharges, of oil or hazardous substances into or on the navigable waters or Exclusive Economic Zone of the United States.

This section also authorizes the Secretary of Transportation to grant a waiver on the Secretary's initiative, or on the request of the head of another department agency, or instrumentality of the United States Government.

A waiver granted under this section must state the reason for the waiver and state which requirements of law are being waived. In addition, the waiver must be for a specified period of time, not to exceed one year, may not be renewed, and must terminate when qualified individuals or vessels are available.

Subsection (b) is a conforming amendment that repeals the existing authority for waivers contained in the chapter 1 note of title 46, United States Code.

During deliberations on this provision, the Conferees considered two changes so that in the case of a request for a waiver required for national defense by the Secretary of Defense the time limit of one year would not apply, and the granting of a permissible waiver would be mandatory. The Administration insisted on two additional changes that the waiver not terminate when the reason for the waiver no longer existed, (i.e., when qualified individuals or vessels were available); and that section 8103 of title 46, United States Code, relating to citizenship requirements for the crew of a vessel, be subject to the waiver authority even though the President has the authority under section 8103(h) to suspend these citizenship requirements in certain circumstances.

The House recedes to the Senate position.

LOW PRESSURE OIL PIPELINE REGULATIONS

The Conferees are aware that the Department of Transportation will address the issue of regulating low pressure oil pipelines in a rulemaking proceeding that is scheduled to commence in August, 1990. The Conferees applaud this initiative and recommend that the rulemaking process be completed as quickly as possible.

We have been told that unregulated low pressure pipelines may have leaked significant quantities of oil into our Nation's waterways. It is certainly in our interest to determine quickly to what extent the imposition of more stringent safety safeguards will put a stop to this problem and promulgate the necessary regulations.

The Conferees and the Committees on Public Works and Transportation and Energy and Commerce in the House and the Committees on Energy and Commerce in the House and the Committees on Energy

and Natural Resources and Commerce, Science, and Transportation in the Senate who have regulatory and oversight jurisdiction over pipeline transportation intend to monitor the rulemaking proceeding. Finally, the Conferees urge the Department to act as expeditiously as possible on this important proceeding.

TITLE VII—OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

Four separate sections of the Senate amendment (sections 205, 309, 354, and 506) relate to oil pollution research and development. Section 205 requires the President to establish a Federal research and development program authorizing \$25 million annually from the Fund; section 309 establishes a National Council on Oil Spill Technology Research and Development; section 354 establishes an Oil Spill Recovery Institute; and section 506 establishes in the State of Alaska several scientific committees for environmental monitoring.

Title VII of the House bill establishes a national research, development, and demonstration program to create an Interagency Committee to coordinate Federal agency oil pollution research activities; evaluate oil pollution prevention and mitigation technologies, and the long-term environmental effects of oil pollution; and organize regional research centers for addressing regional oil pollution research needs. The House bill authorizes \$28 million annually from the Fund to carry out these provisions.

The Conference substitute accepts in general the provisions of title VII of the House bill, in lieu of section 205 in the Senate amendment. Significant modifications were made to section 7001(b)(5), Special Studies, and section 7001(f), Regional Research Centers, of the House bill, as well as other modifications discussed in more detail below.

The Conferees also agreed to a set of priorities to guide the Federal research program authorized in title VII, recognizing the importance of ensuring that all research conducted under the substitute is conducted as cost-effectively as possible. The research priorities agreed to, listed in order of priority, are as follows: (1) prevention of oil discharges; (2) rapid and effective response and cleanup of oil discharges; and (3) increased understanding of the environmental effects of oil discharges, especially that which improves the ability to prevent or clean up future oil discharges. In addition, the Conferees intend that the Interagency Committee will coordinate with the States and the private sector to help ensure that Federal research activities fill research gaps and are consistent with sections 7001(b)(1) (C) and (D).

Sections 354 and 506 of the Senate amendment were incorporated, with modifications, into title V of the Conference substitute; sections 205 and 309 were not included.

SEC. 7001. OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM

Subsection (a) establishes an Interagency Coordinating Committee to coordinate Federal oil pollution research activities, and lists members to be included on the Interagency Committee. The Conferees added the Research and Special Projects Administration in the Department of Transportation, in recognition of the high quality of its research efforts related to the movement of hazardous materials, which are conducted in response to the research needs of the U.S. Coast Guard, the U.S. Environmental Protection Agency, and other Federal agencies. In addition, the U.S. Fire Administra-

tion in the Federal Emergency Management Agency was added to the list of Interagency Committee members, in recognition of its important role in preventing and responding to fires which can result in releases of oil to the environment. The Conferees agree that the Department of Transportation should serve as chair of the Interagency Committee.

In subsection (b), the oil pollution research and technology plan required by the House bill was augmented to include a provision requiring identification of oil pollution regional research needs. The Conferees anticipate that the States in each region will cooperate to develop a consensus regarding regional research needs with respect to the prevention, cleanup, and long-term environmental effects of oil pollution and provide recommendations to the Interagency Committee.

Subsection (c) establishes a Federal oil pollution research and development program. Subsection (c)(2) authorizes the research, development, and demonstration of innovative technologies which are designed to improve the ability to prevent, contain, recover, and otherwise clean up oil discharges. Examples of such technologies may include surveillance technologies, such as remote sensing and the use of aircraft; mechanical technologies, such as booms, skimmers, and containers for temporary storage of oil during recovery operations; chemical treatment methods, such as the use of dispersants and chemical agents which promote gelling, herding, and sinking; biological treatment methods, such as the introduction of microorganisms, the enhancement of indigenous microorganisms, and comparisons of the relative effectiveness of such methods; and in situ burning methods. Technologies developed under this subsection shall also include consideration of the following: technologies which are effective in preventing or mitigating oil discharges under harsh environmental conditions, including strong winds and water currents; technologies to deploy an onboard system for containing oil discharged from a damaged vessel; and tilt rotor aircraft technologies used for surveillance and equipment deployment.

Research conducted under subsection (c)(2)(C) to evaluate the environmental effects of the use of dispersants should include comparisons among different types of dispersants with respect to those characteristics described in the National Contingency Plan. The Conferees intend that the results of these comparisons should be considered in the development of schedules as required in the National Contingency Plan as amended by section 4201(b) of the Conference substitute.

Section 7001(c)(2) of the Conference substitute also includes provisions recognizing the capabilities of the National Spill Control School and mandating the demonstration of a satellite-based, dependent surveillance vessel traffic system in Narragansett Bay, understood by the Conferees to cost approximately \$500,000, to evaluate the use of such a system in reducing the risk of oil discharges from vessel collisions and groundings in confined waters. The Conferees believe that developing satellite-based technology holds great potential for improving the accuracy, cost-effectiveness, and overall efficiency of Vessel Traffic Systems.

Subsection (c)(4) authorizes a research program to monitor and evaluate the long-term environmental effects of oil discharges. The Conference substitute provides

for the identification of types of ecologically sensitive areas at particular risk to oil discharges and a plan for monitoring each of such types of areas, rather than the identification of and plans for all ecologically sensitive areas as required in the House bill. This clarification was included in the interest of increasing the cost-effectiveness of research conducted under this title. For the same reason, the requirement that environmental baseline data be collected for areas ecologically sensitive to oil discharges was limited to collection of data only where such data are insufficient.

The Conference substitute does not contain the provision in the House bill calling for a 10-year comprehensive monitoring and research program to determine the long-term environmental effects of the oil discharged by the *Exxon Valdez* in Prince William Sound and the Gulf of Alaska. This provision was dropped in lieu of retaining in title V of the Conference substitute the text of section 354 of the Senate amendment which establishes the Prince William Sound Oil Spill Recovery Institute, the primary function of which is to study the long-term environmental effects of the *Exxon Valdez* incident.

Paragraph (c)(4)(B) of the Conference substitute, requiring monitoring and evaluation of the long-term environmental effects of oil discharges that meet specific criteria, was modified from the House bill in several ways. First, rather than requiring that three specific studies of sites where oil discharges have recently occurred, the substitute authorizes such studies to be conducted where the Interagency Committee determines that the studies would be of scientific value. The substitute also includes two spill sites as additional candidates for study: the discharge of oil by the *American Trader* off Huntington Beach, California; and the New York/New Jersey port area, which has been the site of several recent spills, including the T/B *Cibro Savannah* and the M/V *BT Nautilus*. By including two other criteria which must be met to begin an environmental effects study specifically that the discharge must exceed 250,000 gallons of oil and that the discharge must have occurred after January 1, 1989—the number of candidate sites is limited. Moreover, the total amount authorized for these studies is limited to \$5 million in fiscal year 1991, and \$3.5 million in subsequent fiscal years. Again, these modifications were made in the interest of increasing the cost-effectiveness of the research authorized in the Conference substitute.

A provision was added to the House bill under subsection (c)(4) which stipulates that all research conducted by the U.S. Fish and Wildlife Service (FWS) shall be directed and coordinated by the National Wetlands Research Center, located in Louisiana. This Center houses the FWS's expertise in wetlands research and is the logical organization to direct these research activities.

Section 7001(c)(6) of the Conference substitute provides for an integrated oil pollution prevention demonstration project to be carried out by the Coast Guard in each of three major port areas in the United States: New York/New Jersey, Los Angeles/Long Beach, and New Orleans, Louisiana. The projects are intended to bring together and apply the information obtained from the research, development, and demonstration program in a systematic and integrated fashion to reduce the risk of acute and chronic oil discharges in port environments. The projects are designed to ensure that the

results of the research program are applied in a real-world situation, and that attention is given to implementing oil pollution minimization programs which focus on the whole system of oil shipment, storage, and clean-up. While much attention has been given to the design of tankers and barges, and the development of improved cleanup technology, oil facility infrastructure and management practices must also be considered in a systems approach to pollution prevention. Technologies and management practices that are appropriate to be considered for this project include improved access to data relevant to oil discharges and clean-up methods, computerized tracking of oil shipments to improvement management techniques and response time in the event of a discharge, improved vessel tracking and navigation systems, advanced technology to monitor the status of pipelines and tank conditions to provide early warning and shutdown of leaks, as well as improved oil-spill response capability through the deployment of improved mechanical, chemical, and biological clean-up technologies and methods. The Conferees intend that such an integrated system, where successfully demonstrated, will provide models for other ports throughout the nation. The Conferees expect the Interagency Committee to evaluate the demonstration projects and report to Congress on the degree to which the projects have been successful.

In conducting the port oil pollution minimization demonstration project in New Orleans, Louisiana, the Conferees intend that the U.S. Coast Guard should utilize the expertise of private and public organizations, including universities located in Louisiana.

The three port oil minimization projects are authorized to begin one year after enactment of this Act, to allow time for the research and development program established in the Conference substitute to begin to produce methods and technologies which could be applied in these demonstration projects. The substitute authorizes not less than \$750,000 per year for each port area for four fiscal years, beginning in 1992.

A provision was also added to section 7001(c)(7) of the Conference substitute which requires Agencies represented on the Interagency Committee to ensure the continued use of the Oil and Hazardous Materials Simulated Environmental Test Tank (OHMSETT). This facility, which was closed in 1988 for a lack of funds, has recently been reopened through a Memorandum of Understanding between the U.S. Navy and the Department of the Interior's Minerals Management Service. It is a highly useful facility for testing the effectiveness of cleanup technologies, especially mechanical technologies, for containing and recovering oil following a discharge.

The Conference substitute sets out a regional research program in section 7001(c)(8), in lieu of the regional centers provisions in the House bill. The House bill contains selection criteria and authorizes \$1.0 million from the Fund for each of six regional centers for five years. The House bill directs the Interagency Committee to select a center for each region, upon application by universities or research institutions, or a consortium of universities or research institutions. The Senate amendment contains no comparable provisions.

The Conference substitute establishes a regional research grants program. Under section 7001(c)(8), the Interagency Committee is responsible for coordinating a program of competitive grants to universities or

other research institutions, or groups of universities of research institutions, to carry out a coordinated regional oil pollution research program. While the types of projects eligible for grants are intended to be broad, these grants are required to be consistent with the research plan developed by the Interagency Committee and the research program as set out in this title.

The Conference substitute establishes 10 regions as defined by existing Coast Guard district boundaries. Grants are to be administered on a regional basis, with equal funding available for each region. Eligible applicants include universities and other non-profit research institutions. The Conferees encourage the development of consortia of eligible institutions for grants under this subsection. Generally, the applicant must be located in the region, and the project must be directly related to the regional research needs set out in the research plan or otherwise relevant to the needs of the specific region. In the event of a group application, the entity or entities carrying out the substantial portion of the proposed research must be located in the region. This language is intended to permit institutions with significant expertise outside of the region to join in consortia of universities or other non-profit research institutions located in the region to carry out a proposed research project of benefit to the region. In addition, a number of States are in two or more regions. In such cases, to permit institutions within such States to participate in research proposals for any of the regions of which the State is a part, the Conference substitute provides that the applicant must either be located in the region, or in a State a part of which is in the region.

With respect to Alaska, which comprises Coast Guard District 17, the Conference substitute provides that the Prince William Sound Oil Spill Recovery Institute established in section 5001 of the Conference substitute is not eligible to receive grants under the regional research program for that region. Accordingly, the Conferees intend that all funding, pursuant to subsection 7001(c)(8), for the Alaska region be available to any qualifying entity in the region other than the Institute. A related discussion appears under section 5001.

The Interagency Committee shall coordinate the solicitation of grant proposals, review the applications, and make recommendations for the grants. Since the Interagency Committee lacks power to enter into grants itself, the actual grant and the subsequent administration of the grant shall be the responsibility of the appropriate granting Agency represented on the Interagency Committee, as designated by the Committee. The Conferees intend, however, that the recommendations of the Interagency Committee on the grant awards should be given great weight by the granting Agency. The granting Agency must make the award unless budgetary constraints or other compelling reasons prevent it from making the award; in any event, the Agency must publish in the Federal Register its reasons for failing to make an award recommended by the Interagency Committee. Similarly, an Agency is not permitted to make a grant from the funds available for the regional research program unless the grant has first been recommended by the Interagency Committee.

In making grant recommendations, the Interagency Committee is required to balance the merits of the particular proposed project and the need to provide an appropri-

ate balance within a region among the various aspects of regional oil pollution research needs. In addition, the Interagency Committee must consider the individual merits of the proposal, as well as the criteria set out in section 7001(c)(8)(D).

To encourage stable, long-term research funding, the Conference substitute encourages grants to be made for up to three years, subject to appropriate annual reviews by the granting Agency to determine that the project supported by the grant is being properly carried out. Grants may not provide more than 80 percent of the costs of the research activities carried out in connection with the grant. The Conference substitute also makes it clear that grants cannot be used for land acquisition or building construction.

The Conferees have added language to make it clear that section 7001 is not intended to alter the existing authorities of Agencies represented on the Interagency Committee to make research grants using funds other than those authorized in this section.

The Conference substitute authorizes \$6,000,000 for five fiscal years beginning in 1991 for the regional research program, to be allocated equally among the ten regions. Should the granting agencies determine that additional grant funding is required, the substitute permits the granting Agencies to use their authority under section 7001(c)(10) to make grants from funds authorized in section 7001(f).

Section 7001(d) of the Conference substitute accepts the provision in the House bill requiring the Interagency Committee to coordinate and cooperate with other nations and foreign research entities in conducting oil pollution research activities.

Section 7001(e) of the Conference substitute incorporates the regular reporting requirements in the House bill, but requires the report to be filed every two years instead of annually.

The Conferees agreed to a total funding level of \$27,250,000 per fiscal year, of which \$6,000,000 is authorized for the regional research program, and not less than \$2,250,000 are authorized for the demonstration projects beginning in fiscal year 1992. Funding of \$5,000,000 is authorized for environmental effects research for fiscal year 1991, which is decreased to \$3,500,000 for fiscal years 1992 through 1995. Finally, this subsection states that all activities authorized under section 7001 are subject to appropriations.

It is the strong opinion of the Conferees that the Administration, in its budget request, should consider the oil pollution research and development program established in this Act as the basis for an agency budget cross-cut. Moreover, in conducting such a cross-cut, the Office of Management and Budget should seek the advice of the Interagency Committee established in this Act.

TITLE VIII—TRANS-ALASKA PIPELINE SYSTEM

SEC. 8001. SHORT TITLE

The Senate amendment has no comparable provision.

Section 8001 of the House bill provides that this title may be cited as the "Trans-Alaska Pipeline System Reform Act of 1990."

The Conference substitute accepts the House provision.

SEC. 8002. REFERENCES TO TRANS-ALASKA PIPELINE AUTHORIZATION

The Senate amendment has no comparable provision.

Section 8002 of the House bill states that, except as otherwise expressly provided, any references in this title to "the Act" shall be considered to be made to a section or other provision of the Trans-Alaska Pipeline Authorization (TAPS) Act (43 U.S.C. 1651-1655).

The Conference substitute accepts the Senate provision.

SUBTITLE A—IMPROVEMENTS TO TRANS-ALASKA PIPELINE SYSTEM

SEC. 8101. LIABILITY WITHIN THE STATE OF ALASKA AND CLEANUP EFFORTS

Section 401 of the Senate amendment limits the application of section 204(b) of the TAPS Act to removal costs in the State of Alaska which would not otherwise be covered by the regime established by the Senate amendment.

Section 8101 of the House bill exempts the Trans-Alaska Pipeline System (TAPS) (pipeline, terminal and related onshore facilities) from the liability regime established by the Oil Pollution Act of 1990 for similar facilities. Pursuant to section 204(a) of the TAPS Act, the holder of the pipeline right-of-way is strictly liable for all removal costs and strictly liable for up to \$50 million for damages in connection with activities in the vicinity of the right-of-way. Section 8101 of the House bill amends the TAPS Act to remove the cap on strict liability for damages, to provide that damages must be caused solely by government negligence to provide a defense to strict liability, and to clarify that section 204(b) of the TAPS Act applies to damages caused by activities which are related to TAPS including operation of the terminal.

The Conference substitute accepts the House provision with the exception that section 204(a)(2) of the TAPS Act is amended to hold the right-of-way holder strictly liable for \$350 million in damages. Liability standards under sections 204 (a) and (b) of the TAPS Act, as amended, will apply until TAPS oil is loaded aboard a vessel. TAPS Act liability shall apply if oil is spilled during the loading process at the terminal. Any subsequent discharge from the vessel shall be governed by the liability regime established by the Oil Pollution Act of 1990.

SEC. 8102. TRANS-ALASKA PIPELINE LIABILITY FUND

Section 401(b)(1) of the Senate amendment repeals section 204(c) of the TAPS Act and transfers both claims against the Trans-Alaska Pipeline Liability Fund (TAPS Fund) and the balance of the TAPS Fund to the Oil Spill Compensation Fund upon date of enactment. Section 401(b)(2) provides that the owners of the oil who were assessed a five cent fee at the time it was loaded on vessels from the pipeline, pursuant to section 204(c)(5) of the TAPS Act, shall receive a pro-rated tax credit for amounts transferred from the TAPS Fund to the Oil Spill Compensation Fund.

Section 8102 of the House bill limits the application of liability under section 204(c) of the TAPS Act to incidents occurring before the date of enactment of the Trans-Alaska Pipeline System Reform Act. Claims against the TAPS Fund would be preserved, but claims arising from any spill after the date of enactment would be subject to the liability regime of the Oil Pollution Act of 1990. No disposition is provided for any amounts which may be remaining in the TAPS Fund after claims are paid.

For purposes of claims against the TAPS Fund, section 8102(b) of the House bill pro-

vides that damages must be caused solely by government negligence in order to provide a defense to liability. Section 8102(c) allows for the recovery of damages from the TAPS Fund for the "net" loss of tax or other State and municipal revenue. Section 8102(d) requires claims arising from a TAPS spill to be paid by the TAPS Fund if the responsible vessel owner or operator has not made payment within 90 days. Upon payment of claims, the TAPS Fund receives equivalent subrogation rights to pursue the responsible party and to additionally recover interest, costs and attorneys fees. Section 8102(e) grants immunity from personal liability other than for gross negligence or willful misconduct for TAPS Fund trustees and provides for indemnification by the TAPS Fund as set forth in the Secretary of the Interior's regulations (43 CFR Subtitle A Part 29).

Section 8102(f) of the House bill authorizes annual expenditure of monies from the Oil Spill Liability Trust Fund in amounts up to \$5 million for improved Federal enforcement and oversight related to the safe and environmentally sound operation of TAPS, up to \$2 million in grants to be matched on a dollar for dollar basis by the State of Alaska, and up to \$5 million for a Presidential Task Force and audit of TAPS.

The Conference substitute accepts with technical changes section 8102(b) (cause of accident), (c) (damages), (d) (payment of claims by the TAPS Fund), and (e) (officers or trustees) of the House bill. The Conference substitute accepts the Senate amendment, with modifications to provide for the repeal of section 204(c) of the TAPS Act. Any claim arising from an incident involving oil transported through TAPS and loaded on a vessel occurring on or after the date of enactment of this Act is governed by the Oil Pollution Act of 1990.

Section 8102(a)(2)(A) of the Conference substitute directs the TAPS Fund trustees to initially reserve amounts necessary to pay claims arising from incidents subject to section 204(c) of the TAPS Act occurring before the date of enactment and to reserve amounts necessary to pay administrative expenses of the TAPS Fund. Nothing in this title expands the scope or type of administrative expenses reimbursable from the TAPS Fund. If the TAPS Fund trustees determine and the Comptroller General certifies that amounts reserved satisfy the requirements of section 8102(a)(2)(A), then the excess funds shall be transferred to the Oil Spill Liability Trust Fund, with the exception that a pro-rated share of the amount being transferred must be rebated to the State of Alaska for its contribution as an owner of oil.

Section 8102(a)(2)(D) specifies that any TAPS Fund monies transferred to the Oil Spill Liability Trust Fund shall be earmarked for the purposes set forth in sections 5001 and 8301 and available for other purposes set forth in section 1012 only to the extent that funds have otherwise been provided for in sections 5001 and section 8103.

The Conferees intend by section 8102(a)(2)(C) that when all claims arising from an incident for which funds are reserved pursuant to section 8102(a)(2)(A) are resolved, and the Comptroller General certifies that the requirements of section 8102(a)(2)(A) for the purposes of section 204(c) of the TAPS Act have been met, the excess amounts, if any, which were reserved for that incident shall be transferred, subject to the requirements for reservation of

amounts necessary to pay claims from other incidents and administrative expenses as set forth in section 8102(a)(2)(A) to the Oil Spill Liability Trust Fund according to section 8102(a)(2)(B).

Section 8102(a)(4) amends section 204(c)(5) of the TAPS Act to provide that a five cent per barrel fee from owners of TAPS oil need not be collected if the TAPS Fund trustees determine and the Comptroller General certifies to Congress that sufficient monies are available in the TAPS Fund to pay all outstanding claims and administrative costs.

The repeal of section 204(c) of the TAPS Act is made effective 60 days after the Comptroller General certifies to Congress that: (1) all claims from all incidents arising under section 204(c) of the TAPS Act have been resolved; (2) all actions (including judicial review) for recovery of amounts subject to section 204(c) have been resolved; and, (3) all reasonably necessary expenses for administering the TAPS Fund have been paid. Section 8102(a)(3) specifies that the repeal of section 204(c) of the TAPS Act shall not prejudice any right to recovery or diminish any responsibility that arises from incidents which occur prior to the date of enactment of the Conference substitute.

The intent of section 8102 of the Conference substitute is that any transfer of monies from the TAPS Fund to the Oil Spill Liability Trust Fund be free of all claims and obligations. The Conferees strongly encourage the TAPS Fund trustees to expeditiously and fairly settle all outstanding obligations and to resolve all pending claims. To date, the TAPS Fund has not paid any claims, including those arising from the GLACIER BAY oil spill in 1987.

SEC. 8103. PRESIDENTIAL TASK FORCE

The Senate amendment has no provision comparable to the Presidential Task Force. The Oil Terminal Environmental Advisory Council is similar in response to the Advisory Council in section 8103 of the House bill.

Section 8103 of the House bill provides for a Presidential Task Force on TAPS. The Task Force is directed to conduct a comprehensive audit and review of TAPS, including the terminal in Valdez. Section 8103 also establishes a Trans-Alaska Pipeline Terminal Advisory Council comprised of citizens of the Prince William Sound area.

The Conference substitute adopts the House provision, with amendments, to establish a Presidential Task Force on TAPS. The House bill Advisory Council has been incorporated in section 5002 of the Conference substitute.

The Task Force established by the Conference substitute will be comprised of seven members, including three Federal officials, three nominated by the Governor of Alaska, and one member nominated by the Office of Technology Assessment. The Task Force is authorized to hire staff and to retain independent consulting firms.

No later than two years after funding is provided, the Task Force is directed to make public a report as to whether TAPS is in compliance with applicable laws, regulations and agreements, including the rights-of-way granted by the Secretary of the Interior and the State of Alaska. The Task Force is also directed to audit and report on whether structural or operational improvements to TAPS are necessary to reduce the risk of oil spills or to prevent other damage to the environment and human health. The Task Force must conduct a similar review of oil spill response capabilities and security for TAPS.

After receiving the Task Force's report, the President shall report to Congress and the Governor of Alaska what measures have been taken or will be taken to implement the Task Force's recommendations.

The Conferees intend that the TAPS operator and affiliated companies cooperate fully with the Task force. Nearly one quarter of the oil produced in the U.S. is transported by TAPS and the safe and environmentally sound operation of this system is a national priority.

Subtitle B—Penalties

SEC. 8201. AUTHORITY OF THE SECRETARY OF THE INTERIOR TO IMPOSE PENALTIES ON OUTER CONTINENTAL SHELF FACILITIES

Section 601 of the Senate amendment amends section 24(b) of the Outer Continental Shelf Lands Act (OCSLA) to clarify the Department of the Interior's authority to immediately assess a civil penalty for any violation that presents a serious threat to the environment, health, or safety. This clarification of OCSLA authority is necessary because of a 1983 judicial decision. This provision also increases the penalty amount to not more than \$20,000 per day and requires the Secretary of the Interior to increase the amount to account for inflation at least once every three years.

Section 8201 of the House bill has the same provision.

The Conference substitute adopts the House and Senate provisions with technical changes.

SEC. 8202. TRANS-ALASKA PIPELINE SYSTEM CIVIL PENALTIES

The Senate amendment has no comparable provision.

Section 8202 of the House bill requires the Secretary of the Interior to impose a civil penalty of no less than \$1,000 per barrel of oil spilled in transit to or through the Trans-Alaska Pipeline System, including handling at the terminal facilities.

The Conference substitute adopts the House provision for civil penalties with amendments. The Secretary of the Interior is authorized to impose a civil penalty of up to \$1,000 per barrel of oil spilled, but this penalty cannot be imposed in addition to Federal penalties assessed under section 31(b) of the Federal Water Pollution Control Act.

Subtitle C—Provisions Applicable to Alaska Natives

SECTION 8301. LAND CONVEYANCES

Section 102(h) of the Senate amendment provides that solely for the purposes of bringing claims that arise from the discharge of oil, Alaska Native corporations are deemed to have full title to land validly selected pursuant to the Alaska Native Claims Settlement Act as of March 23, 1989.

Section 8301 of the House bill contains a similar provision but adds the restriction that this section takes effect only upon an irrevocable election to accept an interim conveyance of land and formal notice to the Secretary of the Interior.

The Conference substitute adopts the House provision.

SEC. 8302. IMPACT OF POTENTIAL SPILLS IN THE ARCTIC OCEAN ON ALASKA NATIVES

Section 604 of the Senate amendment calls upon the Secretary of State to begin negotiations with Canada on a treaty concerning recovery of damages, contingency plans, and coordinated actions in the event of an oil spill in the Arctic Ocean.

Section 8302 of the House bill directs the Secretary of the Interior to conduct a study and provide a report to Congress on the issues of recovery of damages, contingency plans, and coordinated actions with the Canadian government in the event of an oil spill in the Arctic Ocean.

The Conference substitute adopts the Senate amendment with technical changes.

TITLE IX—AMENDMENTS TO OIL SPILL LIABILITY TRUST FUND, ETC.

1. DEFINITION OF FUND

Present Law

The Internal Revenue Code of 1986 contains the "Oil Spill Liability Trust Fund" ("Trust Fund") (Code sec. 9509).

House bill

Under the House bill, "Fund" means the "Oil Spill Liability Trust Fund" in the Internal Revenue Code.

Senate Amendment

A separate "Oil Spill Compensation Fund" is established. The present Trust Fund is also retained. The Senate amendment requires the Secretary of the Treasury to transfer monies from the Trust Fund to the newly-created compensation fund on request to finance the newly-created compensation fund's activities.

Conference Agreement

The conference agreement follows the House bill.

2. LIMIT ON BORROWING BY THE FUND

Present Law

The Trust Fund is authorized to borrow from the Treasury. There is a \$500 million aggregate borrowing limitation.

House Bill

No provision.

Senate Amendment

The Senate amendment overrides the Trust Fund provision to raise the borrowing limit to \$1 billion per incident.

Conference Agreement

The conference agreement increases the Trust Fund borrowing limit to \$1 billion in the aggregate. The conference agreement is effective on the date of enactment.

3. EXPENDITURE PURPOSES AND LIMITATIONS

Present Law

The Code permits the Trust Fund to make expenditures only for (1) certain removal expenses under the Federal Water Pollution Control Act ("FWPCA") and the Intervention on the High Seas Act ("IHSA") and (2) certain removal costs, payment of claims, and administrative expenses as provided in authorizing legislation that must be substantially identical to specified legislation passed previously by the House of Representatives. (Neither the House bill nor the Senate amendment was determined to be substantially identical to such legislation.) Code references to the FWPCA and IHSA are not restricted to those Acts as in existence when the Trust Fund was enacted.

House Bill

The House bill provides additional expenditure purposes by amending the FWPCA and the IHSA and by adding separate, new expenditure purposes.

Senate Amendment

The Senate amendment also provides for additional expenditure purposes (which differ somewhat from those in the House bill) by amending the FWPCA and the IHSA and by adding separate, new expenditure purposes.

Conference Agreement

The conference agreement amends the Internal Revenue Code to provide that the Trust Fund may be used only for expenditures that are enumerated under the other titles of the Oil Pollution Act of 1990. The conference agreement provides that any reference to the Oil Pollution Act of 1990 or to any other Act referred to (either directly or indirectly) in the provision relating to expenditure purposes shall be treated as a reference to such Act as in effect on the date of enactment of this Oil Pollution Act of 1990. The Code is amended to enumerate the permissible expenditure purposes, which includes certain removal costs, payments of claims, and administrative expenses. In addition, the Trust Fund may be used for expenditures for the payment of liabilities incurred by the Deep Water Port Liability Fund and the Offshore Oil Pollution Compensation Fund. The conference agreement is effective on the date of enactment.

4. FUND EXPENDITURE LIMIT

Present Law

The Code provides a \$500 million per-incident Trust Fund expenditure limit, with a separate \$250 million per-incident limit on natural resource damages payments.

House Bill

No provision.

Senate Amendment

The Senate amendment raises the per-incident expenditure limit to \$1 billion, with no separate limit on natural resource damages payments, but does not expressly amend the Trust Fund expenditure limitation provisions.

Conference Agreement

The conference agreement amends the Code by raising the per-incident expenditure limit to \$1 billion and by raising the per-incident limit on natural resource damages payments to \$500 million. The conference agreement is effective on the date of enactment.

5. DEPOSITS OF CERTAIN ADDITIONAL AMOUNTS INTO THE FUND

a. Deposit of certain transfers and excess natural resource damages

Present Law

The Code appropriates to the Trust Fund (1) the environmental tax on petroleum, (2) amounts recovered, collected or received in appropriate authorizing legislation (which was not determined to include the House bill or the Senate amendment), and (3) amounts that were remaining as of January 1, 1990, in the Deepwater Port Liability Fund established by the Deepwater Port Act of 1974 and the Offshore Oil Pollution Compensation Fund under the Outer Continental Shelf Lands Act Amendments of 1978. No excess natural resource damages are deposited in the Trust Fund. Liabilities against the Deepwater Port Liability and Offshore Oil Pollution Compensation Funds are not assumed by the Trust Fund.

House Bill

Sums recovered for damages to natural resources in excess of those required to reimburse costs with respect to the damaged natural resources are to be deposited in the Trust Fund.

Senate Amendment

Sums recovered for damages to natural resources must be used to restore, replace or acquire equivalent natural resources.

Conference Agreement

The conference agreement follows the House bill as to the deposit in the Trust Fund of excess natural resources damages. The conferees understand that amounts remaining in the Deepwater Port and Offshore Oil Pollution Compensation Funds have not yet been deposited in the Trust Fund. The conferees intend that all amounts (including interest through the date of the actual transfer) remaining in these two Funds be deposited in the Trust Fund and any liabilities against those two Funds be assumed by the Trust Fund. The conference agreement explicitly provides that amounts remaining in those two Funds must be transferred into the Trust Fund. The conference agreement is effective on the date of enactment.

b. Deposit of penalties

Present Law

Under present law, no penalties are deposited in the Trust Fund.

House Bill

The House bill provides for deposit to the Trust Fund of certain specified penalties.

Senate Amendment

No provision.

Conference Agreement

The conference agreement provides for deposit to the Trust Fund of certain penalties that are specifically enumerated in the Code (but not including all of those specified in the House bill). The conference agreement is effective on the date of enactment.

6. MODIFICATIONS TO THE TAPS FUND

Present Law

The TAPS Fund was established by the Trans-Alaska Pipeline System Authorization Act. It was not incorporated into the Trust Fund provisions.

After the trustees of the TAPS Fund have certified that all outstanding claims against the TAPS Fund have been resolved, the unobligated balance of the TAPS Fund may be deposited in the Trust Fund. If the unobligated balance of the TAPS Fund is deposited in the Trust Fund, the owners of the TAPS Fund will be provided a credit against future petroleum excise taxes for their pro rata share of amounts of the TAPS Fund deposited in the Trust Fund.

House Bill

The House bill restricts claims against the TAPS Fund to those occurring before the enactment of the Trans-Alaska Pipeline System Reform Act of 1989.

Senate Amendment

Senate amendment abolishes the TAPS Fund, makes preexisting claims against the TAPS Fund enforceable against the newly-created compensation fund, transfers the balance of the TAPS Fund to that fund, and gives credits against future petroleum excise taxes to persons that paid into the TAPS Fund.

Conference Agreement

The conference agreement provides that specified amounts transferred out of the TAPS Fund pursuant to section 8102 of the Oil Pollution Act of 1990 are deposited into the Trust Fund. Liabilities from incidents occurring prior to the date of enactment will not be assumed by the Trust Fund. The conference agreement is effective on the date of enactment.

7. DELEGATION OF AUTHORITY TO STATES TO
OBLIGATE THE FUND*Present Law*

No provision.

House Bill

The President is authorized to delegate the authority to obligate money in the Trust Fund or to settle claims to Federal officials and to States with an adequate program operating under a cooperative agreement with the Federal Government. The President must designate the Commandant of the Coast Guard as a Federal official authorized to obligate the Fund.

In accordance with regulations to be promulgated, the Governor of each State, or his designee, is authorized to obligate the Trust Fund for payment in an amount not to exceed \$250,000 for the purpose of immediate removal of a discharge of oil or threat of discharge.

Senate Amendment

The Senate amendment is the same as the House bill, except that it does not include the provision relating to the Coast Guard and the threat of discharge must be substantial.

Conference Agreement

The conference agreement provides that the authority to obligate the Trust Fund is restricted to Federal officials in all cases. In addition, the conference agreement provides that the standard by which State removal costs will be evaluated by Federal officials must be in accordance with the National Contingency Plan as published pursuant to section 311 of the Federal Water Pollution Control Act (as amended by this legislation). Consequently, no expenditure may be made from the Trust Fund for any State removal costs pursuant to standards that exceed those contained in the National Contingency Plan. The conference agreement is effective on the date of enactment.

From the Committee on Merchant Marine and Fisheries, for consideration of the House bill (except title VIII), and the Senate amendment (except secs. 601 and 602), and modifications committed to conference:

WALTER B. JONES,
GERRY STUDDS,
BILLY TAUZIN,
THOMAS C. CARPER,
BILL HUGHES,
BOB DAVIS,
DON YOUNG,
NORMAN F. LENT

(Provided, Mr. Shumway is appointed in place of Mr. Young of Alaska for consideration of title I and sec. 2004 of the House bill, and title I and sec. 405 of the Senate amendment).

From the Committee on Public Works and Transportation, for consideration of the House bill (except title VIII), and the Senate amendment (except secs. 601 and 602), and modifications committed to conference:

GLENN M. ANDERSON,
ROBERT A. ROE,
NORMAN Y. MINETA,
JAMES L. OBERSTAR,
HENRY J. NOWAK,
JOHN PAUL
HAMMERSCHMIDT,
BUD SHUSTER,
ARLAN STANGELAND

(Provided, Mr. Kolter is appointed in place of Mr. Anderson for consideration of sec. 4114 of the House bill; Mr. Rahall is appointed in place of Mr. Roe for consider-

ation of title VII of the House bill, and secs. 205, 309, 354, and 356 of the Senate amendment; Mr. Laughlin is appointed in place of Mr. Roe for consideration of secs. 1002 and 1004 of the House bill, and corresponding portions of sec. 102 of the Senate amendment; Mr. Borski is appointed in place of Mr. Roe for consideration of secs. 4101 through 4205 of the House bill, and corresponding portions of the Senate amendment; and Mr. Upton is appointed in place of Mr. Shuster for consideration of sec. 4203 of the House bill and sec. 203 of the Senate amendment).

JOE KOLTER,
NICK RAHALL,
GREG LAUGHLIN,
BOB BORSKI,
FRED UPTON,

From the Committee on Foreign Affairs, for consideration of title III of the House bill, and secs. 603 and 604 of the Senate amendment, and modifications committed to conference:

DANTE B. FASCELL,
GUS YATRON,
WAYNE OWENS,
TOM LANTOS,
EDWARD F. FEIGHAN,
WM. BROOMFIELD,
DOUG BEREUTER,
JOHN MILLER,

From the Committee on Science, Space, and Technology, for consideration of title VII of the House bill, and secs. 205, 309, 354, and 506 of the Senate amendment, and modifications committed to conference:

ROBERT A. ROE,
JIM H. SCHEUER,
GEORGE E. BROWN, Jr.,
MARILYN LLOYD,
DOUG WALGREN,
ROBERT A. WALKER,
CLAUDINE SCHNEIDER,
SID MORRISON,

From the Committee on Interior and Insular Affairs, for consideration of title I and sec. 2004 of the House bill, and title I and sec. 405 of the Senate amendment, and modifications committed to conference:

MOE UDALL,
G. MILLER,
PHIL SHARP,
DON YOUNG,
LARRY E. CRAIG,

From the Committee on Interior and Insular Affairs, for consideration of title VIII of the House bill, and secs. 601 and 602 of the Senate amendment, and modifications committed to conference:

MOE UDALL,
G. MILLER,
PHIL SHARP,
BRUCE F. VENTO,
PETER DEFazio,
DON YOUNG,
RON MARLENEE,
LARRY E. CRAIG,

From the Committee on Energy and Commerce, for consideration of secs. 8103, 8201, and 8202 of the House bill, and sec. 601 of the Senate amendment, and modifications committed to conference:

JOHN D. DINGELL,
RALPH M. HALL,
NORMAN F. LENT,

From the Committee on Merchant Marine and Fisheries, for consideration of title VIII of the House bill, and secs. 601 and 602 of the Senate amendment, and modifications committed to conference:

WALTER B. JONES,
BILLY TAUZIN,
TOM CARPER,

BOB DAVIS,
JACK FIELDS,

From the Committee on Public Works and Transportation, for consideration of title VIII of the House bill, and secs. 601 and 602 of the Senate amendment, and modifications committed to conference:

GLENN M. ANDERSON,
NORMAN Y. MINETA,
HENRY J. NOWAK,
JOHN PAUL
HAMMERSCHMIDT,
ARLAN STANGELAND,

From the Committee on Ways and Means, for consideration of title VII and secs. 1001(f), 1006(f), 1006(g), 4302, 8102(f) of the House bill and so much of sec. 8202 of the House bill as would add a new sec. 210(c)(5) to the Trans-Alaska Pipeline Authorization Act, and secs. 103(b), 103(c), 356, 401(b), and 512 of the Senate amendment, and modifications committed to conference:

DAN ROSTENKOWSKI,
SAM M. GIBBONS,
J.J. PICKLE,
C.B. RANGEL,
PETE STARK,
BILL ARCHER,
GUY VANDER JAGT,
PHIL CRANE,

Managers on the Part of the House.

From the Committee on Environment and Public Works:

QUENTIN BURDICK,
DANIEL PATRICK
MOYNIHAN,
GEORGE MITCHELL,
MAX BAUCUS,
FRANK R. LAUTENBERG,
JOHN BREAUX,
JOHN CHAFEE,
DAVE DURENBERGER,
JOHN WARNER,
JIM JEFFORDS,
GORDON HUMPHREY,

From the Committee on Commerce, Science, and Transportation:

FRITZ HOLLINGS,
DANIEL INOUE,
JOHN F. KERRY,
JOHN BREAUX,
JOHN C. DANFORTH,
BOB PACKWOOD,
TED STEVENS,

From the Committee on Finance:

LLOYD BENTSEN,
MAX BAUCUS,
BOB PACKWOOD,

Managers on the Part of the Senate.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today, on account of medical reasons.

Mrs. ROUKEMA (at the request of Mr. MICHEL), for today, on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. PORTER) to revise and

extend their remarks and include extraneous material:)

Mr. McEWEN, for 60 minutes, today.
Mr. DORNAN of California, for 60 minutes, August 3 and September 6, 12, and 13.

Mr. GUNDERSON, for 5 minutes, today.

Mr. BROWN of Colorado, for 5 minutes, today.

Mr. PORTER, for 5 minutes, today.

Mr. WOLF, for 5 minutes, August 2 and August 3.

Mr. BUECHNER, for 5 minutes, today.

Mr. THOMAS of California, for 5 minutes, today.

(The following Members (at the request of Mr. McNULTY) to revise and extend their remarks and include extraneous material:)

Mr. PICKLE, for 5 minutes, today.

Mr. TRAFICANT, for 5 minutes, today.

Mr. ENGEL, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. FORD of Michigan, for 5 minutes, today.

Mr. ANTHONY, for 5 minutes, today.

Mr. CROCKETT, for 5 minutes, today.

Mr. MINETA, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. VENTO, and to include extraneous material on H.R. 1180 in the Committee of the Whole today.

(The following Members (at the request of Mr. PORTER) and to include extraneous matter:)

Mr. SOLOMON.

Mr. GALLO.

Mr. COUGHLIN.

Mr. MORRISON of Washington.

Mr. DORNAN of California in two instances.

Mr. BEREUTER in two instances.

Mr. CLINGER.

Ms. ROS-LEHTINEN in three instances.

Mr. HAMMERSCHMIDT.

Mr. McDADE.

Mr. WEBER.

Mr. SCHAEFER.

Mr. BROWN of Colorado.

Mr. HILER.

Mrs. SAIKI.

Mr. BUECHNER.

(The following Members (at the request of Mr. McNULTY) and to include extraneous matter:)

Mr. MONTGOMERY.

Mrs. LLOYD in five instances.

Mr. HAMILTON in 10 instances.

Mr. DE LA GARZA in 10 instances.

Mr. ALEXANDER.

Mr. HOYER.

Mr. GEPHARDT.

Mr. KOSTMAYER.

Mr. RAHALL.

Mr. ANNUNZIO.

Mr. ATKINS.

Mr. McHUGH.

Mr. MAZZOLI.

Mr. MAVROULES.

Mr. TRAFICANT.

Mr. ORTIZ.

Mr. RICHARDSON.

Ms. PELOSI.

Mr. TALLON.

Mr. GUARINI.

Mr. MORRISON of Connecticut.

ADJOURNMENT

Mr. MFUME. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 12 o'clock and 45 minutes a.m.), the House adjourned until tomorrow, Thursday, August 2, 1990 at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3653. A letter from the Assistant Secretary of State for Legislative Affairs, transmitting copies of the original report of political contributions of Stephen H. Rogers, of Virginia, a career member of the Senior Foreign Service, class of counselor, to be Ambassador to the Kingdom of Swaziland, pursuant to 22 U.S.C. 3944(b)(2); to the Committee on Foreign Affairs.

3654. A letter from the Assistant Comptroller-Inurance, Army and Air Force Exchange Service, transmitting copies of actuary's reports for the retirement annuity plan for employees of the Army and Air Force Exchange Service; supplemental deferred compensation plan for members of the Executive Management Program for the year ended December 31, 1989, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3655. A letter from the Department of the Air Force, transmitting the 1988 annual pension report for the Air Force nonappropriated fund [AFNAF] retirement plan for civilian employees, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3656. A letter from the Department of the Air Force, transmitting the 1989 annual pension report for the Air Force nonappropriated fund [AFNAF] retirement plan for civilian employees, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

3657. A letter from the Director, Office of Management and Budget, transmitting a report on the impact of offsets in military exports, as of April 16, 1990, pursuant to 50 U.S.C. 2099; jointly, to the Committees on Banking, Finance and Urban Affairs and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. JONES of North Carolina: Committee of Conference. Conference report on H.R. 1465 (Rept. 101-653). Ordered to be printed.

Mr. MOAKLEY: Committee on Rules. H. Res. 447. A resolution waiving certain points of order against the conference report on the bill (H.R. 1594) the Customs and Trade Act of 1990, and against the consideration of such conference report (Rept. 101-654). Referred to the House Calendar.

Mr. GORDON: Committee on Rules. H. Res. 448. A resolution providing for the consideration of H.R. 5350, a bill to provide for a temporary increase in the public debt limit (Rept. 101-655). Referred to the House Calendar.

Mr. WHEAT: Committee on Rules. H. Res. 449. A resolution providing for the consideration of H.R. 4000, a bill to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes (Rept. 101-656). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. BEILENSEN:

H.R. 5422. A bill to authorize appropriations for fiscal year 1991 for intelligence and intelligence-related activities of the U.S. Government, the Intelligence Community staff, and the Central Intelligence Agency Retirement and Disability System, and for other purpose; to the Committee on Intelligence (Permanent Select).

By Mr. ANTHONY:

H.R. 5423. A bill to amend the Internal Revenue Code of 1986 to increase the amount of bonds eligible for certain small issuer exceptions, and for other purposes; to the Committee on Ways and Means.

By Mr. BRENNAN:

H.R. 5424. A bill to provide for two demonstration projects to study the effect of allowing States to extend Medicaid coverage to certain low-income families not otherwise qualified to receive Medicaid benefits; to the Committee on Energy and Commerce.

By Mr. ROSTENKOWSKI:

H.R. 5425. A bill to amend the Internal Revenue Code of 1986 with respect to treatment of estate freezes; to the Committee on Ways and Means.

By Mr. McDADE:

H.R. 5426. A bill to amend the Internal Revenue Code of 1986 to provide a credit against income tax for education and training expenses of small businesses and a credit against income tax for educational expenses of employees of small businesses; to the Committee on Ways and Means.

By Mr. MORRISON of Washington (for himself, Mr. DICKS, Mr. SWIFT, Mr. CHANDLER, Mr. MILLER of Washington, Mr. McDERMOTT, and Mrs. UNSOLD):

H.R. 5427. A bill to require the Secretary of Energy to establish the Fast Flux Test Facility as an international research and development center to be known as the International Research Reactor User Complex; to the Committee on Science, Space, and Technology.

By Mr. POSHARD:

H.R. 5428. A bill to designate certain public lands in the State of Illinois as wilderness, and for other purposes; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

By Mr. SLATTERY (for himself and Mr. DORGAN of North Dakota):

H.R. 5429. A bill to amend the Internal Revenue Code of 1986 to allow farmland sold during the same taxable year as the farmer's principal residence to be eligible for the \$125,000 exclusion of gain on sale of a principal residence; to the Committee on Ways and Means.

By Mr. CARPER:

H.R. 5430. A bill to limit the number of congressional mass mailings allowable in any year, to require public disclosure of the costs of such mailings, and for other purposes; jointly, to the Committees on Post Office and Civil Service and House Administration.

By Mr. ALEXANDER (for himself, Mr. EMERSON, Mr. HERGER, Mr. HAYES of Louisiana, Mr. ESPY, Mr. LAUGHLIN, Mr. ROBINSON, Mr. HUCKABY, Mr. BROOKS, Mr. FAZIO, Mr. DELAY, Mr. LEWIS of Florida, and Mr. WILSON):

H.J. Res. 634. Joint resolution to declare September 1991 as "National Rice Month"; to the Committee on Post Office and Civil Service.

By Mr. BROOMFIELD:

H.J. Res. 634. Joint resolution designating September 22, 1990, as "American Business Women's Association Day"; to the Committee on Post Office and Civil Service.

By Mr. POSHARD:

H.J. Res. 635. Joint resolution to designate the 7 day period commencing October 7, 1990, and ending October 13, 1990, as "National Aviation Education Week"; to the Committee on Post Office and Civil Service.

By Mr. ROSE:

H. Con. Res. 359. Concurrent resolution permitting the use of the rotunda of the Capitol to allow Members of Congress to greet and receive His Holiness the XIV Dalai Lama of Tibet; to the Committee on House Administration.

By Mr. SOLARZ:

H. Res. 450. Resolution expressing the sense of the House of Representatives that the President should exercise certain emergency authorities to provide assistance to the Philippines for the relief, rehabilitation, and reconstruction of areas that suffered damage due to the July 1990 earthquake; to the Committee on Foreign Affairs.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 60: Mr. McCloskey, Mr. CHAPMAN, Mr. WOLPE, and Mr. JONTZ.

H.R. 173: Mr. McMILLAN of North Carolina, Mr. MARLENEE, Mr. BOUCHER, Mr. GRANDY, Mr. UPTON, and Mr. ROSE.

H.R. 220: Mrs. LOWEY of New York.

H.R. 446: Mr. WILSON.

H.R. 625: Mr. DUNCAN.

H.R. 747: Mr. BOSCO and Mr. BATES.

H.R. 935: Mr. BOUCHER.

H.R. 2121: Mr. COSTELLO.

H.R. 2353: Mr. LAUGHLIN.

H.R. 2395: Mr. LEVINE of California.

H.R. 2460: Mr. McNULTY.

H.R. 2608: Mrs. LOWEY of New York.

H.R. 2700: Mrs. SAIKI.

H.R. 2853: Mr. SHAYS and Mr. COURTER.

H.R. 2926: Mr. HASTERT, Mr. GUARINI, and Mr. SERRANO.

H.R. 3004: Mr. MURTHA.

H.R. 3037: Mr. MURTHA.

H.R. 3370: Mr. SMITH of New Jersey.

H.R. 3643: Mr. CONTE.

H.R. 3768: Mr. BLILEY.

H.R. 3864: Mr. MAZZOLI.

H.R. 3885: Mr. ROGERS.

H.R. 3914: Mr. OBEY.

H.R. 3979: Mr. SERRANO, Mr. FORD of Michigan, Mr. CLAY, Mrs. SCHROEDER, Mr. SIKORSKI, and Mr. HAYES of Illinois.

H.R. 4121: Mr. COOPER.

H.R. 4160: Mr. FISH.

H.R. 4345: Mr. BOEHLERT and Mr. DEFAZIO.

H.R. 4369: Mr. CARPER, Mr. MONTGOMERY, Mr. DERRICK, and Mr. GILMAN.

H.R. 4477: Mr. KOLBE.

H.R. 4494: Mr. DEWINE, Mr. EDWARDS of Oklahoma, Mr. BRUCE, Mrs. LLOYD, and Mr. GOODLING.

H.R. 4518: Mr. DIXON.

H.R. 4532: Mr. ATKINS, Mr. PENNY, and Mr. LEVINE of California.

H.R. 4552: Mr. DELLUMS.

H.R. 4555: Mr. BUSTAMANTE.

H.R. 4627: Mr. GOODLING.

H.R. 4641: Mr. FIELDS and Mr. LANTOS.

H.R. 4650: Ms. SCHNEIDER.

H.R. 4652: Mr. DWYER of New Jersey and Mr. TRAXLER.

H.R. 4761: Mrs. VUCANOVICH.

H.R. 4809: Mr. KOSTMAYER.

H.R. 4831: Mr. NEAL of Massachusetts, Mr. EMERSON, Mr. OWENS of New York, Mr. UPTON, Mr. MADIGAN, Mr. REGULA, and Mr. ROBINSON.

H.R. 4840: Mr. YATES, Mr. MORRISON of Connecticut, Mr. MURPHY, Mr. SPRATT, Mr. WALSH, Mr. TALLON, Mr. DICKS, Mr. STAGGERS, Mr. DYMALLY, Mr. DELLUMS, Mr. CROCKETT, and Mr. KOLTER.

H.R. 4981: Mr. HERGER.

H.R. 4987: Mr. LANCASTER.

H.R. 5007: Mr. WEBER, Mr. WHITTAKER, Mr. YOUNG of Florida, Mr. JONES of North Carolina, Mr. COLEMAN of Missouri, Mr. ARCHER, Mr. BROOMFIELD, Mrs. BENTLEY, Mr. CALLAHAN, Mr. CHANDLER, Mr. COBLE, Mr. COUGHLIN, Mr. DICKS, Mr. DREIER of California, Mr. DUNCAN, Mr. ENGLISH, Mr. GINGRICH, Mr. GOODLING, Mr. GRADISON, Mr. HOUGHTON, Mr. HUNTER, Mr. JAMES, Mr. LEATH of Texas, Mr. LOWERY of California, Mr. THOMAS A. LUKE, Mr. McMILLAN of North Carolina, Ms. MOLINARI, Mr. MORRISON of Washington, Mr. PAXON, Mr. PETRI, Mr. RAVENEL, Mr. REGULA, Mr. ROTH, Mrs. ROUKEMA, Mr. SAXTON, Mr. SCHAEFER, Mr. SCHIFF, Mr. SCHULZE, Mr. SHUSTER, Mr. SUNDQUIST, Mr. THOMAS of Wyoming, Mr. WALKER, Mr. WALSH, and Mr. SMITH of New Hampshire.

H.R. 5028: Mr. DANNEMEYER.

H.R. 5054: Mr. ECKART.

H.R. 5088: Mr. PENNY, Mr. BEILSON, and Mr. MOODY.

H.R. 5144: Mr. HANSEN and Mr. CAMPBELL of Colorado.

H.R. 5163: Mr. MAVROULES.

H.R. 5186: Mr. STARK, Mr. FUSTER, Mrs. JOHNSON of Connecticut, Ms. PELOSI, Mrs. COLLINS, Mr. RANGEL, Mr. SMITH of Florida, Mr. LIPINSKI, Mr. BILBRAY, Mr. RAHALL, Mr. FAUNTROY, Mr. TAUKE, Mr. MATSUI, Mr. OWENS of New York, Mr. FOGLIETTA, Ms. OAKAR, Mr. ACKERMAN, Mr. FAZIO, Mr. SABO, Mr. MACHTLEY, Mr. LEWIS of Georgia, and Mr. DELLUMS.

H.R. 5188: Mr. ROYBAL, Mr. DEFAZIO, and Mr. MILLER of California.

H.R. 5196: Mr. GEJDESON.

H.R. 5200: Mr. SOLOMON.

H.R. 5202: Mr. PRICE, Mr. RAHALL, Mr. GOODLING, and Mr. DWYER of New Jersey.

H.R. 5218: Mr. OWENS of Utah and Mr. HOLLOWAY.

H.R. 5244: Mr. WALSH, Mr. HAYES of Louisiana, Mr. TAYLOR, Mr. FAUNTROY, and Mr. RANGEL.

H.R. 5290: Mr. TOWNS, Mr. COOPER, Ms. SLAUGHTER of New York, Ms. SCHNEIDER, Mr. LEVIN of Michigan, Mr. WALSH, Mr. AUCCOIN, Mr. GREEN, Mr. ROYBAL, Mrs. COLLINS, Mrs. JOHNSON of Connecticut, Mr. SHARP, Mr. BILBRAY, Mr. JOHNSTON of Florida, Ms. KAPTUR.

H.R. 5338: Mr. TORRES and Mr. MANTON.

H.R. 5341: Mr. UDALL, Mr. DAVIS, Mr. MACHTLEY, Mr. DWYER of New Jersey, Mr. TALLON, Mrs. SAIKI, Mr. CARPER, Mr. PALONE, Mr. BOEHLERT, Mr. DURBIN, Mr. MILLER of Washington, Mr. COBLE, Ms. PELOSI, Mr. PAYNE of New Jersey, Mr. ALEXANDER, Mr. BALLENGER, and Mr. ROWLAND of Connecticut.

H.R. 5353: Mr. HORTON, Mr. RINALDO, and Mr. OWENS of New York.

H.R. 5378: Mr. ESPY.

H.R. 5410: Mr. BATES, Mr. OWENS of New York, and Mr. DELLUMS.

H.J. Res. 264: Mr. SKAGGS.

H.J. Res. 369: Mr. MADIGAN, Mr. ROWLAND of Connecticut, Mr. YATRON, Mrs. MARTIN of Illinois, Mr. WISE, Mr. LEACH of Iowa, Mr. HEFNER, Mr. LOWERY of California, Mr. BROWN of Colorado, Mr. STUDDS, Mr. LAGOMARSINO, Mr. SERRANO, Mr. ERDREICH, Mr. HAMILTON, Mrs. SAIKI, Mr. TAUKE, Mr. BUSTAMANTE, Mr. CLARKE, Mrs. MORELLA, Mr. CRAIG, Mr. DELLUMS, Mr. GRANT, and Mr. HYDE.

H.J. Res. 439: Mr. SHUSTER.

H.J. Res. 459: Mr. MAZZOLI, Mr. SUNDQUIST, and Mr. COX.

H.J. Res. 468: Mr. BUECHNER, Mr. BUNNING, Mr. BURTON of Indiana, Mr. COBLE, Mr. DELAY, Mr. DERRICK, Mr. DUNCAN, Mr. ESPY, Mr. FIELDS, Mr. GOSS, Mr. JONES of North Carolina, Mrs. KENNELLY, Mr. LIGHTFOOT, Mr. DONALD E. LUKENS, Mr. MOORHEAD, Mr. MORRISON of Connecticut, Mr. OWENS of New York, Mr. PACKARD, Mr. ROGERS, Mr. ROHRBACHER, Mr. SCHULZE, Mr. SHAYS, Mr. STUMP, Mrs. VUCANOVICH, Mr. WEBER, Mr. YOUNG of Florida, and Mr. BILBRAY.

H.J. Res. 482: Mr. SHAW and Mr. DANNEMEYER.

H.J. Res. 486: Mr. KLECZKA.

H.J. Res. 552: Mr. GORDON, Mr. MINETA, Mr. BURTON of Indiana, Mr. RICHARDSON, Mrs. LLOYD, Mr. BUNNING, Mr. LIVINGSTON, Mr. KASICH, Mr. GEKAS, Mr. YOUNG of Alaska, Mr. LEWIS of California, Mr. LEHMAN of Florida, Mr. WILSON, Mr. WEBER, Mr. WALGREN, Mr. MACHTLEY, Mr. MFUME, and Mr. WATKINS.

H.J. Res. 567: Mr. SCHUETTE, Mr. COUGHLIN, Mr. KENNEDY, Mrs. BENTLEY, Ms. KAPTUR, Mr. RITTER, Mr. MCEWEN, Mr. LIPINSKI, Mr. FRANK, Mr. YATRON, Mr. FEIGHAN, Mr. ENGEL, Mr. HAMMERSCHMIDT, Mr. COX, Mr. TALLON, Mr. WAXMAN, Mr. SLATTERY, Mr. MCCOLLUM, Mr. JONTZ, and Mr. YOUNG of Alaska.

H.J. Res. 579: Mr. CLEMENT, Mr. SOLOMON, Mr. DORGAN of North Dakota, Mr. OWENS of Utah, Mr. DORNAN of California, and Mr. WAXMAN.

H.J. Res. 584: Mr. BROWN of California, Mr. SCHEUER, Mrs. LLOYD, Mr. WALGREN, Mr. VOLKMER, Mr. WOLPE, Mr. NELSON of Florida, Mr. HALL of Texas, Mr. MINETA, Mr. VALENTINE, Mr. TORRICELLI, Mr. BOUCHER, Mr. BRUCE, Mr. STALLINGS, Mr. TRAFICANT, Mr. HAMILTON, Mr. NOWAK, Mr. PERKINS, Mr. McMILLEN of Maryland, Mr. PRICE, Mr. NAGLE, Mr. HAYES of Louisiana, Mr. SKAGGS, Mr. COSTELLO, Mr. TANNER, Mr. BROWDER, Mr. BOEHLERT, Mr. RITTER, Mr. MORRISON of

Washington, Mr. HENRY, Mrs. MORELLA, Mr. SCHIFF, Mr. HORTON, Mr. CARPER, Mr. MILLER of Washington, Mr. BILIRAKIS, Mr. HALL of Ohio, Mr. GREEN of New York, Mr. STANGELAND, Mr. WEBER, Mr. SLATTERY, Mr. SABO, Mr. DWYER of New Jersey, Mr. KOSTMAYER, Mr. SISISKY, Mr. PORTER, Mr. KLECZKA, Mr. GUNDERSON, and Mr. WOLF.

H.J. Res. 613: Mr. LANCASTER, Mr. HUCKABY, and Mr. MARTIN of New York.

H.J. Res. 616: Mrs. BENTLEY, Mr. RAHALL, Mr. McMILLEN of Maryland, Mr. EVANS, and Mr. SMITH of Florida.

H.J. Res. 618: Mrs. VUCANOVICH, Mr. MCGRATH, Mr. MOODY, Mr. FASCELL, Mr. FISH, Mr. IRELAND, Mr. BURTON of Indiana, Mr. YOUNG of Alaska, Mr. VANDER JAGT, Mr. BUECHNER, Mr. CARR, Mr. DERRICK, Mr.

DeWINE, Mr. DYSON, Mr. GALLEGLY, Mr. GREEN, Mr. GUARINI, Mr. HOAGLAND, Mr. JOHNSTON of Florida, Mr. LIPINSKI, Mrs. LLOYD, Mr. PICKLE, Mr. SMITH of New Jersey, Mr. SMITH of Vermont, Mr. TALLON, Mr. McCRERY, Mr. SPENCE, Mr. GEKAS, Mr. MARTINEZ, and Mr. JONES of North Carolina.

H.J. Res. 627: Mr. McDADE, Mr. SERRANO, Mr. FLIPPO, Mr. CROCKETT, Mr. IRELAND, Ms. OAKAR, Mr. RINALDO, Mr. HENRY, Mr. ROWLAND of Connecticut, Mr. NIELSON of Utah, Mr. HYDE, Mr. DE LA GARZA, Mr. SCHUETTE, Mr. ROYBAL, Mr. HANSEN, Mr. DURBIN, Mr. LEVIN of Michigan, Mr. WALSH, Mr. LAGOMARSINO, Ms. KAPTUR, Mr. CARPER, Mr. SPRATT, Mr. LEHMAN of Florida, Mr. OWENS of New York, Mr. PALLONE, Mr. PANETTA, Mr. NELSON of Florida, Mr. PAYNE of New

Jersey, Mr. QUILLEN, Mr. SAXTON, Ms. PELOSI, Mr. ROBERTS, Mr. HEFNER, Mr. LANCASTER, Mr. STALLINGS, Mr. FRENZEL, Mr. VALENTINE, Mr. HOCHBRUECKNER, Mr. ROE, and Mr. RITTER.

H.J. Res. 628: Mr. BLAZ, Mr. BROWN of Colorado, Mrs. BYRON, Mr. FAUNTROY, Mr. FAWELL, Mr. FAZIO, Mr. GILMAN, Mr. HORTON, Mr. LIVINGSTON, Mr. MACHTLEY, Mr. PAXON, Mr. PORTER, and Mr. SLATTERY.

H. Con. Res. 306: Mr. BLAZ and Mr. RHODES.

H. Res. 134: Mr. ENGEL and Mr. DENNY SMITH.

H. Res. 402: Mr. ECKART and Mr. PACKARD.

H. Res. 438: Mr. COMBEST, Mr. EVANS, and Mr. WISE.

EXTENSIONS OF REMARKS

ECONOMIC DEVELOPMENT
SHOULD BE FIRST PRIORITY
IN THE DRUG WAR

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. KOSTMAYER. Mr. Speaker, in May President Jaime Paz Zamora of Bolivia came to Washington to tell us what he needed most to fight the drug war in his country was economic, not military, aid. Unfortunately, the administration was not listening.

Last month, after winning the Presidential election in Peru, Alberto Fujimori made a similar statement. In a Washington Post article he is quoted as saying U.S. aid would be better spent on development. "Repression has not produced any result in the fight against drug trafficking. On the contrary, the acreage of coca has increased * * *. We need more money, and better use of the money," he said. Unfortunately, the administration is still not listening.

The statements by these Andean Presidents point out the underlying reason why the United States drug war in the Andes is doomed to failure—the inability on the part of the United States to recognize the problems, priorities and individual needs of each of the Andean countries and to respond to those needs. This lack of communication and cooperation has led to a U.S. policy that is long on military aid and short on urgently needed resources for alternative development.

The United States is on a slippery slope, especially in Peru where the Sendero Luminoso insurgency complicates drug control efforts. But one thing is clear: the war on drugs in Peru will not be won by providing aid to Peruvian military forces to attack the livelihood of the 400,000 peasants that cultivate coca.

An editorial in the Boston Globe points to further concerns surrounding the United States involvement in the drug war in Peru, not the least of which are the abysmal human rights record of the Peruvian military and the lack of civilian control over that military.

The Globe editorial admonishes the United States to take care that our efforts to fight the drug war do not inadvertently aid the insurgents. "U.S. drug and counterinsurgency strategies are in sharp contradiction," it said. The editorial concludes by saying, "An ill-considered drug war will carry the Shining Path rebellion down through the valley of the Andes the way a stream of water carries burning oil."

Mr. Speaker, I hope my colleagues will give careful attention to the Post news article of June 12 and the Boston Globe editorial of May 16, which follow:

[From the Washington Post, June 12, 1990]
PERUVIAN VICTOR SEEKS TO SHIFT ANTI-DRUG AID

(By Eugene Robinson)

LIMA, PERU.—President-elect Alberto Fujimori said today that the current program to attack the cocaine trade in Peru has failed and that he will ask U.S. officials to redirect anti-drug aid toward development projects, such as highways, railroads and schools.

Some police action will still be needed, Fujimori said, but without having "external forces" conduct operations here. Asked about the current participation of U.S. Drug Enforcement Administration agents in raids conducted by Peruvian police, Fujimori said he understood this activity was limited, and he added: "Our own armed forces have the professional capacity for these kinds of actions."

Fujimori said he did not know if he will sign a pending agreement under which the United States would provide \$36 million in military aid for Peru's fight against drug trafficking. Outgoing President Alan Garcia has declined to sign the accord, saying it failed to take economic development into account.

Peru's Upper Huallaga Valley produces most of the world's cocoa, the plant from which cocaine is processed, and U.S. officials say that operations there offer a chance to attack the cocaine trade at its source. In recent months, U.S. funds built a fortified base at Santa Lucia, in the heart of the valley, from which Peruvian police and DEA agents conduct raids.

"Repression has not produced any result in the fight against drug trafficking," Fujimori said. "On the contrary, the acreage of coca has increased. . . . We need more money, and better use of the money."

Coca growers in the valley will not require prodding to switch over to other crops, Fujimori said, if there is an effective way to get these crops to market. "An entire package of measures" is needed, he said, including funds for highways and rail lines to provide transportation links and more schools to give the area's residents alternatives.

Fujimori said he hoped to discuss these issues with U.S. officials when he makes a planned U.S. visit in the next several weeks.

Fujimori made his remarks on anti-drug policy to American correspondents as he discussed the reasons for his victory Sunday over novelist Mario Vargas Llosa and talked of his plans to lead Peru out of crisis. Through it all, he displayed ease, confidence and a style that was at times technocratic, at times homespun.

Fujimori, 51, said he won because he established an identification with Peru's poor, mixed-race majority. "I spoke in their own language," he said, "I spoke about their problems." He said Vargas Llosa's campaign was backed by an "economic elite [that] wanted to participate directly and take political control. That didn't happen."

Vargas Llosa had the support of Peru's traditional white upper class in a country that is overwhelmingly brown-skinned and poor. This racial distinction was a factor, he said, primarily in the sense that many people identified more with him than with

Vargas Llosa, whose looks and manner are European.

"If I put on [traditional garb], I am one of them," said Fujimori, whose parents immigrated from Japan. "If Vargas Llosa had done so, it would have been seen as artificial."

After his first strong showing in the April 8 first-round presidential vote, Fujimori said, he had talks with Vargas Llosa about an arrangement under which the novelist would take some post in a Fujimori cabinet. But following Vargas Llosa's decision to run in the second round, there was no further contact, the winner said.

Asked whether any thinker had substantially molded his political or economic views, Fujimori described himself as "self-made." The last book he read was Vargas Llosa's most recent novel, "In Praise of the Step-mother."

Fujimori said that Peru today is "almost at the point of death," with hyperinflation, recession and political violence threatening to tear the country apart. He repeated his promise that there will be no harsh economic "shock" when he takes office July 28, no attempt to end inflation with one blow. "The problems are not solved unilaterally," he said, "but with a package of policies."

Declaring that he wants Peru to return to the good graces of international lenders, he said these institutions will have to understand that he can go only so far. "When people are making \$30 a month, what more can you reduce?" he asked.

At the same time, he has promised new financial incentives to foster the growth of small enterprises, a quick reactivation of sluggish mining and fishing industries and a host of new social programs.

[From the Boston Globe, June 16, 1990]

AN ANDEAN QUAGMIRE

AS US policy makers assess the results of Peru's presidential elections, they see a country they do not understand heading into political and economic turmoil without obvious answers. Despite that, the temptation for them to get militarily involved under the banner of the war on drugs apparently runs strong.

For over a year Drug Enforcement Administration teams advising the Peruvian police and military have been routinely participating in jungle raids to destroy coca crops and processing labs. This brings them up against the Shining Path guerrillas, who have assumed the role of protectors of the coca growers. A few months ago there was a serious battle. Awakening to the growing danger, the Bush administration announced this week that the DEA teams are being pulled out and that the Pentagon will step in.

The DEA is to be replaced by the Special Forces. The administration recently initiated a \$35 million military-aid commitment with the lame-duck administration of President Alan Garcia. The US equipment to be furnished to the military includes attack jets. That does not suggest a drug war. It suggests a slide into Vietnam-style counter-insurgency.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Alberto Fujimori, the winner of the presidential runoff, is a political unknown who won strong support from Peru's left. His surprisingly wide margin over Mario Vargas Llosa signified a vote of protest against the traditional Peruvian politicians and the IMF-style austerity program that Vargas Llosa had prescribed.

Although it is not clear what the public will get under Fujimori, what it rejected seems clear. Vargas Llosa supported standard First World economic solutions, such as free enterprise, and cooperation with the US in the drug war. "This was the mass of marginalized voters rejecting Vargas Llosa and the upper-class world he represented," said a Peruvian pollster. "It is far more a defeat for one man than a victory for the other."

The administration may be drifting into an Andean maelstrom. Peru suffers severe unemployment and hyperinflation. The treasury is empty. Simmering racial divisions divide the Indian and Latino communities. The Shining Path, aiming to create a Maoist worker-peasant state, is extending its reach from the mountains into the cities. The guerrillas have a brutal human rights record, but the military's record is worse.

The drug war makes the brew more volatile. Peru is the world's leading grower of coca, the raw material for cocaine. Coca is by far the most profitable crop for the dirt-poor peasantry of the isolated mountains. US strategists can suggest no replacement crop that is comparable.

During the campaign, Fujimori backed a vague notion of agricultural development and a "social development pact" that called for building roads and railroads with massive US support.

Fujimori has criticized the military emphasis in the US anti-drug strategy. "Rebuilding roads is nothing for the US compared to the \$120 billion paid for the illegal drug," he has argued.

Yet he seems disposed to accept US military trainers. One of the factors he must take into account is the Peruvian military, whose high command has a vested interest in expanding US military aid. His political support on the left has fueled rumors of a coup.

As the Bush administration blithely expands the drug war, the crucial point for Americans to consider is the nature and scale of the problem. The Peruvian conundrum more closely resembles Southeast Asia than it does the little societies of Central America, where the US intervened at such small cost to itself during the 1980s. For all their complications, Nicaragua and El Salvador are nearby, culturally porous, and easy to comprehend and, to a degree, manipulate.

Reaganites were correct in their argument that Central America is not Vietnam. Peru is a different story. The Andes and the Amazon should not be confused with the Caribbean Basin. US policy makers have barely a clue as to the appeal of the Shining Path to Peruvian peasants or city dwellers. US drug and counterinsurgency strategies are in sharp contradiction. All ill-considered drug war will carry the Shining Path rebellion down through the valleys of the Andes the way a stream of water carries burning oil.

EXTENSIONS OF REMARKS

TRIBUTE TO JAMES H. PAIGE III COMMISSIONER, WEST VIRGINIA DIVISION OF BANKING

HON. NICK JOE RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. RAHALL. Mr. Speaker, it is an honor for me to recognize an outstanding young black American in the State of West Virginia. He is Mr. James H. Paige III, commissioner of the West Virginia Division of Banking. Commissioner Paige, at the age of 29, has been chosen by *Ebony* magazine as being among the 50 Leaders of the Future, in its August issue.

Commissioner Paige was appointed to serve as West Virginia's Banking Commissioner in January 1989. He is the youngest banking commissioner in the State's history and the youngest banking commissioner in America.

As banking commissioner, Mr. Paige oversees 104 State-chartered banks, 69 bank holding companies, 20 industrial loan companies, 20 supervised lenders, 19 credit unions, 12 money order companies, and 4 out-of-State bank holding companies. These institutions have assets totaling in excess of \$16 billion.

Born and raised in West Virginia, Commissioner Paige attended public schools in the State, received his bachelor's degree from Bethany College in 1982, and went on to attend graduate school at the University of Pittsburgh, where he earned a master's degree in public administration in 1983. Upon graduation from Pitt, he pursued his law degree at West Virginia University, graduating in 1987.

Commissioner Paige is very active in various civic organizations, including the NAACP and serves on West Virginia University President's Visiting Committee on Black American Affairs. He was also recognized by the East Wheeling Civics, for his untiring efforts on behalf of the kids of East Wheeling, WV, and was consequently named their 1989 "Community Builder of the Year."

Mr. Speaker, it is indeed a pleasure for me to pay tribute to this outstanding West Virginian, who is using his time and talents to benefit the people of West Virginia.

THE ABORTION DEBATE

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. DORNAN of California. No issue in American life has been so misrepresented and distorted as abortion. As the recent four-part series in the *Los Angeles Times* made clear, the dominant media culture has taken sides in the abortion debate as they have in no other; instead of remaining passive observers the media have become active participants. Thus, the myth that an antiabortion stand is the political kiss of death has gained credence, when the facts show a totally different picture.

Mr. Mark Shields, columnist for the *Washington Post*, has written an excellent piece on the politics of abortion as they really are, not as the media have portrayed them. I recommend it to my colleagues on both sides of the issue.

[From the *Washington Post*]

ABORTION: SO LONG, 'SILVER BULLET' THEORY

(By Mark Shields)

Primary election results most recently from Georgia and before that from California puncture the Washington conventional wisdom which holds that unrestricted support for legal abortion represents a political "silver bullet" that almost guarantees a candidate's victory. Voters in both states gave that theory a severe drubbing.

Consider first the Aug. 7 Democratic runoff primary for governor of Georgia, where former Atlanta mayor Andrew Young is a distinct underdog to Lt. Gov. Zell Miller. In the first primary, all polls showed Young and Miller running neck and neck going into the final week. That was when Andy Young's campaign chose to trumpet endorsements of him by the Georgia branches of the National Organization for Women and the National Abortion Rights Action League and then relied almost exclusively on a paid TV spot that promoted Young as the strongest "abortion rights" candidate who would veto any Louisiana-type law. One Election Day, Young finished a poor second to Miller in the gubernatorial primary and among women voters. Abortion failed to turn the trick in Georgia.

The explanation that Miller, a white, defeated Young, a black, solely on the basis of race ignores the facts that Miller in a crowded primary field won approximately 20 percent of the black vote in Atlanta while Young won at least 20 percent of the white vote in the greater Atlanta area. Three black Georgia state senators endorsed Miller. Moreover, in a 1977 special election for Young's House seat after Young had been appointed U.N. ambassador, Miller had supported John Lewis, a decorated and wounded hero of the civil rights movement, against former Atlanta city council president and current U.S. Sen. Wyche Fowler, who is white. Fowler beat Lewis in 1977, but Lewis won the House seat in 1986 when Fowler went to the Senate. Today Lewis, recalling Miller's support, is neutral in the governor's race.

Miller's advocacy of the state lottery to fund education was popular with voters in the primary, where, totally reversing a southern trend, Democratic turnout was up more than 80 percent over 1986. All-out support for legalized abortion, including repeal of the Georgia law requiring parental notification when a teenager seeks an abortion (which the less pro-choice Miller insists on retaining), did not carry the day for Young. That this may be news to you could be explained in part by David Shaw's landmark four-part series on media coverage of abortion in the *Los Angeles Times* in early July.

After interviews with more than 100 reporters and extensive analysis of abortion coverage by the network nightly news as well as that of *The Washington Post*, *New York Times* and his own paper over an 18-month period, Shaw found "scores of examples, large and small, that can only be characterized as unfair to the opponents of abortion, either in content, tone, choice of language, or prominence of play."

In March of this year, *The Post's* in-house critic, Richard Harwood, wrote with much

candor and more than a little courage in his column that "close textual analysis would reveal that all things considered, our [The Post] news coverage has favored the 'pro-choice' side."

Such a tilt is by no means limited to The Post. As respected pro-choice Republican political consultant Doug Bailey told Shaw, "When abortion-rights supporters win, it is perhaps more easily accepted than it should be that their pro-choice position was the reason; and when pro-life candidates win, it is more easily accepted than it should be that abortion was irrelevant to the outcome."

Bailey's theory could help explain why most readers believe voters in Cutting Edge, Calif., are categorical supporters of any and all legalized abortion. Primary results from the Golden State paint a much different picture.

In the June 5 primary, according to Daniel Weintraub of the Los Angeles Times, "Abortion was a prominent issue in eight assembly [state legislative] races. Antiabortion candidates won seven of those races." Robin Schneider, director of the Abortion Rights Action League's Southern California office, frankly conceded that abortion is "not a miracle issue."

If this is bad news for Democrats, for Republicans dispatches from the abortion front are even worse. Since last summer's Supreme Court decision returning the abortion issue partially to the states, Republican politicians, who had picked up pro-life support on the cheap by endorsing an unattainable constitutional amendment, have been singing a much different tune. Flip-flops have followed trims, and shilly-shallying has given way to craven wavering. For many ambivalent voters, a big majority of whom believe the abortion decision ought to be made by the woman and her doctor, and a smaller majority of whom believe abortion is murder, abortion has become largely a character issue. The chameleon candidate who wobbles on this issue will most often lose.

On the politics of abortion, Republican cowardice has been as unappealing as Democratic myopia has been wrong. And the press has too often revealed a rooting interest.

CONGRATULATIONS TO GABRIELLE THOMAS, WINNER OF ESSAY CONTEST ON THE CONSTITUTION

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. ALEXANDER. Mr. Speaker, today I rise to congratulate Gabrielle Thomas of Blytheville, AR, as the first place winner of the "We the People" Congressional Essay Contest. The contest was offered last fall to junior high school students in the First Congressional District of Arkansas as part of an effort to build awareness of the bicentennial of the U.S. Constitution.

The students were judged according to their understanding of the Constitution and the originality of their essay. Because of the generosity and civic-mindedness of the corporate sponsor, Riceland Foods, Inc., Gabrielle was able to earn a trip to Washington to further her interest in the Constitution.

As Gabrielle's representative in Congress, it is my distinct honor to include her essay, entitled "The Constitution in My Eyes," in today's proceedings of the U.S. House of Representatives.

THE CONSTITUTION IN MY EYES

(By Gabrielle Thomas)

When I think of the Constitution, I think of it as an annuity, knowing that when I turn eighteen I will be entitled to receive its full benefit under the law. It is on this fact that I realize the importance of the Constitution and the key role it plays in the life of every American in the United States of America. All the rights and freedoms of persons are guaranteed in the Bill of Rights; therefore, I may choose the God I wish to serve and express my feelings without fear of being punished. And if I should happen to violate another's civil liberties, I will not be subjected to harsh or unusual punishments for my wrong-doings.

I know that millions of Americans are very thankful to the Constitution for granting them the right to take part in our nation's governmental tasks without being judged by their skin tone, age, or their former or recent status. When I think of all the events that happened long ago to allow me all these rights and liberties that I possess today, it is then that I think of not only the Civil War, but the mental wars that had to be fought in order for me to have a fair and equal life like everybody else in this whole united world.

Although millions of Americans claim to know the significance of the Constitution and the benefits, liberties, and guarantees that dwell within the Constitution's writings, only a select few see the beauty, honor, and radiance that the Constitution holds. It is this handful of people that know and realize the reasons of the Constitution being called the "Words We Live By".

The Constitution, as we all know it, is the basis of all government in the United States. Many Americans are aware that if it weren't for the Constitution, the road to freedom would be forsaken by unity and justice. They understand that the people we now honor for bringing about the changes in society and government would not be honored because they had no inspiration to change the injustices in society. But we should all be thankful to the Constitution, for if it had not been for the writers of it, we would not have the inspiration nor the strength to fight inequality and injustice in our society today. It is my firm belief that the actions and works of these people set an example for us future American adults to follow should any injustices arrive.

When the question "Where in the Constitution are the goals and dreams of America stored?" is asked, I answer the Preamble. Why? Because the Preamble is what our forefathers used to establish the goals and dreams of America. By reading and acting on those goals, we realize why the events in the past took place—to insure that these injustices never occur again. This is why I love the Constitution of the United States of America and no one can take that pride away.

BUDGETEERS STILL FIDDLE IN FACE OF DEBT DEBACLE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. BEREUTER. Mr. Speaker, in light of the Democratic congressional leadership's failure to continue to engage in a good faith negotiation effort to reduce the deficit, this Member believes it is appropriate to share the following editorial from the August 1, 1990, edition of the Lincoln Star.

BUDGETEERS STILL FIDDLE IN FACE OF DEBT DEBACLE

There are ominous signals coming from Washington that the secret budget negotiations are stagnant.

After three months of talks and a month since President Bush's lips reportedly moved on taxes, budgeteers are hinting there will be no agreement until after the November elections, if then.

The credibility of this deficit-reduction process is clearly in doubt. Monday was frittered away discussing a timetable rather than substance. Soon there will be wringing of hands over raising the debt ceiling before Congress recesses again.

Of course, that's neither new nor news.

Washington politicians have fiddled in the face of a coming economic debacle for a decade.

The Democrats have yet to even ante up. Meanwhile, the deficit grows. The 1991 budget deficit is estimated at \$169 billion. Add another \$100 billion for the savings and loan bailout over the next 12 months.

The longer the delay, the worst the ultimate pain.

SANITY TO OUR FEDERAL BUDGET

HON. ELIZABETH J. PATTERSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mrs. PATTERSON. Mr. Speaker, the House recently rejected a constitutional amendment to require a balanced budget. By seven votes, the House of Representatives failed to take a step that could have returned some fiscal sanity to our Federal budget.

The American people want us to take steps to address our debt problem honestly. A week does not pass that I do not receive a suggestion from a constituent about a way to address our current fiscal problems.

I recently received a copy of an article by one of my constituents, Mr. Claude Dunbar. Mr. Dunbar has written several articles recently about the Federal debt, and I thought that my colleagues might find his views of interest.

HOW TO SETTLE U.S. DEBT WITHOUT ADDING INTEREST

The average citizen of the United States has two kinds of obligations. He has one kind of obligations that annually re-occur and he never finishes paying them as long as he lives.

These include taxes, rent, insurance, bills for medical expenses, public utilities, food, clothes and transportation, and after death

the funeral bill. The other kind of obligations he has are for the payment of a definite sum of money on a definite date, or definite dates, with interest payable in the meantime. These include a note and mortgage on his house and lot, which he pays off as soon as he can in order to stop the interest running.

The United States government also has two kinds of obligations. One of these includes its obligation to protect its citizen's rights under the constitution, and to provide them with proper media of exchange essential to commerce and other daily transactions. The fulfillment of these obligations cost money, but none of them involve payment of interest. Neither can the government terminate its future performance in meeting these obligations. They are perpetual and indestructible.

The other kind of obligations the government has includes its promises to pay a definite sum of money on a specified date or dates, and to pay interest on the principal until it is paid. These include Treasury Notes and Bonds. Too often these have been paid at their maturity with money obtained by the government from the sale of new Treasury Notes or Bonds bearing interest, which in effect just puts off the date of payment of the principal and perpetuates the payment of unnecessary interest.

To these we have added additional new Treasury Notes and Bonds to cover our repeated annual deficits, arising from our inexcusable failure to hold our expenditures down below our net income. Now we realize that our government's interest bearing obligations exceed \$3 trillion.

What should we do? Should we accept these obligations as something that will be permanent with us? Are they something we can never pay off? If so, should they bear interest forever? Or should we pay them off with new money as they become due?

If we assume we have \$3 trillion in money already in circulation and owe the above-mentioned \$3 trillion in interest-bearing obligations, would not the net worth of our nation be calculated upon our total assets minus both of the \$3 trillions above? Then, if we decrease the amount of interest-bearing obligations by the same amount of new dollars put in circulation, would it have any effect upon the net worth of our nation upon which the value of our dollar is based?

It will only remove the obligation of paying billions of dollars of unnecessary interest, and thereby increase our net income and our net worth upon which the value of the dollar is based. Furthermore, by eliminating inappropriate grants and subsidies, we can lessen the number of dollars in circulation and further improve the value of our dollar.

If we decide that the over \$3 trillion obligation should be paid otherwise than by just printing new money, we should immediately decide upon one definite plan by which we shall pay it. It can be paid by any one of the following five ways:

By raising taxes.

By sale of some of our government owned assets.

By printing money.

By adopting and living by an annual budget each year for the next thirty years, in which our total expenditures are less than our net income by at least one-third of the debt and one year's interest thereon.

By a combination of any two or more of them.

One more thing necessary to develop and keep a strong and healthy financial condi-

tion in our government, besides paying the huge interest-bearing obligation that past deficits have made, is to get rid of our bad habit of creating new deficits. From now on, it is most important that we keep our expenditures below our net income each and every year sufficiently to where we will establish and maintain a reserve to meet every emergency.

This principle, which enables individuals to reach financial independence, is the only one which will work for our government.

(Mr. Dunbar is a lawyer practicing in Spartanburg.)

AMERICA'S DECADENT PURITANS

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. CLINGER. Mr. Speaker, the following essay appeared in "The Economist" issue of July 28, 1990. This critique of emerging national trends in the United States from a normally very pro-American journal provides sobering food for reflection. I commend it to my colleague's attention:

AMERICA'S DECADENT PURITANS

Considering the alternatives, it has been easy to admire the American way these past few decades. It was and is demonstrably better at making its average citizens rich and free than rival systems. Culturally, too, the world has voted for America by seeking everything from jeans to Michael Jackson. Yet if, today you stop the average European, or Japanese, or Latin American, or for full effect, Canadian in the street and ask him what he thinks about America, you are as likely to hear contempt as praise.

The Japanese will probably mention idleness and self-indulgence, the European philistinism and naivety, the Latin American insensitivity and boorishness. Someone will use the word materialist. Drugs, guns and crime will feature; so will a television culture catering to the lower common denominator of public taste, a political system corruptible by money, shocking contrasts of wealth and poverty, and a moralistic and litigious approach to free expression.

America attracts such bile partly because it is more self-critical than other nations. Hypocrisy is often in the eye of the beholder: how dare a European look down his nose at a country to whose universities his brightest fellow-citizens choose to flock? Foreign criticism often attacks American habits that the critics themselves happily adopt a few years later: from refrigerators and Elvis Presley to negative campaigning and aerobics. To criticise America is to criticise what the future holds in store.

This newspaper is unashamedly Americanophile, knowing that the British pot is at least as black as the American kettle. But it has misgivings about the direction in which some of America's "culture" is heading—precisely because the American way today tends to be the way of the world tomorrow. By culture we mean not painting and music, but way of living. The worry is about what might be called a "decadent puritanism" within America: an odd combination of ducking responsibility and telling everyone else what to do.

The decadence lies in too readily blaming others for problems, rather than accepting

responsibility oneself. America's litigiousness is virtually banishing the concept of bad luck. The most notorious (and overexposed) examples come from tort law. A hotel refuses to allow an able-bodied guest to swim in its shallow rooftop pool because there is no lifeguard on duty. A drunken driver can sue his host for allowing him to get drunk. But there are other examples. If a prominent citizen becomes an alcoholic or is caught indulging some illegal appetite, he all too often claims he is a victim, not a fool. The habit of pleading insanity as an excuse for a crime is spreading. Increasingly, too, people are blaming their genes and finding sympathetic (and often foolish) scientific support. The exaggerated claims by a few scientists that they have found "genes for" alcoholism, or aggression, are well couched to prevent people taking the rap for their own actions.

To allow legal redress for negligence, or to seek to rehabilitate rather than punish victims—these are worthy aims. But fair redress is not always appropriate; sometimes the buck must simply stop. Just as an over-padded welfare state breeds a habit of blaming and expecting help from government, so America's legalism breeds a habit of shifting burdens on to somebody else. It saps initiative out of an economy quite as effectively as the state-sponsored variety.

Another facet of this phenomenon is the warped idea that the problem with America's underclass is a lack of self-esteem, and that the answer to poor educational performance is to teach more self-esteem. Bunk. The characteristic that in the past drove generations of immigrants from the underclass to prosperity was not self-esteem, it was self-discipline. The reason that Japanese schoolchildren—and the children of Asian immigrants in America—learn so much more than their American counterparts is discipline, not self-esteem.

DON'T FIRE SOMEONE. LET HIM GO

To see how far such evasiveness has caught on, look at the new abundance of euphemism. Prisons have become "rehabilitative correctional facilities", housewives are "homemakers", deaf people are "hearing-impaired", the Cerebral Palsy society tells journalists never to use the word "suffer" about those with that "disease" (forbidden), "affliction" (forbidden), condition (allowed). Jargon cannot alter reality. How refreshing to hear a politician who favours both abortion and the death penalty described bluntly as "pro-death".

Take race. There are few countries on earth in which people are generally less prejudiced about colour than America, stereotypes of the old South and Benson-hurst notwithstanding. Yet there are few countries where the issue looms so large; where pressure groups are so quick to take offence at a careless remark, or where words are made to carry such a weight of meaning. "Black" is fast following negro into the lexicon of the forbidden, to be replaced by "African-American" in the never-ending search for a label without overtones. Some universities, egged on by their students, have recently imposed disgraceful restrictions on free speech rather than let bigots speak out on campus and be judged for what they are.

As for puritanism, America's search for fairness has begun to conflict with its famous tolerance for new peoples, new ideas and new technologies. A conformist tyranny of the majority, an intolerance of any eccentricity, is creeping into America, the west coast in particular. An increasingly puritani-

cal approach to art, married to a paranoid suspicion of child-abuse, has made a photographer who takes pictures of parents with their children naked on the beach into a target for the FBI. Add to that sort of thing the ruthless prudishness of the television networks about anything except gratuitous violence, and the gradual assertion of "correct" ways of thinking about such things as smoking and affirmative action. It all adds up to a culture of conformity that would rather bore than shock.

A television script-writer recently admitted that he puts cigarettes into the hands only of baddies. A whole industry of pressure groups has arisen to try to persuade television producers to push "correct" ideas on their (fictional) programmes: smoking is bad for you, concern for the homeless is right, plastic bags are bad for the environment. All true, all admirable. But fiction is fiction, not a set of cautionary tales. (Perhaps the success of the surreal serial "Twin Peaks" will reverse this trend.)

As Americans get ever richer, they seem to grow more risk-averse, so that they become paranoid about hazardous waste in their district, obsessed with their cholesterol levels, and ready to spend large premiums for organic vegetables. It being a free world, they are welcome to do so, even if the risks from hazardous waste are exaggerated, or the risks from natural carcinogens in organic vegetables greater than from pesticides. But must they become killjous in the process? Being bossed by faddish doctors is something people have come to expect. But neighbours and friends (and advertisers) have no need to be ruthlessly disapproving of the fellow who prefers cream and an early coronary to self-absorption in a costly gym building muscles he will never need.

None of these things is confined to America, but—like everything else—they breed faster and more lushly in America. And now the infection has spread to politicians, who have discovered that a quick way to television prominence is to take outraged offense at every imagined slight. Careers can collapse because of a single "gaffe" that does not pass some ideological litmus test. Television seems to have done its best to drive humour out of politics. Can you imagine Lyndon Johnson getting away with half of his witticisms today? If we are all to enjoy the twenty-first century, America must lighten up a bit.

1990 CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. HOYER. Mr. Speaker, I rise today to join my many colleagues who have participated in this year's Congressional Call to Conscience Vigil for Soviet Jews. I would like to commend my colleagues, PETER KOSTMAYER and JOHN MILLER, for sponsoring this year's vigil which focuses congressional and public attention on the problems facing Soviet Jews. In addition, I would like to commend the Union of Councils for Soviet Jews for their continued commitment in sponsoring this vigil year after year. As long as refuseniks remain in the Soviet Union, Mr. Speaker, it is imperative that we focus on the denial of the right to freedom

of movement to and from the country of their choice.

This year, Mr. Speaker, I would like to focus my attention on Lev and Leah Milman of Moscow. While I am encouraged by the large numbers of Soviet citizens being permitted to exercise their right to emigrate, Lev and Leah Milman, elderly Soviet citizens who are in need of proper medical attention are still being denied permission to emigrate due to alleged knowledge of state secrets.

Mr. Speaker, Congressman BARNEY FRANK and I were recently joined by 80 of our colleagues in addressing a letter to Yuri Reshetov, Chief of the Humanitarian and Cultural Affairs Administration at the Soviet Ministry of Foreign Affairs regarding the Milman family, their need for urgent medical treatment and their desire to emigrate. I would like to share this letter with my colleagues at this time and to thank them for their efforts on behalf of the Milman family:

CONGRESS OF THE UNITED STATES,
Washington, DC, July 27, 1990.

Mr. YURI RESHETOV,
Chief, Humanitarian and Cultural Ties Administration, Ministry of Foreign Affairs, Moscow, U.S.S.R.

DEAR MR. RESHETOV: We are writing to urge your immediate action on behalf of Lev and Leah Milman. Both husband and wife, who have been repeatedly denied emigration permission on grounds of "access to state secrets," are gravely ill and in need of urgent medical attention.

The Milmans first applied to emigrate in 1988, thirteen years after retiring from his job with the Research Institute of Shipbuilding Industry. Despite their appeals, there has been no explanation for this ongoing secrecy classification. Both of the Milmans' children have emigrated and the Milmans have been left with no family in the Soviet Union.

Seventy-seven year old Lev Milman, who is almost completely blind, had a heart attack in 1984 and has since been stricken with cardiac arrhythmia and dangerously high blood pressure. On May 2, he suffered a serious stroke and has subsequently been diagnosed with a tumor in his right lung.

Leah Milman, 68, has lymphoma of the spleen and a severe kidney stone problem. Like her husband, she needs proper surgery and medical attention, which they cannot receive in the Soviet Union.

Despite their dire situation, the Milmans are being denied their right to emigrate. Since February of this year, emigration authorities have refused even to accept their application, maintaining that Lev will not be able to formally apply again until 1995.

The Vienna Concluding Document, adopted in January 1989, clearly commits the Soviet Union to resolve favorably and within three working days all travel applications by those who are in urgent need of medical treatment. There is no question that the "refusenik" case of Lev and Leah Milman merits expeditious resolution under this provision.

Thank you for your immediate attention to this matter.

Sincerely,

Steny H. Hoyer, Bart Gordon, Major R. Owens, Donald E. Lukens, Howard Berman, Raymond J. McGrath, Joe Kolter.

Barney Frank, Frank R. Wolf, Frank McCloskey, Peter Kostmayer, Mel Levine, John Bryant, Paul B. Henry, Robert K. Dornan, Barbara Boxer,

Jim Bilbray, Bruce A. Morrison, Thomas J. Manton, Bill Schuette.

Ronald D. Coleman, Jim Moody, Constance A. Morella, Larry E. Craig, Robert Mrazek, Robert Torricelli, Michael A. Andrews, William Hughes, Gerry Sikorski, Roy Dyson, Nancy Pelosi, Ileana Ros-Lehtinen, Anthony C. Bellenson, Jim Jontz, Jose Serrano, Dennis E. Eckart, Edward F. Feighan, Herbert H. Bateman, H. Martin Lancaster, Steven Schiff.

Tommy F. Robinson, David E. Skaggs, Michael R. McNulty, Vic Fazio, Bill Green, Ronald K. Machtley, Tom Lewis, Dean A. Gallo, John Edward Porter, Tom Lantos, George E. Sangmeister, Wayne Owens, Frank Horton, Edward Markey, Walter E. Fauntroy, Benjamin A. Gilman, Mary Rose Oaker, Henry J. Hyde, Louis Stokes, Norman F. Lent.

John Conyers, Jr., Bill Lowery, Ron Wyden, James H. Scheuer, Douglas Applegate, Patricia Schroeder, Charles B. Rangel, William Lehman, Thomas Luken, Henry A. Waxman, Bernard J. Dwyer, Don Ritter, Martin Frost, Sam Gejdenson, Gary L. Ackerman, Benjamin L. Cardin, Peter J. Visclosky, Steve Bartlett, Richard J. Durbin, Frank Pallone, Jr., Sander M. Levin, Eliot L. Engel.

A CAMPAIGN OF SUPPORT FOR LITHUANIA'S INDEPENDENCE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. SOLOMON. Mr. Speaker, during recent ceremonies in observance of "Captive Nations Week," I was informed of an international petition campaign in support of Lithuanian independence now being conducted here in the United States by the American Society for the Defense of Tradition, Family and Property.

I would like to insert in the RECORD the following article, which summarizes the recent, important events in Lithuania that led to this campaign.

CAMPAIGN FOR A FREE AND INDEPENDENT LITHUANIA

Lithuania was formerly a free and independent country with a Catholic population, a high cultural life and a flourishing economy. In the Ribbentrop-Molotov pact of August 23, 1939, Hitler promised Stalin that he would not present any obstacle to the invasion of Lithuania by communist troops. Lithuania thus fell under Red domination from 1940 until 1990.

Favored by the wind of liberalization rocking the whole Soviet empire, Lithuania declared its independence on March 11 of this year. The Kremlin despots displayed their categorical disapproval of this most just political act, refusing to recognize the independence of Lithuania and wanting to keep that nation under their power at all costs. After several diplomatic contacts, Russia clearly stated its demand: The declaration of independence must be declared null and void for two or three years during which time Lithuania would continue to be occupied by the Soviets. Afterwards, Lithuania would be allowed to negotiate with Moscow over the recognition of its national independence.

The great majority of the Lithuanians immediately perceived the emptiness and absurdity of this suggestion. The two- or three-year interim of Russian domination would provide an ample and easy opportunity for the Soviets to place such a number of troops and their own subjects in Lithuania, as well as install many opportunists, fellow travelers and fifth-column elements into key positions, that Lithuania would be unable to even suggest independence, lest it expose itself to the harshest reprisals. Lithuanian independence would become virtually impossible at the end of this period.

Consequently, the Lithuanian nation almost unanimously opposed this demand of the masters of the Kremlin. Moreover, with courage and firm leadership, Mr. Vytautas Landsbergis, President of Lithuania, has categorically refused to accept it. Regarding this issue, the street demonstrations of the Lithuanian people have been impressive, clearly showing their ardent support for the cause of national independence.

Lithuania's right to independence is undeniable. According to Christian morality and all treaties on international law worthy of consideration, each nation has the right to govern itself. Thus Lithuania is entitled to the zealous aid of all nations of the Free World in the present emergency. Unfortunately, such aid is not forthcoming. Fearing that the recognition of Lithuania's independence will irritate hard-line communist elements in the Soviet armed forces, several western nations have shown their disinterest in Lithuania's independence and have thus made manifest that Russian aggression will not move the West to defend Lithuania.

It is fitting, therefore, that those in the West who really love the independence and freedom of peoples wholeheartedly support the efforts of President Landsbergis and the brave Lithuanian people. This is why the TFPs and TFP Bureaus in 20 countries have organized a petition drive with a message of support to the Lithuanian president to pledge full solidarity with him and Lithuania.

This drive should undoubtedly receive the enthusiastic support of the American people, whose Christian formation and historic tradition prominently uphold the principle of never denying support to a free nation oppressed by a more powerful neighbor.

This is the meaning of the present campaign which the TFP hopes you will support with your signature.

The TFPs, being in entire solidarity with the courageous Lithuanian nation, consider it a duty to make their nations' disposition known to President Landsbergis and make sure the heroic Lithuanians have the consolation of knowing of their solidarity.

For this reason, the TFPs and Bureaus have undertaken this international petition drive in the following countries: Argentina, Australia, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Ecuador, France, Italy, New Zealand, Paraguay, Peru, Portugal, South Africa, Spain, the United States, Uruguay, and West Germany.

ANDERSON COMMENDS MADD FOR 10 YEARS OF SERVICE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to the members of Mothers Against Drunk Driving. This is a special year for MADD: It is celebrating its 10th anniversary, and it has much to celebrate.

Highway fatalities in the 1980's have decreased to an all-time low. This has been, in large part, due to the successful efforts of MADD—and the many other groups that followed MADD's lead—in bringing about tougher Federal and State drunk driving laws and in raising social awareness to the deadly consequences of drinking and driving.

When MADD was founded 10 years ago in my State of California, the number of alcohol-related fatalities represented 50 percent of all highway fatalities. Today, that number has been reduced to 40 percent. That is still too high, but it demonstrates the effect the all-out campaign waged by MADD has had and continues to have on public attitudes and the legislative process.

I can speak personally to MADD's efforts in the legislative arena during the past 10 years. Together with many of my colleagues, I have worked closely with MADD on several drunk driving issues, including enactment of the 21-year-old drinking age law and the administrative license revocation and open container grant program. That these measures have been effective is evident in the fewer numbers of people killed in alcohol-related crashes.

It is hoped that MADD will be as instrumental in the 1990's in bringing the highway death rate down even further.

MADD can be proud of its accomplishments, and we, the driving public, have been the beneficiaries of those accomplishments. Because of the efforts of Mothers Against Drunk Drivers, our Nation's highways are a little safer for all of us.

U.S. FOREIGN POLICY ON RIGHT TRACK; DOMESTIC POLICY ON WRONG TRACK ACCORDING TO SURVEY OF COUGHLIN'S CONSTITUENTS

HON. LAWRENCE COUGHLIN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. COUGHLIN. Mr. Speaker, the mood of the country is an important indicator that can itself affect the economy. In a time of relatively low unemployment, low inflation and low interest rates, I am both concerned and perplexed as to why so many of my constituents, responding to my annual questionnaire, felt that the United States was on the wrong track in its conduct of domestic policy. Conversely, these same constituents overwhelmingly felt that the United States was going in the right direction in its conduct of foreign policy.

Questionnaires were mailed in June to every home and postal box in Pennsylvania's 13th Congressional District, which includes 28 municipalities in Montgomery County and parts of three wards in the city of Philadelphia. Nearly 7,000 constituents responded to this summer's poll.

Major findings of the survey are:

Nearly two-thirds of the respondents, 63.9 percent, indicated that the United States was off on the wrong track in its conduct of domestic policy. Only 36.1 percent felt that the domestic policy of the United States was going in the right direction.

Though the survey seems to indicate a sense of failure at home, an overwhelming majority, 70.2 percent, of my constituents felt that the United States was on the right track with regard to its conduct of foreign policy. Only 29.8 percent felt that we could improve in our conduct of foreign relations.

When asked to choose one or more methods of reducing Government spending, 64 percent of my constituents would favor a reduction in defense spending, while 43 percent would favor a freeze, at last year's level, of all Government spending except for Social Security, Medicare, and veterans' programs. In addition, 31 percent would favor reduced spending for space and technology research programs and over one-quarter of my constituents, 25.9 percent, would approve a freeze of all Government spending at last year's level.

A clear majority, 62.3 percent, approved of the Federal Government requiring that disabled people have equal access to jobs and transportation, while only 47.3 percent of the residents in my district favor the Federal Government requiring employers to grant unpaid leave to employees for the birth or adoption of a child.

As I have done in past years, I will provide the results of my annual questionnaire to the White House.

QUESTIONNAIRE RESULTS—1990

1. All things considered, do you think the United States is going in the right direction in its conduct of foreign relations, or are we off on the wrong track?

Right track, 70.2 percent; wrong track, 29.8 percent.

2. All things considered, do you think the United States is going in the right direction in its conduct of domestic policy, or are we off on the wrong track?

Right track, 36.1 percent; wrong track, 63.9 percent.

3. Considering the present levels of spending, for which of the following, if any, would you be willing to pay more taxes: (choose one or more).

(a) Environmental protection, 55.1 percent;

(b) Improved transportation, 38.3 percent;

(c) Deficit reduction, 40.3 percent;

(d) Increased research for AIDS, 22.6 percent;

(e) Fighting the war against drugs, 30.3 percent;

(f) Medical care for the elderly, 45.1 percent;

(g) Expanded Federal funding of education, 32.1 percent;

(h) None of the above, 20.9 percent.

4. Which of the following do you favor to reduce Government spending: (choose one or more).

- (a) Reduce spending for space and technology research programs, 31.0 percent;
- (b) Reduce spending on defense, 64.0 percent;
- (c) Freeze all Government spending at last year's level except for Social Security, Medicare, and veterans' programs, 43.3 percent;
- (d) Freeze all Government spending at last year's level, 25.9 percent;
- (e) Other, 12.2 percent.

5. Despite the cost, do you favor the Federal Government requiring that disabled people have equal access to jobs and transportation?

Yes, 62.3 percent; no, 37.7 percent.

6. Despite the cost, do you favor the Federal Government requiring employers to provide health insurance for their employees?

Yes, 57.9 percent; no, 42.1 percent.

7. Despite the cost, do you favor the Federal Government requiring employers to grant unpaid leave to employees for the birth or adoption of a child?

Yes, 47.3 percent; no, 52.7 percent.

8. Despite the deficit, should the United States provide some economic aid to the emerging democracies in Eastern Europe and Latin America?

Yes, 46.9 percent; no, 53.1 percent.

IT IS TIME FOR FOREIGN-OWNED CORPORATIONS TO SHOULDER THEIR FAIR SHARE OF THE U.S. TAX BURDEN

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. FLIPPO. Mr. Speaker, this year the American people are being told that a tax increase is inevitable, and that they had just better get used to the idea. We hear some angry voices from the American taxpayers, but you just hear laughter from many major foreign corporations. What could be better than to have the working men and women of America pay more taxes while foreign-owned U.S. subsidiaries hardly pay a dime?

It is an outrage that the average Alabamian pays more in taxes than do foreign owned corporations. Instead of asking for more from U.S. taxpayers, we must start collecting the billions of tax dollars rightfully owed by many subsidiaries of major foreign corporations.

Recently, the House Ways and Means Subcommittee heard testimony regarding the widespread abuse of U.S. tax laws by foreign-owned corporations. These abuses allow many foreign controlled distributors to escape from paying U.S. income taxes.

Billions of dollars of good sold in this country somehow never produce a taxable profit for these distributors. Regardless of how many foreign cars, televisions, or VCR's sold, the U.S. Treasury seldom receives the corporate taxes owed.

Many foreign multinationals are setting the transfer prices of good and services purchased by their U.S. subsidiaries at too high a price. By charging inflated prices, the profits of foreign-owned U.S. subsidiaries are shipped overseas and U.S. taxes go unpaid.

For example, after reviewing 106 Federal income tax returns of 18 foreign-owned electronics distributors, it was found that even

though these companies reported \$116 billion in gross receipts, only \$654 million was paid in Federal taxes. That amounts to only one-half of 1 percent.

The House has now approved yet another increase in the national debt. The budget deficit summit continues to drag along. All across Washington, political pundits are talking about which taxes will be raised.

These days when I am asked whose taxes should be raised, I know where to start. Let us make sure that foreign-owned subsidiaries begin paying their fair share of U.S. Federal taxes.

Before we ask working people to pay higher taxes, I urge my colleagues to join with me in demanding that foreign-owned U.S. corporations obey U.S. tax laws.

INTRODUCTION OF BILL TO EXPAND ACCESS TO HEALTH INSURANCE

HON. JOSEPH E. BRENNAN

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. BRENNAN. Mr. Speaker, we are all aware of the problems associated with having large numbers of uninsured people in our Nation. I support the concept of national health insurance. Health care should not be a benefit available only to the very wealthy or the very poor. It should be available to all, regardless of their income, place of residence, pre-existing conditions, or age.

I support national health insurance, but I want the program we implement to be cost-effective, accessible to all on an affordable basis, fair to providers, employers, employees, and the unemployed, and streamlined compared to our current \$600 billion a year ineffective system.

I am introducing legislation today that will give States a chance to begin developing health insurance programs such as the one above. The bill would provide demonstration projects to States willing to implement innovative health insurance initiatives for the un- and underinsured. Employees could buy into their employer offered health plans if available, or they could buy into the Medicaid Program for themselves and their families.

Medicaid is currently available only to the very poor. About two-thirds of the uninsured are employed. I think it's time to expand access to health care for the working men and women of this Nation, for those who struggle to make ends meet, yet for whom health insurance remains out of reach.

Senator MITCHELL is introducing a companion bill and I am urging my colleagues to co-sponsor my bill in a serious effort to develop successful ways to ensure the uninsured. I believe we will first have to view successful programs on a statewide basis before the leadership and support for a nationwide health plan will surface. I urge your support for my bill to initiate successful statewide programs.

THE COST OF BIG SCIENCE

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington report for Wednesday, August 1, 1990, into the CONGRESSIONAL RECORD:

THE COST OF BIG SCIENCE

There is a growing controversy in Washington over the price tag of big science projects such as the space station and the superconducting supercollider. Proponents say that bigness is an inevitable component of the progress of science and we have to learn to live with it. Critics say that big projects drain funds from small-scale research vital to the creation of new products and jobs and often to the advancement of science itself.

The cost of big science is growing rapidly. Federal spending on projects costing \$25 million or more to build totaled less than \$500 million over the decade of the 1950s. This year alone, the bill exceeds \$6 billion, roughly 40% of the nation's total budget for basic science. But the largest expenditures are yet to come. Big science projects now scheduled for completion in the 1990s will cost more than \$60 billion to build and another \$100 billion to operate over their lifetimes.

WORTHY OBJECTIVES

Most big science projects have worthy objectives. The superconducting supercollider—a huge particle accelerator—will probe the basic forces and building blocks of nature and help scientists understand how the universe began. The space station Freedom will be an orbiting laboratory where astronauts can grow crystals, construct new materials, and study the possibility of living in space for long periods. The human genome project will map the sequence of the millions of genes in the human body, which has applications in fighting disease.

Supporters of such megaprojects argue that scientists have already made most of the "easy" discoveries—the ones requiring simple instruments and little labor. Inevitably, then scientific progress will become more expensive.

STAGGERING COSTS

Critics respond that big science projects take so many years to plan and build that they may be outdated before completion and drive promising graduate students into other fields. In addition, the cost of errors in big science projects—such as the flaw in the Hubble Telescope mirrors—can be very high.

But the biggest criticism of big science projects is the tendency for their costs to greatly exceed initial estimates. The superconducting supercollider was sold to Congress on the basis of an estimated price of \$4.4 billion. Last year, the Department of Energy said the supercollider would be built for \$5.9 billion "or not at all." Its projected cost is now \$8.6 billion, and construction has not even begun. Similarly, the space station was estimated in the early 1980s to cost \$8 billion; current projections for a scaled-back version are \$37 billion. As costs skyrocket, projects may no longer generate knowledge commensurate with their enormous cost.

DRAIN ON SMALL SCIENCE

Many scientists fear that, in the competition for federal dollars, big science is beginning to drain funds from small-scale research in fields such as chemistry, physics, and biology. Small science accounts for most Nobel Prizes, but it has also been a fertile source of new technologies, products, and jobs.

The evidence of a squeeze on small science is mixed. This year's federal funding for small science is about \$10 billion. Although small science budgets have increased dramatically, they have grown at a slower rate than big science. Moreover, critical fields have been underfunded. For example, the National Science Foundation's physics budget, which supports leading-edge research on computer chips and electronics technology, has not kept up with inflation in recent years. At the same time, the opportunities for scientific advance are greater than ever before. Discoveries are taking place at an unprecedented rate across scientific fields, and major breakthroughs in molecular biology and high-temperature superconductivity are creating entirely new fields.

NEED FOR BALANCE

Big science deserves an important place in the federal budget. But we cannot afford to let it cripple small science, which is the seed corn of scientific advance. Small science has been a genuine bargain. Some of the breakthroughs in high-temperature superconductivity, for example, came out of laboratories that received well under \$100,000 a year in federal funding. The entire federal budget for superconductivity research is only about \$130 million—less than two percent of the cost of the supercollider.

We need a balanced mix of big and small science. If current trends continue, the cost of big science will place a heavy mortgage on our country's research spending well into the next century. That could mean delays, cancellations, and arbitrary cost ceilings on big and small science alike. Greater efforts may be made to share expenses with international partners. Some say we ought to increase the federal research budgets so that science can be adequately financed.

NEED FOR CHOICES

To govern is to choose, and when it comes to making the decisions between big and little science we are not doing it. The United States has never really had a coherent science policy, but rather a number of different agencies and constituencies competing for various projects.

There are at least ten major new scientific initiatives clamoring for billions of dollars of federal money at a time of tight fiscal restraint. These include the space station, the Strategic Defense Initiative, high temperature superconductors, the superconducting supercollider, a manned mission to Mars, the human genome project, and the national aerospace plane. (Not all of these are, strictly speaking, big science.) They also include a budget doubling for the National Science Foundation, an expanded assault on AIDS, and a renovation of deteriorating laboratories at the nation's universities.

We have to distinguish between good science and indifferent science. I think the scientific community has to do a better job of helping politicians determine which scientific goals are the most worthy, what the costs and benefits of a project are, and whether the scientific community has the capacity to undertake major new projects without disrupting current goals. I find that scientific organizations are just not willing to evalu-

ate the relative merits of a wide array of scientific activities. No one knows more than they about which efforts will yield the greatest payoff. Thus more critical input from the scientific community is essential.

THE SMALL BUSINESS EMPLOYEE TRAINING AND EDUCATION INVESTMENT ACT OF 1990

HON. JOSEPH M. McDADE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. McDADE. Mr. Speaker, I rise today to introduce the Small Business Employee Training and Education Investment Act of 1990. This legislation is intended to increase the affordability of formal training programs for America's small businesses and those who work in them. It is a sound step forward in creating an economic environment that will enhance the ability of this Nation's small businesses to compete domestically and internationally and will lead to a more secure future for generations of working Americans to come.

The contributions of small businesses to the American economy are well-documented in this body. In the 1980's small firms created 60 percent of all new jobs. They currently employ 55 percent of all workers, and contribute 40 percent of the gross national product. Furthermore, small businesses tend to give more people their first job than large companies. Thus, overall small firms hire workers that are younger and less educated or trained than large companies.

As the Nation's largest employer, the small business community will be responsible for employing 75 percent of new workers between now and the year 2000. The future profile of the American work force will be extremely diverse. The U.S. Department of Labor reports that immigrants, African Americans, Hispanics, women, and other minority groups will comprise 85 percent of the 25 million new workers entering the work force. These groups, which have historically lower levels of education and training than other Americans, will require additional skills and technical expertise that future jobs and vocations demand.

National experts agree that as information becomes the major component of the world's economy, America's workforce is grossly unprepared to meet the daunting challenges that future jobs demand. In their novel, *Megatrends 2000*, futurist authors John Naisbitt and Patricia Aburdene write:

The information age is producing an extraordinary number of well-paying, challenging jobs. However, people must possess the required skills to perform those tasks. Tragically, the unskilled and uneducated will command the salaries that match their economic value. The information-economy jobs require such a high degree of competence that the United States does not currently have the human resources to fill them—nor will it for the rest of the 1990s. That demographic reality at least provides some incentive for [companies] to train the unskilled.

It is estimated that American companies, large and small, spend over \$30 billion annually on formal training for their employees. However, the U.S. Small Business Administration has concluded that an employee of a small business is one-third as likely as an employee of a large company to receive formal training. Small businesses tend to use informal on-the-job training as their primary training method. The Department of Labor reports that, "Much informal on-the-job training is ineffective, inefficient, and unfairly distributed because of its informality." A Connecticut study of small business training methods found that 88 percent of employees believe informal training to be the most ineffective method of learning or upgrading skills.

Japanese and European owned firms based in the United States, recognizing the long-term benefits of a well-trained work force, spend three to five times more on employee training than American companies. The major obstacle prohibiting small businesses from taking advantage of these benefits is affordability. Many national studies on job training methods conclude that the most effective incentive to promote formal training among small firms is an investment tax credit. The Commission on Workforce Quality and Labor Market Efficiency reports that:

The time has come for America to establish a * * * tax credit to stimulate human capital investment.

The Learning Enterprise, a report sponsored by the Department of Labor and conducted by the American Society for Training and Development concluded that:

The ideal device for expanding employer-based training would be some form of investment incentive for new training." Additionally, the 1986 White House Conference on Small Business recommends that Congress institute a tax incentive program to "encourage training and retraining of current and new employees by small business owners.

The Small Business Employee Training and Education Investment Act would begin to meet the task of training and retraining our work force by putting into the hands of small business owners and their employees the financial incentives to acquire or upgrade current skills. The bill provides a small business with a tax credit of up to 30 percent of the cost of investment in formal training programs over a base amount. The base amount is determined as a percentage of average payroll expenditures over a 3-year period. Additionally, to promote the pooling of training and education among similar small firms, the proposed credit also applies to training programs attended by employees of other small businesses. The bill would also allow individuals who work in small businesses a tax credit of up to 30 percent of the amount spent on tuition, books, and fees in a formal training or educational setting.

This measure is not intended as a panacea for the employment and education challenges America will face in the future. Fundamental changes in our educational system are the long-term solution to our remaining the world leader in innovation, technology, and production. However, we can move now to close the

gap and begin the task of moving the work force into the future.

I urge my colleagues to join me in cosponsoring this bill. Small businesses not only provide jobs, economic prosperity, and leadership for this Nation now, but with assistance and encouragement, they will lead us into a prosperous and secure future.

THE IRISH IN CHICAGO

HON. FRANK ANNUNZIO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. ANNUNZIO. Mr. Speaker, a couple of weeks ago the Ancient Order of Hibernians and the Ladies Order of Hibernians held their 85th National Convention, their largest convention ever held, in the Washington, DC, area. For well over a century the Ancient Order of Hibernians have been practicing their motto of friendship, unity, and Christian charity with great pride and success. As they leave Washington, I would like to take this opportunity to pay tribute to the Irish-American heritage by summarizing some of the Irish history with particular emphasis on the Irish in Chicago.

It has been documented in many publications that during the mid-1800's, Ireland's Great Famine drove almost 1 million, mostly poverty stricken, survivors to America. One of the unique aspects of the Irish European emigration was that women were about equal in numbers to that of men and a vast majority of both were single, young and Catholic. Since 1820 approximately 5 million Irish have come to the United States.

Over 170 years ago urban frontier Chicago had an Irish-born population of almost 40,000. By the 20th century it was the fourth-largest Irish urban center in the United States. Today over 40 million Americans claim some Irish ancestry.

Adventure, glory, uniforms, and comradeship attracted the Irish in America to the Armed Forces where they fought well in the Mexican and Civil Wars. Those in predominantly Irish 7th Cavalry were among the 250 or so who died with its general, George Armstrong Custer, at the Battle of the Little Big Horn in 1876. After the wars the Irish continued to serve in the Army, safeguarding the western frontier.

By the end of the 19th century a large number of the Chicago Irish had become work crew foremen or engineers, and after the turn of the century electricians. The Irish were very prominent among the leadership of the skilled labor unions. Public service, respectability, and pension security attracted the Irish to the civil service and police and fire departments. Inquisitiveness, courageous zest, and writing talent qualified the Irish for journalism. Associations between law and politics generated a multitude of Irish attorneys. Many Irish became physicians, earning reputations as dedicated general practitioners and skilled specialists. Several were in the saloon business and purchased other types of retail shops as well.

Despite a strong commitment to nationalism, the Irish dedicated their strongest enthu-

siasm in the Catholic church, one of the major forces that shaped the Irish community.

Two religious orders which began in Ireland, the Sisters of the Blessed Virgin Mary and the Sisters of Mercy, were active in Chicago. While the Chicago Irish remained loyal to Catholic education, they made a significant teaching contribution to public education. It has been documented that in the early 1920's it was estimated that about 70 percent of Chicago's public school teachers were women educated by nuns in Catholic secondary schools. The vast majority of them would have been Irish.

Just as the Irish were the pioneers of Chicago's urban ghettos during the mid 1800's, they were the first Catholic ethnic group to settle in large numbers in predominantly Protestant residential neighborhoods in the 1880's and 1890's. Groups such as the Ancient Order of Hibernians worked to reinforce the Irish and Catholic identities.

The Irish who came to Chicago were primarily rural people, and like other Catholic immigrants, they carried with them the concept of a parish-centered church. Parish building was a vital activity for nearly all Catholic immigrant groups, and it was particularly meaningful for the Irish.

The quality of Irish immigration continued to improve through the 1800's with virtually two full generations in the city of Chicago. The Irish had become a powerful force in politics and they no doubt put their imprint on the Catholic Church. The central committee of the Democratic party was overwhelmingly Irish and within the ranks of the Church, Irish clergymen were significantly represented as pastors and members of the archbishop's staff. The distinguished administrative post in the diocese, that of chancellor, was held only by priests of Irish birth or descent until just 20 years ago.

The Irish in Chicago formed parishes and schools that met their distinctive needs as American Catholics. Far from limiting mobility or assimilation, the parochial institutions created by the Irish expedited their integration into the larger society. Although Chicago's Irish-American parishes have all but disappeared, their parish model continues today providing structure for other emerging communities.

Of all immigrant groups in Chicago, at the turn of the century the Irish were the most widely dispersed. According to documentation, by 1930 the median distribution for foreign-born Irish was 6.4 miles from the Loop.

During the half century before 1915 the Irish were clearly the single most important ethnic group in Chicago politics. The overwhelming majority of Chicago's Irish politicians during this period were American-reared sons of Irish immigrants. Most were either born in Chicago or had come to the city as children. Whether they grew up in Chicago or not, the majority came from working class, and in some cases poor families, and many had received only a modicum of education.

The city of Chicago has had a total of eight Irish Catholic mayors from 1893 when it held a special election putting into office the first Irish Catholic, Mayor Hopkins, up until Richard M. Daley its present mayor. Judge Edward F. Dunne became the second Irish Catholic

mayor achieving success in many areas such as enforcing public health, building codes, increasing teachers salaries, and cracking down on drinking and gambling laws.

The most powerful mayor in the history of Chicago was Richard J. Daley. As the sixth Irish Catholic Daley was reelected for five additional terms. During his administration Chicago earned and lived up to its reputation as "the city that works" as a result of Mayor Daley's commitment to the physical development of Chicago.

In 1979 Chicagoans elected their first woman, Jane Byrne, hence becoming the seventh Irish Catholic to hold the office of mayor.

Today Chicago has its eighth Irish Catholic mayor, Richard M. Daley, the eldest son of the late Richard J. Daley. His promise of fairness and economic development, his strong commitment to family and church, and proving that old-fashioned political organizing still works, enabled him to attain the highest elected office in the city of Chicago.

In addition to coming to America with political experience, athletics, and entertainment were other means of Irish opportunity.

Triple jumper James B. Connolly in 1896 became the first American Olympic gold medal winner. The Irish continued to be prominent track and field athletes.

From before the days of John L. Sullivan in the 1880's until Joe Louis knocked out James J. Braddock in Chicago on June 22, 1937, the Irish were the dominant ethnic influence in professional boxing. As players and managers they helped baseball materialize as the national pastime. One of baseball's great managers, Charles Comiskey, founded the Chicago White Sox. The University of Notre Dame became the most successful college football power when fighting Irish accurately characterized its team. Many of the exceptional Irish football players in other colleges and universities came from Chicago.

Show business as well as sports opened the doors of fame and fortune to the Irish. Capt. Francis O'Neill, Chicago's police chief from 1901 to 1905, collected and assisted in upholding traditional Irish music on both sides of the Atlantic. And, as singer, dancer, playwright, and actor, George M. Cohan accurately characterized the Irish-American personality revealing the Irish-American love of the United States and anxieties about really belonging.

In many respects Chicago combines the experience of the two main varieties of Irish-Americans: Those who first arrived in the United States and settled in eastern cities and those who came later and migrated to the urban frontier.

As a continuing effort to recognize the Irish-Americans, I have joined my colleagues in cosponsoring House Joint Resolution 482, a resolution to designate March 1991 as Irish-American Heritage Month. I salute the Hibernians in their outstanding efforts to preserve Irish culture and history in America, and I proudly honor the lasting and important contributions individuals of Irish heritage have made in the United States.

NORTH-SOUTH KOREAN
BORDER OPENING

HON. SOLOMON P. ORTIZ

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. ORTIZ. Mr. Speaker, I would like to bring to my colleagues' attention some remarkable recent developments in the North-South Korean relationship.

On July 20, South Korean President Roh Tae Woo offered the North Korean leadership in Pyongyang a dramatic proposal to open up the truce village of Panmunjom for free passage for 5 days from August 13 to 17, and on some major national holidays. The historic proposal, laid out in his special announcement on the "Steps for Grand Inter-Korean Exchanges of People," reflects a drastic departure in Seoul's inter-Korean policy. The South Korean Government had previously been reluctant to accept an earlier proposal by North Korea to open the northern portion of the truce village in time for a pan-national rally arranged by South Korea's dissidents and radical students, celebrating the upcoming 45th anniversary of Korea's liberation from Japanese colonial rule in 1945.

The July 20 speech of President Roh provided an opening for the vast stream of South Koreans who have long wished to visit their families in the North. North Korea, in response to this proposal, came out with a series of conditions for accepting the South Korean proposal, which were widely viewed to be difficult for Seoul to accept. However, the South Korean Government's eagerness to put an end to the geographical and ideological division of the nation was apparent at a press conference by three Ministers on July 23. They showed reasonable flexibility in handling the conditions laid forward by North Korea, which concern a "pan-national rally," the repeal of the National Security Act, the release of dissidents who made illegal, clandestine visits to Pyongyang, and the highly disputed existence of a "concrete wall" along the Demilitarized Zone.

The United States has kept a military presence in South Korea for the past 40 years to ensure stability and peace in Northeast Asia. Our military presence there and cooperation with the South Korean military have proven beneficial to the security of our two nations. We must continue to encourage peace between North and South Korea.

As a member of the Committee on Armed Services, I believe it is time for the United States Congress to call the two Koreas to come to the negotiating table with increased eagerness and sincerity in achieving reconciliation. We should encourage an immediate end to the military confrontation that exists between the two countries. More specifically, I believe we can recommend in good faith that both Koreas fulfill their proposals to open their borders on the occasion of their national holiday of August 15. Just as importantly, however, we should continue to support our staunch ally's effort to resume whatever dialogs they can have with North Korea, and should fulfill our obligation to promote and preserve peace and democracy in the region.

EXTENSIONS OF REMARKS

NATIONAL RICE MONTH

HON. BILL ALEXANDER

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. ALEXANDER. Mr. Speaker, I rise today to praise rice and those who grow it, process it, and transport it—all those who bring it to the tables of America and the world.

Rice has been grown in North America since the colonization of the Carolinas in the 17th century. In 1696, an improved variety of rice, reportedly from Madagascar, was first grown on the Carolina coast, and the American rice industry began in earnest.

From the beginning, American rice was well suited for the export trade. By 1726, the Port of Charleston exported about 4,500 metric tons of rice annually. Over the next 4 years, that figure doubled.

By the time of independence, 50 years later, rice was one of America's agricultural export giants. America was already a fairly sophisticated trading nation, and rice moved expeditiously from farmer to agent to shipper.

Over the years, rice became less and less important to the Carolinas. Cotton and tobacco were better suited to the Carolina climate. Coastal plantations lost entire crops due to hurricanes. Finally, in the 1860's, advancing Union armies put many of the great rice plantations to the torch. The end of the war brought the end of slavery, on which much of the Carolina rice industry was dependent and because of which it was doomed.

Rice was not forgotten in America, however. Before the turn of the 20th century hardy settlers found that the rich, loamy soils of the newly cleared Mississippi Delta bottomlands and the gulf coast of Texas and Louisiana were uniquely suited to rice production.

Shortly before 1900, German immigrants came to Arkansas' Grand Prairie and founded the city of Stuttgart. It was not long before they took up cultivation of the new crop.

Robert Bennett helped them. Bennett was director of the Arkansas Agricultural Experiment Station from 1891 to 1903, and, as Stephen Strausberg points out in his recent centennial history of the station, Bennett was an advocate of alternative crops and diversification—issues that to this day remain on the front burner of Arkansas agriculture.

In 1903, as Strausberg tells it, the agriculture experiment station requested help from the Arkansas Department of Irrigation and Drainage in developing irrigation methods for Arkansas rice. The experiment station introduced two new varieties of rice, one from Japan and one from Honduras, that were extremely helpful to the commercialization of rice farming in Arkansas.

At the same time, rice was emerging as a significant crop in California. By 1856, the new State of California included in its population some 40,000 Chinese, whose staple food was rice. California rice production began to meet the demand of these immigrants for rice. The first commercial crop of short-grain rice, which is the variety favored throughout Asia, was grown in California in 1912.

From these beginnings, rice has over the years returned to the prominence in American agriculture that it had in colonial times.

Rice is the fifth most valuable cash crop in the Nation, producing farm-gate income of more than \$2 billion a year. The First Congressional District of Arkansas, which I am privileged to represent, produces more rice than any other State. But rice is also very important to the economies of California, Louisiana, Texas, Mississippi, and Missouri.

And, after nearly three centuries of moving westward with the growth of the Nation, rice production is beginning to move East again. Rice is now being grown and milled in Florida, and the Florida rice industry is expected to do quite well in the coming years.

The United States is one of only two or three major players in the world rice market. We export rice to more than 120 countries, and supply 20 percent of the rice in world trade. Our rice exports are smaller than those of Thailand, but bigger than those of Vietnam.

A health-conscious public is increasingly turning to rice as a tasty and healthy alternative to other dishes. Rice is an excellent source of complex carbohydrates. It contains only a trace of fat, and it contains no sodium and no cholesterol.

Consumers know this. The people of the United States consume approximately 18 pounds of rice per person per year. That is about twice as much as the per capita consumption of rice in 1960.

What is more, scientists have found indications that rice bran and rice bran oil actually lower cholesterol levels.

In September and October of each year, when harvest is complete and before thoughts turn completely to football and duck season, the people of rice country still take time to celebrate the harvest and celebrate rice at festivals and events like the Arkansas Rice Festival in Weiner, AR.

Today, 10 of our colleagues join me, America's 20,000 rice farmers, U.S. rice milling firms, and the rest of the rice industry in inviting you to join our celebration by cosponsoring our commemorative resolution to declare September 1991 as "National Rice Month."

The U.S. rice industry will continue to grow, and prosper, as long as people continue to be aware of the superior quality of rice and rice products available in their grocery stores. We think "National Rice Month" will help achieve this goal. I ask for your support and cosponsorship.

A CONGRESSIONAL SALUTE TO
TIMONTHY J. CASEY FOR HIS
CONTRIBUTIONS TO REDONDO
BEACH, CA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. ANDERSON. Mr. Speaker, I rise today to pay tribute to a most deserving public servant who has dedicated many years of his life to the people of the Redondo Beach, CA community. On Friday, August 3, 1990, Mr. Timothy J. Casey will be honored by the city of

Redondo Beach for his 9 years of service. This occasion gives me the opportunity to express my sincere thanks and appreciation for all his dedicated service.

Since coming on board with the city of Redondo Beach in 1975, Tim has served in numerous capacities. From 1975 to 1981, he served as administrative assistant, assistant to the city manager, and assistant city manager. The outstanding performance in his earlier positions with the city, led to his promotion to city manager in 1981. Throughout his 9-year tenure as city manager with the city of Redondo Beach, he has displayed exemplary leadership and organizational skills. Under his guidance, Redondo Beach has moved out of the shadow of a coastal Los Angeles suburb, into the limelight of an independent, full-service city of 65,000 residents.

While I could list numerous lifetime accomplishments for Tim, I will limit myself to some of those during his tenure as city manager. In his role as city manager, Tim oversaw a total operating budget of \$50 million, a capital budget of \$5 million, and over 500 full-time employees. His ability to implement and monitor the program budget and City Work Program were award winning. It would seem that his outstanding supervision of the city budget and its employees would be enough of an accomplishment, however, it is by no means his only one. He was instrumental in attracting and assisting in \$250 million of new developments. These new developments included a 350-room Sheraton Hotel, a 900,000 square foot super-regional shopping center, and a 521,000 square foot research and development office park for TRW. In addition, he negotiated a multisite agreement with the local school district to provide additional senior housing, the establishment of a community center, and the preservation and improvement of 14 city parks.

When he was not bringing in new money to the city, he was busy saving it. By contracting out the city's municipal refuse collection, he saved \$200,000, money that found its way into the curbside residential recycling program that he implemented. In addition, he introduced periodic professional opinion surveys to determine resident needs and attitudes toward city services, programs, and projects.

The 9 years that Timothy Casey spent as city manager led to his receiving numerous awards. Among those are the International City Management Association's 1987 Award for Program Excellence, the 1986 Redondo Beach Junior Chamber of Commerce Young Man of the Year designation and Honorable Mention for the 1986 League of California Cities Helen Putnam Award for Excellence for Community Development, to name only a few. I offer this congressional tribute to add to his current collection of awards and honors.

As a tribute to Timothy Casey's dedication as a public servant, and his departure from Redondo Beach, my wife, Lee, joins me in offering these Biblical words of reflection:

For the dedicated men and women who with fear or favor work for the health and welfare of mankind, who will not see the full fruition of their efforts in this lifetime, but, thank God, their works do follow them.

It is quite obvious Mr. Speaker, Tim Casey's work for his fellow man will long outlast him. I

join the entire city of Redondo Beach in wishing you the very best in the years to come.

H.R. 5163

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. MAVROULES. Mr. Speaker, today I am joining in cosponsoring H.R. 5163, the Military Energy Conservation Act. This legislation will encourage military bases to adopt energy conservation measures by providing incentives to base commanders to save energy. In addition, it will mean decreased energy costs at our Nation's military facilities with the resulting savings in taxpayers' money.

I have supported steps to conserve energy in our Nation's military installations for years. During the decade of the eighties, when military spending was at its peak, the Defense Department did not move rapidly enough to invest in energy conservation programs at its bases.

By increasing funding for the Defense Department's Energy Conservation Program, this bill will rejuvenate DOD's underfunded energy programs, and allow DOD to take advantage of energy saving technologies developed in the past decade and utilized extensively by the private sector.

Such a step is long overdue. The Defense Department accounts for over 80 percent of all Federal Government expenditures for energy, a \$2.7 billion a year cost. According to a recent House Armed Services Committee report, a comprehensive energy conservation plan by DOD could save \$540 million a year in energy costs, and almost 20 percent savings. In this time of budgetary restraints, that is a significant economy.

This bill provides incentives to base commanders to implement energy savings strategies by permitting military installations to retain some of the resulting annual savings of the conservation plan. One third of the energy savings would be used at the installation itself, for programs to improve the quality of life at the base. The second third would be reinvested in further conservation plans at the post, while the final third would represent savings to the U.S. Treasury.

In saving energy, this legislation will allow the DOD to take a significant step in helping the environment, while saving taxpayers' money. Every barrel of oil, kilowatt of electricity, ton of coal, or cubic foot of natural gas saved at our Nation's military installations, means less air pollution and less dependence on overseas sources of energy.

By reducing costs, protecting the environment, increasing energy independence, and improving the capacity of base commanders to implement programs which benefit their installations, this legislation represents an opportunity for Congress to support vital energy conservation programs in a fiscally sound manner.

As a member of the New England "Congressional Energy Caucus," be assured of my continuing efforts toward, and strong support

for, implementing energy conservation programs at our Nation's military facilities.

MADD CELEBRATES ITS 10TH ANNIVERSARY

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mrs. ROS-LEHTINEN. Mr. Speaker, it is with great pleasure that I bring to your attention the 10th anniversary of Mothers Against Drunk Driving [MADD]. This milestone event will be kicked off on August 1 with a Capitol Hill press conference at 12:45 p.m., at the west front of the Capitol Building. This event marks a decade of fighting alcohol and other drug-impaired driving for the organization.

The following individuals at the Dade County Chapter of Mothers Against Drunk Driving should be highly commended for their dedication to the struggle against impaired driving: Susan Isenbergh, president, Diane Holms, vice president, Debbie Craig, treasurer, Vickie Pallack, administrator, Blair Carr, Chris Ferrante, Valerie Jameson, Mary Ann Jones, and the countless volunteers, whose selfless contribution of their time and energy has proven to be invaluable.

It is the mission of MADD to stop drunk driving and to support victims of this violent crime. The Dade County Chapter of MADD has assisted more than 500 victims over the past 7 years of the chapter's existence. Support group meetings are an important part of MADD's objective. They have also assisted between 40 and 70 victims each year in dealing with their court cases in Dade County alone.

In addition to victim assistance, the chapter has a very active community education/awareness program. Such programs include a candlelight vigil each December to pay tribute to the victims of alcohol-related accidents. This serves as a poignant reminder of the senseless deaths and injuries caused by drunk driving. "Tie One On For Safety" is another admirable endeavor which takes place from Thanksgiving through to New Years Day to alert drivers that this is the most dangerous time of the year on the roads. People are urged to tie a red ribbon to the driver's side of their car to remind them not to drink and drive. Also, their work with public schools is genuinely praiseworthy, believing that education is the best answer to prevention.

MADD depends largely upon the assistance of volunteers for such services as speaking to businesses, community organizations, and schools, and passing out information at health and drug fairs, and community events. They work closely with local law enforcement agencies, monitor the courts, ride with police officers and are present at sobriety checkpoints.

It is this unswerving commitment to rid our highways of drunk drivers that is undeniably something we should all be grateful for. In an age when voluntarism is greatly encouraged, I urge the continued support of MADD, which has dedicated itself to the fight to ensure the safety of people everywhere on America's highways.

My sincerest congratulations to Mothers Against Drunk Driving on the occasion of their 10th anniversary.

TRIBUTE TO TONY MEDEIROS

HON. CHESTER G. ATKINS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. ATKINS. Mr. Speaker, it is my honor to rise today to pay tribute to Mr. Tony Medeiros.

Tony died this past Sunday, July 29, 1990. His athletic accomplishments are legendary: Tony finished sixth in the 1950 Boston Marathon, one of the more than 20 in which he competed. Over the years Tony "the Tiger" Medeiros defeated such legendary competitors as Tarzan Brown and Johnny Kelley. His crowning achievement was his third place finish in the National Marathon Championship in 1944. His over 500 trophies attest to the dedication, sacrifice, and triumph which marked his life.

Tony overcame many hardships in life. His father died when Tony was 5 and he was later forced to work in a foundry to help support his relatives. Despite these difficulties, through his strength of character, Tony always strove for excellence. After suffering several injuries which limited his marathoning, Tony took up race-walking and became a premier competitor, winning the National Masters' Championship in 1975. He was one of only 32 race-walkers that qualified for the Centurian Club by completing a 24-hour, 100-mile race at the age of 62.

It was about this time that, after a career marked by national recognition and triumph, Tony quietly began to instruct boys at the Lowell Boys Club in the sport of race walking. His example of competing, and winning, despite handicaps, influenced the lives of all who knew him. Tony's instructions to the young men that he coached were "winners never quit and quitters never win." Tony's example of striving for the best while overcoming life's challenges provided a positive example for all who knew him.

We should all remember the legendary Tony Medeiros as his students do, as the embodiment of a champion's spirit that never surrenders. A spirit that recognizes handicaps as challenges, a reason to push on, to strive and not to yield.

THE FEDERAL BUDGET DEBATE AND THE COMMON GOOD

HON. MARTIN OLAV SABO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. SABO. Mr. Speaker, we are all concerned about the serious problems confronting our leaders as they try to negotiate a solution to our Federal budget deficit. Bishop Herbert W. Chilstrom of the Evangelical Lutheran Church in America has issued a statement on the budget negotiations. In his statement he outlines the history of the 1980's and urges

EXTENSIONS OF REMARKS

the budget negotiators to establish a humane and just order for the 1990's.

I found his remarks very lucid and insightful and I would like to share them with our colleagues. I think we can all benefit from reading the Bishop's comments.

THE FEDERAL BUDGET DEBATE AND THE COMMON GOOD

(Statement of Bishop Herbert W.
Chilstrom)

AN APPEAL FOR ECONOMIC JUSTICE IN THE
1990'S

The budget negotiations being held in Washington, D.C., of which you are a part, are of great importance to our nation. Just as the Gramm-Latta budgets of the early years of the Reagan Administration set the tone for the entire decade of the 1980's, the plan being assembled by you will establish the fiscal framework for the decade of the nineties. You are confronted with a great challenge—and at the same time a great opportunity—for our nation.

As economic reports are assembled for the past decade a distressing pattern is becoming more apparent. Those among us with the greatest share of the nation's wealth saw that wealth increase significantly. However, at the other end of the economic spectrum, those with low incomes saw their purchasing power actually decreased during the last ten years. Changes in our tax code during these years resulted in a significant reduction in taxes paid by our wealthiest citizens. With the passage of such measures the tax code lost much of its progressive edge.

At the same time programmatic shifts were underway which saw huge increases in certain portions of our federal budget, with corresponding decreases in others. Defense spending under function 050 was \$116 billion in fiscal year 1979. Just ten years later that figure climbed to more than \$300 billion—an increase of \$184 billion. Yet simultaneously, freezes and cutbacks in current services were occurring in programs affecting those least able to absorb the accompanying financial shocks—the working poor, those in ill health, the young, the jobless.

It is now time to begin reversing these trends. We cannot continue on our present economic path. As the world's leading debtor nation, our third largest federal "program" is interest on the national debt, consuming 14 percent of our annual budget. We will be ill-equipped as a nation to respond to our next economic crisis, or recession. A reprioritization of our fiscal resources is called for which will provide for the common good of all citizens—not only those with the greatest political influence and wealth.

In order to truly provide for that common good, we must set a new course for the decade. Our remarkable ability to prepare for war must be redesigned and retooled to prepare for peace. This will mean significant reductions in military spending, far beyond the President's suggested 3% real reduction, accompanied by adequate planning for those workers and communities caught in this economic transaction.

Concern for the common good cannot ignore our nation's poor. Programs affecting the most vulnerable among us—Medicaid, food stamps, low-income housing, homelessness assistance, AFDC, to name a few—require our renewed energy, attention and support. Certain modifications may be necessary in these efforts to keep pace with changing times. But to continue our policy of inadequate funding and uncertain fu-

tures for these programs reveals a national deficit problem not only in terms of dollars, but also of compassion.

Concern for the common good also means that methods to increase revenue must not continue the trends of past by furthering the shift of the tax burden from the wealthy to those of moderate and low incomes. Appropriate exemptions should be extended to the poor. Certain excise taxes being discussed would have a far greater impact on the poor than on the wealthy. Those who have reaped financial windfalls from past changes should now be expected to resume shouldering a greater share of our tax burden.

The choices before you are difficult. They will require unpopular decisions by you and your colleagues. However, we are a rich nation, not only by monetary standards but also in ideas, and in our ability to respond to those in need. As you deliberate and act in the weeks to come I urge you to hold to this common good which we all share.

HOPE MEANS EMPOWERMENT AND SELF-SUFFICIENCY

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. WEBER. Mr. Speaker, for the first time in 3 years we have adopted an omnibus housing bill. It offers new initiatives that have the potential to upgrade the quality of life for those who have suffered from failed policies of the past. Chief among these innovative initiatives is the home ownership and opportunity for people everywhere [HOPE] proposal.

HOPE seeks to make homeownership a reality for low-income families. Giving low-income and economically disadvantaged Americans the chance to own their homes and achieve economic self-reliance gives them more power over their own lives. HOPE can provide the first steps on the ladder of opportunity. It can enable poor Americans to begin building a life for themselves free from welfare dependency.

The HOPE initiative will provide grants for the design and improvement of residential management corporations, rehabilitation and implementation programs, and single family and multifamily homeownership. It will also create housing opportunity zones, where construction and renovation of affordable housing will not be impeded by administrative barriers and needless bureaucratic red tape. The aim of HOPE is to help people help themselves.

HOPE stresses the critical principals of opportunity, self-sufficiency, empowerment, and independence. These represent an important departure from past housing policies, which subsidize the housing industry and foster dependency and corruption, as well as waste billions of taxpayers' dollars. By tapping private sector entrepreneurship and economic incentive, HOPE seeks to combat the cycle of poverty and make possible the American dream of homeownership.

Mr. Speaker, HOPE not only confronts the causes of poverty, it lays the groundwork for escaping from it. While many Americans dream of owning a home, many others dream

of a life free of want and dependency. By supporting HOPE we bring both of these dreams closer to reality.

STRENGTHENING THE FHA

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. SCHAEFER. Mr. Speaker, last night Congress took a major step in strengthening the financial standing of the Federal Housing Administration (FHA) Mortgage Insurance Program by adopting the Vento-Ridge amendment to the omnibus housing authorization bill. With this language, the FHA fund can be returned to actuarial soundness without endangering its mission, which is helping average families to buy a home. As a cosponsor of the Vento-Ridge proposal, and a supporter of the amendment last night, I am pleased with the overwhelming vote in its favor.

The Vento-Ridge amendment would return the FHA Program to a pay-as-you-go system. Although it calls for a lower upfront premium, it would also require the payment of an annual premium that matches the actual risk taken by FHA in insuring the mortgage. In addition, to safeguard the financial integrity of the fund, no loan amount could exceed the value of the home. Furthermore, the Secretary of HUD would have the authority to increase the annual premium if needed to ensure the actuarial standing of FHA.

This amendment, by far, is the best approach in dealing with the current shortcomings of FHA. The alternative proposal, advocated by the administration, would also strengthen the fund, but at the cost of eliminating up to 100,000 families from participating in the program. For Colorado, this outcome would be a housing disaster. It is vital that an agreement be reached in the final version of this bill that includes Vento-Ridge. I thank my colleagues for voting in favor of this responsible approach in dealing with the needs of the FHA fund, and hope that they will continue their support.

IN RECOGNITION OF KIDS IN CRISIS

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, the presence of violence and disorder affects all sectors of our society. The plight of abused children and the legacy of adults living with the memory of a neglected and tormented childhood are societal problems which must be addressed. These members of our society may have emotional and mental scars which are deep, but not necessarily physically visible. Children who have suffered physical abuse not only have the bodily marks to expose the trauma they have suffered, but also have psychological wounds which need to be healed.

In Dade County, FL, alone, 1 out of every 5 children will be a victim of child abuse. The

most effective method of healing childhood scars is through providing adequate treatment and care. However, at times, the funding for these essential services are not available.

In 1986, Rick Shaw, seeing the need for an organization dedicated to helping abused children, founded Kids in Crisis. Kids in Crisis is a volunteer organization staffed by caring people in the community who want to defeat the problem of child abuse. Kids in Crisis does not itself provide services for children, but donates the charitable funds it receives to agencies that deal with abused and neglected children. Kids in Crisis raises funds by organizing a series of fundraising events throughout the year. The money raised stay in the local county thus making the impact stronger.

For 1990, Kids in Crisis will raise funds for three agencies, one of them being the Parent Resource Center of Dade County. Founded in 1978, the center provides services for both children and adults who have been emotionally, physically, and sexually abused or neglected.

It is only through the dedication of the Kids in Crisis volunteers that agencies such as the Parent Resource Center of Dade County are being funded and are providing much needed services for both adults and children from abused backgrounds. An acknowledgment of gratitude must be made to the Kids in Crisis organization for being part of the solution to the terrible dilemma of child abuse. A sincere thank you goes to the board of directors: Rick Shaw, chairman; Julie Baiardi, president; Candy Sim, vice president; Tom Maniscalco, secretary-treasurer, Ross Johnston, assistant treasurer; Phil San Filippo; Jay Gellman; Mike Overby, and Bobbi Myers.

CORNELL'S MERRILL SCHOLARS

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. McHUGH. Mr. Speaker, in connection with our Nation's continuing efforts to improve the quality of teaching and education, I would like to take a moment to highlight for my colleagues a noteworthy program in the congressional district I am privileged to represent—the Merrill Presidential Scholars Program at Cornell University.

This Cornell program seeks to promote excellence in scholarship and teaching, by honoring outstanding students and by recognizing the vital roles in their lives of teachers who have inspired them, both in secondary schools and in college.

The 35 scholars themselves, approximately 1 percent of the graduating seniors, are chosen from each of Cornell's seven undergraduate colleges for their intellectual drive, energetic leadership abilities, and a propensity to contribute to the betterment of society, as well as for sheer scholastic achievement.

High school teachers chosen by the Merrill Presidential Scholars are invited to come to Cornell University in Ithaca, NY, for a May luncheon and convocation. This year, teachers from across the Nation and in one case even from Ireland were named as their inspi-

rators by the honored students. According to Cornell University President Frank H.T. Rhodes, the purpose of the scholars program is to emphasize the continuity of teaching not just in the conveyance of knowledge but in the inspiration of students. We feel it is important to recognize the unique contributions these excellent teachers have made to the lives of our best students.

The convocation and visit to campus by the high school teachers are subsidized with an annual gift from a 1995 Cornell graduate, Philip Merrill, chairman of Capital-Gazette Communications in the Washington, DC and Maryland area.

Under another part of this program, a Cornell freshman from each designated teacher's high school or community will be awarded a \$1,000 annual scholarship to attend Cornell for 4 years. Cornell's goal is to build an endowment to provide 140 of such scholarships each year, with each scholarship bearing the name of a designated high school teacher. Initial funding for this scholarship program has been graciously provided by two 1947 Cornell graduates: Donald P. Berens, a presidential counselor and former trustee, and his wife, Margi.

I warmly commend the students and teachers who are honored this year. I also salute Cornell and its generous alumni who make possible this innovative program initiated by Cornell's president, Frank H.T. Rhodes. It serves as a good reminder that the task of inspiring students is as important in education as the conveyance of knowledge.

A TRIBUTE TO THE LATE HENRY G. BENNETT, PRESIDENT OF OKLAHOMA STATE UNIVERSITY

HON. WES WATKINS

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. WATKINS. Mr. Speaker, and Members of the House, one of the most important lessons I have learned in life is that there is no human activity more important than service to others. I have learned that if I help make just one other person's life a little better, then I too am enriched. So is my community, my State, and this great Nation of which I am so proud to be a citizen. I rise today, Mr. Speaker, to honor the memory of a man whose life was synonymous with service to others: the late Dr. Henry G. Bennett, president from 1928 to 1951 of Oklahoma Agricultural and Mechanical College, now Oklahoma State University. I rise to make this tribute—suggested to me by my good friend and former colleague Dan Mica—because the citizens of Oklahoma, and of the United States, and of many parts of the world owe Dr. Henry G. Bennett so much. There is no question that because of Dr. Bennett the world we live in today is a far better place.

Mr. Speaker, it has been nearly four decades since Dr. Bennett's death, which came years before its time in a tragic plane crash in 1951. Many people, maybe even most people, were not born when Dr. Bennett was taken

from us. But there is no finer example of service to others. His life and his accomplishments are something that anyone of any age could, and should, aspire to. Nearly 40 years later an untold number of people in Oklahoma, throughout this great country, and even across the world are enjoying the fruits of Dr. Bennett's words and deeds. It is only fitting and proper that I stand today to remember and honor this man in this place, the Hall of the House, a place that stands as a monument to serving others.

I wish time would permit me to discuss the great number of Dr. Bennett's personal and career accomplishments.

I will say, Mr. Speaker, that Oklahoma State University would not have become the great educational institution that it is had Dr. Bennett not been there during some of the most important years in that university's history. The university that Dr. Bennett helped build has become a national leader in so many areas of human endeavor. That leadership is demonstrated every day by alumni scattered to nearly every corner of the globe, making the world a better place.

I can also say without a moment's hesitation, Mr. Speaker, that the developing nations of this world have come much further down the road of progress because of the contribution Henry G. Bennett made. It was Dr. Bennett whom President Harry Truman asked to run the Point Four Program, the post-World War II assistance plan for developing nations. The good he did for those countries, and consequently for international relations, cannot be measured.

Dr. Bennett was truly a great man. His greatness sprang from his individual humanity, which he demonstrated on a daily basis. For example there were times, especially during the Depression, that Dr. Bennett would take students into his own home, laying out quilts and blankets on the living room floor. And many former students remember how Dr. Bennett helped them stay in school by finding them a job.

Sometimes, Mr. Speaker, I reflect on the great Americans of history, people that I would have liked to have known. Each of us has his own list. It might include such great figures as Harry Truman, John F. Kennedy, Thomas Jefferson, George Washington, or Abraham Lincoln. Without question, Dr. Henry G. Bennett is on my list of truly great Oklahomans and great Americans that I would have liked to have known.

In closing, Mr. Speaker, I want to commend the Oklahoma State University class of 1940. The class of 1940 has honored the university and Dr. Bennett with a 10-foot tall, bronze statue of this great man. The statue was dedicated on the Oklahoma State University campus in Stillwater, OK, during the university's centennial celebration last May. From now on everyone who sets foot on the OSU campus shall, in a special way, get to know this great man.

KKSF-FM RADIO IN SAN FRANCISCO

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Ms. PELOSI. Mr. Speaker, I rise today to share with my colleagues the valuable contributions being made by KKSF-FM radio in San Francisco.

In October 1989, KKSF released a music album entitled "The KKSF Sampler for AIDS Relief"—an album specifically produced to benefit the San Francisco AIDS Foundation and the fight against AIDS. It marked the first time that a bay area radio station produced and marketed its own record, bringing together a unique collection of some of the leading names in contemporary and popular music. These artists, record companies, and music publishers waived all royalties on this production, all united in their desire to address the fight against AIDS.

This remarkable collaboration has produced over \$122,000 in revenue that will be donated to the San Francisco AIDS Foundation. For the past 8 years, the San Francisco AIDS Foundation has been at the forefront of the battle against AIDS, and has achieved national and international recognition for its direct services, innovative educational and prevention campaigns, and for shaping AIDS-related public policy at local, State, and national levels. This contribution, which is the largest corporate donation ever received by the foundation, will support such vital services as the AIDS food bank; a housing program which provides emergency housing vouchers for people with AIDS; and a women's program for women and children who are HIV positive.

KKSF exemplifies the selfless spirit and compassionate heart that will help make a difference in the lives of those with AIDS and ARC. I join with the city of San Francisco and all your friends in celebrating "Sampler for AIDS Relief Day" and honoring KKSF-FM radio's magnificent contribution to the AIDS Foundation and to the fight against AIDS.

TRIBUTE TO DR. EMIL HOFMAN

HON. JOHN HILER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. HILER. Mr. Speaker, today I rise to pay tribute to an outstanding individual, who for the past forty years has been a faculty member of a prestigious university in my district—the University of Notre Dame. Dr. Emil Hofman retires today from his position as professor of chemistry and dean of freshmen. He will be sorely missed from this institution of higher learning by his colleagues and students alike.

Dr. Hofman has enjoyed much success in all facets of his life—as a research chemist, as a teacher, as an administrator and as a citizen. Born in Paterson, NJ, Dr. Hofman spent his formative years in his home State and attended Seton Hall in South Orange, NJ as a

freshman. His academic pursuits at Seton Hall were cut short by the needs of his country and the call to battle. During World II, he bravely served his country in the 15th Air Force.

After the war he wished to continue his academic career and chose to attend the Catholic University of America, where he majored in chemistry, from 1946 to 1948. The following year he received an A.B. degree in chemistry from the University of Miami.

Dr. Hofman began his career at the University of Notre Dame as a graduate student—teaching assistant in chemistry in January 1950. After receiving his M.S. degree in chemistry in 1953, he stayed at Notre Dame and was appointed to the faculty of the department of chemistry. He later earned a Ph.D in chemistry in 1962. During the 1960's Dr. Hofman was promoted several times, to assistant professor, associate professor, and in 1968 to professor. From 1963 to 1965 he served as assistant chairman of the department of chemistry.

One of Dr. Hofman's most important contributions of his illustrious career has been in science education. Each year as many as 1,000 students took his freshman course in general chemistry. It is estimated that during his career he has taught more than 30,000 students including thousands who are now physicians, engineers and scientists. His unending enthusiasm in conveying knowledge to his students earned him the distinction of being selected as the first recipient of the Thomas P. Madden Award for excellence in teaching freshmen at Notre Dame in 1963.

During his years of teaching, Dr. Hofman was known as a demanding, but fair educator. His students knew that his door was always open and his interest in their well-being to be genuine. These qualities led to his appointment as Dean of Freshman Year of Studies in 1971. This appointment enabled him to supervise revision of the first year curriculum, as well as organize and implement a highly effective counseling program. The program is novel in many respects, chief of which is that it has reduced total attrition in the freshman year to no more than 1 percent.

Dr. Hofman's efforts in his field have not gone unrecognized. He is a member of many scientific and educational societies and has received several grants and awards for his work. In 1978, Dr. Hofman received the Presidential Service Citation of the University of Notre Dame, and in 1982 he received the James E. Armstrong Award given by the Notre Dame Alumni Association in recognition of his outstanding service to the university and his personal qualities that reflect the high principles of the university. In October of that year he also received the Alumni Outstanding Achievement Award in Science from the Catholic University of America. Dr. Hofman attended Catholic University from 1946 to 1948, where he majored in chemistry. In 1983, a scholarship was endowed in his honor for undergraduate students at the University of Notre Dame. The Council for Advancement and Support of Education identified him as one of the top 10 professors in the United States in 1985. In 1987, Dr. Hofman received the Schilts/Leonard Teaching Award in the

College of Science, University of Notre Dame and was named senior class fellow of the Notre Dame Class of 1987.

Dr. Hofman's list of successes and achievements is long and illustrious. He was not only a truly fine educator and administrator, but a caring man with heartfelt interest in his students as well. It was not unusual for a campus bound student to be invited to his home for dinner during the holidays. There is no doubt that Notre Dame will be a different place without Dr. Hofman. He will not be forgotten, though. His outstanding work at Notre Dame has made the university, and, therefore, the community, a better place. Indeed, he is an inspiration not only to educators and students, but to all people.

MIAMI ARTIST JORGE VARONA

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to recognize the distinctive work of Jorge Varona, a promising young artist being featured on an exclusive one-person exhibition at the prestigious Capricorn Galleries in Bethesda, MD.

In 1961, after realizing the tyranny of the Communist regime in Cuba, the Varona family migrated to the United States to begin a new life of freedom and opportunity. During this time, Jorge studied accounting and architecture, and after completing his education in 1977, he decided to dedicate his life's efforts to the world of art.

Mr. Varona has received numerous honors from many organizations recognizing the valuable pieces he creates. In 1978, he became the recipient of the Bell's Artist Award from the Lowe Art Gallery of Miami. He twice received the Oscar B. Cintas Fellowship from the United Nations in New York City in 1982 and 1985, as well as many notable recognitions from leading artistic organizations.

Mr. Varona has had the distinction of being featured in numerous art galleries throughout the country, the Bacardi Gallery in 1978, the Clara Hatton Gallery of Colorado in 1984, the Barbara Greene Gallery of Miami in 1985, as well as the Collection of Phil Desind of Youngstown, OH. His work is highly regarded by renowned private and corporate collections such as: The John Goode Collection and the Oscar B. Cintas Fellowship Collection.

Mr. Jorge Varona has proven to be an exceptional artisan whose dedication for his work affirms his limitless potential.

TRIBUTE TO CLAIRE O'BRIEN

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. TRAFICANT. Mr. Speaker, I rise today to pay tribute to Claire O'Brien, of my 17th Congressional District of Ohio, who has voted in every Democratic primary since 1939.

Born in Niles, OH, on April 8, 1918, Claire O'Brien attended St. Stephen School and graduated from Niles High School in 1936. She then attended Youngstown State University and received a degree in accounting. Upon graduation, Claire worked as an office girl in the Trumbull County Recorder's office and in the offices of Cyrus Steel. She ran for the office of county recorder in 1972 and has been reelected to the office ever since. Claire also served as a precinct committeewoman for a number of years.

Claire O'Brien first registered to vote on July 10, 1939, and has voted in 50 consecutive Democratic primaries since. This type of commitment to the democratic process is particularly commendable because it is vital to our thriving democracy that all of our Nation's citizens participate fully in both local and national elections. Claire should be looked upon as a model for the younger members of our society because of her 50 continuous years of voting in Democratic primaries in the 17th Congressional District.

Again, I would like to take this opportunity to recognize and congratulate Claire O'Brien for voting in every Democratic primary for the past 50 years. I am deeply honored to represent such a fine citizen.

JAMES LEWIS

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. RICHARDSON. Mr. Speaker, it is my pleasure to report to my colleagues that James B. Lewis, New Mexico State treasurer, has been awarded the National Association of Black Accountants 1990 National Achievement Award in State government. The award was presented at the association's 19th annual awards dinner in Los Angeles.

Mr. Lewis served as Bernalillo County treasurer before being first appointed and then elected State treasurer. He is vice president of the board of directors of the National Association of State Treasurers, president of the Western Association of State Treasurers, and president-elect of the New Mexico chapter of the American Society for Public Administration.

If further evidence of his public spirit were needed, he also ran for the Democratic nomination for the Second Congressional District in New Mexico and was very narrowly defeated. Mr. Speaker, we in New Mexico politics hope that we will be seeing much more of Mr. Lewis in the years to come, and I know that my colleagues join me in congratulating him on this most recent honor.

PAUL W. MILLS DIES

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. MONTGOMERY. Mr. Speaker, the House Veterans' Affairs Committee and veterans across the Nation lost a very good friend

on July 20. Paul W. Mills, whose career touched virtually every facet of veterans' service, died following a heart attack in Hendersonville, NC. He was 67.

A native of Mound City, MO, Paul was a professional staff member with our committee—at separate times serving both the majority and minority—from 1977 until his retirement in 1983. Paul was our utility man—he could do it all. A gifted writer with a vivid imagination and wonderful sense of humor, Paul had a tremendous ability to express himself. Still, he was unassuming and down to earth.

Paul was an Army combat veteran of World War II. He earned a bachelor's degree from the University of Chicago in 1949 and began a career in journalism which included several media positions in Washington. He was a member of the AFL-CIO public affairs staff from 1961-63 and, in 1964, joined the Veterans of Foreign Wars headquarters staff in Kansas City, MO, as editor of the VFW magazine.

Paul lived in Mexico for 2 years before settling in Hendersonville where, for a time, he was a columnist for the local newspaper.

Survivors include his wife, the former Mary Byrd of Monterey, VA; two stepchildren, 1st Sgt. David Rexrode and Vicki Gayhart; a grandson, Christopher; a brother, Harold of St. Josephs, MO; and two sisters, Mrs. Irene McClone of Sun City, AZ, and Mrs. Ruth Hawkins, of Kansas City, MO.

They should find solace in the knowledge that Paul's bright spirit, expressed through his writing and good deeds on behalf of veterans, lives on.

VETO OF FAMILY AND MEDICAL LEAVE ACT

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. MAZZOLI. Mr. Speaker, I rise today to voice my disappointment that President Bush's veto of the Family and Medical Leave Act cannot be overridden by Congress.

I supported the Family and Medical Leave Act when it came to the House floor on May 10. It was a good measure intended to provide workers with up to 3 months of unpaid leave at the birth or adoption of a baby, to recover from personal illness, or to care for an ill child, spouse, or parent. It would have applied to companies employing fewer than 50 workers, thus, exempting approximately 95 percent of all businesses.

Mr. Speaker, we have missed a golden opportunity to enact sensible family and medical legislation. I hope the next Congress will take up the subject early in 1991 in an effort to craft strong legislation which can avoid a presidential veto or overcome any such veto.

INTRODUCTION OF THE FAST FLUX TEST FACILITY COMMERCIALIZATION BILL

HON. SID MORRISON

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. MORRISON of Washington. Mr. Speaker, today I am introducing a bill, along with my colleagues from Washington State, aimed at preserving one of America's premier research and development laboratories.

The Fast Flux Test Facility, located in my district, is our Nation's newest, most advanced research reactor. It is the only reactor within the Department of Energy's fleet that meets all current regulatory requirements, and it's the facility best suited to meet our energy research and development needs well into the next century.

Mr. Speaker, the FFTF can play a greater role not only in the areas of energy research, waste cleanup, and environmental restoration—it can also help meet the demands of industry and medicine, both here at home and abroad. My bill helps us build these public, private and international partnerships through the creation of an international user complex.

The goal is to keep the FFTF working for America with a wide variety of investors sharing in the costs and the benefits.

I urge all of my colleagues to join me in supporting this important effort.

H.R. 4982, THE DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION AMENDMENTS

HON. RICHARD A. GEPHARDT

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 1, 1990

Mr. GEPHARDT. Mr. Speaker, I would like to offer my support for H.R. 4982, the Dwight D. Eisenhower Mathematics and Science Education Amendments of 1990, which the House passed on July 10, 1990. This legislation is another initiative under the House agenda for action on U.S. high-technology and competitiveness. And, it is one of the most important initiatives because it deals with people and education.

H.R. 4982 will ensure that our most important asset—people, will be better educated in the areas necessary to greatly improve U.S. performance in electronics, semiconductors, supercomputers, software, aerospace and other technologically advanced industries which will determine America's competitiveness in the future.

The programs included in H.R. 4982 will also ensure that our students will have access to technical assistance and state-of-the-art curriculum materials to help them build a foundation in science and math necessary for jobs in these industries which are becoming increasingly important to our economic security.

As Vannevar Bush, a famous American electrical engineer and scientific research administrator said:

Science is emphatically an important part of culture today, as scientific knowledge and its applications continue to transform the world, and condition every aspect of the relations between men and nations.

In this spirit, H.R. 4982 will allow our students to obtain a strong foundation in math and science and in turn, foster improved relationships among U.S. students, workers, companies and between the United States and her trading partners.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, August 2, 1990, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

AUGUST 3

9:30 a.m.

Finance

Private Retirement Plans and Oversight of the Internal Revenue Service Subcommittee

To hold hearings on S. 2901, to simplify the application of the tax laws with respect to employee benefit plans, and S. 2902, to simplify pension rules for church and welfare benefit plans.

SD-215

Joint Economic

To hold hearings on the employment-unemployment situation for July.

2203 Rayburn Building

10:00 a.m.

Foreign Relations

To hold hearings on the nomination of Ryan C. Crocker, of Washington, to be Ambassador to the Republic of Lebanon.

SD-419

Labor and Human Resources

Labor Subcommittee

To hold hearings to examine the recent financial crisis of the Higher Education Assistance Foundation and its impact on student loans.

SD-430

AUGUST 6

9:30 a.m.

Judiciary

Antitrust, Monopolies and Business Rights Subcommittee

To resume hearings on the impact of restructuring the savings and loan industry.

SD-628

AUGUST 7

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

10:00 a.m.

Select on Indian Affairs

Business meeting, to mark up S. 2770, to establish the Indian Finance Corporation, an independent Federally chartered financial institution in which Indian tribes would be directly involved in its administration in an effort to close the gap between the established sources of private capital and Indian country, and S. 2645, to improve the health status of the urban Indian population and to enhance the quality of health care services and disease prevention; to be followed by a hearing on S. 2423, to provide for Federal recognition and associated benefits to the United Houma Nation (Tribe) of Louisiana

SR-485

AUGUST 8

9:30 a.m.

Energy and Natural Resources

To hold hearings on the energy policy implications of broad-based energy tax options to increase Federal revenues.

SD-366

AUGUST 18

2:00 p.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings to review Peace Corps programs in eastern Europe.

SD-419

SEPTEMBER 11

9:30 a.m.

Select on Indian Affairs

To hold hearings on proposed legislation on San Carlos water settlement rights.

SR-485

SEPTEMBER 12

9:00 a.m.

Select on Indian Affairs

Business meeting, to mark up S. 1554, to implement water settlements involving the Pyramid Lake Paiute Tribe, the States of California and Nevada and other parties regarding the waters of the Truckee and Carson Rivers and Lake Tahoe in Nevada and California, and H.R. 5063, to provide for the settlement of the water rights claims of the Fort McDowell Indian community in Arizona.

SR-485

SEPTEMBER 18

9:00 a.m.

Veterans' Affairs

To hold joint hearings with the House Veterans' Affairs Committee on legis-

lative recommendations of the American Legion.

SD-106

10:00 a.m.

Finance

International Trade Subcommittee

To hold hearings to review the final report on the U.S.-Japan Structural Impediments Initiative (SII) talks.

SD-215

SEPTEMBER 21

CANCELLATIONS

AUGUST 2

2:00 p.m.

Select on Intelligence

Closed business meeting, to consider pending intelligence matters.

SH-219

SENATE—Thursday, August 2, 1990

(Legislative day of Tuesday, July 10, 1990)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. BYRD].

The PRESIDENT pro tempore. Prayer will be led by the Senate Chaplain, the Reverend Dr. Richard C. Halverson.

Dr. Halverson.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Therefore shall a man leave his father and his mother, and shall cleave unto his wife: and they shall be one flesh.—Genesis 2:24.

Husbands, love your wives, even as Christ also loved the church, and gave himself for it.—Ephesian 5:25.

And, ye fathers, provide not your children to wrath: but bring them up in the nurture and admonition of the Lord.—Ephesian 6:4.

God our Father, we pray this morning for our families. So often they are hostage to the Senate schedule. Some Senators when retiring from the Senate, gave as one reason among others, in order to be more responsible as spouse and parent. August is the only recess when children are out of school and families can be together for a protracted time. Spouses and children are filled with anticipation for this opportunity to be together as a family.

Gracious Father in Heaven, help the Senate to do its work this week in order that families will not be disappointed. This may seem impossible in light of circumstances but Thou art the God for whom "nothing is impossible." In the power of the Holy Spirit, help the Senate to do the impossible these next 2 days, that family plans or other plans may not have to be aborted. We pray in the name of Jesus who is "The way, the truth, and the life." Amen.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. There will be a period for the transaction of morning business until 9:30 a.m., with Senators permitted to speak therein.

I might add, the Senator from West Virginia [Mr. ROCKEFELLER] will be recognized for not to exceed 20 minutes.

In his capacity as a Senator from the State of West Virginia, the Chair notices the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the

order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Under the order previously entered, the Senator from West Virginia [Mr. ROCKEFELLER] is recognized for not to exceed 20 minutes.

Mr. ROCKEFELLER. I thank the Chair, and I greet the Chair.

S&L CRISIS

Mr. ROCKEFELLER. Mr. President, I rise today to once again express my outrage over the savings and loan crisis—a crisis that has been aptly called the greatest financial scandal in our Nation's history. It is a crisis that is the direct result of the persistent effort of the past administration throughout the 1980's to ease and eliminate safeguards designed to protect our savings system. And unfortunately, some States followed the administration's lead by easing up on their role as watchdog and by putting on blinders to the risk-taking and speculation exploding around them. De-regulation swept through, accountability vanished, and countless forms of mismanagement, fraud, and greed rushed in to gamble away depositors' money and threaten the very existence of our savings and loans system. This debacle has threatened the economic future and human vitality of our country.

The cost of this saga of speculation and misconduct is already painfully evident. We are told that the taxpayers of this country may have to foot a bill of \$500 billion over the next three decades to recover from this calamity. The immediate costs have pushed the Federal deficit back beyond \$200 billion again, robbing us of the ability to make desperately needed investment in children, health care, infrastructure, rural America, and our Nation's competitiveness.

Mr. President, I know I speak for the people of my own State, West Virginia, and the entire country, when I say the punishment had better fit the crime. I recently read that the head of the Resolution Trust Corporation estimated that fraud and insider abuse played a major role in 60 percent—close to two-thirds—of the failed thrifts. Attorney General Thornburgh has characterized the string of failures as an "epidemic of fraud" and acknowledges the links to fraud and criminal conduct by bank insiders.

NOTICE

An interim issue of the daily Congressional Record will be published during the August adjournment in order to permit Members to revise and extend their remarks.

All material for insertion must be signed by the Member and delivered to the respective offices of the Official Reporters of Debates (Room HT-60 or S-220 of the Capitol), Monday through Friday, between the hours of 10:00 a.m. and 3:00 p.m., through August 15. The interim issue will be dated August 15, 1990 and will be delivered on August 16.

None of the material printed in the interim issue of the Congressional Record may contain subject matter, or relate to any event, that occurred after the adjournment date.

Members of Congress desiring to purchase reprints of material submitted for inclusion in the Congressional Record during the adjournment may do so by contacting the Congressional Printing Management Division, at the Government Printing Office, on 275-2226, between the hours of 8:00 a.m. and 4:30 p.m. daily.

By order of the Joint Committee on Printing.

WENDELL H. FORD, *Chairman.*

Clearly, fraud has been a major cause of this entire catastrophe. According to the Office of the Comptroller of the Currency, less than 10 percent of thrift failures were due to poor economic conditions. In fact, the House Government Operations Committee reported in October 1988 that more than three-fourths of all thrift failures were due to insider misconduct.

I challenge the President and his administration to take every conceivable action possible to ensure that justice is done. In the recent weeks, Congress has spoken loudly and clearly, urging a crackdown on the people and institutions responsible for the massive losses, and mammoth effort to recover every last retrievable dollar, and concerted action to prevent this kind of fraud and crime from ever occurring again.

I recently joined a number of my colleagues in cosponsoring tough legislation to pursue these critical goals. Shortly thereafter, the Senate attached this legislation, the Comprehensive Thrift and Bank Fraud Prosecution Act of 1990, as an amendment to the omnibus crime bill which we subsequently passed and now waits for expected House action. Our amendment is aimed squarely at strengthening and expanding the efforts of the Federal Government to prosecute those who are responsible for the savings and loan crisis.

Our legislation will allow the Department of Justice to more effectively prosecute the criminals who have essentially stolen more than \$2,000 from the pocketbooks of each and every American. It provides for the creation of a special division within the Department of Justice to facilitate the development of criminal cases. It creates local strike forces to expand and toughen prosecution efforts. It increases penalties for fraud and embezzlement cases. It widens investigative powers for the FBI and Secret Service agents and allocates \$203 million for 3 years to accomplish these goals.

Mr. President, I am angry. I'm angry for West Virginians and I'm angry for all Americans. I am angry that savings and loan executives who thought they were above the law recklessly spent the hard-earned savings of our citizens on airplanes, fancy cars, expensive homes, and lavish vacations, knowing all the while that their companies were in financial trouble. These bank executives and directors committed crimes as surely as any, common thief. We must prove to the people of the United States—the victims of this crime—that these greedy corporate executives are not above the law.

My constituents are as angry as I am. I have received hundreds of letters from West Virginians demanding action. One man in Jefferson County wrote that the least we can do is

"make sure that the crooks don't go sailing off on their yachts." Mr. President, I agree.

My constituents not only are angry about the criminals who are getting away, but also are worried about what the \$500 billion price tag means for the economic future of our country. I share this concern. One Marion County woman wrote,

My husband and I are more concerned about the S&L scandal than anything that has happened since World War II, especially since we know it will cost as much.

That \$500 billion cost is a tragedy and disgrace. We could have used that money to complete the Appalachian corridor system, which is vital to the economic development of the entire 13-State region. We could have financed a long-term health insurance plan for every American. We could have funded the WIC Program to guarantee decent nutrition to every pregnant woman, mother, and infant in America. We could have done all of this and still had tens of billions of dollars left. This money should be used to create jobs, shelter and feed our people, build roads and bridges, not to buy empty office buildings and underutilized country clubs in Dallas and Houston.

Mr. President, in West Virginia, our savings and loan institutions are generally stable—fortunately. They are healthy. The managers of the thrifts in my State avoided risky, speculative loans in the past decade and stuck to their original purpose—single family housing mortgages. Only two West Virginia savings and loans were seized by the Resolution Trust Corporation, representing 0.2 of 1 percent of all bad assets in the country. During 1989, our thrifts posted the second best percent increase in net income in the country, 35.2 percent, while the national average was a decrease of 53 percent.

In other words, West Virginia is one of the States where caution was not thrown to the wind by the people responsible for our savings system—the people who make up the chain of accountability, including Government officials, independent appraisers, outside directors, and savings and loan officials. Because of the self-restraint exercised in my State, our savings system is intact and is not piling bills onto the shoulders of taxpayers and future taxpayers. This is why the people of my State are so appalled. They may not be the source of this crisis, but they are definitely expected to be part of the solution.

West Virginians were not responsible for this crisis. If, however, we are forced to share the burden of cleaning up the S&L scandal, we demand that the criminals who are responsible be put in jail and be required to forfeit the profits they illegally reaped. West Virginians and I have no doubt all Americans want to see swift action.

They deserve it. In this case, the victims are paying for the crime.

Mr. President, outrage over the cost of this debacle, and its cost to my constituents, led me to vote against the S&L bailout bill last year. I believe it is entirely understandable that the people of my State object to the administration's approach to cleaning up after the failed S&L's that rests on burden-sharing—when the same administration virulently fought a cost-sharing approach to cleaning up acid rain. How do I explain this to my State? To the State that lost more Federal aid during the Reagan-Bush years than any other State but one in proportion to population. To the State that was excluded from desperately needed housing aid that went instead to the political cronies and friends of HUD officials?

There is no good answer. And there is no way to wipe out the past. For the past decade I have been bothered and appalled, quite frankly, by the effects of an administration that seemed to promote greed. To me, it is not the Iran-Contra crisis, as bad as that was, that epitomized that administration's tenure. It was Ivan Boesky and Mike Milliken, who promoted and symbolized greed. What an awful message was sent to the young people of this Nation about what is important.

There is, Mr. President, plenty that can be done in the future to prove that crime does not pay, fraud does not go unpunished, and irresponsibility is not forgotten. In the near-term, we must commit the funds needed for the toughest, most effective law enforcement system possible to prosecute the S&L criminals.

As of February 1990, the FBI reports that it has had 21,000 referrals involving fraud in the financial services industry, but because of staffing shortages it has been unable to examine these complaints. The Department of Justice is receiving 8,000 referrals a month of the same nature and currently has 80,000 cases pending.

The FBI and U.S. attorneys' offices have requested 224 more FBI agents, 113 more assistant U.S. attorneys, and 142 more support staff. The Bush administration's budget allows for only 42 new agents and 26 more support staff positions. These extra positions are necessary in order for us to establish a more aggressive prosecution effort.

A recent study found that so far, only 2 percent of the cost of the bailout has been recovered in legal penalties. We need to increase the fines against financial services criminals in an attempt to recover at least some of the billions of dollars used to finance the bailout. We also must increase the jail sentences for these criminals.

The legislation we attached to the crime bill will allow prosecutors to go

after those assets which S&L executives illegally acquired. It will add over 1,000 new employees to help develop and prosecute criminal cases. The Comprehensive Thrift and Bank Fraud Prosecution Act of 1990 will require those responsible for the S&L scandal, the country's largest financial disaster ever, to pay for their illegal activities, as well as help taxpayers recoup some of their losses.

I am proud to have played a part in moving this important legislation forward. And I renew my pledge to the people of my State and the country to make sure that justice is served.

EXTENSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The Senator from Nebraska [Mr. KERREY] is recognized.

Mr. KERREY. Mr. President, as I understand, morning business ends at 9:30.

The PRESIDENT pro tempore. The Senator is correct.

Mr. KERREY. Mr. President, I ask unanimous consent that the period of morning business be extended to 9:45, and that I be allowed to speak for 7 minutes.

The PRESIDENT pro tempore. Is there objection? The Chair hears no objection. The Senator is recognized for 7 minutes and morning business is so extended.

THE S&L CRISIS

Mr. KERREY. Mr. President, I applaud the concern of the Senator from West Virginia for wanting to make sure that justice is brought to bear upon those who have stolen money from American taxpayers, his sense of outrage for the lack of progress in getting that done, and share the sense of loss of what could have been done with these resources.

We are told constantly that we have more will than wallet, that we are not able to help America's children, Americans in need of health care.

It was said yesterday by the Republican whip on the House side that Democrats are constantly wanting to tax and spend. The President's proposal for the savings and loan bailout is by far the largest spending program that has been proposed in this Nation, as the Senator from West Virginia said, perhaps in the history of this Nation.

I share the Senator's outrage at people who are going without having justice brought to bear upon them, but also what could have been done with these resources. I suggest one thing that has occurred to me, listening to the Attorney General say how difficult it is to bring white-collar criminals to justice, how difficult it is to bring a case like this, it might not

be a humorous proposal to consider perhaps assigning some of the responsibility for getting the job done over to Baseball Commissioner Fay Vincent, who seems to be, recently at least, a bit more successful in making sure that people who abuse the system do get the justice they deserve.

I have spoken before about the current organization of the savings and loan bailout, and I find much at fault with it. I have spoken before about the way it is organized and the difficulty as a consequence of the way it is organized for us as Senators to be able to tell our taxpaying citizens where the money is going.

About \$15.8 billion was paid out in the month of June, requiring in the month of June a considerable amount of unusual borrowing. It is going to be difficult to go home and say exactly how that money is being spent.

I think we need an independent commission rather than the commission of essentially people who are part of the current administration that would substitute for the policymaking group. It seems to me that it would give us a chance at least to turn around what I see, and that is the declining confidence of the taxpayers themselves that the money is in fact being employed directly. I think it is going to be increasingly difficult for us to go to our people to extract the tax dollars that are apt to be needed to pay for this thing.

When the President said \$50 billion for 2 years, that was a difficult pill to swallow. Most of us said the money should be paid, a problem that needed to be solved. I would argue it is going to be increasingly difficult for us to get that done.

The chairman of the Resolution Trust Corporation last week said it would be a \$100 billion this year. I ask my colleagues, are they going to be able to come here and vote for a \$100 billion appropriation for a project that frankly we do not really know where the money is going?

There is the second problem that I have pointed out to the chairman of the Judiciary Committee in the letter that I ask unanimous consent be printed.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, August 1, 1990.

HON. JOSEPH R. BIDEN,

U.S. Senate, Washington, DC.

DEAR JOE: I do not know how any Senator charged with the responsibility of watching out for taxpayers' dollars could help feeling a sense of betrayal reading the testimony given yesterday to your Committee's Subcommittee on Antitrust, Monopolies and Business Rights on the activities of Robert L. Thompson.

Robert Thompson was a friend of then-Vice President Bush and a close friend of many of the people who had authority over decisions which involved the use of large

amounts of money. That he was able to gain access to an Inspector General's report on a client—a man indicted for a felony in Alabama and barred from financial holdings in that State—should outrage all of us.

That he was able to then approach the regulators, who had the job of evaluating the Inspector General's report, and actually help them prepare their response, takes my breath away. How is it possible for us to do any credible job of overseeing the money we appropriate when people with special access to the Executive Branch can manipulate important decisions?

It is terrifying to think that people like Mr. Thompson might be lurking about the Executive Branch waiting to help regulators answer questions from the Legislative Branch. News reports indicate that Mr. Thompson had an opportunity to suggest modifications to a reply that Federal savings and loan regulators sent to a Congressman who raised questions in 1989 about the eligibility of Mr. Thompson's client.

Mr. Thompson openly parlayed his experience as legislative director for Vice President Bush. He openly told his clients about access to top officials and his frequent contacts with Mr. Bush.

Mr. Thompson was not just blowing smoke. He eventually was successful in getting his client, the man indicted for a felony in Alabama, approved for a \$1.85 billion government subsidy to purchase 15 Texas savings and loan institutions. He had earlier worked the same magic with the FDIC gaining approval for the purchase, under similarly attractive terms, of an Oklahoma bank.

Although the regulators now say they do not understand how this could have happened and claim that Mr. Thompson had no special access, Mr. Thompson's own correspondence tells a different story. It tells a story of a cozy relationship with the people who presided over the drafting of President Bush's bailout legislation as well as those who would be making administrative decisions.

Two of the most egregious examples were his contacts with Richard Breeden, the man credited with being the author of FIRREA and the current head of the Securities and Exchange Commission, and David C. Cooke, the executive director of the Resolution Trust Corporation. His manipulation of these two men is a sickening story.

One memorandum from Mr. Thompson's firm to a client told of an hour-long meeting on April 13, 1989, between Mr. Thompson and Mr. Breeden, who, at the time, was the top White House aide for the savings and loan cleanup and "an old friend from Bob Thompson's days in the White House." Mr. Breeden, according to the memo, sketched "some general guidelines which should prove helpful in evaluating an investment strategy."

The memo goes on to say: "Mr. Breeden expressed his belief that there would be many attractive investment opportunities in the implementation of the Bush plan" for the savings and loan industry. Mr. Thompson's firm believed that "serious inefficiencies likely to result in the first six months of this program will present very good opportunities."

Mr. Chairman, this is the taxpayers' money these guys are playing with. The citizens of Delaware and Nebraska are being ripped off by this kind of deal-making which, by the way, was taking place at the very moment President Bush was talking so

high and mighty about new ethical standards in his administration.

Mr. Thompson's defense: "I feel like the process has been unfair to me, and if I hadn't done a good job for my client, I wouldn't be having to have such an interesting summer." His words betray the kind of moral relativism required for influence peddling.

Mr. Thompson didn't stop with Mr. Breeden. Six days after the establishment of the RTC, he met with the corporation's top officials to discuss future investment opportunities. Mr. Cooke, "an old friend of Bob Thompson's," was "kind enough to spend 30 minutes with us in these hectic opening days of the RTC," a firm memo reads. It also declares that Mr. Cooke insisted that neither the FDIC or the RTC wanted to unravel any of the deals done in 1988.

The President came to us in his first message to Congress and asked for immediate passage of his legislation. He asked for an arrangement whereby the Executive Branch would control all of the decisions with very little oversight by Congress. Today, more than ever, I feel we made a mistake giving the Executive Branch so much control. Apparently the revolving door that President Bush talked about in his presentation for higher ethical performance was still spinning wildly.

Sincerely,

J. ROBERT KERREY.

Mr. KERREY. Mr. President, as a consequence of some hearings that are being held by the Senator from Ohio [Mr. METZENBAUM] his Subcommittee on Antitrust, Monopolies and Business Rights opened up to our view another problem with the current organization; that is, that it is possible for people who are well connected in the administration, with previous contacts with the administration, to continue this sort of revolving door abuse power that the President said in 1989 he was going to try to end when he talked about raising the ethical standards in Government.

In this case, the Senator from Ohio [Mr. METZENBAUM], has brought to our attention the activities of Robert L. Thompson, lobbyist and friend of Vice President Bush, and close friend of many of the people who have authority of the decisions that involve the use of large amounts of taxpayer dollars. He was actually able to gain access to an inspector general's report on one of his clients, use that inspector general's report, and then go talk to the regulators and advise the regulators how they ought to treat this particular client.

His client was indicted for felony in Alabama, and prohibited from being engaged in banking activities in that State. That was the issue. This friend of the Vice President, who openly declares his friendship and sells that friendship to his clients, was able, as a consequence, to get \$1.85 billion in taxpayers' money to go to this particular bailout, not for a man who has been indicted for a felony in the past but for a man who put up \$1,000 to get \$1.85 billion in subsidies.

Further, this particular lobbyist, as a consequence of his contact with the administration, was able to actually get inside the regulator and advise the regulator as to how he ought to answer a letter from a Congressman who is concerned about this particular transaction. This lobbyist complains about being treated unfairly, but I would observe in fact he was not treated unfairly.

My concern is this kind of activity, as a consequence of the way we have organized this particular bailout, is in fact encouraged. This individual had close contacts with Mr. Breeden, current head of the SEC, the man responsible for giving credit, for drafting the FIRREA legislation, and with David Cooke, Executive Director of the Resolution Trust Corporation. In his own memorandum, Thompson's own firm's memorandum, he makes some statements that I personally find appalling, indicating that he is getting information that the rest of the public is not getting, that he is getting information that in his mind at least provides "some general guidelines which should prove helpful in evaluating an investment strategy." Perhaps the most troubling statement of all is that Mr. Thompson says that, "Serious inefficiencies likely to result in the first 6 months of the operation of this particular venture will present very good investment opportunities."

Mr. President, the very sort of thing that the President of the United States, President Bush, talked about early in his administration, the kind of ethical and moral relativism that permits people to trade influence, is currently, I would observe, encouraged as a consequence of the way this thing is organized. I believe our colleagues should increasingly pay attention to the lack of information we have.

I appreciate the Chair's indulgence. I yield the floor.

The PRESIDENT pro tempore. What is the will of the Senate?

Mr. KERREY. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURNS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BURNS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BURNS] is recognized.

MONTANA WILDERNESS

Mr. BURNS. Mr. President, I have a statement regarding an issue in the State of Montana that is a very troubling issue, and has been a very hard issue to work out and to deal with.

During the past year or so, the people of this country have witnessed the revolutionary emergence of democracy around the world. The people in Eastern Europe and elsewhere are struggling now to create new representative governments. How clearly do they welcome and appreciate their newfound freedom to participate in the democratic process.

In this country, the trend is disturbingly to the contrary. We pay great respect in words to our freedoms and representative government, but more and more frequently we seem to forget or ignore how important the democratic process is to us, and how jealously we must insure that it works.

Fewer and fewer Americans register to vote, and of those who do, even fewer actually exercise that right. Many Americans feel disenfranchised—powerless to have an impact on the decisions that shape their lives. It becomes even more important, then, for representatives of the people, as I have the privilege of being, to remember and respect the fundamental principles of democratic government that make our country great.

In our haste or eagerness to resolve our problems, neither Congress, nor the people it represents, should short circuit the process. No matter how difficult the problem, no matter how tired we are of dealing with it, the end of finding solutions cannot justify means which violate our basic principles of fairness, due process, representation and majority rule.

Unfortunately, these principles of being bent and abused at this time in my home State of Montana. The subject is certainly important, although not so critical that a solution is worth the high price of ignoring our principles.

The issue I am speaking about is wilderness, and more specifically, wilderness designation without representation.

Mr. President, the issue I am talking about is the wilderness issue. It has been one of the issues in the State of Montana that is of very real concern to everybody in our State. No matter where you come down on the issue, it is of great concern and at times very disappointing.

To most of you who do not live in the West, wilderness means vacations, wildlife, and tranquil scenes on posters and in travel magazines. But for those who live within the shadows and the sight of those areas that would be considered to be set-aside and preserved, it means much, much more. It is for them a way of life and a cause for others. It is a threat of jobs and security for others. It is the battleground on which there was sharply divergent views and clashes.

Montana contains 10 national forests. Groups and individuals with in-

terests in two of those forests recently met privately and reached an agreement among themselves on designation of wilderness acres in the Lolo and Kootenai National Forest.

The groups and individuals who reached those accords are not representative of all the affected interests. People excluded were environmental groups, farmers and ranchers, loggers, miners, snowmobilers, recreationists, and others. People left out had no say in the matters which affected their jobs, their businesses, their recreation, and the communities, and for that matter the entire State of Montana.

Provisions in the process of these accords will set a precedent for the other eight forests in Montana and eventually for the BLM lands in the eastern part of the State.

The accords for the two forests have been introduced as a bill by my distinguished colleague, Senator BAUCUS. Those who put this proposal together are now demanding that the accords be enacted into law without change. Others, exhausted from years of watching the unsuccessful struggle to resolve the issue, are demanding that the accords be accepted as is. Anyone who stands in the way is branded an obstructionist.

In their zeal to get this matter behind them, those who make these demands are doing violence to the process. The price is too high. If we ignore the legitimate interests of the many people who were left out of the process—which is the vast majority of Montanans—we are turning away from our own principles and creating even more disillusionment and disenchantment with our institutions.

Perhaps I am too new and idealistic, perhaps I am not as war weary yet as the others, but I am not going to let the process, in the name of expediency, ride roughshod over so many Montanans. I am going to fight to ensure that the concerns of these people are not ignored by their elected representatives.

I wish to guarantee a fully representative process by offering an amendment to Senator BAUCUS' bill which would create a broadbased, bipartisan Citizens' Advisory Council to review the controversial areas and make recommendations to Congress. The idea for such a council is not mine—Senator BAUCUS suggested that some months ago. The council would review the accords; if those accords are as fair and representative as the authors claim, then they have nothing to fear from my amendment.

Not very many people in this country live where there is large acreage of Government-owned land. And there are times when the Government is not a very good neighbor, when most of us rely on good neighbors to build our neighborhoods, both in the social aspect of a neighborhood and also in

the economic aspect of the neighborhood.

Those who oppose the idea of a citizens council are taking a position which is inconsistent in principle and difficult for me to understand: They want me to be bound by the accords reached by a self-appointed group which excluded many legitimate interests, but they are adamantly opposed to being bound themselves by a representative, bipartisan council which my proposal would create.

I intend to keep on working for fair and reasonable compromises. We have come a long way to try to meet the demands and the ultimatums that have been laid down and most times inconsistent ultimatums. We have tried to find a way to solve this issue.

In the meantime, I want the legislative process to move forward. I have asked Senator DALE BUMPERS, of Arkansas, chairman of the subcommittee that oversees this, to hear the bill that has been presented on the two forest accords as soon as possible to permit those parties who were excluded from the process to voice their concerns. I ask that the hearing be held in Montana, but a hearing anywhere is better than none at all.

I realize what the chairman is going through because we have heard this over and over time and time again. The evidence presented at the hearing will show that the amendments are needed to make the bill acceptable to the majority of the people that are affected, and they are the citizens of Montana.

A hearing is essential. This bill has not been heard by Senators who will be asked to vote on it. Formal meetings held in Montana were conducted before the bill was ever drafted. The precise provisions of the proposal were not even available to the public, or to me at the time of those informational hearings.

I have been told that I must agree with the accords and the bill of my distinguished colleague from Montana, Senator BAUCUS, first, in order to get a hearing. A hearing under those circumstances is almost meaningless. One way or the other, I am going to stay and dig in and fight hard to see that Montanans have a say in wilderness decisions that affect their lives and neighborhoods through a citizen advisory council and a Senate committee hearing on a two-forest bill. To do less would be to abuse principles of representative government, because right now what we have is wilderness designation without representation.

We need to do this. It is my obligation to the people of Montana and to the people of this country who rely on the resources of public lands, also, for their livelihood and their well-being.

Mr. President, I yield the floor.

THE ACTIONS OF SADDAM HUSSEIN

Mr. D'AMATO. Mr. President, last evening we learned that which a number of us had expressed concerns about, and that is, Saddam Hussein—and some have made light of Mr. Hussein and his actions—that he did that which most said he would never do and sent his troops, his hordes that were massed, into Kuwait.

Mr. President, I have been accused in the past of being too outspoken about him. Indeed he is the new Hitler of this era. He has committed acts of genocide against his own people. He now negotiates very much like Mr. Hitler during World War II and strikes under the cover of those negotiations. Here we are pleading, do not pass an act that might get him annoyed; do not cut off credits to him.

Mr. President, the United States should enact a policy immediately, forthwith, of total embargo. Today we are processing hundreds of thousands of barrels of oil. We take 600,000 barrels of oil from Saddam Hussein. Now he seized Kuwait, and their oil production will obviously fall within his domain. I hope this country will immediately impose an embargo and not get into this business of, "will it affect us?" Stock prices are at an all-time high.

I intend to introduce a sense-of-the-Senate resolution calling for this action, total embargo, and it is about time we got our allies to join with us, and find out whether they are really allies or not, whether they are going to work with us or wait until the situation deteriorates far more.

It is about time we said to Japan, whose interests we have protected time and time again in the Persian Gulf, what are they going to do, or, if they are going to have it both ways and literally sell us out, because indeed in the past, that has been their action. When we have attempted to stand up to whether it is the Iraqis or the Iranians, they did business as usual, openly, instead of joining with us.

It is about time that those who call themselves friends of the United States—and we have befriended them, Western Europe, Japan, and the freedom-loving nations of the world—join with us in making Iraq the outlaw that she is, the pariah, and put her outside of the normal realm of business as usual. Except for condemnations, that is not enough.

Here we have the mad dog undertaking that which—people said, you know, he is reasonable, he even sent a representative to the chemical weapons confab.

Well, Mr. President, I hope that we have learned that our lessons of doing nothing, I believe, have encouraged Mr. Saddam Hussein to take an action,

because he feels that the United States and, yes, our allies, will do nothing to curtail his activity.

Mr. President, I intend to offer a sense-of-the-Senate resolution later today.

CONCLUSION OF MORNING BUSINESS

The PRESIDENT pro tempore. The time for morning business has expired.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS FISCAL YEAR 1991

The PRESIDENT pro tempore. Under the order, the Senate will resume consideration of H.R. 5019, which the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes.

The Senate resumed consideration of the bill.

Mr. JOHNSTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, the situation is that there are two amendments that are due for debate this morning, the McClure amendment and the Stevens amendment. We hope that the other amendments in the order will not be offered; that is, the Baucus amendment and the Gore amendment. And we hope that Senator Boschwitz will not ask unanimous consent to bring up his amendment.

So we are awaiting action, and we are ready for the McClure amendment at this time.

The PRESIDENT pro tempore. The Chair calls attention to the remaining minutes. Mr. JOHNSTON has 6 minutes, 31 seconds remaining for debate. Mr. HATFIELD has 8 minutes 45 seconds. Mr. NUNN has 39 minutes and 4 seconds.

Does the Senator from Idaho wish to be recognized?

Mr. McCLURE. Yes.

The PRESIDENT pro tempore. The Senator is so recognized.

AMENDMENT NO. 2491

Mr. McCLURE. I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho, [Mr. McCLURE,] proposes an amendment numbered 2491.

Mr. McCLURE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill add the following:

"The Secretary of Interior is authorized and directed to pay, without reimbursement, \$1,000,000 to the Fall River Rural Electric Cooperative in reimbursement for environmental protection requirements in connection with the development of hydroelectric power at the Island Park Dam and Reservoir, Idaho. Such payment shall be made on the date the hydroelectric electric power facilities are placed in service and shall not affect cost allocations or repayment provisions for the Minidoka Project."

The PRESIDENT pro tempore. There is 10 minutes on this amendment.

Mr. McCLURE. Mr. President, very briefly—and it must necessarily be very brief—in 1985 a rural electric cooperative in Idaho applied for Federal Energy Regulatory Commission license for their Island Park project. It is a very sensitive project, because it is on the Henry's Fork fork of the Snake River, which discharges water in the Henry's Fork-Snake River at an existing dam. A power project would be added to the existing dam.

The environmental concerns are extreme. I authored legislation which would erect much higher standards and guarantees than ever before applied to any electric project anywhere in the United States. Project sponsors were willing to undertake those guarantees, did not resist it, but embraced those guarantees.

In the length of time it took them to make the guarantees and process it through FERC, however, the time for energy tax credits had expired.

We attempted to get an extension of the energy tax credits for this project, so they would not be caught by the barriers that we had erected. We were not successful in getting the energy tax credits extended.

I think the project sponsors are in good faith and have been in good faith through this entire effort. I feel a personal responsibility toward them, and I urge that there be the opportunity for them to go forward, and this amendment makes it possible.

Mr. President, it is important that this amendment be adopted in order to rectify a problem created by Congress. Let me explain what occurred so that my colleagues understand the reasons and need for this amendment.

The story begins back in 1985 when Fall River applied to FERC for a license for their Island Park project. As is the case with any hydro project, even one such as this, which is located at an existing dam, there was considerable environmental concern. As a result of those concerns, I personally visited the project site in the summer of 1986 and discussed those concerns which focused on the project's potential impact on fish.

As a result of those discussions, an agreement was reached by the project sponsors and those who were concerned about what environmental protection measures were needed. Includ-

ed in those discussions were representatives of the Henry's Fork Foundation, the Idaho Sportsman's Coalition, the Henry's Fork Anglers, and the Federation of Fly Fisherman.

As a result, in what was a very unusual and unique procedure, I added a special provision to the Electric Consumers Protection Act of 1986 [ECPA] to make absolutely sure that there would be no untoward environmental impact as a result of the construction of this project. Let me read the relevant part of section 15(c).

*** the Commission may issue such license only if the Commission determines that significant and permanent alteration of streamflow, habitat, water temperature, and quality will not occur as a result of the project.

It is important to note two things about this provision of ECPA. First, it is a far higher standard than that which the FERC normally imposes on a project. And second, this standard applies to only one project in the United States—Island Park.

The intent of Congress when addressing the Island Park project in ECPA was to allow the project to be built in a timely manner but with appropriate environmental safeguards. Unfortunately, we did not foresee the delays that we would unintentionally create by our addition of these special environmental requirements.

In December 1986 a project advisory committee was formed—which included the groups already mentioned—to work out the license terms necessary to meet ECPA's environmental standard. In July 1987 the Advisory Committee's recommendations were sent to FERC. However, it was not until October 1988 that FERC finally issued the license, nearly 2 years after the original, pre-ECPA, anticipated licensing date.

Now all of this ECPA-induced delay would have been frustrating, but of no real consequence, except for one key factor—the expiration of the special energy tax credit.

The Windfall Profits Tax Act of 1980 provided an 11 percent tax credit for hydro projects, but the law provided that they must be placed in service by December 31, 1988 in order to qualify. The project sponsors relied on those tax credits when they developed their financing package, and they had no idea—or reason to assume—that Congress would effectively undercut those financial assumptions.

The project finally received its license from FERC, but only 2 months before the date it was required to be placed in service in order to qualify for the tax credit; and that simply made it physically impossible to qualify for the tax credit. Thus, had Congress—albeit at my request—not imposed unique environmental requirements on this project it could have, and

would have, been built in time to receive the credits. But we did, and they could not. And without the tax credit—or an amount equivalent to the tax credit—the project is uneconomic and will not be built.

Now the obvious thing to do would simply be to extend the tax credit. And as I mentioned earlier, I tried to do just that, but those efforts were opposed.

On October 11, 1988, when the Senate was considering the technical corrections to the 1986 Tax Reform Act, I offered an amendment on behalf of myself and Senators WALLOP, SIMPSON, SYMMS, and MELCHER to extend the in-service date for 2 years. That would have fixed the problem Congress created. But unfortunately, although it was on the approved list of amendments to be offered, Senator BAUCUS objected. And as a result, the amendment was not adopted. Had that amendment been adopted, we would not be here today.

In summary, let me restate the fundamental reason why this legislation is warranted: because Congress imposed unique environmental requirements on this hydro project, it was unable to be placed into service in time to qualify for the tax credit. That is Congress' fault, not the project sponsors' fault.

It would be unfortunate if this project failed as a result of the actions of Congress. The tax law provided an incentive for these types of projects and in this instance, the project sponsors willingly sought to satisfy all concerned. Let me read an excerpt from a statement submitted by Ron Mitchell, executive director of the Idaho Sportsmen's Coalition, in support of this legislation which I believe makes this point.

The Idaho Sportsmen's Coalition believes the good work that has gone into this project should not be in vain. We also believe that the project may actually benefit long-term management of the Henry's Fork. But above all, it is our feeling that when a developer makes an effort to do things the right way, and particularly to involve our members in the process through an Advisory Committee, that we should stick by our relationship with them and support their efforts to correct an unforeseen financial dilemma. We do not believe that Congress generally has an obligation to pay for the financial repercussions of its actions on industry when passing generic laws, but where, as in this case one project was singled out to meet special conditions applicable to no one else, and has met those conditions, we believe that you are presented with a fair, indeed compelling, case to provide relief.

In conclusion, let me say that this bill is supported by the Governor of Idaho, both Senators from Idaho, both Senators from Wyoming, and both Senators from Montana. In addition, it has received the support of a number of environmental groups.

Mr. President, it is for these reasons that I urge my colleagues to support this amendment.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I yield myself 1 minute.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON] is recognized for 1 minute.

Mr. JOHNSTON. Mr. President, I wish I had time fully to go into the record of the distinguished Senator from Idaho. I do not have that time, but suffice it to say that the Senator from Idaho, the senior Senator, Mr. McCURE, is one of the most outstanding Members of this body with whom I have had the opportunity to serve. In a word, I believe he is a statesman who has conducted himself in the very highest traditions of this body, and it has been my pleasure to work with him on the Committee on Appropriations, also on the Energy and Natural Resources Committee.

As I say, I do not have time to go into a thorough exegesis on his record. If I did it would be even more glowing than those few words can reveal.

Having said that, Mr. President, I must very reluctantly oppose this amendment. It constitutes really an end run around two authorizing committees, the Committee on Energy and Natural Resources and the Finance Committee. This amendment also is strongly opposed by the environmental community and the executive boards. I will, therefore, have to oppose it.

I yield to the Senator who has jurisdiction in the Energy Committee, the subcommittee that has jurisdiction of this matter.

I yield to the Senator from New Jersey 2 minutes.

The PRESIDENT pro tempore. The Senator from New Jersey is recognized for 2 minutes.

Mr. BRADLEY. Mr. President, first, let me say I understand the predicament Senator McCURE finds himself in with actions that delayed the hydro project and, therefore, the energy tax credit was lost.

This is an issue that boils down to one very simple one. The corporation lost the tax benefit. It now wants the Federal Government to write a check to pay in cash what it lost in the tax benefit. That is what this is all about.

The hydroproject received approval in 1988. The delay of the license by the regulatory requirements, perhaps those that were put in by Senator McCURE, delayed them beyond the date of the energy tax credit eligibility. They lost the energy tax credit.

They now come to Government and say they will not proceed with this hydro project and make the required environmental expenditures unless the Federal Government pays \$1 million,

that would have come through an energy tax credit.

Mr. President, we have environmental laws to protect the environment. This is one of the best trout streams in the world. The hydropower license was granted only assuring that environmental measures would be taken to preserve the stream. The company calculated it could pay for these measures with an energy tax credit. The regulatory delay caused them to lose the energy tax credit, and now they say they will not proceed unless the taxpayers pay \$1 million.

Mr. President, imagine how many other taxpayers in this country lost projects because of an expiration of tax credit through the 1986 act. This is a case which if we begin down this road you will find hundreds and hundreds of people coming to Congress to seek through the appropriations process what they lost because of changes in the Tax Code.

The PRESIDENT pro tempore. The time of the Senator has expired.

The Senator from Idaho [Mr. McCURE].

Mr. McCURE. I yield 1 minute to the Senator from Montana [Mr. BURNS].

Mr. BURNS. Mr. President, I thank the Chair and I thank my ranking Member on this committee. There is something more that goes a little bit further than just how everything unfolded in this issue. Senator McCURE and others have described the specific circumstances surrounding this project and why this bill is necessary.

From our standpoint the State of Idaho and of course, western energy people, when completed it will be able to provide electrical power to all smaller communities in Montana as well as others in Idaho and Wyoming. Electricity is essential for economic growth in most of those villages. Rural electrification is very important to the Western United States.

Mr. President, I want to offer my strong support for H.R. 3694. This bill is necessary to allow a small local rural electric cooperative to continue with the development of a hydroelectric project in Island Park, ID.

Senator McCURE and others have described the specific circumstances surrounding this project and why this bill is necessary. Because of the actions of Congress in requiring additional environmental standards be met prior to the issuance of any FERC permit the operators missed the deadline for receiving tax incentives allowed for hydro projects. These tax incentives were very important to the total financing package for the project.

The additional environmental requirements have caused a 2 year delay in completing the project. Without passage of this bill the project may

have to be scrapped altogether. This is not a case of damming another river in the American West. It is a case of using an existing facility to provide for the electrical needs of our growing Nation.

I am most interested in this project because, when completed, it will be able to provide electrical power to small communities in Montana like West Yellowstone as well as to others in Idaho and Wyoming.

Rural electrification is very important to the Western United States. Projects such as this one ensure a future supply of power to rural areas without the need to continue damming our remaining rivers.

This project has met all the environmental requirements and is headed on the path to success. I strongly urge you to take action quickly on this bill and allow for this project's final completion.

I thank the Chair.

The PRESIDENT pro tempore. The time allotted to the Senator has expired.

Mr. McCLURE. Mr. President, I yield 1 minute to the Senator from Montana [Mr. BAUCUS].

The PRESIDENT pro tempore. The Senator is recognized for 1 minute.

Mr. BAUCUS. Mr. President, I thank the Senator from Idaho.

Mr. President, I rise in whole hearted support of the amendment offered by the senior Senator from Idaho, Senator McCLURE.

This amendment would appropriate \$1 million dollars that is in essence, a congressional grant of equitable relief. In 1986, this small hydroelectric project in Idaho was singled out specifically to meet exacting environmental standards prior to the granting of its opening license.

To meet these standards the projects proponents engaged themselves in exhaustive and detailed environmental studies and analysis. A planning board composed of State and Federal environmental officials as well as local citizens and outdoor sportsmen convened to review operating plans and environmental safeguards. Plans were reviewed, adopted, rejected and modified until, at last, there was agreement on a single operating plan that answered virtually every environmental concern.

However, by that time, the projects ability to apply for tax credits necessary for the capitol financing of construction costs had been taken from it by a change in the 1986 tax bill.

While the projects proponents had satisfied every single environmental concern raised by Congress, the process of meeting the congressional burden of proof cost them their ability to finance the project. This was as unfair a catch-22 situation as I've seen in some time. Sponsors of this project

were damned if they didn't, and damned if they did.

In 1988, I was floor manager of the tax bill. Island Park had by that time lost their opportunity to apply for the necessary tax credits. And because of the Finance Committee's prohibition against rifle-shot exemptions I was constrained to oppose a tax credit extension for this project. However, I resolved that I would look for some other solution for this project.

Mr. President, in the fairly short run this appropriation will not negatively impact the U.S. Treasury because it will be more than offset by payroll and other taxes arising from the project's construction. It is reasonable to assume that long-term, the project will have favorable returns to the Treasury.

I would conclude by noting that the West, which several years ago was identified as having a surplus of installed electric generating capacity, has now experienced such rapid growth that new sources of power are needed immediately. Island Park can help meet this need in an environmentally acceptable manner. And significant amounts of this clean and economical power will be supplied to residents in my State of Montana.

The time for this project has been postponed for too long. There is a real need for this power in my area of the country. And a real injustice originating from this body can be corrected here and now.

Mr. President, I urge my colleagues to grant the equity relief to this project.

The PRESIDENT pro tempore. The Senator from Idaho.

Mr. McCLURE. Mr. President, I yield myself 1 minute.

The PRESIDENT pro tempore. The Senator has 50 seconds remaining.

Mr. McCLURE. I yielded 3 minutes. How do I have 50 seconds remaining?

The PRESIDENT pro tempore. The clock so states. The Senator used over 1 minute himself in the beginning.

Mr. McCLURE. Mr. President, in the time I have let me just say that the statement made that the environmental organizations oppose this project is totally false. The Idaho Sportsmen's Coalition testified in favor of it. It is made up of Boise Valley Fly Fisherman, the Nampa Rod and Gun Club, the Foundation for North American Wild Sheep, the Fly Fishers of Idaho, the Idaho Wild Turkey Federation, the Island Empire Conservation Council, the Idaho Free Trappers, the Idahoans Wildlife Enhancement, the Gem State Fly Fishermen, and Fisheries West, and they testified in the hearing that was held on this matter last week in support of the measure.

I wish I had time to tell the Senate exactly what they said. But there is no environmental opposition. They say as a matter of fact it may enhance the

conditions on the Henry's Fork of the Snake River.

The PRESIDENT pro tempore. The Senator from Louisiana has 1 minute and 26 seconds remaining. The time is running.

Mr. JOHNSTON. Mr. President, how much time is remaining.

The PRESIDENT pro tempore. The Senator has 1 minute and 4 seconds remaining.

Mr. JOHNSTON. Mr. President, I yield the remainder of the time to the Senator from New Jersey.

Mr. BRADLEY. Mr. President, the environmental requirement, as the distinguished Senator from Idaho believes that he imposes because of changes in the Electrical Consumers Protection Act, would very well have been imposed even without that act under the Federal Power Act. In fact, it is quite unlikely that you would find a Federal stream of world quality trout stream that did not have assurance that the habitat, water temperature, steam flow and quality would be protected.

This boils down to a corporation lost a tax benefit and now wants the Federal Government to write a check to pay in cash what it lost in the tax benefit. Mr. President, this is the wrong direction for us to head. It will have no end. There will be a number of people back in here to seek redress through the appropriations process for things that they lost in the Tax Code. I urge that this amendment be rejected.

The PRESIDENT pro tempore. The time of the Senator has expired.

All time has expired on the amendment. The time is running on the debate time.

Time is running on the debate time.

Mr. SYMMS. Mr. President, I rise in support of Senator McCLURE's amendment to this energy and water appropriations bill.

In 1986, Congress approved the Electric Consumers Protection Act [ECPA] (Public Law 99-495) which named a single hydroelectric project by name and FERC project number for additional new, unique, and project specific licensing requirements. Called the Island Park Hydroelectric Project, it had met all of the requirements of the law and had filed on time to qualify for the energy tax credits needed to complete construction of the dam. This project was fully permitted by FERC and the State of Idaho when Congress imposed these onerous licensing provisions, forcing the licensing process to begin anew. Consequently, the project was not finished by December 31, 1988, when the tax credit expired.

The argument most used for not correcting this inequity in the past is that tax credit extensions for a particular project are so-called rifle shots. As a

member of the Senate Finance Committee, I can tell you that the other problem has been the lack of a major tax bill since 1986. Without such a legislative vehicle it has been difficult for Senator McCURE or I to attach a tax credit extension amendment because of the Byrd rule.

So today Congress has an opportunity to correct the wrong committed against those who unknowingly depended on a tax credit that was later removed by another act of Congress. It is up to Congress, who created this inequity, to remedy the situation by extending the energy tax credits to December 31, 1991. We can do this by voting in favor of Senator McCURE's amendment.

Mr. McCURE. Mr. President, I ask for the yeas and nays on the amendment.

The PRESIDENT pro tempore. Is the demand sustained? The demand is not sustained.

Mr. McCURE. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. On whose time? Neither Senator has enough time for a quorum call.

Mr. McCURE. Mr. President, I believe under the Constitution of the United States I am entitled to ask for that a quorum call be established.

Mr. JOHNSTON. Mr. President, I ask for the yeas and nays.

The PRESIDENT pro tempore. Is the demand sustained?

The demand is sustained.

The PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Idaho. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Connecticut [Mr. Dodd] is necessarily absent.

The result was announced—yeas 76, nays 23, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—76

Adams	Garn	Mitchell
Akaka	Gore	Murkowski
Armstrong	Gorton	Nickles
Baucus	Gramm	Packwood
Bond	Grassley	Pell
Boren	Harkin	Pressler
Boschwitz	Hatch	Pryor
Breaux	Hatfield	Reid
Bryan	Heflin	Riegle
Bumpers	Heinz	Rodman
Burdick	Helms	Rudman
Burns	Humphrey	Sanford
Chafee	Inouye	Sarbanes
Coats	Jeffords	Shelby
Cochran	Kassebaum	Simon
Cohen	Kasten	Simpson
Conrad	Kerrey	Specter
D'Amato	Levin	Stevens
Danforth	Lieberman	Symms
DeConcini	Lott	Thurmond
Dole	Lugar	Wallop
Domenici	Mack	Warner
Durenberger	McCain	Wilson
Exon	McCure	Wirth
Ford	McConnell	
Fowler	Mikulski	

NAYS—23

Bentsen	Glenn	Leahy
Biden	Graham	Metzenbaum
Bingaman	Hollings	Moynihan
Bradley	Johnston	Nunn
Byrd	Kennedy	Robb
Cranston	Kerry	Roth
Daschle	Kohl	Sasser
Dixon	Lautenberg	

NOT VOTING—1

Dodd

So the amendment (No. 2491) was agreed to.

Mr. McCURE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDENT pro tempore. Who seeks recognition?

Mr. JOHNSTON. Mr. President, how much time do I have on the bill?

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON] has 6½ minutes.

Mr. JOHNSTON. Mr. President, the Senator from Minnesota wishes to engage in a colloquy. How much time does the Senator need?

Mr. BOSCHWITZ. Certainly the colloquy will not exceed 5 minutes.

Mr. JOHNSTON. I yield to him 4 minutes for the purpose of engaging in the colloquy. If that is not enough, we will request some more.

The PRESIDENT pro tempore. The Senator from Minnesota is recognized for 4 minutes.

Mr. BOSCHWITZ. Mr. President, it is my intention not to offer the amendment about which I spoke at a late hour last night. My good friend from Oregon has persuaded me of a number of things: First, that it would not be in the interest of moving this bill forward; second, that even though the totals on this bill exceed the amounts that the President has asked for—and my amendment would have restored the bill to the amount that the President had asked for, \$20.2 billion—nevertheless, the amounts came within the budget resolution that was passed from the Budget Committee.

While I voted against that resolution, nevertheless, that resolution did give direction to the Appropriations Committee. Inasmuch as the Appropriations Committee stayed within that framework, I feel I should withdraw my amendment.

In addition, I am aware that the distinguished chairman of the committee—

The PRESIDENT pro tempore. The Senate will be in order. The time that has been consumed in getting order, will not be charged against the Senator. The Senator will please proceed.

Mr. BOSCHWITZ. Mr. President, also, I recognize the budget summit is going to put heavy pressure on all of these appropriations bills and that the distinguished chairman and the sub-

committee chairman will be compelled, perhaps, to bring their figures down because of that.

So I am going to see what happens as the days roll on, and I will withdraw my amendment at this time.

As the distinguished Senator from Oregon has pointed out to me, we are within the framework of the budget resolution that we passed here in the Senate, and in a practical matter, the budget summit may impose some of the restraints that I have in mind.

The PRESIDENT pro tempore. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I very much thank the distinguished Senator from Minnesota for not pressing his amendment. I think his statement about the present status of budget reductions is correct; and that is, if the summit does impose an overall reduction, we suspect it will fall on all committees, and that whatever we have done up to that point, even if a bill has passed the Congress and has been signed by the President, that we suspect we would have to come back in and do whatever the budget summit orders, even if it calls for rescissions.

We think, as a practical matter, that the bill probably could not be signed before that summit agreement is out. But, in any event, it will be a discipline that will be imposed.

This bill is consistent with the 302(b) allocations and, of course, the 302(a) allocation, which is the allocation to the entire Appropriations Committee, and is consistent with the budget resolution passed by this Congress.

I very much thank the Senator from Minnesota, and we share his concern for meeting the budget talks.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon [Mr. HATFIELD].

Mr. HATFIELD. Mr. President, I yield myself whatever time I need.

Mr. President, I associate myself with the comments made by the chairman of the committee, Senator JOHNSTON, in response to the inquiry of the Senator from Minnesota, and indicate that I fully agree and subscribe to his response.

I would also add one further historical point, and that is we have a case very specific at hand to demonstrate the way in which this would be handled following the summit. We had the same thing in 1987 in the so-called Rose Garden summit in which we revisited the appropriations process in the light of those new constrictions placed on spending by that summit. We should also remember the role we took in waging war on drugs and we adopted a certain fiscal commitment for that war. We then again revisited the impact upon the appropriations process.

So that we have had these instances of the past to demonstrate the capacity as well as the responsibility of the appropriators to accommodate to those new ceilings, those new constrictions that follow passage of a bill or two bills or three bills known as appropriations bills.

Mr. BOSCHWITZ. I thank both the chairman and the distinguished ranking member.

The PRESIDENT pro tempore. Who yields time?

SUPERCOMPUTER TECHNOLOGY

Mr. GORE. Mr. President, I am very pleased that my colleague, Senator JOHNSTON, and the members of the Appropriations Committee recognize the importance to this country of developing new supercomputer technology and applications. It is essential that the United States continue to be at the leading edge of computing technology. It is my hope that the Department of Energy through funds appropriated in this bill could begin to lay the groundwork for the creation of a high-performance computing program at the Department.

Mr. JOHNSTON. I share my colleague's interest in seeing the United States continue its leadership in the field of high-performance supercomputing. I also believe that the Department of Energy has a significant role to play in the development of new supercomputing technologies and applications and that laying the groundwork for such an undertaking is essential. This bill provides hundreds of millions of dollars for research and of this several tens of millions support supercomputer research and applications. This funding will be used by the Department to define and develop in the coming year a high performance computing program.

Mr. GORE. It is my belief that the Department of Energy and particularly its national labs are uniquely situated to help ensure that America's scientists and engineers, our universities and our industrial laboratories have access to the supercomputers they need. The Department of Energy can play a very important role in developing this new and important technology as part of a governmentwide supercomputing program coordinated by the Office of Science and Technology Policy in accordance with the legislation now being worked out by the Commerce and Energy Committees, based on the Commerce Committee's S. 1067 and the Energy Committee's S. 1976.

Mr. JOHNSTON. The DOE and its national laboratories have extensive supercomputing facilities and a great deal of expertise in computing research and development. This technology offers so many exciting opportunities and it is essential that the Department of Energy take a major role in a coordinated Governmentwide program

and work with OSTP in the development of such a program.

Mr. GORE. I thank my colleague for his explanation of the role he sees appropriate for DOE in developing supercomputer technology and applications.

CENTRAL UTAH PROJECT

Mr. GARN. Mr. President, yesterday, the House Committee on Interior and Insular Affairs reported out a significant piece of legislation which increases the spending authority necessary to complete the central Utah project.

This bill, when enacted will redefine the role of the Bureau of Reclamation relative to the responsibility of managing the construction of project features. It is the intent and hope of the entire Utah congressional delegation that this new approach will enable this project to be completed at a significantly less cost than under the traditional approach.

It is important for the Bureau of Reclamation to continue full speed ahead on completing those project features which are being funded in this appropriations bill and it is my expectation that the Bureau will cooperate fully with the delegation and the Central Utah Water Conservancy District in the transition of this project as provided for in our authorizing legislation. I want to make it clear, however, that nothing should impede the Bureau's activities under the current construction program pending final congressional action on the authorization bill.

MITIGATION STUDY OF SNAKE RIVER LEVEE SYSTEM

Mr. SIMPSON. Mr. President, I join my fine friend and colleague, MALCOLM WALLOP, in introducing necessary funding for a most important environmental study concerning the Snake River system near Jackson Hole, WY. I appreciate the willingness of Senators JOHNSTON and HATFIELD to carefully hear our request and to accommodate this important need.

For years now, we have been working with the Corps of Engineers regarding the operations and maintenance responsibilities for the Snake River levee system. In fact, my predecessor, Senator Cliff Hansen, worked long and hard on this very important problem during his tenure in the U.S. Senate. Finally, now—in this, Wyoming's centennial year—will be the first year that the corps has agreed that it is their responsibility to maintain both the Federal and non-Federal levees in advance of the levee damage that is inevitably caused by spring flooding. In Wyoming, we now look forward to working with the corps toward a coordinated and efficient levee system that is prepared for the often dramatic spring run-offs, and one that will now be managed more

properly than on an annual emergency basis.

There are also some very important impacts on the environment which have been caused by the levees—that too, must be addressed. Certain sections of the Snake River have suffered stream bank and island erosion, loss of valuable trout habitat, and damage to important fish spawning areas. The damage to the Spring Creek area is especially apparent. Maintenance of the levees during certain times of the year will also impact the bald eagle population in the area, and this requires a special degree of planning and precaution. In order to begin the necessary work to address these areas of need, the Corps of Engineers and the Fish and Wildlife Service have recently entered into an agreement to determine the extent of their respective responsibilities in a formal mitigation study. Today, MALCOLM and I are thus seeking \$450,000 to fund this 1-year study.

This study was authorized by the Environment and Public Works Committee on June 12. The Community of Jackson and Wyoming are very anxious to begin to see the actual work begin which will protect and enhance this magnificent river. We do appreciate your consideration and acceptance of this amendment.

INSTITUTE OF NUCLEAR MEDICINE

Mr. LAUTENBERG. Mr. President, I would like to discuss with the Senator from Louisiana an issue that arose recently concerning the location of construction of the Institute of Nuclear Medicine facility in New Jersey.

To date, Congress has appropriated \$10.5 million for the construction of the Institute of Nuclear Medicine in Newark, NJ. The Department of Energy signed a grant agreement with the Center for Molecular Medicine and Immunology for the construction of this facility in Newark, NJ. Through a joint venture agreement signed by the University of Medicine and Dentistry and the Center for Molecular Medicine and Immunology, this program was envisioned as a collaborative effort.

The site envisioned for the construction of this cancer project was on the university campus. Attorneys for the Department of Energy have informed me that they believe the legislative history of this project links construction of this facility to a site at the university in Newark, NJ.

Is the Senator aware of the Department of Energy's analysis of the legislative history on this project?

Mr. JOHNSTON. Mr. President, Yes. I understand that Department of Energy attorneys believe that, based on the legislative history, this project needs to be built at the University of Medicine and Dentistry of New Jersey in Newark, NJ.

Mr. BRADLEY. Mr. President, is the Senator aware that the joint venture agreement between the University of Medicine and Dentistry and the Center for Molecular Medicine and Immunology has been severed?

Mr. JOHNSTON. Yes; I am advised that is the case.

Mr. LAUTENBERG. In light of this development with regard to the joint venture agreement and because of the cost associated with preparing the campus site, the Center for Molecular Medicine and Immunology has been considering alternative sites in New Jersey near the university's Newark campus for the construction of this facility. The university may attempt to locate another site on the campus as well.

In the event that the most acceptable site for the construction of this facility is determined to be off the university campus, the Department of Energy has informed me that it will not be in a position to approve the location for construction because the legislative history links construction to a site at the university. The Department of Energy has informed me that it needs a signal from Congress to enable it to approve an alternative site off of the university campus.

Is the Senator aware of this?

Mr. JOHNSTON. Yes; I understand that is their view.

Mr. LAUTENBERG. Is the Senator prepared to give the Department of Energy that signal? In the event that an appropriate site is located off the campus, would the Senator support a decision by the Department of Energy to approve an alternative site for the facility as long as it is in New Jersey and is near the Newark campus of the university?

Mr. JOHNSTON. Yes, I would. I would support a decision by the Department of Energy to approve such a site.

Mr. LAUTENBERG. Would the Senator be amenable to including conference report language that would codify this position?

Mr. JOHNSTON. Would such report language prohibit the construction of the facility on the university campus?

Mr. LAUTENBERG. No, it would not. If an appropriate site is found on the campus, it would allow construction to proceed. But it would also permit construction of the facility at an alternative site in New Jersey, near the university's Newark campus if it is more appropriate.

Mr. JOHNSTON. Does the State of New Jersey have a position on this matter?

Mr. LAUTENBERG. Yes. Governor Florio's office has informed me that the Governor is amenable to permitting construction at another site off the campus. I ask unanimous consent that a copy of a letter stating the Florio administration's position on

this matter be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

STATE OF NEW JERSEY,
OFFICE OF THE GOVERNOR,
Trenton, NJ, August 2, 1990.

Hon. FRANK LAUTENBERG,
U.S. Senate, Hart Building, Washington,
DC.

DEAR SENATOR LAUTENBERG: We are writing to express our support for the language that you are proposing concerning Project numbered 87-R-130 from the Department of Energy.

This Administration is supportive of the inclusion of language which allows the Institute of Nuclear Medicine, New Jersey to proceed with construction in New Jersey at or near the Newark campus of the University of Medicine and Dentistry of New Jersey, provided that the facility will be available for cooperative research with federal laboratories such as DOE, University clinical research with federal laboratories such as DOE, University clinical and laboratory researchers, and local and community hospitals.

It is of the utmost importance to this Administration to ensure that the funding which was previously appropriated for this effort will be made available for the development of the Institute of Nuclear Medicine in New Jersey. We thank you for all of your efforts which will assist New Jersey in establishing excellence in our medical and research facilities.

Very truly yours,

BRENDA BACON,
Chief, Office of
Management and Planning.

Mr. JOHNSTON. I am prepared to work with the Senators and request report language in the conference with the House if that is the wish of the Senators from New Jersey on this matter.

Mr. BRADLEY. Mr. President, I thank the Senator from Louisiana for agreeing to send a signal to the Department of Energy about permitting an alternative site for construction of the facility in New Jersey if it is necessary. I agree with my colleague from New Jersey that this issue needs to be addressed so the construction of this cancer facility, which is critically important to our State, can proceed.

Mr. LAUTENBERG. Mr. President, I also thank the Senator from Louisiana for his cooperation on this matter. The facility we are discussing holds a tremendous amount of promise and offers significant public benefit to the people of New Jersey and to the Nation.

New Jersey has an extremely high cancer rate. Yet it has no comprehensive cancer research, diagnosis, and treatment center. Moving forward with construction of the facility in New Jersey will bring great benefits in cancer diagnosis and treatment not only to my State but to citizens across the country.

CENTRAL ARIZONA PROJECT

Mr. McCAIN. I want to express my strong support for the energy and water development appropriations bill pending before the Senate. This bill contains a number of vital water development and flood control projects in my State.

I would like to express my deep appreciation to the Appropriations Committee for its outstanding work and for the support it has provided to water resource development and flood control in Arizona.

First, of course, is the central Arizona project. As you know, the central Arizona project is often referred to as the lifeblood of my State. It supplies the critical water resources Arizona needs for its agricultural, municipal, and industrial well-being. The dream of transporting water from a source of plenty to water scarce areas in central and southern Arizona will soon become a reality. The funding provided in this bill will enable us to make substantial progress toward final completion of this august and essential project.

I am especially heartened by the progress the funding will allow us to make on the final leg of the main aqueduct to the Tucson area. Southern Arizona has waited in great anticipation for the CAP waters to flow. With this funding, the water supplies necessary for the region's future will soon be secured.

Mr. President, the bill also contains crucial funding for safety of dams work, and a number of important flood control projects. I will not belabor my colleagues by describing the various projects included in the legislation. I would only stress that they are each critical to protecting human life and property in Arizona.

Again, I thank the committee and I urge my colleagues to support this vital legislation.

CHILDREN'S HOSPITAL OF MICHIGAN PET-SCAN PROJECT

Mr. LEVIN. Mr. President, I would like to thank the chairman of the Subcommittee on Energy and Water Development, Senator JOHNSTON and the ranking minority leader, Senator HARTFIELD for their support of the Children's Hospital of Michigan Demonstration PET-Scan project. The House has included in its report on the Energy and Water appropriations language providing for \$8,000,000 for Children's Hospital of Michigan to establish the first PET-Scan machine devoted solely to the study of children's diseases. I am very pleased that the subcommittee has reported language which supports the House recommendation. The Department of Energy originally developed this imaging technology, but it has until now only transferred its benefits to adult settings.

During conference consideration of the energy and water appropriations, I urge my colleagues to support explanatory language permitting the use of funds for relocation and construction activities, which would be very beneficial in accommodating the PET-Scan machine into Children's Hospital.

Mr. SANFORD. Mr. President, I rise today in strong support of the conference report on H.R. 1465, the Oil Pollution Liability Act. This is legislation that is of critical importance to the protection of sensitive coastal areas in the United States. It is not my purpose to speak at length on this topic, but it should suffice to say that this is one of the most important pieces of environmental legislation that we have had before us in quite some time, and one of the most important environmental bills that we are likely to see again for some time.

I would simply like to state that this is a very strong bill, and that the conferees have done a superb job in treating a number of complex issues, from liability to response actions to double hulls. The conferees are to be congratulated for an excellent product in this legislation. I hope we can send this legislation to the President expeditiously so that H.R. 1465 may be signed into law.

I would like to take just a moment to address section 6003 of the conference report. This is a matter of intensive interest and concern in North Carolina. Section 6003 is based upon H.R. 3861, which was introduced in the House by Chairman Walter Jones. The section is also similar to S. 2853, which I introduced July 13.

Section 6003 is intended to provide additional scientific information on the environmental and socioeconomic impacts of allowing certain oil and gas activities off the North Carolina coast, and to prohibit such activities adjacent to our fragile Outer Banks while such information is collected. The provision also establishes an independent review panel to assess current and new information regarding the potential impacts of such oil and gas activities.

Mr. President, as I stated July 13 upon the introduction of the Outer Banks Protection Act, North Carolinians do not want to take a not in my back yard approach to this problem. I want to reiterate that I am not interested in delay for delay's sake with respect to offshore drilling, whether in North Carolina or anywhere else. But it is important to keep in mind that the pending proposal by Mobil Oil and its partners to drill offshore North Carolina is a first for our State, and that our Outer Banks are an exceptional natural resource. We need to ensure that a very high standard is met in terms of scientific information before determining whether to allow exploration activities to proceed.

I cannot say, Mr. President, that such a standard has been met at this time. It is not my purpose to criticize Mobil or the Minerals Management Service for their efforts to date. A great deal of useful information has been assembled with respect to environmental and socioeconomic impacts through the "environmental report" process established through the mutual efforts of Mobil, MMS, and the State of North Carolina. Much good work has been done during the past 2 years, and we should build on that work.

However, the public still has many questions about the adequacy of available information in several specific areas. The State of North Carolina feels very strongly that several gaps in the data need to be filled. And the scientific community in North Carolina—to whom I have listened very closely throughout this debate—have raised a number of concerns which must be better addressed. Among these concerns are the need for more detailed ocean current information and better prediction of the worst-case consequences of a spill; the need for better baseline data on biological resources at the proposed drill site; the possible designation of the "Point" area as an Area of Biological Concern under EPA regulations; and several other specific matters.

Mr. President, there is no question that the area near the proposed drilling site is one of the most biologically productive areas along the eastern coast of the United States. There is no question that the Outer Banks are a truly unique area. Both the economy and the culture of Outer Banks residents are entirely based on the well-known natural resources of these unique barrier islands. I should also point out that, while some believe that a single exploration well is very unlikely to result in adverse impacts, future wells would be virtually certain if a discovery is made. So it is in everyone's best interest to thoroughly examine potential impacts and planning options before even a single well is drilled.

Section 6003 of the Oil Pollution Liability Act would do the following:

Require that additional studies necessary to adequately characterize potential environmental and socioeconomic impacts be conducted;

Establish an independent scientific review panel to assess the adequacy of existing and new data;

Establish a certification process with respect to adequacy of information before oil and gas activities may proceed; and

Prevent the issuance of drilling permits or actual drilling at least until necessary certifications have been made, which may not occur until after October 1, 1991.

Language has been included which directs that additional data collection and review proceed expeditiously.

Mr. President, some may question any actions which have the effect of delaying exploration for new oil and gas resources. I am well aware of our current dependence on imported oil, and believe that is a crucial issue which deserves far more attention. But I do not think that a policy of attempting to reduce imports by going full speed ahead in any area, regardless of environmental questions, is either sound or acceptable to the American people. Domestic oil and gas resources are very important to any reasonable energy policy. But it is my view that we will have to make a far greater effort to improve energy efficiency and promote renewable energies as well. Strong support for energy efficiency and renewables has not been part of our energy policy, to the extent that we have had one, during the past 10 years, and that must change.

Mr. President, this conference report is extremely important to North Carolinians, as it is to the entire country. I urge my colleagues to give their strong support to this legislation.

Mr. COHEN. Mr. President, I am extremely pleased that the Senate is now considering the conference agreement on the Oil Pollution Act of 1990, H.R. 1465. It has been nearly a year since the Senate completed action on its version of this bill, and during that time a number of oil spills have graphically demonstrated the crucial need for this legislation.

As a cosponsor of the Senate bill, S. 686, and as a Senator from Maine, I am particularly pleased that the conference report adheres to the Senate position that State oilspill liability and cleanup laws should remain in place. Maine has had such a system in place for many years, and it has enabled the State to respond quickly to minor and major spills and to assess liability for the damages incurred. The *Exxon Valdez* spill in March 1989, underscored the importance of allowing State funds, such as Maine's and Alaska's to remain in place. Had Alaska not had such a fund and been able to respond quickly to the *Valdez* spill, environmental damages would have been much worse. This is a good bill for my State of Maine and for any State that has its own oilspill cleanup fund and liability laws.

The conference report is also significant in that it mandates the construction of double hulls on new and existing tankers, beginning in 1995. By requiring retrofits earlier on the heavier and older vessels, the agreement adopts a sensible approach that will ensure that those vessels most susceptible to damage will be fitted with double hulls first.

I believe the agreement also imposes very strict liability limits on tanker owners when spills occur. Liability would be unlimited in a case where gross negligence or willful misconduct exists, or if a violation of Federal safety, construction or operation regulations occurs. In other cases, liability is limited to \$1,200 per vessel ton, with certain minimum levels set for vessels of certain sizes. Though I voted for unlimited liability for environmental damages when the Senate bill was under consideration, I understand the constraints under which conference members were operating and the need to obtain a bill that establishes, at long last, that liability will be assessed. The \$1,200 per vessel ton limit is a vast improvement over the current level of \$150 per ton, and should ensure that the cost of damages will be covered by those responsible.

While the *Exxon Valdez* and other spills were very unfortunate and caused significant environmental damage, they served a purpose in drawing our attention to the need for improved oilspill response and prevention efforts. Many Senators, including my colleague from Maine, Senator MITCHELL, had worked on this issue for years without success. The environmental damage that occurred as a result of the many spills of 1989 and 1990 was exactly what was to be avoided by passage of a comprehensive oil spill liability bill, and they underscored the fact that we should have accomplished this earlier.

I want to commend those who have worked long and hard to see that this legislation was enacted. I hope it will result in fewer spills occurring as well as greater speed in cleaning up those that do happen. The protection of our valuable marine resources and coastal regions is extremely important, and the passage of this legislation represents a great improvement over existing law. I am pleased to be supporting it.

ST. GEORGES BRIDGE

Mr. BIDEN. Mr. President, the energy and water bill for the 1991 fiscal year contains a provision that is of great interest to the State of Delaware. I refer to the provision that provides \$7 million to start construction of a replacement bridge over the Chesapeake and Delaware Canal at St. Georges, DE. I greatly appreciate the assistance the chairman and the ranking member of the Energy and Water Subcommittee have provided in making the funding available.

The St. Georges Bridge has a unique and unusual history. That history has been thoroughly and extensively reviewed by a number of Senate committees.

The Senate Environment and Public Works Committee studied the legislative history of the canal and reaffirmed that the Army Corps of Engi-

neers, the Federal agency that operates the C&D Canal, has existing authority to construct a replacement bridge at St. Georges.

I ask unanimous consent that a copy of the letter sent by the chairman and ranking member of the authorizing committee be printed in the RECORD. I also ask that a copy of the section of the committee report on the St. Georges Bridge from the Water Resources Development Act of 1990 be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ST. GEORGES BRIDGE, DELAWARE

The Committee would like to make note of the situation surrounding the St. Georges Bridge in Delaware. The existing bridge provides an important crossing for the federally-owned Chesapeake and Delaware Canal. The issue has been raised as to whether the Corps of Engineers has the authority to replace the existing bridge with a wider crossing to accommodate projected traffic loads along Route 13. After extensive review of the history of the canal and its crossings, the Committee believes that the Corps possesses authority to construct a new bridge at St. Georges.

The Committee has found that the history of the crossings for the Chesapeake and Delaware Canal presents a unique situation. The original charter for the canal, dating from 1801, allowed a company to construct a canal from the Delaware Bay to the Chesapeake Bay. However, because the canal severed the State of Delaware in two, the State required the canal operator to provide and maintain "good and sufficient" crossing over the canal at the operator's expense. The crossing requirement ensured that the State's economy, particularly that of southern Delaware and the Delmarva peninsula, would not be impeded by the canal and that Delaware citizens would not incur inequitable costs associated with the canal.

In 1919, the Federal Government took full ownership and operation of the canal through condemnation proceedings. The record of Congressional action leading to that condemnation, and the subsequent legislation, make clear that the United States recognized that it was not only taking over the physical property of the canal, but also the contractual obligations governing it.

The fact that the Federal Government has fully funded the replacement of this bridge in the past from the operation and maintenance account of the Corps of Engineers civil work program substantiates this fact.

Questions about the bridge that this Committee reviewed revolved around the authority of the Corps of Engineers to construct a new bridge. The Committee believes that the terms of the 1801 charter, as assumed by the Federal Government in 1919, provide the necessary authority.

The Federal Government has upheld its responsibility according to the terms of the original charter during the seventy-one years it has owned the canal. The Committee believes the Federal Government should continue to do so, and reaffirms the authority of the United States, through the Army Corps of Engineers, to build a replacement bridge at St. Georges.

U.S. SENATE,

Washington, DC, May 25, 1990.

HON. J. BENNETT JOHNSTON,
Committee on Appropriations,
Washington, DC.

DEAR BENNETT: As you know, Senator Biden and Senator Roth have been working with the U.S. Army Corps of Engineers for more than a year to secure a replacement bridge over the Chesapeake and Delaware Canal at St. Georges, Delaware. The issue is unique because of the manner in which the Federal Government obtained ownership of the Canal in 1919.

It is our understanding that, Senator Biden and Senator Roth will seek appropriations for a replacement structure. We have studied the detailed history and documentation of this project, including the original charter of the Chesapeake and Delaware Canal Company. Upon review, we have concluded that the U.S. Army Corps of Engineers currently possesses the legal authority to construct and fund a replacement crossing for the existing St. Georges Bridge.

We therefore ask that you give every consideration to a request for appropriations to fund the needed replacement bridge.

Sincerely,

JOHN H. CHAFEE,
Ranking Minority
Member.

QUENTIN BURDICK,
Chairman.

Mr. BIDEN. In addition, the Senate Judiciary Committee reviewed extensively the legal obligation of the Federal Government to provide "good and sufficient crossings" over the canal. Legal memorandums on this issue have been prepared by the committee staff and are part of the hearing record for this bill.

I ask unanimous consent that a letter from myself and Senator THURMOND, ranking member of the Judiciary Committee, concluding that the United States is contractually obligated to construct and fund a replacement bridge over the Chesapeake and Delaware Canal at St. Georges, DE, be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, June 21, 1990.

HON. J. BENNETT JOHNSTON,
Committee on Appropriations,
Washington, DC.

DEAR MR. CHAIRMAN AND SENATOR HATFIELD: We are writing to you concerning the United States' contractual obligation to construct and fund a replacement bridge over the Chesapeake and Delaware Canal at St. Georges, Delaware. The staff of the Judiciary Committee has studied this matter in accordance with the committee's authority to examine claims against the United States.

The United States legal obligation with regard to canal crossings originated in an 1801 charter granted by Delaware to the Chesapeake and Delaware Canal Company. In 1919, the United States acquired the canal company. Along with the company's assets—land and property rights—the United States also acquired the company's contractual obligation to build and maintain

"good and sufficient" crossings over the canal.

Congress, the federal courts, and the executive branch all have recognized the United States obligation since the time the canal was acquired. On repeated occasions during the past 70 years, the United States' legal obligation to build bridges has been reviewed. In each instance, the obligation was reaffirmed. In 1939, and again in 1954, the United States fully funded bridge projects as a result of its contractual obligation. We believe that the federal government continues to be bound by this precedent.

We hope that the study by Judiciary Committee staff and the information provided above prove helpful in your consideration of funding for the St. Georges Bridge.

Sincerely,

STROM THURMOND,
Ranking Member.
JOSEPH R. BIDEN, Jr.,
Chairman.

Mr. BIDEN. Finally, the Senate Appropriations Committee has approved and recommended an appropriation of \$7 million to begin replacement of the St. Georges Bridge. The committee has also included language in the bill to start construction. The committee report describes the reasons for its actions on the St. Georges Bridge and provides further direction to the corps of this matter.

The St. Georges Bridge has to be the most extensively reviewed bridge to come before this Congress. The authorizing committee concluded that the corps already has the authority to provide a replacement bridge over the canal. The Judiciary Committee concluded that the Federal Government is contractually obligated to build and fund the bridge. The Appropriations Committee has provided \$7 million in funding to start construction of the bridge.

It should also be noted that funding provided in this bill for the replacement bridge comes out of the operation and maintenance account of the corps. This reflects the fact that providing good and sufficient crossings continues to be an integral part of the operation of the canal as described in the canal's charter.

I would like to make clear that there is no question at either the State or the Federal level that a replacement bridge is needed at St. Georges. The existing bridge will not be able to meet the charter's standard of good and sufficient crossings. Traffic increases are overloading the existing bridge, which cannot be expanded to accommodate these demands because of design limitations.

Mr. President, I have described the details of the bridge's funding because its circumstances are unusual and I believe it is important to fully explain how those provisions were developed, and to make clear that they were developed through a detailed, exhaustive review of the facts and legislative history relating to the bridge, the charter for the Chesapeake and Delaware

Canal and the Federal Government's role as owner and operator of the canal.

I would ask the chairman of the Energy and Water Subcommittee if he concurs with the background of the funding as I have described it.

Mr. JOHNSTON. I have listened with great interest to the Senator from Delaware's description of the funding provision we have included in the bill for the St. Georges Bridge. It is indeed an unusual situation, but the Senators from Delaware have made a strong case for the bridge, answering our questions and persistently pressing the case. The Senator has accurately described the background and the action regarding the St. Georges funding provision in the bill, which reads as follows:

Provided further, That of the funds appropriated herein, \$7,000,000 is for a new bridge over the Chesapeake and Delaware Canal at Saint Georges, Delaware, as proposed by the State of Delaware, and as authorized by laws.

Mr. BIDEN. I thank the chairman and would again like to express my appreciation for his efforts in support of the bridge.

Mr. JOHNSTON. Mr. President, that concludes all of the business so far as I know save an amendment by Senator STEVENS, which I have just been handed, which I have not had time to look at. So I suggest the absence of a quorum.

The PRESIDENT pro tempore. The time remaining will not allow for a quorum.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that we be allowed to have a quorum call and that it not be charged.

The PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 2492

Mr. STEVENS. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. WIRTH, proposes an amendment numbered 2492.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate place in the bill: "The Secretary is directed, in cooperation with the University of Alaska Fairbanks, to

determine the capability and type of supercomputing facility for research activity conducted by the Center for Global Change and Arctic Systems Research and the Geophysical Institute, with specific reference to the needs for auroral energy research. The Secretary is also directed, in cooperation with the National Center for Atmospheric Research, to determine the capability and type of supercomputing upgrade needed for atmospheric research conducted by the Center. The Secretary shall report the results of such determinations to the Appropriations Committees of the House and Senate by March 1, 1991."

The PRESIDENT pro tempore. The Senator from Alaska.

Mr. STEVENS. Mr. President, let me notify the Chair that this amounts to a consolidation of the amendment of the distinguished Senator from Colorado [Mr. WIRTH] and the one that I had proposed. Senator Wirth will speak to his amendment.

The PRESIDENT pro tempore. Will the Senator suspend. The Chair asks whether or not the Senators then wish to consolidate their times.

Mr. WIRTH. Mr. President, I ask unanimous consent that the time of the Senator from Alaska and the Senator from Colorado be consolidated.

The PRESIDENT pro tempore. Is there objection? The Chair hears none.

The Senator from Alaska is recognized.

Mr. STEVENS. Mr. President, I am grateful to the Chair and the Senator from Colorado.

We have in Alaska what I consider to be one of the most exciting research projects that I have ever encountered, and I do not use that word very often, as the Senate knows. It is the experiments that are going on trying to determine if it is possible to harness the energy of the electrojet for the use of mankind. The electrojet is a band of energy that we understand now to be caused by solar winds that is almost inexhaustible. I was told in one briefing that the amount of energy over our State at any one time in that electrojet is equal to the total man-made generation of electricity in the United States on that day. It is a fabulous project. It has the potential of using a laser beam to be a conductor of this energy back to Earth and to use it, as I indicated, for the total benefit of mankind. The center that is doing this is also involved in the impact of the Arctic on global change.

The Senator from Colorado will deal with this National Center of Atmospheric Research, which is the center, I think, the National Center of Global Change.

The two centers have run into an absolute impasse, that is, the computer capability is not sufficient to continue these experiments. We know now that that bill is shut out as far as budget capability this year. I believe that there is an overwhelming defense in-

terest in both of these activities, and we will have to explore later whether the Defense Department ought not to cooperate with the Department of Energy to see to it that they are ongoing and completed as soon as possible.

But I say this to my good friends in the Chamber. If within our lifetime we could harness the electrojet, an inexhaustible supply of energy that is in space, and bring it to Earth, we would have a different society, not only here but in the world. There are not many places in the United States, I am informed, just one really, that get this volume of energy, but there are other places where some of the energy might be tapped.

It is an experiment that, when I first heard about it, I thought someone had rewritten a new chapter of Jules Verne.

I am grateful to the two managers of the bill for accepting this amendment. This Senator hopes to be back on the floor often to discuss this project and make sure it proceeds as rapidly as possible.

I thank the Chair.

Mr. WIRTH addressed the Chair.

The PRESIDENT pro tempore. The Senator from Colorado [Mr. WIRTH] is recognized for how much time?

Mr. WIRTH. I thank the Chair. I will not take more than 3 minutes.

The PRESIDENT pro tempore. The Senator is recognized.

Mr. WIRTH. Mr. President, the National Center for Atmospheric Research, a university consortium, is one of four major global climate modeling centers in the country. The others are Oregon State; Princeton, which is a NOAA center; and Goddard Space Flight Center, where Dr. Hansen is.

This center is doing precisely the kinds of research that the administration is arguing must be done in the area of global climate change. There are many at the University of East Anglia, in the Soviet Union, and elsewhere who believe the evidence is overwhelming that we are now in fact in a global warming change, a global warming phenomenon.

The current administration has argued, I think justifiably, that we do, in fact, need more research. This is enormously complicated and difficult research to undertake and demands the use of super computation to look at all of the variables. We have some broad sense of climate change patterns, but we cannot come close to regionalizing it even to continents, much less to areas within continents, and what the specifications are going to be. This demands a great deal of super computation work. Similar to the program suggested by the distinguished Senator from Alaska, this is a breakthrough set of opportunities that we have in better understanding natural forces in the globe.

At a time when our global security is clearly away from threats from the Soviet Union toward threats from energy, as outlined by the distinguished Senator from Alaska, threats from the environmental challenges, we have to think differently and reorganize our institutions to approach this new set of problems.

I greatly appreciate the help and assistance of the Senator from Alaska in working out this amendment, and the help from our distinguished committee chairman, Senator JOHNSTON. This is a very important for the future of our overall research establishment and the future of our initiatives in the United States to continue our leadership on global climate change.

So I hope that our colleagues will accept this amendment and we can get on with a better understanding from the Secretary of Energy of his perception of the sets of problems that have been so well described by the Senator from Alaska and I hope by myself.

Mr. President, I yield the floor.

Mr. MURKOWSKI. Mr. President, I rise in support of my colleague from Alaska's effort to encourage the development a supercomputer facility at the University of Alaska Fairbanks. The supercomputer will be a dedicated technological resource for the study of global change that will serve researchers in Alaska, the lower 48, and foreign scientists. The University of Alaska is the best site for this facility because of the importance of Arctic studies to the factors and indicators of global change and because of the substantial scientific and human resources already established through the University's research institutes.

As I understand it, the amendment offered by my colleague will direct a study of the need for the supercomputing technology in the Arctic. Mr. President, the Arctic is a key area in which to study physical, biological and social processes and interactions associated with global change. Such studies may well provide the first clues and indications of the climate change we can expect, and may prove essential to understanding how the entire complex earth system functions.

The Arctic, taken to include much of Alaska, the Yukon, and Northwest Territories, Greenland, northern Scandinavia, Siberia, and the Arctic Ocean, is a region characterized by one of the most extreme environments of the planet where limited sunlight, extreme temperature excursions, and a short growing season impose harsh constraints on terrestrial and marine ecosystems. Sea ice, snow cover, glaciers, tundra, permafrost, boreal forests, and peatlands are each sensitive indicators of global change, susceptible to subtle variations in sunlight, surface temperature, ocean heat transport, air and ocean chemistry, and pollution of the atmosphere.

Polar lands and oceans are more than passive indicators of change in the coupled earth system. The basic circulation patterns of the global atmosphere are fixed by arctic and antarctic boundary conditions through pole-equator temperature differences; high latitude air/ice/ocean interactions play an important role in determining regional and global climate and ocean circulation patterns; and arctic air/land interactions—particularly those involving peatlands and permafrost—involve potentially important sources and sinks of trace gases. Global warming trends, whether of natural or anthropogenic origin, will be particularly felt in polar regions, most likely resulting in changes in extent of sea ice, increased thawing of permafrost, and melting of polar ice masses, which could have profound societal impacts around the globe.

The importance of the Arctic in global change studies has been pointed out in several national and international planning documents. In "Arctic Interactions: Recommendations for an Arctic Component in the International Geosphere-Biosphere Programme," written by scientists called together by the Office of Interdisciplinary Earth Studies of UCAR, the University Corporation for Atmospheric Research, the Arctic is described as a "heliowether of global change and a zone of early warning." (Arctic Interactions: Recommendations for an Arctic Component of the International Geosphere-Biosphere Programme, University Corporation for Atmospheric Research, Office of Interdisciplinary Earth Studies Report OIES-4, September 1988, page 1.)

The National Science Foundation's multimillion dollar Arctic System Sciences [ARCSS] Program aims "to understand the physical, chemical, biological, and social processes of the arctic system that interact with the total Earth system and thus contribute to or are influenced by global change." In meetings to plan the implementation of this program, the arctic region was described to be of special interest because it is "an environmentally sensitive system that may respond more readily than other regions to global changes," and "processes that occur mainly in the Arctic can, in turn, induce significant effects over the entire globe."

Other documents address the important role that the polar regions plan in global change; they include national Academy of Sciences' and U.S. Committee on Earth Sciences' reports. A special report by the Interagency Arctic Research Policy Committee which outlines a fiscal year 1991 common strategy for U.S. agencies involved in Arctic Ocean research states that "the Arctic and its oceans, ice cover, and resources influence the cli-

mate and economics of the populated lower latitudes of the globe" and stresses that "understanding of the unique region of the planet * * * is essential for providing our Nation with a sound basis for developing policies and response strategies."

These are just a few of the reasons why the Arctic is a particularly apt region for scientific emphasis in the study of global change. U.S. and Canadian scientists have recommended a set of high-priority elements for an arctic component of the proposed global change studies. The human resources to conduct such studies are available. Several U.S. and Canadian universities actively conduct global change related research in the Arctic. In the United States, ARCUS, the Arctic Research Consortium of the United States, brings academic expertise together. Among those universities, the University of Alaska is one of the key institutions involved in arctic studies. Funding of arctic research is through a dozen Federal agencies with an annual budget of between \$80-100M. Arctic research is coordinated through the U.S. Arctic Research Commission and the Interagency Arctic Research Policy Committee.

The University of Alaska held an international conference on the role of the polar regions in global change in June 1990 to summarize what we know about the Arctic as part of the global system. The wide support for this conference, including cosponsorship by 11 national and international scientific bodies, financial support by a dozen government and private sponsors, and attendance by scientists from 14 different countries, including the Soviet Union, Canada, and other Arctic nations, testifies to the importance that scientists, government planners, and private industries place on the Arctic.

Mr. JOHNSTON. Mr. President, I very much appreciate the cooperation and the good work of the Senators from Alaska and Colorado in working this out.

I think we very much need the study which this calls for. The super computing capacity with respect to global climate change and with respect to the aurora borealis energy source in Alaska are very important areas to be studied. It is important that the Department of Energy makes these studies, and give us the advice on how to proceed from a legislative standpoint for next year.

I commend them for their good work. I hope these studies will give us a positive path to follow in the legislative matter. I thank them for it. And for the majority, we accept the amendment.

Mr. HATFIELD. It is acceptable on this side of the aisle as well.

The PRESIDENT pro tempore. Is all time yielded back on the amendment?

Mr. JOHNSTON. Yes. All time is yielded back.

The PRESIDENT pro tempore. All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 2492) was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON].

Snake River Levees

Mr. WALLOP. Mr. President, in comparison to other moneys that flow out for Corps of Engineers projects, the request Senator SIMPSON and I are here to make seems minuscule. However, it is important to tie up an issue which we have been working on almost for 5 years, now. We are asking that \$450,000 be included in the budget for the Army Corps of Engineers in order that they can determine what mitigation is necessary as a result of their maintenance activities on the Jackson Hole Snake River Levee System.

The Snake is most unique. The river's braiding tends to create side channels and shifts in the main channel making it unusually prone to wandering and usually expensive to maintain. Up till now the Corps would only come in during emergency flood fight conditions—a very inefficient way to spend Federal dollars.

After years of discussions we finally persuaded the Corps of Engineers to assume responsibility for operations and maintenance of the Snake River Levee System as directed by the 1986 Water Resources Development Act in a cost-share partnership which limited non-Federal funding to \$35,000. However, the Corps and the Fish and Wildlife Service are concerned about ongoing impacts the maintenance activities will have on the river. Wetlands and riparian habitat are of concern as is the in-channel habitat for cutthroat trout. They must keep their eye on the bald eagles which nest in the area, in addition to other birds such as the great blue heron.

This money will ensure that the levees contain the flood flows in an environmentally responsible manner. Located just beneath Grand Teton and Yellowstone National Parks, the beauty and ecological significance of this area is world renown and as we protect the valuable landholdings and homes of Jackson Hole we will work to conserve its natural treasures, as well.

I thank the managers of this bill for their assistance in this most important matter.

Mr. JOHNSTON. Mr. President, that is all the amendments, colloquys and other business that I have been informed of. So, from the standpoint of the majority I think we are ready to proceed to third reading.

I ask my distinguished colleague from Oregon if he concurs with that?

Mr. HATFIELD. Mr. President, in response to the chairman of the committee, it is. We have concluded all of the amendments of which I am aware, and colloquys, and statements. We are ready. I have had no request for a rollcall on final passage.

The PRESIDENT pro tempore. Is all time yielded back?

Mr. HATFIELD. Yes.

Mr. JOHNSTON. Yes.

Mr. President, we have no request for a rollcall vote. So therefore, I believe we can proceed with a voice vote.

The PRESIDENT pro tempore. The question is on the engrossment of the amendments and third reading of the bill.

The amendments were ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall the bill pass?

So the bill (H.R. 5019), as amended, was passed.

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATFIELD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. JOHNSTON. Mr. President, I move that the Senate insist on its amendments and request a conference with the House of Representatives on the disagreeing votes thereon; and that the Chair be authorized to appoint the conferees on behalf of the Senate.

The motion was agreed to; and the President pro tempore appointed Mr. JOHNSTON, Mr. BYRD, Mr. HOLLINGS, Mr. BURDICK, Mr. SASSER, Mr. DECONCINI, Mr. REID, Mr. HATFIELD, Mr. MCCLURE, Mr. GARN, Mr. COCHRAN, Mr. DOMENICI, and Mr. SPECTER conferees on the part of the Senate.

Mr. JOHNSTON addressed the Chair.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON].

Commendation of Senators and Staff

Mr. JOHNSTON. With the voice vote we have now passed the first of 13 appropriations bills which, while it is not rancorous here on the floor, was a major accomplishment, I believe, nonetheless, the credit for which goes first to the staff; to David Gwaltney,

who is our real workhorse on this committee; Proctor Jones is sort of the senior staff member, but he is senior enough to let David Gwaltney do most of the work. And the two of them together, on the majority side, along with Gloria Butland, also on the majority side, they are real experts and they all do marvelous work. Gary Barbour, and Dorothy Pastis, on the minority side, are real experts too. They deserve tremendous credit for the passage of this bill.

I must, of course, reiterate what I said to begin with; that the distinguished chairman of the full committee has been the real stalwart in this whole process. The Senate is very, very well served to have the distinguished Senator from West Virginia as the chairman of the Appropriations Committee. It has made possible the good work on this.

I reiterate, of course, my tremendous respect as well as affection for the distinguished Senator from Oregon, who has been chairman, ranking minority member, and we have traded off those positions with such harmony and such success over the years. I look forward to many, many years working with him in these positions.

Mr. President, I very much thank the distinguished Presiding Officer, the Senator from Oregon, the staff, and all who have made this great victory possible.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. The Senator from Oregon.

Mr. HATFIELD. Mr. President, I am grateful for the remarks of the chairman of our committee, Senator JOHNSTON. I would like to observe that it is not by chance that this is the first appropriations bill that has been considered by the full Senate, and acted upon and approved by the full Senate.

I think it reflects not only on the individual leadership of our committee, Senator JOHNSTON, and the members of our subcommittee, who have cooperated under his fine leadership, but I also want to observe that the Appropriations Committee had been delayed in its entire process by the lack of the guidelines from a budget resolution. And the chairman of the full subcommittee, Senator BYRD of West Virginia, had to help to spring that situation loose to make clear the roadway ahead by getting a unique budget resolution in place so that the appropriations committee could proceed.

But, again, I take pride in being associated with the subcommittee in making its first report, a very complex bill. A lot of people do not realize that the whole nuclear weapon program of this country is in this bill, not the Defense Department bill. That goes back to the day when it was determined that atomic energy would be governed by civilian, not by military authority.

So that was reflected by placing the nuclear program in the energy-water bill.

In spite of the complexities of that component of the bill and all of the controversy surrounding the projects, the Corps of Engineers, the Bureau of Reclamation, the other parts of this bill, I want to say again, congratulations Senator JOHNSTON. It is a great achievement, and he deserves the credit for it.

Mr. JOHNSTON. I thank the distinguished Senator.

ENERGY POLICY AND CONSERVATION ACT

Mr. JOHNSTON. Mr. President, I send a bill to the desk and ask for its immediate consideration. This bill has been cleared on both sides.

The PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2952) to amend the Energy Policy and Conservation Act to extend the authority for titles I and II.

The PRESIDENT pro tempore. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. JOHNSTON. Mr. President, this bill has been cleared on both sides. It simply extends the authority for a strategic petroleum reserve drawdown from August 15 to September 15. That authority expires on August 15.

We are presently in conference with the House on an overall revamping of the strategic petroleum reserve program which would extend that program to 1 billion barrels, provide for emergency product reserves in the House version of the bill, and provide for the ability to lease reserves from owners other than the Federal Government.

In view of the Iraqi invasion of Kuwait, that conference committee bill is particularly important and particularly vital to the country. We expect a successful resolution of that in the conference.

However, for the time being, we need to extend this authority for 30 days on an emergency basis while we complete the work in the conference.

Mr. MCCLURE. Mr. President, I strongly support the action being taken with respect to the emergency extension of the authority that is absolutely necessary. I toyed with the idea of coming to the floor this morning and saying "I told you so" to the world with respect to what is happening in the Middle East today and the potential impact that it has on the economy of the Western industrialized world. Unfortunately, we have not done enough, in my opinion, with respect to energy policy and responses,

in situations like that occurring in the Middle East today.

But the least we can do is to preserve the most important tool that we have constructed so far in the strategic petroleum reserve. I think it is important, as the Senator from Louisiana has said, to take this emergency action on a temporary extension of what we tried to resolve, larger policy questions within the context of that enactment. The events in the Middle East today underscore the fragility of the economies of the Western World and the marginal supply of energy that fuels the Western industrial world.

The United States might decry the occupation of a small country by a more powerful nation next door. We would do so, I am certain.

We would not do it with the same sense of urgency and real concern about our own interests, if it were not for the energy that is involved. I think this is necessary action. It is very timely action, and it reminds us once again that we ought to do something more than we have done with respect to energy policy and getting our energy House in order in this country.

I thank the Senator for bringing the bill to the floor today.

Mr. JOHNSTON. Mr. President, the Senator from Idaho has been a voice in the wilderness for a long time on the question of energy policy. I have joined him in that respect.

Mr. President, we are importing 50 percent of our crude oil today in the United States—more so than we were in the crisis of 1973, more oil than we were importing in the crisis of 1979, and there is no end in sight.

The distinguished former Secretary of Energy, Jim Schlesinger, testified before our committee recently that today's 50 percent imports will grow by 1995 to two-thirds of the energy of the crude oil used in this country. "At that time," says Secretary Schlesinger, "the trade deficit caused by oil imports will be bigger than all the rest of the commercial trade deficit put together."

Mr. President, when you combine those warning facts with what has happened in the invasion of Kuwait, the implications for this country are truly staggering. What this invasion means, in addition to being a bare-handed act of aggression, in addition to being destabilizing in the Middle East, in addition to being all of those things which have been said here on the floor about Saddam Hussein and his ruthless rule, what it means is that, in practical economic terms for this country, OPEC discipline now has been ensured by the point of a gun, because the Arab Emirates and Kuwait were the two countries who were the most usual and frequent violators of the OPEC quotas.

Now that those violations are no longer going to exist in Kuwait, because they will be controlled by their new conquering power, unless something is done to take them out, and I do not know whether anything is possible or contemplated, or even within the realm of practicality.

But we can be sure that we will now have OPEC discipline. What that means is that Iraq will be able to set such price for OPEC oil as they wish to set. Recently, they came up with a compromise figure of \$21 a barrel. Iraq has asked for \$25 a barrel. Whether this means that there will be a new meeting of OPEC and that Iraq will be able to dictate its price, we do not know. I suspect that is precisely what will happen.

I think all of the OPEC countries, at least all of those in the Middle East, will be intimidated by Iraq, that Iraq will be able to set such prices it wants, that with its war-ravaged economy needing dollars as bad as it needs foreign exchange, I suspect that that price will go up.

So, Mr. President, the implications for this country are stark. The only thing we have done that I know anything about—and I am the chairman of the Energy Committee—in terms of energy policy to help this country is the strategic petroleum reserve. Everything else we have done goes in the opposite direction.

The Clean Air Act, as much as I like it, makes it more difficult to produce energy. The failure to drill off of our coasts makes it more difficult to produce energy. The failure to act on the Arctic National Wildlife Refuge makes it more difficult to produce energy. The clampdown on nuclear power from a thousand different cuts makes it more difficult. We may, as a country, have various degrees of enthusiasm to do all of those things, Mr. President, but the fact of the matter is, they make it very, very difficult to produce domestic energy.

So what this invasion today signifies, Mr. President, is that prices are going up. It is going to affect the economy of the United States in a very difficult way. And we better get our act together on energy policy, which can be summarized in one word, "import," which is no longer acceptable for this country. It is time we got our act together and change that energy policy, change it from the one word, "import," to three words, if we are going to put all of our policy on bumper stickers, and that policy ought to be, "made in America."

I ask that this bill pass as a modest step in that direction.

Mr. HATFIELD addressed the Chair.

The PRESIDENT pro tempore. Senator HATFIELD is recognized.

Mr. HATFIELD. Mr. President, I commend my colleagues from Idaho

and Louisiana on raising these very important points that they make this morning. I will just make a couple of observations, as well.

We have to look beyond the economics of this problem, because there are so many implications involved. We can look at the fact that Mr. Nixon, as President of the United States, put the world on a nuclear alert because of a crisis in the Middle East and the threat to "our oil supply." And you recall that the Secretary of Defense, Mr. Brown, under a Democrat President, Mr. Carter; and a Secretary of State Mr. Kissinger, under a Republican President, Mr. Ford, both had indicated at another time in history that the administrations would consider the use of tactical nuclear weapons in the Middle East to protect "our oil supply." And at the height of the Arab boycott, let us recall that we were only importing about 30 percent of our oil supply or consumption. Also, the Senator indicated we are up now to 50 percent of that supply.

What I am saying, in effect, is that there is a peace and war dimension to this whole energy issue that we had better face up to. Everybody likes to call themselves an environmentalist. Well, let me say that I prefer the word conservationist, because conservationist, in the Gifford Pinchot definition, is "wise utilization." Increasingly, the environmental nomenclature of today is lockup, preservation, not wise utilization.

It is awfully easy for me to vote on the wildlife refuge in the northern part of our hemisphere. But let me tell you I could change that vote very quickly if the option was sending American soldiers and sailors into the Middle East to fight a war to protect our oil supply—and there have been enough wars in this world fought for the commercial and the economic interest.

Let us remind ourselves of the imperial military Government of Japan in 1941. Why did they bomb Pearl Harbor? In part, because their strategy was to get to Indonesian oil fields, and the Philippines and Pearl Harbor were the only blockades for the imperial military Government of Japan getting to an oil supply.

You can say that, in part, it was driven by the need of oil. So we have proven the case that nations are willing to go to war to sustain their oil needs and dependencies.

Hitler's whole eastern movements could be tracked in part to his quest for oil in World War II on the continent of Europe and North Africa.

All I am saying is that we better get a comprehensive energy policy in this country that weights the options and the components, the needs of consumption, how do we deal with those. We should deal with it from conservation, alternative supply, alternative

fuels, and we have dropped our great drive to get these alternative energy supplies that we need through development, research, and we also have to understand the global politics of this resource and our growing dependency upon the Middle East and the imported oil and the relationship of that to geopolitics, which includes the elements of peace and war.

I think also we must recognize that it is not just in oil, we are projecting electrical energy shortages in the near future. We see that in the Northeast. We see that in the Northwest. So it is a total picture of energy.

We are looking at it the possibilities of some endangered species on the Colorado River that involves a water project. We are seeing the possibilities of endangered salmon species on the Columbia River that could cause a ratcheting down of electrical production in the Bonneville system. So we have to measure these needs, these values.

I am not one that says that you have to destroy the environment in order to supply your economic need. But when we polarize these issues to where if you raise the economic dimension, you are dubbed an environmentalist. We have gotten this polarized—whether spotted owl or endangered species in the Colorado River—to the point there are two warring camps.

Let me say that the pluralism of this Nation is really being challenged. We are being torn apart by the single dimension, natural approach to these complex issues. Some call it single issue groups. But we have to look at the environmental impact, we have to look at the environmental values we have to lock up, we have to preserve, we have to do many things on the environmental front making for the sins of the fathers, in some cases. But, on the other hand, let us weigh those other impacts and those other implications in relation to the economics.

I find that it is awfully interesting that some of the polls of my State indicate that as of a year ago everybody would join in and say, "Well, maybe we should lock up vast tracts of land to protect the spotted owl." As it got closer to the point and implications of economic costs, that poll had shifted considerably, and that shows again that the average citizen out there expects these forces to be melded, these competing values to be melded, rather than further politicized and polarized.

I think the invasion of Kuwait today by Iraq and the impact that has been indicated probably on our oil supplies and our oil imports might change a little bit of the economics here at home to consider some of these other possible alternatives we have in increasing energy conservation and perhaps of doing a little more inventorying to, at least, know where we have energy reserves that we even refuse to

do today in some instance to even inventory our research potential.

Let me tell you when the day comes—and God forbid it does—that we have to make that choice as against sending military expeditions into the Middle East, just see how fast the environmental crowds around this Congress will disappear. I feel their lack of aggressive approach forces that possibility under those given circumstances that I pray never happen to where people will say, well, how did that happen? Like the S&L debacle, how did that ever happen?

Let us put everybody on due notice today as it has been said by the pioneers in this field, Senator McCLEURE and Senator JOHNSTON and others on the Energy Committee, that we have raised a voice, and if you cannot remember it from the past, remember it as of today that this is very definitely a complex international issue of geopolitics—peace and war, and local domestic implication, trade imbalances, and all the other economic aspects to it, and it also is not just in the field of oil. We better address this energy problem.

I thank the Chair.

The PRESIDENT pro tempore. The Senator from Alaska [Mr. MURKOWSKI].

Mr. MURKOWSKI. Mr. President, I join my colleagues in expressing concern about America's dependence on imported oil. I would call to their attention the reality that today the United States is Iraq's largest customer, importing 600,000 barrels per day. This was expected to increase to 1 million barrels per day by the end of August.

On the other hand, Mr. President, I am reading from a press release where our President today said his Executive order was designed to freeze Iraqi assets and prohibit transactions with Iraq.

The question I have, Mr. President, is where do we get that 600,000 barrels of oil that we were getting from Iraq?

Mr. McCLEURE. We are not going to get it from Kuwait.

Mr. MURKOWSKI. We are not going to get it from Kuwait. Wherever we get it, the price is going to increase. We have already seen a price increase of some \$3.

I would like to call to the attention of my colleagues another item of concern created by the invasion of Kuwait by Iraq. This is an important issue concerning the five Kuwaiti tankers that are manned by United States crews and United States captains. These United States crews are sailing vessels carrying Kuwaiti oil to various points around the world. Where does the Iraq invasion of Kuwait put the United States relative to the protection of our crews and these American-flag vessels? Are we now in a quasi-state of war with Iraq?

The tankers carry the United States flag but are Kuwaiti tankers, a very curious set of circumstances, and I think one that requires an explanation. Perhaps this has been overlooked by those down at the White House. It is nevertheless serious concern.

Another concern is that the 7th Fleet has been over in the Mideast and the Persian Gulf for an extended period of time. The fleet is currently in the Indian Ocean. The reality of just whose oil the fleet is protecting deserves examination.

Roughly 99 percent of Japan's oil is imported. In excess of 60 percent come from the Mideast. The United States presence has insured the continued ability of Mideast oil supply to our friends in Japan. But what has Japan itself done to participate in that protection? I think it is fair to say that it is hard to find anything truly significant, that the Japanese have contributed to assure the continued supply of their needed oil. Let us make no mistake about it, Mr. President.

On another matter, what do increased oil prices mean? One can look back and see that each time the United States has had an oil shock, we have experienced corresponding increases in inflation, in unemployment, and in interest rates.

My colleagues from Louisiana, Oregon, and Idaho are very learned regarding the energy needs of our Nation. They have identified an important goal to achieve a greater degree of energy independence. What have we actually accomplished in this country to achieve that goal? We have eliminated, for all practical purposes, drilling in the Outer Continental Shelf off the west and east coasts of Florida. The environmental community has claimed this as a victory and has moved on to the few remaining Outer Continental Shelf off my State of Alaska which have tremendous potential for oil and gas recovery. Some Outer Continental Shelf areas, like Bristol Bay have already been withdrawn from oil exploration until studies on the impacts of oil exploration and development on fisheries can be completed. This is appropriate. However, there are other Outer Continental Shelf areas, like the Chuckchi Sea that are conservatively estimated to contain 3.5 billion barrels of oil. These promising areas should remain open to oil exploration and development.

The question before this body and the Nation as a whole is simply stated. Are we going to wake up to reality and recognize that this Nation must achieve a greater degree of energy independence? Energy independence is in the national security interest of our Nation. It must happen today—tomorrow is too late.

My colleagues have mentioned the Arctic National Wildlife Preserve. We do not know if there is oil there. A

policy that precludes the determination of whether or not oil reserves are present absolutely makes no sense at all. Our Nation deserves to know. We need to be able to make an informed, well reasoned decision. The only way we can know is to allow exploratory drilling. Then we can make development decisions based on facts and our Nation's need for oil.

There are a few additional points I would like to make.

Mr. President, the State of Alaska currently is supplying the Nation with nearly one-fourth the total crude oil produced in this country. I know the President pro tempore was here during those early debates when the Senate authorized construction of the trans-Alaska pipeline system. The vote was so close that the Vice President Spiro Agnew came to the Senate to break the tie. We were that close to not having the pipeline. We were that close to having no viable way to deliver 25 percent of our Nation's oil production. Mr. President where would we be today without that oil?

The Prudhoe Bay oil field production is in decline, Mr. President. The decline is very significant. Prudhoe Bay production dropped 10 percent last year. The trans-Alaska pipeline system is currently flowing at roughly 1.7 million barrels a day. Due to economics of operation and maintenance the TAPS cannot be operated at less than 300,000 to 400,000 barrels per day. Alaska has other area of high oil potential that must be developed to keep the TAPS open and providing oil for our Nation.

Mr. President, we are developing new technology with definite environmental benefits. When we brought the Alaska Endicott oil field on line in 1987 it was the 10th largest producing oil field in the United States. Today as other fields decline, it has risen to the 6th largest producing oil field.

Mr. President, Endicott uses only 55 surface acres. A surface area the size of a typical family farm is producing 100,000 barrels of oil per day.

Mr. President, ANWR is 19 million acres, the size of South Carolina. Due to advances in directional drilling and drilling fluid technology, if we were to authorize the opening of ANWR and every lease were drilled, we would utilize an area no bigger than the international airport complex at Dulles.

I could talk at great length.

The time for action is now. If we do authorize ANWR today and we do find oil, it will take you 10 years before production is available to the Nation. Reflect on where this country will be in 10 years. Are we going to be importing more oil in foreign tankers and be held hostages by the Mideast again? Will the public and environmentalists come and blame us for not putting together an energy policy? Mr. Presi-

dent, I will do everything I can to ensure that the answer to these questions is no.

I thank the Chair. I yield the floor.

Mr. BRADLEY. Mr. President, this extension of authority to continue purchase of oil for the strategic petroleum reserve could not come at a more important time. With the invasion of Kuwait by Iraq, the oil supply of the world will be disrupted and prices will rise. In such an environment, our most important tool is a large supply of oil in stockpile to cushion the impact of the disruption.

In 1979, when I came to the Senate, we had about 11 days of oil imports in stockpile. After a decade of hard work we now have over 100 days of imports in stockpile. I am proud of these efforts that I have made, along with those of Senator JOHNSTON, Senator McCURE, and the late Senator Henry Jackson. Because of these efforts, America is more secure and better able to resist any blackmail by the ruthless tyrant in Iraq, Saddam Hussein.

We need a 1-billion-barrel reserve, which could not only serve as a supply in crises, but which could also be used to moderate price increases that a disruption will inevitably bring. I hope that the conference committee will quickly resolve its differences and accept the 1-billion-barrel target. The sooner that is done, the sooner we will be even better prepared for a world in which oil disruption becomes, unfortunately, more frequent.

Mr. President, I urge the adoption of the 30-day extension of authority so that we can continue to purchase oil and put it in stockpile.

The PRESIDENT pro tempore. The Senator from Louisiana [Mr. JOHNSTON].

Mr. JOHNSTON. Mr. President I believe we are ready for the third reading.

The PRESIDENT pro tempore. The bill, having been deemed to have been read the first and second time, will now be read for the third time.

The bill was ordered to a third reading and was read the third time.

The PRESIDENT pro tempore. The question is, Shall the bill pass?

So the bill (S. 2952) was passed, as follows:

S. 2952

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be referred to as the "Energy Policy and Conservation Act Short-Term Extension Amendment of 1990".

SEC. 2. EXTENSION OF AUTHORITY.

The Energy Policy and Conservation Act (42 U.S.C. 6211 et seq.) is amended—

(a) in section 104(b)(1) by striking out "August 15, 1990" and inserting in lieu thereof "September 15, 1990";

(b) in section 171, by striking out "August 15, 1990" and inserting in lieu thereof "September 15, 1990";

(c) in section 281, by striking out the term "August 15, 1990" each place it appears and inserting in lieu thereof "September 15, 1990".

Mr. JOHNSTON. Mr. President, I move to reconsider the vote by which the bill passed.

Mr. McCURE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS CONSENT AGREEMENT—OIL POLLUTION ACT OF 1990—CONFERENCE REPORT

Mr. JOHNSTON. Mr. President, I ask unanimous consent that the majority leader or his designee may at any time proceed to the consideration of the conference report on the oil spill legislation, H.R. 1465, and that it be considered under the following time limitation on debate: 5 minutes for Senator MITCHELL, 10 minutes for Senator STEVENS, 10 minutes for Senator BAUCUS, 5 minutes for Senator GRAMM, 5 minutes for Senator ADAMS, 3 minutes for Senator KERRY, and 3 minutes for Senator BREAU; that when all time just stated is used or yielded back, the Senate proceed without any intervening action or debate to vote on the adoption of the conference report.

I can report that this has been cleared, Mr. President.

The PRESIDENT pro tempore. Is there objection to the unanimous-consent request?

Mr. MURKOWSKI. I wonder if it is possible that I may have 3 minutes on this as well.

Mr. JOHNSTON. Mr. President, I amend my request to ask for 3 minutes for Senator MURKOWSKI.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I ask unanimous consent that Senator AKAKA be recognized to address the Senate as if in morning business for 3 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Hawaii [Mr. AKAKA] will be so recognized.

THE RATIFICATION OF THE CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN

Mr. AKAKA. Mr. President, I rise today as a former member of the congressional woman's caucus and a staunch advocate of women's rights, I appreciate this opportunity to express my support for the Convention on the Elimination of All Forms of Discrimination Against Women and to urge swift Senate ratification.

The treaty, drafted and adopted by the U.N. General Assembly in 1979, was signed by President Jimmy Carter

in 1980. Although the United States championed this international effort to eradicate human right inequities throughout the world, a decade has passed without any Senate action except for a 1988 hearing in Boston chaired by Senator JOHN KERRY.

To date, 103 countries have ratified the Convention, including France, Germany, Japan, and even the Soviet Union. It is inexcusable that the United States is only now beginning to work on the treaty.

Mr. President, this country has always prided itself on being a leader in the field of human rights and civil liberties. It is these fundamental freedoms embodied by our Constitution and the Bill of Rights that sets us apart from other countries. I am therefore disappointed that it has taken the Senate 10 long years to address the ratification of this convention.

The treaty specifically seeks to end sexual discrimination, a universal problem affecting both advanced and developing countries. As the role of women continues to change, the need for more comprehensive and global remedies becomes more apparent. The convention would serve as an effective instrument to achieve equality for women in every facet of life—politics, law, employment, education, health care, commercial transactions, and domestic relations.

Those who oppose the convention argue that it is too broad to be implemented in the United States because the treaty goes beyond our Federal statutes. While this may be true in some instances, it has not stopped many other nations with similar statutes from signing the convention.

Mr. President, will the United States lead or follow the rest of the world on the issue of discrimination against women? That is the question we face today. After 10 years of inactivity I call on my fellow Senators not to forsake the rights and privileges of American women and their sisters worldwide. We must adopt this convention so the United States can become a strong and active voice in seeking international solutions to sexual discrimination.

I do not mean to imply that Congress has been unresponsive to women's issues. On the contrary, because of congressional action on a variety of fronts, the United States has made great strides toward the goals proposed by the convention. Why, then, are we reluctant to embrace the convention itself?

Mr. President, allow me to list several key legislative initiatives of importance to the National Women's Political Caucus, a women's advocacy organization with approximately 50,000 members in all 50 States. All these initiatives are consistent with the goals

of the convention, and demonstrate a willingness of some in Congress to defend the rights of women.

The caucus identified the Minimum Wage Restoration Act of 1989 as a bill that supported women's rights. Initially the minimum wage bill included an amendment I supported to increase the minimum hourly wages from \$3.85 to \$4.55. Unfortunately, President Bush vetoed the entire bill and the minimum wage was subsequently reduced to \$4.25 an hour.

A second issue of concern to the women's caucus was S. 5, which was incorporated into H.R. 3, the Act for Better Child Care or ABC bill. This provided much needed relief to working women by removing some of the burdens and cost constraints of child care. A third piece of legislation, S. 2104, the Civil Rights Act of 1990, successfully passed the Senate after a lengthy floor debate. This act restored job protection to women and other minorities from discriminatory practices and permits punitive damages in instances of intentional discrimination. There is a very real concern that the bill also faces a Bush veto.

Another piece of legislation, although not cited by the National Political Women's Caucus, is S. 345, the Family and Medical Leave Act of 1989. This bill would have ensured American families the right to unpaid leave for childbirth, adoption, or serious illness.

With 65 percent of all American women between the ages of 18 to 44 in the labor force, this bill would have guaranteed job protection in the event of an unforeseen family emergency or in the case of childbirth. Unfortunately, as with many other pro-women legislation, President Bush vetoed the measure and the House was unable to garner enough votes for an override.

Mr. President, I could list more legislation, other actions taken by Congress that have furthered women's rights in the United States. However, it is my firm conviction that we can and should do more. Ratification of the convention on the elimination of all forms of discrimination against women would put the United States back into its rightful role as the pre-eminent leader in human rights. I call on my colleagues to join me in urging full ratification of the treaty.

The PRESIDENT pro tempore. The time of the Senator has expired.

OIL POLLUTION ACT OF 1990— CONFERENCE REPORT

Mr. MITCHELL. Mr. President, I submit a report of the committee of conference on H.R. 1465 and ask for its immediate consideration.

The PRESIDENT pro tempore. The report will be stated.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDENT pro tempore. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 1, 1990.)

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the Senator from Louisiana be recognized to address the Senate as in morning business for 2 minutes.

The PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Louisiana [Mr. JOHNSTON] is recognized for 2 minutes.

Mr. JOHNSTON. I thank the Chair. (The remarks of Mr. JOHNSTON pertaining to the introduction of S. 2953 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order with respect to this pending conference report be amended to add 3 minutes for Senator CHAFEE.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, the oilspill conference report is comprehensive legislation to prevent oil spills, improve preparedness and response capability, and ensure that shippers and oil companies pay the full costs of spills that do occur.

The 11 million gallon *Exxon Valdez* tanker spill and other spills in New York Harbor, California and Texas amply demonstrate that all parts of the country are at risk. A national response is needed to this problem.

I have worked for 8 years on oilspill legislation to protect our coastlines. As the author of the Senate bill, I am pleased we are finally enacting a tough, comprehensive bill.

The legislation requires the President to direct the cleanup of major oil spills. After the confusion following the *Exxon Valdez* tragedy, the Federal Government must provide clear direction in cases of major spills so that there is not another struggle over who is in charge.

The conference agreement does nothing to diminish the liability of the spiller. Instead, it will hasten the cleanup and minimize the damage.

A key provision of the bill increases Federal liability limits, but does not preempt stronger State oilspill laws.

Nineteen States including Maine, already impose a standard of unlimited liability on those who cause oil spills. This bill is a significant improvement in Federal law and does not remove the rights of States to take whatever additional action they believe is necessary to protect their waters from oil spills.

The bill also creates a Federal oil-spill fund, financed entirely by the oil industry, which could provide up to \$1 billion per incident to pay for damages in cases where the responsible parties cannot be found, are unable to pay, or where liability limits have been reached.

The conference agreement also establishes 10 regional oilspill response groups, requires federally approved spill contingency plans for oil facilities and vessels and creates an oilspill research and development program.

Finally, the bill requires all new oil tankers and barges to be built with double hulls. All existing single hull vessels are required to be phased out by the year 2015. Nearly half of all those over 5,000 gross tons will be phased out within 10 years.

I want to extend my special gratitude to those Senators who played such an important role in the development of this legislation including especially Senator BAUCUS, who chaired the committee which considered this and managed the bill on the floor and Senator STEVENS, who played such a vital role in the development of the Commerce Committee's portion of the bill, and who contributed so significantly during the conference, as well as the many other Senators involved. I thank them for their efforts.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Montana [Mr. BAUCUS], is recognized for not to exceed 10 minutes.

Mr. BAUCUS. Mr. President, not long after the 101st Congress convened, the *Exxon Valdez* struck Bligh Reef and dumped 11 million gallons of crude oil into the pristine waters of Prince William Sound.

The Congress responded by developing comprehensive new legislation to try to prevent oil spills like the one in Alaska from ever again becoming an ecological catastrophe.

That is what the American people expected. The threat from oil pollution demanded that we do no less.

The conference report we bring before the Senate today completes our task.

It is badly needed.

The past year and a half has been marked by the largest oil spill in U.S. history as well as a series of never-ending major spills from Alaska's Prince William Sound to the Delaware River and the Arthurkill; from Montana's Whitefish Lake to Galveston

Bay in Texas and the waters off southern California.

I do not think that these spills are coincidental.

They suggest to me, instead, that spills are too much an accepted cost of doing business for the oil shipping industry.

Many in the industry seem to have decided that it is cheaper to spill and pay for its cleanup than it is to prevent spills and develop effective techniques to contain them.

This compromise legislation developed by the House and Senate oilspill conferees will change that. It encourages prevention by imposing new, tougher penalties for those who pollute or fail to comply with contingency plans.

In addition, when there is a spill from a ship, the owner will be automatically liable for 8 times the current amount. When ship and facility owners violate Federal regulations and cause spills, they will be held fully accountable for all the costs and damages that result from their actions.

Each state can continue to provide further protection for its citizens by imposing higher standards of care in the handling and shipping of oil and by extending liability to anyone who is responsible for spilling oil.

Effective oilspill prevention not only requires encouraging greater care, it also requires better ships. An anchor or a simple grounding should not result in a major oilspill.

Ships carrying oil should be required to have double hulls or other proven designs to cut down the chances of spills when accidents occur.

Under the conference agreement, new ships and barges must be built with double hulls, and existing single hull vessels must be phased out. There are always going to be some spills no matter what we do. But oilspills do not have to become ecological catastrophes. The *Exxon Valdez* spill is a constant reminder of the incredibly high environmental and economic costs of careless contingency planning and chaotic response.

The conference agreement is a strong statement that we should never again be caught so unprepared. It tries to ensure that industry and government are prepared for oilspills, and that they respond quickly and effectively to contain them and minimize damage.

To make sure that industry does cleanup its spills, the agreement requires ship and facility owners to prepare response plans that ensure to the maximum extent practicable sufficient private resources to deal with a worst-case spill.

But cleaning up oilspills quickly and effectively is too important for us to put ourselves completely at the mercy of industry. So the new comprehensive legislation makes it clear that the

President must be in charge of the cleanup of major spills. To make sure that the President can respond immediately and effectively when industry does not, the conference report sets up regional Coast Guard oilspill response teams to do the job.

Like most Americans, I was frustrated and angry that we had to coax and embarrass Exxon into staying on the job.

The new legislation makes sure that we will never again be placed in this position.

The President is empowered to compel companies like Exxon to stay on the job until the cleanup is complete. If they walk away from the mess they have created, like Exxon seemed ready to do at times, they could be subjected to heavy damages.

Finally, the comprehensive oil spill bill ensures that Federal agencies, States and citizens are compensated for cleanup costs and damages from oil spills.

To pay for these costs, the legislation makes available \$1 billion—from a fee on the oil industry—to pay for spills where the polluter cannot be found, cannot pay, or where liability limits have been reached.

Mr. President, I want to thank the majority leader. He is the sponsor of the Senate bill and his efforts over the past decade have made this day possible. He has pursued this legislation tirelessly, and now he has seen the legislation finally become enacted and very soon signed by the President.

I also want to thank the distinguished chairman of our committee, Senator BURDICK and the ranking Republican member, Senator CHAFEE, for their strong support. He, too, has worked along with the majority leader to help make this bill possible.

Our Senate partners from the Commerce Committee, Senators HOLLINGS, KERRY, BREAU, DANFORTH, and STEVENS, also deserve our thanks. They, too, worked very hard on the Commerce portions of this bill. Frankly, I have been impressed with how quickly they have been able to reach an effective conference agreement.

Finally, I want to express my appreciation to the chairman of the Finance Committee, Senator BENTSEN, for his efforts to ensure that we have a financially sound trust fund and a bill that works.

Mr. President, I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator reserves 4 minutes. The Senator from Rhode Island [Mr. CHAFEE] is recognized for 3 minutes.

Mr. CHAFEE. Mr. President, this year in many respects, has not been a good one in the Senate. So much legislation is highly partisan, passed over the objections of one group or another, with the threat of a veto always hovering in the background. This oil-

spill legislation is different. It is a good result and deserves approval.

Mr. President, with passage of the Oil Pollution Act of 1990, the environment in which shippers of oil, and on-shore facilities which handle oil operations will change dramatically. No longer will facilities such as Alyeska in Prince William Sound be able to operate with a paper contingency plan, and little or no equipment and training to back it up. Vessels will no longer be able to enter U.S. ports unless they have an approved contingency plan detailing how it will respond to an oilspill. Likewise, the U.S. Government will significantly improve its ability to respond to spills, by establishing 10 oilspill response teams in each of the Coast Guard districts.

It has been almost a full year since the U.S. Senate, voting 99 to 0, passed a comprehensive oilspill prevention and response bill. Since that time, we have been a witness to several major spills, most recently the spill in Galveston, TX. Recently we were jolted by live coverage of the *Mega Borg*, engulfed in flames and smoke, and threatening to assault the Gulf of Mexico with three times the amount of oil that spilled from the *Exxon Valdez*. In my home State of Rhode Island we recently dodged two bullets, one when the cruise ship *Bermuda Star* ran aground in Buzzards Bay, and 9 days later a potentially catastrophic grounding of a barge carrying crude oil only 3 miles from the site of the *Bermuda Star* incident. In all these cases, as with the *World Prodigy* oilspill in Narragansett Bay of a year ago, luck and favorable weather conditions combined to prevent a major environmental catastrophe.

We cannot afford to rely on luck any longer, which is why we are approving this legislation today. In the case of the *Mega Borg*, this spill occurred under near perfect conditions: calm seas, warm waters, and in an area which has some of the heaviest oil tanker traffic of any U.S. waters. It was far enough from shore—58 miles—but not so far as to impede cleanup operations. Even under these conditions, it took days, not hours, to mobilize the appropriate response equipment. If we have learned one thing about oilspills, it is that immediate response is essential to prevent widespread impacts. Once the oil is dispersed over a wide area, the proverbial genie is out of the bottle and there is little hope of getting it back in. On average, only about 10 percent of oil from a spill is ever recovered. That is why this bill places a heavy emphasis on prevention, most notably by requiring double hulls on all newly built tankers, and phasing out single-hulled ships over a 20-year period.

The legislation before us will provide for this immediate response. It will es-

establish 10 oilspill response teams, 1 in each Coast Guard district, and provide for stockpiling of equipment such as skimmers and dispersants at strategic locations along our coasts. Whereas current law does not require Federal approval of contingency plans, our bill would require all major facilities handling oil to have a contingency plan approved by the Coast Guard. To prevent a repeat of the Alyeska debacle in Alaska, where the contingency plan was worth little more than the paper it was written on, the Coast Guard will be required to conduct periodic drills and inspections of facilities. Vessels also will be required to have contingency plans detailing arrangements with contractors to respond to spills from the vessel.

This bill will prevent the type of confusion that occurred following the *Mega Borg* incident, by requiring the Coast Guard to assume command of any spill posing a "significant threat of a pollution hazard." If this bill had been law, the Coast Guard would have mobilized nearby equipment to contain the spill and fight the fire, and not have had to rely on a contractor to import equipment from The Netherlands, 5,000 miles away.

This bill establishes a fund of at least \$1 billion, financed by a 5-cent per barrel fee on oil, to finance strike teams and oilspill technology research and development, and to compensate victims of oilspills.

I am very pleased that we are not waiting for another *World Prodigy*, which next time may be carrying crude oil instead of home heating oil, and may occur in the midst of a winter storm, instead of on a sunny afternoon. This legislation will help us prevent and respond more effectively to oilspills and represents a major legislative achievement of this Congress.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BAUCUS. Mr. President, I yield 1 minute to the Senator from Rhode Island.

The PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 1 minute.

Mr. CHAFEE. Mr. President, I would like to pay tribute to all those who participated, especially, of course, the majority leader, Senator MITCHELL, but also Senator BAUCUS, who has worked so hard on this over many years and performed ably in the conference, as he always does, in connection with these environmental matters and the members of the Finance Committee who were represented and the members of the Commerce Committee also.

We came out with a good bill, Mr. President. Sometimes good things happen around here. I believe this is one of those. I want to thank the Chair, and I reserve the remainder of my time.

The PRESIDENT pro tempore. The Senator from Massachusetts [Mr. KERRY] is recognized for 3 minutes.

Mr. KERRY. Mr. President, I understand the Senator from Montana is prepared to yield me an additional 2 minutes.

Mr. BAUCUS. I yield 2 minutes to the Senator from Massachusetts.

The PRESIDENT pro tempore. How much time?

Mr. BAUCUS. Two minutes.

The PRESIDENT pro tempore. The Senator from Massachusetts is recognized for 5 minutes. The Senator from Montana has 1 minute remaining.

Mr. KERRY. I thank the Chair.

Mr. President, I rise in strong support of the pending conference report on the Oil Pollution Liability Compensation Act of 1989. I heard the Senator from Rhode Island say sometimes good things do happen around here. I would like to say for all the criticism that the Congress and the legislative process sometimes does receive, this has been one of the rewarding and cooperative efforts in which I have been able to take part in that I think belies that criticism. This legislation cut across committee jurisdictions, and there were thorny and tricky issues which were at stake.

I believe this is a landmark, historic piece of legislation that is going to affect from here on in the way oil is transported in the waters of the United States. It is an important piece of legislation.

I commend the distinguished Senator from Montana for his leadership and those on the Environment and Public Works Committee. I applaud the majority leader for his hard work and for bringing this conferee report to the Senate floor. I also thank my colleagues on the Commerce Committee: the chairman, Senator HOLLINGS; Senator STEVENS, with whom I have worked closely; and Senator BREAUX, all of whom have helped to further this legislation and create a compromise that is important.

Mr. President, just over a year ago or so when the *Exxon Valdez* ran aground, we saw the need to respond. We began to put this legislation together. We held hearings in the Commerce Committee and the Environment and Public Works Committee. This legislation is the outgrowth of that.

Just today, as we gather to agree to the conference report, there is a 17-mile oil slick fouling the northern shore of Galveston, TX, from a ship-barge collision only a few days ago: 500,000 gallons of oil spilled into Galveston Bay, and it is threatening marine habitats, fish, birds, and other species.

And, as the Senator from Rhode Island has said, we dodged a bullet recently in Massachusetts with the *Bermuda Star* and another with the

Barge-145 spill. These two incidents occurred in the space of about 2 weeks, not to mention, other spills this past year in New Jersey, Texas, Rhode Island, Delaware, and California. It is clear that it is risky to transport oil, and it is equally clear that accidents are going to happen. But it is also just as clear that we have a responsibility to guarantee that, if they do happen, we know how to respond to them and the response is as rapid as possible. People are going to be held liable to the highest standards of liability and the highest standards of performance are going to be applied to the transport of oil.

I am particularly pleased and privileged, as vice chairman of the National Ocean Policy Study Group, that there are measures in the legislation that are the outgrowth of the hearings that I held. Most specifically, the inclusion of the requirement of contingency planning for all ports and vessels, and the provision that places the Coast Guard in charge of future major oilspills. From the *Exxon Valdez*, we learned a lot.

One of the most disturbing aspects of that spill and several of the subsequent spills was the confused response and the failure of anyone to assume effective command in order to minimize the damage once the accident occurred. Today with passage of this bill it places the Coast Guard as our first line of response and gives them unequivocal responsibility for and the resources necessary to carry out this duty.

In addition during the hearings we found with regard to the *Exxon Valdez* spill, numerous contingency plans were on hand, yet none of them was compatible and the equipment to carry out such plans was not available. These were paper tigers; they had no teeth and simply did not work. For that reason the contingency planning provisions are essential.

With regard to the double hull provision the bill requires all newly constructed vessels to have double hulls and phases out all existing single hulls by the year 2015, beginning in 1995. It is designed to ensure that the oldest and largest vessels—which pose the greatest environmental threat—are phased out first. I am particularly pleased by this because some of the oldest oil carrying vessels serve the northeast. In order to prevent spills that endanger Massachusetts' waterways, it was critical that these older vessels be phased out as soon as possible and at my urging I am happy it was included.

We increase penalties to those who spill, and we make it clear that we are going to try to protect our endangered shorelines and the value of our tourism and the other industries that are so important to us.

In addition we include \$1 billion industry-financed cleanup fund, and full compensation for natural resource damage, all designed to prevent the occurrence of environmentally disastrous oil spills such as the *Exxon Valdez*.

Lastly, I want to applaud the fact that the legislation preserves the right of States to require stricter standards of liability than current international protocol standards. I believe this is a key provision in the legislation in that it preserves Massachusetts' tougher standards of liability for anyone responsible for polluting our coastline. I note that I favor an international protocol on oilspill transportation. However, the 1984 protocols that we were considering did not go far enough.

Mr. President, this is a valuable piece of legislation. It is going to have a major impact in protecting our shorelines, our habitats, our precious sanctuaries, the fisheries, and all of the assets that are so vital to us. I again commend my colleagues in helping to respond to the urgent need and in helping to put away regional differences, and even personal ones at times, in order to pass this legislation.

I yield back to the Senator from Montana whatever additional time I have.

Mr. STEVENS addressed the Chair.

The PRESIDENT pro tempore. Senator from Alaska [Mr. STEVENS] is recognized for 10 minutes.

Mr. STEVENS. Mr. President, I join those who are commending all concerned with this bill. This bill has been a long time coming. Unfortunately, it took a substantial disaster in our State to really push it along. I regret that.

I do not think the Senate will ever realize just how much we regret that the commitments made by the Congress at the time the pipeline for Alaska was authorized were not kept. We thought at the time that we had required double bottoms on all tankers that would come into the Prince William Sound. Through a series of failures of successive administrations, that commitment was not kept.

We now have a bill. I think the provisions that came from the Commerce Committee primarily reflect the lessons that were learned after the *Exxon Valdez* disaster, and it is clear, as the Senator from Massachusetts said, that now we will have a provision which does, in fact, require all new tankers to be double hulled and will phase out the existing tankers that are not double hulled by the year 2010.

Actually, we believe that due to the size factor involved in the definition, single-hulled tankers will be phased out of the Prince William Sound by 2005.

Mr. President, I ask unanimous consent that following my remarks, there

be printed in the RECORD a short summary entitled "The Oil Pollution Act of 1990." It emphasizes the portions of the bill that I believe are extremely important.

The PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. STEVENS. The Commerce Committee really had jurisdiction over titles IV, V, and VIII with a concurrent jurisdiction over VI and VII, so I will confine my primary remarks to those.

This bill does contain authority to continue research, and ought to have appropriations to do that, Mr. President, to continue research to find out if there is something better in terms of carriage of oil by sea than doubled-hulled tanker.

For years, we have asked for double bottoms and then for double hulls. But when we said we would like to find out if there is anything better, there have been people who have criticized Alaskans, thinking that for some reason we were attempting to delay the change to double bottoms or double hulls. That has been particularly so from our sister city of Seattle, south of my State.

I want the record to show, again, that Alaskans have led the way in trying to obtain increased protection for the transportation of oil from our State in order to protect our environment. Twenty-five percent of all the oil that is shipped by sea in this country is Alaskan oil. As a matter of fact, half of that shipped coastwise is Alaskan oil.

We do want to assure the rest of the country that that oil is protected as it leaves our shores, but we particularly are concerned about the protection of our own environment. This bill, as I say, carries forward that requirement, and it is a requirement that we have consistently sought, as I have indicated, since the seventies when the pipeline was originally authorized.

This also has a requirement that the Coast Guard review the driving records of all persons who apply for or renew their merchant mariners' documents or licenses. These licenses may be suspended, revoked, or denied, if those persons have been convicted of operating motor vehicles under the influence of alcohol or drugs.

It expands the Coast Guard's authority to investigate marine accidents. It limits the hours that tanker crews can work to 15 hours a day, or not more than 36 hours in a 3-day period. It requires the Secretary to publish regulations that will now require what Alaska has required, that is, two tug escorts for single-hulled tankers, particularly in the Prince William Sound. That provision will also extend to the Puget Sound.

We do believe that the provisions in this bill are the minimum required to

respond to the Alaska disaster. The Commerce Committee reported out a bill that had more provisions in it, but in the conference process part of those have been lost. But this does authorize the Prince William Sound Oil Spill Recovery Institute. It authorizes establishment of the oil terminal oversight and monitoring committees which Senator MURKOWSKI will address and were his idea. It authorizes and funds the construction of the bligh reef light on the port side of that reef, and the upgrading of the vessel traffic service system in Valdez, the VTS system.

Had that system been at its original capability, Mr. President, there would not have been an *Exxon Valdez* disaster. This vessel *Exxon Valdez*, went off of the VTS system because after it was installed, it was reduced in capability. Vessel after vessel left Valdez with no problem, so in the interest of economy the capabilities of the Valdez VTS were reduced to about 60 percent of its original capability.

Again, for those of us who live in these coastal communities, the *Exxon Valdez* ought to be a lesson on the need for total vigilance to protect our areas, and those of us, including me, that did not recognize the increased risk to the Alaskan environment must, and have, paid our price in terms of the lack of support from some sources, at least in my State, because they thought we should have prevented that.

It is true; we should have, and now we have restored it beyond its original authorized capability. I hope that the Senate will understand the urgency for that.

Lastly, Mr. President, this bill contains title VIII, which affect the provisions of the trans-Alaska pipeline system. I call the attention of the Senate to section, I believe it section 8102, and I will ask that a portion of its concerning payment of claims by the trans-Alaska pipeline liability fund appear in the RECORD at this point.

This is a very sensitive matter. At the time of the construction of the Alaska pipeline, Alaska went ahead of the rest of the Nation. We asked Congress to create, and Congress did create, an Alaska oilspill fund, the TAPS liability fund we call it.

Now, that fund has been there since the creation of the pipeline. It has collected its maximum of \$100 million. It has now earned almost another \$200 million in interest. But, Mr. President, the interesting thing is, it never paid out a dime after the great *Exxon Valdez* disaster. The reason was Exxon was the responsible party and assumed the responsibility to make the payments.

This fund now will be transferred into the national fund created by the Oil Pollution Act after the claims that may be due from it are paid, in accord-

ance with existing law and the provision of this section 8102 that I ask be printed in full, Mr. President. So there is no question about the fact that the trustees of TAPS Fund will continue to have the discretion to pay or settle claims based upon their best judgment about the reasonableness of the claims.

There being no objection, the section was ordered to be printed in the RECORD, as follows:

SEC. 8102. TRANS-ALASKA PIPELINE LIABILITY FUND.

(a) TERMINATION OF CERTAIN PROVISIONS.—

(1) REPEAL.—Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is repealed, effective as provided in paragraph (5).

(2) DISPOSITION OF FUND BALANCE.—

(A) RESERVATION OF AMOUNTS.—The trustees of the Trans-Alaska Pipeline Liability Fund (hereafter in this subsection referred to as the "TAPS Fund") shall reserve the following amounts in the TAPS Fund—

(i) necessary to pay claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)); and

(ii) administrative expenses reasonably necessary for the incidental to the implementation of section 204(c) of that Act.

(B) DISPOSITION OF THE BALANCE.—After the Comptroller General of the United States certifies that the requirements of subparagraph (A) have been met, the trustees of the TAPS Fund shall dispose of the balance in the TAPS Fund after the reservation of amounts are made under subparagraph (A) by—

(i) rebating the pro rata share of the balance to the State of Alaska for its contributions as an owner of oil; and then

(ii) transferring and depositing the remainder of the balance into the Oil Spill Liability Trust Fund established under section 9509 of the Internal Revenue Code of 1986 (26 U.S.C. 9509).

(C) DISPOSITION OF THE RESERVED AMOUNTS.—After payment of all claims arising from an incident for which funds are reserved under subparagraph (A) and certification by the Comptroller General of the United States that the claims arising from that incident have been paid, the excess amounts, if any, for that incident shall be disposed of as set forth under subparagraphs (A) and (B).

(D) AUTHORIZATION.—The amounts transferred and deposited in the Fund shall be available for the purposes of section 1012 of the Oil Pollution Act of 1990 after funding sections 5001 and 8103 to the extent that funds have not otherwise been provided for the purposes of such sections.

(3) SAVINGS CLAUSE.—The repeal made by paragraph (1) shall have no effect on any right to recover or responsibility that arises from incidents subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) occurring prior to the date of enactment of this Act.

(4) TAPS COLLECTION.—Paragraph (5) of section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) is amended by striking the period at the end of the second sentence and adding at the end the following: "except that after the date of enactment of the Oil Pollution Act of 1990, the amount to be accumulated shall be \$100,000,000 or the amount determined by the trustees and certified to the Congress by the Comptroller General as necessary to pay claims arising from incidents occurring

prior to the date of enactment of that Act and administrative costs, whichever is less."

(5) EFFECTIVE DATE.—(A) The repeal by paragraph (1) shall be effective 60 days after the date on which the Comptroller General of the United States certifies to the Congress that—

(i) all claims arising under section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)) have been resolved,

(ii) all actions for the recovery of amounts subject to section 204(c) of the Trans-Alaska Pipeline Authorization Act have been resolved, and

(iii) all administrative expenses reasonably necessary for and incidental to the implementation of section 204(c) of the Trans-Alaska Pipeline Authorization Act have been paid.

(B) Upon the effective date of the repeal pursuant to subparagraph (A), the trustees of the TAPS Fund shall be relieved of all responsibilities under section 204(c) of the Trans-Alaska Pipeline Authorization Act, but not any existing legal liability.

(6) TUCKER ACT.—This subsection is intended expressly to preserve any and all rights and remedies of contributors to the TAPS Fund under section 1491 of title 28, United States Code (commonly referred to as the "Tucker Act").

(b) CAUSE OF ACCIDENT.—Section 204(c)(2) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(2)) is amended by striking out "caused by" in the first sentence and inserting in lieu thereof "caused solely by".

(c) DAMAGES.—Section 204(c) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)), as amended by this title, is further amended by adding at the end the following new paragraphs:

"(13) For any claims against the Fund, the term 'damages' shall include, but not be limited to—

"(A) the net loss of taxes, revenues, fees, royalties, rents, or other revenues incurred by a State or a political subdivision of a State due to injury, destruction, or loss of real property, personal property, or natural resources, or diminished economic activity due to a discharge of oil; and

"(B) the net cost of providing increased or additional public services during or after removal activities due to a discharge of oil, including protection from fire, safety, or health hazards, incurred by a State or political subdivision of a State.

"(14) Paragraphs (1) through (13) shall apply only to claims arising from incidents occurring before the date of enactment of the Trans-Alaska Pipeline System Reform Act of 1990. The Oil Pollution Act of 1990 shall apply to any incident, or any claims arising from an incident, occurring on or after the date of the enactment of that Act."

(d) PAYMENT OF CLAIMS BY FUND.—Section 204(c)(3) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653(c)(3)) is amended by adding at the end the following: "The Fund shall expeditiously pay claims under this subsection, including such \$14,000,000, if the owner or operator of a vessel has not paid any such claim within 90 days after such claim has been submitted to such owner or operator. Upon payment of any such claim, the Fund shall be subrogated under applicable State and Federal laws to all rights of any person entitled to recover under this subsection. In any action brought by the Fund against an owner or operator or an affiliate thereof to recover amounts under this paragraph, the Fund

shall be entitled to recover prejudgment interest, costs, reasonable attorney's fees, and, in the discretion of the court, penalties."

(e) OFFICERS OR TRUSTEES.—Section 204(c)(4) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)(4)) is amended—

(1) by inserting "(A)" after "(4)"; and

(2) by adding at the end the following:

"(B) No present or former officer or trustee of the Fund shall be subject to any liability incurred by the Fund or by the present or former officers or trustees of the Fund, other than liability for gross negligence or willful misconduct.

"(C)(i) Subject to clause (ii), each officer and each trustee of the Fund—

"(I) shall be indemnified against all claims and liabilities to which he or she has or shall become subject by reason of serving or having served as an officer or trustee, or by reason of any action taken, omitted, or neglected by him or her as an officer or trustee; and

"(II) shall be reimbursed for all attorney's fees reasonably incurred in connection with any claim or liability.

"(ii) No officer or trustee shall be indemnified against, or be reimbursed for, any expenses incurred in connection with, any claim or liability arising out of his or her gross negligence or willful misconduct."

Mr. STEVENS. Mr. President, I have worked since the *Exxon Valdez* disaster with a group of people that are called the oiled mayors. And for those who are from the coastlines, I would tell you that if we think we have had a lot of time expended in dealing with the *Exxon Valdez* disaster, the mayors of those small cities were on front lines. They faced their constituents 24 hours a day.

I remember the time that one of them called me and said, "I don't know what to do. There is no place for people who go out and get oil off the bay to put it. My constituents have been calling me and asking me where to put it and I told them I do not know where to put it. There is no depository for that. That's a contaminated substance." He said, "I woke up this morning and all of them have brought it and put it in my driveway."

The frustrations that take place in a small town after a disaster like this are not imaginable for those of us who live in the pristine existence of this hall. These people have faced day after day after day problems that we could not imagine.

This bill I hope will allow every area of the country to set up a plan to deal with a disaster of this type, will require the collection of material to meet that disaster should it occur, will train people to handle the equipment, and to be able to deploy the equipment in the aftermath of such a disaster if it does occur. This puts us in a different place.

The occupant of the Chair at this time, the distinguished President pro tempore, will face many of these problems because moneys needed to pay for oilspill response are subject to appropriations.

My last remark to the Senate would be that one real problem is that an oil spill is like a fire. Once it occurs, Mr. President, money has to be available immediately to allow an adequate response.

We need to work to make sure that money is always available.

I thank the Chair.

EXHIBIT 1

THE OIL POLLUTION ACT OF 1990

Senate and House conferees submitted to Congress today the compromise text of the "Oil Pollution Act of 1990."

Title One of the Act establishes a new liability regime for oil spilled into the navigable waters and Exclusive Economic Zone of the United States. The major provisions of Title One are:

Liability limits are raised from \$150 per gross ton to \$1200 per gross ton for vessels carrying oil (this means, for example, that the strict liability amount for the EXXON VALDEZ was increased from \$14.3 million to \$114 million);

A national Oil Spill Liability Trust Fund is established which can provide up to \$1 billion per incident to pay for cleanup costs, natural resource damages, and compensate victims for damages;

The types of damages for which spillers are liable have been expanded to include loss of use of natural or subsistence resources and increased costs to state and local governments for fire, police and other health and safety services;

A good samaritan provision protects persons (other than the spiller) acting under the direction of the President or in compliance with the National Contingency Plan from liability, with the exception of gross negligence or willful misconduct;

Liability limits do not apply in the case of gross negligence, willful misconduct, violation of an applicable Federal safety or construction standard, failure to report an incident or refusal to participate in a cleanup as directed by the President; and

Discharges from a public vessel or the Trans-Alaska Pipeline or terminal are not covered by the Act (TAPS has its own liability regime for onshore spills).

Title Two and Title Three contain conforming amendments and senses of the Congress concerning international negotiations on oil spill prevention.

Title Four contains provisions to strengthen oil tankers safety standards and to phaseout all single hull tankers by the year 2010. The major provisions of Title Four are:

The Coast Guard will review the driving records of all persons applying for or renewing merchant mariners documents or licenses, and may suspend, revoke or deny licenses or documents of persons who have been convicted of drunken or reckless driving;

The Coast Guard's authority to investigate marine accidents involving foreign tankers has been expanded to include accidents in the Exclusive Economic Zone;

The number of hours that tanker crews can work has been limited to 15 hours per day or 36 hours in three days;

The Secretary is required to publish regulations to require at least two tug escorts for single hull tankers in certain areas, including Prince William Sound and Puget Sound;

Double hulls are required on all newly constructed tankers, and double hulls or double containment systems are required on all tank vessels less than 5,000 gross tons (i.e. barges);

Existing single hull tankers are phased out based on size and age, with all single hull tankers banned after the year 2010 (due to the size factor, almost all single hull tankers would be gone from the Alaska trade by the year 2005);

Establish Coast Guard oil spill response groups in each of the ten Coast Guard districts;

Require contingency plans that are capable of cleaning up a "worst case" oil spill, which is defined as the loss of a vessel's entire cargo in adverse weather conditions;

Require that vessels and facilities have response plans approved by the President which demonstrate that a vessel or facility has contracted with private parties to provide the personnel and equipment necessary to clean up a worst case spill to the maximum extent practicable; and

Provide increased penalties for violations of statutes related to oil spills, including payment of treble costs by persons who fail to follow contingency plan requirements.

Title Five contains specific provisions for Alaska. The major provisions of Title Five include:

Authorization for the Prince William Sound Oil Spill Recovery Institute in Cordova, Alaska;

Establishment of Oil Terminal Oversight and Monitoring Committees for Prince William Sound and Cook Inlet, Alaska;

Authorization and appropriations for construction of a light on Bligh Reef and the upgrading of the Prince William Sound Vessel Traffic Service (VTS) system;

A requirement for additional oil spill response equipment and personnel in Prince William Sound; and

A requirement that pilots licensed by both the Coast Guard and the State of Alaska pilot all vessels from the Port of Valdez past Bligh Reef.

Title Six requires that all expenditures from the Oil Spill Liability Trust Fund, except compensation for damages and \$50 million per year for oil spill response, be subject to annual appropriations.

Title Seven authorizes \$27 million per year for national research efforts on oil spill response and damage assessment.

Title Eight contains provisions affecting the Trans-Alaska Pipeline System (TAPS). The major provisions include:

Repeal of the TAPS Liability Fund after all claims have been paid, with any remaining money deposited in the new national fund after a rebate to the State of Alaska for its share of the money transferred;

An increase from \$50 million to \$350 million for the limit on damages for onshore spills from TAPS (the unlimited liability for cleanup costs is the same);

A provision requiring the TAPS Fund to pay the shipper's \$14 million portion if the shipper does not reimburse claimants within 90 days after they file a claim; and

A two year engineering audit of the integrity of TAPS, including both the pipeline and terminal.

Title Nine contains provisions related to the Tax Code.

Mr. ADAMS addressed the Chair.

The PRESIDENT pro tempore. The Senator from Washington [Mr. ADAMS] is recognized for 5 minutes.

Mr. ADAMS. Thank you, Mr. President.

Mr. President, even before the Exxon Valdez disaster the Congress had been working for years on comprehensive oil spill legislation, but the disaster

gave movement to that legislation.

Throughout this Senate process my first goal has been the prevention of oil spills in Puget Sound. To achieve that goal and protection of our world's ocean environment I focused on prevention measures. The most recent spills off the Texas coast proved once again that preventing oil spills from happening is the only way preserve Puget Sound and the other fragile marine areas of our entire Nation and, yes, our entire world.

Once the oil is in the water, the battle to preserve our world's coastlines and living marine resources is already half lost. I have long felt that the single most effective preventive measure that can be achieved through legislation is to require oil tankers carrying oil in American waters to be equipped with double hulls.

Along with the late Senator Warren Magnuson I fought for double hulls for nearly 20 years. At last with this conference report we can claim victory. This legislation mandates double hulls on all new construction, and mandates a phaseout of the existing single-hulled fleet within 25 years.

I agree with those that find that phaseout period too long. The mandate for new construction however is a statement by the Congress, and particularly by this Senate, that double hulls are safer than single hulls. It will give banks, insurance companies, and citizen groups excellent leverage to put pressure on companies to make the transition to double hulls as quickly as possible. We already see that beginning to happen.

Mr. President, I have only one regret; that is, I wish Senator Magnuson were here today. This was his fight and this is his history. But I also want to give thanks to the people on my staff like Bruce Need, who is here beside me. Bruce's hard work, thorough knowledge of the issue and dedication to the protection of our coastal environment is greatly appreciated by the citizens of Washington State. Over the years that Bruce has worked with me I have gained a tremendous respect for his abilities. His actions on this oil-spill legislation illustrate, once again, his great skill in working with the legislative process. In addition, I would like to thank the former Deputy Secretary of Transportation, Alan Butchman, who I sent to London in 1977 through 1979 to try to negotiate double hulls throughout the world.

Especially I want to express my gratitude to the majority leader, and to my colleagues who have brought this conference report to the floor. This is truly a great day for the marine environment of the world. I just hope that all who live in this world, and particularly those who can enjoy the marine environment, are putting in place as

we in Puget Sound the traffic control systems, have double-hulled tankers plying their trade, and plans to deal with any accidents that occur.

Mr. President, I am so pleased to be able to be here today and vote for this conference report on comprehensive oil spill legislation, and particularly that we will have double hulls protecting Puget Sounds.

I yield the remainder of my time.

Several Senators addressed the Chair.

The PRESIDENT pro tempore. The Senator from Alaska [Mr. MURKOWSKI] has 3 minutes under the order.

Mr. MURKOWSKI. I thank the Chair.

Mr. President, I rise to compliment the members of the conference report for the extraordinary job that they have done in formulating this oilspill legislation.

Particularly I would like to recognize the contribution of the senior Senator from Alaska [Mr. STEVENS] who had the obligation as a consequence of the accident which occurred in our State, to take that leadership. I think it has been expressed in the conference report that we have before us.

The oilspill was a tragedy. But, we have learned important lessons from it.

I would like to highlight one provision of the conference report commented on by Senator STEVENS. We have crafted a provision providing for the rebuilding of a partnership between the industry and the citizens of our State through oilspill advisory boards. I am pleased to say that this is at no cost to the taxpayer.

This idea came up in the aftermath of the spill. I had an opportunity to spend some time in Alaska meeting with the affected communities. Approximately 67 meetings were held where we listened to the frustration of the local people. They wanted to be heard. They wanted to know how the spill happened, and how it could be assured that it would not happen again.

As a consequence, the advisory group idea was formed. We also relied on the experience resulting from a spill that took place in Scotland, Sullom Voe, that occurred several years ago. We now have been able to put together citizens who work in the area, that fish in the area, and that use the waters of Prince William Sound in other ways. They will have a responsibility to work in harmony with industry in overseeing an oilspill prevention, containment, and cleanup plan. We have formed two advisory groups. One will be funded by Alyeska, the pipeline consortium, for \$2 million, and the other will be financed by Cook Inlet operations for \$1 million.

This will rebuild trust by giving the citizens necessary involvement and oversight responsibility. The groups will also provide important recommen-

dations to both industry and regulators. They will have teeth, which I think is significant. I believe the effect will improve the technology for oilspill prevention, containment, and cleanup. The groups will review state of the art methods of spill containment and cleanup. The groups will present an awareness that industry could not have because industry is not involved in the daily process. They will address spill responsibilities on a level of people who are not employed by industry. Therefore, they will have a self-policing mechanism.

Finally, Mr. President, as we look at the report of the National Transportation Safety Board in this accident, there was enough blame for everybody. The fingers point all different ways. They point to Exxon for overtaxing crews, they point to the Coast Guard for not enforcing regulations, to the State of Alaska for not mandating pilots out in the ocean, and to the State Department of Environmental Conservation. As a consequence we have enough blame for everybody.

But we can learn from this lesson. That is hopefully what we have done with this legislation.

I also want to inform my colleagues that EPA Administrator William Reilly recently visited Prince William Sound and reported favorably on the condition of the spill impacted beaches.

I thank the Chair.

The PRESIDENT pro tempore. The time of the Senator has expired.

Mr. BREAU addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana [Mr. BREAU] is recognized under the order.

Mr. BREAU. I thank the Chair.

I, too, would like to congratulate all of the Members who participated in bringing this measure to the floor. Particularly, I want to congratulate the distinguished majority leader. Because of his persistence and dedication over a long period of time, we now have this product before the Senate.

Mr. President, others have described the provisions of the bill. Let me take this opportunity to point out that one of the reasons we need this bill is because we have an energy policy in this country that simply is not working. The events of yesterday and today, when we see Iraq attacking Kuwait, are another example that an energy policy that requires us to import over 50 percent of the oil that we use in this country is a policy that is not working; it is not good not only for energy but for the environment.

We are facing spill after spill washing up on our shores. We are importing over 50 percent of the oil that we use in this country. It is coming in, in foreign bottom ships, coming into the ports in rusty buckets. Of course, they are going to have accidents and, of course, there are going to be spills.

One of the needs we are addressing in this legislation is creating \$1 billion fund in order to clean up oil that is being spilled. The bill will require that the ships now are better made, better built, and have better crews; all of that is good.

Mr. President, as long as we in the Congress continue to say that we are not going to produce in this country, we are not going to produce off our shores, as long as we continue to pass moratorium after moratorium saying "Do not drill here; we would rather import it from Kuwait, from Iraq; we would rather import it from OPEC," we are going to continue to have these problems. The administration x'd out, selectively, areas in this country saying "Do not drill here."

This bill has a provision saying "do not drill off North Carolina." The simple truth of the matter, as shown by the National Academy of Sciences, is that the oil being spilled is not coming from our drilling operations. The National Academy of Sciences points out that less than 2 percent of oil spilled in the oceans of the world come from drilling operations; most of it comes from tanker operations.

As long as we have a policy that encourages foreign imported oil to continue to be brought to our shore, we are going to continue to have the problems that this bill, hopefully, will address. Until we get an energy policy that allows us to develop our own resources that we can develop more safely, we are going to continue to face foreign ships coming into our ports with foreign crude and having accidents and causing problems.

It is clear that the majority of the spills come from tanker operations and will continue to. And as long as we have a policy that encourages that type of an operation, we are going to continue to see the problems we are facing and the reason why this legislation is so necessary.

This legislation goes a long way, and the Senate should adopt it. It is a major step in the right direction.

For all of those who participated in the process, let me offer my congratulations for a job well done.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. ROBB). The Senator from Texas is recognized for up to 5 minutes.

Mr. GRAMM. Mr. President, a year ago this week, the Senate passed this bill with a vote of 99 to 0. It has taken us a year to work out our differences with the House. During that period, Texas has had two major oilspills. One of those oilspills—even as we speak here today—is fouling beaches and habitat areas in the Galveston Bay.

Mr. President, this bill today is not going to correct that problem, but it is going to give us the tools in the future to try to prevent problems similar to

this from occurring and will give us the tools to clean them up on an expedited basis when they do occur.

Where in America could you operate a major industrial center or a major port without a fire department, a fire department manned 24 hours a day, a fire department with the equipment that you might need if there was a fire present? You could not find such a situation anywhere in America, Mr. President.

But today, we operate ports that transport tremendous amounts of crude petroleum and petrochemicals where spills do occur, without having onsite the cleanup crews that are needed, the equipment that is needed, and the supplies that are needed.

This bill is a major step in ending that situation forever, in guaranteeing that at every major port in America, we are going to have a response team, that they are going to be available 24 hours a day, that they are going to have the tools that they need.

Also, this bill commits us to research and develop new prevention and cleanup techniques that are vitally important for the future. So, Mr. President, this bill is late, but I am delighted that it is here, and I think it is vitally important for America.

I yield the remainder of my time to the Senator from Washington.

Mr. GORTON. Mr. President, as I look forward to enjoying the breathtaking scenery and beauty of the Puget Sound area during the August break, it gives me great satisfaction to know that the Congress has come one important step closer to protecting this beautiful natural resource and our other precious national shorelines.

The Senate is about to approve one of the most important pieces of environmental legislation to come before this body in many years—the oilspill conference report. Sixteen years in the making, it will provide a far greater degree of protection for our marine environment from the horrendous damages caused by oilspills.

Last August, I offered an amendment which was narrowly defeated in the Senate which would have improved unlimited liability on shippers in the event of an oilspill. While I was disappointed in the outcome of this vote, I take great pride in seeing that the Senate's insistence against preempting State unlimited liability laws prevailed in the conference. This provision was essential to preserve our right in Washington State to require unlimited liability. Also ensuring, that right was the Senate's position insisting upon the deletion of language which would have implemented international protocols on oilspill liability. Fortunately, the Senate position on this measure also prevailed in the conference. Instead of implementing the protocols, the bill contains a nonbinding resolution stating that the United

States should participate in an international oil pollution liability and compensation system that is at least as effective as Federal and State laws.

I also want to compliment my colleague, Senator ADAMS, for his role in obtaining a double hull requirement for oil tankers. I was disappointed that his amendment which would have required double hulls was also narrowly rejected by the Senate last August. But fortunately, the closeness of this vote, together with Senator ADAMS work and dedication set the stage for the final provision which requires double hulls on all new oil tankers and barges.

In addition the bill requires the phasing-out of single hull vessels over 5,000 gross tons. It is estimated that 45 percent of the fleet will be phased out by the year 2000, 85 percent by the year 2005 and 100 percent by the year 2010.

I also want to recognize the achievements of another Washington State colleague, Congressman CHANDLER. On the House side he was able to insert a provision which I sponsored on the Senate side, which will require tug escorts of oil tankers in Puget Sound, around the San Juan Islands and in the Strait of Juan de Fuca. Specifically, the bill directs the Secretary to define those areas of Puget Sound, the Strait of Juan de Fuca east of Port Angeles, Haro Strait, the Strait of Georgia and Rosario Strait on which single hulled tankers over 5,000 gross tons transporting oil in bulk shall be escorted by at least two towing vessels.

The Oil Pollution Act of 1990 includes other important provisions which will encourage more cautious and safe behavior by those corporations we entrust to move oil over our waters. Liability limits are raised from \$150 per gross ton to \$1,200 per gross ton. These liability limits do not apply in the case of gross negligence, willful misconduct, or in the case of a violation of an applicable Federal safety or construction standard. Important manning standards are included limiting the number of hours a crewmember can work on a vessel. New alcohol and drug testing requirements are included. New requirements calling for national planning and response systems are established. A district response group, including response personnel and prepositioned equipment, would be established in each of the 10 Coast Guard districts. A national oilspill liability trust fund is established to provide up to \$1 billion per incident to pay for cleanup costs, the damage done to natural resources from a spill and for compensation to victims.

Mr. President, I commend my colleagues for their hard work and diligence in enacting this piece of legislation. It is bound to be one of the single most important initiatives passed by the Congress this year.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LAUTENBERG be permitted to speak for 3 minutes, and that 1½ minutes of that time be yielded to him from the time remaining of the majority leader.

The PRESIDING OFFICER. Is there objection?

Without objection, Senator LAUTENBERG is recognized for 3 minutes.

Mr. LAUTENBERG. Mr. President, I rise today in support of the conference report on the Comprehensive Oil Spill Liability and Compensation Act. The manager of this bill, Senator BAUCUS, continues to distinguish himself as a leader in the fight for a cleaner environment. This is further evidence of those efforts. I congratulate him for that. I particularly, however, want to note the contribution of the majority leader to the development of this bill. He has been working on this issue for more than 10 years. His persistence and insistence that States not be preempted in their actions has finally born fruit. I am pleased to have been part of that. It was well over a year ago that I joined the majority leader and Senator BAUCUS in introducing S. 686, the bill which served as the basis for the conference report now before us. It has been almost a year to the day since the Senate passed this important legislation. Over the course of that year, much has happened. Oilspills have continued to foul our waters. No area has been hit harder, or more frequently, than my region.

Located between the Delaware River and New York Harbor, New Jersey sees vast amounts of oil transported along our coastal waters. But, too much of that oil is ending up in our waters, and on our coastline; this is something we cannot tolerate.

In the measure we are about to approve, we take a major step forward in battling this threat to our precious coastal resources.

This legislation attacks the problem from all directions. Consistent with the bill that I introduced in April 1989, it will help prevent spills by requiring contingency plans for those involved in the transport of oil. Without an approved plan, shippers will not be allowed to conduct business in U.S. ports.

The bill greatly increases the penalties for spilling oil into our waters. Liability limits are significantly increased, to the greater of \$1,200 per gross ton or \$10 million for tankers. These new liability limits are essential in making it clear to shippers that they will pay, and pay dearly, for the types of mistakes we've seen in the industry.

The conference report also protects the rights of States to impose their own standards of liability on oil operations. This has been a major sticking

point that has prevented passage of a comprehensive oilspill bill for years. Since 1986, I have been working with the majority leader to try to pass a bill. Each time, the House has sought to preempt State law, and each time we have refused to take away the ability of our States to be tough on spillers.

It is essential that we make sure that States like New Jersey have the tools at their disposal to be able to best protect their waters. Finally, this year the House yielded on this key point. The rights of States to have tough oilspill laws are protected. And we will have the comprehensive national law that we need.

The conference report also makes important improvements to the Coast Guard's oilspill response structure. Enhanced resources are authorized for each Coast Guard district, to complement private resources. The conference report also reaffirms the Coast Guard's authority to establish and maintain strike teams to respond to major spills of oil and other hazardous substances.

As my colleagues know, I chair the Transportation Appropriations Subcommittee. In putting together the fiscal year 1991 transportation bill, one of my highest priorities was making sure that it provides the Coast Guard with the resources to do its job. In that bill, recently reported to the floor, I included \$53 million for the Coast Guard to implement the responsibilities laid out in this legislation.

Within those funds, I earmarked \$7 million for the establishment of a new Atlantic strike team, to be located in New Jersey.

Right now, there are only two strike teams—one in Mobile, AL, and the other near San Francisco, CA. This has proven to be inadequate. When I can get to the site of a spill more quickly than the strike team, something is wrong.

The response time for the Mobile strike team to reach spills in the Northeast has averaged about 12 hours. When the first few hours can mean the difference between containment and catastrophe, that is unacceptable.

Formation of this new team will provide for timely, effective Coast Guard response to spills in New York Harbor and on the Delaware River, and throughout the eastern United States.

The bill also takes a significant step forward with regard to double hulls. The double hulls provision included in this conference report is a good one, but not as good as I would have liked to have seen.

However, it is stronger than the provision included in the bill that passed the House in that it starts phasing out single-hulled vessels in 1995; a full 5 years earlier than under the House provision.

Like the House provision and the Adams amendment that I supported on the Senate floor last August, it requires all new tankers entering the U.S. trade to be doublehulled.

But, there are weaknesses in the provision. The phaseout period is too long. And, it provides an exemption for small barges, which account for a significant amount of traffic in my region.

Mr. President, the lessons we've learned over the last 18 months or so have been painful. I went to site of the *Valdez* spill with the Coast Guard.

As anyone who has been there will attest, the devastation of that pristine environment was a tragedy to see. At the same time, we saw nature at its best, and man at his worst.

Oilspills have devastated New Jersey and other areas. Just since January of this year, more than 1 million gallons of oil have been spilled into our waters.

I have been to the sites of these spills. Each time is more frustrating than the last. We have had enough. We cannot sit by, as oil companies, more concerned with corporate profits than environmental protection, continue to present candidates for the "Spill of the Month Club."

The citizens of New Jersey have spent countless hours and resources working to clean up our coastal waters. Shellfish beds have returned to areas long ago considered dead. It's a tremendous success story, and we are proud of it. But, in a few hours, oilspills have wiped out all the years of hard work. It is an outrage, and it has to stop.

Enactment of the conference report pending before us can significantly reduce the chances of such spills wreaking havoc on our national resources. I urge my colleagues to support this vital legislation.

The PRESIDING OFFICER. The Senator's time has expired.

The Chair recognizes the Senator from Montana, Mr. BAUCUS.

Mr. BAUCUS. Mr. President, I point out this is not just a coastal State problem. One year ago yesterday there was a massive spill in White Fish Lake, MT, a very pristine lake. Many oil tankers spilled into White Fish Lake. It was a massive spill.

It is my hope this legislation will also tend to prevent those kinds of spills happening and the liability and cleanup provisions will go a long way.

Mr. President, at this point I also give my special thanks to the chief committee staff person dealing with this issue, and that is Mr. Bob Davison. He, along with the minority staff member, helped fend off hordes, swarms of House committee staffers, and did a great job of putting together this oilspill conference report and the Senate is indebted for the work of Bob Davison.

Mr. STEVENS. Mr. President, will the Senator yield for one comment?

Mr. BAUCUS. I yield.

Mr. STEVENS. Earl Comstock has done the negotiation for the Commerce Committee. He has done a admirable job. I commend him.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Chair will remind the Senator under the unanimous-consent agreement there are only 1 minute and 20 seconds allocated to the Senator from Montana.

Mr. CHAFEE. Mr. President, in addition to those Senators who have spoken today, I commend the service of Senators JEFFORDS, WARNER, and DURENBERGER, and also thank the distinguished Senator from Alaska [Mr. STEVENS] for the work he has done. Truly this bill stemmed from the *Exon Valdez* disaster and the contribution Senator STEVENS, Senator MURKOWSKI, and others made was certainly significant.

Mr. BAUCUS. Mr. President, I ask unanimous consent that Senator LIEBERMAN from Connecticut be recognized to speak for 2 minutes and that 1 minute from our remaining time be allocated to him to constitute 1 of those 2 minutes.

The PRESIDING OFFICER. The Senator has 1 minute, so the Senator's time will have expired.

The Senator from Connecticut is recognized for not to exceed 2 minutes.

Mr. LIEBERMAN. Mr. President, I rise in strong support of the Oil Pollution Act of 1990.

I congratulate the members of the committees and the conferees who have worked long and assiduously for so many years on this legislation and particularly Senator MITCHELL for his long and unyielding perseverance in bringing this bill to a conclusion after 8 hours of enormous battles.

I am particularly pleased that the legislation assures that those who are responsible for damaging our fragile environment will be subject to substantial civil and criminal penalties in addition to responsibility for cleanup costs.

In the aftermath of the *Erron Valdez* disaster, many of us were shocked by the inadequacies in our current scheme of laws governing oilspills.

In particular, our laws contained many ambiguities with respect to the amount of penalties which could be assessed against polluters. The laws also contained no power for the Government to order cleanup of oil from a vessel, and no power to assess triple cleanup costs if a polluter violates the Government's order.

In response to these inadequacies, I along with colleagues on the Environment and Public Work Committee, in-

roduced a bill last year to expand and strengthen both the provisions relating to penalties which can be assessed against those responsible for an oil spill and the Government's enforcement authorities. I am extremely grateful that the legislation before us today contains many of the provisions from this bill, including: raising the civil penalties for oil discharged in violation of the Clean Water Act to up to \$1,000 per barrel discharged, providing for a range of criminal penalties, including in the event of knowing violations causing others serious injury, imprisonment of up to 15 years, and providing the Government with the clear authority to order a polluter to conduct a cleanup until it is completed and to assess triple the cleanup costs if the polluter fails to comply with the order.

The strong civil and criminal penalty provisions of this bill are designed to ensure that companies will act in a manner which protects our fragile environment. Unfortunately, the sad fact is that once a spill occurs, the experts tell us we are lucky if 10 to 20 percent of the spilled oil is recovered. While other provisions of this bill seek to ensure that new cleanup technologies are developed to help change this situation, the most effective way to ensure that companies act in a manner which will prevent the spill in the first place is to spell out the consequences of their failure to do so.

It was my intent in writing the penalty provisions of my legislation, which have been substantially adopted in this bill that, in the event of a spill, the Government apply the penalty provisions in a manner which will punish the violator and deter and prevent future violations. Large civil penalties and criminal penalties—where criminal enforcement is appropriate—are also especially important because, in certain cases, the liability of the spiller for cleanup costs under Federal law is limited by the provisions of this bill; aggressive penalties may need to compensate for this limited liability. At the same time under the terms of this bill, in those situations where the liability limits may be pierced, the violations are particularly egregious and strong penalties must also be sought. In enforcing these provisions, the Government should also bear in mind that law enforcement officials, including the Attorney General of the United States, have recently emphasized that criminal enforcement is a particularly effective tool in securing compliance with our environmental laws; this special deterrent effect should be strongly considered in those cases where the Government may have discretion to apply civil or criminal penalties.

There are important provisions of this bill which provide the Government with authority to order a polluter to cleanup. These provisions are de-

signed to be used not only right after a spill occurs, but also to prevent a situation such as the one which occurred last fall when Exxon attempted to establish a nonnegotiable date of departure from Alaska despite the fact that the cleanup wasn't completed. This bill makes clear that the Government can issue an order to Exxon to do the work and if Exxon refuses to comply, it will be assessed up to triple the costs the Government is forced to incur; these treble damages are in addition to recovery of the response costs themselves. The Government's use of similar administrative order authority in our Superfund law has been extremely effective in getting responsible parties to take cleanup action. I am convinced that if this legislation had been law last fall, it would have been the Government, not Exxon, which would have been issuing nonnegotiable demands.

Mr. BENTSEN. Mr. President, the oilspill incident in Galveston Bay, a little more than a month after another major oilspill just 57 miles off the Texas coast, points up the need for oilspill legislation. I am pleased that we are finally acting on the oilspill bill and sending it to the President.

Mr. President, to the average Texan, this bill was needed long ago. Texans are now in the grips of another major oilspill. Just last Saturday a major oilspill occurred in Galveston Bay, one of the most important estuaries in the Nation. The spill resulted when an outbound Greek tank ship, *M/V Shinooussa*, collided with three inbound tank barges, which carried an estimated combined total of 2.6 million gallons of oil catalytic feed stock ("cat-feed oil"), a refinery oil similar to No. 5 oil. The oil is fairly heavy. The Greek tanker sustained little damage, but two of the barges were severely damaged; one even sank.

The initial estimates underestimated the amount of oil that spilled—50,000 gallons. After a preliminary diver's survey, the spill estimate was revised upward to 500,000 gallons, which made the spill a major pollution incident. There is no question that this spill will have a major environmental impact.

If we don't get it under control within the next few days, I am afraid of what that portends for the bay. That is why the most important thing right now is that we have enough cleanup personnel and equipment on the scene to get this spill under control, and to prevent it from spreading to more environmentally sensitive areas. I have done a lot of work to preserve Galveston Bay, and one spill like this can set us back years.

That is why the action we take today is so important and timely. We need this now more than ever. All of us are familiar with oil spills and the environmental damage they can cause.

This bill helps to address these problems. Among other things, the bill establishes a Federal oilspill compensation fund. I am pleased to have had a chance in developing the structure of this fund. Last year, the Finance Committee increased the financing rate for the oilspill liability trust fund to 5 cents per barrel of petroleum and increased the size of the fund. The Finance Committee also increased the borrowing authority of the fund to \$1 billion. Taken together, these changes will empower the trust fund to respond effectively and forcefully to a major oilspill.

The bill also increases the liability for those who cause oilspills. The polluter pays principle is alive and well in this bill. The bill also requires double hulls on most oil tankers, and requires better contingency planning and preparedness on the part of tank and barge owners, Federal, State, and local governments.

Damages for which spillers would be liable include loss of profits or earning capacity due to property or natural resource damage, and property damage and losses. States could also seek natural resource damage compensation. The bill also preserves the right of States to have oilspill liability laws. The bill has many other important elements, including requirements for direct oilspill response teams to be located within each Coast Guard district. The oilspill bill would require regional oilspill response teams, one in the Gulf of Mexico, that could be dispatched quickly to the scene. The teams would be trained to respond to oilspills unique to a given region, whether the frosty environment of southwestern Alaska or the war currents and conditions of the gulf coast. These teams would be full-time trained personnel. They would be able to command fully operations vessels, complete with equipment for containment, recovery, dispersal, shoreline cleanup, and protection of fisheries and wildlife resources.

The bill requires that oil spill containment equipment be on board oil tankers; that a legally binding plan be in place to deal with such disasters immediately. No more waiting until the right equipment and the right people come from another part of the world as happened in the case of the *Mega Borg*.

The bill covers any oilspill in U.S. waters—out to 200 miles offshore—by a foreign or domestic shipowner who does business in this country or stops at one of our ports. That means that under the bill *Mega Borg* oil spill would be covered, and the responsible Norwegian owner would have been liable for cleanup costs and damages.

Mr. President, we can no longer afford to accept oilspills as a necessary cost of doing business. They are not.

We have to prevent them, and when they occur, we have to act quickly to clean them up.

The oilspill now down in Galveston Bay, the *Mega Borg* spill just 57 miles off the Texas coast a month ago, the *Exxon Valdez* disaster are more than enough proof that this bill is what is needed now—finally. I am pleased to support it.

Mr. LEVIN. Mr. President, I rise in support of H.R. 1465, a bill to revamp our national spill response and prevention programs. I was an original co-sponsor of the Senate version of this bill. I am glad to say that final version is even better than the first.

Eighteen months ago, our television screens filled with scenes of blackened beaches, oiled birds, and maps marking the shipwreck of the *Exxon Valdez* in Prince William Sound, Alaska. The Nation collectively recoiled at the environmental damage caused by the tanker's 11 million gallon spill. The public outcry galvanized Congress into action, and for the last year, it has been working on legislation to address not only the tragedy in Alaska but the need to protect all American waterways from the threat of massive oil spills.

That is because this is truly a national problem. The *Exxon Valdez* was only the first of many television exposes on spills in American waters over the past year. We have seen the billowing smoke from the *Mega Borg* burning off the gulf coast, the repeated pollution of the Arthur Krill waterway near New York, and the oil-laden marshes from the latest spill in Galveston Bay.

My part of the country is also at risk. At a hearing I held last September, we learned that the Great Lakes actually experience hundreds of spills each year. We learned that about 50,000 oil storage facilities line the shores of the Great Lakes, and about 81 million barrels of oil and chemicals traveled Great Lakes waters in 1989 alone. Prior to this hearing and an extensive data search by the Coast Guard documenting about 5,000 spills of oil and toxic chemicals during the 1980's few people had any idea that the Great Lakes were as much at risk as our saltwater coasts of experiencing a massive spill.

But the Great Lakes do have that risk. Even worse, it is now clear that the region is ill-equipped to handle a major spill. Accurate equipment inventories did not exist when we began, but the preliminary reviews now indicate significant gaps in such basic spill-fighting equipment as oil containment boom. Regional reports have identified a host of unpreparedness problems including an absence of maps of environmentally sensitive areas, a lack of contingency plans to treat oiled wildlife, and inadequate protections of drinking water intakes.

Spill prevention programs for the region administered by the Environmental Protection Agency and Coast Guard have suffered dramatic cutbacks with corresponding increases in spills. Federal spill research programs, whose funds dropped about 90 percent during the 1980's, have virtually no projects focussing on Great Lakes concerns.

The Great Lakes' vulnerability to oilspills and the glaring inadequacies in its spill response and prevention measures led me to introduce in September 1989, S. 1646, the Great Lakes Critical Programs Act. This bill proposed a number of improved spill protections for the Great Lakes, including a federal emergency spill response center, an inventory of spill-fighting equipment, and renewed research into Great Lakes concerns. The Senate Great Lakes Task Force endorsed these proposals and joined me in lobbying for their inclusion in the comprehensive oilspill legislation then working its way through Congress.

I am happy to report that H.R. 1465, before us today, incorporates virtually all of the oilspill protections I proposed in S. 1646. First and perhaps most importantly, it mandates the establishment of a Federal emergency spill response center for the Great Lakes region. This center will help us in two ways: It will stock equipment needed to fight a major spill—equipment which we do not have now—and it will store this equipment in the area to permit quick response. Right now, we would have to wait about 12 hours for that equipment to be flown in from the Coast Guard center in Mobile, AL. The establishment of this Great Lakes emergency center is a significant improvement in the region's spill response capability. It will give us a fighting chance to stop a major spill.

Second, the bill mandates the creation of a nationwide computerized inventory of spill-fighting equipment. This inventory will be operated by the Coast Guard and will include Great Lakes equipment. That means, in the event of a major spill in the Great Lakes, the Coast Guard will be able to use its database to mobilize needed resources quickly—not only within our region, but also throughout the country.

Third, the bill will revive Federal spill research programs in a way that will include projects on Great Lakes concerns. In essence, it will authorize Federal funding of research projects in each of the 10 Coast Guard districts—including the Great Lakes district—to address the concerns relevant to each district. That means that research proposals within the Great Lakes district will address Great Lakes concerns such as the protection of drinking water supplies. This system will allow a loose coordination of Federal research efforts, while ensuring

that the concerns of particular regions, like ours, are addressed.

Fourth, the bill will tighten pilotage requirements for ships travelling through the Great Lakes by ending Canada's practice of issuing so-called B certificates to pilots of foreign flag vessels. These certifications allowed foreign ships to employ pilots who were less qualified and less familiar with the Great Lakes to steer the ships through areas designated as difficult to navigate. The bill will stop this dangerous practice by requiring foreign-flag ships to use fully qualified and licensed American or Canadian pilots to navigate in the designated waters. While this spill protection was not part of S. 1646, it was discussed at the September hearing and is an important and welcome measure.

Fifth, the bill includes a provision that Senator KOHL and I authored separately to require the United States to sit down with Canada and determine what changes, if any, are needed in the United States-Canada Great Lakes Water Quality Agreement to prevent spills, improve coordination of our spill response efforts, and apportion cleanup costs should a spill occur in the Great Lakes. Since Canada is undergoing a similar, comprehensive review of its spill response and prevention capabilities, this review will provide timely and valuable service to both countries.

I could continue listing the bill's benefits for the Great Lakes region, but I think it is enough to stop here and state that the legislation represents a major step forward. The bill will not cure all the inadequacies in our spill response and prevention programs, and it certainly will not stop all the spills. But it is a sweeping, responsible and intelligent reform, and it represents a major victory for those fighting to reduce Great Lakes spills.

Besides the provisions that specifically address the Great Lakes, the bill has many general provisions that strengthen our ability to combat spills. For example, it more than doubles the penalties on polluters and links the size of those penalties to the size of the spills. That means, for the first time, bigger spills will mean bigger fines. The legislation also strengthens and clarifies the chain of command involved in cleanup operations—in essence, it requires the President to take charge of a spill response operation unless another party is found capable of cleaning up the mess. That means cleanup operations will be smoother and less dependent upon the good will and response capabilities of the polluter that caused the damage.

It takes other actions as well, including establishing an industry-financed cleanup fund, requiring double hulls on oil transport ships, and establishing a national network of emergency spill

response centers. It also preserves the rights of individual States to enact even tougher spill response and prevention measures.

Oil spills are a real and continuing threat to our waters, our wildlife and ourselves, and we've got to do as much as we can, first, to prevent them and, second to protect ourselves as much as possible when they occur. H.R. 1465 will go a long way towards accomplishing those goals.

I want to express my gratitude to my colleagues for the hard work that they and their staffs put into drafting, negotiating and persisting in their efforts to reach agreement on this legislation. I particularly want to thank the majority leader, GEORGE MITCHELL, and his staff, for their untiring efforts. The final bill is a good one, and I believe history will mark it as a major accomplishment of the 101st Congress. I urge my colleagues to join with me in voting for final passage.

THE PRESIDING OFFICER. All time has expired.

The Chair recognizes the Senator from Montana [Mr. BAUCUS].

OILSPILL LIABILITY

Mr. DOLE. Mr. President, I am pleased to support the conference report accompanying H.R. 1465, the Oil Pollution Act of 1990, even though it falls short of action urged by President Reagan and includes a last minute moratorium on a promising lease in the Outer Continental Shelf.

The act will, for the first time, provide for both the authority and money to quickly respond to maritime accidents in which crude oil and petroleum products contaminate our oceans, rivers, and lakes. It imposes a \$0.05-per-barrel fee on oil shipped through our ports which will be held in trust for use in containing and disposing of oil spills. Up to \$1 billion could be spent on each incident. In addition, a \$50 million Presidential fund is provided for rapid responses to spills.

In the past few years, maritime accidents have left oil contamination in every coastal region of our country, while we have been left virtually helpless to respond as a Nation. Private efforts have attempted to respond, but inadequate equipment and delays due to the need to transport equipment have shown us that more needs to be done. This legislation will be an important first step in protecting our shores, by providing for a uniform response.

Unfortunately, the Senate has not acted to ratify the international civil liability and fund protocols sent to us in 1984 by President Ronald Reagan. These protocols seek to protect all the Earth's seas and oceans—not just those of the United States. Currently, if a tanker were to break apart off the fragile coast of Antarctica, that pristine area would have no one to come to the rescue. As a Nation which is responsible for a large share of the oil

tanker traffic, it is our duty to enter these international agreements to protect the Earth. I hope the majority leader will promptly schedule consideration of the treaties, as well as legislation needed to implement them.

In what can only be termed ironic, the conferees also agreed at the last minute to include a moratorium on exploration for natural gas in an area which is over 30 miles off the coast of North Carolina. Without hearings, without notice, the conferees took an action which is a set back for the environment for two reasons. First, this lease is expected to contain natural gas, not crude oil. Everyone knows that natural gas is a clean burning fuel which would reduce emissions and help us attain the tough new standards we recently approved in the Clean Air Act. We will not achieve those standards without an adequate supply of natural gas. Second, there has not been a spill from an OCS drilling operation in the United States since the 1960's—almost 30 years ago. Strict regulation of OCS activities have reduced the risk of blowouts to be almost negligible. Oil spills result from transporting crude oil and petroleum products in tankers and barges, not from drilling, so we should encourage OCS activity in nonsensitive areas.

Mr. President, even with these two major environmental shortfalls, I support this conference report and urge its adoption.

Mr. HOLLINGS. Mr. President, I rise today to urge Senate passage of the conference report on H.R. 1465, the Oil Pollution Act of 1990.

The Senate initially passed comprehensive oilspill legislation, S. 686, last year on August 3. In October 1989, the House responded and passed H.R. 1465. The conference report we are considering today represents a compromise between the Senate bill, S. 686, the Oil Pollution Liability and Compensation Act of 1989, and H.R. 1465, the Oil Pollution Act of 1990.

This conference agreement, among other things, will impose new requirements on the operations of oil tankers in the United States, enhance the authority of the Coast Guard to regulate effectively the conduct of merchant marine personnel, put the Coast Guard in charge of any oilspill that poses a significant threat to the environment, and require Coast Guard-approved contingency plans for all oil tankers and facilities.

The legislation before us today takes many features of S. 686 and incorporates them into H.R. 1465 and leaves intact other sections of S. 686 and H.R. 1465. Notable provisions include the requirement that most oil tankers have double hulls by the year 2010. This requirement includes concepts that were contained in both the House and Senate bills. The legislation also contains strict alcohol and drug test-

ing provisions for seamen, vessel navigation requirements, and other operational and structural requirements for vessels that are transporting oil.

We held a number of hearings in the Commerce Committee on the Exxon Valdez spill. The legislation resulting from those hearings was S. 1461, the Oil Tanker Navigation Safety Act of 1989. This legislation was reported from the Commerce Committee and joined with Senator MITCHELL's bill, S. 686, which passed last year. After long and intense negotiations with the House, a compromise was reached that contains the best provisions of the bills. I believe this compromise is fair and goes a long way in preventing the type of accident that occurred involving the Exxon Valdez.

Mr. President, it is clear that the problems that surfaced following the Exxon Valdez accident were not confined to any one issue. Thus, the need is inescapable for a comprehensive bill, one that lessens the risk of future spills, improves the ability of industry and government to respond to a spill, and clarifies the liability regime and ensures a compensation system. I believe that if the Senate approves this conference report, we will have met that need and produced a measure that is truly comprehensive in scope.

Thanks to the efforts of Senator MITCHELL and others on the Environment Committee, and to Chairman JONES of the House Merchant Marine and Fisheries Committee, we have been able to craft legislation that combines the best features of both the Senate and House bills, and one that will provide a rational and comprehensive approach to oilspill prevention and liability. I commend this conference report to my colleagues and urge them to support it.

Mr. BAUCUS. Mr. President, I ask for the yeas and nays on the conference report.

THE PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

THE PRESIDING OFFICER. All time has expired.

The question is on agreeing to the conference report. On this question, the yeas and nays have been ordered and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Oklahoma [Mr. BOREN], is necessarily absent.

THE PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—99

Adams	Armstrong	Bentsen
Akaka	Baucus	Biden

Bingaman	Gorton	Metzenbaum
Bond	Graham	Mikulski
Boschwitz	Gramm	Mitchell
Bradley	Grassley	Moynihan
Breaux	Harkin	Murkowski
Bryan	Hatch	Nickles
Bumpers	Hatfield	Nunn
Burdick	Hefflin	Packwood
Burns	Heinz	Pell
Byrd	Helms	Pressler
Chafee	Hollings	Pryor
Coats	Humphrey	Reid
Cochran	Inouye	Riegle
Cohen	Jeffords	Robb
Conrad	Johnston	Rockefeller
Cranston	Kassebaum	Roth
D'Amato	Kasten	Rudman
Danforth	Kennedy	Sanford
Daschle	Kerrey	Sarbanes
DeConcini	Kerry	Sasser
Dixon	Kohl	Shelby
Dodd	Lautenberg	Simon
Dole	Leahy	Simpson
Domenici	Levin	Specter
Durenberger	Lieberman	Stevens
Exon	Lott	Symms
Ford	Lugar	Thurmond
Fowler	Mack	Wallace
Garn	McCain	Warner
Glenn	McClure	Wilson
Gore	McConnell	Wirth

NAYS—0

NOT VOTING—1

Boren

So the conference report was agreed to.

Mr. MITCHELL. Mr. President, I move to recognize the vote by which the conference report was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MITCHELL. I ask that the Senator from New Jersey be recognized.

The PRESIDING OFFICER. The Chair recognizes the Senator from New Jersey.

Mr. BRADLEY. Mr. President, we have just passed an enormously significant piece of legislation that will dramatically improve our environment. As a Senator that comes from a coastal State, it has enormous, important implications for improving the environment in New Jersey and other coastal States.

I would like to take this opportunity to salute the distinguished Senator from Montana for his leadership on this issue. He has been persistent and tenacious. He comes from a State that does not have oceans on its boundaries, but he has recognized that oil spills are a national problem and he has provided leadership that has brought us to this point where we have enacted this significant piece of legislation. I personally would like to salute him for his leadership.

Mr. President, last year the attention of the Nation was riveted by the horrible sight of oil defiling Alaska's shores after the *Exxon Valdez* ran aground on Bligh Reef. Although the spill was and remains an environmental disaster, it had a political impact that today helped pass much needed and long overdue legislation on oil pollution.

Since January, a total of over 1.2 million gallons of oil have been spilled in New Jersey waterways. The waters of the Kill van Kull and the Arthur Kill, adjacent waterways in the Port of New York and New Jersey, have repeatedly been fouled by oil spills. Three of them emptied over 100,000 gallons of oil into our waters. Shore and wetland areas have been oiled, partially cleaned, and oiled again. Migratory shore birds, whose primary food was threatened by spills in January, were themselves oiled in June. Tar balls washed up on New Jersey beaches during the peak summer beach season.

That 1.2 million gallons provides vivid evidence that business as usual cannot protect marine, estuarine and coastal areas. The Port of New York and New Jersey handles over 4,000 tanker and petroleum barge arrivals and over 4,000 departures annually. More than 10 million tons of crude oil and 100 million tons of other petroleum products flow through the port annually. With traffic so heavy, and the consequences of an accident so severe, only the most stringent standards of care are acceptable. By passing this legislation, we have made it clear to oil transporters that they will be held fully responsible for their accidents. We have taken a major step toward reducing the chances of similar accidents in the future.

I am glad that at long last, oil will be carried in double hulled vessels in American waters. A single, vulnerable skin of steel has repeatedly been shown to be unable to protect marine waters from pollution. The objections of the oil industry notwithstanding, this measure is long overdue. Tankers carrying other hazardous liquids have used double hulls for years. Double hulls are effective and safe.

I am particularly pleased that the bill incorporates a provision to accomplish what I sought when I introduced "The Oil Transfer Liability Act" earlier this year. This provision ensures that all parties can be held accountable for their actions if a spill occurs during oil transfer operations, regardless of the point of discharge of oil. Many spills occur in New Jersey waters each year during the transfer of oil to or from a barge or tanker. Although the majority are small spills, in one accident this spring, over 27,000 gallons of oil were released when pumped into a barge with an easily visible hole. The provisions incorporated in the final bill will reduce the chance of spills in the future, and will ensure that everyone involved in an accident can and will be held accountable for their actions and inactions.

The conference report includes the following on section 1009 of the bill:

The conferees note that this section might come into play in an instance where more than one party is involved with a spill.

For example, a spill may occur when oil is being transferred between a vessel and an onshore facility. If the discharge comes from the vessel, it is the vessel that will be the responsible party for purposes of the conference substitute. Nevertheless, if action or omission of the onshore facility contributed to the discharge, the operation of this section or section 1015 on subrogation could result in the facility being held accountable financially in part or in whole.

In short, anyone involved in an oil transfer can be held liable if they contributed to the spill.

Mr. President, I am very pleased to see this legislation get final approval from the Senate.

The PRESIDING OFFICER. The Chair recognizes the Senator from Connecticut [Mr. DODD].

Mr. DODD. Mr. President, allow me to join in the remarks of the distinguished Senator from New Jersey and commend the Senator from Montana and the distinguished majority leader as well for their fine efforts.

(The further remarks of Mr. DODD and Mr. LEAHY pertaining to the introduction of S. 2954 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. Chair recognizes the Senator from New York [Mr. MOYNIHAN].

Mr. MOYNIHAN. Mr. President, as one of the conferees on the oil spill legislation, may I offer an altogether affirmative repetition of the praise we have heard for the Senator from Montana today. This was not an easy conference. We had some 70 Members from the House and only a handful of us. The Senator from Montana led us brilliantly, and, in the course of doing so, Mr. President, did something of large importance to our Federal System and to the majority leader. We did not preempt State law in the handling of these matters.

Mr. President, we have a good bill. I think we are now prepared to deal with what has become an unfortunately common environmental hazard.

Of particular importance to me is that the Great Lakes will now have the benefit of increased attention. This measure requires that every Coast Guard district now have personnel and equipment for spill cleanup—10 new district response groups, including one based on the Great Lakes. The bill also recognizes the dangers of the frequent spills in New York Harbor and the particular hazards of transporting oil through its waterways. We will have a 4-year, \$3 million oil pollution minimization project to be conducted by the Coast Guard with the Port Authority of New York and New Jersey. The project will work to improve vessel and pipeline safety to minimize future spills.

RESPOND TO HUSSEIN'S VILLAINY

Mr. McCAIN. Mr. President, just yesterday I met with some of my colleagues in the Senate to discuss aid to El Salvador, and I was told with some disdain, "Don't you know the cold war is over?" Well, the cold war may be over, but we still live in a world of wars. It is still a world filled with peril for American security interests and American values.

It is a world where the ambitions of overarmed butchers like Saddam Hussein can disrupt stable structures of international relations; where regional killers like Saddam Hussein can threaten the global economy; where in an age of democratic resurgence, a cynical tyrant like Saddam Hussein can make a mockery of notions like territorial integrity and human rights. We live in a world where we can only protect our friends, ourselves and our values against men like Saddam Hussein with strong, forceful action and military preparedness.

With a sneering, Hitler-like contempt for national sovereignty, peaceful relations between states and the decent opinion of mankind, Saddam Hussein launched his invasion of Kuwait at night. How fitting that Hussein's latest act of villainy began in the dark. It was an act of unsurpassed dishonor and it should have begun at night. Thieves and killers always prefer to unleash their treachery in darkness. And even in the long and sordid history of aggression in this violent century, this is an unusual example of treachery.

Iraq's treachery is unconstrained by anything remotely similar to the sensibilities of civilized people. Like Hitler, Hussein takes pride in cultivating the brutal aspects of human nature. There is not even room in his base psychology for gratitude for the past sources of support.

When Iraq's very survival was threatened by Iran, Kuwait gave Hussein billions of dollars. Despite enormous risks for its own security, Kuwait served as a major port for Iraq. Kuwait remained a steadfast ally of Iraq, all the while enduring terrorism, air raids, and missile attacks. On behalf of Iraq, Kuwait stood up to Iran and Iran's attacks on Kuwaiti tankers.

How has Hussein repaid Kuwait for their exceptional support in Iraq's great time of need? Iraq has charged Kuwait with border violations. There was no border violations until last night. The border between Iraq and Kuwait was agreed to by Iraq many years ago.

Iraq has accused Kuwait of drawing oil from Rumalia oil fields. Kuwait did draw oil from the field, from an area that is sovereign Kuwaiti territory. Neither was Kuwait drawing unfair amounts of oil from the field. In defer-

ence to Iraqi concerns, Kuwait agreed weeks ago to reduce the amount it draws.

Iraq has accused Kuwait of exceeding OPEC production quotas. So what. Iraq routinely exceeds those quotas whenever it is convenient to Iraq. Kuwait has hardly produced enough oil to significantly drive down oil prices. Yet, once again, it acquiesced to Iraqi threats and agreed to reduce its oil production weeks ago.

Finally, Iraq has grasped at the spurious rationale that has long served the territorial ambitions and ruthless opportunism of men like Saddam Hussein—the fictitious rescue of compatriots. Once again, Hussein borrows from the annals of Nazi treachery who used the excuse to blitzkrieg through Europe. He has accused the Kuwaitis of persecuting a Baathist political movement inside their country. Hussein has sworn to come to the aid of his fellow Baathists. Mr. President, there is no such political movement of any consequence inside Kuwait. The loudest voice for political change in Kuwait are Kuwaitis who oppose cooperating with Iraq.

Hussein knows this. But it is a matter of indifference to him. His ambitions, his aggression, his cruelty are unrestrained by truth and facts. Simply put, he means to have whatever he desires. In service to his appetites, he will use poison gas to murder his own people if necessary. He will kill anyone, he will wreck civilizations, he will throw the entire region into conflict if it serves his purposes. That is why we see tanks, fighters, and armed helicopters firing into the streets of unarmed Kuwait City. That is why we see Iraqi artillery pounding Kuwait.

He has threatened to turn Kuwait into a graveyard. Mr. President, perhaps its time we took Hussein at his word.

There are no border disputes to resolve here. There is nothing to arbitrate. There is no shred of decency Iraq can hide behind. Iraq has seized a sovereign nation and holds it captive, plain and simply. The question is not "Who is guilty?" That is apparent to the entire world. The question is "How do we punish the guilty?"

For all his bluster, Hussein leads a nation that he has driven deeply into debt. Iraq has exploitable weaknesses. If we exert the moral leadership that President Bush has already called for, and if other nations have the courage to follow, we can bring immense forces to bear on Hussein.

First, we should call for an immediate halt to the shipment to Iraq of any kind of military equipment. We should seek immediate cooperation from France, China, and the Soviet Union in denying Iraq the means to further advance its ambitions. We should take similar action to close Iraq off to dual

use equipment, and adopt legislation that would permanently close American markets to any company that violated this sanction.

Second, we should build on the action President Bush has taken in freezing Iraqi and Kuwaiti assets. We should close American markets to any company that banks with Iraq, or loans Iraq money, or lets Iraq reschedule its debt repayment. Iraq is dependent on international loans. This is one of its most critical vulnerabilities. Let us exploit it fully.

Third, we should seek broader economic sanctions that penalize any nation that trades with Iraq. Let us give such nations a choice between Iraq and American markets.

Fourth, we should immediately offer military support to Saudi Arabia and the other southern Gulf States. We should deploy strong carrier forces, build up bomber forces at Diego Garcia, and deploy ships with long-range cruise missiles. If the Saudis so request it, we should deploy air units to their country, and rush deliveries of military equipment.

Fifth, let us immediately strengthen Israel, and fully support its Arrow project to defend itself from the missiles and chemical weapons that Hussein has already threatened to use against Israel. Saddam Hussein has shown us the extent of his treachery. It very well may include triggering a major Middle Eastern war.

Sixth, we must strengthen and support our own SDI Program to defend ourselves from reckless aggressors like Hussein who are rapidly developing the means to threaten us.

Finally, we should urgently pass the pending legislation to block the proliferation of long-range missiles and chemical and biological weapons—weapons this butcher has shown he is all too happy to use.

We must not pretend that in the twilight of the cold war we have reached the end of history. We have survived many grave threats. But we will always be compelled to address others. We have long been warned that those who forget history are condemned to repeat it. In Saddam Hussein, we detect the stench of Hitler and all the aggressors and murderers that have come before him. Like Hitler, he personifies the brutal impulses of human nature. He provides fresh evidence, as if any were needed, of man's inhumanity to man. Like Hitler, the civilized world needs to deal with him. The sooner the better.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The PRESIDING OFFICER. The Senate will now resume consideration of S. 2884, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2884) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

(1) Warner amendment No. 2482, expressing the sense of the Congress regarding greater utilization of reserve components of the armed forces.

(2) Nunn amendment No. 2483 (to Amendment No. 2482), in the nature of a substitute.

(3) Warner amendment No. 2484, to provide for an additional restriction on the obligation of funds for the B-2 aircraft program.

(4) Nunn amendment No. 2485 (to Amendment No. 2484), to express the sense of the Congress regarding the B-2 aircraft program and to add additional restrictions on the obligation of funds for such program.

ARMED SERVICES COMMITTEE REPORT ON S. 2887

Mr. NUNN. Mr. President, there are two items of report language relating to S. 2884, the National Defense Authorization Act for fiscal year 1991 which were approved by the committee but which were inadvertently omitted from the printed version of Senate Report 101-384, the committee report accompanying this bill.

The first item of report language involves "Plastic Ammunition and Plastic Ammunition Packaging Containers."

The second item of report language involves "Procurements of Critical and Strategic Materials for the National Defense Stockpile."

I ask unanimous consent that both of these items of committee report language be printed in the RECORD at this point.

There being no objection, the language was ordered to be printed in the RECORD, as follows:

PLASTIC AMMUNITION AND PLASTIC AMMUNITION PACKAGING CONTAINERS

The committee continues to believe that small-caliber plastic training ammunition offers a cost-effective potential method to expand the number of training ranges that can be used for realistic training, particularly as the Defense Department places greater emphasis on National Guard and Reserve units and the Bradley Fighting Vehicle with the 25 mm cannon is distributed in greater numbers to the Reserve Components. The Army is directed to carefully evaluate opportunities to expand the use of plastic training ammunition, particularly in those cases where items can be procured with little or no development cost.

The Committee also supports the evaluation of non-developmental item (NDI) NATO standard plastic ammunition containers. The Committee believes these plastic packaging containers have the potential for considerable savings in weight, decreased damage, ease of handling and reuse as well as cost.

The Committee invites the Department to submit reprogramming proposals for plastic training ammunition and plastic ammunition containers if evaluation of these products demonstrates their utility.

PROCUREMENT OF CRITICAL AND STRATEGIC MATERIALS FOR THE NATIONAL DEFENSE STOCKPILE

The Committee is concerned over recent actions by the managers of the National Defense Stockpile to procure materials for the Stockpile under procedures which could have excluded U.S. producers from competing for the procurement. This action is contrary to the intent of section 3312 of the National Defense Authorization Act for Fiscal Years 1990 and 1991, which authorized the President to encourage the development of domestic sources of stockpile materials. The Committee directs the managers of the National Defense Stockpile to insure that U.S.-produced strategic and critical materials are not excluded from procurements for the National Defense Stockpile where there is a U.S.-produced material which is equivalent to foreign-produced material.

Mr. McCAIN. Mr. President, there are several aspects of the fiscal year 1991 Defense Authorization Act that I am proud of. I believe that it does an outstanding job of dealing with our military and civilian personnel in a time of major force cuts, that it lays out manpower plans that will lead us toward an effective new total force concept, and that it is responsible and compassionate in dealing with the men and women who will have to change their careers and their lives because of the coming cuts in defense spending.

I have been proud to work with JOHN GLENN in developing these plans and provisions, and I feel that the manpower portions of the act represent the kind of bipartisan cooperation that I wish characterized the entire bill.

THE NEED FOR A TRANSITION PLAN TO PROTECT THOSE WHO MUST LEAVE MILITARY SERVICE

I take particular pride in the fact that the bill contains the transition plan that I developed with the help of the military coalition to protect the men and women who now will be forced to leave military service. I remember the aftermath of Vietnam all too well. I remember the trauma and neglect. I remember how expedient it was to forget those who served and sacrificed for their country.

The transition plan in the current act ensures that we will not repeat that neglect:

It ensures that both officers and enlisted personnel will receive separation pay proportionate to their years of service in lieu of the pension they lose;

It ensures that they receive the same unemployment rights and pay as their civilian counterparts;

It ensures that they have help in starting a new career in the form of suitable counseling, and the option of continuing their education;

It ensures that our men and women, and their families, retain adequate

medical insurance as they seek out new careers;

It ensures that they are not left at the doorstep of some military base and can relocate where new careers are possible; and

It emphasizes a transition package that allows the men and women in the military, and their families, to make the kind of clean break with the past that is vital to an effective transition to civilian life, and to preventing our military bases from becoming awkward halfway houses. It does not tie transition to the use of military medical facilities, the use of exchanges and commissaries, or the use of military housing.

We cannot change our strategy, or cut forces, without proper regard for the volunteers that helped win the cold war. Long after the decisions we have taken regarding weapons systems are forgotten, people will remember how we treated our military personnel. I would like to thank Senator GLENN for his support and help in transforming this transition plan into law.

THE NEED FOR CHANGES IN DEFENSE STRATEGY AS WELL AS CHANGES IN DEFENSE SPENDING

At the same time, we must change our strategy. We are not just discussing another Defense Authorization Act. Hidden away within the text of this bill are a series of funding decisions that reflect the most significant changes in our strategic positions since the end of World War II.

The cold war is not yet over, and the West must still meet the challenge posed by a growing Soviet nuclear threat and massive Soviet conventional forces. Nevertheless, the cold war does grow warmer every day, and our strategic priorities have already changed.

We must shift from a Europe and Soviet-oriented strategy and force posture to a global power projection strategy which emphasizes the continuing risks we face in Asia and the Third World. Europe must become only one of several strategic focuses, and we must begin to make fundamental changes in our strategy, our force posture, and the roles and missions of each of our services.

The fiscal year 1991 Defense Authorization Act takes some important step in this direction. It calls for the kind of improved strategic focus, planning, and budgeting, that is essential if we are to cut the defense budget, restructure our remaining forces, and preserve our national strategy.

It contains important provisions that will help us change our strategy and restructure our forces efficiently—provisions that I am proud to have helped to develop:

These provisions require that the Department of Defense submit its budget in mission form and provide an explanation of funding and capabili-

ties the Department is seeking in each mission area over the next 5 years.

They call for greatly improved planning to preserve our industrial base.

They call for an expansion of the annual joint military net assessment to include a fundamental review of our strategic modernization plans, targeting, and arms control strategy.

Equally important, they address the need to improve our planning of such critical power projection capabilities as our future carrier force and strategic mobility.

THE NEED FOR A NEW STRATEGIC FOCUS ON POWER PROJECTION

The fiscal year 1991 Defense Authorization Act is, however, only a prelude to shaping the new strategy, forces, and levels of defense spending we will need in the 1990's. There are many areas where it is not specific enough, or sets the wrong priorities.

The act talks a great deal about strategic, but it lacks strategic focus. Our future defense programs, budgets, and strategy should focus on global power projection for low- to medium-intensity wars, and shift decisively away from our past focus on high intensity conflict in Europe.

This shift reflects both the rapidly changing realities in the U.S.S.R. and Eastern Europe, and the continuing instability and threats in the Third World and Asia. Such an emphasis of power projection reflects the fact that less than 6 percent of our roughly 240 uses of military force since the end of World War II have involved direct confrontation with the U.S.S.R.

We need a far clearer focus on preserving our combat ready power projection forces and forward deployed forces. It is forward presence and combat ready capability that deters, that helps limit conflicts, and meets most of our requirements. If we do need to build up forces for more than low- or medium-intensity conflicts, we will still need forces that are largely combat ready and which are tailored for global missions.

The key power projection forces we need to fund and keep fully ready include our carrier forces, the Marine Corps, units like the Army's XVIIIth Corps, the tactical and conventional bomber forces of the Air Force, and the necessary strategic mobility. I fully recognize that such forces are not perfect and are not invulnerable, but no forces ever are. These forces have proven their effectiveness again and again, and their investment costs are already fully funded.

While it is fine to talk about radical changes and cuts in such power projection forces, there are parts of the current act that suggests that the end result of any radical changes is more likely to be precipitous trade-downs and force cuts than effective tradeoffs. We cannot afford to make major cuts in the capabilities we need most.

RESTRUCTURING OUR FORCES FOR EUROPE

Second, we need to redefine our role in the defense of Europe. While we must focus on a power projection strategy, we will need to retain a presence in Europe, and avoid any major force cuts until we negotiate CFE. The act now has provisions that virtually force the withdrawal of 50,000 troops from Europe in fiscal year 1991. This is a time for arms control and building a new security structure in Europe, not a time to rush into neoisolationism.

There will also still be a Europe and a Soviet threat after CFE. We should maintain at least a small corps and several tactical air wings after CFE. Further, we must be sure that our combat ready power projection forces can be deployed to Europe, as well as other regions of the world.

We can, however, make major cuts in those Active and Reserve Forces, and lift and sustainability requirements, whose main purpose is to fight a major conventional war in Europe. These forces now constitute at least 25 percent of our conventional force structure. They are already hollow forces that we cannot properly make ready, deploy, equip, or sustain in less than several months to several years.

Finally, we need to accept the fact that our European allies are not going to fund anything like the conventional force mix they now field, but that they must still assume a far greater responsibility for their own defense. Concepts such as structuring large number of heavy reinforcements for Europe are outdated and wasteful.

RESTRUCTURING OUR RESERVES

This is why we need to change the roles and missions of our Reserve and National Guard Forces as well as other Active Forces. The idea that we should emerge from CFE with enough Active and Reserve reinforcements in the United States to match a Soviet buildup, or fix the conventional balance is simply out of date. There no longer seems to be a threat that justifies such an effort, and it is clear that we are never going to fund the required forces and lift.

This is also why we should remove the portions of the act that freeze the structure of our Reserve forces, and emphasize creating effectiveness Reserve forces, rather than simply rushing to create more Reserves. The current provisions in the act that call for such a freeze may protect a few units in a few States from disbandment, but we need strategy and purpose—not parochial pork.

We owe the men and women in the National Guard and Reserves a role and mission the country really needs, and enough funds to provide for the proper training, equipment, and sustainability. We need to restructure our existing Reserve forces to support global power projection, and provide

forces tailored to tomorrow's contingency needs, not yesterday's.

NUCLEAR FORCES AND ARMS CONTROL

The weakest single element of the present fiscal year 1991 Defense Authorization Act is its failure to come to grips with setting clear priorities for strategic forces, arms control, and strategic defense.

We need far clearer goals for reshaping our nuclear force posture. Our strategy should include both substantial modernization of our strategic forces, and focus on a clear concept for START 2 or START "1.5" that allows us to trade quality for quantity. We need both an affordable and a survivable force.

The Soviet Union may be far less of a political threat than in the past, but it so far seems committed to an extraordinary degree of nuclear modernization—if only to retain its last real credential as a superpower.

The U.S.S.R. has built roughly twice as many ICBM's as the United States since 1975. There are now 1,400 Soviet ICBM's deployed to roughly two dozen locations in the Soviet Union.

Last year the Soviet Union produced 140 new ICBM's, the United States produced 12 Peacekeepers. This is reinforcing a Soviet advantage in megatonnage that has exceeded 2:1 even since 1975, and a more than 2:1 lead in reentry vehicles.

At least one new warhead variant of the SS-18 Heavy ICBM is still being deployed that is capable of carrying 10 warheads and has a range of 5,940 miles. The Air Force estimates that these improvements could allow the SS-18 force to retain its present hard target kill capability even if it is cut from 308 to 154 deployed missiles under START.

The U.S.S.R. has deployed at least 20 rail-carried versions of the fully MIRV'd 10 warhead SS-24 ICBM on at least 6 trains, and there are at least 50 more SS-24 missiles deployed in former SS-19 silos. The U.S.S.R. has deployed 220 mobile single warhead, SS-25 missiles. This gives the U.S.S.R. more than 240 mobile missiles, with nearly 100 becoming operational in 1989 alone. At current rates, the United States will not have a single mobile ICBM until after 1997.

The Soviet Union has increased its number of SLBM warheads from 750 in 1975 to 3,600 in 1989. It continues to produce two SSBN's per year; the United States is debating the termination of the Trident Program. It also continues to make major improvements in the capability of its SLBM's.

The Soviet Union continues to phase out the older SS-N-6 and SS-N-17 SLBM's on its Yankee-class submarines. It is replacing them with Delta III's and Delta IV's that can hit U.S. targets without warning from home waters. At the current rate of improve-

ment, the Soviet SSBN force will be more lethal in the late 1990's even if its size is cut 25 to 50 percent.

The U.S.S.R. has deployed six *Typhoon*-class submarines, each of which is 30 percent larger than the U.S. *Ohio*-class submarine. The submarines are still under construction and carry 20 SS-N-20 missiles per submarine, each of which has a range of 4,500 miles, and six to ten warheads.

The U.S.S.R. is developing two nuclear armed cruise missiles. One is the subsonic SS-N-21, deployed aboard modified *Yankee NOTCH* submarines. The other is the supersonic SS-NX-24, which is likely to be deployed on specially reconfigured *Yankee* submarines.

Last year, the Soviet Union produced over 40 strategic bombers, the United States produced one B-2. The U.S.S.R. has built over twice as many strategic and long range theater bombers as the United States since 1960.

The Bear-H appears to be reaching final deployment levels, and the Blackjack is in active production, although the ultimate number will probably be smaller than the number the U.S.S.R. once planned. The Blackjack is a Mach-2 bomber with a range of 7,900 miles.

The Soviets have two-nuclear armed cruise missiles designed for use on these bombers. The subsonic AS-15 ALCM has a range of 3,000 kilometers, and is carried by both planes. The AS-X-19 is currently undergoing testing for deployment on the Bear H.

These Soviet offensive forces are backed strategic air defenses that the United States does not attempt to match.

Approximately 20 percent of the 7,000 surface-to-air missiles in Soviet forces are now SA-10's—a missile which can engage several targets simultaneously, and which may have a limited antimissile capability. The Soviet Union continues to deploy more SA-10's at a steady rate. The United States has no national surface-to-air missile defenses.

The Soviets still have some 2,100 fighter interceptors dedicated to strategic air defense. These are rapidly being equipped with fourth generation look down/shoot down aircraft like the SU-27 and Mig-31, and the U.S.S.R. has deployed its own version of the AWACS—the IL-76 Mainstay.

By 1999, all these aircraft will be forth generation or even newer types. In contrast, the United States has a force of less than 300 dedicated fighter interceptors.

The U.S.S.R. has recently deployed a totally new ABM system around Moscow with the maximum of 100 missile launchers permitted by the ABM Treaty. The United States has no ABM's deployed.

We do not need to match every aspect of Soviet modernization, but we

cannot ignore it. We must continue modernization efforts of our own. At a minimum, we need to build a force of 18 Trident SSBN's, deploy at least one modern mobile ICBM, and focus on bombers with cruise missile capability, rather than advanced penetrating capabilities. We need to fund programs like MILSTAR, which are necessary to make smaller forces more survivable and more effective as retaliatory weapons.

THE LINK BETWEEN ARMS CONTROL AND STRATEGIC MODERNIZATION

At the same time, we need to aggressively pursue arms control in a form that is closely linked to strategic modernization. We do not need more lethal forces, but we do need to be able to simultaneously reduce our forces and create a more survivable force mix. We need to create post-START forces that are less dependent on early escalation and launch under attack.

Our goal should be to emerge from each successive step in arms control negotiations with forces that are survivable and flexible enough to strengthen deterrence. We must simultaneously reduce the forces on both sides that create an incentive for first strikes, an escalation of tension, or dangerous behavior in a crisis.

By focusing on reduced, but modernized and less vulnerable nuclear forces, we can largely eliminate many land-based nuclear systems. We cannot, however, ignore the fact that we face a new threat from weapons of mass destruction. Proliferation is no longer a risk, but a reality.

Our present arms control efforts necessarily focus on START and CFE, but we now face a very real risk of chemical and biological warfare in many parts of the Third World. We must do what we can to limit and stabilize the ongoing nuclear efforts of many Third World nations.

THE NEED FOR A STRATEGIC DEFENSE OPTION

We also need to pay more attention to the need for effective strategic defense. The fiscal year 1991 Defense Authorization Act makes yet another set of damaging cuts in the funding for SDI, and there are potential amendments to the act that could make that situation far worse.

We need to recognize that strategic defense still retains its importance, in spite of glasnost:

Strategic defense is still a critical option in meeting the Soviet nuclear threat, as well as the risk of a world in which nations like North Korea and Iraq are nuclear powers.

It is still a powerful lever that will help lead the U.S.S.R. to end the nuclear arms race in the way it seems to be ending the arms race in Europe.

It is still a powerful lever in persuading the U.S.S.R. to accept START and follow-on arms agreements.

It is still a better alternative than more offensive nuclear weapons.

It is still a way of guaranteeing our security against some sudden reversal in Soviet behavior.

Strategic defense is also our best way of reacting to what is becoming a nuclear armed world. As the Israeli Arrow project demonstrates, strategic defense offers a way of protecting our friends and allies against nuclear threats, and chemical and biological threats as well. At the same time, it offers us a way of protecting the United States against the hostile states that may be able to strike us in the future, and where the threat of retaliation may be far less effective than it has been in dealing with the rational and conservative leadership of the Soviet Union.

We may not face such threats from the Third World today, but no one can deny that we are likely to face them tomorrow. It does not take great vision to imagine what may happen if a leader like Saddam Hussein, who has threatened to "let our fire eat half of Israel" and to "retaliate for days and weeks and years" is able to equip even his existing missile boosters with nuclear warheads.

It does not take great vision to imagine the conduct of a nuclear armed Qadhafi, a man who has already threatened the United States with "our special means, the right to actually practice terrorism against the American presence everywhere."

We should not cut a \$4.5 billion program to \$3.57 billion under such circumstances. We also should not accept amendments to the surviving parts of the problem that would weaken it further.

Senator BINGAMAN and Senator SHELBY have announced that they will bring forward an amendment to the fiscal year 1991 Defense Authorization Act that will place funding ceilings on carefully selected SDI programs. The result of passing this amendment would be to twist SDI from a vital national program into one that focused on ground-based and long-term technologies. By a strange coincidence, this would ensure that SDI will suddenly become a subsidy to those programs that are located in New Mexico and Alabama.

President Bush has stated that he will veto the fiscal year 1991 Defense Authorization Act if this amendment is passed. He has no other choice. The proposed amendment goes beyond micromanagement, and would deprive the program of its ability to explore critical space borne options like Brilliant Pebbles. While some cuts in President Bush's original budget request may be acceptable, the President cannot accept an amendment that would restructure all of SDI for the benefit of two states, and ensure that the President cannot make an informed decision on the architecture

and deployment of an SDI system by 1993.

If we are to have a future, we must plan for that future. If we are to have national security, we must pay for it. We cannot let the entire Strategic Defense Initiative become an arena for special interest funding, and we cannot afford to let it be so underfunded that it becomes a hollow shell.

THE NEED TO USE OUR REMAINING DEFENSE DOLLARS EFFECTIVELY

I believe that we can provide a major peace dividend to the taxpayer but only if we pursue these strategic priorities, if the Soviet threat continues to diminish, and if we can seal the reduction in the Soviet and Warsaw Pact threat with START and CFE agreements.

We may well be able to cut our defense budget by as much as 25 percent or more over the next 5 to 6 years, and substantially reduce defense spending as a burden on the total Federal budget and gross national product.

We cannot have effective forces, or an effective strategy, however, if we do not recognize that there is a limit to how far we can cut defense spending. We also have to recognize that we need to concentrate on the true mission of our military forces, which is to preserve national security, and that we have no money to waste on parochial interests and diversions.

If freezing the force structure of our reserves and National Guard is an example of such parochial interests, asking the Department of Defense to spend \$200 million to help protect the environment is an example of such diversions.

There may be a case for reducing defense spending and spending more on the environment. There is certainly a need to fund full compliance by the Departments of Defense and Energy with current environmental laws and regulations. There is a hint of desperation, however, in trying to green the Department of Defense. The threat to the environment is not the threat the Department of Defense should plan for in the 1990's.

We already have real experts on the environment in other agencies and these agencies have very real and underfunded needs. We should not drag the Department of Defense into a mission for which it is poorly suited, and where there are no clear program goals, and no clear measures of effectiveness.

THE NEED TO CUT MILITARY SPENDING AND FORCES AT A PRUDENT PACE

We face other problems in the fiscal year 1991 Defense Authorization Act because so many individual fundings have been driven by budget pressures that have nothing to do with our Nation's long-term interests. We are now tailoring many critical aspects of our readiness to the number of dollars available, and we are adopting ineffi-

cient production rates, and we are shaving money off of program after program to find some way of reaching a lower spending target.

The present budget process—especially the combined pressures of the budget summit, the budget deficit, and Gramm-Rudman-Hollings—have often prevented us from focusing on our changing strategies needs or creating a stable and cost-effective path for cutting defense spending. Instead, we have had to focus on how we can cut outlays on manpower, operations and maintenance, and which big ticket programs can be cut so to produce quick big ticket savings.

We cannot continue to cut our forces on an annual basis as if there were no future, or to suit the day to day convenience of budget summits or short-term political considerations. We need to act on a clear plan for properly phased cuts in our forces. We must plan for defense spending which takes account of the continuing uncertainties regarding Soviet plans, and the need to preserve critical power projection capabilities.

We must not, for example let the desperate search for more budget savings drive us into other forms of neoisolationism like cut our forces in Korea before we see sufficient progress toward peace to allow us to do so. We also must avoid rushing to cut our forward deployed forces in the hope that we can somehow maintain security by retreating to some modern version of a "fortress America."

Above all, we cannot afford to rush forward to make cuts deeper than those already recommended in the fiscal year 1991 Defense Authorization Act. Nearly 150 years ago, Napoleon wrote that, "When a nation is at war, the presence of a deliberative body is injurious and often fatal." Today, he might say the same thing about a nation at peace and the way we are letting the budget process affect our national security.

It is one thing to cut defense outlays this year by 5 to 6 percent in real terms, and to cut defense authorization in anticipation of further long-term cuts. It is another to suddenly slash 9 to 13 percent from outlays in 1 year. We would destroy our all-volunteer manpower base, our defense industrial base, and the operations and maintenance that shapes our readiness and sustainability.

In summary, we need to cut defense spending at a pace that allows us to finish START and CFE, to establish some new security structure in Europe, and to observe the path the U.S.S.R. will take long enough to be certain as to the future structure of its military capabilities. We need to cut defense spending at a pace that allows us to decide on a new strategy. We must cut at a pace that allows us to restructure the roles and missions of our

forces, and our major procurement programs in a cost-effective manner.

UNANIMOUS-CONSENT AGREEMENT

The PRESIDING OFFICER. The majority leader is recognized.

Mr. MITCHELL. Mr. President, I ask unanimous consent there be 30 minutes of debate on the pending amendment, No. 2485, equally divided and controlled between Senators NUNN and WARNER or their designees.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2485 TO AMENDMENT NO. 2484

The PRESIDING OFFICER. The pending question is the Nunn amendment, No. 2485, to the Warner amendment, No. 2484, time to be controlled 15 minutes per side. The Chair recognizes the Senator from Virginia [Mr. WARNER].

Mr. WARNER. Mr. President, last night the Senator from Virginia did not give his opening statement with respect to the bill, and I will continue to forebear because the leadership, as well as the managers of the bill, are anxious that the Senate move to consideration of this series of amendments relating to the B-2, and then, perhaps at a later point today, we can return to opening statements and other matters, as it relates to the bill.

Mr. President, first I will address the Senate regarding the pending amendment, the amendment in the first degree as laid down by the Senator from Virginia, and then the amendment in the second degree as laid down by the chairman, the Senator from Georgia.

The two Senators are anxious to place additional gates—that is a term that we have adopted—to ensure that the technical goals of this aircraft are met before we proceed to the additional production models; namely, two aircraft, as authorized in the bill.

The amendment in the first degree essentially States that all testing requirements, as laid down in the fiscal year 1990 authorization legislation, together with the testing requirements enumerated in the 1991 bill, the pending bill, will be certified to have been met, and then allow 30 days thereafter for such comment as others may wish to make before the Secretary of Defense can proceed to expend funds for the additional production models.

The amendment in the second degree goes into considerable detail as to the nature of these various gates. They are enumerated in the amendment. Members of the Senate, I am sure, have had an opportunity to look at them either prior to this morning's session or they can quickly refer to them in the pending amendment. I

shall address in some minor detail what is involved.

First is a recitation of the historical findings that the Congress has had with respect to this aircraft program: The importance of the program is the fact that we have invested \$26.7 billion in it to date, funds have been approved for procurement of 15 aircraft through fiscal 1990 and their two aircraft additional production models in the legislation. Congress has established, in accordance with the fly-before-buy principle, a series of rigorous tests, most of which have not yet been completed, to assess the efficiency, effectiveness and cost of the B-2 aircraft.

Therefore, understandably, as we recite in the amendment, serious questions have been raised about the ability of the B-2 program to meet cost schedule performance and financial integrity requirements. Fiscal year 1991 will constitute the sixth consecutive fiscal year for which the amount appropriated for national defense functions of the Government declined. We all are aware of the budget problems, and therefore we feel, that is, the proponents of this amendment, that additional gates have to be put in to assure that for further expenditures there is an acceptable level of reason to believe that this aircraft will perform as designed.

In specific, we require that the panel of the Defense Science Board—that is the advisory board to the Secretary of Defense—and there is a subpanel known as Low Observables—conducts an independent review of the test data resulting from the early block 2 flight testing and submit to the Secretary of Defense a report on the results of that review together with the panel's findings and conclusions.

Second, the Director of Operational Tests and Evaluation—that is an important post in the Department of Defense, one that in many respects was created by the Congress of the United States—that individual submits to the Secretary of Defense the evaluation of the results of the block 2 flight testing to date and that is coupled with the findings and certifications of the Secretary of Defense to be made to the Congress.

So speaking on behalf of Senator NUNN, who momentarily is away from the floor, and myself, we feel that we have incorporated in this amendment such insurances as should be required by the Congress before we proceed to the new production models.

The B-2 debate, Mr. President, in the judgment of the Senator from Virginia, comes down to central question of capabilities of the present Soviet strategic forces and those capabilities that we can project into the reasonable future by virtue of our own intelligence and, indeed, their own pronouncements with respect to their

modernization program and intentions. We are all very pleased that at the present time there is a lessening of tensions between the United States, the Western World, and the current Soviet leadership. But if we just take as an example we all awakened this morning to learn of another outbreak of armed conflict on this globe. There will be a debate as to whether or not we could have anticipated it, whether the intelligence could have given us forewarning, but nevertheless it did occur.

It points up I think very dramatically that when a nation such as Iraq has strong military capabilities and you couple that with the intention of using them, then conflict can occur. Here the Soviet Union—and it is indisputable—has capabilities second to none in terms of strategic forces: land, sea, and air. Current intentions hopefully are never to use those forces, but we could awaken tomorrow to a new Soviet leadership with new intentions, and therefore we cannot let our guard down as it respects the strategic element of our program.

This bomber—and there has been a great deal of debate on its mission, but I say to my colleagues that the mission of this bomber is to prevent any confrontation with respect to utilization of strategic forces. Its mission is to remain here in the United States in a readiness posture at any time to respond to the direction of the President of the United States in the President's efforts to deter the first use of any single nuclear weapon.

Mr. President, this weapon system is essential to the continuation of America's triad, the concept of strategic forces which has prevailed since the closing days of World War II, that concept which has maintained the peace in the world with respect to the usage of nuclear forces. It is a proven doctrine.

Should the B-2 not go forward as envisioned now by the President and the administration, then the triad begins to unwind and become less effective. Indeed, it could well end as a viable military concept. So I hope Senators will bear that in mind as we begin to enter this historic debate on the B-2 bomber.

There are many factors which I am certain will be brought up by the opponents to the program with respect to cost and the like, but bear in mind the mission of this bomber is to remain at an airstrip in the United States and deter the first use of any nuclear weapon by any adversary. That is its primary mission. It complicates enormously the Soviet planners' calculation should any Soviet leader ever call upon the military staff to advise him with respect to the risks and the chances of success of ever utilizing their strategic forces.

Mr. COHEN. Will the Senator yield for a question.

Mr. WARNER. Yes, of course.

Mr. COHEN. The Senator used the phrase fly-before-buy as it applies to the B-2. Am I correct that under the DOD authorization bill as approved by the committee, every penny requested for procurement funds is still included in the bill?

Mr. WARNER. So far as the Senator from Virginia understands, that is correct.

Mr. COHEN. With respect to fly-before-buy as it pertains to every other system that we considered, such as the A-12, the C-17, the SSN-21, MX rail garrison, and the advanced tactical fighter, the LH helicopter, and the V-22, am I not correct that the committee did not provide procurement funding for any of those systems because of the application of fly-before-buy as it pertains to them?

Mr. WARNER. If I could respond to the Senator, Senator NUNN and I in anticipation of the very problem that the Senator points out specifically designed this amendment, which is the pending business of the Senate, to answer that question. Namely, we have tried to incorporate in this amendment such insurance as we feel necessary to meet the fly-before-buy requirements, which doctrine is applied elsewhere in the bill.

Mr. COHEN. Could I also inquire as to whether out of the 13 additional restrictions on the obligation of funds for the B-2 aircraft, are not 10 of them identical to the provisions that were included in the DOD bill last year?

Mr. WARNER. I am not able to break down the exact numbers but roughly the Senator from Maine is correct. As I mentioned earlier in my statement, the amendment of the Senator from Virginia recites the 1990 as well as the 1991 criteria.

Mr. COHEN. So in essence there are three restrictions that have been imposed by the Senator from Virginia and the Senator from Georgia?

Mr. WARNER. Right.

Mr. COHEN. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. MITCHELL addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the majority leader.

Mr. MITCHELL. Mr. President, I am about to propound a unanimous-consent request, and I ask unanimous consent that the time consumed in this not be charged to the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I have previously asked unanimous consent limiting the time on this amend-

ment. I will restate that as part of a new, broader consent request.

I ask unanimous consent that there be 30 minutes of debate on the pending Nunn amendment No. 2485, equally divided and controlled between Senators NUNN and WARNER, or their designees; that once that time has been used or yielded back, the amendment and the underlying amendment No. 2484 be laid aside and that Senator COHEN be recognized to offer an amendment relating to the B-2 bomber on which there shall be 2 hours of debate in the usual form; that immediately after the Cohen amendment has been offered, Senator LEAHY be recognized to offer a perfecting amendment on the same subject on behalf of himself and Senator COHEN; that there be 2 hours for debate in the usual form on the Leahy perfecting amendment; that upon the completion of debate on the Leahy perfecting amendment, debate resume on the underlying Cohen amendment for 1 hour and 40 minutes, equally divided; that at the conclusion of that time for debate the Senate vote on or in relation to the Nunn amendment No. 2485, followed immediately by a vote on the Warner amendment No. 2484, as amended if amended, to be followed immediately by a vote on or in relation to the Leahy-Cohen perfecting amendment, and that upon the disposition of that amendment the Cohen first-degree amendment, as amended if amended, be debated for the remaining 20 minutes of the original 2-hour time limitation equally divided, at the conclusion of which there be a vote on or in relation to the Cohen first-degree amendment, and that no other amendments be in order to the Cohen first-degree amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Reserving the right to object, I do not intend to, Mr. President, I would first like to commend the leader for trying to get some reasonable time agreement so we will not go on and on because whatever time is available this body seems to try to fill that time up. So I commend him for doing that.

Let me ask this question: How much time are we talking about total here? Are we talking about 4 hours on the Cohen and Leahy combined, and 30 minutes on the Nunn-Warner?

Mr. MITCHELL. Yes. A portion of that 30 minutes already having been consumed. We are talking about slightly over 4 hours, not counting votes.

Mr. LOTT. Understanding we will stack votes at the end? Did I discern that from what the leader was saying?

Mr. MITCHELL. There will be three votes stacked, following which there will be 20 minutes remaining of debate finally on the Cohen amendment, and then a vote thereafter.

Mr. LOTT. That certainly seems very fair. I commend him again for doing that.

As a member of the Armed Services Committee, I feel like this is a very important issue, like these other issues are, talking about real programs, real money. We need adequate time.

I would like to urge our colleagues here if it is possible, if they have statistics, information that does not have to be said, to submit it for the record and realize that the unused time may be yielded back. I hope the Senate will say what needs to be said and get on with the business at hand. I certainly plan to cooperate with the leader in trying to accomplish that.

The PRESIDING OFFICER. Is there objection to the unanimous-consent request propounded by the majority leader?

Without objection, it is so ordered.

Mr. MITCHELL. I thank my colleagues.

Mr. WARNER. I thank the distinguished leader and the Republican leader. This was not an easy time agreement. I think we are well underway on this bill at this time.

At this point I now yield the floor.

I presume my distinguished colleague, the chairman of the subcommittee, is seeking the floor to address the Senate.

The PRESIDING OFFICER. Who yields time?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. I yield myself whatever time I need of the 15 minutes on our side.

I shall take only a few minutes to highlight for the Members of the Senate the major strategic forces funding adjustments and policy decisions in the defense authorization bill.

Senator NUNN has eloquently discussed the guiding principle underlying the committee's action. So I will simply note how these were applied to the various strategic forces in comments that I make now and in comments that I will reserve for another time when more time will be allotted for discussion of this.

Before we conclude debate on the two amendments offered by the Senator from Virginia and the chairman of the committee, Senator NUNN, I would like to focus and salute them for their leadership in the structuring of these amendments that, in essence, are self-explanatory amendments, to give the Senate the full understanding of the work that has been done very diligently in the Armed Services Committee on this matter of the B-2.

I think it is critically important that we recognize that the B-2 is not just another bomber. I am afraid that the debate all too often has deteriorated to that point. If the B-2 were just another bomber, as was the B-1, then

some of the opponents of the B-2 might have a case to make.

I would like to point out, Mr. President, that if the B-2 continues to jump through the various hoops that my subcommittee, the Strategic Subcommittee and the full Committee of the Armed Services have set for it—and I emphasize once again that we are not about to go out and procure 75 aircraft. I have read stories in the media time and time again that, in essence, we have approved the buying of 75 of these aircraft. That is not so. We have been very diligent in our proposition that we want this airplane to fly before we buy it.

I simply point out that this is not just another bomber. Best described, I think, Mr. President, is that we should look at this as a system rather than just an airplane. I say to you that if this system identified as the B-2, if that system performs the way it is supposed to perform—and the Armed Services Committee has been extremely diligent in not moving too quickly on this program, making it prove up every step along the way so we do not encounter some of the serious problems that we had with the B-1. We learned a good lesson this.

If this system does what I believe it should do, and what it is promised to do, then the key point to remember, Mr. President, is that the B-2 system would be a quantum leap forward in deterrence for the United States of America unlike any other system that has been introduced or acted upon probably of at least, in my view, since I have been a Member of the U.S. Senate for nearly 12 years now and have served on the Armed Services Committee at that time.

The question then that we are trying to address on this matter is whether or not the unique capabilities, the quantum leap forward that this would provide for the national security of the United States, should now be cut off at its knees or if we should pursue the cautious course that the Armed Services Committee has recommended.

Once again, I emphasize, Mr. President, one of the major principles that we have followed on this system is to fly before we buy, eliminating concurrency between the testing of developed systems and their production in quantity. In the strategic area, this is applied primarily and has been focused on primarily with regard to the B-2 systems as well as the rail garrison MX basing mode and others.

As Members are no doubt aware, Secretary Cheney's major aircraft review reduced the total buy of the B-2's from 132 to 75, and reduced the planned low rate production for fiscal year 1991 from 5 to 2 B-2's as a part of this system simply to allow for more testing, to better allow that system to

jump through the hoops of performance that we in the Armed Services Committee have set forth.

The committee concurs in that action and has funded only two B-2 aircraft. The committee carefully states in its report that it is taking no position in this bill on the ultimate size of the B-2 force. Just as has been the case this year, the B-2 will have to pass a significant series of milestones or hoops over the next year to remain alive.

These tests are spelled out in our bill and in the full performance systems maturity matrix that is incorporated into the B-2 system test and evaluation master plan.

Mr. President, let me close by saying that an unclassified version of that full performance systems maturity matrix has been provided to the Congress, and it details year-by-year milestones for production decisions, and thereby demonstrates better than any other fashion, I suggest, that we in the Armed Services Committee are on no pell mell approach to buy any specific number of B-2's.

An amendment to terminate the B-2 program will be offered during floor debate, as I understand it, so I will save further comment on the B-2 program until then.

I hope that the Members of the Senate will look very long and carefully at the amendment that has been offered by both the Senator from Virginia and chairman of the committee, Senator NUNN, and we attempt to point out in that explanatory document the way we in the Armed Services Committee have looked at this matter and how indeed carefully we are recommending that we continue extremely limited funding for this system and that if it proved out, it would indeed be a quantum leap forward in national security. I think we should remember that as we make our votes and make our comments.

I reserve the remainder of my time.

Mr. WARNER. Mr. President, I anticipate that the Republican leader will be coming to the floor shortly to address the Senate on this issue. As we await his arrival, I want to first commend the distinguished Senator from Nebraska for his work, not only in the B-2 program, but as the chairman of the Subcommittee on Strategic Forces. I was once privileged to have that position myself some years back, and I know the burden and adversity of the work, and the time and effort required. I wish to commend my distinguished colleague for his efforts there.

He has brought up, quite properly, that the legislation, as crafted—certainly the amendment pending before the Senate—does not in any way obligate the Senate to a full buyout, as recommended by the President and Secretary of Defense, of 75 aircraft. But I think it would be important to

say that should the amendments, as we understand them, prevail for terminating this program in one way or another—we will soon get the details of those amendments—my rough calculations would be that the American taxpayers would be spending roughly \$2.3 billion per copy for the 15 aircraft, assuming that is the line at which these amendments terminate production.

We must bear in mind the enormity of the investment costs to date in R&D. That is the most expensive part of this program, which really has been complicated, the design and work that has gone into the research and development bill.

My colleague from Maine addresses, quite appropriately, the question of the philosophy of the committee as it applied to fly-before-buy. He pointed to several programs in which we have, in a strict sense, begun to incorporate that doctrine. But the fact is that B-2 has flown, not once, twice, but several times, and it has passed its initial test. Now we are moving into that critical area of testing regarding stealth technology.

Mr. President, as we look to the future, America's advantages of the past; that is, its ability to create unique weapons systems at the very cutting, advanced edge of technology has always been its greatest asset. We have maintained our ability to dominate in certain areas of armaments and certain areas of defense in the world because of the ability, the R&D and the industrial base in America, to create weapons systems which provide, by and large, deterrence.

That is the essence of this aircraft. It is to deter the use of any strategic forces by any adversary—principally the Soviet Union—in the years to come. Thus far, we have passed through the gates in a satisfactory manner as it relates to fly-before-buy with this aircraft.

So, therefore, Mr. President, I ask the Members of the Senate to bear in mind the tremendous costs that have been invested by the taxpayer in an aircraft that, thus far, has worked and met the requirements, and that if we were to stop at 15 and have a unit cost of \$2.3 billion per aircraft and thereby use the opportunity to at some point in time, assuming the test and the dates are met satisfactorily, go on to a level of 75 aircraft, as recommended by the President and the Secretary of Defense, we will have lost a tremendous investment.

The PRESIDING OFFICER. The time controlled by the Senator from Virginia has expired. The Senator from Nebraska has 6 minutes, 11 seconds.

Mr. WARNER. Mr. President, I ask the distinguished Senator from Nebraska if I might reserve that time for the Republican leader, if we can in-

quire as to the availability of the leader.

Mr. COHEN. Will the Senator yield 30 seconds for a question?

Mr. WARNER. I will be glad to yield.

Mr. COHEN. The Senator from Virginia indicated that the B-2 has in fact flown on several occasions. As I understand it, last year the Air Force was provided with \$1.6 billion to buy two B-2 aircraft, and there were certain fences set up that they had to measure up to. Can the Senator from Virginia tell me whether or not the Air Force has in fact passed over the fences that were set last year for the two B-2 aircraft?

Mr. WARNER. We have not fully received the results. The Senator is correct. I did want to say the plane has flown, before we finish the buy.

I am advised that the Republican leader is en route, Mr. President.

Mr. EXON. Mr. President, the Senator has how much time?

The PRESIDING OFFICER. The Senator has 5 minutes and 16 seconds.

Mr. EXON. Mr. President, I would like to reserve that time for the Republican leader. I ask unanimous consent that we have a quorum call, without charging it to either side.

The PRESIDING OFFICER. Is there objection?

Mr. COHEN. Reserving the right to object, and I will not object. I do not object now that the Republican leader is here.

Mr. EXON. Mr. President, I withdraw the request for a quorum call.

I yield whatever additional time I have remaining to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader is recognized for 4 minutes and 57 seconds.

Mr. DOLE. If the Senator from Nebraska needs additional time, I might be able to talk my colleague from Maine out of a minute or two. He does not have any time. Is there any leader time available?

The PRESIDING OFFICER. The leader time has been reserved; that is 10 minutes.

Mr. DOLE. I can take 5 minutes of the leader time and leave the Senator from Nebraska with his 5 minutes.

Mr. EXON. I do not need any more time. We have had enough debate.

THE NEED FOR B-2

Mr. DOLE. Mr. President, this is a very important debate, and indeed more important this morning than it was last night. We have seen we cannot control the world. We cannot control people like Saddam Hussein. We cannot control events. We do not know what is going to happen next week, tomorrow, or a month from now, or 6 months from now, or a year from now.

I am not certain this is a rational way to go, and that is the way the Senate Armed Services Committee is proceeding. I have listened to the chairman of the subcommittee, and I agree with the chairman of the subcommittee.

We must decide now how our military forces will be structured over the next several decades.

We must make these decisions in an environment of tight budgets, a changing world situation, and at a time when the United States is actively engaged in arms control negotiations with the Soviet Union.

Each of these factors could make it easy for some to do exactly the wrong thing. And yet, we will live with the results of these actions for some time to come.

And that is another thing we do not want to lose sight of. There has to be some lead time, and we cannot reverse it and say, oh, we made a mistake on this day in the U.S. Congress. If we want to turn around and correct it 2 years from now, it will be too late.

As I indicated, we were reminded just last night how quickly world events can change. This should come as no surprise to anyone who looks realistically at the threats and instability that exists in the world today. In their euphoria to spend a peace dividend, the House Democrats covered their eyes to these threats and voted to gut American defenses during these dangerous times. I have confidence my colleagues in the Senate in a bipartisan effort will not follow their lead.

For over 40 years, nuclear deterrence has guaranteed the safety and freedom of this country. For the better part of that time, our nuclear deterrence has been based on the concept of a nuclear triad.

I think we would all agree that the triad has served us well. But, some are saying that times have changed—the cold war is over and we have won—that we do not need a nuclear deterrent. But I see nothing to suggest that deterrence will not remain a critical element of our national security needs.

The Soviet Union is now—and will continue to be the only power on the globe capable of destroying our Nation. The Soviet Union is a superpower only because it possesses nuclear weapons. And, it appears unlikely that the Soviets are willing to give up that claim.

Further, despite all the talk of change, the Soviet Union continues to modernize its strategic forces, to field increasingly accurate and lethal missiles, and to invest heavily in strategic defenses.

And we were reminded last night that there is a lot of mischief in the world—a world that is seeing the rapid proliferation of ballistic missiles and emerging nuclear powers.

As one who has had the opportunity, not the privilege, to sit down, and sit down they did, with Saddam Hussein with my colleague, there is no doubt in my mind this man is unpredictable. That is the best you can say about him; some will say a lot more. No one knows what he really has in mind. He says, "I am just trying to take territory that belongs to Iraq."

I think deterrence is vital today, and I think this vote ought to be overwhelming today. Maybe yesterday, it might have been close. We need something to wake us up here from time to time; we need a wake-up call, an alert that we are not going to control the events in the world; we have to be prepared to respond to the events in the world. That is the key difference. We cannot control; we have to be ready to respond.

Mr. President, deterrence is vital today—and it will remain vital in the future.

In light of this, it is important to recognize that only modern, survivable, and capable forces will deter.

In my view, strategic modernization is one of the most important elements of this Defense bill.

I think we all agree that our bomber forces are no less important to our triad than our other strategic forces. Both the United States and the Soviets agree that bombers are the most stabilizing weapons—and, we have structured our arms control negotiating position around that fact.

A manned penetrating bomber will become even more important under a START Treaty than it was over the past 40 years. The B-2 is at the center of U.S. strategy for achieving stability at reduced levels.

In my view, the President's decision to proceed with modernizing our bomber forces—to build the B-2—was the right decision. The Senate Armed Services Committee made the right decision when it voted to fully fund the B-2 program. And, the House made the wrong decision when it failed to support the B-2, when it voted to squander our tremendous investment in the development of a Stealth bomber.

Some have said—and there are experts here and I am not an expert, not on the committee; there are a number of outstanding people who may disagree on this—we cannot afford the price. They try to add up the cost of one B-2, but they already put in that figure all the money we spent, what is it, some \$30 billion in research and development, and then they say this is total cost overall of the remaining airplanes.

That is not an accurate statement.

Some of you will say, "Yes we need modernization, but not at the B-2's price." I think we were all taken aback the first time we saw the figures. But these figures are not new revelations

for many Members. Three administrations, six Congresses—Republicans and Democrats alike—have consistently supported the B-2 bomber program through the years.

There is no doubt about it, this is a very costly airplane. I agree with the Senator from Nebraska. It is a system; it is more than a bomber, an airplane. It is a system.

The cost to develop Stealth technology and the B-2 was very high. We have invested over \$26 billion in an effort more difficult and more complex than the Manhattan project. But that investment has been made. We have paid for the ability to produce a Stealth bomber capable of penetrating the most sophisticated Soviet air defenses and project power anywhere on the globe—for the next 30 to 40 years.

We have paid for the ability to ensure our strategic deterrent and security in a changing and unstable world. And we have paid for, and received, new technology of the highest order: new materials, modern manufacturing techniques, and advanced electronics. The spinoffs have found their way into many other defense programs, reducing their cost and development time.

Our current and future security needs demand that we do not waste this heavy investment but that we continue to prove out and build the B-2 bomber.

Now, it seems to me that, unlike the House, the Senate Armed Services Committee has given this program the serious attention it merits. They have not only recognized the importance of the B-2 to our deterrence strategy and arms control stability, but have also recognized that a program which involves such substantial investment during these times of tight dollars, requires close monitoring.

I commend my colleagues on the Armed Services Committee for taking a sound approach toward this program. The B-2 means a lot of money spent, but thanks to the efforts of the committee, it will be money spent wisely. I urge the Senate to support their approach and this amendment.

Mr. President, I would like to end my remarks with an excerpt from an article written in 1953, in *Aviation Week*, at the time the United States was considering the B-52:

Feeling in some U.S. Air Force quarters is that the difference between B-47 and B-52 performance is not worth the cost of the latter program. Strategic Air Command also anticipates getting supersonic bombers soon enough to make the B-52 strictly a short interim measure.

After 30 years of the B-52 we know better.

I do not think anything has changed. In 1952, it was said we do not need to do it; do not spend it. Look at what we have with the B-52 bomber.

Now we are getting the same advice, and maybe the critics are right; maybe we are going to live in peace the rest of this century and on into the next century, and maybe someday 30 or 40 or 50 years maybe we will say we should not have spent the money on the B-2, but it seems to me that if we are going to make a mistake we ought to err on the side of being prepared.

As I have indicated, we cannot control events in the world. But we have to be in a position to respond. Maybe it is not a military response. Maybe that is not the response every time something happens. But it could be, and having been one of the World War II veterans still around this place, I would rather be prepared. You do not want to go back to the way it was. Some a little bit older who went into the World War II will remember we did not have the equipment, and we were caught short. It cost us billions of dollars and thousands of lives because we were not prepared.

So I am prepared to suggest if we are going to err, let us err on the side of being ready, being prepared to respond. And we do not need Saddam Hussein to give us that wake-up call. At least we can thank him for that.

I thank my colleague from Nebraska.

The PRESIDING OFFICER. The Senator has yielded the floor.

Under the previous order, the pending amendments are laid aside and the Senator from Maine [Mr. COHEN] is recognized to offer an amendment.

AMENDMENT NO. 2493

(Purpose: To limit the use of funds for the B-2 aircraft program)

Mr. COHEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Maine [Mr. COHEN], for himself, Mr. LEAHY, Mr. CRANSTON, Mr. HATFIELD, and Mr. WIRTH, proposes an amendment numbered 2493.

Mr. COHEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 7, strike out line 7 and all that follows through line 5 on page 8, and insert in lieu thereof the following:

SEC. 113. AUTHORIZATION OF APPROPRIATIONS FOR PROCUREMENT OF AIRCRAFT FOR THE AIR FORCE.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 103(1), the amount authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Air Force is \$8,479,056,000.

(b) LIMITATION RELATING TO THE B-2 BOMBER PROGRAM.—Of the funds authorized to be appropriated pursuant to subsection (a), not more than \$941,900,000 of such funds may be obligated in connection with the B-2 aircraft program.

PART B—PROGRAM TERMINATIONS

SEC. 121. PROGRAM TERMINATIONS.

The PRESIDING OFFICER. Under the previous order, the Cohen amendment having been offered, the Senator from Vermont [Mr. LEAHY] is recognized to offer a perfecting amendment.

AMENDMENT NO. 2494 TO AMENDMENT NO. 2493

(Purpose: To terminate production under the B-2 aircraft program)

Mr. LEAHY. Mr. President, I send to the desk a perfecting amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself, Mr. COHEN, Mr. CRANSTON, Mr. HATFIELD, Mr. WIRTH, and Mr. KENNEDY, proposes an amendment numbered 2494 to the Cohen amendment 2493.

Mr. LEAHY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 9, strike out "\$8,479,056,000." and all that follows and insert in lieu thereof "\$7,537,156,000."

"(b) TERMINATION OF B-2 AIRCRAFT PROCUREMENT.—Funds authorized to be appropriated to the Department of Defense pursuant to this or any other Act may not be obligated for the B-2 aircraft program except for—

"(1) completion of production of those B-2 aircraft that are included in the full-scale development program as of the date of the enactment of this Act;

"(2) research, development, test, and evaluation, including flight testing of the B-2 aircraft; and

"(3) costs relating to termination of production under the B-2 aircraft program.

"(c) REQUIREMENT TO REVISE B-2 AIRCRAFT PROGRAM.—The Secretary of the Air Force shall revise the B-2 aircraft program consistent with the limitation contained in subsection (b) and, not later than February 1, 1991, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the revised program.

"PART B—PROGRAM TERMINATIONS

"SEC. 121. PROGRAM TERMINATIONS".

Mr. LEAHY. Mr. President, I ask unanimous consent that the distinguished Senator from Maine [Mr. COHEN] be added as an original cosponsor to the second-degree amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that I be added as cosponsor to the underlying amendment by the distinguished Senator from Maine.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator is recognized for 2 hours, with the 2 hours of debate to be equally divided and controlled by the Senator from Vermont [Mr. LEAHY]

and the Senator from Georgia [Mr. NUNN], or their designees.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I yield to the Senator from Maine such time as he may need.

Mr. COHEN. I thank the Senator for yielding.

First, let me respond briefly to the remarks made by the minority leader. He indicated that Baghdad had sent us a wakeup call. Well, there were many of us over the years who have been concerned about what has been taking place in Baghdad. As a matter of fact, last week a number of us led the effort to terminate trade credits going to Baghdad in response to Saddam Hussein's activities. And those who are expressing concern today about the wakeup call were quite eager at that particular point to continue to send trade credits and equipment and technology to help Saddam Hussein in the future.

So we have had wakeup call after wakeup call, and it does not pertain to what took place yesterday.

Second, the minority leader suggested that some people who were eager to spend the peace dividend are prepared to gut the Nation's defenses. I know that the Republican leader does not include this Senator in that particular remark, because my service on the Armed Services Committee, I think, would demonstrate that my commitment to national security is not to be outdone by many others.

Is the triad still necessary? The answer is absolutely yes. Absolutely yes. The question is how we are going to shape the triad.

Now, on the B-2 itself, it is not a question of do we need a bomber. The question is, can we afford this particular bomber? With respect to the B-2, I would suggest to my Republican leader that the costs are elusive; the mission, at this point, is at least questionable; and the capability as yet unproven.

With respect to the cost, it seems that Yogi Berra is back "It is deja vu all over again."

Last year, the argument was: We have spent \$23 billion already. Therefore, we must continue the program. We cannot afford not to proceed. Now we have spend an additional \$3-plus billion. Well, we spent \$26 billion. Now we are required to go forward.

Congress is accused of having known all along this is going to be an expensive program. So why are we surprised? Well, first, Mr. President, let me suggest that until recently the Pentagon did much of what it could to prevent an informed debate on this issue.

In 1986, some wanted to defer the B-2 to buy some more B-1B's. The Department of Defense at that point re-

fused to declassify its estimate for the B-2. However, at that particular time, the cost was leaked to the press of roughly \$36 billion. That was the number that was tossed out at that particular time. It represented an estimate calculated in 1981 dollars. I do not have any problem in weapons systems being calculated in constant dollars, but I think this was an attempt to hold the B-2's profile down by leaking to the press a cost estimate in 1981 dollars. So we had the number \$36 billion presented to the public at that time.

Back in 1986, Dr. Donald Hicks, who was the Undersecretary of Defense for Research and Engineering, said the cost of each B-2 would be roughly 2 to 3 percent greater than that of the B-1B. Apparently that figure was arrived at by rolling in all kinds of costs into the B-1B that DOD previously had refused to include in the B-1B.

Even now, the numbers are somewhat ambiguous, depending upon whose figures you look at, be it the Air Force or the Secretary of Defense or, more accurately, CBO. CBO calculates the cost to be something in the neighborhood of \$64.9, call it \$65 billion, for the 75 aircraft.

I might point out an irony. Last year at this very time, at this very moment last year, we were talking about building a force of 132 B-2 aircraft for a price tag of \$70 billion. That was last year's figure: 132 aircraft for \$70 billion. Lo and behold, we are now here 1 year later, we have been reduced to 75 aircraft, but the price tag is \$65 billion. So I think that the numbers are very important, and it is one reason why we have to examine the B-2 in the context of can we afford this aircraft at this time.

More importantly, that \$65 billion figure does not include operation and maintenance. That is simply the acquisition figure. For operations and support, we can add roughly \$1 billion a year, according to the best calculations that I have been able to achieve from the Air Force itself.

Norm Augustine, who is the chief executive officer of Martin Marietta, a former member of the executive branch, wrote a book called "Augustine's Law". In that book, he pointed out, tongue in cheek, but not entirely, that "In the year 2054, the entire defense budget will purchase just one tactical aircraft. This aircraft will have to be shared by the Air Force and the Navy 3½ days each week except for leap year, and then it will be made available to Marines on the extra day." Then, he points out that Calvin Coolidge, back in 1928 asked, in a moment of budgetary frustration over paying \$25,000 for a squadron of aircraft, "Why can't we buy just one airplane and let the aviators take turns flying it?" It appears Calvin

Coolidge may have been ahead of his time.

We are seeing an exponential growth of the cost of this sophisticated technology. It is going to put budgetary restriction on us. The minority leader said we are living in a time in which we are faced with a defense budget that will take a big hit. That is presently the problem. That is what we are trying to deal with. Because we are going to take a big hit, we have to be much more discriminating in the kind of system that we are going to be purchasing.

In response to all of this, the Air Force or the Department of Defense will come back and say, "Look, notwithstanding the pricetag, forgetting about the ticker shock, what price deterrence? What price freedom? You cannot put a price tag on it." And they are correct. But that argument can be used to justify every single system that we could conceive of. The real issue is whether it is worth \$65 billion to acquire the capabilities offered, or we assume will be offered, by the B-2 that cannot be acquired by available alternatives? I think it boils down to this question: Is it imperative to have a bomber whose principal mission is to penetrate Soviet air defenses into the next century? That is the central question.

The arguments have been made, and the Senator from Kansas raised this issue, is the B-2 more stabilizing? And the question is, more stabilizing than what? The B-2 is a stabilizing system, we are told, and I accept this argument, because it poses no first-strike threat as a slow-flying system and avoids dangers of accidental war because it can be recalled after being launched.

General Scowcroft, for whom I have an enormous amount of respect, has said that in the START talks both sides agree the bomber is the most stabilizing nuclear system. It holds a significant number of targets at risk in retaliation, but cannot be regarded as a first-strike system."

All of this is completely true. No one disputes this. The fact is, however, it is also true for a bomber equipped with air-launch cruise missiles. That also is a slow-flying weapon system that can be recalled. As a matter of fact, a White House document was released dealing with the 1988 summit in Moscow, and here is a quote from that document:

It is the U.S. view that ALCM's, [air launch cruise missiles], should be treated differently from ballistic missile warheads under the 6,000 limit because they are slower and do not pose a first-strike threat.

So, very simply stated, Mr. President, the stabilizing characteristics of bombers do indeed argue for creating an arms control regime that favors bombers, be they equipped with gravi-

ty bombs for the B-2 or cruise missiles for the B-1B or B-52.

So the argument really is not whether we should pay \$65 billion for the B-2 because it is stabilizing. That misses the point that all bombers are stabilizing. We have a stabilizing system in the B-1B. Equip it with air-launched cruise missiles, for which we are spending substantial amounts of money.

Another argument is that the B-2 is the most threatening system to the Soviets that we could produce. They are terrified of this system, we are told.

I find that somewhat ironic. I find it ironic because it appears that it was the Soviet Union that actually suggested a counting rule under the START Treaty that would favor building the B-2 bomber. If the Soviets fear this weapon system the most, then we have to ask why in the world would they in fact suggest a counting rule which would encourage us to go forward and build it? Either they have no fear of their ability to detect and defeat the B-2 or they have no fear of our willingness to pay the high price to produce it.

For a long time, we were told that a major reason for buying the B-2 was the ability it would have to attack mobile targets, in particular, mobile ICBM's. Back when the former Air Force Chief of Staff, General Welch, was commander of the Strategic Air Command, he testified that:

Fielding the ATB [B-2] will ensure a highly credible capability against the full spectrum of Soviet targets—fixed, hardened and mobile. The ATB [B-2] is the most promising weapon system to counter the relocatable target threat.

That was in prepared testimony, it was not an off-the-cuff response to a question, and similar statements have been made on other occasions by Air Force and DOD witnesses.

The Joint Chiefs' posture statement for fiscal 1988 stated that:

Plans call for the ATB [B-2] to deploy in the 1990's to ensure a continued US capability to . . . attack the full range of fixed and relocatable targets.

In March of 1989, the current SAC commander, General Chain, submitted information to the committee which stated that:

The B-2 will be preplanned to attack the full range of strategic targets (fixed/mobile, defended/undefended, hard/soft) in all categories. . . . The B-2 mission will include attacking relocatable targets. Of all current and planned weapons systems, the B-2 can best hold this target set at risk.

He went on to state that:

The B-2 enhances stability because of its flexibility to strike any SLOP target. No Soviet nuclear forces would be completely invulnerable to a U.S. retaliatory threat. This reduces Soviet confidence in their reserve force.

So time after time Air Force officials said this system is designed to attack a whole range of targets, including mobile ICBM's. That has been said for several years. Until last year that is, when there was a change of tone. Since last year the Air Force and DOD have been much more modest in their claims about the ability of the B-2. In a briefing that was released prior to last year's committee markup, the Air Force stated:

Attacking highly mobile targets is neither the reason for the B-2 nor is it likely to be accomplished with a great efficiency in the near to midterm future.

So they now pushed it off into the distant future. They initially argued it would be used for attacking mobile missiles; but now we are told that cannot be achieved, not during the 1990's and most likely not for some time after the turn of the century.

Mr. President, if we are not going to be able to hunt mobile missiles with the B-2, the next question is what about its ability to attack fixed targets?

There is no argument there. We do not dispute that whatsoever. The fact is, however, the air-launched cruise missile is perfectly capable of attacking fixed targets with accuracy. Let me cite the Air Force annual report to Congress, and this is from the 1989 report:

Air-launched cruise missiles are an effective weapon for attacking * * * strategic targets.

The question is again, Mr. President, are we going to spend \$65 billion to produce an aircraft to attack fixed targets which can already be attacked by something the American taxpayers already paid for, the B-1B? We are also paying for the advanced cruise missile, the stealthy cruise missile. I suggest we can attack the same targets with an air-launched cruise missile that we can with the B-2.

Another argument now being raised is that of the B-2 as a conventional bomber. And again the minority leader, perhaps, alluded to this, suggesting that as a result of the events in Baghdad we need the B-2 now more than ever. I suppose the Air Force will muster whatever argument it can to support this particular weapons system. But, are we really serious about spending \$65 billion for the total program, roughly \$865 million per copy for the B-2 bomber, to send it on conventional missions? I suggest we have other alternatives, not the least of which is the B-52 and the B-1B, again each equipped with air-launched cruise missiles.

In addition we have the FB-111, we have the Tomahawks available, and the land attack version of the Harpoon, not to mention the long-range conventional cruise missile. So we have a number of conventional options to attack target sites.

Mr. President, I would like to turn now to the amendment that has been offered by my colleague from Vermont, to explain in very brief detail, if I could—could I inquire as to how much time I have consumed?

The PRESIDING OFFICER. The Senator has used 14 minutes.

Mr. COHEN. Mr. President, during our markup, the Armed Services Committee was forced to make a number of tough choices in order to meet the task assigned to our committee. To give a couple of highlights, here is what we had to do.

We had to defer the Air Force's highest priority tactical aviation program, the ATF. We zeroed the production for DOD's highest priority lift program, the C-17. We deferred the Army's highest priority aviation program the LH helicopter. We terminated a major Army air defense program called ADATS. We zeroed production funds for the Navy's highest aviation program, the A-12. We zeroed production funds for the Navy's new generation attack sub, SSN-21. We terminated DOD's highest priority command and control program, called Milstar—zero. And we slashed personnel by 100,000.

All of us understand that the defense budget is going to be cut even deeper. Therein lies the rub with which we are faced.

After having done all of this, we know the Senate Budget Committee or the summit budgeteers, those who are now negotiating, are going to come in with a lower number, calling upon us to cut even further.

It is in view of that reality, Mr. President, that Senators who are concerned about drastic personnel reductions under these defense cuts should know that the only alternative is going to be to dig deeper into the procurement accounts. Senators hope to restore funding to the Milstar Program and other programs, and yet they are going to face the same reality. We are going further down in defense cuts. Many of us do not support that, but that is the reality.

So, if additional cuts are going to be made to the defense budget, I recommend—and what the Senator from Vermont and I are doing is recommending—that we bite the bullet now, that we in fact terminate production of the B-2. I do not think there is any real choice to this.

Under the major aircraft review whose results were announced back in April, Secretary Cheney decided to cut back on the B-2 program. He cut it back from 132 aircraft to 75. What we witnessed was a 43 percent reduction in the number of aircraft, resulting, according to CBO, in a savings of \$11.8 billion. So we had a 43 percent cut in force structure with about a 15-percent savings in the cost. That means we are going to spend about \$865 mil-

lion to buy every B-2, and in contrast we will save about \$207 million for every B-2 that we cancel.

If we really look at it logically, we would say we are better off to build the 132 or terminate the program altogether. At least you can make a sensible argument to go back to the original program, build the 132 because you are only saving \$11 billion and you are cutting the program virtually in half. But we are not going to build 132 so that argument I think is lost.

We have several options for halting this program. One is the option that was pursued in the House of Representatives, and that is the so-called Aspin alternative. What the House of Representatives did, essentially, was to say, finish your R&D program, proceed with 10 production aircraft, convert 5 of the research and development aircraft to operational status, so you end up with 15 aircraft. That is going to cost you \$8.7 billion in addition to what has been appropriated already. That is what the House would do.

One alternative would be to simply stop work immediately on the B-2. Cut everything out. That is extreme. That says cold turkey, no more B-2 work, period. If that were done it would actually result in a recouping of \$4.2 billion that has already been appropriated and it would cost \$13 billion less than the option that has been pursued by the House of Representatives. So, if we stopped everything right now, shut it all down, we would recoup something like \$4.2 billion and not spend the \$8.7 billion that is required under the House version.

I might point out that, with respect to the House version of just having 15 aircraft, the Air Force says from a military point of view that does not make any sense. Do not give us 15 aircraft. It is not militarily capable.

The final alternative is the more modest approach taken by the Senator from Vermont.

The Senator from Vermont has offered an amendment that would provide for the full R&D funding request for fiscal 1991, but deny all procurement funding for 1991. In other words, complete the R&D program, including the 6 full scale development aircraft, finish their flight testing, and then conclude the program. The Air Force would not be allowed to proceed with any aircraft intended for operational purposes. In short, this amendment says finish the R&D, including the flight testing, and then terminate the program.

Mr. President, it seems to me this is the most prudent course to follow. It is essentially the same approach we took a decade ago when we stopped the B-1A program. We allowed the Air Force to finish the R&D on the B-1A and then we prevented them from

going to an operational force. So we have a precedent.

Second, it seems to me this makes the most fiscal sense for all of us. We could save more money by terminating it; no more money being expended. But the Leahy approach would allow us to complete the full scale development and the testing, and then terminate.

I suggest, Mr. President, if we look down the line, all one can see are deeper and deeper cuts. And while there is resistance on the part of some of our Members to cutting more military personnel, and we are already at a 100,000 cut, we will have to go deeper. If there is support for an effort to go back and restore the Milstar program, which many would like to do, or if there is support to do more in SDI, the money has to come from someplace.

What we are suggesting is that this particular program, important as the technology might be, nonetheless is not worth the cost under the circumstances, given what we have to do to all the other programs.

If we had unlimited funds, I would say build the B-2. We do not. Can we accomplish essentially the same objectives with a B-1B and air-launched cruise missiles? I believe we can. So it is because of budgetary constraints, because I do not want to see deeper cuts in our manpower, because I do not want to see the other cuts that have to come as a result of going below what the mark has been for the Senate Armed Services Committee, that I rise in very strong support of the amendment offered by the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. How much time does the Senator from Vermont have remaining?

The PRESIDING OFFICER. The Senator has 39 minutes, 40 seconds.

Mr. LEAHY. Mr. President, last year I offered the first amendment in the Senate to end the procurement of the B-2 bomber. Ten committee chairmen and the majority leader supported that measure. With the leadership Senator COHEN has shown in this area of the defense budget, and other areas, I am pleased in joining him in offering a similar amendment today.

Mr. President, the obvious question is what has changed in the last year, last year when we received 29 votes to kill this program?

The nuclear threat we are facing has continued to diminish. The cost of the B-2 program continues to escalate. Our economy now seems posed on the brink of a recession. Each of these factors makes terminating the B-2 program more compelling.

Economic growth in our country has slowed to a snail's pace. The cost of the S&L bailout mounts with each passing day. It sends our Federal defi-

cit into the stratosphere. The Gramm-Rudman meat ax is poised to slash unprecedented amounts in vital Government programs. The Pentagon's response to this is to move forward with a policy of unilateral economic disarmament, spending tens of billions of dollars on a warplane we do not need, while the Europeans and Japanese continue to pour resources into making their economies more competitive as we head toward the next century.

I fear that if we do go forward with this ill-conceived program, the B-2 will find itself with yet another mission: flying boldly over the smoldering remains of our decimated economy.

Mr. President, this amendment is slightly different than the measure I offered last year. The Air Force will be permitted to complete construction only on planes that will be used in the flight test program. They will not be able to complete any further work on planes that are intended to become operational.

Last year we proposed finishing all planes in the production pipeline. However, the Air Force announced this year it would require \$8.7 billion in addition to the \$25.7 billion authorized so far to finish all 13 planes. I think this is far too expensive to have a minimal operational force.

The Cohen-Leahy amendment directs the Air Force to use over \$3 billion in unobligated funds to complete the so-called test planes. These funds should cover construction and termination costs. The amendment provides for research and development to continue. There is important technology that has been developed on this program, and we should not lose it.

Mr. President, we have heard a lot about fences surrounding B-2 funding during this debate. These fences are designed to prohibit certain B-2 funds from being spent before it passes specific testing requirements.

With all due respect, may I suggest that these fences are misplaced. We should not be putting fences around the B-2 money. If we are going to be doing this, we ought to build a large fence around the Federal Treasury because there is going to be a run on the Treasury if we continue with the B-2 bomber. That is where the fence is going to be needed to keep the taxpayers' money from being wasted.

The case against the B-2 has grown over the past year. Military justification has weakened under the burden of political events. Dramatic events have changed the landscape of Eastern Europe. Budapest, East Berlin, Prague, Warsaw—they are no longer targets of our nuclear weapons. Instead, they are in the sights of American tourists. As the threat has declined, it is clear there are much more affordable alternatives to maintain our national security.

Mr. President, this year the Congress needs to reduce the Federal deficit to \$64 billion, an illusory target itself. The Congressional Budget Office recently calculated our deficit will be \$200 billion in 1990. The President and congressional leaders are now involved in negotiations to figure out how to make serious deficit reductions. We need a bold agreement. The Federal debt is over \$2 trillion. It is growing at the rate of \$22 million an hour.

The Defense Department has to bear its fair share of the burden to reduce the deficit. The blank check that was written for the massive defense buildup of the 1980's is one of the reasons why we face our current financial difficulties.

Everybody seems to agree on that. Nobody, however, wants to go beyond the rhetoric and the symbolism, because once you go beyond rhetoric and symbolism to cut the budget deficit, it means making tough choices, and casting tough votes to get the result that the American people tell us they want.

There is one step we can take. I think it is a first step in this bill: Cancel the B-2 program. That is one way to start working seriously toward bringing our deficit under control. If the Senate adopts this amendment, taxpayers will save over \$30 billion. Last year, the savings from the amendment would have been \$40 billion. We need to halt the system now if we are going to get any substantial savings.

Mr. President, last June I recall the Secretary of Defense, a man I have great respect for, pleading with Congress not to nickel and dime the B-2. He warned us that the price would go even higher. He told us that less would be more. He told us either fund it or get rid of it. On April 22, he ignored his own advice when he announced he cut the B-2 program from 132 to 75 planes. He reduced the number of planes bought in fiscal year 1991 from five to two. He directed no more than 12 planes would be procured in any 1 year, cutting the original delivery schedule in half and doing the nickel and diming that we were warned against.

The Secretary estimated several billion dollars in savings from this reorganization. But just a few weeks later, the Air Force was briefing Congress that it could not meet the budget set forth by the Secretary of Defense. Originally, five planes cost \$5.5 billion. Now two planes will cost \$4.6 billion. The cost of the total program increased by \$1.4 billion. These are such huge numbers that I wonder if the policy mistakes being made are being made simply because nobody can comprehend \$4.6 billion for two airplanes.

The price of the B-2 is going nowhere but up. American taxpayers just

spent \$30 billion to buy the B-1B, and now we want to buy the B-2 at more than \$860 million per plane. If we follow the Secretary's plan, \$100 billion of our tax dollars will have been spent to buy two new strategic bombers within 10 years; \$100 billion on two new bombers within 10 years. I think we need to get a heck of a lot more out of the B-1B before we build a new strategic bomber.

The case with the B-2 fails on its merits as well as its costs. The Air Force originally sold the plane as a solution to finding and destroying Soviet mobile missiles but, as the distinguished Senator from Maine has already pointed out, that is not so. Everyone knew that the B-1B, a low-flying penetrator, or cruise missile, could not carry out this mission. The B-2 was supposed to fill this gap. Now, the Air Force concedes the B-2 cannot locate and destroy mobile missiles.

The biggest stealth characteristic of this plane has been its mission. Nobody can focus on it long enough for it to stay there, it changes so rapidly. In fact, in a briefing paper, the Air Force admits attacking highly mobile targets is neither the reason for the B-2 nor is it likely to be accomplished with greater efficiency in the near to mid-term future.

A stealth mission for a Stealth bomber. Unfortunately, it is not stealth dollars; it is real dollars that are being spent.

What unique mission does the B-2 carry out? None. We do not need another penetrating bomber. We just bought the B-1B that the Air Force claims will be an effective penetrator into the next century. That itself depends upon Soviet air defenses. The Air Force claims the Soviet Union is continuing full throttle on fielding new defensive radars and interceptors. These officials are relying, Mr. President, on the same information that insisted the Soviet economy was half the size of the United States' economy when it was actually only one-third. For years, we planned our national defense spending on the same misguided information. The Soviet economy is in a shambles. Any assertion the Soviet Union is going to spend billions and billions of dollars, even hundreds of billions of dollars on a new radar system stretches the imagination.

I am confident that nuclear deterrence is secure without the B-2 bomber. With warheads on alert now on air launched cruise missiles, the advanced cruise missile, B-52H's, B-1B bombers, MX missiles, Minuteman II missiles, Minuteman III missiles, Trident submarines and sea-launched cruise missiles, the Pentagon is failing to make its case for the most expensive plane in history.

Incredibly, one mission the Air Force has tried to assign the B-2 is to exploit the counting rules under the

Strategic Arms Reduction Treaty [START]. Ironically the B-2 debate has come down to threatening American taxpayers with losing the first arms control treaty in a decade unless they spend billions on the B-2.

START goals are to reduce Soviet and United States arsenals to 6,000 warheads on each side. Our nuclear planners, still frozen in the nuclear ice age, insist that the United States should take advantage of a loophole that counts penetrating bombers as only one warhead, even though each plane can carry up to 20 nuclear weapons.

B-2 proponents warn that our national security is at risk if we fail to capitalize on this warhead advantage. These supporters are without peer in overstating threats and understating costs.

But there are other counting loopholes in the START treaty. If Congress cancels the B-2 now, as it should, we will still have more than 9,000 warheads in our nuclear arsenal under START. The Soviet Union will have more than 7,000 warheads under the treaty.

Do we need to spend billions to exploit loopholes in an arms control treaty? I think not. We should purchase weapons because we need them, when they are essential to our national security, not to play counting games.

Finally, Mr. President, the Air Force claims the B-2 provides flexibility during a crisis because the plane takes hours to reach its targets. B-2 proponents argue a "slow to anger" nuclear weapon increases stability.

These individuals fail to note that the B1-B and B-52 bombers armed with cruise missiles also take hours to reach their stations and targets. There is no unique feather that makes the B-2 more stable than another penetrator or an ALCM carrier.

What Air Force officials fail to reveal is that thousands of nuclear weapons will be launched before bombers arrive to pave the way through hostile territory. Like any other penetrating bomber, the B-2 will follow corridors blasted by intercontinental ballistic missiles to suppress hostile defensive forces. The B-2 is actually a cleanup weapon. It will simply circle the Soviet Union to examine targets and bounce the rubble after thousands of nuclear warheads have already been launched.

Mr. President, the B-2 bomber was devised by strategic planners when the cold war was hot and the defense budget was bulging. Even President Bush has declared the cold war is over. History has made the justification for this plane moot. We cannot afford it. We do not need it. I urge that we face the reality in the Senate today.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. ADAMS). Who yields time?

Mr. CRANSTON. Mr. President, will the Senator from Vermont yield me some time?

Mr. LEAHY. Mr. President, I yield 10 minutes to the Senator from California.

The PRESIDING OFFICER. The Senator from California is recognized for 10 minutes.

Mr. CRANSTON. Mr. President, I rise as a cosponsor of both of these amendments which are designed to end the B-2 program. I praise the leadership of the Senator from Vermont [Mr. LEAHY] as well as other Senators.

Last year the Senate cast its first vote on the B-2 Stealth bomber, after years in which this program was shrouded in secrecy. It is my hope that today we will cast the last vote on the B-2—a vote to end further production of this billion dollar boondoggle.

The B-2 is a glaring example of the serious disconnect between the defense spending plan the Senate is considering and our changing defense needs. The Armed Services Committee made an important start in cutting \$18 billion from the Pentagon's \$306 billion budget request. However, there is much more that needs to be done. As we reshape our force structure to respond to the diminishing threat, we have a unique opportunity to make deeper cuts in defense spending.

In this era of burgeoning budget deficits, deeper cuts in defense spending are all but inevitable. As Chairman NUNN noted in his series of speeches on defense spending, the Pentagon provided us with a defense budget, the basic structure, which is more than 2 years old. The time for us to lay the groundwork for deeper cuts and future savings is now.

If we do not eliminate these big ticket items from the budget, we are committing ourselves to spending billions of dollars in the coming years to complete systems that are simply no longer relevant. Let us be clear, this debate is not about the B-2 bomber alone. This debate is about our spending priorities for the future—about whether we will be spending taxpayer dollars on the next generation of weapons systems or on projects that advance the real security needs of the next generation of Americans.

It is no longer enough to be a leader among nations in military might. If we are to remain strong, we must face the critical challenges at home.

Over the next decade we should realize a peace dividend of historic proportion. I will be working to ensure that we achieve it, and that we invest it in programs that address critical human needs—education, the environment, health, housing, transportation, and antidrug and anticrime programs.

Yet, as we seek ways to cut the defense budget, the cost of the B-2 bomber continues to soar. In 1978, the Air Force said it would cost \$218 million per plane. Last year, they said each plane would cost \$532 million. Now, we are facing a price tag of \$860 million per plane, and there is no end in sight. The sky, it seems, is the limit. If we include the operating costs of the aircraft over its lifetime, using Air Force estimates, the cost per plane will hover at \$1.1 billion.

Yes, the B-2 is truly a billion dollar bomber, that's what it would cost if it was built of solid gold.

Secretary Cheney has told us not to nickel and dime the B-2. Now, as a result of his major aircraft review, we are doing just that. But the cost of the B-2 is much more than a few nickels and dimes. If we reduce the number of planes and stretch out B-2 production, as Secretary Cheney has asked us to do, we will end up spending more than \$80 billion.

The Air Force acknowledges that the costs of the B-2 program are skyrocketing. In fact, they came back to Congress only 3 weeks ago to let us know that they were wrong in their cost estimates for previous years. They now need \$1.4 billion more, on top of the \$4.5 billion requested for fiscal year 1991, to pay for planes we thought we had already paid for over the last 3 years.

The Air Force has also announced that the termination costs of the B-2 are prohibitive. According to the Air Force, we have spent so much, we have no choice but to proceed—this plan is just too expensive to kill.

I am afraid that if we continue to let this hemorrhage of dollars continue, this plane will be too expensive to fly.

This is why I urge my colleagues to join this effort to end further production of the B-2. If we end production of the B-2 now we will save over \$34 billion in direct program costs, plus approximately \$18 billion in the operating costs for the fleet of B-2's as they are presently configured.

At a minimum, the underlying amendment would cut \$1.9 billion in procurement funds and would allow the Air Force to complete the planes that are in various stages of production. At a maximum, our second degree amendment would eliminate funds for procurement and advance procurement and would direct the Air Force to complete the six planes that have been designated test planes with more than \$3 billion in unobligated funds for previous years.

This amendment goes further than legislation I introduced earlier this year, the B-2 termination legislation. It is time that we take decisive action.

In the last year we have worked to develop the public debate on the B-2 and develop a majority to terminate the program. Beyond the sticker

shock, there are serious questions about what this plane contributes, if anything, to our overall nuclear deterrent and war-fighting capability.

As support for the B-2 has eroded, Congress has been bombarded with arguments on why we should build the B-2. The Air Force has gone on the offensive, organizing strategy retreats, selectively releasing information, and even stooping to promotional gimmickry during the recent invasion of Panama.

We have been told that men who have held positions of great trust for the security of America support the B-2. Yet, a growing number of well-respected members of the defense community question the merits of proceeding with the B-2 program, among them Robert McNamara and Lawrence Korb, an Assistant Defense Secretary in the Reagan administration.

Respected defense analyst William Kaufmann, now with the Brookings Institution, called on Congress to halt the rush to produce the next generation of weapons. Last week, as we all know, House Armed Services Committee Chairman LES ASPIN joined the chorus of critics, stating that there is no unique and compelling mission for the B-2.

Over \$30 billion has been invested in the B-2 program and the development of radar-evading stealth technology. What many fail to realize, however, is that the B-2 is yet to be tested against any radar.

There have been no notes of the B-2's stealth characteristics on a real full-sized bomber, and critical testing will not be completed for another 3 years. We have no idea if this technology works. Even if one could make the case for buying this plane—and I would argue that one can not—we would be violating one of the most basic tenets of defense procurement: Fly before you buy. The Armed Services Committee deleted procurement funding for a number of key programs for this very reason.

The decision to buy more B-2's before we know what this plane can and cannot do is pure folly. Indeed, the existing evidence on stealth countermeasures is troubling. In recent testimony before the Senate Armed Services Committee General Larry Welch, the previous Air Force Chief of Staff, testified that the B-2 would be detected on radar screens. Public reports indicate that our own military is developing systems capable of tracking planes equipped with stealth technology.

The French are developing radar that operates on very high frequency bands enabling signals to defeat radar-absorbent coatings used to make stealth aircraft hard to detect. Impressive advances in over-the-horizon radars and technology designed to detect air turbulence for a low-observ-

able aircraft suggest that stealth-defeating radar could detect and compromise the B-2. All these developments need further study before we spend billions of taxpayer dollars to produce more stealth aircraft.

Mr. President, our nuclear deterrent is robust without the B-2.

We have just spent more than \$27 billion to modernize the bomber leg of our nuclear triad, buying 97 fully capable B-1 bombers. New findings from the Air Force Logistics Command indicate that our fleet of B-52's can fly well into the 2030's. Stealthy advanced cruise missiles will keep the bomber leg viable well into the future.

For years the B-2 has been touted as the only weapons system capable of locating and destroying mobile or relocatable targets and, as Senator COHEN stated, the Air Force has backed down from its oft-stated position now on mobile missiles.

B-2 proponents argue that the B-2 is the best system to seek out and destroy fixed targets, despite the fact that ALCM's launched from bombers can effectively penetrate and reach thousands of targets. The argument that the B-2's gravity bombs are the only way to destroy the most hardened targets of high value, suggesting deeply buried shelters designed for Soviet leaders is woefully out of date. Do we really want to proceed with this gold-plated bomber solely to eliminate Mikhail Gorbachev and the new Soviet leadership, presumably the very same people we would want to negotiate with in the highly unlikely event of a nuclear war?

The B-2 is deemed more flexible than bombers carrying cruise missiles. In the event of a nuclear war—again, an ever more remote eventuality—a bomber crew flying over the war zone could determine that the planned target was already sufficiently damaged and could attack something else. This dubious mission is premised on the ability of a bomber crew to actually determine whether a target has been sufficiently damaged in the chaos of a nuclear battle. The marginal benefit this brings to our nuclear warfighting capability, if any, is questionable, especially at such cost.

One of the favorite arguments of B-2 proponents is that the B-2 can serve in a variety of conventional roles notwithstanding the reluctance of the Pentagon to send the \$1 billion bomber on such missions.

Even the F-117A Stealth fighter was sent to Panama over the objections of some officials. We have more than enough aircraft to conduct sea surveillance and all the many conventional missions that can be dreamed up for the B-2 bomber.

The argument that the B-2, with its potential radar-evading capability, will force the Soviets to invest vast sums of

money to upgrade their air defenses flies in the face of reality. The Soviets, coping with seemingly endless political and economic crises, cannot divert much-needed funds to defense before responding to urgent domestic needs, and we do not really want them to under current circumstances when we and our allies are talking about giving support economically in one way or another to the foundering Soviet economy.

Mr. President, I am troubled by statements of key defense officials, including the Joint Chiefs of Staff, about their inability to support the START Treaty without the B-2. All too often we have had to promise the services a new weapons system in order to have their support for an arms reduction treaty. The irony of proceeding full speed ahead on nuclear modernization programs at a time when we are striving to reduce our nuclear arsenals sometimes seems to be lost on them.

Even without the B-2, we will still have more than 8,000 nuclear warheads under the START treaty. If we actually build 75 B-2 bombers—and I don't believe we will—we would have an additional 1,000 warheads. Is this really necessary as we contemplate the next round of START talks to reduce our nuclear arsenals even further? It seems to me that because we have been able to get the Soviets to accept the principle of undercounting warheads on bombers, we are now being told that we must spend billions of dollars on a new bomber so that we can take advantage of this rule.

Let me finally make one point, Mr. President.

I have consistently fought for California projects which I believe to be of value to our national security and are cost effective. I am keenly aware that the vast majority of the funds for the B-2 would be spent in my home State and could provide thousands of jobs for California. I deeply respect the individuals involved and the wondrous technology they have labored to produce. I will work hard to create opportunities for them and the many workers in my State who may feel the impact of the defense budget cuts.

I am confident that the diverse California economy will make use of these highly transferrable skills.

The savings we realize on this and other programs, properly invested, could open up lucrative markets for new and existing commercial products, create thousands of new jobs and businesses, and boost the productivity of the American worker.

Leadership on reordering our priorities must begin at home. I hope to set an example by leading the fight against California's B-2 because I think saving this money serves a crucial national interest.

Mr. President, the end of the B-2 will mark the beginning of a new era in the way this country plans for its defense.

Mr. EXON addressed the Chair.
The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. We have a full hour left?
The PRESIDING OFFICER. The Senator from Nebraska controls 59 minutes and 55 seconds.

Mr. EXON. I yield 12 minutes to the distinguished chairman of the Defense Appropriations Subcommittee, the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii is recognized for 12 minutes.

Mr. INOUE. I thank the Senator from Nebraska.

Mr. President, I rise this afternoon to speak in support of the B-2 bomber.

The bill before us continues the development and procurement of two B-2 bombers. I believe this is a prudent recommendation which should be supported by the Senate because the B-2 represents a breakthrough in many areas of technology. It is still necessary in view of Soviet capability. It will serve as a strong deterrent, and it offers conventional applications if needed.

Mr. President, the fiscal year 1991 budget of President Bush requested funding to continue development and purchase of five B-2 bombers. The bill before us has already reduced this amount to two bombers in concert with the recommendation of Secretary Cheney.

The committee has minimized the concurrency between development and production of the B-2 by holding down production until additional testing has been completed.

I think we should remind ourselves, Mr. President, that this program has been underway for over a decade. This body has already authorized the Defense Department to spend more than \$26 billion for the B-2. And we have already obligated about \$23 billion, most of it for the funding required to conduct research and development, and to construct huge factories at great cost to produce the airplanes and train the thousands of workers in the complex manufacturing techniques required to build this unique aircraft.

Quite simply, it makes very little sense to stop the program at this time.

Mr. President, I have heard some of my colleagues say that we do not need the B-2, but this view discounts the facts. In nearly every hearing I have held as chairman of the Defense Appropriations Subcommittee one point has been consistently articulated by military commanders, civilian leaders, and intelligence officers of our Government; that is, simply stated, the Soviet strategic modernization program continues at full speed.

While it is true that in some areas the Soviets have reduced spending and are cutting back on their conventional forces, this is not the case in strategic programs. The Soviets are building more submarines. For example, last year they built nine and in contrast we built two. They are building more ICBM's and they have not slowed down the production. They are building more bombers than we are in the United States.

Others argue that the B-2 is not necessary because of the existing capability of aircraft such as the B-1B and the B-52 bombers.

Mr. President, neither the B-1B nor the B-52 will ever have the penetrating capability of the B-2. Furthermore, what capability these systems have is already deteriorating.

Some have argued that cruise missiles can replace penetrating bombers. I agree that cruise missiles are an important component of nuclear deterrence, but that is all. Like submarines and ICBM's, cruise missiles provide one element of nuclear deterrence.

And I think we should keep in mind that once a cruise missile goes out beyond a certain point, once an ICBM leaves the silo and goes beyond a certain point, they are beyond recall. It is death. But a B-2 can be recalled.

Some critics contend that the B-2 will not work, that it can be detected and defeated by existing systems. Mr. President, this is simply incorrect. Nothing has been developed today that can defeat the capabilities of Stealth aircraft. This statement isn't based only on laboratory testing in controlled environments. While much in this area is classified, it can be said that Stealth systems have been tested and they work. I understand that numerous efforts have been made to find a solution to Stealth, and to date nothing has been successful. Some day, someone surely will find a way to unlock its secret, but until that time, it will serve as a very effective weapon. Furthermore, any such technological breakthrough will require an enormous investment in air defense systems before it can provide any significant counter-Stealth capability.

There is another aspect of the B-2 program about which very little is said. There are significant commercial applications in the techniques that are being developed in the B-2 program. Thousands of workers are learning how to work with composite material. It is widely believed that this material will be key to aircraft manufacturing of the future. So too, the computer aided design, robotics and precise manufacturing techniques incorporated in the B-2 program are on the leading edge of manufacturing technology. With the experience gained by producing the B-2, U.S. manufacturers will

increase their commercial competitiveness.

But, Mr. President what is most important, more important than the cost of the program, the commercial applications, the 40,000 jobs associated with the program or the politics of terminating a large strategic program, is the requirement for this body to provide what is necessary for our national defense.

Mr. President, I have heard it said that glasnost means we no longer have to worry about the Soviet threat, that the cold war is over. I would like to believe that this is true, but we can not be sure at this time. And, we cannot risk our country's defense on such assertions and assumptions. Our defense forces must be based on the capabilities of our adversaries not on wishful thinking about their intentions.

There are those among us, however, who take exception to this view of our changing times. They argue that a new, and possibly irreversible reality has taken hold in Europe and that our actions are at least as important to the survival of perestroika and as Gorbachev's skills as a leader. They say that if Gorbachev is to succeed, then we must rally to his side and be prepared to undertake whatever initiatives are called for to ensure his survival. If this should require large-scale troop reductions, then, so be it; in their view, we must outmatch him measure for measure. If the Warsaw Pact is rendered impotent as a military force, then we, in the West, must abandon our commitment to the Atlantic Alliance. If Germany is reunified, as indeed it may be, then, say these voices, we must guarantee its neutrality.

I, for one, take issue with this logic. I refuse to follow that path. Others may plunge into the abyss; I prefer to carefully construct bridges which lead safely from the divisions of the past to a New World united in the peace which we all hope will emerge.

It is not my intention to be a naysayer or a Jeremiah prophesying imminent catastrophe. Rather, I hope to remind those who would leap to judgment about the permanence of change in the Soviet Union, that the impetus for today's reform movement rests on the work of a single, solitary man. To gamble our security, and that of our children, on the survival of this, or any, individual is naive.

To abandon the elaborate security system which has protected our freedom in crisis after crisis, in Berlin, in Greece, and in Cuba, is reckless and foolhardy. Today, 24 hours after Iraq brazenly invaded Kuwait, can we be confident that our security, and that of our allies is totally assured?

My duty—as I see it—is to the American people. My charge is to ensure that their welfare is protected in the event that Mr. Gorbachev and his

grand experiment should meet an untimely end.

For these reasons, I support the B-2. I believe that it is necessary for national defense. I believe the B-2 offers tremendous long term potential to serve as a powerful deterrent to any adversary.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. I yield 5 minutes to the distinguished senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 5 minutes.

Mr. THURMOND. Mr. President, I rise in opposition to the amendment which would terminate the B-2 bomber program.

The outcome of this amendment may be the most critical decision this body will make with regard to our Nation's strategic deterrence. The United States must always have a strategic deterrent that is undeniably powerful and survivable so the Soviets will always know that they, the leaders and organs of state power, face sure and rapid destruction if they ever unleash a nuclear war.

Why do I say that this principle is now at stake? Because unless we decide to modernize now, we will enter the next century with an older force, a compromised force, a force vulnerable to Soviet defense. Decisions we make now will determine the effectiveness of our strategic triad for years to come. We have to modernize.

While we are arguing, the Soviets understand this perfectly. With all their problems, with their economy in shambles, with their military budget declining, with their cities plagued with ethnic unrest—the Soviets are still moving ahead. I want to repeat, they are moving ahead at top speed to modernize their strategic forces.

Mr. President, what are we doing? We are arguing whether to have a mobile ICBM or not. We are questioning whether the Department of Energy will be able to make warheads for the Trident submarine. We quibble about crisis stability and cost effectiveness at the margin, and we talk about abandoning the most important development in military technology in years, the Stealth bomber.

I hope we do not lose the fight for the B-2 bomber. We know that the Soviets have not in the least slowed their research to defeat our strategic forces. That is why we have always relied on the triad. If we stop the B-2, we give away one leg of the triad. Then we will be relying on ICBM's and submarines. We know the Soviets can destroy the ICBM's in their silos. Can we be sure they will never find the Tridents?

Mr. President, I am convinced that we need the B-2 bomber. I am convinced that it works. I, like every

member of this body, am concerned about its price. It is important, however, that we put the cost of the B-2 in the proper perspective.

Secretary Cheney's revised B-2 program reduced the total buy and annual procurement rates, which resulted in increased flyaway cost. However, when put into historical context, this flyaway cost is still very reasonable. History has shown that each generation of aircraft has been significantly more expensive than the previous, reflecting advances in technology and capabilities. For instance, the flyaway cost of the B-36 was nearly 600 percent more than that of the B-29. The B-52 cost nearly 200 percent more than the B-36. Although it represents a totally revolutionary design of materials, avionics and systems on the leading edge of technology, the B-2 will only cost 80 percent more than the conventionally designed B-1B.

Mr. President, our Nation needs the capabilities represented by the B-2. It represents a critical element of our strategic framework for maintaining deterrence and stability for many decades. The B-2 will make contributions to national security objectives across the continuum from peacetime to nuclear war that cannot be matched by any other system. The events of yesterday involving Iraq and Kuwait vividly demonstrated that we live in an unpredictable world. We must be prepared to confront any and all levels of conflict. The B-2 will enable our Nation to meet the challenge.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. GRAHAM). Who yields time?

The Senator from Nebraska.

Mr. EXON. Mr. President, I yield 5 minutes to the Senator from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming is recognized for 5 minutes.

Mr. WALLOP. Mr. President, as I listened to what is going on here, I express a certain amount of surprise. Perhaps I ought to have a certain amount of indignation, but here our colleagues are expressing dismay that new roles and missions have been identified for this wonderful airplane. Apparently they think that it was designed for only one role and it ought to be restricted in concept to only that role and therefore much more easily criticized. These are the people who apparently believe that the Japanese or the Germans are the only sophisticates in the world who can build flexible multiple-concept technology.

I also listened to them address the area of increasing unit cost. The behavior of this Congress is what creates increasing unit cost. It is inconceivable that the actions of Congress last year would not have added to the cost per unit of this airplane. We built fences

around already existing design and testing capabilities. We delayed its procurement order. The actions of the chairman of the House Armed Services Committee were the most abysmal of all. He wanted to stop the program until the Air Force figured out how to make it cheaper, which was a simple, disguised way of killing the program in the first place.

My friend from Maine describes the role of the B-2 as one that can be easily filled by stealthy robots launched from outside the perimeter. I say to my friend that he has come across a prescription for modern warfare which should comfort us all. We now will have air-conditioning but not fiscal conditioning and we will be able to conduct battle from the inside of bunkers and no one will ever know who won. We will all feel much better for that.

The fact is a manned bomber can provide something that a robot bomber cannot, and the role that it is intended to fill can only be done by manned bombers. There is a role for and a place, both in concept and in appropriations, for stealthy cruise missiles. But the cruise missile cannot in and of itself, in this Senator's opinion, fulfill those roles.

There is another area in here which I think is important to identify, and that is the area of arms control. It is simply not possible for the United States to one-by-one eliminate all the principles that we are negotiating with the Soviet Union and expect them to continue to negotiate. It was not my idea in the first place that the accounting rules would contemplate the B-2. Had I been consulted in that, I think I would have maybe tried to cast us in another direction, but I was not, and it now remains one of the few things by which we can achieve some level of equality with the Soviet Union after the negotiations in these armed control processes.

I point out that the Senator from Hawaii was more than a little bit correct to observe that the Soviets' strategic efforts are increasing, not decreasing, that their level of expenditure in defense still approaches 25 percent of GNP, and, while it is true that they have significantly declined in their conventional effort, there is absolutely no sign whatsoever of the abatement in their strategic effort.

So whatever Americans may feel about the world as it confronts us now, the threat that we face is a capability that we face. Gorbachev may say one thing and do another because he is human. He may be replaced by someone who would do yet another and who can pick up the tools of warfare and threaten the peace and security of Americans, no matter where they are, or of free world democracy.

In this conventional role, of which some have spoken, I might point out

that the conventional capabilities of Third World countries are increasingly sophisticated. The FB-111 is not a simple and incapable airplane. Yet the Libyans shot one down in the raid on Tripoli in 1986.

As we see the conventional capabilities of major powers diminishing, it is unrealistic to suppose that those capabilities will not in large measure be transferred to the hands of other powers in the world. Very sophisticated anti-aircraft, air-to-air, surface-to-air missiles already exist in the hands of the Third World. Saddam Hussein, whether we like it or not, represents one wave of the future. The man openly threatened the Western world, including the United States, as did Qadhafi, who said if he had the missiles today, he would fire them at New York. It is important for us to realize that these technologies are going to be in the hands of people who threaten the basic interests of Americans no matter where in the world they may be.

MOTHBALL THE B-2 PRODUCTION LINE?

Mr. President, we understand that one of the proposals under discussion by opponents of the B-2 Stealth bomber is to terminate the program, but to keep the technology alive by mothballing the production line. This approach would eliminate the two planes that are slated to be bought next year, and would mean that only a total of 15 B-2's will be procured.

Somehow the idea apparently is to keep a production capability available, so that if we ever find that we require the advanced bomber, all we have to do is push a button, turn the program back on, and bingo, pretty soon we'll have all the B-2's we need.

But this, I am sorry to say, is just not the way things work.

First, putting advanced technology on the shelf is almost a contradiction in terms. If we agree to stop development, then that capability is completely wasted. We simply cannot afford to invest huge resources in development programs that have no application. This country today enjoys a significant advantage in low observable technologies, and I believe that the only way to keep that lead over our potential adversaries is to continue to apply those technologies through aircraft like the B-2.

A more basic concern is the idea of mothballing the production line. Think for a moment what this means. Do we keep thousands of skilled production workers available to start up at on short notice? How do we keep the countrywide team of B-2 vendors and suppliers in business so that they can provide the parts if and when we decide to start up again? How about the manufacturing facilities. What does mothballing mean to production tooling?

Mr. President, I certainly don't have the answers to these kind of questions, and I doubt that the proponents of this approach do either. In fact, to those who believe that we can keep the B-2 alive through such a scheme, I say that it is simply a subterfuge to kill the program.

A much better alternative, in my opinion, is the proposal submitted by Secretary Cheney and endorsed by the Armed Services Committee. Let's continue the development and test effort, and let's buy the minimum number of aircraft necessary to maintain a viable production line. This will ensure the opportunity for a gradual buildup in numbers, while we also make certain that the system performs correctly.

Mr. President, I call upon my colleagues to support the request for the necessary funds to carry out the proposed B-2 program next year.

The PRESIDING OFFICER. The time has expired.

Who yields time?

The Senator from Nebraska.

Mr. EXON. Mr. President, I yield 8 minutes to the Senator from Washington.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I thank the distinguished Senator from Nebraska.

Mr. President, the foremost argument which has been presented to the Senate in favor of the two amendments which are before it right now is that we can save amounts of money measuring in the billions by abandoning the quest for a B-2 bomber. One of those amendments would leave us, as I understand it, with six B-2's, at a cost of almost \$4 billion apiece. The other, the more mild one, which is also the position of the House Armed Services Committee, would leave us with 15 B-2's, at a cost of slightly more than \$2 billion apiece, as against having a viable fleet of 75 at a cost of not much more than a third of the more economic of the two proposals which are before us at the present time.

The result of the success of either one of these two amendments will be that our long-range bomber, our manned bomber fleet will consist of 97 B-1's and an aging B-52 fleet, most of which will either be out of service or close to obsolescence by the turn of the century.

The natural question to raise is what will the successor to the B-2 be if we should adopt one of these amendments? Both amendments, interestingly enough, would complete all of the research and development on the B-2. That must mean that in the back of the minds of the proponents of the amendments is the possibility that we may have to start up production on a B-2 after a lapse of several years if it is then determined that we need a penetrating bomber.

Will that save us money, Mr. President? Obviously not, because the cost of this money is measured in the terms of millions of dollars.

Perhaps they mean that the B-2 is not advanced enough technology. They make at least veiled criticisms of its capability, and that we should use this research and development to go on to another, even more advanced, bomber, whatever that may be.

Will that be less expensive? Will that be in operation by the turn of the century? The answer to those questions are obvious, Mr. President. It would be a far more expensive campaign and far less likely of success than the completion of 75 B-1's.

Perhaps, however, the proponents of the amendment envisage a third and different solution. Perhaps they believe that by the turn of the century the Soviet Union will be both peaceful and prosperous and stable and will present no threat of any significance to the United States and its allies. Perhaps they believe that by the turn of the century there will be no Libya, no Iraq, no instability at any point in the world. Perhaps those situations will be with us at the turn of the century, Mr. President, but perhaps they will not be.

While the threat to the United States of a massive nuclear attack from the Soviet Union is obviously and dramatically lessened, instability in the world overall is not lessened. It has been increased and is likely to increase as more and more nations develop more nuclear missile capabilities.

In any event, this proposal calls for the effective abandonment, curiously enough, of the least destabilizing and most flexible elements in the nuclear triad. It undermines our position at the START talks. It does not destroy that position. We perhaps could recover it. We can certainly, if we do not accept the B-2, build more missiles, more destabilizing, a less flexible weapon, one which will eat up most or all of any savings which would be made by canceling the B-2.

Certainly this amendment is not based on any Soviet change in nuclear theory or capability or modernization programs. It is simply an extremely risky and expensive bet on a future which is far from certain.

My distinguished friend, the senior Senator from Maine, gave us a long list of alternative weapons systems which implicitly might be more important than the B-2. There are two answers to that: Either that means we just shift spending military money from one subject to another, in which case we are shifting from lower priorities on the part of the Department of Defense to a higher priority which they have given to the B-2. Or, perhaps, the more likely result is that that money will go into systems not listed in the account of the Senator

from Maine, but simply those which benefit particular congressional districts or particular States or particular bases which would otherwise be closed. In other words, go into pure pork.

Mr. President, this alternative is not the least expensive to the defense of the United States. It is clearly not the safest for the defense of the United States. And, it is not the wisest course of action.

Others have already dealt with the argument of cruise missiles as a substitute for the B-2, I think convincingly. But I should like to end my remarks, Mr. President, by picking up on the last line or the last sentence of the argument made by the senior Senator from California [Mr. CRANSTON]. Mr. CRANSTON said:

The end of the B-2 will mark the beginning of a new era in the way in which this country plans for its defense.

I believe that that statement is entirely true, Mr. President. I look on it somewhat differently. The way in which this country has planned for its defense during the course of the last 40 years has been one of the great success stories for not only the United States but for the free world. It has prevented a nuclear conflict. It has prevented major conflicts with other major powers. It has broken the back of the Soviet Union. It has successfully won for us the cold war.

I would say that set of plans, Mr. President, has been marked by success, and that before we change to a new era in the way in which we plan for our defense, it seems to me that we are entitled to place a heavy burden of proof on those who favor such a dramatic change, a burden, Mr. President, which they have spectacularly failed to carry.

THE PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, we reserve the remainder of our time.

Mr. LEAHY. Mr. President, I yield 5 minutes to the Senator from Colorado [Mr. WIRTH].

THE PRESIDING OFFICER. The Senator from Colorado is recognized for 5 minutes.

Mr. WIRTH. I thank the distinguished Senator from Vermont for yielding.

Mr. President, I want to raise three issues here today.

The first issue is the concept of the triad. For a long time, we have had a triad, the purpose of which has been to maintain a balanced deterrent: If one leg of the triad becomes vulnerable we have got the other two. That is the whole purpose of the triad; if something happens to our air capability, we have a sea base and a land base capability. The triad is mutually reinforcing.

What we have seen in the last decade is a dramatic change in our policy. We now have a policy reflected

by the development of the B-2 bomber that each leg of the triad should be independently invulnerable and highly accurate, a force in its own right. That is a huge shift and change.

We see that in the effort to make the MX absolutely invulnerable through various basing modes. We see it in the development of a submarine force which is, by itself, effectively invulnerable. And now we are moving toward this enormously expensive weapons system, the B-2.

What we have to understand, Mr. President, is this change of doctrine has cost the American public billions and billions, tens of billions of dollars. We have not had a fundamental airing of the fact that we changed the doctrine. The debate over the B-2 is about one part of this invulnerable leg becoming vulnerable.

A second issue relates to the overall cost question. I was struck, listening as a member of the Armed Services Committee, to the vote over the Milstar satellite. The Armed Services Committee voted, as you know, to cancel the Milstar satellite, a very, very expensive proposition.

Now why was that decision made? It is important to go back to the Armed Services Committee report which notes:

The committee's determination is that in the context of the severe budget squeeze and the declining threat of nuclear war, the Department of Defense has not justified the extraordinary expense of this over-designed system for a protracted strategic nuclear war fighting mission.

Mr. President, that was the justification for killing Milstar. If you substitute B-2 for Milstar, that logic is impeccable. The Department of Defense has not justified the extraordinary expense of this overdesigned system, the B-2, for a protracted strategic nuclear war fighting mission. The case for the B-2 mission, as has been so well discussed by others speakers, simply is not there.

Finally, Mr. President I want to make a budget argument. What we are proposing to do here is not to cancel the whole program. If we really were to stand up about this and say we want to stop the B-2, what we would do is to strike all funds for the B-2. The Leahy amendment does not do that. The Cohen amendment does not do that. But if we are really serious about cutting the budget—and this is a position that is really the ultimate cancel the B-2 position—what we would do is eliminate all funding in the budget for the B-2 bomber, including research and development and testing.

What that would do, after all the contract termination costs and so on, is result in a refund to the taxpayer of some \$4.2 billion. That is even after paying all of the termination costs. That is the ultimate cancel the pro-

gram position. That is not one taken by Senator LEAHY. That is not one taken by Senator COHEN.

I only use this to point that there is a position that is really the total cancellation of the program that in fact would save us a great deal of money. It would save us, in fact, that \$4.2 billion.

I do not want to belabor the mission issues and the dollar issues. I wanted to reflect on the triad issue. We have changed our strategic doctrine very significantly to make each leg of the triad invulnerable, far beyond anything initially imagined; second, the justification for cutting Milstar fits exactly the justification for cutting the B-2; and third, the proposal of Senator COHEN, it seems to me, is an eminently reasonable proposal.

Mr. President, I am pleased to join Senators COHEN, LEAHY, and others in offering this amendment to terminate the B-2 Stealth program after R&D and flight testing have been completed. This amendment, as has been pointed out, would cut all \$2.75 procurement funding for fiscal year 1991 while retaining the requested \$1.75 billion to complete full-scale development and testing.

The Senate will today vote to impose several important performance criteria and conditions on the release of B-2 procurement funds authorized by the Senate Armed Services Committee. I support that amendment. If we are to buy an operational force of B-2 Stealth bombers, we should insist that the program meet these criteria. But the Nunn-Warner amendment begs the central issues: do we need B-2 and can we afford it? The answer to both questions is "No."

What is the case for the B-2? The Air Force argues that we need the B-2 to maintain the strategic triad of land-based ballistic missiles, submarine-launched missiles, and strategic bombers. Yet one hundred B-1 bombers have just been built and nearly two hundred B-52 bombers equipped with nuclear air-launched cruise missiles are in the inventory. This mix of standoff cruise missiles and the B-1B provides a diverse and powerful deterrent capability for the bomber leg of the strategic triad. The issue is whether a third bomber is necessary to maintain a balanced and credible deterrent.

The Air Force further argues that improvements in Soviet air defenses will render the B-1 incapable of penetrating Soviet airspace in the late 1990's and that the effectiveness of the manned penetrating bomber force will therefore be diminished unless we replace B-1 with B-2. B-2 proponents characterize this as an all or nothing proposition, but it is not. Certainly, a considerable fraction of our current strategic bomber force will continue to be able to reach targets inside the Soviet Union—especially since they will likely do so after nuclear weapons

have been used to destroy Soviet air defenses.

Mr. President, we are led by rhetoric from the need for a triad to the need for a penetrating bomber to the need for B-2. But what are we really talking about? To understand the debate on B-2, we must go back to the basic question posed in the early days of the nuclear age: how much is enough?

The answer to that question in the 1980's was never enough as the Reagan administration flamed a debate over the question of nuclear warfighting. The Weinberger Pentagon claimed that we needed to credibly threaten to carry out a wide range of usable nuclear options if we were to deter the Soviet Union from aggression against the United States or its allies. That mindset generated a requirement for an incredible number of nuclear weapons, platforms and associated equipment to provide escalation dominance, escalation control, cross targeting and other elements of this strategy. As part of this mindset, we also moved from the concept of a diverse strategic triad to the premise that each leg of that triad should be invulnerable and capable of hard target kill capability.

Mr. President, the requirements of nuclear deterrence are much less demanding than the war planners at the Pentagon would have us believe. The logic is well-known and straightforward: We require sufficient retaliatory nuclear weapons to hold key Soviet targets at risk and thereby deter the Soviets. We do not need to destroy every popsicle stand on the Siberian railway to hold the Soviet Union at bay.

Obviously, the B-2 provides additional capability to strike Soviet targets—and therefore can be said to provide greater options to the President. But it is a redundant capability—virtually all the targets we need to hold at risk can be covered by other means: Minuteman, MX, Trident D-5, and air- and sea-launched cruise missiles. Can we afford an additional \$35 billion to provide greater redundancy and cross targeting options? Would such an expenditure buy the United States \$35 billion worth of national security? I do not think so.

Does the B-2 perform a unique strategic mission which justifies its procurement?

The only unique strategic mission for the B-2, combining the great accuracy and high yield of B-2 weapons, appears to be the destruction of Soviet underground command bunkers many hours after the commencement of nuclear war. But do we really need that capability to deter the Soviet Union from nuclear aggression against the United States? The answer is no. Do we need that nuclear war-fighting capability to deter Soviet aggression in Central Europe? The answer is "No."

The Senate Armed Services Committee voted to cancel the Milstar satellite. Why? The report notes the committee's "determination that in the context of the severe budget squeeze and the declining threat of nuclear war, the Department of Defense has not justified the extraordinary expense of this overdesigned system for a protracted strategic nuclear war-fighting mission." Mr. President, that logic applies equally to the B-2 bomber.

Recently, the B-2 has taken on the additional mission of selective conventional strikes. This new mission was not part of the original requirement for B-2, and it is of course true that B-2 could be used in a conventional mode. But do we really need such an aircraft to strike targets in places like Libya? Would we build a B-2 for such a mission? Do we really need B-2 for that mission?

Mr. President, much has also been said about another B-2 mission—its role in the strategic arms control talks. At hearings before the Armed Services Committee, senior Air Force officials stated that without the B-2 they would not be able to support the current U.S. Strategic Arms Reduction Treaty [START] proposal. The linkage between B-2 and START is quite obviously an effort to shore up support for the B-2 by holding START hostage. The logic of that position is ironic: that we cannot afford to engage in strategic arms reductions.

The Air Force seems to be suggesting that without the 1,500 weapons the B-2 could ultimately carry, the United States will not have enough nuclear weapons to ensure deterrence. Even without the B-2, under START the United States will have some 5,000 ballistic missile warheads, most of which carry the explosive power of dozens of Hiroshimas—and some 3,000 bomber weapons and air-launched cruise missiles of similarly ferocious power. Are 8,000 weapons not enough to convince Soviet leaders that a nuclear war would cause their country unacceptable damage?

Mr. President, we do not need the B-2 to deter nuclear war. We do not need the B-2 to perform tactical air strikes in Third World countries. We cannot afford to continue to squander scarce resources on a nuclear war-fighting system whose contribution to America's real security needs in this decade and beyond are marginal at best.

We have already spent \$26.7 billion on B-2. The Bush administration would like to spend another \$35 billion. Last year when we debated B-2 the Pentagon wanted to buy 132 Stealth bombers for \$70.2 billion—\$550 million each. After Secretary Cheney's review, the Pentagon now wants to buy 75 aircraft for \$64.9 billion—\$865 million each. The price tag

will almost certainly end up being in excess of \$1 billion per copy.

Mr. President, the B-2 amendment recently adopted by the House Armed Services Committee would have us spend another \$8.7 billion to build-out all 15 B-2's now in the pipeline. The pending amendment rightly limits further expenditures on B-2 to \$1.7 billion for R&D—this would be the last bill we would pay for B-2. The billions in the procurement pipeline would be used to cover the termination costs of the program.

A more stand up approach would strike all funds for B-2, including testing and R&D moneys. That option would result in a refund to the Treasury of \$4.2 billion now in the B-2 pipeline—even after paying all termination costs.

Mr. President, to put these numbers in perspective I would remind my colleagues that the administration's proposed effort to help build free-market economies and democratic institutions in the former Communist states of Eastern Europe is \$300 million. The Senate Foreign Relations Committee increased that amount to \$635 million which, while laudable, is much less than what is needed or what other nations will dedicate. We are spending vast amounts on yesterday's war, while neglecting the challenges here at home and abroad that will shape our world in the 1990's and beyond.

I urge my colleagues to support the pending amendment to terminate the B-2 program.

Mr. NUNN. Mr. President, the manager of the bill opposes this amendment. I am prepared to yield if someone would like to speak in opposition to the amendment. I will probably be speaking for about 20 minutes on the amendment. I have not addressed it yet.

Mr. DIXON. Will the Senator yield for a moment?

Mr. NUNN. I yield.

PRIVILEGE OF THE FLOOR—S. 2884

Mr. DIXON. Mr. President, I ask unanimous-consent to have an aide on the floor, Mr. President. I ask unanimous consent that Mr. Jim Seever, a congressional fellow on my staff, be accorded the privilege of the floor while discussion of S. 2884 is before us.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Georgia.

Mr. NUNN. Mr. President, I will go ahead and address this subject at this time. I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. I rise in opposition to the Leahy-Cohen amendment and also in opposition to the Cohen amendment. Once again this year the B-2 is one of the most controversial items in our defense authorization bill. It has received all sorts of publicity. For

years no one knew the costs. All of a sudden we saw this huge cost tag come out, and I do not blame the American public or the cartoonists or anyone else who was shocked and who has made fun of the cost of the B-2. I do think, though, this is a serious debate. I think we on the floor of the U.S. Senate have to rise above "Saturday Night Live" and the cartoons that have been published around the country and really think seriously about what we are doing to our national security.

In the last year since we debated the B-2, we have seen the collapse of communism throughout Eastern Europe and the disintegration of the Warsaw Pact. We have seen plans put forward for the withdrawal of Soviet stationed forces from Eastern Europe, including Hungary and Czechoslovakia and within 3 or 4 years from East Germany itself. We have seen a Soviet Union increasingly forced to focus on turmoil within its own borders, rather than fomenting trouble outside its borders.

We have seen up to now very little slackening of Soviet strategic modernization. It is my hope we will see it in the future and when we do see it, we have to be prepared to make adjustments accordingly, but we have not seen that yet. I believe everyone ought to understand that. We have only seen adjustments at the margins that appear to anticipate the constraints of the START Treaty.

We are now a year closer to signing a START agreement which in its basic framework, pushed by our side, by the U.S. negotiators for many years, assumes the procurement of a substantial number of B-2's by our Nation. I hope those who are proposing, particularly the first amendment—the Leahy-Cohen amendment—and would cancel the B-2 need to also ask themselves the question: "Are you ready to tell the negotiators to go back, start over on START?" Because that is what you are deciding here. There is no way we can keep the counting rules we have negotiated in START if we kill the B-2.

I am not saying you could never reach a START agreement. I am not saying there is not another way to do it. Maybe there is. But there is absolutely going to be a delay, a very substantial delay, because we cannot keep the counting rules that basically favor penetrating bombers without cruise missiles, and then not develop one ourselves. We simply cannot do that.

We have also had other developments in the last year. We have had flight test experience with the B-2, which we did not have last year. We now have more operational test experience with stealthy vehicles other than the B-2, so we now understand much more clearly what many of us have thought over the years and that is that; this is, indeed, a revolutionary

change in the capability to conduct air warfare. Stealth vehicles give us that capability.

We have also had declines in the defense budget that puts pressure on all of us to find cuts. I understand that pressure. We have the Secretary of Defense who has proposed a major restructuring of the B-2 acquisition program. So there have been a lot of changes in the last 12 months.

I think we ought to look at some of those changes. Let us begin by looking at the changes in tensions and the changes in the overall nuclear picture. I think there has been a lessening of tensions and, as I view it, a reduction in the likelihood of nuclear confrontation.

Of all the possibility for nuclear conflict the scenario of escalation from a major conventional war probably in Europe has always seemed the most credible. The dissolution of the Warsaw Pact military threat, the beginning of the withdrawal of Soviet forces, makes this scenario less likely. These changes do not, however, mean that the millennium has arrived.

I think we have to have an ability to distinguish what changes do mean and what they do not mean. Whatever the disposition of the Soviet troops, however large the reductions under CFE, Soviet nuclear forces will continue to pose the paramount threat to the United States national security interests, and will continue to do so after all the required reductions under START have been fully implemented. I think we need to understand that.

Detering with high confidence the threat of Soviet nuclear confrontation or attack must remain a fundamental tenet of U.S. national security policy. We will have to continue to ask questions, the fundamental questions: What do we believe is required to deter the Soviets? How much risk of falling to deter are we prepared to run? In the past we have insisted on very high confidence in the assuredness of our deterrent capabilities—even on occasion, I must add, the expense of stability. I think we must move back much more to a stability concept.

I believe the United States and the Soviets can and should utilize the START agreement and subsequent negotiations to increase the stability of deterrence on both sides while reducing the number of nuclear weapons. I believe we can do that. In this respect, bomber forces are highly desirable. They can be kept on high alert, ground or airborne; they can be launched early, they are slow fliers and, most importantly, they can be recalled. You cannot do that with a missile. You can with a bomber.

While we are thinking about cost I think we should not lose sight of stability. These are not first-strike weap-

ons. That is the reason the Soviets agreed to count them only as one. That is the reason we have pushed so hard for a bomber concept on both sides really that is more stabilizing and less likely to cause either side to keep its finger on the nuclear trigger.

If you know you have 20 minutes to respond and get rid of your missiles and shoot them or they are going to be blown up—if some general comes in and tells the leader of the United States or the Soviet Union. "Mr. President, I think you have either to fire now or you are going to lose everything"—that is what we call a nuclear trigger.

We make fun, sometimes, of the Soviet technology. It is not a funny thought to think they might come in one day and have their generals tell them they think they are under nuclear attack and they need to respond quickly because the Americans are sending huge numbers of missiles. That is not true with bombers. Bombers take hours, and hours, and hours to arrive at the target.

I hope and pray we never have a nuclear confrontation, but if we ever do I hope and pray we have bombers in the air and that we do not resort first, and the Soviets do not resort first, to pulling the nuclear trigger on missiles which cannot be recalled.

Mr. President, I hope that in subsequent START agreements, we can work to eliminate highly MIRV'd land-based missiles, whether mobile or in silos. Then, not even ICBM's in silos would have to be on the hair-trigger alert that they are on today. If it takes two or three enemy warheads to reliably destroy one of our single-warhead ICBM's, and if both sides have single warhead ICBM's instead of MIRV missiles, then that is a bad exchange ratio for the attacker. You do not gain by going first, and that is a powerful disincentive for any kind of strategic nuclear attack.

While we are debating costs, let us keep our eye on the ball. The ball is we want to reduce the likelihood of any nuclear war; we want to move to a regime on both sides that takes the finger off the nuclear trigger. These costs we are talking about, even if one nuclear weapon explodes on our territory, will pale in comparison to the cost of that, both in human tragedy and economic costs.

Mr. President, bombers without cruise missiles, penetrating bombers like the B-2, will only be counted as one weapon, regardless of how many weapons are carried internally. That is what we have negotiated; that is what we have insisted upon; that is what we finally prevailed on in the arms control talks because we were counting on a penetrative bomber continuing to be in our arsenal. In other words, a penetrating bomber carrying internal weapons counts as one weapon under

START, whereas, a B-52 or a B-1 carrying cruise missiles counts at least as 10 weapons. Under START, both sides will be limited to 6,000 accountable weapons, of which up to 4,900 may be ICBM or SLBM weapons. Since both sides have many more accountable ICBM and SLBM weapons than the 4,900 limit, both sides are likely to reduce their ballistic missile forces to just meet that limit. This will leave 1,100 accountable bomber weapons for each side.

Here is where the shoe begins to pinch and to really begin to pinch. The U.S. approach to START has assumed that we would have the B-2 as a penetrating bomber. Under Secretary Cheney's new proposal, 75 B-2's would count as 75 weapons. Thus, 75 B-2's would provide 1,025 additional non-accountable bomber weapons. Assuming the B-1B is kept in its penetrating bomber role for a few years after the START agreement is signed, the 97 B-1's would also count as only 97 weapons. That would leave 928 non-accountable bomber weapons for the B-52's. This would allow us to retain 92 of the current 96 B-52H bombers as cruise missile carriers.

This force structure, 75 B-2's 97 B-1's, and 96 52H's with cruise missiles is the bomber force corresponding to the assumptions the United States has made in negotiating the START Treaty. Depending on the exact loadings, this bomber force would be capable of carrying between 4,000 and 5,000 separately deliverable weapons, although it would be counted as carrying only 1,100. Of course, even under the generated alert, not all bombers can be made combat ready. So the actual number of weapons available on alert bombers in a crisis would be on the order of 3,500 to 4,000.

Over the past year, we have gained considerable more test and operational experience with stealth vehicles, not with the B-2 to be sure. But those of us who have reviewed this test data now understand much more clearly the revolutionary nature of stealth technology.

I urge those Senators who have not been following these developments to receive a classified briefing. I think they will be amazed at the revolutionary nature of stealth technology. I cannot overemphasize that. If this was not a revolutionary development, it would not be worth the money. We make it very clear in our bill that if it does not really have those stealthy characteristics, we are not going to spend the procurement money. That is what the Nunn-Warner amendment makes abundantly clear to all of us. When we vote on that, we will be making sure that happens.

A few things we need to concentrate on in looking at the developments, among the unclassified snippets of information—and that is all we have re-

ceived in the unclassified area—are that the Soviets AWACS radars would not detect a B-2 unless it was so foolish as to fly directly at the AWACS. Similarly, the pilot of the most modern look-down/shoot-down Soviet interceptor has a better chance of detecting a B-2 if he looks out of his canopy with his naked eyeballs than if he concentrates on his radar scope. That is an amazing revolutionary change. We have learned that the B-2 is designed to have the radar cross-section the size of an insect.

In sum, Stealth works. It has a devastating effect on the effectiveness of modern air defenses, whether on land, in the air or at sea.

Will these judgments apply to the B-2? We cannot answer that question fully, as the B-2 is only now being prepared for its low observability testing. But we do have other Stealth aircraft that are flying that do work.

The Defense Department has done extensive calculations, simulations and test using scale models of the B-2 as they did with our earlier Stealth vehicles. When these real production items were tested, the test results were in very close agreement with the predictions.

But, to repeat, the full-size B-2 will only begin low observability testing this fall. If the B-2 does work as advertised, it will be a formidable addition to our military arsenal, and it will be part of that arsenal for years and years and years. For conventional conflicts, it has a much greater payload than the F-117A, the Stealth fighter, and also a far greater range. Indeed, with one refueling—one refueling—from one of only three bases in the world that would be needed, the B-2 can cover the entire world.

The Stealth fighter by design is a relatively short-range, night attack aircraft and is limited to clear weather operations. Those two cannot be compared in capability, but the Stealth characteristics have a lot in common.

As our overseas bases diminish, the ability to provide firepower anywhere on the globe in hours rather than days or weeks is an important benefit of the B-2.

We have a carrier right now that is getting closer to the Persian Gulf. That carrier has a lot of aircraft on the carrier. Many of them are defensive aircraft. Some of them are attack aircraft. They are going to have a very hard time getting into the Persian Gulf. You cannot get carriers in the Persian Gulf. They cannot operate there.

I do not know what the United States is going to decide about Iraq and the invasion of Kuwait. I know this: We do not have any carrier based anywhere near that country now. So if the President were to decide on some kind of military option, he would have

to rely on what? He would have to rely primarily on long-range bombers, not with nuclear weapons, of course, but with conventional weapons.

So over the years, as we bring back forces, as we have more forces at home, and less deployed forward, these considerations are going to grow in importance.

Many people would say, oh, you would never risk an \$800 million airplane on a conventional mission. I have heard that a lot of times. But in the United States strike against Libya a few years ago, let us just take a look at what the United States did. We deployed two carrier battle groups, over 20 ships, off Libya. We spent 5 days prepositioning assets before all was in readiness. We used 8 foreign military bases to execute the strike. The strike required 84 combat aircraft and 35 support aircraft, and we placed 134 air crew members directly at risk, which resulted in the loss of 1 aircraft and 2 crew members. That same strike that we carried out against Libya could have been carried out by 4 B-2's, each refueled once by KC-10 tankers, flying from and returning to the United States, overflying no foreign territory en route, using no foreign bases, placing only 8 crewmen in harm's way and accomplishing the mission in hours rather than days.

Four B-2's and 4 KC-10's, that is about 4 billion dollars' worth of equipment. I do not know the cost of the option we actually used precisely, but you can start by noting two carrier task forces cost \$30 billion—in round numbers. But to my mind, the impressive part is not the difference in cost, which is considerable, by the way, in favor of the B-2, it is the difference in lead times—5 days versus hours; and in foreign bases—8 versus none. And most important for our concern for our military men and women in uniform, crewmen at risk 134, the way we did it; 8 the way we could have done it had we had the B-2.

There has been a lot of discussion on the B-2's mission. The opponents of the B-2 charge that the Air Force keeps changing the mission, or sometimes it has no mission. I am not going to sit here and defend everything the Air Force has said about the B-2, but I believe the B-2 mission is quite clear: It is to help deter a nuclear confrontation and prevent nuclear attack from ever occurring. It is deterrence; that is what it is about.

In carrying out this mission, it is no different than our land-based ICBM's, out Trident SLBM's. It performs this mission by not being employed in retaliation because deterrence works. That is what we want: never to have to use it, certainly in a nuclear role. In this respect, its mission is the same as the previous bombers we have had, including the B-52 and the B-1 and all the previous strategic bombers that

have stood alert since the dawn of the nuclear age. We can be thankful that they have performed their mission of deterrence flawlessly down to this day.

The strategy of deterrence has worked because the Soviet Union and its leadership has understood the United States could retaliate credibly, flexibly, and with a high degree of certainty against any Soviet strategic attack, no matter how much of a surprise it might be. It has also worked because ever since the days of James Schlesinger, when he was Secretary of Defense, the Defense Department has developed a variety of retaliatory options against leadership, military, and war-supporting targets in the Soviet Union in order to be sure no President is ever confronted with a situation in which his only meaningful retaliatory option was to attack Soviet cities. These concepts underlying deterrence and the maintenance of a robust triad remain valid today. However, many of the systems that could do the job 10 or 20 years ago are no longer capable of providing the same level of assurance of deterrence today, and without the B-2 that assurance will be even less 10 years from now. This is what we are talking about. We are talking about 7, 8, or 10 years from now. But we make the decisions now.

The critics prefer to focus on the B-2's mission if deterrence fails. If deterrence failed, everything looks silly after that. I have seen cartoons of B-2's roaming around looking for targets after 20,000 nuclear missiles go off. If that ever happens, the B-2 has already failed in its mission because deterrence has failed. The missiles look pretty silly going over there, too. Everything about nuclear war is silly. It would take an act of madness to start a nuclear war, but we have to live in the real world and we have to deter that and prevent it from happening.

The critics tend to equate war fighting with deterrence, but these terms are not the same thing. If we get into a debate on Milstar this week, then we are going to talk about war-fighting, extended war fighting after a nuclear laydown. That is a totally different thing from deterrence and the ability to retaliate.

Of course, war-fighting capability in a nuclear situation is an essential element, but in my definition of war fighting it is near-term war fighting, not extended war-fighting, that goes on and on and on after deterrence fails.

If deterrence fails, I do not think there is going to be a long war. We are going to have a tragedy, a holocaust for the world.

If we ever have a failure of deterrence, we are on our way to an unprecedented catastrophe. I am not sure, after that, the fine details matter very much. What is more useful is to think about the ways the Soviets would have

to view the retaliatory threat posed by the B-2's so that we will never have a war.

Gen. Larry Welch, former Chief of Staff of the Air Force, gave one of the best answers to the question of the role of the B-2 in the committee earlier this year. He went through all the targets that the B-2 is unique in being able to seek out and hit that other forms of our triad are not capable of doing, or not as capable of doing as the B-2. I will not go through all of that in the interest of time.

Suffice it to say that General Welch's answer suggests several unique target classes for which the Soviets would recognize that our penetrating bombers could productively attack.

For example, one of the larger target classes is the set of deeply buried facilities underground that house the leadership of the Soviet Union. By this I do not mean just the few highly publicized facilities buried under the Kremlin and on the outskirts of Moscow; scattered across the Soviet Union are some 1,500 hardened facilities for high-level military and governmental personnel.

We also have to take into account the extremely hard Soviet ICBM silos, well over 1,000 of them. There are also hardened submarine facilities, literally chisled into the sides of mountains running into the sea. All of these targets require high-yield weapons that penetrating bombers carry and, by the way, cruise missiles do not carry.

Other movable or relocatable targets for penetrating bombers range from naval bases, bomber and tanker bases, and Army units out of garrison, as well as air defense units, and many surface-to-air missile defenses. Many of these are not as difficult to find or assess as would be the mobile ICBM's, about which the B-2 opponents have raised so much attention.

No, the B-2 cannot do well against mobile missiles today because we have not spent the money to develop the kind of sensors that would have to be developed to do that. We may or may not decide to spend that kind of money, but if we ever are going to, if we ever see the need for it, the B-2 is the only aircraft that is going to be able to penetrate and use those sensors.

Before the B-2 opponents dismiss this type of target, it may be well to recall that 40 years ago the B-52 was entering the service of the Air Force as a high-altitude nuclear bomber. Over the years it has been modified to penetrate at low altitude; it has also been modified to carry short-range attack missiles, those equipped with both infrared and electro-optical sensors to find targets to be modified to carry cruise missiles, Harpoon antiship missiles and naval mines.

The B-52 did not start off in that role, but it has been greatly enhanced and has been a very versatile aircraft.

Forty years ago none of this was foreseen, just as today we certainly cannot foresee all the capabilities the B-2 would have.

Mr. President, let us suppose the B-2 program were terminated. The bomber leg of the triad then would have to rely on the B-1's and the B-52's we have today. In this case, a critical question really becomes how long can the B-1 remain a penetrating bomber.

The Air Force currently portrays the B-1's capability as a glass half full. They argue the B-1 is a big improvement over the B-52, and it is. It flies faster and lower and it has a modestly reduced radar signature. However, over the past few years, the Congress has required the Air Force, the Office of Secretary of Defense, and outside experts to conduct a series of studies of the B-1's current and future capability to penetrate both on its own and in concert with the B-2. These studies provide a much more pessimistic view.

General Chain touched on some of this in the committee hearing last year. He noted he has already had to remove all the B-52G models from penetration roles and by next year he will begin withdrawing the B-52H models. Survivability on those models is too low. By 1998, the only penetrators will be the B-1's and they can only be successful when they penetrate in less heavily defended areas of the Soviet Union. In some parts of the Soviet Union they will remain penetrators for some time to come. But the Air Force flatly declares, and I believe them on this, without the B-2 we will have no effective penetrating bomber by the end of this decade.

What accounts for this abrupt decline in the B-1's penetration success? Very simply, two factors. First, the B-1's defensive electronic countermeasure system does not work and by the Air Force's own admission cannot be made to work as well as was originally specified. Second, the decline is the inevitable consequence of continued Soviet development of their latest look-down, shoot-down interceptors and their latest surface-to-air missile batteries. To defeat the B-52's and the B-1's, the Soviets need to do nothing more than they are already doing. This was very plain when we made the decision to build the B-1.

Several of us argued that we should not build the B-1. We lost that argument. I am not here to rehash it today. I must say I do have difficulty understanding people who were for the B-1, which in my view was a fundamental mistake, and who now are against the B-2. I do not understand that. I am sure they have their good reasons, but I have never heard an explanation for that.

Mr. President, recent studies show the B-1's penetrating success in the late 1990's depends critically on three other assumptions: First, that the B-1's flawed defensive avionic system can be made to work at least against the top 11 Soviet threats; second, most importantly to this debate, that the B-2 is acquired in significant numbers which forces the Soviets to continue to concentrate their air defenses in the Western region against B-2's, thereby easing the threats to B-1's in the less defended areas. If we kill the B-2's, the B-1's are going to become less capable and that will be a very clear picture within a couple of years; third, that the Strategic Air Command continues to allocate enough ballistic missile warheads against Soviet air defense assets to destroy roughly half of the air defense threat.

That is what it would take for the B-1 to be able to penetrate. In short, without the B-2 to dilute the threat and without the heavy ballistic missile attacks to disrupt the air defense, the B-1's capability goes down tremendously. That means our ability to carry forth with deployment of airplanes and not use missiles and keep the finger off the nuclear trigger, as I have gone through, is less with the B-1's than we had originally anticipated.

In contrast, the B-2 does not require softening up of Soviet air defenses to penetrate, nor does it rely on electronic countermeasures.

My own view has been and continues to be that President Reagan, Secretary Weinberger, the Air Force, and the Congress made a major blunder in agreeing to acquire the B-1. If we had not done that, we would be buying a lot more numbers of B-2's; the \$26 billion we spent on research would be divided and diluted much further down, and you would not have the very alarming per unit cost. But I hope everyone keeps in mind that \$26 billion has been spent. We are talking about how much we spend from now on, today, and what we get for it.

Mr. President, if the B-1 cannot penetrate by the late 1990's, and the Congress has canceled the B-2, then our total U.S. bomber force structure will be 97 B-1B's, carrying cruise missiles, and at most 13 B-52H's carrying cruise missiles. That is our allowable ceiling of 1,100 weapons, a total of 110 bombers, each mounted as carrying 10 weapons. Is that adequate? We will have to ask that question. I do not think so.

Mr. President, I understand the case against the B-2. All of us are suffering from sticker shock.

Mr. President, what is the remaining time?

The PRESIDING OFFICER. Senator LEAHY controls 9 minutes 3 seconds.

Mr. NUNN. Is it possible at this juncture to get 10 minutes on the time on the other amendment?

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. I am not going to object. Reserving the right to object, so I understand where we are.

I understand that there is a considerable amount of time on the first underlying amendment which would be controlled both by the Senator from Georgia and the Senator from Maine, if I am correct.

Mr. COHEN. The Senator from Virginia controls the underlying amendment.

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I have no objection. I wanted to see where we were.

Mr. NUNN. Mr. President, I ask if the Senator will yield to me.

Mr. WARNER. Mr. President, I yield 10 minutes.

The PRESIDING OFFICER. Without objection, the Senator has 10 minutes.

Mr. NUNN. I will wrap this up in about 5 minutes, I hope. But I do think that some of these points have to be developed before we vote.

Mr. President, I understand the case against the B-2. All of us are suffering from sticker shock. Cartoonists are having a field day with both the costs and the Stealth characteristics of the B-2. We are still trying to find ways to save money and alleviate very severe and very serious fiscal pressures.

In addition to all of that, the contractor had serious charges of fraud against it on other programs. So there are problems here. No doubt about it. Negative experiences with the B-1 cost and quality also causes considerable skepticism as to the Air Force claim of the B-2. It is one of the reasons we have made our fences so tight so money cannot be spent on procurement until we test out very thoroughly the Stealth characteristics.

However, I submit we must think long and hard before we end the role of the penetrating bomber in our strategic triad. Those who propose to kill B-2 program have an obligation to answer some questions for the Senate and for the country.

The same public opinion polls which today show the B-2 as in disfavor may change rather dramatically when we start debating a START Treaty, perhaps next summer, and the American public discovers that the Soviets have a penetrating bomber which counts as one, one weapon, and a thick air defense where they have spent \$400 billion, \$500 billion, a system designed to counter the B-2's and the B-1's, while at the same time the United States will have no penetrating bombers by the late 1990's, and no air defense system; no air defense system that

would even come close to stopping the Soviet bomber force.

In effect, we will be saying our airspace is vulnerable. We concede that your airspace is invulnerable. We will have to concede that, as far as penetrating bombers are concerned. I do not think that kind of START agreement is going to sell around here. I think we had better think long and hard about it before we make it inevitable.

Mr. President, when the Congress and the American people focus on these disparities and asymmetries, I believe there will be a clear demand to send our negotiators back to Vienna to work on new accounting rules, and in effect a new START Treaty.

There will also be an increasing demand for an expensive air defense system, the costs of which are likely to make the B-2 look like a bargain. You wait until we have another nuclear problem somewhere. Maybe we are over those in the world now. I hope we are. If you have one, you have a situation where the Soviet Union has thick air defenses, and we have no penetrating bomber because of those thick air defenses; we have no air defenses. They are building bombers that count as one. History tells me there is going to be a hue and cry to put in an air defense system.

If you think the cost of building the B-2 is expensive, you wait until we total up what the cost of an air defense system that thick is going to be. It is going to make the cost of the B-2 look like the biggest bargain that we ever killed. That is what is going to happen if we have a fright go through this country about any kind of nuclear possibilities in the future.

Again, I hope that does not happen. But I think the only thing we can do in prudent planning is to assume at some point it will.

Mr. President, there are a few critical questions I want to pose to those who would like to kill the B-2, both in this body and also in the House.

Mr. President, I call on the B-2 opponents to explain the arguments you will use during next summer's ratification debate on the START Treaty to justify the U.S. ratification of a START Treaty, knowing that we will only field 110 cruise missiles carrying bombers, while the Soviets would be permitted much larger bomber forces, while we will have no air defenses and no penetrating bomber by the late nineties.

Do the opponents of the B-2 believe we ought to send our negotiators back, and tell them, now, go back folks; start renegotiating the START Treaty? Is that what we want, because I think that is where we are heading if this bomber force is killed.

Question No. 2: I call on the B-2 opponents to explain what arguments you will use to justify our acceptance

of the fundamental disparity that will occur if the United States has no air defenses against many Soviet bombers, but the treaty allows the Soviets to have massive air defenses against which we will have chosen to forgo the one bomber that will be able to penetrate these Soviets air defenses, the B-2.

Question No. 3: I call on the B-2 opponents to explain why we should allow the Soviets to complete the modernization of their air defense system and then be free to focus their energies and their defense resources solely on the problem of defeating our cruise missiles carrying bombers before they can get to their launch points.

I call on them to explain why, if we are prepared to spend \$36 billion to acquire a token force of 15 B-2's—that is what we would spend under the House Armed Services Committee proposal that has now passed by that committee, which includes the \$26 billion we have already spent, plus another \$9 billion. Why do that when we can spend another \$27 billion, and get 60 more B-2's? With 75 B-2's we could render virtually worthless a Soviet capital investment of some \$400 billion and complicate their future defense planning inordinately, and most importantly, make them a whole lot more willing to talk about much lower numbers and a much more stable force posture for the future. That is the bottom line.

Question No. 4: I believe the B-2 opponents should explain the potential vulnerability of the B-52's and the B-1's with cruise missiles to interdiction before they have reached their launch points for the cruise missiles.

I note that in this very bill we are funding the development of two space-based surveillance programs, one for the Air Force, and one for the Navy, that are designed to track nonstealthy aircraft like the B-52 and the B-1 in-flight on a worldwide basis.

The Soviet RORSAT Satellite reportedly can already track the United States Navy at sea. So I think the B-2 opponents have to explain why their proposal relies on nonstealthy bombers carrying cruise missiles and does not create inherent vulnerabilities to our triad in the future.

Question No. 5: In my view, if this amendment passes, the savings the proponents are assuming may well not materialize. As I mentioned, in the long run, this amendment may even cost significantly more than the B-2 would. If the asymmetries that are advantages in the Soviets' favor in both bombers and air defenses can be exploited to whip up public concern about the lack of air defenses, or once the B-1 ceases to be a penetrator, we are going to then be ready to go into air defenses for our country?

We decide not to long ago. Are we going to revisit that decision? What

will the cost be? Can it be any less than the \$123 billion best case that we are talking about for phase I SDI? We will be debating that later. If we are going to debate it, let us also consider that phase I SDI, without air defenses, would be really a total waste of money, I do not think we ought to go into phase I at this stage, but those who do, I am sure, will have more to say about that.

I call on the B-2 opponents to address in detail their assumption about the penetration capability of the B-1, without both the B-2 and a substantial barrage of Soviet air defenses by U.S. ballistic missiles. What is the assumption? What are the implications of the loss of the 1,500 to 2,000 bomber-carried weapons once the B-1 is not able to penetrate any longer? What is the effect of the loss of these weapons?

In closing, Mr. President, let me discuss the cost, the sticker shock problem for just a moment. Let me give a couple of formulas and examples that I think can be understood. The easy formula to remember in terms of the cost of the B-2—and you have to gulp when you give these big numbers—but it is 27-9-27. The first number 27 represents the money already appropriated; \$27 billion is a lot of money, no doubt about it. That has been spent. It has gone on not only in the B-2 Stealth research but on research on Stealth characteristics that really permeate and will permeate our defense systems both now and in the future. But that money has been spent.

The second number, 9, represents the added cost, in round numbers to complete the flight-test program, finish construction of the 15 operational B-2's authorized to date and deliver those B-2's—one squadron—to the Strategic Air Command. The amendment by the Senator from Vermont does not do that. The House bill does that. It takes a different twist.

The third number, 27, represents the cost of completing the Cheney program. For another \$27 billion, we can get the last 60 B-2's.

Mr. President, I think this illustrates how far down the road we have already traveled. For \$36 billion more, we would get four times that number, that is 60 more B-2's, a total of 75.

The average cost of the last 60 B-2's is \$450 million. That is what each of the next 60 will cost. That is about three times the cost of a jumbo jet, a 747. So when we are talking about this, I think people ought to understand that passenger aircraft that we fly across the ocean cost a lot of money, too. The 747 costs \$150 million. But a 747 does not go halfway around the world and back with one refueling. It does not penetrate massive Soviet air defense that they have spent \$400

billion on. They do not threaten surface navies all over the world.

When you consider all that the B-2 is asked to do, I do not believe a unit flyaway price from this point on, in terms of the cost, three times the cost of the 747 jumbo passenger jet, is too much to pay for the capability we are talking about.

Mr. President, each Senator will have to make up his or her own mind whether another \$27 billion should be spent to buy 60 more B-2's, or whether some lesser, but still significant, number of B-2's at some lesser cost makes sense. We are really not deciding that today. We are keeping the option open. Forty-five B-2's may be all we can afford. It may be 55, or it may be 60. But I suggest that we do not want to foreclose the option today. That is the choice we are making. The Air Force does not believe that only 15 B-2's constitutes a meaningful force. Therefore, I oppose this amendment. I will have more to say about the Cohen amendment in a few minutes.

Mr. President, I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Vermont has 9 minutes.

Mr. WARNER. Mr. President, will the Senator yield? I would like to take 2 minutes of the time allocated to the Senator from Virginia on the next amendment.

Mr. LEAHY. I yield to the Senator from Virginia.

Mr. WARNER. I would like to thank my distinguished friend from Georgia for giving perhaps one of the finest speeches I have ever heard him give, in terms of overall strategy and justification for a weapons system, in the many years that I have been privileged to work with him. It is probably one of the tougher issues that we have ever had to work together on in terms of preserving a system which, in my judgment, is the highest of priorities. If we look at all the other cuts that we are faced with on this bill, it is this system that ensures the United States the best deterrence against the single most important series of weapons that the Soviets are preserving and modernizing, their strategic forces.

I compliment the distinguished chairman of our committee. I thank the Chair.

Mr. LEAHY. I yield 5 minutes to the Senator from Connecticut [Mr. LIEBERMAN].

Mr. LIEBERMAN. Mr. President, I thank the Senators from Vermont. I rise in support of the amendment introduced by the Senators from Vermont and Maine. I do so with a tremendous sense of respect for the Senator from Georgia, who has just spoken so eloquently. I must say, I have a certain sense of discomfort to oppose something he has argued for.

I think many of us agree here that the first responsibility of government

is to protect the national security of its people from international threat and the people's personal security from domestic threat. The question here, really, is how best to protect America's national security from international threats in the years ahead.

The B-2 bomber is no hoax. It is a real option for the United States. It has some potential to protect our national security. In a time of limited options, in a time when the other superpower has acknowledged that you can spend so much on military and still end up as a third rate power, unless your economy is delivering to your people, the question is, what is the best use of that \$27 billion that the Senator from Georgia has referred to in protecting our national defense?

Mr. President, I conclude that the best use is not on the B-2 Stealth bomber. The best use is to invest more appropriately in the next generation of threats to the United States and not in the preceding generation of threats. And that is the threats that we will face from unstable Third World nations, and leaders, and from terrorists. I need not belabor the point that the news today from the Middle East suggests to us how real and pervasive that continuing threat is. We are achieving some harmony, some reduction of tension with the Soviet Union, but we have not achieved a kind of utopian perpetual peace in the world. That means we are going to have to continue to invest in our defense to protect our national security.

Mr. President, the B-2 bomber was proposed, I suppose, 10 years ago—more than that now—to add the deterrent that we would provide to the Soviet Union to inhibit the Soviets from striking at us with their substantial strategic nuclear capacity.

Mr. President, I say today that we do not need the B-2 bomber to achieve that deterrence of the Soviets. I understand that the Soviets retain a considerable nuclear strategic capacity. I am troubled by the reports that they seem to be inclined to continue to invest in nuclear capacity. I am puzzled by it.

If I had the opportunity to sit with Mr. Gorbachev, I would say to him, "You already possess substantial nuclear capacity. Your economy is in a shambles. You cannot put bread on the table of your people. Your ethnic and nationality groups are breaking apart. And you cannot even pay your international bills. Why in God's name would you consider investing billions more rubles in the further development of your defenses and your strategic nuclear capacity?"

I believe that there is so much illogic to that proposition that the answer, as this decade goes on, will ultimately be that the Soviets will not invest in that upgrading of their defenses and im-

provement of their strategic nuclear capacity.

But the adoption of the Cohen-Leahy amendment gives us the opportunity to take that \$27 billion and invest it in a place where it can do more good for our national defense. Frankly, it will give us some time. Some of us who are opposing this bomber today may come back at the end of this decade and say now we have the resources to invest in this next generation.

Remember, we have invested considerably in the B-1 bomber. It is very rare to begin two major bomber programs in one decade.

So I say, with the considerable nuclear firepower that we have on our submarines, with the capacity we have to deliver nuclear weapons both from our B-1 and B-52 bombers, and from the land-based missiles, we have an overwhelming deterrent that will inhibit any Soviet leader from considering launching a first strike against us. In that sense we simply do not need the B-2 bomber.

Mr. President, in facing the threats that we will face from Third World nations and terrorists, we need to invest in aircraft carriers; we need to invest in new generation of attack submarines; we need to invest in light helicopters; we need to invest in a mobile lethal military. We will not have the funds to do that and to protect our national security from the genuine threats that are out there if we invest this \$27 billion in the B-2 bomber.

The PRESIDING OFFICER. The Senator's 5 minutes have expired.

Mr. LIEBERMAN. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Vermont has 1 minute and 22 seconds.

Mr. LEAHY. Mr. President, I yield the remainder of my time to the distinguished Senator from West Virginia [Mr. ROCKEFELLER].

Mr. ROCKEFELLER. Mr. President, I thank the Senator from Vermont. Does the Senator have approximately 3 minutes remaining?

The PRESIDING OFFICER. He has 1 minute and 22 seconds.

Mr. ROCKEFELLER. That might just cramp by style by 3½ minutes?

Will the Senator from Maine yield me an additional 3½ minutes?

Mr. COHEN. I yield the time on the underlying amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

Mr. ROCKEFELLER. Mr. President, I am grateful to both Senators for that. I support the position of the Senator from Vermont and the Senator from Maine with respect to the B-2 procurement. I think this debate has been very helpful and very wise.

Mr. President, at the outset I commend my distinguished colleagues, Senator LEAHY and Senator COHEN, for their leadership on the issue of B-2 procurement. I am sure many of my Senate colleagues have benefited greatly, as have I, from their wise counsel as we deliberate this important matter.

Mr. President, I rise today to renew my opposition to the procurement of the B-2 Stealth bomber. Since I last spoke on this subject just under one year ago, the foreboding I expressed then has been confirmed, the skepticism I conveyed has intensified, and once again I conclude that I cannot in good conscience cast a vote to support this horrendously expensive, technologically unproven aircraft.

As a West Virginia newspaper aptly noted recently:

In a nation dogged by a \$3 trillion debt, a \$500 billion savings-and-loan bailout, and inadequate health and social service programs, Congress shouldn't be squandering untold billions on a World War III plane that isn't needed and won't work.

Indeed, the price tag alone ought to give every Member of this body grave pause when deliberating the need for this program. Consider, if you will, that the cost per plane is now estimated at around \$815 million, and the estimate is still rising—\$815 million per plane, money which by definition in these incredibly tight budget times must be diverted from other vitally important programs.

To put this figure in perspective, compare the B-2's cost with the funding needed in other areas. For slightly more than two B-2's, we could fund the entire fiscal year 1991 Head Start Program for early childhood education. The cost of two planes would fund the fiscal year 1991 budget for the National Cancer Institute; think of the blow we would strike against that dread disease with the cost of three, four or more B-2's.

And just over half of the cost of one B-2, one-half of one airplane, Mr. President, would have paid for the program to ease the transition to other jobs of coal miners displaced as a result of Clean Air Act changes. The cost of one-half of one airplane, denied to mine workers and their families who had a right to look to their government for help as they bore the brunt of changes over which they had no control. This is unacceptable, Mr. President. It is a failure of our leadership responsibility when we allow thousands of American coal mining families to bear alone the burden which should be borne by all Americans collectively. It is a failure of our stewardship of the public purse, Mr. President, when we deny the cost of one-half of one B-2—a plane that has not yet proven it's needed, and continues to balloon in cost—to extend a helping hand to coal miners and their

families with the transition to new skills and jobs.

But make no mistake on one point: I do not oppose the B-2 simply because of its extravagance. My voting record is clear that I will vigorously support defense measures which provide real value for taxpayer's money and demonstrably enhance our national security. Nothing, Mr. President, should ever be allowed to divert our vigilance from the dangers we face; we always must be prepared to expend the resources on the tools that are clearly necessary to defend against those dangers.

But let us assess those dangers with a clear head and steady hand. Let us take due cognizance of the truly dramatic changes in countries which just 1 year ago posed a serious military threat to America and our allies. I am speaking, of course, of the Soviet Union and its Warsaw Pact allies, which within the year have transformed themselves from militaristic states poised to strike in unison at Western Europe and North America. Almost miraculously, they have made the incredible transition into states absorbed with the daunting tasks of restructuring their societies and rebuilding their economies. The Soviet Union itself is racked by divisive internal dissent. Its economy is in tatters and its population is restive with the drive to throw off communism's stifling yoke.

So it is clear, Mr. President, that the B-2 bomber is a weapons system which is out of sync with our current military needs. Moreover, it has been plagued with technical difficulties and is the paradigm of a cost overrun going haywire beyond all efforts to curtail those costs. But most important, Mr. President, the B-2 program is draining massive amounts from the public purse at a time when critical human needs are not being met. I therefore urge my colleagues to join me in voting to terminate this program.

LET'S CONTINUE THE B-2

Mr. GARN. Mr. President, I wish to spend my time addressing the overall requirement for the B-2 program, and to address some of the concerns that have been on the minds of my colleagues regarding the cost, the mission, and the effectiveness of the system.

I find it very disturbing that this well-planned and well-designed program could be literally torn apart by certain elements of the Congress. I remind my colleagues that four administrations, representing both parties, have endorsed the B-2. The President has asserted that strategic modernization, including B-2 production, has the highest priority in his modified defense budget for next year. Secretary Cheney, after a thorough review of the requirement, has revalidated the B-2 as a fundamental part of his defense

program. And the Air Force has unequivocally stated the need for the bomber again and again.

Yet, we find Members in the Congress who cannot bring themselves to concede to the Commander in Chief at least his first priority. They obviously have come to believe that their concept of military requirements is more valid than that of the professional establishment in the Defense Department.

Or they assert that we cannot afford the B-2, even though the President's request includes funding for it in spite of the significant reductions in the overall total for fiscal year 1991. It is clear to me that those who say we can't afford it really mean that they would like the proposed funds to be allocated to another program.

Now some Members have questioned the mission of the B-2, especially in light of the recent changes in Eastern Europe, and the apparent relaxation of the threat from the Soviet Union. One of their favorite arguments suggests that it is folly to consider sending a manned bomber in after an exchange of nuclear ICBM's. Further, that the mission of the B-2 is impossible because of the need to find so-called strategic relocatable targets in a nuclear environment.

But I must remind the opponents of the program, and I remind my colleagues, this is not the primary mission of the Stealth bomber. The reason for the B-2 is to deter a nuclear holocaust as part of our strategic triad of forces. If we have to launch our penetrating bombers after an ICBM attack, that deterrence will have failed.

The primary mission of triad is to hold a sufficient number of things that are dear to our potential adversaries at risk so that they will not dare to attack. The manned penetrating bomber is essential to that mission, and without it, our strategy would be severely weakened.

Do we still need the triad in the face of relaxed tensions in the world today? My answer is, do we really know what world conditions will exist 12 months from now? Certainly, one could not have predicted the monumental changes that have taken place only in the past few months. One thing is certain, the Soviet leadership will face a most unstable situation over the next few years; consequently, it will be an extremely dangerous time period that will likely hold even more surprises in the geopolitical environment.

I am convinced that we must not let our guard down now. Our national security strategy has been successful in deterring nuclear attack for over 45 years. Given all of the instabilities and unpredictables, and faced with the fact that the Soviets still have the strategic capability to wipe our coun-

try off the map tomorrow, we need to maintain that strategy.

The manned penetrating bomber remains a fundamental part of the triad today, and we still have a viable capability with our B-1's and our B-52's. B-2 opponents will tell you that this force is all we really need to keep the air breathing leg of the triad operating. Somehow they ignore the fact that the B-52's are really old, older even than the crews that fly them. We worry about commercial airliners that are aging, but the fact that some of our first-line bombers are even older seems to make no difference. I, for one, believe that this country should continue to use its tremendous advantage in advanced aerospace technology to maintain a first-rate national security. Replacing the 35-year-old B-52 with the B-2 Stealth bomber, as we've planned for the past 10 years, is clearly of the highest priority.

Finally, let me address the concern of those that are not convinced that the B-2 will work as designed and that somehow the engineers who developed it overlooked some basic fundamentals of radar, and the airplane is not stealthy at all. Even if by some remote and simplistic chance this were possible, the program has sufficient provisions in it to ensure that its design will be well verified before we are finally committed to significant procurements. Further, the Secretary of the Air Force, obviously a strong proponent of the aircraft, has agreed that if the B-2's low observable design cannot be verified, then we should not and will not buy it.

Last year the Senate included sufficient language in the appropriations to ensure that the stealthiness of the B-2 be verified. The request for only two aircraft this year, and the gradual buildup in production rate now proposed by Secretary Cheney, provides more than adequate time for test and validation before a final decision on the total buy is required. I believe this approach truly deserves the further endorsement of the Senate, and should be supported.

Mr. President, this is not the time to consider canceling a program that has over \$27 billion already invested. We have already paid for the technology, for the manufacturing capability, and now we need to take full advantage of our investment. We need the B-2 bomber to help ensure the Nation's security for the next generations of Americans long into the next century.

AMENDMENT NO. 2493

The PRESIDING OFFICER. All time has expired.

Under the previous order the amendment No. 2493 offered by the Senator from Maine has 1 hour and 20 minutes. The time is controlled by the Senator from Maine and the manager of the bill.

Who yields time?

Mr. WARNER. Mr. President, I wonder how the Senator from Maine would feel if the Senator from Indiana would take 5 minutes of time chargeable to the managers of the bill. Would that be agreeable?

Mr. EXON. I am glad to yield. Let me fully understand the Chair. We are now on the amendment offered by the Senator from Maine having concluded the debate on the amendment offered by Senator LEAHY. Is that correct?

The PRESIDING OFFICER. That is correct.

Mr. EXON. Yes, I am pleased to yield 5 minutes at this time to the Senator from Indiana. He was very gracious. We ran out of time on a previous bill and he agreed to make his remarks on this measure, and I am pleased to yield 5 minutes to the Senator from Indiana for that purpose.

Mr. COATS. Mr. President, I thank the Senator from Nebraska for his willingness to yield me time on this. We were not able to get the time we needed on the previous amendment.

Let me make some general remarks, if I could, relative to the discussion here today on the B-2. I am going to support the Nunn-Warner amendment, ultimately. After we are through with our discussion of the various options open to us, I am going to support that amendment because I think it is the responsible approach dealing with the remaining uncertainties surrounding the B-2 Stealth bomber. It is, I think, realistic for us to acknowledge that there are some uncertainties, and obviously at a cost per plane that we are looking at, it is important that we examine this as fully as possible before we make a final decision as to whether to go forward and spend this amount of money.

The Nunn-Warner amendment applies very strict conditions on the obligation of funds for B-2 production. It includes nine gates that were used last year, and adds another additional five gates for the B-2 to cross over or pass through before final decisions will be made relative to the full funding of the administration's request of 75 bombers.

Passage of the Nunn-Warner amendment will ensure that the B-2 will not be produced before it has proven the technological characteristics. If it can withstand the test I believe we should proceed with the production of the 75 requested planes.

Let me simply say that killing or severely restricting the B-2 will prevent the United States from acquiring a critical component in our strategic modernization program and virtually throw away the billions of dollars that have already been invested in developing this technology. I would halt the forward march of this technology, one of our greatest strengths, perhaps our greatest strength. Finally, it would undermine our current arms control

strategy and prevent our moving to a greater emphasis on manned bombers toward strategic deterrence.

If we terminate the B-2 program, we prevent the United States from acquiring a critical component in our strategic modernization program and, as I said, we waste many billions of dollars that have already been spent in development.

The President has made it clear that he wants to modernize the U.S. triad of strategic nuclear forces. Each component of this modernization effort is essential if we are going to be able to safely reduce the overall level of our forces while maintaining deterrence and stability. If we permit strategic deterrence to erode, all other weaknesses and inadequacies in our military posture are going to be magnified. A thoughtful and prudent reorientation of our military planning and deployments can only take place under the umbrella of a survivable and modern strategic triad. And I think the B-2 bomber is critical to this process.

Mr. President, I think it is important to look at why Stealth technology is so critical to our future strategic posture and our deterrence.

Why is Stealth so important? Given the proliferation of radars and air defense interceptors, not only in the Soviet Union but throughout many parts of the world, it has become virtually impossible to send a penetrating bomber into defended areas to execute a mission. The Soviets alone maintain 10,000 air defense radars, more than 8,000 surface-to-air interceptor missiles and over 3,000 airborne interceptor aircraft. Stealth technology will render U.S. bombers virtually invisible to such forces, greatly shrinking effective engagement areas of air defenses. With the B-2, hostile interceptor aircraft almost have to be within visual range before they can attack our bombers. This is also true of ground based surface-to-air interceptor missiles, which are a tremendous threat to penetrating bombers. The ability to avoid such hostile engagements permits B-2 pilots to plot a safe course to their targets, many of which would be mobile, requiring a manned bomber to validate its precise location.

Canceling the B-2 will also undermine our entire approach to strategic arms control. We have been attempting for the better part of a decade, with considerable success, to convince the Soviet Union to favor bomber forces in START, thereby encouraging both sides to increase their emphasis on slower flying more stabilizing systems.

We have been quite successful in shaping the bomber counting rule in START. Under this rule, each strategic bomber not carrying cruise missiles counts only as a single warhead. This maintains a significant deterrent force

while reducing first-strike capabilities. Having a man in the loop also permits strategic bombers to be launched on less than certain warning, knowing that they can be recalled at any time. For the last several years the Department of Defense, the Air Force and the Strategic Air Command have been shaping their strategic modernization proposals in accordance with the assumption that the B-2 would be a central component of our post-START strategic posture. If we kill this program, we also change the assumptions upon which our START proposals have been based.

While the B-2 bomber is primarily a strategic nuclear bomber, we should not dismiss its contributions to conventional power projection. What we are currently facing today at this moment in the Middle East is the situation in which B-2 conventional use would offer a possibility in the future. And I think, while that is not the main reason we are examining whether we should go ahead or should not with the B-2, it certainly is a component that ought to be studied and analyzed.

The Qadhafis and Husseins of the world would never be able to sleep with ease should they again perpetrate terrorist activities or other violence against the United States or its allies knowing the conventional capability of the B-2 if we possess that.

Mr. President, I have more to say on this and will say so later.

I thank the Senator from Nebraska for the time that he has allotted. I urge my colleagues to support what I think is a reasonable way of moving forward with this particular amendment and that is to support the Nunn-Warner amendment that is before us.

Mr. President, I thank the Senator again and yield whatever remaining time I may have.

THE PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I yield myself 6 minutes.

Mr. President, I did not speak on the last amendment because we had a great number of Senators who were very much interested in opposition to this, nor did the Senator from Virginia speak on this. I would like to make a few comments that I think are most appropriate.

First, I wish to compliment the chairman of the committee, the distinguished Senator from Georgia [Mr. NUNN] and echo the remarks that were made by my friend and colleague from Virginia. The three of us, joined by Senator THURMOND from South Carolina, have had many battles on matters pertaining to the national security interests of the United States. We have not always agreed, but on this one the four of us agree completely. I do not believe our position could have been stated any better than as

stated by the chairman of the committee. So I compliment him again for those excellent remarks.

After those remarks, I heard the Senate go back to the same rehash of the rehash of the rehash which we have dealt with for a long, long time. Now there is not anything wrong with the position taken by some Senators if they believe, as does the Senator from Vermont, my good friend and colleague, with his essential killer amendment, or as far as that goes from the distinguished Senator from Maine, who is a very valuable member of the Armed Services Committee, and with whom I have not found myself at odds very often. So I do not for a moment question the motives of either the Senator from Maine or the Senator from Vermont.

I do hope that there will be a better understanding by the Senate as a whole, though, before the vote is cast on this measure. I think there was one key point that I want to emphasize again that was made by the chairman of the committee, and that is that we have had testimony in the Armed Services Committee from all of the people that we rely on today to protect the national security interests of the United States.

Without exception, Mr. President, they have told us that they would not be in the position to support the START Treaty as presently envisioned, and with the hopes of all of us that that could come into being, without the B-2. Now, why is that? Well, because when the B-2 was fashioned and when the START Treaty began to take some form of semblance of being passed, the key element as far as the professional military leaders of the United States were concerned, was that we could indeed ratify a START Treaty so long as the balance, the critical balance in that treaty, was not changed or, to put it another way, if that included an inventory of B-2's. The Senator from Georgia made that point very clearly.

I would say, Mr. President, that any Senator that votes for the amendments before us are essentially disagreeing with each and every one of our military leaders of today.

There has been cited by some Senators today, military experts of yesterday, who I suspect know little if anything more about the intelligence that we have today on the Soviet Union than does any other American walking on the street today.

I simply want all to understand that regardless of how they feel about the costs of the B-2, and certainly they are high, but before that money is saved on canceling the B-2 and transferred to some social programs, I for one say I think that is not a wise decision, and I think that decision is made primarily on the basis of not quite fully understanding what they do.

Yes, Mr. President, this is a tough call. I suspect there is little question but what if the vote on this matter were put up to the people of the United States today with their concern about the budget deficit, with their concern about fraud in the military establishment, with their concern—and legitimately so—about waste, fraud, and abuse, they would eliminate the B-2 Program.

I think, though, there are an awful lot of people in the United States who would like to see a little more leadership than they have seen thus far from the President of the United States on this matter. The President is supposed to be giving a talk, I believe, in Colorado today. Whatever he says about the B-2, or other important programs that he supports, I guess, may be too little or may be too late. The President of the United States is the Commander in Chief. He should be leading on this issue, and he is not.

There are those of us who probably are bucking the political tide. I can only speak for this Senator.

Mr. President, I feel very strongly that the national security interests of the United States in the future and the chances of confirming important treaties for reduction of armaments with the Soviet Union will both be severely hurt if we take the actions suggested by the two amendments currently before us.

So let us please understand that the popular decision in the United States today is to cancel out the B-2. But, as the Senator from Georgia said so well, that might not be the popular decision when the people of the United States come to fully realize that without a B-2—which I emphasize once again as I did earlier on the floor is a system, a quantum leap forward like probably no other leap forward that we have had if it performs as we think it will—if we cancel that out now, I think there are going to be some rather interesting questions asked at some time in the future when the people of the United States come better to understand that quantum leap forward that the B-2 system, as I like to call it, will provide for the long-term security of the United States.

I reserve the remainder of my time.

I yield 2 minutes to the Senator from Missouri.

THE PRESIDING OFFICER (Mr. SANFORD). The Senator from Missouri is recognized.

Mr. BOND. I thank the distinguished Senator from Nebraska.

I rise in support of the Nunn-Warner amendment in opposition to the other two amendments pending before us.

Some of my colleagues have come to the floor—and off the floor as well—and have stated that because of the changes in the climate, the changes in

the Soviet Union, the changes in Eastern Europe, we do not need to go forward with the strategic weapons systems, such as the B-2.

I feel pretty certain we are not likely to see Mikhail Gorbachev attack the United States. That probably is not one of his options. He is probably not looking at it. But we cannot ignore the fact that intentions change and leaders change. The bottom line is that the Soviet Union maintains its capability to destroy the United States. And as Colin Powell has pointed out repeatedly in the past, it is the capabilities, not the intentions, which we must be able to defend against.

The B-2 bomber will and must play a critical role in our strategic deterrent. Our strategic defense is based on the well-known concept of the land-sea-air triad. The land leg of our triad is weak, especially when compared with that of the Soviets. It appears we will allow it to grow weaker in the years to come.

The air leg of our triad also presents causes for concern. The overwhelming majority of our bombers are aging B-52's, which will have to be retired in the near future. Without the B-2, our bomber force will soon come down to less than 100 B-1 bombers, a dangerously low number.

The B-2 will revitalize our bomber force, not only by replacing aging aircraft but also by introducing unprecedented technology into our force. The B-2's tremendous capability to avoid Soviet air defenses will go a long way toward deterring the possibility of any attack on the United States. That deterrence alone, and the tremendous costs it would impose on the Soviet Union to counter it, make the B-2 worth its cost.

The B-2 will be able to perform other missions as well. The recent, very troubling incursion of Iraq into Kuwait is an example. We could, as the chairman pointed out, meet that threat with the B-2 bomber.

The B-2's ability to deliver a large load while remaining undetected will allow it to be used in missions that would otherwise require commitments of many more aircraft, thereby greatly decreasing the possibility of loss of life and planes, as the distinguished chairman of Armed Services Committee has just pointed out.

The B-2 is an expensive plane, no one disputes that, though when compared with the cost of past bomber programs it is in line. In considering the cost of the B-2, however, we must consider our defense needs and what we will get for our investment. It is clear to me that the B-2 is a worthwhile investment in a weapons system we truly need to maintain our national security. I urge my colleagues to put aside political maneuvering and party posturing and consider the national security implications of this vote. When

they do so, I have no doubt the votes will line up in support of the B-2.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. I yield the Senator from Tennessee 10 minutes.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. SASSER. I thank the distinguished Senator from Maine.

Mr. President, listening to this debate here today, I felt as if I was in a time warp, and it was 1981 all over again. We were discussing at that time and debating at that time the almost unprecedented leap in defense expenditures that ultimately occurred during that decade.

I well remember in 1981 or 1982 when the distinguished then-ranking member of the Senate Armed Services Committee, Senator NUNN, not as the main thrust of his statement that day, but as sort of an aside, confided he was not sure we could afford to build both the B-1 and the then new, highly classified airplane known as the Stealth. None of us knew what it was at that time—at least I did not. I had never seen it. I did not know why it was so supersecret. But I did know there was some sort of supersecret research going on.

Well, the distinguished Senator from Georgia was more correct than he knew at that time, now almost a decade ago. Because this country, given its present fiscal circumstance, cannot afford to build both a fleet of B-1 bombers, which we opted to do, and then come forward and build the most expensive aircraft in the history of the world, the B-2 Stealth bomber.

I rise today to oppose throwing good money after bad on this outrageously expensive aircraft. I do so in the name of conscience. I do so, I think, in the name of simple, common sense.

Listening to some of this debate today, we would think that the events of the last year and a half had never occurred. We would think that the Berlin Wall was still standing. We would think that Brezhnev was still alive and well in the Kremlin. We would think that the Soviet Union was still armed to the teeth and sending weapons to Cuba, to Vietnam, to Nicaragua, trying to instigate revolutions the world over.

We know that is not the case today. The Soviet Union of today is a country that is collapsing internally, a country that may very well be on the verge of civil war, certainly a country that is engaged in severe internal conflict as to whether or not that nation will even remain intact. And we are discussing here today beginning to spend at least \$36 billion on a so-called penetrating aircraft to defend ourselves from this nation which is on the verge of dissolution.

That is one argument to be made. But let me present my colleagues with

a more practical and pragmatic case against the aircraft. We are engaged in some bipartisan budget negotiations with representatives of the administration. We are doing that because this country is in fiscal crisis. We see the financial structure of this country on the verge of collapse. The savings and loan problem was warning enough. Just yesterday the oldest bank in the city of Washington became insolvent and went into bankruptcy.

We are engaged in these bipartisan budget negotiations because, when you include the borrowing that is going to occur for the savings and loan bailout, and when you back out the funds that are being collected in the name of the Social Security trust fund, you find that this Government has a deficit in excess of \$300 billion for fiscal 1991. If the Japanese stopped our line of credit tomorrow, the Government of the United States would be insolvent and bankrupt.

I submit, Mr. President, that given this state of affairs, it borders on the ludicrous to be standing here today discussing whether or not the U.S. Senate should embark on a program of acquiring aircraft that will cost almost a billion dollars per copy.

In this bipartisan budget negotiation, we are contemplating a variety of ways to reduce the Federal deficit, and when you look at the magnitude of the problem, our efforts are rather puny. We have decided that we are going to reduce this deficit by at least \$50 billion for fiscal year 1991. That is going to leave us—if we are successful and if you calculate the results fairly and accurately—a deficit of about \$250 billion.

Within that \$50 billion figure, it is generally conceded that we are going to have to have \$25 billion worth of spending cuts.

I say to my colleagues today, they can go ahead and authorize the funding for the B-2 bomber, they can go ahead and authorize funding for all sorts of exotic, superexpensive weapons systems, but in the final analysis, to do that, these spending cuts that are going to have to be made are going to have to come out of domestic spending and they are going to have to come out of entitlements.

Within the summit negotiations, we have already had proposals to reduce our expenditures on child nutrition. We have already had proposals that would cut back on Medicare funding for rural and teaching hospitals. We have had proposals that would raise the premiums, the cost that beneficiaries would have to pay for Medicare.

All of that makes this debate simply beyond the pale. When our economic circumstances are so dire and so drastic that the President of the United States announces a fiscal crisis and

convenes the leadership of the Congress with the leaders of his administration, it appears to me to be beyond the pale to be here today discussing the possibilities of acquiring the most expensive new fleet of aircraft the world has ever seen.

We are discussing making spending savings by increasing the burdens on some of the neediest of our citizens, so dire are the fiscal circumstances that this country finds itself in.

I say to every one of my colleagues in this Chamber who votes to expend more funds today for the B-2 bomber, they better be prepared to go home and explain to the senior citizens of their States why we have decided they have to pay more for health care so that we can shell out another \$837 million per airplane for a fleet of aircraft whose mission is, at best, ill-defined and, at worst, nonexistent.

I state these alternatives in these stark terms because that, in fact, is what we are confronting in these budget negotiations. That is what we are going to be confronting on the floor of the U.S. Senate later this year if these budget negotiations are successful.

If we cannot agree among ourselves on the floor of the U.S. Senate to discard highly expensive, exotic weapons systems which have lost their utility, then we will be forced to consider options like reducing Medicare and capital expenditures for hospitals, and freezing cost-of-living adjustments for Federal and military retirees.

Make no mistake about it—and I do not say this as an alarmist, I am saying it as a fact—if we do not act decisively to scale back our military spending on an entire generation of new high-tech, high-priced weapons systems, we are going to be seeking an undeserved sacrifice from those who can least afford it. That is the reality.

The simple fact is the only stealthy thing about this aircraft is its justification—the rationale for spending \$800 million per plane simply eludes detection.

Pentagon officials have raised a number of arguments for the B-2 bomber, most of which initially revolved around the role of penetrating bombers in U.S. nuclear strategy. Within the last year or so, the Pentagon has increasingly begun to stress the importance of the B-2 in terms of our conventional strategy as well.

The Pentagon's case for the B-2's nuclear role rests heavily on the expectation that the Soviets will continue to modernize their air defense in the 1990's at the pace established in the 1980's. Considering the grave economic and political difficulties confronting the Soviet Government and its declared intentions to reduce defense spending, this assumption is dubious at best.

Second, the Air Force claimed that penetrating bombers offer the most promise of being able to locate and destroy mobile targets. It is very unlikely that the B-2 bomber would be effective against mobile targets. At a minimum, the task would require an additional investment of billions of dollars for a score of sophisticated and costly reconnaissance satellites to keep mobile targets under surveillance.

Third, supporters of the B-2 argue that the plane would render existing Soviet defenses obsolete and force the Soviets to spend vast sums trying to defend against it. There is little evidence to support this conclusion. Soviet defenses have already been rendered obsolete by United States ballistic missiles and cruise missiles. If the ABM Treaty remains in place and the Soviet's pledge to reduce defense expenditures is carried out, the United States ability to penetrate Soviet defenses will increase over time with the addition of stealthy cruise missiles.

Fourth, B-2 supporters claim that strategic bombers can be used to carry out conventional bombing missions similar to the 1986 raid on Libya. The rationale is fast becoming the Pentagon's favorite argument. However, in the absence of a credible strategic nuclear rationale, a conventional mission by itself is not enough reason to continue the B-2 program. The Air Force already has several different types of aircraft that could all be employed in conventional bombing missions. Finally, General Chain, the commander in chief of the Strategic Air Command, admitted in testimony before the House Armed Services Committee earlier this year that, "because of the value of the B-2, I can't see putting very many at risk in a conventional conflict."

Finally, let me address myself to the Nunn-Warner amendment. With respect to this notion of tough new hurdles, it is obvious smokescreen; moreover, it is virtually identical to the smokescreen placed between the Senate and the realities of this program last year. The argument for the Nunn-Warner amendment is that in order to receive additional procurement money the program must meet a series of rigorous tests. The truth of the matter is that we're setting up a few illusory hurdles so that we can claim we've been tough and skeptical as we proceed to pour tens of billions of additional taxpayers' dollars into this program in search of a mission.

In short, the United States does not need and cannot afford the B-2 bomber. Most of the B-2's nuclear and conventional missions could be handled in a more cost effective manner by other existing or soon to be deployed systems. Even if the cold war were still raging, the B-2 bomber would be a questionable investment of this country's all too scarce budgetary

resources. The end of the cold war should simply reinforce this verdict.

Mr. EXON. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have listened with great interest to my friend and colleague, the chairman of the Budget Committee, whom I work very closely with and whom I have worked with on the Budget Committee fashioning a \$13 billion cut in outlays for the next fiscal year.

The Senate Budget Committee chairman, if I remember correctly, had envisioned a \$15 to \$16 billion cut in outlays. As a final compromise that we reached as members of the committee, the recommendation of the \$13 billion cut in outlays was accepted.

I submit, Mr. President, to try and put this all in perspective and not get out in the never-never land, the recommendation that I helped pass in the Budget Committee of \$13 billion is the largest cut in defense outlays of any entity of the House or Senate or the administration that has come forth with any action thus far.

Mr. SASSER. Will the Senator yield for just one statement.

Mr. EXON. I will yield in just a moment.

I simply say that, therefore, if I am being accused of taking money away from the rural hospitals and the aged citizens in Nebraska, then I think that is a misnomer of the largest magnitude. I am one who has proposed cutting more in defense outlays, and as a member of the Budget Committee we did that. We are going to have trouble meeting that goal, but I think we can, working constructively together.

I simply point out that when the chairman of the Budget Committee votes, as he probably intends to vote, if I understood him correctly, to help out the senior citizens of Tennessee and Nebraska, he is actually saving in outlays for the next fiscal year about \$150 million—not the billions and billions and billions that one would be led to believe when we hear the debate on this floor.

So I think it is very wrong for us to not be looking at the overall picture. If you cancel the strategic program, which I think no person is for, the whole strategic program—the B-2's, SDI, Midgetman, rail garrison, black programs, all others that you can think of—it would be only 13 percent of the total defense budget.

I know it is big ticket items, and there is sticker shock connected with these situations. But I happen to feel that for what the B-2 would do to protect the national security interests of the United States—which I assure the Chair is of critical interest to our senior citizens as well—we are trying to unfairly draw a comparison that we

can solve all of our domestic programs if we somehow cancel out the B-2. I do not think that maybe is what many of the speakers in support of this amendment are saying, but I think they are clearly leaving that impression.

Having said that, I am very pleased to yield to my friend and colleague from Tennessee on my time for a question.

Mr. SASSER. I thank the distinguished manager of the bill. I commend the distinguished Senator from Nebraska for the leadership that he displayed in the Budget Committee on the deliberations relative to the defense number that we arrived at.

The distinguished Senator is quite correct that he was very influential in arriving at defense savings in the amount of \$13 billion for fiscal year 1991. I wish to commend him for the leadership that he displayed on that particular problem.

But I say to my distinguished friend from Nebraska—and I am sure he is aware of this—the bill that has been reported by the Senate Armed Services Committee has been costed out by the Congressional Budget Office with outlays of \$10.3 billion for fiscal year 1991, so it does not conform to the \$13 billion savings in military expenditures that the Senator from Nebraska was so influential in getting incorporated into our budget resolution.

Mr. EXON. I thank my friend and colleague, and I hope that we can fashion something to reach the budget level that the Senator and I support in the Budget committee.

But the Senator's question allows me to point out the point that I am trying to make, that if the amendment by the Senator from Vermont should pass, we would be \$150 million only toward that goal.

So from that standpoint I do not think, when you look at the figures we are facing, that this would be a very good reason. Although \$150 million is \$150 million, it is a long way to the roughly \$3 billion that we must reach to meet the Budget Committee's recommendations.

I reserve the remainder of my time. The PRESIDING OFFICER. Who yields time?

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Let me inquire about who is in charge of the time and yielding time. I would like to be heard if time permits in behalf of the B-2 amendment.

The PRESIDING OFFICER. The Senator from Maine controls the time in favor of the underlying amendment. The Senator from Nebraska controls the time opposing the underlying amendment, for the substitute amendment.

Mr. EXON. Mr. President, I yield 5 minutes to the distinguished Senator from Texas.

Mr. GRAMM. Mr. President, I rise in opposition to the pending amendment, and I rise in support of the Senate Armed Services Committee's position on the B-2 bomber.

Mr. President, there are two reasons that we ought to build 75 B-2 bombers. The first reason is obvious to anybody who looks at the facts. The building of the B-2 bomber is not made unnecessary by the changes in Europe. It is true that the Warsaw Pact has collapsed. It is true that the conventional threat to Europe has been reduced. But the need for the B-2 bomber is a strategic need, and every piece of information that we have shows clearly that the Soviets have not reduced their expenditure on strategic weapons.

In fact, their developmental programs, their modernization programs, their procurement programs, both offensively and defensively, in strategic weapons continue to move forward at a full bore rate.

So the threat in terms of the nuclear power of the Soviet Union, the threat that has made the Soviet Union a superpower for 30 years, has not been abated.

Mr. President, I hope it will be abated. I hope we will have a START agreement. I hope we will have a reduction in nuclear weaponry that can be verified. But the plain truth is we do not have that today, and we do not have any evidence that the Soviets are reducing expenditures on strategic weapons.

If we do not build the B-2, we will not have a manned bomber that can penetrate Soviet airspace and that can provide the deterrence that a manned bomber penetrating Soviet airspace can provide.

The second reason is economic. We have currently, as a result of our commitment to finish R&D, committed \$35 billion to this program. That \$35 billion develops the overall revolutionary technology and will give us 15 airplanes, which is not enough to have an effective force. For \$16 billion, we can build 75 B-2 bombers, two wings, and have an effective deterrent that is unmatched by any other nation in the world.

Mr. President, that is a lot of money, but we are talking about the ability to do a very big job, and as we look at flyaway costs—and of course we have debated costs, as we should on any weapons systems—think it is important to note that given we have already done all the research and development in terms of building the prototype, given that the technology is now in place, we have reduced the flyaway procurement cost on this weapon substantially, and there is not in development or on the drawing board any-

where else in the world a weapon at anything like this cost that can provide the level of deterrence that the B-2 offers.

So, Mr. President, I want to urge my colleagues, as tempting as it may be to decide that there will never be another threat in the world again, to realize that that is not the case.

In fact, today we are looking at naked aggression in the world. I think it is vitally important that wherever aggression may surface we have sufficient power to protect American interests and American freedom. We need the B-2 bomber. We have developed it, the technology is in place, and it can now be bought at prices that are competitive in terms of what we have paid for our bomber force in the past as a percentage of our defense budget. And the deterrence and safety for the American Nation that this weapon alone can provide is worth the expenditure we are talking about.

Finally, I want to remind my colleagues that no one has provided any convincing evidence to suggest that while things have changed dramatically in the Soviet Union, while the Warsaw Pact has collapsed, that the Soviet Union clearly is continuing to modernize its strategic weapons both offensively and defensively. It would be poor strategic policy and poor economics not to build this vitally needed weapon.

I yield.

Several Senators addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. GLENN. Will the Senator from Maine yield time?

Mr. COHEN. May I inquire how long the Senator from New Mexico wants to speak?

Mr. DOMENICI. I am speaking in opposition. I do not think I need more than 3 minutes, I say to my friend.

Mr. COHEN. I inquire because I think the Senator from Ohio wants to go a lot longer.

Mr. DOMENICI. I am glad to wait. I am learning here on the floor. Thanks.

Mr. COHEN. I yield 10 minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. EXON. The Senator from Mississippi wants 3 minutes. Would the Senator from Ohio mind yielding to him before he speaks?

I yield 3 minutes of the time remaining on our side to the Senator from Mississippi.

Mr. LOTT. Mr. President, I thank the distinguished Senator from Nebraska, the leader on this issue, for yielding me this time and also the Senator from Ohio for letting me go ahead.

I wanted to get some brief remarks on the record here today because I

have to confess that I am one of the Senators that has given a lot of thought to not going forward with the B-2 this year. I have talked to a lot of people on this issue on both sides.

I guess I have to say up front that I was concerned and disappointed, quite frankly, when the administration came before the committee and said we can live with only 75 after being told only 2 months earlier we had to have 132 and every one of the 132.

I started asking questions. If we can make that kind of dramatic change in 2 months, just how badly do we need it? After a lot of thought, a lot of consideration, I feel that we should go forward with the level that has been requested by the administration for the B-2 bomber. The United States has relied on the nuclear triad for nearly three decades, and it has stood us in good stead. I think we should continue to have that very strong triad.

If we are going to have and maintain the bomber leg, we must have, in my opinion, the B-2. I would like to point out, for instance, that three former chairmen of the Joint Chiefs testified before the Armed Services Committee that we need the B-2 for deterrence. They represented three services. Admiral Crowe, General Vesey, General Jones, of the Air Force, all testified to that effect.

I see in the Armed Services Committee both in the House and perhaps here on the floor that we are reducing spending. We are not going forward with what we had talked about doing just a year ago on the missiles. We are not going to have Midgetmen. We are not going to have a mobile peacekeeper or MX. We are talking about reducing the number of submarines.

So I started to ask myself, just what are we going to have left? We have learned this very day that the world is not a utopia. It is a very dangerous place.

So I think we have to ask ourselves, and I have asked myself, do we need the bomber? The answer, I concluded, is, yes, we do. I think we need the B-2. The B-2 and the B-1 will not serve us on into the next century. The B-1 was always intended to only be an interim bomber. So we need to move to the B-1.

The Soviet strategic threat is not declining. In fact, it is going up, double the number of mobile missiles this year. They are indicating now that they are not going to continue to build mobile missiles, but they have not said anything about reducing the ones they already have.

So we have a tremendous strategic threat from the Soviet Union. I think we need this bomber because of the recallability, and because it is flexible. I urge my colleagues to go forward with the 75 B-2 bombers.

Mr. GLENN addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 10 minutes.

Mr. COHEN. Mr. President, I yield 15 minutes to the Senator from Ohio.

Mr. GLENN. Mr. President, occasionally we have items that, because of our background or our interest and the work we have done here in the Senate in the past, are of special concern to us, and we agonize over them sometimes when we have to make a change or when tough decisions have to be made.

I find myself specifically in that position with regard to the B-2. I literally have agonized over this matter over these past few weeks. I mean that. This involves a new technology. It involves a lot of research, and it involves a new capability. It is the kind of thing I spent a good chunk of my life working on and trying to develop.

Mr. President, some \$35 billion will be required to complete this program, and that is what we ought to decide. Are we going to complete this program or are we going to cut our losses at this point? There is about \$35 billion left to go on this program.

Mr. President, my distinguished colleague from Texas [Mr. GRAMM] stated just a few minutes ago that we had to be aware that there is naked aggression going on in this world even today, even as we speak here. There is indeed. The choice is: Do we need the additional deterrence the B-2 would add in addition to what we have already with ICBM's, SLBM's, as the distinguished Senator from Mississippi said, and the interim 100 B-1's; that was the way they were looked at—and the old B-52's, which are getting old, and advanced cruise missiles coming along very well? We have a deterrence there that is enormous. It is nuclear and it is strategic deterrence that the B-2 would add another element to. I agree with that.

But the choice is: For that \$35 billion to get that additional deterrence, do we need that money more in conventional capability and in manpower? We already have people talking about cutting more than we think we should cut out of manpower. Are we going to have a military pay raise that does not raise the pay, just keeps up with inflation? We have some very, very tough choices here.

Mr. President, after agonizing over this, I rise to support the amendment of my distinguished colleague and friend from Maine, Senator COHEN, and Senator LEAHY. I really have mixed feelings about this. But I in good conscience must take this road.

First, the world military and political situation that is generated in support of the requirement for two new strategic bombers as part of the administration's strategic modernization plan no longer exists. This new world situation is not likely to change back.

CIA Director Webster testified before the House Armed Services Committee earlier this year and highlighted Senator NUNN's excellent speech on the changed threat environment of the 1990's. Changes in the Warsaw Pact threat to NATO will be increasingly difficult to reverse. Furthermore, Webster said, even if a hard-line regime were able to retain power in Moscow, it would have little incentive to engage in major confrontation with the United States. It would be preoccupied with the country's domestic problems, and would be unlikely to indulge in a major military buildup.

That is all well and good. Do I trust the Soviets now? No. I certainly do not yet. I do not want to be the last of the cold warriors, but on the other hand, military threat is made up of two elements. One element is the military hardware, equipment, personnel, the people to use it. The second element is the political will and ability to use it.

Mr. President, that is what is changed. The hardware is still there. Our cities, our military targets in this country are still targeted by those Soviet missiles. They still have their tanks. They still have the hardware. Their political will and ability has gone to nothing at the moment.

So are we worried right now? No. We are not. But I will feel much safer when we have this balance reduced through arms control negotiations and verifiable arms control negotiations. Then perhaps I will feel we can really not worry that much about our overall military posture.

But right now I think we still do have to be concerned about all elements of warfare in the world in which we live. Webster said that even if a hard line regime were able to retain power in Moscow, it would have little incentive to engage in major confrontation with the United States, and new leaders would be largely preoccupied with the country's urgent domestic problems and would be unlikely to indulge in a major military buildup.

Second point, Mr. President. Current and future defense budgets cannot support continuing modernization of all three legs of the strategic triad, at the expense of conventional and manpower.

In my opinion, the introduction of the B-1B in 1986, when combined with the new stealthy advanced cruise missile and new short-range attack missile, the SRAM, will provide an adequate level of deterrence required for the air-breathing leg of the triad, even in a post-START environment. This is consistent with our need to begin shifting the emphasis of the third leg of the triad to air-launched cruise missiles.

I do not know how many Members have gone into the capabilities of the

advanced cruise missile designs, but they are almost miraculous vehicles that are coming on very well.

Mr. President, the Air Force has sold the B-2, basically, on the SIOP mission, the nuclear mission. As much as I have talked over the last few years trying to get them to emphasize the conventional bomber, they have not been really willing to address that head on, and in every briefing we have it still includes the SIOP mission and what it can do on that.

I appreciate that. But the strategic triad, to me, fills out that bit of additional deterrence that might come from the B-2, in addition to all the other things I mentioned just a few moments ago, where we have such a preponderance over the Soviets in strategic programs, our nuclear delivery capacity, SLCM's, ALCM's, the whole works. When I have to make that choice between the conventional and manpower, I have to opt for the latter.

Air-launch cruise missiles, and the B-1, even though it is not quite as capable of penetrating as the B-2 might be, is still a very effective bomber.

The dramatic changes that are occurring in the world require revised military strategy that emphasizes conventional capability. Senator NUNN stressed that, about what the changing world is meeting in the way of military strategy. We do not have a clear definition yet from the Pentagon, so we drew up our own definition this year, and the chairman brought that out on the floor in his excellent speeches.

To develop a new military strategy that reflects the changing world, and threat, which at the same time recognizes the fiscal realities that defense budgets are facing, Mr. President, requires some very tough choices. It means that we have to prioritize the requirements for new weapons systems across all the services. Those are choices DOD has either been unable or unwilling to make in the past. We still need a strategic force. I do not want to cut back on that strategic force. But with the SLBM's and ICBM's also, what we will have in the B-1's, cruise missiles, and even the old B-52's, we can obliterate the Soviet Union from a nuclear standpoint; future wars or brush fires or whatever are likely to be conventional, and that is where we are weak.

So the question is, whether we need the strategic deterrence the B-2 offers? It would be substantial, but do we need that added to those other capabilities, or do we need more emphasis on conventional? Do we need mobility, ready conventional forces?

Yes, we do. And they will be cut back so we can have the B-2 instead.

Those are tough choices, and we have to prioritize and decide those tough choices.

One of the problems here is the Air Force has let costs get away from this whole program, and they have kept it quiet for a great deal of time. My belief is that if this kind of prioritization is objectively done, taking into account the changes in threat and dwindling defense budgets, the requirement to acquire and pay for a second new strategic bomber, as good as it might be if it proves out, will move well down on my priority list.

I believe that DOD, in implementing a new military strategy in the face of greatly reduced defense budgets, will have to emphasize conventional capability if we are to meet potential regional threats. Unfortunately, the modernization of conventional forces continues to lag behind our strategic forces.

The Persian Gulf today was mentioned on the floor as one of our problem areas, and that is why we need the B-2. That is not what we need to go against the situation in the Persian Gulf.

I further remind my colleagues that during the past 10 years we have already modernized all three legs of the triad forces; we developed and deployed the MX ICBM, the Trident nuclear submarine with the new D-5 ICBM, the B-1B, which is not as invulnerable as the B-2, but is very effective nevertheless; we have the ALCM's, air launch cruise missiles; and we have upgraded the Minuteman ICBM force and the advance cruise missile and the SRAM 2 nuclear missile, which I spoke of earlier.

Also of great importance is the fact that as defense budgets continue to decline, adequate compensation, just plain old mundane pay, for the men and women in uniform is another matter that is going to require some prioritization over unlimited procurement of new and sophisticated weapons systems.

All my colleagues know, our military personnel remain the bedrock of our defense readiness, whatever else we have. In fact, we may have already reached the point where we may have to really prioritize between military pay and military equipment.

I will be offering an amendment later in these deliberations that will ask my colleagues to do that, to put a higher priority on military pay. What it will say is, we are not trying to make a big advance in military pay, but are trying just to keep up with inflation and not let the people get farther behind than they have become accustomed to being over the last 10 years or so.

In order for our military personnel to receive a pay raise in fiscal 1991, that will keep pace with inflation, an additional \$300 million in outlays will have to be found within the investment accounts. I hope we can do that.

Mr. President, my colleagues know that I have been generally supportive of the B-2 program, emphasizing its potential conventional capability, rather than strategic role. My colleagues also know that I have often expressed serious reservations, both publicly and privately, about the limited contribution of manned bombers to strategic deterrence, or their potential combat utility if deterrence fails and bombers are launched following an initial exchange of nuclear missiles.

I do not think we would ever make a first attack with a B-2. If the ICBM's are going off and the SLBM's are going off, are we that likely, even on the SIOP mission, to send in a B-2 after that is already going on?

However, until last year, my criticism of the B-2 program centered on the failure of DOD to declassify cost and schedule data, and once declassified, concern over escalating cost and potential technical problems, mainly aerodynamic concerns and low observability.

Last year, after the program came almost completely out of the black world, I led the fight in the Armed Services Committee to slow the program down and fly-before-buy, a concept our committee has reinforced and expended in this bill, which I support. Nevertheless, this time last year, my position was that if the B-2 really was operationally effective, if it really was stealthy and predicted to remain so for the foreseeable future, I was prepared to support procurement of the minimum number of B-2's required to provide a viable force of heavy bombers for use in a conventional or strategic role.

Now, 1 historic year later, a new military strategy is required that will meet the national security goals outlined by the President in his annual national security strategy report to Congress. Furthermore, this new military strategy must be achievable within the budget resources available for defense.

So, Mr. President, given these criteria, I can no longer support increased procurement for support of the B-2 program, because it has gotten too expensive to permit us to do some of the other things in conventional and manpower that we find necessary to do.

This has not been an easy decision for me to reach as a pilot, as a combat veteran, and given the new dimension that stealth technology may offer to air warfare as a member of the Armed Services Committee and Strategic Subcommittee charged with validating DOD weapons systems requirements. Review of the facts leads me to the conclusions I have expressed earlier. To reiterate, I believe that the world military and political situation that generated and supported the requirement for two new strategic bombers as

part of the administration strategic modernization plan no longer exists.

Current and fiscal defense budgets cannot support continuing modernization of all three legs of the strategic triad, and we are behind in our conventional forces. The dramatic changes we have occurring in the world require a revised military strategy which emphasizes conventional capability.

Mr. President, as I indicated starting out, I have agonized over this and have really done a lot of soul searching on it, and it comes down to the basic choice I outlined when I started out and that is basically that we have about \$35 billion at risk here if we continue with the B-2 program. We are behind on conventional, we are behind on manpower, and how we should be treating our people and that \$35 billion to me is going to be better spent to enhance our conventional and our manpower programs and not for the admitted additional capability that the B-2 would give to our already very substantial nuclear deterrent, the ICBM's, SLCM's, ALCM's, the advance cruise missile, and all the rest of them.

Mr. President, I urge my colleagues to weigh these facts in reaching their own decisions. It has been a hard one for me. When they do weigh these facts, I am confident they will support the Leahy amendment and the Cohen amendment, and vote to terminate further B-2 procurement.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield to the Senator from Alabama 3 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 3 minutes.

Mr. HEFLIN. Mr. President, an old saying, an ounce of prevention is worth a pound of cure comes to my mind as we look at the defense posture of this Nation today and in the future.

Many say the threat to our Nation is greatly diminished. Assuming that, then I think that we have an opportunity in the next year, perhaps 2 years, to move forward in technology and in preparedness that can eliminate many, many years ahead of us relative to expenditures on armed services.

If we at this time take advantage of our opportunity and make ourselves strong to the extent that that strength can last for decades and decades, then I think we will be doing a great service for peace in the world and for the defense of this country against potential threats that may occur in the future.

So I say let us take advantage of our opportunities, and to me one of the opportunities we have today is to move forward with the B-2.

I and many of my colleagues in this Chamber can remember the transition from propeller-driven aircraft to jets.

That transition was truly revolutionary and the United States led the world. The B-2 bomber is no less a revolution in aircraft technology, and the United States is still leading the way. I congratulate the Air Force and those Members of this body who have worked so hard to bring the B-2 to the production stage.

Mr. President, the B-2 is the second part of a cohesive strategy to breathe life back into the manned bomber portion of our strategic Triad. The B-1 was step 1. But, we all knew when the B-1 came on line that it would not be able to penetrate against a constantly improving Soviet air defense network forever. A second, more capable bomber would be required. That realization resulted in the B-2.

I fear that we will now fall off that strategy by failing to continue on with the B-2. Penetrating manned bombers have been at the core of our strategic deterrence for over 40 years. They carry a sizable portion of the U.S. nuclear arsenal. Because they have a crew onboard, they perform missions that cannot be accomplished by SLBM's, ICBM's, or cruise missiles. Manned bombers can be recalled after launch, redirected in flight, react to unexpected defenses in real time, and deliver both nuclear and conventional payloads to any number of targets. Only bombers have these important operational characteristics.

Bombers are the only part of the triad that has been operationally employed since World War II. Even though bombers were central to nuclear deterrence during the days of the Korean and Vietnam wars, we did not hesitate to use them for conventional missions. And, should the need arise again, we will have a much more effective bomber in our inventory.

Mr. President, much will be said concerning the B-2 Bomber over the next several weeks. I urge my colleagues to remember that we must judge the B-2 by its contribution to both the long- and short-term national security interests of the United States, not just by its cost. By that yardstick, the B-2 is an enduring military advantage we cannot afford to throw away.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I yield to the Senator from Minnesota 6 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 6 minutes.

Mr. BOSCHWITZ. Mr. President, my attitude on defense is somewhat different than that of my friend from Ohio. My attitude is not to have conventional first but rather to have technology first. I believe that our advantage in defense is technology. I believe that we are not going to have more men and women under arms than will our opponents. I do not think we are

going to have more tanks than our opponents will. I do not think we are going to have more field peaces. Our advantage is technology.

I think what happened in the world during the 1980's, the movement toward democracy, was in a large measure influenced by the fact that we moved forward in technology in our defense and, furthermore, that we moved forward in defense in quantitative terms as well. There was a buildup in defense during the eighties in this country both quantitatively and technologically. But technology is where this country has its advantage.

The Russians were pressed. They were pressed to the wall. They simply could not stand the pace. They spend 14, 15, 16, some people even said 20 percent of their gross national product on defense. That is a terrible overhead to impose upon society because really defense is part of the overhead of society, a necessary part.

We are now somewhat over 5 percent of the gross national product being spent on defense. At the end of this 5-year program that the budget summit is going to come up we may be under 4 percent of our gross national product on defense.

I think we can afford that. I think we must afford it, and that our principal advantage again and our principal pressing point must be technology. That is where our greatest advantages are.

When President Reagan came back from Reykjavik and did not make a deal on the SDI, I thought that was fine because we were moving forward and they were unable to move forward in that field of very high technology. In the technical technology of Stealth, as the distinguished chairman of the Armed Services said, "In sum, stealth worked." He said that earlier today in his speech.

One of my constituents, Mr. President, is a fellow by the name of Bill Sweetman who has written a book about the Stealth bomber and who works for Jane's, which catalogs all the world's planes, all the world's ships, and so forth. He, too, after great study quite agrees that, in sum, Stealth works.

Other Stealth aircraft that we have work as well and indeed they could be a great asset to us in Iraq because of the situation in the Persian Gulf and the inability to get certain type of ships into the Persian Gulf.

The B-2 would make obsolete hundreds of billions of dollars worth of air defenses that the Russians have put up. We in this country have not done much in air defenses. The Russians have done an extraordinary amount, and while this is a very costly bomber indeed, and my cost \$63 billion and perhaps in the end even more nevertheless on the basis of leverage we are

going to make obsolete hundreds of billions of dollars of Russian air defenses that they simply are unable to replace.

So I think that the B-2, the advanced technology with the B-2 will drive them to the bargaining table. Yes, it is costing more than we anticipated at this time. I predict it will cost even more now than we are now told because the opponents will delay it, and delay it, and that will add to the cost. Perhaps we will build fewer than we now are talking about, and that too will add to the cost. But in the long-term the advantage of the U.S. defense is in technology and that is the essence of B-2, that is the essence of Stealth, and that is why I will support it, and I will support it at 75 planes, or in the event that the Secretary of Defense raises that number, I will probably support an increased number. I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I yield to the Senator from New Mexico 3 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 3 minutes.

Mr. NUNN. Mr. President, how much time is remaining on this side?

The PRESIDING OFFICER. Ten minutes, twenty-seven seconds.

Mr. DOMENICI. Mr. President, may I first on my time ask the distinguished chairman a question quickly. In fact I have two.

Mr. NUNN. I am glad to yield for a question.

Mr. DOMENICI. Mr. President, let me ask first, if we approve continuation of the B-2 as proposed by the committee, if we do that the Senate still has to go to conference with the House. What is the B-2 status in the House bill?

Mr. NUNN. The House bill basically allows \$9.9 billion or \$9.6 billion more to be spent and will end up terminating the program after a total of 15 have been spent.

Mr. DOMENICI. So you have to go and negotiate with them.

Mr. NUNN. Correct, and they have essentially terminated the program.

Mr. DOMENICI. My second question is, it is true, is it not, that while we see a great deal of commotion in the Soviet Union regarding their economy, their politics, their empire, their conventional control over the satellites, that for some reason their strategic nuclear capability is not only intact but continues to be modernized? Is that a true statement?

Mr. NUNN. I think that is a true statement.

Mr. DOMENICI. Does the Senator have any idea why that is happening?

Mr. NUNN. I say to my friend from New Mexico one can only speculate. But my feeling now is that it is plain

to the world that the Soviet economic system is not on the rise in the world. In fact, it is collapsing. It is also plain that their philosophy of Marxism is not being followed, even by their own leadership. It is plain that their conventional force posture in Eastern Europe is basically coming down very significantly. Finally, it is plain that the only symbol of their superpower status is their nuclear weapons force, and while I believe they are willing to negotiate, they are not willing to be philanthropists.

Mr. DOMENICI. Does the Senator have any doubt that if we had not seen the changes, those visible changes, in the Soviet Union, and they had the exact same strategic power that they have now—which I think is about the same as it would have been had the empire not fallen—do you have any doubt that we would be building the B-2?

Mr. NUNN. The Senator is correct on that. I think it would be much more support for the B-2.

Mr. DOMENICI. Mr. President I think that is exactly the case. I do not think there is any question that we would not have this debate. So I am going to support the continuation of the program because it appears to this Senator that, while there have been great changes in the Soviet Union, the one thing that we should be continually concerned about that has really been at the forefront of our deterrent concerns in the past is the Soviet's strategic nuclear capability. I do not believe anyone can tell us they have changed one iota. If it has not, it seems to me our goal is, over time, to see that it is changed and changed substantially. I believe the B-2 has the capability of adding to our deterrent capacity in that regard.

Mr. President, in our consideration of the fiscal year 1991 Defense Authorization Act, the Senate is debating truly historic legislation. As the first such defense bill to be crafted in the new post-cold-war era, this act will set the guidelines for future legislative actions we take on our country's defense posture now that the threat of war between East and West is lower than at any time since the late 1940's.

The freeing of Eastern Europe from Soviet occupation and Communist domination, as well as the impending reunification of Germany, will be long remembered as among the most important events of this century.

The collapse of communism has meant an end to the Warsaw Pact as an operational entity. This, in turn, has had a profound impact on the military environment.

Today, at least, NATO no longer needs to fear a surprise attack launched from Central Europe. This fear has quite simply vanished along with the unlamented Communist governments. And current Soviet leaders

have no incentive to raise military tensions—not when they are desperately trying to rescue their country's wrecked economy and simultaneously deal with growing ethnic and social tensions.

These massive changes in Eastern Europe have led many to conclude that the United States can now afford to spend less on defense than had previously been anticipated. I agree. But I also agree with those who say it is of the utmost importance that we manage the defense build down carefully so our conventional and strategic military capabilities are not harmed.

Indeed, I would say that the most important defense-related issue before this Congress is precisely this: How to begin the orderly build down of our Armed Forces now that the cold war is over and the threat of conflict with the Soviet Union has receded.

A moment ago I said we were in a new era. I expect this new era to be marked by a U.S.S.R. that probably will be considerably less threatening to the West than has historically been true. But in the new era, as in the old, our relationship with the Soviet Union will remain central to our national security. And, because of this, we must not move to conclusions about the U.S.S.R. too quickly.

It is entirely possible that the current turmoil in that country could give rise to a new, hardline leadership that reverts to the former policies of internal repression at home and confrontation abroad. Indeed, only too recently confrontation was the guiding principle behind Soviet dealings with the West.

A mere 10 years ago the Soviets were installing SS-20 intermediate-range missiles in Europe in an effort to intimidate NATO and compel our allies to loosen their ties with the United States. Two years ago 100,000 Soviet troops in Afghanistan were engaged in a brutal attempt to consolidate in power a Marxist puppet regime. And, closer to home, last year the Soviets were helping the Sandinistas to consolidate their power in Nicaragua and support leftist guerrillas in El Salvador.

Yes, the rise of a new Soviet leadership and the implementation of less threatening policies have eased the tensions that were so prevalent a decade ago. But this could quickly change, and, in any case, the U.S.S.R. will continue to be the only power on Earth with the potential to destroy us.

So it is important that we decide how to maintain prudent defenses in a period of apparent relaxation of tensions.

As we debate the defense authorization bill, I want to remind my colleagues that all evidence points to the conclusion that the Soviets are aggressively modernizing all of their strate-

gic nuclear forces. These are the very weapons which would be targeted against the United States if a nuclear war were to erupt.

Because of that Soviet modernization, it is imperative that we also modernize our triad of land-, air-, and sea-based weapons to maintain the effectiveness of our deterrent forces. On the air side, this includes meeting the Air Force's need for a manned, low-observable penetrating bomber, that can carry out three major tasks: To preserve strategic stability, to be able to defeat Soviet defenses of the late 1990's and beyond, and to be able to find and destroy mobile missiles.

The B-2 will be able to perform these tasks. Our current bomber fleet consists of B-52, FB-111, and B-1 aircraft. The B-52 fleet was built between 1954 and 1962. Less than 200 of them are still in service, and they are beginning to wear out physically; they typically are older than the personnel who fly and service them. The FB-111 bomber is also aging, and it is projected that none of them will be used as strategic bombers by 1991. There is also the more modern B-1, but it does not incorporate the advanced Stealth technology of the B-2 and cannot function as a manned, penetrating bomber to the same, needed degree as the B-2.

In short, the B-2 adds a technologically superior bomber to our deteriorating strategic air capability. It does this by being much less susceptible to detection than any other aircraft by virtue of its unique design and the materials from which it is built. And it combines this with the capability to fly 10,000 miles when refueled and carry a payload of about 50,000 pounds.

The B-2's offensive capabilities have been much discussed. But what is also of great importance is the fact that if we have 75 B-2's, as proposed by the Secretary of Defense, we will force the Soviets to decide whether they should spend billions of rubles on air defense in an attempt to overcome the B-2's advantages.

The Soviets have invested \$350 billion in their air defenses and I strongly suspect that they cannot sustain the level of spending required to update or replace it. The B-2 thus dramatically demonstrates our determination to use our technological superiority to modernize our deterrent force. And, at the same time, it also allows us to be in a position to use that technology as leverage that may help bring about arms reductions in addition to those that are likely in a first START agreement with the U.S.S.R.

Continued funding of the B-2 also serves at least four other purposes in addition to those of maintaining our deterrent force and capabilities, and helping to make obsolete the

U.S.S.R.'s truly enormous investment in air defense systems:

First, it helps us maintain our technological superiority. Many of the systems comprising the B-2, such as its detection-evading and composite technologies, are on the leading edge of their field. With our Nation facing ever more stringent high-technology competition from abroad, it is vitally important that we maintain our leading role in these, as well as in other, areas. The B-2 helps us to stay ahead.

Second, the B-2 can be used for conventional power projection in various areas of the world. This will be increasingly important as we cut back in the future on the number of aircraft carriers in operation and the number of U.S. bases overseas.

Third, thanks to its low-observable qualities, the B-2 can be used with a much smaller expectation of losses than would be likely to occur using currently available aircraft.

Fourth, unlike cruise missiles, which some believe are sufficient for future Air Force requirements against the Soviet Union, the B-2 can be used again and again. And, unlike a cruise missile, it can be recalled at any time while in flight.

I note that the Senate Armed Services Committee, led by Senators NUNN and WARNER, voted to approve the administration's request to build two new B-2's in fiscal year 1991. The committee, under their leadership, has also enunciated a "fly before buy" principle in its support of an incremental approach to B-2 acquisition. I strongly agree with this principle.

We need to condition funding for the B-2, and any future decision on its serial production, on the outcome of stringent performance tests. This will guarantee the taxpayers that there will be rigorous testing of the B-2 prior to a major commitment to begin low-rate initial production.

Yes, the B-2 is expensive. We have already committed about \$30 billion to the B-2 program. It is estimated that the 75 aircraft the Secretary of Defense has requested will cost about \$63 billion.

But we need this aircraft if we are to maintain our defenses at the required level. To kill the B-2 program at 15 aircraft—the number currently in production—as some of our colleagues both here and in the House wish to do, would result in a self-inflicted wound on our defense and technological capabilities.

Mr. President, I oppose any attempt to kill the B-2 program. I believe this aircraft is needed to help ensure our Nation's defenses.

Mr. NUNN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, may I inquire, do I have 17 minutes left?

The PRESIDING OFFICER. Seventeen minutes and 10 seconds.

Mr. COHEN. I yield 5 minutes to the Senator from Oregon.

Mr. HATFIELD. Mr. President, for nearly a year now this country has been looking for the peace dividend earned from the crumbling of the Warsaw Pact. Earlier this week, the House took a step toward realizing that dividend as the Armed Services Committee moved to scrap the B-2 bomber.

In explaining the House action, Les ASPIN said that "killing the B-2 was a decisive move to bring the defense budget in step with fiscal reality." He is right—terminating the B-2 bomber program will save the taxpayers from a commitment to a costly construction project. But Chairman ASPIN could have shortened his explanation of the committee's action: He could have just said that terminating the B-2 bomber program brings the Department of Defense in step with reality. Period. And now it is time for the Senate to have its own reality check.

It is tempting to avoid a realistic assessment of the B-2 bomber, given the drama which began when the administration asked for 132 B-2 bombers which could penetrate Soviet airspace and destroy mobile targets after a nuclear exchange had occurred. Never mind that we already have bombers to undertake this dubious mission, not to mention air-launched missiles.

This melodrama became all the more captivating when the administration later recognized that our country's relationship with the Soviet Union had been dramatically altered and reduced its request to only 75 planes. And the plot thickened when the generous offer by the administration to halve its request seemed so magnanimous that our Armed Services Committee has rushed to embrace it.

Now we are to the best part of the script: The debate we are now conducting has been billed as the one most likely to cause disagreement between the House and the Senate. This great institutional division. We are all counting votes and watching for shifts in each other's position.

The media is hanging on our words, waiting for us to cast our votes. Indeed, this vote will signal Congress' resolve to reforming a Pentagon which seems to have trouble thawing itself after the cold war. Yes, this is exciting, Mr. President, but it is also completely out of touch with what is happening around this country. I do not know about the rest of my colleagues, but I do not expect that many Americans woke up this morning wondering how many B-2 bombers the United States would buy today. The people of this country are not much interested in our little drama.

The people do not want to hear that the Senate approved a proposal to spend billions on a plane which has not been tested and has a dubious mission. The people at home certainly do not want to hear how we so skillfully crafted an agreement to spend billions on dozens of planes which are designed to drop nuclear bombs on Soviet citizens.

The people in my State want to see the peace dividend in their paycheck. They want to hear how we are going to clean up the S&L mess. They want to know when Congress is going to resolve the deficit crisis and still find enough money to clean up toxic waste scattered across this country.

So before we get too busy assessing our power bases and get too caught up in this Pentagon passion play, I hope that each of us will take some time to notice what is happening around the world and here at home. The Soviet threat has radically diminished. We have an entirely new perspective on the world and are looking beyond the Cold War mentality and the confrontation Foreign Policy and containment Foreign Policy. If we buy these planes we will only have succeeded in encouraging the Pentagon to continue its big-spending search for new conveyers of death and destruction. We have a choice to make. Do we continue playing the same roles we have always played, making token reductions in the military machine while portraying ourselves as watchdogs of the Treasury? Or do we decide to cut to the heart of the problem of unnecessary Pentagon spending, before it is too late? Each Senator here today has to make a decision. I hope that my colleagues will join me in voting with Senators COHEN and LEAHY to terminate the B-2 program. We stand to save the taxpayers thirty to forty billion with this option. That kind of money is important—ask any member of the budget summit negotiating team about this kind of money.

If termination of the program is unacceptable to some Senators, I urge them at the very least to apply the same basic standards of performance testing before we make further purchases. The Nunn-Warner amendment does not even subscribe to the common-sense notion that we should know what we're buying with \$65 billion. We know that the technology of the B-2 is totally new and still being tested. We do not know that the technology of the plane can complete the mission. The Cohen first-degree amendment is entirely consistent with the testing standards set for most other new programs in this legislation.

No, the world is not yet safe. Wars still rage—indeed a madman in Iraq is threatening stability in the Middle East at this very minute. But having all the B-2 bombers in the world will not affect these new threats to our se-

curity. And Stealth bombers certainly will not address the problems our Nation faces here at home: Hunger. Unemployment. Homelessness. Drug abuse. Look at the headlines: Children are selling crack.

Murders are going up. Health care is being rationed. Tell me how spending as much as \$1 billion on a plane is going to help us address these problems?

Whatever you do, don't tell me that these crises represent different security threats and are related to our actions here today. They are related—because every dollar we waste on Pentagon hardware is stolen from the children of our country.

If we approve the purchase of one more B-2 bomber today, each and every one of us will have to go home and explain how the Department of Defense is deserving of exotic toys while our domestic programs go without. And with that thought in mind, suddenly, our choice shouldn't be so difficult.

I appreciate the 5 minutes that has been allotted to me.

(MR. LAUTENBERG assumed the chair.)

MR. COHEN. I yield 5 minutes to the Senator from Delaware.

MR. BIDEN. Mr. President, today I rise to address the underlying U.S. nuclear strategy that has led President Bush and Secretary of Defense Cheney to recommend further procurement of the B-2 bomber.

The question of how many B-2 bombers should be authorized for procurement is directly related and should be directly related to what the nuclear strategy of the United States is. What nuclear strategy are we pursuing and what nuclear employment policy does that strategy require?

For the last 40 years, Mr. President, a principal aim of U.S. nuclear strategy has been to deter conventional invasion of Western Europe by armies of the member countries of the Warsaw Pact. It is my contention, Mr. President, that because of the revolutionary changes in Eastern Europe and the Soviet Union, that mission of nuclear strategy—which is to deter a conventional invasion of Western Europe—may no longer be necessary or may require a significantly reduced force of strategic arms to accomplish that objective.

Indeed, former Secretary of Defense Schlesinger in testimony before the Foreign Relations Subcommittee on European Affairs, which I chair, made the very same point.

Let us imagine, Mr. President, the impact on the conventional military balance of these events in Eastern Europe and the Soviet Union. In the first place, it is now inconceivable to almost everyone involved that the countries in Eastern Europe would

participate in any Soviet-conspired invasion.

Soviet troops are not moving west; they are moving east, and they are going home. I would note parenthetically I suspect they would be going home even if we were not negotiating with them, because they have other problems.

This brings me to my second point. What home are these troops going to? In my view, over the next several years, there simply will not be a Soviet Union as we have known it for the past 70 years. Every informed source in this Government, in this administration, with whom I have spoken—I have spoken to many—as well as those outside, point out that the likelihood of the Soviet Union consisting of the republics and the relationship among the republics that now exists in the Soviet Union is highly, highly unlikely.

Mr. President, that brings me to the next point. In the testimony before our Subcommittee on European Affairs, former National Security adviser Brezinski and other experts predicted the collapse of the Soviet Union. I must simply say that there is no prospect of a successful Soviet Union invasion of Europe. Yet preventing that possibility is still the principal aim of our nuclear strategy.

Our strategic nuclear deployment policy, known, as my colleague from Maine well knows, as the Single Integrated Operational Plan [SIOP], and our procurement of strategic arms no longer fit and meet the need.

There is another factor at work as well. The United States and the Soviet Union are nearing completion of a strategic arms accord, the START agreement, that will involve significant reductions in the strategic nuclear arms of the Soviet Union.

The 23 countries of NATO and the Warsaw Pact are nearing completion of historic accords, creating a balance of conventional forces, the so-called CFE agreement, that require drastic reductions in the conventional armaments of the Warsaw Pact as well as the Soviet Union.

Mr. President, if the START Treaty and the CFE Treaty are completed later this year as most hope—all hope and most expect—the current requirements for the strategic nuclear arms and plans for their use could change significantly.

In other words, Mr. President, the revolutionary changes in Eastern Europe and the Soviet Union, and the prospects for deep reductions in conventional and strategic forces, may provide us with an opportunity to revolutionize our nuclear strategy and nuclear deployment plans.

Indeed, the existing SIOP has become a critical part of the B-2 debate. Why? Because the Command-

er in the Strategic Air Command has testified to Congress that a principal rationale for the deployment of the B-2 bomber is to permit the Armed Forces of the United States to carry out the SIOP. Because our SAC Commander made this argument I decided it was important to receive a briefing on the existing SIOP to see if that statement was justified.

So, 2 weeks ago I spent several hours at the Pentagon meeting with representatives from the Office of Secretary of Defense, the Joint Chiefs of Staff, and the people who make up this SIOP—the Joint Strategic Target Planning Staff.

Without getting into any of the highly classified details in that briefing, I have concluded that the B-2 bomber is not required to carry out the existing SIOP. But more important, I believe fundamental changes can be made in the SIOP and the U.S. nuclear strategy. The current plan simply does not reflect the revolutionary changes in Eastern Europe; nor does it reflect the possibility of deep reductions in strategic arms and conventional arms.

I am aware that the Secretary of Defense is undertaking a review of U.S. targeting policy, which may lead to a new SIOP. But I fear that without the President's involvement this review may not take into account the full possibilities for changing U.S. nuclear strategy and targeting policy.

Mr. President, last year I voted to terminate the B-2 program because I did not believe it was necessary to accomplish our existing strategy, as my distinguished colleague from Maine, Senator COHEN, so eloquently pointed out earlier today.

But now I believe it may be possible to change that strategy and the SIOP which is developed to support that strategy. If so, we may simply not need the B-2 bomber to carry out our nuclear strategy of deterrence.

Therefore, I do not believe we should spend billions of dollars to buy additional B-2 bombers until we see if a change in strategy and a new SIOP make the B-2 unnecessary.

At the same time, I do not believe that the current draft of the START Treaty will need to be changed if the Congress kills the B-2. The START Treaty most certainly facilitates the deployment of penetrating bombers because their weapons are heavily discounted. However, the current draft of the START Treaty most certainly does not make it imperative to deploy penetrating bombers.

If we had unlimited funds, under START the B-2 bomber would be the right weapon to deploy. But the question at issue today is not the START Treaty; it is whether this Nation can afford to spend the billions of dollars needed to deploy a bomber whose mission is redundant under current strate-

gy and whose mission may be unnecessary if our nuclear strategy can be changed in the weeks and months ahead.

Mr. President, I recommend to my colleagues for their bedtime reading my statement, and particularly the portion I believe speaks to the issue of whether or not the START agreement requires, in effect, a B-2 bomber.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. Mr. President, might I inquire of the Senator from Georgia as to whether he has additional speakers?

Mr. NUNN. I would have to say to the Senator we do. We have the Senator from Virginia. I have some remarks. I think the Senator from Kansas has some remarks.

Mr. COHEN. I yield to the Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. I would like to direct some questions to the floor managers of the bill. This really deals with the Cohen amendment, that is the second amendment that we will be voting on.

It seems to me the Air Force record, as far as producing the bombers without flaws, is not a very good one.

We are all familiar with what took place with the FB-111, and now the B-1.

Will my colleague please give the arguments why we should not support the Cohen amendment, which will be the oncoming amendment here? Sure, it might add a cost to it, but the cost will be added anyway if this plan has major flaws like we saw in those other two bombers that I mentioned previously.

Mr. NUNN. Mr. President, the Senator has asked a good question here. The answer to that question is, that we, Senator WARNER and I, believe that by our fencing we have taken care of the dangers the Senator points out because we do not allow procurement money to be expended at all for the two new B-2's until such time as we get the initial stealthy results. They have to be positive. Then we release only 15 percent of the procurement money for the two B-2's, which is a total of \$300 million. That money is released at that stage. That is at risk if we get initial results that are positive and negative results on the later tests which occur next year. Both initial and other tests have to be positive before we release any more of the procurement money.

So the main difference between the Cohen amendment and the Nunn-Warner amendment is Senator COHEN does not allow the release of that initial \$300 million.

But let me add this. He puts an additional \$900 million in there that can be spent anyway, whether results are positive or negative.

I submit there is more money really at risk with a failed program under the Cohen amendment than there is under the Nunn-Warner amendment. What we do, if the \$300 million is spent and they have positive results initially and later, from a later test, then we allow the entire procurement amount to be released, but only after positive results on both.

What that does is save \$4.7 billion over the lifetime of the program.

The PRESIDING OFFICER. The Senator from Maine has 4 minutes remaining. The Senator from Rhode Island has used his time.

Who yields time?

Mr. NUNN. Mr. President, does the Senator from Rhode Island understand that answer? Because it is the key to the difference in this amendment. I know what the Senator from Maine is shooting at. I do not think he has been able to do that the way the amendment has been drafted. It increases the cost of the program. We believe that we avoid that increase in the cost of the program by letting that money be released at the end of the Stealth test which has to take place next year. That keeps the program on schedule.

The amendment of the Senator from Maine throws the program 1 year off schedule even if the results are successful and therefore adds about \$4.7 billion in the program cost. In my opinion another \$4.7 billion added to this program cost will just about defeat the program.

Mr. WARNER. I want to follow on what the distinguished chairman said.

This is the Nunn-Warner amendment, carefully crafted to give the Senate and the Congress insurance, and the American people, in this program. A vote for Cohen does away with it, because the Cohen amendment simply focuses on production funds. What the Senate I think is about to do unanimously is support the Nunn-Warner and then turn right around and undo what it has done today.

Mr. NUNN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator has 5 minutes and 30 seconds.

Mr. NUNN. Mr. President, how much time does the Senator from Maine have remaining?

The PRESIDING OFFICER. The Senator from Maine has 3 minutes and 50 seconds remaining.

Mr. NUNN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. If no one yields time, the time will be charged equally to each of the sides.

Mr. NUNN. Mr. President, I think we will have some rather close votes today. The first vote is going to be the Nunn-Warner amendment. If anyone is worried about the testing of the pro-

gram and they really want to support the B-2, if it works, then they basically should vote for the Nunn-Warner amendment. That is the first vote.

The second vote is the Leahy-Cohen amendment. If anybody wants to terminate the B-2 program, that is the amendment to vote for. That clearly terminates the program. So if you are against the B-2, whether it works or not, if you are not worried about START, you are not worried about going back to the drawing board on arms control, if you are not worried about conceding the vulnerability of United States airspace but allowing the Soviets to have rather invulnerable airspace, as far as bombers are concerned, then you would vote for that second amendment.

The third amendment is the most difficult amendment because there are times in which I would agree with the principle the Senators from Maine is espousing. He is basically saying hold up production money until all the Stealth testing is taken into account.

We believe that that amendment would add \$4.7 billion to the program. That is the overall cost of it over a period of time.

We do not believe, Senator WARNER and I, and I believe most of the members of our committee, do not believe that this B-2 program can stand that much additional program cost over the lifetime. I do not believe that we are going to be able to keep seeing the costs go up and still have that program have any chance of remaining alive.

What we do in both the Nunn-Warner amendment and the Cohen amendment is to authorize \$1.75 billion in research and development. The amendments are parallel on that. Nunn-Warner authorizes \$1.99 billion in procurement. The Cohen amendment authorizes \$942 million in procurement, but there is a big difference because the Cohen amendment's \$942 million is at risk no matter what happens to the test.

If the test results are negative, it Stealth does not work, the Cohen amendment still permits that \$942 million to be expended. We do not permit over \$1.99 billion to be expended at all, any of it, until the initial tests prove the Stealth to be successful. Then we release 15 percent of it, which keeps the program on schedule, and we then take into account the second group of tests that will be coming later on the Stealth characteristics. Then we risk \$300 million at that stage and acknowledge it in order to complete those tests and to make sure that we can keep the production on schedule if those tests are positive.

If those tests are negative, then we have spent \$300 million, but the Senator from Maine has spent \$942 million at that stage. If those tests are positive, and this is the fundamental dif-

ference between the two, if those tests are positive, we release that rest of the \$1.99 billion next fiscal year, which keeps the program on schedule and saves \$4.7 billion over the lifetime of the program.

We believe that our amendment is the sound way to go. We believe that the Cohen amendment, if it is adopted, will put another nail in the coffin of this program which is already, as we know, struggling.

The difference is the Cohen amendment will require that layoffs take place in the production line; it basically sets the program back 1 year; and it adds costs to it that we believe are just too much for the program.

Mr. President, I ask for the yeas and nays on the Nunn-Warner amendment, the Leahy-Cohen amendment, and the Cohen-Leahy amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. NUNN. Mr. President, I reserve whatever time is remaining.

Mr. COHEN. Mr. President, how much time remains?

The PRESIDING OFFICER. Three minutes and twenty seconds.

Mr. COHEN. Mr. President, first let me direct a couple comments to the Leahy amendment. With respect to the Soviet Union, as far as their strategic programs, there is no doubt they are being modernized. Without logic, or against all logic, against all economic opportunity for their people, they are being modernized to the detriment of the very people they purport to serve. So their leadership is taking them over the edge into an abyss.

It is ironic what our response is. Rather than making it clear to them that you are taking them over at your own risk, rather than making it clear we are not going to support you with economic assistance, we are not going to open our trade gates to you, we are not going to drop Jackson-Vanik, what we do is blink; we turn away. Instead of saying no trade, we say more trade, and by the way, we are going to build the B-2. At a time when we have the most leverage in the history of our relationship, what we do is allow them to set the agenda by building more and more, so we have to step under the tread and build more and more. I find the logic curiously inconsistent with the leverage that we have at this particular point in time.

I think Senator GLENN said it as precisely as it can be said. The key is we cannot afford to modernize all three legs of the triad if we are going to shape our conventional forces in a way that is going to protect our interests in the future. I call my colleagues attention to a front-page article in the New York Times. It is entitled "Pentagon Drafts Post-Cold-War Strategy."

In order to accommodate that post-cold-war strategy, we are going to have to expend substantial sums of money. We are not going to be in a position to modernize the strategic triad across the board and do all that is necessary to achieve the result that we need.

So I come out in favor of the Leahy amendment, not because the Soviet Union is less dangerous, and not because the world is less dangerous, but because I believe we can meet our strategic deterrent requirements by drawing upon the MX, the Trident submarine, and the ALCM's. Whatever is necessary we have in our arsenal, that plus the B-1B, the cruise missile.

I would like to turn to the voting sequences we are going to have. The Senator from Georgia says there is a major difference between his amendment and mine. Indeed, I am going to recommend we support the Nunn-Warner amendment. I think it adds very little to what we have had in the law to date. It adds three more tests than we imposed last year, and they have not met the requirements of last year. I call it a figleaf fence. But I urge everybody to support it, and I will support it.

When it comes down to the underlying amendment, let us look at the facts. The Armed Services Committee understands the tradeoffs when we adopt the fly-before-buy principle. We imposed the fly-before-buy principle in the C-17. We took out all the production funds there; we took out all the production funds for A-12, SSN-21, and MX rail garrison. With respect to the C-17, we said "there may be additional costs associated with stretching out procurement of fiscal 1990 aircraft," but the committee concluded it was worth it.

So in every other program, C-17, A-12, SSN-21, and MX rail garrison, we impose that standard, but not the B-2.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Georgia has 54 seconds.

Mr. NUNN. Mr. President, I yield such time as the Senator from Virginia may want.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the Senate has received a communication from the President of the United States. I ask unanimous consent that his letter, dated August 2, be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, August 2, 1990.

HON. JOHN W. WARNER,
Committee on Armed Services, U.S. Senate,
Washington, DC.

DEAR SENATOR WARNER: As the Senate begins consideration of the FY 91 Defense Authorization Bill, I want to make clear my strong support for the B-2 program.

Despite the significant changes in Eastern Europe and the Soviet Union, the U.S. still has a fundamental requirement for the B-2. The long-range bomber is the most stabilizing and flexible leg of our strategic triad, and the only leg whose capabilities are applicable across the full spectrum of conflict. The B-52 inevitably is reaching the end of its useful life. The B-1B was bought in limited quantity with the express purpose of bridging the gap between the B-52 and B-2. The B-2 is ready for production at the revised levels defined by Secretary Cheney. Further delays and gaps in production funding will only increase the cost of this needed capability.

The B-2 continues to be an integral part of our force structure plans under START. The agreement now being negotiated is intended broadly to move the U.S. and Soviet Union away from reliance on fast-flying nuclear missiles and towards more stable systems such as the manned bomber and strategic defenses. Even under the lower force levels embedded in the START treaty, the U.S. must continue to maintain modern nuclear forces for the future. The bomber is increasing in importance within the balance of the triad.

The B-2 is also the most prominent example of how the U.S. can use technology to our advantage; offsetting major investment by potential adversaries, and minimizing our requirement for a large force structure. The advent of stealth technology ranks among the most important military developments in recent decades. We lead the world in this field, focusing on the future military environment. It is vital that the Congress sustain our commitment to produce stealth technology and deploy the B-2.

There have been historic changes in the international environment over the past year. There is no question Fiscal Year 1991 will be a difficult year for defense and many tough choices must be made. However, the mission of sustaining nuclear deterrence, which helped to make the changes in Eastern Europe possible, must remain the highest defense priority.

Sincerely,

GEORGE BUSH.

Mr. WARNER. Mr. President, in the few seconds I have remaining, I would like to read what I believed is the key and operative paragraph:

The B-2 is also the most prominent example of how the United States can use technology to our advantage: offsetting major investment by potential adversaries, and minimizing our requirement for a large force structure. The advent of stealth technology ranks among the most important military developments in recent decades. We lead the world in this field, focusing on the future military environment. It is vital that the Congress sustain our commitment to produce the B-2 Stealth bomber technology and deploy the B-2.

Mr. SANFORD. Mr. President, I am supporting the chairman of the Armed Forces Committee, Mr. NUNN, in his position on the B-2 program, because I believe we need the development of the technology alive. I reserve the right to in time vote against this B-2 program.

I may very well by next year have adequate new information to cause me to vote against additional authorization. But whatever the future development, I reject the argument by Gen.

Colin Powell and Secretary Richard Cheney that this weapon is essential to defend against attack by the Soviet Union. It is just this kind of paranoia that can bring us to all manner of bad decisions relating to strategy.

The Warsaw Pact has evaporated. The will or the capacity in Moscow to fight a war is nonexistent, and indeed is ludicrous.

The mindless assertions that the Soviet threat justifies buying 75 of these unproven planes insult the intelligence of the ordinary Members of the U.S. Senate. It is this threat of threat and counter threat that has overarmed the world.

Our diplomatic challenge is to cool the world. The proponents of the B-2 surely can find a better argument to justify their plane.

The PRESIDING OFFICER. All time has expired. Under the previous order, the question now is on agreeing to the Nunn second-degree amendment proposed to the Warner amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON], is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—97

Adams	Ford	McCain
Akaka	Fowler	McClure
Armstrong	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Murkowski
Bond	Gramm	Nickles
Boren	Grassley	Nunn
Boschwitz	Harkin	Packwood
Bradley	Hatch	Pell
Breaux	Hatfield	Pressler
Bryan	Heflin	Pryor
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Shelby
Cranston	Kennedy	Simon
D'Amato	Kerrey	Simpson
Danforth	Kerry	Specter
Daschle	Kohl	Stevens
DeConcini	Lautenberg	Symms
Dixon	Leahy	Thurmond
Dodd	Levin	Wallop
Dole	Lieberman	Warner
Domenici	Lott	Wirth
Durenberger	Lugar	
Exon	Mack	

NAYS—2

Moynihan Sasser

NOT VOTING—1

Wilson

So the amendment (No. 2485) to amendment No. 2484 was agreed to.

Mr. NUNN. I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I suggest we voice vote the underlying amendment, and we can go to a rollcall on the next amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 2484) was agreed to.

VOTE ON AMENDMENT NO. 2494

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Vermont.

The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "nay."

The PRESIDING OFFICER (Mr. HARKIN). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 43, nays 56, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—43

Adams	Harkin	Moynihan
Akaka	Hatfield	Packwood
Baucus	Hollings	Pell
Biden	Humphrey	Pressler
Bradley	Kassebaum	Pryor
Bumpers	Kennedy	Reid
Burdick	Kerrey	Riegle
Byrd	Kerry	Rockefeller
Cohen	Kohl	Roth
Conrad	Lautenberg	Sarbanes
Cranston	Leahy	Sasser
Daschle	Lieberman	Simon
DeConcini	Metzenbaum	Wirth
Glenn	Mikulski	
Grassley	Mitchell	

NAYS—56

Armstrong	Exon	Mack
Bentsen	Ford	McCain
Bingaman	Fowler	McClure
Bond	Garn	McConnell
Boren	Gore	Murkowski
Boschwitz	Gorton	Nickles
Breaux	Graham	Nunn
Bryan	Gramm	Robb
Burns	Hatch	Rudman
Chafee	Heflin	Sanford
Coats	Heinz	Shelby
Cochran	Helms	Simpson
D'Amato	Inouye	Specter
Danforth	Jeffords	Stevens
Dixon	Johnston	Symms
Dodd	Kasten	Thurmond
Dole	Levin	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	

NOT VOTING—1

Wilson

So the amendment (No. 2994) was rejected.

Mr. NUNN. Mr. President, I move to reconsider the vote.

Mr. LEAHY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2493

The PRESIDING OFFICER. Under the previous order, the Senate returns to consideration of the Cohen amendment No. 2493 on which remains 20 minutes to be divided and controlled by the Senator from Maine [Mr. COHEN] and the Senator from Georgia [Mr. NUNN] or his designees.

The Senator from Georgia.

Mr. NUNN. Mr. President, would the Chair inform the Senate again—because I do not know that the Senate was listening or could hear; we are still having an awful lot of noise—as to the time division on this amendment?

The PRESIDING OFFICER. The Senator from Georgia is correct. The Senate will be in order.

There will be 20 minutes equally divided on Cohen amendment No. 2493, controlled equally by the Senator from Maine [Mr. COHEN] and the Senator from Georgia [Mr. NUNN] or their designees.

Who yields time?

Mr. NUNN. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Maine.

Mr. COHEN. I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Maine is recognized for 5 minutes.

Mr. COHEN. Mr. President, the B-2 acquisition cost is now at \$865 million per plane and it is going to be rising. The life cycle cost is in excess of \$1 billion per plane. And the Air Force is now asking for \$2 billion more for another two planes even though it has not spent any of the \$1.6 billion we gave them last year for two planes. Now we have Justice Department officials proposing that Northrop be debarred from any further defense procurement. It is with that in mind that I offered the amendment that would do the following:

It would apply the fly-before-buy principle. This is something that we have applied to a number of weapons systems. We have applied it to the A-12, the C-17, the SSN-21, MX rail garrison, the light helicopter, and V-22.

What I seek to do is to apply the same principle to the B-2. As Senator NUNN indicated before, it is going to cost some money. What this amendment does, essentially, is deny the Air Force request of procurement funds for two more aircraft. That is what they have requested for the next fiscal year.

The amendment would provide \$942 million in procurement accounts so they can continue their line of production and so that we do not have a loss of the subcontractor and contractor base. This is the figure that the Air Force has suggested would keep the line alive.

It would retain the money for the research and development and testing.

What it does is it denies them two more aircraft. No procurement funds for two more aircraft.

This in effect would force the Air Force to do that which it is going to do anyway. It is going to have to defer the two aircraft that we authorized last year, for which they have not spent any of the money we gave them last year into fiscal year 1991. What we are essentially saying is we are not going to allow you to buy any more aircraft until you start measuring up to this fly-before-buy principle, the same principle applied to every other system.

I would like to quote from the committee's report. With respect to the A-12.

The committee does not believe that preserving production options under the current contract by approving substantial increases in A-12 funding should override the need to insure that the system meets technical and cost specification.

That is what we said for A-12.

With respect on the C-17, here is what the committee said:

There may be additional costs associated with the stretching out of the procurement funding for fiscal 1990 aircraft.

But the committee concluded over and over again that these additional costs were justified in order to avoid potentially greater costs associated with buying before flying.

And the committee's report clearly states:

DOD does not have to rush to buy a weapon in order to meet an arbitrary filing date. The Pentagon can now afford to take the time to get it right the first time.

So my amendment really does apply a fence. Not the kind of fly-through fence the Senator from Georgia and the Senator from Virginia have offered, a sort of figleaf fence through which the Air Force can fly. This one says no new planes until you produce what we have already given you the authority and money to produce.

It is the same principle we applied to every other system. There should be no exception for the B-2 particularly in view of cost escalation, particularly in view of the Justice Department proposal to bar the contract, particularly in view of the ambiguity in terms of how much it is ultimately going to cost.

So I hope that the Senate would endorse this principle. It allows the B-2 to continue, but on our terms and not on the contractor's and not on the Air Force's—basically saying prove it before you get additional money to buy more B-2's. I hope it will gain the support of my colleagues.

The PRESIDING OFFICER. Who yields time?

Mr. NUNN. Mr. President, I yield to the Senator from Kansas such time as he may require.

Mr. DOLE. Mr. President, I thank the manager of the bill. I will take just about 3 minutes. Again I am here amidst a number of experts. I am not one. But it seems to me if you wanted to kill this program you should have voted yes on the last amendment, instead of spending \$5 billion more to kill the program.

This is an important issue. We want to make certain we have all the facts. We have had a lot of debate. We have looked at this amendment. We have looked at the other amendments.

As I said in my earlier remarks, we are at a critical juncture regarding the future of our Strategic Forces. We are choosing between ensuring our deterrent posture for the next 30 to 40 years, and letting the bomber leg of our triad become obsolete. Let us be clear about that.

And let us be clear about this illusion of savings that this amendment offers. If we stop production of the B-2 this year, complete the testing, and then continue the program next year, it will cost nearly \$5 billion more. If cost is the concern then this is exactly the wrong way to go about it.

I believe, based on the information I have, that the approach offered by the managers of the bill, Senator NUNN and Senator WARNER, have offered us the right course to proceed. They have provided language that will make sure this money will be spent wisely.

So, let us not hide from what this vote is all about. Postponing this decision until next year and increasing the cost of the B-2 by \$5 billion is a vote to let our bomber force become obsolete, undermine the START agreement, and erode our national security. I believe, in the final analysis, it is a vote to kill the B-2.

Mr. NUNN. I thank the Senator from Kansas.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 8 minutes remaining.

Mr. NUNN. Mr. President, let me take just a brief moment to emphasize the difference between the Nunn-Warner amendment which has been adopted and the Cohen amendment which is pending. Both amendments would provide \$1.75 billion for research and development. Both of them are identical on that score.

When we turn to procurement, the Nunn-Warner amendment provides \$1.99 billion for procurement. The Cohen amendment provides \$942 million for procurement. This is what is important.

If people are worried about the risks to the program, if they think they are going to get a negative test and it is not going to be stealthy, then the Nunn-Warner amendment provides much better protection in terms of the

taxpayer's money than the Cohen amendment.

Here is why: The Nunn-Warner amendment provides that if the initial Stealth testing results are negative, there would be none of this procurement money spent for the two new B-2's. The Cohen amendment provides that \$942 million would be spent even if those tests are negative, the first test.

On the second test, if the first ones are positive, the Nunn-Warner amendment provides that \$300 million can be spent in the interim between the first test and the second test. Again, the Cohen amendment would permit that entire \$942 million of procurement money to be expended.

To summarize, if the test failed and if the stealth characteristics are not there, there is less money spent under the Nunn-Warner amendment and the money would be available to come back to the Treasury. Now, if both tests are positive—this is another difference between the Cohen amendment and the Nunn-Warner amendment—if both tests are positive, the Nunn-Warner permits the release of the rest of the procurement money. But that is after the stealth characteristics have been proven.

Now, the reason we do that is because it keeps the program from being thrown off schedule. And, as the Senator from Kansas just mentioned, if the program is thrown off schedule, which the Cohen amendment would do, then it adds \$4.7 billion to the program costs. That is what we do not want to do.

This horse is heavy enough already. If we add \$4.7 billion to the cost, then it is going to be very, very difficult, even if everything works perfectly, to ever be able to sell it to the American people. And I realize that. It is hard enough now.

So I urge our colleagues—those who are against the Stealth bomber, I think they all should have voted for our amendment, frankly. They all should have voted for the Nunn-Warner amendment, and some of them did. But they should vote against the Cohen amendment.

If they do not believe the stealth characteristics are going to work, they are going to be putting \$942 million out there and say: "go spend it anyway, whether it works or not."

So I would say, both those who are for the B-2 and who voted against the Leahy amendment, and I hope those who even voted for the Leahy amendment would understand that this is not the prudent way to proceed.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes and 45 seconds remaining.

Mr. NUNN. Mr. President, the B-2 bomber will cost \$34 billion more if we

buy it the Cheney way, and \$34 billion is a lot of money. That causes a lot of problems to people; I know that. But the reason it is being so focused on is because somehow the other programs that cost big money do not get any focus.

We have moved into a high technology era. We have decided to move in that direction. We are going to go for quality.

I want to just share with my colleagues the program that cost more than the B-2 that are not being disputed now, that are in this bill, the House bill, and that are not being really disputed.

SDI phase one. The cost on that one, according to our computations and our staff, if we go to phase one over the next 10 years, would be \$132 billion. The cost of the advanced tactical fighter plane, the Air Force, \$99 billion. The cost of the Navy A-12 attack aircraft, \$51 billion. The cost of the DDG51 destroyers—I understand we have about 50 of those planned—\$39 billion. We are going to be spending more money on destroyers in the next 10 years than we are going to be spending on the B-2.

The B-2 can hold every Navy ship in the world virtually at risk; every surface ship at risk. I do not dispute the value of destroyers, but 50 destroyers compared to 75 B-2's is not even a comparison.

Then we have the LH helicopter, \$38 billion; the small ICBM, \$38 billion. And even though it is not a military program, the space station, \$35 billion.

I would also say we talked about fly before you buy. The Senator from Maine mentioned the advanced tactical fighter, what we are doing in that Navy, the A-12 and the LH helicopters. The difference there is none of those have flown at all. We are proceeding, in my opinion, with the fly-before-you-buy theory in the B-2 program, but we are not taking it to the point of absurdity, to the point it really makes the program so expensive we cannot afford it.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. COHEN. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Maine has 5 minutes and 53 seconds.

Mr. COHEN. I yield 2 minutes to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, I joined the majority leader in opposing the B-1 bomber, and we opposed it for reasons which are still valid, but we lost. Now we have 97 B-1 bombers.

The Senator from Georgia is correct. If we had 50, 65, or 75, or whatever, B-2's, it would indeed hold the navies of

the world hostage. But the B-1 bomber would do that also.

We have had as many changed missions for the B-2 bombers as we have debated the appropriations for it on this floor. Every year the mission changes. To take out a navy; because it will penetrate; because you can call it back, as you can the B-1.

One of the big mistakes here is that we did not build a prototype. We are flying one. Listen to this, colleagues: We are testing one B-2 bomber. As of now it has flown about 67 hours out of a testing period of about 2,000 to 3,000 hours that are going to be required. And we have no assurance that the avionics and the counterelectronic measures on this plane will ever work. They still do not work on the B-1, as we were promised.

I think the approach of the Senator from Maine is a very legitimate one. I think the arguments are compelling. Let us not buy and start embarking on buying 30 or 45 or 65 or 75 airplanes until we know we are getting our money's worth.

The PRESIDING OFFICER. The Senator's 3 minutes have expired.

Mr. BUMPERS. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Will the Senator from Maine yield me 1 minute?

Mr. COHEN. I yield 1 minute to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont is recognized for 1 minute.

Mr. LEAHY. Mr. President, the distinguished Senator from Georgia said he hopes those who voted for the Leahy amendment will now vote against the Cohen amendment. I voted for the Leahy amendment. I intend to vote for the Cohen amendment.

They are, after all, the Leahy-Cohen amendment, and the Cohen-Leahy amendment. It was to give our colleagues some options.

Basically, we are saying let's not get so far down this road that the next argument is the plane does not meet any of the missions we have been told it was supposed to, but now we have spent so much money we have to go ahead and build it anyway; and trust us, we will find a mission.

The B-2 changes missions almost as rapidly as I change neckties. I would hate to see us get to the point where we just spend the money and then have a contest to name the mission.

The PRESIDING OFFICER. The time of the Senator has expired.

Who yields time?

Mr. NUNN. Mr. President, I yield such time as the Senator from Virginia may require.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. As the President of the United States informed me today

by letter, Stealth technology is our cutting edge to prevail in deterrence. The mission of this aircraft is to never take off from a U.S. airfield in anger. It is simply to complicate the formula in the mind of the Soviet planner such that that risk will never be taken.

My good friend from Maine used the word "figleaf." With no disrespect, his amendment is just a figleaf to kill this program. If deterrence fails, all the weapons systems in place today, all those enumerated by the chairman of the Senate Armed Services Committee, are of little value to this country.

The PRESIDING OFFICER. Who yields time? The Senator from Maine has 2 minutes and 51 seconds. The Senator from Georgia has 1 minute and 17 seconds.

The Senator from Maine.

Mr. COHEN. Mr. President, I think as we conclude the debate, all that can be said has been said. I would point out a couple of errors Senators have made, I believe, as far as the amendment is concerned. This amendment would deny the request to procure two additional aircraft.

The effect of that is to push off into fiscal 1991 what we have done in the past. They have \$1.6 billion, which was approved last year, none of which has been spent, for two additional aircraft. All we could do is push those aircraft into the next fiscal year.

Second, with respect to fencing, of the \$2.7 billion in the bill, which is every penny the Air Force requested for procurement, \$767 million would have no fence whatsoever under the Nunn-Warner fence, so-called.

So I suggest the principle of buy after we fly would apply here, on the B-2 as well as the A-12, C-17, the SSN-21—to every other system we have applied the same principle but this one. The reason is they want to lock in two more aircraft so next year they can come back and say, we have gone this far. It is not \$26 billion now; it is more. They are looking to put in two more aircraft, and then suggest it is irreversible.

By the way, it is not Secretary Cheney's figures we ought to look at. The CBO indicates it will be \$38 billion for the completion of this, so it is not \$34 billion, as suggested.

I suggest we fund what we have on line right now, but no more B-2's until you prove them. That, I think, is the responsible course of action.

I recommend very strongly we support the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Will the Senator yield me 1 minute?

Mr. NUNN. The manager yields such time as the Senator requires.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

Mr. THURMOND. Mr. President, the B-2 is the finest plane this country has ever built. It is the finest plane any country has ever built. If we are going to deter war, this is the way to do it. This plane will do more to deter war than any weapon that has ever been devised by any country in the world.

I hope we will kill this amendment; we will go forward and follow Senator WARNER and Senator NUNN. They are on the right track.

I hold in my hand here now the "Soviet Production of Strategic Systems."

In 1990, the Soviet Union continues to produce the following strategic nuclear systems:

They are going forward. We cannot afford to stop now—

SS-25: Road-mobile; SS-24 Mod 1; SS-24 Mod 2; SS-18 Mod 5; SS-18 Mod 6; SSN-23; SSN-20; Delta IV; Bear H; Blackjack; AS-15; SSN-21.

The Soviets are going forward with strategic weapons. We cannot afford to stop. We need this weapon. We must have this weapon for deterrence, to prevent war.

The PRESIDING OFFICER. The time of the Senator has expired. There is 55 seconds left to the Senator from Maine.

Who yields time?

Mr. COHEN. The time of the Senator from Georgia has expired?

The PRESIDING OFFICER. That is correct. The Senator from Maine has 55 seconds.

Mr. COHEN. Let me respond to my friend from South Carolina. The Soviet Union has been building many, many strategic systems. I hope in the future, when it comes time to sell farm equipment or farm products or high technology, that those who are so anxious to go forward with the B-2 to mirror what the Soviet Union is doing, to try to respond to their strategic buildup—will be equally eager to cut back on aid to the Soviet Union.

That has not been the case in the past. I hope it will be the case in the future, that we can have a solid front in denying to the Soviet Union, that continues to build its strategic systems, the kind of trade and credits in farm products and other things we seem so eager to ship to them on other occasions.

Mr. JEFFORDS. Mr. President, we have heard a great deal today about the pros and cons of funding the B-2 bomber. I believe that the most reasonable approach is that outlined by the gentleman from Maine [Mr. COHEN]. His amendment would provide a 1 year pause in procurement funding. Let's step back for a moment and think about the current configuration of our national defense, the state of the strategic threat, and how we want to reorder our defense for the future.

Our strategic plan is currently based on the concept of the strategic triad—reliance on land, air, and sea-based systems. Historically, we have relied much more heavily on the land-based leg of the triad, the ICMB's: the Minuteman missiles, the MX missile, and potentially the single warhead Midgetman missile. While we have built up our air-based leg of the triad in recent years, the least developed leg of the triad is the sea-based leg—our nuclear-capable submarines.

For many years I have argued against production of the MX missile as being destabilizing and outmoded. The more flexible and survivable our strategic systems, the more useful they will be and the less likely they will be launched in a period of great superpower tensions. However, the land-based MX system is a sitting duck in the event of a Soviet attack, and the temptation is to launch them in a preemptive strike. Weapons systems of this nature will not help us keep the peace, in spite of the nickname given to the MX—Peacekeeper.

Instead of pouring more resources into the vulnerable land-based leg, in the past I have advocated development of the undersea and air-based systems. The Trident submarine provides us with a flexible and accurate nuclear weapon. It can be deployed so as to cover most areas of the world and does not cause undue tension with its maneuvers. The Trident can provide incremental response to a crisis, sending signals about U.S. seriousness as a crisis escalates without launching any missiles. This preserves our options and is more likely to preserve the peace.

Many of these same advantages are inherent in the bomber leg of the triad. They have the advantages of flexibility, incremental escalation and recall. Some may claim that the air-based leg is redundant in view of our submarine capabilities. Yet the transfer of secret submarine technology to the Soviet Union by Toshiba Company illustrates how fleeting a technological lead can be and why we must have some redundancy in these systems. Bombers can also be used in either a conventional or a nuclear conflict, an important capability as we move away from the strategic threat and look more toward the threat of a conventional conflict. However, bombers need bases and their maneuvers are much more visible.

Of late, the air-based leg has been plagued by problems. I have long been a critic of the B-1 Bomber Program. Over a decade ago, I argued that the B-1 was an unnecessary stop-gap measure designed to tide us over until a Stealth bomber, which held great promise, could replace the aging B-52 fleet. It made much more sense to put our resources into research on stealth

technology instead of building an expensive bomber that would soon be obsolete if the Pentagon had its way. As I expected, the B-1 bomber ran drastically over budget and has failed to perform up to original expectations. I still believe that the resources of the past decade would have been better spent on perfecting stealth technology and bringing it on line sooner and more cheaply. However, the Reagan administration and a majority of Congress disagreed with my assessment, and the B-1 was built. Yet this does not negate the inherent advantages of steering our strategic configuration more toward air and sea-based systems and away from the land-based ICMB's.

We are now faced with a significantly less threatening Soviet Union. Economic crisis is now accompanied by domestic dissatisfaction that threatens the very structure of the union. The Warsaw Pact is crumbling and central Europe is moving into NATO's sphere. Meanwhile, we are facing a more threatening Federal deficit. Gramm-Rudman-Hollings cuts, if enacted in full, could take a sizable bite out of both defense and domestic spending. And the Bush administration is currently attempting to negotiate a START agreement with the Soviet Union that would decrease the number of nuclear warheads in both sides' strategic arsenals. All these factors call into question the wisdom of steaming full speed ahead on production of the B-2 bomber, particularly as cost overruns and performance problems continue to plague the system.

In last year's defense authorization debate, I voted with the majority of the Senate to insist that the B-2 program meet various threshold tests before funding is released for further production. These conditions were designed to provide sufficient funding to keep the production lines on schedule while ensuring accountability. None of these conditions was considered particularly difficult to meet if production proceeded as envisioned by Northrop and the Air Force. Unfortunately, few of these thresholds tests have been met and the program has yet to qualify for the majority of the funds provided for this current fiscal year. In an attempt to cut down on waste in Pentagon spending, we are requiring that all defense systems meet strict performance standards before full scale production is launched. The B-2 should be no exception.

The Cohen fly-before-you-buy amendment recognizes that it makes fiscal and strategic sense to follow through on the production of planes already in the pipeline. This amendment provides the \$942 million that the Air Force says it must have to avoid a break in production. It also provides \$175 million in research and development funding that is necessary

to work the bugs out of the system and perfect the technology.

Yet, in light of the funds still in the pipeline and recognizing that the international environment is in rapid flux, this amendment takes the wise course of eliminating almost \$2 billion that was requested to begin production of two more planes. Northrop will have its hands full just delivering the planes that are already in the pipeline and completing its current testing schedule.

Mr. President, next year when we take up debate on the fiscal year 1992 defense bill, we will again have to make difficult choices. If this body moves today to accept the Cohen amendment, we will be in a much better position. The nature of the changes in the Eastern Bloc will be much clearer. By then, the extent of the strategic threat to the United States will be more obvious. And we will not have sunk \$2 billion more into the B-2. At that time we can decide the fate of the system. For now, let us do the prudent thing in light of the uncertain, international situation and the looming Federal deficit—insist that the B-2 Program survive on the funding already appropriated and prove that it is able to perform its mission before additional procurement funds are provided.

I urge my colleagues to support the Cohen amendment.

Mrs. KASSEBAUM. Mr. President, I have listened to this debate throughout the day and I have talked with many of my colleagues and others about this matter over the past few days. Frankly, I have had to wrestle a great deal over further funding for the B-2 because there are persuasive arguments on both sides.

I do believe there is a sound, credible case to be made for continued funding of the B-2 and that case has been made very well by the chairman and ranking member of our Armed Services Committee. The B-2 does represent an enormous technological leap forward. It offers a capability that would strengthen and help stabilize our nuclear deterrent. I also do not casually dismiss the potential impact that terminating this program could have on our arms control talks with the Soviet Union.

However, I have concluded that these arguments—sound as they may be—are fatally undermined by two basic facts that now confront us all. One is a huge and growing Federal budget deficit that requires us to weight every budget item with exacting scrutiny. In my own view, the strangling effect of the deficit is the single greatest threat facing our national security today. We cannot ignore that threat.

The second fact is simply that we now live in a world dramatically different from just 1 year ago. It certainly is

true that the Soviet threat has not evaporated and that we cannot discard the need for a strong, effective national defense. However, the threat posed by the Soviet Union today is significantly altered by the changes that have occurred in recent months—both in Eastern Europe and within the Soviet Union itself.

Mr. President, the basic question before us is whether the cost of the B-2 bomber is worth the potential benefits its capability could provide. I do not believe those benefits justify all of the costs of the B-2 program.

The Defense authorization bill now before us will lead to great change and upheaval within all of our armed forces. Thousands of soldiers, sailors, and airmen will be required to leave the services in the months and years ahead. The bill drafted in the House would significantly increase this upheaval.

At a time when each defense dollar—and every budget dollar—is precious, I believe it is vital that we focus not only on hardware, which certainly is important, but also on the people who are the real force that defends our national security. The B-2 bomber offers a remarkable potential but if the price of that potential must be paid in even deeper cuts in personnel and manpower, as seems likely, then I believe we should terminate this program.

THE CASE FOR THE B-2 ADVANCED TECHNOLOGY BOMBER

Mr. WILSON. Mr. President, the declassification of information about the B-2 bomber a few years ago has led to an ironic result. Precisely at the time when the Defense Department removed the veil of secrecy from both the problems and the promise of this aircraft, we have become more confused about its purpose.

We have heard that the United States does not need another expensive weapon system as the Soviets loosen their grip on Eastern Europe and begin to negotiate strategic arms control agreements in earnest. We have heard that existing bombers and cruise missiles in the American arsenal already provide an adequate retaliatory force for any wartime emergency. We have heard that the Kremlin, groaning under the burden of a stagnant economy and a disintegrating empire, no longer poses a credible military threat to our Nation. We have heard that per ounce, or pound, or inch, or foot, the B-2 bomber costs more than gold. And we have heard, Mr. President, that the B-2 could not possibly work because no aircraft can fly invisible or undetected by enemy radars.

These charges are unfortunate if only because of their shortsightedness and inaccuracy. But these problems do not concern the opponents of the B-2 who have launched a visceral cam-

paign to stigmatize this system unlike any effort we have witnessed since the \$700 hammer.

Those who seek the termination of this program, Mr. President, have constantly pounded their ideological hammers on it. The deafening noise of their rhetoric has buried the unpleasant but vital facts that demand continued congressional support for the B-2. I find it interesting that the two Senators who introduced the B-2 termination act in January devoted significant portions of their floor statements not to any perceived flaws of the aircraft or the savings that would accrue to the American people if we stopped the funding, but to how we might spend the money on an array of other Federal programs.

Mr. President, allow me to refocus this debate for a moment by exploring why the B-2 investment will ultimately pay off for the taxpayers.

First, the B-2 bomber gives the Air Force several important capabilities that it will need precisely as we reassess the international security threats to the United States and face the prospect of a drastically reduced defense budget. The B-2 can hold any mobile, fixed, nuclear, or conventional target at risk. It can fly to any location in the world and return to the United States with only one aerial refueling. It leaves virtually no signature on a radar screen. It does not generate a new arms race but enhances our deterrent force posture by presenting the only nation in the world still capable of destroying American territory—the Soviet Union—with the power to fly deep within the enemy's heartland to threaten any military or industrial target of our choice.

In addition, Mr. President, the B-2 would not disrupt the United States-Soviet strategic arms control process because the START treaty almost completed favors slow-moving, recallable, and manned platforms such as the B-2 over more destabilizing and offensive-oriented land-based missiles.

The B-2, Mr. President, harnesses American technological genius to discourage a nuclear strike from any source—not just the Soviet Union—without signaling that the United States will itself initiate a war.

As a result of its multimission character, this aircraft answers America's defense needs of the future. It can, for example, restrain a Third World madman in possession of chemical warheads or provide swift conventional aircover to a distant ally such as Israel during a time of crisis.

Can the air-launched cruise missile assume the penetrating mission of the B-2 at a fraction of the cost? A rational military assessment would dispute this contention. Cruise missiles can only be fired by our existing standoff bombers, which have no stealth capability, at a long distance from an

enemy's borders. This constraint means that they could not travel deep within enemy territory to strike with accuracy at any number of targets.

Another major question about the B-2 is whether we can afford it. Opponents cite a unit cost per bomber of more than \$800 million as too high for Congress to authorize. But in citing this figure, they include the \$27 billion that the taxpayers already invested in research and development for the first 15 aircraft during the 1980's. We cannot save or reinvest this money, Mr. President, because Congress has already spent it.

We must concentrate on the budget realities of today and tomorrow. With the basic stealth and manufacturing technology research completed, the cost of the entire program has started to decline. Twenty-seven billion dollars bought us 15 planes in different stages in production. Another comparable investment, \$35 billion, will furnish the remaining 60 bombers that the President has requested.

Yet if Congress kills the B-2 after all units now in production roll off the line, we will have to spend, according to the Air Force, this same \$35 billion for termination costs and manufacturing expenses up to the completion of the 15th bomber.

So we have to decide today, Mr. President, not what to do with billions of dollars in savings if we end the B-2, but what we will do with this \$35 billion that we cannot avoid spending on the program. We can spend it to terminate the contract, help 17,000 people find new jobs, and keep the plant running until that 15th aircraft reaches the runway. Or, we can spend it over the next several years to provide the taxpayers with a credible fleet of 75 bombers. Which of these two alternatives gives the best deal to the American people? The answer, though unspoken for too long, is evident.

Mr. President, what we cannot afford is to waste an already colossal amount of money devoted to an unprecedented technology and a new age weapon that dramatically improves America's ability to project its power through the air all over the globe. We must plow through the shrill rhetoric and look soberly at what we have bought, what we could waste, and what we have spent. The taxpayers do not want a hollow military; they want an effective, although smaller, one. The B-2 bomber fits this mold, and the Senate must now summon the foresight to realize the prudence of this investment.

Mr. BURNS. Mr. President, as we address the drawdown of resources available for national security, deficit reductions and relative spending priorities, one of the fundamental concerns among many Senators, including myself, is the cost of the B-2 bomber. This concern raises some tough ques-

tions which need to be considered in perspective.

First and foremost, the B-2 represents the most advanced aircraft and the most advanced manufacturing technologies available in the world today. Notice that I said available, because we already have the B-2 production line in place and operating. It represents a true national resource that has been bought and paid for. And it did not come cheaply—\$27 billion has already been invested in this capability over the past several years. As a result, this country continues to enjoy a tremendous lead in both aerospace and manufacturing technology.

Most of us have heard the oft-quoted cost of the B-2 program of around \$62 billion. Too often, however, we are led to believe that these costs are still ahead. In fact, the \$27 billion investment that I mentioned is a part of that total. This means that nearly half of the B-2 program has already been paid for, including most of the research and development effort. I think the American people would be appalled to know that we would consider throwing that investment out the window. And I think that is exactly what we will be doing if we deny production funds for the B-2.

On the other hand, if we move forward with the scaled-back production of the B-2 as recommended by the Secretary of Defense and included in the Senate Armed Services Committee proposal, we will have made a good long-term investment. The returns on that investment include: giving the United States the lead in stealth technology; providing the United States with a revolutionary strategic bomber that will serve us for the next 30 to 40 years, a strategic weapon that is recallable, and a modern strategic system with conventional capability; and finally furthering our national strategy to rely on our superior technology to offset the Soviets' numerical superiority.

It is also extremely important to point out the need for the B-2. It is clear that the Soviet Union still poses the largest threat to the security of this Nation. The failure of communism in the Eastern Bloc and the eased tension between us and the Soviet Union are both welcome changes. However, no one disputes the fact that the Soviets are continuing to modernize their strategic forces. I believe that we need to continue to modernize ours. And while tensions between our two countries are eased, tensions within the Soviet Union are on the rise. It makes me very nervous to see the only country with the capability to destroy us militarily in a state of internal turmoil. As a result, I believe it is still very important for us to maintain a position of strategic deterrence. The B-2, as a part of our strate-

gic triad, is an integral component of that deterrence.

Mr. President, given the tremendous investment that has already been made, and given the significant operational capability to be attained through buying out the B-2 program, I believe the completion of the 75 aircraft plan represents a sound and rational approach. Although the funding requirements are still substantial, Secretary Cheney has acted in good faith to constrain them in the face of reduced defense budgets. And Senators NUNN and WARNER have gone to great lengths to ensure a fly-before-you-buy policy. Further, the cost to complete the B-2 program is not overwhelming. As Senator NUNN has stated, there are several other defense programs that will be more expensive, and which will require investments in the same kind of development efforts that have already been completed for the B-2.

I ask my colleagues to join with me in support of the requested funding for fiscal year 1991 to continue the B-2 program as requested by the Secretary of Defense and as authorized by the committee in this bill.

FLY BEFORE YOU BUY

Mr. LEAHY. Mr. President, I am disappointed that the Senate voted against terminating the B-2 program which would have saved taxpayers over \$30 billion.

I favor termination of the B-2 program, but if we are going to buy this system over my objections we should do it right. I hope the Senate will adopt the Cohen-Leahy underlying amendment. This measure will eliminate the \$2 billion requested for two additional planes in fiscal year 1991. Congress needs more test results before authorizing funds for any additional planes.

Mr. President, earlier today, the Senate passed a series of fly-before-buy goals the B-2 program is required to meet before obligating the fiscal year 1990 procurement funds. These so-called fences were designed to reduce concurrency—the overlap between production and flight testing. I supported the imposition of these fences but I feel more drastic steps are now needed.

The fences passed last year were well intentioned but concurrency remains. The B-2 bomber has completed only 67 of 3,400 hours planned for flight testing. Congress has approved nearly \$10 billion to procure the B-2 but has seen only one aircraft actually fly and it has flown less than 3 percent of the scheduled flight testing.

Earlier this year, the General Accounting Office [GAO] expressed concern about concurrency in the B-2 program. GAO determined that if current test schedules are met, it will be at least 3 years before critical performance requirements have been fully tested. GAO claims "that is the point

where problems are typically discovered."

Despite this clear case of high risk concurrency, the Senate Armed Services Committee recommended to authorize \$2 billion for two more aircraft and \$767 million in advanced procurement in fiscal year 1991.

The B-2 is a revolutionary aircraft. We need to follow tough testing standards to make sure this plane performs as advertised before deciding to proceed with production.

Mr. President, the Senate should apply the same rigorous fly-before-buy standards that were imposed on other aircraft programs in the DOD authorization such as the V-22 Osprey.

Four V-22 test planes have flown a total of 160 hours. However, the committee report on the V-22 notes, "Commitment to procurement now would violate the concept of fly before buy which will help reduce the funds that have frequently been wasted as DOD has urgently pursued acquisition programs on a highly concurrent basis."

Mr. President, the next sentence in the report is almost prophetic: "With the changes that have taken place in the world, there is time to proceed more cautiously on most development programs, including the V-22."

Why should Congress not apply the same standards to the B-2, a much more revolutionary aircraft in its design? Congress should suspend production in fiscal year 1991 until more test results are available.

Mr. DURENBERGER. Mr. President, today I will vote to support the Armed Services Committee position on the B-2 bomber program. I remain concerned regarding the very high cost of the aircraft program, especially in the tight budget environment in which we must work. And the strategic threat against the United States may be reduced, at least for the near term. But I believe it is still essential for the United States to retain a fully capable strategic nuclear triad in order to deter any strategic aggression against us.

The proposals put forth by the Armed Services Committee are based on sound, prudent, and reasonable considerations and premises. The amendment offered by Senators NUNN and WARNER, which I have supported, provides funds for production of the B-2 through fiscal year 1991. It does not imply, however, that we will produce the full complement of 75 bombers that the administration has requested.

Rather, it establishes a long series of performance criteria that the B-2 must meet before we will commit to producing any more aircraft. It is fully consistent with the committee's guideline of "fly before buy."

The committee suggests, and I agree, that the additional testing that is

planned for the coming year will provide critical data necessary before we decide to proceed further with a B-2 commitment on the order of the 75 requested by the President. Under the Nunn-Warner amendment, no procurement money will be expended if the bomber does not meet the performance requirements.

Mr. President, returning to the B-2's price tag, I am concerned about its costs, but I believe it is important for us to consider that approximately one-half of the currently estimated total program cost has already been invested. No matter what the United States decides regarding future production, this initial investment is irretrievable. It's a sunk cost.

Further in this context, we have to consider that the per unit cost that we all hear so much about—\$840 billion—includes all the research and development costs. That's by far the most expensive part of the overall program. Most of that R&D effort has been completed. The cost to produce the remaining aircraft, excluding the R&D costs, will be substantially less per unit than most of the public debate would indicate.

As I understand it, the per unit cost of the remaining B-2's will be approximately \$450 million per copy. Still expensive? Yes; but not the exorbitant price we hear so much about. According to the distinguished Senator from Georgia, who spoke so persuasively in support of the B-2, this figure of \$420 million a copy is only three times as expensive as a Boeing 747 jumbo jet. Placed in this context, I don't believe the B-2 is quite as expensive as currently advertised.

In addition, according to the Air Force, canceling new production after the first 15 aircraft, as the Senator from Vermont has advocated, would cost an additional \$8.7 billion. The Air Force further contends that the total investment—initial costs and the additional \$8.7 billion—would provide the 15 B-2's, but would represent virtually no combat capability. I think it is important to keep these considerations in mind.

Regarding the B-2's strategic necessity, I restate my firm belief that the United States must maintain a credible strategic nuclear triad, including the bomber leg, in order to maintain an adequate nuclear deterrent. The Air Force, Secretary of Defense, and President of the United States all maintain that the B-2 is essential to retain a meaningful bomber leg of the triad well into the next century.

Within the next year or two, the aging B-52H bombers will no longer be able to penetrate Soviet air defenses. And it is virtually certain that the B-1B bombers will lose their penetration capability sometime early in the next decade.

Without the B-2, and under the current START counting rules, the United States will have 110 cruise missile-carrying bombers that cannot penetrate Soviet air defenses. This would leave us at a distinct disadvantage vis a vis the Soviet Union, which would retain not only a dense air defense network, but also a penetrating bomber force of its own. And of course, we have no air defense capability of our own. I don't think that we should tolerate such a disparity.

I continue to review all the relevant analyses and perspectives in an effort to determine for myself whether the B-2 is essential, or whether other weapons systems, such as the B-1B bombers, can securely perform the same missions well into the future. But I believe the B-2 warrants continued testing and development, and that's why I support the committee's position.

Mr. President, let me add that notwithstanding the currently improving United States-Soviet relations, it is important for us to remember that the United States has always based its long-range nuclear modernization plans on Soviet capabilities, not on short-term declared intentions, which can change overnight.

In this regard, it would be imprudent for us to ignore the reality of the Soviet Union's substantial and powerful nuclear capability. What's more, the Soviet Union continues to invest heavily its own strategic modernization program.

I would also like to comment on the arms control relevance of the B-2 bombers. The United States and the Soviet Union have constructed the START strategic nuclear arms control to favor the bomber leg of the strategic triad. There are good reasons for this. Bombers are correctly considered more stabilizing and less threatening than either land- or sea-based ballistic missiles.

The assumptions under which we have worked to build the START treaty include a B-2 bomber force. Lacking the B-2, we will not be able to take full advantage of the counting rules of the treaty.

Senator NUNN stated in support of the B-2 that our negotiations with the Soviet Union on START would suffer a serious setback if we eliminate the bomber. It might not derail the treaty irretrievably, but it would certainly delay this promising treaty for some time.

Mr. President, permit me also to note that I have consistently opposed legislative efforts that directly effect ongoing arms control negotiations. The President of the United States has stated unequivocally that he believes we need this aircraft, that his negotiating strategy is premised on the B-2 being part of our arsenal.

Mr. President, let me state again that I am not fully convinced that the B-2 is absolutely essential to the future security of the United States. I believe that there are a number of issues still left to be resolved before committing fully to the B-2.

One of the biggest concerns I have is whether or not the B-2 will be able to achieve the performance criteria required to carry out its mission. That's what the Nunn-Warner amendment will provide for—a series of testing and performance criteria that must be met before we'll proceed more fully with B-2.

We need to pursue this next phase of critical testing for such things as Stealth characteristics and terrain-hugging capabilities in order to gain the knowledge necessary to decide how best to proceed. If Stealth can pass these and other tests, that would have an important bearing on our decisions regarding the bomber's future.

The amendment by the distinguished Senator from Vermont would not permit this prudent course of action. It would cut the program entirely, except for completing the R&D program, after the first 15 are built. Using the same formula as the critics use, the per unit cost on the 15 would be about \$2.3 billion. The B-2 would certainly then become the most expensive aircraft ever built.

The committee position is prudent, measured, and reasonable. It will permit us to obtain the information and data necessary to make informed decisions about the bomber's fate. I will be following closely the testing during the next year.

Mr. ADAMS. Mr. President, I rise today to discuss what has been an important, if difficult, vote for me to make today. I have voted in favor of an amendment to the Department of Defense authorization bill that would terminate B-2 aircraft procurement. I made this vote advisedly, because a part of the B-2 bomber is made by the Boeing Co. in Washington State and jobs are involved.

The costs of the B-2 program keep rising and we have now learned that this plane's mission is no longer valid. Since the last time I voted on this, our own Government has admitted that the Stealth bomber can't actually hide from radar and that a major contractor has falsified cost and schedule projections. Of major importance, everyone now agrees that we must review our force structure because of the major changes that have gone on in the Soviet Union.

When our country has enormous debts and when we are struggling to reduce our deficit, we must buy the best defense for the money available. This program is just not as high a priority as many others, whether defense or domestic.

When I was faced with a question of building 132 or 15 of these bombers, I chose the lower number, 15. Now I am faced with a choice between 75 and 6, and I am choosing 6, a number that would partially preserve the substantial research and development money already spent on the B-2.

I have supported and will continue to support programs to help protect working people who may need assistance as a result of this type of defense cut. But, the United States can no longer afford a wartime buildup while the cold war is fading into oblivion.

The PRESIDING OFFICER. All time having expired, the question is on agreeing to the amendment offered by the Senator from Maine. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. JEFFORDS (when his name was called). Mr. President, on this vote, I have a pair with the distinguished Senator from California [Mr. WILSON]. If he were present, he would vote "no." If I were permitted to vote, I would vote "yea." I withhold my vote.

Mr. SIMPSON. I announce that the Senator from California [Mr. WILSON] is necessarily absent.

The result was announced—yeas 45, nays 53, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—45

Adams	DeConcini	Mikulski
Akaka	Glenn	Mitchell
Baucus	Harkin	Moynihan
Biden	Hatfield	Packwood
Bingaman	Heinz	Pell
Bradley	Hollings	Pressler
Bumpers	Kennedy	Pryor
Burdick	Kerry	Reid
Byrd	Kohl	Riegle
Chafee	Lautenberg	Rockefeller
Cohen	Leahy	Sarbanes
Conrad	Levin	Sasser
Cranston	Lieberman	Simon
D'Amato	McCain	Specter
Daschle	Metzenbaum	Wirth

NAYS—53

Armstrong	Fowler	Mack
Bentsen	Garn	McClure
Bond	Gore	McConnell
Boren	Gorton	Murkowski
Boschwitz	Graham	Nickles
Breaux	Gramm	Nunn
Bryan	Grassley	Robb
Burns	Hatch	Roth
Coats	Heflin	Rudman
Cochran	Helms	Sanford
Danforth	Humphrey	Shelby
Dixon	Inouye	Simpson
Dodd	Johnston	Stevens
Dole	Kassebaum	Symms
Domenici	Kasten	Thurmond
Durenberger	Kerrey	Wallop
Exon	Lott	Warner
Ford	Lugar	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—1

Jeffords, aye

NOT VOTING—1

Wilson

So the amendment (No. 2493) was rejected.

Mr. DOLE. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GORTON. Mr. President, we have before us the first Defense authorization bill of the post-cold-war era. The decisions we make this year with respect to the armed services will be especially important, for they will set the tone and pace of our future defense build-down. The committee's reduction of \$27 billion in budget authority from last year's level—\$18 billion reduction from this year's request—is an indication that the Armed Services Committee recognizes the new strategic environmental brought on by the collapse of the Warsaw Pact.

Some would say, however, that we can make deeper cuts in the defense budget. The Senate Budget Committee, for example, recommends an additional reduction of \$3.2 billion in outlays from the armed services mark, which is already \$7 billion below the administration's request. But unlike our bill, the Budget Committee's recommendation is not guided by any underlying strategic rationale. As the SASC report makes clear, the additional cuts mandated by the SBC number would be so disruptive as to jeopardize the orderly defense build-down which our SASC bill hopes to set in motion.

An orderly defense transition is imperative for the future of U.S. foreign policy. While we may be witnessing the end of the cold war, it certainly is not the end of history. The United States will continue to play a leadership role in the world. A role that will require a significant level of military strength. Until we have a better picture of the future, it is incumbent upon us to be cautious and pragmatic in the restructuring of our defense establishment—an approach that I believe is enshrined in this bill.

STRATEGIC FORCES

The central components of our national strength remains the nuclear deterrent force. Given the pace of Soviet strategic nuclear force modernization, it is apparent that the Soviet Union also views nuclear weapons as the centerpiece of national power. To this end, I support the committee's recommendation to fund the B-2 bomber program at \$4.2 billion. The B-2 is a flexible, multirole bomber that contributes to deterrence stability, is consistent with arms control objectives, and which preserves U.S. power projection capabilities well into the next century.

The B-2 is flexible in that it is the only strategic weapon that can be used before deterrence fails. In other words, it can be launched during a crisis, then recalled when calmer heads prevail. More important, unlike other strategic

nuclear systems, the B-2 can be used in a conventional role, as we have done with the venerable B-52. This conventional role will take on increased importance as the United States cuts back on aircraft carriers and other forward deployed assets.

At a time when United States-Soviet relations are improving, the B-2 contributes to deterrence stability by moving both superpowers away from destabilizing missiles, and toward the slow-flying, recallable strategic bombers. This approach is further enshrined in the draft START agreement, which is nearing completion. While I would not argue for the B-2 simply on arms control grounds, it is another important factor to weigh.

The committee's reduction in funding for the strategic defense initiative was anticipated given the overall budgetary environment. What would make these cuts to the SDI program unacceptable, however, would be an attempt by Congress to dictate how these remaining funds should be spent. In this respect, I understand that my Democratic colleagues intend to offer an amendment to the bill that will redirect the SDI program away from the goals established by the President. The intent of this legislation is clearly to foreclose an SDI deployment decision by the President in 1993 as planned.

I intend to oppose this amendment as an attempt by Congress to micromanage the President's No. 1 defense program. More fundamentally, however, this amendment cuts to the heart of the SDI debate: whether we want to develop the technology necessary to defend against ballistic missiles or not. I welcome debate on this important issue and will have more to say on this matter at the appropriate time.

I also have some misgivings about the committee's recommendation with respect to ICBM modernization. Given the unlikelihood of MX rail-garrison deployment, I believe it wasteful to continue to fund MXRG research and development at \$548.2 million. Surely there are more important uses for this amount within the strategic forces budget? As for the committee's recommendation that the small ICBM be deployed in Minuteman silos, I find this irrational since the *raison d'être* for the Midgetman was its survivability through mobility. Deployment of the Midgetman in modified Minuteman silos does nothing to enhance the survivability of the force. Meanwhile, Soviet mobile ICBM deployments will continue to widen the asymmetry in survivability between United States and Soviet land-based strategic forces.

RESTRUCTURING CONVENTIONAL FORCES

The collapse of the Warsaw Pact has led the committee to rethink our forward deployment strategy. With the threat of surprise attack greatly attenuated, there is no longer the need

to station in Europe the large numbers of heavily armored forces that, heretofore, were necessary for the defense of Western Europe. Our Defense authorization bill therefore emphasizes a reinforcement strategy. This means fewer, lighter, and more flexible forces. Greater warning time also means that we can make greater utilization of our Reserve Forces, rather than the more expensive to operate Active Forces. Finally, I agree with the committee that the United States should place emphasis on maintaining the technological superiority of our forces.

Shifting to a reinforcement strategy likely will place greater reliance on NATO airpower to compensate for reduced troop presence. At the same time, it is not unlikely that the United States will lose some of its main operating bases in Germany due to arms control agreements and budget cuts. Existing tactical air power will be strained further by the impending reduction in United States aircraft carrier force levels, which may impact carrier deployment in the Mediterranean. In this context, the relocation of the 401st Tactical Fighter Wing to Crotona becomes essential. As SACEUR Gen. John Galvin testified on June 7, "if there were only two fighter wings in Europe, I would want one to be based at Crotona."

READINESS AND SUSTAINABILITY

As ranking Republican member on the Subcommittee on Readiness, Sustainability and Support I would like to bring to the Senate's attention a number of major changes and reductions in funding that were made by the subcommittee. These changes will have both immediate and long-term effects on military capability.

When the budget was submitted, the force levels and related support dollars were better balanced than in recent years. As a result of the recommended budget reductions, however, we now have inadequate support for the recommended force levels. Some say this is flexible readiness. Others would say that "flexible" is just another word for "not ready." With further cuts in the Defense budget, readiness accounts will be further reduced. Will this condition be "more flexible" or just less ready? Let me caution my colleagues that as we continue to cut the Defense budget we need to establish a better balance between force levels and support funding.

The choice is between smaller cuts in force levels with less than adequate support funding, and greater reductions in force levels but with adequate support funds to ensure they are fully capable. These are the decisions being laid down within this Defense bill. In making these decisions, guidelines and long-term plans should be followed, not short-term, budget expedient, meat-axing cuts.

Despite reductions in operations and maintenance, the committee did increase by \$200 million funding for the Defense environmental restoration account to clean up hazardous waste sites. If you add this increase to the base closure account of \$50 million, the new strategic environmental research program funding of \$200 million, and full funding of DOD environmental requests, the total environmental effort in this bill amounts to about \$2.2 billion.

Mr. President, to conclude I would quote the famous Italian Air Marshall Douhet, who said: "Only poets make strategy without budgets." If we were to adopt a Defense spending level substantially less than that recommended in the SASC bill, simply because the Senate feels that we need a lower number, then Congress clearly would be making a Defense budget without any clear strategy. Such an irresponsible approach would be fraught with risks for U.S. defense and foreign policy.

Mr. McCAIN. Mr. President, 3 years ago I sponsored an amendment to the Defense Authorization Act to establish a procurement technical assistance program to assist Indian tribes and Indian-owned businesses in pursuing procurement opportunities in the Department of Defense. This program has now been operating for about 20 months and I am pleased to inform my colleagues that it is one of the Federal Government's most successful programs intended for the benefit of Indian people.

In fiscal year 1989 the program began with five project operators and \$488,000 in Federal funds. In the first 6 months of fiscal year 1990, the program expended \$211,000 in Federal funds through four project operators. Over these same 18 months, the project operators have matched Federal funds with \$855,000 in non-Federal funds. Each of the project operators is itself an Indian-owned nonprofit corporation.

During its first 18 months of operation, the Indian Procurement Technical Assistance Program created at least \$22.71 of economic benefit for every dollar of Federal funds expended in the program. Over 800 tribal and individual Indian businesses have been provided with training and assistance in marketing and Federal contracting. Program operators located in Washington, California, Arizona, Idaho, Montana, and New Mexico have helped eligible Indian contractors to secure over \$15 million in Federal contracts.

More than 1,200 Indian-owned companies have been trained in doing business with DOD and the Federal Government. Over 700 Indian-owned enterprises have been added to the DOD supplier base. Hundreds upon hun-

dreds of new jobs have been created as a result of this program.

The Defense Logistics Agency recently provided me with several examples of the success stories being generated by the Indian Procurement Technical Assistance Program. I would like to share a few of these with my colleagues:

The third annual National American Indian Business Trade Fair was held in Mesa, AZ, on March 29, 1990, in conjunction with the reservation economic summit [RES/90]. The fair was a success with approximately 110 defense prime contractors represented.

An Indian-owned reservation based company was awarded a \$500,000 janitorial contract with INEL. The contract has three renewal option years.

The Shoshone-Bannock Tribes, Inc. reported that 100 new jobs were created and 750 jobs were retained as a direct result of assistance provided by a procurement technical assistance center.

Palute Frozen Foods, Burns Paiute Tribe, Oregon, has increased its annual sales to the DOD by over \$3 million as a result of the assistance received from a procurement technical assistance center.

The White Mountain Apache opened the Apache Manufacturing Co. in August 1988 in Whiteriver, AZ. The company is producing thermal insulation blankets for the cockpit of the McDonnell Douglas attack helicopter. The initial contract was valued at \$250,000.

Proforma, Inc., a distributor of business forms, commercial printing and brochures, is marketing to Motorola, McDonnell Douglas Helicopter, Garrett Auxiliary Power Division and various military bases in Arizona. Recent sales for Proforma near \$400,000.

Atterberry Soil Stabilization received a \$539,000 disadvantaged business enterprise subcontract. The company has established bonding capacity in excess of \$500,000 and second year revenues for the new firm are expected to top \$2 million.

Given the fact that unemployment rates on many reservations often exceed 90 percent, I am delighted that this modest program is generating such enormous benefits. I want to thank all of my colleagues for their support of the Indian Procurement Technical Assistance Program. I particularly want to thank Senators NUNN and WARNER for their assistance in ensuring that S. 2884 provides for the continuation of this important program in fiscal year 1991.

Mr. THURMOND. Mr. President, as the Senate begins deliberation on the fiscal year 1991 Defense authorization bill, I want to take this opportunity to express my views on this pivotal piece of legislation. I say pivotal because the directions set by this bill will chart the

course of our Nation's military for the next several years.

Mr. President, although I voted for the authorization bill in committee and will support it on the floor. I have some serious concerns. My primary concern, and that of many other members of the minority, is that the premise for the \$18 billion in reductions from the President's budget request underestimates the nature of the threat.

There is no doubt that the Warsaw Pact threat in Europe has significantly diminished, and some reductions to the Defense budget are in order. However, the instability of the Soviet political situation and actual Soviet military capabilities mandate that we maintain a level of funding for defense to deter and counter the still-sizeable Soviet military capability, particularly given the domestic unrest and unpredictable situation in the Soviet Union.

The Soviet military capability is growing despite the Third World economy of the Soviet Union. In 1989, the Soviet Union produced 2,600 pieces of artillery—almost 10 times more than the United States—and 1,700 tanks—almost three times United States production. In terms of submarines, 1989 was the most productive year for Soviet submarine production since 1980. The first large Soviet aircraft carrier began sea trials during the past year, and three different advanced Soviet aircraft conducted carrier landings and takeoffs. This is a significant advance in the Soviet Union's power projection capability.

In the strategic arena, by everyone's standards, the Soviet Union is making a concerted effort across-the-board to modernize its strategic forces. This modernization effort includes two mobile ICBM systems, a much more capable SS-18 heavy ICBM, improved submarine-launched ballistic missile systems, and two bomber programs. This modernization effort is best illustrated in the fact that, in 1989, the Soviets produced 140 ICBM's to our 12.

The bill, in my judgment, also underestimates the ever increasing capabilities of Third World countries such as Libya, Iraq, and other nations in the volatile Persian Gulf region. The increased capability in this region includes modern sophisticated aircraft, tanks, and ballistic missiles. Most importantly, however, is their capability to produce, and demonstrated use of, chemical weapons, the poor nation's nuclear weapon.

I should not have to remind this distinguished body of the Persian Gulf region's strategic value and volatility. The oil produced in this region lubricates the economy of every industrial country. We have a vital interest in maintaining a strong military presence in the region to ensure that the flow of oil is not interrupted.

As the ranking minority member on the Subcommittee on Strategic Deterrence and Nuclear Forces, I am deeply disturbed by the Soviet strategic offensive and defensive force modernization and capability. Although the committee report indicates that the bill maintains nuclear deterrence at lower levels and with greater stability, it reduces our deterrence capability by terminating or reducing funding for several key programs.

The most critical and irrational termination was the Milstar program. Milstar is the only U.S. satellite communication system capable of providing assured communications to our strategic and tactical forces worldwide. It was specifically designed to ensure that the United States has the survivable means to recall forces immediately and terminate hostilities.

During the Grenada invasion, the Congress made light of military's inability to communicate; yet when the Defense Department develops a system to provide worldwide, interoperable communications under the most adverse conditions; we cancel the program. Mr. President, I will support—and urge my colleagues to support—an effort to reinstate this vital program.

Key to maintaining an effective nuclear deterrence, albeit at a lower level, is the ability to produce the components to modernize our nuclear weapons. In eliminating all funding for the Plutonium Recovery Modification Project at the Rocky Flats plant, the committee has virtually assured that we will not be able to produce the components for W-88 warheads. The implication of this action is that we are faced with the prospect of deploying the Trident submarine without this modern, safe, and more capable warhead.

Finally, I am concerned about the significant reduction to the Strategic Defense Initiative Program. The nearly \$1 billion reduction in the SDI Program will severely limit the program to research and development. It will make it very difficult for the President to make an informed decision regarding deployment of Phase 1 by 1993, as has been the goal.

I want to emphasize that the importance of the SDI Program has not diminished. Not only is the Soviet Union continuing to modernize its ICBM capability, but the threat posed by Third World ballistic missile development increases the need for the SDI Program. Director Webster testified before the Armed Services Committee that, by the next century, over 20 Third World nations will have a ballistic missile capability. We cannot ignore this threat or the potential of an accidental launch of one of these missiles. We must ensure that this threat is minimized by deploying a missile defense system as envisioned by the SDI Pro-

gram. I urge my colleagues to support the effort to restore funding for this critical program.

Mr. President, aside from my misgivings on some aspects of the threat assessment and proposed reductions, the overall bill, as crafted by the Armed Services Committee under the able leadership of its chairman, Senator NUNN, and the ranking minority member, Senator WARNER, represents our best effort. Both the House and Senate Budget Committee alternatives would require much more drastic cuts to our Nation's existing defense programs. I am strongly opposed to the budget levels recommended by the budget committees.

S. 2884, the National Defense Authorization Act for fiscal year 1991, contains many innovative approaches to maintaining readiness and maximizing the \$289 billion authorized in this bill. I am especially pleased with the emphasis on flexible readiness, fly before you, and greater reliance on reserve forces. I am so pleased with the provisions which provide assistance to those men and women who will be involuntarily forced out of the services because of the fiscal crisis facing our Nation. It is ironic that those who have contributed so much toward winning the cold war will suffer the most.

Mr. President, I ask my distinguished colleagues to consider my thoughts during their deliberations on this defense budget. We must not engage in further cuts to the defense budget crafted by the Armed Services Committee. The committee has made tough choices to secure the highest quality of military capability during this time of seriously reduced military spending. We must ensure that, while we won the cold war, we do not lose the peace.

Thank you, Mr. President.

Mr. NUNN. Mr. President, I would like for my colleagues, particularly the Senator from Virginia, to be fully cognizant of the time agreement I am about to propound.

Mr. WARNER. Mr. President, will the Senator from Georgia yield for an observation.

The Senate has gone through a tough vote, and I want to be on record as commenting that the distinguished Senator from Maine fought a good, hard, tough, fair battle.

Mr. NUNN. I would certainly agree with that. The Senator from Maine is always very formidable. I strongly prefer that he be on my side of any issue, and I am always very dubious about my own position when I have to oppose him. But after doing thorough research, I do think we were on the right side of this issue.

Mr. COHEN. I thank the Senator for being so gracious in victory.

Mr. SARBANES. Mr. President, how does the Senator know what he would have said had he won the vote?

Mr. EXON. Mr. President, reserving the right to object, and I shall not, I also want to compliment the Senator from Maine.

PRIVILEGE OF THE FLOOR

Mr. SPECTER. Mr. President, I ask unanimous consent that my staffer Bob Carnevale have floor privileges during the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. NUNN. Mr. President, it is my hope that we can now move to an amendment by the Senator from Illinois, Senator DIXON, on the base we call the Crotone base which is the NATO base in Italy.

It is also my understanding that the Senator from Illinois is willing to enter into a time agreement of 1 hour equally divided. It is my understanding that the Senator from Washington State, Senator GORTON, who will be engaged on the other side of this amendment, is willing to enter into a 1-hour time agreement. So it would be my intent in just a moment to propound that request.

I wanted to let everyone know what we are doing. It would also be my intent to try to go to the SDI amendment this evening. We have a very important debate on that. I would hope we could do it in about 3 hours, and at some point I will be asking for unanimous consent on that.

It appears that there is a problem at the moment. I hope that problem will be alleviated and we can complete that SDI debate tonight.

I say to my colleagues if we can do that, we will have really taken on the two hardest issues and with a reasonable day tomorrow, we plan to get started early in the morning tomorrow, we would be able to by tomorrow or evening late see the daylight at the end of the tunnel on this bill. I think we would be able to pin down the other amendments and finish this bill sometime Saturday morning. That would be what we can accomplish if we are able to get SDI up tonight.

If we do not get SDI up tonight, we will pour over and have 9 or 10 hours of debate on that tomorrow. We are going to be here a long time.

The majority leader still assures me that it is his firmest intention to complete this bill before we go home for the recess.

So I would like to pose that unanimous consent but will not do so until the Senator from Virginia—

Mr. WARNER. And the Senator from Washington who is going to manage this amendment. So far as I know, the 1 hour is agreeable. I would ask the Senator to proceed with the amendment with the understanding that in all likelihood we will get the 1-hour time agreement.

Mr. WALLOP. Will the Chairman yield?

Mr. NUNN. I am glad to yield.

Mr. WALLOP. Mr. President, I have never threatened to and do not at this moment threaten to filibuster. I will guarantee the Senator I will not. I have no intention of filibustering the SDI bill.

But this is the quintessential argument over whether or not the United States shall have the ability to defend itself. It is not a simple amendment of earmarking. It is a question of whether we will or will not have the ability, and 3 hours simply would not do it.

I do not mean to delay it. But the fact is that this is the key argument which needs to be laid in front of the American people as to whether or not we can use the technology that we know that we possess to defend them or whether we go back into an enforced stall on the ability to demonstrate to ourselves and the world that which we know how to do, and move to the arms control posture that the administration, the Secretary, and others have laid down as important to the United States; namely, the statement of Secretary of State Jim Baker, and Foreign Minister Shevardnadze, that we need to move to a more stable arrangement, and balance between defenses and offenses.

Unfortunately, there is not a simple set of arguments. I really do insist that we be able to give ourselves the time so that those arguments can be laid not only in front of everybody in the Senate, but in front of the American people.

I have no intention of trying to delay this thing. But it is not a simple question of whether we earmark it or not.

Mr. NUNN. I say to the Senator that I do not in any way disagree with his description of this amendment as being very important. I think it is important.

The Senator from Wyoming has been a very faithful member of our committee. He has cooperated in moving this bill. I do not in any way believe he intends to delay the SDI debate. I know he is very concerned about it.

I would ask this question: One possibility, and as the Senator knows, we have one of the principal proponents of the amendment that will not be able to be here tomorrow because of illness in the family. I know there are a couple of Senators absent that would also like to participate. One possible way of handling this amendment, and it might accommodate everyone, is if the Senator could indicate the amount of time he thinks it will require.

We could debate it for a couple of hours tonight, hold it over until Saturday morning, debate it for a couple of hours on Saturday morning, and then come to a vote on Saturday morning.

It is very important though that we pin down some kind of time element if it is 4 hours, that would be acceptable; 5 hours, that would be acceptable.

We could divide whatever time we needed between tonight and Saturday morning. Of course if anybody wanted to debate it sometime tomorrow we could debate it. But unless we conclude it tonight we really cannot conclude it until Saturday morning.

Mr. WALLOP. I do not anticipate that it is going to be possible to conclude it tonight. With all sense of deference to the Members of the Senate who will be here for a lot of other reasons, it does not make sense to try to do that.

My preference of course would be to have the debate occur as a whole. My own view is that it probably would take less time without a time agreement than it would with a time agreement, and just have the Senate do it over the course of time.

But if the Senator is intent upon starting it, I clearly will participate in that. But I do not anticipate in any way that we could finish it tonight.

Mr. NUNN. Would the Senator be amenable to doing that amendment in its entirety Saturday morning, for instance, if we took 4 hours, set it aside now, 8 o'clock in the morning Saturday until 12 o'clock, or from 8 o'clock until 1 o'clock, so we would know we could complete it then?

Mr. WALLOP. At this moment, I say to the leader in all sincerity, I do not think that is a wise thing to pin ourselves into. I wish to talk further with the administration, the distinguished Senator from Virginia, as well as the Senator from Georgia.

Mr. NUNN. I thank the Senator. In the timeframe we are in now, it would be my feeling that we would not go to the SDI amendment now, would not be productive because we could debate it tonight for hours, and hours, and hours and then debate it tomorrow for hours, and hours, and then we would be with a situation where we will not handle anything else.

So I would hope that we could take up the Crotone amendment.

I see the Senator from Illinois on the floor.

Mr. WARNER. Mr. President, we are prepared to concur in a time agreement of 1 hour equally divided.

Mr. NUNN. Mr. President, I ask unanimous consent that the Dixon amendment become the pending amendment when he lays it down, and that it would be the time agreement of 1 hour equally divided between Senator Dixon, and the managers of the bill; that there be no amendments thereto.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Illinois is recognized.

AMENDMENT NO. 2495

(Purpose: To prohibit use of funds for construction in connection with the relocation of any function of the DOD located at Torrejon Air Force Base, Spain, to Crotone, Italy)

Mr. DIXON. Mr. President, at this time I am sending to the desk an amendment, upon which I am joined by Senator HOLLINGS, Senator BRYAN, Senator BINGAMAN, and Senator SHELBY, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Illinois [Mr. DIXON], for himself, Mr. HOLLINGS, Mr. BRYAN, Mr. BINGAMAN, and Mr. SHELBY, proposes an amendment numbered 2495.

On page 329, between lines 17 and 18, insert the following new section:

SEC. 2815. PROHIBITION ON USE OF FUNDS IN CONNECTION WITH RELOCATION OF FUNCTIONS FROM TORREJON AIR FORCE BASE, SPAIN, TO CROTONE, ITALY.

Funds appropriated to or for the use of the Department of Defense, including funds appropriated for making contributions to the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may not be obligated for construction in connection with the relocation of any function of the Department of Defense located at Torrejon Air Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy.

Mr. DIXON. Mr. President, I thank the clerk for reading that amendment. Ordinarily, I would not do that, but the amendment is self-explanatory.

The question of the base at Crotone, Italy, is an issue around here that has been around for several years, Mr. President, and it is an issue that we have dealt with in the Armed Services Committee on several occasions.

This particular issue, I might say to my colleagues, is an issue in the Subcommittee on Readiness, Sustainability and Support, which I chair, because it has to do with a military base in a foreign country, and the subcommittee I chair is jurisdictional on all domestic and foreign bases.

The Senate should know that the House has already done what this Senator wants to do with this amendment that is now before the Senate; that is to say, that this country will not spend any money for the development of a new and, we think unnecessary, base at Crotone, Italy.

It depends upon who you listen to, Mr. President, as to how much money will be saved by the adoption of this amendment. But the Department of Defense and others admit that at least a minimum of \$320 million is involved. The cap that we put on this last year, I think, involved a cap on \$370 million, and I suspect that the price is higher. I would not be surprised in the long term if we are not talking about somewhere around a half-billion dollars here for the creation of a new base, in

my view, totally unneeded, in Crotone, Italy.

Mr. President, interestingly, the occupant of the chair is one familiar with this issue. We have dealt with it in the past. There is overwhelming opposition, I think, in the Congress to going forward on this base.

I did not have this amendment adopted in the subcommittee which I chair, nor did I attempt to press it in the committee where I, of course, serve, simply because I thought it was a matter properly brought before the entire Senate.

Let me tell my colleagues this: We have closed, as everybody knows, 89 bases recently, domestically, in the United States.

The Secretary of Defense has suggested another list this year. To date, we have had no significant base closings overseas.

General Galvin told me recently that he would shortly send a list of 100 bases in Europe to the Department of Defense to be closed. It may surprise my colleagues when I tell them that there are a thousand bases, big and small, outside of the continental limits of the United States.

General Galvin is suggesting closing 100 of them. He has sent a letter to the Secretary of Defense, which was revealed in a front page article in Stars and Stripes on July 23, carrying out what he assured me by telephone sometime ago he would do, suggesting the closing of 100 bases. That has not yet been revealed to those of us either in the committee or in the Senate, generally, or in the Congress, generally.

But this particular issue pertains to 72 F-16 fighter planes now based in Torregon Air Force Base in Madrid, Spain. The Spaniards have kicked us out of there. Spain not only kicked us out of there, incidentally; they asked us to pay the severance for people that lost their jobs, because Spain kicked us out of Torrejon Air Force Base, and now the European Command would like to open a brand new base in Crotone, Italy.

The general feeling is, I think, that is unnecessary. We have bases all over the world. We have air strength in the Mediterranean, as everybody knows, and, in my view, sufficient protection there to warrant not spending additional money on a base at Crotone, Italy. I think at a time when we are going to bring home hundreds of thousands of people from Europe and all over the world, it is ridiculous to spend hundreds of millions of dollars of American taxpayers' money on a new base at Crotone, Italy.

In this bill, we direct the reduction of combatants in Europe by 50,000. There are 305,000-plus dependents—one-half million. We are bringing 50,000 home right now in this.

All of us know that the President, in his State of the Union Address at the beginning of the year, discussed bringing the number down further, and even in the talks we are carrying out right now in Europe. In addition, I think it is fair to represent to you that it is the feeling of most of us, including, I believe, the chairman of the committee—although Senator NUNN would have to address that on his own—that ultimately the reduction should be to 75,000 to 100,000 in Europe.

I think this is totally unnecessary. I say again that the House has already directed a prohibition of the expenditures of these funds. I have no problem if they want to put these F-16's elsewhere under more reasonable circumstances at bases that now exist, at no cost, in other parts of Europe. My personal preference would be that we bring these 72 F-16 aircraft home. But that is a question for the administration.

We clearly ought not to expend this money.

Others of my colleagues may want to come here and be heard.

In the meantime, Mr. President, I yield the floor at this time, reserving the remainder of my time.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, following consultation with the distinguished Republican leader, I am about to propound a unanimous-consent request. I ask unanimous consent that the time I consume not be charged against his amendment.

The PRESIDING OFFICER (Mr. BINGAMAN). Without objection, it is so ordered.

TIME LIMITATION AGREEMENT

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate considers a resolution condemning Iraq's invasion of Kuwait, to be offered by Senators PELL and HELMS and others, that it be considered under the following time limitation: 40 minutes for debate to be equally divided between Senators PELL and HELMS; no amendments or motions to commit be in order; that when all time is used or yielded back, the Senate, without any intervening action or debate, proceed to vote on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues, and I yield the floor.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2495

The PRESIDING OFFICER. Who yields time on the Dixon amendment? The Senator from Virginia.

Mr. WARNER. Mr. President, had the distinguished Senator from Illinois concluded his remarks? I did not mean to intervene.

Mr. DIXON. May I say to my friend, the manager on this side, I completed my preliminary remarks. I do not know how much time I utilized in that. I guess I have 30 minutes.

The PRESIDING OFFICER. The Senator has 23 minutes and 29 seconds remaining.

Mr. DIXON. I thank the chair.

Mr. WARNER. Mr. President, I yield to myself such time as I require.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, just a short time ago the Senator from Virginia received a call personally from the commander in chief of the European Command, the NATO Commander, General Galvin, reinforcing what he had already advised the Senate Armed Services Committee and now wishes to inform the Senate as a whole, that of the 12 bases he has today operating aircraft he would select Crotone, along with one other base, two bases and one would be Crotone in terms of his priority.

As the threat in Central Europe now recedes in light of the dramatic and courageous advancements made by the East European countries toward democracy, it is the flanks of NATO that provide the greater instability.

Although the conflict between Iraq and Kuwait is not within the periphery of the NATO jurisdiction, exactly, it nevertheless points out dramatically the instability that prevails throughout the region of the gulf and into the southern Mediterranean and on up into the southern flank of NATO.

It is for that reason that General Galvin wishes to advise the Senate that this would be his top priority given the reductions that he and others face in terms of our forces deployed abroad.

The Senator made a reference to the dollars involved. I ask my good friend from Illinois if this statement is not correct, that the proceeding that we are now looking at, namely the amendment of the Senator from Illinois, has absolutely no budgetary impact. Does the Senator agree with me on that?

Mr. DIXON. It does not have any budget impact on this budget. But it is American money that will be usefully employed by the NATO Command to do this. This is \$300 million minimum and up to as high as \$500 million American money. I do not say that is a budget impact this year. But Americans are going to pay the money.

Mr. WARNER. If the Senator will bear with me, the answer to the ques-

tion of the Senator from Virginia is correct. It does not have a budgetary impact. The funding for this particular base will come from the NATO infrastructure. There is no money for Crotona in the 1991 defense budget. If the money in the infrastructure account is not used for Crotona, approximately \$700 million, it would be used on other NATO infrastructure. No funds would return to the United States.

Equally important politically, a U.S. decision to withdraw the 401st would be very damaging—and I emphasize that—very damaging to the relationships which are highly valued between Italy and NATO. Despite the recent changes in Europe, the NATO allies remain strongly supportive across the board of the Crotona Air Base facility.

Further, the 401st represents the only U.S. tactical aviation presence, and 4 percent of the total third generation NATO aircraft in the southern region.

Because of its dual capable role, the 401st accounts for 75 percent of the southern flank's airborne nuclear deterrent. And that is becoming more and more critical as we begin to withdraw the ground forces and the associated nuclear deterrence with those ground forces, that is the ground base nuclear deterrent; we then turn for emphasis on the doctrine of flexible response to the air capability.

This base provides dual capable roles for the 401st and accounts for 75 percent of the southern flank's airborne nuclear deterrent. With the anticipated reduction in U.S. land-based nuclear systems in Europe, again associated with the drawdown of the ground troops, this role takes on additional importance.

From a forward deployed position unplanned contingencies both in the European theater and surrounding Mediterranean and Middle East region can be met on an instantaneous basis. With the basing in the continental United States, deployment of just the first squadron would take 8 to 10 days, critical, very critical often in these flash points of confrontation comparable to the one we are now witnessing in the Persian Gulf between Iraq and Kuwait.

Placing the 401st in the reserves would further increase mobilization time and would serve to prevent the unit from performing its critical nuclear mission. The NATO decision concerning the cost share of Crotona represents the first time—and I underline—the first time the alliance has agreed to use infrastructure funds for construction of a peacetime air base.

Previously the infrastructure account had been used to fund only minimum essential wartime facilities.

Mr. President, this was a decision that was carefully considered by the Senate Armed Services Committee. Of

course, the Senator is perfectly within his rights to bring this amendment in the course of deliberation of the bill on the floor, but I urge my colleagues to follow this debate very carefully because it has long-term impact on the relationships and the credibility of the United States as we continue to fulfill our role as a full NATO partner.

There is absolutely unquestioned adherence to the needs of this base from the President, Secretary of Defense, and Secretary of State. The National Security Council has considered this issue. I say to my friend from Illinois I hope he weighs carefully the impact of this decision on the future relations between the United States and our NATO partner.

I yield such time as the Senator from Wyoming requires.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. WALLOP. Mr. President, it is seldom in things military that I particularly disagree with my friend from Illinois. The first is that the Senate should be aware that what we do not spend on Crotona will be spent by NATO as infrastructure money. It is already committed. It is committed; obligations of infrastructure. It is not whatever may seem a cost that is not going to be incurred. This is a commitment of the United States to the NATO infrastructure and therefore will be spent.

But I call my friend's attention to the map over there and the bottom base. This is a map of all the bases in Europe. The bottom shows Crotona at the bottom of the boot of Italy.

I suggest that had we not first been involved in Crotona under earlier circumstances and arrangements that we would under no set of circumstances have chosen Torrejon over Crotona. Its strategic location of the defense of the southern flank of Europe and United States interest in the Mediterranean is absolutely imperiled.

The other basic worry that I have about the Senator's amendment deals directly with our relationship with NATO that none of us can predict for the next decade or even half decade. Events in Europe are moving so terribly quickly. But the strategic threat that Europe faces, not the conventional circumstances, is not only undiminished but increasing.

As we move into these astonishingly turbulent times in the relationship between allies as well as the new strategic and conventional circumstances that face us, it would seem more than unwise, it would seem really genuinely foolhardy for the Congress of the United States to make a policy, an irreversible policy statement to our NATO allies while they are struggling with the innumerable new sets of circumstances that confront them.

We now have or will soon have a new and newly united Germany with

Warsaw Pact forces and Soviet troops in that country, as well as German troops and NATO troops in that country. This is a complicated time for the foreign and defense ministers of the various countries who have been allies since the close of World War II.

It is not a time for the United States to back off on its word and commitment. It is not a time for the United States to toss a wrench into the machinery of NATO, which is not now, by anybody's admission, smoothly running. It is not smoothly running because the circumstances which NATO confronts are different from any which it has confronted in its history. And it may well be that at some moment in time the alliance which has maintained the longest period of peace in Europe in Europe's history may seek to dissolve itself.

But the Congress of the United States ought not to be the instrument of that dissolution, and I say to my friend that I think he runs a very strong risk of creating a chain of circumstances amongst our allies that would lead to that very circumstance.

If we separately in our collective alliance and in our democracy compete with each other on the threshold of unilateral disarmament, I suggest to my friend that nobody is the winner other than that broken giant called the Soviet Union.

We should not make these policy decisions here. We should not challenge the relationship between allies by unilateral action. Every single one of our allies support this relocation and are counting on the United States to see it through on our commitment and on NATO's collective commitment.

I once again say to my friend that no matter what he may think, this infrastructure money is already committed to NATO. The Defense Department has personally assured the Congress and all of us that there is no backsliding on the part of any ally or its commitments.

It would be unwise economically, diplomatically, and militarily, for the United States to reverse its position on Crotona after our allies, and in particular the Italians, have made the difficult political decision to make this move a part of the new NATO Alliance.

The return of the 401st Wing to the continental United States would be viewed by our allies and our adversaries alike as dramatically weakening our commitment to NATO, as well as our ability to conduct the defense of Europe in conjunction with our allies from the southern flank.

And we are witnessing, and nobody denies it, the reduction of the Soviet Warsaw Pact threat in the central region. But we still face enormous—and I am sure my friend, with the events in Iraq and the known instabil-

ity of Libya and other countries in the northern reaches or the southeastern reaches of the Mediterranean, would agree that there is basic instability and an enormous threat to the security and commercial and diplomatic interests of the United States, threats that cannot be confronted by a 401st based in the United States, and abandonment of the United States collective commitment to the whole security of Europe.

This is the region of Europe that shares the longest common border with the Soviet Union. And my friend knows, he has seen the intelligence, that there is no diminution of the Soviet strategic effort.

These are part of the strategic confrontation which has ensured and which continues to ensure the peace until such time as the relationship between the United States, the Soviet Union, the Western allies, and the Soviet Union and her allies materializes in much more clear terms than it is now. They are committing forces and money to their continued strategic buildup unlike any that they have done before.

Our U.S. Ambassador to NATO for burdensharing recently wrote that the presence of dual capable planes at Crotone ensures stability in the most volatile part of the world in which American and Western allies confront the common threat.

The 401st Tactical Fighter Wing is the only U.S. wing forward deployed, or would be, on the southeastern flank of NATO. Torrejon is gone. Crotone is not yet. Absent the two of them, there is no U.S. presence available to and cannot be contrived on the southeastern flank.

There exists, as I am sure my friend knows, a daily alert casting within NATO of which the 401st shares a part. This would have to be removed to other units. But removing it to other units removes as well the capability that we have committed to our NATO allies to participate with them in deploying.

Congress is not, the Senate is not, the place to make those decisions. We have defense ministers. We have foreign ministers or Secretaries of State; we have Prime Ministers and Presidents who rightly do those things.

For the U.S. Senate to act unilaterally outside the heads of any of those countries would, I think, be a tragedy of enormous proportion. But the biggest tragedy is that it leaves the United States' interest in the Mediterranean and the southern flank of Europe open, disregarding NATO completely, without a capability to ascertain our presence. When that is gone, should the amendment of the Senator prevail, when that is gone, I say to my friend, it is gone for good. We will not return. There will be no fast airlift that can bring us back.

And because of the dual role of the 401st, 75 percent of the southern flank's deterrent capability either exists or is gone. We have had, I say again, the longest period of peace in the history of Europe. The U.S. citizens, its taxpayers, and its soldiers have proudly been a part of making that happen.

This is a commitment that we made to our allies, and it is simply not possible for us, in any responsible way, to walk away from that, and especially, I say again, since there would be no savings for the people of the United States; our infrastructure budget is committed.

I reserve the remainder of my time. The PRESIDING OFFICER. Who yields time?

Mr. DIXON. I yield 5 minutes to the distinguished chairman of the Budget Committee, the senior Senator from Tennessee.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 5 minutes.

Mr. SASSER. I commend the Senator from Illinois for proposing this amendment. I might say when the base at Crotone was initially proposed at NATO, I participated in those negotiations to some extent. It was the first time we insisted NATO pay one-half of that base at Crotone. But since that time the world has changed dramatically. I think the requirement for an \$800 million F-16 base in Italy is simply not there any more.

I contacted General Galvin, the Chief of NATO, and suggested if there should be a continuing military requirement for a F-16 base in southern Europe, that we should move to a minimal base, simply an airfield, and rotate F-16's out of the United States to be located at that base on a temporary basis.

General Galvin turned down that request. The Air Force is insisting on going ahead with the original Crotone scheme.

The Crotone base is a very interesting base. It has been referred to by some in Europe as a theme park as much as an airbase. When we look at the schematics, we can see why. This \$800 million Air Force installation contains, among other things, a skeet and trap range, a rod and gun club, of course the traditional officers club, a youth center, both elementary and high schools. It also has a large block of land set aside for future recreation which I am reliably advised would be the golf course.

It also contains very adequate shopping facilities. It has a mall which contains a shoe repair shop, TV-radio repair, a tailor shop, laundry and dry cleaning, a new car sales facility, of course a barber and beauty shop, watch repair shop. Then the main exchange, the post exchange, has a flower shop, gift shop, toyland. Then

the base theater, of course, Mr. President, and the book store. The mini mall contains an auto parts sales facility, a videotape rental facility, an exchange vending warehouse. Then we come to the auto service center where there is a vehicle wash for the washing of private vehicles, a service station for fueling and servicing private vehicles, then, of course, a hotel, a secondary child development center, library, education center. The hotel contains a car rental facility. There is a physical training facility, and on and on.

Mr. President, that is one of the things that prompted my request to the Supreme Commander of NATO, that, if, indeed, an F-16 presence is necessary in Italy, it ought to be at least with a stripped-down minimalist base, which is an airstrip with fuel depots and ammunition depots, and, beyond that, temporary facilities to house ground crews and pilots as they were rotated in and out of the United States to cover that field. Instead, the Air Force apparently is insisting on going forward with a \$800 million gold-plated facility which has been characterized as a theme park.

I want to commend the Senator from Illinois for offering this amendment. Given the fiscal situation of the U.S. Government at this time, we simply cannot afford to be building brandnew bases as luxurious as this one in foreign lands, while we are closing military bases here in the United States.

Mr. SARBANES. Will the Senator yield for a question?

Mr. SASSER. I will be pleased to yield to the distinguished Senator from Maryland.

Mr. SARBANES. As I understand it, the Senator contacted the military and, in effect, inquired as to whether they would have a stripped-down base that would accomplish the military purpose but would not have this tremendous superstructure here that the Senator has just detailed. Is that correct?

Mr. SASSER. That is correct.

Mr. SARBANES. What reason was given for insisting on going ahead? Is this a \$1 billion cost we are talking about?

Mr. SASSER. The initial cost is \$800 million, I would say to the Senator from Maryland. But in all fairness, our NATO allies have agreed to pick up a portion of the cost.

There have been complaints emanating from some quarters in Europe as to the country club atmosphere that would be designed into this base.

Mr. WARNER. Mr. President, I am certain the Senator wishes to be accurate. Only 28 per cent is the U.S. cost, and the remainder is to be divided among the NATO countries.

In fairness to our colleagues, if the two distinguished Senators wish to dis-

cuss perhaps a reduced facility, then I would squarely ask my friend from Illinois, how could that be achieved if the Senate were to adopt this amendment and there would be no conferenceable item on which to get a reduced facility?

Mr. SARBANES. The response to that is it would be accomplished because I assume the commanders, who have turned down inquiries, that it seems to me are perfectly reasonable as to the extent of this facility, confronted with that situation, would go back to the drawing board and come in with something that makes more sense.

Second, let me say to my colleague, because it is an interesting point, the argument is, well, we are only going to pay 28 percent of the cost of this very expensive facility and the rest of it will be paid by the others. But the others ought to be paying money for other purposes.

The PRESIDING OFFICER. The 5 minutes allotted to the Senator from Tennessee has expired.

Mr. SARBANES. I thank the Senator for yielding for a question.

The PRESIDING OFFICER. Who yields time?

Mr. DIXON. Has my friend from Tennessee concluded, or does he need additional time?

Mr. SASSER. Perhaps 1 additional minute.

Mr. DIXON. I am prepared to yield to another Senator, but I will be happy to yield another minute.

The PRESIDING OFFICER. The Senator from Tennessee is recognized for 1 minute.

Mr. SASSER. I have a very high regard for General Galvin, the commander in chief of the United States forces in Europe. The reason he gives for not wanting to go with the bare base concept is the lack of suitability because this would lead to dissatisfaction, among other reasons, dissatisfaction by the Air Force. Of course, they are trying to retain as many of the air crews as possible in the service.

But I would say, given the attitude of the commander in chief of the United States European Command at this time, we appear to have no alternative except to go with the amendment of the Senator from Illinois to eliminate funding for the Crotona base.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I inquire of my distinguished friend from South Carolina as to the amount of time he would like to have?

Mr. HOLLINGS. I notice the distinguished Senator is limited to time. Three or four minutes maybe?

Mr. DIXON. Four minutes would be excellent. I yield to my friend.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I have a very pointed interest in air bases, Mr. President, inasmuch as DOD is attempting to close Myrtle Beach Air Force Base in my State. Myrtle Beach is worth some \$556 million. It is one of the only first-rate fighter fields on the eastern seaboard. Environmentally, the entire eastern seaboard is checkered with wetlands. Try these days to get a new airfield on the eastern seaboard. You will never get one. So Myrtle Beach is especially valuable in this respect. The only reason for its proposed closure is the phasing out of the A-10's.

I was in Europe last year with the distinguished chairman of the Defense Committee on Appropriations. Senator INOUYE and I were talking with the commander in Stuttgart, and we were talking about the proposed base down in Crotona. Everyone in this body should understand that Crotona would be nothing but a staging area. They do not fight off that field. It is to allow the fighters to be staged either in Spain or Italy, in order to fulfill their military mission down in Turkey. Senator INOUYE will well remember.

Instead of 2-week notification of a hostile Soviet move against NATO, we now can expect a year to a year and a half's notice. The distinguished chairman of the Armed Services Committee knows the reasons for this change in warning time. Specifically, now we can get all of the fighter F-16's that we possibly could want to muster for action in Europe from the eastern seaboard, easily refueled by KC-135's from the Charleston base or from Bermuda or the Azores. When we went to alert during the 6-Day War in Israel we did that. We did it again with the Libyan raid, flying all the way down from England to North Africa.

We have carrier groups in and near the Mediterranean to meet NATO's needs in this regard. It is absolute insanity to holler cut, cut, cut here in the continental United States, and then shell out hundreds of millions for a brandnew air base in Europe at exactly the moment when our enemy, the Warsaw Pact, is disintegrating.

I can tell you here and now, the Warsaw Pact is gone. We can rely now on a year's notice or more. We can get any fighter group we need to, over to Europe, to fulfill that mission in Turkey. There is a particular air base that I know of at Myrtle Beach, which is 1,000 miles closer than what DOD is talking about in Louisiana and Arizona.

Yes, I do have a home State interest, but I have an even greater interest in this country, which will pay this bill, and an interest in not wasting \$200 million. We are talking about a NATO that is being reinvented in light of a radically reduced threat. We must think anew, and act anew, and appropriate anew, and cut this frivolous

nonsense out of the budget. I thank my colleague.

The PRESIDING OFFICER. Who yields time?

Mr. THURMOND. Mr. President, I yield myself 4 minutes.

The PRESIDING OFFICER. The Senator from South Carolina is recognized for 4 minutes.

Mr. THURMOND. Mr. President, I will not take a great deal of time to express my objections to the amendment before us. A similar proposal was extensively debated last year during the Joint Conference and rejected.

Mr. President, I urge my colleagues not to succumb to the call that we should not be building overseas bases while we are closing bases at home. That argument, although politically pleasing, does not take into consideration the military reality.

In my judgment, there is no one more qualified to speak on the military reality than Gen. John Galvin, Commander in Chief, United States European Command. In a letter to ranking minority member of the Armed Services Committee, Senator Warner, the General wrote:

At a time when NATO forces face major reductions, it is vital that forces remain deployed in a balanced manner. Soviet force reductions in the Central Region have not reduced Soviet capability in the Southern Region. The 401st Tactical Fighter Wing's presence sends a strong signal to all nations underscoring U.S. interest throughout the Mediterranean area. It is absolutely necessary for stability and deterrence in the Southern Region that the wing be based at Crotona. If I had only two U.S. Air Force wings remaining in Europe, I would place one of them at Crotona.

I want to repeat that last statement of General Galvin, "If I had only two U.S. Air Force wings remaining in Europe, I would place one of them at Crotona." Mr. President, that statement was made by the senior military commander in NATO. I would hope that his judgment has some credibility in this body.

In last year's Defense Authorization Act, the Congress authorized continuation of the Crotona project but capped United States expenditures at \$360 million for the relocation of any military functions located at Torrejon, Spain, to any location outside the United States. This language protects the U.S. taxpayer from any additional financial burden in building the base.

It is also important to note that proceeding with construction of an air base at Crotona has no budgetary impact on the United States. The U.S. share of the money for the base will come from funds appropriated in prior years for the NATO Infrastructure account.

There is no money for Crotona in this authorization bill. If the money in the Infrastructure account is not used at Crotona, it will be used on other

NATO Infrastructure projects. No funds would be returned to the United States.

Mr. President, regardless of the diminished threat in Central Europe, the threat of turmoil in the rest of Europe—especially the southern region—still exists. Building the air base at Crotona will put our Air Force where it can best meet that threat.

I say in closing that one-half of Europe's oil now travels through the Mediterranean Sea.

Two years ago the United States made a commitment with NATO to move the 401st to Crotona and NATO has lived up to its end of the deal.

United States influence in NATO is premised on reliability and the commitment of forces in Europe. Now is not the time to cut and run.

I think this amendment ought to be defeated, Mr. President.

I hope the Senate will do so.

Mr. President, I yield 2 minutes to the distinguished Senator from Indiana.

The PRESIDING OFFICER. The Senator from Indiana is recognized for 2 minutes.

Mr. COATS. Mr. President, I thank the Senator for yielding. It takes more than 2 minutes to make the case for Crotona. I think it has been well made, but I will add a few extra points.

How anybody at this particular time, with the conflict that is currently underway in the Middle East, with the tensions that are rising by the hour, could suggest that the United States remove presence from the southern flank of NATO and not have a tactical air availability to deal with potential security threats in the Middle East is beyond me. How we can stand here and say that there is no need for a U.S. or a NATO presence from an air standpoint on the southern flank of NATO, with the tensions rising in the Middle East, just stuns me.

Why this amendment is before us, why we are even discussing this seems beyond belief. Yes, we see diminished tensions in Europe. Yes, we need to reduce our presence there. But if there is one area of the world that the threat is not diminishing but is increasing, not daily but by the hour, it is in the Middle East. For us not to have a presence close to that area, I think, is a disastrous policy.

We ought to be joining in with our NATO allies in this unprecedented acknowledgment and agreement whereby we burden-share the cost of this and, as Senator THURMOND from South Carolina said, no additional funds will be expended because this comes out of an infrastructure account already committed to NATO, and if it is not spent here, it will be spent somewhere else.

The PRESIDING OFFICER. The Senator's 2 minutes have expired.

Mr. COATS. When the Commander in Chief tells us this is his most important priority, we ought to give him that priority.

The PRESIDING OFFICER. Who yields time? The Senator from Virginia has 4 minutes and 50 seconds.

Mr. WARNER. Mr. President, I will momentarily defer to others, but I want to inquire of the Senator from Delaware if 2 minutes will enable him to deliver his remarks? I yield 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 2 minutes.

Mr. ROTH. Mr. President, I would like to take this opportunity to congratulate the senior Senator from the State of Virginia for the arguments which he has put forward so clearly in favor of this Nation living up to its NATO obligations vis-a-vis Crotona Air-Base in Italy.

Mr. President, this Nation is a member of a highly successful alliance—the North Atlantic Treaty Organization. This 16-member alliance has proved to be a highly successful institution. It has sheltered the democratic nations of the West throughout the cold war and its firmness and cohesion, in my opinion, have done a great deal finally to convince the Soviet Union that its pursuit of the military dominance of Western Europe was futile.

Sometimes, Mr. President, when I listen to our defense debates on the floor of the Senate, I frequently notice that we conduct our affairs as if we were alone in the world, free to act unilaterally, unhindered by alliances and obligations. I say this because membership in an alliance, Mr. President, brings with it responsibilities as well as privileges. Membership in NATO obliges us to live up to our obligations to our allies and to act in concert with them. In the past, we have often demanded that our allies cooperate more closely with us, gearing their defense budgets more closely to ours. In fact, the senior Senator from Georgia and I once came to the floor to inform our European allies that, unless they lived up to their defense budget commitments, we would suggest that the United States reduce its own commitment to Europe.

So Mr. President, having demanded the cooperation and consultation of our European allies in the past, are we now to act unilaterally, spurning the advice of our allies in an effort to act unilaterally? As the senior Senator from Virginia has pointed out, the funds for the construction of Crotona Air Base are drawn from the NATO infrastructure account—an account to which all the members of NATO contribute. Under these circumstances, Mr. President, I would submit that it is much more appropriate that the future of Crotona Air Base be decided

by the North Atlantic Treaty Organization—not by the U.S. Senate. If, indeed, as has been alleged, the Crotona Air Base has been goldplated by the U.S. Air Force, then I am sure that neither we nor our allies want to pay for that goldplate. Any concerns we may have on this matter can be dealt with effectively in NATO.

As the senior Senator from Virginia has pointed out, approval of this amendment would not result in any savings in this year's defense budget. Approval of this amendment would merely lead to a redistribution and reallocation of funds within a multi-lateral account which we have promised to disburse on a cooperative, multi-lateral basis. It would be a tragedy, in my opinion, Mr. President, if the United States were now to break away from its allies—who have gone to a great deal of trouble to construct a consensus on the Crotona issue—in order to act unilaterally. The Government of Italy, in particular, has gone to a great deal of trouble to see that the 401st can move from Torrejon to Crotona. That Government deserves our thanks, not our humiliation.

I believe that the Crotona project will proceed, Mr. President. If it is not to go ahead, then that decision should be made by NATO—and all the members of NATO—not by the U.S. Senate.

The PRESIDING OFFICER. The Senator from Virginia has 2 minutes and 30 seconds left. The Senator from Illinois has 11 minutes and 10 seconds left.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DIXON. I yield myself such time as may be necessary.

Mr. President, the most amazing statement I have ever heard in my almost decade now in the Senate is the suggestion by somebody on the other side that this does not cost any money. Mr. President, there is no free lunch. This is NATO money. It is mostly our money.

My friend, the manager on the other side, says we are obligated for 28 percent. The truth is Uncle Sam in its usual generosity has agreed to pay 42 percent. They said years ago the base could be built for \$800 million. It will cost over \$1 billion.

I just want to let the folks in America and back in Illinois, where they closed Chanute and put thousands of people in a town called Rantoul, with 20,000 people, out of work, and real estate values dropped by over 50 percent overnight, look at this base. I would like them to look at it.

Can the camera show it, Mr. President? Can the camera show the golf course down here? A beautiful golf course. Can the camera show the skeet and trap range, Mr. President? Can it show the hotel? Can it show the bar and saloon? Can it show the sports

complex? Can it show the youth center, the high school, the country club?

Listen, Mr. President, I want the folks back home to know how good we do it overseas when we give up a hometown in Illinois.

Mr. President, can they see the boulevards, and the beautiful trees, and all the nice development our Italian friends are going to have next to Croton Air Base? Oh, Mr. President, a nice shopping center. Hot dog. Oh, boy, a base theater. Wonderful. A bookstore. Nice. Good reading. Snack bar, community recreation facility. Oh, looky there, folks, what we are going to do in Croton, Italy, that is not going to cost anybody, somebody said. Folks, if you believe that, do not ever vote for me again, if you believe this will not cost anything.

Now, Mr. President am I still on my time?

The PRESIDING OFFICER. The Senator from Illinois has 8 minutes and 35 seconds.

Mr. DIXON. I want to tell you something else. Somebody said you have to have this base in Croton, Italy, to defend the world. If you went to southeast England, where they would be glad to have us, it is no further a trip for those F-16's. We have the 6th Fleet in the Mediterranean steaming around every day. What are they supposed to be there for with all those airplanes? We have bases in Italy now. We have bases in Greece now. They have F-16's in Turkey.

You are not talking to a dove. I just voted for the B-2, and sustained the Chair on every one of those rollcalls. My friends in this Senate know ALAN DIXON. We are cutting billions out of this budget.

In my subcommittee, the job that the Chair gave me, I kept my credentials by cutting \$6 billion. We are working out in the hallway right now with my friend from Michigan, Senator LEVIN, to cut out some more. They want to build golf courses, and country clubs, and saloons, and hotels in Croton, Italy, that is not going to cost anything. Lordy.

How many minutes do I have?

The PRESIDING OFFICER. The Senator from Illinois has 7 minutes, 25 seconds.

Mr. DIXON. I think I will reserve that and hear what they say in the last 2 minutes.

The PRESIDING OFFICER. The Senator from Virginia has 2 minutes and 29 seconds.

Mr. WARNER. Mr. President, if I may in a dispassionate way continue to address what many of us regard as a very serious issue—and to my friend, who is the chairman of the subcommittee on the Armed Services Committee that deals with this, I ask him in the sense of fairness to go back and re-

visit the question of the U.S. percentage.

The Senator from Illinois used the figure 42 percent. I ask if he would not reconsider. That 42 percent was before Congress imposed a cap last year. That cap resulted in the figure of 28 percent, which is the U.S. allocation of these costs.

Mr. DIXON. If my friend will let me answer, I would like to respond. And he is my friend; I respect him greatly.

Mr. WARNER. Mr. President, will the Senator respond on his time, because we are very short of time.

Mr. DIXON. I will respond on my time, Mr. President, "Review of Construction Plans in Support of Croton Air Base. Report Submitted to the Committee on Appropriations, United States Senate by the Majority Clerk, Subcommittee on Military Construction, April 1990." Page 3.

"Although the U.S. share of the NATO infrastructure is 28 percent, the United States in this case will provide 42 percent in total base construction."

The \$370 million my friend refers to is the cap that we put on last year. All I am saying is take away the \$370 million and save \$370 million more.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I have handed to the staff of the Senator from Illinois a proposed amendment. The Senator from Virginia sends a copy of that amendment to the desk and I ask unanimous consent it be printed in the RECORD.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 329, between lines 17 and 18, insert the following new section:

SEC. 2815. LIMITATION ON MILITARY CONSTRUCTION IN CONNECTION WITH THE TRANSFER OF 401st TACTICAL FIGHTER WING TO CROTON, ITALY

Funds appropriated to or for the use of the Department of Defense may not be obligated for construction in connection with the transfer of the 401st Tactical Fighter Wing to Croton, Italy, except for construction of such facilities as may be essential to perform military operations, including the operation of aircraft, maintenance activities, billeting for assigned personnel, and other activities required to support deployed operations.

Mr. WARNER. The unanimous-consent request as drafted does not permit the amendment of the Senator from Illinois to be amended in the second degree, but his colleagues brought to his attention the importance of trying to fashion a revision in the Senate bill that would enable the Senate, when it conferences with the House, to at least consider a scaled-down version of this vital base.

I am wondering if the Senator from Illinois would think that would be a wise objective, to give the flexibility to the Senate Armed Services Committee

during the course of the conference to revisit this important issue and do so within the framework of an amendment which I am freely suggesting that he craft that would provide the flexibility for the Senate conferees to at least during the course of the conference look at a scaled-down version of this important facility.

So at this time I simply pose to my friend the question—and we will have to go back and revisit the unanimous-consent request—could he perhaps in another way fashion this amendment? Will the Senator answer on his own time?

The PRESIDING OFFICER. The time of the Senator from Virginia has expired.

Mr. DIXON. May I say to my friend, and I mean no disrespect when I say it, this Senator feels very deeply that this is an outrageous expenditure of public funds in an area of the world where we are well represented by many military bases. I would not want to in any way change the thrust of the amendment I have already offered. I regret to say to my colleague I do not want to do that. He is my friend, and I greatly appreciate his contributions in the committee and in the Senate over the years.

The PRESIDING OFFICER. The Senator from Illinois has 5 minutes and 44 seconds.

Mr. DIXON. I would be delighted to yield some time to my friend from Arkansas. I have 5 minutes left. Would he accommodate me by taking 3?

Mr. BUMPERS. Two or three minutes.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 3 minutes.

Mr. BUMPERS. Mr. President, I had no real intention of getting involved in the debate, and as far as the work the Senator from Illinois has done on this, I applaud him. I am not in the league with him in having prepared for the pros and cons of whether we ought to build this base in Croton, Italy.

But I do want to say that the Senator from Illinois is still properly smarting from a hit he took in his home State by the recommendations of the Carlucci Base Closing Commission. I have been by Chanute AFB, IL, many times. I went to Northwestern University in Chicago, and my wife Betty and I used to find a different way to go back and forth from Chicago to Arkansas to break the monotony. We went through Rantoul every once in a while, near Chanute Air Force Base, one of the oldest in the country.

I will be offering an amendment on base closing during the debate on this bill. Take Mississippi County, AR, 1 of the 10 poorest counties in America, as another example. Eaker Air Force Base, a B-52 base, is located there, and it is on the Secretary's list to close. I

am not saying it should not close, though I don't think it should. I will debate that further later on.

I can tell you that what my friend from Illinois said about Rantoul, IL goes for Mississippi County, Arkansas. The day Secretary Cheney listed Eaker Air Force Base on his base closing list, in Mississippi County, 1 of the 10 poorest counties in America, you could not give a house away there. People quit buying. Retail businesses were at a standstill. Those people, to say they are frightened would be an understatement. They are terrified.

I know bases have to be closed. If they have to be closed, I want them closed in an orderly manner based on what our force posture is going to be for the next 5 years, not some random, sit-around-the-table and have a conversation with oneself. I cannot tell you the economic disaster that this creates in a town of 20,000 people, which is Blytheville, AR, in Mississippi County.

Mr. President, we are talking in terms of human misery. If I wanted to, if I wanted to vote for Crotona, how would I go home and tell the people of my State and Mississippi County and Blytheville that we are getting ready to participate in the building of \$1 billion base in southern Italy, while we close or realine 35 bases in this country?

Why do we insist on punishing our own people? We have to have overseas bases. But as the Senator from Illinois has pointed out, we have them. We have lots of overseas bases. We simply do not need as many as we have.

So why not give the American people a break and say—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BUMPERS. I hope the Members of this body will support the Senator from Illinois.

Mr. WARNER. Mr. President, at the expiration of the time of the Senator from Illinois, I will move to table. If the Senate supports that motion, it would be the intention of the Senator from Virginia to submit an amendment in due course along the lines with the one at the desk which would enable a scaled-down version of this base and enable the Senate Armed Services conferees to negotiate in conference.

Mr. DIXON. I thank my colleague.

Mr. President, I will simply conclude by saying it has been an excellent debate. I appreciate the contribution of every one of my colleagues on both sides.

I remind my friends again we have the Sixth Fleet in the Mediterranean; we have bases now in Italy; in Greece, Turkey has F-16's. In Torrejon, Spain the F-16's, if they want to keep them in the region, could be sent to the southern part of England. We have plenty of tactical presence in that part

of the world. We ought to save this money.

There is an opportunity in a year when we want to save money to save hundreds of millions of dollars. I implore my colleagues to support the amendment that does exactly that.

I yield the floor.

Mr. KOHL. Mr. President, I will vote for the amendment offered by Senator Dixon to prohibit funding for the construction of the United States Air Force base in Crotona, Italy. But I do so with mixed emotions.

Clearly the base, as designed, is inordinately expensive. It is gold plated; even if a base was justified militarily, this base is not justified economically. And in terms of the military justification, we need to review the need for the base in terms of the reduced threat to NATO from the Soviets and the limited role that the F-16's based there would be able to play in dealing with any non-NATO threat. Given these considerations, the military need for the base is not compelling.

I am, however, troubled by the symbolic implications of terminating construction. We want to reduce our military presence in Europe but we do not want anyone to conclude that we have reduced our commitment to Europe. For that reason, I hope that the suggestion made during the debate by Senator WARNER—that the administration submit and the conference consider a more modest base design—will be given serious consideration. But if the choice is between constructing this base as designed and cancellation, then I would be compelled to favor cancellation.

Mr. DIXON. I yield the remainder of my time.

Mr. NUNN. Have the yeas and nays been ordered?

Mr. DIXON. I ask for the yeas and nays.

Mr. WARNER. Mr. President, I move to table, and ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Georgia has the floor.

Mr. NUNN. I yield the floor.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Virginia to lay on the table the amendment of the Senator from Illinois.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "yea."

The result was announced—yeas 51, nays 47, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—51

Biden	Garn	McConnell
Bond	Gorton	Murkowski
Boren	Graham	Nickles
Boschwitz	Gramm	Nunn
Bradley	Hatch	Packwood
Burns	Heinz	Robb
Byrd	Helms	Roth
Chafee	Jeffords	Rudman
Coats	Kassebaum	Sanford
Cochran	Kasten	Simpson
Cohen	Lautenberg	Specter
D'Amato	Lieberman	Stevens
Danforth	Lott	Symms
DeConcini	Lugar	Thurmond
Dole	Mack	Wallop
Domenici	McCain	Warner
Durenberger	McClure	Wirth

NAYS—47

Adams	Fowler	Levin
Akaka	Glenn	Metzenbaum
Baucus	Gore	Mikulski
Bentsen	Grassley	Mitchell
Bingaman	Harkin	Moynihan
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Hollings	Pryor
Burdick	Humphrey	Reid
Conrad	Inouye	Riegle
Cranston	Johnston	Rockefeller
Daschle	Kennedy	Sarbanes
Dixon	Kerry	Sasser
Dodd	Kerry	Shelby
Exon	Kohl	Simon
Ford	Leahy	

NOT VOTING—2

Armstrong Wilson

So the motion to lay on the table amendment No. 2495 was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF PROCEDURE

Mr. WARNER. Mr. President, the Senator from Virginia represented that at an appropriate time he would consult with the distinguished chairman of the Armed Services Committee to effect a possible solution pertaining to amendments.

The PRESIDING OFFICER (Mr. SHELBY). The Senator from Georgia.

Mr. NUNN. Mr. President, I understand that Senator THURMOND has an amendment that will not take long; Senator GLENN has an amendment; Senator ROTH has an amendment; Senator DIXON has another amendment; Senators BINGAMAN, GORE, and MCCAIN have an amendment. So we have five amendments that people are lined up and ready to go on.

I ask the Senator from South Carolina is he willing to have a time agreement?

Mr. THURMOND. Yes; 5 minutes to a side. I think it will be accepted. There is no opposition on it.

Mr. NUNN. I yield the floor. We will take it without a time limit.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the Senator from Georgia enumerated a number of amendments. It was the clear understanding that none of those amendments relate to SDI.

Mr. NUNN. I do not know any relating to SDI. I am not asking unanimous consent.

Mr. WARNER. I am not either. I want to make that point clear for certain Senators on this side. In the judgment of the Senator from Virginia, it is not likely we will bring up the SDI issue tonight.

Mr. NUNN. I think that is probably the right judgment. We really want to get a time agreement when we bring that up. I understand the importance of it. I hope by tomorrow morning we will be able to discuss some kind of time agreement.

Mr. WARNER. I join the chairman in that wish.

The PRESIDING OFFICER. The Senator from South Carolina.

AMENDMENT NO. 2496

(Purpose: To recognize and commend the Battle of the Bulge Historical Foundation in its efforts to create a gallery in the U.S. Army Museum, Fort George G. Meade, MD, to commemorate the Battle of the Bulge)

Mr. THURMOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from South Carolina, [Mr. THURMOND] for himself, Mr. DOLE, and Mr. HEFLIN, proposes an amendment numbered 2496.

Mr. THURMOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 223, line 24, insert the following new section:

SEC. 1216. COMMEMORATION OF THE EFFORTS OF THE BATTLE OF THE BULGE HISTORICAL FOUNDATION

(a) FINDINGS.—Congress makes the following findings:

(1) The Battle of the Ardennes-Alsace Campaign of World War II, commonly known as the Battle of the Bulge, was fought in the Ardennes region of eastern Belgium and northern Luxembourg, from December 16, 1944, to January 25, 1945, in the deepest snow and during the coldest temperatures in the memory of the inhabitants of the region.

(2) Six hundred thousand members of the Armed Forces of the United States fought in the Battle of the Bulge, making the battle the largest land battle ever fought by United States military forces.

(3) The battle claimed 81,000 United States casualties, including 19,000 killed.

(4) In 1988, many of the veterans of the battle, including the 7,000 member organization known as the Veterans of the Battle of the Bulge, organized the Battle of the Bulge

Historical Foundation to commemorate the heroic sacrifices made by the men and women who saw action during the Battle of the Bulge, to pay homage to the servicemen killed in that battle, and to inform the present and future youth of this Nation regarding the costs of war and the price of liberty.

(5) The efforts of the foundation are directed toward expanding the existing United States Army Museum, located at Fort George G. Meade, Maryland, to include a gallery dedicated to the battle, the participants of the battle, and World War II.

(6) The Museum and the foundation have agreed to act jointly to achieve goals relating to the commemoration of that battle.

(7) Installation of a gallery at the museum will result in the museum having the only gallery in the United States devoted exclusively to commemorating that battle.

(8) The Battle of the Bulge Historical Foundation has set as a goal to raise \$1,500,000 by December 16, 1994, the 50th anniversary of the battle, to accomplish the objective of appropriately preserving the memory of the battle.

(b) RECOGNITION AND COMMENDATION.—In light of the findings in subsection (a), Congress recognizes and commends the efforts of the Battle of the Bulge Historical Foundation to provide for the installation of a special gallery at the United States Army Museum at Fort George G. Meade, Maryland, devoted to the collection, preservation, and exhibition of military artifacts relating to the Battle of the Bulge and to commemorate that historic battle.

Mr. THURMOND. I do not think there is any opposition. I think they will accept the amendment.

Mr. President, Senator DOLE and Senator HEFLIN join me in cosponsoring this amendment, which is similar to Senate Joint Resolution 348, which I introduced on July 13, 1990.

The purpose of the amendment is to recognize and commend the Battle of the Bulge Historical Foundation in its efforts to create a gallery in the U.S. Army Museum at Ft. George G. Meade, MD, to commemorate the Battle of the Bulge.

Mr. President, the Battle of the Bulge Historical Foundation has set a goal to raise \$1.5 million in donations to finance the Battle of the Bulge gallery at the Ft. Meade Museum. No public funding will be required.

The Department of the Army supports this effort to commemorate what Winston Churchill described as "undoubtedly the greatest American battle of the war which will, I believe, be regarded as an ever-famous American victory."

Mr. President, I ask my colleagues and the committee to support this amendment and join Senator DOLE, Senator HEFLIN, and me in our effort to commemorate the sacrifices of the 19,000 servicemen killed in this historic battle which ultimately led to our victory in Europe.

Mr. President, to save time, I ask unanimous consent that my July 13 statement on Senate Joint Resolution 348 be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

STATEMENT BY SENATOR STROM THURMOND INTRODUCING JOINT RESOLUTION TO SUPPORT THE BATTLE OF THE BULGE MUSEUM AT FORT MEADE, MD, JULY 13, 1990

Mr. President, I rise to introduce a Joint Resolution of the Congress to recognize and support the efforts of the Battle of the Bulge Historical Foundation and to encourage American awareness and participation in development of a museum as a memorial to Americans who fought in the Battle of the Bulge in World War II. This memorial museum will be an addition to the U.S. Army Museum at Fort George G. Meade, Maryland and be named the Battle of the Bulge Gallery.

The Battle of the Bulge (Ardennes-Alsace Campaign in World War II), described by many as the ultimate and decisive struggle between freedom and oppression was fought from December 16, 1944 to January 25, 1945.

In mid-December 1944, the coldest, snowiest month within the memory of those living in the area, three powerful German armies plunged into the semi-mountainous, heavily-forested Ardennes region of eastern Belgium and northern Luxembourg. Their goal was to reach the sea, trap four Allied armies and impel a negotiated peace on the Western front.

Believing that his daring surprise attack would split the Anglo-American alliance, Hitler envisioned the greatest German victory since the time of Frederick the Great.

Mr. President, although the Germans achieved total surprise, the individual American soldiers outnumbered, alone, often surrounded and initially without any form of support—fought valiantly in many small, sometimes individual actions. Every action that delayed the onslaught for even a minute dearly bought precious time—enabling the existing troops to reorganize an adequate defense and permit the redeployment of troops sufficient to stem the German tide and recapture the newly taken German territory. Within days, the determined American stand and the arrival of powerful reinforcements ensured that the ambitious German goal was far beyond reach. In snow and sub-zero temperatures on Christmas Day, the Germans fell short even of their interim objectives—the sprawling Meuse River on the fringe of the Ardennes.

Far from reaching the coast, demoralizing the Allies and setting the stage for a negotiated peace, the German army succeeded only in creating a "bulge" in the American line. While Germany expended irreplaceable men, tanks and airplanes, the battle became the biggest, costliest, most desperate action ever fought by the U.S. Army. Four weeks later, after grim fighting in bitter cold and snow, that bulge ceased to exist.

Mr. President, Winston Churchill would later call the American victory one of the greatest of World War II.

Always cold and tired, all the combatants knew what they felt. Many men were sent back with frozen hands and feet. The daytime temperature was usually about 15 degrees with a windchill factor of minus 30 or 40 degrees. The foot-high blanket of snow formed huge snowdrifts. Combat continued in fog, ice and rain, and the battle-ground was rugged, partially mountainous and thickly forested.

Widely recognized as the ultimate turning point in the War in Europe, ensuring Allied victory, the Battle of the Bulge cost both sides dearly. It is estimated that more than one million soldiers took part: 600,000 Americans and 500,000 Germans; German casualties reached 100,000. The Allies lost 19,000 lives, 47,500 were wounded and more than 23,000 were reported missing. Each side also incurred massive material losses; Germany sacrificed more than 800 tanks and 1,000 aircraft.

Mr. President, it was on the 18th of December 1944, that the 82nd Airborne, under the command of Major General James Gavin, entered the Battle, as did the men of the 101st Airborne. The 101st would go to Bastogne. The 82nd went to Werbomont on the north shoulder of the Bulge, which held open the corridor through which Americans escaped. These events have left an indelible imprint on millions of Americans while changing the course of history.

Shortly after the Germans disengaged, a Belgian school teacher reentered his devastated classroom in Champs to find written on his blackboard:

"May the world never again live through such a Christmas night. Nothing is more horrible than meeting one's fate, far from mother, wife and children. Is it worthy of man's destiny to bereave a mother of her son, a wife of her husband or children of their father? Life was bequeathed us in order that we might love and be considerate to one another. From the ruins, out of blood and death shall come forth a brotherly world—(signed) a German officer."

Mr. President, this legacy must be preserved for our descendants. It must remain vibrant in our heritage, so that the sons and daughters of all future generations of Americans may learn about and remember the lessons of this fierce combat which protected their freedom.

As a member of the First Army in the Battle of the Bulge, I personally experienced the horrors and bitter cold of this historic battle. I recall the devastation of the German artillery. Also, at one time, this onslaught of German buzz bombs hit within a short distance from me killing soldiers only two vehicles behind me.

As the keepers of the flame, we must ensure that this brave chapter in our proud history not be lost. We must continually search for ways to help the dangers of oppression from fading from our memory. There must be tangible symbols to remind present and future generations of the harsh reality of the Battle of the Bulge to defeat Hitler's relentless aggression and European domination.

Mr. President, this proposed Museum of the Battle of the Bulge is that tangible symbol. I urge my distinguished colleagues to support this worthy effort by approving this Joint Resolution to recognize the significance of this museum.

Mr. President, I ask unanimous consent that the joint resolution follow my remarks in the RECORD. Also joining me on this joint resolution are Senator Dole and Senator Heflin, and I am sure others will want to join in this worthy effort.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Georgia.

Mr. NUNN. Mr. President, I urge acceptance of the amendment. It has been cleared on both sides, to my

knowledge. I would also like to be added as a cosponsor.

Mr. THURMOND. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Georgia, the chairman of the committee, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment of the Senator from South Carolina.

The amendment (No. 2496) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. THURMOND. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that the Senator from Virginia be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NUNN. Mr. President, the Senator from Delaware is now on the floor. Will the Senator identify the amendment he would like to bring up? I am trying to give our colleagues some idea about how long before a rollcall vote. I ask the Senator from Ohio the same thing, to identify his amendment.

Mr. ROTH. I do not think either one of my amendments will require a rollcall vote. I believe they are going to be acceptable to both sides.

Mr. NUNN. Will the Senator from Ohio identify his amendment.

Mr. GLENN. Mr. President, I have two, one is on the sensitive Government positions pay raise. That will not require a vote. Another one that will be agreed to is on the lab test program, and I will have a colloquy with the chairman on the definitions of the "fly before buy."

Mr. NUNN. Have all of those been cleared?

Mr. GLENN. They have not all been cleared. They are in the process of being cleared now.

Mr. NUNN. If we took up the Roth and the Glenn amendments, I guess there would be a 30-minute period before we have any kind of rollcall. It could be 45 minutes. I cannot guarantee that. It is also my understanding the majority leader intends to bring up some kind of time agreement on a resolution concerning Iraq. I do not know when that will be, but it will be this evening. So we are going to have some more rollcall votes this evening. I know of at least two.

AMENDMENT NO. 2497

(Purpose: To express the Sense of the Senate concerning the closure and realignment of U.S. military facilities in the Federal Republic of Germany)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH] proposes an amendment numbered 2497.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

The Government of the United States has publicly committed itself to the reduction of the military forces which it deploys in Western Europe in general, and in the Federal Republic of Germany in particular;

The United States Army already is drawing up plans for the closure and realignment of United States military facilities in the Federal Republic of Germany;

Many United States military facilities in the Federal Republic of Germany are located on municipal property of high value.

The continuance of cordial relations between the peoples of the United States and Federal Republic of Germany is a matter of major concern, both for the health of United States-German relations and the strength of the North Atlantic Treaty Organization: Now, therefore, be it

The Sense of the Senate that the Department of Defense should, whenever possible, consult closely with the central, state and municipal authorities in the Federal Republic of Germany with a view to closing those United States facilities located in municipal areas with high property values, particularly when those facilities could be developed for commercial or residential purposes.

Mr. ROTH. Mr. President, this Nation has committed itself to reducing the numbers of military personnel and the amount of military equipment which the Soviet Union and the United States currently maintain in Europe. The negotiations which are designed to achieve this end—the conventional Armed Forces in Europe talks, taking place in Vienna—are proceeding and the road before us is clear. United States and Soviet European deployments are going to be reduced substantially and it now behooves us to plan the transition to a much smaller United States military establishment in Europe.

Currently, the bulk of the forces which this Nation maintains in Europe are stationed in the Federal Republic of Germany. Consequently, the FRG will witness the most noticeable draw-down of United States forces over the next few years. This development will, I am sure, be welcomed by the people of West Germany, particularly since the reduction in the military presence will coincide with, and will facilitate, their unification with their fellow Germans in the now almost defunct German Democratic Republic.

Mr. President, though this development may be welcome, it will need to be managed carefully. NATO may be reducing its military deployments, but

it will remain a most invaluable institution. It may take on a more overtly political, as opposed to security, role, but few commentators believe that NATO will be able to abandon all of its military responsibilities completely or to cease deploying some troops on German territory. The task before us, therefore, is to insure that this smaller number of troops remain welcome on German soil.

I believe that the careful management of the drawdown of United States forces in Germany will be crucial in this regard. When studying this question, Mr. President, it is vital to bear in mind that, unlike this country, Germany is, demographically speaking, extremely dense. The stationing of United States troops on German soil, consequently, has an extraordinary impact upon everyday German life. Even minor exercises can tie up civilian traffic. Property which, in most countries, would be developed for civilian use must, in Germany, be reserved for the military.

The German people generally have not complained about this disruption and intrusion. After all, NATO could not be held responsible for the accidents of geography. Moreover, the disruption experienced in their lives was the price they had to pay for protection against a strong, and threatening enemy in the East. However, I do not believe any of us will be surprised when I say that the people of West Germany are going to be less willing to have their lives disrupted by military exercises and by the military presence when the threat from the East is clearly retreating.

However, Mr. President, this potential problem can be neatly avoided if we properly manage the reduction of United States forces in Germany. To be specific, Mr. President, the sense of the Senate amendment which I have sent to the desk instructs the Pentagon that, as it studies how to reduce our forces in Germany, it should concentrate upon closing facilities which are located on high value municipal property, particularly where the continued maintenance of such a facility could prove a serious hindrance to commercial and residential development.

At one time, our military might have been obliged to locate its bases in Germany in certain places in order to fulfill their military role. However, as the threat of a lightning strike by Warsaw Pact forces retreats over the horizon, the actual location of United States and other allied forces in Germany is not a matter of any great moment. So long as they are there, in minimal numbers, they will be carrying out their task, deterring attack and underwriting the transatlantic security commitment.

Consequently, I see now reason why this country cannot plan and accom-

plish the reduction of its forces in Germany in cooperation with the Government and people of West Germany and why a key element in this plan should not be the United States vacating of high value municipal property in order that the continued American presence should have the least possible impact upon the civilian economy. I believe that our German friends deserve this consideration on our part and I urge that the Senate adopt this amendment.

Mr. NUNN. Mr. President, we have been over this amendment with the Senator from Delaware. I think it is a good amendment. I think it makes sense. I think it makes sense from the United States point of view. I think it is a good policy from the point of view of Germany. I urge its adoption.

Mr. GORTON. I agree entirely with the remarks of the distinguished Senator from Georgia. It is a good amendment. We recommend its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment of the Senator from Delaware [Mr. ROTH].

The amendment (No. 2497) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. I ask unanimous consent that Senator DANFORTH be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2498

(Purpose: To require the Secretary of Defense to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization to utilize, for NATO training and exercise purposes, those military installations in the United States scheduled for closure by the Department of Defense.)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH], for himself and Mr. McCONNELL, proposes an amendment numbered 2498.

Mr. ROTH. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY AND REPORT BY THE SECRETARY OF DEFENSE.

(a) IN GENERAL.—The Secretary of Defense shall conduct a study to determine the feasibility and desirability of permitting the

North Atlantic Treaty Organization (NATO) to utilize, for training and exercise purposes, military installations in the United States being closed by the Department of Defense. In carrying out such a study, the Secretary shall consider—

(1) the exact purposes for which such installations could be appropriately and effectively used by NATO; and

(2) the manner in which NATO would pay for the use of such installations.

(b) REPORT.—The Secretary shall submit to Congress a report containing the results of the study required by subsection (a) together with such comments and recommendations the Secretary considers appropriate.

(c) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (c) not later than January 1, 1991.

Mr. ROTH. Mr. President, the amendment which I have sent to the desk on behalf of myself and Senator McCONNELL is designed to confront a problem which we and our allies in the North Atlantic Treaty Organization repeatedly face when we try to conduct joint training maneuvers under realistic circumstances.

During recent years, it has become increasingly difficult for NATO forces to conduct a large-scale maneuvers on European soil. The relatively small scale of the theater, combined with its high population density, insure that any military operation has a massive disruptive impact upon everyday civilian life, often out of all proportion to its military value. Consequently, such operations are increasingly unpopular in Europe in general and in West Germany in particular.

Of course, Mr. President, the problem which pertains in Europe would not bother us here in the United States. I say this because we have the luxury which comes with wide open spaces and an excess of military bases. Our military can practice its maneuvers and low-level flying on large military reservations.

We have no shortage of such facilities. To the contrary, we are now trying to close down some of these military facilities, because we have more than we need. Our excessive number of domestic military bases cause me to ask, Mr. President, whether we here in the United States may hold the key to NATO's Military Training Program.

Simply put, NATO faces a critical lack of training facilities in Europe while the United States suffers from an excessive number of such facilities on its own soil. Would it not be excellent sense, at least to explore the possibilities of leasing some of our surplus military bases to NATO in order that we and our allies can use them to conduct the type of large joint exercises which we need to bring our forces to their maximum effectiveness?

NATO already has a large infrastructure fund. This fund could finance the annual operations and maintenance of these facilities, while

the United States would retain title to the property. Different national members of NATO could send elements of their armed forces to these bases for different periods of time in order to participate in cooperative training exercises, free of the many constraints associated with mounting such operations in Europe.

There are two other advantages inherent in such a proposal. First, as we reduce the size of U.S. Armed Forces in general, and of our European deployments in particular, we must improve the effectiveness of the remainder of our forces. For years we have known that improved effectiveness in Europe could be gained only through enhanced cooperation. I truly believe that the establishment of NATO training bases, as opposed to national training bases, will make progress toward greater cooperation.

Second, we and our allies have always insisted that the presence of some U.S. forces in Europe constitute a vital symbol of the continued vigor of the trans-Atlantic relationship which tie the United States and Canada to Western Europe. I see no reason why the reciprocal presence of some European troops in the United States should not similarly attest to the health and resilience of this most special relationship.

Finally, Mr. President, I point out this amendment requires only that the Department of Defense study this proposal and consult with NATO authorities on it. I am aware the proposal is both novel and potentially complex. Consequently I believe that further action at this time might be precipitous, although I will probably revisit the matter if I do not see DOD pursuing this study with sufficient vigor.

Mr. President, I urge the adoption of my amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Georgia.

Mr. NUNN. Mr. President, again I think this is an excellent amendment. It makes sense from the point of view of the NATO allies, it makes sense from the point of view of U.S. bases that might otherwise be underutilized, or in some cases closed. I understand it is a study. We will be able to determine after the study whether we go forward and what really makes sense. But I congratulate the Senator and I urge the amendment be adopted.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, this amendment represents a wise attempt to deal with a dramatically changing circumstance in Europe among our NATO allies. We think it is a good amendment. We recommend its adoption.

The PRESIDING OFFICER. Is there further debate? There being no further debate, the question is on

agreeing to the amendment of the Senator from Delaware.

The amendment (No. 2498) was agreed to.

Mr. ROTH. Mr. President, I ask unanimous consent to add Mr. SANFORD's name as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I ask unanimous consent to have my name added as a cosponsor.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROTH. I also ask unanimous consent to add Senator THURMOND.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Ohio is recognized.

Mr. GLENN. Mr. President, I rise to bring to the attention of my colleagues a very important aspect of the Department of Defense bill before us. This is not an amendment. I will make a short statement. I think the floor manager of the bill, Senator NUNN, who has been active in pushing this concept in defense procurement will probably wish to respond.

The concept I am talking about is the reinforcement of the fly before buy, or try before purchase, or whatever we want to call it, principle in the acquisition of new weapons systems.

We say "fly before buy," but that does not mean it is applicable to just airplanes. It means it applies to any of the major weapon system purchases that we make.

In view of the reduction in the Soviet Warsaw Pact threat, the committee concluded that the Department of Defense no longer really needs to rush to buy a weapons system, as we have been doing for some years, in order to meet a particular fielding deadline. In other words, the Pentagon can now afford to reduce concurrency, which means testing and production are going on together, in the acquisition process, and get it right the first time.

We know new weapons systems have a lot of ECP's, engineering change proposals. We are always going out with different kinds of requests and improvements on these systems as we discover problems. That is expensive when you then have to backdate those or backfit those on existing weapons systems.

So, as much as we can, consistent with the times in which we live, we want to reduce that concurrency, get it right the first time even though it may take a little more time, before becoming deeply committed to a weapons system that might turn out to be somewhat troubled.

Under Chairman NUNN's leadership, the committee applied this fly-before-

buy approach to several major weapons systems including the B-2 bomber, the V-22 Osprey tiltrotor aircraft, the SSN-21 Seawolf attack submarine and the rail garrison MX missile.

The committee made very specific recommendations on each of these programs to more closely align them with its interpretation—and I stress—with its interpretation of the fly-before-buy principle.

By reinforcing the fly-before-buy principle the question arises as to how best to satisfy that principle. The operative question is: How do we quantitatively measure progress under the fly-before-buy concept? That is, how much testing must be accomplished before we proceed to the next phase in the acquisition cycle, which ultimately could lead to full production and fielding of the weapons system?

That sounds like a very simple question. But it is not quite that simple because, if we are talking about a new fighter airplane, for example, do we just prove out the aerodynamics—that it will go a certain speed that we require, a certain expansion of the operational envelope—before we go ahead with production? Or, do we also require that weapons be fired and that bombs be dropped; that guns be activated and that missiles be on that airplane and mounted during all these different flights, filling out the envelope; and then that there actually be weapons tests and accuracy tests before we decide to go ahead?

All of these things have to be defined. Obviously they vary from one type of weapons system to another. I mentioned just one. We can say the same thing about a new class of destroyers, or a new tank, or a new field weapon of one kind or another.

So, we are not certain as to exactly how to apply the fly-before-buy principle in a number of these areas.

But, what we want to do now, in my opinion the Congress and DOD will need to agree on an answer to this question, if we were to really fully understand and effectively apply the fly-before-buy principle across the board more than we have so far.

In that context, I have recently written to Under Secretary of Defense for Acquisition, Mr. John Betti, and asked him to give us his assessment of how best to implement this principle; and also what changes, if any, he feels are needed to the current DOD acquisition process.

I ask unanimous consent that a copy of my letter be printed in the RECORD immediately following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. GLENN. I realize existing DOD acquisition procedures are designed to minimize concurrency consistent with good business practices. However,

there are numerous examples of excessive concurrency in the development of major systems.

For example, the B-1, C-17, A-12, T-45, AMRAAM, ASPJ, and the B-2 that have led to greatly increased costs, and also have delayed fielding of the system.

Given these facts, I believe it incumbent upon both the Congress and the DOD to renew efforts to improve the way we evaluate the operational effectiveness and suitability of new weapon systems.

So, Mr. President, I congratulate Senator NUNN for taking the lead this year in reinforcing the fly-before-buy principle for the acquisition of new weapon systems. I strongly support the fly-before-buy principle and fought successfully on the floor last year to bring the B-2 development program under the fly-before-buy concept.

Mr. President, I would only add with regard to the B-2 that the program managers have developed a systems maturity matrix concept of how you go about evaluating some of these acquisition programs that may prove to be a pattern we can follow for other weapons systems. So we would be interested in hearing comments from DOD on how that concept is working out.

I firmly believe that DOD should ensure that adequate development and operational testing is completed before proceeding to production of any major weapons system. I think we are in a timeframe now internationally and international relations and threat analysis where we have time to do more of that than we had before. If this is done, I believe it can save the taxpayers billions of dollars, and I look forward to working with DOD, Senator NUNN and others to establish procedures that will more fully implement the fly-before-buy principle.

Mr. President, I yield the floor.

EXHIBIT 1

U.S. SENATE,
Washington, DC, July 31, 1990.

HON. JOHN A. BETTI,
Under Secretary of Defense for Acquisition,
Office of the Secretary of Defense, The
Pentagon, Room 3E933, Washington,
DC.

DEAR MR. BETTI: The Senate Armed Services Committee has recently completed action on the National Defense Authorization Act for Fiscal Year 1991. One of the major themes that guided the Committee's budget review was the Packard Commission's recommendation that the Department of Defense (DOD) return to the concept of fly-before-buy.

Citing the reduction in the Soviet/Warsaw Pact threat, the Committee concluded that DOD no longer needs to rush to buy a weapon system in order to meet a fielding deadline. The Pentagon can now afford to reduce concurrency in the acquisition process and get it right the first time before becoming deeply committed to a weapon system that might turn out to be troubled.

Under Chairman Nunn's leadership, the Committee applied this fly-before-buy approach to several major weapon systems, including the B-2 bomber, the V-22 Osprey tiltrotor aircraft, the SSN-21 Seawolf attack submarine, and the Rail Garrison MX missile. The Committee made specific recommendations on each of these programs to more closely align them with its interpretation of the fly-before-buy principle. I note that this action put the Committee somewhat at odds with your April 1990 report to Congress on concurrency in major defense acquisition programs. The operative question is "how do we quantitatively measure progress under the fly-before-buy principle—i.e., how much testing must be accomplished before we proceed to the next phase in the acquisition cycle which ultimately could lead to full production and fielding of the weapon system?"

In my opinion, the Congress and DOD will need to agree on an answer to this question if we are to fully understand and effectively apply the fly-before-buy principle. In that context, it would be very helpful to have your assessment of how best to implement this principle in the acquisition of major weapon systems, and also what changes, if any, you feel are needed to the current DOD acquisition process. The assessment reasonably should include:

Development Test and Evaluation (DT&E), where emphasis is placed on verifying attainment of technical performance, specifications, objectives, and supportability.

Operational Test and Evaluation (OT&E), where emphasis is placed on field testing under realistic operational and combat conditions.

Decision Criteria required to support the commitment of funds for long-lead production items, or for low-rate or full-rate production.

I realize that existing DOD acquisition procedures are designed to minimize concurrency, consistent with good business practices. However, there are numerous examples of excessive concurrency in the development of major systems (e.g., B-1; C-17; A-12; T-45; AMRAAM; and ASPJ) that have led to greatly increased costs and also have delayed fielding of the system. Given these facts, I believe it incumbent upon both the Congress and the DOD to renew efforts to improve the way we evaluate the operational effectiveness and suitability of new weapon systems.

I look forward to your response on this important issue.

Best regards,
Sincerely,

JOHN GLENN,
U.S. Senator.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President I would like to respond briefly to the Senator from Ohio. I thank him for his tremendous work in this area. Of all the Members of the Senate, I do not know of any Member who knows more about the importance of thorough testing of weapons systems before they are put in production than the Senator from Ohio. He has been superb on our committee in this respect and in other respects.

I congratulate him on emphasizing this principle. This is the heart of our procurement principle that we are

trying to apply. It is one of those principles that has been talked about for years but never applied. This is the first time that we have really done it.

I also would like to congratulate the Senator's staff for their superb work. Milt Beach has done a tremendous amount of work in this area, and we thank him for his efforts.

I agree with the Senator's comments this evening. I am glad he emphasized the importance of it.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2499

(Purpose: To amend title 5, United States Code, to authorize payment of increased pay for Federal employees serving in critical positions)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The underlying pending amendments will again be set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. BINGAM, Mr. NUNN, Mr. WALLOP, and Mr. WARNER, proposes an amendment numbered 2499.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of section 832 add the following:

(k) CRITICAL-POSITION PAY AUTHORITY.—
(1) Subchapter I of chapter 53 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5309. Critical-position pay authority

"(a) The Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, may, from time to time, allocate and reallocate among the departments and agencies of the executive branch, critical-position pay authority for not to exceed a Government-wide total of 800 positions.

"(b) The head of an agency that receives an allocation of critical-position pay authority may exercise such authority for not to exceed the number of positions for which authority is received from the Director of the Office of Personnel Management under subsection (a).

"(c) For purposes of this section, 'critical-position pay authority' means the authority for the head of an agency, notwithstanding any other law, including any provision of this chapter, to fix the rate of basic pay for any position which such agency head determines to be a critical position at an annual rate that does not exceed the rate in effect for level I of the Executive Schedule, except that the aggregate annual amount paid (including any allowance, bonus, award, or other direct compensation) to an employee under this section during any fiscal year may not exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such fiscal year.

"(d) Critical-position pay authority for a position may be reexercised when a position becomes vacant and is refilled only upon a

redetermination by the agency head that the position remains a critical position within the meaning of this section. Such authority may be reexercised only if the allocation made by the Director of the Office of Personnel Management required for such exercise under subsection (a) is reconfirmed by the Director of the Office of Personnel Management at the time of such reexercise.

"(e) In determining whether a position is a critical position to which this section shall apply, the head of the agency shall consider—

"(1) the extent to which the position requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

"(2) the extent to which additional compensation is necessary to recruit or retain exceptionally qualified individuals; and

"(3) the extent to which the position is critical to the agency's successful accomplishment of an important mission.

"(f)(1) The Office of Personnel Management shall establish a Critical Position Advisory Panel to make recommendations on—

"(A) the criteria that should be used to determine which positions should be critical positions; and

"(B) the qualifications that should be expected of individuals assigned to critical positions.

"(2) The panel shall be composed of members with exceptional expertise and experience in management, administration, and personnel matters.

"(h) On October 1 of each year, the Office of Personnel Management shall submit a report to the Congress listing all critical-pay positions in the Government."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5308 the following new item:

"5309. Critical-position pay authority."

Mr. GLENN. Mr. President, my amendment would authorize higher pay rates for certain Federal employees serving in critical positions. Because pay increases for Federal employees have been restrained for over a decade now, recent studies have shown that Federal pay rates are about 25 percent below the private sector for comparable jobs. These studies have also found that too many of our most talented public servants are ready to leave and too few of our brightest young people are willing to join. Nowhere is the need for a strong public service more apparent than in the vital programs authorized by this act. Management of the defense acquisition process, for example, is one of the most difficult challenges facing Government. Scientists, engineers, and management are constantly challenged to meet increasingly demanding goals in a dynamic threat environment. Department of Energy faces problems of equal if not greater magnitude in addressing the crisis in the management of the nuclear weapons complex.

But the demands for highly talented people are not limited to these programs. Agencies across the government are facing similar challenges in carrying out their programs and are finding it more and more difficult to

attract and retain the top quality people needed to run them. For example, officials in the Department of Health and Human Services have reported that they have not been able to recruit the people needed to carry out medical research programs because of inadequate Federal pay rates. Therefore, I am proposing that up to 800 positions Governmentwide could be designated as critical and that the individuals occupying these positions could be compensated at a rate not to exceed level I of the executive schedule.

Mr. President, there is an urgent need to begin to address the crisis in public service and to promptly enact remedial legislation. This amendment is designed to do just that.

I believe it has been accepted on both sides of the aisle. I urge its adoption.

Mr. NUNN. Mr. President, this is a very good amendment. This is one Senator BINGAMAN worked on last year. We are working with Senator GLENN. I am delighted it is now possible to move forward. This is probably one of the most important amendments in terms of personnel that we will be considering on this bill. Not only do we urge its adoption, but I have cosponsored the amendment. I think it is an excellent step forward in trying to give some flexibility in this high-level personnel area that is absolutely essential if we are going to properly manage the Government.

Mr. GORTON. Mr. President, with the acceptance of many amendments this evening without much debate, this is, as the chairman has said, a particularly significant and important one. The difficulty in getting people to take positions like those covered in this amendment is tense and is, if anything, growing. An attempt to do this on a narrow base last year passed the Senate and failed in the conference, the ability to get two committees together on this amendment at this point with real prospect of its passage is a very good sign. I strongly urge the adoption.

The PRESIDING OFFICER. Is there further debate?

Mr. BINGAMAN. Mr. President, I would just like to congratulate the Senator from Ohio on his initiative. I do think it is a major step in the right direction. I hope the amendment he is putting on the bill can go all the way through and become law.

The problem that we have encountered because of some of these caps on pay, the inability to have any flexibility, has been very severe on not only the Department of Defense but Governmentwide. I think it is excellent that we are taking a Governmentwide approach to it. I compliment him on this action.

The PRESIDING OFFICER (Mr. REID). Is there further debate on the amendment? If there be no further

debate, the question is on agreeing to the amendment.

The amendment (No. 2499) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Ohio.

AMENDMENT NO. 2500

(Purpose: To authorize demonstration programs to assess the use of alternative personnel management systems at certain Federal Government laboratories)

Mr. GLENN. Mr. President, I rise today to offer an amendment on behalf of myself, Senators BINGAMAN, WALLOP, NUNN, and WARNER, to amend the defense authorization bill for the purpose of establishing a Governmentwide laboratory demonstration program. I believe this amendment has been accepted by both floor managers.

The PRESIDING OFFICER. Without objection, the underlying pending amendments will be set-aside. The Senator may proceed.

Mr. GLENN. Mr. President, I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Ohio [Mr. GLENN], for himself, Mr. BINGAMAN, Mr. NUNN, Mr. WARNER, and Mr. WALLOP, proposes an amendment numbered 2500.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 166, below line 21, insert the following new section:

SEC. 834. ALTERNATIVE PERSONNEL MANAGEMENT DEMONSTRATION PROGRAMS FOR CERTAIN FEDERAL GOVERNMENT LABORATORIES.

(a) PURPOSE.—The purpose of this section is to provide a basis for evaluating one or more alternative personnel management systems for scientific positions, engineering positions, technical support positions (including positions requiring proficiency in advanced mathematics) and managerial positions in Federal Government laboratories in order to enhance the recruitment, retention, and motivation of well-qualified civilian personnel for such positions and to provide appropriate compensation for such personnel.

(b) DEMONSTRATION PROGRAM.—(1) Not later than one year after the date of the enactment of this Act—

(A) the Director of the Office of Personnel and Management—

(i) shall designate one or more agencies to conduct one or more demonstration programs for the purpose of this section; and

(ii) with the head of each agency so designated, shall jointly develop each such demonstration program for such agency; and

(B) the head of each agency so designated shall implement the demonstration program or programs jointly developed with the Director.

(2)(A) The head of an agency designated to conduct a demonstration program shall designate—

(i) the agency laboratory or laboratories that are to be involved in the demonstration program; and

(ii) the scientific positions, engineering positions, technical support, or managerial positions at each such laboratory that are to be covered by the alternative personnel management system implemented pursuant to the demonstration program.

(B) The head of an agency may designate for coverage by an alternative personnel management system pursuant to subparagraph (A) only those positions the rates of basic pay for which would be established, except for this section, under—

(i) section 3104 of title 5, United States Code, relating to specially qualified personnel;

(ii) subchapter III of chapter 53 of such title, relating to the General Schedule; or

(iii) chapter 54 of such title, relating to the performance management and recognition system.

(3) Each alternative personnel management system implemented pursuant to the demonstration program shall cover a sufficient number of employees to provide an adequate basis on which to evaluate the feasibility and desirability of implementing such a system on a broader scale in Federal Government laboratories.

(4) The demonstration programs conducted pursuant to this section shall not be considered as demonstration programs for the purposes of section 4703 of title 5, United States Code.

(c) **CLASSIFICATION.**—Each alternative personnel management system implemented pursuant to a demonstration program under this section shall provide for the classification of employee positions in occupational groups. An occupational group shall include positions that are similar in the following respects:

(1) The responsibilities and complexities of the positions.

(2) Qualifications necessary for performance of such responsibilities.

(d) **PAY RANGES.**—(1) A range of rates of basic pay shall be established for the positions in each occupational group.

(2) The minimum rate of basic pay in a pay range shall be equal to the lowest minimum rate of basic pay provided for any position in such occupational group under the classification and pay system that, except for this section, would be applicable to that position.

(3)(A) Subject to subparagraph (B), the maximum rate of basic pay in a pay range shall be equal to the highest maximum rate of basic pay provided for any position in such occupational group under the classification and pay system that, except for this section, would be applicable to that position.

(B) The maximum rate of basic pay of a pay range applicable under an alternative personnel management system to positions in an agency laboratory may exceed the maximum rate permitted under subparagraph (A) if the head of the agency determines that, because of adverse working conditions at the laboratory or the undesirability of the geographical location of the laboratory,

the increased maximum rate of basic pay is necessary to ensure the recruitment and retention of a sufficient staff of qualified employees.

(C) The maximum rate of basic pay established under subparagraph (B) for a pay range applicable to positions in an agency laboratory may not exceed the lesser of—

(i) the rate necessary to ensure the recruitment and retention of a sufficient staff of qualified employees, as determined by the head of such agency;

(ii) the amount equal to 160 per cent of the maximum rate of basic pay that, except for such subparagraph, would be permitted under subparagraph (A); or

(iii) the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) The minimum and maximum rates of basic pay in a pay range shall be adjusted at the same times and to the same extent as the rates of basic pay under the statutory pay systems pursuant to section 5305 of title 5, United States Code.

(e) **SPECIFIC RATES OF BASIC PAY.**—(1) For each alternative personnel management system implemented at an agency laboratory under a demonstration program conducted at such laboratory, the head of such agency shall prescribe the criteria for establishing, within the applicable pay range, the initial rate of basic pay of an employee appointed to a position covered by the system and for increasing the employee's rate of basic pay within such pay range.

(2) Subject to paragraph (3), the head of an agency laboratory shall establish the initial rate of basic pay for an employee within a pay range, and from time to time increase the rate of basic pay of the employee referred to in paragraph (1) within the pay range, on the basis of the criteria prescribed under paragraph (1).

(3) In the case of an employee employed in a position at an agency laboratory immediately before that position becomes covered by an alternative personnel management system under this section, the rate of basic pay established for such employee under the alternative personnel management system may not be less than the rate of basic pay payable to such employee immediately before the position becomes covered by such system.

(f) **OTHER PAY.**—(1) Each alternative personnel management system shall provide for payment of managerial differential pay for managerial personnel and supervisory differential pay for supervisory personnel. The payment of differential pay to an employee in a managerial or supervisory position shall be in addition to the payment of the basic pay provided for such employee.

(2) Each alternative personnel management system applicable to an agency laboratory shall provide for payment of cash awards for meritorious performance subject to budgetary considerations of such laboratory.

(3) Each alternative personnel management system shall provide for payment of recruitment bonuses and retention bonuses when necessary to meet employee recruitment and retention needs.

(4) Differential pay, cash awards, recruitment bonuses, and retention bonuses may not be considered as basic pay for any purpose.

(g) **TRAVEL ALLOWANCES.**—Each alternative personnel management system shall provide for payment of reasonable travel expenses of—

(1) a new appointee for a position covered by such system to the same extent as is pro-

vided for a new appointee to the Senior Executive Service under section 5723(a)(1)(B) of title 5, United States Code; and

(2) a candidate for appointment to a position covered by such system, and the candidate's spouse (if any), in connection with an employment interview.

(h) **APPLICATION AND APPOINTMENT PROCEDURES.**—Each alternative personnel management system implemented at an agency laboratory shall include procedures—

(1) for a candidate for appointment to a position covered by such system to submit an application directly to the head of the laboratory; and

(2) consistent with sections 2301 and 3309 of title 5, United States Code, for appointment and assignment of a person directly to such a position at such laboratory.

(i) **PERFORMANCE EVALUATIONS.**—Each alternative personnel management system shall provide procedures for evaluating the job performance of employees covered by the system.

(j) **LIMITATIONS ON PROGRAM COSTS.**—(1) The total amount of the personnel costs incurred by the Federal Government for employees in positions covered by an alternative personnel management system under a demonstration program conducted under this section may not exceed the total amount of the personnel costs that, except for the implementation of such alternative personnel management system, would have been incurred by the Federal Government for such employees.

(2) The total amount paid an employee as basic pay, differential pay, recruitment bonuses, retention bonuses, and performance awards under an alternative personnel management system under this section in any fiscal year may not exceed the rate of basic pay for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect on the last day of such fiscal year.

(k) **PROGRAM PLAN; PROJECT REVIEW.**—(1) Before implementing a demonstration under this section, the head of the agency in which the program is conducted shall develop a plan for such program.

(2) The plan for a program shall—

(A) provide criteria for the evaluation of such program; and

(B) specify the total number of employee positions to be covered by the program when the program is fully implemented.

(3) The head of the agency shall submit the program plan to the Comptroller General of the United States at least 60 days before the program is implemented.

(4) Not later than one year after the implementation of a demonstration program, and on an annual basis thereafter during the period in which demonstration programs are conducted under this section, the Comptroller General shall review each demonstration program to determine whether the program meets the criteria specified in the program plan.

(5) The Comptroller General shall submit an annual report containing the results of the review to—

(A) the Committees on Armed Services and Governmental Affairs of the Senate;

(B) the Committees on Armed Services and Post Office and Civil Service of the House of Representatives; and

(C) the Secretary or agency head.

(l) **DEFINITIONS.**—In this section:

(1) The term "agency" has the meaning given the term "Executive agency" in section 105 of title 5, United States Code.

(2) The term "agency laboratory" means a Federal Government laboratory of an agency.

(3) The term "Federal Government laboratory" means a government-owned, government-operated laboratory within an agency.

(4) The term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

(m) **TERMINATION DATE.**—Each demonstration program conducted pursuant to this section shall terminate not later than 10 years after the date on which such program begins.

Mr. GLENN. Mr. President, the Federal Government is directly responsible for funding almost one-half of all the research and development projects in the United States. Much of this R&D is performed either in the many in-house laboratories operated by the different agencies and departments, or is managed by these laboratories.

Mr. President, while many in this Nation believe that the Government should do less in research and development, and the private sector should do more, I believe that it is obvious to anyone in this Chamber that the Federal Government is going to continue to play a very key, important role in directing this Nation's science and technology for the foreseeable future. And this role extends beyond the research and development performed as a part of our national defense.

The national security strategy of this country has, for the past 40 years, relied on maintaining our technological superiority in the weapons systems we put in the field. The contribution of the DOD defense laboratories in developing these weapons, in supporting the technology base that make them possible, has been critical. I expect that these laboratories will continue to be primary contributors in making improvements to our national security.

But there are many other areas where the Federal laboratories have made, and are continuing to make, important contributions. The National Aeronautics and Space Administration, have world class laboratories in place like Langley, VA, and at the Lewis facility in my home State of Ohio. The Environmental Protection Agency also operates a number of laboratories around the country trying to find better, more affordable ways to restore our environment, and dispose of our waste products. The Department of Commerce has established a laboratory demonstration at the National Institute of Science and Technology and that demonstration program is the forerunner for what we are proposing today.

Mr. President, we all know that the key to success in operating these laboratories is in having good people supported by good facilities. During the past decade, finding and retaining well qualified scientists, technicians, mathematicians, and engineers for the Federal laboratories has become a major

problem. Part of that problem has to do with the discrepancy in pay between the Federal Government and the private sector. The Governmental Affairs Committee, which I chair, is working on a major resolution to help resolve this pay differential problem.

But another major part of the problem has to do with the personnel management policies and practices that have accumulated over the past several decades. To put it simply, the system has become too cumbersome and it does not place accountability for personnel management where it belongs, with the laboratory director.

Mr. President, the amendment I offer on behalf of myself and Senators BINGAMAN, WALLOP, NUNN, and WARNER is intended to correct these problems. It permits the departments, working with the Office of Personnel Management, to use pay bands which gives supervisors of scientists and engineers the flexibility to manage their people and also makes them directly accountable for their performance. The amendment would also permit the laboratory directors to make the decisions and to make offers of employment directly with prospective new science and engineering employees. It directs that the demonstration programs be conducted on a cost-neutral basis and provides for a 10-year evaluation period to accumulate data and evaluate the pluses and minuses of the features that I have described.

Mr. President, the changes that are authorized in the proposed amendment are, in my opinion, absolutely necessary if the Federal Government laboratory system is to maintain its vitality in the coming years. Private industry in the United States and around the world has constantly been changing the structure and organization of their research and development laboratories to get the maximum benefit from their investment. They compensate competitively, they hold their managers accountable, and they give them the flexibility to perform. The managers of the research and development laboratories in the Federal Government should be given the same level of support and should be held to the same strict levels of accountability.

Mr. President, I believe this a good amendment, a necessary amendment, and one that Members of the Senate should support. It has the bipartisan support of the members of the Armed Services Committee and I urge its adoption.

DEPARTMENT OF DEFENSE IN-HOUSE LABORATORIES AMENDMENT

Mr. BINGAMAN. Mr. President, I rise today to join Senator GLENN, Senator NUNN, Senator WARNER and Senator WALLOP in supporting this amendment to initiate a demonstration personnel management programs at Federal laboratories. This program will

provide the basis on evaluating alternative personnel management programs and how they can make the laboratories more competitive and more effective in the future. I am especially pleased to have this opportunity to work with the distinguished chairman of the Governmental Affairs Committee on a problem that can have serious consequences not only for national defense, but for many other areas of national concern if not promptly addressed.

The Defense Industry and Technology Subcommittee of the Senate Armed Services Committee has been seriously concerned with the challenges facing the DOD laboratories for a number of years. Maintaining these laboratories at a high level of competence is essential if the United States is to continue to discover and exploit superior technology in support of the national defense. They form a central part of the Defense Department's research and development and the weapons system acquisition process. In fiscal year 1987, which is the latest year for which I have information, DOD laboratories performed about one-third of the department's basic research and over 40 percent of its exploratory development activities. I am confident that these percentages are approximately correct now. Much of the remaining DOD technology base activity is managed by these laboratories. Therefore, the competence of the laboratories, and more specifically the quality of their leadership, is of highest importance.

Mr. President, the problems at the defense laboratories have been highlighted in a number of studies including a 1987 Defense Science Board Summer Study. This spring the Defense Industry and Technology Subcommittee, which I Chair, received testimony from the chairman of this Defense Science Board Study and also from the Defense Department's Director of Research and Engineering and from the technical directors of three major DOD laboratories.

Each of these individuals testified to the difficult task of maintaining high-quality research and development laboratories within the Department of Defense. The laboratory directors spoke to the successes they have had, and those they intend to yet achieve, in supporting the technology base. They testified on the innovative approaches they are using to overcome their competitive disadvantage in hiring and retaining top quality people. Mr. President, I believe it is a complement to the people that are running our Defense Department laboratories that they are able to do as well as they are, considering the problems they must overcome. Each of these laboratory directors also testified on the urgent changes that are needed to remove the barriers that are

keeping their laboratories from performing their assigned missions as well as they might. As Prof. John Deutch testified, "the civil service DOD labs are increasingly facing greater difficulties in meeting the requirements for a successful technical organization."

Many of these management restrictions are in the area of personnel administration. Central to this problem is an accumulation of statutory and regulatory restrictions which were originally introduced to remedy specific difficulties, but have over time built up to the point where they now impede efficient management at these labs.

In the fiscal year 1990 Defense Authorization Act, the Armed Services Committee endorsed the recommendation made by that 1987 Defense Science Board Summer Study, and directed the Secretary of Defense to implement their recommendations. I would note that DOD had previously testified to my subcommittee that implementing these recommendations was one of the Department's highest priorities. Nevertheless, nothing had been done.

In the 1990 Defense Authorization Act, the committee specifically directed the Defense Department to identify any legislative changes needed to undertake these demonstration projects. As a result of this direction, DOD has prepared a Laboratory Demonstration Program Plan, and has selected the laboratories that will participate in the program. Unfortunately, it appears that little progress is being made by the Department in modifying Government regulations or identifying changes to statute.

The amendment offered by Senator GLENN, which I am pleased to cosponsor, provides the legislative direction, and grants the authority needed by the Department of Defense and other Federal Government Departments and agencies, to proceed with a meaningful Lab Demonstration Program. I believe that it will give laboratory directors the tools they need to properly manage their scientific and engineering work force. And it will establish the basis for holding those lab directors responsible for properly managing that work force. Since it is a demonstration program, it certainly will provide the basis for evaluating these changes and making a decision if they should be implemented in all Federal laboratories. I believe that this is good legislation. It has bipartisan support in the Senate Armed Services Committee and it is something that we should move forward on. I urge my colleagues to support this amendment.

Mr. NUNN. Mr. President, we have been over this amendment. We have discussed it with the Senator from Ohio. It is an amendment to establish and evaluate alternate personnel systems for scientists, engineers, and

technical support personnel in Federal labs. This is one we have worked on for a number of months and last year. Senator BINGAMAN has also worked on it. I urge its adoption.

Mr. GORTON. Mr. President, this is a fine and appropriate amendment. We recommend its adoption.

The PRESIDING OFFICER. Is there further debate on the Glenn amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2500) was agreed to.

Mr. GLENN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2501

(Purpose: To amend section 2307 of title 10, United States Code, to provide for the suspension of payments under a contract if a determination is made that the request for such payments is fraudulent.)

Mr. ROTH. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Delaware [Mr. ROTH.] proposes an amendment numbered 2501.

Mr. ROTH. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of title VIII of the bill, insert the following new section:

SEC. . SUSPENSION OF PAYMENTS

(a) IN GENERAL.—Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In any case in which the head of an agency determines that there is substantial evidence that the request of a contractor for advance, partial, progress, or other payment under a contract awarded by that agency head is fraudulent, the agency head may suspend further payments under the contract unless the suspension would unduly interfere with or jeopardize a law enforcement investigation.

(b) INFORMATION FROM CONTRACTOR.—Subsection (e)(1) of such section is amended by adding at the end the following new sentence: "The contractor shall provide such information and evidence as the Secretary of Defense determines sufficient to permit the Secretary to carry out the preceding sentence."

(c) EFFECTIVE DATE.—Section 2307(f) of title 10, United States Code, and the second sentence of section 2307(e)(1) of such title, as added by subsections (a) and (b), respectively, shall apply with respect to contracts in effect on the date of the enactment of this Act and contracts entered into on and after that date.

Mr. ROTH. Mr. President, the purpose of this amendment is to make it easier for contracting officers to withhold progress payments from defense contractors when there is substantial

evidence of fraud being committed by that contractor.

This amendment would require a contracting officer to suspend all progress payments to a contractor upon a finding that a progress payment claim submitted by the contractor is fraudulent. The amendment permits a contracting officer sufficient flexibility to respond to compelling reasons for not suspending payments but requires that the contracting officer document the reasons why the suspension is not taken and to take the actions necessary to protect the Government's interest.

A progress payment claim might be fraudulent if the goods delivered to the United States are nonconforming or if the request for payment is based on false or misleading invoices from subcontractors. In a recent interview, the DOD deputy inspector general said:

We know we're being ripped off by generally smaller companies that tend to restructure themselves after they sell us defective parts... we know they are collecting progress payments but they are not delivering.

He estimated that this problem was costing the Government an estimated \$50 to \$100 million per year. In a recent hearing before the Senate Armed Services Committee, DOD's inspector general told of an Army case where the procuring office found itself dealing with a suspended contractor that had been indicted for defrauding the Government. In still another case the inspector general, in 1987, raised questions about whether a firm's progress payments were fraudulent. Despite the IG's concern, which was shared by the Air Force inspector general, the Air Force judge advocate general and the Defense Contract Audit Agency, the Air Force continue to approve over \$1 million in additional progress payments.

The DOD inspector general said that she proposed in January that DOD's regulations be changed to provide more guidance. That recommendation has not been acted upon. DOD's Deputy Assistant Secretary for Procurement does not believe that it is DOD business to be meting out punishment and believes that DOD has sufficient authority to stop progress payments when the situation dictates.

The experiences related by the DOD inspector general and her staff show a reluctance to halt progress payments even in gross situations. I believe that the proposed amendment is necessary and I ask that my colleagues support this amendment.

I yield the floor.

Mr. BINGAMAN. Mr. President, again I rise to compliment the Senator from Delaware on the amendment that is being offered. I do think it is a very important amendment. It is one

on which we did have testimony in front of the subcommittee that I chair of the Armed Services Committee as to the need to have this authority to suspend progress payments. I think this is a significant step. I congratulate him on it.

I urge my colleagues to support the amendment.

Mr. NUNN. Mr. President, I believe this is a good amendment. We have gone over it with the Senator, and I urge its adoption.

Mr. GORTON. Mr. President, this side of the aisle approves of the amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 2501) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. GORTON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2502

(Purpose: To require the Secretary of Defense to establish a branch office of the Defense Advanced Research Projects Agency in Japan)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2502.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 181, between lines 8 and 9, insert the following new section:

SEC. 855. ESTABLISHMENT OF DARPA OFFICE IN JAPAN.

(a) IN GENERAL.—The Secretary of Defense shall establish a branch office of the Defense Advanced Research Projects Agency (DARPA) of the Department of Defense in Japan.

(b) FUNCTION OF BRANCH OFFICE.—It shall be the function of the branch office established pursuant to subsection (a)—

(1) to investigate and evaluate opportunities for cooperation between the United States and Japan for the development of technologies of interest to the Defense Advanced Research Projects Agency (DARPA); and

(2) to make such recommendations to the Director of the Defense Advanced Research Projects Agency as the branch office considers appropriate regarding the desirability of DARPA entering into a cooperative arrangement with Japan with respect to the development of particular technologies.

Mr. BINGAMAN. Mr. President, the amendment that I am offering today is simple and straightforward. It would direct the Department of Defense to establish in Japan an office of the Defense Advanced Research Projects Agency, or DARPA as the Agency is commonly known.

In December 1989, I visited Japan for the third time since coming to the Senate in 1983. The focus of this most recent trip was on the development of Japanese technology. I returned to the United States convinced that the Defense Department needs to treat Japan as the technological superpower that it has become.

The Japanese fully intend to develop and maintain world-class research and manufacturing capabilities in critical emerging industries, such as electronics, telecommunications, advanced materials, biotechnology, and aerospace. I believe that the United States could benefit by greatly increased involvement with Japanese industry on these emerging technologies. To a large degree, that interaction may occur on a company-to-company basis. However, there also appears to me to be a substantial role for the U.S. government, and for the Defense Department in particular.

In the past, the focus of the Defense Department's interest in cooperative research and development has been on Western Europe. Japan, on the other hand, has largely been ignored, despite its lead over Western Europe in most critical, dual-use technologies. To correct this imbalance, I suggested several administrative changes to the Defense Department leadership after I returned from my most recent trip to Japan.

Establishing a DARPA office in Japan—the subject of the amendment that I am offering today—was one of the recommendations that I made to the Defense Department. DARPA's mission of developing key generic technologies that will have crosscutting applications in the military services matches well with the opportunities that exist in Japan. Those opportunities for cooperation lie not in full-scale weapon systems, but in dual-use technologies at the component and subsystem level. Concerns about reciprocity in technology flows between the two countries, so evident in the FS-X debate, could also be minimized at that level.

As stated in my amendment, the function of a DARPA office in Japan would be to investigate, evaluate, and recommend opportunities for cooperation between the United States and Japan. I might point out that DARPA has maintained an office with the same function in Europe for a few years. That office has successfully fostered United States-European cooperation. It only makes sense to me that DARPA should undertake a similar

effort in Japan, which is second only to the United States as a technological superpower.

Mr. President, I had hoped that it would not be necessary for the Congress to legislate this matter. Until recently, I had believed that the Defense Department, if it had not already made the decision to open a DARPA office in Japan, was at least moving quickly in that direction.

On April 24 of this year, Deputy Under Secretary of Defense Donald Yockey responded to my administrative recommendations for the Defense Department. In his letter, Mr. Yockey wrote the following:

DARPA is in the process of investigating the establishment of a Far East office in Tokyo. This is a [Defense Management Review] topic, and we expect successful resolution within DoD. There are still a number of administrative actions to be completed and approval by the State Department and the Japanese Government will be required, but so far indications have been positive.

Then, on June 12, Mr. Yockey testified before the Armed Services Subcommittee on Defense Industry and Technology, which I chair. At that time, he explained that establishing a DARPA office in Japan, "is in the works. We have a lot of logistics to work out on that, including how to pay for it because of the budgetary pressures. We concur with that as an issue that we would like to see brought to completion."

Unfortunately, despite these encouraging reports, this issue now appears to be at a standstill within the Defense Department. Therefore, I am offering this amendment in an effort to overcome the remaining bureaucratic obstacles and to bring this issue to closure. I encourage my colleagues to join me in this effort.

This is an amendment which I believe has been agreed to on both sides of the aisle. It is part of the effort which I believe we are taking this year in the defense bill to encourage additional efforts to cooperate between the Japanese and ourselves in technology development.

It is clear from reports we have received in the last year that the Japanese have become and really are preeminent in the world in several areas of very important technology development. It is important that we participate in that development. It is important that we cooperate wherever that cooperation makes sense to us and to the Japanese.

Establishment of this office is something that we helped accomplish. I have spoken to various people in the administration about it, including our Ambassador to Japan. I can assure you that it is something, based on the investigation we have done in the Armed Services Committee, that makes sense for us.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. NUNN. Mr. President, I believe this is a good idea. I do not think there is any doubt about the fact that we are going to have to pay a whole lot more attention to the Japanese technological development. I think this is a splendid way to begin that in a more intensive and organized fashion.

I urge the adoption of the amendment.

Mr. GORTON. Mr. President, we believe that the Senator from New Mexico has come up with an imaginative, creative and, hopefully, productive idea. We strongly support the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 2502) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, I ask the managers at this time, as they are well aware, there are three of us who have an amendment relating to missile technology control, and we are ready to offer that amendment, I believe, if that is appropriate. Senator GORE and Senator McCain were going to join me in the debate. They are cosponsors of the amendment.

Mr. GORTON. Mr. President, I regret to inform the Senator from New Mexico that on behalf of another Member on this side who does not wish this amendment debated tonight, I would be constrained to object to any unanimous-consent request to bring it up.

The PRESIDING OFFICER. Has there been a unanimous-consent request propounded? The Chair has not heard one.

Mr. BINGAMAN. Parliamentary inquiry, Mr. President. Did I need unanimous consent to lay aside the pending amendment in order to have this amendment considered?

The PRESIDING OFFICER. Consent is required.

Mr. BINGAMAN. I have just been informed by the Senator from Washington that that consent is not possible. So I will defer and hope we can resolve the difficulty.

Mr. GORTON. I trust we will be able to do so.

Mr. NUNN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada, Mr. BRYAN, is recognized.

Mr. BRYAN. Mr. President, I ask unanimous consent that I may proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BRYAN. Mr. President, the world is witnessing a brutal act of aggression by President Saddam Hussein of Iraq against the independent nation of Kuwait.

This was an invasion of conquest pure and simple, disguised as an act of support for some bogus revolt within Kuwait.

How fitting that we should be reminded of Hitler's invasion of Poland, which this Chamber will remember was justified by an alleged Polish border atrocity, but the incident was in fact, a Gestapo plot to justify naked aggression.

Hussein's brutality is well known to this body. This is the dictator who plunged his own country into a decade long bloody war with Iran.

During this war, the use of chemical weapons were used not only against opposing armies, but Hussein actually used these hideous weapons against his own people.

Hussein, known as the "Butcher of Baghdad", has recently threatened to use chemical and biological weapons against Israel, threatening to annihilate half the population.

And it should also be remembered that Hussein now has ballistic missiles capable of making this barbaric threat a reality.

This is not some distant squabble in some far-off land which has no impact on our lives here at home. This morning, spot oil prices shot up several dollars per barrel as a result of the actions taken by Hussein.

Hussein, who began this crisis with demands for a massive increase in oil prices, appears for now, to have accomplished his goal, and one may wonder what future plans he may have in store for all of us, for it is estimated that every dollar rise in a barrel of oil translates into 5 cents more per gallon of gas at the pump.

Let us call this the Hussein tax on Americans, a tax that will not go to reducing our deficit, repairing our roads or restoring our competitiveness, but rather this tax will go to pay for Iraq's missile purchases, production of chemical weapons, and the construction of a nuclear power plant.

We are particularly vulnerable to foreign oil price increases and possible embargoes because we are now more, not less, dependent on foreign oil.

In 1973, the year of the Arab oil embargo, America imported a little over 36 percent of the Nation's petroleum requirement.

In July 1989, we passed a significant benchmark in our growing dependence on foreign oil by having to import more than half the petroleum used in the United States.

The Department of Energy estimates that this dependence is expected to grow even larger in the decade ahead.

This year the Senate will have an opportunity to send Hussein a message, that America will reduce its growing dependence on foreign oil by passing an improved Corporate Average Fuel Economy bill, or CAFE, a bill which, if enacted by Congress, will require the automobile fleet in 1995 to have a 20-percent fuel economy, and by the year 2001, a 40-percent improvement in fuel economy.

The American transportation sector consume 66 percent of all the oil used. If we are going to reduce oil use, we must increase the miles we travel on every gallon of gasoline consumed. There are many sound environmental and economic reasons to demand an increase in our fuel economy standards—these are all compelling and worthy of our taking action. But rarely have the American people been so rudely reminded of some grim facts as they have been over the last 24 hours. We have been reminded that there are still madmen in the world who resort to violence and aggression. We have been reminded that the price of oil still has a critical impact on our economy. We have been reminded that we squandered the breathing space of the 1980's—not using that period of low prices constructively to lessen our dependence on foreign oil.

"History repeats itself; that is one of the things that is wrong with history," said Clarence Darrow. Last night's rude reminder of invasion and oil price increases reveals the wisdom of Clarence Darrow's remark.

So, Mr. President, let us not repeat the mistakes of the 1980's and do nothing to reduce our growing dependence on foreign oil. The U.S. Senate should send Hussein a clear message, and enact this year a new fuel economy measure.

I thank the Chair, and I yield the floor.

Mr. D'AMATO addressed the Chair. The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. I ask unanimous consent that I might be permitted to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ'S INVASION OF KUWAIT

Mr. D'AMATO. Mr. President, I know that shortly my colleagues will be introducing a resolution condemning Iraq's invasion of Kuwait. I want to commend those Senators who have worked together in a bipartisan spirit to come up with a very strong resolution: Senators PELL, HELMS, MOYNIHAN, BOSCHWITZ, BIDEN, KASSEBAUM, CRANSTON, and MURKOWSKI.

It is a good resolution. By the way, it has something more than rhetoric. It calls for the imposition of article 41 of the United Nations Charter, which calls for a full economic blockade against Iraq.

Also, article 42 of the United Nations Charter involving the use of air, sea, and land forces, in order to maintain or restore international peace and security. Saddam Hussein will probably move out of Kuwait, but with his puppet government in full force.

Mr. President, I will have more to say, but the majority leader wishes to speak.

I yield to the majority leader.

ORDER OF PROCEDURE

Mr. MITCHELL. Mr. President, I ask my colleague to yield so that we can proceed to the Iraqi resolution with respect to which I have authority to proceed under an earlier agreement. Since the debate is moving in that direction, the distinguished Republican leader suggests, and I concur, that it would be appropriate to bring that up now and permit a vote on that to occur.

CONDEMNING IRAQ'S INVASION OF KUWAIT

Mr. MITCHELL. Mr. President, in accordance with the prior unanimous-consent agreement, in behalf of Senator PELL, Senator HELMS, and others, I send the resolution condemning Iraq's invasion of Kuwait to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The legislative clerk read as follows:

A resolution (S. Res. 318) to condemn Iraq's invasion of Kuwait.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. PELL. Mr. President, I will add that this resolution is sent to the desk on behalf of Senators HELMS, MOYNIHAN, D'AMATO, MITCHELL, BIDEN, KASSEBAUM, BOSCHWITZ, KENNEDY, CRANSTON, DODD, COATS, DECONCINI, ADAMS, MURKOWSKI, and MCCAIN.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Will the Chair please state the unanimous-consent agreement?

The PRESIDING OFFICER. Debate on the resolution is for 40 minutes divided equally. No amendments or motion to commit are in order.

Mr. HELMS. I thank the Chair.

Mr. PELL. Mr. President, this resolution is being cosponsored by various of my colleagues who are shocked and horrified at the actions of Iraq's blitzkrieg invasion of Kuwait this morning and calls on the President to take effective and immediate action in cooperation with the world community to secure an immediate Iraqi withdrawal.

Iraq's unprovoked and lawless assault on its neighbor and friend follows a decade of Iraqi contempt for the law of nations and the most basic norms of human decency. In 1980 Iraqi dictator, Saddam Hussein, launched a massive assault on another neighbor, Iran. The ensuing Iran-Iraq War took over 1 million lives, squandered a fortune, and left both belligerents almost exactly as they were at the outset of the conflict.

In 1983 Iraq initiated the use of chemical weapons on its own people in the course of its war with Iran. For 5 years Iraq made extensive and increasingly effective use of these terrible weapons. Iraq's conduct constituted the most blatant and serious breach of the 1925 Geneva protocol banning the use of these weapons. Not even Adolf Hitler used chemical weapons in World War II but Saddam Hussein used them in the course of the cold war.

In 1988 Iraq's chemical warfare culminated in massive attacks against its own Kurdish minority. These attacks were part of a policy to depopulate the Kurdish areas of the country and were in my view tantamount to genocide. Many of these attacks occurred after the end of the Iran-Iraq War.

Iraq's human rights record is in the words of our State Department "abysmal." Iraq routinely engages in torture, arbitrary imprisonment and summary execution. A special feature of Saddam Hussein's regime is the torture and execution of children. Amnesty International, a very respected organization, has documented numerous cases where children had their eyes gouged out, their bodies scalded, and their fingernails removed. Parents are then obliged to pay the regime for the return of the mutilated and broken little bodies.

And what has been the response to the United States and the world community to these outrages? The sad answer is nothing until today.

In 1988 I authored, and the Senate three times passed, comprehensive sanctions against Iraq in response to its use of chemical weapons on the Kurds. The Reagan administration called my bill "premature" and it died on the last day of the 100th Congress. This year I am pleased to have joined Senator D'AMATO and the cosponsor

and coauthor of the Iraq International Law Compliance Act which the Senate passed just last Friday. Yet, until today the administration opposed any effort to sanction Iraq.

For a decade, Iraq has acted with total contempt for international law. It has gassed its enemies and its own people in flagrant violation of the 1925 Geneva protocol to which it is a party. It has conducted its internal affairs without regard to its human rights obligations under the United Nations Charter, under human rights treaties to which it is a party, and under the Genocide Convention. It appears to be seeking to acquire biological and nuclear weapons in violation of commitments under the Nuclear Nonproliferation Treaty and the 1972 Biological Weapons Convention.

We have seen Iraq's lawlessness and, except for the actions taken by this body, we have done nothing. Iraq's invasion of Kuwait is the culmination of a global policy of appeasement. Like the world community of the 1930's, we did nothing as Iraq crossed one line after another. We now awake as did that world to the stark reality of a thug who can only be dealt with by firm action.

I commend President Bush for his prompt action in freezing Iraq's assets in the United States and for his total embargo of Iraq. It may be too late for Kuwait but it is not too little. These are significant steps. But more is needed.

We must work through the U.N. Security Council to impose, pursuant to article 41 of the charter, a total economic blockade of Iraq. And if the blockade does not work, we must consider, pursuant to article 42, other collective actions including the use of force.

The Soviet Union has announced that it is halting arms sales to Iraq. France and Britain have frozen Iraqi assets in their countries. In the first major crisis of the post-cold-war world, the major powers have acted with a common goal: To stop aggression and to force Iraq out of Kuwait. As one who worked in San Francisco helping draft articles 41 and 42 of the United Nations Charter, I believe now is the time when the world's community can and should make effective use of these provisions for forceful collective action.

The resolution I will offer endorses President Bush's actions earlier today and calls on the President to use the Security Council for an effective global action. Like his dictatorial predecessors of the 1930's, Saddam Hussein is a cancer on the world body politic. And we must excise that cancer now lest it engulf the Middle East region as that earlier cancer came to engulf the entire Eastern Hemisphere.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

Mr. HELMS. Mr. President, I thank the Chair. I ask unanimous consent that the distinguished Senator from Wisconsin [Mr. KASTEN] and the distinguished Senator from California [Mr. WILSON] be added as original cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HELMS. Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. They have not.

Mr. HELMS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. Mr. President, I yield myself 3 minutes, and I ask to be notified after 2½ minutes.

Mr. President, I am confident that all Senators are aghast that yesterday, Iraq invaded and reportedly occupied Kuwait. In response, President Bush promptly issued Executive orders embargoing trade with Iraq, and freezing Iraqi and Kuwaiti assets in the United States.

This unprovoked Iraqi aggression poses a direct threat to America's interest in unfettered access to Middle Eastern oil. As such, I commend the President, as I know all Senators do, for issuing these Executive orders, and for making it clear that he will leave open military and other options for responding to the Iraqi invasion of Kuwait. I am also pleased to join with my good friend and distinguished chairman of the Senate Foreign Relations Committee in offering this resolution supporting the President's actions.

When dealing with the Middle East, debate in this country often focuses upon the Arab-Israeli conflict. What the Iraqi invasion has reminded us of is that the United States has interests in the region beyond the Arab-Israeli conflict, to be specific, the conflict between pro-Western governments and radical regimes and forces. It should not be ignored that America's ability to support pro-Western governments in this other conflict will also promote Israel's security needs.

Mr. President, the Iraqi invasion is another step in the efforts of Saddam Hussein to bully his way into leadership of the Arab world. When the Iran-Iraq war ended in 1988, Saddam Hussein turned his attention to rebuilding his nation's war-torn economy. To do this, he embarked upon a campaign to intimidate the oil-producing Arab States of the Persian Gulf into forgiving the wartime debt of over \$30 billion owed by Iraq to these countries, and into reducing their oil production so that Iraq could increase its

own production without forcing down the world price of oil.

The first step in this intimidation campaign was the call by Hussein for the withdrawal of American warships from the Persian Gulf—a call which the United States wisely ignored. Next, Hussein proceeded to construct a quasi-alliance among the non-oil-producing Arab States of Jordan, Egypt, and North Yemen. Then he stepped up efforts to obtain nuclear weapons and the technology by which he could build ballistic missiles. He also raised his anti-Israel rhetoric to appeal to the radical elements throughout the Arab world. Now, he has gone ahead and invaded Kuwait, a country from which we import 8 percent of our petroleum needs.

Mr. President, all these efforts are part of a campaign to increase Iraqi revenues from oil, obtain forgiveness for billions of dollars in debts owed to Arab countries, and ultimately gain leadership of the entire Arab world. He will not stop with Kuwait. He has more battle tanks than Rommel, Montgomery, and Eisenhower had combined during the North African campaigns of World War II. He has chemical weapons and ballistic missiles, and is developing nuclear and biological weapons. I fear his successful invasion of Kuwait will only whet his aggressive appetite and increase his ability to impose his will upon other nations.

Mr. President, over the past 2 years, a number of actions were taken here in the Senate aimed at putting a stop to Hussein's antics. Unfortunately, none of these actions became law.

On three occasions in 1988, Senator PELL and I offered amendments to impose wide-ranging sanctions on Iraq in response to Hussein's use of chemical weapons against his own civilians and against Iran in the Gulf war. Unfortunately, all three amendments were killed by the House of Representatives.

In 1988 and again in 1989, I offered amendments to prevent any assistance to the missile program of Communist China until China stopped providing missiles to Iraq, Iran, Syria, and Libya. Unfortunately, both these amendments were killed by the House of Representatives.

On May 17 of this year, the Senate approved the chemical weapons bill, which combined S. 195 introduced by the Senator from Rhode Island and S. 238 introduced by this Senator. The bill passed by the Senate would impose sanctions on countries which use chemical weapons in violation of international law and on Western firms which help Iraq and other radical countries to gain chemical warfare capability. Unfortunately, the House of Representatives has yet to appoint conferees on this legislation.

One final point: Just last week, the Senate approved an amendment offered by the able Senator from New York [Mr. D'AMATO] to the farm bill which would impose wide-ranging sanctions on Iraq. Hopefully the conferees on the farm bill will send the D'Amato amendment to the President without altering its content.

Mr. President, the United States has a strategic, political, and moral stake in seeing that Saddam Hussein does not succeed in his invasion of Kuwait, nor in his campaign of intimidation against Saudi Arabia and other oil-producing Arab States, nor in his drive to accede to leadership in the Arab world.

The actions taken by President Bush this morning and passage of this resolution are the first steps in securing American interests in the Persian Gulf. To follow up, President Bush must make it clear that he retains the right to use military action, and should he exercise the right, Congress must support him. Beyond this, Congress must send to the President at the earliest time, the chemical weapons bill, S. 195, and legislation enacting sanctions on Iraq.

The PRESIDING OFFICER. The Senator's 2½ minutes are up.

Mr. HELMS. This instance brings to mind and emphasizes what happened in this Chamber and in the House of Representatives in the early 1970's when Congress took the lead in virtually dismantling domestic oil production in the United States. Maybe we are learning the lesson too late, but at least we are learning it at last.

Mr. President, I yield whatever time the distinguished minority leader may need.

The PRESIDING OFFICER. The minority leader is now recognized.

Mr. DOLE. Mr. President, I will take just 1 minute because I know a number of Senators want to speak.

"WAKE-UP CALL" FOR THE WORLD

Mr. DOLE. Mr. President, Iraq's brutal dictator, Saddam Hussein, today sent out a harsh wake-up call to those who have been prematurely declaring a new era of international peace, and to those in our country who are proposing the piecemeal dismantling of our own defenses.

I think he alerted us and a lot of other countries around the world that we do have danger spots and he certainly is not reliable. It may be everything that has been said about him in the past may be true. We will know that in a very short time.

His planes, and tanks, and artillery spoke loud and clear: The age of aggression is not yet over. And the need for a strong, vigilant America is as great as ever.

The action we take on the defense bill the next hours and days will send an important part of the message we

must send: That the United States will retain the military strength to defend America's vital interests, both at home and around the globe.

The action we take on this resolution will also send an important part of the message: That the Senate unequivocally condemns Hussein's aggression, and stands behind President Bush's leadership in meeting this new challenge.

Saddam Hussein is acting like an international gangster—heavily armed and extremely dangerous. Our response must be to stand firm; stay cool; know where to draw the line in the sand, and be prepared to back it up.

As the resolution makes clear, President Bush has acted swiftly, and shown we mean business. We have "turned the first screw"—economic sanctions, including a total trade embargo. And, as President Bush has made clear, we have not ruled out following up that action with other options. Nothing has been ruled out, and should not be as long as Iraq's forces remain in Kuwait, and threaten other nations of the region.

The resolution urges the President to continue the tough stand he has taken. I would particularly indicate my support for these additional actions, some of which are listed in the resolution, and all of which I believe the President is already pursuing or shortly will.

First, there are about 4,000 Americans in Kuwait, and about 500 in Iraq. Our first responsibility is to do everything possible to ensure their safety. I believe that, as the airports in Kuwait and Iraq are reopened, many will be evacuated.

Until they do leave, though, let Saddam Hussein understand this: We will do whatever is necessary to protect our citizens.

Second, the President has taken the right step in imposing tough economic sanctions on Iraq. But economic sanctions, to be effective, must be international in scope.

I applaud the decision announced by Prime Minister Thatcher today that Britain will join our embargo of Iraq. All of our allies should join up immediately.

Third, we must step up our efforts to stop the flow of arms and weapons-related technology to Iraq. The Soviet Union has already announced a suspension of military shipments to Iraq. I commend them for that responsible action. I understand the Soviets were also helpful at the United Nations, in supporting a strong resolution demanding an end to the Iraqi aggression.

All other nations involved in selling arms to Iraq—particularly the Chinese and French—must join in the arms embargo immediately.

And the United States unilaterally, and through international efforts, must take real steps to choke off the flow of technology and material that Saddam Hussein is using to produce chemical weapons, develop advanced missiles and nuclear weapons, and work on biological weapons.

Fourth, we must reaffirm our determination and capacity to protect our interests and stand by our friends in the region.

Specifically, we must tell Hussein loud and clear that we will not tolerate any military action against Saudi Arabia or any other nation in the region—and we must mean it.

Fifth, we should also keep an eye on Syria's President Assad. There is no love lost between Assad and Saddam Hussein, their competition for leadership in the Arab world is bitter and long-standing. In some quiet ways, Assad may see it as in his interest to support efforts to build regional pressure on Hussein.

Sixth, that underscores one final and important point: A great deal of responsibility to resolve the current crisis and restore Kuwait's sovereignty falls on Arab shoulders.

I understand that many of them are being privately supportive of our efforts to turn the screws on Hussein, but publicly silent.

That will not wash.

Every Arab state is a potential target of Hussein's aggression. None of them are going to appease their way to real security. None of them can afford to sit this one out.

They must take their own strong stand against Hussein's aggression. And they must avoid being whipsawed into anti-American posturing and rhetoric in response to strong actions we might be forced to take, to ensure the stability of the region, and the security of our interests and friends there.

We do have responsibilities in that region, but so do they. And they ought to understand—particularly those who benefit from our presence and call themselves our friends—we will do our share; but we are not going to pull their chestnuts out of the fire, while they try to play both sides of the street.

Mr. President, the Senate is ready to speak out, to condemn Iraq's aggression and support President Bush's strong leadership. I am confident we will speak clearly and unanimously. I only hope that Saddam Hussein will listen, before it is too late.

I think it is rather timely that we are talking about what is happening there at the same time we have the defense authorization bill on the floor. I think many of us may stop and think about which direction we want to go. But in any event, I applaud what we are doing here this evening.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from New York [Mr. MOYNIHAN].

The PRESIDING OFFICER. The Senator from New York is recognized for 2 minutes.

Mr. MOYNIHAN. Mr. President, I rise in support of the resolution condemning Iraq. I also wish to endorse the very powerful statement of the chairman of the Committee on Foreign Relations, who was present at the creation of the United Nations. He speaks today of the situation that develops when we ignore the rules we have established to govern the conduct of nations.

As he said, for a decade Iraq showed nothing but contempt for international law and we showed nothing but disinterest in its violations thereof. Now we see the consequence of an aggressor moving step after step with no resistance.

The one thing we have done on this floor to sanction Iraq was offered by my distinguished colleague and friend, the Senator from New York, Mr. D'AMATO, with Mr. PELL, not 2 weeks ago. His bill provoked little but bewilderment, disbelief and, I fear, opposition from the administration. I hope this will now cease. I hope we will recognize as a result of the first military crisis of the post-cold war world, that either the international community, led, if possible, by the United States, will insist upon international action to punish violations of law, or we will reap the whirlwind that will follow.

How will the United States and the world respond to Iraq's invasion of Kuwait? During the fog of the cold war the United States had a reflexive response to such crises: we supported our client state and opposed their client state. No need to ask who they were. The rules of international law became less and less relevant to our action. Expedience governed.

Might we now return to the idea that law is at issue here? In the coming days many will denounce Saddam Hussein for his immoral behavior. Immoral it is, but, more importantly he has committed a crime. Without question, the single most important norm of international law—the cornerstone of the United Nations Charter—is article 2(4):

All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.

This law has been violated. Should we be surprised? Saddam Hussein has violated other solemn international obligations with impunity. His repeated use of chemical weapons, a flagrant violation of the Geneva Protocol Against the Use of Poisonous and Aphyxiating Gases, went unpunished.

On June 15 of this year I discussed this issue with Assistant Secretary Kelly. He found it difficult to even use the term "illegal" to describe Hussein's behavior and pleaded that he could not comment on these issues because he was not an "international lawyer":

Senator MOYNIHAN: You wish they had not done it. Does it mean anything to violate the treaty? Does it mean anything to violate an international convention on something as serious as gas warfare? Can the United States do anything?

Mr. KELLY: Senator, in the autumn of 1988 following the outrageous uses of these noxious gases—

Senator MOYNIHAN: Instead of saying "outrageous" why do you not say "illegal"?

Mr. KELLY: Following the use of these gases in contravention of the 1925 Geneva Protocol—

Senator MOYNIHAN: That is pretty close for the Department of State.

Mr. KELLY: I should hasten to add, I am not an international lawyer.

Our sense that law is and ought to be an integral part of our diplomacy has simply disappeared. As I have noted, the administration resisted imposing sanctions on Iraq. Why should Hussein think that we are serious about international law?

Now, however, with the cold war over and with the Soviet Union joining us in demanding that Iraq withdraw, perhaps we will approach this situation differently. In 1979, the Carter administration had to be prodded into taking the Iranian Embassy seizure to the International Court of Justice. This time the Security Council met at 5 a.m. the day after the attack. How the United Nations responds to this challenge will do much to shape its role in the post-cold-war era.

There is also a lesson here for Kuwait. For years this small nation acted as if its votes in the United Nations were of no consequence to the United States. In the last year Kuwait voted with the United States only 10 percent of the time. On the 16 most important issues to the United States, Kuwait voted with the United States exactly twice. They have acted with contempt of United States concerns in the United Nations and, I would add, with contempt of the true purposes and principles of the United Nations. Now this small nation's independence may well depend upon the United Nations. Obviously we must act to uphold the norms of the Charter rather than responding with pique to Kuwait's behavior. But other nations would do well in the future to bear in mind the importance of the United Nations and work harder to join the United States in helping it fulfill its true potential.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from Arizona.

ARE WE SEEING MOVEMENT TOWARD A "GREATER IRAQ?"

Mr. DECONCINI. Mr. President, I thank the distinguished chairman of the Foreign Relations Committee, Mr. PELL, first for his leadership, and the ranking member, Mr. HELMS for bringing this resolution to the Senate floor.

Mr. DECONCINI. Mr. President, the events of the past few days appear to give some credence to the belief that Saddam Hussein, Iraq's President, has visions of himself as another Gamel Abdul Nasser—as a unifier of all the Arab nations. Others have said that he is spending millions of his poor nation's resources to rebuild the ancient city of Babylon because he envisions himself as the 20th-century Nebuchadnezzar—a larger than life individual with an historic destiny.

Hussein ordered the invasion of Kuwait by Iraqi troops under the cover of darkness.

He used the same cowardly pretext that the Soviets used, "we were invited in." They may have been invited, but only after the fact, and only after a puppet, provisional government was installed. This invasion occurred even while his government was supposedly negotiating with the Kuwaiti Government to resolve the tensions between the two countries. This latest action demonstrates to this Senator that the prospect of a new "Pan-Arab" movement is on the rise. And it is apparent to me that Saddam Hussein plans on leading this movement.

Last week the Senate spoke out loudly against the intimidating actions taken by Iraq against its tiny neighbor to the south. We passed a resolution calling for sanctions against Iraq because of its past behavior and because of its current activities. Let me again briefly highlight why I believe it is important that we took that step and why it is even more important that we take even stronger measures.

Iraq violated international law by using chemical weapons against its own people when it horribly gassed the minority Kurds. Iraq also has an abysmal human rights record. It has involuntarily detained people without charge. Iraq also executed foreign nationals whom it claimed, after only pro forma, circus-like trials, were spies against the state.

Also, Iraq has reportedly been involved in developing biological and even nuclear weapons technology. It has demonstrated that it can launch intermediate range missiles. It has violated international law by attempting to illegally import advanced computer technology for use in developing nuclear weapons as well as materials which could be used to build a big gun to threaten its neighbors.

Today, however, Saddam Hussein has crossed the threshold. He has taken that final step which even those in the Bush administration, who felt

they could work with Hussein in order to moderate his behavior, cannot ignore. It is obvious to this Senator that Saddam Hussein is someone who only listens to the little voices which encourage him to continue engaging in his reckless, inflammatory, and brutish behavior.

Once again, he has violated international law by invading a sovereign nation.

Hitler invaded Czechoslovakia, and we ignored it. Japan invaded Manchuria, and we ignored it. The Soviets invaded Budapest and Prague and, again, we ignored it. In each of those instances, the lack of immediate action by the West resulted in a prolonged period of pain. The consequences of those invasions were corrected only after many years and much suffering and spilling of blood.

Clearly, the President must consider taking some effective actions in the next day or two. He has taken some positive initial steps by freezing all Iraqi and Kuwaiti assets in this country so that Iraq cannot get its hands on these resources.

I would also urge the President to engage in seeking a collective response with our allies, the Soviets, and the other Arab Nations. Secretary of State Baker, in his meetings with Soviet Foreign Minister Shevardnadze, has already raised the issue of a termination of Soviet arms to Iraq and it was just announced that the Soviets have said that they have terminated these deliveries. This is only proper, for after all, it is Soviet guns and tanks which are being used even as we speak by Iraq against innocent Kuwaiti citizens.

We must ensure that all civilized nations will end the steady stream of arms to Iraq. We must also work with our allies to isolate Iraq politically, economically, and diplomatically while at the same time providing Kuwait and others who may be threatened by Iraq's expansionist actions with appropriate and effective responses. These are actions which the President must take and ones which I am prepared to support.

The current situation in the Middle East is further testament for the need to both develop alternative energy resources and undertake aggressive energy conservation measures. As was pointed out on the floor today, we are currently importing more than 50 percent of our total crude oil consumption. Since 1983, oil consumption in this country has risen almost 10 percent. The United States has the world's largest oil demand while only containing 5 percent of the oil reserves. OPEC countries on the other hand possess 70 percent of the world's oil reserves. I think my colleagues will agree that this is a prescription for economic disaster.

Many will argue that because of what is happening in the Middle East we need to develop our domestic conventional energy resources. Clearly, this is a course we must pursue. However, to continue to focus only on fossil fuels is incredibly shortsighted. We have at our disposal vast amounts of untapped renewable energy sources such as solar, wind, and geothermal energy. These resources must be developed. The recent glut in the world supply of oil and resulting drop in prices has resulted in complacency in developing these energy sources. According to an article that appeared in the *National Journal* last year, West Germany in 1989 with an economy a fourth the size of the United States', spent approximately \$140 million on research on renewable energy sources. The United States, that same year, spent approximately \$125 million. India, whose economy is one-twentieth the size of ours, spent approximately \$178 million.

Nine percent of our total U.S. energy demand currently comes from alternative energy sources. If this country were to undertake an aggressive program to implement renewable energy programs, one-fifth of the total energy demand of this country could be met from these sources.

The development of renewable resources is only part of the answer. We also need to undertake aggressive energy conservation measures as well. What happened today in the Middle East reinforces the need for the Senate to pass legislation introduced by our distinguished colleague from Nevada, Senator BRYAN, which would increase fuel economy standards in automobiles. Two-thirds of the oil we use—25 percent of the total oil burned in the free world—goes into U.S. transportation. The current Café standard, instituted in 1975 has resulted in doubling of the fuel economy of automobiles in this Nation—from an average of 13 miles per gallon in 1973 to 26 in 1987. This has resulted in a savings of 2.5 million barrels of oil. The Café standards contained in the Bryan bill, will save an additional 49.1 billion gallons in fuel.

We must not allow ourselves to be lulled by the soothing sounds of Hussein's apparent compromise moves. We must not forget that it was the "Butcher of Baghdad" who gassed his people, fought a decade-long war with one Arab neighbor and who began to bully other neighbors. We must not forget that Hussein, like Hitler, cannot be bought off. First, Hussein wanted higher oil prices. He got them. Next, he said he wanted negotiations with Kuwait. He got the talks, but broke them off. Now, he wants Kuwait. We do not know where Hussein will stop. He must not keep Kuwait. We must do all that we can to ensure that this

madman stops getting everything that he wants.

Let me say, Mr. President, the time has come, as the junior Senator from New York pointed out last week—and I was pleased to support his resolution at the time—that the time has come to send that signal. And we must be firm now and we must not rule out some selective—I underscore selective—military preemptive action toward this absolutely irresponsible person who is leading this country and that part of the world to, perhaps, a disaster.

We are not facing a rational leader here. We are facing someone similar to Mr. Qadhafi of Libya, someone who is willing to persecute and diminish and murder his own people so that he can foster his own national interest and international interests. This man used chemical weapons against his own people. I happened to be in Turkey just 1 year ago this month and witnessed some of those people that escaped, that were not killed by this man's chemical weapons, the Kurds, Iraqi Kurds.

This is something that we cannot ignore. It is a human rights violation. What this President has done has got to be responded to by the United States and the world community.

I thank the chairman of the committee for yielding me this time.

Mr. HELMS. Mr. President, I yield 4 minutes to the distinguished Senator from New York [Mr. D'AMATO].

The PRESIDING OFFICER. The Senator from New York is recognized for 4 minutes.

Mr. D'AMATO. Mr. President, I thank the distinguished Senator from North Carolina [Mr. HELMS] for his leadership in this area, and also my good friend, Senator PELL, and his committee.

Mr. President, appeasement has never curbed the appetites of despots such as Hitler and Hussein. And, yes, Mr. President, we are responsible today for what has taken place. You see, Mr. President, the Frankenstein monster that we helped create is Hussein, and it is time that we pulled the plug on him.

Mr. President, we fed him. We built this monster. We traded with him. We gave him technology. We allowed the world community and this Nation's chemicals to go there, so that he could be the threat that he is today.

We purchased his oil so that he could buy the arms, and with indifference, we stood aside and cheered him on. Yes; just as if it were those who cheered on Hitler because they said he was the answer to communism. We cheered him on when he was fighting the Ayatollah Khomeini. It made no difference to us who started the war.

When the Stark was sunk and 38 American boys lost their lives, what did we say? Oh, an accident.

We sent him grain to feed his people, so that we could feed our piggy banks. And last week, it was a disgrace on this Senate to have to fight to get us to say cut off credits. All the boys in the oil patch were worried, the boys in the agripatch were worried.

You are never going to defeat evil, and that is what this man is, unless you stand up to it. Tonight, look how many will vote, 100 to zero, and say, oh, we stood up against aggression. Nonsense.

In this same body, we quivered in 1982 when a brave country took Iraq and destroyed the nuclear reactor. God help humanity if this man had the ability to deliver atomic weapons like he would like to have. We shuddered, we condemned, the world condemned Israel for knocking out that reactor. We owe an apology to mankind for our indifference just as we did as it related to Hitler. What do we do know? Oh, we have sanctions. Our State Department is really going to work, or our Government is really going to work to make sure that these sanctions enjoy the support of all of our so-called allies.

I am sick and tired, for one, to have so-called allies not help us out. They better join in with us.

I will tell you something. We need a blockade, and this resolution talks about that. We need an economic blockade and we should talk to the Turks in that pipeline. Let this guy drown in that sea of oil that he now has. We want Kuwait back. And not just with a puppet Government. We want his troops out of there and we want the families that ruled to be reinstated.

But I have to tell you something. I do not know whether we have the guts to do it. Are we going to stand up to the Japanese? They furnished all the lobbyists. They have got all the big law firms. Are we going to allow them just to say: "Oh, sorry, we are going to do what is best for ourselves?"

We need a blockade. We have to be in the leadership. We need the world community working with us.

It is time we put an end to the Frankenstein that we created.

Yes, Mr. President, we will agree to this resolution. But I am ashamed of our lack of action, not just a week ago but over a period of time. The expedience of politics has ruled, to our shame. Today we are in the situation we are in as a result of that.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. HELMS. Mr. President, I yield 1 minute to the distinguished Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 1 minute.

Mr. COHEN. Mr. President, many years ago one of my mentors gave me a watch upon the termination of my employment. It had three Latin words. The words *virtute non verbis*, meaning "deeds and not words."

Unfortunately, too often as it pertains to Iraq and other types of dictators, Saddam Hussein, we have passed resolutions—more words, few deeds.

Each time we talk about sanctions they are undercut by a failure on the part of our allies to support that particular effort.

There is a writer I am familiar with, William Inge. He says, "It is useless for the sheep to pass resolutions in favor of vegetarianism, while the wolf remains of a different opinion."

I think it is important to remember we can pass all the resolutions we want to this evening. Unless we are willing to take firm action then the words will be meaningless and we will not have the deeds to match the words.

I hope this is not simply an empty resolution; that we take action to follow up these words.

The PRESIDING OFFICER. Who yields time? The Senator from North Carolina.

Mr. HELMS. I ask unanimous consent Senator Packwood be added as a cosponsor.

I yield 3 minutes to the distinguished Senator from Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Alaska is recognized for 3 minutes.

Mr. MURKOWSKI. I thank my colleagues, Senator PELL and Senator HELMS. I want to remind my colleagues, yesterday we were importing approximately 700,000 barrels a day of oil from Iraq. We were the largest purchasers, Mr. President. And we were committed to purchase a million barrels by the end of this month.

We have seen oil increase \$5 a barrel within the last 10 days. We have also seen Iraq acquire an additional 12 percent of the oil reserves of the world. Not only the oil reserves but the production capability.

He formerly had approximately 14 percent in Iraq. By picking up Kuwait it gave him a total of approximately 24 percent.

Mr. President, he is marching on to Saudi Arabia, make no mistake about it. If he acquires the oil productive capability of that nation that will give him another 20 percent. He will be then in control of nearly 50 percent of the oil reserves of the Mideast, which are the largest in the world, and approximately 50 percent of the production of that area.

I had an opportunity to meet, with a number of my colleagues, with Saddam Hussein. There is no question in my mind he will go on for the brass ring. The question of a blockade; yes.

We must take a stand now because reality is staring us in the face. We cannot escape it.

Mr. President, OPEC has fed us cheap oil like a drug dealer, developing a dependency. Make no mistake about it, like a drug addict, nearly 40 percent dependent on Mideast oil, we will be willing to pay anything to keep the oil flowing to the United States and our allies. Just like a drug addict whose body is wasting away, so is our domestic oil industry and our energy security.

It is my hope, Mr. President, that the rationale as a consequence of this crisis will lead us to achieve a commitment to energy independence for this Nation by bringing in some of our frontier areas and Alaska is part of those frontier areas.

Mr. President, I have a few further thoughts on this subject.

The Iraq invasion of Kuwait focused national attention on how dependent our Nation has become on foreign oil imports. Actions of last 24 hours have raised serious questions about U.S. energy security.

Presidential order requires a total embargo on all purchases of petroleum and petroleum products from Iraq. Further, U.S. oil companies cannot purchase Iraqi oil for export through a third country.

Will ban on imports extend to Kuwait oil now that Iraq controls those fields?

What is the U.S. obligation to keep oil flowing through the Persian Gulf? Dedication of 7th fleet? What actions will we have to take to secure oil supplies?

Should the United States take any further steps to protect other Persian Gulf oil producers? For example, Saudi Arabia—or small states like the United Arab Emirates?

What is status of U.S.-flagged tankers? Will those tankers be seized under the provisions of the executive order freezing Kuwaiti assets?

Will OPEC policies be controlled by gun diplomacy in the future? Will OPEC now become a tool of Iraq?

What will be required to protect the flow of oil to countries like Japan—which receives 59 percent of its oil from the Middle East?

This was not without warning. May 28 Arab League summit Key Note speech—Saddam Hussein called on fellow Arab leaders to declare that strong support for Israel "precludes American friendship with the Arabs" and suggested using oil as a lever to force a change in U.S. policy in the Middle East.

Hussein said, "We have to announce in the loudest voice possible that nobody, and I repeat nobody * * * has the right to enjoy our resources while it opposes us. What I am calling for is to employ all our resources and poten-

tial, and if we do that, we do not need battles."

Decreasing oil security is a serious problem: Oil is a powerful geo-political weapon. Oil embargoes are not relics of the past. Soviet Union effectively embargoed Lithuania. Embargo of 1973 by countries providing only 6 percent of U.S. oil supplies. Today those same countries provide 30 percent of U.S. oil supplies. Persian Gulf alone provides 17 percent of U.S. supply. Compare this with 3 percent in 1985.

Iraq oil statistics: Iraq is second only to Saudi Arabia in oil reserves. Iraq exports 2.7 million barrels per day. Iraq provides 600,000 barrels per day to United States. This might have gone up to 1 million barrels this month. United States is Iraq's largest oil customer. United States obtains 8 to 10 percent of oil imports from Iraq. Japan obtains 5 percent of oil imports from Iraq. Western Europe obtains 10 percent of oil imports from Iraq.

Kuwait oil statistics: Kuwait exports 1.8 million barrels per day. Kuwait provides 120,000 barrels per day to United States. United States obtains less than 2 percent of oil imports from Kuwait. Japan obtains 6 percent of oil imports from Kuwait. Western Europe obtains almost 5 percent of oil imports from Kuwait.

Problem of U.S. oil dependency: United States consumes 16 million barrels of oil per day. Produces 7.4 barrels per day. In January 1990 United States imported 9.13 million barrels per day. We are over 50 percent dependent on other countries.

Increased world oil prices affect the U.S. trade deficit: The U.S. trade deficit is \$109 billion. Oil imports last year amounted to \$45 billion—40 percent of our trade deficit. We spend twice as much on foreign oil imports as on Japanese cars. Trade deficit with OPEC countries tripled in the last year. \$475 million to \$1.8 billion.

The cost of our military obligations is a real cost of imported oil: Costs incurred to protect Persian Gulf oil over \$14 billion in 1987. Taking military costs into account, this oil costs over \$52 per barrel—over three times its nominal cost. Carrier *Independence* is now headed toward the Gulf.

We also must consider the unmeasurable cost of imported oil: Tragic loss of 37 American seamen aboard the U.S.S. *Stark*. Should not let our energy policy failures cost us young American lives in securing a supply of oil from the Middle East?

Indicators of a failure to have a forward looking energy policy:

First. Drop in U.S. oil production: U.S. oil production is at its lowest point in 26 years—currently 7.4 million barrels per day and dropping. Dropped over 500,000 barrels per day since early 1986 (20 percent reduction). Prudhoe Bay production dropped 10

percent in 1989. Future U.S. crude oil production could fall 4 million barrels/day by 2010.

Second. Increase in U.S. oil imports: U.S. imports higher now than during the oil crises of the 1970's. The 1989 yearly average for United States was 46 percent of consumption. January of 1990, imports reached a record 54 percent. Predictions for 2010 call for imports of 54 to 67 percent of consumption.

What are we doing to reduce our dependence on imported oil? Withdrawn over two-thirds of our public lands from mineral leasing. Moratoriums on leasing in off-shore areas. Chukchi Sea OCS oil lease area may contain billions of barrels of oil.

TransAlaska Pipeline flow is declining. Capacity of 2.1 million barrels per day—28 percent of U.S. production. Now carrying 1.7 million barrels per day—declining 10 percent per year. In year 2000 flow will have decreased to 500,000 barrels per day without new discoveries. At current prices, 300,000 barrels per day is necessary to operate pipeline—if not operating, law requires line to be removed.

ANWR remains off-limits: ANWR could reduce the U.S. trade deficit by some \$90 billion. ANWR is 19 million acres, size of the State of South Carolina, less than one-tenth of 1 percent would be impacted at full production. Average estimates are 3.4 billion barrels of reserves. Advances in oil technologies—small footprint. Endicott, sixth largest U.S. oilfield in the United States—producing 110,000 barrels per day. Footprint of only 55 acres, the size of a small family farm.

Increasing consumption and decreasing capacity world wide put Saddam Hussein in the drivers seat.

Middle East is already producing in excess of 90 percent of capacity—limitation is infrastructure: Producing 23 to 24 million barrels per day. OPEC sustainable capacity today is little in excess of 25 million barrels per day. The call on OPEC is growing at over a million barrels per day each year. Will soon reach capacity—with supply shortages and price shocks.

Changing political and economic structure of Soviet Union and Eastern Europe: The Soviet Union is the world's largest oil producer—11.4 million barrels per day. Soviet Union is a major supplier of oil to the United States. Upheavals in U.S.S.R. decreased production 300,000 to 400,000 barrels per day in 1990 after declining by a similar amount in 1989. Soviets less willing to provide cheap oil to Eastern European neighbors. East European countries rely more on world market oil supplies. More productive Eastern Europe will demand more oil in future.

Growth in oil consumption in the Far East: Japan increasing oil demand 4 to 5 percent per year. Developing

Far East increasing oil demand 6 to 10 percent per year.

CONCLUSION

OPEC has fed us cheap oil like a drug dealer developing a dependency. Just like a drug addict, at nearly 40 percent dependent on Middle East oil, we will be willing to pay anything to keep the oil flowing. And just like a drug addict whose body is wasting away, so too is our domestic oil industry and our energy security.

What price are we willing to pay if Saddam Hussein increases the price of oil or turns off the tap? What sacrifices will have to be made with an oil supply reduced by 40 percent? Will more American lives be lost?

These are important questions which this body must address.

Mr. HELMS. I ask unanimous consent notwithstanding the unanimous-consent agreement as to time, the distinguished Senator from Pennsylvania [Mr. SPECTER], be recognized for 10 minutes and that will conclude all of our time.

The PRESIDING OFFICER. The Senator from North Carolina has 7½ minutes.

Mr. HELMS. I understand.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator is recognized for 10 minutes.

Mr. SPECTER. I thank the distinguished ranking member. The balance of the 7½ minutes will be adequate. I thank my colleague very much.

Mr. President, the resolution which is before the Senate is a very significant resolution because it calls for a blockade, which is an act of war. It calls further for additional multilateral actions, involving air, sea, and land forces as may be needed to maintain or restore international peace and security in the region.

This is a very important resolution, Mr. President. I have reread the Tonkin Gulf resolution which was passed on August 10, 1964. I find certain substantial similarities between the Tonkin Gulf resolution and this resolution. We all know of the consequences of the Tonkin Gulf resolution; authorizing what was in effect the Vietnam war.

Mr. President, it is my hope that we will not have to undertake the forceful measures called for in this resolution.

The President acted very promptly today in his acting to institute an embargo, total economic sanctions. The Prime Minister of Great Britain, Margaret Thatcher later today joined President Bush. If our allies take the same action, then Iraq may have all of its oil to itself. If it has all of its oil to itself it will not be worth very much, if anything. That may resolve the issue.

But, if necessary, this is a forceful statement by the Senate about a blockade which could quarantine and cut off Iraq totally, and the multina-

tional action has the potential to be very effective indeed.

Mr. President, I think it is unfortunate that we have not drawn the line before or have not spoken forcefully and backed up our words with action with respect to the problem of OPEC generally. There is an agreement among the OPEC nations to restrain the production of oil and thereby to raise the price in an artificial way.

If that were to be done in the United States, it would be a violation of our antitrust laws which prohibit conspiracies in restraint of trade. But we do not have the authority to impose our antitrust laws on foreign sovereign governments.

We should say, Mr. President, and very forcefully, that there is a fundamental value, so far as the United States sees it, that we condemn restraints of trade and we condemn agreements to raise artificially the price of oil to our detriment. The sanction that we could employ, Mr. President, is when that is done by the OPEC nations—many of them our good friends—we should retaliate economically so that for every dollar they seek to gain, we ought to be sure they pay a dollar or two or three so that we say to them: This is a fundamental American value, a value shared in the Western World, and we simply are not going to tolerate it.

Then there would be less incentive for Iraq to take action against Kuwait or the United Arab Emirates in order to enforce the OPEC agreement. Therefore, had we acted at an earlier stage, we might have avoided the underlying basis for the action that Iraq has taken.

But there is no question, Mr. President, about the need for very positive and very swift action in these premises. It was just a week ago tonight that the Senate debated a resolution on sanctions. We agreed to it the next morning, Friday morning. It is less than 24 hours since this news broke in the United States and I believe this is an important line to be drawn and a important resolution to be pursued.

I thank the Chair and yield back the remainder of my time.

The PRESIDING OFFICER. The Senator has yielded the remainder of his time. The Senator from Rhode Island has 10 minutes remaining.

Mr. PELL. Mr. President, how much time does the minority have?

The PRESIDING OFFICER. The minority has 2½ minutes.

Mr. PELL. Mr. President, I ask unanimous consent that the name of Mr. Ford, the Senator from Kentucky, be added as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas.

Mr. BENTSEN. I say to the Senator from Rhode Island I wish to be added as a cosponsor.

Mr. CHAFEE. Mr. President, I also ask to be added as a cosponsor.

Mr. PELL. Mr. President, I ask unanimous consent that Senator BENTSEN and Senator CHAFEE be added as cosponsors of the amendment.

I yield to the Senator from Maine.

Mr. COHEN. Mr. President, I also wish to be added as a cosponsor.

Mr. PELL. I am delighted to ask unanimous consent to add the Senator from Maine, and the Senator from Connecticut, [Mr. LIEBERMAN] as cosponsors of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut [Mr. LIEBERMAN] and the Senator from Maine [Mr. COHEN] are added as cosponsors.

Mr. PELL. And the Senator from Nevada also.

The PRESIDING OFFICER. The Senator from Nevada is also added as a cosponsor.

Mr. McCLURE. Mr. President, will the Senator yield?

Mr. PELL. Yes, I am happy to yield.

Mr. McCLURE. While everyone is joining together in this act of condemnation, and the senior Senator from Idaho joins in that condemnation in the actions of this Government of Iraq in invading Kuwait, I want to call attention to just a couple of things we should be a little more cautious about.

The Senate blusters and blows. Nothing can be more dangerous to the security of our country today than blustering and blowing and doing nothing. I commend the Senator from Maine for having pointed out a moment ago that actions are more important than words. Unfortunately, the Senate is more adept in their words than affirmative action.

Some of the allegations in the resolution are, in my opinion, unfortunate because they are not proven allegations and they are given as statements of fact when, as a matter of fact, we do not know whether they are factual or not. We do know the fact of the invasion.

Second, I am not going to say to my friend what I have been trying to say for years with respect to oil policy. But where are all these people today who are condemning the actions of Iraq and worrying about oil? Where were they when we were voting on Federal policies with respect to domestic production of oil? Where were they when we were voting wilderness designations and OCS moratoriums and bans on exploration in Alaska because we created the conditions under which this man can now operate?

Let us be very cautious when we start talking about the use of military force, that, indeed, we better mean it or we better not say it. Nothing could be more dangerous to the security of

this country than to start an action and then not follow through on it.

Finally, Mr. President, I agree with the call for multilateral force and multilateral action. We cannot do it alone. Let us have no illusions about that. We cannot do it alone, either economically nor militarily. There are many in this world who would like the United States once again to bear all of the burden. It will not work. We have to have the support of our friends and allies in the world.

I hope this action is not the end of what we do in this Senate or in this country. I hope we are able to get the support of the people who are notably absent, both within this Congress, within this administration, and within the Western World in our alliance to bring about a more peaceful, more stable, more prosperous economy.

I thank the Chair, and I thank the Senator for yielding this time.

The PRESIDING OFFICER. The Senator from Rhode Island has 6 minutes. The Senator from North Carolina has 2½ minutes.

Who yields time?

Mr. BENTSEN. Mr. President, will the Senator yield me 3 minutes?

Mr. PELL. I yield 3 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. BENTSEN. Thank you.

Mr. President, what we are looking at here is a situation where a man has been able by force to seize control of Kuwait, which will make him, in my opinion, the largest oil producer in the world. Moreover, he is right up against Saudi Arabia. There is no question in my mind but that that is his next target. If he takes over that nation and then the Emirates with the kind of power that he has, he is going to have the entire world's economy within his grasp. He is an evil man; he is a cruel man. He has practiced genocide on his own people, and has shown his willingness to engage in chemical warfare.

I was thinking back to only some 3 years ago when I introduced in this body a measure called peril point legislation to say that the President of the United States should have to propose a plan for conservation, for increased production within our own country, for alternative fuels in order to develop independence on energy for this Nation. I said that if we did not do that, that we were going to be in just the kind of situation we are in today. I can recall I finally received 41 votes for it, but I had the adamant opposition of the administration at that time.

What have we seen happen in the last 3 years? We have seen restrictions on cars, to get better gasoline mileage, reduced. We have seen in the last 8 years a situation where when we had temperature controls for Federal

buildings, to try to force greater conservation in both winter and summer, we have seen those lessened. We have turned away from some of the practices that would have continued to build further independence for us in this country. We have tried time and time again to put further incentives in to try to encourage drilling for oil and gas in our country and have not been able to accomplish it to the extent that it is absolutely necessary.

What we have seen today is an increase in the price of oil, and an increase in the price of gas. In the short run, they help the energy industry in this country, but in the long run, it is a very dangerous situation for our country.

This kind of an increase and what will become a controlled price increase in the Middle East by President Saddam Hussein will be one that will tip this country toward increasing inflation, will tip this country toward the depth of a recession, and will add very much to decline in the standard of living of our people.

His greatest vulnerability is that he is heavily in debt and he must have cash and he must have income. What we must have is a coordinated boycott for all of his products in order to bring him to heel.

Mr. HELMS. Before yielding to the Senator from New Mexico, let me thank the Senator from Texas and the able Senator from Idaho [Mr. McCLURE]. You have counseled this Senate well. I, for one, appreciate what you have said. I appreciate what Senator COHEN has said, and if we do not learn from this episode, we are dumb.

I yield the remainder of my time to the distinguished Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. How much time do I have, Mr. President?

The PRESIDING OFFICER. Two minutes 18 seconds.

Mr. DOMENICI. Mr. President, I agree with the distinguished Senator from Texas, the United States should learn from this incident with reference to our growing energy dependence. Obviously, 10 years ago, we were worried about the fact that we were importing so much oil. We have now forgotten about all that. I am hopeful that we will be reminded of it because of what is occurring in the Middle East, and, Mr. President, the fact that we might be once again hostage to someone who will cause the price of oil to increase such that it will sap our economy dry.

Obviously, tonight we are here to support the President of the United States and to urge all our friends in the world to support him and us in an effort to see to it that the actions

which we have seen last night and today are reversed and that Hussein is forced to change his way of doing business.

We now have one man with a huge army sitting in the middle of 50 percent of the world's oil, and he has put himself there by force. Obviously, if we do not build up the strength and the vigor of those other countries that are now at his mercy, they are going to either capitulate, or he will see to it that either directly or indirectly he controls them.

Much has been said about the kind of person that he is, and I will not repeat that because everyone knows what kind of person we are dealing with. But I am hopeful that we will not let this man with that tremendous army dictate the future of the U.S. economy and of the free world's economy. He might do that if we do not put an end to his kind of tyranny.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

All time has expired under the control of the Senator from North Carolina.

The Senator from Rhode Island has 3 minutes remaining.

Mr. PELL. Mr. President, I ask unanimous consent that Senators BREAUX, SASSER, and INOUE be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PELL. Mr. President, I yield 1 minute to my colleague from Rhode Island.

Mr. HELMS. Mr. President, I ask unanimous consent to add Senator SIMPSON and Senator DOMENICI as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAFEE. I want to thank my colleague.

First of all, we all acknowledge that Saddam Hussein is a crafty and a dangerous individual. The threat to Saudi Arabia, of course, is now the next great danger point that is showing up in that area.

This resolution, I hope everybody will take note of, concentrates on multilateral actions. This is the direction that the President is leading us. I do hope that we can enlist the support of those other nations that have interest in that area.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. CHAFEE. We, in the United States, are required to do our part, but it must be a multinational effort.

I thank the Senator.

Mr. PELL. Mr. President, I yield 1 minute to the Senator from Maine [Mr. COHEN].

Mr. COHEN. Mr. President, it is clear from the debate there have been two policies pursued. One is a policy of appeasement; we thought we could

purchase peace through weakness. The second policy is one of obscene energy consumption. It seems to me the Senator from Texas has said it just right, that we have not had an energy policy. We have abdicated on tax credits for energy conservation. We have gone back to 65 miles an hour plus on our highways. We have big cars back, bigger and better and faster and more consumptive than ever, and through this policy, or non-policy, on energy conservation we have allowed Saddam Hussein to put us on the cruel rack of extortion.

Mr. SIMPSON. Mr. President I, too, am pleased to be a cosponsor of this resolution which condemns Iraq's invasion of Kuwait, commends our fine Commander in Chief's trade embargo on that country, and urges the President to seek, through multilateral action, international sanctions against Iraq.

After visting Saddam Hussein in April with my colleagues, our fine Republican leader, Senator DOLE, Senator McCLURE, Senator METZENBAUM, and Senator MURKOWSKI—in debate soon after that event I was one of many who came to the floor and urged a cautious, noninflammatory policy toward Iraq. We gave Hussein the benefit of believing his assertions that he desperately wanted his country to be accepted in the family of nations; that he did not seek to gain military advantage over his neighbors; and that he sought improved relations with our country. So much for those promises.

Iraq's actions in the past few days have proved the total falseness of all of the assertions which he made to our delegation. He is a liar and a fraud—and a rabid marauder in every sense of the word.

I commend the leadership of our great President. He has responded in a steadied, calm, and just manner, as he has to all other crises with which he has been faced using the measured response required under all of the circumstances. At this stage, we should leave this sensitive matter in the able hands of our President and his capable advisers, and express to him, as this resolution clearly does—our complete support and confidence in his present actions.

Mr. DURENBERGER. Mr. President, I join my colleagues in supporting this resolution condemning the raw barbarism and terror of the Iraqi invasion of Kuwait. There are few words available to express the total outrage and anger that we feel toward the brutal Iraqi regime.

There can no longer be any doubt about the profound danger that Saddam Hussein presents to the entire region. His actions have become unpredictable. Two days ago, even the most informed analysts of Iraqi affairs would not have predicted that Iraq would actually invade Kuwait. Saber

rattling in the extreme? Yes. But no one seemed to believe that he would act in this way.

To a rational mind, it would seem inconceivable that Saddam could turn next against Saudi Arabia or Syria or Jordan. But now, no one can be certain of that. Saddam is such a threat precisely because he has so much military power and a demonstrated willingness to use it. And it has become difficult to predict where he will use it next.

Many of my colleagues and I have expressed deep anger at the Iraqi actions. I agree that we must take action against Iraq. I fully support the economic and other actions that President Bush announced this morning. I have confidence in President Bush's ability to lead this country's response to Iraq. We must pursue these actions with vigor, and encourage our friends and allies to join us.

I deeply regret and forcefully condemn the Iraqi invasion. It is my hope that Iraq will withdraw completely from Kuwait and permit the legitimate government of that country to return to power. I must confess some pessimism, however, at this prospect. It doesn't appear that Kuwait will soon regain its freedom.

But the United States must remain firmly committed to responding as strongly and persistently as possible. I support the resolution.

Mr. BOSCHWITZ. Mr. President, Iraq's invasion of Kuwait is contemptible. It deserves—and is receiving—condemnation in the strongest terms. The response to the invasion of Kuwait demands concerted, multilateral action on the part of the United States and our allies. Iraq's irresponsible action must have costly consequences for it. The President's call for a multilateral response against Iraq is entirely correct and I strongly support him.

Anything less than such a response would encourage Saddam Hussein to continue on his irresponsible and dangerous course. We should be telling our NATO allies and Japan that we expect them to join us in imposing penalties against Iraq. Its brazen attack on small and virtually defenseless Kuwait is simply unacceptable.

Both the President and the United Nations Security Council have already condemned the invasion and I commend them for their quick and forceful responses. The Senate will also go on record shortly to condemn Iraq's indefensible and dangerous action.

Iraq's attack has serious consequences for the United States. We purchase hundreds of thousands of barrels of Iraqi oil each day. Presumably, we will now have to find alternate sources of supply. Other nations in the Persian Gulf may now find themselves under similar threats to do Saddam Hussein's bidding or face attack. As a

result, we may be called upon to provide them with military assistance. We should examine such requests sympathetically.

Saddam Hussein's aims are twofold—to force the world to pay higher prices for oil even if he has to use force to do so and to become the strongest voice in OPEC. He has demonstrated by his own actions that he can not be dealt with by normal methods. Last week, the Senate overwhelmingly voted to bar any new financial credits for Iraq and to provide no financial assistance to it. The House has also voted punitive action against Iraq. This morning, the President froze Iraq's assets in this country.

The United States is doing its part to respond to Iraq's recklessness. It's time for other nations to do theirs.

Mr. PELL. Mr. President, I would like to point out that this resolution is not a Gulf of Tonkin resolution. It does not authorize unilateral U.S. military actions, rather it calls for the President to use the chapter 7, article 41 and 42 procedures of the U.N. Charter for multilateral action.

In accordance with the charter, use of force can be authorized by a two-thirds vote of the Security Council including the concurrence of all five permanent members including, of course, the United States. The chapter 7 procedures were conceived as a means of deterring and defeating aggression through the collective action of the world community. They were intended precisely to deal with the kind of aggression we have seen from Iraq against Kuwait. I would point out the charter is a treaty to which the U.S. Senate has given its consent and which is the supreme law of our land. Should the United States participate in any multilateral force it would have to be carried out consistent with our constitutional processes. I would note that in recent years U.S. military forces have not participated in U.N. military actions although this could change should there be a U.N. military collective security action against Iraq.

Mr. KOHL. Mr. President, this resolution, as strongly worded as it is, expresses only part of the disgust we all feel for Iraq's invasion of Kuwait and the disdain we all have for Iraq's behavior in general.

There is no excuse, there is no justification, for what Iraq has done. And there is no reason for the United States to show restraint in expressing its displeasure. Too often in the past our Government has refused to take action against Iraq. Some have argued that if we respond patiently to their brutality, surely Iraq would modify its behavior. We have; they haven't. And the time for tolerance has long since passed.

President Bush has responded appropriately to this latest unprovoked attack. And he has indicated that he

will consider additional responses, including military responses, to express our disgust and protect our national interests in the region. That, Mr. President, is appropriate. Given Iraq's history of military adventurism and its use of chemical weapons and its disregard for basic human values, we have no choice but to respond forcefully and clearly.

I would simply suggest that our response ought not be unilateral and ought not focus on just punishing Iraq. Here at home, we have to develop a national energy policy so that we are not as dependent on imported oil. Regionally, we have to help Israel and her Arab neighbors realize that their interests require a meaningful peace between them so that they can respond to the real threats they face which come from terrorist states like Iraq. Internationally, we have to demonstrate that America is ready to work with other states, including the Soviet Union, to respond to any and all threats to world order and peace. And we have to take whatever action is required to make sure that our allies—that all nations—join in that effort.

Mr. President, this resolution is a rhetorical reaction to Iraq. But we have to have more than rhetoric; we have to have concrete plans to deal with Iraq. And that means we have to be willing to impose sanctions and cut off trade and take other steps even if they impose some pain on us. By now we should have learned that the sort of pain we willingly decide to impose upon ourselves is mild compared to the agony that will be created if we allow Iraq to continue in the future as it has in the past.

Mr. BIDEN. Mr. President, in his inaugural address, President Bush said that the "day of the dictator is over." Today, sadly, we were reminded that this day has not yet arrived.

The world's most belligerent dictator, Saddam Hussein, has, without provocation and under a contrived pretext, invaded the sovereign nation of Kuwait.

Hussein's action poses a challenge to all civilized nations of the world. It poses a threat to stability in the Middle East, the world's most unstable region. And it poses a direct threat to American interests.

For too long, we have danced with this dictator, pretending he was something that he was not, that he was someone we could deal with. I hope we have learned our lesson.

Two years ago, after Hussein gassed the Kurdish minority in Iraq—an act that can only be labeled genocide—the chairman and ranking member of the Foreign Relations Committee proposed mild sanctions against Iraq, a proposal which easily passed the Senate. Unfortunately, the Reagan administration and the other body op-

posed these sanctions, which died in the final days of the 100th Congress.

In recent months, as Hussein has bullied his neighbors in the Middle East and boldly continued his drive for nuclear weapons and other weapons of mass destruction, we have twiddled our thumbs, fearful of upsetting this madman. Indeed, we have even subsidized his purchase of our commodities and manufactured goods, which freed up other resources to pursue the high-technology weapons that he covets.

Mr. President, the time for our silence has ended. The world has stood by for too long. We must act, and we must act forcefully.

I commend President Bush for the Executive order he issued today, which imposes a total economic embargo on Iraq. And I commend him for seeking an emergency meeting of the United Nations Security Council, which unanimously condemned the belligerent invasion by Iraq.

But we must do more. We must seek concerted action by all the civilized nations of the world. The Soviet Union, according to news reports, has already decided to end its arms shipments to Iraq. Surely we can ask our allies to do the same.

The resolution that we have introduced urges the President to seek collective international sanctions against Iraq. We must pay particular attention to stopping—on a multilateral basis—any assistance that could contribute to Hussein's efforts to develop ballistic missile technology, or his goal of acquiring nuclear weapons.

This means getting many of our closest allies—in Europe and in this hemisphere—to end their cooperation with Iraqi high-technology weapons programs.

This means appealing to the nations of central and Eastern Europe, as well as the Soviet Union, to begin to play a constructive role in the Middle East, where for years they have been a thorn in the side of the United States.

And it means a vigorous diplomatic effort, on all fronts, to isolate Saddam Hussein and tell him that he must pay the price for his belligerence.

Mr. President, the world has changed, changed utterly. Unfortunately, the Middle East remains, in the words of one Israeli official, "a dangerous neighborhood." History will not forgive us if we do not do everything in our power to stop Saddam Hussein, who poses such a dangerous threat to stability in the region and to international order.

Mr. LAUTENBERG. Mr. President, I rise to express my revulsion, anger, and alarm at the Iraqi invasion of Kuwait last night, and to support this Senate resolution calling for a total economic blockade of Iraq, which I have cosponsored.

While this administration was talking kinder and gentler to Iraq, and refusing to take action against it, Saddam Hussein has been acting crueler and tougher to his neighbors and to his own people.

He has been relentless in his efforts to acquire chemical, biological, and nuclear weapons in violation of various international treaties. He has used chemical weapons against his own people with impunity, causing the deaths of thousands upon thousands of Iraqi Kurds. He has threatened to scorch half of Israel with binary chemical weapons.

He invaded Iran, starting a long and futile war that caused untold misery to his people, and leaving them billions of dollars in debt. He has tortured Iraqi children mercilessly to punish their parents. Finally, his policy of contempt for his people and his neighbors has culminated in his invasion of Kuwait.

There can be no remaining doubt about Hussein's aggressive intentions, or his willingness to use force to achieve his boldest aims. The only question is how far he can go before we draw a line in the sand.

Iraqi forces crossed the Kuwait border at 2 a.m. last night, less than 24 hours after talks to resolve disputes over an oil-rich border region and over Iraqi demands for financial concessions from Kuwait broke down.

Saddam Hussein invaded his smaller, weaker neighbor after assuring Egypt he would not. He invaded despite the fact that Kuwait bankrolled his war with Iran to the tune of billions of dollars in interest free loans. He invaded despite the fact that he got what he had demanded earlier—a price rise of \$3 a barrel from OPEC. In one move, he demonstrated not only his naked lust for power, but his amazing ability to be an ingrate, a liar, and bully all at once.

It is not surprising that Hussein has little use for negotiation to resolve his disputes. If he cannot get what he wants across the negotiating table, he does so across the barrel of a gun. Until now, no one has been willing or able to stand up to him.

With his latest move, Saddam Hussein has confirmed once again that he and his country are a serious menace not only to Kuwait and the Middle East, but to the West and to the entire civilized world. He threatens our oil supply. And he threatens our ability to keep peace in the world.

President Bush finally gave up his misplaced hope that we could actually reason with a madman like Hussein and decided to impose sanctions. But Kuwait is paying the price for his failure to take action sooner. The President's optimistic view of this tyrant emboldened Saddam Hussein into thinking that we would continue to acquiesce in his increasing bold grabs for

power. Saddam Hussein is ruthless and cunning and is beyond reason. He only understands the language of power.

The administration finally condemned Iraq's invasion as "naked aggression," froze all Iraqi assets in the United States, and blocked all trade with Iraq.

That is a beginning. Better late than never. But we must make it clear that we will seriously consider using every weapon at our disposal—diplomatic, economic, and yes, even military—to stop Saddam Hussein's grab for power dead in its tracks. For Hussein's actions directly threaten America's supply of oil, and pose grave dangers to U.S. allies in the Middle East.

For the moment, we must use aggressive diplomacy to persuade the rest of the world to impose a full economic blockade against Iraq. The power of sanctions is greatest if the civilized world joins in to make Iraq an economic pariah. Iraq should be put on notice that unless its troops are withdrawn from Kuwait, we will freeze Iraq out of trade and commerce with the rest of the world.

Iraq's two biggest arms suppliers are the Soviet Union and France. They must immediately halt all arms sales to Iraq. Its biggest trading partners include the Soviet Union, France, Italy, Japan, Turkey, and West Germany. They should cut off trade with Iraq and squeeze it dry.

The countries of the Middle East must use their economic and political clout to force Iraq to pull its troops out of Kuwait.

Iraq's actions are thuggery, plain and simple. We must make our best effort to see that our allies not only join the chorus of condemnation emanating from our country, but also put their money where their mouth is.

The invasion is a chilling indication that Saddam Hussein will stop at nothing to achieve his goals. Today, this tyrant is content with Kuwait. But tomorrow, who knows? Perhaps Saudi Arabia. We must make sure we take swift and strong action to make sure we never have to find out.

The PRESIDING OFFICER. The Senator from Rhode Island has 1 minute remaining.

Mr. PELL. I yield that 1 minute to the Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I am happy to join as cosponsor of this amendment. The sad lessons of the last 2 days are two, I think. One, as we begin beating swords into plowshares, it is important to remember that sometimes we need swords. I am grateful we have them today.

Second, it is not good or wise for the greatest and most powerful Nation in the world to be 50-percent dependent on imported oil. We need incentives to get on with the job of producing oil at home to turn the wheels of industry and agriculture.

I yield back the remainder of my time.

Mr. PELL. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator has 10 seconds remaining.

Mr. HELMS. I ask unanimous consent that Senator THURMOND be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the resolution. The yeas and nays are ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. SIMPSON. I announce that the Senator from Colorado [Mr. ARMSTRONG] and the Senator from California [Mr. WILSON] are necessarily absent.

I further announce that, if present and voting, the Senator from California [Mr. WILSON] would vote "yea."

Mr. CRANSTON. I announce that the Senator from Arkansas [Mr. PRYOR] is necessarily absent.

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—97

Adams	Fowler	McClure
Akaka	Garn	McConnell
Baucus	Glenn	Metzenbaum
Bentsen	Gore	Mikulski
Biden	Gorton	Mitchell
Bingaman	Graham	Moynihan
Bond	Gramm	Murkowski
Boren	Grassley	Nickles
Boschwitz	Harkin	Nunn
Bradley	Hatch	Packwood
Breaux	Hatfield	Pell
Bryan	Heflin	Pressler
Bumpers	Heinz	Reid
Burdick	Helms	Riegle
Burns	Hollings	Robb
Byrd	Humphrey	Rockefeller
Chafee	Inouye	Roth
Coats	Jeffords	Rudman
Cochran	Johnston	Sanford
Cohen	Kassebaum	Sarbanes
Conrad	Kasten	Sasser
Cranston	Kennedy	Shelby
D'Amato	Kerrey	Simon
Danforth	Kerry	Simpson
Daschle	Kohl	Specter
DeConcini	Lautenberg	Stevens
Dixon	Leahy	Symms
Dodd	Levin	Thurmond
Dole	Lieberman	Wallop
Domenici	Lott	Warner
Durenberger	Lugar	Wirth
Exon	Mack	
Ford	McCain	

NAYS—0

NOT VOTING—3

Armstrong	Pryor	Wilson
-----------	-------	--------

So the resolution (S. Res. 318) was agreed to; as follows:

S. Res. 318

Whereas Iraq during the 1980's, under the leadership of Saddam Hussein, has demonstrated a blatant disregard for international law and all standards of human decency, building a heinous record of atrocity and carnage;

Whereas in 1980 Iraq's invasion of Iran began the Iran-Iraq war, which became one of history's bloodiest;

Whereas, beginning in 1983, Iraq initiated and made extensive use of chemical weapons in the Iran-Iraq war;

Whereas this chemical slaughter constituted the most significant violation of the Geneva Protocol in the 65-year history of that international treaty, to which Iraq is a party;

Whereas Iraq's use of chemical weapons culminated in 1988 in a massive attack on its own Kurdish minority, causing tens of thousands of deaths and more than 65,000 refugees;

Whereas Iraq may be proceeding to develop biological weapons in violation of the 1972 international convention prohibiting the manufacture or possession of such weapons;

Whereas Iraq has continued illegal efforts to acquire nuclear weapons technology in violation of United States export laws and Iraq's obligations under the Nuclear Non-Proliferation Treaty;

Whereas the Iraqi effort to develop an indigenous ballistic missile capability represents an additional dimension of Iraq's threat to the Persian Gulf region;

Whereas, domestically, Iraq's human rights record is one of continuing barbarism, characterized by arbitrary imprisonment, government-sanctioned murder, and even the torture, mutilation, and killing of children as a means of terror against their parents;

Whereas Iraq's efforts to eradicate Kurds and depopulate the Kurdish regions of Iraq are tantamount to a policy of genocide;

Whereas Iraq stands in flagrant violation of its obligations under the United Nations Charter and the International Covenant on Civil and Political Rights;

Whereas, in 1988, in response to Iraq's use of chemical weapons against the Kurds, the United States Senate on three occasions passed legislation imposing comprehensive sanctions against Iraq;

Whereas, on July 27 this year, the Senate passed the Iraq International Law Compliance Act in a continuing effort to secure Iraq compliance with the rule of law;

Whereas in recent days Iraq mobilized forces on its border with Kuwait, issuing a series of bellicose threats, aimed not only at Kuwait but also at Israel and the United Arab Emirates;

Whereas Iraq, on August 1, without provocation and under contrived pretense, invaded the sovereign nation of Kuwait, seizing control of its capital and all national territory;

Whereas the President, on August 2, issued an executive order freezing Iraqi and Kuwaiti assets in the United States, and embargoing all trade with Iraq;

Whereas Iraq's military power in the Persian Gulf area is virtually unchallenged, and its record of callous brutality, opportunism, and belligerency demonstrates that no policy of appeasement or cooperation will constrain the threat Iraq now poses to the security of nations throughout the entire Persian Gulf region and to the international order; Now, therefore, be it

Resolved, That Congress commends the President for his initial actions and urges the President to act immediately, using unilateral and multilateral measures, to seek the full and unconditional withdrawal of all Iraqi forces from Kuwaiti territory; and, specifically, to:

(1) Proceed to enforce against Iraq, unilaterally, all provisions of United States law, including the International Emergency Economic Powers Act, to impose—

(a) sanctions against a country engaged in a consistent pattern of gross violations of internationally recognized human rights,

(b) a sustained freeze of all Iraqi assets, and

(c) a sustained ban on any export of United States goods and services to Iraq; and

(2) Undertake, multilaterally, a concerted diplomatic effort, through the United Nations Security Council and all other available channels, to achieve collective international sanctions against Iraq, to include—

(a) a cessation of all arms shipments and all transfer of military technology to Iraq, with emphasis on—

(i) all Soviet-supplied arms and spare parts, as promised by the Soviet Union immediately after Iraq's invasion;

(ii) all arms and spare parts supplied by other major suppliers; and

(iii) all material and technical assistance from any source that could contribute to the development or employment of ballistic missiles and nuclear, biological, and chemical weapons;

(b) a cessation of trade with Iraq and a worldwide freeze on Iraqi and Kuwaiti assets;

(c) a suspension of all economic development activities within Iraq, with emphasis on—

(i) oil development activities; and

(ii) construction and other projects supported by American, European, and Japanese industry;

(d) the imposition, under Article 41 of the United Nations Charter, a full economic blockade against Iraq; and

(e) if such measures prove inadequate to secure Iraq's withdrawal from Kuwait, additional multilateral actions, under Article 42 of the United Nations Charter, involving air, sea, and land forces as may be needed to maintain or restore international peace and security in the region.

Mr. HELMS. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 1991

The Senate continued with the consideration of the bill.

Mr. KENNEDY. Mr. President, I rise in support of the Defense authorization bill for fiscal year 1991.

Mr. President, I chair the Projection Forces and Regional Defense Subcommittee of the Armed Services Committee. This subcommittee is responsible for oversight of military missions of defense of Southwest Asia and other regions where the United States does not maintain substantial forces deployed in peacetime. The subcommittee is responsible for those budget elements of research and development and procurement related to these missions, including shipbuilding and conversion—except trident—naval aviation—excluding carrier-based aircraft—Marine Corps, airlift and sea-lift, and special operations.

Mr. President, let me describe briefly the major facets of this bill that directly relate to the Projection Forces Subcommittee's recommendations. The subcommittee looked critically at programs entering production to see whether the Defense Department was applying the "fly before buy" concept. There has always been a strong rationale for ensuring adequate testing before moving weapons from development to production. But the developments in Eastern Europe and the Soviet Union over the past year have greatly strengthened this approach by reducing the need to rush new weapons to the field to meet a growing threat. The bill contains three major recommendations that implement a strong "fly before buy" policy.

First, the committee believes that the C-17 cargo aircraft plane should be given time for the testing program to catch up to production. The members are committed to improving airlift and sealift capability, but the slip in the C-17 program and the lack of performance to date do not warrant providing production aircraft in fiscal year 1991.

Second, the committee recommends deferring production of the Navy's new *Seaworld* (SSN-21) class submarine and buying two improved *Los Angeles* (SSN-688) class submarines instead. The SSN-21 program could benefit from having additional time to proceed on the ship design and to develop and test the new BSY-2 combat system.

Third, the committee has recommended adding funds to the request to support V-22 tilt rotor aircraft research and development. I know that a number of my colleagues will be disappointed that the committee did not go further and also add production funds for the V-22. However, although the Institute for Defense Analysis study on the V-22 indicate that the V-22 has the potential to be an effective replacement for the Marine Corps' CH-46 helicopter fleet, the study's conclusions depend upon assumptions in the study that need to be verified in operational testing. It would be premature to commit to procurement before we have answers to the question of whether these assumptions are valid.

Another important priority of the subcommittee was to promote programs that would maintain our technological superiority. There are several noteworthy initiatives in this bill that will help the United States maintain its technological edge:

The committee again this year proposes to fund development of integrated electric drive for surface ships. This is an exciting technology that could permit major advancements in both propulsion and in weapons systems available for future Navy combatants.

Another initiative is funding the advanced submarine technology program that is providing major technology opportunities for application to current and future classes of submarines. It is vitally important that we maintain our edge in submarine warfare, and this program will help us achieve that goal.

One final development program I should mention is the Sea Lance weapon program. The administration's amended request would have canceled this program in fiscal year 1991, despite the fact that the Navy's operational requirement is still valid, the development testing has been very encouraging, and there is no other system that will meet the requirement. We must provide our submarines and surface ships with a weapon that will meet the threat posed by submarines with weapons whose ranges exceed that of our current torpedo systems alone. Therefore, the committee is recommending that the Navy continue this important development program.

Mr. President, this bill is a responsible approach to restructuring the Defense Department's budget, based on a new assessment of the threat, a revised strategy for meeting that threat within reasonable funding levels, and a thoughtful approach to funding priorities. I urge the Senate to support the Defense authorization bill for fiscal year 1991.

THE FISCAL YEAR 1991 DEPARTMENT OF DEFENSE
AUTHORIZATION BILL

Mr. KOHL. Mr. President, I was recently told a story by a colleague that sums up many of my own attitudes and convictions at this moment of historic transition. He reported meeting a Member of the Soviet Parliament, just a few weeks ago, passing through Washington on his way west. This older Russian, a patriot and nationalist wounded in past wars, said he was on his way to California. When asked why, he said the purpose of his trip was to visit Ronald Reagan in order to thank him for perestroika.

My colleague, a bit perplexed, asked for him to explain. It was because of SDI and the Stealth bomber, he said, that his nation discovered it could not win a race of military technology and power. It was because of our strength and innovation, he explained, that compromise has replaced confrontation.

For 45 years America has faced the challenges of potential war. It has raised a shield of sophisticated weapons to defend against an armed and resolute aggression. It has spent the coin of its treasury and the blood of young soldiers to check an advancing tyranny.

In these decades of struggle, we refused to be blackmailed by threats or seduced by promises. Administrations, both Republican and Democratic, defended our commitments and main-

tained our strength. It was their resolution and preparation that forced the changes that we see.

Today we have found the promise of peace—in Franklin Roosevelt's phrase, "the peace of overwhelming victory." For decades we faced and mastered the stern disciplines of war. Now we accept the challenges of peaceful transition.

As the threat of crossing swords in Europe recedes, and as the United States adjusts its defense, it is clear that fewer defense dollars will be necessary. It is equally clear the United States remains a global power with global responsibilities.

Mr. President, it is at this extraordinary moment that we set out to discuss the defense authorization bill reported by the Senate Armed Services Committee. While U.S. defense spending has been declining for over 5 years, the fiscal year 1991 budget represents the first installment in what promises to be a series of truly drastic cuts in defense spending. Our challenge is threefold. We must preserve the technology and strength that continues to pressure reform and defend freedom. We must recognize the reality of a changing military threat. And we must respect the boundaries of a budget in crisis.

Given the difficulty of managing this mandate, I believe that the bill before us is balanced in most respects. While I cannot support each provision of this legislation, I supported a favorable report in committee, and now I support its final passage.

I hope to comment on several specific items in the bill itself, but before I begin I want to make several general points and recommendations concerning U.S. military planning.

THE CHANGING CONTEXT OF U.S. MILITARY
PLANNING

The accelerating pace of change in Eastern Europe and the Soviet Union, and mounting pressures in the United States and Western Europe to reduce defense spending, have thrown United States defense planning into a state of confusion. On the one hand, trends in the Soviet Union and Eastern Europe have substantially reduced the military threat facing the United States and its allies. At the same time, however, the shape of the emerging international order remains uncertain. As the United States deliberates new defense priorities for the 1990's we face a generation of new hopes and new threats.

The temptation is to remain still, waiting for ambiguities to fade, or to race forward, blind to dangers ahead. Neither approach is appropriate for a power with global responsibilities. It is precisely at such historical junctures that competent and creative policy making is essential, but enthusiasm for change should not come at the expense of prudent planning.

Unfortunately, many in the West, including some responsible policymakers, feel that the usefulness of our strength has ended—that peace can be ensured through the words we use, separated from the power that once proved our conviction. This kind of rootless hope confuses cause and effect. Changes are taking place in Eastern Europe and the Soviet Union largely because the United States and NATO have been strong and united. The simple truth is clear—the American policy of peace through strength has been successful. The Soviet Union has allowed reform to occur within its sphere of influence because of mounting and converging pressures—domestic economic and political decline, forcing the Soviet leadership to confront internal contradictions, and external pressures generated by a strong and cohesive NATO alliance. To prematurely dismantle Western military strength might actually lessen the pressure on the Soviets to continue their reforms. Paradoxically, the process of positive change could be slowed or reversed.

We must dismantle cold war antagonisms, just as we dismantled the bricks of walls that once divided us. But the curious belief that we help promote political freedom and military reform in the Soviet bloc by unilaterally disarming, precipitously cutting defense spending or providing the Soviet Union with massive financial relief is to hope against hope.

It is true that the European military threat is changing, almost certainly for the better. The Warsaw Pact has collapsed in all but name, and it is unlikely that the Soviet Union could ever rely on its former east European allies to mount a military attack on Western Europe. But it is also true that the Soviets themselves retain strong and aggressive conventional and nuclear capabilities, far in excess of what is required to defend Soviet territory.

Despite widespread agreement on the need to maintain NATO, at least for the near future, many Western policymakers and commentators seem willing to change the way we judge the adequacy of United States and NATO forces. Military planning has traditionally been based on an objective assessment of the military strengths of likely opponents, rather than on their stated intentions. Abandoning this standard would be a serious mistake. We should continue to base our military planning on what we see, not what we hear.

The pace and nature of change in Soviet military capabilities continues to be ambiguous. Even though the Warsaw Pact has collapsed as an integrated fighting unit, the Soviets themselves maintain the largest and most modern land army in the world. It is a nation that continues, in 1990, to

produce almost 3 times as many tanks and 10 times as many armored personnel carriers and self-propelled artillery pieces as does the United States.

In the case of Soviet strategic nuclear forces the news is even less encouraging. As the Armed Services Committee report notes:

The Soviet Union has continued with a vigorous and broad-based strategic offensive and defensive modernization effort that is improving its overall capabilities, including the deployment of two mobile ICBMs.

The SS-25 is a single warhead, road-mobile system and the SS-24 is a 10-warhead, rail-mobile system similar to the U.S. Peacekeeper rail garrison concept. Of even greater concern is the ongoing modernization of the SS-18 ICBM force, the most threatening system in the Soviet inventory. The SS-18 MOD 5 is effectively a brand-new ICBM. Deployment of this system, with its improved accuracy and throw-weight, will significantly undercut the benefits of reducing the SS-18 force through a START treaty. The Senate should also not overlook the ongoing modernization of the Soviet strategic nuclear submarine and bomber forces.

There thus remains a significant gap between Soviet words and deeds, regardless of the dramatic changes taking place in Eastern Europe. This has complicated the process of assessing Soviet motives and intentions. And this ambiguity alone should be sufficient reason to retain Soviet capabilities as our primary test for judging United States and NATO defense requirements.

With this in mind, it is particularly disturbing to hear emotional cries in the west to drastically cut the U.S. defense budget. Unnecessary and excessive Federal spending is never justified, but I fear that in an attempt to reduce the budget deficit and reap a peace dividend we run the risk of discarding proven strategies in setting our defense priorities. In addition, a hurried and thoughtless transition has the potential of causing severe economic and social disruption as we rush to eliminate military bases and personnel and force defense contractors into civilian production.

This does not mean that U.S. defense spending should remain at current levels. In my view, the cuts contained in the Defense authorization bill, as reported by the Senate Armed Services Committee, are about as deep as we can prudently go at this point. The bill embodies a considerable reduction in the Bush administration's original fiscal year 1991 request, a cut of almost \$18 billion.

If real savings are to be gained without risking Western security, a careful and thoughtful approach to setting U.S. military requirements and managing scarce defense dollars will be needed. We cannot wield our budget

axe wearing a blindfold. It is vital for the United States to manage cuts in military spending in ways that multiply the return on our defense investments. Restructuring our military posture is one thing. Reducing the effectiveness of our forces is another.

Having outlined these general principles, let me turn to some more specific comments on the Defense authorization bill.

MINIMIZING THE ADVERSE EFFECTS OF SHARPLY REDUCED DEFENSE SPENDING

As the U.S. Government reduces the amount of resources we spend on defense, we must take care that these cuts do not cause unnecessary social and economic damage. We must consider families, jobs, the industrial base, U.S. competitiveness and the overall state of the U.S. economy.

At the budget levels contained in the Defense authorization bill before us, the committee was forced to reduce active duty manpower by 100,000 and DOD civilian personnel by approximately 60,000 from the fiscal year 1990 level. These numbers are substantial, but manageable. Defense budget cuts below this level, however, will depress the personnel ceiling beyond a critical point. The result, I believe, will be dislocation and demoralization within each of the military services. Since the personnel and readiness elements of the DOD budget represents the overwhelming majority of defense outlays each year, additional defense budget reductions may require further cuts in personnel and signal the return of a truly hollow military. It would be ironic, after a decade of investment and hard work, if we were to throw away our gains with so little thought.

Cutting large procurement programs, along with research and development, reduces defense spending only slightly in any given year. Further reductions in the fiscal year 1991 Defense budget are likely to fall on personnel instead. For those Senators who have not yet done so, I recommend that you examine the option considered by the Armed Services Committee for deeper outlay reductions in Defense spending for fiscal year 1991, printed in the committee report. It is disturbing reading.

As difficult as managing cuts in military personnel will be, limiting the economic impact of a shrinking defense industry will be equally challenging. Some seem willing to turn their backs on U.S. defense industries. But this is not only unfair, it is a threat to American security and economic health. The United States will require a healthy defense industry for the foreseeable future to shoulder the burdens it will be asked to bear.

I am pleased that the authorization bill reported by the Armed Services Committee does, to a large degree, take this economic impact into account. For example, I strongly support

the committee's remanufacturing initiative for the M1 tank. This provision recognizes that if tank production ceases, a highly specialized industrial sector will simply disappear—one which will cost billions of dollars to restore when needed in the future. This measure not only saves tens of thousands of jobs and supports a critical industry, it also modernizes the existing tank fleet.

This leads me to a final observation on the potential problems of our defense buildup. In my view, we must take every effort to protect U.S. technological competitiveness as we reduce defense spending. As our military forces become smaller in number, they must rely more heavily on advantages in quality. Technological innovation has always been a great strength of the U.S. defense establishment, and I am convinced that, for this reason, we can retain a high degree of security while reducing the overall size of our military forces. This principle has been effectively applied by the Armed Services Committee in the case of the M1 tank upgrade program, and it should also be extended to a broad range of other procurement and R&D programs.

The need to proceed with the V-22 *Osprey* tiltrotor aircraft clearly falls into this category. In its markup of the Defense authorization bill the Armed Services Committee included \$238 million for research and development in fiscal year 1991 for the V-22. While I would have preferred to include funds for advanced procurement as well, I am confident that our action represents the first step toward fully restoring the V-22 program. I should note that this aircraft not only represents revolutionary military technology for the Marine Corps, it has broad military and civilian applications and is precisely the type of multipurpose technology that the Congress needs to support.

Low observable or stealth technology is another category that deserves our favor. The B-2 bomber, the advanced tactical fighter (AFT) and the Navy's A-12 attack aircraft all embody this revolutionary technology. These programs not only satisfy military requirements for the near term, they also represent an important technological bridge to the future of U.S. military aviation. Of course, these programs must pass the same hurdles that any conventional aircraft would be expected to—such as cost and operational effectiveness—but we must take into account the revolutionary nature of this technology.

During the markup of the Defense authorization bill, the Armed Services Committee made every effort to protect research and development and our technology base. I fear, however, that additional cuts in the fiscal 1991 De-

fense budget will force excessive reductions in both of these categories as well. Marginal savings today could easily contribute to a significant erosion in the U.S. technology of the future. This is another reason to support the budget authority and outlay limits contained in this bill.

MAINTAINING DETERRENCE AT LOWER LEVELS

I believe that the justifications for modernizing U.S. strategic forces remain compelling. If strategic deterrence is allowed to erode, all the other weaknesses and inadequacies in our military position will be magnified, and it will be all the more difficult to obtain fair and stabilizing arms control agreements. A logical approach to reducing defense spending and restructuring our military forces can only take place under the umbrella of a strong and modern strategic deterrent.

I am pleased that the Defense authorization bill reaffirms the Armed Services Committee's commitment to modernizing our triad of strategic nuclear forces. While I support balanced reductions in nuclear forces through strategic arms control negotiations with the Soviet Union, I also believe that the United States will require a strong deterrent in the foreseeable future. In a post-START environment we will have a significantly smaller land- and sea-based deterrent force. We must ensure that it is also modern and survivable. The B-2 bomber, our ICBM programs, and the Trident submarine force are all critical elements of this modernization effort.

But even this is not enough for the kind of deterrence and stability we will need in the 1990's and beyond. I fear that the Armed Services Committee's \$972 million reduction in the administration's request for the strategic defense initiative is a serious mistake. As we move to reduce reliance on strategic nuclear forces, deterrence can be sustained and strengthened by placing greater emphasis on strategic defenses. Unfortunately, the Armed Services Committee's report seems to reflect the older thinking that deterrence is strictly a function of offensive nuclear forces. The committee seems to dismiss the deterrent value of strategic defenses, implying that SDI should proceed merely as a long-range R&D effort.

In discussing the likely effectiveness of SDI, the committee report seems to ignore the significant contribution to deterrence that partial defenses can make. Ironically, SDI seems to be held to a standard that has never been applied in evaluating the deterrent value of strategic nuclear forces—a near-perfect warfighting capability. In fact, a partial defense, including but not limited to the phase one SDI, can contribute significantly to deterrence by simply complicating the planning of any prospective attacker. Moreover, a limited defense will offer significant

protection against accidental, unauthorized or terrorist ballistic missile attacks.

I must also express my strong opposition to the Armed Services Committee's decision to end the Milstar communications satellite. My views on this issue are expanded in the minority views of the Committee's report, but let me make a few basic points. The Milstar Program is a critical link in the U.S. Strategic Modernization Program. It makes little sense to dedicate a major effort to modernizing our strategic offensive forces and, at the same time to deny, the U.S. National Command survivable communications to those forces.

In addition, the Milstar Satellite Program is more than just a piece in the strategic nuclear chain of command. It would also be a critical part of our tactical communications network. While the Navy is the strongest supporter of the program for its tactical uses, Milstar is capable of supporting all land- and sea-based forces. This program has enjoyed broad bipartisan support in the Armed Services Committee and the full Senate. In my view it was a mistake to kill the program at this stage and I hope that the full Senate will reconsider this decision.

CONCLUSION

Mr. President, I am a supporter of S. 2884, as reported by the Senate Armed Services Committee. I believe that the committee chairman, Senator NUNN, and the ranking minority member, Senator WARNER, have done a commendable job in difficult times. With a few important modifications, I believe that the Defense authorization bill deserves the support of the Senate.

But I would conclude with a request and a warning. I urge my colleagues to resist the temptation to reduce the budget authority and outlays contained in this bill. Our cuts have been carefully weighed. National priorities have been carefully balanced. Further major reductions will be accompanied by economic suffering, social dislocation, and the prospect of future weakness. We must not go beyond what is prudent at this historic yet uncertain moment.

Mr. NUNN addressed the Chair.

The PRESIDING OFFICER. The Senators will suspend conversations so Senator NUNN can be heard.

The Senator from Georgia.

Mr. NUNN. Mr. President, let me thank all of our colleagues for what I think has been a very productive day on the Defense bill. We have done 12 amendments, and some of them are the most important amendments that we will have on this bill. We have now a number of serious amendments left. I know they are all serious to the people proposing them. I refer to those that will be contested and will not be able to be accepted and which will require rollcall votes.

We have an atomic veterans amendment; a missile export amendment. There is indication that we can have a time agreement on both of those. There is a Wirth amendment on abortion coming up. I understand about 9 o'clock tomorrow morning. We understand there will be some kind of understanding about a cloture vote on that. We hope that is the case. There is a Kerry amendment on ASAT. He indicated he will be able to enter into a time agreement. A Bumpers amendment on battleships. I have not gotten an explicit time agreement. A Roth amendment on land transfers. I am not sure how long that will last. I do not anticipate a lot of time. A Bumpers amendment on base closure. A Dixon amendment on Korean fighter. Of course, the SDI amendment, which will take a considerable amount of time.

The long and short of it is, Mr. President, and to the leadership, I think there is every opportunity to complete this bill by the weekend and not have to come back here next week, if we get cooperation on the times on each one of these amendments. We have other amendments that are being accepted. We have a number of amendments that we have worked out and that can be accepted either tonight after we conclude the last vote or during the course of business tomorrow. There will probably be a number of others. I urge anyone who thinks they have an amendment that can be accepted to come over tomorrow morning.

We have, tonight, amendments we can handle before we go home, two Levin amendments that have been cleared on both sides, a McConnell-Ford amendment that has been cleared. We have a Warner amendment that has been cleared, a Lautenberg amendment that has been cleared, a Dixon amendment, Bradley, Hatch, and a Helms amendment, all of which have been cleared. We can do them tonight. If we do that, we will have finished some 20, 25 amendments today.

I guess what I am suggesting, Mr. Leader and Mr. President, is that I see a way to complete this bill, if we can work out something on an SDI timeframe sometime by the weekend, and not have to come back next week. I hope we can do that on the Democratic side. The Republican side already has a list of all the amendments. We think we have an indication, but we want everybody to give us, as soon as possible, the amendment and the content of that amendment so we can get a feel for it. If we are going to get out of here, we have to limit amendments at some point, and I hope we can do that.

Mr. WARNER. If the Senator will yield, there is a third category, not

only amendments which are contested and which will be cleared but, hopefully, the amendments which Senators no longer feel are important that they have to bring up. I am hopeful on my side that number will grow. As the minority leader said, he agrees with me 100 percent. We were talking about the third category of those amendments which Senators, in their judgment, now feel may not be necessary.

I yield to the majority leader.

Mr. MITCHELL. Mr. President, I direct my comments to my Democratic colleagues.

First, to all my colleagues, tomorrow morning, following disposition of the Wirth amendment, I will attempt to gain unanimous consent identifying the remaining amendments to the bill. Our Republican colleagues have already prepared and are working on their list. I ask any Democratic Senator who intends to offer an amendment to please notify the managers and staff of their intention.

As you make a decision on whether to notify them, I ask you to bear one thing in mind. If there are a lot of amendments, then we will surely be in session next week. If there are not a lot of amendments, we will be able to complete action on this bill prior to the weekend and leave for the August recess. Each Senator must take his own judgment, but I say to my colleagues, please keep that in mind as you decide whether or not you want to come in with one, two, three, or preferably no amendments.

I ask you to notify the managers this evening or first thing in the morning, because following the disposition of the Wirth amendment, a vote will occur at about 10 o'clock in the morning. That is, the disposition will occur at 10. We are going to seek an agreement to deal with that this evening, which will deal with that between 9 and 10 tomorrow morning. We will proceed with that, and I hope our colleagues on the Republican side, as I know they have started, will be able to work at reducing their list to enable us to complete action on this measure.

Mr. METZENBAUM. Will the leader yield? Will you tell us the situation with respect to the debt ceiling matter?

Mr. MITCHELL. We have been working all day in an effort to agree on the procedure for disposing of that in a manner that will permit us to move forward promptly. I have had many discussions with the distinguished Republican leader today and with many Senators who have an interest in that legislation. I hope to be able to have an announcement on that sometime tomorrow morning. It is our hope we will be able to dispose of it promptly in a manner so as not to interfere with completion of action and going into recess by this weekend.

Mr. METZENBAUM. Will the majority leader agree if there are going to be any special amendments accepted, that we all will be given adequate notice? Of course, if it is clean, then obviously there is not a particular reason to do that. But if there are particular amendments that are going to be accepted, I hope that we will be notified in advance before the unanimous-consent request.

Mr. MITCHELL. Not only will I be pleased to notify the Senator, I will be pleased to have a private consultation, exclusive consultation with him immediately following his colloquy.

I yield to the Republican leader.

Mr. DOLE. I want to underscore what the majority leader said. We have a number of amendments on our side—we have been working since last evening—not a large number for a defense authorization bill, but I think even some of those could probably stand not being brought up. I think we have had a number of Members decide instead of offering 10, they would only offer 2. That is very helpful. That shrinks the list quickly.

If there are some on our side, we want to look at amendments our staff told us they might want to bring up, maybe we can reduce that list and, hopefully, after the abortion matter is disposed of, there might be a chance to get an exclusive agreement on the number of the amendments to be offered on this bill.

On the other hand, those going to start on them tomorrow better be accommodating to not take very much time. Forty minutes plus a vote is an hour. If we get into these people taking 2 or 3 hours, why should somebody else give their amendment up? If there are going to be accommodations, it has to be all the way around, not others spend the whole day talking. Nobody will listen to them anyway.

So, it would be my hope that we could accommodate the managers and the leadership and we will try to do this on this side.

ORDER OR PROCEDURE

Mr. MITCHELL. Mr. President, before I yield to the Senator from Rhode Island, let me add those Senators whose names were on the list read by Senator NUNN as having amendments for tomorrow are asked to please remain because we are going to attempt this evening to get a unanimous-consent agreement governing the offering and disposition of those amendments tomorrow morning so that when we get here tomorrow morning we will not spend several hours trying to line up amendments. We will have ready to go a specific list of specific amendments, hopefully, all with time limitations.

I am glad to yield to the Senator from Rhode Island.

Mr. PELL. Mr. President, I wanted to add that the amendment on sup-

port of Eastern Europe democracy will be offered by me and my colleagues at some point tomorrow.

Mr. NUNN. The Senator from Rhode Island had told me that and I forgot to put in on the list. That is an important amendment. It is one of those.

Mr. WARNER. My attention was diverted momentarily. Would the Senator repeat the request?

Mr. PELL. We have an amendment here for the support of Eastern Europe democracy and that is a fairly substantial amendment that we feel fits into the defense DOD bill we intend to offer.

Mr. WARNER. Mr. President, I have to advise my distinguished friend and chairman of the Foreign Relations Committee that that amendment might bring to a screeching halt everything we are endeavoring to do tonight. I urge him to reconsider whether or not it would be appropriate to put it on this bill and the likelihood of the progress we are now making bringing this bill to a conclusion such as the Senate can then commence its August recess is going to be highly jeopardized if that bill would be brought up.

I am speaking on behalf of others on this side who know far more than I do about this bill. But I very clearly got the impression that that piece of proposed legislation could well bring the progress that we have underway to a halt.

Mr. MITCHELL. I did not want to shut off the Senator from Rhode Island.

Mr. PELL. I heard the words of the Senator from Virginia and value his friendship. Still for the time being that is my intention to bring it up.

Mr. MITCHELL. I yield.

Mr. BUMPERS. Mr. President, I say that the Senator from Rhode Island, the chairman of the Foreign Relations Committee, has an obviously serious amendment. I see absolutely no reason why he is not entitled to debate it with some kind of time agreement and have the Senate consider it. I do think it is rather unbecoming to say somehow or other the defense bill is going to come to a screeching halt.

The Senator from New Mexico has an amendment dealing with SDI that is going to take an inordinant amount of time, but at least the distinguished Senator from Wyoming has said he is not filibustering; he is going to give the Senate a chance to vote on the amendment of the Senator from New Mexico, which is, I think, courtesy in the grand style of the Senate. And to suggest that the Senator from Rhode Island should not have opportunity to debate—I do not know much about the amendment, but what he said seems to me a very important issue that he is entitled to be heard on.

I hope that the Senator from Virginia, my good friend who is the distinguished ranking member on the Armed Services Committee, would do all he could to accommodate the Senator from Rhode Island and his amendment.

Mr. MITCHELL. Mr. President, might I suggest that we discuss that in connection with the list we are preparing, and I thank my colleague. We will do the best we can on that.

For now I would like to suggest that we go ahead and proceed in the preparation of this list for tomorrow morning on the amendments that have been identified.

In that event, Mr. President, there will be no further rollcall votes this evening. Those Senators who are going to offer these amendments should remain, because we are going to get agreement now governing the disposition of these amendments tomorrow morning.

Mr. President, I yield to the distinguished chairman.

Mr. NUNN. Mr. President, I might say, as I mentioned earlier, we have seven or eight amendments we can accept tonight. I hope those Senators whose amendment can be accepted tonight will remain also, and we will begin taking those up.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the pending amendments be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2503

(Purpose: To validate certain contracts entered into by the military departments for the provision of municipal services)

Mr. BRADLEY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. BRADLEY], for himself, Mr. LAUTENBERG, Mr. MITCHELL, Mr. CRANSTON, Mr. COHEN, Mr. KERRY, Mr. PELL, Mr. BENTSEN, and Mr. KENNEDY, proposes an amendment numbered 2503.

Mr. BRADLEY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 27, between lines 11 and 12, insert the following new section:

SEC. 321. VALIDATION OF PAYMENTS UNDER CERTAIN CONTRACTS FOR THE PROVISION OF MUNICIPAL SERVICES.

Notwithstanding section 2465 of title 10, United States Code, or any other provision of law, any payment made before the date of the enactment of this Act under a contract entered into before that date by a military department with a unit of local govern-

ment for the provision by such unit of local government of police, fire, or other municipal service to the military department shall be held and considered to be a valid payment.

Mr. BRADLEY. Mr. President, I offer this amendment on behalf of myself, Senators LAUTENBERG, MITCHELL, CRANSTON, COHEN, KERRY, PELL, KENNEDY, and BENTSEN. This is a very simple amendment. It will validate past payments under certain contracts between military departments and municipalities for police, fire, sanitation and other vital services.

Mr. President, the amendment will provide relief to communities in New Jersey, Maine, Massachusetts, Texas, California, and Rhode Island and in providing municipal services to the military under contracts which the Navy has recently ruled are illegal.

Mr. President, this amendment simply says what is past is past, the slate will be wiped clean.

I am particularly pleased that this amendment will resolve the reimbursement issue between the Navy and the borough of Lakehurst, NJ. Between 1964 and 1989, the borough of Lakehurst was paid to provide police, fire, first aid, emergency management, road maintenance and garbage removal for Pinehurst Estates, a 186-unit housing project for Navy personnel and their families which is located near the U.S. Naval Air Engineering Center, Lakehurst, NJ.

Whatever the Navy now feels about these contracts, they were signed and executed by the Navy—and the communities have spent these payments long ago. There is simply no way for the borough of Lakehurst to reimburse the Navy for past payments. The Navy has demanded approximately \$350,000 in reimbursement from the borough of Lakehurst. This represents almost one-third of the borough's municipal budget. For a small town such as Lakehurst this would be an overwhelming burden.

Not only does the borough of Lakehurst not have the means to make such payment, but such payment would not be fair. Lakehurst rendered its municipal services in good faith and had been paid regularly for 25 years. The current residents of Lakehurst cannot be held accountable for what the Navy 25 years later deems to have been a mistake. The Lakehurst community is comprised of many elderly and retired naval personnel. The Navy has been a good neighbor to the borough of Lakehurst. It would be a shame to let such a mistake spoil this relationship.

This amendment simply says what's past is past. Lakehurst's slate will be wiped clean. The borough will not have to reimburse \$350,000. I am pleased that this amendment has been accepted on both sides and I thank the Chair.

Mr. President, I understand that the amendment will be accepted and it is cleared on both sides of the aisle.

The PRESIDING OFFICER. Is there further debate.

The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, I rise to join with Senator BRADLEY in proposing this amendment which would rectify a grave situation.

Mr. President, Lakehurst borough is a small town in New Jersey that is home to the Lakehurst Naval Air Engineering Center. Between 1964 and 1989 the Navy paid Lakehurst to provide services to the Pinehurst Estates, a housing project for naval personnel and their families. The services Lakehurst provided were common, community services such as garbage collection, snow removal, and police and fire protection.

Lakehurst has always been a good neighbor to the Navy and Lakehurst provided these services in good faith and in a spirit of cooperation with the Navy.

Recently, however, the situation changed drastically. Last year, the Navy conducted an audit which concluded that the Government should not have been paying Lakehurst for those services. Lakehurst was subsequently informed that the Navy was making other arrangements and was abrogating the contract with the borough.

Unfortunately, that is not the end of the story. The Navy decided it wanted its money back. Legally, it could not get all the money back—but it wanted to get what it could. So on June 12, the Navy sent a letter to Lakehurst requesting repayment of all the money paid to the borough from 1983 onward. The letter reads like a credit card bill: "The total amount of the improper payments * * * is \$348,989.12 * * * this amount is due and payable within 30 days of receipt of this letter * * *" Please make your check payable to the Treasurer of the United States.

Mr. President, this situation might have been funny if it was not so frightening: the Navy bungles for 25 years and Lakehurst is told that it has 30 days to pay for the Navy's mistakes.

But a demand like that is not funny, it is frightening and it is reprehensible and it is insulting. The 3,000 citizens of Lakehurst cannot and should not have to pay for the Navy's mistakes. Lakehurst is a community that has been a good home to the Navy and its people. In fact, a large number of naval personnel have stayed in Lakehurst even after they have left the Navy. Is this anyway for the Navy to behave?

The amendment Senator BRADLEY and I have introduced would relieve Lakehurst, and other communities in the same situation, of an obligation they should never have had in the

first place. Mr. President, we can not go back and rectify the bureaucratic snafus that gave rise to this problem; however, we can at least change the law so that the Navy's mistakes will not adversely affect innocent communities like Lakehurst.

I urge the Senate to adopt our amendment.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, I thank the Chair and I urge adoption of the amendment. It has been agreed to on both sides, it is an equity amendment relating to community and their expectations. So I urge it be adopted.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, this side, likewise, finds the amendment in order and urges its adoption.

Mr. President, at this time may I express my appreciation to the two Senators from the great State of New Jersey which made it possible for the amendment on the Potomac to be adopted. I thank them.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Jersey.

The amendment (No. 2503) was agreed to.

Mr. BRADLEY. Mr. President, I move to reconsider the vote.

Mr. NUNN. I have to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BRADLEY. Mr. President, I thank the distinguished managers.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. NUNN. Mr. President, we have a Helms amendment that I believe has been cleared if the Senator from North Carolina is here to present it; a Hatch amendment; a Dixon amendment; a Lautenberg amendment; a McConnell amendment; and two Levin amendments. All of those have been cleared, if the authors are here to present their amendments. I see the Senator from New Jersey is here.

The PRESIDING OFFICER. The Senator from New Jersey.

The Chair will advise the Senator from New Jersey that there are amendments pending, and all Senators offering amendments, there are amendments pending that would require unanimous consent to set them aside.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the amendments be set aside to consider an amendment that I believe has been cleared by the managers of the bill that I offer on behalf of Senator BRADLEY and myself.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Jersey.

AMENDMENT NO. 2504

(Purpose: To require the Secretary of Defense to conduct a study to determine whether any of the restricted special use airspace along the eastern seaboard could be opened to commercial aircraft)

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk on behalf of myself and my senior colleague from New Jersey [Mr. BRADLEY] and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself and Mr. BRADLEY, proposes an amendment numbered 2504.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 223, after line 24, add the following new section:

SEC. 1216. ACCESS TO CERTAIN RESTRICTED SPECIAL USE AIRSPACE.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the feasibility of permitting civilian commercial aircraft to have access to restricted special use airspace over the coastal waters of the mid-Atlantic region of the eastern United States for the purpose of enhancing commercial aviation safety, improving air traffic control efficiency, and reducing the impact of aviation noise on populated areas.

(b) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the study required by subsection (a) not later than 90 days after the date of the enactment of this Act together with such comments and recommendations as the Secretary considers appropriate. The report may be submitted in both classified and unclassified form.

(2) The Secretary shall include in the report, at a minimum, the following:

(A) A discussion of the current policy of the Department of Defense regarding civilian access to restricted special use airspace.

(B) An accounting of civilian aircraft access to such special use airspace in each of the two years immediately preceding the year in which this Act is enacted.

(C) A summary of requests by the Department of Defense from the Federal Aviation Administration for increased access to the special use airspace referred to in subsection (a) and the disposition of those requests by the Department of Defense.

(D) Proposals by the Secretary for permitting increased access to such special use airspace, particularly during daylight hours, by civil aviation aircraft.

(E) An analysis of the feasibility of providing such access.

(c) DEVELOPMENT OF PROCEDURES.—If the Secretary determines on the basis of the study referred to in subsection (a) that additional access to the special use airspace described in that subsection can be permitted, consistent with the national security interests of the United States, the Secretary shall develop, in coordination with the Secretary of Transportation, procedures for

providing access to civilian commercial aircraft to such airspace.

Mr. LAUTENBERG. Mr. President, this amendment addresses a problem of serious concern to many of my constituents. The problem is aircraft noise.

In 1987, without the benefit of public hearings or an environmental impact statement, the FAA implemented a major change in the air traffic routes over New Jersey.

Since this new plan went into effect, many New Jerseyites have been bothered by the noise of planes flying overhead. Senator BRADLEY and I, along with Members of New Jersey's House delegation, have been working to try to provide relief to our constituents.

Like our constituents, we have been frustrated by the inability of the FAA to provide relief. We have met with the Transportation Secretaries, and the FAA Administrators. We have pushed for meaningful changes. But, none has come.

With this amendment, we are exploring an option that we believe has not been fully utilized.

Off the east coast, there are major tracts of airspace reserved for military use.

Allowing the FAA to use some of this space for civilian traffic, especially during the times of heaviest traffic, could have tremendous benefits for our constituents. It could mean that planes leaving the major metropolitan airports could gain altitude over the water, rather than over densely populated areas of northern New Jersey.

To put it another way, when planes take off and climb to cruising altitude, they apply a great deal of power, and generate a lot of noise. I would like to see that noise falling on the ocean, and not on my constituents.

Mr. President, this amendment directs the Department of Defense to examine the possibilities of increased civilian use of this restricted airspace. And, if it is feasible, it directs the Secretary to work with the Department of Transportation to provide the sort of relief we are looking for.

This is an initiative that could provide meaningful relief for the New Jerseyites suffering from aircraft noise, and I urge my colleagues to support it.

It is my understanding that this amendment has been cleared by the managers of the bill. I am grateful to them for that.

Mr. WARNER. Mr. President, the amendment is cleared on this side of the aisle.

Mr. NUNN. Mr. President, I would like to ask the Senator from New Jersey a question.

Mr. President, page 3, capital D, which is line 3, there is a sentence that says, "Proposals by the Secretary for permitting increased access to such special use airspace, particularly

during daylight hours, by civil aviation aircraft."

Mr. President, that report is being done by the Secretary. So I would suggest to the Senator that he amend his proposal to scratch the words on page 3, line 3, reading "by the Secretary," so they would read "proposals for permitting," otherwise he would be examining his own proposal.

AMENDMENT NO. 2504, AS MODIFIED

Mr. LAUTENBERG. Mr. President, I think the manager makes a good suggestion. I am prepared to modify it. I do not know what the parliamentary procedure is to do that. But if we ask unanimous consent for that.

Mr. NUNN. The Senator has a right to modify his amendment.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The Senator has a right to modify his amendment.

The amendment, as modified is as follows:

On page 223, after line 24, add the following new section:

SEC. 1216. ACCESS TO CERTAIN RESTRICTED SPECIAL USE AIRSPACE.

(a) STUDY REQUIRED.—The Secretary of Defense shall conduct a study to determine the feasibility of permitting civilian commercial aircraft to have access to restricted special use airspace over the coastal waters of the mid-Atlantic region of the eastern United States for the purpose of enhancing commercial aviation safety, improving air traffic control efficiency, and reducing the impact of aviation noise on populated areas.

(b) REPORT.—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the study required by subsection (a) not later than 90 days after the date of the enactment of this Act together with such comments and recommendations as the Secretary considers appropriate. The report may be submitted in both classified and unclassified form.

(2) The Secretary shall include in the report, at a minimum, the following:

(A) A discussion of the current policy of the Department of Defense regarding civilian access to restricted special use airspace.

(B) An accounting of civilian aircraft access to such special use airspace in each of the two years immediately preceding the year in which this Act is enacted.

(C) A summary of requests received by the Department of Defense from the Federal Aviation Administration for increased access to the special use airspace referred to in subsection (a) and the disposition of those requests by the Department of Defense.

(D) Proposals for permitting increased access to such special use airspace, particularly during daylight hours, by civil aviation aircraft.

(E) An analysis of the feasibility of providing such access.

(c) DEVELOPMENT OF PROCEDURES.—If the Secretary determines on the basis of the study referred to in subsection (a) that additional access to the special use airspace described in that subsection can be permitted, consistent with the national security interests of the United States, the Secretary shall develop, in coordination with the Secretary of Transportation, procedures for providing access to civilian commercial aircraft to such airspace.

The PRESIDING OFFICER. Is there further discussion on the amendment?

Mr. NUNN. I urge the amendment be accepted.

Mr. BRADLEY. Mr. President, I am pleased to join with my colleague from New Jersey [Mr. LAUTENBERG] in offering an amendment which requires the Secretary of Defense to look into using military airspace for civilian air traffic during peak hours. The Department of Defense has said in the past that this military airspace is off-limits to commercial aircraft, but they have given no real justification for their refusal. A large sector of airspace over coastal waters of the mid-Atlantic region of the Eastern United States is used by the Department of Defense and is off-limits for commercial aircraft. Allowing greater use of this airspace during peak hours would decrease traffic over populated areas and therefore decrease noise pollution.

The density of traffic in the sky over New Jersey has created unusual and intolerable levels of aircraft noise in many communities. A comprehensive effort to address the problem of aircraft noise must include a full examination of the use of military airspace.

In 1987, the Federal Aviation Administration announced the expanded east coast plan which was designed to improve safety and reduce delays at the east coast airports. However, delays at the New York metropolitan airports are on the rise and hundreds of New Jersey residents are angry and frustrated. Residents in some areas of New Jersey that never experienced noise are finding that aircraft noise is destroying the tranquility of their once peaceful homes.

We have repeatedly asked the FAA to provide relief to the residents of New Jersey but they have stubbornly adhered to a policy of business as usual. This is unacceptable. This study will hopefully identify one possible source of relief for the communities in New Jersey.

Mr. President, New Jersey homes have been subjected to unreasonable levels of aircraft noise. In my view, pollution is pollution, and we cannot tolerate noise pollution any more than we can tolerate pollution of the water we drink or the air we breathe. This amendment is part of a broader effort that Senator LAUTENBERG and I have proposed to combat this intolerable noise. I am pleased that both sides have accepted this amendment and I thank the Chair.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2504) was agreed to.

Mr. LAUTENBERG. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. NUNN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. NUNN. Mr. President, I saw the Senator from Michigan here a moment ago. He had a couple of amendments.

Mr. WARNER. Mr. President, I would like to get the attention of the distinguished chairman. I have an amendment handed to me by Senators McCONNELL and FORD entitled "Expressing the Sense of the Senate Concerning U.S. Armored Forces." The amendment has, I understand, been cleared on both sides, but I ask the chairman to verify that.

Mr. NUNN. Mr. President, the Senator from Virginia is correct. This is an amendment we have seen earlier and we have made a couple of small changes in the amendment. It is satisfactory.

AMENDMENT NO. 2505

Mr. WARNER. Mr. President, at this time the Senator from Virginia on behalf of Senators FORD and McCONNELL sends an amendment to the desk and asks for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. McCONNELL (for himself and Mr. FORD) proposes an amendment numbered 2505.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At an appropriate place, add the following new section:

Whereas dramatic changes have occurred in the military situation in Europe;

Whereas the Warsaw Pact is no longer a credibly military threat to NATO;

Whereas it appears that the heavy armored armies of both NATO and the Warsaw Pact will be substantially reduced by arms control agreements or unilateral actions;

Whereas the need for armor forces has not disappeared and many countries in the world possess large inventories of modern tanks;

Whereas the Soviet Union will still produce 1,400 new tanks in 1990;

Whereas with significantly increased warning times of enemy attack, greater reliance will be placed on U.S. Reserve Component Forces for Armored Heavy Force reinforcement missions;

Whereas there is a need to enhance the capabilities of Reserve Component Armored Forces to assume increased responsibilities for Armored Heavy Force reinforcement missions;

Now, therefore, it is the sense of the Senate that—

(1) The U.S. Army should take timely and necessary steps to enhance the capabilities of Reserve Component Armored Forces.

(2) The U.S. Army Armor Center will remain the center for training, education, doctrine and combat development for U.S. Armored Forces—for both Active and Reserve Components.

(3) The U.S. Army Armor Center should ensure that Reserve Component Armored Forces are adequately prepared for the increased reliance that will be placed on their greater role in Armor Heavy Force reinforcement missions.

Mr. WARNER. Mr. President, at this time hearing no further debate, I ask that the amendment be agreed to.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2505) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MURKOWSKI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2506

(Purpose: To request a report on Soviet INF violations)

Mr. WARNER. Mr. President, I send an amendment to the desk and ask for its immediate consideration. This is an amendment proposed by Mr. HELMS, Mr. DOLE, Mr. WARNER, Mr. WALLOP, Mr. NUNN, and Mr. LUGAR.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The Senator from Virginia [Mr. WARNER], for Mr. HELMS (for himself, Mr. DOLE, Mr. WARNER, Mr. NUNN, Mr. WALLOP, and Mr. LUGAR), proposes an amendment numbered 2506.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

At the end of the bill add the following new section:

"Sec. . . It is the sense of the Senate that, pursuant to its constitutional responsibilities of advice and consent in respect to treaties, the Senate requests that before concluding a proposed Strategic Arms Reduction Treaty, the President provide:

(1) A special classified and unclassified report to the Senate on whether the SS-23 INF missiles of Soviet manufacture, which the Soviets have confirmed have existed in the territories of East Germany, Czechoslovakia, and Bulgaria, constitute a violation of the INF Treaty or constitute deception in the INF negotiations, and whether the United States has reliable assurances that the missiles will be destroyed; and

(2) A special classified and unclassified report to the Senate on whether the Soviet Krasnoyarsk radar, which Soviet Foreign Minister Shevardnadze admitted is a clear violation of the ABM Treaty, has been verifiably dismantled in accordance with United States' criteria."

Mr. HELMS. Mr. President, the Soviets have reportedly admitted that SS-23 INF missiles of Soviet manufacture are in the territory of their Warsaw pact allies, East Germany, Czechoslovakia, and Bulgaria. Moreover, the nuclear warheads for these SS-23's reportedly remain under Soviet control, thereby in effect keeping these SS-23's under Soviet control.

The question has arisen as to the failure of the Soviet Union to disclose these transfers during the negotiations on the INF Treaty, and to dismantle them as required by the provisions of the Treaty.

I am advised that a special executive branch report on this important INF Treaty compliance problem has already been prepared by the national security departments and agencies, but the completion of the report has been delayed for over 2 months by the National Security Council staff.

Mr. President, this report should be completed, and it should be made available to the Senate. The ability of the United States to enforce Soviet compliance with the INF Treaty depends in part upon timely and accurate reports on Soviet compliance problems to the Congress. Indeed, we need to have that information before a proposed Strategic Arms Reduction Talks Treaty, or START Treaty, is signed.

The importance of Presidential collaboration with the Congress in trying to achieve Soviet arms control compliance is reflected in President Bush's February 23, 1990, letter to the Congress enclosing his Presidential report on Soviet Noncompliance with Arms Control Agreements. President Bush stated:

I intend to continue to press for scrupulous Soviet compliance with their arms control treaty obligations. The principle of scrupulous compliance is particularly important as we near completion of new arms control treaties. I value the strong congressional support for our compliance policy to date, and look forward to working closely with the Congress on these issues in the future.

I could not state my own hopes for full Soviet compliance with the INF Treaty more succinctly, and I hope that the Senate will continue to work closely with President Bush to achieve this important goal.

The Senate should support fully the President's efforts to encourage the Soviet Union to comply with the INF Treaty.

A timely report on the SS-23 matter will strengthen the Senate's ability to support the President's increasingly successful policy of improving Soviet arms control treaty compliance. I believe that such a report is needed before the President signs a proposed START Treaty.

My amendment merely requests that the President send this special INF report to the Senate before he signs a START Treaty.

Mr. President, the Senate has overwhelmingly voted several times that the Soviet Krasnoyarsk radar is a clear violation of the ABM Treaty, and that as such, it was an obstacle to the signing of a proposed Strategic Arms Reduction Treaty.

The almost total unanimity of both Houses of the Congress on this point finally persuaded the Soviet Union to admit that Krasnoyarsk was a clear violation of the ABM Treaty.

Last October 23, Soviet Foreign Minister Shevardnadze himself finally admitted that Krasnoyarsk was a clear violation of the ABM Treaty in an historic speech to the Supreme Soviet. Shevardnadze also promised to fully dismantle Krasnoyarsk.

Mr. President, the 1989 and still current edition of the Defense Department's series of volumes entitled "Soviet Military Power" states:

If arms control is to have meaning—if it to contribute to national security and to global and regional stability—all parties must comply fully with the agreements they make. This fundamental precept underlies U.S. arms control policy. For this reason, the United States has informed the Soviet Union that no further agreements in the START or Defense and Space areas are possible until Moscow corrects its violation of the ABM Treaty involving the Krasnoyarsk radar in a verifiable manner that meets U.S. criteria.

I believe that this is a sound policy, and the Senate has already supported this policy several times.

Mr. President, there are press reports that the Soviets may have begun to dismantle Krasnoyarsk. I hope that these reports are accurate. We should continue to encourage the Soviet to complete their dismantling of Krasnoyarsk.

My amendment merely requests a report from the President on whether Krasnoyarsk has been completely and verifiably dismantled according to U.S. criteria, before the President signs a START Treaty.

Mr. WARNER. Mr. President, as I indicated, the amendment has been cleared on this side of the aisle. In view of the fact that the distinguished chairman of the Armed Services Committee is a cosponsor, I would presume the amendment is cleared on that side of the aisle. I see acquiescence from that side of the aisle. Therefore, I ask that the amendment be adopted.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 2506) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. WALLOP. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL ENERGY SECURITY PLAN

Mr. MURKOWSKI. Mr. President, I wonder if I may offer an amendment at this time? It has been given to both sides. It is a very simple amendment. I am inclined to think that it would be accepted. Senator McClure has indicated a willingness to cosponsor it.

The purpose is to establish a national energy security plan designed to reduce U.S. dependence on foreign oil. It would establish a national oil import ceiling for crude oil and other oil products at 50 percent of U.S. consumption. It would have two features. The President would prepare and submit an annual report to Congress containing national oil security projections. The report would contain forecasts of domestic oil demand and production, and forecasts of oil imports for the subsequent year.

Second, the report would also contain actions necessary to reduce reliance on foreign oil to below 50 percent. That would be the ceiling level.

Mr. WARNER. Mr. President, in order to save time, if the Senator would yield for an observation, this side of the aisle has not had an adequate time to study the amendment. I am not sure the other side has had that opportunity. Of course, the Senator is free to discuss his amendment. But bear in mind at this time we simply have not had adequate opportunity to study it.

Mr. NUNN. Mr. President, we just received a copy of the amendment as the Senator stood up to speak. We have not had a chance to study it. It is one of those we would have to consult with the Energy Committee on because it clearly is a matter in their jurisdiction. So I would suggest the Senator might wait until tomorrow when we have a chance to study it.

Also I would suggest he get with the Energy Committee and ask them to give us some views on it.

Mr. MURKOWSKI. I wonder if I may have another minute so I can finish the explanation. I think you will find it acceptable and it is seldom that we have an opportunity to have the attention of our colleagues.

If the ceiling level of 50 percent has been exceeded for 6 months out of any continuous 12 months, the President shall then prepare an energy production and security action plan. The action plan shall contain specific actions to be taken to reduce oil imports below the 50 percent ceiling level. Possible actions include domestic production incentives such as possible oil import fees, royalty reductions, and tax incentives.

All Federal land tracts, including those currently off limits, would be included for consideration for oil and gas discovery potential. Of course, we would exclude national park systems.

And the balance in this—if I could have the attention of my colleagues—

is that Congress must pass a joint resolution to approve the President's plan of action.

It is the intention of the Senator from Alaska to simply expedite this process and, as a consequence, I remind my colleagues that Senator BENTSEN offered a similar amendment in 1986 but it mandated specifically oil import quotas. This does not. That received 44 votes.

I think we have a situation, Mr. President, where the effect of the oil embargo, as we see it, is a matter affecting our national security. It is facing our President to take action. That is the purpose of the amendment of the Senator from Alaska.

I appreciate any comments the floor managers would care to make. Or if there is some way we could expedite this, tomorrow, if they wish, or whatever.

Mr. WARNER. I thank the Senator. We will endeavor to expedite it, but it is not likely we can reach a conclusion tonight.

Mr. MURKOWSKI. Might I assume, since it has been brought to the attention of the floor managers, it will be ready to be addressed tomorrow in the sense of making a determination whether they accept it or not relatively early?

Mr. WARNER. We will, of course, endeavor to try to accept it and accommodate the Senator, but we cannot make any commitment that would indicate that action would be taken. But we will make our best effort to clear it on both sides.

Mr. MURKOWSKI. It is the Senator's intention to move this process along. That is why I took this opportunity to bring it up.

Mr. WARNER. I thank the Senator for doing it.

Mr. President, are there other amendments?

The PRESIDING OFFICER. The Senator from Michigan is recognized. Without objection the pending amendment is set-aside.

AMENDMENT NO. 2507

(Purpose: To provide for the procurement of commercial and nondevelopmental items, and for other purposes)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. COHEN, Mr. GLENN, Mr. BINGAMAN, Mr. ROTH, and Mr. WALLOP, proposes an amendment numbered 2507.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 117, line 13, strike out "and" after the semicolon.

On page 117, line 15, add after the semicolon "and".

On page 117, insert between lines 15 and 16 the following new subparagraph:

"(E) in subparagraph (A) (as redesignated in subparagraph (D) of this paragraph) by inserting 'or has been' before 'available in the commercial marketplace'."

On page 117, line 23, strike out "products" and insert in lieu thereof "items".

On page 119, line 9, strike out all through line 15 on page 120 and insert in lieu thereof the following new paragraphs:

"(7) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(8) In this subsection, the term 'commercial item' means—

"(A) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(i) has been sold or traded to the general public;

"(ii) has been offered for sale to the general public at established prices but not yet sold; or

"(iii) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(B) any item described in subparagraph (A) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency."

On page 121, line 21, strike out "section 2325(b)(7)" and all that follows through "subsection (a))" on line 22 and insert in lieu thereof "section 303H(e) of the Federal Property and Administrative Services Act of 1949 (as amended by subsection (f))".

On page 129, line 13, strike out "section 2325(b)(10)" and insert in lieu thereof "section 2325(b)(8)".

On page 129, insert between lines 18 and 19 (after the quoted matter) the following subsection:

(f) COMMERCIAL AND NONDEVELOPMENTAL ITEMS.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"PROCUREMENT OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS

"Sec. 303H. (a)(1) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall ensure that, to the maximum extent practicable—

"(A) requirements of executive agencies with respect to a procurement of supplies are stated in terms of—

"(i) functions to be performed;

"(ii) performance required; or

"(iii) essential physical characteristics;

"(B) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(C) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(D) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelop-

mental items are available or could be modified to meet agency needs.

"(2) As used in this section, the term 'nondevelopmental item' means—

"(A) any item of supply that is or has been available in the commercial marketplace;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(D) any item of supply that is being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(b)(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

"(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts, as determined by the agency head with the approval of the Administrator of the Office of Federal Procurement Policy.

"(2)(A) The Federal Acquisition Regulation shall require that a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

"(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator of the Federal Procurement Policy.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 2325(b) of title 10, United States Code, in lieu of the uniform contract and subcontract clauses developed under this subsection.

"(c) The Federal Acquisition Regulation shall ensure, to the maximum extent practicable, that—

"(1) the inspection clause included in each agency contract for the acquisition of commercial items takes into account the contractor's past performance and any warranties the contractor may offer to the Government; and

"(2) Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

"(d)(1) The Federal Acquisition Regulation shall ensure that, to the maximum extent practicable, contractors and subcontractors offering commercial items are required to submit certified cost or pricing data regarding agency contracts and subcontracts only when such data are necessary for the evaluation of the reasonableness of the price of the contract or subcontract, as the case may be.

"(2) The revised regulations shall particularly address—

"(A) the application of the adequate price competition exemption in the case of a contract or subcontract for the acquisition of a commercial item;

"(B) the standards of applying the catalog or market price exemption to contracts and subcontracts for items which are modified commercial items, components of commercial items, spare parts for commercial products, new commercial items, or commercial items which are no longer sold to the public; and

"(C) the exemption of any acquisition of a product for which the Administrator of General Services has accepted a certificate of established catalog price that is current.

"(e) The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

"(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use or that the processes used to manufacture the products meet established commercial or other specified standards; or

"(B) been satisfactorily supplied under current or recent contracts for the same requirements; and

"(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

"(f) The Federal Acquisition Regulation shall provide guidance to agencies on the use of past performance of products and sources as a factor in award decisions.

"(g) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(h) In this section, the term 'commercial item' means—

"(1) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(A) has been sold or traded to the general public;

"(B) has been offered for sale to the general public at established prices but not yet sold; or

"(C) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(2) any item described in paragraph (1) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency."

"(2) The table of contents for the Federal Property and Administrative Services Act of 1949 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Procurement of commercial and nondevelopment items."

"(3) The Administrator of the Office of Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopment items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of—

"(A) contracting officers in the fundamental principles for price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

"(B) appropriate personnel in market research techniques and the drafting of functional and performance specifications.

"(4) Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting the acquisition of nondevelopmental items and for challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses."

"(5) Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and necessary in the Federal Information Resources Management Regulation.

"(6) Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

"(A) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

"(B) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including a review of existing Government resources; and

"(C) such recommendations for changes in law or regulation as the Comptroller General

al of the United States may consider appropriate.

Mr. LEVIN. Mr. President, for too many years now, we have seen the Department of Defense and other Federal agencies purchasing expensive, specially designed products when ordinary commercial and off-the-shelf products would do. We have all seen examples of competent businessmen and women who have tried to sell their products to the Federal Government, but have given up in the face of the overwhelming maze of Government procurement laws and regulations.

I have been working for several years now to address these problems. Five years ago, we passed a provision to encourage the Department of Defense to save money on research and development by purchasing commercial and off-the-shelf products—known as nondevelopmental items or “NDI’s”—instead of unique products that are specially designed for the military. Last year, we passed another provision, which requires the simplification of DOD regulations and makes it easier for companies to sell NDI’s to the Pentagon.

Unfortunately, it is apparent that we still have a long way to go. Last November, for example, I read in the newspaper that the Air Force had decided to purchase 173 FAX machines for \$421,000 each. I asked my subcommittee staff to look into this, and they learned that these specially designed FAX machines—which were already outdated by the time the Air Force made its final production decision—actually cost \$94.6 million, or about \$547,000 per machine, including production, development and spare parts. The Army purchased NDI’s instead, and got similar machines for less, about \$16,000 each.

How did this happen? I am convinced that it is because the Pentagon is biased in exactly the wrong direction—toward products that are designed and built exclusively for use by the military. All too often, it seems, when the Pentagon decisionmakers get together to decide what they need, they develop gold-plated requirements first and only then look to see what is already available. The result is predictable—overly complex and burdensome specifications that cannot be met by off-the-shelf products that otherwise meet the Government’s needs.

Moreover, as we learned in subcommittee hearings last April, the Department of Defense is not the only Federal agency with this kind of problem.

In one example provided at the subcommittee hearings, a civilian agency required that computer equipment be supplied in a particular color. Because the winning vendor did not produce equipment in that color, it had to send the side panels to a local shop to be repainted, at Government expense.

In a second case cited at the hearings, a standard commercial cotton pad used by printers around the world was rejected for purchase by the General Services Administration because it had not been subject to the rigorous testing required by GSA—dropping it in a glass of water to make sure that it would sink.

Mr. President, the Governmental Affairs Committee recently reported a bill, S. 1957, the Nondevelopmental Items Act of 1990, which would address these problems. I introduced this bill last November, with Senators COHEN, GLENN, and ROTH, and it was approved by a unanimous 9-0 vote of the Subcommittee on Oversight of Government Management.

S. 1957 would require civilian agencies to take the same steps to encourage the acquisition of NDI’s that are already required of DOD under the 1987 and 1990 authorization acts, and adds a couple of new provisions in the spirit of those requirements.

Mr. President, because this bill takes procurement provisions that have been included in past defense authorization acts, and makes them Governmentwide, I believe that S. 1957 is an appropriate addition to this year’s defense bill.

Accordingly, I have sent to the desk an amendment to section 812 of the bill. The amendment we propose would promote the acquisition of NDI’s on a Governmentwide basis, by requiring agencies to:

First, purchase NDI’s to the maximum extent possible;

Second, simplify their product requirements, telling companies what they want, rather than how to build it;

Third, eliminate unnecessary and burdensome contract clauses that serve as an impediment to NDI contracts;

Fourth, tailor appropriate inspection requirements for NDI’s;

Fifth, reduce paperwork requirements for contractors in NDI contracts;

Sixth, enhance training for acquisition personnel in the procurement of NDI’s; and

Seventh, designate officials responsible for promoting the acquisition of NDI’s.

In addition, the bill would add to the provisions already in effect for the Department of Defense, requiring DOD and other Federal agencies to conduct market research to determine whether existing products can meet their needs. This is a commonsense step that the Pentagon has failed to implement on its own, so a legislative mandate is necessary.

Mr. President, with these changes, we can make some real strides toward buying products that are already in use, instead of new, expensive, Government-unique items. I hope that my

colleagues will join me in supporting this effort.

To summarize, Mr. President, last year the Congress established a major initiative to streamline the acquisition system by enhancing DOD’s ability to procure off-the-shelf items. Key features of that initiative included the development of a simplified uniform contract for the acquisition of commercial items, elimination of unnecessary contractual clauses, development of a commercial products inspection clause, and minimization of requirements for submission of certified cost and pricing data.

Mr. President, we enhanced this initiative to buy commercial and off-the-shelf items in our bill this year in section 812.

What this amendment does is, it takes these initiatives which we have applied to the Department of Defense and applies them Governmentwide. The initiatives have been successful, they worked, we encouraged the purchase of commercial items rather than designing from scratch. It saves the taxpayers an awful lot of money in the process. We now think we are ready to do this Governmentwide.

I understand this has been cleared on both sides of the aisle.

Mr. WALLOP. If my friend would yield, let me say this is now one of several things that are happening Governmentwide that we fought, scrapped, and struggled to get into the defense authorization a year ago. It is well overdue. It works, and it is really welcome to see it going Governmentwide. I was pleased to be included as a cosponsor of this amendment.

Mr. LEVIN. I thank my colleague for his comments.

Mr. President, I believe the managers of the bill have cleared this amendment. They are otherwise occupied at the moment.

Mr. WARNER. Mr. President, I say to the distinguished Senator from Michigan that this amendment has been carefully considered on this side of the aisle. It has received clearance. We urge its adoption at the appropriate time.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WALLOP. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 2507) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. WARNER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. With-out objection, the pending amendment is set aside.

AMENDMENT NO. 2508

(Purpose: To extend the period of suspension for certain provisions of law relating to postemployment restrictions)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. GLENN, Mr. BINGAMAN, and Mr. WALLOP, proposes an amendment numbered 2509.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. With-out objection, it is so ordered.

The amendment is as follows:

In Section 833, strike out subsection (a) and all that follows through "(d) TECHNICAL AMENDMENT.—Section" and insert in lieu thereof the following:

(a) EXTENSION OF PERIOD OF SUSPENSION OF CERTAIN PROVISIONS OF LAW.—Section 507 of the Ethics Reform Act of 1989 (Public Law 101-194; 103 Stat. 1759) is amended by striking out "one year after such day" and inserting in lieu thereof "May 31, 1991".

(b) TECHNICAL AMENDMENT.—Section

Mr. LEVIN. Mr. President, last November, as part of the Ethics Reform Act of 1989, the Congress agreed to an administration request to suspend for 1 year a number of procurement ethics statutes. Seven months later, on June 21, the administration proposed, and Senator ROTH introduced, a bill to repeal several of these statutes and to revise others.

The administration bill, S. 2775, has been referred to the Committee on Governmental Affairs. In late July, the administration requested that the committee hold hearings on this bill. At the same time, the Armed Services Committee acted to adopt several of the administration's recommendations, on a piecemeal basis, in section 833 of the pending bill.

I believe that many aspects of the administration proposal have merit and deserve serious consideration by the Congress. As we in the Congress have struggled to reform the procurement system over the last decade, we have added many new ethics provisions to the procurement code. While each of these provisions addresses a very real ethics problem, the accumulation of such provisions has resulted in a complex series of overlapping and sometimes redundant requirements.

At the same time, however, we must not be overly hasty to roll back ethics provisions. Statutory simplification is a desirable goal, but when the statutes to be simplified contain safeguards that are crucial to the integrity of our procurement system, they must not be haphazardly cast aside.

In short, I agree with the administration that the time has come for a reexamination of our procurement ethics laws. Moreover, the reexamination, if there is to be one, must encompass the entire range of procurement ethics provisions. If we are going to come up with a comprehensive solution, we must look at all aspects of the problem. It simply does not make sense to enact piecemeal changes today, before we have even started our comprehensive review.

Unfortunately, we are rapidly approaching the end of the legislative session. The procurement ethics provisions were suspended 8 months ago and will come back into effect, absent congressional action, on December 1, 1990. However, we did not receive a formal administration proposal for the revision of these statutes until June 20. By the time the administration requested hearings on this bill, less than 2 months remained on the legislative calendar for this year.

The provisions addressed in the administration bill are too important to be addressed without public hearings at which all parties concerned, including both advocates of simplification and advocates of strong procurement ethics safeguards, have an opportunity to be heard. The process of public hearings, discussions, markup, and enactment of a statute is time-consuming, but it is the best way to ensure that any revisions to the law reflect the best judgment of the Congress and the people.

For these reasons, I believe that the only reasonable approach available is to defer action on the procurement ethics laws—including the provisions addressed in section 833 of the pending bill—until the beginning of the next Congress. At that time, I intend to hold public hearings and markup a comprehensive procurement ethics bill in my Subcommittee of the Governmental Affairs Committee. I know that the chairman of the committee, Senator GLENN, concurs in this approach.

Mr. President, in the absence of congressional action, the suspended procurement ethics statutes suspended statutes will come back into effect on December 1 of this year. Because I propose to defer action on these statutes until next year, I believe it is appropriate to extend the suspension of the statutes for an additional 6 months.

This additional suspension period should give the Congress adequate time to conduct public hearings and enact appropriate legislation. It should avoid the confusion that would be caused by allowing the statutes to go back into effect in December, only to be revised again a few months later.

At the same time, this suspension, if it is enacted, should not be taken by the administration as a sign that the

Congress is not concerned about procurement ethics. With many of my colleagues, I continue to believe that these statutes serve an important purpose, protecting the procurement system against real ethics problems. Prompt action should be taken by the administration to safeguard the procurement system during the suspension period, and to ensure that appropriate implementing regulations are ready when and if the statutes go back into effect.

Mr. President, I have sent to the desk this amendment on behalf of myself and Senators GLENN, BINGAMAN, and WALLOP to delete subsections (a), (b), and (c) of section 833 from the bill and to substitute a provision continuing the suspension of the procurement ethics statutes for an additional 6 months.

In brief, Mr. President, last year Congress suspended certain post-employment restrictions until December 1 of this year. We did that in order to give the administration an opportunity to submit a legislative proposal. The problem is that that legislative proposal did not come in until June 21. That has given us insufficient time to consider that proposal.

This amendment would extend the suspension of those provisions and would defer consideration of changes which the committee proposed until the end of that suspension period.

The PRESIDING OFFICER. Is there further debate?

Mr. WARNER. Mr. President, the amendment of the distinguished Senator from Michigan has been reviewed on this side, and we urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. NUNN. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 2508) was agreed to.

The PRESIDING OFFICER. With-out objection, the motion to lay on the table and the motion to reconsider is agreed to.

Without objection the pending amendment is set aside.

AMENDMENT NO. 2509

Mr. WARNER. Mr. President, I send to the desk an amendment on behalf of the distinguished Republican leader, Mr. DOLE; Mr. LUGAR; Mr. WARNER; Mr. GRAMM; regarding U.S. military personnel involvement in the Philippine earthquake relief effort. Mr. President, I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. DOLE (for himself, Mr. LUGAR, Mr. WARNER, and Mr. GRAMM) proposes an amendment numbered 2509.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At an appropriate place, add the following:

FINDINGS.—The Senate makes the following findings:

(1) The men and women in the United States Air Force, Marine Corps and Navy, serving in the Pacific region, have given substantial and significant assistance to the government and people of the Philippines following the July 16 earthquake, which resulted in the deaths of over 1,600 people, as well as severe dislocation and devastation.

(2) U.S. military personnel stationed in the Philippines have traditionally exhibited a strong respect and admiration for the people of the Philippines.

(3) A Marine Corps pilot was killed in a helicopter crash during an earthquake relief mission on July 20.

(4) The United States Air Force has flown over 220 sorties, including medical evacuations to assist in earthquake relief.

(5) The Marine Corps has flown over 250 aircraft missions, and has transported via helicopter over 1,000 Philippine nationals and more than 500,000 pounds of cargo.

(6) Navy medical personnel from Subic Bay have provided critical medical assistance to those injured in the earthquake.

(7) More than 1,140 tons of supplies and equipment have been airlifted to the Philippines or transported over land to Baguio City and Cabanatuan City, areas devastated by the earthquake.

(8) Military civil engineering teams have restored more than half the damaged water systems and all of the electrical systems, and have provided heavy equipment to aid in rescue operations.

(9) 650 units of blood were donated by members of Clark Air Force Base and other Pacific Air Force bases, and 120 units of blood were donated by members of Subic Bay Naval Facility.

It is the sense of the Senate, that—

(1) The earthquake relief assistance provided by U.S. military forces has played an essential role in the Philippine recovery from the July 16 earthquake.

(2) Those U.S. armed forces and their dependents who have assisted in Philippine earthquake relief should be commended by the United States Senate for their considerable efforts on behalf of the Philippine people in their recovery efforts.

Mr. DOLE. Mr. President, on July 16, a severe earthquake struck the Philippines. The earthquake took a heavy toll: Over 1,600 people have been confirmed dead, hundreds have been injured, and many areas in the Philippines are devastated.

Today, together with the distinguished senior Senator from Indiana, Senator LUGAR, and the distinguished ranking Republican on the Armed Services Committee, Senator WARNER, I am offering an amendment to commend those who came to the assistance of the Philippine people within 24 hours of this tragic event: The men

and women in our military who serve in the Philippines and surrounding areas.

In my view, U.S. military personnel have played an essential role in the Philippine recovery effort. And, I have the facts to prove it. They are recorded in this amendment, but I would like to review some of them now:

The U.S. Air Force has flown over 220 sorties, including medical evacuations;

More than 1,140 tons of supplies and equipment have been airlifted;

The Marine Corps has flown over 250 aircraft missions and has transported over 1,000 Philippine nationals via helicopter, as well as more than 500,000 pounds of cargo;

Navy medical personnel have been providing critical medical assistance;

Military civil engineering teams have been working to rescue people in the city and to restore water and electrical systems;

Seven hundred ninety units of blood were donated by military personnel and their dependents stationed at Clark Air Force Base and Subic Bay naval facility; and

Finally, let us not forget that one American life was lost during a relief mission: a Marine Corps pilot died tragically in a helicopter crash on July 20.

Mr. President, the assistance U.S. military personnel have provided to the Philippines in their earthquake recovery efforts is above and beyond the call of duty. I believe that these considerable efforts were made by our men and women in uniform, not only out of a deep sense of duty, but out of a deep sense of respect for and friendship with the Philippine people. And I believe that it is appropriate for the Senate to commend them for their courageous and tireless work in the Philippine earthquake recovery effort.

Mr. LEVIN. Is the Senator from Michigan correct there was a motion to reconsider laid on the table to my second amendment?

The PRESIDING OFFICER. The Senator is correct.

Mr. NUNN. Mr. President, I think this is a good amendment. I urge its adoption.

Mr. WARNER. Mr. President, I urge the amendment be agreed to.

The PRESIDING OFFICER. Is there further debate? If there is no further debate, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 2509) was agreed to.

The PRESIDING OFFICER. Without objection, the motion to reconsider the motion to lay on the table is agreed to.

AMENDMENT NO. 2510

Mr. WARNER. Mr. President, I send to the desk on behalf of the distinguished Republican leader an amend-

ment entitled Sense of the Senate to Commend the Work of the National Guard and Reserve and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside and the clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER] for Mr. DOLE proposes an amendment numbered 2510.

Mr. WARNER. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

SENSE OF THE SENATE, TO COMMEND THE WORK OF THE NATIONAL GUARD AND RESERVES

The Senate finds that:

Since the birth of this Nation, the citizen-soldier of the United States has protected their fellow citizens from tyranny, invasion, violence and natural disasters; and

Since the Revolution that threw off our yoke of colonialism, to assisting the Panamanians in their struggle over tyranny, the citizen-soldiers of the National Guard and Reserves, have fought in the defense of freedom; and

As the resolve and sacrifice of our National Guard and Reserves over the last 45 years gave them a lead role in our Nation's winning the cold war; and

As we enter the final decade of this century with our Nation facing new and varied threats to peace, it is imperative that our Guard and Reserve be prepared to respond in a changing world; and

As the National Guard and Reserves make up a large part of our Nation's combat and support units, their mobilization and training will remain vital to our national security; and

As the outstanding Americans who serve in the National Guard and Reserves have maintained their level of excellence through their hard work and dedication to duty, our citizen soldiers have proved our Nation can continue to rely on them in any national emergency; and

The qualities that have given the National Guard and Reserves its venerable history, are still present today; now, therefore

The United States Senate acknowledges the valuable contribution that the men and women of our National Guard and Reserves have made to our Nation's security, and to continue to support their role as the foundation of our national defense in a changing world.

Mr. NUNN. Mr. President, we have given an awful lot of attention to Guard Reserve in this bill. This is a resolution of commendation of them. I think it is a good amendment. I urge its adoption.

Mr. WARNER. Mr. President, I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2510) was agreed to.

The PRESIDING OFFICER. Without objection, the Chair declares the

motion to reconsider be laid upon the table.

Mr. WARNER. The President, the managers of the bill continue to receive from Senators amendments which can be considered.

Mr. WALLOP. Mr. President, while this conversation is going on, I rise to commend my colleagues on the Armed Services Committee and staff who labored so hard to bring this bill to the floor.

Many Senators on both sides of the aisle believe this is the best defense bill we can get in the current budget environment. Certainly it would fund national defense at a higher level than any of the commonly discussed alternatives. But those alternatives represent an irresponsible, headlong rush to spend the so-called peace dividend—before there is a dividend; and worse, before there is a true and certain peace. Such alternatives explain why Republican members of the committee voted to report this bill out of markup. As is often the case in politics, it was a choice between the disagreeable and the intolerable.

In fairness, I must acknowledge that there are some very sound elements in the bill, and our chairman is to be commended for emphasizing the need to "think smarter, not richer," to "fly before buy," and the like.

But the many statements offered as a context for the bill have gaps and blanks as troubling as the blanks criticized in the administration's budget request and 5-year defense plan. The bill's inherent strategic concepts contain only two scenarios for conflict at the nuclear war end of the spectrum: one, a nuclear attack escalating from a conventional war in Europe (no longer credible with the fall of the Warsaw Pact); or two, a "bolt from the blue" attack, or first strike.

But a third possibility is overlooked—the Soviets' use of overwhelming nuclear power for diplomatic leverage, for intimidation and blackmail, for the pavlovian conditioning of the West and the United States to induce submission to their demands. This possibility, in keeping with the Soviet doctrine of "victory without war," is—and has always been—far more likely than the other two.

Nor does the bill's context offer any discussion of the critical importance of space to U.S. security and prosperity. There is a resounding silence on the vital issue of space—except the rationale for cancelling two major space programs, Milstar and the national aerospace plane. This is an astonishing omission for any strategy that claims to "look forward, not backward."

The first step toward the essential mastery of space is strategic defense, the greatest technical and strategic innovation of the last quarter century. A strategic defense system will not only reduce the threat of ballistic missiles,

it will also lead the way to U.S. dominance in the ultimate high ground of space. And yet this bill cuts nearly a billion dollars from the administrator's SDI request.

With the utmost respect, I have to say to the majority members of the Armed Services Committee who gave us this bill: if they are not supporting the defense of the American people against ballistic missiles—and that means robust funding of SDI leading to the eventual development and deployment of an operational system—then their pretensions to the role of strategist ring hollow.

But, Mr. President, my unhappiness with the bill goes beyond the gaps on space and strategic doctrine. Despite the broad discussion of strategy surrounding this bill, what we have here is merely a budget, not a strategy. In my opinion, the process that produced this "strategy" was not a thoughtful exercise in defense policy analysis, but an accountant's exercise. The very term "peace dividend" is the language of accountants. So it should come as no surprise that Senators put provisions in the bill—or have promised to do so with floor amendments—with little consideration of specific threats, strategic imperatives, or military requirements. The result, Mr. President, is strategy made by bookkeepers. And to paraphrase Clausewitz, it is simply the continuation of politics by other means.

I could not agree more that we must use defense dollars wisely. That means long-range strategies, setting priorities and making the necessary hard choices, and efficient management; while at the same time preserving readiness, deterrence, and the defense industrial base.

But budget cutting is not an end in itself. As Edmund Burke said,

Economy consists not merely in saving, but in selection. Parsimony requires no provision, no sagacity, no powers of analysis, no comparison, no judgment. Mere parsimony is not economy. Expense, and sometimes great expense, may be essential to true economy.

The Defense Department is not a cash cow to be milked to nourish a bloated welfare state. Its mission is to safeguard our freedom by keeping our military forces strong and ready. In other words, the best economy is safety.

Regrettably, this lesson has to be learned by every new generation. American history is one of a woeful lack of military preparedness on the eve of every one of our wars. And each time it costs us far more than preparedness would have cost—in blood as well as treasure.

This summer marks the 40th anniversary of the Korean war. That conflict teaches the hard costs of unilateral actions that leave us unprepared.

At the end of World War II we demobilized precipitously—and unilaterally. When the Truman administration announced to the world that the United States had no security interests in East Asia, that unilateral declaration and our military weakness led to near-disaster, and a bitter, protracted war that took the lives of 50,000 Americans.

Mr. President, this same sort of thinking is reflected in the bill's underlying assumptions about the Soviet Union. The bill embarks on drastic defense cuts based on the as yet unfulfilled promises of glasnost and perestroika, and despite continued growth in Soviet strategic power. No nation wants to remain forever in a perpetual state of semiwarfare. Constant vigilance is a strain on the character of any people. But it is a fact of life in today's world—vigilance is still the price of liberty.

Members of Congress who speak with the absolute confidence that the Soviet threat has evaporated should remember that all conflict is full of uncertainty. The very nature of the past 40 years of ambiguous nonwar, nonpeace with a thinking, animate enemy is uncertainty. We cannot know what Gorbachev's true intentions are. We can only know for certain what the Soviets are capable of doing, and defend ourselves against that.

No one wants to keep the cold war alive any longer than necessary. But we must resist the euphoria of the moment long enough to make sure the embers of conflict are truly extinguished, not merely banked and left to smoulder until circumstances fan them unexpectedly into flame. We must secure the victory that our strength and resolve have begun, and we cannot do it by unilateral or thoughtless legislation which makes communism in its day of decline a more formidable enemy than before, while we grow weaker in the hour of victory.

Today's budget difficulties and the changing military situation do require that we take some risks. However, it's an unacceptable risk to gamble our future on a single improbable event—that the nomenklatura who still rule the Soviet Union will of their own accord scrap the Soviet arsenal and march off into the ash heap of history. This is not the nature of people and governments, and even less the nature of Marxist-Leninism.

Mr. President, I ask unanimous consent to print in the RECORD a Wall Street Journal article entitled "Demilitarization Is a One-Way Street."

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Wall Street Journal, July 31, 1990]

DEMILITARIZATION IS A ONE-WAY STREET
(By Gerald Frost)

President Bush and Secretary of State James Baker have good reason to feel perplexed. At every turn they have sought to enhance the political life expectancy of Mikhail Gorbachev, elevating the Soviet leader's survival to the status of a major policy goal.

The Soviet response to this highly considerate treatment has been schizoid, reflecting a style of political behavior Western analysts find difficult to interpret. On the one hand, the Soviet leadership permits a reunified Germany to remain a member of NATO and urges the West not to think of the Soviet Union as an adversary; on the other, it goes on improving the Soviet military machine, lavishly equipping it for the high-tech battlefield of the future.

A STAGGERING THOUGHT

Both at the Houston summit and at the London meeting of NATO ministers, British Prime Minister Margaret Thatcher made a point of stressing the fact of the continuing Soviet arms modernization program, something many Western leaders evidently would prefer to overlook. The British defense secretary, Tom King, also appears puzzled by the disparity between the presumed purpose of perestroika—to switch spending from the military to the domestic sector of the economy—and the Soviet military program. On Wednesday, he announced that British armed forces would be cut by 18%, owing to the apparently diminished Soviet threat.

But earlier this year, he reminded the House of Commons: "It is a staggering thought that even now, in the fifth year of Mr. Gorbachev's time in office, the figures show that one new Soviet submarine is being launched every six weeks. Two aircraft, six tanks and one missile are produced every day. The Soviet defense minister [Marshall Yazov] has said that the emphasis is now on quality rather than quantity; that is certainly borne out by this year's May Day Parade in Red Square, which revealed one new main battle tank and one heavily armored infantry vehicle of very high quality. The Soviet navy recorded a record tonnage of new surface ships during 1989. These ships are larger and more powerful than their predecessors, have longer range and more accurate missiles."

As for arms reductions, of which Soviet spokesmen have made so much, these seemed largely confined to obsolete or aging weapons and vessels, Mr. King said.

Similar evidence was given to the House Armed Services Committee in February by Undersecretary of Defense Paul Wolfowitz. He reported small decreases in the production of Soviet fighters, fighter bombers and bombers, but increases in the production of light armored vehicles, artillery mortars, anti-artillery mortars, short-range, ballistic missiles and tanker aircraft. Moreover, in April the Defense Intelligence Agency reported to Congress that the conversion of military plants to civilian purposes remained virtually nonexistent. Vigorous, broadly based modernization of strategic offensive and defensive forces continued with very high rates of production. No major weapons development program had been stretched or canceled.

In forming an assessment of the current military balance it must also be borne in mind that even where there are meaningful

reductions to be found—as in the case of Soviet tank production—present levels exceed those in the West. The Soviets' relative advantages have either been preserved or enhanced.

The evidence would therefore seem to suggest that the Soviet "peace dividend"—if it exists at all—is considerably smaller in proportionate terms than that which most NATO countries, with the exception of France, have already spent. This fact does not discourage Western governments from looking for still further cuts.

Most Soviet economic statistics are meaningless or fraudulent; it may be that the Soviets themselves do not know the exact cost of their defense program. Several Western analysts have suggested the Soviet defense budget was reduced by 4% to 5% during 1989-90, following the completion of the five-year plan during which spending rose by 25%. But since there is little certainty about the level of earlier spending, such calculations may prove to have been worthless. What is clear is that until very recently Western analysts, including those at the CIA, vastly underestimated Soviet military expenditures.

This is apparent from the inclusion in the Soviet military inventory of new, highly sophisticated weapons, as well as from a remarkable speech by Soviet Foreign Minister Eduard Shevardnadze to the Party Congress earlier this month: "It is obvious that if we continue as before, comrades—I state this with all responsibility—to spend a quarter, a quarter, of our budget on military expenditure—we have ruined the country; then we simply won't be needing defense, just as we won't need an army for a ruined country and an impoverished people. There is no sense in protecting a system which has led to economic and social ruin."

For the first time, Mr. Shevardnadze also gave figures for "ideological confrontation" with the West—presumably the bill for propaganda—and "active measures," i.e. disinformation, forgeries, support to the Soviet fronts and agents of influence. The total is 700 billion rubles over the past two decades. (At the current exchange rate, that is about \$414 billion.)

There is just one way out of the morass, Mr. Shevardnadze concluded: to cut military spending. Taken at face value, his remarks suggest that reduction of Soviet spending remains more a goal than a fact. It would seem that the Soviet leadership either has been unable to severely cut back programs or, for whatever reason, has chosen not to do so. One possible explanation might be the fear of rebellion by Soviet generals unhappy about the loss of the Eastern European empire and the political turbulence caused by perestroika.

Another explanation might be that a deal has been struck between the generals and Mr. Gorbachev, with the former promising that there would be no military attempt to topple the Soviet leader provided the military budget is largely preserved. A further interpretation of the conflicting signals from Moscow might be that Mr. Gorbachev himself is still not ready to jettison the single source of possible influence in Europe: Soviet military power. Without it, the Soviet Union would be very much the servant in the increasingly close relationship with a reunified Germany.

In any event, continued modernization of nuclear and conventional forces (and continued non-compliance with the arms treaties) demonstrates that Soviet talk of "reasonable sufficiency" and "defensive defense" are

not matters that Western defense ministers should take seriously.

In a message to the Western leaders at Houston, Mr. Gorbachev suggested that they had it in their power to mold Soviet foreign and defense policy. There may be some truth in this, but the means by which that influence is exercised is evidently a two-way street. Mr. Gorbachev has done far more to influence Western defense programs than the West has done to influence those of the Soviet Union. While Western defense budgets shrink almost without exception, the available evidence suggests Soviet military spending stays close to 25% of national income and its economy remains on what Soviet dissident Alexander Zinoviev described as being a "permanent war footing." Such remarkable levels of expenditure inevitably skew an already skewed economy.

THE PROSPECT OF UPHEAVAL

Major cuts in defense spending along with fundamental reforms to abolish the apparatus of the command economy remain the prerequisites of Soviet economic improvement. It may be that the Soviet leadership is incapable of countenancing either, in which case the prospect of internal upheaval—perhaps of civil war—may loom large.

It is difficult to forecast what political structure will emerge from that chaos. But whatever its political complexion, the Soviet Union is likely to remain the pre-eminent military power in Europe when U.S. influence looks certain to diminish.

These are the realities. Neither perestroika nor the West's pleasure at the disintegration of communism should be permitted to conceal them.

AMENDMENT NO. 2507, AS MODIFIED

Mr. LEVIN. Mr. President, there is a technical change which I have cleared with the Republican manager. I ask unanimous consent that an amendment which I am now sending to the desk be substituted for amendment No. 2507 which is at the desk and has previously been adopted.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 117, line 13, strike out "and" after the semicolon.

On page 117, line 15 add after the semicolon "and".

On page 117, insert between lines 15 and 16 the following new subparagraph:

"(E) in subparagraph (A) (as redesignated in subparagraph (D) of this paragraph) by inserting 'or has been' before 'available in the commercial marketplace'."

On page 117, line 23, strike out "products" and insert in lieu thereof "items".

On page 119, line 9, strike out all through line 15 on page 120 and insert in lieu thereof the following new paragraphs:

"(7) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(8) In this subsection, the term 'commercial item' means—

"(A) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(i) has been sold or traded to the general public;

"(ii) has been offered for sale to the general public at established prices but not yet sold; or

"(iii) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(B) any item described in subparagraph (A) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency."

On page 121, line 21, strike out "section 2325(b)(7)" and all that follows through "subsection (a))" on line 22 and insert in lieu thereof "section 303H(e) of the Federal Property and Administrative Services Act of 1949 (as amended by subsection (f))".

On page 129, line 13, strike out "section 2325(b)(10)" and insert in lieu thereof "section 2325(b)(8)".

On page 129, insert between lines 18 and 19 (after the quoted matter) the following new subsection:

(f) **COMMERCIAL AND NONDEVELOPMENTAL ITEMS.**—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"PROCUREMENT OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS"

"SEC. 303H. (a)(1) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall ensure that, to the maximum extent practicable—

"(A) requirements of executive agencies with respect to a procurement of supplies are stated in terms of—

"(i) functions to be performed;
"(ii) performance required; or
"(iii) essential physical characteristics;
"(B) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(C) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(D) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(2) As used in this section, the term 'nondevelopmental item' means—

"(A) any item of supply that is or has been available in the commercial marketplace;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(D) any item of supply that is being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or
"(ii) is not yet available in the commercial marketplace.

"(b)(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall

require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

"(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts as determined by the agency head with the approval of the Administrator of the Office of Federal Procurement Policy.

"(2)(A) The Federal Acquisition Regulation shall require that a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

"(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator of the Federal Procurement Policy.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 2325(b) of title 10, United States Code, in lieu of the uniform contract and subcontract clauses developed under this subsection.

"(c) The Federal Acquisition Regulation shall ensure, to the maximum extent practicable, that—

"(1) the inspection clause included in each agency contract for the acquisition of commercial items takes into account the contractor's past performance and any warranties the contractor may offer to the Government; and

"(2) Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

"(d)(1) The Federal Acquisition Regulation shall ensure that, to the maximum extent practicable, contractors and subcontractors offering commercial items are required to submit certified cost or pricing data regarding agency contracts and subcontracts only when such data are necessary for the evaluation of the reasonableness of the price of the contract or subcontract, as the case may be.

"(2) The revised regulations shall particularly address—

"(A) the application of the adequate price competition exemption in the case of a contract or subcontract for the acquisition of a commercial item;

"(B) the standards for applying the catalog or market price exemption to contracts and subcontracts for items which are modified commercial items, components of commercial items, spare parts for commercial products, new commercial items, or commercial items which are no longer sold to the public; and

"(C) clarification that an agency may not, in the case of any item for which the Administrator of General Services has accepted a certificate of established catalog price, require a contractor to demonstrate that such an item meets the requirements of section 304(d)(5)(A)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)(5)(A)(ii)) during the period in which a contract to which the certification relates is in effect.

"(e) The Federal Acquisition Regulation shall direct agencies to require, where appropriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

"(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use or that the processes used to manufacture the products meet established commercial or other specified standards; or

"(B) been satisfactorily supplied under current or recent contracts for the same requirements; and

"(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

"(f) The Federal Acquisition Regulation shall provide guidance to agencies on the use of past performance of products and sources as a factor in award decisions.

"(g) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(h) In this section, the term 'commercial item' means—

"(1) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(A) has been sold or traded to the general public;

"(B) has been offered for sale to the general public at established prices but not yet sold; or

"(C) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(2) any item described in paragraph (1) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency."

"(2) The table of contents for the Federal Property and Administrative Services Act of 1984 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Procurement of commercial and nondevelopmental items."

"(3) The Administrator of the Office of Federal Procurement Policy shall issue guidelines for the training by executive

agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of—

(A) contracting officers in the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(B) appropriate personnel in market research techniques and the drafting of functional and performance specifications.

(4) Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting the acquisition of nondevelopmental items and for challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses."

(5) Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(6) Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(A) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(B) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including a review of existing Government resources; and

(C) such recommendations for changes in law or regulation as the Comptroller General of the United States may consider appropriate.

MORNING BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent there be a period for morning business with Senators permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

HERBERT O. JONES, JR.: A SALUTE TO MY FORMER SENIOR OFFICER

Mr. HOLLINGS. Mr. President, this date marks the 80th birthday of a proud and distinguished son of South Carolina, Herbert O. Jones, Jr. Or perhaps I should phrase it differently as merely the 60th anniversary of Herbert's 20th birthday. In any case, I

want to extend him my fond congratulations and best wishes.

My own memory of Herbert goes back to France and the Second World War, where I was briefly his junior officer. Both of us were Citadel men, and we hit it off well. After the war, Herbert went on to become top salesman for the J.M. Tull Metals Co. He is now enjoying a well-earned and happy retirement in West Columbia with his wife of 52 years, Martha Tennille Jones.

Herbert is enormously proud of his family, so I know how happy it will make him when three generations of the Jones clan come together next week to honor the man they call "the patriarch."

So, on his birthday, I salute my former senior officer. I wish him equal happiness and success during his next 80 years.

IRAQI INVASION OF KUWAIT

Mr. GRAHAM. Mr. President, I rise today to condemn the Iraqi invasion of Kuwait, a blatant, unprovoked action which further destabilizes an already volatile region. It is for this reason that I have been a strong opponent of extending United States credits to Iraq and voted last week with a majority of the Senate to ban these credits.

Once again, Saddam Hussein has displayed his true colors by his blatant disregard for international law and for the sovereignty of neighboring states. As he showed against Iran and against his own people, Hussein considers violence and military force as options of first resort.

Like other dictators, he has sought to bolster his illegitimate claims against a small neighbor by threats, intimidation, and finally, brutal military force.

Saddam Hussein's acts of aggression underscore the increasing instability in the Persian Gulf. It would be extremely dangerous for us to contribute to this instability by reducing our support of Israel, the most stable force in the region. The United States will play a significant role in stabilizing this crisis in cooperation with Israel.

I support President Bush's freezing of Iraqi assets in the United States and his prohibition of commercial activity between our country and Iraq. I am also encouraged by the United Nations Security Council's vote to condemn the invasion and demand a withdrawal of Iraqi forces from Kuwait.

I hope that our allies and the international community as a whole will condemn and isolate the Hussein regime. We cannot engage in business as usual with a government which shows such little regard for human life and uses military aggression as the sole determinant of its foreign policy.

Mr. President, I hope that the Senate will put itself on record as con-

demning Iraq in the strongest possible terms.

TRIBUTE TO JIM AND JOY JENKINS

Mr. PRESSLER. Mr. President, I would like to take a moment to pay tribute to a couple whose love and hope has made so many proud. Joy Jenkins, the daughter of Don and Arlis Hentges from my hometown of Humboldt, SD, and her husband Jim have dedicated their time, love, and resources to helping AIDS babies find homes. Last year the Jenkins' adopted a boy who was expected to develop the deadly AIDS virus as he was born with HIV antibodies that were passed on to him by his natural mother who was a drug addict. The boy is now 3 years old and has not developed AIDS.

In adopting James Michael, the Jenkins' plowed new ground in trying to help an HIV positive child. They faced many roadblocks. Their experience encouraged them to make it easier for other couples who might want to adopt one of these children. They founded a nonprofit corporation called "Children With AIDS Project of America," and began helping anyone who asked.

Most people would not expect a couple who already have given so much to have either the time or the capacity to love yet another child. But they have. Only last month the Jenkins began adoption procedures for little Arlis Joy of Washington, DC. "A.J." as they call her, is another child who has tested positive for HIV antibodies. Now the parents of two beautiful children they continue to plead for caring couples to adopt other babies with this affliction.

Mr. President, Joy and Jim Jenkins have set a good example for all of us in showing their love and compassion for these unfortunate babies. The people of South Dakota are very proud to acknowledge Joy Hentges Jenkins' roots as their own. I commend the Jenkins for their tireless efforts to find loving homes for these children.

I ask unanimous consent that the following article, "Bundle of Hope," from the Phoenix Gazette be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Phoenix Gazette, July 9, 1990]

BUNDLE OF HOPE COUPLE ADOPT SECOND CHILD EXPOSED TO AIDS VIRUS

(By Glen Creno)

Jim and Joy Jenkins welcomed another child to their family last month, and the waiting began.

They don't spend all their time thinking about it, but they can't ignore the possibility their newly adopted daughter might develop AIDS. The girl—like the boy they adopted last year—was born with human-

immunodeficiency virus antibodies in her blood, meaning her mother had the virus that produces AIDS.

Now the Glendale couple must wait to see if the girl, whom they named Arlis Joy, or A.J. will develop the fatal disease or elude it as her new brother has. Joy Jenkins said they won't know for 18 months.

"It's not one of those things you think about or dwell upon every day," she said. "We've got too many good days with her."

"We're very optimistic people," Jim Jenkins said. "We're taking a chance. Nothing in life's guaranteed. And these children give a lot."

In 1987, the couple became foster parents to a 4-month-old boy who was abandoned by his mother and living at Maricopa Medical Center. The boy's mother had been addicted to heroin, cocaine and methadone, and also was carrying the AIDS virus, Joy Jenkins said.

Tests found HIV antibodies in the boy's blood, and no one wanted him.

"We took him home anyway," Joy Jenkins said. "It's cruel and unusual punishment for anyone not to have a mom and a dad."

Last year, the Jenkinsses formally adopted James Michael, now 3 years old and showing no signs of developing AIDS. The couple said they found the experience so rewarding they formed a foundation called Children with AIDS Project of America. It is dedicated to finding homes for AIDS babies and children born to drug abusers, particularly crack cocaine addicts.

They learned of A.J. the day before last Thanksgiving through their organization's information network. She was in Washington, D.C., and needed a home.

Joy Jenkins said she knew immediately where the youngster could find one.

"I wanted another child," she said. "It was purely selfish. I wanted a little girl."

They began adoption proceedings, and picked up the baby—now 8 months old—late last month. The Jenkinsses hope she will "wash out" the HIV antibodies and not catch the virus as she discards the remnants of her mother's immune system and develops her own.

Joy Jenkins, 35, is a nurse. Her husband, 52, runs the foundation. She said they cannot have children because her husband had a vasectomy 12 years ago, and it is too expensive to reverse the surgery.

"We just don't have the money," she said.

The couple could not get health insurance on their son for three years, even though he tests negative for the HIV antibody. The state paid for health care, but the couple finally landed an insurance company through her nurse's registry last month.

The company will insure A.J., too, Joy Jenkins said.

"When we found out, it was like this big burden was lifted off our shoulders," she said.

Health care is a major obstacle for families wanting to adopt "risk" children. Jim Jenkins said families receive subsidies when they care for a child as foster parents, but the money disappears as soon as they adopt the child and the youngster becomes their direct responsibility.

The children might require from \$200 to \$2,000 a day in medical care if left in an institution, rather than placed with a family, Jim Jenkins said. And, he noted, when a child is in a hospital, it doesn't have family support.

Many children are "warehoused" in group homes and are difficult to find, Jim Jenkins said. Still, he said, many families that want

these children and are willing to fight the frustrations of the system to secure one, or more.

"They must be gluttons for punishment, or gluttons for love, because they want to take more children," he said.

AUTHORIZING THE MAJORITY LEADER TO SIGN HOUSE JOINT RESOLUTION 625

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that Senator MITCHELL be authorized to sign House Joint Resolution 625. This request has been cleared by the Republican leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

DR. CALVIN SIA HONORED

Mr. INOUE. Mr. President, a longtime friend of mine, Dr. Calvin Sia, was recently honored by his colleagues with an extraordinary article that appeared in the June 1990 edition of *Contemporary Pediatrics*. I have worked closely with Dr. Sia over the past three decades on behalf of a wide range of programs benefiting our Nation's children.

Dr. Sia has served on the National Advisory Council of the National Institute of Child Health and Human Development; is past president of the Hawaii Medical Association; and has been an active board member for a number of Hawaii's child-oriented programs. Perhaps his singularly most important contribution, however, has been the spearheading of the pediatric emergency medical services demonstration project, and developing great support among his pediatric colleagues for providing quality assistance to the unique needs of children in our Nation's emergency rooms.

Since our congressional deliberations on the fiscal year 1985 appropriations bill for the Department of Health and Human Services, we have been able to provide support for Dr. Sia's idea, and in fact, we have now spent approximately \$15 million supporting 14 demonstration projects across the Nation. Without question, Dr. Sia is a man of much vision and compassion.

Mr. President, I ask unanimous consent that the article from *Contemporary Pediatrics* be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[The *Contemporary Pediatrics*, June 1990]

EVERY CHILD DESERVES A MEDICAL HOME

Calvin Sia, MD, calls himself the godfather of Hawaii's children; he says it with a chuckle, but it's profoundly true. A primary-care pediatrician in private practice in Honolulu for more than 30 years, Cal Sia is a man with a dream. He envisions a pediatric health-care system that is comprehensive, not fragmented; family-centered, not domi-

nated by medical and educational specialists; and accessible to all children. At the center is the primary pediatrician, providing a "medical home" that coordinates and individualizes care.

Over the years, this vision has become more than a dream. Dr. Sia's extraordinary skills as lobbyist, grantsman, and coalition-builder have made it a reality.

A FAMILY TRADITION OF CARING

Calvin Sia's empathy for children who have to struggle is rooted in his own experience. When he was growing up in Honolulu, his grandmother, a busy obstetrician working in an economically and culturally disadvantaged community, often talked to him about what she saw on her round of house calls. She taught him a great deal: about the importance of being part of a community; about responsibility to the less fortunate; about the multiple needs—not all of them strictly medical—of children in poor families.

Those early lessons were not lost on her grandson, who started a private pediatric practice in 1958 and rapidly made it a model of family-centered primary care—a true "medical home." Responsibility was shared with patients and family, prevention was given high priority, development regularly monitored, and medical care coordinated with educational and social services to meet the needs of the whole child.

Community outreach started early, as well. While working as a school physician at the Hawaii School for the Deaf and Blind, Dr. Sia became sensitive to the complex needs of disabled children and the importance of early intervention for normalizing development. Caring for abused and neglected children on the wards of the children's hospital showed him how parenting can go wrong. Listening to Dr. Henry Kempe, then a visiting professor at the University of Hawaii, made him see the connection between those abused children and some of the lonely, impoverished young mothers he saw at the maternity hospital. He became an early disciple of Kempe's theories on the origins of abuse in inadequate parenting and the need for early, supportive intervention. By becoming active in the local medical and pediatric societies and serving on the hospital board, he began to learn how to work the political levers that can bring about change.

TRIAL RUN: PROGRAMS TO PREVENT CHILD ABUSE

In 1969, Hawaii's Commission on Children and Youth asked Dr. Sia to chair a committee to study the legal aspects of child abuse. He learned a valuable lesson in the process: Legal reforms don't necessarily lead to preventive programs. Many would-be reformers throw up their hands and quit when that realization sinks in; Calvin Sia did something more productive. He got a grant.

As he tells the story, "Fortunately, in 1971 I was appointed to the advisory council of the National Institute of Child Health and Development, and I found out that the Children's Bureau gave out demonstration grants. I applied and got some money in 1974 to establish a prevention program and a family stress center. It was a total program on the model Dr. Kempe had used, including early identification of families at risk and the use of home visitors to prevent abuse by providing support to disadvantaged young mothers.

"I'd seen single mothers, many of them teenagers, some of them recent immigrants without family supports, who just didn't bond with their babies. We'd hear them say

things like, 'this baby is ugly,' and we knew their babies were in real danger. We set up a program to screen maternity patients and identify the ones who were stressed and unsupported. We offered those mothers the help of a home visitor—a layperson we trained and supervised, not a psychiatric nurse or social worker—who would be an uncritical friend. The home visitors helped new mothers find housing and transportation, connected the families to medical care and social services, and stayed alert for signs of developmental problems in the infant, where early intervention could be crucial."

The original project became the Hawaii Family Stress Center located on the grounds of the Kapiolani Medical Center for Women and Children. Additional grants led to the development of similar projects on four neighbor islands, as well.

THINKING BIGGER, BUILDING BRIDGES

Demonstration programs in child abuse prevention were only a fragmentary response to the needs of Hawaii's children. So, when Hawaii's chapter of the American Academy of Pediatrics won the Wyeth award for an outstanding small chapter in 1976, Chapter Chairman Sia had a good use for the \$1,500 prize. "I hired health planner Gail Breakey," he recalls, "and we put together a coalition to write a comprehensive health plan for children, from birth through adolescence." The Hawaii Child Health Plan was a forward-looking, systems approach to meeting the needs of a community's children—the first of its kind in the country.

The first dividend from the effort was the coalition Dr. Sia brought together to work out the plan. It included representatives of the medical school, the Hawaii Medical Association, the Department of Health, child advocates from the public and private sectors, and local pediatricians. Their collaborative efforts forged a broad base of support for the plan—and a shared vision for the future.

Ambitious schemes like the Child Health Plan are easier to write than to put into practice. The legislative climate was not hospitable to initiatives of this kind in 1979, when the plan was completed, but Calvin Sia is a patient man. The coalition he built and continued to nurture was in place when times were riper.

HEALTHY START AND THE MEDICAL HOME

By the end of the 1970s, all the major elements in Dr. Sia's vision were present:

In his own practice, a commitment to caring for the whole child and a concept of the pediatrician as advocate and coordinator of services.

From his work with deaf, learning disabled, and disadvantaged children, an awareness that early intervention and multidisciplinary approaches were needed to prevent poor outcomes.

From working with school health programs, knowledge that a system of care needs a home base. Schools were providing that base for older children, but children from birth to 5 years weren't being reached.

Taken together, these elements added up to what Dr. Sia calls the "medical home." It was, he said, "nothing new," simply the direct outgrowth of everything pediatrics ought to be, made available to all the community's children.

In 1984, when federal funding cuts gutted the family stress center programs, Dr. Sia helped convince the state legislature to fund a demonstration project that added the medical home concept to the prevention of

child abuse. As with the family stress centers, the idea was to support new parents under stress and to continue that support by providing a medical home for the developing infant and child. Eventually, the demonstration project grew into Hawaii's Project Healthy Start, a comprehensive early intervention and child abuse prevention program that the Hawaii legislature funded this past year at a level of \$3.4 million annually statewide.

Gail Breakey says of this evolution, "Dr. Sia has a unique sense of timing. He pulls people together at the right time, when there are resources available and a prevailing theme at the national level that will support what we need to do locally. He did that with child abuse, and now he's doing it with early intervention for children with developmental disabilities. Now PL 99-457, with its mandate for early intervention and prevention services, has provided a forum for doing what Cal has advocated for 15 years."

GETTING PEDIATRICIANS INVOLVED

The medical home concept asks a great deal of pediatricians. They must learn to be case managers, knowledgeable about available social services and able to coordinate care with a variety of providers. They must function as team members, collaborating with non-medical professionals. And they must concentrate on prevention and wellness. These crucial roles are time-consuming and—all too often—not reimbursed. Dr. Sia has tackled the problem in familiar ways:

He obtained a federal SPRANS (Special Projects of Regional and National Significance) grant from the Bureau of Maternal and Child Health to facilitate physician involvement in prevention and treatment services for Healthy Start children.

He used the grant to set up the Physician Involvement Project (PIP) in 1986, and hired Margo Peter, an educational psychologist with a strong commitment to early intervention strategies, to manage it. The project coordinated a lobbying effort that tackled the reimbursement problem head on and developed a continuing medical education (CME) curriculum designed to bring pediatricians into the system.

With reimbursement, the goal was to increase Medicaid payments for the Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) program. The basic problem was that the Medicaid reimbursement of \$17 was inadequate, and few doctors were participating. Using the support network he had established to work out the Child Health Plan, Dr. Sia and his allies persuaded the legislature to increase the reimbursement, first to \$40 and recently to \$95.

The next step was to extend private health insurance coverage. Dr. Sia and colleagues got the legislature to pass the Child Health Incentives Reform Plan (CHIRP) that requires private insurance policies to include health supervision coverage for children from birth through 5 years. Currently, the legislature is developing "gap group" insurance, providing a state insurance pool that will cover uninsured children.

FINDING CASE MANAGERS, EDUCATING PEDIATRICIANS

Case management presents another dilemma, since this vital function is time-consuming and not reimbursed. This year, Dr. Sia found a way to delegate some of the responsibilities, at least for many families: He sought a "Healthy Tomorrows" grant—awarded to innovative programs by the AAP and the Bureau of Maternal and Child

Health—to support case management services for Hawaii's large immigrant population. Pediatricians caring for children in the defined group can make a single phone call to a project case manager, who will coordinate care for children at risk of abuse or neglect or in need of special services.

Sensitizing pediatricians to the roles the medical home demands is an even more complex issue. To address it, Dr. Sia and Margo Peter of PIP devised a CME curriculum to update pediatricians on the "new morbidity" and introduce them to the concept of a medical home.

"It works best with small groups," Peter says, "so we started on the neighbor islands where there may be only 12 pediatricians on the whole island. Dr. Sia does the advance work. He knows all the local doctors and they know him; he's been president of the state medical society and chairman of the Hawaii chapter of the AAP."

"We invite all the early intervention service providers on the island to come and meet with the pediatricians. Initially, there's a lot of suspicion; typically, these people have never talked to each other before. But when they get together, they find out that they're all on the same side. Later on in the course, when we focus on the family of the child with special needs, we have a parent serve as the co-teacher."

So far, about 50 of Hawaii's 120 pediatricians have gone through the course. The funding is scheduled to expire in September, but Margo Peter knows that Dr. Sia somehow will find a way to continue the program: "It's very important to him to leave a legacy that says, Cal Sia made a difference to children."

THE LATEST CRUSADE PEDIATRIC EMERGENCY CARE

In the 1970s, when Dr. Sia was president of the state medical society, the concept of a network of emergency medical services—911 numbers, emergency medical technicians, mobile intensive care units, and so on—came into its own. "Hawaii created a system of adult services that was a model," Dr. Sia says, "but it was not suitable for the special needs of children. I felt we should be doing something for children, too." Pediatric emergency medicine became his crusade for the 1980s.

He knew that pediatric emergency services would have to be:

Conceived as an integral part of a system of pediatric care;

Supported by a core group of pediatricians who specialize in emergency care; and

Initiated with federally funded demonstration projects.

Dr. Sia began by joining the AAP's fledgling section on pediatric emergency medicine. "He was our mentor and guide," recalls Dr. Martha Bushore, "wise in the processes of the organization as we younger members were not. This is a hospital-based specialty, and it was very rare then for a private practitioner like Dr. Sia to care about promoting it. But he was always there, at the spring and fall meetings. He'd usually been traveling eight to ten hours across the Pacific, but he was always cheerful and energetic."

"He was very modestly aware that this wasn't his specialty, and he'd listen quietly—even when we were on the wrong track. When he couldn't bear it any more, he would make a profound comment that totally changed the discussion and started it off in a new direction. He guided us through the process of moving from being an AAP section to being a committee, with full staff

support. I was the chairman, but he was always there, whispering directions."

Pediatric emergency care, as Calvin Sia conceives it, is not limited to emergency rooms. It begins with primary-care providers offering safety education and anticipatory guidance for dealing with emergencies. It includes teaching physicians, nurses, parents, teachers, coaches, and public safety personnel how to access the emergency system. It provides personnel to intervene promptly when accidents occur and transport patients to centers for definitive care. It offers rehabilitation and reconnects the child and family to the medical home when the emergency is over.

Embodying these concepts require carefully drafted federal legislation to fund demonstration projects. Such legislation is now on the books. Dr. Sia and Jose Lee, the project director of the Hawaii Medical Association's adult emergency medical services grant, drafted a bill and sought the expertise of Hawaii's Senator Daniel Inouye to guide it through the legislative process. Concurrently, Dr. Sia mobilized the support of the AAP's new Committee on Pediatric Emergency Medicine and its Department of Government Liaison in Washington. Sen. Inouye introduced the bill and, in 1985, it became law. Initially, it provided \$2 million a year for three years for demonstration projects in 12 states; now 16 states are included, and funding has steadily grown. The program comes up for renewal next year.

TAKING THE SHOW ON THE ROAD

In the 1990s, Hawaii is a leader in innovative pediatric health care. A large share of the credit for that goes to Calvin Sia. Now he wants to share what has been learned in his small, island state with leaders around the country. At a recent meeting of pediatricians and educators in Washington, DC, sponsored jointly by the Bureau of Maternal and Child Health, the AAP, and the American Association of Colleges for Teacher Education, Dr. Sia talked about what is needed: "Everyone looks to Uncle Sam for funding, but funding isn't the only problem. We need to learn how to work together on the local level."

From Washington, he took his show on the road to Nebraska and points West before heading back to Honolulu. "I'm interested in the next generation," he says, "because I'm going to be a grandfather this August. The next generation deserves the best, and that's why we're doing the things we're doing."

FOUR GENERATIONS OF DOCTORS

Born in Beijing, China, Calvin Sia was 12 when he arrived in Honolulu in 1939 with his family, fleeing from the Japanese occupation of their homeland. Young Calvin was not entirely a stranger to American culture. His mother had been born in Hawaii, where her parents were pillars of Honolulu's Chinese community. His father had studied medicine at Western Reserve in Cleveland.

In the new life in Honolulu, money was not abundant but family support made everything possible. Army service and the GI bill helped Calvin Sia go to Dartmouth College. Family tradition, hard work, and the strong support and encouragement of his inspiring new bride Katharine sent him to his father's medical school. A second stint in the Army provided some financial respite for him, his wife, and baby son Richard while he did his internship at Beaumont Army Hospital in Texas, followed by a pediatric residency at Kauaiolani Children's Hospital in Honolulu.

When he entered practice in 1958, he became the third generation of his family to pursue a career in medicine. It is a proud legacy, and Calvin Sia describes it with gratitude.

GRANDPARENTS

"Both of my mother's parents were doctors. It was very unusual for a woman to be a doctor at that time, especially in China, and especially a woman like my grandmother, Kong Tai Heong, who was an orphan. But she was taken over by the missionary school and was so smart that she competed and got into medical school, where she met my grandfather, Li Khai Fai. They had heard that Honolulu needed doctors, so they went to Hawaii in 1896, at a time when most Chinese were laborers. In fact, my grandfather worked as a laborer in a tobacco warehouse at first.

"They passed an examination in western medicine and became the first Chinese doctors in Honolulu, where they practiced for 50 years. My grandmother delivered over 6,000 babies, and grandfather was a family physician. They raised and educated nine children, three of whom became doctors.

"Grandpa and grandmother were my models for community service. They founded the Chinese church in Honolulu, a Chinese school, and a hospital. My grandfather was a man of great integrity; in the early years of his practice he diagnosed a case of bubonic plague in a Chinese patient and reported it to the health authorities—even though he knew that the 'sanitary fires' that were the only available public health measure would probably destroy Chinatown and his practice with it. That's just what happened; but he did the right thing."

FATHER

"My father, Richard Ho Ping Sia, was educated in a missionary college in China and came to the United States in 1914 to study medicine in Cleveland. He interned at Cleveland City Hospital at the height of the 1918 flu epidemic, became interested in infectious diseases, and got a fellowship at the Rockefeller Institute in New York. That's when he met my mother.

"After he finished his research in pneumococcus at Rockefeller Institute, my parents went back to Beijing, where my father was on the medical college faculty, and they raised a family—my older and younger sisters, and me. When we came to Honolulu, my father started a new career as a lecturer in bacteriology at the University of Hawaii. Then, in 1946, he started a private practice. He retired in 1969, after 50 years in medicine."

THE NEXT GENERATION

"Katharine, who has been my wife since 1951, has been the pillar of strength in our family life. Born and raised in Hong Kong, she has been the 'backbone and brains' in raising our family and managing our home. She has been through the trials and tribulations of medical school, residency training, and early office practice days, a life very different from her own family background of business. Her support allowed me time for all the meetings and trips to the mainland that my child advocacy involved; without her understanding, many of these projects could not have been accomplished. She has truly nurtured the entire family's growth.

"My wife and I didn't want to force any of our sons into medicine. Richard, a Harvard graduate, is a journalist who currently covers the Pentagon for the *Baltimore Sun*. Jeffrey, a graduate of Brown University, is a lawyer, practicing in Honolulu. But it does

look like there's going to be a fourth generation in medicine after all: Michael, a Dartmouth graduate, is getting his medical degree at Case Western Reserve School of Medicine this year. He plans to go into a pediatric residency at Stanford University."

PREACHING WHAT HE PRACTICES

Calvin Sia's pediatric practice has been a medical home for generations of Honolulu children. Lorraine Yuen, RN, a pediatric nurse practitioner who has been with Dr. Sia from the beginning, calls the children they see today "our grandparents."

It's a busy, satisfying, family-centered, primary-care practice: health supervision, immunizations, camp physicals, otitis, asthma; a strong interest in development; a commitment to prevention; time to talk over behavioral and school problems and to connect families with community resources.

The working day starts before Dr. Sia and his partner, Wallace Matthew, MD, arrive at the office. They both take "welcome calls" at home, from 7 to 7:45 a.m. Office hours run from 9:30 to noon and 2 to 4 p.m. on weekdays, 8 a.m. to noon on Saturday. Afternoon hours can be extended for patients who need time to talk over problems. The doctors fit community activities around those hours. "I budget my time," Dr. Sia says, in an understatement. He makes a major effort to get home for family dinner, and rarely misses his weekly tennis workout.

The practice is busy but manageable. Lorraine Yuen keeps track of "about 1,000 ledgers, with two or three children on each one." Office management and telephone triage and follow-up is the province of Nurse Yuen and Dr. Sia's other long-time nurse practitioner, Alice Char, RN. "All the doctors have to do is see patients," Yuen says. "We take care of everything else." Two more full-time assistants and one part-timer complete the office staff.

Dr. Matthews joined the practice nine years ago, migrating from Harvard to Hawaii so that he and his Hawaiian-born wife, a neonatologist, could bring up their children in a family atmosphere. "Without my understanding partner," Dr. Sia says with gratitude, "I couldn't possibly do all the things I do."

Dr. Matthews and Dr. Sia bridge the generation gap painlessly, treating each others' patients when necessary and rotating evening and weekend coverage. Because both doctors take the time for extensive parent education and are readily available by phone to answer questions, night calls are quite rare.

Like Dr. Sia, Dr. Matthews doesn't confine his pediatric practice to the office: "We have a back and forth conversation with the community," Calvin Sia has been holding that kind of conversation all his life. It has shaped his vision.

TERRY ANDERSON

Mr. MOYNIHAN. Mr. President, I rise to inform my colleagues that today marks the 1,965th day that Terry Anderson has been held in captivity in Beirut.

SENATE PASSAGE OF CAMPAIGN FINANCE REFORM

● Mr. ROCKEFELLER. Mr. President, the U.S. Senate took a bold stand last night for reform and good

government by passing genuine, comprehensive campaign finance reform by a vote of 59 to 40. I was proud to vote for this measure.

Our bill, while not perfect, is a critical measure to control the money chase, ban honoraria, close loopholes, curb the appearances of special interests, and begin to restore the public confidence in the U.S. Senate.

The Senate, under Democratic leadership, is cleaning our own house. We have adopted a bill which will dramatically change the way Senate campaigns are run. From the beginning, Democrats have sought a bipartisan package and we have accepted some good ideas from Republicans.

The Senate has played a key role in building momentum and showing the way to reform. It is an historic effort to improve our political system.

As someone who cares deeply about the U.S. Senate and public service, I am proud to support a campaign reform measure that will help to usher in welcome change and restore public confidence. ●

TRIBUTE TO WILBUR S. SMITH

Mr. THURMOND. Mr. President, I rise today to pay tribute to Wilbur S. Smith, a distinguished South Carolinian who passed away last week. Mr. Smith was a well-known transportation engineer and businessman, whose interest in his work was surpassed only by his devotion to his family and friends. He was a man of integrity and dedication, and his loss is mourned by all who knew him.

Mr. Smith graduated from the University of South Carolina in 1932 with a degree in electrical engineering. During the next 10 years, he worked for the South Carolina Department of Highways, rising from a job stamping license tags to a position as the State's first traffic engineer.

He furthered his education at Harvard and Yale and founded his own business while teaching at Yale in the early 1950's. His firm, Wilbur Smith and Associates, soon grew into a large international concern, with offices in 28 cities in the U.S. and 13 cities abroad.

Mr. Smith was a pioneer in the field of traffic engineering, playing an important role in the design of many major projects throughout our country and the world. The interstate highway system, the Wando Terminal at the Port of Charleston and the Chesapeake Bay Bridge Tunnel are just a few examples of his craftsmanship. He was well-known and respected by his peers, and was recognized by engineering societies and business organizations around the world. He was also named to the South Carolina Business Hall of Fame in May of this year.

Mr. Smith's business took him away from South Carolina frequently. In

great demand as a writer and lecturer, he traveled extensively throughout the United States and abroad. He completed projects in Hong Kong, Australia, and the United Kingdom, but he always knew there was "no place like home."

In spite of his rigorous travel schedule, Mr. Smith always maintained an active interest in the affairs of the Palmetto State. He supported many civic organizations and was particularly interested in the preservation of historic properties like the Mills House in Columbia.

Famous for his engineering skill, Wilbur Smith was just as renowned for his good nature and modest demeanor. Though his schedule was demanding and his business interest were enormous, he maintained an office in Columbia and always made time to chat with friends or offer support and encouragement.

Wilbur Smith was a loving husband, devoted father and self-proclaimed family man all his life. He exhibited those qualities which we Americans proudly claim as our own—energy, initiative, and progressive thinking—but he tempered them with a very personal blend of kindness, compassion and an unfailing regard for the welfare of his fellow man.

Mr. President, Wilbur S. Smith was a proud South Carolinian and a great American. He will be sorely missed, not only by our State, but by the millions throughout the world who benefited from his life's work. Even now, the Wilbur S. Smith Co. continues work on many important projects, including a tunnel linking England to France under the English Channel.

Nancy joins me in extending our condolences to Wilbur's lovely wife, Sarah Bolick Smith and his daughters, Mrs. Sally Smith Cahalan, Miss Margaret Smith, and Dr. Stephanie Smith-Phillips. I ask unanimous consent that two articles from the State newspaper in Columbia be inserted in the RECORD after my remarks.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the State, July 30, 1990]

COLUMBIAN'S WORLD

In a sense, Wilbur S. Smith was Columbia gift to the world, but he never really left home and he never stopped serving his city and his state.

The engineering and consulting firm he founded here in 1952 specialized in matters dealing with transportation—highways, airports, seaports, subways, railroads, bridges, parking facilities, resorts, etc.

Mr. Smith's interest in transportation developed early, his first job after getting his master's degree from the University of South Carolina in 1933 being with the S.C. Highway Department. Later following studies in the developing field of traffic engineering at Harvard and Yale, he became one of the early practitioners of that art.

Wilbur Smith and Associates went international in 1961 and over the years served

clients in more than 80 countries on all continents except Antarctica. One of its current projects is the tunnel under the English Channel.

Not only did Mr. Smith actively manage his firm in a hands-on manner until his retirement in 1983, but he also wrote and lectured, participated in professional organizations worldwide and took part in many educational and civic endeavors nearer home.

Most appropriately, he was named to the S.C. Business Hall of Fame in May. Most timely too, for Wilbur Smith died Wednesday at 78. The world moves better because he took the path he did.

[From the State, July 26, 1990]

WILBUR S. SMITH, RENOWNED TRANSPORTATION EXPERT, DIES

(By Fred Monk)

International transportation pioneer Wilbur S. Smith, a man whose work moved billions of people by land, air and sea, died Wednesday in his native Columbia. He was 78.

Smith was an innovator in modern transportation systems, and his engineering knowledge took him and the company he founded, Wilbur Smith & Associates, to every continent except Antarctica.

His work traversed the United States from the design and development of major portions of the interstate highway system to the New Jersey Turnpike, the Chesapeake Bay Bridge Tunnel and the mass transit system in Washington, DC.

Until his death, the lanky University of South Carolina engineering graduate was asked for advice on systems that move our society. He counseled the National Aeronautics and Space Administration on how to implement the commercialization of space.

Today, the company he developed is working on projects ranging from the Channel, the English Channel between Great Britain and France, to road design in the People's Republic of China. The firm, now Wilbur Smith Associates, has offices in 28 cities in the United States and 13 foreign locations.

Smith merged his privately held company into Armco Inc., the Ohio-based steel producer, in 1981. He retired as chairman of the Armco subsidiary in 1983 and then continued a consulting relationship. The firm later was acquired by employees of the company, who number about 750.

And while he would travel several hundred thousand miles each year, he cherished the time he could bird hunt at his farm in Kingstree or be at his other properties, including Mansfield rice plantation near Georgetown and farms in Hodges and Branchville.

In later years, he was involved in a number of real estate development projects, notably Wild Dunes Resort north of Charleston. But, he also got involved in smaller projects, such as the Confederate Printing Plant in Columbia.

While Smith was involved in numerous investments, operating Wilbur S. Smith Management Co. in Columbia, he maintained an outwardly modest lifestyle.

Smith gathered accolades for his works around the world. He has been honored by numerous engineering societies and other honorary societies in the United States and abroad. In May, he was inducted into the South Carolina Business Hall of Fame.

A graduate of Columbia High School, he was graduated from the University of South Carolina magna cum laude with a bachelor's degree in electrical engineering in 1932. He

earned a master's degree in the subject a year later at USC.

A humble man, he began his career in a humble setting, working for the S.C. Department of Highways stamping metal driver's license tags. He worked for the Highway Department for 10 years and became the first state traffic engineer.

He studied the developing science of traffic engineering at Harvard and Yale Universities, and while teaching at Yale founded Wilbur S. Smith Associates in 1952.

But Smith never lost his roots. While maintaining a principal office in New Haven, Conn., he moved the company's headquarters to Columbia. He and his brother, James, spearheaded the growth of the firm across the country.

In 1961, he took the firm international, working on traffic studies for London and Hong Kong. The firm went on to design transportation systems for a number of developing countries.

At times, Smith handled 100 projects and traveled 250,000 miles a year to review them. He was a licensed professional engineer in 50 States, the United Kingdom, Australia and Hong Kong.

"An executive with an international firm was telling me today that there's not a transportation project anywhere in the world that did not have his label on it or his touch," said Robert A. "Bud" Hubbard, chairman of Wilbur Smith Associates, a student of Smith's at Yale in 1954.

Funeral services will be held at noon on Friday at Shandon Presbyterian Church in Columbia with burial at Greenlawn Cemetery.

Dunbar Funeral Home, Gervais Street Chapel, is in charge.

The family will receive visitors at the Smith home at 1630 Kathwood Drive this afternoon and evening.

Born Sept. 6, 1911, Smith was the son of the late George Wilbur and Rebecca Stevenson Smith.

He is survived by his widow, Sarah Bolick Smith; three daughters, Mrs. Sally Smith Cahalan of Marietta, Pa., Margaret "Peggy" Smith of Washington, D.C., and Dr. Stephanie Smith-Phillips of Charleston; and three grandchildren.

Memorials may be made to Shandon Presbyterian Church of Columbia, Presbyterian College in Clinton, the College of Engineering at the University of South Carolina and the Duke Comprehensive Cancer Center at Duke University.

Federal Highway Administrator Dr. Tom Larson, a friend and colleague of Smith's for 30 years, said his death left him "immensely saddened. I talked with him just two weeks ago, and while he said he wasn't feeling well, he was making plans for the future."

"The transportation industry has lost one of its true giants. He's truly a global figure. He was well-known among transportation people in tralia, Great Britain and elsewhere, as he was in Columbia," Larson said.

One of Smith's closest friends was Ira Koger, chairman of Koger Properties in Jacksonville, FL, on whose board Smith served as head of the executive and financial committees.

"Wilbur's a loss because he's one of those great people," said Koger, who met Smith while attending law school at USC in the 1930s. The two would become among the most active sponsors for USC programs.

Jenny Dreher, a long-time friend of Smith's and a commissioner of the Richland County Historical Preservation Society, said

that Smith's interest helped preserve the Mills House in Columbia.

She said the success of that renovation led to others in the Midlands area.

One of Mrs. Dreher's most vivid memories is of the Island of Delos, sitting in the ruins of a Greek amphitheater totally lit by candles as Margaret Mead spoke to a gathering of Ekisticians, followers of the Greek architect Constantine A. Doxiadis' theories of human settlements.

"I looked across, and there was Wilbur," she said, adding that Smith and Doxiadis were friends who worked together in Hong Kong. "It was so nice to see him there with people like Margaret Mead and Buckminster Fuller."

"He's a hometown boy, who's done a lot for his community."

Don Weinert, executive director of the National Society of Professional Engineers, said: "He is one of the most consummate professionals I've ever dealt with. The profession will be visibly weakened by his absence."

Smith was a principal consultant for the Wando terminal at the port of Charleston, said Don Welch, executive director for the State Ports Authority.

Welch said the single characteristic of Smith's that stands out in his mind was Smith's untiring energy.

Former South Carolina Gov. Robert E. McNair said "an era has ended with the passing of Wilbur Smith. He was a highly respected South Carolinian. But he also had the highest reputation and was recognized as a preeminent leader in his field worldwide."

"He was an astute businessman, one whose counsel I sought often, someone who made things happen. I regarded him highly and he will be missed."

Larry Dahms, the executive director of the metropolitan Transportation Commission of the San Francisco Bay Area, said he knew Smith best as the chairman of the Eno Foundation for Transportation Inc.

"The amazing thing about Wilbur Smith was how he just kept forging ahead. He was tall in physical stature and certainly much taller in being almost the leader in transportation thinking the past few decades. It's an incredible loss in the transportation field," Dahms said.

Former South Carolina Gov. James B. Edwards, now president of the Medical University of South Carolina in Charleston, had talked on the telephone with Smith twice in recent days.

"South Carolina has lost a native son who was a tremendous man," Edwards said. "He was a businessman without equal and a devoted family man."

Many people didn't know what an outstanding person Smith was, Edwards said, "because he wasn't the type person to blow his own horn."

"My life has been enriched for having known him, and his death is a great loss to the state," Edwards said.

PROFILE

Born: Sept. 6, 1911, in Columbia.

Education: Columbia High School, 1928; bachelor's degree, magna cum laude, electrical engineering, University of South Carolina, 1932; master's degree, USC, 1933; studied traffic engineering at Yale and Harvard.

Career: Started at S.C. highway department stamping driver's license tags. Worked for the department 10 years and became state's first highway engineer. Founded Wilbur Smith and Associates in 1952; was

chairman of the board until he retired in 1983.

WORLD CLASS SCIENTIFIC PROJECTS

Mr. SIMON. Mr. President, the Senate is taking up the 1991 energy and water appropriations bill today and I want to praise Senator JOHNSTON and the Appropriations Committee for putting together a good bill that helps us meet many of our infrastructure needs and for keeping this country at the forefront of energy research and development. There are some concerns that I have that I believe can be worked out in conference committee with the House, but overall and this is an excellent bill and I support it.

This bill contains funding for world class scientific research projects taking place at Argonne National Laboratory and at Fermi National Accelerator Laboratory, including the advanced photon source, the integral fast reactor, magnetic levitation, and the Fermi particle accelerator.

Mr. President, basic scientific research is an investment in our economic, energy, and environmental future. The advanced photon source at Argonne will generate a superintense beam of light that will allow researchers to make great strides in the area of materials science. This basic research holds great promise for electronics, computers, ceramics, pharmaceuticals, and other vital U.S. industries. The integral fast reactor is the Nation's leading nuclear research project focusing on reactor safety and minimizing nuclear waste. The magnetic levitation project seeks to keep the United States at the forefront in high-speed transportation—an area where I fear we are falling behind.

Mr. President, there is an educational component of this bill that I am very proud of. This bill shifts \$5 million within the Department of Energy's budget to allow the Department to move forward with its expanding education programs. The Department's plans include a \$2 million grant for the Academy for Mathematics and Science Teachers of Chicago, a partnership which includes the Argonne and Fermi Laboratories, the Chicago public schools, area universities, the State of Illinois, and the private sector.

The academy is designed to completely overhaul math and science instruction in Chicago by providing intensive training to more than 15,000 teachers in Chicago over a 5-year period. This project is a model effort to tap resources available in our Federal laboratories to increase the supply of scientists and engineers and improve scientific literacy.

Funds and authority for this project were not included in the House version of this bill. Several weeks ago I con-

tacted my colleague from Louisiana [Mr. JOHNSTON] about this exclusion, and I would like to thank him for making the changes that will save this important program. This is exactly the type of investment that we should be making and I am pleased to see the Department of Energy moving in this direction.

Mr. President, as I said, this bill allows us to make some needed investments in our future and I urge passage.

RADIATION EXPOSURE COMPENSATION ACT

Mr. BINGAMAN. Mr. President, I rise today in support of the substitute offered by my colleague from Utah to H.R. 2372, the Radiation Exposure Compensation Act. I am pleased to co-sponsor this legislation to provide compensation to uranium miners in New Mexico, Arizona, Colorado, Wyoming, and Utah.

The health effects of uranium mining in the fifties and sixties are the single greatest concern of many former uranium miners and their family and friends.

During the period of 1947 to 1961, the Federal Government controlled all aspects of the production of nuclear fuel. One of these aspects was the mining of uranium in New Mexico and Colorado, Arizona and Utah. Even though the Federal Government had adequate warning of the hazards involved in uranium mining, these miners, many of whom were native Americans, were sent into inadequately ventilated mines with virtually no instruction regarding the dangers of ionizing radiation. These individuals had no idea of those dangers, and consequently, many miners inhaled radon particles that eventually yielded substantial doses of ionizing radiation. As a result, these miners have a substantially elevated cancer rate and incidence of respiratory disease.

During most of these years, the sole purchaser and beneficiary of the uranium was the U.S. Government for its nuclear testing program.

The U.S. Public Health Service conducted studies of Navajo miners from 1949 through the 1960's to assess the dangers of radiation exposure. By 1951, the Public Health Service and the Atomic Energy Commission were aware of the hazards and knew much about how to alleviate the problem.

It was not until mid-1971, however, that the Federal Government established and fully implemented mine safety standards. Lung cancer and other serious respiratory diseases previously unknown to Navajos became prominent among Navajo miners. As the Public Health Service study and many subsequent studies have found, the injuries suffered by uranium

miners were caused by radiation and radioactive dust particles.

So far, affected miners have gone largely uncompensated. Due to a lack of access to legal advice, most miners have been unable to obtain benefits under the State workmen's compensation laws. For many, the statute of limitations had expired before they became aware of those remedies.

I am pleased Congress is finally taking action today to provide appropriate redress for the miners. This legislation will create a compensation program to make compassionate payments to these victims.

As a result of a hearing I chaired on this issue in Shiprock, NM earlier this year, I have added a provision to the bill to require a comprehensive report on the incidence of radiation related respiratory diseases in uranium miners employed in uranium mines that are located off Indian reservations. The legislation we consider today only covers those mines on Indian reservations. I want to ensure that we know of any other uranium miners that may have been afflicted with the same diseases so that they may be included in future legislation.

Mr. President, I want to give special recognition and thanks to Stuart Udall, former Secretary of the Interior, Lynda Taylor of Southwest Research and Information Center, and Phil Harrison of the Uranium Miners Victims Committee for their tireless efforts over the past decade on behalf of uranium miners. Their commitment has helped make this legislation possible.

OIL POLLUTION COMPENSATION AND LIABILITY ACT

Mr. GRAHAM. Mr. President, I rise today to express my unqualified support for the oilspill legislation before us. Let me begin by recognizing the superb efforts of several colleagues who made this bill a reality. Senators BAUCUS, MITCHELL, and CHAFEE led a strong bipartisan contingent from the Environment Committee. Senators HOLLINGS, JOHN KERRY, DANFORTH, and STEVENS did an equally outstanding job at bringing together the interests of the Commerce Committee.

As the recent 500,000 gallon spill off Galveston, TX vividly shows, oil can do irreparable damage to the fragile marine environment. Such damage is only exacerbated when our response is slow and incomplete. Spills like this one, as well as the *Mega Borg* and the *Exxon Valdez*, point to the glaring holes in our ability to respond rapidly and effectively to oilspills.

This legislation will go far to correct these problems. Double hulls will help prevent spills in the first place. Better contingency planning and preparedness on the part of shippers and the Federal, State and local government

will help us limit damage that might still occur. Equally important, we are sending a clear message to the oil industry that they will have to pay for any harm they cause, so they had better be prepared.

I am particularly heartened that the conferees preserved the right of States to apply their own laws above and beyond the liability imposed under this bill: Thousands of ships pass close to Florida each year, the overwhelming majority of which are destined for ports other than those in our State. The risks of a grounding—the *Exxon Valdez* scenario—were driven home recently when we had not one but three ships ground on the Florida reef within 3 months last winter.

Had those ships spilled oil, the damage to the reefs and the Florida Bay—some of the most ecologically sensitive areas in the entire world—would have been incalculable. Our State would, without doubt, seek to impose full liability on those responsible.

Other measures can and should be taken to minimize the risk of oil pollution to the environment. The bill I introduced establishing a marine sanctuary to protect the Keys coral reef would among other things, prohibit tanker traffic near this vulnerable ecosystem.

Another important weapon is prohibiting offshore oil development in ecologically sensitive areas. I was encouraged by the President's decision to postpone offshore drilling near the southwest coast of Florida for 10 years, but I continue to believe that nothing less than a permanent ban is appropriate. That is why Senator MACK and I have introduced legislation to that effect.

We have also requested the Appropriations Committee to impose a 1-year moratorium on offshore exploration in the balance of the eastern Gulf of Mexico.

Mr. President, we can and must continue to attack this problem from both sides: prevention and mitigation. We must implement mechanisms to reduce to the minimum the risk of oilspills, and we must have in place the weapons to fight those spills that do occur. This legislation will go a long way in achieving both of those goals. It is thus with genuine enthusiasm that I express my wholehearted support for the Oil Spill Liability and Compensation Act.

SENATORIAL ELECTION CAMPAIGN ACT

Mr. McCAIN. Mr. President, last night I voted in favor of the campaign reform bill which passed the Senate on a 59 to 40 vote, and, while I supported it, I want to state for the

record my very deep concerns over the bill and why I voted for it.

The bill is seriously flawed in many respects. I voted for it, nevertheless, because I believe it is important for campaign reform to proceed, and I hope that the glaring deficiencies in the bill can be corrected before it is presented to the Senate again or to the President for signing. I felt it was more appropriate to let the process proceed in the hope of improving the bill than to kill it at this stage because of its shortcomings.

Does the bill make positive changes? Absolutely. The Democrats acquiescence in the Republican demand for the end of political action committees [PAC's] is a major step forward. I have been calling for the end to PAC's for years, and I appreciate the procedural fairness of Senator BOREN, the Democratic floor manager, in permitting this issue to be raised. During the last Congress I had an amendment to abolish PAC's, but the then majority leader insisted on filing repeated cloture petitions to keep Republicans from offering their amendments. If cloture had been invoked, the PAC ban amendment could not even have been offered. That is why we Republicans defeated the cloture "gag rule" six times last Congress.

While I have complaints about this bill, I have no complaints about the process used to debate it. Senators BOREN and MITCHELL were procedurally fair, and this is a huge change from earlier years. They deserve credit for it.

This point deserves attention, Mr. President, because I have greatly resented the personal attacks on me and other Senators by Common Cause when they said I have voted to "kill" and "filibuster" campaign reform legislation in 1988. That is a lie. If then Majority Leader BYRD had proceeded in such a way as to allow Senators to offer, debate and vote on amendments, we could have passed reform legislation 2 years ago. He never did. Instead he tried to use procedural gimmicks to choke off debate and preclude relevant amendments—like my PAC abolition amendment. He wanted to present a highly partisan, Democratic bill on a take it or leave it basis. Every bill should be subject to full debate and amendment. I have never filibustered a bill and never will, and the intentional mischaracterizations of Republican opposition to the cloture attempts last Congress is a sad and poor reflection on those who made them.

There are other positive changes in the bill the Senate just passed such as the ban on honoraria, the ban on incumbents using taxpayer financed mass mailings during their campaign year, reducing out-of-State interests, and making sure candidates have access to lowest unit broadcast rates.

Does the bill we just passed have faults? Absolutely. What bothers me the most is the hypocrisy in the bill, especially those provisions designed and retained solely to help out incumbents, especially Democratic incumbents.

For example, the Democratic bill makes a big deal out of restricting soft money expenditures by political parties. But the Democrats on a party line vote defeated an amendment to restrict labor union and nonprofit groups soft money activities. This is wrong. It is selective reform. It eliminates soft money expenditures that help Republicans, but protects soft money that helps Democrats. It is hypocrisy.

For example, the Democratic bill fails to keep union dues from being used for political purposes against the wishes of union members. But the Democrats on a party line vote defeated an amendment to correct this coercion and to legislatively implement the principle of the Supreme Court's Beck decision saying this should not be done. This is wrong. This is selective reform. It is a refusal to remedy a documented, abuse of special interest money just because it helps Democratic candidates. It is hypocrisy.

For example, the Democrats defeated an amendment I offered that would abolish the new \$300,000 political slush funds they set up in their bill that can be used to help out only incumbents.

For example, the Democrats defeated an amendment I offered to ban roll-over accounts—the huge political war chests built up, not to pay for campaign costs, but simply to intimidate possible challengers. And they defeated the amendment I offered that would have precluded incumbents from mixing campaign money with their official office accounts—a practice that helps only incumbents. This is wrong. It is selective reform. It is hypocrisy.

For example, the Democratic bill calls on the American taxpayer to finance congressional campaigns to the tune of about \$150 million per year. I have serious reservations about asking the taxpayers to support yet another new Federal spending program, when we can't even agree to dent the incredible budget deficit we face.

The bills' spending limits concern me. I am not opposed in principle to spending limits, but I think the bipartisan Mitchell-Dole spending limit plan may have had greater advantages than the present bill. I am glad the Democratic sponsors have indicated a willingness to be flexible on this issue.

Mr. President, those of us who have been advocating campaign reform should be pleased that the process has begun. A bill has now passed the Senate and that is a big start. It is overdue. It still needs great and real

improvement, however, to be true reform, and I hope that the same groups who have been demanding spending limits and taxpayer financing will now also demand that the bill's partisan hypocrisy be rooted out. I hope we can create a true reform bill we can all be proud of, rather than a partisan bill that the majority incumbents can take delight in.

Mr. President, I voted for this bill because it has some good provisions and because the process of reform must continue. But it has a long way to go to before it can withstand impartial scrutiny, or before President Bush will sign it. Let us now devote ourselves with all sincerity and let's stop posturing for partisan advantage and complete the work on a bill that will give the American people what they deserve—an exhaustive and true reform out of our campaign system.

RETIREMENT OF COL. DONALD W. WILLIAMS

Mr. McCONNELL. Mr. President, today the Senate has been debating the Defense authorization bill and we have heard some lively discussions on our changing military. I would like to pause for a moment to draw the attention of my colleagues to an important change at Fort Knox: the retirement of Col. Donald W. Williams, chief of staff, Fort Knox, KY.

Don retired from the Army at the end of last month after dedicating three decades of distinguished service to our Nation. He has served in Europe and Vietnam and in the early 1960's he was commander, A Company, 5-33d Armor, 16th Armor Group at Fort Knox. I am pleased that part of Don's career has been spent in my State, and that he now will make Kentucky his home.

Don's vast experience and knowledge provided him with unique insights into the military and world events. As chief of staff, he has promoted and strengthened both Fort Knox and Kentucky. Mr. President, I can think of no other leader who cares so much for his country and community. Don is a remarkable man who impresses all with his intellect and warmth.

I am privileged and honored to have worked with Don during the past few years, and I would like to be the first to welcome the Williams family—Don, Betty Lou, David and Stephen—to civilian life in the Commonwealth.

I ask unanimous consent, Mr. President, that a copy of Colonel Williams' biography appear in the RECORD so that all my colleagues may share my praise of this outstanding American.

There being no objection, the biography was ordered to be printed in the RECORD, as follows:

BIOGRAPHY OF COL. DONALD W. WILLIAMS,
CHIEF OF STAFF, U.S. ARMY ARMOR CENTER
AND FORT KNOX

Colonel Williams' troop assignments include service from January 1961 until April 1963 when he served as a tank platoon leader, company Executive Officer and Maintenance Officer in West Germany. In January 1964, he was Commander, A Co., 5-33rd Armor, 16th Armor Group, Fort Knox. He also served as Commander, HHC, 5-33rd Armor from October 1964 until June 1965. In June 1967, Colonel Williams received his third command with A Company, 1-69th Armor in Vietnam. He served as Senior Advisor, 32nd Infantry Regiment, 21st ARVN Div, Republic of Vietnam. Colonel Williams served as Executive Officer, 1st Battalion, 64th Armor, 3rd Infantry Division, USAREUR from July 1975 to December 1976. In July 1978, he assumed his battalion command with the 4th Training Brigade and in February of 1980, Colonel Williams assumed the duties as the Deputy Brigade Commander of the 4th Training Brigade.

Colonel Williams' staff assignments include duties as G-1, Headquarters, USARV in Vietnam from July 1966 until January 1967. He was assigned to Fort Knox in November 1967 as an instructor with the Senior Officer Orientation Course. In July 1968, Colonel Williams was assigned as Assistant Professor, Department of Political Science, U.S. Air Force Academy. He served as Training Staff Officer, HQ, TRADOC, Fort Monroe, VA from July 1973 until June 1975. Colonel Williams was Chief, Policy and Doctrine Branch, ODCSOPS, HQ, USAREUR from December 1976 until April 1977. This was followed by serving as the Executive Officer, DCSOPS, HQ, USAREUR until June 1978. In July 1981, he reported for duty to the Army Staff as Action Officer, Strategy and Plans, DCSOPS and then served as Secretary, Joint Chiefs of Staff, OJCS from July 1982 until July 1985. Colonel Williams returned to Fort Knox in July 1985 to assume the duties as Director of Plans, Training and Mobilization which he held until assuming his current position as Chief of Staff in April 1987.

Colonel Williams graduated from the University of Massachusetts at Amherst in 1960 with a Bachelor of Arts Degree in Political Science. He completed the Armor Officer Basic Course in 1960 and the Armor Officer Advanced Course in 1966. In 1964, he earned his Master of Arts Degree in Political Science. Colonel Williams is also a 1973 graduate of the U.S. Army Command & General Staff College and a 1981 graduate of the U.S. Army War College, Carlisle Barracks, PA.

THE OIL POLLUTION ACT OF 1990

Mr. WARNER. Mr. President, I rise in support of the conference report to accompany H.R. 1465, the Oil Pollution Act of 1990. I was proud to serve as a Senate conferee on this important legislation, and to have been a cosponsor of S. 686, the Senate version of the oilspill liability legislation that was sent to conference.

Mr. President, it has been almost exactly 1 year since the Senate passed S. 686, by a unanimous vote of 99 to 0. At that time, the Senate acted quickly to respond to the most serious oilspill in this Nation's history—that of the

tanker *Exxon Valdez* in Prince William Sound, Alaska. Since that time, we have experienced an extraordinary number of oilspills in many different parts of the country, including one less than a month ago right off the coast of the Commonwealth of Virginia in the Chesapeake Bay.

Mr. President, because of the excellent work of the Coast Guard and Virginia State officials, and admittedly, a lot of luck, the Chesapeake Bay, which serves as the habitat for thousands of species of fish and wildlife, dodged what could have been a tragic catastrophe.

We are all grateful that the results of the Chesapeake Bay spill were not more serious.

Mr. President, the oilspill liability legislation that we consider today would ensure that we do not have to rely on luck in the future to prevent the serious effects of an oilspill. The bill imposes rigorous new contingency planning requirements on areas and vessels, and requires the President to take charge of all major oilspills and to determine when cleanup is complete. In addition, the bill imposes liability limits stricter than the international scheme would provide, while allowing all States to maintain their own liability laws. Finally, the bill calls for a phase-in of double hulls on all tankers in U.S. waters and a \$1 billion oil spill liability trust fund to allow recovery for claims of economic injury or damage to natural resources.

Mr. President, although it has been a long time in coming, those of us in Congress should be proud of the bill we now have before us. I commend the majority leader for his tireless efforts on this legislation, as well as the chairman of the Environment and Public Works Committee, Mr. BURDICK, the ranking member of that committee, Mr. CHAFEE, and the chairman of the committee's Environmental Protection Subcommittee, Mr. BAUCUS.

I urge my colleagues to join me in approving this landmark piece of legislation.

CONFERENCE REPORT ON H.R. 1465, THE OIL POLLUTION LI- ABILITY ACT

Mr. PACKWOOD. Mr. President, it is with great pleasure that I rise to support the conference report on the Oil Pollution Liability Act. This bill has been a long time in coming. Some form of liability legislation has been in the works for 16 years. The grounding of the *Exxon Valdez* in Prince William Sound last year served as the impetus for Congress to tackle the remaining obstacles to final enactment of this legislation.

The Oil Pollution Liability Act goes a long way to address the problems that became so clear in the aftermath of the *Valdez* spill. The bill is designed

to prevent oilspills, quickly repair and control environmental damage, and ensure that those responsible for the spill pay the full cost of the resulting damage.

Specifically, this bill increases liability limits from \$150 per gross ton to \$1,200 per gross ton for vessels carrying oil. This is an eightfold increase—an increase that under current circumstances, is absolutely necessary. The bill does not preclude States from imposing even higher liability limits, or even unlimited liability, on shippers.

The bill also establishes a national oil spill liability trust fund which can provide up to \$1 billion per incident to pay for cleanup and compensation costs not covered by spillers. This ensures we will have the money to clean up oilspills and restore our natural resources to their original beauty.

In addition to addressing the costs involved with a cleanup, this legislation aims to improve both the public and private response to any spill. It requires federally approved response plans to be developed for vessels and facilities, and seeks to ensure proper cleanup equipment and trained personnel are ready and able to respond to a spill.

The bill also contains provisions to strengthen oil tanker safety standards. Among these provisions is a requirement that all new tankers and barges be built with double hulls. In addition, existing single hull vessels would be phased out by the year 2010.

Mr. President, resolution of some of these issues was a long and sometimes controversial process. However, the conferees all had one single goal in mind—enactment of tough, effective legislation. I am convinced that as long as we are in the business of transporting oil from place to place, there will be accidents. However, we must do everything in our power to minimize the number and size of such spills, ensure a quick and effective response when spills do happen, and place the cost squarely on the shoulders of those responsible. I believe this bill achieves these goals.

RADIATION EXPOSURE COMPENSATION ACT

Mr. DECONCINI. Mr. President, I rise today to express my support for the House Resolution 2372, radiation exposure compensation bill, as amended, which was approved by the Senate late last night. As cosponsor of the Senate substitute, I commend the distinguished senior Senator from Utah for his leadership and many years of hard work on this bill. His unflagging advocacy for the radiation exposure victims brings us one step closer to rectifying a gross injustice caused by the Federal Government's negligence.

Many of these victims are citizens of my State. They are native American miners who were exposed to extraordinary high levels of radiation in the uranium mines of the Four Corners areas as they produced the necessary ore for the United States exclusive use. To serve the national security interest of this Nation, they endured the dirtiest and least regulated uranium mine conditions. No one told them how dangerous radiation was or about the health hazards associated with radiation exposure. This was not a situation where the Federal Government did not know what the consequences of radiation exposure were or about the conditions in these mines.

The travesty here is that the Federal Government knew. The U.S. Public Health and the Atomic Energy Commission understood the hazards and knew how to alleviate the problem. But nothing was done to warn the miners or to require the mine operators to ventilate the mines. Nothing was done to establish or implement standards for mine safety to protect these miners. In fact, the Federal courts have concluded that the Federal Government disregarded the need to share its knowledge of the dangers because it feared that miners would refuse to work in these mines. This was unacceptable to the Government since it would interrupt the production of uranium for the Federal nuclear weapons industry.

Mr. President, the Federal Government put the national security interest of the Nation first and the lives and safety of its citizens last. It violated the most fundamental public trust that citizens bestow on its Government—that it will protect them first and foremost. Furthermore, because these citizens are native Americans who are members of a federally recognized tribe and the mines were located on an Indian trust lands, the Federal Government also failed to meet the higher level of fiduciary duty imposed by the unique trust relationship which it has with native Americans. As trustee, the United States breached its duty to protect the health of these native American miners. It disregarded its trust responsibility for the management of tribal natural resources by failing to require minimum safety standards for the reservation mines.

The Federal Government's actions have resulted in human tragedy. Many of the miners developed lung cancer and related respiratory diseases. When the health problems began emerging among these miners, they went for years not knowing that was wrong with them because they had limited access to health care services. In many cases, their health problems were not diagnosed accurately until they were in the terminal stages of the diseases. The lack of pulmonary specialists in the Indian Health Services contribut-

ed to the delayed diagnosis and eventually to the lack of accurate medical records to support the miners' claims.

Many have died. More are living daily with the ravages of their lung or respiratory diseases today. They have sought redress through all possible avenues. Some of the best attorneys in the Southwest have devoted long hours to their cases. Yet, the courts have said that only Congress can remedy the situation. It is within our power to right a great wrong. The United States must own up to its responsibility for the suffering which these men and their families have had to endure. They have borne more than their share of pain and sacrificed enough.

By passing H.R. 2372, we have done the only morally right thing to do. We offer these miners and their families an apology. We authorize compensation for the injuries they suffered. We owe them this compassionate gesture and they deserve it. I thank the Senator from Utah for his good work and all my distinguished colleagues for supporting this measure.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Kalbaugh, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 1 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House agrees to the amendment of the Senate to the bill (H.R. 76) to amend the Wild and Scenic Act to study the eligibility of the St. Marys River in the States of Florida and Georgia for potential addition to the wild and scenic rivers system.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 1159) to amend the National Trails System Act by designating the Juan Bautista de Anza National Historic Trail, and for other purposes.

The message further announced that the House agrees to the amendments of the Senate to the amendments of the House to the bill (S. 666)

to enroll 20 individuals under the Alaska Native Claims Settlement Act.

The message also announced that the House agrees to the amendment of the Senate to the bill (H.R. 498) to clarify and strengthen the authority for certain Department of the Interior law enforcement services, activities, and officers in Indian country, and for other purposes.

At 2:27 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 2965. An act to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes; and

H.R. 3562. An act to amend the Federal Food, Drug, and Cosmetic Act to prescribe nutrition labeling for foods, and for other purposes.

At 4:05 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5431. An act to impose sanctions on Iraq.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 2965. An act to require the Secretary of Commerce to make additional frequencies available for commercial assignment in order to promote the development and use of new telecommunications technologies, and for other purposes; to the Committee on Commerce, Science, and Transportation.

H.R. 5431. An act to impose sanctions on Iraq; to the Committee on Banking, Housing, and Urban Affairs.

MEASURES PLACED ON THE CALENDAR

The Committee on Labor and Human Resources was discharged from further consideration of the following bill; which was placed on the calendar:

H.R. 5140. An act to amend the Elementary and Secondary Education Act of 1965 to improve secondary school programs for basic skills improvement and dropout prevention and reentry, and for other purposes.

ENROLLED JOINT RESOLUTION SIGNED

Under the authority of the order of the Senate of today, the following enrolled joint resolution was signed by the majority leader [Mr. MITCHELL]:

H.J. Res. 625. Joint resolution designating August 6, 1990, as "Voting Rights Celebration Day."

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment:

S. 2714. A bill to permit issuance of a certificate of documentation for employment in the coastwise trade of the United States for the vessel the *Solitaire* (Rept. No. 101-413).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute and an amendment to the title:

S. 1025. A bill to authorize appropriations to carry out the Magnuson Fishery Conservation and Management Act for fiscal years 1990, 1991, and 1992, and for other purposes (Rept. No. 101-414).

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 612. A bill to amend the National Capital Transportation Act of 1969 relating to the Washington Metrorail System (Rept. No. 101-415).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

H.R. 996. A bill to establish the Congressional Scholarships for Science, Mathematics, and Engineering, and for other purposes.

By Mr. BIDEN, from the Committee on the Judiciary, without amendment:

S. 1834. A bill to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. BIDEN, from the Committee on the Judiciary:

Fred L. Foreman, of Illinois, to be United States Attorney for the Northern District of Illinois for the term of four years;

Stanley A. Twardy, Jr., of Connecticut, to be United States Attorney for the District of Connecticut for the term of four years;

Joe D. Whitley, of Georgia, to be United States Attorney for the Northern District of Georgia for the term of four years;

Anthony L. Bennett, of Minnesota, to be United States Marshal for the District of Minnesota for the term of four years;

Lynn H. Duncan, of Georgia, to be United States Marshal for the Northern District of Georgia for the term of four years; and

Keith McNamara, of Ohio, to be a Member of the Board of Directors of the State Justice Institute for a term expiring September 17, 1992.

By Mr. GLENN, from the Committee on Governmental Affairs:

LeGree Sylvia Daniels, of Pennsylvania, to be a Governor of the United States Postal Service for the term expiring December 8, 1998;

Julian W. De La Rosa, of Texas, to be Inspector General, Department of Labor,

Mary Ellen Albrecht, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Kaye K. Christian, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Frederick D. Dorsey, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia;

Ellen Segal Huvelle, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Jose M. Lopez, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Joan Z. McAvoy, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Gregory E. Mize, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Linda Turner Hamilton, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

John Henry Bayly, Jr., of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Patricia A. Wynn, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years;

Stephen D. Potts, of Maryland, to be Director of the Office of Government Ethics for a term of five years;

Patrick E. McFarland, of Virginia, to be Inspector General, Office of Personnel Management;

Wallace Elmer Stickney, of New Hampshire, to be Director of the Federal Emergency Management Agency;

Russell Flynn Miller, of Maryland, to be Inspector General, Federal Emergency Management Agency;

George F. Murphy, Jr., of Maryland, to be Inspector General, United States Information Agency; and

Stephen G. Milliken, of the District of Columbia, to be an Associate Judge of the Superior Court of the District of Columbia for the term of fifteen years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly appointed committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. JOHNSTON (for himself and Mr. McClure):

S. 2952. A bill to amend the Energy Policy and Conservation Act to extend the authority for Titles I and II; considered and passed.

By Mr. JOHNSTON:

S. 2953. A bill to provide relief to shrimp fishermen from economic hardship caused by the mandatory use of turtle excluder devices under the Endangered Species Act, and for other purposes; to the Committee on Finance.

By Mr. DODD (for himself and Mr. Leahy):

S. 2954. A bill to place restrictions on United States assistance to El Salvador; to the Committee on Foreign Relations.

By Mr. BIDEN (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. LEVIN, Mr. D'AMATO, Mr. KERREY, Mr. ADAMS, Mr. AKAKA, and Mr. WIRTH):

S. 2955. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to establish a medications development program to promote research, development, and production of pharmaceuticals used to treat drug addiction in the United States and for other purposes; to the Committee on Labor and Human Resources.

By Mr. GRAHAM:

S. 2956. A bill for the relief of Benjamin H. Fonorow; to the Committee on the Judiciary.

By Mr. D'AMATO (for himself and Mr. DOLE):

S. 2957. A bill entitled the "Criminal Alien Deportation and Exclusion Act"; to the Committee on the Judiciary.

By Mr. LEVIN (for himself, Mr. COATS, Mr. LUGAR, and Mr. HARKIN):

S. 2958. A bill to provide for the resumption of certain Medicare case management demonstration projects; to the Committee on Finance.

By Mr. BAUCUS (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. SYMMS, Mr. CONRAD, Mr. BURNS, Mr. BURDICK, Mr. DURENBERGER, Mr. BIDEN, Mr. DODD, Mr. LIEBERMAN, Mr. EXON, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. HARKIN, Mr. BOSCHWITZ, Mr. ROBB, Mr. COATS, Mr. SIMON, Mr. DECONCINI, Mr. LEVIN, Mr. GRASSLEY, Mr. RIEGLE, Mr. COCHRAN, Mr. SPECTER, Mr. PELL, Mr. HATFIELD, Mr. SARBANES, Mr. PRYOR, Mr. HOLLINGS, Mr. DIXON, Mr. DANFORTH, Mr. BOREN, Mr. LUGAR, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DASCHLE, Mr. INOUE, Mr. ADAMS, Mr. ROTH, Ms. MIKULSKI, Mr. D'AMATO, and Mr. KERRY):

S. 2959. A bill to amend the Railroad Retirement Solvency Act of 1983 to extend for 2 years the transfer to the Railroad Retirement Account of income tax revenues from tier 2 benefits; to the Committee on Finance.

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 2960. A bill for the relief of Janice and Leslie Sedore and Ruth and George Hillman; to the Committee on Finance.

By Ms. MIKULSKI (for herself, Mr. KENNEDY, Mr. ADAMS, Mr. SIMON, Mr. HARKIN, Mr. PELL, Mr. DODD, Mr. REID, Mr. METZENBAUM, Mr. BINGAMAN, Mr. INOUE, and Mr. AKAKA):

S. 2961. A bill to amend the Public Health Service Act to promote greater equity in the delivery of health care services to women through expanded research on women's health issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. KOHL (for himself and Mr. KENNEDY):

S. 2962. A bill to amend title 1 of the United States Code to define the type of adjournment that prevents the return of a bill by the President, and to authorize the Clerk of the House of Representatives and of the Senate to receive bills returned by the President at any time their respective Houses are not in session; to the Committee on Governmental Affairs.

By Mr. WILSON (for himself and Mr. CRANSTON):

S. 2963. A bill to authorize the Secretary of the Interior to conduct an advanced water treatment research and demonstration project near Salton Sea, California; to the Committee on Energy and Natural Resources.

By Mr. ROTH:

S. 2964. A bill to provide television broadcast time without charge to candidates for federal elective office and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. PACKWOOD:

S.J. Res. 357. Joint resolution to designate September 15, 1990 to October 15, 1990 as "Community Center Month"; to the Committee on the Judiciary.

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MITCHELL (for Mr. PELL (for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. D'AMATO, Mr. BOSCHWITZ, Mr. MITCHELL, Mr. BIDEN, Ms. KASSABAUM, Mr. CRANSTON, Mr. DODD, Mr. COATS, Mr. KENNEDY, Mr. DeCONCINI, Mr. ADAMS, Mr. MCCAIN, Mr. MURKOWSKI, Mr. LEVIN, Mr. RIEGLE, Mr. PACKWOOD, Mr. KASTEN, Mr. WILSON, Mr. LAUTENBERG, Mr. FORD, Mr. BENTSEN, Mr. COHEN, Mr. REID, Mr. BREAUX, Mr. SASSER, Mr. INOUE, Mr. SIMPSON, Mr. DOMENICI, Mr. LIEBERMAN, Mr. GRAMM, and Mr. THURMOND):

S. Res. 318. Resolution to condemn Iraq's invasion of Kuwait; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. JOHNSTON:

S. 2953. A bill to provide relief to shrimp fishermen from economic hardship caused by the mandatory use of turtle excluder devices under the Endangered Species Act, and for other purposes; to the Committee on Finance.

TRAWLERS RELIEF AND WORKING LIVELIHOOD ACT

Mr. JOHNSTON. Mr. President, I send a bill to the desk for introduction.

Mr. President, what this bill does is help alleviate a situation which is impossible for shrimpers in Louisiana. Shrimpers are being imprisoned for trying to feed their families and continue to shrimp as they have done for many, many years in Louisiana; for failure to pull what they call the turtle excluder devices.

Mr. President, they are imprisoning and threatening to imprison shrimpers in Louisiana who have never caught a turtle; whose only sin, whose only crime is to fail to pull a turtle excluder device.

Mr. President, there are sufficient sanctions in the present law in terms of fines without putting these people in jail.

Mr. President, the second thing this bill does is prevent the Secretary of Commerce from shortening or terminating the shrimping season. We have had threats from the Secretary of Commerce to do this. To do that would be devastating to all of the coastal areas in my State as well as elsewhere in the gulf region. It is improper policy, Mr. President, for the Secretary of Commerce to shut down the shrimping season. This bill would prevent the Secretary of Commerce from doing that as well as from putting our shrimpers in jail. I hope the Senate will swiftly pass this legislation. It is greatly needed in our coastal areas.

I thank the majority leader for letting me introduce this bill.

I ask unanimous consent the remainder of my statement be printed in the Record.

The PRESIDENT pro tempore. The bill will be received and appropriately referred. Without objection, the Senator's statement will appear in the Record.

The statement follows:

Mr. President, I am here today because my home state of Louisiana is in a state of emergency. A perceived threat to endangered or threatened sea turtles has caused Federal lawmakers to restrict shrimp trawling practices by requiring a shrimper's net to be equipped with a turtle excluder device, or TED. A TED allows a turtle to escape in the unlikely event that one becomes entangled in a net. The law requires that all shrimp trawlers put the cage-like device in their nets or face stern civil and criminal penalties. Enforcement of this law has been Draconian. Most of the shrimpers who have been arrested and thrown in jail with drug dealers and murderers have never even caught a turtle in their nets.

The law is the law. The shrimpers know that. I know that. What I also know is that our shrimp fishermen are drowning in a sea of debt because of the diminished harvest of wild shrimp, and diminished income, when pulling a TED. It is a matter of life or death for our shrimpers. They simply cannot survive under the status quo.

I am not saying that the TEDs regulations should be suspended or repealed. I am not saying that sea turtles should be de-listed from endangered or threatened status because of the exorbitant costs to shrimpers. What I am saying is that something must be done. Something must be done to relieve the severe economic burden the shrimpers alone are bearing. Something must be done help these hardworking, law-abiding people put food on their tables and pay their bills. Something must be done to ensure that our shrimpers do not suffer the same fate as the endangered sea turtles at the heart of this controversy have suffered in the past. Mr. President, I think the bill I am offering today can do just that.

My bill prohibits the Secretary of Commerce from shortening or otherwise restricting the shrimping season in the Gulf of Mexico and the South Atlantic until 90 days after the Secretary has presented findings

to Congress demonstrating the need for additional restrictions. We cannot afford to have the Secretary imposing even more drastic restrictions on law-abiding shrimpers without sufficient proof that such measures are absolutely necessary.

This legislation also provides for a sea turtle conservation tax credit. The tax credit is intended to offset the loss of income by shrimpers using turtle excluder devices. The conservation loss is calculated as fifteen percent of the total dollar amount received by a shrimper for the sale of shrimp caught in areas where TEDs are required. The key is that the tax credit is only available to a shrimper who has not been convicted of civil or criminal violations of the Endangered Species Act that involve the failure to use, or improper use of, a TED during that tax year.

The bill also removes criminal penalties for violation of the Federal requirements concerning the use of turtle excluder devices. Mr. President, I was raised to respect the law. My daddy taught me to obey the law even when I didn't agree with it. But Mr. President, the law has never come and taken my livelihood away. The law has never told me I must do something that would threaten my ability to put food on the table for my family. So I can understand, though not condone, the refusal of shrimpers in South Louisiana to obey the Federal regulations on TEDs. It seems to me, Mr. President, that given the present desperation of normally law-abiding shrimp fishermen, it would not be just to throw them in jail with murderers and drug dealers. That just adds misery to pain. The stringent civil penalties and fines for violation of the Endangered Species Act are a strong enough deterrent. And for those who are nevertheless moved to violate the TED requirements, little purpose is served by throwing them in jail as well.

The final provision of my bill furthers the intent of the Endangered Species Act to ensure the conservation and recovery of endangered and threatened species, including sea turtles, by directing the Secretary of Commerce to establish and implement a comprehensive sea turtle headstart program. Under the program, endangered and threatened sea turtle eggs are removed from the wild, hatched in captivity, and the young sea turtles are released months later into the wild after the greatest period of vulnerability to predation has passed.

Up to now, everyone has viewed this situation as a direct conflict between shrimper and sea turtle. As a choice between shrimpers feeding their families or turtles bouncing back from near extinction. As a decision on whether our commercial shrimping industry will die off or an endangered species will die off. With this bill, we do not have to choose. With this bill, we can save not one but two endangered species with a single stroke of the legislative pen—sea turtles and shrimpers.

By Mr. DODD (for himself and Mr. LEAHY):

S. 2954. A bill to place restrictions on United States assistance to El Salvador; to the Committee on Foreign Relations.

EL SALVADOR MILITARY AID REDUCTION AND RESTRICTIONS ACT

Mr. DODD. Mr. President, earlier this year, on February 8, I introduced legislation that was specifically de-

signed to underscore the United States commitment to a negotiated settlement of the conflict in El Salvador.

That proposal uses our military assistance to the Government of El Salvador as a lever to encourage both sides in this bloody conflict to go to the conference table, to stay there, to negotiate in good faith and to accept the active mediation of the Secretary General of the United Nations.

I still believe this concept is a fundamentally sound one. And I am encouraged that a large majority of our colleagues in the House have already approved an aid-to-El Salvador provision modeled on the proposal I introduced in February. The House provision is contained in H.R. 5114, the foreign operations appropriations bill which passed the other body on June 27.

Soon it will be our turn to deal with this legislation and in anticipation of doing so, I am pleased to join with the chairman of the Senate Appropriations Subcommittee on Foreign Operations, the distinguished senior Senator from Vermont [Mr. LEAHY], to introduce a revised version of the February proposal.

This version takes into account the House-passed language and includes some additional changes and refinements.

I ask unanimous consent that a summary of this legislation be inserted at this point in the RECORD.

Mr. PRESIDENT, as those who have followed the issue of aid to El Salvador know, it is a very controversial one. In the recent past, for example, Senator LEAHY and I have found ourselves on different sides of it. With this proposal I am pleased to report that we have bridged those differences, and I am hopeful that others will join with us in a common effort to help bring the Salvadoran negotiations to a successful conclusion.

That's what this legislation is all about. It is purposefully designed to lower the military temperature of the conflict and put the spotlight on the negotiating process. To do this the bill prescribes a series of incentives and disincentives for both sides to pursue the negotiating track and to bring the negotiations to a successful conclusion.

To move the conflict in this direction—to move it from the battlefield to the negotiating table—the bill withholds 50 percent of the military aid that would otherwise be available to the Government of El Salvador. It does this to emphasize our commitment to a negotiated solution and to encourage both parties to the conflict to make a similar commitment.

This is the strongest formula available. A 50-percent withholding sends the kind of message that is not likely to be misinterpreted by either side. First, it says we are serious. Second, it says we are fair. And third, it says we

are balanced. It strikes a midpoint between those who argue for full funding and those who argue for no funding. No other formula has these attributes.

In addition to the 50-percent formula, there are a number of conditions, safeguards and reporting requirements, which taken together, reinforce the commitment and dedication to a negotiated settlement. For example, in order to guard against either party to the conflict using the negotiations as a stalling tactic, this bill authorizes the President, following consultations with the Secretary General of the United Nations, to release the funds being withheld if he determines the guerrilla forces are guilty of such tactics, or to withhold the remaining funds if he determines the Salvadoran Government is stalling.

Mr. President, I am hopeful that provisions such as this one indicate to the administration that the Senator from Vermont and I have spent a great deal of time crafting a bill which fully respects the prerogatives of the executive and legislative branches. Clearly, it is not our intention to hamstring the President. But just as clearly, it is our intention to play an integral role in the policy process. Obviously we are willing to discuss this proposal with administration officials; we are willing to entertain suggestions. But we are not willing to engage in a rewrite based on the kind of unrealistic proposal the administration has circulated quietly on the Hill.

Mr. President, the recent history of El Salvador makes it difficult to be optimistic. We are running out of options and we are running out of time. We are running out of time on the negotiating process and we are running out of time on the larger political process as well. While both sides continue to return to the negotiating table, so far little progress has been made. And without significant progress on the agenda adopted in Caracas, the prospects for a successful electoral process next March are not promising.

The principal stumbling block is the Salvadoran Armed Forces. And the hard truth of the matter is this. There will be no peace, no justice, no democracy in El Salvador so long as the military and security forces in that country can act with impunity. That's the basic, fundamental political problem. That's what the conflict is all about. President Cristiani knows it. President Bush knows it too. We all know it.

That's why this proposal targets United States military assistance to the Salvadoran Armed Forces. The message is simple and straightforward: Real military reform is essential to the success of the negotiating effort. We expect the Salvadoran Government and its military component to get on with it. And so far as I am concerned, this requirement is not negotiable.

Now is the time, Mr. President. Now is the time for the United States to put its political weight and diplomatic muscle behind a comprehensive political settlement to the Salvadoran conflict. This legislation does just that. I ask my colleagues to give it their full support.

Mr. President, I ask unanimous consent that a summary of the bill be printed in the RECORD.

There being no objection, the summary was ordered to be printed in the RECORD, as follows:

SUMMARY OF DoD/LEAHY BILL ON REDUCING AND CONDITIONING MILITARY ASSISTANCE TO EL SALVADOR

Sets forth the following U.S. policy objectives with respect to El Salvador—

To promote a permanent settlement and ceasefire to the conflict through mediation by the U.N. Secretary General;

To foster greater respect by the Government of El Salvador for basic human rights and the rule of law; and

To advance political accommodation and national reconciliation.

Caps military assistance to El Salvador at \$85 million for FY 1991;

Prohibits all U.S. military assistance to the Government of El Salvador if the President determines and reports that any of the following is the case—

The Government of El Salvador has refused to participate in negotiations;

The Government of El Salvador has rejected the mediating role of the Secretary General of the UN;

The Government of El Salvador has failed to conduct a professional investigation into and prosecution of those responsible for the November 16, 1989 murders of the six Jesuits and their associates;

The military or security forces of El Salvador are assassinating or abducting civilians;

The Government of El Salvador is not negotiating in good faith in the U.N. sponsored negotiations;

Underscores the U.S. commitment to the negotiating process by withholding 50% of U.S. military assistance which would otherwise be made available to the Government of El Salvador in fiscal year 1991, including any money in the pipeline from prior fiscal years, unless the President determines and reports to Congress that one of the following is the case—

The FMLN has refused to participate in negotiations or accept the mediation of U.N. Secretary General;

The constitutional government of El Salvador is being jeopardized by a military offensive by the FMLN;

Proof exists and has been provided to Congress that the FMLN continues to receive substantial military assistance from outside that country;

The FMLN is assassinating or abducting civilians

The FMLN is not negotiating in good faith in U.N. sponsored negotiations;

Terminates all U.S. economic and military assistance to the Government of El Salvador in the event of a military coup;

Establishes a "Fund for Ceasefire Monitoring, Demobilization and Transition to Peace", transfers military assistance withheld by the bill to the newly established fund, with the monies to be provided to El Salvador once a permanent settlement has

been reached to support implementation of that settlement;

Strengthens civilian control over the military by mandating prior approval of all U.S. military assistance to the military and security forces by the civilian government;

Earmarks up to 10,000,000 in ESF funds in FY 1991 to support democratic initiatives in El Salvador, including up to \$2,000,000 for monitoring the 1991 municipal elections in that country;

Fences \$5,000,000 in FY 1991 military assistance pending the investigation and trial of those responsible for the 1981 murders of the U.S. AIFLD workers, and the El Salvador land reform activist; the 1988 San Francisco massacre; the 1989 murders of the six Jesuits and their associates; and the 1989 Fenestras bombing;

Requires a report by the President to the Congress sixty days after the enactment of the bill into law, and every 180 days thereafter, on the U.N. sponsored negotiations, on all relevant activities by the Government and FMLN; and on the on-going investigations and prosecutions of those responsible for the politically motivated murders set forth in the bill.

Mr. LEAHY. Mr. President, today Senator Dobb and I are joining forces and introducing the El Salvador Military Aid Reduction and Restrictions Act. This legislation is very similar to the Moakley-Murtha provision that withholds 50 percent of El Salvador's military aid, and which won easily in the House last month as an amendment to the foreign operations appropriation. It is also conceptually like the bill Senator Dobb introduced earlier this year.

Working together, we have made some important changes which I will describe shortly. But before that I want to emphasize what underlies this legislation—our shared conviction that the time has come for strong congressional action on El Salvador.

That is a change from last year, when we were on opposite sides. My amendment last year to put conditions on one-third of El Salvador's military aid got 39 votes. With the two of us working together this year, I believe we will have the support of a majority in the Senate to withhold one-half of El Salvador's military aid.

Mr. President, let me give a bit of history to explain how we got to this point.

It was 10 years ago this year that Archbishop Oscar Romero was assassinated as he was saying Mass in his church in San Salvador. Archbishop Romero is remembered as a voice for the millions of Salvadorans who have been caught in the middle of a war that has ravaged that country and left over 70,000 dead. They are the innocent victims of both sides, and they have suffered unspeakable brutality.

No family has escaped unscathed. Hundreds of thousands of Salvadorans have fled, mostly to the United States as refugees, where they live in squalor.

In 10 years, we have sent over 4 billion in United States tax dollars to successive governments in El Salvador,

ostensibly to fight communism, with little regard for how that money was being used. Despite abundant evidence of rampant corruption at the highest levels of the Salvadoran Government, massive waste and inefficiency, and outrageous human rights violations by the military, we kept the money flowing. While we were preoccupied with Nicaragua and the Iran-Contra scandal, El Salvador was all but forgotten.

The massacre of 20 peasants in the village of San Sebastian by Salvadoran soldiers in September 1988 woke us up. Predictably, the military first tried to cover it up, but the truth finally came out.

Then came the bombing of the Fenestras union headquarters, where 10 people died.

Last October we saw the FMLN stage a brutal offensive in the residential neighborhoods of the capital city, hiding in homes, schools, hospitals, and churches. Hundreds of civilians died in the crossfire.

And then came the sickening murders of six Jesuit priests and their housekeepers at the University of Central America in San Salvador last November.

Once again, we were faced with a policy that has failed miserably, at enormous human and financial cost. Yet, despite this record of failure, once again the administration is asking for more aid for El Salvador than for all of Eastern Europe.

Time and again the administration assured us things were getting better, that the Arena government—Roberto D'Aubuisson's government—was committed to reforms, that the military was respecting human rights. Yet now we know it was the military, and an elite U.S.-trained battalion at that, who killed the Jesuits.

It was premeditated murder, execution style, of individuals who represented the real conscience of El Salvador. Father Ellacuria had been a courageous voice for an end to violence by both sides, for negotiations, for democracy.

Mr. President, for 10 years we have tried to buy democracy in El Salvador. In one sense, I suppose, we have bought at least some of the forms. There have been elections. But underneath that thin facade, El Salvador is the antithesis of democracy. There is no justice, even for the victims of the most heinous crimes. There is no sign that the Arena government, like every government before it throughout the history of that country, is willing or able to protect the rights of the majority of its people who continue to live in poverty and fear.

Instead of democracy, the billions of dollars we have poured in there has been the lifeblood of corruption and repression. The military runs El Salvador, and it does so with impunity. One need only look at the record of the

Salvadoran military and the death squads under their control.

A House report recently concluded that 14 of the 15 of El Salvador's commanding military officers have risen to their positions despite documented abuses, including murder and torture of noncombatants, by troops under their command.

This includes Chief of Staff Emilio Ponce, the Minister and two Vice Ministers of Defense, the heads of the three security forces, and five of the six major brigades.

Of the 14 commanders whose troops reportedly committed abuses, 11 received U.S. training, some for many years.

And, not a single military officer has ever been punished.

The San Sebastian case, which the U.S. Ambassador and other administration officials called a "test case" of the Cristiani government's commitment to justice, has gone nowhere. Despite constant pressure from the United States to prosecute those responsible, charges against all but one of the soldiers have been dismissed.

The same is true of the notorious kidnaping-for-hire case. Charges dismissed.

And the Jesuit case. It has been 9 months. President Cristiani promised a thorough investigation. When a handful of enlisted men were charged, he assured us that those who gave the orders would not escape punishment.

Since then, the case has gone nowhere. We are told the single officer charged, Colonel Benevides, who no one believes conceived of this crime himself, is likely to go free. No higher officers have even been questioned, not to mention charged. No one expects a trial any time soon.

These savage, bloody, barbaric slayings show to all that President Cristiani, whatever he may say or may want personally, is not able to control the military. This is the real measure of El Salvador today.

This and the previous administration said they were outraged by the political killings. But when no one was prosecuted they did nothing. And year after year the Salvadoran officials who got rich from our aid maligned us behind our backs. They laugh at us for being naive fools.

It is no secret that I have opposed this policy. I have previously offered amendments to give the Congress a say in how our money is spent in El Salvador. Each time, support in Congress has grown. Several Senators who opposed my amendment last year expressed grave misgivings about handing over a blank check to a military that routinely murders innocent people and is never punished.

The time is long overdue to say "enough." With a newly elected government and the demobilization of the

Contras in Nicaragua, the East-West cold war over, and United Nations-sponsored negotiations between the Salvadoran Government and the FMLN finally underway, we can no longer justify a policy of business as usual. It is crucial for the United States to put real pressure on both sides in El Salvador to stay at the bargaining table and respect human rights.

In summary, our bill:

Caps military aid at \$85 million for 1991.

Withholds all military aid to El Salvador if the President determines and reports to Congress that the Government of El Salvador refuses to negotiate a peace settlement; or rejects an active mediation role by the United Nations; or fails to investigate and prosecute those responsible for the Jesuit murders; or engages in acts of violence against civilians.

Requires an act of Congress to resume assistance withheld because of any of these conditions.

Withholds 50 percent of the \$85 million for 1991 and any unexpended military aid from previous years, unless the President determines and reports to Congress that the FMLN refuses to negotiate a peace settlement; or refuses an active mediation role by the United Nations; or conducts a major offensive; or receives a significant amount of lethal equipment from abroad; or engages in acts of violence against civilians.

Converts the 50 percent of withheld aid into a fund to assist with the costs of monitoring a cease-fire, demobilization of combatants, and their transition to peacetime activities.

Prohibits any military aid if the Government of El Salvador is overthrown by a coup.

Requires the prior approval of the President of El Salvador for the delivery of military aid to the armed forces.

Provides \$10 million in economic aid to establish a program of education, training, and dialog to strengthen democratic, political, and legal institutions in El Salvador. Up to \$2 million of these funds may be used to monitor the 1991 elections.

Continues current law by withholding \$5 million in military assistance pending a report from the President certifying significant progress in several human rights cases.

Mr. President, in the past we have tried quiet diplomacy. We have tried threats. This bill will finally send a message that will not be missed by the Salvadoran military or the FMLN. As long as the military supports the negotiations and respects human rights, they will continue to receive our aid.

And, as long as the FMLN does the same, U.S. aid to the military will be reduced by 50 percent. Our bill does not endanger the Salvadoran Government because the reduction in aid is

conditioned on the FMLN staying at the bargaining table and not amassing new supplies of weapons.

Our bill differs from the Moakley-Murtha bill in two important respects. Our 50-percent withhold includes El Salvador's military aid pipeline, as well as the \$85 million for 1991. This means that depending on when this provision becomes law, the amount withheld will be one-half of approximately \$100 to \$130 million, not of \$85 million.

And, we require that these withheld funds be converted into a fund to help the combatants on both sides demobilize and find civilian jobs when the fighting stops. This gives the FMLN and the military an incentive to accept a cease-fire and demobilization. They know they will have help in returning to civilian life.

Mr. President, as chairman of the Foreign Operations Subcommittee I plan to use the Dodd-Leahy bill as the basis for the recommendations on military aid to El Salvador I will make to the Appropriations Committee. I expect to write the bill sometime after Congress reconvenes in September.

Senator Dobb and I have taken this step after initial discussions with the administration on the subject of El Salvador. I wish we could agree on a bipartisan policy on El Salvador. But I think a majority of us have reached the end of the road on finding excuses for Salvadoran human rights violations, military domination of the country, and endless war.

The administration is too far away from our position for me to have much to talk about. If they want to discuss the terms and conditions of a 50-percent withhold of aid, then we have something to discuss. But otherwise, I would expect the full Senate to debate this measure in late September or early October.

By Mr. BIDEN (for himself, Mr. KENNEDY, Mr. CRANSTON, Mr. LEVIN, Mr. D'AMATO, Mr. KERREY, Mr. ADAMS, Mr. AKAKA, and Mr. WIRTH):

S. 2955. A bill to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act to establish a medications development program to promote research, development, and production of pharmacotherapeutics used to treat drug addiction in the United States, and for other purposes; to the Committee on Labor and Human Resources.

PHARMACOTHERAPY DEVELOPMENT ACT

● Mr. BIDEN. Mr. President, I rise to introduce the Pharmacotherapy Development Act of 1990—the Ph.D. Act—legislation to speed the development of medicines to treat drug abuse.

The drug epidemic we face in America is just that: A medical epidemic. There are, of course, other dimensions to this problem: a criminal justice

problem, which must be fought with new resources for police officers, courts, and prisons; an education problem, which must be fought with programs to reach all of our children; and a psychological problem, which must be fought with treatment centers and support groups.

In all of these areas—law enforcement, education, and treatment—we are finally on the road toward making the needed effort to fight drugs in our country.

But the medical dimension of this epidemic remains, by and large, overlooked. Drug addiction is, among other things, a medical ailment—a disease that requires medical treatment. This medical aspect of our drug epidemic has been ignored in our recent anti-drug efforts.

Put another way: If drug addiction is an epidemic—as we often say it is—what are we doing to find a cure?

In this sense, we need to look at drug addiction the way we looked at AIDS a few years ago. With AIDS, we recognized that public education and prevention campaigns were our most important tools in battling the disease. The same is, of course true for drug abuse: Our most important priority is to educate our youth to prevent them from using drugs in the first place.

But with AIDS, we have gone a step further, and launched a massive effort to find a medical cure for sufferers of that disease—and a vaccine that can protect all of us from getting it in the future.

This sort of next step has not yet been taken with drug addiction.

The Judiciary Committee released a staff report in December—"Pharmacology: A Strategy for the 1990's"—which was based on several months' study and contributions from more than a dozen of the Nation's top experts on this research. The report indicates that there has been hopeful research on medicines to treat drug abuse. But, this report also makes clear that unless we take action, these medicines will not reach drug addicts until well into the next century.

We do not have to start from scratch in this effort. Some medical treatments for drug addiction—such as methadone—have been around for decades. And other treatments—perhaps more promising ones—have been identified by researchers and are now being developed and tested.

In fact, the Judiciary Committee report identified eight promising medicines to treat heroin and cocaine addicts. Most of these eight medicines have proven results from clinical tests or practical experience. We know that addicts treated with these medicines will commit fewer crimes, hold on to jobs or remain in school, and make significant steps toward putting their lives back in order.

But more work must be done before these eight drugs can deliver their full potential.

Moreover, beyond these eight medicines are dozens more—medicines that are promising but unproven. And farther away still are hundreds of possible treatments—including, most importantly, a complete blocker for cocaine. Such a medicine would prevent an addict from enjoying that drug's positive effects altogether.

Many steps must be taken to deliver on this promise. Incentives are necessary to attract academic research and private sector development of medicines. The regulatory process must be accelerated. The current 10½-year delay between the time a medicine is discovered and the time it is given to addicts as a treatment is unacceptable.

And, most important of all, we must have a Government commitment to this research. The administration requests only \$40 million more for this research in 1991—just \$4 million more than we spent in 1990 and barely enough to study 4 of 30 promising medicines.

Today I am introducing legislation to implement the recommendations of the Judiciary Committee report. I am honored to be joined by Senators KENNEDY, CRANSTON, LEVIN, D'AMATO, KERREY, ADAMS, WIRTH, and AKAKA.

I am particularly honored that Senator KENNEDY is cosponsoring this legislation. The esteemed chairman of the Senate Labor and Human Resources Committee is the Senate's leading and most knowledgeable spokesman on behalf of drug treatment. Senator KENNEDY's efforts have ensured that drug treatment is today, and will continue to be, an equal partner in the Nation's struggle against drugs.

The legislation I propose today would establish a \$1 billion, 10-year Federal effort to conduct research on promising drug treatment medicines. This effort should be conducted by a revamped "medications development program" at the National Institute on Drug Abuse. Such a program exists now, but it must be greatly expanded and strengthened. We need a massive research operation to help stem the drug epidemic, and we need it now.

This legislation would extend patent protections to cover drug treatment medicines. Senator KENNEDY and I introduced an amendment to this effect in October, which passed the Senate but has not yet passed the House. We must provide these incentives to get the private sector more actively involved in this effort.

Our third proposal is to reform the regulatory process to speed up the pace at which newly discovered medicines are brought to market. Again, this is something that is being done for AIDS treatments, and should be extended to cover drug addiction medicines as well. While we should not sac-

rifice safety, we should recognize that sometimes our failure to get treatments out quickly takes more lives than we save due to our cumbersome approval process.

We cannot afford to wait any longer to have a national pharmacology strategy. The promise is there, the need is urgent, and we must start right away. Thank you.

I ask unanimous consent that a copy of the bill, along with a section-by-section analysis of this legislation, appear in the RECORD following my statement.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2955

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pharmacotherapy Development Act of 1990".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.

TITLE I—FEDERAL MEDICATION DEVELOPMENT PROGRAM

Sec. 101. Establishment of Medications Development Division.
Sec. 102. Authorization of appropriations.

TITLE II—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

Sec. 201. Drugs for the treatment of addictions.

TITLE III—MEDICATIONS REVIEW PROCESS REFORM

Sec. 301. Investigational new drugs.
Sec. 302. Paralled track trials for pharmacotherapeutic.
Sec. 303. Waiver of mechanism of action requirement.
Sec. 304. Definition.

TITLE IV—HIGH PRIORITY RESEARCH AREAS

Sec. 401. Sense of Congress.

TITLE V—REPORT BY THE SURGEON GENERAL

Sec. 501. Report by the Surgeon General.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—
(1) drug addiction is a disease of epidemic proportions in the United States;
(2) current efforts to treat the disease of addiction are inadequate; and
(3) pharmacotherapy, the use of medicines to treat the disease of addiction, is one promising method of drug treatment, and the development of such medicines must be more aggressively promoted by the Federal Government.

(b) PURPOSE.—It is the purpose of this Act to promote research, development, and production of pharmacotherapeutics used to reduce the prevalence of drug addiction in the United States.

TITLE I—FEDERAL MEDICATION DEVELOPMENT PROGRAM

SEC. 101. ESTABLISHMENT OF MEDICATION DEVELOPMENT DIVISION.

Section 515 of the Public Health Service Act (42 U.S.C. 290cc) is amended to read as follows:

"SEC. 515. PHARMACOTHERAPEUTICS DEVELOPMENT DIVISION.

"(a) ESTABLISHMENT.—There is established in the National Institute on Drug Abuse a Division to be known as the 'Medications Development Division' (hereinafter in this section and section 515A referred to as the 'Division').

"(b) ORGANIZATION.—

(1) DIRECTOR.—The Division shall be headed by a Director appointed by the Director of the National Institute on Drug Abuse on the basis of scientific merit.

(2) STAFFING.—The Director of the Division (hereinafter in this section and section 515A referred to as the 'Director') may appoint one or more Deputy Directors and shall employ administrators and researchers on the basis of scientific merit.

"(c) DUTIES.—The Director shall—

"(1) in consultation with the Commissioner of Food and Drugs, establish, not later than 1 year after the date of enactment of this section, new guidelines for the safety and efficacy trials of medications to treat drug addiction, with such guidelines to be implemented by the Commissioner of Food and Drugs in accordance with subchapter C of chapter V of the Federal Food, Drug and Cosmetic Act;

"(2) conduct periodic meetings with the Commissioner of Food and Drugs to discuss other measures that may facilitate the approval process of drug addiction treatments;

"(3) encourage and promote (through grants, contracts, or otherwise) expanded research programs, investigations, experiments, and studies, into the development of medications to treat drug addiction;

"(4) establish, or provide for establishment of, clinical research facilities to carry out this section;

"(5) track the activities of the National Institutes of Health relating to the development and use of pharmacotherapeutic treatments for drug addiction;

"(6) collect, analyze, and disseminate data useful in the development and use of pharmacotherapeutic treatments for drug addiction and seek the establishment of an international research data bank to collect, catalog, analyze, and disseminate through international channels, the results of research undertaken in any country concerning pharmacotherapeutic treatments for drug addiction; and

"(7) support training in the fundamental sciences and clinical disciplines related to the pharmacotherapeutic treatment of drug addiction, including the use of training stipends, fellowships, and awards where appropriate.

"(d) ADMINISTRATION.—In carrying out the activities described in subsection (c), the Director may—

"(1) collect and disseminate through publications and other appropriate means, information pertaining to the research and other activities under this section;

"(2) make grants to or enter into contracts and cooperative agreements with individuals and public and private entities to further the goals of the Division;

"(3) acquire, construct, improve, repair, operate, and maintain pharmacotherapeutic centers, laboratories, research, and other necessary facilities and equipment, and related accommodations as may be necessary;

"(4) acquire, without regard to Act of March 3, 1877 (4) U.S.C. 34), by lease or otherwise through the Administrator for the General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the Dis-

trict of Columbia for the use of the Division for a period not to exceed 10 years;

"(5) accept voluntary and uncompensated services;

"(6) accept gifts, or donations of services, money, or property, real, personal, or mixed, tangible or intangible; and

"(7) take necessary action to ensure that all channels for the dissemination and exchange of scientific knowledge and information are maintained between the Division and the other scientific, medical, and biomedical disciplines and organizations nationally and internationally.

"(e) REPORTS.—

"(1) **IN GENERAL.**—Not later than December 31, 1990, and each December 31 thereafter, the Director shall submit to the Office of National Drug Control Policy established under section 1002 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1501) a report, in accordance with paragraph (3), that describes the objectives and activities of the Division.

"(2) **INCORPORATION INTO NATIONAL DRUG CONTROL STRATEGY.**—The Director of National Drug Control Policy shall incorporate, by reference or otherwise, each report submitted under this subsection in the National Drug Control Strategy submitted the following February 1 under section 1005 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 1504).

"(3) **ADDITIONAL REPORTS.**—The Director may prepare additional reports as appropriate.

"(f) PEER REVIEW.—

"(1) **IN GENERAL.**—The Director shall, by regulation, provide for the proper scientific review of all research grants, cooperative agreements, and contracts over which the Director has authority by—

"(A) utilizing, to the extent practicable, appropriate peer review groups established within the National Institute on Drug Abuse and composed primarily of non-Federal scientists and other experts in the scientific and disease fields; and

"(B) when appropriate, by establishing, with the approval of the Director of the National Institute on Drug Abuse, other formal peer review groups as may be required."

SEC. 102. AUTHORIZATION OF APPROPRIATIONS.

Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended to read as follows:

"SEC. 517. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out section 515—

"(1) \$60,000,000 for fiscal year 1991;

"(2) \$70,000,000 for fiscal year 1992;

"(3) \$85,000,000 for fiscal year 1993;

"(4) \$100,000,000 for fiscal year 1994;

"(5) \$110,000,000 for fiscal year 1995; and

"(6) \$115,000,000 for each of the fiscal years 1996 through 2000."

TITLE II—PRIVATE SECTOR DEVELOPMENT OF PHARMACOTHERAPEUTICS

SEC. 201. DRUGS FOR THE TREATMENT OF ADDICTIONS.

Chapter V of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 351 et seq.) is amended by adding at the end thereof the following new subchapter:

"SUBCHAPTER C—DRUGS FOR THE TREATMENT OF ADDICTION TO ILLEGAL DRUGS

"SEC. 529A. RECOMMENDATIONS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF ADDICTIONS TO ILLEGAL DRUGS.

"(a) **IN GENERAL.**—The sponsor of a drug for the treatment of addiction to illegal

drugs may request the Secretary to provide written recommendations for the nonclinical and clinical investigations that must be conducted with the drug before—

"(1) it may be approved for treatment of such addiction under section 505;

"(2) if the drug is an antibiotic, it may be certified for treatment of such addiction under section 507; or

"(3) if the drug is a biological product, it may be licensed for treatment of such addiction under section 351 of the Public Health Service Act.

"(b) **RECOMMENDATIONS FOR INVESTIGATIONS.**—If the Secretary has reason to believe that a drug for which a request is made under this section is a drug for the treatment of addiction to illegal drugs, the Secretary shall provide the person making the request with written recommendations for the nonclinical and clinical investigations that the Secretary believes, on the basis of information available to the Secretary at the time of the request under this section, would be necessary for approval of such drug for treatment of such addiction under section 505, certification of such drug under section 507, or licensing of such drug under section 351 of the Public Health Service Act.

"(c) **REGULATIONS.**—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a) and (b).

"SEC. 529B. DESIGNATION OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) **IN GENERAL.**—

"(1) **REQUEST.**—The manufacturer or the sponsor of a drug may request the Secretary to designate the drug as a drug for the treatment of addiction to illegal drugs. A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act. If the Secretary finds that a drug for which a request is submitted under this subsection is being or will be investigated for the treatment of addiction to illegal drugs and—

"(A) if an application for such drug is approved under section 505;

"(B) if a certification for such drug is issued under section 507; or

"(C) if a license for such drug is issued under section 351 of the Public Health Service Act; the approval, certification, or license would be for use for treatment of such addiction, the Secretary may designate the drug as a drug for the treatment of an addiction to illegal drugs. A request for a designation of a drug under this subsection shall contain the consent of the applicant to notice being given by the Secretary under subsection (c) respecting the designation of the drug.

"(2) **DEFINITION.**—As used in paragraph (1)—

"(A) the term 'drugs for the treatment' means those pharmacological agents or medications that—

"(i) block the effects of abused drugs;

"(ii) reduce the craving for abused drugs;

"(iii) moderate or eliminate withdrawal symptoms;

"(iv) block or reverse the toxic effects of abused drugs; or

"(v) prevent, under certain conditions, the initiation of drug abuse;

"(B) the term 'addiction' means the state of an individual where that individual habit-

ually uses an illegal drug in a manner that endangers the public morals, health, safety, or welfare, or who is so addicted to the use of illegal drugs that such individual loses the power of self-control with reference to such the addition of such individual; and

"(C) the term 'illegal drugs' means a controlled substance, as defined in section 202 of the Controlled Substance Act (21 U.S.C. 812) the possession or distribution of which is unlawful under such Act.

"(b) **CONDITIONS.**—A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.

"(c) **NOTICE.**—Notice respecting the designation of a drug under subsection (a) shall be made available to the public.

"(d) **REGULATION.**—The Secretary shall by regulation promulgate procedures for the implementation of subsections (a), (b), and (c).

"SEC. 529C. PROTECTION FOR DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"(a) **IN GENERAL.**—Except as provided in subsection (b), if the Secretary—

"(1) approves an application filed pursuant to section 505;

"(2) issues a certification under section 507; or

"(3) issues a license under section 351 of the Public Health Service Act;

for a drug designated under section 529A for the treatment of addiction to illegal drugs, the Secretary may not approve another application under section 505, issue another certification under section 507, or issue another license under section 351 of the Public Health Service Act for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license until the expiration of 7 years from the date of the approval of the approved application, the issuance of the certification, or the issuance of the license. Section 505(c)(2) does not apply to the refusal to approve an application under the preceding sentence.

"(b) **ISSUANCE OF ANOTHER LICENSE, APPLICATION, OR CERTIFICATION.**—If an application filed pursuant to section 505 is approved for a drug designated under section 529A for the treatment of addiction to illegal drugs, if a certification is issued under section 507 for such a drug, or if a license is issued under section 351 of the Public Health Service Act for such a drug, the Secretary may, during the 7-year period beginning on the

date of the application approval, of the issuance of the certification under section 507, or of the issuance of the license, approve another application under section 505, issue another certification under section 507, or issue a license under section 351 of the Public Health Service Act, for such drug for the treatment of such addiction for a person who is not the holder of such approved application, of such certification, or of such license if—

"(1) the Secretary finds, after providing the holder notice and opportunity for the submission of views, that in such period the holder of the approved application, of the certification, or of the license cannot assure the availability of sufficient quantities of the drug to meet the needs of persons with such addictions for which the drug was designated; or

"(2) such holder provides the Secretary in writing the consent of such holder for the approval of other applications, issuance of other certifications, or the issuance of other licenses before the expiration of such 7-year period.

"SEC. 529D. OPEN PROTOCOLS FOR INVESTIGATIONS OF DRUGS FOR THE TREATMENT OF AN ADDICTION TO ILLEGAL DRUGS.

"If a drug is designated under section 529A as a drug for the treatment of addiction to illegal drugs and if notice of a claimed exemption under section 505(i) or regulations issued thereunder is filed for such drug, the Secretary may encourage the sponsor of such drug to design protocols for clinical investigations of the drug which may be conducted under the exemption to permit the addition to the investigations of persons with such addictions who need the drug to treat such addiction and who cannot be satisfactorily treated by available alternative drugs.

"SEC. 529E. ENFORCEMENT.

"The provisions of title III relating to the breach of an exclusive marketing agreement shall apply to this subchapter.

"SEC. 529F. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subchapter, such sums as may be necessary in each of the fiscal years 1990 through 1992."

TITLE III—MEDICATIONS REVIEW PROCESS REFORM

SEC. 301. INVESTIGATIONAL NEW DRUGS.

(a) **SUBMISSION OF APPLICATION.**—Notwithstanding subpart B of part 312 of title 21, Code of Federal Regulations, in implementing the procedures required under subsection (b), the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit an entity submitting an investigational new drug application or protocol for medications to treat drug addiction to provide the information required by the Secretary as such information becomes available to such entity. The Secretary may permit such applications or protocols to be submitted in parts. If the Secretary withholds approval of any part of such application or protocol, the Secretary may require that the applying entity resubmit only that portion of such application or protocol that was not approved. Not later than 30 days after an entity submits such an application or protocol or part thereof, the Secretary shall notify such entity concerning the approval or rejection of such application or protocol or part thereof, and if such notification is not provided approval will be automatic.

(b) **APPLICATION OF PROCEDURES.**—The Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, shall apply investigational new drug procedures under part 312 of title 21, Code of Federal Regulations, to encourage the development and use of medications to treat drug addiction. The Secretary may waive the requirements contained in part 312.34(b)(1)(ii) of title 21, Code of Federal Regulations, if the Secretary determines that such a waiver is appropriate.

SEC. 302. PARALLEL TRACK TRIALS FOR MEDICATIONS TO TREAT DRUG ADDICTION.

(a) **IN GENERAL.**—In encouraging the development and marketing approval of medications to treat drug addiction, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may permit parallel track trials to be used to permit access to such drugs in a manner similar to that applied to certain medications to treat individuals infected with the human immunodeficiency virus.

(b) **DEFINITION.**—As used in this section the term "parallel track trials" means the procedures used by the Food and Drug Administration under part 312.35 of title 21, Code of Federal Regulations.

SEC. 303. WAIVER OF MECHANISM OF ACTION REQUIREMENT.

Notwithstanding any other provision of law, the Secretary of Health and Human Services, acting through the Commissioner of the Food and Drug Administration, may waive the application of the mechanism of action requirement for marketing approval of medications to treat drug addiction.

SEC. 304. DEFINITION.

As used in this chapter, the term "pharmacotherapeutics" means medications used to treat the symptoms and disease of drug addiction, including medications to—

- (1) block the effects of abused drugs;
- (2) reduce the craving for abused drugs;
- (3) moderate or eliminate withdrawal symptoms;
- (4) block or reverse the toxic effect of abused drugs; and
- (5) prevent, under certain conditions, the initiation of drug abuse.

TITLE IV—HIGH PRIORITY RESEARCH AREAS

SEC. 401. SENSE OF CONGRESS.

It is the sense of Congress that the Medications Development Division of the National Institute on Drug Abuse shall devote special attention and adequate resources to achieve the following urgent goals—

- (1) the development of a methadone alternative;
- (2) the development of a long-acting narcotic antagonist;
- (3) the development of a cocaine-blocking treatment;
- (4) the development of a cocaine-blocker/narcotic antagonist treatment;
- (5) the development of medications to treat addiction to drugs that are becoming increasingly prevalent, such as methamphetamine; and
- (6) the development of medications to treat pregnant addicts and their fetuses.

TITLE V—REPORT BY THE SURGEON GENERAL

SEC. 501. REPORT BY THE SURGEON GENERAL.

(a) **PHARMACOTHERAPY REVIEW PANEL.**—Not later than 120 days after the date of enactment of this Act, the Director of the Division established under section 515 of the Public Health Service Act (as amended by

section 7011) shall establish a panel of independent experts in the field of pharmacotherapeutic treatment of drug addiction to assess the national strategy for developing such treatments and to make appropriate recommendations for the improvement of such strategy.

(b) **REPORT.**—Not later than January 1, 1992, the Surgeon General of the United States shall prepare and submit, to the appropriate Committees of Congress, a report that sets forth—

- (1) the recommendations of the panel established under subsection (a);
- (2) the state of the scientific knowledge with respect to pharmacotherapeutic treatment of drug addiction;
- (3) the assessment of the Surgeon General of the progress of the nation toward the development of safe, efficacious pharmacological treatments for drug addiction; and
- (4) any other information determined appropriate by the Surgeon General.

(c) **AVAILABILITY.**—The report prepared under subsection (b) shall be made available for use by the general public.

SECTION-BY-SECTION ANALYSIS OF THE PHARMACOTHERAPY DEVELOPMENT ACT OF 1990

This legislation may be referred to by its popular name, the "Ph.D. Act."

SUBTITLE A—PHARMACOLOGICAL RESEARCH

This subtitle establishes a Medications Development Division within the National Institute on Drug Abuse of the Department of Health & Human Services. The Division would develop medications to treat drug addiction. The Division would have the authority to make grants and enter into contracts to research, test, and develop such medications.

This subtitle authorizes \$60 million in fiscal year 1991 funding for the Medications Development Division; a total of \$1 billion for fiscal years 1991 through 2000. The Administration's FY1991 request for this research is \$40 million; \$4 million more than the FY1990 budget. The Administration's request is insufficient—one year's research on a single medicine costs about \$1 million, however NIDA researchers have identified 30 new medications for development.

The decade-long funding plan offers the long-term commitment necessary to develop these medications.

SUBTITLE B—PRIVATE SECTOR INCENTIVES

This subtitle provides incentives to the private sector to develop medications to treat drug addiction. These incentives, modeled after the Orphan Drug Act, were passed by the Senate last year (in an amendment by Senators Kennedy and Biden to S.1711.) The Secretary of Health and Human Services, acting through the Administrator of the Food & Drug Administration, may grant special patent protections to companies who develop and market such medications.

SUBTITLE C—REFORM OF MEDICATIONS REVIEW PROCESS

This subtitle offers reforms to speed the delivery of these medications to drug addicts. The "Investigational New Drugs" provision gives some patients access to these medications before they receive final FDA approval. "Parallel Track Trials" would allow researchers access to medications that have proven safe, but not yet completed FDA's efficacy testing. These procedures will quicken the FDA's approval process, that currently takes an average of 10.5 years.

SUBTITLE D—HIGH PRIORITY RESEARCH AREAS

This subtitle identifies a few priorities for the Medications Development Program, including medications to treat pregnant addicts and their fetuses, cocaine addicts, those suffering from combined heroin and cocaine addiction, and medications to treat addictions to drugs which are becoming increasingly prevalent, such as methamphetamine.

SUBTITLE E—SURGEON GENERAL'S REPORT

This subtitle directs the Surgeon General to prepare a report on pharmacotherapeutic treatments of drug addiction by January 1, 1992.

By Mr. D'AMATO (for himself and Mr. DOLE):

S. 2957. A bill entitled the "Criminal Alien Deportation and Exclusion Act"; to the Committee on the Judiciary.

CRIMINAL ALIEN DEPORTATION AND EXCLUSION ACT

Mr. D'AMATO. Mr. President, early in the morning of July 16, a riot involving 40 criminal aliens took place inside an Immigration and Naturalization Service detention center in New York City. This riot, which resulted in the injury of two detention officers, dramatizes how INS detention centers across this country have become powder kegs of violence.

The system for deporting criminal aliens simply does not work. To address what has become a serious crisis, I am introducing, together with Senator DOLE, the Criminal Alien Deportation and Exclusion Act. This bill expands on the deportation legislation I introduced two years ago as part of the Anti-Drug Abuse Act of 1988.

In the New York City detention center, over 200 criminal aliens have been convicted of over 650 crimes, including 204 convictions for the sale of narcotics; 63 convictions for weapons offenses; 22 convictions for robbery; and 7 convictions for murder and attempted murder.

According to INS, the cost to the taxpayer of keeping 3,300 criminal aliens in detention is nearly \$50 million a year.

There is a national backlog of 240,000 deportation and exclusion and other cases pending in immigration courts nationwide.

According to the October 1989 GAO report entitled, "Immigration Control: Deporting and Excluding Aliens from the United States":

Over the past 3 years, only about 22,000 aliens have been deported each year. That is only about 1 to 2 percent of the total estimated deportable alien population of 1.2 to 2.2 million potentially deportable aliens—page 16, GAO report.

In New York and Los Angeles, 59 percent of deportation cases take more than 1 year to complete from the time of apprehension to an immigration judge's decision;

When a decision is appealed to the Board of Immigration Appeals, 81 per-

cent take more than 2 years; 21 percent of the cases take more than 5 years to resolve; and exclusion cases appealed to the Board of Immigration Appeals generally take 3 years to resolve.

The bill Senator DOLE and I are introducing will eliminate many of the outrageous claims that criminal aliens make to fight deportation.

For example, criminal aliens today can seek a waiver of deportation if they can show 7 years of unrelinquished domicile in the United States. For many criminals, obviously, their domicile has been a prison, and for them to seek a waiver of deportation based on a 7-year prison term is unconscionable. Section 8 of our bill closes that loop hole.

Section 10 of our bill will put an end to the practice whereby aliens convicted of murder, and gun and drug trafficking, can now claim that their good moral character should prevent their deportation.

Mr. President, the system clearly tilts too far in the direction of helping criminal aliens. It is time to restore balance to the system to protect innocent law-abiding citizens from murderers and drug dealers.

I therefore urge my colleagues to give the Criminal Alien Deportation and Exclusion Act their full support, and I ask unanimous consent that the full text of the bill, together with a section-by-section analysis be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2957

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INS GENERAL ARREST AUTHORITY.

Section 287 of the Immigration and Nationality Act of 1952 (66 Stat. 233) is amended by adding the following at the end thereof:

"(f)(1) Under the direction of the Attorney General, agents and officers of the Immigration and Naturalization Service are authorized to:

(A) carry a firearm;

(B) execute and serve any order, warrant, subpoena, summons or other process issued under the authority of the United States;

(C) make an arrest without a warrant for any offense against the United States committed in the officer's presence, or for a felony cognizable under the laws of the United States committed outside the officer's presence, if the officer has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; and

(D) perform any other law enforcement duty that the Attorney General may designate.

(2) The authority conferred by subsection (f)(1) of this section does not affect the investigative jurisdiction of any other federal law enforcement agency."

SEC. 2. DEFINITION OF AGGRAVATED FELONY.

Section 101(a)(43) (8 U.S.C. 1101(a)(43)) of the Immigration and Nationality Act of 1952 is amended to read as follows:

"(43) The term 'aggravated felony' means any crime that has as an element the use, attempted use, or threatened use of physical force against the person or property of another that is punishable by imprisonment of five years or more; any crime involving a controlled substance (as defined in section 102 of the Controlled Substances Act, 21 U.S.C. 802) that is punishable by imprisonment of one year or more; any crime involving illicit trafficking in any firearms or destructive devices as defined in section 921 of title 18, United States Code; or any attempt or conspiracy to commit any such crime committed within the United States. For the purposes of this subsection, the term 'crime' includes violations of federal or state laws or statutes."

SEC. 3. ADDITIONS TO CLASSES OF ALIENS INELIGIBLE TO RECEIVE VISAS AND EXCLUDED FROM ADMISSION.

Section 212(a) (8 U.S.C. 1182(a)) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsections:

"(35) Any nonimmigrant alien seeking admission who is in illicit possession of a controlled substance (as defined in section 102 of the Controlled Substance Act, 21 U.S.C. 802);"

"(36) Any alien who has been convicted of an aggravated felony, as defined in section 101(a)(43) of this Act, or who admits having committed such a crime, or who admits committing acts which constitute the essential elements of such a crime."

SEC. 4. SUMMARY EXCLUSION AND DEPORTATION OF CRIMINAL ALIENS.

Section 235 (8 U.S.C. 1225) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsection:

"(d) any alien (including an alien crewman) who may appear to the examining immigration officer or to the special inquiry officer during an examination before either of such officers to be excludable under paragraphs (23), (35), or (36) of section 212(a) of this Act may be ordered summarily excluded and deported by the Attorney General without any inquiry or further inquiry by a special inquiry officer. Such summary exclusion order shall have the same effect as if the alien had been ordered excluded and deported pursuant to section 236 of this Act. Nothing in this subsection shall be regarded as requiring an inquiry before a special inquiry officer in the case of an alien crewman."

SEC. 5. EXPEDITIOUS DEPORTATION OF AGGRAVATED ALIEN FELONS.

Section 242A (8 U.S.C. 1252a) of the Immigration and Nationality Act of 1952 is amended by adding at the end thereof the following new subsections:

"(f) Notwithstanding any other provision of law, an alien convicted of an aggravated felony, regardless of whether such alien is incarcerated, shall be subject to an expedited summary deportation proceeding. Such proceeding shall be conducted on the record by the Attorney General or his designee, who will make written findings as to alienage and deportability. Any order of deportation issued pursuant to this subsection shall be considered to be a final order. An alien subject to such proceeding shall not be eligible for relief from deportation under any

provision of the Immigration and Nationality Act.

"(g) Upon sentencing any alien for an aggravated felony as defined in section 101(a)(43) of this Act, the federal or state court shall notify the Immigration and Naturalization Service that it has sentenced a person believed to be an alien for an aggravated felony. The federal or state court shall provide to the Immigration and Naturalization Service any and all information related to the alienage of the individual, and certified copies of any and all conviction documents."

SEC. 6. INELIGIBILITY OF AGGRAVATED FELONS FOR ASYLUM.

Section 208(a) (8 U.S.C. 1158(a)) of the Immigration and Nationality Act of 1952 is amended by adding the following new subsection:

"(d) Any alien convicted of an aggravated felony, as defined in section 101(a)(43) of this act, shall not be eligible to apply for relief under this section."

SEC. 7. ELIMINATION OF JUDICIAL RECOMMENDATION AGAINST DEPORTATION OF CRIMINAL ALIENS.

Subsection 241(b) (8 U.S.C. 1251(b)) of the Immigration and Nationality Act of 1952 is amended by deleting "(1)"; and by deleting ", or (2)" and all that follows, and replacing it with a period.

SEC. 8. ELIMINATION OF SEC. 212(C) RELIEF FOR AGGRAVATED FELONS.

Section 212(c) (8 U.S.C. 1182(c)) of the Immigration and Nationality Act of 1952 is amended by adding, at the end thereof, the following:

"Relief under this subsection shall not be available to any alien who has been convicted of an aggravated felony as defined in section 101(a)(43) of this Act."

SEC. 9. ELIMINATION OF SUSPENSION OF DEPORTATION FOR CRIMINAL ALIENS IN HARDSHIP CASES.

Section 244(a) (8 U.S.C. 1254(a)) of the Immigration and Nationality Act of 1952 is amended by striking the words in the first sentence "(other than an alien described in section 241(a)(19) of this Act)" and substituting therefor the following: "(other than an alien described in section 241(a)(4)(B) or 241(a)(19) of this Act)".

Section 244(a)(2) is amended by adding after "(4)" the following: "(A)".

SEC. 10. DEFINITION OF GOOD MORAL CHARACTER TO EXCLUDE AGGRAVATED FELONS.

Section 101(f) (8 U.S.C. 1101(f)) of the Immigration and Nationality Act of 1952 is amended by adding the following subsection:

"(9) One who at any time has been convicted of an aggravated felony as defined in section 101(a)(43) of this Act."

SEC. 11. INELIGIBILITY OF AGGRAVATED FELONS FOR HARDSHIP WAIVERS.

Section 212(h) (8 U.S.C. 1182(h)) of the Immigration and Nationality Act of 1952 is amended:

(a) by adding at the end the following: "Any alien convicted of an aggravated felony as defined in section 101(a)(43) of this Act is not eligible for relief under this section.";

(b) by replacing the period at the end of section 101(f)(8) with a semicolon.

SEC. 12. ELIMINATION OF DEPORTATION RELIEF FOR ALIENS WHO ARE AGGRAVATED FELONS.

(a) Section 243(h)(2) (8 U.S.C. 1253(h)(2)) of the Immigration and Nationality Act of 1952 is amended by adding the following paragraph:

"(E) The alien has been convicted of an aggravated felony as defined under section 101(a)(43) of this Act."

(b) Section 245(c) (8 U.S.C. 1255(c)) of the Immigration and Nationality Act of 1952 is amended by replacing the period at the end thereof the following new subsection:

"(5) Any alien convicted of an aggravated felony as defined under section 101(a)(43) of this Act."

(c) Section 249 (8 U.S.C. 1259) of the Immigration and Nationality Act of 1952 is amended by adding at the end the following:

"Any alien convicted of an aggravated felony as defined under section 101(a)(43) of this Act is not eligible for relief under this section."

SECTION-BY-SECTION ANALYSIS

Section 1 provides, subject to Justice Department implementing regulations, for basic law enforcement powers for INS officers, such as the right to carry firearms and make arrests. INS officers make over 1 million arrests per year for immigration offenses. During the course of those arrests, they often encounter other violations of law, principally narcotics and customs violations.

Today, INS officers can only effect a citizen's arrest under State law for these offenses. INS officers are Federal officers, enforcing Federal laws. They deserve Federal arrest authority.

Section 2 expands the definition of aggravated felonies that trigger the summary exclusion and speedy deportation process to cover both State and Federal crimes of violence punishable by imprisonment of 5 years or more, and to cover State and Federal drug felonies.

Section 3 adds two classes of aliens, non-immigrants in illicit possession of drugs, and aliens who have committed aggravated felonies, who are ineligible to receive visas and who are not permitted to enter the United States.

For these two classes of criminals, Section 4 provides for a summary exclusion process whereby the Justice Department, instead of an immigration judge and the Board of Immigration Appeals, can rule on excludability.

The present exclusion system is excessively cumbersome and time-consuming. While there would be no administrative review of the exclusion order provided for under this bill, civil liberties protections are still available through the judicial review process provided for under section 106 of the Immigration and Nationality Act.

Section 5 of this bill subjects an alien convicted of an aggravated felony to an expedited deportation process, whereby the Justice Department, instead of an immigration judge and the Board of Immigration Appeals, can rule on the deportability of the criminal alien. Again, civil liberties are protected under the judicial review process provided for under section 106 of the Immigration and Nationality Act.

Finally, Sections 6 through 12 of the bill close a number of loopholes in current law favoring the criminal.

Section 6 makes aliens convicted of murder and other aggravated felonies ineligible to seek asylum under section 208 of the Immigration and Nationality Act.

Section 7 eliminates the ability of sentencing judges under section 241(b) of the Immigration and Nationality Act to recommend against the deportation of an alien convicted of an aggravated felony.

Today, criminal aliens can seek a waiver of deportation if they can show 7 years of unrelinquished domicile in the United States under section 212(c) of the Immigration and Nationality Act. For many criminals, obviously, their domicile has been a prison, and for them to seek a waiver of deportation based on a 7-year prison term is unconscionable. Section 8 closes that loophole.

Section 9 makes criminal aliens ineligible to have their deportation suspended under section 244(a) of the Immigration and Nationality Act if they can show 10 years of physical presence in the United States, and if their removal would cause hardship to family members in the United States.

Section 10 of the Criminal Alien Deportation Act makes aliens convicted of aggravated felonies like murder, and gun and drug trafficking, ineligible to claim good moral character to avoid deportation, since, by definition such individuals clearly lack good moral character.

Section 11(h) of the Immigration and Nationality Act waives certain criminal grounds of exclusion for an alien who is the spouse, parent or son or daughter of a U.S. citizen or lawful resident of the United States if the exclusion would result in extreme hardship to the relative. Section 11 of the Criminal Alien Deportation and Exclusion Act denies this means of avoiding deportation and exclusion to aliens convicted of murder, drug trafficking, and other aggravated felonies.

Finally, Section 12 amends sections 243(h), 245, and 249 of the Immigration and Nationality Act to bar aggravated felons from relief from deportation and other benefits. For example, section 243(h)(2) of the Immigration and Nationality Act provides aliens with relief from deportation based on fear of persecution on account of race, religion, nationality, membership in a particular social group, or political opinion. Section 12 says aliens convicted of murder, drug trafficking, and other aggravated felonies do not deserve such relief.

The amendment to section 245 of the Immigration and Nationality Act prohibits a convicted aggravated felon from the benefit of adjustment of status in the United States: from that of a nonimmigrant alien to that of an alien lawfully admitted for permanent residence.

Finally, the amendment to section 249 of the Immigration and Nationality Act bars a convicted aggravated felon who entered the United States prior to January 1, 1972, from recordation of admission for lawful residence.

By Mr. LEVIN (for himself, Mr. COATS, Mr. LUGAR, and Mr. HARKIN):

S. 2958. A bill to provide for the resumption of certain Medicare case management demonstration projects; to the Committee on Finance

MEDICARE CASE MANAGEMENT DEMONSTRATION PROJECTS

● Mr. LEVIN. Mr. President, last year Congress repealed the 1988 Medicare Catastrophic Coverage Act. While that bill contained a number of provisions which proved costly to many of our Nation's elderly citizens, an unintended consequence was that a very important measure was also repealed that should be restored. Under the original proposal, section 301(a) au-

thorized the Secretary of Health and Human Services to carry out case management demonstrations—a combination of activities designed to insure appropriate use of medical care facilities; improve quality of care; control or reduce cost; insure proper referrals; and manage patient's episodes of care, disability, and rehabilitation.

The intent of the projects is to provide the Secretary and the Congress with the information necessary to: First, evaluate the appropriateness of providing case management services under the Medicare Program for Medicare beneficiaries with high costs of medical care; and second, to determine the most effective approach to implementing a case management system under the program for such beneficiaries.

Under section 301(a), health organizations in four States—Michigan, Iowa, Indiana, and Massachusetts—were awarded case management demonstration projects. Three of the projects were well underway when the recipients were informed that due to repeal, the Health Care Financing Administration would not be renewing their funding. The provision further provided a \$2 million authorization level for each of 2 fiscal years for administrative costs in carrying out the projects.

I am very pleased that Senator COATES, Senator LUGAR, and Senator HARKIN have joined me today in introducing legislation which would reauthorize these very vital projects.

The spiraling cost of health care has presented many challenges to government and to providers; we must continue to improve health care services for the elderly while controlling the cost of such measures. For this reason, it is crucial that we allocate funds to explore innovations which would reduce the cost of health care for current and future Medicare recipients, and which at the same time would provide more extensive care for the elderly using existing facilities.

The 1988 Medicare Catastrophic Coverage Act provided funds for such programs. It is imperative, Mr. President, that we recognize the importance of these projects and provide the resources necessary to permit them to proceed. I am sure my colleagues would agree that assuring Medicare recipients of the best and most cost-efficient health care should be among our priorities. It we seek to increase the availability of health care options for our Nation's elderly, we must invest in projects which are intended to locate areas of improvement.

Mr. President, hundreds of hours have been devoted to developing and refining the design and protocol for these projects. Providence Hospital has launched a comprehensive plan to inform all of the hospital's geriatric and primary care physicians about the

project and the protocols to be implemented. In addition, they have developed a strategy for informing external agencies—such as nursing homes and home health care agencies—that will play a key role in the success of the project. The program will involve and benefit elderly patients in Michigan's Oakland County, northwest Wayne County, and southeast Livingston County. More importantly, the results of the project will benefit the Nation.

The following report reflects the progress Providence Hospital had made by the time that the case management demonstrations were repealed. I ask unanimous consent that it be included in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PROVIDENCE HOSPITAL, SOUTHFIELD, MI REPORT

PROJECT ORGANIZATION

Immediately after our notification of the award, Providence Hospital began formally organizing the Case Management Demonstration Project Steering Committee and the Case Management Demonstration Project Oversight Committee. The former group meets regularly to develop details of how the project will function. The latter group provides oversight to the entire project. In addition to large group meetings, many individual meetings and subgroup meetings have taken place over the last four months.

The Providence Hospital Board of Trustees formally accepted the terms and conditions of the grant at their September 15, 1989 meeting.

PERSONNEL

Job descriptions have been completed for a number of key positions, and the recruiting process is under way. We have developed financial arrangements with the co-principal investigators and the study design consultant. To date, we have incurred financial obligations totalling approximately \$11,500 related to these positions.

In addition, we have formally extended an offer to the project director. We have also been identifying individuals who could potentially fill other key positions. Due to the uncertainties of the timing of funding, the Health Care Financing Administration (HCFA) has requested that we delay hiring additional personnel until the issue is resolved. Consequently, we will wait until funding is solidified before formally extending employment offers to clinical or support personnel.

Providence Hospital's geriatricians and primary care physicians will play a key role in the operation of the demonstration project. We are implementing a comprehensive information and orientation program for them. This will ensure their involvement with and support of the project even before it formally begins.

DEVELOPMENT OF COMPREHENSIVE PROTOCOL

Over the last few months, the Case Management Demonstration Project Steering Committee has developed a comprehensive protocol for the project. This protocol addresses the following issues:

The organizational structure, systems, and financial organization of the project as it relates to Providence Hospital

Procedures for claims submission, data collection, and project administration

Arrangements for case management referrals from hospitals or other institutions or individuals

All services to be rendered to the project participants

Quality assurance procedures

The detailed research plan

Procedures on terminating patients from the project during the operational phase and at the conclusion of the demonstration

Determination of active and inactive status of case managed patients

Patient assessment and reassessment

Training to be provided for case managers and caregivers

Reimbursement for case management services and Medicare noncovered services

Service authorization procedures, including detailed descriptions of what clinical and/or social support factors will determine patient eligibility

Proposed timeline for development, operation, and phase out of the project

Coordination of benefits with other payors

The above protocol has been written up in great detail and submitted to HCFA.

In addition to these items in the formal protocol, we are finalizing descriptions of which data elements will be gathered and the processes for entering and analyzing the data. We have also received a copy of the procedures to be followed by the external evaluation of the project by Mathematica Policy Research, Inc. of Princeton, New Jersey. Mathematica will conduct an extensive external review of our work and has established procedures for data collection and monitoring. We are in the process of evaluating these requirements and incorporating them into our research protocol.

DEVELOPMENT OF FINANCIAL AND OPERATIONAL SYSTEMS

Providence Hospital has finalized its budget projections for the demonstration project, including detailed estimates of personnel scheduling on a month-by-month basis. Financial and operational systems are currently being finalized. These include financial control and auditing systems, mechanisms for receiving and disbursing cash, and interface procedures with several other hospital departments (such as the admitting department, medical records, social services, etc.).

To date, Providence Hospital has received one check, from HCFA to cover part of the initial startup costs.

SPACE AND CAPITAL CONSIDERATIONS

We are finalizing arrangements for office location and have identified capital items that must be purchased for the project. HCFA has requested that we delay any capital or lease obligations until the funding issue is resolved.

DEVELOPMENT OF RELATIONSHIPS WITH PHYSICIANS AND EXTERNAL PROVIDERS

As indicated above, Providence has launched a comprehensive plan to inform all of the hospital's geriatric and primary care physicians about the grant and the protocols to be implemented. In addition, we have developed a strategy for informing external agencies (such as nursing homes, home health care agencies, etc.) that will play a key role in the success of the project.

Mr. LEVIN. Mr. President, I would also like to ask unanimous consent to include for the RECORD an overview of

the three demonstration projects this legislation seeks to reauthorize.

DEMONSTRATION PROJECTS

Case Management of the Elderly at Risk for Acute Hospitalization, Providence Hospital 18-P-99379/5-01

Providence Hospital is a tertiary care, 462-bed teaching hospital located in Southfield, Michigan. Case management services would be offered to three categories of elderly: (1) patients over 65 who visit one of Providence's primary care physicians or primary care outreach centers and have one of eight specified medical conditions; (2) patients admitted to Providence Hospital with one of eleven diagnoses associated with high rates of rehospitalization; and (3) any patient admitted to Providence Hospital from a nursing home or discharged to a nursing home. Providence estimated that they would be able to provide services to approximately 1,300 beneficiaries over the course of the demonstration.

The goals of the project are to reduce hospital admission and readmission rates, demonstrate that hospital admitting personnel and community primary care providers can identify individuals who would benefit from case management, and to demonstrate that case management is cost effective for all individuals discharged to extended care facilities. The applicant states that their goal is not to develop new services but to maximize access to resources already in the area.

Proposal for Demonstration Project to Case Manage Medicare Beneficiaries with Catastrophic and Chronic Conditions Residing in the State of Indiana—18-P-99396/5—Key Care Health Resources, Inc.

Key Care Health Resources, Inc., a wholly-owned affiliate of Blue Cross and Blue Shield of Indiana, the fiscal intermediary for Medicare beneficiaries in the State of Indiana, will conduct this demonstration.

This project will examine the effects of case management on 2,500 high cost Medicare beneficiaries. Key Care's targeting of appropriate cases for case management will rely primarily on 1987 to 1989 claims data to isolate individuals with medical conditions of long duration that are chronic will repeated hospitalizations and ongoing patterns of care. This project will provide information on the success of using the claims history of Medicare beneficiaries to predict future costs, to evaluate the value of case management in controlling these costs, and to determine the acceptability of case management to beneficiaries.

Case Management Demonstration, Iowa Foundation for Medical Care—P-99399/4-01

Iowa Foundation for Medical Care (IFMC)—the Professional Review Organization (PRO) for Iowa and Nebraska—proposes to study a population admitted to the hospital with two chronic conditions, Chronic Obstructive Pulmonary Disease (COPD) and Congestive Heart Failure (CHF). IFMC has a wholly owned subsidiary, Sunderbruch Corporation, which has case management experience.

Case managers would have a caseload of 200 clients and coordinate care between the patient/family, the attending physician, and other providers. Participants in the study would be recruited by hospitals contacting the PRO when they admit an individual that meets the criteria for inclusion in the study. The design involves stratified random sampling, with 1,000 patients assigned to the experimental group and 1,000 assigned to the control group.

The "implied hypothesis" to that optimal management and assessment, combined with adequate discharge planning and post-hospital care, as well as an early recognition of increased need for a services, will lead to a reduction in repeated hospitalizations.

Mr. LEVIN. Mr. President, I urge my colleagues to support this important legislation. I also ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CASE MANAGEMENT DEMONSTRATION PROJECTS RESUMED.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall resume the 3 case management demonstration projects described in subsection (b) and approved under section 425 of the Medicare Catastrophic Coverage Act of 1988 (in this section referred to as "MCCA").

(b) PROJECT DESCRIPTIONS.—The demonstration projects referred to in subsection (a) are—

(1) the project proposed to be conducted by Providence Hospital for case management of the elderly at risk for acute hospitalization as described in Project No. 18-P-99379/5-01;

(2) the project proposed to be conducted by the Iowa Foundation for Medical Care to study patients with chronic congestive conditions to reduce repeated hospitalizations of such patients as described in Project No. P-99399/4-01; and

(3) the project proposed to be conducted by Key Care Health Resources, Inc., to examine the effects of case management on 2,500 high cost Medicare beneficiaries as described in Project No. 18-P-99396/5.

(c) TERMS AND CONDITIONS.—The demonstration projects resumed pursuant to subsection (a) shall be subject to the same terms and conditions established under section 425 of MCCA. In determining the 2-year duration period of a project resumed pursuant to subsection (a), the Secretary may not take into account any period of time for which the project was in effect under section 425 of MCCA.

● Mr. COATS. Mr. President, in November of last year the Congress, responding to the outrage of senior citizens, repealed the Medicare Catastrophic Coverage Act [MCCA]. These older Americans were convinced, with good reason, that this legislation imposed financial burdens they could not bear and would not tolerate.

But the MCCA was a complex piece of legislation. And it included some important elements that remain worthy of our attention.

The original MCCA authorized the Secretary of the Department of Health and Human Services, Dr. Louis Sullivan, to establish four case management demonstration projects. The purpose of these projects was to provide the Secretary and Congress with information necessary to evaluate case management services to beneficiaries

with selected catastrophic illnesses, particularly those with high costs. In addition, they were to determine the most effective way to implement a case management system under the program for such beneficiaries.

Key Care Health Professionals, Inc., of Indianapolis, IN, was one of the four organizations that was awarded funds by the Health Care and Finance Administration to evaluate the value of case management. The study could have assisted up to 2,500 elderly Hoosiers over a 2-year period; and possibly saved Medicare millions of dollars. However, the MCCA law was repealed November 8, 1989, and the project funding was ended. Patients whose conditions would have allowed them to receive intensive home health care or extended care in a nursing home rather than hospitalization were denied that opportunity.

We are all concerned with providing safe, affordable health care to individuals that are currently on Medicare or will be in the future. At the same time, it is important that we ensure that the services rendered are necessary and beneficial. A coordinated case management component will ensure that participants are guided to wise choices among the range of nursing home and home health care alternatives. A case manager is trained to identify the most cost effective service that meets an individual's needs.

So, Mr. President, I am pleased to support S. 2958, which will reauthorize four Medicare case management projects that were originally authorized by section 425 of the Medicare Catastrophic Coverage Act [MCCA].

In 1988, national spending on health rose 10.4 percent to \$539 billion. National health expenditures were 11.1 percent of the GNP in 1988. The old methodologies of simply cutting the Medicare budget have not been effective in the past. Unless fundamental improvements are made in the selection and delivery of health care services we will not have any realistic hope of curbing the rising cost of health care.

The Federal Government and private groups are producing major studies and recommendations for overhauling the health care system. Among them are the Pepper Commission, the Heritage Foundation, the Social Security Commission, the AMA, and many other provider and insurance groups. The problem is usually approached by concentrating on two facets of the question most popular in Congress: The uninsured population and long-term care.

Most of these studies suggest employer-based, national plans with large price tags, like the \$66 billion Pepper Commission report. I believe that we must encourage innovative thinking and creative solutions to these com-

plex health care questions. Public-private partnerships that test ideas in a limited area with a carefully planned program are an attractive, cost-effective alternative to sweeping, unaffordable national programs. If one approach works in several States or a region, it has considerably more promise than an untested national program.

I have proposed and supported a number of innovative programs designed to cut the cost of health care and increase the quality of services available, including S. 1998, The Medicaid Waiver for long-term care demonstration projects, S. 2222, prepayment of death benefits to the terminally ill, S. 1194, the individual medical account, and S. 2617, the National Health Services Corp reauthorization, which included a joint effort with Senator HATCH on an amendment to improve a home health care demonstration program.

As I have stated in the past, I believe that we must pursue every available means to lower costs and improve the quality of health care. By funding case management demonstration projects for Indiana and the rest of the Nation we have an opportunity to better evaluate cost-effective ways of caring for Medicare patients suffering serious illness or injury.

Mr. President, supporting Senator LEVIN's bill to fund case management demonstration projects for Indiana and other States is another opportunity to evaluate cost-effective ways of caring for Medicare patients suffering catastrophic illness or injuries.

I urge my colleagues to support this bill.

Mr. President I ask unanimous consent that the following information from Key Care Health Professionals be placed in the RECORD at this point in the debate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

KEY CARE HEALTH RESOURCES, INC.—MEDICARE CASE MANAGEMENT DEMONSTRATION PILOT REPORT

I. INTRODUCTION

This report addresses the tasks undertaken and their outcomes from award to project termination. In addition, a discussion is submitted to present the variations or lack of execution between those tasks and time frames in the original proposal and actual development of mental activity. Recommendations are discussed in the event that a new solicitation for Medicare case management should occur.

Key Care Health Resources, Inc. is a wholly owned subsidiary of Blue Cross Blue Shield of Indiana. Key Care has provided managed care services for over 1 million lives since 1987. Blue Cross Blue Shield of Indiana is also the Fiscal Intermediary for Medicare Part A and Carrier for Part B services.

The Health Care Financing Administration (HCFA) was authorized by Section 425 of the Medicare Catastrophic Coverage Act of 1988 to conduct four case management

demonstrations. Key Care was selected as one of the sites.

Key Care's demonstration project proposal was designed to examine the effects of case management on the small segment of Medicare beneficiaries who are high cost users of medical care. In addition to this primary objective, the project was to determine the success of using the claims history of Medicare beneficiaries to predict future applications of case management. As a third objective, the project proposed to determine the acceptability of case management to beneficiaries.

Five hypotheses were to be examined.

1. Within Medicare benefits, case management techniques would be effective in the Medicare population for targeted medical conditions.

2. Identified claims cost savings would exceed administrative costs when applied to designated diagnoses or procedures with the Medicare beneficiary population.

3. Analysis of prior Medicare claim patterns would identify Medicare beneficiaries who showed potential for case management.

4. Case management options would be preferred by beneficiaries over alternative inpatient care options.

5. Once the case management program was established, the beneficiary would voluntarily comply with it.

The study design would have randomly assigned Experimental and Control Groups. The Experimental Group would be divided into Offer/Accept and Offer/Reject groups. The pool of subjects would come from identification/solicitation through analysis of prior claim history, practitioner referrals and self-referral. The population, size was to be all Medicare beneficiaries in the State of Indiana serviced by the Indiana Fiscal Intermediary.

In the start up period, an algorithm would be developed and applied to prior Medicare claim experience obtained from the Fiscal Intermediary to determine those beneficiaries and conditions most amenable to case management. Individual cases for case management would be selected based on potential for cost savings and medical protocols.

Case Management would consist of patient assessment, alternative care planning, service delivery, monitoring and assessing effectiveness of the alternative care plan. No exceptions to the current or future Medicare benefit structure would be written by the registered nurse case managers in alternative care planning.

Data for analysis would be collected from the Fiscal Intermediary and the Case Management Operations process to prove or disprove the hypotheses. Standard procedures for comparing results between groups would be used in data evaluation. These were to include parametric and non-parametric measures, including ANOVA, ANCOVA, multivariate analyses and multiple regressions. Additionally, economic benchmarks would be established for hypotheses testing. These would provide practical bottom-line measures to prove or disprove hypotheses. All analyses models and structures were presented in detail.●

By Mr. BAUCUS (for himself, Mr. HEINZ, Mr. CHAFEE, Mr. SYMMS, Mr. CONRAD, Mr. BURNS, Mr. BURDICK, Mr. DURENBERGER, Mr. BIDEN, Mr. DODD, Mr. LIEBERMAN, Mr. EXON, Mr. PRESSLER, Mr. ROCKEFELLER, Mr. HARKIN, Mr. BOSCHWITZ, Mr. ROBB, Mr.

COATS, Mr. SIMON, Mr. DECONCINI, Mr. LEVIN, Mr. GRASSLEY, Mr. RIEGLE, Mr. COCHRAN, Mr. SPECTER, Mr. PELL, Mr. HATFIELD, Mr. SARBANES, Mr. PRYOR, Mr. HOLLINGS, Mr. DIXON, Mr. DANFORTH, Mr. BOREN, Mr. LUGAR, Mr. MOYNIHAN, Mr. KENNEDY, Mr. DASCHLE, Mr. INOUE, Mr. ADAMS, Mr. ROTH, Ms. MIKULSKI, Mr. D'AMATO and Mr. KERRY):

S. 2959. A bill to amend the Railroad Retirement Solvency Act of 1983 to extend for 2 years the transfer to the Railroad Retirement Account of income tax revenues from tier 2 benefits; to the Committee on Finance.

TRANSFER TO RAILROAD RETIREMENT ACCOUNT

● Mr. BAUCUS. Mr. President, today I am introducing, along with Senator HEINZ and 41 other colleagues, including a majority of the Senate Finance Committee, legislation to ensure the solvency of the railroad retirement trust fund. This legislation is for the benefit of the almost 1 million railroad retirees and 300,000 current railroad employees who are relying on the solvency of this trust fund for their retirement.

I am proposing a 2-year extension of a provision of current law that transfers the proceeds from taxing tier II railroad retirement benefits from the general fund in the Treasury Department to the railroad retirement trust fund.

Congress initially authorized this transfer in the 1983 railroad retirement amendments. That authorization expired in 1987. Since then, Congress has extended the transfer twice through September 30, 1990. We are now awaiting a report on the solvency of the railroad retirement program from the Commission on Railroad Retirement Reform. The Commission's report is due October 1990.

This legislation is designed to provide Congress adequate time—until September 30, 1992—to review the Commission report without the railroad retirement account suffering the decreased cash flow resulting from the termination of the transfer provision.

Mr. President, this extension would not aggravate the Federal budget deficit. The proposal simply maintains the present practice of transferring tax receipts from the Treasury account. The proposal is supported by rail management and labor.

I want to thank my colleagues for their strong support of this measure.

I ask unanimous consent that a copy of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2959

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER TO RAILROAD RETIREMENT ACCOUNT.

(a) IN GENERAL.—Subsection (c)(1)(A) of section 224 of the Railroad Retirement Solvency Act of 1983 (relating to section 72(r) of the Internal Revenue Code of 1986, revenue increase transferred to certain railroad accounts) is amended by striking "1990" and inserting "1992".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on September 30, 1990.●

● Mr. HEINZ. Mr. President, today Senator BAUCUS and I are introducing a bill to extend for 2 years, until September 30, 1992, the transfer of railroad retirement tier 2 income tax receipts to the Railroad Retirement Account. Under current law the transfer provision is scheduled to expire at the end of this fiscal year, September 30, 1990.

The Heinz-Baucus bill would strike the expiration date of this provision and thereby continue the reinvestment of income tax receipts from the taxation of railroad retirement tier 2 benefits into the Railroad Retirement Account. The reasons for such a transfer are manifold. Last year Senator BAUCUS and I, as well as 13 other members of the Senate Finance Committee, sought to extend this transfer provision for 2 years to September 30, 1991. However the final conference agreement on budget reconciliation only provided for a one year extension. The most recent extension follows a 2-year extension I sponsored in the 100th Congress. The time has come to make this provision permanent.

This change would protect a critical source of revenue for the Railroad Retirement Account. Section 502 of the Railroad Retirement Solvency Act of 1983 requires the Railroad Retirement Board, the Agency which administers the Railroad Retirement Act, to submit annual reports to Congress on the actuarial status of the Railroad Retirement System. In its section 502 report for 1989, the Board noted that extending the tier 2 income tax transfers 5 or 10 years would eliminate cash flow problems in the Railroad Retirement System over the next 25 years. Extending the transfer for 2 years would eliminate cash flow problems for the immediate future.

This is solid precedent for extending the provision for transfer of tier 2 income tax revenue to the Railroad Retirement Account. Transfer of this revenue would be consistent with the manner in which revenue obtained from the taxation of Social Security and tier 1 benefits is transferred back to the payer accounts for those benefits. It is to be noted, in this regard, the tier 2 benefits, like Social Security and tier 1 benefits, are social insur-

ance entitlements provided by a Federal statute, are paid from a Federal trust fund, and are financed by payroll taxes imposed by the Internal Revenue Code.

Revenue from taxation of tier 2 benefits, like the revenue from taxation of Social Security and tier 1 benefits, has never been a part of the general fund. All of these tax revenues were created in 1983 in legislation designed to bolster the solvency of the Social Security System and the Railroad Retirement System. A difference, however, is that the transfer to the Social Security trust fund of revenue from taxation of Social Security benefits is permanent, while the transfer to the Railroad Retirement Account of tier 2 income tax revenue is temporary. The benefit taxation revenue is even more critical to the Railroad Retirement System than it is to the Social Security System. Safeguarding the benefits provided under the Federal Railroad Retirement Program is every bit as important to individuals covered by that program as safeguarding Social Security benefits is to people covered by the Federal Social Security System.

This bill would be a significant step toward providing a sound financial footing for the Railroad Retirement Account thereby providing better assurances of continued benefits to the Nation's railroad retirees and would do so with no revenue impact or adverse budget consequences.●

By Mr. LEVIN (for himself and Mr. RIEGLE):

S. 2960. A bill for the relief of Janice and Leslie Sedore and Ruth and George Hillman; to the Committee on Finance.

RELIEF OF JANICE AND LESLIE SEDORE AND RUTH AND GEORGE HILLMAN

● Mr. LEVIN. Mr. President, today, I am introducing, along with my colleague Senator RIEGLE, a private relief bill on behalf of two Michigan families, Leslie and Jane Sedore and Ruth and George Hillman. The bill seeks to reimburse these two families for taxes and penalties unjustly assessed on supplemental security income (SSI) payments they received on behalf of their severely disabled foster children in the early 1980's.

The Hillmans and the Sedores are families of modest means who performed a remarkable service for some 20 years by providing a home and care for over 100 seriously impaired foster children. The children taken in by these two families were the types of kids that oftentimes end up lost in large institutions which are unable to provide the kind of individual attention and patient, loving atmosphere found in outstanding foster homes such as the Hillmans and the Sedores.

It takes uniquely qualified individuals to devote the enormous amount of time and energy required to give

these children a stable and healthy home. The Sedores and the Hillmans fit that bill. They were the kind of foster parents state and federal authorities dream of finding to care for hard-to-place kids.

Mr. President, at this point I ask unanimous consent that a June 5, 1984, Detroit News article and an April 19, 1984, Charlotte Republican Tribune article describing the special work of the Hillmans and the Sedores be inserted in the RECORD following my remarks. In the District News article, Mrs. Sedore is described by the regional vice president for the Michigan Foster Parents Association as, "a gal with the skills of a Ph.D. in clinical psychology and the wings of an angel."

Unfortunately, these exceptional foster parents were rewarded for their extraordinary efforts by having to pay to the IRS thousands of dollars in wrongfully assessed back taxes and penalties. These two families tried to fight the IRS through proper legal channels but did not have the resources to engage in a long, drawn-out battle. Both families paid the penalties and taxes demanded by the IRS and then made the difficult choice to withdraw from the Foster Care Program because of this IRS action. Their withdrawal was a terrible loss for the State of Michigan and, in particular, the disabled children who could have benefited from their care. Two dedicated, exceptional families are no longer with the Foster Care Program and, as a result, there are two less stable, healthy homes for the placement of special needs children.

Mrs. Sedore described the consequences to the six children she had been caring for during the 7 years prior to her departure from the program. Her foster children had to be placed in other situations, and she wrote to our office describing just what that meant.

We are no longer participating in the foster parent program, although we have kept our license and hope that some day we will be able again to share our home with these children.

On July 1, 1984, all six of our foster children for so many years were moved to other homes. Out of the six foster children, two still remain in the same homes that they were placed in. One has been moved from his placement home to the Coldwater Institution when the new family no longer wanted this child. Two children have changed homes twice and one is at the Jonesville Michigan Manor for Boys. The Jonesville Manor is paid \$97 per day for this child's stay and supposedly is a non-profit organization. He was doing great here in our home and he had a home, mother, father, and was loved. I am able to see him when he comes home on vacations. I get very upset because he is still wearing the same clothing he left here with 2 years ago, now in bad need of repair. He needs a hair cut, so I see that it is done when he is home, the soles

are ripped off his shoes, and he is always asking for a hug.

Mr. President, the efforts to right this wrong have been met with bureaucratic doublespeak and the vagaries of the legislative process. We have pursued almost every avenue available both administratively and legislatively to obtain restitution for those two families, yet, we have been frustrated at every turn. This private relief bill may be our last hope.

Let me explain what has happened.

In December 1982, Congress enacted section 131 of the Tax Code in order to clarify the tax-treatment of foster care payments. Individuals involved in the foster care field had complained that it was unclear whether or not foster parents were required to keep detailed expense records of how they spent foster care payments in order to have these funds excludable from gross income for tax purposes. They argued that nearly all foster care payments were set at levels below the federally accepted cost of raising a child and, therefore, detailed expense records should be unnecessary.

Section 131 provided that, as a general rule, gross income does not include qualified foster care payments and the legislation made that statutory clarification retroactive to tax years beginning with 1979. The law then went on to define a foster care payment as a payment made by a state or child placing agency which is "paid to reimburse the foster parent for the expenses of caring for a qualified foster child in the foster parent's home."

Foster care agencies in Michigan, and I assume around the country, saw section 131 as an important victory. In Michigan, notices were sent to foster families stating that because of section 131, it was now clear that expense records for foster care payments were unnecessary. The Michigan Federation of Private Child and Family Agencies issued a January 14, 1983, memo to its membership, entitled "Good News for Foster Parents," in which it said in underlined words that the amendment—Section 131—"excludes foster care payments from being taxed as income."

But apparently the IRS was not willing to accept this statutory change. The key—and unfortunate—term in that section of the Code was reimbursement. The IRS proceeded to interpret reimburse to mean that foster care providers could still be asked to keep detailed expense records to justify being reimbursed for foster care service.

In 1982 the IRS audited the Sedores and, shortly thereafter, the Hillmans. These audits were triggered by 1099 forms which had been sent to the IRS by the State of Michigan declaring the foster care payments these families—and other foster families—had received. The State of Michigan, as we

later learned, was operating under a misunderstanding of the law. 1099 forms were not appropriate for these foster care payments, and the State of Michigan shortly thereafter stopped this practice.

However, as a result of these 1099's, audit notices were sent to some 60 families in Michigan. These audit notices, which claimed an assessment of a significant amount of back taxes and penalties based on the 1099 forms, were a real surprise to the foster care community. Some of the families who received them contacted my office; others contacted the foster care agencies. Many were worried that the IRS's action could result in the loss of many excellent families from the Foster Care Program.

My office began to work with the IRS and the State of Michigan to get to the bottom of the problem. Although we were able to do that to some extent for everyone else, it was, unfortunately, too late for the Sedores and Hillmans. Apparently their audits had already progressed too far by the time we got the State of Michigan to discontinue the issuance of the 1099's and the IRS to discontinue followup on its audit notices.

To my knowledge, the Hillmans and the Sedores are the only families who actually underwent the full audit process and paid the extra taxes and penalties which the IRS demanded. The IRS appeared to back-off, and rightfully so, pursuing this matter with any other of the families who had received notices. One of the other foster care parents with whom we had been working contacted my office to let us know she had visited the local IRS office regarding her audit notice. She was told the IRS was in contact with my office and things were being taken care of. She was also instructed to write a letter of explanation to the IRS and, when that letter was received, that would be the end of the matter. The Hillmans and the Sedores were not so fortunate.

As a result of these audits, the IRS determined that these two families were actually in a trade or business. The IRS treated the SSI benefits they received directly on behalf of the disabled children as income to their "trade or business" which, the IRS said, then could only be offset by documentation of actual expenses. Each family received, in addition to a foster care payment from the State, Supplemental Security Income benefits from SSA on behalf of their disabled children.

An attorney for the families tried to convince the IRS that these SSI benefits were really foster care payments and received directly by the families only because of the unique procedures established by the Michigan Department of Mental Health. The Depart-

ment of Mental Health agreed, but the IRS wouldn't listen.

We argued, moreover, that the SSI payments are not taxable in any event. We even got a letter from the Social Security Administration stating that position explicitly, but the IRS wouldn't listen to that, either.

Apparently, the IRS had decided that the Hillmans and the Sedores were not dedicated foster parents, but a trade or a business out to make a profit, and the IRS wanted to tax that profit. This, of course, is sadly ironic, since foster care payments historically don't compensate a family for the true expenses of their provisions and care.

The families had not kept receipts for their expenses, because they believed that such recordkeeping was not necessary for foster care payments. The IRS assessed back taxes and penalties which totaled \$12,143.55 for the Sedores and \$8,512.70 for the Hillmans. After trying to fight the IRS, the families threw up their hands, paid the amount and left the program.

As soon as I learned of this situation in 1984, I directed members of my staff to meet with the IRS and with Michigan officials to get to the bottom of this issue. I sent several letters to the IRS requesting that they clarify their apparent new position of treating foster parents as self-employed individuals for tax purposes and that they provide me with the specific authority under which they had taxed the SSI payments to these foster parents.

The IRS failed to answer my first letter regarding this important issue. At one point, a member of my staff was calling the appropriate IRS official approximately three times a week to gain an answer. When correspondence was finally received from the IRS, the response to specific questions raised by my letters was either nonexistent or vague. At one point, I asked the IRS 22 specific questions of which 17 were unanswered.

Just last year the Michigan Residential Care Association of Michigan wrote to me asking for the official IRS position on the taxability of SSI payments which are used as foster care payments, because they were still not sure what the IRS position is. That's 5 years after our efforts began to get a straight answer out of the IRS. I forwarded that letter to the IRS, and this time the IRS did respond fairly promptly, but, their answer was that this remain an open question. They said they continue to have an open revenue ruling on this issue. That's 5 years without a straight answer by the IRS on an issue of real significance to thousands of families. That's simply outrageous.

After it became apparent that trying to work with the IRS to seek an administrative resolution to this problem

was not possible, I turned my attention to legislative proposals. In 1986, Congress modified section 131 to clear up any lingering confusion by taking out the word "reimburse". It was possible, we thought, that this modification would resolve the matter for these two families. However, the story takes yet another twist.

The legislation making this modification did not go back to the tax years in which the Hillmans and the Sedores had been affected. Moreover, the IRS refused to give a straight answer on the taxability of SSI payments received directly by the foster parent on behalf of a foster child.

In 1987 my brother, Congressman SANDER LEVIN, in the House, and I introduced legislation to make the 1986 provision retroactive to 1980 to cover the Hillmans and the Sedores. Given my experience with the IRS, our legislation also sought to further clarify and appropriately broaden the definition of a qualified foster care payment to ensure that SSI payments for children with special needs are excludable from the gross income of the foster parent.

In another frustrating turn of events, after successfully including this provision in both the first House and Senate technical corrections tax bill of that year, this larger measure was set aside and a stripped down version was passed without any miscellaneous issues—including the provision for these two families.

In 1989, after finally getting the IRS' attention by threatening to hold up the nomination of the IRS Commissioner, we got a response from the IRS on these specific cases. The response was—and here's another of the many ironies in this story—that it was too late to do anything for these families administratively. The statute of limitations for seeking administrative relief had expired. Talk about bureaucratic abominations.

We went around and around with the IRS for years trying to pin them down on the specifics of these two cases, and they responded repeatedly with obfuscation. Once we got their attention by threatening something they really cared about, we got them to be specific, but they had accomplished their purpose. Their hands, because of the delays, were tied. If this situation doesn't define "catch 22," I don't know what does.

Now, it is 1990. These two families remain uncompensated and the injustice, here, remains uncorrected. Virtually every road to recovery has been explored. One option we have left is to pass this bill to direct the IRS to return these unjustified tax and penalty payments to these two families.

Mr. President, I and my staff have talked with a number of Members and committee staff about this matter, and many have said they have not heard

of a more sympathetic case. These two families who gave so much to kids whom many would ignore, are still out there waiting to have their faith in the system restored. Unfortunately we will not be able to compensate both parents in the Hillman family. Mr. Hillman has died.

Private relief bills are appropriately reserved for those instances in which individuals are caught in unjust situations created by forces beyond their control where other avenues for rectifying the matter have been exhausted. This situation is a compelling example of when private relief is appropriate. I hope we will be able to act quickly on this legislation and give these families what this behemoth of a government has unjustly taken from them and now only fairly should return.

Mr. President, I ask unanimous consent that two articles describing this situation be printed in the RECORD.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

[From the Detroit News, June 5, 1984]

IRS RULING THREATENS FOSTER CARE

(By Tim Collie)

LANSING.—Jan Sedore cares for six mentally retarded foster children in her modest ranch-style home, an activity that raised the eyebrows of the Internal Revenue Service.

Three autistic children sleep about two hours each day and it isn't unusual to walk into a bedroom to find one of them has chewed on a window sill. The kids have the run of Mrs. Sedore's house in Grand Ledge, where they sometimes lay waste a piece of furniture. And one boy frequently urinates down heating registers.

Mrs. Sedore's home is one of 7,200 Michigan foster homes licensed to care for 17,000 children. Hers doesn't much look like a money-making venture. But to the eyes of the IRS this woman runs a business—one that does quite well.

In a move that threatens the entire nation's foster parent network, the IRS forced Mrs. Sedore to pay \$8,000 in income taxes going back to 1980 on the Social Security payments she receives for each child.

The agency argues that unless foster parents can fully document how they spend benefit checks received for foster children, the money will be taxed as income.

Suddenly, the prospects of a tax audit raise unexpected worries for foster parents. Both state and national foster care officials say they have never heard of such a policy. They have been advising parents for many years that benefits are not taxable as income.

"What bothers me is that they told me for years that this money is not taxable, but now the IRS says it is," said Mrs. Sedore, who has cared for 104 children in 18 years.

"I've taken them all around the state on vacations," she said, pausing to tell her deaf foster daughter in sign language to go watch television in the den. "Money is always being spent on them. But if I take my kids out to buy a hamburger I don't keep a receipt."

In 1982, the IRS told Mrs. Sedore she was the subject of a federal audit concerning difficulty-of-care payments she received from the state for several children. The IRS

decided that it could not tax these allocations but then examined the Supplemental Security Income checks.

After an internal inquiry to its office in Washington, the IRS decided the \$471.50 Mrs. Sedore received monthly for each child was taxable income unless she could document in detail how she spent the money. Since she had always been told not to list that money as income on her tax returns, Mrs. Sedore hadn't bothered to keep records.

At least one other foster mother in the state is the subject of a similar IRS inquiry. Ruth Hillman, a foster parent for 19 years who currently keeps four severely mentally retarded children in her Lansing home, was contacted in January and told by IRS investigators that she would be the subject of an audit this summer concerning her tax returns dating to 1981.

"Our living room is a hospital room," said Mrs. Hillman as she sat on her couch. In front of her a 10-year-old girl, blind and deaf with a steadily deteriorating brain, sat sleeping in her wheelchair. She is so hyperactive that Mrs. Hillman must give her a tranquilizer to put her to sleep. The girl's heavy rhythmic breathing rose above Mrs. Hillman's voice and the sound of the soap opera on the TV set.

"We really don't know what we spend on these children," Mrs. Hillman said. "It would include the heat, the electricity, depreciation on the house, bed sheets . . . I don't know. Do you keep your grocery receipts for four years?"

"We were always told it was illegal to become a business with these children. I never realized I was in a business anyway."

An IRS spokeswoman, however, said the two cases do not reflect any change in the agency's policy—that SSI payments have always been taxable as income if the parents of recipients could not demonstrate how they spent the money on the children. "That money is included in gross income if the parents cannot show that it is being used as a reimbursement for the child's expenses," said Mary Tamala of the Detroit IRS office. "They are providing business services and I would think that they follow generally accepted business practices like recording their expenditures."

But Michigan Department of Social Services (DSS) spokesman Patrick Vaughan said he is "baffled" and "gravely concerned" by the IRS actions. "I've talked to every expert on foster care in this department and none of them have ever heard of anything like this. What really puzzles us is that this action appears to contradict the law."

Vaughan said DSS officials were looking into the matter but were not getting directly involved since the Sedore children fall under the auspices of the state Department of Mental Health (DMH). In Michigan, foster children who are the victims of abuse or abandonment (those who would be wards of the juvenile court system) are administered by the DSS. Other cases fall under the Department of Mental Health.

State mental health officials said they were not aware of Mrs. Sedore's problem. "These payments have not been taxed before to our knowledge," DMH spokesman Tom DeLoach said. "If that were suddenly reversed and they are taxed, I would think we would have to rethink our entire foster care system."

Representatives of foster parent associations agreed that the Sedore case, if it represents a new IRS policy, marks the beginning of a "grave threat" to foster parents.

Michigan already has a 25 percent turnover of foster homes each year. They said the prospect of a huge back tax bill could force many parents to give up their children and discourage others from opening their homes. "It's going to destroy the interest of a lot of people in foster parenting," said John Peck, a lobbyist and regional vice-president for the Michigan Foster Parents Association.

"Here is a gal (Mrs. Sedore) with the skills of a Ph.D. in clinical psychology and the wings of an angel and the IRS harasses her until she just throws up her hands and says the hell with it," Peck said.

Carl Brown, president of the Foster Parents Association of America, said his organization maintains that SSI payments cannot be taxed and had never heard otherwise. "I would venture to guess that the vast majority of foster parents don't keep records of how that money is spent," Brown said from his home in South Carolina.

"It's difficult now recruiting people to be foster parents. If they start taxing the money they receive for their children as income then it's going to be hard to get anybody to become a foster parent."

Such an effect could also affect the taxpayer. By stressing at-home care instead of institutional care, Michigan's foster care system saves millions of dollars each year. For example, keeping a child at Mrs. Sedore's residence costs about \$25 a day. In an institution that same care would cost about \$100—double that for severe cases.

"Something else that strikes us about this matter is that typically foster parents must spend money out of their own pocket because the government payments don't cover all the costs of raising a child," Vaughan said.

Commented Mrs. Sedore: "The money is adequate if you don't do anything extra for them."

She plans to give up her children in July if the policy is not changed. The tax bill, along with ever-increasing paperwork, has taken all the fun out of foster parenting, she said.

Instead of debits and credits, love and understanding of her foster children have been her chief concerns, Mrs. Sedore said. "Eight thousand dollars hurts but what hurts the most is that may kids have been with me seven years and now I have to place them in other homes. If I can't keep all six of them then I won't keep any of them—I can't pick and choose among my children."

[Charlotte (MI) Republican Tribune,
Apr. 19, 1984]

SUPER MOM TO RETIRE (By Michelle Smith)

MULLIKEN—When July 1 rolls around, there will not be as much hustle and bustle at the Sedore house. That is when Jan Sedore, a foster mom to more than 100 children over the past 17 years is retiring.

"It will be the hardest day of my life to send my kids away," said Sedore. She is looking forward to her change of pace and time for solitary fishing trips, working on her crafts and pursuing her love for genealogy, but she will miss the kids and will always wonder about them.

If you want to see organization in action, drop in on Jan before her retirement date of July 1. Show up around 6 a.m. when she is in top form, assisting in baths, hair washing, dressing and cooking breakfast. Don't be surprised if you are asked to scramble some eggs or flip a few dozen pancakes. Break-

fasts are hot and nutritious at this house, the kind that don't come out of a box.

The foster kids, whose ages range from 12 to 15, are all handicapped and have a wide range of disabilities. The group includes three autistic children, a hearing impaired child, a child confined to a wheel chair who is both mentally impaired and physically handicapped because of abuse, and an emotionally impaired child.

Jan's home is licensed through the Community Mental Health Board. The caseworker assigned to the foster children is Lynn Little. She said Jan has gone beyond the role of foster parent.

"The most wonderful and unique thing Jan has done for the children is community awareness. She takes the children everywhere," commented Little.

Taking six handicapped children on vacations or weekend trips takes more organization, stamina and patience than most people have, but Jan really seems to take it in stride. Over the past year they have visited Sea World, Mackinac Island, Bonner's in Frankenmuth, ridden a dune buggy, swam in Lake Michigan and camped several times.

Jan has developed some special techniques for their trips. "When we camp, the children cook, clean, roll sleeping bags and carry water," Jan explains. She has one child who will crawl out of his sleeping bag, but not if he is stuffed in head first. Once all the kids are in the tent, she makes absolutely certain she is the one sleeping next to the door, to prevent her night wanderers from getting out.

Night wandering was also a problem at home. One of her autistic children rarely sleeps. "Five minutes is like five hours for her," Jan explains. Because the child would leave her bed and eat anything in the refrigerator, including whole onions and packages of raw hamburger, a delayed alarm was installed on her bedroom door.

Her kids have proven how well they can behave on their various trips. "We take them to the best restaurants and they are always invited back. We have had resort people say our children act better in public than so called normal children," Jan brags.

"I'm strict. I demand they act like we all want our children to act. Because they are handicapped does not give them the license to act the way they want," Jan explains.

Although Jan started out caring for normal children, she said she prefers the handicapped kids. "These kids generate so much love, they appreciate everything we do."

Jan, the natural mother of three grown children, sees her role as teaching the children to get along the best they can in the real world. The children are required to dress themselves, she explains, "but that doesn't mean I don't have to turn a shirt around for one or rebuttan a sweater for another." Each child is assigned household chores, such as taking their plates to the sink, emptying waste baskets and carrying laundry downstairs.

By 8:10 a.m., the bus has the children on their way to Meadowview School in Charlotte, and Jan can sit in the large, cheery kitchen of her home on Wheaton Road, and enjoy her first cup of coffee of the morning and perhaps find a few minutes to chat with her friend and assistant, Bobbie Reed, also of Mulliken.

It's not surprising it takes the two of them to do what they do. There are meals to plan, piles and piles of laundry to do, a doctor appointment to run to and a house to clean. Then there is keeping up with communica-

tions with the children's school and to the caseworker. Jan said she started having a helper about five years ago. Bobbie came on board in 1980 when she consented to work "for only a few months as a way to earn money towards a vacation". The fact she is still there shows her love for her work.

It is obvious sitting in Jan's house that she amazingly does find time to do other things beside cooking, caring and cleaning. Her oil paintings dot the walls. In one corner are two huge trays of beautiful homemade Easter chocolates she has created for the children's baskets. She made the children's clothes until a few years ago.

Take one day at a time and look at it and say tomorrow will be even better, is the philosophy Jan said she lives by. "If you cried every time something went wrong, you'd cry every day around here," she laughs.

Jan and her assistant Bobbie said they couldn't last without keeping their sense of humor. When the two tell stories about their experiences it is obvious they cherish more moments that not. They have obviously been able to see the bright side and their attitude is reflected in the happy faces of the foster children.

Jan said she has always held one secret goal throughout the past 17 years. "I have always hoped one of my children will be returned to their natural mother." Although plans are not finalized, it is nearly certain her big dream will come true when she retires. One natural mother, who relinquished custody of her child several years ago has told the caseworker she would like to have her child returned to her as of July 1.

Information about foster parenting can be obtained from the Community Mental Health Board, which licenses and supervises foster homes in the tri-county area.

By Ms. MIKULSKI (for herself,
Mr. KENNEDY, Mr. ADAMS, Mr.
SIMON, Mr. HARKIN, Mr. PELL,
Mr. DODD, Mr. REID, Mr. METZ-
ENBAUM, Mr. BINGAMAN, Mr.
INOUE, and Mr. AKAKA):

S. 2961. A bill to amend the Public Health Service Act to promote greater equity in the delivery of health care services to women through expanded research on women's health issues, improved access to health care services, and the development of disease prevention activities responsive to the needs of women, and for other purposes; to the Committee on Labor and Human Resources.

WOMEN'S HEALTH EQUITY ACT

Ms. MIKULSKI. Mr. President, this afternoon we are introducing the Women's Health Equity Act of 1990. I am introducing this legislation on behalf of myself, Senators ADAMS, KENNEDY, HARKIN, SIMON, DODD, METZENBAUM, PELL, and REID. This package of 18 initiatives specifically addresses, for the first time, the many unmet needs of women within the American health care system.

These needs are too often overlooked. From 1979 to 1986, the death rate from breast cancer was up 24 percent—yet no one knows why. No research is being done.

The United States ranks 22d in infant mortality among developed na-

tions. Heart disease kills more women than any other cause, yet virtually all heart disease research is done on men.

This is a disgraceful pattern of neglect, a situation that must be changed. The Women's Health Equity Act is designed to address the worst abuses—and to set the agenda for better health care for women in the 1990's and into the new century.

This bill is the product of many efforts, combining bills originally introduced by many of my fellow Senators. I am proud to introduce this legislation on behalf of my Gallahads: Senators ADAMS, KENNEDY, HARKIN, PELL, REID, DODD, SIMON, and METZENBAUM, all of whom have worked tirelessly for the cause of women's health.

In the House, 48 Members of the Congressional Caucus for Women's Issues are working with Representatives SCHROEDER and SNOWE to gain passage of a companion measure.

The legislation is divided into three broad categories. Title I, research, attacks the medical research establishment's traditional indifference to women's health concerns. Title I would broaden research efforts in such fields as contraception and infertility, breast cancer, AIDS in women, and osteoporosis.

Additionally, three programs would be created within the Department of Health and Human Services to direct and coordinate an expanded women's health promotion and research effort. Finally, the NIH and ADAMHA would be required to include women and minorities in research study populations, and to consider the composition of study populations when evaluating grant applications.

At every level of treatment, women lack the information and the resources necessary to make informed choices about their health. Title II, services, would provide broader education programs and greater access to treatment. Teenage girls, poor women and older women would particularly benefit from an expansion of Medicare and Medicaid programs; and a change in employee health insurance programs.

Title III, prevention, brings the power of preventive medicine to women, attacking public health problems that needlessly kill, cripple, and sterilize them. Early detection of cancer, better treatment for osteoporosis, and prevention of sexually transmitted disease will save and improve thousands of lives every year.

Last week we were all shocked to learn that Mrs. Marilyn Quayle was forced to undergo emergency surgery related to cervical cancer. Those of us from Maryland were shocked as well to learn that Baltimore's first lady, Dr. Patricia Schmoke, had to be hospitalized for a mastectomy.

God willing, both women will survive this dread disease because of early detection. But, tragically, not every

woman has access to life-saving pap smears and mammograms.

Women's lives are being needlessly endangered—because we do not provide access to affordable health care; because the tests women receive are not accurate; and because the attitude of our medical and research community is too often one of sexism or indifference.

Every woman, regardless of her income or insurance policy, must have access to health services which keep her alive. These services are not exotic nor exorbitant—they are called pap smears and mammograms.

We're not just talking about poor women. With mammograms costing as much as \$150, hundreds of thousands of women are forced to weigh the cost of their own health against keeping a roof over their heads or paying for their own children's health care.

Paying for these tests is not enough. There must be follow up. The New York City Department of Health neglected 2,000 pap smears—left them unanalyzed and unreported. No news is not good news for these women. Their lives are in danger.

Two pieces of legislation I introduced earlier are a part of the Women's Health Care Equity Act. The Breast and Cervical Cancer Act provides grants to States to develop comprehensive cancer screening programs.

The second bill requires Medicare to pay for mammograms for elderly and disabled women—a major expansion of preventive coverage.

Access alone is not enough. Accuracy counts—in the most important way of all—because we count mistakes in lost lives.

Last week I met with a grieving father, a widower whose wife died because of a misread pap smear. But 2 years ago I introduced legislation to clean up the mess in our clinical labs. The President signed the bill into law 1½ years ago, yet nothing happened, no rules were ever published. HCFA says it's in a hurry, but we're still waiting.

We've discovered tremendous problems in mammography. Unlicensed technicians are performing mammograms in 24 States. And a State inspector in Colorado found that 50 percent of the mammography equipment in the State was faulty.

Perhaps the greatest challenge is the medical and research establishment's attitude toward women. Women are not trained to make informed decisions about their health. Their doctors should be. Yet 9 out of 10 doctors don't follow the American Cancer Society's guidelines on recommending mammograms.

Studies have shown that women must be much sicker than men before doctors will perform bypass surgery. Women have not only been ignored in

research, they have been actively excluded.

In 1987, NIH spent less than 14 percent of their research budget on women's health projects; there is no OB-GYN research branch, and only three researchers out of 2,000 at the whole institute specialize in OB-GYN. And the famous study that we've all heard so much about, the one where 22,000 subjects were watched to see if taking aspirin reduced the risk of heart attack, did not test one single woman.

This is blatant discrimination. It is inexcusable, unforgivable, and we will not allow it to continue.

That is why I will leave here to introduce, on the Senate floor, the Women's Health Equity Act of 1990.

I am pleased that my colleagues have joined me in this important job. Like the companion bill introduced in the House last week, this bill says: No more second-class treatment.

We can't carry 14th century attitudes about women's health into the 21st century. I urge the Senate to take action and to pass this critical piece of legislation.

Mr. President, I ask unanimous consent that the factsheet prepared by the Congresswomen's Caucus, backing up this legislation, printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WOMEN'S HEALTH EQUITY ACT OF 1990

TITLE I—RESEARCH

1. The Women's Health Research Act: Creates three new programs within the Department of Health and Human Services. An Office of Women's Health would be established under the offices of the Assistant Secretary for Health and the Surgeon General to initiate and coordinate health promotion activities within all divisions of the Department. An Office for Women's Health Research and Development would be created at the National Institute of Health to identify research needs, support and coordinate research between the various institutes, and monitor inclusion of women in clinical study populations. Finally, the legislation directs NIH to establish an intramural program in obstetrics and gynecology to initiate research and conduct clinical trials.

2. Clinical Trials Fairness Act (S. / Adams & Mikulski): Codifies existing NIH/ADAMHA policies to require the inclusion of women and minorities in research study population. Clarifies that in approving grant application for funding, the composition of the study population should be considered when determining the scientific merit of a research proposal.

3. Breast Cancer Research: Authorizes an additional \$25 million for the National Cancer Institute to conduct basic research aimed at finding a cure for breast cancer.

4. The Contraceptive and Infertility Research Centers Act of 1990 (S. 2215/Harkin): Establishes three contraceptive research centers and two fertility research centers under the auspices of the National Institutes of Health. Creates a grant and

loan repayment program to attract top-notch scientists to work at the centers.

5. Sense of Congress Resolution Regarding Contraceptive and Infertility Research (S.Con.Res. 111/Harkin): Expresses the sense of Congress that birth control and fertility research and development be made national priorities. Establishes specific research goals for the next twenty years and calls for the reestablishment of the Ethics Advisory Board at DHHS.

6. Women and AIDS Research Initiative: Authorizes an additional \$10 million for NIH and the Alcohol, Drug Abuse and Mental Health Administration (ADAMHA) to conduct research on the transmission, development, treatment, and prevention of HIV infection in women. The legislation also creates a new program under the Community Based Clinical Research Initiative (P.L. 100-607) to expand clinical trials involving AIDS treatment for women.

7. Osteoporosis and Related Disorders Research (S. 2614/Grassley): To authorize an additional \$36 million at the National Institute for Arthritis and Musculoskeletal and Skin Disease for research on osteoporosis, including the establishment of an Interagency Council, a Scientific Advisory Panel, three demonstration projects, and a National Information Clearinghouse and Resource Center.

TITLE II—SERVICES

1. Informed Consent for Breast Cancer Treatment: To mandate that states receiving funds under Medicaid or other federal health programs require physicians to inform breast cancer patients of alternative methods of treatment for breast cancer before such treatment is started.

2. Reimbursement for Certain Nurse Practitioners under Medicare and Medicaid: To provide direct reimbursement for nurse practitioners specializing in women's health under Medicare and Medicaid to improve access to prenatal care and preventive gynecological care.

3. Adolescent Pregnancy, Prevention, Care and Research Grants Act of 1989 (S. 120/Kennedy): Replace existing Adolescent Family Life Demonstration Projects with an ongoing full-service adolescent pregnancy prevention program—that stresses abstinence from sexual relations, and service program for pregnant and parenting adolescents. Services provided include prenatal and postpartum care, referral for education, employment, and vocational services, and adoption counseling services.

4. COBRA Displaced Family Amendments Act of 1990: Expands current health insurance continuation provisions under COBRA (Consolidated Omnibus Budget Reconciliation Act of 1985) to require employers to provide health insurance coverage for widowed, divorced, and legally separated spouses age 50 and above until they obtain coverage or become eligible for Medicare, and for their dependent children.

5. Federal Employee Family-Building Act: Requires carriers under the Federal Health Employees Benefits Plan that offer obstetrical benefits to also cover infertility treatment and medical expenses and counseling fees related to adoption.

TITLE III—PREVENTION

1. Medicaid Infant Mortality and Children's Health Amendments of 1990 (S. 2198/Bradley): Requires states to expand Medicaid coverage for all women and infants up to 185% of poverty, on a phased-in basis. Allow immediate or requires phased-in coverage of children up to 18 years of age

up to 100% of poverty. Optional coverage of children through age 7 up to 185% of poverty and of home visitation.

2. Breast and Cervical Cancer Mortality Prevention Act of 1990 (S. 2283/Mikulski): Establishes a new \$50 million of breast and cervical cancer. States would be required to target low-income women for mammograph and Pap smear services provided under the bill.)

3. Medicare Screening Mammography Amendments of 1990 (S. 2033/Mikulski): Restores mammography reimbursement under Medicare on an annual basis for all Medicare-eligible women, and raises the cap to \$60 for a screening mammogram. (Under the Catastrophic Health Act, mammography would have been reimbursed at \$50.)

4. Coverage of Bone Mass Measurement under Medicare (S. 2619/Glenn): Authorizes reimbursement under Medicare for bone mass measurement technologies for purposes of detecting bone loss in certain high-risk individuals.

5. Women and AIDS Outreach and Prevention Act: Authorizes \$10 million in FY 1991 for HIV prevention and education efforts in targeted family planning clinics and other public health programs that serve women in areas with high HIV infection rates. Funds would be used to improve outreach and increase access to preventive health services, including family planning, for high risk and HIV infected women and for additional referral and follow-up activities to reduce the spread of AIDS.

6. Infertility Prevention Demonstration Projects of 1990: Authorizes \$10 million for 10 demonstration projects to reduce infertility through routine screening and treatment of the sexually transmitted disease chlamydia in family planning and other public health clinics that serve women. The bill also mandates data collection to better assess national incidence of chlamydia and public education and outreach efforts.

FACTSHEET ON THE WOMEN'S HEALTH EQUITY ACT OF 1990

Why a women's health package? Several compelling reasons prompted the Congressional Caucus for Women's Issues to create an omnibus package of legislation devoted specifically to the health care needs of women.

Consider the facts:

The death rate from breast cancer increased 24 percent between 1979 and 1986.

Women are the fastest growing group of those infected with AIDS. Women now make up 11 of all reported AIDS cases.

The U.S. has a higher infant mortality rate than 21 other industrialized countries. This year, 40,000 babies will die before their first birthday.

Despite these and other startling facts, women's health issues—which are defined as diseases or conditions that are unique to women, are more prevalent or more serious in women, or for which specific risk factors or interventions differ for women—have received scant attention both in terms of funding and research. The National Institutes of Health (NIH), the nation's major source of funding for medical research conducted in the United States, spends only about 13 percent of its budget on women's health.

Today, many medical treatments currently used on women are based on studies conducted entirely on men. For example, although cardiovascular illness is the number one cause of death and disability in American women, women have consistently been

excluded from major research studies in this area.

The Multiple Risk Factor Intervention Trials (Mr. F.I.T.) studies coronary heart disease risk factors in a study population of 15,000 men, and no women.

The Physician's Health Study looked at the use of aspirin as a preventive therapy for coronary disease in a study of 22,071 men, and no women.

Women's health issues have been ignored despite the fact that women are more likely to report symptoms of illness and to use health services than men. In fact, after age 14, women visit medical offices 25 percent more often than men, and are more likely to undergo surgery and to be hospitalized.

The Women's Health Equity Act of 1990 attempts to address the deficiencies in the treatment of women's health in three crucial areas: research, services, and prevention. Without research into the causes and cures of diseases affecting women, these diseases cannot be effectively treated. Likewise, knowledge about which treatments are most effective is of little use unless women have access to the full range of available health services. Finally, the best way to treat women's health problems is to prevent them from occurring, or to catch them in their earliest stages when they are most treatable.

TITLE I—RESEARCH

A. Equity in research

In 1985, the Public Health Service Task Force on Women's Health Issues released a report on the health status of American women. For the first time, both academics and government policymakers agreed that women were disadvantaged in terms of health care.

One of the principle recommendations made by the task force was that biomedical and behavioral research be expanded to assure emphasis on conditions and diseases unique to, or more prevalent in, women. The report specifically identified lack of data as an important factor in limiting our understanding of women's health care needs, and stated that "the need for data that are relevant to health and are sex- and age-specific by race and ethnicity is crucial."

In response to these concerns, the National Institute of Health (NIH) in 1987 issued a new policy to encourage the inclusion of women in clinical study populations. Under this policy, a grant applicant who intends to utilize males only is required to provide a clear rationale for excluding women from the study population.

In December 1989, Reps. Patricia Schroeder and Olympia Snowe, Co-Chairs of the Congressional Caucus for Women's Issues, and Rep. Henry Waxman, Chairman of the House Energy and Commerce Subcommittee on Health and the Environment, asked the General Accounting Office (GAO) to evaluate the extent to which the NIH policy had resulted in the inclusion of women in clinical study populations, as well as the extent to which research funded by NIH actually studies gender differences.

The results of the GAO study, released at a June 18, 1990, hearing before the Energy and Commerce Subcommittee on Health and the Environment, were disturbing. Although the NIH policy to encourage the inclusion of women was announced in 1986, guidelines to implement the policy were not published until July 1989. The policy was not used consistently in reviewing research applications until 1990.

In addition, NIH has no system in place to monitor the effectiveness of this policy; it could not provide GAO with information on the number of all-male studies that were funded in the past or are currently funded. To the extent that the NIH policy has been implemented, it has focused almost entirely on ending the exclusion of women from study populations, rather than studying whether diseases and treatments for those diseases affect women differently from men.

The GAO report also found that NIH directly undermines the goal of its policy by not considering the inclusion of women as a key factor in determining a research proposal's scientific merit. The Division of Research Grants, which reviews all incoming grant applications before assigning them to a peer review committee, directs reviews not to consider compliance with the policy until a decision has been made on scientific merit. According to the GAO, failure to consider study population as an issue of scientific merit downgrades its importance.

Finally, the NIH policy only applies to extramural research funded by NIH but conducted by outside organizations, but not to intramural research actually conducted by NIH.

Research into women's health has also been hampered by the lack of a gynecological or obstetrical research branch at NIH. In fact, only 3 obstetricians-gynecologists are currently on permanent staff at NIH into problems that might impact on women's health.

1. Women's Health Research Act (H.R. 5290, Rep. Olympia Snowe)

H.R. 5290 creates three new programs designed to ensure that women's health concerns are adequately addressed at the federal level. First, the legislation would establish an Office of Women's Health under the Assistant Secretary for Health at the Department of Health and Human Services (HHS). This office would initiate and coordinate health promotion activities within all divisions of HHS, including the Public Health Service, the Food and Drug Administration, the Health Resources and Services Administration (HRSA), and the Health Care Financing Administration (HCFA), for example.

The legislation would also establish a Center for Women's Health Research and Development under the Director of the National Institutes of Health. This center would serve as both overseer and coordinator of efforts to improve women's health research at NIH by identifying women's health research needs, supplementing existing funds for research on women's health and gender differences, coordinating research among the various Institutes of Health, and establishing data banks on women's health and gender differences. The research center would also be responsible for monitoring the inclusion of women in clinical study populations.

In its first year of operation, the center would also be charged with developing a plan for establishing an intramural program in obstetrics and gynecology. That program, which would initiate and conduct OB/GYN research, would be instituted in the second year after the legislation's enactment.

H.R. 5290 would authorize \$20 million in fiscal year 1991 for the Center for Women's Health Research and Development, and \$300,000 for the Office of Women's Health.

2. Clinical Trials Fairness Act (H.R. 5345, Rep. Patricia Schroeder and Sens. Symms and Mikulski)

This legislation would codify NIH's policy regarding the inclusion of women and minorities in research, and extend that policy to the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA), which has been in voluntary compliance with the policy since 1987.

H.R. 5345 would require the inclusion of women and minorities where feasible and appropriate, in all clinical trials—both intramural and extramural—funded by NIH and ADAMHA. exceptions would be permitted where inclusion of these groups would endanger their health or would be inappropriate to the purpose of the research.

The bill would also clarify that the composition of the study population should be considered an issue of scientific merit, and would require the Secretary of Health and Human Services to ensure the project is designed in a manner sufficient to allow for an analysis of gender differences.

Finally, the bill would establish a review committee to ensure compliance with this policy.

B. Breast cancer research

Today, breast cancer remains the most common form of cancer in women, and the second leading cause of cancer deaths among women.

In 1990, 150,000 American women will develop breast cancer and 44,000 women will die from the disease.

Currently, one in nine women born in the U.S. will develop breast cancer in her lifetime, up from only one in 20 in 1961. The death rate from breast cancer has also increased, up 24 percent from 1979 to 1986. Researchers presently have no explanation for these dramatic increases.

While breast cancer still predominantly strikes women over age 50, it is increasingly striking younger and younger women. Since 1974, the incidence of breast cancer in women under age 35 has steadily increased.

Although the number of deaths due to breast cancer grows each year, funding for basic research on the disease has been limited. Of the \$77 million budgeted in fiscal year 1989 for breast cancer at the National Cancer Institute (NCI) of the National Institutes of Health, only \$17 million was spent on basic research. Basic research focuses on the origins of the disease, and is a necessary step toward preventing the disease or finding a cure.

In addition, the total budget for NCI has increased by only \$23 million in inflation-adjusted dollars during the last decade, the lowest percentage increase among all the Institutes of Health. Due to lack of funds, only 26 percent of the NCI breast cancer grant requests approved through the peer review process currently receive any money.

3. Breast Cancer Basic Research Act (H.R. 3251, Rep. Mary Rose Oakar)

H.R. 3251 would authorize an additional \$25 million earmarked specifically for basic breast cancer research at NCI. These funds will enable NCI to follow up on promising leads about the causes of the disease; research that could eventually lead to a cure for breast cancer or enable women to avoid developing breast cancer.

C. Contraceptive and Infertility Research

American women today have fewer contraceptive options than European women. No truly new contraceptive method has been made available to Americans since

1960, the year the Food and Drug Administration approved marketing of the Pill.

Industry, which had been responsible for the research and development of most current contraceptives, has cut back on research because of the prohibitive time and cost associated with the approval of new drugs and because of the fear of litigation. Today, only one private pharmaceutical company based in the U.S. is still doing research related to contraceptive drugs and devices, compared to four in 1987 and 13 in 1970.

In addition, federal funding for contraceptive research and development has been minimal. The National Institutes of Health (NIH) allocated only \$3 million for evaluating contraceptive safety and \$8 million for applied research in contraceptive development in fiscal year 1989, an amount that has remained virtually unchanged since fiscal year 1983.

The lack of safe and effective contraceptive options is largely responsible for the 3 million unplanned pregnancies that occur each year. Half of these pregnancies end in abortion.

A recent study by the National Academy of Sciences found that the number of abortions could be significantly reduced by greater use of contraceptives.

While 3 million unplanned pregnancies occur each year to American women, many other Americans find themselves unable to conceive children. One in every six couples in the U.S. is infertile or fails to conceive within a year of deciding to have a child.

Each year, nearly one million couples seek medical advice or treatment for infertility. In the last 20 years, the number of infertility-related visits to doctors has nearly quadrupled.

4. Contraceptive and Infertility Research Centers Act (H.R. 4583, Reps. Patricia Schroeder and Olympia Snowe and S. 2215 Sen. Harkin)

H.R. 4583 would deal with the urgent need for contraceptive and infertility research by providing for the development and operation of three contraceptive and two fertility research centers. These centers would conduct clinical and other applied research, develop protocols for training physicians, scientists, nurses and other health professionals; and develop continuing education programs for such professionals. In addition, the bill creates a grant and loan repayment program to attract top-notch scientists to work at the centers.

The bill would provide \$20 million in fiscal year 1991 and 1992, \$12 million in FY 1993, \$12.5 million in FY 1994, and \$13 million in FY 1995. The additional money in the first two years is for start-up costs.

5. Sense of Congress Resolution on Contraceptive and Infertility Research (H. Con. Res. 309, Reps. Patricia Schroeder and Olympia Snowe and S. Con. Res. 111, Sen. Harkin)

H. Con. Res. 309 expresses the sense of Congress that contraception and fertility research, development, and education should be a national priority, and sets specific research goals for the next 20 years. The resolution also urges Congress to require the Secretary of Health and Human Services to reestablish the Ethics Advisory Board, which was terminated in 1980. NIH currently cannot conduct research on in vitro fertilization without the express approval of the Ethics Advisory Board.

D. Research on women and AIDS

Women constitute the fastest growing group of persons with AIDS. According to the Centers for Disease Control, 105,000 women may currently be infected with the HIV virus, with 30 percent likely to develop AIDS within the next 5 years.

Women constitute 11 percent of all reported AIDS cases.

AIDS cases reported for females in December 1989 indicate a 10.5 percent increase since December 1988. During the same time, AIDS cases reported for males indicate a 9.3 percent increase.

80 percent of all HIV-infected women are African American and Hispanic women.

A June 1990 study by the National Academy of Sciences found that among those applying for military service, women are infected with HIV at the same rate as men.

Recent data indicates that the rate of infection of women in communities hardest hit by AIDS is seriously undercounted, in part because low-income women often die before they are diagnosed with AIDS, or are diagnosed with AIDS-related diseases, such as pneumonia, but not with AIDS.

Much of the problem lies in the fact that virtually no research has been conducted on women and AIDS. What little research has been done has focused almost exclusively on women's role in transmitting the disease to others, particularly children, rather than on women as individuals at risk of contracting the disease.

In addition, almost no research has been done on the progression of the disease in women. Anecdotal evidence suggests that AIDS develops differently in women than in men, and that women with AIDS may be prone to different opportunistic infections, such as reproductive tract infections and cervical cancer, that are not present in men with AIDS. However, because no research has been done on AIDS symptomatology unique to women, the Centers for Disease Control's definition of AIDS currently reflects those symptoms that are known to appear predominantly in men.

6. Women and AIDS Research Initiative (H.R. . Rep. Constance Morella)

This legislation would expand the focus of current research to include research on women as persons at risk of AIDS. The bill would authorize a Women and AIDS research initiative within NIH and ADAMHA that would support both intramural and extramural research concerning HIV transmission, development, treatment and prevention in women. The bill authorizes \$10 million in FY 91 and such sums as may be needed in FY 92-94.

The bill also authorizes \$6 million to create a new program under the Community Based Clinical Research Initiative (P.L. 100-607), which provides funds for the establishment of research organizations located in community settings to provide access to clinical research for populations at high risk HIV infection. Under the legislation, funds would be used to expand clinical trials involving AIDS treatment for women. The bill makes clear that money under this program could be used for support services, such as child care and transportation, to enable women to participate in clinical trials.

E. Osteoporosis research

Osteoporosis—a condition characterized by excessive loss of bone tissue—affects an estimated 24 million Americans and results annually in an estimated \$10 billion in direct medical costs. The cost of this disease will only continue to escalate as the popula-

tion ages and the incidence of osteoporosis increases. In fact, if current trends continue, the cost of osteoporosis could be as much as \$62 billion by the year 2020. Yet, only about \$20 million is currently allocated for research on this debilitating disease.

Half of all women over age 45 and 90 percent of all women over age 75 suffer from osteoporosis.

At least 1.3 million fractures in the U.S. each year are the result of osteoporosis; 70 percent of all bone fractures occurring in people over age 45 are the result of the disease.

80 percent of individuals affected by osteoporosis are women.

Osteoporosis often results in unnecessary death due to increased risk of hip fractures, especially among elderly women. Of those who survive a hip fracture, 20 percent need nursing home care for the rest of their lives and over one-fifth are unable to walk for at least a year. Many will never be able to walk again. Direct medical costs resulting from hip fractures alone are an astounding \$7 billion annually.

Osteoporosis research is severely underfunded. NIH currently spends only about \$20 million total for osteoporosis-related research, while the National Institute of Arthritis and Musculoskeletal and Skin Diseases, the primary institute responsible for research on the disease, has one of the smallest budgets and lowest research award rates of any institute at NIH, receiving only two percent of the total NIH budget.

7. Osteoporosis and Related Disorders Research (H.R. 4864, Rep. Olympia Snowe and S. 2614 Sen. Grassley)

H.R. 4864 authorizes an additional \$36 million for federal research on osteoporosis, including basic research into the causes of the disease as well as treatments to restore bone loss or prevent further bone loss.

The legislation would also provide for the establishment of an Interagency Council to promote and coordinate research and education and health promotion programs; an Advisory Panel to make recommendations about the disease; grants for three model education health promotion and disease prevention projects; and a Resource Center to compile and disseminate information about research results, services and materials to health professionals, patients, and the public.

TITLE II—SERVICES

A. Breast cancer treatment

Most women continue to be ill-informed about the treatment for breast cancer. Many women simply assume that discovery of breast cancer means that their entire breast must be removed—a procedure known as a mastectomy.

However, medical researchers now know that in many breast cancer cases, mastectomy is not necessary. In fact, a panel of experts convened by the National Institutes of Health in June 1990 confirmed that for early breast cancer, lumpectomy—in which only the affected area is removed, rather than the entire breast—followed by radiation, is preferable to mastectomy.

Unfortunately, despite these findings, the majority of women still undergo mastectomies for breast cancer. In the past, women who went in for simple biopsy to determine if cancer was present would often wake up to find that their breast had been removed. While such practices are no longer commonplace, even today only 15 states have laws ensuring that women have a role in deciding on their form of treatment. In the remain-

ing states, no requirements exist that doctors inform patients that mastectomy is not the only treatment option.

1. Breast Cancer Informed Consent Act (H.R. 200, Rep. Mary Rose Oakar)

H.R. 200 would withhold federal Medicaid funds from states that do not enact laws requiring physicians and surgeons to inform breast cancer patients of alternative effective methods of treatment of breast cancer before treatment begins.

B. Nurse practitioners and prenatal care

Nurse practitioners are registered nurses who have advanced education and clinical training in a health care specialty area, including women's pediatric, and family health. Nurse practitioners provide primary care in a variety of community settings, and often serve as the regular health care provider for children and adults.

Recent studies indicate that between 75 and 80 percent of adult primary care services, and up to 90 percent of pediatric primary care services could be performed by nurse practitioners. Potential cost savings associated with the use of nurse practitioners have been estimated at between \$500 million \$1 billion, on 19 to 49 percent of primary care provider costs.

While the Omnibus Budget Reconciliation Act of 1989 (OBRA) mandated Medicaid coverage for the services of pediatric nurse practitioners and family nurse practitioners, reimbursement for women's health nurse practitioners—who provide prenatal care, contraceptive management, and cancer screening services, among other services—is not required by federal law.

In addition, while the 1989 OBRA for the first time provided for reimbursement of pap smears under Medicare, nurse practitioners currently cannot be reimbursed for performing this procedure.

2. Women's Health Care Coverage Expansion Act of 1990 (H.R. . Rep. Patricia Schroeder)

This legislation authorizes direct reimbursement for nurse practitioners specializing in women's health under the Medicare and Medicaid programs, in order to improve access to prenatal care and preventive gynecological care for low-income and older women.

C. Adolescent Pregnancy

Each year in the United States, more than a million teenagers—80 percent of whom are unmarried—become pregnant. Thirty thousand of these young women are under the age of 15 and, if present trends continue, researchers estimate that fully 40 percent of today's 14-year-old girls will be pregnant at least once before they reach 20.

The U.S. leads all Western countries in teenage pregnancy rates, teen abortions, and teen childbearing rates. American girls 15 and younger are five times more likely to give birth than in any other developed country. The U.S. is the only developed country where teenage pregnancy has been increasing in recent years.

Teen parents and their babies face multiple risks: higher infant death, higher incidence of low birthweight and seriously disabled babies, and more complications during pregnancy and childbirth. Teen parents are more likely to drop out of school, face a repeat pregnancy, be unemployed, and depend on welfare.

Adolescent childbearing is one of the leading causes of welfare dependency in the U.S. Teenage mothers comprise 61 percent of all women receiving Aid to Families with De-

pendent Children (AFDC). Of women under age 30 receiving AFDC, 71 percent had their first child as a teenager. It has been estimated that, overall, the U.S. spends \$8.6 billion annually on income support for teenagers who are pregnant or have given birth.

While teenage pregnancy rates continue to rise, the federal commitment to preventing teen pregnancy has been minimal. Title XX of the Public Service Health Act—commonly referred to as the Adolescent Family Life Act (AFLA), the only federal program exclusively designed to deal with adolescent sexuality, pregnancy, and family issues—currently receives less than \$10 million.

In addition to its limited funding, AFLA has also been criticized by some for requiring teenagers to have parental consent before receiving any services, and for prohibiting organizations that counsel or refer for abortions from receiving any funds.

3. The Mickey Leland Adolescent Pregnancy Prevention and Parenthood Act of 1990 (H.R. 5246, Rep. Nancy Johnson and S. 120, Sen. Kennedy)

Rather than simply funding demonstration projects for the prevention of teenage pregnancy, as under the current AFLA program, H.R. 5246 would revise AFLA to provide for comprehensive prenatal and postpartum care, well-baby and well-child care, family planning, and family life and parenting education. The new program would also provide for preventive education and screening for sexually transmitted diseases and referral for treatment. In addition, the program contains grants for research into the causes and consequences of teen pregnancy and childbearing.

The bill also includes outreach to teenage boys. Under H.R. 5246, both teen mothers and fathers would be eligible for counseling and referral services for employment, employment training, nutrition, substance abuse, and adoption services. Adolescents would also receive assistance in establishing eligibility for federal, state, and local health and social services.

Unlike the current program, H.R. 5246 would encourage parental and family involvement, but would not deny services to teenagers who choose not to consult their parents. In addition, pregnant teenagers would be informed of the availability of counseling for all legal options regarding pregnancy. However, no funds would be used for payment for the performance of an abortion.

The legislation authorizes \$60 million for each of fiscal years 1991–1993.

D. Health Insurance coverage for displaced homemakers

In 1986, in response to increasing concern about the large number of Americans lacking health insurance, Congress enacted legislation designed to help individuals who had lost their health insurance as a result of a lay-off, or because of the death of or divorce from a covered worker.

Under Title X of the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), employers with more than 20 employees are required to provide employees and their families with the option of continued coverage under the group health insurance plan in the case of certain qualifying events. The law requires coverage to be continued for up to 18 months for terminated or reduced-hour employees, 29 months for employees with a disability at the time of termination, and three years for former and surviving spouses and their dependent children. The beneficiary of the continued cov-

erage pays 102 percent of the premium in most cases.

While COBRA has been of significant assistance to workers and their families, the law does not resolve the problem of lack of health insurance after the period of coverage ends. Women who lose their health insurance as a result of the death of or divorce from a covered worker are a particularly vulnerable group.

An estimated 40 percent of displaced homemakers fall into poverty upon displacement.

Two-thirds of displaced homemakers are unemployed.

Women who become COBRA beneficiaries due to the death of their spouse or divorce are likely to be displaced homemakers unable to obtain insurance through an employer or who, as older women, have preexisting health conditions that prevent them from obtaining individual coverage until they are eligible for Medicare. However, regardless of whether or not they have obtained alternate coverage, under the current law, displaced homemakers are simply dropped at the end of their three years of continued coverage.

There are no exact statistics on the number of displaced homemakers who are unable to obtain alternate coverage after the 3 years of COBRA coverage. However, over 27 percent of those without health insurance are between the ages of 50 to 64. In addition, 22 percent of insured women are covered under their spouse's plan, putting them at risk of losing their insurance in the event of their husband's death or divorce.

Five states have already passed legislation extending COBRA coverage for older displaced homemakers. For example, continued coverage is allowed indefinitely for surviving spouses age 50 or older under Louisiana law, for former and surviving spouses over age 55 under Illinois law, and for divorced or separated spouses age 55 or older under New Hampshire law.

4. COBRA Displaced Family Amendments of 1990 (H.R. , Rep. Marcy Kaptur)

This bill expands current health insurance continuation provisions under COBRA to require employers to provide health insurance coverage for widowed, divorced and legally separated spouses age 50 and above until they obtain alternate coverage or become eligible for Medicare. The bill also requires continued coverage for their dependent children until they reach age 23.

E. Infertility treatment and adoption assistance

For many of the nearly five million infertile couples in the U.S., the costs of infertility treatment and adoption can be prohibitively high. The average fee for infertility care is between \$2,500 and \$3,000, while the cost of adoption can range up to \$10,000, with the average non-profit agency fee in 1985 being \$6,000.

Unfortunately, the high cost of infertility treatment and adoption often closes off these options for those couples most in need. While the risk of infertility is one and a half times greater for blacks than for whites and is more common among couples with less than a high school education, whites and those with higher incomes are more likely to pursue infertility treatment and adoption.

Although health insurance policies often cover pregnancy and childbirth as a matter of course, most insurance policies do not cover the costs of infertility treatment or adoption. Likewise, while the federal gov-

ernment has taken a high profile in urging its employees to adopt children and urging private companies to provide adoption benefits for their employees, it offers no such benefits to its own employees. The costs of infertility treatment and adoption are not covered by federal employee health insurance.

5. The Federal Employees Family Building Act of 1989 (H.R. 2860, Rep. Patricia Schroeder)

H.R. 2860 requires that all federal employee health insurance plans that provide obstetrical benefits also cover certain family building activities, including medical procedures necessary to overcome infertility and any necessary expenses related to the adoption of a child. Covered adoption expenses include agency and placement fees, counseling fees, medical costs, foster care charges, and travel costs. The legislation also allows federal employees to use sick leave for family building activities.

TITLE III—PREVENTION

A. Maternal and child health

Each year in the U.S., nearly 40,000 infants die before their first birthday. The U.S. has a higher infant mortality rate than 21 other industrialized nations.

In addition, 250,000 children born in the U.S. each year suffer from low birthweight. An infant's birthweight is the most critical factor in its ability to survive. While low birthweight babies account for only 7 percent of all live births, they account for nearly 60 percent of all infant deaths. In addition, low birthweight babies who do survive are twice as likely to suffer one or more handicaps, including mental retardation, deafness, blindness, autism, cerebral palsy, epilepsy, or chronic lung problems.

The best means of preventing infant mortality is to reduce the number of low birthweight babies. And the best way to reduce the incidence of low birthweight is to ensure that women receive adequate prenatal care.

Infants born to women who do not receive adequate prenatal care are almost twice as likely to be of low birthweight.

Prenatal care is also highly cost effective. Every dollar spent on prenatal care saves \$3.38 in the costs of caring for low birthweight babies. Averting even one low birthweight birth can save \$14,000–\$30,000 in first-year hospital and long-term health care costs.

Unfortunately, many women, particularly low-income women, teenagers, and minority women, receive little or no prenatal care.

More than one-third of pregnant women—1.3 million a year—receive insufficient prenatal care. Nearly 25 percent of pregnant women fail to begin prenatal care in the critical first trimester of pregnancy.

One-fourth of women in their childbearing years—15 million women—lack insurance covering maternity care. Two-thirds of this group—10 million women—are without any form of health insurance.

1. Medicaid Infant Mortality Amendments of 1990 (H.R. 3931, Rep. Cardiss Collins and S. 2198, Sen. Bradley)

H.R. 3931 requires states to provide Medicaid coverage for all pregnant women and children under age six with incomes up to 185 percent of poverty. The House of Representatives had passed similar legislation in 1989 as part of budget reconciliation; however, Congress eventually reduced coverage to pregnant women and young children with incomes up to 133 percent of poverty.

B. Breast and cervical cancer prevention

According to health professionals, the most effective means of preventing deaths from breast and cervical cancer is through early detection using mammography and pap smear screening.

Mammograms—low dose breast X-rays—can detect tumors two to three years before a physician is able to discover them through a manual exam. According to medical experts, 30 percent of cancer deaths could be averted if women received regular mammography screening. Likewise, regular pap smear tests can diagnose cervical cancer in its early stages, when it is virtually 100 percent curable. Unfortunately, many women fail to receive regular mammography and pap smear screening.

Twenty-seven percent of women in the U.S. have not had a pap smear test in the past three years. As a result, 6,000 to 7,000 women die each year from cervical cancer.

Less than one-third of women over the age of 40 have ever had a mammography. The proportion of women receiving regular mammography screening is even lower. The National Cancer Institute recommends that all women over age 50 receive an annual mammogram.

One of the most frequently cited reasons for women's failure to receive breast and cervical cancer screening is lack of money to pay for cancer screening services. The effect of this barrier is clearly seen among low-income minority women. Despite the fact that white women are more likely to develop breast cancer, the death rate from the disease is higher for black women. In fact, breast cancer is the leading cause of cancer death among black women in the United States.

2. Breast and Cervical Cancer Mortality Prevention Act of 1990 (S. 2283. Sen. Barbara Mikulski; H.R. 4790. Rep. Henry Waxman)

S. 2283 would create a new, \$50 million public health service program to screen women for breast and cervical cancer, provide referrals for appropriate treatment, develop public information and education programs, and improve the education and training of health professionals. Sixty percent of funds would be required to be used for actual screening and referral services, with priority given to low-income women. States receiving funds would be required to have in place standards to assure the quality of mammography and pap smear services.

H.R. 4790 was approved by the House of Representatives on June 19, 1990.

3. Mammography Reimbursement under Medicare

In 1988, Congress approved, as part of the Medicare Catastrophic Coverage Act, Medicare coverage for a screening mammogram every two years for women over age 50, and every year for women aged 50-64 who were determined to be a high risk of developing breast cancer. However, in 1989, Congress repealed the entire catastrophic coverage law, including its coverage of mammography screening.

(a) (H.R. 3701, Rep. Cardiss Collins) This legislation would restore mammography reimbursement under Medicare, but would provide screening on an annual basis for women over age 49 and for high-risk women age 39-49. Reimbursement for screening services would be capped at \$50, the same as under the original law.

(b) (H.R. 3864, Rep. Mary Rose Oakar) H.R. 3864 restores mammography reimbursement under Medicare as above, with a

\$60 cap for a screening mammogram and S. 2033, Sen. Mikulski.

(c) (H.R. 5054, Rep. Barbara Kennelly) H.R. 5054 restores mammography reimbursement under Medicare on an annual basis and removes the cap for screening mammograms, instead subjecting reimbursement to a fee schedule under Medicare, as is the case for diagnostic mammograms.

C. Osteoporosis prevention

For individuals at risk of developing osteoporosis, or already suffering from osteoporosis, bone mass measurement is the only accurate way to detect and diagnose low bone mass for the purpose of determining the risk of bone fractures and selection therapies to prevent further loss of bone mass.

While a number of sophisticated technologies exist for measuring bone mass, Medicare currently only provides reimbursement for one outdated technology that has been surpassed for years by other more accurate, cost-effective technologies.

Medical coverage of more effective bone measurement procedures would increase the use of appropriate treatment and prevent a significant number of bone fractures. In turn, the lower incidence of fractures due to osteoporosis would lessen the need for medical, hospital and nursing home care.

4. The Medicare Bone Mass Measurement Coverage Act of 1990 (H.R. 4865. Rep. Olympia Snowe and S. 2619, Sen. Glenn)

H.R. 4865 would expand Medicare reimbursement for updated technologies for diagnostic testing for osteoporosis. Only individuals at high risk of developing osteoporosis, including women with an estrogen deficiency and individuals with vertebral abnormalities, would be covered under the legislation.

D. Aids prevention

Experts agree that the risk of HIV infection among women of reproductive age is increasing. Eighty percent of women with HIV infection are reproductive age and, in New York City, AIDS has become the leading cause of death for women aged 20 to 40 years.

The increased risk of AIDS among women has also increased the risks of AIDS in children. In the next few years, AIDS can be expected to become one of the five leading causes of death among children and young people. A recent study by the National Institute of Child Health and Human Development estimated that by 1991 there will be 10,000 to 20,000 infants born with HIV infection in the United States.

Traditional AIDS service providers do not adequately address the needs of women at risk of or infected with HIV. These providers often are located in areas inaccessible to women, or are not set up to deal with the unique needs of women. For these and other reasons, most women do not use these providers. Instead, 50 to 90 percent of women choose to be tested for HIV infection at primary care clinics offering prenatal care and reproductive health services.

Family planning clinics and community health centers, which are major providers of prenatal and reproductive health services to low income women, are well placed to provide services to prevent the spread of AIDS. Over 5 million women annually use family planning clinics while nearly 3 million use community health centers. These women tend to be under age 25; many are unmarried or have multiple sexual relationships, and a large proportion are low-income women and minority women. These charac-

teristics closely resemble those of women currently diagnosed with AIDS.

Many of these clinics are already performing activities designed to help prevent the spread of AIDS, including providing educational programs on sexuality, counseling women on contraception/prevention strategies, and providing education and counseling on HIV and AIDS. They also provide HIV testing directly or refer clients to test sites. However, in the case of family planning clinics, funding has cut dramatically over the past decade, leaving them without adequate funds to provide the necessary outreach and follow-up services to women at high risk for AIDS. In addition, there is currently no targeted federal effort to involve these primary care providers in providing outreach or services to women in high risk areas.

5. Women and AIDS Outreach and Prevention Act of 1990 (H.R. , Rep. Constance Morella)

This legislation would authorize \$10 million in fiscal year 1991 under the AIDS prevention program for select family planning clinics and other public health clinics that provide preventive health services for women in high risk areas to design and carry out innovative programs of outreach, referral, services, and training.

Under the legislation, funds would be available for family planning clinics and community health centers to provide preventive health services, including family planning, screening, and treatment for sexually-transmitted diseases, and counseling and testing for the HIV virus; as well as to provide outreach to inform women and their partners of the availability of these services. Clinics would also develop improved referral arrangements with agencies that serve women and their partners, including drug abuse clinics, STD clinics, and homeless shelters, and would provide appropriate follow-up services. In addition, funds would be available to train clinic personnel in dealing with persons at high risk of AIDS, sexually-transmitted diseases, and unintended pregnancy.

E. Infertility prevention

The leading preventable cause of infertility in women is pelvic inflammatory disease caused by sexually-transmitted diseases (STD's). Approximately 125,000 women become infertile each year from STD-related pelvic inflammatory disease.

Unfortunately, the number of women contracting STD's is on the rise. An estimated four million new cases of chlamydia—now thought to be the most common STD in the U.S.—are contracted each year; 2.6 million of these cases occur in women.

The infertility rate of 20-29 year old women nearly tripled between 1965 and 1982, in part due to the rise in STD's. Many new cases of infertility could be prevented if more women were screened for STD's, especially chlamydia, as part of their routine gynecological exams.

Women who have been infected with chlamydia are twice as likely to experience an ectopic pregnancy; chlamydia may be responsible for as many as 20,000 ectopic pregnancies each year.

The most common cause of eye infections and certain lung diseases in newborns is chlamydia; the disease has also been associated with low birthweight, premature birth, and stillbirth.

While chlamydia is both treatable and preventable, few women with chlamydia experience any symptoms. Because of this,

women rarely seek routine screening and treatment for the disease, which cannot be detected by a regular pap smear test and often cannot be diagnosed through a regular gynecological exam. The only accurate way to detect chlamydia is through a specific—though inexpensive—test.

Chlamydia cost U.S. taxpayers \$1.4 billion in direct and indirect costs in 1987; three-quarters of the total cost was due to treatable, uncomplicated infections. These costs could be dramatically lowered if women were routinely screened for chlamydia as part of their normal gynecological care.

6. Infertility Prevention Demonstration Projects of 1990 (H.R. , Rep. Patricia Schroeder)

This legislation authorizes \$10 million for 10 demonstration projects to provide screening for, prevention and treatment of chlamydia as part of routine gynecological care, as well as to collect data on the prevalence of chlamydia and develop programs and materials to educate the public about detection, prevention and early treatment of chlamydia.

Mr. KOHL. Mr. President, I am proud to join my distinguished colleague from Maryland as an original cosponsor of the Women's Health Equity Act of 1990. I commend her for her deep commitment to and obvious leadership in improving access to critical health care services for women and children of this Nation.

They are, by and large, underserved and underrepresented in research, prevention, and treatment. So many of the difficult issues facing us on the social policy front can be traced back to our failure to invest in prevention. There is no question in my mind that that is the case with things like prenatal care, routine health screening, sexually transmitted diseases, and teenage pregnancy.

I hope that this comprehensive approach will help to draw attention to the health care needs of women. In years gone by, in the so-called traditional family, there was some expectation and stereotype that women sacrificed their own needs for those of their family, for their children. Ironically, Mr. President, that seems to have been the case in public, as well as private policy. Today, we find ourselves spending billions of dollars on research, with few of those dollars going specifically toward the health needs of women. We are spending billions of dollars on health care and yet women are not getting access to preventive services. And tragically, Mr. President, we are spending billions on health care and the children are not even getting immunized, they're not getting preventive care—particularly if they come from low-income families.

This bill is a major step toward restoring equity in the health care marketplace. It is an investment, that if made, will yield high profit margins both in the sense of Federal dollars and quality of life. While I would not perhaps endorse every single component of all of these initiatives, the vast

majority are not only worthy of support but should be enacted and funded immediately.

I look forward to working with my colleagues to make that happen.

Mr. HARKIN. Mr. President, I am most pleased to join my colleagues, especially Senator MIKULSKI, in the introduction of the Women's Health Equity Act of 1990. BARBARA MIKULSKI is the Senate's most distinguished advocate for better health care for women. This bill reflects her great knowledge and leadership. I also want to commend Senators KENNEDY, ADAMS, and SIMON for their excellent work in this area. We are all colleagues on the Labor Committee and many of us are on the Appropriations Committee. So you can bet we're going to use those positions to get the job done on this bill.

Mr. President, the Women's Health Equity Act is landmark legislation. It demands for the women of Iowa and of all America not special treatment, but fairness, plain and simple fairness. They are not getting it now. A recent study showed that only 13.5 percent of NIH's budget was spent on women's health research. This, when we know that the death toll from breast cancer alone each year—40,000—is nearly as high as that suffered by the fighting men and women during the Vietnam war—58,000. In Iowa this year, nearly a thousand women will die from lung, breast, and cervical cancer alone.

In addition, the GAO recently found that NIH has not assured that women are included in research studies of diseases that affect them. The most glaring example is the recent study which concluded that taking an aspirin a day reduced the risk of heart attack. That study was conducted only on men. So now more than half of all Iowans and half of all Americans do not know whether this prevention technique would help them, harm them, or have no impact. We have to correct this and we will.

I am also pleased, Mr. President, that two bills that I have authored are in this important package, especially the Contraceptive and Infertility Research Centers Act. This bill would establish five research centers to study the issues of contraception and infertility. Even if we do not all share the same beliefs when it comes to a woman's right to choose, we all agree that it is important to reduce the number of abortions. Enhanced research is desperately needed to bring down the rate of unintended pregnancy. And, with 2.4 million couples who want to have children but are suffering from infertility, it is important that we find better ways to diagnose and treat infertility.

As chairman of the subcommittee which funds health care programs, I am committed to working to fund these important initiatives. You can

bet when NIH officials come before my subcommittee next, they are going to have to answer some tough questions. We want results.

I urge my colleagues to join us in support of this important and timely legislation.

By Mr. KOHL (for himself and Mr. KENNEDY):

S. 2962. A bill to amend title 1 of the United States Code to define the type of adjournment that prevents the return of a bill by the President, and to authorize the Clerk of the House of Representatives and of the Senate to receive bills returned by the President at any time their respective Houses are not in session; to the Committee on Governmental Affairs.

POCKET VETO LEGISLATION

● **Mr. KOHL.** Mr. President, Senator KENNEDY and I are today introducing a bill that has significant consequences for this body and the Congress as a whole. Our bill would clarify that the President may pocket veto legislation only at the end of a Congress—not during intra- or inter-session recesses. It would codify the leading judicial interpretation of the President's pocket-veto authority. In so doing, it would ensure that Congress does not lose its constitutional authority to check and balance the executive branch.

The immediate impetus for this legislation was the President's handling of the Chinese students bill during the intercession adjournment last November. As my colleagues will recall, President Bush threatened to pocket veto the measure. But a pocket veto would have been unconstitutional under such circumstances, because both the House and Senate had made arrangements to receive any veto message during the adjournment.

Ultimately, however, the President chose a more diplomatic course. While asserting that he had pocket-vetoed the bill, he actually returned the measure to Congress, as the Constitution requires.

Congress properly treated the President's veto of the Chinese students bill as a normal return veto. That is, we exercised our constitutional prerogative, and attempted to override the veto. But while this particular dispute ended without a constitutional confrontation, the President's statements demonstrated the need to clarify the pocket veto power statutorily.

Indeed, this was not the first instance in which President Bush attempted to deny Congress its rightful opportunity to override a veto. In August 1989, while Congress was out for its summer recess, the President placed House Joint Resolution 390 in his pocket. This was a minor piece of legislation, which would have allowed the President to sign the S&L bailout without waiting for the bill to be

printed on parchment. Minor though it was, however, the President's handling of the measure was significant—he asserted the power to exercise an intrasession pocket veto. In response, the Democratic and Republican House leadership protested, calling his position extremely troublesome.

My point is not to criticize the present occupant of the White House. My purpose is merely to illustrate why we need the legislation being proposed today. We need it because Congress must protect its constitutional role in governing.

Under article I, section 7 of the Constitution, the President has 10 days to consider bills presented to him by Congress. If 10 days pass and the President doesn't sign the bill, it becomes law "unless"—in the words of our guiding document—"the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law." When adjournment keeps the President from returning the bill with his objections, he can fail to sign it—pocket it—and it dies.

The question, then, is what kind of adjournment prevents the President from sending a bill back to Congress? Two Supreme Court cases provide only minimal guidance. In 1929, the Court held that an intersession break of 5 months allowed for a pocket veto. In 1938, the Court said that an intrasession recess of 3 days did not permit such action.

In 1974, in litigation brought and personally argued by Senator KENNEDY, the D.C. Circuit ruled that intrasession adjournments do not prevent the President from returning a bill to Congress. And in 1984, the D.C. Circuit expanded that holding to adjournments occurring between sessions, though the Supreme Court later dismissed this decision on procedural grounds.

The appeals court identified several reasons for reaching its conclusion—ones that apply equally to this legislation. First, the framers of the Constitution rejected the idea of giving the President an absolute veto—which is what a pocket veto amounts to. Second, modern congressional adjournments are much shorter than the one at issue in the 1929 case. Third, modern communications technology enables the President to notify the American people that he has returned a bill to Congress even while it is in recess. Finally, we now arrange for House and Senate clerks to receive veto messages, even when Congress is not in session. Consequently, there is no longer the danger of delay or public uncertainty about the status of legislation.

At bottom, the pocket veto clause was meant as a defensive mechanism: The Congress cannot deprive the President of his veto power by adjourning without providing for receipt

of a return veto. Just as clearly, however, none of the farmers favored the offensive use of a pocket veto to deny Congress its own authority to consider veto overrides.

The Carter and Ford administrations recognized the validity of these propositions, and both agreed not to use pocket vetoes between or during sessions. The Reagan administration chose to fight, and now the Bush administration seems to be taking a confrontational stance as well.

Ideally, of course, a lasting agreement between the executive and legislative branches would be the best solution. But in the absence of such an accommodation, legislation is necessary. And our proposal is quite simple: In 26 words, it states that no adjournment—other than one to end a Congress—prevents the return of a bill by the President. In addition, the bill codifies the present practice of authorizing the House and Senate clerks to receive bills when we are not in session.

Mr. President, identical legislation is advancing in the House under the guidance of Representative BUTLER DERRICK, chairman of the Rules Subcommittee on the Legislative Process. I commend him for his excellent work on this issue. I also salute Senator KENNEDY for his longstanding commitment to protecting congressional prerogatives against improper encroachments by the executive branch.

Thank you. I ask unanimous consent that the full text of the bill be reprinted at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2962

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE 1, UNITED STATES CODE.

Chapter 2 of title 1 of the United States Code is amended by inserting at the end thereof the following new section:

"§ 115. Adjournment preventing return of bill; Clerk of the House of Representatives and Secretary of the Senate authorized to receive bills returned when their respective Houses are not in session

"(a) No adjournment of either House of Congress, other than an adjournment sine die to end a Congress, prevents the return of a bill by the President.

"(b) The Clerk of the House of Representatives and the Secretary of the Senate are authorized to receive bills returned by the President at any time their respective Houses are not in session."

SEC. 2. CLERICAL AMENDMENT.

The table of sections at the beginning of chapter 2 of title 1 of the United States Code is amended by inserting at the end thereof the following new item:

"115. Adjournment preventing return of bill; Clerk of the House of Representatives and Secretary of the Senate authorized to receive bills returned when their respective Houses are not in session."•

By Mr. WILSON (for himself and Mr. CRANSTON):

S. 2963. A bill to authorize the Secretary of the Interior to conduct an advanced water treatment research and demonstration project near Salton Sea, CA; to the Committee on Energy and Natural Resources.

SALTON SEA WATER RESEARCH PROJECT

• Mr. WILSON. Mr. President, today I am introducing legislation to conduct an advanced water treatment research and demonstration project near Salton Sea, CA.

The Salton Sea is a saltwater lake located in the Imperial and Coachella Valleys about 100 miles east of San Diego. The Sea, noted for its rich wildlife and fishery values, was artificially created in 1905 when a temporary diversion of the Colorado River failed. This caused the entire discharge of the river to flow into the valleys and form the Sea.

Approximately 35 years ago the California Department of Fish and Game stocked the Salton Sea with several species of fish, three of which survive today. These fish have created a major, self-sustaining sport fishery.

Mr. President, agriculture is the major economic base in the Imperial and Coachella Valleys. Colorado River water, the primary source of crop irrigation, is high in dissolved salts. To leach the salt from the soil and prevent salt buildup, each farmer must apply to his fields more water than is necessary for his crops. As a consequence, approximately 98 percent of the 1.5 million acre-feet of water that enters the Sea each year is agricultural runoff and canal seepage. This drain water carries with it more than 4 million tons of salt annually.

The problem is that there is no natural means of salt removal from the Sea. As the Sea's water evaporates, salinity levels continue to increase each year by about 100 parts per million [ppm]. The Sea currently is at about 43,000 ppm. For a comparison to demonstrate the severity of the salinity problem, ocean water contains about 35,000 ppm.

While Salton Sea fish have been able to adapt to these conditions, it is predicted that further escalation of the salinity problem soon will obstruct fishery reproduction and prevent the Sea from sustaining fish life.

This will diminish the productivity of the ecosystem and create a negative impact upon the environmental and economic opportunities of the two valleys.

For instance, recreational opportunities attract roughly 2.5 million visitors each year to the Sea. This generates annual business revenue of about \$300 million and supports thousands of jobs in the region.

Fishing accounts for approximately two-thirds of the recreational use. In addition, high value retirement and recreation communities have spread eastward from Palm Springs into the Salton Sea area. This growth is expected to continue and will certainly add a new element to the Sea's future.

Furthermore, the sport fish, as well as other non-game fish and aquatic organisms provide food for the over 100 species of waterfowl that inhabit the Sea each year. It is a major wintering site for migratory birds, with frequent use by several State and federally listed endangered birds. State and Federal wildlife refuges have been established to protect these waterfowl populations.

Representatives McCANDLESS and HUNTER introduced H.R. 3309 last September to provide for a research project that would serve as the basis for developing an enhanced evaporation system for saline water from the Salton Sea. The legislation was incorporated into H.R. 2567, the Reclamation Projects Authorization and Adjustment Act. This legislation passed the House and is now pending before the Senate Energy Committee. However, there are several controversial water issues which could inevitably stall this legislation and prevent its passage this year.

For this reason, I have introduced separate legislation that will not only address processes and technologies for the treatment of saline levels at the Sea, but also other water-related impairments in the Sea's basin. This would include contaminants from irrigation drainage, such as selenium, boron, and mercury, all of which pose substantial risks to human health, fish, and wildlife.

In addition, my legislation sets up a process to address the problem of raw sewage and chemicals polluting the Sea via the New River.

My bill calls for the non-Federal entities associated with this project to contribute 25 percent of the total costs, which will include in-kind services, necessary to address water quality issues in the Salton Sea area. The results of the project would be required within 5 years of enactment.

We must begin immediately to address the problems that threaten the Salton Sea. Its outstanding recreational, economic, and environmental features are an important part of California. I invite my colleagues to support this legislation and encourage immediate attention at the committee level on this very serious issue. ●

By Mr. ROTH:

S. 2964. A bill to provide television broadcast time without charge to candidates for Federal elective office, and for other purposes; to the Committee on Commerce, Science, and Transportation.

BROADCAST TIME FOR CANDIDATES FOR FEDERAL ELECTIVE OFFICE

Mr. ROTH. Mr. President, yesterday when we were considering S. 137, the campaign financing reform legislation, it had been my intention to offer as an amendment my proposal to offer candidates for Federal office free television broadcast time during the 45-day period preceding the general election. Unfortunately, events overtook that intention and the opportunity to offer the amendment never materialized. While I did not envision such an amendment being adopted by this body yesterday, today I am introducing my proposal because I do believe that it provides the key to the solution to this most complex problem of campaign financing reform.

Mr. President, the underlying reason why we undertook the legislative effort to achieve campaign finance reform is that the costs of campaigning are too high. High costs have driven all of us in varying ways to seek contributions in amounts sufficient to finance high-cost campaigns. And there is one cost above all others that have caused the demand for campaign funds. That is the cost of television broadcast time.

My proposal would require television broadcast stations to make available, without charge, an amount of television time sufficient to allow incumbents and challengers seeking Federal office to make their case to the electorate in the 45-day period preceding the general election. Free television time would be made available on two conditions: first, that the candidate forgo the purchase and acceptance of additional time during this 45-day period; and second, that the candidate agree to limit the use of the free television time to the personal presentation of his or her views in speeches, interviews, debates, or similar formats.

We are all impacted by the spiraling costs of television time. Eliminating the cost eliminates our dependence on contributions necessary to pay the cost. Without television costs I doubt we would have a campaign finance problem to remedy.

By cutting the largest cost of a campaign for a candidate in return for a commitment not to purchase or accept additional television time, my proposal includes within it a limit on spending regarding the single most significant budget item in any campaign. I believe that my proposal might serve as a possible compromise between the parties, should they so desire. It would cut campaign budgets by more than half, which should appeal to everyone, regardless of party affiliation. It would

limit spending on television broadcast time during the general election campaign, which should appeal to Democrats, who have proposed spending limits.

Moreover, my proposal would allow us to accomplish some reforms on a voluntary basis that otherwise, if made mandatory, could be achieved only through a constitutional amendment. It would allow us, in effect, to shorten campaigns by focusing television advertising within the 45-day period before the general election. For those who yearn for a shorter European-style campaign, this proposal presents a unique opportunity. Some might suggest that my proposal needs further refinement in order to achieve that focus because they would prefer a longer forbearance in purchasing or accepting television time than 45 days before the general election. However, I chose 45 days as the appropriate period lest a longer period preclude television appearances before the primary election.

The second accomplishment of my proposal would be the elimination of negative advertising, which so many find offensive. This result would be achieved as a practical matter by limiting candidates to personal appearance formats such as speeches, interviews, and debates. I do not have to extend this discussion with examples of the offending advertisements that we have experienced. Not only would it benefit the electorate to see and hear candidates speak to the issues, but it would also benefit candidates to reduce their payments to Madison Avenue for the preparation of television ads. So there is a double cost reduction in my proposal.

The proposal would apply only to the general election, but the FCC is directed to report back to Congress its recommendations on possibly extending the concept to primary and other elections.

Let me now address certain questions that my colleagues may have. How much time would the proposal provide? No fixed amount is set forth in the legislation. Rather the FCC, the agency with jurisdiction over the airwaves, is directed to determine how much time would be allocated for each race taking into account the amount of television broadcast time that would be needed for an incumbent and a challenger to make a complete presentation of their views to the electorate and taking into account the size of the audience, the voting age population in the jurisdiction to be represented. It is my intention that the amount of time be substantial, the equivalent of the current use of television broadcast time. It should be so ample as to induce each and every candidate to accept the offer and its terms.

What kind of time will it be? Basically prime time. The FCC is directed to ensure that the television time provided be at hours of the day that people are watching. A television broadcast station could not fulfill the mandate by providing time after midnight or on Saturday mornings during cartoons.

Won't some stations bear a disproportionate share of the burden? In case that should happen, as it might, the FCC is authorized to direct television broadcasters to pool resources so as to ameliorate any disparate impact on a particular broadcaster.

How are third parties treated under the proposal? Candidates who are not nominees of the major parties are entitled to proportionately less time, as measured by the level of their small contributions compared to the corresponding levels for the major party candidates. There have been occasions when third party candidates for the Senate have, in fact, won. So third parties must be accommodated for both practical and constitutional reasons. My proposal would allow the FCC to use their level of small contributions as a measure of their entitlement to television broadcast time.

Mr. President, while circulating my proposal as a possible amendment to the campaign finance legislation, S 137, I encountered three different concerns. The first is that the broadcasters will get very angry with those who support this proposal. But if you reflect on the fear inherent in that thought, it simply underscores how important television broadcast time is to the future of American politics. The second concern about my proposal is that it basically solves the problem so well that other solutions that have been advocated; namely, public financing and spending limits—become virtually unnecessary. This is a very sad reason to oppose my proposal. It shows me what sorry state the campaign finance reform legislation is in.

The third concern is that it may be unconstitutional. On Monday night I discussed this point in some detail. I strongly disagree with this contention.

We have historically conditioned the holding of a broadcast license on serving the "public interest." To me there is little that can surpass either: First, the public interest in reducing campaign costs; or second, the public interest in providing the opportunity for candidates to present their views so that elections might hinge on the merits rather than on television advertising advantages.

No one would suggest that if a TV station decided on its own to adopt the policy of this legislation—a limited amount of free TV time and no more, there would be a constitutional problem. The station would only be operating in the public interest. The legislation merely gives definition to that term.

The broadcast media have been compelled to grant access to their channels of communication against their will before. The fairness doctrine and the equal opportunity doctrine are prime examples. They were challenged as unconstitutional in the landmark case of *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367 (1969). The Supreme Court held such compulsory access to be valid, saying that the first amendment as applied to the broadcast media required a balancing of interests with those of the audience paramount. Compelling all sides of an issue to be heard furthers rather than thwarts the ends of the first amendment. Such regulation, the Court said, is permitted under the first amendment because of the scarcity of broadcast frequencies, the use of which is licensed.

Therefore, in my opinion, the proposal is constitutional. While TV stations are sure to complain, it is an opportunity for them to demonstrate their claim that they serve the public interest.

Mr. President, it is time to recapture the airwaves to allow them to be put to public use. I can think of no better way to serve the American public than for television broadcast stations to serve as a public forum for electoral discourse.

Mr. President, I ask unanimous consent that the legislation I am introducing at this time be placed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that

Section 315(a) of the Communications Act of 1934 is amended to read as follows:

(a) ALLOWANCE OF TELEVISION BROADCAST TIME FOR CERTAIN CANDIDATES; CENSORSHIP PROHIBITION.—Each licensee operating a television broadcasting station shall make available without charge to any legally qualified candidate in the general election for the office of President, Vice President, Senator or Representative an amount of broadcast time, determined by the Commission under subsection (d), for use in his or her campaign for election, subject to the conditions and limitations of subsection (e). With respect to the Office of President and Vice President, each such licensee affiliated with a national broadcasting network, shall coordinate with such network in making broadcast time available to candidates for such offices, as determined by the Commission under subsection (d). No licensee shall have power of censorship over the material broadcast under the provisions of this section.

(b) EQUAL OPPORTUNITIES REQUIREMENT; CENSORSHIP PROHIBITION; ALLOWANCE OF STATION USE.—Except in those circumstances to which subsection (a) applies, if any licensee shall permit any person who is a legally qualified candidate for any public office to use a broadcasting station, he or she shall afford equal opportunities to all other such candidates for that office in the

use of such broadcasting station: *Provided*, That such licensee shall have no power of censorship over the material broadcast under the provisions of this section. No obligation is imposed under this subsection upon any licensee to allow the use of its station by any such candidate.

(c) NEWS APPEARANCES EXCEPTION; PUBLIC INTEREST; PUBLIC ISSUES DISCUSSION OPPORTUNITIES.—Appearance by a legally qualified candidate on any—

(1) bona fide newscast;

(2) bona fide news interview;

(3) bona fide new documentary (if the appearance of the candidate is incidental to the presentation of the subject or subjects covered by the news documentary); or

(4) on-the-spot coverage of bona fide events (including but not limited to political conventions and activities incidental thereto);

shall not be deemed to be use of a broadcasting station within the meaning of subsections (a) or (b). Nothing in the foregoing sentence shall be construed as relieving broadcasters, in connection with the presentation of newscasts, news interviews, new documentaries, and on-the-spot coverage of news events, from the obligation imposed upon them under this chapter to operate in the public interest and to afford reasonable opportunity for the discussion of conflicting views on issues of public importance.

(d) RULES AND REGULATIONS REGARDING ALLOWANCE OF TELEVISION BROADCAST TIME FOR CERTAIN CANDIDATES.—The Commission shall determine the amount of television broadcast time that a legally qualified candidate may receive under subsection (a) on the basis of both the voting age population residing in the jurisdiction represented by the office that is the object of the candidacy and the amount of television broadcast time that an incumbent or a challenger may need to make a complete presentation of views to the electorate. The broadcast time made available under subsection (a) shall be made available during the 45-day period preceding the general election for such office. The Commission shall ensure that the television broadcast time made available under subsection (a) shall be made available fairly equitably, and at hours of the day which reflect television viewing habits and current campaign practices. A legally qualified candidate of a party other than a party which obtained 5% or more of the popular vote in the last presidential election may, by regulation of the Commission, be granted such lesser allocation of broadcast time in proportion to the amount of contributions under \$250 such a candidate has received when compared to such contributions received by candidates of the major parties. The Commission shall require licensees operating television broadcasting stations to enter into a pooling agreement to ameliorate any disparate impact on particular licensees.

(e) CONDITIONS AND LIMITATIONS.—The entitlement of any legally qualified candidate to television broadcast time under subsection (a) is conditional upon (1) foregoing the purchase or acceptance of any additional amount of television broadcast time during the period that such time is made available with respect to such candidacy pursuant to subsection (a) and (2) agreeing to limit the use of the television broadcast time provided to the personal presentation of his or her views in speeches, interviews, debates or similar formats.

SEC. 2. Section 315 of the Communications Act of 1934 is further amended as follows: (1) in subsection (b) by striking the phrase "The charges" and inserting in lieu thereof "Except to the extent that the provisions of subsection (a) apply, the charges"; (2) by redesignating subsections (b), (c), and (d) as (f), (g), and (h) respectively; and (3) by adding "generally" after "Rules and regulations" in redesignated subsection (h).

SEC. 3. Subsection (a)(7) of section 312 of the Communications Act of 1934, as amended, is amended to read as follows: "(7) for willful or repeated failure to comply with the provisions of section 315 of this title."

SEC. 4. Subsection (8) of section 301 of the Federal Election Campaign Act of 1971, as amended, relating to exclusions from the definition of contributions, is amended as follows: (1) at the end of paragraph (B)(xiii) by striking the semicolon; (2) at the end of paragraph (B)(xiv) by striking the period and inserting "; and" in lieu thereof; and (3) at the end of paragraph (B) by adding the following: "(xv) the value of any television broadcast time provided without charge by a licensee pursuant to section 315(a) of the Communications Act of 1934, as amended."

SEC. 5. Subsection (9) of section 301 of the Federal Election Campaign Act of 1971, as amended, relating to exclusions from the definition of expenditures, is amended as follows: (1) by inserting after paragraph (B)(i) the following: "(ii) the provision without charge of any television broadcast time by a licensee pursuant to section 315(a) of the Communications Act of 1934, as amended; and (2) by redesignating subsequent subparagraphs accordingly.

SEC. 6. The Federal Communications Commission shall study the application of section 315(a) of the Communications Act of 1934, as amended by this Act, to the first general election campaign conducted under the provisions of that section and shall report the results of that study, together with recommendations, including recommendations for legislation, not later than the first day of March following such general election. The study shall also evaluate the desirability and feasibility of extending the provisions of section 315(a) of the Communications Act of 1934 to primary and other election campaigns.

SEC. 7. The Federal Communications Commission shall promulgate rules and regulations to implement this Act no later than 180 days after the date of enactment of this Act. Sections 1 and 2 of this Act shall not take effect until such rules and regulations are promulgated.

By Mr. PACKWOOD:

S.J. Res. 357. Joint resolution to designate September 15, 1990 to October 15, 1990, as "Community Center Month"; to the Committee on the Judiciary.

COMMUNITY CENTER MONTH

Mr. PACKWOOD. Mr. President, on April 24, 1990, I introduced a joint resolution to designate September 1990 as "Jewish Community Center Month." Many of my colleagues cosponsored Senate Joint Resolution 300 because of the important contributions Jewish Community Centers have made in the past 100 years.

Unfortunately, Senate Joint Resolution 300 did not conform to the House rules on commemoratives. Therefore, today, as an alternative to Senate

Joint Resolution 300, I offer a similar joint resolution, designating September 15, 1990 to October 15, 1990 as "Community Center Month."

This joint resolution recognizes many of the same contributions that Jewish Community Centers have made to our country. I believe it is also fitting to celebrate the similar contributions that other community centers have made.

Community centers throughout the United States provide cultural, social, educational, and recreational services to millions of Americans. During this century, these centers provided important assimilation services to immigrants from Eastern Europe, and continue to be a unique cultural center for young men and women. Community centers are essential to the fabric of American life, offering a wide range of services to all Americans. Because of these important contributions to our society, I offer this joint resolution designating September 15, 1990 to October 15, 1990 as "Community Center Month."

By Mr. PACKWOOD:

S.J. Res. 358. Joint resolution to designate February 7, 1991, as "National Women and Girls in Sports Day"; to the Committee on the Judiciary.

NATIONAL WOMEN AND GIRLS IN SPORTS DAY

● Mr. PACKWOOD. Mr. President, today, I introduce a joint resolution to designate February 7, 1991 as "National Women and Girls in Sports Day." I have successfully introduced this joint resolution for the past 4 years and hope to continue the tradition.

Each year a woman athlete is presented with the "Flo Hyman Award"—named after the Olympic volleyball star who died in 1986. In 1990, the award representing the commitment and passion that Hyman demonstrated was presented to Chris Evert—winner of 18 grand slam titles and 1,309 matches in her career, more than any other player, male or female. It is my hope that this resolution will inspire future generations of women athletes to strive toward the excellence which Flo Hyman, Chris Evert, and other female athletes exemplify.

Despite recent advances made by women in sports, the number of women coaches and sports administrators has decreased greatly over the past 18 years. It is important to recognize that inequities exist, while highlighting how far women have come in their athletic achievements. Mr. President, I offer this joint resolution designating February 7, 1991 as "National Women and Girls in Sports Day" to honor women's contributions in sports and to encourage all women to participate in athletics.●

ADDITIONAL COSPONSORS

S. 160

At the request of Mr. THURMOND, the name of the Senator from California [Mr. CRANSTON] was added as a cosponsor of S. 160, a bill to require the construction of a memorial on Federal land in the District of Columbia or its environs to honor member of the Armed Forces who served in World War II and to commemorate U.S. participation in the conflict.

S. 342

At the request of Mr. DANFORTH, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 342, a bill to amend the Internal Revenue Code of 1986, to provide that certain credits will not be subject to the passive activity rules, and for other purposes.

S. 891

At the request of Mr. REID, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 891, a bill to provide for the modernization of testing of consumer products which contain hazardous or toxic substances.

S. 1661

At the request of Mr. PRYOR, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 1661, a bill to amend the Internal Revenue Code of 1986 to provide for a tax credit for qualifying disability expenses.

S. 1764

At the request of Mr. BOSCHWITZ, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 1764, a bill to require certain consumers of newsprint to use, in their commercial operations, a certain percentage of recycled newsprint.

S. 1931

At the request of Mr. DANFORTH, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 1931, a bill to prevent the discharge in a chapter 13 bankruptcy proceeding of certain debts arising out of the debtor's operation of a motor vehicle while legally intoxicated.

S. 2033

At the request of Ms. MIKULSKI, the names of the Senator from Vermont [Mr. JEFFORDS], the Senator from Hawaii [Mr. INOUE], the Senator from Wisconsin [Mr. KOHL], the Senator from South Carolina [Mr. HOLLINGS], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 2033, a bill to amend title XVIII of the Social Security Act to provide for coverage of annual screening mammography under part B of the Medicare Program.

S. 2114

At request of Mrs. KASSEBAUM, her name was added as a cosponsor of S.

2114, a bill to promote excellence in American mathematics, science, and engineering education; enhance the scientific and technical literacy of the American public; stimulate the professional development of scientists and engineers; provide for education, training, and retraining of the Nation's technologists; increase the participation of women and minorities in careers in mathematics, science, and engineering; and for other purposes.

S. 2283

At the request of Ms. MIKULSKI, the names of the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Indiana [Mr. LUGAR], the Senator from South Dakota [Mr. DASCHLE], and the Senator from Alabama [Mr. HEFLIN] were added as cosponsors of S. 2283, a bill to amend the Public Health Service Act to establish a program of grants for the prevention and control of breast and cervical cancer, and for other purposes.

S. 2286

At the request of Mr. HOLLINGS, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2286, a bill to require the Secretary of Transportation to lead and coordinate Federal efforts in the development of magnetic levitation transportation technology and foster implementation of a magnetic levitation transportation system.

S. 2415

At the request of Mr. DOMENICI, the name of the Senator from Virginia [Mr. ROBB] was added as a cosponsor of S. 2415, a bill to encourage solar and geothermal power production by removing the size limitations contained in the Public Utility Regulatory Act of 1978.

S. 2614

At the request of Mr. GRASSLEY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2614, a bill to amend the Public Health Service Act to establish and coordinate research programs for osteoporosis and related bone disorders, and for other purposes.

S. 2628

At the request of Mr. KENNEDY, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2628, a bill to amend the Public Health Service Act to reauthorize certain National Institute of Mental Health grants and to improve provisions concerning the State comprehensive mental health services plan, and for other purposes.

S. 2637

At the request of Mr. REID, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 2637, a bill to amend the Toxic Substances Act to reduce the levels of lead in the environment, and for other purposes.

S. 2645

At the request of Mr. INOUE, the names of the Senator from New York [Mr. MOYNIHAN] and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 2645, a bill to improve the health status of the urban Indian population and to enhance the quality and scope of health care services, disease prevention activities, and health promotion initiatives targeted at the urban American Indian population.

S. 2653

At the request of Mr. BURNS, the names of the Senator from Wyoming [Mr. SIMPSON] and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of S. 2653, a bill to permit States to waive application of the Commercial Motor Vehicle Safety Act of 1986 with respect to vehicles used to transport farm supplies from retail dealers to or from a farm, and to vehicles used for custom harvesting, whether or not such vehicles are controlled and operated by a farmer.

S. 2687

At the request of Mr. BOSCHWITZ, the name of the Senator from Minnesota [Mr. DURENBERGER] was added as a cosponsor of S. 2687, a bill to expedite the naturalization of aliens who served with special guerrilla units in Laos.

S. 2766

At the request of Mr. MCCAIN, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2766, a bill to provide for the restoration of certain Medicare catastrophic benefits, plus addition of colon cancer screening benefit.

S. 2767

At the request of Mr. MCCAIN, the name of the Senator from Montana [Mr. BURNS] was added as a cosponsor of S. 2767, a bill to provide for retention of certain Medicare catastrophic benefits provided by health maintenance organizations.

S. 2796

At the request of Mr. COHEN, the name of the Senator from Mississippi [Mr. COCHRAN] was added as a cosponsor of S. 2796, a bill to amend title IV of the Higher Education Act of 1965 to allow resident physicians to defer repayment of their Title IV student loans while completing a resident training program accredited by the Accreditation Council for Graduate Medical Education or the Accrediting Committee of the American Osteopathic Association.

S. 2805

At the request of Mr. MCCLURE, the name of the Senator from Hawaii [Mr. AKAKA] was added as a cosponsor of S. 2805, a bill to amend the Federal Power Act.

S. 2850

At the request of Mr. MCCAIN, the name of the Senator from Arizona [Mr. DECONCINI] was added as a cosponsor of S. 2850, a bill to authorize demonstration projects in connection with providing health services to Indians.

S. 2951

At the request of Mr. GLENN, the name of the Senator from Arkansas [Mr. PRYOR] was added as a cosponsor of S. 2951, a bill to amend title 31 of the United States Code to more effectively control the availability of appropriations accounts.

SENATE JOINT RESOLUTION 284

At the request of Mr. BYRD, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from Missouri [Mr. DANFORTH] were added as cosponsors of Senate Joint Resolution 284, a joint resolution to designate the week beginning September 16, 1990 as "National Give the Kids a Fighting Chance Week."

SENATE JOINT RESOLUTION 298

At the request of Mr. THURMOND, the names of the Senator from Delaware [Mr. BIDEN], and the Senator from Louisiana [Mr. JOHNSTON] were added as cosponsors of Senate Joint Resolution 298, a joint resolution to provide for the erection of a memorial in the Arlington National Cemetery to honor United States combat glider pilots of World War II.

SENATE JOINT RESOLUTION 306

At the request of Mr. SIMON, the name of the Senator from Missouri [Mr. DANFORTH] was added as a cosponsor of Senate Joint Resolution 306, a joint resolution to designate the period commencing October 21, 1990, and ending October 27, 1990, as "National Humanities Week."

SENATE JOINT RESOLUTION 309

At the request of Mr. BIDEN, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Joint Resolution 309, a joint resolution designating the month of October 1990 as "Crime Prevention Month."

SENATE JOINT RESOLUTION 327

At the request of Mr. MURKOWSKI, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of Senate Joint Resolution 327, a joint resolution designating September 21, 1990, as "National POW/MIA Recognition Day", and recognizing the National League of Families POW/MIA flag.

SENATE JOINT RESOLUTION 337

At the request of Mr. SIMON, the names of the Senator from Georgia [Mr. NUNN], the Senator from Illinois [Mr. DIXON], the Senator from Georgia [Mr. FOWLER], the Senator from Delaware [Mr. BIDEN], and the Sena-

tor from Michigan [Mr. LEVIN] were added as cosponsors of Senate Joint Resolution 337, a joint resolution designating Labor Day weekend, September 1 through 3, 1990, as "National Drive for Life Weekend."

SENATE JOINT RESOLUTION 351

At the request of Mr. BYRD, the names of the Senator from Connecticut [Mr. DODD], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Alaska [Mr. STEVENS], the Senator from Alabama [Mr. SHELBY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Missouri [Mr. DANFORTH], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Mississippi [Mr. COCHRAN], and the Senator from Arizona [Mr. DECONCINI] were added as cosponsors of Senate Joint Resolution 351, a joint resolution to designate the month of May 1991, as "National Trauma Awareness Month."

SENATE CONCURRENT RESOLUTION 125

At the request of Mr. COHEN, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of Senate Concurrent Resolution 125, a concurrent resolution expressing the sense of Congress regarding adequate funding for long-term health care services provided through the Medicare and Medicaid Programs.

SENATE CONCURRENT RESOLUTION 127

At the request of Mr. KENNEDY, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Concurrent Resolution 127, a concurrent resolution to express the sense of Congress that Greyhound Lines, Inc., and the Amalgamated Transit Union should pursue meaningful negotiations under the auspices of the Federal Mediation and Conciliation Service and the Secretary of Labor to resolve their dispute and restore vital transportation services to American communities.

SENATE RESOLUTION 313

At the request of Mr. LAUTENBERG, the names of the Senator from New Jersey [Mr. BRADLEY], and the Senator from Georgia [Mr. FOWLER] were added as cosponsors of Senate Resolution 313, a resolution relating to Vladimir Tsivkin.

SENATE RESOLUTION 318—RELATIVE TO IRAQ'S INVASION OF KUWAIT

Mr. MITCHELL (for Mr. PELL, for himself, Mr. HELMS, Mr. MOYNIHAN, Mr. D'AMATO, Mr. BOSCHWITZ, Mr. MITCHELL, Mr. BIDEN, Mrs. KASSEBAUM, Mr. CRANSTON, Mr. DODD, Mr. COATS, Mr. KENNEDY, Mr. DECONCINI, Mr. ADAMS, Mr. MURKOWSKI, Mr. LEVIN, Mr. KASTEN, Mr. WILSON, Mr. LAUTENBERG, Mr. FORD, Mr. BENTSEN, Mr. COHEN, Mr. REID, Mr. LIEBERMAN, Mr. GRAMM, Mr. SIMPSON, Mr. DOMENICI, Mr. THURMOND, Mr. RIEGLE, Mr. PACK-

WOOD, Mr. BREAU, Mr. SASSER, and Mr. INOUE) submitted the following resolution, which was considered and agreed to:

S. RES. 318

Whereas Iraq during the 1980's, under the leadership of Saddam Hussein, has demonstrated a blatant disregard for international law and all standards of human decency, building a heinous record of atrocity and carnage;

Whereas in 1980 Iraq's invasion of Iran began the Iran-Iraq war, which became one of history's bloodiest;

Whereas, beginning in 1983, Iraq initiated and made extensive use of chemical weapons in the Iran-Iraq war;

Whereas this chemical slaughter constituted the most significant violation of the Geneva Protocol in the 65-year history of that international treaty, to which Iraq is a party;

Whereas Iraq's use of chemical weapons culminated in 1988 in a massive attack on its own Kurdish minority, causing tens of thousands of deaths and more than 65,000 refugees;

Whereas Iraq may be proceeding to develop biological weapons in violation of the 1972 international convention prohibiting the manufacture or possession of such weapons;

Whereas Iraq has continued illegal efforts to acquire nuclear weapons technology in violation of United States export laws and Iraq's obligations under the Nuclear Non-Proliferation Treaty;

Whereas the Iraqi effort to develop an indigenous ballistic missile capability represents an additional dimension of Iraq's threat to the Persian Gulf region;

Whereas, domestically, Iraq's human rights record is one of continuing barbarism, characterized by arbitrary imprisonment, government-sanctioned murder, and even the torture, mutilation, and killing of children as a means of terror against their parents;

Whereas Iraq's efforts to eradicate Kurds and depopulate the Kurdish regions of Iraq are tantamount to a policy of genocide;

Whereas Iraq stands in flagrant violation of its obligations under the United Nations Charter and the International Covenant on Civil and Political Rights;

Whereas, in 1988, in response to Iraq's use of chemical weapons against the Kurds, the United States Senate on three occasions passed legislation imposing comprehensive sanctions against Iraq;

Whereas, on July 27, this year, the Senate passed the Iraq International Law Compliance Act in a continuing effort to secure Iraqi compliance with the rule of law;

Whereas in recent days Iraq mobilized forces on its border with Kuwait, issuing a series of bellicose threats, aimed not only at Kuwait but also at Israel and the United Arab Emirates;

Whereas Iraq, on August 1, without provocation and under contrived pretense, invaded the sovereign nation of Kuwait, seizing control of its capital and all national territory;

Whereas the President, on August 2, issued an executive order freezing Iraqi and Kuwaiti assets in the United States, and embargoing all trade with Iraq;

Whereas Iraq's military power in the Persian Gulf area is virtually unchallenged, and its record of callous brutality, opportunism, and belligerency demonstrates that no policy of appeasement or cooperation will constrain the threat Iraq now poses to the

security of nations throughout the entire Persian Gulf region and to the international order;

Now, Therefore, Be It Resolved:

That Congress commends the President for his initial actions and urges the President to act immediately, using unilateral and multilateral measures, to seek the full and unconditional withdrawal of all Iraqi forces from Kuwaiti territory; and, specifically, to:

(1) Proceed to enforce against Iraq, unilaterally, all provisions of United States law, including the International Emergency Economic Powers Act, to impose—

(a) sanctions against a country engaged in a consistent pattern of gross violations of internationally recognized human rights,

(b) a sustained freeze of all Iraqi assets, and

(c) a sustained ban on any export of United States goods and services to Iraq; and

(2) Undertake, multilaterally, a concerted diplomatic effort, through the United Nations Security Council and all other available channels, to achieve collective international sanctions against Iraq, to include—

(a) a cessation of all arms shipments and all transfer of military technology to Iraq, with emphasis on—

(i) all Soviet-supplied arms and spare parts, as promised by the Soviet Union immediately after Iraq's invasion;

(ii) all arms and spare parts supplied by other major suppliers; and

(iii) all material and technical assistance from any source that could contribute to the development or employment of ballistic missiles and nuclear, biological, and chemical weapons;

(b) a cessation of trade with Iraq and a worldwide freeze on Iraqi and Kuwaiti assets;

(c) a suspension of all economic development activities within Iraq, with emphasis on—

(i) oil development activities; and

(ii) construction and other projects supported by American, European, and Japanese industry;

(d) the imposition, under Article 41 of the United Nations Charter, a full economic blockade against Iraq; and

(e) if such measures prove inadequate to secure Iraq's withdrawal from Kuwait, additional multilateral actions, under Article 42 of the United Nations Charter involving air, sea, and land forces as may be needed to maintain or restore international peace and security in the region.

AMENDMENTS SUBMITTED

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, FISCAL YEAR 1991

McCLURE AMENDMENT NO. 2491

Mr. McCLURE proposed an amendment to the bill (H.R. 5019) making appropriations for energy and water development for the fiscal year ending September 30, 1991, and for other purposes, as follows:

At the appropriate place in the bill add the following: "The Secretary of Interior is authorized and directed to pay, without reimbursement, \$1,000,000 to the Fall River

Rural Electric Cooperative in reimbursement for environmental protection requirements in connection with the development of hydroelectric power at the Island Park Dam and Reservoir, Idaho. Such payment shall be made on the date the hydroelectric electric power facilities are placed in service and shall not affect cost allocations or repayment provisions for the Minidoka Project."

**STEVENS (AND WIRTH)
AMENDMENT NO. 2492**

Mr. STEVENS (for himself, and Mr. WIRTH) proposed an amendment to the bill H.R. 5019, supra, as follows:

Insert at the appropriate place in the bill: "The Secretary is directed, in cooperation with the University of Alaska Fairbanks, to determine the capability and type of supercomputing facility for research activity conducted by the Center for Global Change and Arctic Systems Research and the Geophysical Institute, with specific reference to the needs for auroral energy research. The Secretary is also directed, in cooperation with the National Center for Atmospheric Research, to determine the capability and type of supercomputing upgrade needed for atmospheric research conducted by the Center. The Secretary shall report the results of such determinations to the Appropriations Committees of the House and Senate by March 1, 1991."

**NATIONAL DEFENSE
AUTHORIZATION ACT**

**COHEN (AND OTHERS)
AMENDMENT NO. 2493**

Mr. COHEN (for himself, Mr. LEAHY, Mr. CRANSTON, Mr. HATFIELD, and Mr. WIRTH) proposed an amendment to the bill (S. 2884) to authorize appropriations for fiscal year 1991 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes, as follows:

On page 7, strike out line 7 and all that follows through line 5 on page 8, and insert in lieu thereof the following:

**SEC. 113. AUTHORIZATION OF APPROPRIATIONS
FOR PROCUREMENT OF AIRCRAFT
FOR THE AIR FORCE.**

(a) **AUTHORIZATION OF APPROPRIATIONS.**—Notwithstanding section 103(1), the amount authorized to be appropriated for fiscal year 1991 for procurement of aircraft for the Air Force is \$8,479,056,000.

(b) **LIMITATION RELATING TO THE B-2 BOMBER PROGRAM.**—Of the funds authorized to be appropriated pursuant to subsection (a), not more than \$941,900,000 of such funds may be obligated in connection with the B-2 aircraft program.

PART B—PROGRAM TERMINATIONS

SEC. 121. PROGRAM TERMINATIONS.

**LEAHY (AND OTHERS)
AMENDMENT NO. 2494**

Mr. LEAHY (for himself, Mr. COHEN, Mr. CRANSTON, Mr. HATFIELD, Mr. WIRTH, and Mr. KENNEDY) proposed an amendment to amendment No.

2493 proposed by Mr. COHEN (and Mr. LEAHY) to the bill S. 2884, supra; as follows:

On page 1, line 9, strike out "\$8,479,056,000." and all that follows and insert in lieu thereof "\$7,537,156,000."

"(b) **TERMINATION OF B-2 AIRCRAFT PROCUREMENT.**—Funds authorized to be appropriated to the Department of Defense pursuant to this or any other Act may not be obligated for the B-2 aircraft program except for—

"(1) completion of production of those B-2 aircraft that are included in the full-scale development program as of the date of the enactment of this Act;

"(2) research, development, test, and evaluation, including flight testing of the B-2 aircraft; and

"(3) costs relating to termination of production under the B-2 aircraft program.

"(c) **REQUIREMENT TO REVISE B-2 AIRCRAFT PROGRAM.**—The Secretary of the Air Force shall revise the B-2 aircraft program consistent with the limitation contained in subsection (b) and, not later than February 1, 1991, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the revised program.

"PART B—PROGRAM TERMINATIONS

"SEC. 121. PROGRAM TERMINATIONS."

**DIXON (AND OTHERS)
AMENDMENT NO. 2495**

Mr. DIXON (for himself, Mr. HOLLINGS, Mr. BRYAN, Mr. BINGAMAN, and Mr. SHELBY) proposed an amendment to the bill S. 2884, supra, as follows:

On page 329, between lines 17 and 18, insert the following new section:

SEC. 2815. PROHIBITION ON USE OF FUNDS IN CONNECTION WITH RELOCATION OF FUNCTIONS FROM TORREJON AIR FORCE BASE, SPAIN, TO CROTONE, ITALY.

Funds appropriated to or for the use of the Department of Defense, including funds appropriated for making contributions to the North Atlantic Treaty Organization Infrastructure program pursuant to section 2806 of title 10, United States Code, may not be obligated for construction in connection with the relocation of any function of the Department of Defense located at Torrejon Air Base, Madrid, Spain, on June 15, 1989, to Crotone, Italy.

**THURMOND (AND OTHERS)
AMENDMENT NO. 2496**

Mr. THURMOND (for himself, Mr. DOLE, Mr. HEFLIN, Mr. NUNN, and Mr. WARNER) proposed an amendment to the bill, S. 2884, supra, as follows:

On page 223, line 24, insert the following new section:

SEC. 1216. COMMEMORATION OF THE EFFORTS OF THE BATTLE OF THE BULGE HISTORICAL FOUNDATION.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The Battle of the Ardennes-Alsace Campaign of World War II, commonly known as the Battle of the Bulge, was fought in the Ardennes region of eastern Belgium and northern Luxembourg, from December 16, 1944, to January 25, 1945, in the deepest snow and during the coldest temperatures in the memory of the inhabitants of the region.

(2) Six hundred thousand members of the Armed Forces of the United States fought in the Battle of the Bulge, making the battle the largest land battle ever fought by United States military forces.

(3) The battle claimed 81,000 United States casualties, including 19,000 killed.

(4) In 1988, many of the veterans of the battle, including the 7,000 member organization known as the Veterans of the Battle of the Bulge, organized the Battle of the Bulge Historical Foundation to commemorate the heroic sacrifices made by the men and women who saw action during the Battle of the Bulge, to pay homage to the servicemen killed in that battle, and to inform the present and future youth of this Nation regarding the costs of war and the price of liberty.

(5) The efforts of the foundation are directed toward expanding the existing United States Army Museum, located at Fort George G. Meade, Maryland, to include a gallery dedicated to the battle, the participants of the battle, and World War II.

(6) The Museum and the foundation have agreed to act jointly to achieve goals relating to the commemoration of that battle.

(7) Installation of a gallery at the museum will result in the museum having the only gallery in the United States devoted exclusively to commemorating that battle.

(8) The Battle of the Bulge Historical Foundation has set as a goal to raise \$1,500,000 by December 16, 1994, the 50th anniversary of the battle, to accomplish the objective of appropriately preserving the memory of the battle.

(b) **RECOGNITION AND COMMENDATION.**—In light of the findings in subsection (a), Congress recognizes and commends the efforts of the Battle of the Bulge Historical Foundation to provide for the installation of a special gallery at the United States Army Museum at Fort George G. Meade, Maryland, devoted to the collection, preservation, and exhibition of military artifacts relating to the Battle of the Bulge and to commemorate that historic battle.

**ROTH (AND DANFORTH)
AMENDMENT NO. 2497**

Mr. ROTH (for himself and Mr. DANFORTH) proposed an amendment to the bill, S. 2884, supra, as follows:

At the appropriate place in the bill, add the following new section:

The government of the United States has publicly committed itself to the reduction of the military forces which it deploys in Western Europe in general, and in the Federal Republic of Germany in particular:

The U.S. Army already is drawing up plans for the closure and realignment of U.S. military facilities in the Federal Republic of Germany;

Many U.S. military facilities in the Federal Republic of Germany are located on municipal property of high value.

The continuance of cordial relations between the peoples of the United States and Federal Republic of Germany is a matter of major concern, both for the health of U.S.-German relations and the strength of the North Atlantic Treaty Organization: Now, therefore, be it the sense of the Senate that the Department of Defense should, whenever possible, consult closely with the central, state and municipal authorities in the Federal Republic of Germany with a view to closing those U.S. facilities located in municipal areas with high property values, par-

ticularly when those facilities could be developed for commercial or residential purposes.

ROTH (AND OTHERS) AMENDMENT NO. 2498

Mr. ROTH (for himself, Mr. McConnell, and Mr. Sanford) proposed an amendment to the bill, S. 2884, supra, as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . STUDY AND REPORT BY THE SECRETARY OF DEFENSE

(a) IN GENERAL.—The Secretary of Defense shall conduct a study to determine the feasibility and desirability of permitting the North Atlantic Treaty Organization (NATO) to utilize, for training and exercise purposes, military installations in the United States being closed by the Department of Defense. In carrying out such a study, the Secretary shall consider—

(1) the exact purposes for which such installations could be appropriately and effectively used by NATO; and

(2) the manner in which NATO would pay for the use of such installations.

(b) REPORT.—The Secretary shall submit to Congress a report containing the results of the study required by subsection (a) together with such comments and recommendations the Secretary considers appropriate.

(c) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (c) not later than January 1, 1991.

GLENN (AND OTHERS) AMENDMENTS NOS. 2499 AND 2500

Mr. GLENN (for himself, Mr. Bingaman, Mr. Wallop, Mr. Nunn, and Mr. Warner) proposed two amendments to the bill, S. 2884, supra, as follows:

AMENDMENT No. 2499

At the end of section 832 add the following:

(k) CRITICAL-POSITION PAY AUTHORITY.—(1) Subchapter I of chapter 53 of title 5, United States Code, is amended by adding at the end the following new section:

"§ 5309. Critical-position pay authority

"(a) The Director of the Office of Personnel Management, in consultation with the Director of the Office of Management and Budget, may, from time to time, allocate and reallocate among the departments and agencies of the executive branch, critical-position pay authority for not to exceed a Government-wide total of 800 positions.

"(b) The head of an agency that receives an allocation of critical-position pay authority may exercise such authority for not to exceed the number of positions for which authority is received from the Director of the Office of Personnel Management under subsection (a).

"(c) For purposes of this section, 'critical-position pay authority' means the authority for the head of an agency, notwithstanding any other law, including any provision of this chapter, to fix the rate of basic pay for any position which such agency head determines to be a critical position at an annual rate that does not exceed the rate in effect for level I of the Executive Schedule, except that the aggregate annual amount paid (including any allowance, bonus, award, or other direct compensation) to an employee under this section during any fiscal year may not exceed the annual rate payable for

positions at level I of the Executive Schedule in effect at the end of such fiscal year.

"(d) Critical-position pay authority for a position may be reexercised when a position becomes vacant and is refilled only upon a redetermination by the agency head that the position remains a critical position within the meaning of this section. Such authority may be reexercised only if the allocation made by the Director of the Office of Personnel Management required for such exercise under subsection (a) is reconfirmed by the Director of the Office of Personnel Management at the time of such reexercise.

"(e) In determining whether a position is a critical position to which this section shall apply, the head of the agency shall consider—

"(1) the extent to which the position requires expertise of an extremely high level in a scientific, technical, professional, or administrative field;

"(2) the extent to which additional compensation is necessary to recruit or retain exceptionally qualified individuals; and

"(3) the extent to which the position is critical to the agency's successful accomplishment of an important mission.

"(f)(1) The Office of Personnel Management shall establish a Critical Position Advisory Panel to make recommendations on—

"(A) the criteria that should be used to determine which positions should be critical positions; and

"(B) the qualifications that should be expected of individuals assigned to critical positions.

"(2) The panel shall be composed of members with exceptional expertise and experience in management, administration, and personnel matters.

"(h) On October 1 of each year, the Office of Personnel Management shall submit a report to the Congress listing all critical-pay positions in the Government."

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5308 the following new item:

"5309. Critical-position pay authority."

AMENDMENT No. 2500

On page 166, below line 21, insert the following new section:

SEC. 834. ALTERNATIVE PERSONNEL MANAGEMENT DEMONSTRATION PROGRAMS FOR CERTAIN FEDERAL GOVERNMENT LABORATORIES.

(a) PURPOSE.—The purpose of this section is to provide a basis for evaluating one or more alternative personnel management systems for scientific positions, engineering positions, technical support positions (including positions requiring proficiency in advanced mathematics) and managerial positions in Federal Government laboratories in order to enhance the recruitment, retention, and motivation of well-qualified civilian personnel for such positions and to provide appropriate compensation for such personnel.

(b) DEMONSTRATION PROGRAM.—(1) Not later than one year after the date of the enactment of this Act—

(A) the Director of the Office of Personnel and Management—

(i) shall designate one or more agencies to conduct one or more demonstration programs for the purpose of this section; and

(ii) with the head of each agency so designated, shall jointly develop each such demonstration program for such agency; and

(B) the head of each agency so designated shall implement the demonstration program

or programs jointly developed with the Director.

(2)(A) The head of an agency designated to conduct a demonstration program shall designate—

(i) the agency laboratory or laboratories that are to be involved in the demonstration program; and

(ii) the scientific positions, engineering positions, technical support, or managerial positions at each such laboratory that are to be covered by the alternative personnel management system implemented pursuant to the demonstration program.

(B) The head of an agency may designate for coverage by an alternative personnel management system pursuant to subparagraph (A) only those positions the rates of basic pay for which would be established, except for this section, under—

(i) section 3104 of title 5, United States Code, relating to specially qualified personnel;

(ii) subchapter III of chapter 53 of such title, relating to the General Schedule; or

(iii) chapter 54 of such title, relating to the performance management and recognition system.

(3) Each alternative personnel management system implemented pursuant to the demonstration program shall cover a sufficient number of employees to provide an adequate basis on which to evaluate the feasibility and desirability of implementing such a system on a broader scale in Federal Government laboratories.

(4) The demonstration programs conducted pursuant to this section shall not be considered as demonstration programs for the purposes of section 4703 of title 5, United States Code.

(c) CLASSIFICATION.—Each alternative personnel management system implemented pursuant to a demonstration program under this section shall provide for the classification of employee positions in occupational groups. An occupational group shall include positions that are similar in the following respects:

(1) The responsibilities and complexities of the positions.

(2) Qualifications necessary for performance of such responsibilities.

(d) PAY RANGES.—(1) A range of rates of basic pay shall be established for the positions in each occupational group.

(2) The minimum rate of basic pay in a pay range shall be equal to the lowest minimum rate of basic pay provided for any position in such occupational group under the classification and pay system that, except for this section, would be applicable to that position.

(3)(A) Subject to subparagraph (B), the maximum rate of basic pay in a pay range shall be equal to the highest maximum rate of basic pay provided for any position in such occupational group under the classification and pay system that, except for this section, would be applicable to that position.

(B) The maximum rate of basic pay of a pay range applicable under an alternative personnel management system to positions in an agency laboratory may exceed the maximum rate permitted under subparagraph (A) if the head of the agency determines that, because of adverse working conditions at the laboratory or the undesirability of the geographical location of the laboratory, the increased maximum rate of basic pay is necessary to ensure the recruitment and retention of a sufficient staff of qualified employees.

(C) The maximum rate of basic pay established under subparagraph (B) for a pay range applicable to positions in an agency laboratory may not exceed the lesser of—

(i) the rate necessary to ensure the recruitment and retention of a sufficient staff of qualified employees, as determined by the head of such agency;

(ii) the amount equal to 160 per cent of the maximum rate of basic pay that, except for such subparagraph, would be permitted under subparagraph (A); or

(iii) the rate of basic pay for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(4) The minimum and maximum rates of basic pay in a pay range shall be adjusted at the same times and to the same extent as the rates of basic pay under the statutory pay systems pursuant to section 5305 of title 5, United States Code.

(e) **SPECIFIC RATES OF BASIC PAY.**—(1) For each alternative personnel management system implemented at an agency laboratory under a demonstration program conducted at such laboratory, the head of such agency shall prescribe the criteria for establishing, within the applicable pay range, the initial rate of basic pay of an employee appointed to a position covered by the system and for increasing the employee's rate of basic pay within such pay range.

(2) Subject to paragraph (3), the head of an agency laboratory shall establish the initial rate of basic pay for an employee within a pay range, and from time to time increase the rate of basic pay of the employee referred to in paragraph (1) within the pay range, on the basis of the criteria prescribed under paragraph (1).

(3) In the case of an employee employed in a position at an agency laboratory immediately before that position becomes covered by an alternative personnel management system under this section, the rate of basic pay established for such employee under the alternative personnel management system may not be less than the rate of basic pay payable to such employee immediately before the position becomes covered by such system.

(f) **OTHER PAY.**—(1) Each alternative personnel management system shall provide for payment of managerial differential pay for managerial personnel and supervisory differential pay for supervisory personnel. The payment of differential pay to an employee in a managerial or supervisory position shall be in addition to the payment of the basic pay provided for such employee.

(2) Each alternative personnel management system applicable to an agency laboratory shall provide for payment of cash awards for meritorious performance subject to budgetary considerations of such laboratory.

(3) Each alternative personnel management system shall provide for payment of recruitment bonuses and retention bonuses when necessary to meet employee recruitment and retention needs.

(4) Differential pay, cash awards, recruitment bonuses, and retention bonuses may not be considered as basic pay for any purpose.

(g) **TRAVEL ALLOWANCES.**—Each alternative personnel management system shall provide for payment of reasonable travel expenses of—

(1) a new appointee for a position covered by such system to the same extent as is provided for a new appointee to the Senior Executive Service under section 5723(a)(1)(B) of title 5, United States Code; and

(2) a candidate for appointment to a position covered by such system, and the candidate's spouse (if any), in connection with an employment interview.

(h) **APPLICATION AND APPOINTMENT PROCEDURES.**—Each alternative personnel management system implemented at an agency laboratory shall include procedures—

(1) for a candidate for appointment to a position covered by such system to submit an application directly to the head of the laboratory; and

(2) consistent with sections 2301 and 3309 of title 5, United States Code, for appointment and assignment of a person directly to such a position at such laboratory.

(i) **PERFORMANCE EVALUATIONS.**—Each alternative personnel management system shall provide procedures for evaluating the job performance of employees covered by the system.

(j) **LIMITATIONS ON PROGRAM COSTS.**—(1) The total amount of the personnel costs incurred by the Federal Government for employees in positions covered by an alternative personnel management system under a demonstration program conducted under this section may not exceed the total amount of the personnel costs that, except for the implementation of such alternative personnel management system, would have been incurred by the Federal Government for such employees.

(2) The total amount paid an employee as basic pay, differential pay, recruitment bonuses, retention bonuses, and performance awards under an alternative personnel management system under this section in any fiscal year may not exceed the rate of basic pay for level I of the Executive Schedule under section 5312 of title 5, United States Code, as in effect on the last day of such fiscal year.

(k) **PROGRAM PLAN; PROJECT REVIEW.**—(1) Before implementing a demonstration under this section, the head of the agency in which the program is conducted shall develop a plan for such program.

(2) The plan for a program shall—

(A) provide criteria for the evaluation of such program; and

(B) specify the total number of employee positions to be covered by the program when the program is fully implemented.

(3) The head of the agency shall submit the program plan to the Comptroller General of the United States at least 60 days before the program is implemented.

(4) Not later than one year after the implementation of a demonstration program, and on an annual basis thereafter during the period in which demonstration programs are conducted under this section, the Comptroller General shall review each demonstration program to determine whether the program meets the criteria specified in the program plan.

(5) The Comptroller General shall submit an annual report containing the results of the review to—

(A) the Committees on Armed Services and Governmental Affairs of the Senate;

(B) the Committees on Armed Services and Post Office and Civil Service of the House of Representatives; and

(C) the Secretary or agency head.

(l) **DEFINITIONS.**—In this section:

(1) The term "agency" has the meaning given the term "Executive agency" in section 105 of title 5, United States Code.

(2) The term "agency laboratory" means a Federal Government laboratory of an agency.

(3) The term "Federal Government laboratory" means a government-owned, government-operated laboratory within an agency.

(4) The term "employee" has the meaning given such term in section 2105 of title 5, United States Code.

(m) **TERMINATION DATE.**—Each demonstration program conducted pursuant to this section shall terminate not later than 10 years after the date on which such program begins.

ROTH (AND OTHERS) AMENDMENT NO. 2501

Mr. ROTH (for himself, Mr. THURMOND, and Mr. SANFORD) proposed an amendment to the bill S. 2884, *supra*, as follows:

At the end of title VIII of the bill, insert the following new section:

SEC. . SUSPENSION OF PAYMENTS

(a) **IN GENERAL.**—Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) In any case in which the head of an agency determines that there is substantial evidence that the request of a contractor for advance, partial, progress, or other payment under a contract awarded by that agency head is fraudulent, the agency head may suspend further payments under the contract unless the suspension would unduly interfere with or jeopardize a law enforcement investigation."

(b) **INFORMATION FROM CONTRACTOR.**—Subsection (e)(1) of such section is amended by adding at the end the following new sentence: "The contractor shall provide such information and evidence as the Secretary of Defense determines sufficient to permit the Secretary to carry out the preceding sentence."

(c) **EFFECTIVE DATE.**—Section 2307(f) of title 10, United States Code, and the second sentence of section 2307(e)(1) of such title, as added by subsections (a) and (b), respectively, shall apply with respect to contracts in effect on the date of the enactment of this Act and contracts entered into on and after that date.

BINGAMAN (AND OTHERS) AMENDMENT NO. 2502

Mr. BINGAMAN (for himself, Mr. GORE, and Mr. McCAIN) proposed an amendment to the bill S. 2884, *supra*, as follows:

On page 181, between lines 8 and 9, insert the following new section:

SEC. 855. ESTABLISHMENT OF DARPA OFFICE IN JAPAN

(a) **IN GENERAL.**—The Secretary of Defense shall establish a branch office of the Defense Advanced Research Projects Agency (DARPA) of the Department of Defense in Japan.

(b) **FUNCTION OF BRANCH OFFICES.**—It shall be the function of the branch office established pursuant to subsection (a)—

(1) to investigate and evaluate opportunities for cooperation between the United States and Japan for the development of technologies of interest to the Defense Advanced Research Projects Agency (DARPA); and

(2) to make such recommendations to the Director of the Defense Advanced Research Projects Agency as the branch office considers appropriate regarding the desirability of

DARPA entering into a cooperative arrangement with Japan with respect to the development of particular technologies.

BRADLEY (AND OTHERS) AMENDMENT NO. 2503

Mr. BRADLEY (for himself, Mr. LAUTENBERG, Mr. MITCHELL, Mr. CRANSTON, Mr. COHEN, Mr. KERRY, Mr. PELL, Mr. BENTSEN, and Mr. KENNEDY) proposed an amendment to the bill S. 2884, supra, as follows:

On page 27, between lines 11 and 12, insert the following new section:

SEC. 321. VALIDATION OF PAYMENTS UNDER CERTAIN CONTRACTS FOR THE PROVISION OF MUNICIPAL SERVICES

Notwithstanding section 2465 of title 10, United States Code, or any other provision of law, any payment made before the date of the enactment of this Act under a contract entered into before that date by a military department with a unit of local government for the provision by such unit of local government of police, fire, or other municipal service to the military department shall be held and considered to be a valid payment.

LAUTENBERG (AND BRADLEY) AMENDMENT NO. 2504

Mr. LAUTENBERG (for himself and Mr. BRADLEY) proposed an amendment, which was subsequently modified, to the bill S. 2884, supra, as follows:

On page 223, after line 24, add the following new section:

SEC. 1216. ACCESS TO CERTAIN RESTRICTED SPECIAL USE AIRSPACE

(a) **STUDY REQUIRED.**—The Secretary of Defense shall conduct a study to determine the feasibility of permitting civilian commercial aircraft to have access to restricted special use airspace over the coastal waters of the mid-Atlantic region of the eastern United States for the purpose of enhancing commercial aviation safety, improving air traffic control efficiency, and reducing the impact of aviation noise on populated areas.

(b) **REPORT.**—(1) The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the results of the study required by subsection (a) not later than 90 days after the date of the enactment of this Act together with such comments and recommendations as the Secretary considers appropriate. The report may be submitted in both classified and unclassified form.

(2) The Secretary shall include in the report, at a minimum, the following:

(A) A discussion of the current policy of the Department of Defense regarding civilian access to restricted special use airspace.

(B) An accounting of civilian aircraft access to such special use airspace in each of the two years immediately preceding the year in which this Act is enacted.

(C) A summary of requests received by the Department of Defense from the Federal Aviation Administration for increased access to the special use airspace referred to in subsection (a) and the disposition of those requests by the Department of Defense.

(D) Proposals for permitting increased access to such special use airspace, particularly during daylight hours, by civil aviation aircraft.

(E) An analysis of the feasibility of providing such access.

(c) **DEVELOPMENT OF PROCEDURES.**—If the Secretary determines on the basis of the study referred to in subsection (a) that additional access to the special use airspace described in that subsection can be permitted, consistent with the national security interests of the United States, the Secretary shall develop, in coordination with the Secretary of Transportation, procedures for providing access to civilian commercial aircraft to such airspace.

MCCONNELL (AND FORD) AMENDMENT NO. 2505

Mr. WARNER (for Mr. MCCONNELL, for himself, and Mr. FORD) proposed an amendment to the bill S. 2884, supra, as follows:

At an appropriate place, add the following new section:

Whereas dramatic changes have occurred in the military situation in Europe;

Whereas the Warsaw Pact is no longer a credible military threat to NATO;

Whereas it appears that the heavy armored armies of both NATO and the Warsaw Pact will be substantially reduced by arms control agreements or unilateral actions;

Whereas the need for armor forces has not disappeared and many countries in the world possess large inventories of modern tanks;

Whereas the Soviet Union will still produce 1,400 new tanks in 1990;

Whereas with significantly increased warning times of enemy attack, greater reliance will be placed on U.S. Reserve Component Forces for Armored Heavy Force reinforcement missions;

Whereas there is a need to enhance the capabilities of Reserve Component Armored Forces to assume increased responsibilities for Armored Heavy Force reinforcement missions;

Now, therefore, it is the sense of the Senate that—

(1) The U.S. Army should take timely and necessary steps to enhance the capabilities of Reserve Component Armored Forces.

(2) The U.S. Army Armor Center will remain the center for training, education, doctrine and combat development for U.S. Armored Forces—for both Active and Reserve Components.

(3) The U.S. Army Armor Center should ensure that Reserve Component Armored Forces are adequately prepared for the increased reliance that will be placed on their greater role in Armored Heavy Force reinforcement missions.

HELMS (AND OTHERS) AMENDMENT NO. 2506

Mr. WARNER (for Mr. HELMS, for himself, Mr. DOLE, Mr. WARNER, Mr. NUNN, Mr. WALLOP, Mr. LUGAR, and Mr. MCCLURE) proposed an amendment to the bill S. 2884, supra, as follows:

At the end of the bill add the following new section:

"Sec. . . It is the sense of the Senate that, pursuant to its constitutional responsibilities of advice and consent in respect to treaties, the Senate requests that before concluding a proposed Strategic Arms Reduction Treaty, the President provide:

"(1) A special classified and unclassified report to the Senate on whether the SS-23 INF missiles of Soviet manufacture, which the Soviets have confirmed have existed in the territories of East Germany, Czechoslovakia, and Bulgaria, constitute a violation of the INF Treaty or constitute deception in the INF negotiations, and whether the United States has reliable assurances that the missiles will be destroyed; and

"(2) A special classified and unclassified report to the Senate on whether the Soviet Krasnoyarsk radar, which Soviet Foreign Minister Shevardnadze admitted is a clear violation of the ABM Treaty, has been verifiably dismantled in accordance with United States' criteria."

LEVIN (AND OTHERS) AMENDMENT NO. 2507

Mr. LEVIN (for himself, Mr. COHEN, Mr. GLENN, Mr. ROTH, Mr. BINGAMAN, and Mr. WALLOP) proposed an amendment to the bill S. 2884, supra, as follows:

On page 117, line 13, strike out "and" after the semicolon.

On page 117, line 15 add after the semicolon "and".

On page 117, insert between lines 15 and 16 the following new subparagraph:

"(E) in subparagraph (A) (as redesignated in subparagraph (D) of this paragraph) by inserting 'or has been' before 'available in the commercial marketplace'."

On page 117, line 23, strike out "products" and insert in lieu thereof "items".

On page 119, line 9, strike out all through line 15 on page 120 and insert in lieu thereof the following new paragraphs:

"(7) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(8) In this subsection, the term 'commercial item' means—

"(A) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(i) has been sold or traded to the general public;

"(ii) has been offered for sale to the general public at established prices but not yet sold; or

"(iii) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(B) any item described in subparagraph (A) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency."

On page 121, line 21, strike out "section 2325(b)(7)" and all that follows through "subsection (a))" on line 22 and insert in lieu thereof "section 303H(e) of the Federal Property and Administrative Services Act of 1949 (as amended by subsection (f))".

On page 129, line 13, strike out "section 2325(b)(10)" and insert in lieu thereof "section 2325(b)(8)".

On page 129, insert between lines 18 and 19 (after the quoted matter) the following new subsection:

(f) **COMMERCIAL AND NONDEVELOPMENTAL ITEMS.**—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41

U.S.C. 251 et seq.) is amended by inserting after section 303G the following new section:

"PROCUREMENT OF COMMERCIAL AND NONDEVELOPMENTAL ITEMS"

"Sec. 303H. (a)(1) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall ensure that, to the maximum extent practicable—

"(A) requirements of executive agencies with respect to a procurement of supplies are stated in terms of—

"(i) functions to be performed;

"(ii) performance required; or

"(iii) essential physical characteristics;

"(B) such requirements are defined so that nondevelopmental items may be procured to fulfill such requirements;

"(C) such requirements are fulfilled through the procurement of nondevelopmental items; and

"(D) prior to developing new specifications, executive agencies conduct market research to determine whether nondevelopmental items are available or could be modified to meet agency needs.

"(2) As used in this section, the term 'nondevelopmental item' means—

"(A) any item of supply that is or has been available in the commercial marketplace;

"(B) any previously developed item of supply that is in use by a department or agency of the United States, a State or local government, or a foreign government with which the United States has a mutual defense cooperation agreement;

"(C) any item of supply described in subparagraph (A) or (B) that requires only minor modification in order to meet the requirements of the procuring agency; or

"(D) any item of supply that is being produced that does not meet the requirements of subparagraph (A), (B), or (C) solely because the item—

"(i) is not yet in use; or

"(ii) is not yet available in the commercial marketplace.

"(b)(1)(A) The Federal Acquisition Regulation issued under section 25(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 421(c)) shall include a simplified uniform contract for the acquisition of commercial items by Federal agencies and shall require that such simplified uniform contract be used for the acquisition of commercial items to the maximum extent practicable. The uniform contract shall include only—

"(i) those contract clauses that are required to implement provisions of law applicable to such an acquisition;

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such an acquisition; and

"(iii) those contract clauses that are determined to be consistent with standard commercial practice and appropriate for inclusion in such contracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contract for the acquisition of commercial items may include only such clauses as are essential for the protection of the Federal Government's interest in the particular contract, as determined in writing by the contracting officer for such contract, or in a class of contracts as determined by the agency head with the approval of the Administrator of the Office of Federal Procurement Policy.

"(2)(A) The Federal Acquisition Regulation shall require that a prime contractor under a Federal agency contract for the acquisition of commercial items be required to include in subcontracts under such contract only—

"(i) those contract clauses that are required to implement provisions of law applicable to such subcontracts; and

"(ii) those contract clauses that are essential for the protection of the Federal Government's interest in such subcontracts.

"(B) In addition to the clauses described under subparagraph (A) (i) and (ii), a contractor under a Federal agency contract for the acquisition of commercial items may be required to include in a subcontract under such contract only such clauses as are essential for the protection of the Federal Government's interest in the particular subcontract, as determined in writing by the contracting officer for such contract, or in a class of subcontracts, as determined by the agency head with the approval of the Administrator of the Federal Procurement Policy.

"(3) Notwithstanding paragraphs (1) and (2) of this subsection, the Department of Defense may use uniform contract and subcontract clauses developed under section 2325(b) of title 10, United States Code, in lieu of the uniform contract and subcontract clauses developed under this subsection.

"(c) The Federal Acquisition Regulation shall ensure, to the maximum extent practicable, that—

"(1) the inspection clause included in each agency contract for the acquisition of commercial items takes into account the contractor's past performance and any warranties the contractor may offer to the Government; and

"(2) Federal agencies take advantage of warranties offered by commercial contractors and use such warranties for the repair and replacement of commercial items.

"(d)(1) The Federal Acquisition Regulation shall ensure that, to the maximum extent practicable, contractors and subcontractors offering commercial items are required to submit certified cost or pricing data regarding agency contracts and subcontracts only when such data are necessary for the evaluation of the reasonableness of the price of the contract or subcontract, as the case may be.

"(2) The revised regulations shall particularly address—

"(A) the application of the adequate price competition exemption in the case of a contract or subcontract for the acquisition of a commercial item;

"(B) the standards for applying the catalog or market price exemption to contracts and subcontracts for items which are modified commercial items, components of commercial items, spare parts for commercial products, new commercial items, or commercial items which are no longer sold to the public; and

"(C) clarification that an agency may not, in the case of any item for which the Administrator of General Services has accepted a certificate of established catalog price, require a contractor to demonstrate that such an item meets the requirements of section 304(d)(5)(A)(ii) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 254(d)(5)(A)(ii)) during the period in which a contract to which the certification relates is in effect.

"(e) The Federal Acquisition Regulation shall direct agencies to require, where ap-

propriate and in accordance with criteria prescribed in the regulations, offerors to demonstrate in their offers that products being offered have—

"(1)(A) achieved a level of commercial market acceptance necessary to indicate that the products are suitable for the agency's use or that the processes used to manufacture the products meet established commercial or other specified standards; or

"(B) been satisfactorily supplied under current or recent contracts for the same requirements; and

"(2) otherwise meet the product description, specifications, or other criteria prescribed by the public notice and solicitation.

"(f) The Federal Acquisition Regulation shall provide guidance to agencies on the use of past performance of products and sources as a factor in award decisions.

"(g) For the purposes of this subsection, a contract for commercial items may include those incidental services that are normally provided with sales of such items in the commercial market.

"(h) In this section, the term 'commercial item' means—

"(1) any item of supply, including computer software, regularly used for other than Government purposes which, in the course of normal business operations—

"(A) has been sold or traded to the general public;

"(B) has been offered for sale to the general public at established prices but not yet sold; or

"(C) although intended for sale or trade to the general public, has not yet been offered for sale but will be available for commercial delivery in a reasonable period of time; and

"(2) any item described in paragraph (1) which requires only modifications of a type customarily provided in the commercial marketplace, or other minor modifications, in order to meet the requirements of the procuring agency."

(2) The table of contents for the Federal Property and Administrative Services Act of 1984 is amended by inserting after the item relating to section 303G the following:

"Sec. 303H. Procurement of commercial and nondevelopmental items."

(3) The Administrator of the Office of Federal Procurement Policy shall issue guidelines for the training by executive agencies of contracting officers, program managers, and other appropriate acquisition personnel in the acquisition of nondevelopmental items. The guidelines shall provide, at a minimum, for training in the requirements of this section and the implementing regulations. In addition, the program shall provide for training of—

(A) contracting officers in the fundamental principles of price analysis and other means of determining price reasonableness which do not require access to commercial cost data; and

(B) appropriate personnel in market research techniques and the drafting of functional and performance specifications.

(4) Section 20(c) of the Office of Federal Procurement Policy Act (41 U.S.C. 418(c)) is amended to read as follows:

"(c) The advocate for competition for each procuring activity shall be responsible for promoting the acquisition of nondevelopmental items and for challenging barriers to such acquisition, including unnecessarily detailed specifications, unnecessarily restrictive statements of need, and unnecessarily burdensome contract clauses."

(5) Within 270 days after the date of the enactment of this Act, Government-wide regulations to carry out the requirements in this section and rescind any regulations that are inconsistent with such requirements shall be published for public comment. Within one year after the date of enactment of this Act, final regulations shall be promulgated in the Federal Acquisition Regulation, and as necessary in the Federal Information Resources Management Regulation.

(6) Within 1 year after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the congressional defense committees and the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives a report and recommendations on the use of market research in support of procurement of nondevelopmental items. Such report shall include—

(A) a review of existing Government market research efforts to gather data concerning nondevelopmental items;

(B) a review of the feasibility of creating a Government-wide database for storing, retrieving, and analyzing market data, including a review of existing Government resources; and

(C) such recommendations for changes in law or regulation as the Comptroller General of the United States may consider appropriate.

LEVIN (AND OTHERS) AMENDMENT NO. 2508

Mr. LEVIN (for himself, Mr. BINGAMAN, Mr. WALLOP, and Mr. GLENN) proposed an amendment to the bill S. 2884, *supra*, as follows:

In section 833, strike out subsection (a) and all that follows through "(d) TECHNICAL AMENDMENT.—Section" and insert in lieu thereof the following:

(a) EXTENSION OF PERIOD OF SUSPENSION OF CERTAIN PROVISIONS OF LAW.—Section 507 of the Ethics Reform Act of 1989 (Public Law 101-194; 103 Stat. 1759) is amended by striking out "one year after such day" and inserting in lieu thereof "May 31, 1991".

(b) TECHNICAL AMENDMENT.—Section

DOLE (AND OTHERS) AMENDMENT NO. 2509

Mr. WARNER (for Mr. DOLE, for himself, Mr. LUGAR, Mr. WARNER, and Mr. GRAMM) proposed an amendment to the bill S. 2884, *supra*, as follows:

At an appropriate place, add the following:

FINDINGS.—The Senate makes the following findings:

(1) The men and women in the United States Air Force, Marine Corps and Navy, serving in the Pacific region, have given substantial and significant assistance to the government and people of the Philippines following the July 16 earthquake, which resulted in the deaths of over 1,600 people, as well as severe dislocation and devastation.

(2) U.S. military personnel stationed in the Philippines have traditionally exhibited a strong respect and admiration for the people of the Philippines.

(3) A Marine Corps pilot was killed in a helicopter crash during an earthquake relief mission on July 20th.

(4) The United States Air Force has flown over 220 sorties, including medical evacuations to assist in earthquake relief.

(5) The Marine Corps has flown over 250 aircraft missions, and has transported via helicopter over 1,000 Philippine nationals and more than 500,000 pounds of cargo.

(6) Navy medical personnel from Subic Bay have provided critical medical assistance to those injured in the earthquake.

(7) More than 1,140 tons of supplies and equipment have been airlifted to the Philippines or transported over land to Baguio City and Cabanatuan City, areas devastated by the earthquake.

(8) Military civil engineering teams have restored more than half the damaged water systems and all of the electrical systems, and have provided heavy equipment to aid in rescue operations.

(9) 650 units of blood were donated by members of Clark Air Force Base and other Pacific Air Force bases, and 120 units of blood were donated by members of Subic Bay Naval Facility.

It is the sense of the Senate, that—

(1) The earthquake relief assistance provided by U.S. military forces has played an essential role in the Philippine recovery from the July 16 earthquake.

(2) Those U.S. armed forces and their dependents who have assisted in Philippine earthquake relief should be commended by the United States Senate for their considerable efforts on behalf of the Philippine people in their recovery efforts.

DOLE AMENDMENT NO. 2510

Mr. WARNER (for Mr. DOLE) proposed an amendment to the bill S. 2884, *supra*, as follows:

SENSE OF THE SENATE, TO COMMEND THE WORK OF THE NATIONAL GUARD AND RESERVES

The Senate finds that:

Since the birth of this Nation, the citizen-soldier of the United States has protected their fellow citizens from tyranny, invasion, violence and natural disasters; and

Since the revolution that threw off our yoke of colonialism, to assisting the Panamanians in their struggle over tyranny, the citizen-soldiers of the National Guard and Reserves, have fought in the defense of freedom; and

As the resolve and sacrifice of our National Guard and Reserves over the last forty-five years gave them a lead role in our Nation's winning the cold war; and

As we enter the final decade of this century with our Nation facing new and varied threats to peace, it is imperative that our Guard and Reserve be prepared to respond in a changing world; and

As the National Guard and Reserves make up a large part of our Nation's combat and support units, their mobilization and training will remain vital to our national security; and

As the outstanding Americans who serve in the National Guard and Reserves have maintained their level of excellence through their hard work and dedication to duty, our citizen soldiers have proved our Nation can continue to rely on them in any national emergency; and

The qualities that have given the National Guard and Reserves its venerable history, are still present today; now

Therefore the United States Senate acknowledges the valuable contribution that the men and women of our National Guard and Reserves have made to our Nation's se-

curity, and the continue to support their role as the foundation of our national defense in a changing world.

DEPARTMENT OF VETERANS AFFAIRS NURSE PAY ACT

CRANSTON (AND MURKOWSKI) AMENDMENT NO. 2511

Mr. LEVIN (for Mr. CRANSTON, for himself and Mr. MURKOWSKI), proposed an amendment to the bill (H.R. 1199) to amend title 38, United States Code, to improve recruitment and retention of nurses in the Department of Veterans Affairs by providing greater flexibility in the pay system for those nurses and to authorize the Secretary of Veterans Affairs to provide certain procreative services for married veterans with service-connected disabilities which impair their ability to procreate, as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Nurse Pay Act of 1990".

TITLE I—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

SEC. 101. RESTRUCTURING OF NURSE GRADE LEVELS AND PAY.

(a) NEW GRADES ESTABLISHED.—The Secretary of Veterans Affairs shall provide four grade levels for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code, with relation to current nurse grades, as follows:

New Grades	Current nurse grades
1. Entry grade.....	Junior and associate grades.
2. Intermediate grade.....	Full and intermediate grades.
3. Senior grade.....	Senior and chief grades.
4. Director grade.....	Assistant director and director grades.

(b) CURRENT NURSE GRADES DEFINED.—For purposes of subsection (a), the term "current nurse grades" means the grades in effect on the day before the effective date of this Act for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code.

(c) CONFORMING AMENDMENT.—Section 4107(b) of title 38, United States Code, is amended by striking out the items under the heading "NURSE SCHEDULE" and inserting in lieu thereof the following:

"Entry grade.

"Intermediate grade.

"Senior grade.

"Director grade."

SEC. 102. RATES OF PAY AND ADMINISTRATION OF PAY FOR NEW NURSE GRADES AND CERTAIN OTHER HEALTH-CARE PER- SONNEL.

(a) CLARIFICATION.—Section 4104(1) of title 38, United States Code, is amended by inserting "registered" before "nurses".

(b) PAY ADMINISTRATION.—Chapter 73 of such title is amended by inserting after subchapter III the following new subchapter:

"Subchapter IV—Pay for Nurses and Other Health-Care Personnel

"§ 4141. Nurses and other health-care personnel: competitive pay

"(a)(1) It is the purpose of this section to ensure, by a means providing increased re-

sponsibility and authority to directors of Department health-care facilities, that the rates of basic pay for health-care personnel positions described in paragraph (2) in each Department health-care facility (including the rates of basic pay of personnel employed in such positions of a part-time basis) are sufficient for the facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the same labor-market area in the recruitment and retention of qualified personnel for those positions.

"(2) The health-care personnel positions referred to in paragraph (1) (hereinafter in this section referred to as 'covered positions') are the following:

"(A) Registered nurse.

"(B) Such positions referred to in clauses (1) and (3) of section 4104 of this title (other than the positions of physician, dentist, and registered nurse) as the Secretary may determine upon the recommendation of the Chief Medical Director.

"(3) The rates of basic pay for covered positions in the Department shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 4107 of this title.

"(4) The Secretary, after receiving the recommendation of the Chief Medical Director, shall prescribe regulations setting forth criteria and procedures to carry out this section and section 4142 of this title. Requirements in such regulations for directors to provide and maintain documentation of actions taken under this section shall require no more documentation than the minimum essential for responsible administration.

"(b) The Secretary shall maintain the four grade levels for nurses employed by the Department under section 4104(1) of this title as specified in the Nurse Schedule in section 4107(b) of this title. The Secretary shall, pursuant to regulations prescribed to carry out this subchapter, establish grades for other covered positions as the Secretary considers appropriate.

"(c)(1) For each grade in a covered position, there shall be a range of basic pay. The maximum rate of basic pay for a grade shall be 133 percent of the minimum rate of basic pay for the grade, except that, if the Secretary determines that a higher maximum rate is necessary with respect to any such grade in order to recruit and retain a sufficient number of high-quality health-care personnel, the Secretary may raise the maximum rate of basic pay for that grade to a rate not in excess of 175 percent of the minimum rate of basic pay for the grade. Whenever the Secretary exercises the authority under the preceding sentence to establish the maximum rate of basic pay at a rate in excess of 133 percent of the minimum rate for that grade, the Secretary shall, in the next annual report required by subsection (g), provide justification for doing so to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(2) The maximum rate of basic pay for any grade for a covered position may not exceed the maximum rate of basic pay established for positions in level V of the Executive Schedule under section 5316 of title 5.

"(3) The range of basic pay for each such grade shall be divided into equal increments, known as 'steps'. The Secretary shall prescribe the number of steps. Each grade in a covered position shall have the same number of steps. Rates of pay within a

grade may not be established at rates other than whole steps. Any increase (other than an adjustment under subsection (d)) within a grade in the rate of basic pay payable to an employee in a covered position shall be by one or more of such step increments.

"(d)(1) The rate of basic pay for each grade in a covered position shall be adjusted periodically in accordance with this subsection in order to achieve the purposes of this section. Such adjustments shall be made—

"(A) whenever there is an adjustment under section 5305 of title 5 in the rates of pay under the General Schedule, with the adjustment under this subsection to have the same effective date as the adjustment in the rates of basic pay under the General Schedule; and

"(B) at such additional times as the director of a Department health-care facility, with respect to employees in that grade at that facility, determines.

"(2) An adjustment in rates of basic pay under this subsection for a grade shall be carried out by adjusting the amount of the minimum rate of basic pay for that grade in accordance with paragraph (3) and then adjusting the other rates for that grade to conform to the requirements of subsection (c). Such an adjustment in the minimum rate of basic pay for a grade shall be made by the director of a Department health-care facility so as to achieve consistency with the beginning rate of compensation for corresponding health-care professionals in the Bureau of Labor Statistics (BLS) labor-market area of that facility.

"(3)(A) In the case of a Department health-care facility located in an area for which there is current information, based upon an industry-wage survey by the Bureau of Labor Statistics for that labor market, on beginning rates of compensation for corresponding health-care professionals for the BLS labor-market area of that facility, the director of the facility concerned shall use that information as the basis for making adjustments in rates of pay under this subsection. Whenever the Bureau of Labor Statistics releases the results of a new industry-wage survey for that labor market that includes information on beginning rates of compensation for corresponding health-care professionals, the director of that facility shall determine, not later than 30 days after the results of the survey are released, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the pay period beginning after that determination.

"(B) In the case of a Department health-care facility located in an area for which the Bureau of Labor Statistics does not have current information on beginning rates of compensation for corresponding health-care professionals for the labor-market area of that facility for any covered position, the director of the facility shall conduct a survey in accordance with this subparagraph and shall adjust the amount of the minimum rate of basic pay for grades in that covered position at that facility based upon that survey. Any such survey shall be conducted in accordance with regulations prescribed by the Secretary. Those regulations shall be developed in consultation with the Secretary of Labor in order to ensure that the director of a facility collects information that is valid and reliable and is consistent with

standards of the Bureau. The survey should be conducted using methodology comparable to that used by the Bureau in making industry-wage surveys except to the extent determined infeasible by the Secretary. Upon conducting a survey under this subparagraph, the director concerned shall determine, not later than 30 days after the date on which the collection of information through the survey is completed, whether an adjustment in rate of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

"(C) The director of a facility may not adjust rates of basic pay under this subsection for any pay grade so that the minimum rate of basic pay for the grade is greater than the beginning rates of compensation for corresponding positions at non-Department health-care facilities.

"(4) If the director of a Department health-care facility determines, after any survey under paragraph (3)(B) or at any other time that a adjustment in rates of pay is scheduled to take place under this subsection, that it is not necessary to adjust the rates of basic pay for employees in a grade of a covered position at that facility in order to carry out the purpose of this section, such an adjustment for employees at that facility in that grade shall not be made. Whenever a director makes such a determination, the director shall within 10 days notify the Chief Medical Director of the decision and the reasons for the decision.

"(5) Information collected by the Department in surveys conducted under subsection (3) is not subject to disclosure under section 552 of title 5.

"(6) In this subsection—

"(A) The term 'beginning rate of compensation', with respect to health-care personnel positions in non-Department health-care facilities corresponding to a grade of a covered position, means the sum of—

"(i) the minimum rate of pay established for personnel in such positions who have education, training, and experience equivalent or similar to the education, training, and experience required for health-care personnel employed in the same category of Department covered positions; and

"(ii) other employee benefits for those positions to the extent that those benefits are reasonably quantifiable.

"(B) The term 'corresponding', with respect to health-care personnel positions in non-Department health-care facilities, means those positions for which the education, training, and experience requirements are equivalent or similar to the education, training, and experience requirements for health-care personnel positions in Department health-care facilities.

"(e) Adjustments in rates of basic pay under subsection (d) may increase or reduce the rates of basic pay applicable to any grade of a covered position. In the case of such an adjustment that reduces that rates of pay for a grade, an employee serving at a Department health-care facility on the day before the effective date of that adjustment in a position affected by the adjustment may not (by reason of that adjustment) incur a reduction in the rate of basic pay applicable to that employee so long as the employee continues to serve in that covered position at that facility. If such an employee is

subsequently promoted to a higher grade, or advanced to a higher step within the employee's grade, for which the rate of pay as so adjusted is lower than the employee's rate of basic pay on the day before the effective date of the promotion, the employee shall continue to be paid at a rate of basic pay not less than the rate of basic pay applicable to the employee before the promotion so long as the employee continues to serve in that covered position at that facility.

"(f) Not later than February 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding any pay adjustments under the authority of subsection (d)(1)(A) effective during the 12 months preceding the submission of the report. Each such report shall set forth, by health-care facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

"(g) Not later than December 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the exercise of the authorities provided in this section for the preceding fiscal year. Each such report shall include the following:

"(1) A review of the use of the authorities provide in this section (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) during the preceding fiscal year, including an assessment of the effects of the exercise of such authorities on the ability of the Department to recruit and retain qualified health-care professionals for covered positions.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the rates of basic pay in effect during the preceding fiscal year, with a comparison to the rates in effect during the previous fiscal year, shown by facility and by covered position.

"(4) The numbers of employees in covered positions (shown separately for registered nurses and for each other covered position) who during the preceding fiscal year (A) left employment with the Department, (B) left employment at one Department medical facility for employment at another Department medical facility, or (C) changed from full-time status to part-time status (and from part-time status to full-time status), and a summary of the reasons therefor.

"(5) The number of vacancies in covered positions in the Administration and a summary of the reasons that those positions are vacant.

"(6) The number of employees who during the preceding fiscal year left employment at a health-care facility in one Bureau of Labor Statistics labor-market area for employment at a health-care facility in another such labor-market area, without changing residence.

"(7) Justification for setting the maximum rate of basic pay for any grade at a rate in excess of 133 percent of the minimum rate of basic pay for that grade.

"(8) The discussion required by section 4142(b)(2) of this title.

"(h) For the purposes of this section, the term 'health-care facility' means a medical center, an independent outpatient clinic, or an independent domiciliary facility.

"§ 4124. Nurses and other health-care personnel: administration of pay

"(a)(1) Regulations prescribed under section 4141(a) of this title shall provide that whenever an employee in a covered position is given a new duty assignment which is a promotion, the rate of basic pay of that employee shall be increased at least one step increment in that employee's grade.

"(2) A nurse serving in a head nurse position shall while so serving receive basic pay at a rate two step increments above the rate that would otherwise be applicable to the nurse. If such a nurse is in the highest or next-to-highest step for that nurse's grade, the preceding sentence shall be applied by extrapolation to create additional steps only for the purposes of this paragraph. The limitation in section 4141(c)(1) of this title shall not apply with respect to increased basic pay under this paragraph.

"(3) An employee in a covered position who is promoted to the next higher grade shall be appointed in that grade at a step having a rate of basic pay that is greater than the rate of basic pay applicable to the employee in a covered position on the day before the effective date of the promotion.

"(b)(1) Under regulations which the Secretary prescribes for the administration of this section, the director of a Department health-care facility (A) shall pay a cash bonus (in an amount to be determined by the director not to exceed \$2,000) to an employee in a covered position at that facility who becomes certified in a specialty recognized by the Department, and (B) may provide such a bonus to an employee in such a position who has demonstrated both exemplary job performance and exemplary job achievement. The authority of the Secretary under this subsection is in addition to any other authority of the Secretary to provide job performance incentives.

"(2) The Secretary shall include in the annual report under section 4141(g) of this title a discussion of the use during the period covered by the report of payment of bonuses under this subsection and other job performance incentives available to the Secretary.

"(c)(1) The Secretary shall provide (in regulations prescribed for the administration of this section) that the director of a Department health-care facility, in making a new appointment of a person under section 4104(1) of this title as an employee in a covered position of employment at that facility, may make that appointment at a rate of pay described in paragraph (3) without being subject to a requirement for prior approval at any higher level of authority within the Department in any case in which the director determines that it is necessary to do so in order to obtain the services of employees in covered positions in cases in which vacancies exist at that health-care facility.

"(2) Such a determination may be made by the director of a health-care facility only in order to recruit employees in covered positions with specialized skills, especially employees with skills which are especially difficult or demanding.

"(3) A rate of pay referred to in paragraph (1) is a rate of basic pay in excess of the minimum rate of basic pay applicable to the grade in which the appointment is made (but not in excess of the maximum rate of basic pay for that grade).

"(4) Whenever the director of a health-care facility makes an appointment described in paragraph (1) without prior approval at a higher level of authority within the Department, the director shall—

"(A) state in a document the reasons for employing the employee in a covered position at a rate of pay in excess of the minimum rate of basic pay applicable to the grade in which the employee is appointed (and retain that document on file); and

"(B) in the first budget documents submitted to the Secretary by the director after the employee is employed, include documentation for the need for such increased rates of basic pay described in clause (A).

"(5) Whenever the director of a health-care facility makes an appointment described in paragraph (1) on the basis of a determination described in paragraph (2), the covered employee appointed may continue to receive pay at a rate higher than that which would otherwise be applicable to that employee only so long as the employee continues to serve in a position requiring the specialized skills with respect to which the determination was made.

"(d) Whenever the director of a health-care facility makes an appointment described in subsection (c)(1), the director may (without a regard to any requirement for prior approval at any higher level of authority within the Department) increase the rate of pay of other employees in the same covered position at that facility who are in the grade in which the appointment is made and are serving in a position requiring the specialized skills with respect to which the determination under subsection (c)(2) concerning the appointment was made. Any such increase shall continue in effect with respect to any employee only so long as the employee continues to serve in such a position.

"(e) An employee in a covered position employed under section 4104(1) of this title who (without a break in employment) transfers from one Department health-care facility to another may not be reduced in grade or step within grade (except pursuant to a disciplinary action otherwise authorized by law) if the duties of the position to which the employee transfers are similar to the duties of the position from which the employee transferred. The rate of basic pay of such employee shall be established at the new health-care facility in a manner consistent with the practices at that facility for an employee of that grade and step.

"(f) In this section, the term 'covered position' has the meaning given that term in section 4141 of this title."

(c) CONFORMING AMENDMENTS.—Section 4107(e)(1) of such title is amended by striking out "in subsection (b)(1) of this section".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of such title is amended by inserting after the item relating to section 4134 the following:

SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"4141. Nurses and other health-care personnel: competitive pay.

"4142. Nurses and other health-care personnel: administration of pay.

SEC. 103. REPEAL OF LIMITATION ON HOURLY RATE OF OVERTIME PAY.

Section 4107(e)(5) of title 38, United States Code, is amended by striking out "not to exceed" in the first sentence and all that follows through "Nurse Schedule".

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—(1) Except as provided in subsection (b), section 101 and the amendments made by section 102 shall take effect on the date of enactment.

(2) The amendment made by section 103 shall take effect on April 1, 1991.

(b) **NEW PAY RATES.**—The rates of basic pay established pursuant to section 4141 of title 38, United States Code, as added by section 102, shall take effect for covered positions (as defined in that section) with respect to the first pay period beginning on or after April 1, 1991.

TITLE II—MISCELLANEOUS

SEC. 201. PILOT PROGRAM ON PROVISION OF NON-INSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) **AUTHORITY TO PROVIDE FOR NONINSTITUTIONAL CARE.**—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section: "§ 620C. Noninstitutional alternatives to nursing home care: pilot program
"(a) During the four-year period beginning on October 1, 1990, the Secretary may conduct a pilot program for the furnishing of medical, rehabilitative, and health-related services in noninstitutional settings for veterans who are eligible under this chapter for, and are in need of, nursing home care and who—

"(1) are in receipt of, or are in need of, nursing home care primarily for the treatment of a service-connected disability; or

"(2) have a service-connected disability rated at 50 percent or more.

"(b)(1) Under the pilot program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) designate Department health-care employees to furnish case management services to veteran furnished services under the program.

(2) For the purposes of paragraph (1), the term "case management services" includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A). Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance (including the cost of services and supplies and normal depreciation and amortization of equipment). Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The total cost of providing services or in-kind assistance in the case of any veteran for any fiscal year under the pilot program may not exceed 65 percent of the cost that would have been incurred by the Department during that fiscal year if the veteran had been furnished, instead, nursing home care under section 610 of this title during that fiscal year.

"(e) The authority of the Secretary to enter into contracts under this section shall

be effective for any fiscal year only to the extent that appropriations are available."

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 620B the following new item:

"620C. Noninstitutional alternatives to nursing home care:

(b) **REPORT.**—No later than February 1, 1994, the Secretary of Veterans Affairs shall submit to the Committees of Veterans' Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1993, of the pilot program required by section 620C of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.

SEC. 202. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) **EXPANSION OF PURPOSE.**—Section 5051 of title 38, United States Code, is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "health-care facilities".

(b) **EXPANSION OF AUTHORITY.**—Section 5053 of such title is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "a charge" and all that follows and inserting in lieu thereof "a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved."; and

(B) in the second sentence, by inserting before the period "and to funds that have been allotted to the facility that furnished the resource involved".

SEC. 203. TEMPORARY APPOINTMENTS OF HEALTH-CARE PERSONNEL.

Section 4114(a)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out the penultimate sentence and inserting in lieu thereof the following: "Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing approved by the Secretary, or who have successfully completed a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years."; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) A student who has a temporary appointment under this paragraph and who is

pursuing a full course of nursing in a recognized school of nursing approved by the Secretary, or who is pursuing a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, may be reappointed for a period not to exceed the duration of the student's academic program."

SEC. 204. REPORT ON POST-TRAUMATIC STRESS DISORDER.

Section 201(e)(1) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237; 103 Stat. 2066) is amended by inserting "and not later than February 1, 1991," after "Not later than February 1, 1990,".

SEC. 205. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAMS.

(a) **COORDINATION WITH DEPARTMENT OF DEFENSE PROGRAMS.**—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"§ 4351. Authority for program

"(a) As part of the Educational Assistance Program, the Secretary of Veterans Affairs may select qualified individuals to receive assistance under this subchapter.

"(b) To be eligible to receive assistance under this subchapter, an individual must be accepted for enrollment or be enrolled as a full-time student at a qualifying educational institution in a course of education or training that is approved by the Secretary and that leads toward completion of a degree in a health profession involving direct patient care or care incident to direct patient care.

"§ 4352. Eligibility: Individuals entitled to benefits under the GI Bill program for members of the Selected Reserve

"The Secretary of Veterans Affairs may not approve an application under section 4303 of this title of an individual applying to receive assistance under this subchapter unless—

"(1) the individual is entitled to benefits under chapter 106 of title 10; and

"(2) the score of the individual on the Armed Forces Qualification Test was above the 50th percentile.

"§ 4353. Amount of assistance

"The Secretary may pay to a person selected to receive assistance under this subchapter the amount of \$400 (adjusted in accordance with section 4331 of this title) for each month of the person's enrollment in a program of education or training covered by the agreement of the person entered into under section 4303 of this title. Payment of such benefits for any period shall be coordinated with any payment of benefits for the same period under chapter 106 of title 10.

"§ 4354. Obligated service

"A person receiving assistance under this subchapter shall provide service in the full-time clinical practice of the person's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such person entered into under section 4303 of this title.

"§ 4355. Breach of agreement; liability

"(a)(1) Subject to paragraph (2), an individual who is receiving or has received a reserve member stipend under this subchapter and who fails to perform the service for which the individual is obligated under sec-

tion 4354 of this title shall be liable to the United States in an amount determined in accordance with section 4317(c)(1) of this title.

"(2) An individual who, as a result of performing active duty (including active duty for training), is unable to perform the service for which the individual is obligated under section 4354 of this title shall be permitted to perform that service upon completion of the active duty service (or active duty for training). The Secretary may, by regulation, waive the requirement for the performance of the service for which the individual is obligated under section 4354 of this title in any case in which the Secretary determines that the individual is unable to perform the service for reasons beyond the control of the individual or in any case in which the waiver would be in the best interest of the individual and the United States.

"(b) Any amount owed the United States under subsection (a) of this section shall be paid to the United States during the one-year period beginning on the date of the breach of the agreement."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE."

"4351. Authority for program.

"4352. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve.

"4353. Amount of assistance.

"4354. Obligated service.

"4355. Breach of agreement; liability."

(b) PERIODIC ADJUSTMENTS IN AMOUNT OF ASSISTANCE.—Section 4331 of such title is amended—

(1) in the first sentence of subsection (a)(1)—

(A) by striking out "amount and" and inserting in lieu thereof "amount,"; and

(B) by striking out "amount," and inserting in lieu thereof "amount, and the maximum Selected Reserve member stipend amount,";

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'maximum Selected Reserve member stipend amount' means the maximum amount of assistance provided to a person receiving assistance under subchapter V of this chapter, as specified in section 4353 of this title and as previously adjusted (if at all) in accordance with this subsection."

(c) CONFORMING AMENDMENTS.—(1) Section 4301(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) The Selected Reserve member stipend program provided for under subchapter V of this chapter."

(2) Section 4302 of such title is amended by inserting "under subchapter I or II of this chapter" in subsections (a) and (b) after "Educational Assistance Program".

(3) Section 4304 of such title is amended by striking out "subchapter II or III" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapters II, III, or V".

SEC. 206. ADMINISTRATION.

(a) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by inserting after section 1784 the following new section: § 1784A. Procedures relating to computer matching program

"(a)(1) Notwithstanding section 552(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any individual, or take other adverse action against such individual, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

"(A) the individual concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5."

(b) RATIFICATION.—Any use by the Department of Veterans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act, of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) is hereby ratified.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1784 the following new item: "1784A. Procedures relating to computer matching programs."

(d) EFFECTIVE DATE DELAYED FOR CERTAIN EDUCATION BENEFITS COMPUTER MATCHING PROGRAMS.—(1) In the case of computer matching programs between the Department of Veterans Affairs and the Department of Defense in the administration of education benefits programs under chapters 30 and 32 of title 38 and chapter 106 of title 10, United States Code, the amendments made to section 552a of title 5, United States Code, by the Computer Matching and Privacy Protection Act of 1988 (other than the amendments made by section 10(b) of that Act) shall take effect on October 1, 1990.

(2) For purposes of this subsection, the term "matching program" has the same meaning provided in section 552a(a)(8) of title 5, United States Code.

SEC. 207. REFUNDS FOR CERTAIN SERVICE ACADEMY GRADUATES.

(a) IN GENERAL.—Upon receipt before January 1, 1992, of an application from an indi-

vidual described in subsection (b)(3), the Secretary of Veterans Affairs shall—

(1) not later than 60 days after receiving such application, refund to the individual concerned the amount, if any, of the individual's unused contributions to the VEAP Account;

(2)(A) if the individual has received educational assistance under chapter 32 of title 38, United States Code, for the pursuit of a program of education, pay to the individual (out of funds appropriated to the readjustment benefits account) a sum equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of such title for the pursuit of such program exceeds the amount of the educational assistance that the individual did receive under such chapter 32 for the pursuit of such program; or

(B) if the individual has not received educational assistance under such chapter 32, pay to the individual (out of funds appropriated to the Department of Veterans Affairs Readjustment Benefits account) a sum equal to the amount of educational assistance that the individual would have received under chapter 34 of such title for the pursuit of a program of education if the individual had been entitled to assistance under such program during the period ending on December 31, 1989; and

(3) refund to the Secretary of Defense the unused contributions by such Secretary to the VEAP Account on behalf of such individual.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "VEAP Account" means the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of title 38, United States Code;

(2) the term "active duty" has the same meaning given such term by section 101(21) of such title 38;

(3) the term "individual described in subsection (b)(3)" means an individual who—

(A) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officers' Training Corps in a program of educational assistance under section 2104 or 2107 of title 10, United States Code;

(B) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 such title 10) as a member of the Senior Reserve Officers' Training Corps;

(C) after such period of active duty, was discharged or released therefrom under conditions other than dishonorable or continued to serve on active duty without a break in service; and

(D) if enrolled under the program of educational assistance provided under chapter 32 of title 38, United States Code, submits to the Secretary of Veterans Affairs, as part of the application made by the individual under subsection (a) in such form and manner as such Secretary shall prescribe by January 1, 1991, an irrevocable election to be disenrolled from such program at that time; and

(4) the term "service academies" means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

SEC. 208. LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION.

(a) IN GENERAL.—Section 1791(b) of title 38, United States Code, is amended by striking out "The" through "additional change" and inserting in lieu thereof "The Secretary, in accordance with procedures that the Secretary may establish, may approve a change other than a change under subsection (a) of this section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on June 1, 1991.

SEC. 209. NAMING OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN SAGINAW, MICHIGAN.

The Department of Veterans Affairs medical center in Saginaw, Michigan, shall after the date of the enactment of this Act be known and designated as the "Aleda E. Lutz Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Aleda E. Lutz Department of Veterans Affairs Medical Center.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT

HARKIN AMENDMENT NO. 2512

Mr. LEVIN (for Mr. HARKIN) proposed an amendment to the bill (S. 2753) to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act, as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people

with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and"

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided";

(2) in paragraph (8), by striking "non-disabled citizens" each place that such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities,";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting "individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence:

"Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in

the selection, acquisition, or use of an assistive technology device. Such term includes—
 “(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

“(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

“(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

“(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

“(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

“(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

“(30) The term ‘prevention’ means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

“(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

“(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

“(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.”

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking “located” and inserting “whose activities or products target people who live”;

(2) in subsection (b) by striking “is located” and inserting “activities or products target people who live”; and

(3) in subsection (c) by inserting “part B of” before “this”.

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking “each annual survey” and all that follows through the semicolon in paragraph (4) and inserting “any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act”; and

(B) in paragraph (5)—

(i) by striking “and advocacy for,” and inserting “advocacy for, and other actions on behalf of and with”;

(ii) by inserting “particularly unserved and underserved groups,” after “impairments,”; and

(iii) by striking “that the State Planning Council may identify under sections 122(b)(3) and 122(f)” and inserting “, and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified”;

(2) in subsection (c)(1)—

(A) by striking “April” and inserting “July”; and

(B) by striking “the Handicapped” and inserting “Disability”; and

(3) in subsection (c)(1)(C)—

(A) by striking “and advocacy for,” and inserting “advocacy for, and other actions on behalf of,”;

(B) by inserting “particularly unserved or underserved groups,” after “impairments,”;

(C) by striking “may identify” and inserting “has identified”; and

(D) by inserting “, and a summary of actions taken to improve access to services for such groups” before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(B) by inserting “, the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration” after “Developmental Disabilities”; and

(2) by inserting at the end thereof the following: “Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role, activities, timeliness and evaluation criteria of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner.”

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking “1972” and “1973”.

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking “January 17, 1974 (30 Fed. Reg. pt. II)” and inserting “June 3, 1988”.

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting “and their families” before “through the conduct of”.

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: “Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.”;

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting “, supports and other assistance” after “scope of services”;

(B) by inserting “, or policies affecting,” before “federally”;

(C) by inserting “or may be” before “eligible to”;

(D) by inserting “child welfare,” after “social services”;

(E) by inserting “transportation, technology,” after “housing,”;

(F) by striking “other plans” and inserting “other programs”; and

(G) by striking “and (ii)” and inserting “(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other

assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)”;

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting “and their families” after “disabilities” in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

“(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year.”;

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

“(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

“(iv) consideration of the report conducted pursuant to subsection (f);”;

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking “and the implementation” and inserting “the implementation”; and

(B) by striking the period at the end and inserting in lieu thereof the following: “, and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.”;

(6) in paragraph (1) of subsection (d)—

(A) by striking “administration of the State Plan approved under this section” and inserting “exercise of the functions of the State designated agency”;

(B) by striking “all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan” and inserting “the State agency designated under subsection (b)(1)(B);” and

(C) by inserting at the end thereof the following new sentence: “State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.”;

(7) by adding at the end of subsection (e) the following new paragraph:

“(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor.”; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

“(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan.”

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—
 (A) by striking “which will” and inserting “to”; and

(B) by striking the period at the end thereof the inserting “by carrying out priority area activities.”;

(2) in paragraph (1) of subsection (c)—

(A) by striking “may” and inserting “shall”; and

(B) by striking “hire” and inserting “fund all activities under this part (except admin-

istrative costs described in section 122(d)(1) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council"; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$200,000; and

"(ii) to any other State may not be less than the greater of \$350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds \$65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than \$400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount

of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year."

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "\$62,200,000" and all that follows through the period at the end thereof and inserting "\$81,270,000 for fiscal year 1991, \$85,335,000 for fiscal year 1992, \$89,600,175 for fiscal year 1993, and \$94,080,190 for fiscal year 1994."

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act."

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(iii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;" and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportu-

nity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the individuals served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the individuals served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise."

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "\$20,000,000" and all that follows through the period at the end thereof and inserting "\$27,000,000 for fiscal year 1991, \$28,350,000 for fiscal year 1992, \$29,770,000 for fiscal year 1993, and \$31,258,500 for fiscal year 1994."

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—
(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of \$90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed \$150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State

service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).";

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated \$11,400,000 for fiscal year 1991, \$12,390,000 for fiscal year 1992, \$13,430,000 for fiscal year 1993 and \$14,310,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated \$7,000,000 for fiscal year 1991, \$8,652,000 for fiscal year 1992, \$10,386,000 for fiscal year 1993, and \$12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).";

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons

with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities."

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142."

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated \$3,900,000 for fiscal year 1991, \$4,095,525 for fiscal year 1992, \$4,299,750 for fiscal year 1993, and \$4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent, but not less than \$300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2)."

TELEVISION DECODER CIRCUITRY ACT

INOUE AMENDMENT NO. 2513

Mr. LEVIN (for Mr. INOUE) proposed an amendment to the bill (S. 1974) to require new televisions to have built-in decoder circuitry, as follows:

On page 5, line 14, strike "October 1, 1992" and insert in lieu thereof "July 1, 1993".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON SMALL BUSINESS

Mr. LEVIN. Mr. President, I would like to announce that the Small Business Committee will hold a full committee hearing on Thursday, August 2, 1990, to examine problems in the Small Business Administration's Small Business Investment Companies (SBIC) Program. The hearing will be held in room 428A of the Russell Senate Office Building and will commence at 9:30 a.m. For further information, please call John Ball, staff director of the committee at 224-5175.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate

on Thursday, August 2, 1990, at 9:30 a.m. The committee will hold a hearing on the Small Business Administration's Small Business Investment Companies Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, August 2, at 10 a.m. to hold a hearing on the Convention on the Elimination of All Forms of Discrimination Against Women (Ex. Rept. 96-2).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on August 2 at 2 p.m. to hold a nomination hearing. National Tree Trust Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, August 2, 1990, at 10 a.m. to conduct a hearing on bank and thrift fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON HOUSING AND URBAN AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Thursday, August 2, 1990, at 2 p.m. to conduct a hearing to review the Department of Housing and Urban Development's report on the safety and soundness of the Federal Home Loan Mortgage Corporation and the Federal National Mortgage Association.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Communications Subcommittee, of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on August 2, 1990, at 2 p.m. on the Emerging Telecommunications Technologies Act of 1990.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Trans-

portation, be authorized to meet during the session of the Senate on August 2, 1990, at 10 a.m. on the views of the NSF Director regarding science and technology issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY REGULATION AND CONSERVATION

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate at 2 p.m. Thursday, August 2, 1990, for a continuation of the 9 a.m. hearing concerning energy efficiency.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Subcommittee on Energy Regulation and Conservation of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate at 9 a.m. Thursday, August 2, 1990, for a hearing to receive testimony on S. 2923, legislation to amend title III of Energy Policy and Conservation Act to conserve valuable natural resources primarily through energy production to enhance energy efficiency, and to clarify the status of materials for energy production under the Public Utilities Regulatory Policy Act and the Federal Power Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Thursday, August 2, at 9:30 a.m. for a hearing on the subject: Control and financial management of expired appropriations accounts.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. LEVIN. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Thursday, August 2, 1990, at 2 p.m. to hold a closed markup on S. 2726.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS

Mr. LEVIN. Mr. President, I ask unanimous consent that the Small Business Committee be authorized to meet during the session of the Senate on Thursday, August 2, 1990, at 9:30 a.m. The committee will hold a hearing on the Small Business Administration's Small Business Investment Companies Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to hold a business meeting during the session of the Senate on August 2, 1990, at 10:30 a.m., room SD-226.

Agenda:

I. NOMINATIONS

U.S. District Judges: Charles W. Pickering, Sr., to be U.S. district judge for the Southern District of Mississippi.

U.S. Attorneys:

Fred L. Foreman, to be U.S. attorney for the Northern District of Illinois.

Stanley A. Twardy, Jr., to be U.S. attorney for the District on Connecticut; and

Joe D. Whitley, to be U.S. attorney for the Northern District of Georgia.

U.S. Marshals:

Anthony L. Bennett, to be U.S. marshal for the District of Minnesota; and Lynn H. Duncan, to be U.S. marshal for the Northern District of Georgia.

Board of Directors of the State Justice Institute: Keith McNamara, to be a member of the Board of Directors of the State Justice Institute.

II. COMMITTEE RESOLUTIONS

To express the sense of the Committee on the Judiciary concerning membership in clubs that engage in discrimination—Kennedy.

To express the sense of the Committee on the Judiciary concerning membership in clubs that engage in discrimination—Grassley.

III. FEDERAL CHARTER

S. 1834, a bill to recognize and grant a Federal Charter to the organization known as the Supreme Court Historical Society—Lieberman.

IV. BILLS

S. 1965, a bill to protect the rights of victims of crime, establish a Federal victims' bill of rights for children, and improve the response of the criminal justice system and related agencies to incidents of child abuse—Biden.

S. 591, as amended, a bill to amend the Federal Rules of Criminal Procedure with respect to the examination of prospective jurors—Heflin.

S. 592, as amended, a bill to amend the Federal Rules of Civil Procedure with respect to the examination of prospective jurors—Heflin.

S. 982, a bill to repeal a provision of Federal tort claim law relating to the civil liability of government contractors for certain injuries, losses of property, and deaths—Reid.

S. 2313, a bill to provide emergency Federal assistance to drug emergency areas—Biden.

H.R. 2138, a bill to amend the Immigration and Nationality Act with respect to the application of employer sanctions to longshore work—Brooks.

S. 2756, a bill to encourage national law enforcement cooperation—Biden.

S. 2650, a bill to implement a national drug strategy to prevent illegal use of drugs, and for other purposes—Biden.

S. 1198, a bill to amend title 17, United States Code, to provide certain rights to attribution and integrity to authors of works of visual art—Kennedy.

S. 1629, a bill to establish clearly a Federal right of action by aliens and United States citizens against persons engaging in torture of extrajudicial killings—Specter.

S. 953, a bill to amend the Immigration and Nationality Act to revise the grounds of exclusion for admission into the United States—Simpson.

S. 1263, a bill to treat Hong Kong as a separate foreign state for purposes of applying the numerical limitations on immigration—Simon.

H.J. Res. 520, a joint resolution granting the consent of Congress to amendments to the Washington Metropolitan Area Transit Regulation Compact—Hoyer.

The PRESIDING OFFICER. Without objection, it is so amended.

ADDITIONAL STATEMENTS

CHESTER KRAUSE

● Mr. KASTEN. Mr. President, I rise today out of respect for the achievement of a great entrepreneur and a great Wisconsinite—Chester Krause of Iola, WI.

Chet is a good friend who has been named 1990 "Wisconsin Small Business Person of the Year" by the U.S. Small Business Administration. This award—which makes Chet a candidate for the National Small Business Person Award—is a well-deserved recognition of Chet's achievement in building Krause Publications into a vital and thriving enterprise.

In 38 years, Chet built his company up from 1 employee producing 1 publication to over 261 employees producing 26 periodicals and more than 45 books. Thanks in large part to Chet's own innovativeness, the revenues of Krause Publications have nearly tripled since 1984.

Chet is a hero and role model for American business, because his example calls all of us back to the basics—finding out what people want and need, and giving it to them.

As we debate the size and cost of Government, we would do well to take a lesson from Chet Krause—a man who prospers by staying in touch with his customers.

I am sure all my colleagues will join me in offering warm congratulations to Chet on the important honor he has received.●

HDTV—THE TECHNOLOGY OF THE FUTURE

● Mr. HEINZ. Mr. President, there has been a great deal of discussion over the value of high definition television, and I am well aware that this debate has sometimes questioned what that value actually is. There should be no doubt that the importance of HDTV will prove to be enormous and even, one day, crucial to the economic and military security of this country.

The reason HDTV is so important is not because people want larger television sets or screens they can hang on their walls at home. HDTV is important because it represents the integration of the computer with the television that will be the foundation of the entertainment and computer systems of the future. As such, it will be the driving force behind a number of critical new technologies such as high-performance displays, digital signal processors, and fast, high-density magnetic, and optical data storage. And it is essential, because it represents a unique opportunity for the United States to regain a foothold in the technologically critical, consumer electronics market.

There are those who have argued that advances in linkage technologies will come about with or without HDTV, so long as industries such as computers and telecommunications are kept strong. But this argument misses the point. In today's world of interlinked technologies, it is shortsighted to consider the health of one industry without considering that of other, crucial industries. Computers and telecommunications will remain among the industrial strengths of this country only if the HDTV industry is there to provide them with the computer monitors and signal processors of the future and to propel the state-of-the-art in other technologies.

In its recent report "The Big Picture: HDTV and High-Resolution Pictures," the Office of Technology Assessment concluded that HDTV is indeed driving the state-of-the-art to a significantly greater degree than would existing industries by themselves. For instance, HDTV is spurring astonishing improvements in digital signal processor [DSP] technology, because of the enormous information flows that HDTV will entail. Digital signal processors are essential to computer modems, optical-storage technologies—such as in compact-disc players—facsimile mail, and long-distance telecommunications. These are just a few of the industries that are presently benefiting from HDTV research and development and that will eventually come to depend on it.

HDTV and its proponents have skeptics, however, who have argued that the market is best equipped to make both economic and technological judg-

ments. That is, of course, theoretically the most desirable approach, but we all know that on occasion the market fails to make appropriate judgments.

A disturbingly current example is the U.S. manufacture of television sets. A few days ago, I discussed how this industry was brought down not by the unadulterated laws of market economics, but by unnatural and unregulated interference. The reason that American companies no longer manufacture television sets is not because these companies never made good products, but because the sale of their products was sabotaged by dumping primarily by firms from Japan. The market was further distorted by collusion between Japanese suppliers and some United States retailers seeking to escape the consequences of the dumping determination.

So where does this leave the infant U.S. HDTV industry? Unlike the U.S. television producers of the 1970's, the U.S. HDTV producers of the 1990's will not be the entrenched force in the marketplace. They will not be the industry leaders in manufacturing and technology. And they will not be the initial favorite of consumers.

For these reasons, we must make sure that, unlike the U.S. television producers of the 1970's, the U.S. HDTV producers of the 1990's are not ignored by their Government. If cooperation with their Government allowed Japanese firms to overtake their United States competition in the production of television sets, imagine what Japan can do in the HDTV industry, in which it is already the leader. We must be sure to learn from history, but we can also take heart from it. Japanese trade policy enabled Japanese manufacturers to become the dominant world force in television production in the 70's. We must now make sure the United States similarly comes out on top in HDTV production. It is a battle we cannot afford to lose.●

LETTER FROM PRANAS MORKUNAS

● Mr. LAUTENBERG. Mr. President, I rise to share with my colleagues a letter I have received from Pranas Morkunas, a formerly exiled Lithuanian citizen.

Mr. President, Pranas Morkunas was deported to Siberia from his native Lithuania in 1948 by the Soviet occupation authorities, 8 years after the Soviet Union illegally occupied the independent nation of Lithuania. Pranas Morkunas would spend the next 40 years of his life suffering the hardships of exile in a Soviet gulag, a fate suffered by over 600,000 Baltic victims of the Soviet occupation in Siberia and elsewhere, until the Sajudis government was able to return him home to Lithuania in 1988. The Lithuanian people, like Pranas Morkunas, have

endured great hardships, and yet despite these terrible trials, have triumphed over oppression, resisted despair, and still dare to long for freedom.

In his letter, Pranas Morkunas appeals to the United States for help in supporting Lithuania's 50-year-old struggle for self-determination and independence. I believe Mr. Morkunas' appeal expresses the sentiments and opinions of many Lithuanian Americans, as well as his fellow Lithuanians. He warns that the oppression against the Lithuanian people continues. I ask that the entirety of Mr. Morkunas' letter be included in the RECORD in order that my colleagues may review it themselves.

At this critical moment in Lithuania's struggle for freedom, the United States must support their aspirations and support the goal of self-determination and independence. As representatives of a nation that believes in the right of all people to be free, we must communicate our continued solidarity with their cause, and our continued support for finding a negotiated peace settlement.

The letter follows:

TO THE DEAR PRESIDENT OF THE USA MR.
GEORGE BUSH

Dear President: All nations big and small, just like any human being want to live in freedom on this Earth developing their economy and culture.

Lithuania occupied by the Soviet Union in 1940 after the agreement between the two aggressors Stalin and Hitler was signed, sought freedom for 50 years, has shed much blood and suffered immensely. Hundreds of thousands of honest people without any guilt passed through stalinist concentration camps of death, starvation and suffering and through the hardships of deportation on vast expanses of Siberia. Many remained buried for ever in the Siberian earth, but were not defeated spiritually. However, the nation was not crushed, it survived and at last on March 11, 1990 the democratically elected Lithuanian Parliament expressing the people's will declared the restoration of the independent Lithuania state. The insidious enemy again wants to crush our people. Our land is tramped by paratroopers, the tanks are destroying our roads, state offices are occupied by the soldiers, innocent people are beaten and injured. The invaders with a handful of traitors and selfish people who betray national ideals try to sow discord among the nations. Economic blockade is carried out in the presence of the Soviet Army. Where are the declarations on the right of self-determination for the nations, respect of their national sovereignty and aid to them? What can be said about the leaders who do not keep their promises with respect to the freedom-loving nation? Can we trust them?

I, who was innocently accused by the Soviet occupation authorities on May 22, 1948 has passed many years of Soviet deportation in Siberia separated from my native land and rehabilitated by the Government on October 21, 1988 as a result of the Sajudis pressure, appeal to you President of the USA, asking to respect the right of self-determination for the people who live in freedom and to help them to get rid of the occu-

pation regime. At this critical moment for my native Lithuania I sincerely ask you to help it economically, to recognize the legitimate Government of the Lithuanian republic and to demand the withdrawal of the Soviet occupation forces from the territory of the Lithuanian republic. This is our land from the times out of mind and our people have no other place on the Earth.

May God repay you for your good-will aid to my native Lithuania.

Very respectfully,

PRANAS MORKUNAS,
Former exile.●

PAYMENT OF PHYSICIANS AND PLUMBERS

● Mr. GRASSLEY. Mr. President, I would like to submit for the RECORD a letter I received from a physician constituent, Dr. William C. Mobley of Davenport, IA. I believe that this letter illustrates the hassle and inadequate reimbursement that Medicare regulations impose on our physicians. While I certainly acknowledge that physician's services, as they directly affect our health and well-being, are hardly the same thing as a plumber's services, I am nevertheless concerned that we are creating, maybe have created, an overly heavy burden on the health care providers of this Nation, particularly on the providers in our small, rural communities. Iowa is already seeing our small, rural clinics and primary care physicians sag under the administrative load of excessive paperwork and both the physicians and the hospitals in Iowa struggle with reimbursement problems.

Dr. Mobley's telling anecdote clearly presents the discouraging experience that physicians encounter daily as they provide services to Medicare beneficiaries.

The letter follows:

UROLOGICAL ASSOCIATES, P.C.,
Davenport, IA, July 16, 1990.

Hon. CHARLES GRASSLEY,
U.S. Senate, Washington, DC.

DEAR SENATOR GRASSLEY: Recent Medicare burdens on physicians in Iowa have caused access to reasonable health care in Scott County, Iowa, to suffer. In 1985 there were 40 primary care physicians in Scott County. Now there are 36, and only two of them are accepting new patients. regulatory burdens of Medicare which increase office overhead coupled with ridiculously low reimbursements by Medicare for health care services in Iowa have caused many Scott County physicians to move their practices elsewhere, or alternatively to simply give up and stop practicing.

A recent experience vividly illustrates the absurdity of current Medicare reimbursement policies. A few days following the Davenport flood, I made a house call to a debilitated elderly patient who relied on a tube entering through his abdomen to drain urine out of his bladder. The tube was plugged up and required emergent care. This type of service is best provided in a physician's office, but since this elderly patient was having additional profound problems with transportation and a flooded basement, I felt obliged to try to assist him

urgently at his home. Evaluating him, removing the old tube, replacing it with a new one, and assuring myself and the patient that the new tube was functioning properly required 45 minutes. I was away from my office of over one hour.

At the same time I was seeing the patient, a plumber stopped in to assess the damage to the patient's water heater and furnace which resulted from the flooded basement. The plumber spent 12 minutes in the house. He repaired nothing, and gave estimates for replacing the furnace and water heater.

The plumber's bill was \$48.00. The patient wrote him a check and paid him in full on the spot.

Medicare, on the other hand, by law requires me, as a participating physician, to submit bills to Medicare for the patient. In addition, Medicare has allowed only a \$40.00 reimbursement for my services and I am forbidden by law from billing the patient any amount greater than this.

Do you not feel that it is peculiar that a 12 minute estimate for plumbing repair is worth more in Scott County than the 45 minute provision of an emergent and sophisticated medical service to a patient living in Scott County? Of course, 3 weeks later, I have not yet received a check from Medicare either.

I will await your response considering the value of Medicare in Scott County. However, the next time you hear about high doctor bills, I hope you will remember this story and ask, "High, compared to what?" The next time you hear about physician shortages in Iowa, I hope you will remember what causes doctors to move elsewhere or to simply give up and no longer treat patients.

Sincerely,

WILLIAM C. MOBLEY, M.D.,
President of the Medical Staff,
Mercy Hospital. ●

SERGEY VEPRINSKY

● Mr. SIMON. Mr. President, I join my colleagues in participating in the Congressional Call to Conscience. While we have seen tremendous progress in the numbers that the Soviets have allowed to leave, undeniably there are still those who continue to suffer at the hands of the Soviet bureaucracy because of their faith. The Veprinsky family, originally from Kiev, now in my home State of Illinois, is a prime example of the Soviet's attitude and treatment of Soviet Jews. This family is needlessly broken apart, and I urge the Soviet authorities to reunite them.

Fourteen years ago, Sergey Veprinsky served in the Soviet Army as a private. During his time serving his country, Sergey guarded an automobile park and a medical warehouse. In August 1988, Sergey applied to emigrate along with his wife, Natalia, and son, Maksim, but his application was denied on the grounds that he had access to state military secrets. I fail to see what security secrets an Army private would have access to in an automobile park or a medical warehouse. In the unlikely event that Sergey actually was exposed to any sensitive material, I cannot believe it

would be of any importance 14 years later.

Three times the Veprinskys applied to emigrate; three times they were refused. After months of hope and worry, permission was finally granted, but only for Natalia and Maksim. The Veprinskys faced the horrible decision of either remaining in the Soviet Union and fighting for permission to emigrate as a family, or taking the certain freedom offered Natalia and Maksim. Believing they owed it to their son to allow him to grow up in freedom, Natalia and Maksim came to the United States in June. Sergey remains in the Soviet Union, needlessly separated from his family.

Since it is widely known that Kiev is one of the Soviet Union's more antisemitic cities, it is clear to me that Sergey's so-called access to state military secrets is merely a ruse designed to intimidate. As President Gorbachev has publicly stated his commitment to free emigration, I urge him to take the necessary steps immediately to reunite Sergey with his family. I also urge him to implement the new immigration law so that more families will be spared the pain the Veprinskys are now experiencing. ●

IRAQI INVASION

● Mr. HEINZ. Mr. President, we awoke this morning to find that Iraq once more had shown her complete disregard for decent and humane standards of international conduct. After tiny Kuwait refused to accede to Saddam Hussein's repeated demands for economic and even territorial concessions, Hussein decided to take matters into his own hands. Now Kuwait is under the thumb of Hussein's huge, 1-million-man army.

Mr. President, where does it end? When will Iraq begin to act like a civilized member of the international community, instead of an outlaw, a bully, and a constant threat to international peace?

Many of my distinguished colleagues have repeated the litany of Iraqi transgressions from our distinguished colleagues, including chemical warfare, the attempt to produce nuclear weapons, and now this latest act of brutal aggression. We have also considered the significant effects this war—and it is a war, Mr. President, however unfair the odds against the Kuwaitis—on the United States.

But our indignation is not enough, Mr. President. And while I agree with the prescient comments by my colleagues that this war points up the economic necessity to reduce our imports, again I would say that this is not enough. Only days ago, Mr. President—days—we voted to impose economic sanctions on Iraq. And to what effect?

Indeed, we might ask what effect any of our sanctioning, cajoling, pleading, warning, or threatening has ever had on Saddam Hussein. The answer, Mr. President, is that we have had no effect. When will we recognize that our noble approach—one that stresses negotiation, accommodation, and understanding—is an approach that is completely alien to a brutal and single-minded opponent like Saddam Hussein? Such an approach is based on law, mutual respect, and fair compromise—in other words, on the very principles of decency that Hussein has rejected time and again in his attempts to attain supremacy over his neighbors. In Iraq, Mr. President, force is apparently the coin of the realm, and it's time we took that reality seriously.

This means, Mr. President, that we must make Hussein understand that our demand that he withdraw from Kuwait, to use President Bush's words, "immediately and unconditionally," is not merely a recommendation or suggestion. Now, I know that today it's been popular to argue that our allies should be the ones to stop Hussein this time—after all, their interests are as threatened as ours. But that's an argument we should have for another day; let us not give Mr. Hussein the pleasure of watching the West fight among themselves while he runs roughshod over Kuwait.

No, Mr. President, the time has come for more decisive action. If Iraq persists in this despicable action, the United States should consider the use of military force. While this can and should ideally be a multilateral effort, with our allies, we should nevertheless be prepared to act on our own. I'm sure that the President and the Defense Department are well prepared for such an eventuality, and I will not presume to suggest more specific action.

Mr. President, I fully understand the gravity of this possibility. But we seem to have run out of options. We could not stop Iraq from using chemical weapons. We have been unsuccessful in our attempts to stop Iraq from intimidating its neighbors. We have been unable to stop the Iraqi development of a nuclear program. If Hussein is allowed to get away with this, Mr. President, where will it end? What shall we do one day when he has finally acquired the nuclear weapons he so fervently desires? Shall we simply accede once again, perhaps in the face of nuclear blackmail?

Many years ago, Mr. President, we tried to stop the expansion of a ruthless dictator through negotiation and accommodation. We assumed that rational discussion and flexible compromise would ensure peace. We were wrong; the leader was Hitler and the conference was Munich. We cannot

allow the same mistake again. We may be able to evade a confrontation with Iraq for now, Mr. President, but we can't hide forever. One way or another, Saddam Hussein must be stopped. If he does not respond to negotiation, then I think the time has come to consider other, more persuasive alternatives.●

THE N.D. SENIORS LEAGUE

● Mr. CONRAD. Mr. President, today I wish to acknowledge an organization in my State that has been working for the last 25 years to meet the social needs of North Dakota's senior citizens. The Senior Citizens League of Minot will be commemorating the 25th anniversary of its incorporation on August 27, 1990. The league was the first senior citizens club to be incorporated in North Dakota and it remains the largest in the State. Every week, each of the league's 1,100 members have the opportunity to share activities such as dancing, exercise, and meals, with other members.

Mr. President, too often the senior citizens of America do not receive the care and attention they deserve. Many of our elderly citizens who were once active contributors to the growth of our communities, have now become neglected and forgotten by the very society they helped to build. At times, America seems to be obsessed with a youth movement, and young ideas and young minds are often promoted to the detriment of those 65 years old and older. The Senior Citizens League of Minot has recognized that the senior years do not have to be the declining years, and that active minds and bodies are not exclusive to the young.

For their continuous efforts in caring for the physical and mental well-being of North Dakota's seniors, Mr. President, I wish to congratulate the Senior Citizens League of Minot on their 25th anniversary.●

CONFERENCE REPORT ON H.R. 1594

● Mr. HEINZ. Mr. President, while there is much in this bill that is meritorious, including a number of provisions of considerable interest to my constituents, there is one provision of the bill that represents such outstandingly bad policy that it offsets all the good the bill will do.

That provision is section 224, which would exempt CBI nations from the cumulation provisions of our subsidies and antidumping laws. For the uninitiated, the cumulation provisions of current law allow the International Trade Commission to cumulate or aggregate the imports from more than one country under investigation for dumping or subsidizing in determining whether or not the domestic industry

has been injured. The purpose of the provision was to make sure that countries whose imports represented only a small part of the total did not, by virtue of that fact alone, escape an affirmative finding. It also had the more practical objective of dealing with the problem that small importers often become bigger ones when their foreign competitors' access to our market is restricted by a dumping or countervailing duty finding. The provision has been sparingly applied since its enactment, and in the 1988 trade bill it was slightly modified to give the Commission additional discretion with respect to its application.

Now in the pending bill we suddenly have a provision that would flatly exempt the CBI countries from the application of cumulation. This concept was not in the Senate version of the bill—indeed, it was not proposed either in committee or on the floor. No, Mr. President, this provision comes entirely from the other body, ironically from the very Members who heretofore had been strong advocates of market discipline within a framework of multilateral rules.

Unfortunately, adoption of this provision will frustrate both those objectives. By exempting CBI countries from cumulation, we effectively exempt them from the reach of our unfair trade law statutes, since in most cases these countries will be small producers with only limited market share—at least for the time being. Once exempt, they will be able to penetrate our market with impunity unless they reach some undefined level when their imports will be large enough to be considered on their own without the cumulation provision. As a result, we are encouraging these countries to ignore the discipline of the market and embark on a path of dumping and subsidization in order to gain access to the U.S. market.

Second, at the same time we are committing this crime against the market system, this identical issue is under discussion in the Uruguay Round. A number of our trading partners—primarily those that have profited tremendously from dumping—have launched a campaign to radically restrict our ability to catch them. While I will have more to say about that campaign and the American multinationals that support it on another occasion, I would point out here that an integral element of that campaign is the elimination of our cumulation provisions. In one respect, I suppose we should be flattered, as the campaign suggests we may finally have found some provisions of law that might work against the illegal and unethical practices of our trading partners.

Obviously, I hope that we do not foolishly negotiate these things away in Geneva, and many of us are working here in Congress to make sure that

does not happen. It goes without saying that surrendering this provision on even the small scale in this bill can only damage our negotiating position in Geneva. We can expect nothing there but increased demands for the United States to abandon it.

What astonishes me, Mr. President, is how those responsible for this provision, who have been long-time defenders of the multilateral process and understand thoroughly the tactics of GATT negotiations, have been so ready and willing to prejudice the American position. You simply cannot find one of our negotiators who, off the record, will not say that adopting this provision is a supremely stupid thing to do from a tactical point of view, if nothing else. As a side note, it pains me to observe that our negotiators and the administration are so lacking in courage that they are willing to make these observations only off the record. As has been said in other situations, Mr. President, they know better than they do, and are all the more disappointing as a result.

Nevertheless, despite what can be most charitably called a tactical blunder of the first magnitude, we seem to be stuck with this provision in the bill. While I am disappointed in the Senate conferees for accepting it, I am most distressed at the other body for insisting on it and at the administration for acquiescing in it when they know it is a bad provision. I hope that at some future point we will be able to recover from this mistake.●

DEPARTMENT OF VETERANS AFFAIRS NURSE PAY ACT OF 1990

Mr. LEVIN. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be discharged from further consideration of H.R. 1199, the VA nurses recruitment and retention bill, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The assistant legislation clerk read as follows:

To amend title 38, United States Code, to improve recruitment and retention of nurses in the Department of Veterans Affairs by providing greater flexibility in the pay system for those nurses and to authorize the Secretary of Veterans Affairs to provide certain procreative services for married veterans with service-connected disabilities which impair their ability to procreate.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 2511

(Purpose: To establish a system of competitive pay for nurses employed by the Department of Veterans Affairs and to make other improvements in veterans' health and education programs)

Mr. LEVIN. Mr. President, on behalf of Senator CRANSTON, I sent a substitute amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN] for Mr. CRANSTON (for himself and Mr. MURKOWSKI) proposes an amendment numbered 2511.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Nurse Pay Act of 1990".

TITLE I—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

SEC. 101. RESTRUCTURING OF NURSE GRADE LEVELS AND PAY.

(a) NEW GRADES ESTABLISHED.—The Secretary of Veterans Affairs shall provide four grade levels for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code, with relation to current nurse grades, as follows:

New Grades	Current nurse grades
1. Entry grade.....	Junior and associate grades.
2. Intermediate grade.....	Full and intermediate grades.
3. Senior grade.....	Senior and chief grades.
4. Director grade.....	Assistant director and director grades.

(b) CURRENT NURSE GRADES DEFINED.—For purposes of subsection (a), the term "current nurse grades" means the grades in effect on the day before the effective date of this Act for nurses employed by the Department of Veterans Affairs under section 4104(1) of title 38, United States Code.

(c) CONFORMING AMENDMENT.—Section 4107(b) of title 38, United States Code, is amended by striking out the items under the heading "NURSE SCHEDULE" and inserting in lieu thereof the following:

- "Entry grade.
- "Intermediate grade.
- "Senior grade.
- "Director grade."

SEC. 102. RATES OF PAY AND ADMINISTRATION OF PAY FOR NEW NURSE GRADES AND CERTAIN OTHER HEALTH-CARE PERSONNEL.

(a) CLARIFICATION.—Section 4104(1) of title 38, United States Code, is amended by inserting "registered" before "nurses".

(b) PAY ADMINISTRATION.—Chapter 73 of such title is amended by inserting after subchapter III the following new subchapter:

"Subchapter IV—Pay for Nurses and Other Health-Care Personnel

"§ 4141. Nurses and other health-care personnel: competitive pay

"(a)(1) It is the purpose of this section to ensure, by a means providing increased responsibility and authority to directors of Department health-care facilities, that the rates of basic pay for health-care personnel

positions described in paragraph (2) in each Department health-care facility (including the rates of basic pay of personnel employed in such positions of a part-time basis) are sufficient for the facility to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the same labor-market area in the recruitment and retention of qualified personnel for those positions.

"(2) The health-care personnel positions referred to in paragraph (1) (hereinafter in this section referred to as 'covered positions') are the following:

"(A) Registered nurse.

"(B) Such positions referred to in clauses (1) and (3) of section 4104 of this title (other than the positions of physician, dentist, and registered nurse) as the Secretary may determine upon the recommendation of the Chief Medical Director.

"(3) The rates of basic pay for covered positions in the Department shall be established and adjusted in accordance with this section instead of subsection (b)(1) of section 4107 of this title.

"(4) The Secretary, after receiving the recommendation of the Chief Medical Director, shall prescribe regulations setting forth criteria and procedures to carry out this section and section 4142 of this title. Requirements in such regulations for directors to provide and maintain documentation of actions taken under this section shall require no more documentation than the minimum essential for responsible administration.

"(b) The Secretary shall maintain the four grade levels for nurses employed by the Department under section 4104(1) of this title as specified in the Nurse Schedule in section 4107(b) of this title. The Secretary shall, pursuant to regulations prescribed to carry out this subchapter, establish grades for other covered positions as the Secretary considers appropriate.

"(c)(1) For each grade in a covered position, there shall be a range of basic pay. The maximum rate of basic pay for a grade shall be 133 percent of the minimum rate of basic pay for the grade, except that, if the Secretary determines that a higher maximum rate is necessary with respect to any such grade in order to recruit and retain a sufficient number of high-quality health-care personnel, the Secretary may raise the maximum rate of basic pay for that grade to a rate not in excess of 175 percent of the minimum rate of basic pay for the grade. Whenever the Secretary exercises the authority under the preceding sentence to establish the maximum rate of basic pay at a rate in excess of 133 percent of the minimum rate for that grade, the Secretary shall, in the next annual report required by subsection (g), provide justification for doing so to the Committees on Veterans' Affairs of the Senate and House of Representatives.

"(2) The maximum rate of basic pay for any grade for a covered position may not exceed the maximum rate of basic pay established for positions in level V of the Executive Schedule under section 5316 of title 5.

"(3) The range of basic pay for each such grade shall be divided into equal increments, known as 'steps'. The Secretary shall prescribe the number of steps. Each grade in a covered position shall have the same number of steps. Rates of pay within a grade may not be established at rates other than whole steps. Any increase (other than an adjustment under subsection (d)) within

a grade in the rate of basic pay payable to an employee in a covered position shall be by one or more of such step increments.

"(d)(1) The rate of basic pay for each grade in a covered position shall be adjusted periodically in accordance with this subsection in order to achieve the purposes of this section. Such adjustments shall be made—

"(A) whenever there is an adjustment under section 5305 of title 5 in the rates of pay under the General Schedule, with the adjustment under this subsection to have the same effective date as the adjustment in the rates of basic pay under the General Schedule; and

"(B) at such additional times as the director of a Department health-care facility, with respect to employees in that grade at that facility, determines.

"(2) An adjustment in rates of basic pay under this subsection for a grade shall be carried out by adjusting the amount of the minimum rate of basic pay for that grade in accordance with paragraph (3) and then adjusting the other rates for that grade to conform to the requirements of subsection (c). Such an adjustment in the minimum rate of basic pay for a grade shall be made by the director of a Department health-care facility so as to achieve consistency with the beginning rate of compensation for corresponding health-care professionals in the Bureau of Labor Statistics (BLS) labor-market area of that facility.

"(3)(A) In the case of a Department health-care facility located in an area for which there is current information, based upon an industry-wage survey by the Bureau of Labor Statistics for that labor market, on beginning rates of compensation for corresponding health-care professionals for the BLS labor-market area of that facility, the director of the facility concerned shall use that information as the basis for making adjustments in rates of pay under this subsection. Whenever the Bureau of Labor Statistics releases the results of a new industry-wage survey for that labor market that includes information on beginning rates of compensation for corresponding health-care professionals, the director of that facility shall determine, not later than 30 days after the results of the survey are released, whether an adjustment in rates of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the pay period beginning after that determination.

"(B) In the case of a Department health-care facility located in an area for which the Bureau of Labor Statistics does not have current information on beginning rates of compensation for corresponding health-care professionals for the labor-market area of that facility for any covered position, the director of the facility shall conduct a survey in accordance with this subparagraph and shall adjust the amount of the minimum rate of basic pay for grades in that covered position at that facility based upon that survey. Any such survey shall be conducted in accordance with regulations prescribed by the Secretary. Those regulations shall be developed in consultation with the Secretary of Labor in order to ensure that the director of a facility collects information that is valid and reliable and is consistent with standards of the Bureau. The survey should be conducted using methodology comparable to that used by the Bureau in making in-

dustry-wage surveys, except to the extent determined infeasible by the Secretary. Upon conducting a survey under this subparagraph, the director concerned shall determine, not later than 30 days after the date on which the collection of information through the survey is completed, whether an adjustment in rate of pay for employees at that facility for any covered position is necessary in order to meet the purposes of this section. If the director determines that such an adjustment is necessary, the adjustment, based upon the information determined in the survey, shall take effect on the first day of the first pay period beginning after that determination.

"(C) The director of a facility may not adjust rates of basic pay under this subsection for any pay grade so that the minimum rate of basic pay for the grade is greater than the beginning rates of compensation for corresponding positions at non-Department health-care facilities.

"(4) If the director of a Department health-care facility determines, after any survey under paragraph (3)(B) or at any other time that an adjustment in rates of pay is scheduled to take place under this subsection, that it is not necessary to adjust the rates of basic pay for employees in a grade of a covered position at that facility in order to carry out the purpose of this section, such an adjustment for employees at that facility in that grade shall not be made. Whenever a director makes such a determination, the director shall within 10 days notify the Chief Medical Director of the decision and the reasons for the decision.

"(5) Information collected by the Department in surveys conducted under subsection is not subject to disclosure under section 552 of title 5.

"(6) In this subsection—

"(A) The term 'beginning rate of compensation', with respect to health-care personnel positions in non-Department health-care facilities corresponding to a grade of a covered position, means the sum of—

"(i) the minimum rate of pay established for personnel in such positions who have education, training, and experience equivalent or similar to the education, training, and experience required for health-care personnel employed in the same category of Department covered positions; and

"(ii) other employee benefits for those positions to the extent that those benefits are reasonably quantifiable.

"(B) The term 'corresponding', with respect to health-care personnel positions in non-Department health-care facilities, means those positions for which the education, training, and experience requirements are equivalent or similar to the education, training, and experience requirements for health-care personnel positions in Department health-care facilities.

"(e) Adjustments in rates of basic pay under subsection (d) may increase or reduce the rates of basic pay applicable to any grade of a covered position. In the case of such an adjustment that reduces that rates of pay for a grade, an employee serving at a Department health-care facility on the day before the effective date of that adjustment in a position affected by the adjustment may not (by reason of that adjustment) incur a reduction in the rate of basic pay applicable to that employee so long as the employee continues to serve in that covered position at that facility. If such an employee is subsequently promoted to a higher grade, or advanced to a higher step within the employee's grade, for which the rate of pay as

so adjusted is lower than the employee's rate of basic pay on the day before the effective date of the promotion, the employee shall continue to be paid at a rate of basic pay not less than the rate of basic pay applicable to the employee before the promotion so long as the employee continues to serve in that covered position at that facility.

"(f) Not later than February 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding any pay adjustments under the authority of subsection (d)(1)(A) effective during the 12 months preceding the submission of the report. Each such report shall set forth, by health-care facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

"(g) Not later than December 1 of 1991, 1992, and 1993, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the exercise of the authorities provided in this section for the preceding fiscal year. Each such report shall include the following:

"(1) A review of the use of the authorities provide in this section (including the Secretary's and Chief Medical Director's actions, findings, recommendations, and other activities under this section) during the preceding fiscal year, including an assessment of the effects of the exercise of such authorities on the ability of the Department to recruit and retain qualified health-care professionals for covered positions.

"(2) The plans for the use of the authorities provided in this subchapter for the next fiscal year.

"(3) A description of the rates of basic pay in effect during the preceding fiscal year, with a comparison to the rates in effect during the previous fiscal year, shown by facility and by covered position.

"(4) The numbers of employees in covered positions (shown separately for registered nurses and for each other covered position) who during the preceding fiscal year (A) left employment with the Department, (B) left employment at one Department medical facility for employment at another Department medical facility, or (C) changed from full-time status to part-time status (and from part-time status to full-time status), and a summary of the reasons therefor.

"(5) The number of vacancies in covered positions in the Administration and a summary of the reasons that those positions are vacant.

"(6) The number of employees who during the preceding fiscal year left employment at a health-care facility in one Bureau of Labor Statistics labor-market area for employment at a health-care facility in another such labor-market area, without changing residence.

"(7) Justification for setting the maximum rate of basic pay for any grade at a rate in excess of 133 percent of the minimum rate of basic pay for that grade.

"(8) The discussion required by section 4142(b)(2) of this title.

"(h) For the purposes of this section, the term 'health-care facility' means a medical center, an independent outpatient clinic, or an independent domiciliary facility.

"§ 4142. Nurses and other health-care personnel: administration of pay

"(a)(1) Regulations prescribed under section 4141(a) of this title shall provide that whenever an employee in a covered position is given a new duty assignment which is a

promotion, the rate of basic pay of that employee shall be increased at least one step increment in that employee's grade.

"(2) A nurse serving in a head nurse position shall while so serving receive basic pay at a rate two step increments above the rate that would otherwise be applicable to the nurse. If such a nurse is in the highest or next-to-highest step for that nurse's grade, the preceding sentence shall be applied by extrapolation to create additional steps only for the purposes of this paragraph. The limitation in section 4141(c)(1) of this title shall not apply with respect to increased basic pay under this paragraph.

"(3) An employee in a covered position who is promoted to the next higher grade shall be appointed in that grade at a step having a rate of basic pay that is greater than the rate of basic pay applicable to the employee in a covered position on the day before the effective date of the promotion.

"(b)(1) Under regulations which the Secretary prescribes for the administration of this section, the director of a Department health-care facility (A) shall pay a cash bonus (in an amount to be determined by the director not to exceed \$2,000) to an employee in a covered position at that facility who becomes certified in a specialty recognized by the Department, and (B) may provide such a bonus to an employee in such a position who has demonstrated both exemplary job performance and exemplary job achievement. The authority of the Secretary under this subsection is in addition to any other authority of the Secretary to provide job performance incentives.

"(2) The Secretary shall include in the annual report under section 4141(g) of this title a discussion of the use during the period covered by the report of payment of bonuses under this subsection and other job performance incentives available to the Secretary.

"(c)(1) The Secretary shall provide (in regulations prescribed for the administration of this section) that the director of a Department health-care facility, in making a new appointment of a person under section 4104(1) of this title as an employee in a covered position of employment at that facility, may make that appointment at a rate of pay described in paragraph (3) without being subject to a requirement for prior approval at any higher level of authority within the Department in any case in which the director determines that it is necessary to do so in order to obtain the services of employees in covered positions in cases in which vacancies exist at that health-care facility.

"(2) Such a determination may be made by the director of a health-care facility only in order to recruit employees in covered positions with specialized skills, especially employees with skills which are especially difficult or demanding.

"(3) A rate of pay referred to in paragraph (1) is a rate of basic pay in excess of the minimum rate of basic pay applicable to the grade in which the appointment is made (but not in excess of the maximum rate of basic pay for that grade).

"(4) Whenever the director of a health-care facility makes an appointment described in paragraph (1) without prior approval at a higher level of authority within the Department, the director shall—

"(A) state in a document the reasons for employing the employee in a covered position at a rate of pay in excess of the minimum rate of basic pay applicable to the grade in which the employee is appointed (and retain the document on file); and

"(B) in the first budget documents submitted to the Secretary by the director after the employee is employed, include documentation for the need for such increased rates of basic pay described in clause (A).

"(5) Whenever the director of a health-care facility makes an appointment described in paragraph (1) on the basis of a determination described in paragraph (2), the covered employee appointed may continue to receive pay at a rate higher than that which would otherwise be applicable to that employee only so long as the employee continues to serve in a position requiring the specialized skills with respect to which the determination was made.

"(d) Whenever the director of a health-care facility makes an appointment described in subsection (c)(1), the director may (without a regard to any requirement for prior approval at any higher level of authority within the Department) increase the rate of pay of other employees in the same covered position at that facility who are in the grade in which the appointment is made and are serving in a position requiring the specialized skills with respect to which the determination under subsection (c)(2) concerning the appointment was made. Any such increase shall continue in effect with respect to any employee only so long as the employee continues to serve in such a position.

"(e) An employee in a covered position employed under section 4104(1) of this title who (without a break in employment) transfers from one Department health-care facility to another may not be reduced in grade or step within grade (except pursuant to a disciplinary action otherwise authorized by law) if the duties of the position to which the employee transfers are similar to the duties of the position from which the employee transferred. The rate of basic pay of such employee shall be established at the new health-care facility in a manner consistent with the practices at that facility for an employee of that grade and step.

"(f) In this section, the term 'covered position' has the meaning given that term in section 4141 of this title."

(c) CONFORMING AMENDMENTS.—Section 4107(e)(1) of such title is amended by striking out "in subsection (b)(1) of this section".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of such title is amended by inserting after the item relating to section 4134 the following:

SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

"4141. Nurses and other health-care personnel: competitive pay.

"4142. Nurses and other health-care personnel: administration of pay.

SEC. 103. REPEAL OF LIMITATION ON HOURLY RATE OF OVERTIME PAY.

Section 4107(e)(5) of title 38, United States Code, is amended by striking out "not to exceed" in the first sentence and all that follows through "Nurse Schedule".

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—(1) Except as provided in subsection (b), section 101 and the amendments made by section 102 shall take effect on the date of enactment.

(2) The amendment made by section 103 shall take effect on April 1, 1991.

(b) NEW PAY RATES.—The rates of basic pay established pursuant to section 4141 of title 38, United States Code, as added by section 102, shall take effect for covered positions (as defined in that section) with respect to the first pay period beginning on or after April 1, 1991.

TITLE II—MISCELLANEOUS

SEC. 201. PILOT PROGRAM ON PROVISION OF NON-INSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE.

(a) AUTHORITY TO PROVIDE FOR NONINSTITUTIONAL CARE.—(1) Subchapter II of chapter 17 of title 38, United States Code, is amended by adding at the end the following new section: "§ 620C. Noninstitutional alternatives to nursing home care: pilot program

"(a) During the four-year period beginning on October 1, 1990, the Secretary may conduct a pilot program for the furnishing of medical, rehabilitative, and health-related services in noninstitutional settings for veterans who are eligible under this chapter for, and are in need of, nursing home care and who—

"(1) are in receipt of, or are in need of, nursing home care primarily for the treatment of a service-connected disability; or

"(2) have a service-connected disability rated at 50 percent or more.

"(b)(1) Under the pilot program conducted pursuant to subsection (a), the Secretary shall (A) furnish appropriate health-related services solely through contracts with appropriate public and private agencies that provide such services, and (B) designate Department health-care employees to furnish case management services to veteran furnished services under the program.

(2) For the purposes of paragraph (1), the term 'case management services' includes the coordination and facilitation of all services furnished to a veteran by the Department of Veterans Affairs, either directly or through contract, including assessment of needs, planning, referral (including referral for services to be furnished by the Department, either directly or through a contract, or by an entity other than the Department), monitoring, reassessment, and followup.

"(c) The Secretary may provide in-kind assistance (through the services of Department of Veterans Affairs employees and the sharing of other Department resources) to a facility furnishing services to veterans under subsection (b)(1)(A). Any such in-kind assistance shall be provided under a contract between the Department and the facility concerned. The Secretary may provide such assistance only for use solely in the furnishing of appropriate services under this section and only if, under such contract, the Department receives reimbursement for the full cost of such assistance (including the cost of services and supplies and normal depreciation and amortization of equipment). Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Department facility that provided the assistance.

"(d) The total cost of providing services or in-kind assistance in the case of any veteran for any fiscal year under the pilot program may not exceed 65 percent of the cost that would have been incurred by the Department during that fiscal year if the veteran had been furnished, instead, nursing home care under section 610 of this title during that fiscal year.

"(e) The authority of the Secretary to enter into contracts under this section shall be effective for any fiscal year only to the extent that appropriations are available."

(2) The table of sections at the beginning of chapter 17 of such title is amended by inserting after the item relating to section 620B the following new item:

"620C. Noninstitutional alternatives to nursing home care:

(b) REPORT.—No later than February 1, 1994, the Secretary of Veterans Affairs shall submit to the Committees of Veterans Affairs of the Senate and House of Representatives a report setting forth the Secretary's evaluation, findings, and conclusions regarding the conduct, through September 30, 1993, of the pilot program required by section 620C of title 38, United States Code (as added by subsection (a)), and the results of the furnishing of care under such pilot program for the participating veterans. The report shall include a description of the conduct of the pilot program (including a description of the veterans furnished services and of the services furnished under the pilot program), and any plans for administrative action, and any recommendations for legislation, that the Secretary considers appropriate to include in the report.

SEC. 202. SHARING OF SPECIALIZED MEDICAL RESOURCES.

(a) EXPANSION OF PURPOSE.—Section 5051 of title 38, United States Code, is amended by striking out "hospitals" both places it appears in the first sentence and inserting in lieu thereof "health-care facilities".

(b) EXPANSION OF AUTHORITY.—Section 5053 of such title is amended—

(1) in subsection (a)—

(A) by striking out "hospitals" the first place it appears and all that follows through "community" and inserting in lieu thereof "health-care facilities and other health-care facilities (including organ banks, blood banks, or similar institutions), research centers, or medical schools"; and

(B) by striking out the last sentence; and

(2) in subsection (b)—

(A) in the first sentence, by striking out "a charge" and all that follows and inserting in lieu thereof "a methodology that provides appropriate flexibility to the heads of the facilities concerned to establish an appropriate reimbursement rate after taking into account local conditions and needs and the actual costs to the providing facility of the resource involved"; and

(B) in the second sentence, by inserting before the period "and to funds that have been allotted to the facility that furnished the resource involved".

SEC. 203. TEMPORARY APPOINTMENTS OF HEALTH-CARE PERSONNEL.

Section 4114(a)(3) of title 38, United States Code, is amended—

(1) in subparagraph (A), by striking out the penultimate sentence and inserting in lieu thereof the following: "Temporary full-time appointments of persons who have successfully completed a full course of nursing in a recognized school of nursing approved by the Secretary, or who have successfully completed a full course of training for any category of personnel described in paragraph (3) of section 4104 of this title in a recognized education or training institution approved by the Secretary, and who are pending registration or licensure in a State, or certification by a national board recognized by the Secretary, shall not exceed two years."; and

(2) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) A student who has a temporary appointment under this paragraph and who is pursuing a full course of nursing in a recognized school of nursing approved by the Secretary, or who is pursuing a full course of training for any category of personnel described in paragraph (3) of section 4104 of

this title in a recognized education or training institution approved by the Secretary, may be reappointed for a period not to exceed the duration of the student's academic program."

SEC. 204. REPORT ON POST-TRAUMATIC STRESS DISORDER.

Section 201(e)(1) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237; 103 Stat. 2066) is amended by inserting "and not later than February 1, 1991," after "Not later than February 1, 1990."

SEC. 205. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAMS.

(a) COORDINATION WITH DEPARTMENT OF DEFENSE PROGRAMS.—(1) Chapter 76 of title 38, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE

"§ 4351. Authority for program

"(a) As part of the Educational Assistance Program, the Secretary of Veterans Affairs may select qualified individuals to receive assistance under this subchapter.

"(b) To be eligible to receive assistance under this subchapter, an individual must be accepted for enrollment or be enrolled as a full-time student at a qualifying educational institution in a course of education or training that is approved by the Secretary and that leads toward completion of a degree in a health profession involving direct patient care or care incident to direct patient care.

"§ 4352. Eligibility: Individuals entitled to benefits under the GI Bill program for members of the Selected Reserve

"The Secretary of Veterans Affairs may not approve an application under section 4303 of this title of an individual applying to receive assistance under this subchapter unless—

"(1) the individual is entitled to benefits under chapter 106 of title 10; and

"(2) the score of the individual on the Armed Forces Qualification Test was above the 50th percentile.

"§ 4353. Amount of assistance

"The Secretary may pay to a person selected to receive assistance under this subchapter the amount of \$400 (adjusted in accordance with section 4331 of this title) for each month of the person's enrollment in a program of education or training covered by the agreement of the person entered into under section 4303 of this title. Payment of such benefits for any period shall be coordinated with any payment of benefits for the same period under chapter 106 of title 10.

"§ 4354. Obligated service

"A person receiving assistance under this subchapter shall provide service in the full-time clinical practice of the person's profession as a full-time employee of the Department for the period of obligated service provided in the agreement of such person entered into under section 4303 of this title.

"§ 4355. Breach of agreement; liability

"(a)(1) Subject to paragraph (2), an individual who is receiving or has received a reserve member stipend under this subchapter and who fails to perform the service for which the individual is obligated under section 4354 of this title shall be liable to the United States in an amount determined in accordance with section 4317(c)(1) of this title.

"(2) An individual who, as a result of performing active duty (including active duty

for training), is unable to perform the service for which the individual is obligated under section 4354 of this title shall be permitted to perform that service upon completion of the active duty service (or active duty for training). The Secretary may, by regulation, waive the requirement for the performance of the service for which the individual is obligated under section 4354 of this title in any case in which the Secretary determines that the individual is unable to perform the service for reasons beyond the control of the individual or in any case in which the waiver would be in the best interest of the individual and the United States.

"(b) Any amount owed the United States under subsection (a) of this section shall be paid to the United States during the one-year period beginning on the date of the breach of the agreement."

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"SUBCHAPTER V—STIPEND PROGRAM FOR MEMBERS OF THE SELECTED RESERVE.

"4351. Authority for program.

"4352. Eligibility: individuals entitled to benefits under the GI Bill program for members of the Selected Reserve.

"4353. Amount of assistance.

"4354. Obligated service.

"4355. Breach of agreement; liability."

(b) PERIODIC ADJUSTMENTS IN AMOUNT OF ASSISTANCE.—Section 4331 of such title is amended—

(1) in the first sentence of subsection (a)(1)—

(A) by striking out "amount and" and inserting in lieu thereof "amount,"; and

(B) by striking out "amount," and inserting in lieu thereof "amount, and the maximum Selected Reserve member stipend amount,";

(2) in subsection (b)—

(A) by redesignating paragraph (3) as paragraph (4); and

(B) by inserting after paragraph (2) the following new paragraph (3):

"(3) The term 'maximum Selected Reserve member stipend amount' means the maximum amount of assistance provided to a person receiving assistance under subchapter V of this chapter, as specified in section 4353 of this title and as previously adjusted (if at all) in accordance with this subsection."

(c) CONFORMING AMENDMENTS.—(1) Section 4301(a) of such title is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(3) the Selected Reserve member stipend program provided for under subchapter V of this chapter."

(2) Section 4302 of such title is amended by inserting "under subchapter I or II of this chapter" in subsections (a) and (b) after "Educational Assistance Program".

(3) Section 4304 of such title is amended by striking out "subchapter II or III" in paragraphs (1)(A), (2)(D), and (5) and inserting in lieu thereof "subchapters II, III, or V".

SEC. 206. ADMINISTRATION.

(a) IN GENERAL.—Chapter 36 of title 38, United States Code, is amended by inserting after section 1784 the following new section:

§ 1784A. Procedures relating to computer matching program

"(a)(1) Notwithstanding section 552(p) of title 5 and subject to paragraph (2) of this subsection, the Secretary may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under an educational assistance program provided for in chapter 30 or 32 of this title or in chapter 106 of title 10 in the case of any individual, or take other adverse action against such individual, based on information produced by a matching program with the Department of Defense.

"(2) The Secretary may not take any action referred to in paragraph (1) of this subsection until—

"(A) the individual concerned has been provided a written notice containing a statement of the findings of the Secretary based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days after the date of the notice; and

"(B) the 10-day period referred to in subparagraph (A) of this paragraph has expired.

"(3) In computing the 10-day period referred to in paragraph (2) of this subsection, Saturdays, Sundays, and Federal holidays shall be excluded.

"(b) For the purposes of subsection (q) of section 552a of title 5, compliance with the provisions of subsection (a) of this section shall be considered compliance with the provisions of subsection (p) of such section 552a.

"(c) For purposes of this section, the term 'matching program' has the same meaning provided in section 552a(a)(8) of title 5."

(b) RATIFICATION.—Any use by the Department of Veterans Affairs, during the period beginning on July 2, 1990, and ending on the date of the enactment of this Act, of any category of information provided by the Department of Defense or the Department of Transportation for making determinations described in section 413(b) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) is hereby ratified.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 1784 the following new item:

"1784A. Procedures relating to computer matching programs."

(d) EFFECTIVE DATE DELAYED FOR CERTAIN EDUCATION BENEFITS COMPUTER MATCHING PROGRAMS.—(1) In the case of computer matching programs between the Department of Veterans Affairs and the Department of Defense in the administration of education benefits programs under chapters 30 and 32 of title 38 and chapter 106 of title 10, United States Code, the amendments made to section 552a of title 5, United States Code, by the Computer Matching and Privacy Protection Act of 1988 (other than the amendments made by section 10(b) of that Act) shall take effect on October 1, 1990.

(2) For purposes of this subsection, the term "matching program" has the same meaning provided in section 552a(a)(8) of title 5, United States Code.

SEC. 207. REFUNDS FOR CERTAIN SERVICE ACADEMY GRADUATES.

(a) IN GENERAL.—Upon receipt before January 1, 1992, of an application from an individual described in subsection (b)(3), the Secretary of Veterans Affairs shall—

(1) not later than 60 days after receiving such application, refund to the individual concerned the amount, if any, of the individual's unused contributions to the VEAP Account;

(2)(A) if the individual has received educational assistance under chapter 32 of title 38, United States Code, for the pursuit of a program of education, pay to the individual (out of funds appropriated to the readjustment benefits account) a sum equal to the amount by which the amount of the educational assistance that the individual would have received under chapter 34 of such title for the pursuit of such program exceeds the amount of the educational assistance that the individual did receive under such chapter 32 for the pursuit of such program; or

(B) if the individual has not received educational assistance under such chapter 32, pay to the individual (out of funds appropriated to the Department of Veterans Affairs Readjustment Benefits account) a sum equal to the amount of educational assistance that the individual would have received under chapter 34 of such title for the pursuit of a program of education if the individual had been entitled to assistance under such program during the period ending on December 31, 1989; and

(3) refund to the Secretary of Defense the unused contributions by such Secretary to the VEAP Account on behalf of such individual.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "VEAP Account" means the Post-Vietnam Era Veterans Education Account established pursuant to section 1622(a) of title 38, United States Code;

(2) the term "active duty" has the same meaning given such term by section 101(21) of such title 38;

(3) the term "individual described in subsection (b)(3)" means an individual who—

(A) before January 1, 1977, commenced the third academic year as a cadet or midshipman at one of the service academies or the third academic year as a member of the Senior Reserve Officers' Training Corps in a program of educational assistance under section 2104 or 2107 of title 10, United States Code;

(B) served on active duty for a period of more than 180 days pursuant to an appointment as a commissioned officer received upon graduation from one of the service academies or upon satisfactory completion of advanced training (as defined in section 2101 such title 10) as a member of the Senior Reserve Officers' Training Corps;

(C) after such period of active duty, was discharged or released therefrom under conditions other than dishonorable or continued to serve on active duty without a break in service; and

(D) if enrolled under the program of educational assistance provided under chapter 32 of title 38, United States Code, submits to the Secretary of Veterans Affairs, as part of the application made by the individual under subsection (a) in such form and manner as such Secretary shall prescribe by January 1, 1991, an irrevocable election to be disenrolled from such program at that time; and

(4) the term "service academies" means the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, and the United States Coast Guard Academy.

SEC. 208. LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION.

(a) IN GENERAL.—Section 1791(b) of title 38, United States Code, is amended by striking out "The" through "additional change" and inserting in lieu thereof "The Secretary, in accordance with procedures that the Secretary may establish, may approve a change other than a change under subsection (a) of this section".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on June 1, 1991.

SEC. 209. NAMING OF DEPARTMENT OF VETERANS AFFAIRS MEDICAL CENTER IN SAGINAW, MICHIGAN.

The Department of Veterans Affairs medical center in Saginaw, Michigan, shall after the date of the enactment of this Act be known and designated as the "Aleda E. Lutz Department of Veterans Affairs Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Aleda E. Lutz Department of Veterans Affairs Medical Center.

Mr. CRANSTON. Mr. President, as the chairman of the Committee on Veterans' Affairs, I rise to urge our colleagues to give their unanimous approval to the pending measure, H.R. 1199, the proposed Department of Veterans Affairs, Nurse Pay Act of 1990, as amended by a compromise agreement that our committee has developed with our counterpart committee in the House. This measure—which I will refer to as the compromise agreement—embodies provisions derived from S. 13 as reported by our committee on September 13, 1989, and passed by the Senate as a substitute for the text of H.R. 901 on October 3, 1989, and from a variety of House-passed bills: H.R. 1199 as passed by the House on June 27, 1989; H.R. 2569 as passed by the House on June 27, 1989; H.R. 901 as passed by the House on July 11, 1989; H.R. 1358 as passed by the House on October 2, 1989; H.R. 3199 as passed by the House on October 30, 1989; and H.R. 4089 as passed by the House on July 10, 1990.

As the author of the provisions in S. 13—in section 251—to establish a VA nurse-pay system based on locally competitive rates of pay, I am very pleased that we are now close to the enactment of legislation incorporating basic principles of that legislation.

Mr. President, the compromise agreement represents a resolution of certain differences between House- and Senate-passed legislation from last year, primarily those dealing with the revision of VA nurse pay. As I noted at the time the Senate considered these bills last year (CONGRESSIONAL RECORD, November 20, 1989, 30617), we had then reached an impasse over Senate-passed provisions which addressed the issue of compensating veterans in connection with their exposure to agent orange in Vietnam. Because of this impasse, negotiations on other issues—particularly those relating to VA health-care mat-

ters—did not go forward at that time. Thus, our two committees were not able to resolve all of the matters between us, and only 70 provisions were included in the compromise agreement as it was enacted as Public Law 101-237.

The two committees continued to pursue resolution of the provisions which were not included in that law, and the measure that is before the Senate today is a further compromise agreement developed from those bills.

Mr. President, because each of the provisions of the compromise agreement is described authoritatively in the explanatory statement developed by the two Committees on Veterans' Affairs, which I will insert in the RECORD as part of my remarks today and which the chairman of the House Committee, Mr. MONTGOMERY, will insert in the RECORD during House debate on this measure, I will provide only a summary of those provisions at this point and then discuss certain key elements of the measure.

SUMMARY OF PROVISIONS

Mr. President, this House-Senate compromise agreement consists of two titles: "Title I—Health-Care Personnel Pay Reform" and "Title II—Miscellaneous Education and Health Provisions," as follows:

TITLE I—HEALTH-CARE PERSONNEL PAY REFORM

Title I of the compromise agreement contains amendments to title 38, United States Code, that would help VA overcome its difficulties in the recruitment and retention of VA nurses and, potentially other selected categories of health-care personnel, through the establishment of a system of locally competitive rates of pay. Specifically, these provisions would:

First, replace the current system of eight grades for registered nurses with a VA-wide matrix consisting of four grades, with the number of steps per grade to be determined by the Secretary, upon the recommendation of VA's Chief Medical Director.

Second, require that the maximum rate of pay in each grade be not more than 133 percent of the minimum rate paid in that grade, except that, if the Secretary determines that that would be insufficient for recruitment and retention purposes, the Secretary could increase the cap to up to 175 percent of the minimum rate paid in that grade and must then include in the next required annual report the justification for doing so.

Third, mandate that, at each VA health-care facility, the pay rate for the first step in each grade be determined by the Facility Director using either information from the Bureau of Labor Statistics [BLS], if available, for the labor-market area in which the facility is located, or, if the BLS data were not available, the Director's own survey of local facilities, conducted in

accordance with regulations that the Secretary would prescribe.

Fourth, permit a local Director, in comparing VA and non-VA pay, to take into account both pay and employee benefits, including nonmonetary benefits to the extent they are quantifiable.

Fifth, prohibit VA from making changes in pay rates that would result in VA being the remuneration leader in any local area.

Sixth, require a VA Facility Director to consider survey results at the following times: When Federal employees are scheduled to receive a cost-of-living adjustment [COLA]; when BLS releases a new industry-wage survey for the relevant labor market area; and at any other time the Director determines it is necessary to do so.

Seventh, prevent any incumbent's pay from being decreased because of survey results as long as the incumbent stays in the same position at the same facility.

Eighth, require that a nurse remain in same grade and step when transferring to another VA facility—unless simultaneously being promoted or demoted—but be paid at the rate applicable to that grade and step at the new facility.

Ninth, require that a head nurse receive additional pay in the dollar amount of a two-step increase while holding that position.

Tenth, mandate that, upon promotion, a nurse not be paid less than the nurse was paid on the day before the promotion.

Eleventh, provide that the nurse-pay provisions take effect upon enactment, except that changes in pay would take effect with respect to the first pay period after April 1, 1991.

Twelfth, provide that survey information not be subject to the Freedom of Information Act.

Thirteenth, authorize the Secretary to apply the new competitive pay provisions to other title 38 employees, except physicians, dentists, and nurse employees and to the so-called title 5/title 38 hybrid employees.

Fourteenth, require the Secretary to submit two reports relating to the pay authority to the Committees on Veterans' Affairs for each of the next 3 years: First, a general annual report due in December of 1991, 1992, and 1993; and second, a report due in February of 1992, 1993, and 1994, focused on whether and to what extent local Directors granted COLA's coincident with COLA's for Federal civil service employees.

Fifteenth, mandate that RN's receive cash bonuses—up to \$2,000—upon certification in a specialty in which the nurse is assigned and authorize such bonuses for exemplary job performance or job-related achievement.

Sixteenth, repeal the current limitation on the hourly rate of overtime pay, under which no nurse's overtime rate can exceed 1.5 times the minimum hourly rate of the current "Intermediate" grade and provide that any nurse's overtime rate would be 1.5 times his or her rate of basic pay.

TITLE II—MISCELLANEOUS PROVISIONS

Title II of the compromise agreement contains, in freestanding provisions and amendments to title 38, eight provisions that would:

First, authorize a 4-year pilot program to evaluate noninstitutional alternatives to nursing home care for veterans who need that care primarily for the treatment of a service-connected disability, or have service-connected disabilities rated at 50 percent or more.

Second, revise VA's authority to enter into agreements for sharing scarce medical resources so as to: expand the categories of facilities with which VA may enter into sharing agreements; replace the requirement in current law that reimbursement rates cover full costs with flexibility in determining reimbursement rates; and provide that payments for the use of VA resources be returned to the VA facility involved.

Third, authorize: extending, for a period not to exceed the length of an academic program, the temporary full-time appointment of a student who is pursuing an academic degree in respiratory therapy, physical therapy, occupational therapy, pharmacy, or practical or vocational nursing, and extending for a period not exceeding 2 years the temporary full-time appointment of individuals who have completed a course of training in one of the subjects listed above, while such individuals are pending registration or licensure in a State or certification by a national board.

Fourth, extend for 1 year the reporting requirements of the Special Committee on Post-Traumatic Stress Disorder.

Fifth, establish a new program to provide post secondary educational assistance to students in health professions who are eligible for educational assistance under the Montgomery GI Bill Program for Reservists—chapter 106 of title 10—in return for the students' agreement to subsequent service with the Department of Veterans Affairs.

Sixth, modify the computer-matching provisions applicable to certain VA educational assistance programs.

Seventh, make 1977 and 1978 service-academy graduates and 1978 ROTC graduates retroactively eligible for Vietnam-era GI bill benefits.

Eighth, authorize the Secretary to establish a procedure to approve second and subsequent changes of program of education for a veteran or

other eligible person receiving VA-administered educational assistance.

Ninth, rename the Saginaw VAMC in honor of Aleda E. Lutz, a distinguished World War II flying nurse.

HEALTH-CARE PERSONNEL PAY REFORM

Legislative background. For some time, Mr. President, there has been no disagreement that something needed to be done about pay for VA nurses. I introduced S. 947, the proposed Veterans Health-Care Personnel Act of 1989, on May 9, 1989. Many of the provisions of the measure regarding competitive pay for registered nurses were incorporated in S. 13, the Veterans Benefits and Health Care Act of 1989, as reported by the Committee on Veterans' Affairs on September 13, 1989.

Unfortunately, as I noted earlier, we were unable to gain enactment of these provisions last year. Thus, these provisions were again included in S. 2100, the Veterans Benefits and Health Care Amendments of 1990, as reported by our committee on July 19, 1990. The House addressed VA nurse-pay reform in H.R. 1199 as passed by the House on June 27, 1989. The House passed these same provisions this year in H.R. 4557. In addition, the administration offered its nurse-pay proposal, which I introduced by request as S. 2458 on April 19, 1990.

Basic concepts. Mr. President, under the provisions in the compromise agreement, pay rates for registered nurses [RN's] at each VA medical center would be set in relationship to pay and other employment benefits being offered to RN's by other health-care facilities in the same local labor market area.

The compromise agreement would create a matrix of grades and steps, the familiar building blocks of Federal pay structure. It would require the Secretary to establish four nurse grades and to determine, after receiving the recommendations of the Chief Medical Director [CMD], the number of steps within each grade.

The coordinates in the nursing matrix would represent the same levels of function, experience, and education throughout the VA health-care system. Rates of pay for those coordinates, however, would vary based on local market area compensation.

Information on entry-level pay for positions comparable to the four defined nurse grades—entry, intermediate, senior, and Director—would be gathered from one of two sources. If available, each local VA facility Director would be required to use current data from a Bureau of Labor Statistics [BLS] industry wage survey for the relevant labor market area. In those cases where there are no current BLS data, the Director would be required to conduct a survey of the health-care facilities with which VA competes for nursing personnel, and, in so doing,

follow regulatory guidelines which would prescribe adhering to a methodology comparable to that used by the BLS, except to the extent determined to be infeasible by the Secretary.

Mr. President, in addition to requiring this approach for RN's, the compromise agreement would, as would the Senate-passed legislation which I authored, authorize VA, as necessary for recruitment and retention purposes, to apply these competitive pay provisions to certain other categories of health-care personnel. These categories are those which are employed under title 38, except for physicians, dentists, and nurses—podiatrists, optometrists, physician assistants, expanded-function dental auxiliaries—and employees in the so-called title 38/title 5 hybrid category—certain clinical or counseling psychologists who are diplomats in psychology, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists. The compromise agreement would allow the Secretary, after receiving the recommendations of the CMD, to establish grades and steps as necessary for such other categories of health-care personnel eligible under this agreement.

Rationale for nurse pay reforms. Running the largest health-care system in the United States, with a nurse personnel level of over 35,000, including 31,080 full-time, as of March 31, 1990, VA experiences to a magnified extent the difficulty faced throughout the Nation—in public, private not-for-profit, and proprietary facilities—in nurse recruitment and retention. Staffing shortages in any health-care occupation can contribute to numerous ill effects, including low staff morale as those employed must take up the slack caused by vacancies and potential care errors of omission or commission. Entire wards have been closed at VA facilities because sufficient numbers of nurses were not available to staff them adequately. As a result, fewer veterans get served in a timely manner.

Mr. President, various task forces, academic inquiries, and popular press treatments have attempted to explain why, throughout the Nation, health-care facilities are having such problems recruiting and retaining nurses in sufficient number to meet their demands. A variety of causes seems responsible, in varying degrees, for what is perceived by all as a nursing shortage. They include, first, the increasing use of complicated technology in health care, which requires trained and educated personnel; second, the increasing administrative and other burdens of the job as other occupational positions, such as clerks, patient escorts, maintenance workers, are cut back due to tight hospital budgets;

third, decreasing numbers of applicants to nursing schools from women, the group traditionally steered into nursing, as other professional options have opened for them; fourth, continuing tension among health personnel groups about responsibilities and professional independence, which can create strains in the work environment; and fifth, salaries that are not sufficient to attract the number and quality of nurses desired.

Salary needs. The compromise agreement addresses, primarily, the last-mentioned of those reasons—inadequate salary. In the VA Report on the 1988 Survey of Health Occupational Staff—the latest year available—data are presented from facility respondents who answered survey questions about recruitment and retention issues. The results indicated that almost 20 percent of RN losses in fiscal year 1988 were attributed by respondents to either higher salaries or better fringe benefits for comparable work. This is more than twice the next most frequently given reason for RN losses. Two-thirds of the respondents reported that RN's at non-Federal medical facilities received higher salaries for similar assignments than would RN's employed by VA.

On September 30, 1988, three-quarters of all VA facilities had special salary rates, under section 4107(g) of title 38, in effect for RN's. The special salary mechanism which had been designed to accommodate the exception is now the rule. Special rates are not an efficient way to manage a large personnel system since a great deal of paperwork and hierarchical decisionmaking is necessary to run it.

Extent of the nurse recruitment and retention problem for VA. Mr. President, as I noted in my floor amendment on May 24, 1990, introducing the proposed Department of Veterans Affairs Physicians' and Dentists' Compensation Act of 1990 (CONGRESSIONAL RECORD, 12423, statistics on vacancy rates can be quite tricky as a general matter. In addition, the committee has specifically been warned not to put too much stock in VA's reporting of RN vacancy rates.

We have also been told that, in the case of dentists and psychiatrists, for example, long-vacant positions are often abolished and thus no longer appear as unfilled in reports. Turnover rates, we are told, are more indicative of the nature of the problem. For RN's in fiscal year 1986 through 1988, turnover rates increased from 16.1 percent to 26.6 percent.

The VA report on its 1988 Survey of Health Occupational Staff presented length-of-vacancy data for RN's. Less than 43 percent of the positions were filled in 6 months or less and only 7 percent of the respondents considered that the operations of their facilities

were not adversely affected by the vacancies.

Authority to use competitive pay provisions for health-care personnel: Mr. President, as I have noted, the compromise agreement requires facility directors to use survey data—either from BLS or facility-specific—as a guide in determining basic salary rates for RN's and allows the CMD to consider certain other health-care personnel as covered under the competitive pay system. The eligible occupations are those listed in clauses (1) and (3) of section 4104 of title 38: Certain title 38 personnel—podiatrists, optometrists, physician assistants, and expanded-function dental auxiliaries—and the hybrid positions, so-called because a combination of title 38 and title 5 policies apply to their employment—certain clinical or counseling psychologists who are diplomats in psychology, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists.

This approach, of authorizing rather than mandating the use of the competitive-pay process for these occupations, its based on data available to the committee, which are not as definitive regarding the severity of the recruitment and retention problems of these other personnel groups as they are for RN's. Although VA makes extensive use of its special-pay authority for some of these occupations, pharmacy and physical therapy, for example, it appears that the existing special pay mechanisms provided in law—which would continue after enactment of this legislation—are functioning as they were designed to.

However, it is my intention to continue reviewing available data and recommending the development of additional, valid data in order to assess the need for more aggressive legislative action regarding these other employee groups. I believe we should give VA an opportunity to develop some experience with this new salary-setting mechanism before we try to expand it to thousands of additional health-care personnel. I point out, however, that this compromise agreement does grant VA the authority, if recommended by the CMD, to extend these provisions to any of the categories of health-care personnel I listed earlier.

Cost: Mr. President, regarding the nurse pay reform provisions of this compromise agreement, the Congressional Budget Office [CBO], in an informal cost memorandum states, "It is not possible to estimate the cost of this provision with currently available data." The reasons were more completely stated in CBO's September 12, 1989, memorandum on similar provisions in S. 13:

The cost of this provision cannot be estimated effectively before the first set of wage surveys is conducted, because there is no data base available that is adequate to compare salaries of VA and non-VA nurses on a locality-by-locality basis. The cost of this provision, however, is not expected to be large, because VA already pays special salary rates to nurses in 138 facilities to enable them to compete in their local hiring markets.

VA provided its own estimate of the cost of the administration-proposed nurse-pay legislation, which I introduced by request as S. 2458 on April 18, 1990. For a locality-based competitive-pay structure somewhat similar but not as extensive as the one in the compromise agreement, VA estimated a first year cost of \$31,172,700.

In the proposed budget for fiscal year 1991 submitted to the President in January 1990, the administration included \$31.4 million for nurse-pay reform. That same figure was used by both the Senate and the House Committees on Veterans' Affairs in our respective fiscal year 1991 budget recommendations to our respective Budget Committees.

NONINSTITUTIONAL ALTERNATIVES TO NURSING HOME CARE

Mr. President, section 201 of the compromise agreement would require VA to conduct a 4-year pilot program to evaluate noninstitutional alternatives to nursing home care.

Section 201 is identical to section 213 of S. 13, the proposed Veterans Benefits and Health Care Act of 1989; as passed by the Senate on September 30, 1986, in H.R. 5299; and S. 876 as passed by the Senate on July 30, 1985, in H.R. 505.

Mr. President, I am pleased to report that the House and Senate have finally reached agreement on this provision. In light of the rapid increase in the number of veterans, age 65 and older, who may be seeking care from VA in the years ahead, VA must take steps to develop new approaches to addressing the health-care needs of older veteran patients. These approaches must include an emphasis on increased interaction with community entities that provide health and health-related services if VA is to get the maximum health care benefit out of every dollar spent. There also must be a greater emphasis on reducing the need for institutional care for veterans.

Under the compromise agreement, VA would be authorized to conduct a 4-year pilot program through which VA would provide certain veterans with medical, rehabilitative, and other health services and, by contract with non-VA entities, with health-related services.

These health and health-related services would be provided under VA contracts in noninstitutional settings—such as the veteran's home or a personal-care or board-and-care home—with the goal of being able to avoid in-

stitutional care, such as in a hospital, nursing home, or domiciliary facility, for the participants in the program.

Eligibility for the program would be limited to veterans who are eligible for and otherwise in need of nursing home care primarily for the treatment of a service-connected disability or veterans who have service-connected disabilities rated at 50 percent or more who are being treated for any disability.

The compromise agreement would limit the cost to not more than 65 percent of the total cost that would otherwise have been incurred by VA had the veterans involved been furnished nursing home care instead. It is the committees' intent that the pilot program be carried out through the use of funds that would otherwise be used for the provision of more costly intermediate care and that the funds saved by this pilot program be applied to care for more veterans than would otherwise be served.

Finally, the compromise agreement would require that the Secretary submit, by February 1, 1994, a report on the conduct of the pilot program during its first 3 fiscal years including an evaluation, findings, and conclusions about the program.

Cost: According to CBO, the enactment of section 201 would entail estimated costs of \$5 million in budget authority and \$4 million in outlays in fiscal year 1991.

SHARING OF SCARCE MEDICAL RESOURCES

Mr. President, section 302 of the compromise agreement would revise VA's authority to enter into agreements for sharing scarce medical resources so as to: First, expand the categories of facilities with which VA may enter into sharing agreements; second, replace the requirement in current law that reimbursement rates cover the full costs with a requirement that would provide greater flexibility in determining reimbursement rates; and third, provide that payments for the use of VA resources be returned to the VA facility involved.

Section 202 is identical to section 223 of S. 13 as passed by the Senate on October 4, 1989, in H.R. 901, which was in turn identical to section 613 of S. 2011 as passed by the Senate on October 8, 1988 in H.R. 4741.

Cost: According to CBO, the enactment of section 202 would entail no significant costs in fiscal year 1991.

TEMPORARY APPOINTMENTS

Mr. President, section 203 of the compromise agreement, which is identical to section 263 of S. 13 as passed by the Senate on October 4, 1989, in H.R. 901, would authorize: First, extending, for a period not to exceed the length of an academic program, the temporary full-time appointment of a student who is pursuing an academic degree in respiratory therapy, physical therapy, occupational therapy, phar-

macy, or practical or vocational nursing, and second, extending, for a period not exceeding 2 years, the temporary full-time appointment of individuals who have completed a course of training in one of the subjects listed above, while such individuals are pending registration or licensure in a State or certification by a national board.

Currently, certain health-care professionals without certification or licensure can obtain only a 1-year VA appointment within VHS&RA. According to VA, nearly all of such appointees receive permanent appointments under section 4103(3) once certification of licensure is obtained. However, Office of Personnel Management regulations do not permit employees with temporary appointments of a year or less to receive health benefits and life insurance. The authority proposed in the compromise agreement would increase VA's ability to recruit and retain scarce health care personnel by permitting VA to appoint these professionals for longer than 1 year—up to 2 years—and thus be able to offer them health and life insurance benefits.

With regard to student appointments, current law limits such temporary appointments to 1 year. Therefore, many students are required to terminate employment before completing their academic training. Because they have not yet obtained a degree, they then are ineligible for appointment as probationary permanent employees. Mr. President, I believe that allowing VA to retain throughout their training periods students who maintain good academic standing will better enable the Department to keep these individuals within the VA system. The provision in the compromise agreement would promote that result.

Cost: According to CBO, the enactment of section 203 would entail no significant costs in fiscal year 1991.

SPECIAL COMMITTEE ON POST-TRAUMATIC STRESS DISORDER

Mr. President, section 204 of the compromise agreement would extend for 1 year the reporting requirement of the Department's special committee on PTSD. The special committee would be required to submit concurrently to the Department and the Committees on Veterans' Affairs a report by February 1, 1991.

Since the special committee was established pursuant to legislation I authored in 1984, it has done excellent work in identifying strengths and weaknesses in VA's overall efforts to address the tremendous problem of PTSD among veterans. I think it is most important that the special committee continue its active monitoring of VA's PTSD programs as we continue to try to develop comprehensive legislation in this very important area.

By extending the reporting requirement for 1 year, section 204 would ensure that Congress and the Department continue to be fully informed about the effectiveness and adequacy of existing VA programs. The special committee has demonstrated effectiveness, initiative, and insight in the areas of PTSD treatment, research, and program operations, and I urge my colleagues' strong support of its 1-year extension.

Cost: According to CBO, the enactment of section 204 would entail no significant costs in fiscal year 1991.

EDUCATIONAL ASSISTANCE TO HEALTH PROFESSIONALS UNDER THE RESERVE GI BILL

Mr. President, section 205 of the compromise agreement would amend chapter 76 of title 38 to add a new subchapter V so as to establish a new program to provide post-secondary educational assistance to students in health professions who are eligible for educational assistance under the Montgomery GI bill program for reservists—chapter 106 of title 10—in return for agreement for subsequent service with the Department of Veterans Affairs.

Section 205 is derived from section 2 of H.R. 3199, the proposed Veterans Health Professionals Educational Amendments of 1989, as passed by the House on October 30, 1989, and section 242 of S. 2100, as reported by the Committee on Veterans' Affairs on July 19, 1990, which was derived from S. 2542. The compromise agreement would: First, authorize the Secretary to identify staffing shortages in health professions within the VA and establish a discretionary post-secondary educational assistance program for Montgomery GI bill-Select Reserve participants—chapter 106 of title 10, United States Code—who major in such health care professions and agree to work for VA for 1 year for each year of assistance received; second, provide that to be eligible for this program the individual must be entitled to benefits under chapter 106 and score above the 50th percentile on the Armed Forces qualification test; third, authorize VA to pay to program participants a \$400 per month stipend during the time the student is taking his or her health-related courses; fourth, require a participant who does not fulfill his or her obligation to VA to repay the benefit amount, plus interest and penalty, which would be required to be made directly to VA beginning on the date of the breach of contract; fifth, provide that, if an individual cannot complete obligated service as a result of performing active duty, the individual would be permitted to complete obligated service after completion of active duty; and sixth, authorize the Secretary to prescribe regulations under which the Secretary could waive the obligated service requirement in cases in which the Secretary determines that either the individual

cannot perform the service for reasons beyond the individual's control or such a waiver would be in the best interest of the Government.

Cost: According to CBO, enactment of section 205 would entail estimated costs of \$8 million in both budget authority and outlays in fiscal year 1991.

ADMINISTRATION OF EDUCATIONAL ASSISTANCE PROGRAMS

Mr. President, section 206 of the compromise agreement would amend the procedures relating to computer matching in certain educational assistance programs under titles 10 and 38 of the United States Code.

VA periodically reviews, through computer matches of Defense Department military personnel data with VA beneficiary data, the continuing eligibility of participants in the Montgomery GI bill—including both the Selected Reserve and Active Duty components under chapter 106 of title 10, United States Code, and chapter 30 of title 38, respectively—and in the Post-Vietnam Era Educational Assistance Program under chapter 32 of title 38, who are using education benefits while serving in the Reserves or on active duty. Where the DOD data reflect changes rendering an individual ineligible, such as receipt of a disqualifying discharge or termination of Reserve status, the benefits are terminated.

The Computer Matching and Privacy Protection Act [CMPPA], Public Law 100-503, generally provides that, before Federal benefits may be terminated on basis of an interagency computer match, information gained from the match must be independently verified and 30 days must expire after the individual is given notice of the agency's findings and the individual's right to contest them. Because of certain problems with the implementation of CMPPA, Congress in Public Law 101-56 postponed the original CMPPA effective date of July 18, 1989, to January 1, 1990. Based on information VA provided to the Veterans' Affairs Committee last fall that implementation would require substantial staff time and paper transactions to back up the computer-matching operation, a 6-month postponement to July 1, 1990, of the applicability of the CMPPA to the administration of these educational assistance programs was enacted in section 413(b) of the Veterans' Benefits Amendments of 1989, Public Law 101-237.

Section 206 of the compromise agreement, which is derived from section 4 of H.R. 4089 as passed by the House on July 11, 1990, would provide that VA, in lieu of complying with CMPPA requirements, may take action based on information produced by a computer-data matching program with DOD, if 10 days—excluding Saturdays, Sundays, and Federal holidays—have expired after VA has provided the individual with a written

notice of findings and of the opportunity to contest them. The compromise agreement would also postpone until October 1, 1990, the applicability of pertinent CMPPA provisions to VA's administration of these programs—and hence the necessity to comply with the alternative requirements specified in the compromise agreement—and would ratify VA's use of DOD computerized data in administering these programs during the period beginning July 1 through the date of enactment.

Cost: According to CBO, enactment of section 206 would entail no significant cost in fiscal year 1991.

VIETNAM-ERA GI BILL ELIGIBILITY FOR CERTAIN SERVICE ACADEMY AND SENIOR RESERVE OFFICER TRAINING CORPS GRADUATES

Mr. President, section 207 would extend eligibility for Vietnam-era GI bill, chapter 34, equivalent benefits to members of the 1977 and 1978 graduating classes of the service academies and to 1978 Senior Reserve Officer Training Corps (SROTC) graduates.

Public Law 94-502, enacted on October 15, 1976, establishes the Post-Vietnam Era Veterans Educational Assistance Program [VEAP] in chapter 32 of title 38. Under that legislation, individuals entering on active duty after December 31, 1976, generally were eligible to participate in VEAP and were ineligible for chapter 34 benefits. Public Law 94-502 retained chapter 34 eligibility for those who entered active duty after December 31, 1976, but had previously contracted with the Armed Forces to enter on active duty and were enlisted in or assigned to a reserve component before January 1, 1977, and entered on active duty within 12 months after that date. However, 1977 and 1978 service academy graduates and 1978 SROTC graduates—all of whom had, at the outset of their third year of undergraduate study, entered upon their commitments to active-duty service at a time when chapter 34 eligibility was available to them—did not meet the above criteria for chapter 34 eligibility. S. 2011, as approved by the Senate in 1988, included a provision I authored that was designed to extend chapter 34 eligibility to 1977 and 1978 service academy and 1978 SROTC graduates who had demonstrated—as evidence by their participation in VEAP—an interest in earning education benefits during their service. This Senate-passed provision, however, failed to gain acceptance by the House.

On October 2, 1989, the House passed in section 4 of H.R. 1358 a similar measure but without the VEAP restriction contained in the 1988 Senate-passed provision. It was not accepted by the Senate for enactment last year.

In the interest of enacting legislation on this matter, the Committee has agreed to adopt a House provision derived from H.R. 1358. Thus, section

307 of the Committee bill would: First, extent eligibility for chapter 34-equivalent benefits to all 1977 and 1978 service academy graduates and 1978 SROTC members; second, require refunds to the individuals who participated in VEAP of their unused contributions to the VEAP account; and third, require payment, to those who received educational assistance under VEAP, of an amount equal to the amount by which chapter 34 benefits for the program pursued would have exceeded the assistance actually received under chapter 32 for that program.

Cost: According to CBO, the enactment of section 207 would entail no significant costs in fiscal year 1991.

LIMITATIONS ON CHANGES OF PROGRAMS OF EDUCATION

Mr. President, currently, under section 1791 of title 38, a veteran or other eligible person pursuing education with VA-administered assistance is permitted to make one change of program of education without having to seek VA approval. One additional change of program generally may be approved if it is determined that the proposed program of education is suitable in terms of the individual's aptitudes, interests, and abilities. In the case of an individual who interrupted or failed to make progress in the pursuit of a prior program, a change can be approved only if it is determined there exists a reasonable likelihood that there will not be a recurrence of the interruption or failure to progress. Third and subsequent changes of program may not be approved unless the Secretary finds that the change is necessitated by circumstances beyond the individual's control.

Section 319 of S. 13/H.R. 901 would have amended section 1791 of title 38 so as to: First, repeal the general prohibition against more than two changes of educational program, and second, in the case of second and subsequent changes of program, permit approval only if: First, the individual accepted educational or vocational counseling services referred to in section 1663 of title 38, and second, the Secretary determined, on the basis of the results of the educational or vocational counseling, that the change was suited to the individual's aptitudes, interests, and abilities.

Section 208 of the compromise agreement, which is derived from section 319 of S. 13/H.R. 901, would provide the Secretary of Veterans Affairs with discretionary authority, effective June 1, 1991, to establish a procedure to approve second and subsequent changes of program after the first change if the program which the individual proposes to pursue is suitable in terms of the individual's aptitudes, interests, and abilities. Where the individual had interrupted his or her program or failed to make progress, the

determination of a likelihood of no recurrence would continue to be required.

This compromise agreement would provide needed flexibility in the administration of VA education programs, while preserving the necessary safeguards to ensure the integrity of those VA education programs and prevent their abuse.

In designating a procedure for approval of additional changes in programs, the Secretary would have a wide range of options, including: First, requiring counseling or making it voluntary; second, whether counseling is mandatory or voluntary, providing it through the authority in section 1663 of title 38 for contract counseling, possibly through the schools; and third, requiring counseling in specific situations and making it voluntary in others.

On page 86 of the August 29, 1988, report prepared by the Commission to Assess Veterans' Education Policy (S. Prt. 100-125), the Commission recommended abolishing the current limit on the number of changes of program contained in title 38, declaring that it found "no purpose in limiting the number of changes a student may make."

The Commission further pointed out that current law seems to impose an unnecessary requirement on VA to make judgment calls relating to veteran-students' use of their benefits.

In response to the Commission's position to abolish the limit on the number of changes of program an otherwise eligible veteran may take, VA noted its opposition on page 23 of its interim report in response to the Commission's report. VA urged that some means of administering the law more simply and equitably be derived through changes in procedure or regulation, thereby obviating the need for eliminating the limits on changes of program altogether.

Mr. President, I believe that, by providing the Secretary of Veterans Affairs with discretionary authority to establish a procedure to approve changes of program of education after a first change, the compromise agreement meets VA's objection and at the same time is responsive to the essence of the VEP Commission's recommendation.

Mr. President, I note that both the Commission and VA agreed on the importance of counseling for veterans who are considering changes of program. On page 86 of their report, the Commission recommended instituting a counseling requirement for changes of program beyond an initial change. The VA agreed, on page 23 of its interim report, noting that such a requirement would greatly assist veteran-students in the most effective use of their benefits, provide them with the opportunity to review educational objec-

tives, interests, and abilities over time, and would likely serve to limit substantially the number of changes of program. The committees believe, however, that more flexibility would appropriately be afforded the changing requirements of future program administration if counseling, even mandatory counseling, were established as part of a Secretary's procedure to approve changes of program, rather than as part of a required legislative procedure, and that the Secretary should be given a wide range of options.

Cost: According to CBO, the enactment of section 208 would entail no significant costs in fiscal year 1991.

CONCLUSION

Mr. President, in closing I want to express my deep appreciation to the distinguished chairman and ranking minority member of the House Committee on Veterans' Affairs, Mr. MONTGOMERY and Mr. STUMP, as well as the ranking minority member of the Senate committee, Mr. MURKOWSKI, for their cooperation and many courtesies on this measure.

Mr. President, it has been a pleasure to work with Senator MURKOWSKI and all the members of the Senate committee in the development of this legislation and I thank them all for their contributions to it.

I want also to note the contributions of, and express my deep gratitude to, the committee staff members who have worked on this legislation—on the minority staff, Lisa Moore, Chris Yoder, Todd Mullins, Vic Reston, and Al Ptak; Roy Smith, who so ably provides editorial support to the committee; and, on the majority staff, Susan Thaul, Chuck Lee, Thomas Tighe, Janet Coffman, Mike Cuddy, Brett Hansard, Charlotte Hughes, Sharon Sherwood, Bill Brew, Ed Scott, and Jon Steinberg, as well as Jodi Epstein, who recently left the committee staff to attend law school.

I also wish to note the as-always fine work and cooperation of the staff of the House Committee on Veterans' Affairs—Vic Raymond, Jill Cochran, Greg Matton, Tina Alvarado, Carl Commenator, Kingston Smith, Pat Ryan, and Mack Fleming—in working with us to reach the final agreement on this measure.

Finally, we are deeply indebted to Bob Cover and Joe Womack of the House Legislative Counsel's Office and to Hugh Evans and Greg Scott of the Senate Legislative Counsel's Office for their excellent assistance.

Mr. President, I urge the Senate to give its unanimous approval to the pending compromise agreement.

Mr. President, I ask unanimous consent that there be printed in the RECORD at this point the explanatory statement prepared by the committees with regard to the provisions of the

compromise agreement, which I mentioned earlier and which is in lieu of a statement of the managers which would accompany a formal conference report.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

EXPLANATORY STATEMENT ON THE COMPROMISE AGREEMENT ON H.R. 1199 AS AMENDED, ON THE DEPARTMENT OF VETERANS AFFAIRS NURSE PAY ACT OF 1990

This document contains explanations of certain provisions of the measures (listed below) which have been passed by the Senate and House of Representatives and on which the Senate and House Committees on Veterans' Affairs have reached agreement. These agreed-upon provisions will be offered as a proposed Senate substitute amendment to H.R. 1199.

Certain provisions in the measures listed below involve various issues which remain outstanding and which the Committees plan to resolve later in this Session of this Congress; these provisions are not described in this document.

Differences between the provisions contained in the compromise agreement and the related provisions as passed by the Senate and House of Representatives are noted in this document except for clerical corrections, conforming changes made necessary by the compromise agreement, and minor drafting, technical, and clarifying changes.

The measures referred to above are as follows:

H.R. 1199, a bill to revise the system of pay for nurses serving in Department of Veterans Affairs health-care facilities as passed by the House of Representatives on June 27, 1989.

H.R. 2569, a bill to name the Saginaw, Michigan, VA Medical Center after Aleda E. Lutz, as passed by the House on June 27, 1989.

H.R. 901, the proposed "Veterans Health-Care Programs Amendments of 1989", as passed by the House of Representatives on July 11, 1989.

H.R. 1358, a bill to amend Department of Veterans Affairs educational assistance programs, as passed by the House on October 2, 1989.

H.R. 3199, the proposed "Veterans Health Professionals Educational Amendments of 1989", as passed by the House on October 30, 1989.

H.R. 4089, the proposed "Veterans Educational and Vocational Counseling Amendments of 1990", as passed by the House on July 10, 1990.

S. 13, the proposed "Veterans Benefits and Health Care Act of 1989", the text of which was passed by the Senate as a substitute for the text of H.R. 901 on October 4, 1989.

The foregoing House-passed bills are referred to by bill number and the text of S. 13 as passed in H.R. 901 is referred to as the "Senate bill".

TITLE I—NURSE PAY

Current law: Salaries for Department of Veterans Affairs' nurses are determined pursuant to section 4107 of title 38, United States Code. Section 4107(b) mandates 8 grades for registered nurses (RNs)—Junior, Associate, Full, Intermediate, Senior, Chief, Assistant Director, and Director. The rates of pay for these grades, which are applied uniformly on a nationwide basis, are gener-

ally comparable to those established for grades GS-6 through GS-15 of the General Schedule. Specific qualifications for entry into the 8 nurse grades are described in Veterans Health Services and Research Administration Supplement MPH-5, Part II, Chapter 2. Section 4107(g), enacted in 1980 in Public Law 96-330, authorizes VA to provide increased rates of pay (known as "special-pay" rates) for RNs, among others. Under this authority, VA may increase pay for title 38 employees in order to provide for an amount of pay "competitive with, but not exceeding, the amount of the same type of pay paid to the same category of personnel at non-Federal facilities in the same labor market." However, current law does not mandate implementation of such pay throughout the VA system, nor does it provide specific mechanisms to ensure that the administration of nurse pay will be carried out in accordance with uniform standards. In addition, the special pay authority in section 4107(g), which was originally viewed as an extraordinary authority to be used in limited situations, has become the norm in recent years as VA has faced significant difficulties in recruiting and retaining RNs. As of June 30, 1990, special rates for RNs were in effect in 142 VA medical centers and for registered nurse anesthetists (RNAs) and certified registered nurse anesthetists (CRNAs) in 60 VAMCs. Despite the use of special rates, as of December 1989, the vacancy rate for full-time RNs was 14.4 percent.

Other non-physician and non-dentist health-care personnel listed in clauses (1) and (3) of section 4104 of title 38 may also receive special pay under the authority set forth in section 4107(g). These occupations are podiatrists, optometrists, physician assistants, expanded-function dental auxiliaries, clinical or counseling psychologists, certified respiratory therapists, registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists. Vacancy rates for these occupations are lower than they are for nurses, indicating that the existing special pay authority may be sufficient to meet VA's staffing needs in these occupations.

Bills passed: Both House and Senate bills propose remedies for VA's ongoing recruitment and retention difficulties for nurses and the Senate bill also would authorize extending the remedy for other non-physician or non-dentist title 38 employees and persons employed under VA's "hybrid" title 5/ title 38 employment authority.

Section 1 of H.R. 1199 would, effective October 1, 1990, have revised as described below, the manner in which basic pay is determined for RNs.

Section 251 of the Senate bill would, effective July 1, 1990, have required the Secretary of Veterans Affairs to ensure that basic pay is established for RNs, RNAs, and CRNAs in a manner described below, and authorize such a change for other health-care professional positions paid under title 38 as the Secretary determines upon the recommendation of VA's Chief Medical Director (CMD).

Positions covered

House bill: Section 1 of H.R. 1199 would require VA to implement a new special pay authority for RNs.

Senate bill: Section 251 would require VA to implement a new special pay authority for RNs, RNAs, and CRNAs and would also authorize the Secretary, upon the recommendation of the CMD, to implement these

provisions for positions referred to in clauses (1) and (3) of section 4104 of title 38 other than physicians, dentists, nurses.

Compromise agreement: Section 102 would establish a new subchapter IV in chapter 73 of title 38, requiring VA to establish a program for setting competitive pay (described below) for RNs (including RNAs and CRNAs) and would allow VA also to implement such a program for any of the positions referred to in clauses (1) and (3) of section 4104 of title 38 other than physicians, dentists, and nurses, if the Secretary determines, upon the recommendation of the CMD, that it is necessary to do so in order to overcome recruitment and retention problems with regard to such positions (together with RN positions referred to as "covered positions").

Purpose

House bill: The title of H.R. 1199 would provide that the purpose of the nurse-pay provisions set forth in the bill is to improve recruitment and retention of nurses in the Department of Veterans Affairs by providing greater flexibility to the medical center director in the pay system for those nurses.

Senate bill: Section 25 would provide that the purpose of this provision is to ensure that the rates of basic pay for personnel employed in covered positions are sufficient for Department health-care facilities to be competitive, on the basis of pay and other employee benefits, with non-Department health-care facilities in the recruitment and retention of qualified personnel for such positions.

Compromise agreement: Section 102 would provide that the purpose of the provisions establishing the competitive pay system is to ensure, by a means providing increased responsibility and authority to VA health-care facility directors, that the rates of basic pay for personnel in covered positions (including basic pay for part-time personnel in such positions) are sufficient to enable a Department facility to be competitive, on the basis of pay and other employee benefits, with non-VA health-care facilities in the same labor-market area in the recruitment and retention of qualified health-care personnel in covered positions.

Pay structure

House bill: Section 1 of H.R. 1199 would require the Secretary to restructure the current nurse grades so as to provide four grades for RNs, rather than the current eight grades.

Senate bill: Section 251 would (1) require the CMD to prescribe three or more grades for RNs that would be competitive—on the basis of pay and other benefits—with pay in comparable non-Department health-care facilities, and (2) allow the CMD to prescribe a number of grades that would be competitive for any other covered position.

Compromise agreement: Section 101 would require the Secretary to establish four grades—Entry, Intermediate, Senior, and Director—for RNs. For other covered positions, the compromise agreement would allow the Secretary to establish such number of grades as the Secretary considers appropriate, after receiving the recommendation of the CMD.

Mechanism for setting pay

House bill: Section 1 of H.R. 1199 would establish four grades for registered nurses which would have the following relationship to the title 5 General Schedule:

New grades:	GS grades
Entry	6-10

Intermediate	9-12
Senior	12-14
Director	14-16

Section 1 of H.R. 1199 would further require that a range of basic pay for each grade be established and divided into 20 equal increments (steps), with each step representing the minimum increase in pay allowed, and with the lowest minimum rate of basic pay for each grade being the lowest step in that grade and the highest maximum rate of basic pay for each grade being the highest step in that grade with an exception for certain head nurse situations.

Senate bill: Section 251 would require that rates of basic pay be established and adjusted after a survey (described below) of the labor-market area was completed. The minimum rate of basic pay of the appropriate entry pay grade would be required to be sufficient for pay and other benefits to be competitive with, but not exceed, the highest entry-level rate paid in the labor-market area surveyed for that occupation. Additional steps within each grade and other, related grades would be increased or decreased accordingly, so as to maintain the same proportional relationship between steps and grades as existed prior to the adjustment.

The Senate bill would require the director of the VA facility concerned, whenever a grade is added to the schedule of grades or a step within a grade is added, to establish the rate of basic pay in the same manner as rates of pay would otherwise be established or adjusted under the Senate bill provisions.

The Senate bill would also require that the rates of basic pay for an additional grade bear the same relationship to the minimum rate of basic pay specified for each grade and to each other as the rates of basic pay within each other grade in the schedule bear to each other. In addition, the Senate bill would require that the rate of pay for an additional step within a grade bear the same relationship to other rates of basic pay within a grade as such other rates bear to each other.

Compromise agreement: Section 102 would establish four grades for RNs bearing the same initial relationship to the title 5 General Schedule as would the House bill. The compromise agreement would mandate that (1) a range of basic pay be established for each grade in a covered position; (2) the salary level of the initial step of each of the four grades be based upon local labor-market area survey data as described under the next heading (i.e., the survey would be used as a basis for setting the salary paid entry-level employees in each of the four nurse grades established by the compromise agreement (or as to other covered positions for any number of grades determined by the Secretary after receiving the recommendations of the CMD); (3) the maximum rate of basic pay for each grade be not more than 133 percent of the minimum rate of basic pay for the grade except when the Secretary determines that a higher cap is necessary in order to recruit and retain a sufficient number of high-quality health-care personnel, in which case the Secretary may raise the cap up to 175 percent of the minimum rate of basic pay for the grade and must, in the already required annual report, provide the Committees with justification for doing so; (4) within each grade, the range of basic pay be divided into equal increments, known as "steps". The Secretary would prescribe the number of steps, and all grades in a covered position would be required to contain the same number of steps as described for head nurse pay when neces-

sary and where the maximum rate for a grade exceeds 133 percent of the minimum rate for that grade.

DETERMINATION OF ENTRY RATES

House bill: Section 1 of H.R. 1199 would require the Secretary to provide in regulations that a local facility director may appoint a nurse at a rate of basic pay in excess of the minimum, but not in excess of the maximum, rate applicable to that nurse's grade (see the discussion of the House bill under the heading "Mechanism for Setting Pay", above) if the director determines that it is necessary to do so in order to obtain the services of nurses at that facility. The facility director could make that determination only in order to (1) provide pay in an amount competitive with the amount of the same type of pay paid to nurses at non-Federal facilities in the same labor market; (2) achieve adequate staffing at the facility concerned; or (3) recruit nurses with specialized skills. If a local facility director were to hire a nurse at a pay rate above the minimum entry-level step without prior approval at any higher level of authority within the Department, the director would be required to justify in writing the reasons for employing that nurse in the higher step and include the written justification in the first facility budget submission after that nurse was employed.

Senate bill: Section 251 would require entry rates to be based on a survey which would take place in the following manner:

(1) Not later than June 1, 1990 (hereafter December 1 of each year), each local facility director would be required to conduct a survey of entry-level compensation in each category of covered positions in a number—to be determined by the Secretary in regulations—of comparable health-care facilities in each facility's labor-market area to determine whether it was necessary to adjust entry-level compensation. Comparable health-care facilities would be those determined by the facility director, in accordance with regulations prescribed by the Secretary, to have been in direct competition with the VA for the recruitment and retention of qualified personnel and to have other characteristics comparable to the VA facility.

(2) If the number of comparable facilities in a labor market area is less than that specified in criteria or less than a local facility director considers necessary in order to produce a valid comparison, the facility director would be required to survey corresponding positions in both comparable and other health-care facilities within the labor-market area.

(3) If a survey were insufficient to yield meaningful results, 90 days before the date by which the facility director would be required to establish or adjust rates the facility director would be required to (A) identify a similar labor-market area having a VA medical facility; (B) notify the CMD of the area selected; and (C) unless the choice of area is disapproved by the CMD, establish the same rates of basic pay for covered positions as were established for the VA facility in the labor-market areas selected. Not later than 60 days after the facility director's selection of the labor-market area, the CMD would be required to approve or disapprove the director's choice. If the CMD disapproved the choice of labor-market area, the CMD would be required to designate any labor-market area that the CMD determined was similar and the facility director would be required to establish the same rates of basic pay as were established by the

Department facility in that labor-market area. A labor market would be determined to be similar if it was of similar size, demographic characteristics, and labor-market characteristics.

Compromise agreement: Section 102 would require that, when a VA health-care facility is located in a labor market for which the Bureau of Labor Statistics (BLS) of the Department of Labor has carried out a current—in terms of position description as well as timeliness—industry-wage survey, the director of that facility would be required to use the survey data and results as the basis for determining whether and to what extent salary adjustments for covered positions would be appropriate in order for VA to establish or maintain competitive compensation as necessary for the recruitment and retention of sufficient numbers of high-quality health-care personnel.

For VA health-care facilities that are not covered by appropriate BLS survey data, the facility director would be required to conduct a survey in accordance with regulations prescribed by the Secretary in consultation with the Secretary of Labor. These regulations would be required to ensure that the director collects information that is valid and reliable and consistent with BLS standards. The survey would utilize methodology comparable to that which BLS uses in conducting its industry-wage survey, except to the extent determined infeasible by the Secretary. After completing such a survey, the director would have 30 days in which to determine whether adjustments to pay are necessary in order to provide VA health personnel in covered positions with competitive salaries sufficient to meet recruitment and retention goals. If a facility director determines that adjustments are needed, the adjustments must take effect on the first day of the first pay period beginning after that determination is made.

If, on the basis of a facility-specific survey, or at any other time an adjustment is scheduled to take place, a facility director determines that no adjustment is needed, the director would be required to notify the CMD of the decision and the reasons for it within 10 days of reaching the decision.

Section 102 would prohibit a facility director from increasing the minimum rate of basic pay for a grade to an amount in excess of the beginning rate of compensation for corresponding positions at non-VA health-care facilities within the labor market in which the facility is located. The compromise agreement would permit a facility director, in calculating the beginning rate of compensation at non-Department facilities, to take into account non-monetary benefits to the extent they are reasonably quantifiable.

Thus, the Committees note, the compromise agreement is predicated on use of the survey as a guide to setting competitive pay. The Committees also note that the compromise agreement does not require a VA health-care facility director to increase pay rates.

Maximum limit on rates of pay

House bill: Section 1 of H.R. 1199 would provide that the maximum rates of basic pay for each nurse grade shall be the highest maximum rate of pay for the General Schedule corresponding to that nurse grade, as indicated above under the heading "Mechanism for Setting Pay".

Senate bill: Section 251 would require that, for any grade in the VA salary scale designated by the Secretary, upon the rec-

ommendation of the CMD, as an entry-level grade other than an entry-level grade for supervisors or managers, the entry salary not be increased to a level in excess of the maximum rate of grade 13 of the General Schedule under section 5332 of title 5. For those grades which are not entry level, including those which are entry-level grades for managers and supervisors, the entry salary could not exceed the statutory cap for Level V of the Executive Schedule under section 5316 of title 5.

Compromise agreement: Section 102 would prohibit the establishment of a maximum rate of basic pay for any grade of a covered position greater than the maximum rate of basic pay established for positions in Level V of the Executive Schedule.

Protection of current pay

House bill: No provision.

Senate bill: Section 251 would provide that, when the rate of basic pay for a covered position at a facility is reduced under that section, the basic pay of an employee serving in such a position on the day before the reduction would not be reduced so long as the employee continues to serve in that position at that facility.

Compromise agreement: Section 102 would provide that, in the case of an adjustment that locally reduces the rates of pay for a grade, an existing employee's pay could not be decreased so long as the employee continues to serve in that covered position with the same responsibilities at that facility. If an existing employee is subsequently advanced to a higher step within the same grade or promoted to a higher grade, the employee would be paid at a rate of basic pay not less than the rate applicable to the employee prior to the promotion so long as the employee continues to serve in that covered position at that facility.

Effect of transferring to another facility

House bill: Section 1 of H.R. 1199 would provide that a nurse who transfers from one medical center to another may not be reduced in grade, but his or her rate of basic pay would be established at the new medical center in a manner consistent with the practices of that medical center for a nurse of that grade.

Senate bill: Section 251 would provide that when transferring, voluntarily or otherwise, from one VA medical center to another, a covered employee who continues to hold a position with the same responsibilities, as determined by the CMD, would maintain the step and grade held immediately prior to the transfer, but would be subject to the pay rate attributed to that step and grade in the medical center to which the employee is transferred.

Compromise agreement: Section 102 contains such a provision which is applicable to all employees in covered positions.

Within-grade increases

House bill: Section 1 of H.R. 1199 would provide facility directors with the authority to determine the standards and criteria for within-grade increases, provided that any within-grade increase in the rate of basic pay payable to a nurse would be required to be by one or more step increments.

Senate bill: No provision.

Compromise agreement: Section 102 follows the House bill.

Automatic step increases

House bill: Section 1 of H.R. 1199 would require regulations to provide at least a one-step increase within the nurse's grade not less often than every 2 years that the nurse

holds that grade and performs satisfactorily.

Senate bill: No provision.

Compromise agreement: No provision.

Promotions

House bill: Section 1 of H.R. 199 would require (1) at least a one-step within-grade increase for a nurse for a new assignment which is considered a promotion; and (2) that a nurse promoted to a next higher nurse grade receive a basic pay rate greater than the basic pay rate applicable before the promotion.

Senate bill: No provision.

Compromise agreement: Section 102 would follow the House bill and would also apply to all employees in covered positions.

Merit awards

House bill: Section 1 of H.R. 1199 would provide facility directors with the authority, under regulations prescribed by the Secretary, to give within-grade step increases or pay cash awards to nurses who have qualifications, experience, or achievement which the director determines exceed the standards for the nurse's grade. In making these determinations, a facility director would be required to take into consideration: (1) service with relevant professional committees or groups; (2) service in a responsible office in a professional nursing society; (3) educational attainment including certification; (4) publication of articles in a professional journal; (5) exemplary job performance; and (6) other appropriate evidence of professional stature.

Senate bill: Section 259 would require each nurse, upon recertification in the specialty in which the nurse was working, to be given a lump-sum payment equal to one percent of the nurse's annual salary unless that nurse's last performance rating was less than satisfactory.

In addition, section 264 would (1) require that cash awards analogous to those required by section 5406 of title 5 be paid to title 38 supervisors and managers (including head nurses) who received the highest proficiency rating possible, as determined under criteria promulgated by the Secretary, and would authorize such awards for other title 38 employees; (2) require that such awards range from 2-10 percent of the employee's base annual salary but allow the awards to be increased up to 20 percent of such salary if the employee's performance was unusually outstanding; (3) prescribe the aggregate amount paid for such awards in a manner identical to that prescribed in section 5406(c)(1) of title 5, which establishes the maximum total amount of cash awards as not more than 1.5 percent multiplied by the aggregate amount of basic pay payable to the covered employees in the covered department or agency and the minimum amount as not less than 1.15 percent multiplied by the aggregate amount of basic pay payable to such covered employees; and (4) require the Secretary to establish a cash award program identical to the program under section 5407 of title 5 (which provides for amounts up to \$10,000, or, for outstanding performance, up to \$25,000) for title 38 supervisors and managers in grades comparable to General Schedule grades 13-15 who, by their suggestion, invention, superior accomplishment, or other personal effort, contribute significantly to the Federal government.

Compromise agreement: Section 102 would require VA to award cash bonuses of up to \$2,000 to nurses upon certification in a recognized nursing specialty and would

grant VA the authority to award cash bonuses of up to \$2,000 to covered employees on the basis of achievement and exemplary job performance.

The Committees intend that the Secretary, when awarding bonuses on the basis of achievement, generally utilize the following criteria (derived from those set forth in the House bill): (1) service with relevant professional committees or groups; (2) service in a responsible office in a relevant professional group; (3) educational attainment; (4) publication of articles in a professional journal; and (5) other appropriate evidence of professional achievement.

The compromise agreement would not alter VA's existing authority to provide merit, incentive, or performance step increases.

Head nurse pay increase

House bill: Section 1 of H.R. 1199 would require that any nurse serving in a head nurse position receive, while so serving, a 2-step increase above the step that nurse would otherwise hold, which would have been counted as basic pay for pay and benefit purposes.

Senate bill: Section 255 would require that nurses assigned to the head nurse position for more than 30 days receive a 6-percent differential, the amount of which would be counted as basic pay for pay and benefit purposes.

Compromise agreement: Section 102 follows the House bill. In addition, the compromise agreement would provide that, if the nurse is being paid at the highest or next-to-highest step in a grade at the time the nurse commences service as a head nurse, additional equivalent pay steps would be created in that grade in order to implement the provisions of this section of the bill. Such additional equivalent pay steps may exceed the maximum rate of pay for that grade.

Cost-of-living adjustments

House bill: No provision.

Senate bill: Section 251 would require individual facility directors to ensure that appropriate cost-of-living adjustments (COLA) in rates of pay are provided for years following 1990 unless a director waives, in whole or in part, any adjustment for any year in which such director finds that a COLA is not necessary in order to pay a competitive basic rate of pay.

Compromise agreement: Section 102 would (1) require a facility director to notify the CMD of his or her decisions concerning whether to provide a COLA otherwise available to all Federal employees within 10 days of reaching that decision, and (2) require the Secretary to include in a report required to be submitted to the House and Senate Committees on Veterans' Affairs in February 1992, 1993, and 1994 a description of the provisions of COLAs in VA facilities, explaining, by facility, the percentage of such increases and, in any case in which no increase was made, the basis for not providing an increase.

Overtime rates of pay

House bill: Section 1 of H.R. 1199 would repeal the cap on nurse's overtime earnings so as to provide that a nurse would earn overtime pay at the rate of one-and-one-half times the individual's hourly rate of basic pay.

Senate bill: Section 254 contains an identical provision.

Compromise agreement: Section 103 contains this provision.

Reports

House bill: No provision.

Senate bill: Section 251 would require the Secretary, not later than March 1, 1991, and each year thereafter, to submit an annual report to the Committees containing (1) an assessment of the implementation of the new pay authority and the effect of market-rate adjustments on the ability of VA to recruit and retain health-care professionals; (2) a description of any other legislative actions recommended to assist in recruitment and retention efforts; and (3) if the authority had been used only to adjust nurses' salaries, the reason for not adjusting the salaries of other covered health-care professionals and any plans for doing so in the future.

Compromise agreement: Section 102 would require the Secretary, not later than December 1 of 1991, 1992, and 1993, to submit to both Committees annual reports describing (1) the implementation of the provisions of the compromise agreement and the effect of market-rate adjustments on the Department's ability to recruit and retain health-care personnel; (2) plans for the use of the authorities provided in the compromise agreement during the next fiscal year; (3) rates of basic pay in effect during the immediately preceding fiscal year as well as a comparison with rates in effect during the prior year; (4) the numbers of employees in covered positions who left such positions with the Department during the preceding year, the numbers who left employment at one Department medical facility for employment at another Department facility, and the numbers who changed from full-time to part-time status (and vice versa), and a summary of the reasons therefor; (5) the numbers of vacancies in covered positions and a summary of the reasons for the vacancies; (6) the number of employees who left employment at a Department facility in one BLS labor-market area for employment at a facility in another such area, without changing residence; (7) the justification for any increase in the maximum rate for a grade above 133 percent of the minimum; and (8) the use of the cash bonus authority as created in the provision described above, under the heading "Merit Awards", as well as other authorized performance awards.

As noted above under the heading "Cost-of-Living Adjustments", the compromise agreement would also require the Secretary to submit a second report each year, on February 1 of 1992, 1993, and 1994, describing, by facility, the extent to which pay adjustments are granted at the time of Federal pay adjustments under section 5305 of title 5.

Issuance and content of regulations

House bill: Section 1 of H.R. 1199 would require the Secretary to promulgate regulations which would provide each facility director the authority, without a requirement for prior approval from a higher Department authority, to appoint a nurse at a rate of pay higher than the minimum of the applicable grade but not in excess of the maximum of that grade if the director determines that such action was necessary to (1) provide pay competitive with non-Federal facilities in the same labor market, (2) achieve adequate staffing, or (3) recruit nurses with specialized skills, which are especially difficult or demanding.

Senate bill: Section 251 would require the Secretary, upon the recommendation of the Chief Medical Director, to promulgate regulations providing facility directors maximum flexibility, with minimal documenta-

tion requirements, to establish rates of pay which do not exceed the maximum rate of pay paid by the highest paying surveyed non-Department health-care facility, taking into consideration non-Department health-care facilities' pay and related benefits.

Compromise agreement: Section 102 would require the Secretary, after receiving the recommendations of the Chief Medical Director, to prescribe regulations to carry out the new subchapter that would enable facility directors to exercise the authority accorded to them with regard to pay rates subject to minimal documentation requirements consistent with good administration.

Date for promulgation of regulations and effective dates

House bill: Section 3 of H.R. 1199 would establish an effective date of October 1, 1989.

Senate bill: Section 251 would require (1) the Secretary to prescribe interim final regulations on April 1, 1990, if final regulations were not prescribed by that date; and (2) each facility director to make determinations and establish and adjust rates of basic pay according to section 251 in the event that interim final regulations were not prescribed before April 1, 1990.

Compromise agreement: Section 104 would provide that the foregoing provisions would take effect on the date of enactment except that pay pursuant to those provisions would take effect with respect to the first pay period beginning after April 1, 1991.

Involvement of labor organizations

House bill: No provision.

Senate bill: Section 251 would require (1) the Secretary, when developing the criteria for the conduct of the local compensation surveys, to consult with a representative of each labor organization accorded exclusive recognition under chapter 71 of title 5 for a unit that includes covered employees whose pay is to be established according to such surveys; and (2) the facility director to consult with such representatives on (A) the criteria developed for the conduct of surveys, (B) the director's plans for the collection of data in conducting surveys, and (C) the determinations regarding specific basic-pay rates.

Compromise agreement: No provision.

Freedom of information act

House bill: No provision.

Senate bill: Section 251 would provide that survey information be protected under the Freedom of Information Act (5 USC 552).

Compromise agreement: Section 102 follows the Senate provision.

TITLE II—MISCELLANEOUS

Noninstitutional alternatives to nursing home care

House bill: No provision.

Senate bill: Section 213 would require that (1) VA conduct a 4-year pilot program (with a report due after 3 years) for the purposes of furnishing health, rehabilitative, and (by contract with non-VA entities) health-related services in noninstitutional settings; (2) participation in the program be limited to veterans who are eligible for and otherwise in need of nursing home care and either (A) are receiving or need that care primarily for the treatment of a service-connected disability, or (B) have service-connected disabilities rated at 50 percent or more; (3) VA case managers be used to coordinate and facilitate services contracted for with public and private agencies; and (4) the total cost of

the program during each fiscal year be limited to not more than 65 percent of the total cost that would have been incurred had the veterans involved been furnished with nursing home care instead.

Compromise agreement: Section 201 follows the Senate bill except that the provision would be discretionary.

Sharing of specialized medical resources

Current law: Section 5053(a) of title 38 permits the Secretary to make arrangements, by contract or other form of agreement, between VA hospitals and other hospitals (or other medical installations having hospital facilities or organ banks, blood banks, or similar institutions), medical schools, or clinics in the medical community for the mutual use, or exchange of use, of specialized medical resources when such an agreement will obviate the need for a VA health-care facility to provide a similar resource, or when specialized VA medical resources, while justified on the basis of veterans' care, are not utilized by VA to their maximum effective capacity. Section 5053(b) provides for reciprocal reimbursement based on a charge which covers the full cost of services rendered, and supplies used, and includes normal depreciation and amortization costs of equipment. Any proceeds received therefrom must be credited to the applicable VA medical appropriation.

House bill: No provision.

Senate bill: Section 223 would revise VA's authority to enter into agreements for sharing scarce medical resources so as to (1) expand the categories of facilities with which VA may enter into sharing agreements to include all health-care facilities; (2) delete the requirement that reimbursement rates cover full costs and substitute a standard providing for flexibility in determining reimbursement rates, taking costs into account; and (3) provide that payments for the use of VA resources be returned to the VA facility involved.

Compromise agreement: Section 202 follows the Senate bill.

Temporary full-time and temporary student appointments

Current law: Section 4114 of title 38 provides authority for the appointment of various health-care personnel on a temporary full-time, part-time, or without-compensation basis. Under this authority, VA may employ students who are pursuing academic programs in various health-care occupations and individuals who have completed such programs and are pending registration or licensure. Appointments of students may not exceed one year, except that a student nurse may be reappointed for a second year. Appointments of individuals pending registration or licensure may not exceed one year except that an individual pending registration as a graduate nurse may be appointed for up to two years.

House bill: No provision.

Senate bill: Section 263 would authorize (1) extending, for a period not to exceed the length of an academic program, the temporary full-time appointment of a student who is pursuing an academic degree in respiratory therapy, physical therapy, occupational therapy, pharmacy, or practical or vocational nursing, and (2) extending for a period not exceeding two years the temporary full-time appointment of individuals who have completed a course of training in respiratory therapy, physical therapy, practical or vocational nursing, pharmacy, or occupational therapy, while such individuals are

pending registration or licensure in a State or certification by a national board.

Compromise agreement: Section 203 follows the Senate bill.

Report on post-traumatic stress disorder

Current law: Under section 110(b) of the Veterans Health Care Act of 1984 (Public Law 98-528), the Secretary is required to submit to the Committee on Veterans' Affairs of the Senate and the House of Representatives annual reports regarding the Department's efforts regarding PTSD and to include in such reports the views of the Department's Special Committee on PTSD. The annual reports were required to be submitted no later than February 1 of 1986, 1987, 1988, and 1989. Section 201(e) of the Veterans' Benefits Amendments of 1989 (Public Law 101-237) required the Special Committee on PTSD to submit currently to the Department and the Committees on Veterans' Affairs by February 1, 1990, a report updating the earlier reports.

House bill: Section 201(e) of H.R. 901 would extend for three years (beyond 1989) the reporting requirement of the Secretary.

Senate bill: Section 205 of S. 13 would extend the reporting requirements for three years (beyond 1989) and require that the reports be made directly by the Special Committee on PTSD and that the reports be submitted concurrently to the Department and the Committee on Veterans' Affairs.

Compromise agreement: Section 204 would require the Special Committee to submit a report concurrently to the Department and the Committees on Veterans' Affairs by February 1, 1991.

Educational assistance for health profession students under reserve GI bill

House bill: H.R. 3199 would amend chapter 76 of title 38 to add a new subchapter V which would (1) authorize the Secretary to identify staffing shortages in health professions within the VA and establish a discretionary post-secondary educational assistance program for Montgomery GI Bill-Select Reserve (chapter 106 of title 10, United States Code) participants who major in such health-care professions and agree to work for VA for one year for each year of assistance received; (2) provide that to be eligible for this program the individual must be entitled to benefits under chapter 106 of title 10 and score above the 50th percentile on the Armed Forces Qualification Test; (3) authorize VA to pay a \$400-per-month stipend during the time the student is taking his or her health-related courses to such program participants; and (4) require a participant who does not fulfill his or her obligation with VA to repay the benefit amount, plus interest and penalty, directly to VA beginning on the date of the breach of contract.

Senate bill: No provision. However, section 242 of S. 2100 as reported to the Senate on July 19, 1990 (S. Rpt. No. 101-379) is substantively identical except that it would (1) would require that to be eligible for participation in the program the individual must be receiving benefits under chapter 106 of title 10; (2) require (rather than just authorize) the Secretary to pay a participant a monthly stipend of \$400; (3) require that, if an individual could not complete obligated service as a result of performing active duty, the individual would be permitted to complete obligated service upon completion of active-duty service; and (4) authorize the Secretary to prescribe regulations under which the Secretary could waive the obligated service requirement in cases in which the

Secretary determines that the individual cannot perform the service for reasons beyond the individual's control or that waiver would be in the best interest of the government.

Compromise agreement: Section 205 follows the House bill except that it contains the provisions described in items (3) and (4) of the description of the Senate bill.

Procedures relating to computer matching programs in certain educational assistance programs under titles 38 and 10 of the United States Code

Current law: The continuing eligibility of participants in the Montgomery GI Bill—including both Selected Reserve and Active-Duty components under chapter 106 of title 10, United States Code, and chapter 30 of title 38, respectively—and the Post-Vietnam Era Educational Assistance Program under chapter 32 of title 38 who are using education benefits while still serving in the Reserves or on active duty is periodically verified through the use of a computer match of Defense Department personnel data with VA beneficiary data for these programs. If DoD data reflect changes rendering an individual ineligible, such as termination of Reserve status or a disqualifying discharge from active duty, VA terminates benefit payments.

The Computer Matching and Privacy Protection Act (CMPPA) (Public Law 100-503), generally effective January 1, 1990, requires that Federal beneficiary ineligibility data resulting from computer-data-matching programs be independently verified before benefits may be suspended, terminated, reduced, or denied or other adverse action may be taken against the beneficiary. Section 413(b) of Public Law 101-237 delayed the effective date of Public Law 100-503 until July 1, 1990, with respect to the above-mentioned VA-administered educational assistance programs.

House bill: Section 4 of H.R. 4089 would (a) provide that VA, in lieu of complying with CMPPA requirements, may suspend, terminate, reduce, or make a final denial of an individual's educational assistance under chapter 30 or 32 of title 38 or chapter 106 of title 10, or take other adverse action against the individual, based upon information produced by a computer-data-matching program with DoD, if (1) VA has provided the individual with a written notice containing a statement of the findings based on the matching program, a description of the proposed action, and notice of the individual's right to contest such findings within 10 days (excluding Saturdays, Sundays, and Federal holidays) after the date of the notice, and (2) the 10-day period has expired; and (b) further postpone, until October 1, 1990, the effective date of the CMPPA with respect to those chapters.

Senate bill: No provision.

Compromise agreement: Section 206 contains the House provision with an amendment ratifying actions taken by the Secretary utilizing DoD data during the period beginning July 1, 1990, and ending on the date of enactment.

Vietnam-era GI bill eligibility for certain services academy graduates and senior Reserve Officer Training Corps members

Current law: Public Law 94-502 established the Post-Vietnam Era Veterans Educational Assistance Program (VEAP) (chapter 32 of title 38) for those who entered on active duty after December 31, 1976, and generally closed off the Vietnam-era GI Bill (chapter 34) to those who entered active

duty after December 31, 1976, unless they had previously contracted with the Armed Forces to enter on active duty and were enlisted in or assigned to a reserve component before January 1, 1977, and entered on active duty within 12 months after that date.

House bill: Section 4 of H.R. 1358, effective as of January 1, 1977, would (a) extend chapter 34 eligibility to 1977 and 1978 service academy graduates and 1978 Senior Reserve Officer Training Corps graduates who met the chapter 34 180-day and active-duty character-of-service requirements and, before January 1, 1990, filed an irrevocable election of chapter 34 benefits; (b) make those graduates eligible for refunds of any amount of their unused contributions to the VEAP account; and (c) make those who received educational assistance under chapter 32 eligible for payment of an amount equal to the amount by which chapter 34 benefits for the program pursued exceeded the assistance received under chapter 32 for that program.

Senate bill: No provision. (However, section 336 of S. 2011 (100th Congress) as reported and as passed by the Senate in H.R. 4741 on October 18, 1988, was substantively similar to the House provision, with the additional requirement that, to be eligible for chapter 34, the individual must have enrolled in the chapter 32 program while on active duty.)

Compromise amendment: Section 207 follows the House bill with a modification (1) postponing until January 1, 1992, the deadline for filing an election, and (2) providing for equivalent payments by way of free-standing provisions rather than amendments to title 38.

Limitations on changes of programs of education

Current law: Under section 1791 of title 38, a veteran or other eligible person pursuing education with VA-administered assistance is generally permitted not more than one change of program of education. The Secretary may approve an additional change of program if the Secretary finds—pursuant to the requirements of section 1791(b) (1) and (2)—that (1) the program of education which the individual proposes to pursue is suitable in terms of the individual's aptitudes, interests, and abilities, and (2) in the case of an individual who interrupted or failed to make progress in the pursuit of the prior program, there is a reasonable likelihood that there will not be a recurrence of the interruption or failure to progress. Additional changes of program may not be approved unless the Secretary finds that the change is necessitated by circumstances beyond the individual's control.

Senate bill: Section 319 of S. 13 would amend section 1791 of title 38 so as to (a) repeal the general prohibition against more than two changes of educational program, and (b) in the case of second and subsequent changes of program, permit approval only if (1) the individual accepts educational or vocational counseling services referred to in section 1663 of title 38, and (2) the Secretary determines, on the basis of the results of the educational or vocational counseling, that the change is suited to the individual's aptitudes, interests, and abilities.

House bill: No provision.

Compromise agreement: Section 208 would not amend the law regarding a first change of program but, with respect to second and subsequent changes, would authorize the Secretary to establish a proce-

dures to approve changes of program in cases in which the requirements of current section 1791(b) (1) and (2) are satisfied.

The Committees note that, in designing such a procedure, the Secretary would have a wide range of options, including (a) requiring counseling or making it voluntary; (b) whether counseling is mandatory or voluntary, providing it through the authority in section 1663 of title 38 for contract counseling, possibly through the schools; and (c) requiring counseling in specific situations and making it voluntary in others.

Also, the Committees urge that VA follow through with the oral commitment provided at an August 2, 1989, hearing of the House Committee to find a better definition of the term "change of program" in section 21.4234 of title 38, Code of Federal Regulations.

Naming of Department of Veterans Affairs Medical Center in Saginaw, Michigan

House bill: H.R. 2569 would designate the Department of Veterans Affairs Medical Center in Saginaw, Michigan, as the "Aleda E. Lutz Department of Veterans Affairs Medical Center".

Senate bill: No provision. (However, S. 2145, introduced by Senators Riegle and Levin on February 20, 1990, contains identical language.)

Compromise agreement: Section 209 contains the House provision.

Certain limitations on outside employment for certain employees

Current law: Section 4106(g) of title 38 authorizes VA to apply to certain title 5 employees, i.e., clinical or counseling psychologists, certified or registered respiratory therapists, licensed physical therapists, licensed practical or vocational nurses, pharmacists, and occupational therapists, the provisions authorizing VA to set rates of pay and qualification standards for title 38 employees. The Congress emphasized, in the report language accompanying the legislation which created these "hybrid" occupational groups, that it was its intent not to diminish or impair in any way the rights and protections guaranteed the employees under the express provisions of title 5. These rights and protections include the right to seek employment outside VA.

House bill: Section 102 of H.R. 901 would add a new subsection to section 4108 of title 38 which would clarify that any provision of title 38 limiting employment outside of the Department by an employee of the Department would not apply to a person employed in a title 5/title 38 hybrid position.

Senate bill: No provision.

Compromise agreement: The compromise agreement does not contain this provision.

The Committees note that the limitations on outside employment set forth in section 4108 of title 38 apply only to employees appointed under title 38 and that title 5/title 38 hybrid employees are not covered by these regulations. The Committees urge VA to promulgate personnel policies making clear the status of the hybrid employees in this regard.

Mr. MURKOWSKI. Mr. President, I rise today in strong support of the Senate substitute amendment to H.R. 1199, the proposed Department of Veterans Affairs Nurse Pay Act of 1990. This substitute amendment reflects a compromise agreement which has been reached between the House and Senate Committees on Veterans' Affairs. These provisions of the compromise are derived from bills which have

passed either the House or the Senate in 1989. Additionally, the administration-proposed VA nurse pay bill—S. 2458, as introduced on April 19, 1990—served as a useful tool during consideration of VA nurse pay legislation.

This compromise agreement reflects many months of hard work and negotiations. I believe that it is a sound and well-crafted compromise. I will not describe the provisions in the compromise agreement because they are discussed in detail in the explanatory statement which accompanies the bill.

The House and Senate Committees on Veterans' Affairs have been concerned about the VA's difficulties in recruitment and retention of health professions—especially registered nurses. Nurses play such a vital role in ensuring that our veterans receive timely and quality health care services. I commend their outstanding commitment to this effort. The Department of Veterans Affairs has recognized that they are simply not attracting and retaining adequate numbers of RN's. This shortage of nurses is not unique to the VA however. The private sector and the Department of Defense have similar problems. In this regard, last year both the House and Senate passed legislation to improve VA's ability to recruit and retain nurses. Although it took more time than any of us would have liked, I am pleased that the committees have reached agreement on this vitally important legislation.

The nurse pay provisions establish a mechanism to aid VA facility directors in setting rates of pay which will be competitive in the local labor market. I wish to note that these provisions are designed, in part, to provide the health care facility director with authority and flexibility in establishing rates of basic pay. The director should take into consideration, in deciding whether and to what extent to adjust nurse pay rates, the financial position of the facility and VA's ability to fund such rates. As stated in the explanatory statement: First, the local survey information should be used as a guide in setting rates; and second, VA is not required to increase rates of pay for nurses.

I want to especially note that the agreement contains a provision—section 201—derived from a bill which I have introduced during the past several Congresses—to authorize VA to conduct a 4-year pilot program of providing health, rehabilitative, and health-related services to certain service-connected veterans. These services include homemaker, transportation and assistance with activities of daily living. I intend to work hard to ensure that VA implements this important new authority which will permit certain veterans to remain at home for a longer period of time before illness causes institutionalization.

I also am very pleased that the compromise agreement includes a provision—which is derived from a bill introduced by Congressman CHRIS SMITH as H.R. 3199 and from a similar bill which I introduced (S. 2542)—to provide extended educational assistance to certain individuals who study health professions. Specifically, this provision would authorize VA to establish a new program to provide, in return for agreement for service with VA, post-secondary educational assistance—a \$400 per month stipend—to reservists who are students in health professions and are eligible for educational assistance under the Montgomery GI bill. This provision will provide VA with a cost-effective program to enable them to recruit health professionals.

Mr. President, in conclusion I want to express my appreciation to the chairman of the Veterans' Affairs Committee, Senator ALAN CRANSTON, and the other committee members and their staffs for their valuable contributions on this important legislation. I also thank the leadership of the House Veterans' Affairs Committee—G.V. "SONNY" MONTGOMERY, the chairman, and BOB STUMP, the ranking minority member.

Mr. President, I would be remiss if I did not mention the tremendous efforts of the committees' majority and minority staffs. I appreciate their hard work on this package. First, I thank my own staff which is lead chief counsel and staff director, Alan Ptak, with the assistance of Lisa Moore, Chris Yoder, Vic Reston, Todd Mullins, Janet Klinger, and Carrie Gavora.

Additionally, I wish to recognize the efforts and cooperation of the entire Senate majority staff. However, I want to specifically mention the following individuals who were particularly instrumental in this effort: Ed Scott, Bill Brew, Susan Thaul, Janet Coffman, Charles Lee, and Jon Steinberg, and former staff of the committee Sandi Issacson, and Jodi Epstein.

The staff of the House has been very cooperative, and I wish to acknowledge their hard work. In particular, I thank Mack Fleming, chief counsel and staff director, Pat Ryan, Victor Raymond, Greg Matton, Jill Cochran. From the minority staff, I thank Carl Commonator, minority counsel and staff director, Tina Alvarado, and Kingston Smith. I also express my appreciation to Bob Cover, with the House Legislative Counsel, who did the primary drafting of the final bill.

Mr. President, I believe the House/Senate agreement is fair and was worked out in good faith by all the parties involved. I urge my colleagues to join me in supporting this measure. Thank you, Mr. President.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2511) was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read a third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, shall the bill pass?

So the bill (H.R. 1199), as amended, was passed.

The title was amended so as to read: "An act to amend title 38, United States Code, to establish a system of competitive pay for nurses employed by the Department of Veterans' Affairs, to authorize the Secretary of Veterans' Affairs to make such system applicable to certain other health-care personnel, to make certain improvements in veterans' health and education programs, and for other purposes."

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS ACT OF 1990

Mr. LEVIN. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 698, S. 2753, Developmental Disabilities Assistance and to reauthorize the Bill of Rights.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2753), a bill to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Develop-

mental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—

(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved;" and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with even the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and"

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children, means individuals from birth to age 5, inclusive, who have substantial developmental delay or has specific congenital or acquired conditions with a high probability of resulting in developmental delay if services are not provided."

(2) in paragraph (8), by striking "nondisabled citizens" each place such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities;"

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(6) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(7) in paragraph (12), by striking "and family support services" and inserting "individual, family and community supports";

(8) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142."

(9) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(10) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement in a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance;

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities."

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in

paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting ", the Administration on Children, Youth and Family, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role and activities of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner."

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and inserting "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "October 3, 1988".

SEC. 10. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year";

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f)";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan."

SEC. 11. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 12. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$200,000; and

"(ii) to any other State may not be less than the greater of \$350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds \$65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than \$400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal

year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year, bears to the total amount appropriated under section 130 for such preceding fiscal year."

SEC. 13. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "\$62,200,000" and all that follows through the period at the end thereof and inserting "\$81,270,000 for fiscal year 1991, \$85,335,000 for fiscal year 1992, \$89,600,175 for fiscal year 1993, and \$94,080,190 for fiscal year 1994."

SEC. 14. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking "and" at the end of paragraph (2)(F);

(B) by striking "and" at the end of paragraph (2)(G)(i);

(C) by inserting after clause (ii) of paragraph (2)(G) the following new clauses:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have declined to act on behalf of the person; and

"(iv) any person with a developmental disability who resides in a public facility when as a result of monitoring visits the system has reason to believe that the person may be subject to abuse or neglect"; and

(D) by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" in paragraph (5) and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the clients served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the clients served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise."

SEC. 15. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "\$20,000,000" and all that follows through the period at the end thereof and inserting "\$27,000,000 for fiscal year 1991, \$28,350,000 for fiscal year 1992, \$29,770,000 for fiscal year 1993, and \$31,258,500 for fiscal year 1994."

SEC. 16. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by

the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of \$90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed \$150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(C)(i) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 4 years and are renewable.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a)."; and

(G) by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent

behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, nonprofit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(2) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated."

SEC. 17. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated."; and

(C) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated pro-

gram or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).";

SEC. 18. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated \$11,400,000 for fiscal year 1991, \$12,390,000 for fiscal year 1992, \$13,430,000 for fiscal year 1993 and \$13,429,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated \$7,000,000 for fiscal year 1991, \$8,652,000 for fiscal year 1992, \$10,386,000 for fiscal year 1993, and \$12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).";

SEC. 19. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.";

SEC. 20. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by striking "determine the feasibility and desirability of developing a nationwide information and referral system" and inserting "promote the development of regional and national information and referral networks"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.";

SEC. 21. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated \$3,900,000 for fiscal year 1991, \$4,095,525 for fiscal year 1992, \$4,299,750 for fiscal year 1993, and \$4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2)."

AMENDMENT NO. 2512

Mr. LEVIN. Mr. President, on behalf of Senator HARKIN, I send a substitute amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. HARKIN, proposes an amendment numbered 2512.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

(1) in subsection (a)—
(A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";

(B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and

(C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain unserved or underserved"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraph (2);

(B) by redesignating paragraph (3) as paragraph (8); and

(C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as

such persons share their talents at home, school, and work, and in recreation and leisure time; and"

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place that such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities, and

"(iv) development of friendships and relationships with persons without disabilities";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting ", individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence:

"Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly

parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing

education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan."

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting ", and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of,";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting "the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role, activities, timeliness and evaluation criteria of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner."

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting "supports and other assistance" after "scope of services";

(B) by inserting "or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing,";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased independence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year;"

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f);";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: "and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations.";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor.";

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan."

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof the inserting "by carrying out priority area activities.";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council.";

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$200,000; and

"(ii) to any other State may not be less than the greater of \$350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal year bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds \$65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than \$400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year."

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "\$62,200,000" and all that follows through the period at the end thereof and inserting "\$81,270,000 for fiscal year 1991, \$85,335,000 for fiscal year 1992, \$89,600,175 for fiscal year 1993, and \$94,080,190 for fiscal year 1994."

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act."

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(iii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;" and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause"; and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the individuals served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the individuals served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise."

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "\$20,000,000" and all that follows through the period at the end thereof and inserting "\$27,000,000 for fiscal year 1991, \$28,350,000 for fiscal year 1992, \$29,770,000 for fiscal year 1993, and \$31,258,500 for fiscal year 1994."

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by

the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of \$90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed \$150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, non-profit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D).";

SEC. 19. PART D AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated \$11,400,000 for fiscal year 1991, \$12,390,000 for fiscal year 1992, \$13,430,000 for fiscal year 1993 and \$14,310,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under section 152(b) and 152(c), there are authorized to be appropriated \$7,000,000 for fiscal year 1991, \$8,652,000 for fiscal year 1992, \$10,386,000 for fiscal year 1993, and \$12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b)."

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142."

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated \$3,900,000 for fiscal year 1991, \$4,095,525 for fiscal year 1992, \$4,299,750 for fiscal year 1993, and \$4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent, but not less than \$300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2)."

Mr. HARKIN. Mr. President, I rise today to urge the adoption of an amendment in the nature of a substitute to S. 2753, the Developmental Disabilities Assistance and Bill of Rights Act of 1990. S. 2753, as amended, modifies and extends for 4 years the Developmental Disabilities Assistance and Bill of Rights Act.

S. 2753, as amended, was unanimously ordered reported by the Committee on Labor and Human Resources on June 27, 1990. Cosponsors include Senators DURENBERGER, KENNEDY, HATCH, SIMON, COATS, ADAMS, JEFFORDS, METZENBAUM, AKAKA, BINGAMAN, DODD, DOLE, and COCHRAN. The amendment in the nature of a substitute is offered today in lieu of the officially reported bill because the substitute more accurately reflects the policies agreed to by the committee and described in section IV of Senate Report No. 101-376, "Explanation of the Bill and Committee Views".

Because substantial changes were made to the act in 1987 by Public Law 1460-146, this bill largely clarifies and fine tunes the act in order to further its goals. The bill reaffirms and strengthens Congress' commitment to enable all persons with developmental disabilities, including those with severe disabilities, to achieve independence and inclusion in society.

Programs authorized under this act may be considered small in the scheme of things, but they are programs that make a difference. They are programs that enhance the network of services for people with developmental disabilities by promoting awareness and coordination, setting new directions, and training the new generation of professionals who will work in these programs.

I thank Senator DURENBERGER, the ranking minority member on the Subcommittee on Disability Policy, for all his help and guidance in crafting this legislation. I also thank Senators KENNEDY and HATCH for their contributions to the bill. Special thanks to Sen-

ators METZENBAUM, SIMON, ADAMS, and JEFFORDS for their support of the program.

In addition, I would like to thank the Consortium of Citizens with Disabilities for all their guidance in keeping the Developmental Disabilities Act as cutting edge legislation. Dr. Al Healy, director of Iowa University Affiliated Facilities, Ms. Kim Hurley from Volga, IA, and the other witnesses who testified at the March 1990 hearings.

Special thanks to Mary Richardson and Bob Silverstein of my staff. Mary was with my subcommittee for the past year as a Kennedy Foundation fellow. Her expertise made all the difference in the world in developing a bill that truly enhances the independence, productivity, and integration into the community of people with developmental disabilities.

The Developmental Disabilities Act has four components: The basic State grant program which provides payments to the State developmental disabilities councils; protection and advocacy systems which protect the legal and human rights of persons with developmental disabilities; university affiliated programs which conduct interdisciplinary training, demonstrate exemplary services and technical assistance, and disseminate information; and projects of national significance which promote the independence, productivity, and integration into the community of persons with developmental disabilities.

BASIC STATE GRANT PROGRAM

Under the provisions of the Basic State Grant Program, State planning grants are provided to developmental disabilities councils to assist States to develop and implement comprehensive plans of community based and family centered services for persons with developmental disabilities.

The 1987 amendments to the Developmental Disabilities Act reaffirmed the thrust of the program and included amendments which clarify and strengthen the role of the councils with regard to their advocacy role in their respective States. Council independence was strengthened. Council activities were refocused to include policy analysis and other activities likely to have the greatest effect on the most number of people. Each State planning council was directed to study the effectiveness of federally assisted and State financed programs and to determine how satisfied people with disabilities are with what services they use and to identify groups who are unserved or underserved.

This bill further clarifies the independence of the planning council from the designated State agency with respect to receiving, accounting for, and disbursing funds. The bill also clarifies that planning councils may use Federal funds allocated under this act to

hire council staff, even when a freeze on State hiring exists and that the planning council is responsible for hiring and supervising the director of the council. The bill allows the planning council to issue a request for review of the designated State agency by the Governor.

The bill expands the State plan requirements to assess and, if appropriate, update the findings of the comprehensive study and analysis conducted by planning councils as mandated by the 1987 amendments to the act. The bill further clarifies the primary function of the State planning council as serving as an advocate of persons with developmental disabilities, conducting public policy analysis, and planning.

The bill establishes authorization levels at \$81,270,000 for fiscal year 1991, \$85,335,000 for fiscal year 1992, \$89,600,175 for fiscal year 1993, and \$94,080,190 for fiscal year 1994.

PROTECTION AND ADVOCACY SYSTEMS

As a condition for receipt of a State grant for planning and service coordination, States must have in effect a system to protect and advocate the rights of persons with developmental disabilities. These systems must have the authority to pursue legal and administrative remedies for such persons. They investigate reported incidents of abuse and neglect and provide counseling, and legal services.

The 1987 amendments to the Developmental Disabilities Act added several provisions to enhance the accountability of the protection and advocacy system and ensure particular attention to the needs of members of racial and ethnic minorities who are developmentally disabled. Systems were required to establish a grievance procedure and provide the public with the opportunity to make public comment on the established priorities. Access to records was clarified, as was the authority of the protection and advocacy system to investigate incidents of abuse and neglect if there is probable cause to believe that such incidents occurred.

The bill clarifies the conditions under which protection and advocacy systems have access to records, the process by which the Governor may redesignate the State agency implementing the protection and advocacy system and who may be appointed to a governing board, and reiterates current policy that protection and advocacy systems may bring suit on behalf of persons with developmental disabilities against a State or agencies or instrumentalities of a State.

The bill also clarifies that any amounts paid to the protection and advocacy system as a result of court judgments may be used to further the purposes of the system as set out by the act, and that a system may receive allotments under this act in direct

payment unless they delegate the payment to occur otherwise.

The bill authorizes to be appropriated \$27,000,000 for fiscal year 1991, \$28,350,000 for fiscal year 1992, \$29,770,000 for fiscal year 1993, and \$31,258,500 for fiscal year 1994.

UNIVERSITY AFFILIATED PROGRAMS

University affiliated programs provide interdisciplinary training for students and other persons preparing to work with individuals with developmental disabilities. These programs are an integral part of a college or university, that conduct interdisciplinary training and applied research, demonstrate exemplary services for persons with developmental disabilities, and provide technical assistance to other agencies serving this population. Currently, there are 44 university affiliated programs and 3 satellite centers.

The 1987 amendments to the Developmental Disabilities Act retained the current focus on interdisciplinary training, the demonstration of exemplary services, and technical assistance. A new training grant program was established to focus on issues of growing national significance including early intervention, programs for the elderly, and community based service programs. Opportunities for expansion of the university affiliated program were made possible by permitting universities to apply for funds to study the feasibility of establishing a new university affiliated program or satellite program. States with no university affiliated programs were given priority.

The bill retains the training grant initiative but restructures the programs as a core training award. Grants in the amount of at least \$90,000 may be awarded to applicants submitting proposals that meet quality standards. The grant will be for 3 years, if sufficient funds are available; reapplications for a subsequent period are on a competitive basis. If sufficient funds are available, the Secretary has the discretion to increase the award of the grant to \$150,000, if applications are of sufficient scope and quality so as to address issues of national significance.

Priority areas in early intervention, aging, and community based service programs are retained under the training initiative. New priority areas are created in assistive technology and positive behavior management. An additional priority area is created which allows a university affiliated program, in consultation with the planning council, to develop a priority area that meets a need specific to the State they serve. University affiliated programs that apply for grants under this section must establish a consumer advisory group.

As a means of ensuring quality and accountability, the bill also creates a peer review process and criteria for monitoring training grants and assur-

ing quality programs. In the event that an applicant does not submit a quality application, as determined by peer review, this section provides for the Secretary to utilize unexpended funds to make awards to other university affiliated programs.

The bill also provides for the continued expansion of university affiliated programs to all States. Applicants from States who are not served by a university affiliated program will be given first priority. However, in the event applications of sufficient quality are not received from States who are not served by a university affiliated program, the Secretary may consider applications from States that are served by a university affiliated program or satellite center but not able to serve particular geographic regions of the State, if such applications demonstrate a need.

For the basic core grants, the bill authorizes \$11,400,000 for fiscal year 1991, \$12,390,000 for fiscal year 1992, \$13,430,000 for fiscal year 1993, and \$13,429,000 for fiscal year 1994. For the training core grants, the bill authorizes to be appropriated \$7,000,000 for 1991, \$8,652,000 for 1992, \$10,386,000 for 1993, and \$12,050,000 for 1994.

PROJECTS OF NATIONAL SIGNIFICANCE

Projects of national significance include demonstration, research, and evaluation projects intended to expand and improve services to persons with developmental disabilities. Such projects include: First, data collection; second, support for families of persons with developmental disabilities; third, technical assistance to improve the advocacy, planning and training functions of the programs under this act; and fourth, pursuit of Federal interagency initiatives including employment, pediatric AIDS, and early intervention services for children.

The 1987 amendments to the Developmental Disabilities Act renamed this section, previously titled "Special Projects." A feasibility study of information and referral systems was authorized. Projects to train policymakers, develop an ongoing system, pursue interagency initiatives, and other projects of national size and scope were conducted.

This bill amends the purpose to include data collection and analysis, technical assistance to program components and for the development of information and referral systems, education of policymakers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.

The bill authorizes to be appropriated \$3,900,000 for fiscal year 1991, \$4,095,525 for fiscal year 1992, \$4,299,750 for fiscal year 1993, \$4,514,800 for fiscal year 1994.

I urge the passage of this bill.

Mr. SIMON. Mr. President, I want to thank Senator HARKIN and his staff for their hard work on the reauthorization of the Developmental Disabilities Act. Senator HARKIN is the lead sponsor of this important legislation and chaired the hearing we had on this in late March. His fine work has led to a strong bipartisan bill that was unanimously approved by the Labor and Human Resources Committee earlier this month.

This legislation guarantees support services for individuals with developmental disabilities. Programs offered under this act include employment services; community living options; early intervention; protection and advocacy; and technical assistance and training through university affiliated programs.

There are more than 2 million individuals with developmental disabilities in the United States. It is vital that we help provide the support they need to lead full and productive lives. This bill is designed to expand and improve services that help them achieve greater independence, productivity, and integration into the community.

Senator HARKIN is someone who looks at abilities rather than disabilities. He continually works to help people recognize and achieve their maximum potential. I commend him for his efforts. I am proud to be a cosponsor of this legislation, and I look forward to its swift passage.

Mr. KENNEDY. Mr. President, I am pleased to join Senator HARKIN in urging passage of S. 2753, the Developmental Disabilities Assistance and Bill of Rights Act. Originally created in 1970, the developmental disabilities programs reauthorized in this legislation are the only Federal programs which address the comprehensive needs of persons with developmental disabilities. The State grants, the protection and advocacy system, and the university affiliated programs provide essential assistance to individuals with developmental disabilities.

This legislation increases the authorization for the Basic State Grant Program to help State planning councils provide policy analysis, planning, and advocacy, and ensure comprehensive services for persons with developmental disabilities. The funds authorized under this block grant are needed to expand services to 3 million developmentally disabled individuals in the United States, many of whom remain underserved.

The additional funds authorized for the protection and advocacy system will enable persons who are developmentally disabled to enjoy improved services in their communities. The bill also provides additional authorization for university affiliated programs, so that institutions of higher education

can provide interdisciplinary training for more persons serving those with developmental disabilities. Finally, the bill authorizes demonstration projects to support the independence, productivity, and integration of persons with developmental disabilities.

In a sense, this legislation goes hand in hand with the historic Americans with Disabilities Act signed into law by President Bush last Thursday. The Nation is becoming increasingly aware of the needs and capabilities of citizens with disabilities and this measure will provide additional resources and program improvements to enable them to fulfill their potential. I urge my colleagues to join me in supporting S. 2753.

Mr. HATCH. Mr. President, I am pleased to support the legislation before us today which will fine tune the programs established under the Developmental Disabilities Assistance and Bill of Rights Act.

Since 1976, I have seen tremendous growth and progress in the field of developmental disabilities. The Developmental Disabilities Assistance and Bill of Rights Act was originally enacted to coordinate and provide necessary services to the more severely handicapped persons. It has helped to eliminate gaps in services, especially in rural and previously underserved regions.

The Developmental Disabilities Program is divided into four major components consisting of State grants, protection and advocacy, special projects, and university affiliated programs. Each has a major function in the provision of services to 4 million persons with developmental disabilities, 30,000 of which reside in my State of Utah.

I continue to support the important role the Federal Government plays in assisting the States with planning, coordinating, and monitoring these essential services. I also support providing research, training, and other necessary services for this special population.

I want to commend my colleagues, Senator HARKIN, Senator DURENBERGER, and Senator KENNEDY as well as the other cosponsors of this legislation for their hard work in preparing this legislation which will help these programs be even more responsive in addressing the needs of our disabled citizens.

Mr. President, I urge the support of all of my colleagues for this important bill.

Mr. JEFFORDS. Mr. President, I rise in support of S. 2753, the Reauthorization of the Developmental Disabilities Act of 1990.

We are entering a new era of recognition of the rights of individuals with disabilities. Just last week, the President signed into law the most far reaching bill yet to be enacted guaranteeing equal rights to disabled persons. The bill, long overdue, is a dramatic

and historic step to assuring full participation by individuals with disabilities into everyday life.

S. 2753, while no less important, is not a new bill. The Developmental Disabilities Act was first enacted in 1971 to assure that all persons with developmental disabilities receive legal protection and comprehensive services through planning and coordination at the State level. The bill further provides money for university-affiliated programs to provide interdisciplinary training for individuals preparing to serve individuals with developmental disabilities.

The DD Act has had a noticeable effect on my own State of Vermont in which there are approximately 9,000 developmentally disabled individuals. Last year, the University Affiliated Program, or UAP, section of the DD Act provided the University of Vermont with funds to continue its program in technical assistance and training. The program provides university course credits for those who wish to work with the developmentally disabled. It further supplies resources for parents, teachers and advocates for the disabled through statewide and regional teams which provide information dissemination, summer institutes and workshops. These workshops have been particularly successful in training individuals to work with infants as well as assist in the transition from special education classrooms to integrated classroom.

The DD Act further provides funds for a State planning council which has the responsibility of establishing a State plan which must outline the major unmet service needs of persons with developmental disabilities and identify services to be provided. In 1989, Vermont's planning council provided grant money to a number of important projects. Among them were: the Employment Transition Project, which assists individuals in the transition from school to work; the Unique Housing Project, which is a cooperative attendant care home run solely by the developmentally disabled, and the Project for the Rights of Individuals with Developmental Disabilities.

As successful as these programs are, a number of unmet needs still exist. Transportation, housing and employment for the developmentally disabled are severely lacking in Vermont. So, too, are resources with which to coordinate services. Under the Act, each State, receives a Federal allotment for its planning council. Eighteen of the smaller States receive an amount determined by law which has only increased \$150,000 over 10 years—an insufficient increase to keep pace with the rising needs and costs associated with caring for the developmentally disabled.

During committee consideration of the DD Act an amendment was accept-

ed to increase the allotment for the 18 minimum funded states and territories. This amendment will allow these States to receive a \$50,000 increase in their allotment upon a \$6.5 billion overall appropriation. The 1990 reauthorization, like those in the past, adds responsibilities and increases the work load for State planning councils. In order to comply with the law and adequately assist those with developmental disabilities, the increase is crucial. I am glad this amendment was accepted and wish to thank the chairman and the subcommittee staff for their assistance in this matter.

Finally, the DD Act to provides funds to the Developmental Disabilities Law Project whose basic mission is to pursue legal, administrative and other appropriate remedies to ensure that persons with developmental disabilities receive appropriate care and treatment.

The law project is a completely autonomous unit, independent of any agency that provides services to persons with developmental disabilities including the State's developmental disabilities council. The project thus can fairly represent the rights of developmentally disabled even in those cases in which the State is the defendant. Such a reassurance has provided many Vermont families with developmentally disabled children a needed security and comfort in the knowledge that fair legal aid is available to them.

In Vermont, the DD Act has provided essential funds for the ongoing efforts to improve access, training, technical assistance and information dissemination for those with developmental disabilities. Reauthorization of this program puts the Federal Government firmly on the record as a strong advocate for the rights and privileges of those with disabilities. More still needs to be done, but this bill takes a firm and consistent step forward in this regard. I am happy to be a cosponsor of the bill and urge my colleagues to support it.

Mr. DURENBERGER. Mr. President, I rise to support S. 2753 the Developmental Disabilities Assistance and Bill of Rights Act of 1990.

This bill reauthorizes and makes several important improvements to the Developmental Disabilities Assistance and Bill of Rights Act (Public Law 100-146). Although this little known act provides less than 2 percent of the total Federal funding for persons with developmental disabilities, it plays a significant role in shaping and guiding services for persons with developmental disabilities. It is, in essence, the engine that drives services and the glue that holds the system together.

The Developmental Disabilities Act assists States in ensuring people with developmental disabilities receive the services and other assistance they

need to achieve independence, productivity, and integration into the community. It is carried out through four basic program components: the basic State grants made to States for planning coordination and administration of services; the Protection and Advocacy [P&A] system to protect and advocate for the rights of persons with developmental disabilities; the University Affiliated Programs [UAP] to carry out interdisciplinary training research and demonstrations and technical assistance; and the Projects of National Significance which expands and improves priority area services.

The last reauthorization required each State to prepare a report which analyzed current status of services to persons with developmental disabilities and the barriers to achievement of independence, productivity, and integration. Because of the due date of January 1, 1990, these reports were soon labeled the "1990 Reports." The 1990 reports contributed significantly to our understanding of the state of affairs in providing services to persons with disabilities and helped shape the legislation before us today. These reports showed that this act has been successful in establishing the foundation for providing support services to persons with developmental disabilities and their families and in promoting its goal of independence, productivity, and integration. The reports also showed that there are still areas where improvement is needed. Most significantly the reports illustrated that there are still pockets of underserved and underserved individuals, and that there is still a gap between what we know to work and current practice.

The bill before us today does not make radical changes to the current act. That is not needed. Instead, it focuses on fine-tuning the act to help bring the state of practice in line with the state of the art. The Minnesota 1990 report mentions the importance of early and appropriate intervention for children with developmental disabilities. S. 2753 amends the definition of developmental disabilities by breaking down the eligibility criteria to make it more age-appropriate for infants and toddlers. I believe this change will improve our ability to reach children at an early age.

In addition, the Minnesota 1990 report mentioned the problem of underserved and underserved populations. This bill makes several changes to ensure these populations are given adequate consideration and are not overlooked.

The goal of the Developmental Disabilities Act to achieve independence, productivity, and integration has been the guiding force not only for this legislation but for all disability policy. But being independent and living fully in the community goes beyond those three words, it means inclusion into

the community and being a part of the community in all aspects of life. That is why I am pleased that this legislation has followed Minnesota's lead in extending this goal to promote inclusion and independent activity of persons with developmental disabilities and to recognize the contributions of all persons with developmental disabilities at home, school, work, and in recreation and leisure.

Several States mentioned problems associated with defining the appropriate role for the Developmental Disability Council. This legislation makes several technical and clarifying changes to better define the relationship between the council and the State agency and the authority of the council over the director.

In response to limited numbers of instances where a guardian abuses or neglects an individual with a developmental disability, causing a serious threat to the health and safety of the individual, the bill gives greater authority to the P&A's to intervene. The bill also increases accountability and local discretion for the UAP's, and expands the priority categories to include behavior management and technology. Because of the extraordinary work that has come out of the Minnesota UAP Program in the area of behavior management I am particularly encouraged by this addition and the opportunity this brings to broaden our efforts in this field.

Mr. President, the continued support of the programs under the Developmental Disabilities Act will be critical if we are to ensure the rights granted under the Americans with Disabilities Act—just signed into law by President Bush—are not gone to waste by a system that does not facilitate independence, productivity, and integration.

Mr. President, in preparing for this reauthorization, it was appropriate to ask about the prevalence of developmental disabilities and the needs, activities and service use of these individuals. However, in asking these questions I found that such data is not available. While such a survey or study is beyond the scope of this reauthorization, it is my hope that the Secretary will look closely at such a project to assist with program needs and with the next reauthorization cycle of this act.

Finally, Mr. President, I would like to thank my distinguished colleague, and chairman of the Subcommittee on Disability Policy, for the cooperation he has shown in working with me, the administration, and many others on this legislation. The bill before us is the product of many hours of his time trying to ensure a balanced and bipartisan effort. While there are many people in my own State who have assisted me with this bill, I would especially like to thank Colleen Wieck,

Charlie Lakin, Jan Jenkins and Sue Abderholden for their tireless support and devotion to bettering the lives of all persons with developmental disabilities.

Mr. President, I urge all my colleagues to support this bill.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2512) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 2753

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act of 1990".

SEC. 2. REFERENCE.

Except as otherwise provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

SEC. 3. FINDINGS AND PURPOSES.

Section 101 of the Act is amended—

- (1) in subsection (a)—
 - (A) by striking "there are more than two" in paragraph (1) and inserting "in 1990 there are more than three";
 - (B) by redesignating paragraphs (7) and (8) as paragraphs (8) and (9), respectively; and
 - (C) by inserting after paragraph (6) the following new paragraph:

"(7) a substantial portion of persons with developmental disabilities remain underserved or underserved;" and
- (2) in subsection (b)—
 - (A) by striking "and" at the end of paragraph (2);
 - (B) by redesignating paragraph (3) as paragraph (8); and
 - (C) by inserting after paragraph (2) the following new paragraphs:

"(3) to provide interdisciplinary training and technical assistance to professionals, paraprofessionals, family members, and individuals with developmental disabilities;

"(4) to advocate for public policy change and community acceptance of all people with developmental disabilities and their

families so that such persons receive the services, supports and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity and integration into the community;

"(5) to promote the inclusion of all persons with developmental disabilities, including persons with the most severe disabilities, in community life;

"(6) to promote the interdependent activity of all persons with developmental disabilities, including persons with the most severe disabilities;

"(7) to recognize the contribution of all persons with developmental disabilities as such persons share their talents at home, school, and work, and in recreation and leisure time; and".

SEC. 4. DEFINITIONS.

Section 102 of the Act is amended—

(1) in paragraph (5)—

(A) by inserting "5 years of age or older" after "of a person"; and

(B) by striking the period at the end thereof and inserting a semicolon and the following:

"except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.";

(2) in paragraph (8), by striking "nondisabled citizens" each place that such appears and inserting "citizens without disabilities";

(3) in subparagraph (A) of paragraph (8)—

(A) by striking "and" at the end of clause (i);

(B) by inserting "and integrated employment," after "activities" in clause (ii); and

(C) by inserting before the matter at the end of subparagraph (A) the following new clauses:

"(iii) use of the same community resources by persons with developmental disabilities living, learning, working, and enjoying life in regular contact with citizens without disabilities; and

"(iv) development of friendships and relationships with persons without disabilities.";

(4) in subparagraph (B) of paragraph (8), by striking "or in home-like settings";

(5) in paragraph (9), by striking "specialized services or special adaptation of generic services" each place such appears and inserting "special adaptation of generic services or specialized services";

(6) in clause (iv) of paragraph (9)(B)—

(A) by striking "models" and inserting "approaches, strategies"; and

(B) by inserting "Federal, State and local" before "policymakers";

(7) in paragraph (10), by striking "case management" and inserting "system coordination and community education";

(8) in paragraph (12), by striking "and family support services" and inserting "individual, family and community supports";

(9) in subparagraph (B) of paragraph (17), by inserting "and their families" after "disabilities" each place such appears;

(10) by striking paragraph (21) and inserting the following new paragraph:

"(21) The term 'protection and advocacy system' means a protection and advocacy system established in accordance with section 142.";

(11) in paragraph (22), by inserting at the end thereof the following new sentence: "Such term includes assistive technology devices and assistive technology service."; and

(12) by inserting at the end thereof the following new paragraphs:

"(24) The term 'family support service' means services, supports, and other assistance provided to families with members with developmental disabilities, that are designed to—

"(A) strengthen the family's role as primary caregiver,

"(B) prevent inappropriate out of the home placement and maintain family unity, and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, assistive technology, personal assistance, parent training and counseling, support for elderly parents, vehicular and home modifications, and assistance with extraordinary expenses associated with the needs of the person with a developmental disability.

"(25) The term 'individual supports' means services, supports, and other assistance that enable persons with developmental disabilities to be independent, productive, and integrated into their communities, and that are designed to—

"(A) enable the person to control his or her environment, permitting the most independent life possible,

"(B) prevent placement into a more restrictive living arrangement than is necessary, and

"(C) enable the person to live, learn, work, and enjoy life in the community.

Such term includes personal assistance services, assistive technology, vehicular and home modifications, support at work, and transportation.

"(26) The term 'community supports' means providing activities, services, supports, and other assistance to persons with developmental disabilities, and the families and communities of such persons, that are designed to—

"(A) assist neighborhoods and communities to be more responsive to the needs of persons with developmental disabilities and their families,

"(B) develop local networks which can provide informal support, and

"(C) make communities accessible and enable communities to offer their resources and opportunities to persons with developmental disabilities and their families.

Such term includes community education, personal assistance services, vehicular and home modifications, support at work, and transportation.

"(27) The term 'system coordination and community education activities' means activities that—

"(A) eliminate barriers to access and eligibility for services, supports, and other assistance,

"(B) enhance systems design and integration including the encouragement of the creation of local case management and information and referral statewide systems, and

"(C) enhance individual, family and citizen participation and involvement.

"(28) The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified or customized, that is used to increase, maintain, or improve functional capabilities of a person with a developmental disability.

"(29) The term 'assistive technology service' means any service that directly assists a person with a developmental disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the needs of a person with a developmental disability, including a functional evaluation of the person in the person's customary environment;

"(B) purchasing, leasing or otherwise providing for the acquisition of assistive technology devices by a person with a developmental disability;

"(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing or replacing assistive technology devices;

"(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as therapies, interventions or services associated with existing education and rehabilitation plans and programs;

"(E) training or technical assistance for a person with developmental disabilities, or, where appropriate, the family of a person with a developmental disability; and

"(F) training or technical assistance for professionals (including persons providing education and rehabilitation services), employers, or other persons who provide services to, employ, or are otherwise substantially involved in the major life functions of a person with developmental disability.

"(30) The term 'prevention' means activities which address the causes of developmental disabilities and the exacerbation of functional limitations, such as activities which—

"(A) eliminate or reduce the factors which cause or predispose persons to developmental disabilities or which increase the prevalence of developmental disabilities;

"(B) increase the early identification of existing problems to eliminate circumstances that create or increase functional limitations; and

"(C) mitigate against the effects of developmental disabilities throughout the person's lifespan.";

SEC. 5. FEDERAL SHARE.

Section 103 of the Act is amended—

(1) in subsection (a), by striking "located" and inserting "whose activities or products target people who live";

(2) in subsection (b) by striking "is located" and inserting "activities or products target people who live"; and

(3) in subsection (c) by inserting "part B of" before "this".

SEC. 6. REPORTS.

Section 107 of the Act is amended—

(1) in subsection (a)—

(A) by striking "each annual survey" and all that follows through the semicolon in paragraph (4) and inserting "any intermediate care facility for the mentally retarded in such State, and with respect to each annual survey report prepared pursuant to section 1902(a)(31)(C) of the Social Security Act and each correction or reduction plan prepared pursuant to section 1922 of such Act"; and

(B) in paragraph (5)—

(i) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of and with";

(ii) by inserting "particularly unserved and underserved groups," after "impairments,"; and

(iii) by striking "that the State Planning Council may identify under sections 122(b)(3) and 122(f)" and inserting "and a summary of actions taken to improve access to and services for unserved and underserved groups that the State Planning Council may have identified";

(2) in subsection (c)(1)—

(A) by striking "April" and inserting "July"; and

(B) by striking "the Handicapped" and inserting "Disability"; and

(3) in subsection (c)(1)(C)—

(A) by striking "and advocacy for," and inserting "advocacy for, and other actions on behalf of";

(B) by inserting "particularly unserved or underserved groups," after "impairments,";

(C) by striking "may identify" and inserting "has identified"; and

(D) by inserting ", and a summary of actions taken to improve access to services for such groups" before the semicolon.

SEC. 7. RESPONSIBILITIES OF THE SECRETARY.

Section 108(b) of the Act is amended—

(1) by inserting ", the Administration on Children, Youth and Families, the Administration on Aging, and the Health Resources and Services Administration" after "Developmental Disabilities"; and

(2) by inserting at the end thereof the following: "Such interagency committee shall provide to Congress within 90 days of the implementation of the Developmental Disabilities Assistance and Bill of Rights Act of 1990 and annually thereafter an agenda and description of activities for addressing issues and topics of national concern, based on findings from the report conducted pursuant to section 122(f). The agenda shall designate the issues to be addressed for the coming year and the action plan shall specify the role, activities, timeliness and evaluation criteria of each participating agency regarding each issue. All interagency committee meeting dates and agendas shall be made available to the public in a timely manner."

SEC. 8. EMPLOYMENT.

Section 109 of the Act is amended by striking "1972" and "1973".

SEC. 9. RIGHTS OF PERSONS WITH DEVELOPMENTAL DISABILITIES.

Section 110(4)(A) of the Act is amended by striking "January 17, 1974 (30 Fed. Reg. pt. II)" and inserting "June 3, 1988".

SEC. 10. PURPOSE.

Section 121 of the Act is amended by inserting "and their families" before "through the conduct of".

SEC. 11. STATE PLAN.

Section 122 of the Act is amended—

(1) in subparagraph (B) of subsection (b)(1), by inserting after the first sentence the following new sentence: "Such designated State agency shall, on behalf of the State receive and account for funds, and at the direction of the State Planning Council, disburse funds pursuant to part B, and shall provide administrative support services to the State Planning Council.";

(2) in subparagraph (C) subsection (b)(2)—

(A) by inserting ", supports and other assistance" after "scope of services";

(B) by inserting ", or policies affecting," before "federally";

(C) by inserting "or may be" before "eligible to";

(D) by inserting "child welfare," after "social services";

(E) by inserting "transportation, technology," after "housing";

(F) by striking "other plans" and inserting "other programs"; and

(G) by striking "and (ii)" and inserting "(ii) the extent to which such federally assisted State programs develop and pursue interagency initiatives aimed at improving and enhancing services, supports and other assistance, which result in increased inde-

pendence, productivity, and integration into the community for persons with developmental disabilities, and (iii)";

(3) in paragraph (2) of subsection (b)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively;

(B) by inserting "and their families" after "disabilities" in subparagraph (C)(iii) (as so redesignated); and

(C) by inserting after subparagraph (C) the following new subparagraph:

"(D) assess, and if appropriate, update the findings of the report conducted pursuant to subsection (f), and report on any progress achieved concerning issues identified in the report conducted pursuant to such subsection in the previous fiscal year";

(4) in subparagraph (B) subsection (b)(5)—

(A) by redesignating clauses (iii) through (vi) as clauses (v) through (viii), respectively; and

(B) by inserting after clause (ii) the following new clauses:

"(iii) an analysis of the special and common needs of all subpopulations of persons with developmental disabilities;

"(iv) consideration of the report conducted pursuant to subsection (f)";

(5) in clause (i) of subsection (b)(5)(D)—

(A) by striking "and the implementation" and inserting "the implementation"; and

(B) by striking the period at the end and inserting in lieu thereof the following: ", and activities which address the implementation of recommendations made in the report described in subsection (f), including recommendations which address unserved and underserved populations";

(6) in paragraph (1) of subsection (d)—

(A) by striking "administration of the State Plan approved under this section" and inserting "exercise of the functions of the State designated agency";

(B) by striking "all of the State agencies designated under subsection (b)(1)(B) for the administration or supervision of the administration of the State plan" and inserting "the State agency designated under subsection (b)(1)(B)"; and

(C) by inserting at the end thereof the following new sentence: "State contributions pursuant to this paragraph may be counted as part of such State's non-Federal share of allotments under this part.";

(7) by adding at the end of subsection (e) the following new paragraph:

"(5) After October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated State agency by the Governor."; and

(8) by striking paragraphs (4) and (5) of subsection (f) and inserting the following new paragraph:

"(4) Each State Planning Council shall utilize the information developed pursuant to paragraphs (1), (2), and (3) in developing the State plan."

SEC. 12. STATE PLANNING COUNCILS.

Section 124 of the Act is amended—

(1) in subsection (a)—

(A) by striking "which will" and inserting "to"; and

(B) by striking the period at the end thereof and inserting "by carrying out priority area activities";

(2) in paragraph (1) of subsection (c)—

(A) by striking "may" and inserting "shall"; and

(B) by striking "hire" and inserting "fund all activities under this part (except administrative costs described in section 122(d)(1)) and to hire";

(3) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (3); and

(B) by inserting after paragraph (1) the following new paragraph:

"(2) Each State Planning Council shall, consistent with State law, hire a Director of the State Planning Council who shall be supervised and evaluated by the State Planning Council and who shall hire and supervise the staff of the State Planning Council."; and

(4) in paragraph (1) of subsection (d) by striking "jointly with" and inserting "and submit after consultation with".

SEC. 13. STATE ALLOTMENTS.

Paragraphs 3, 4, 5 and 6 of subsection (a) of section 125 of the Act are amended to read as follows:

"(3)(A) Except as provided in paragraph (4), for any fiscal year the allotment under paragraph (1)—

"(i) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$200,000; and

"(ii) to any other State may not be less than the greater of \$350,000 or the amount of the allotment (determined without regard to subsection (d)) received by the State for the fiscal year ending September 30, 1990.

"(B) Notwithstanding subparagraph (A), if the aggregate of the amounts to be allotted to each State pursuant to subparagraph (A) in any fiscal year exceeds the total amount appropriated under section 130 for such fiscal year, the amount to be allotted to a State for such fiscal year shall be an amount which bears the same ratio to the amount which is to be allotted to the State pursuant to such subparagraph as the total amount appropriated under section 130 for such fiscal years bears to the total of the amount required to be appropriated under such section for allotments to provide each State with the allotment required by such subparagraph.

"(4) In any case in which amounts appropriated under section 130 for a fiscal year exceeds \$65,000,000, the allotment under paragraph (1) for such fiscal year—

"(A) to each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, or the Republic of Palau may not be less than \$210,000; and

"(B) to each of the several States, Puerto Rico or the District of Columbia may not be less than \$400,000.

"(5) In determining, for purposes of paragraph (1)(B), the extent of need in any State for services for persons with developmental disabilities, the Secretary shall take into account the scope and extent of the services described, pursuant to section 122(b)(2)(C), in the State plan of the State.

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any

increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year, bears to the total amount appropriated under section 130 for such preceding fiscal year."

SEC. 14. PART B AUTHORIZATION OF APPROPRIATIONS.

Section 130 of the Act is amended by striking "\$62,200,000" and all that follows through the period at the end thereof and inserting "\$81,270,000 for fiscal year 1991, \$85,335,000 for fiscal year 1992, \$89,600,175 for fiscal year 1993, and \$94,080,190 for fiscal year 1994."

SEC. 15. SYSTEM REQUIRED.

Section 142 of the Act is amended—

(1) in subsection (a)—

(A) by striking subparagraph (C) of paragraph (2) and inserting the following new subparagraph:

"(C) on an annual basis, develop a statement of objectives and priorities, and provide to the public, including persons with disabilities and their representatives, as appropriate, the developmental disability council and the university affiliated program (if applicable within a State), an opportunity to comment on the objectives and priorities established by, and activities of, the system, including—

"(i) the objectives and priorities for the system's activities for each year, and the rationale for the establishment of such objectives; and

"(ii) the coordination with the advocacy programs set out in the Rehabilitation Act of 1973, the Older Americans Act of 1965, and the Protection and Advocacy for the Mentally Ill Act."

(B) by striking "and" at the end of clause (i) of paragraph (2)(G);

(C) by inserting "as a result of monitoring or other activities" before "there is" in subclause (III) of paragraph (2)(G)(ii) by—

(D) by inserting "and" at the end of paragraph (2)(G)(iii)(III);

(E) by inserting after clause (ii) of paragraph (2)(G) the following new clause:

"(iii) any person with a developmental disability who has a legal guardian, conservator, or other legal representative with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe the health or safety of the individual is in serious and immediate jeopardy whenever—

"(I) such representatives have been contacted by such system upon receipt of the name and address of such representatives;

"(II) such system has offered assistance to such representatives to resolve the situation; and

"(III) such representatives have failed or refused to act on behalf of the person;" and

(F) in paragraph (5), by striking "unless notice has been given of the intention to make redesignation to persons with developmental disabilities or their representatives" and inserting "unless—

"(A) notice has been given of the intention to make such redesignation to the agency that is serving as the system including the good cause for such redesignation and the agency has been given an opportunity

to respond to the assertion that good cause has been shown;

"(B) timely notice and opportunity for public comment in an accessible format has been given to persons with developmental disabilities or their representatives; and

"(C) the system has the opportunity to appeal to the Secretary that the redesignation was not for good cause;" and

(2) in subsection (b)(2), by striking "the Secretary may" and inserting "the Secretary shall"; and

(3) by adding at the end thereof the following new subsections:

"(d) In States in which the system is organized as a private nonprofit entity with a multimember governing board, or a public system with a multimember governing board, such governing board shall be selected according to the policies and procedures of the system. Such governing board shall be composed of—

"(1) members (to be selected not later than 60 days following a vacancy) who broadly represent or are knowledgeable about the needs of the individuals served by the system; and

"(2) in the case of a governing authority organized as a private nonprofit entity, members who broadly represent, or are knowledgeable about, the needs of the individuals served by the system.

"(e) As used in this section the term 'records' includes reports prepared or received by any staff of a facility rendering care or treatment, or reports prepared by an agency or staff person charged with investigating reports of incidents of abuse or neglect, injury or death occurring at such facility that describes incidents of abuse, neglect, injury or death occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(f) If the laws of a State prohibit a system from obtaining access to records of persons with developmental disabilities the provisions of subparagraph (A) of paragraph (2) of subsection (a) shall not apply to such system before—

"(1) the date such system is no longer subject to such prohibition; or

"(2) the expiration of the 1-year period beginning on the date of enactment of this Act, whichever occurs first.

"(g)(1) Nothing in this Act shall preclude the systems described under this section from bringing a suit on behalf of persons with developmental disabilities against a State, or agencies or instrumentalities of a State.

"(2) Amounts received pursuant to paragraph (1) through court judgments and used by the system are limited to furthering the purpose of this part and shall not be used to augment payments to legal contractors or to award personal bonuses.

"(h) Notwithstanding any other provision of law, the Secretary shall pay directly to any system which complies with the provisions of this section the amount of such system's allotment under this section, unless the system delegates otherwise."

SEC. 16. PART C AUTHORIZATION OF APPROPRIATIONS.

Section 143 of the Act is amended by striking "\$20,000,000" and all that follows through the period at the end thereof and inserting "\$27,000,000 for fiscal year 1991, \$28,350,000 for fiscal year 1992, \$29,770,000 for fiscal year 1993, and \$31,258,500 for fiscal year 1994."

SEC. 17. GRANT AUTHORITY.

Section 152 of the Act is amended—

(1) in subsection (b)(1)—

(A) by striking "sufficient size and scope" in subparagraph (A);

(B) by striking "and community-based" in subparagraph (A) and inserting "community-based"; and

(C) by striking the period at the end of subparagraph (A) and inserting the following: ", positive behavior management programs (as described in paragraph (5)), assistive technology programs (as described in paragraph (6)) and programs in other areas of national significance as determined by the university affiliated program, in consultation with the State Planning Council (as described in paragraph (7)).";

(D) by striking subparagraph (B);

(E) by redesignating subparagraph (C) as subparagraph (F);

(F) by inserting after subparagraph (A) the following new subparagraphs:

"(B)(i) Grants awarded under this subsection shall be in the amount of \$90,000.

"(ii) The Secretary may waive the provisions of clause (i) and award grants under this subsection in an amount which does not exceed \$150,000, if the Secretary determines that such grants are of such sufficient scope and quality so as to address issues of national significance as identified in the report conducted pursuant to section 122(f).

"(iii) If an appropriately convened peer review panel determines that applications submitted by university affiliated programs for training programs under this part in any fiscal year insufficiently address quality criteria established under subparagraph (D), the Secretary shall, pursuant to regulations issued under this Act, award any amounts available for carrying out the purposes of this section to other university affiliated programs which the Secretary determines will use the funds in accordance with subsection (b)(1)(B)(ii). The Secretary may make such awards for a period not to exceed 3 years to applicants whose applications are determined to be of minimal quality by peer review, notwithstanding the provisions of (b)(1)(B)(i).

"(C) Grants under this section shall be awarded on a competitive basis. Grants awarded under this section shall be awarded for a period of 3 years.

"(D) The Secretary shall require appropriate technical and qualitative peer review of applications for assistance under this subsection by peer review groups as established under section 153(e)(4) using the following criteria:

"(i) The university affiliated program shall present evidence that core training assisted by funds awarded under this section is—

"(I) competency and value based;

"(II) designed to facilitate independence, productivity and integration for persons with developmental disabilities; and

"(III) evaluated utilizing state of the art evaluation techniques in the programmatic areas selected.

"(ii) Core training shall—

"(I) represent state-of-the-art techniques in areas of critical shortage of personnel which are identified through consultation with the citizens advisory group designated pursuant to subsection (f) and the State Planning Council;

"(II) be conducted in consultation with the citizens advisory group designated under subsection (f) and the State developmental disabilities planning council;

"(III) be integrated into the appropriate university affiliated program and university curriculum;

"(IV) be integrated with relevant State agencies in order to achieve an impact on statewide personnel and service needs;

"(V) to the extent practicable, be conducted in environments where services are actually delivered; and

"(VI) to the extent possible, be interdisciplinary in nature.

"(E)(i) Grants awarded under this subsection shall not be used for administrative expenses.

"(ii) Grants awarded under this subsection shall not be used to carry out the provisions of subsection (a).";

(2) in subsection (b), by adding at the end thereof the following new paragraphs:

"(5) Grants awarded under this subsection for training projects with respect to positive behavior management intervention programs shall be for the purpose of assisting university affiliated programs in providing training to families, foster parents, paraprofessionals, other appropriate community-based staff, and institutional staff, including health care staff and behavioral specialists, who provide or will provide, positive behavior management interventions for persons with developmental disabilities. Such training interventions shall include—

"(A) ethical principles and standards;

"(B) appropriate assessment of the origin of behavior problems including antecedent behaviors, the environment, medical problems (including seizure disorders), other neurological problems, or medication side effects;

"(C) the development of a positive behavior management plan;

"(D) the use of positive reinforcements appropriate to the developmental level of the person;

"(E) the use of emergency procedures; and

"(F) the administration of appropriate psychotropic drugs including drugs which the person may be taking for other conditions such as seizure disorders.

"(6) Grants under this subsection for training projects with respect to assistive technology programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide or will provide, assistive technology services to persons with developmental disabilities. Such projects may provide training and technical assistance to improve the quality of service delivery in community-based, non-profit consumer and provider service programs for persons with developmental disabilities and may include stipends and tuition assistance from such organizations. Such projects shall be coordinated with State technology coordinating councils wherever such councils exist.

"(7) Grants under this subsection for training projects with respect to programs in other areas of national significance shall be for the purpose of training personnel in an area of special concern to the university affiliated program, and shall be developed in consultation with the State Planning Council."; and

(3) by adding at the end thereof the following new subsections:

"(f) The Secretary shall only make grants under this section to university affiliated programs which establish a consumer advisory committee comprised of consumers, family members, representatives of State protection and advocacy systems, developmental disabilities councils (including State service agency directors), local agencies, and private nonprofit groups concerned with providing services for persons with developmental disabilities.

"(g) A university affiliated program shall not be eligible to receive funds for training projects pursuant to this section unless—

"(1) such program has operated for at least 1 year; or

"(2) the Secretary determines that such project has demonstrated the capacity to develop an effective training program during the first year such program is operated.".

SEC. 18. APPLICATIONS.

Section 153 of the Act is amended—

(1) in subsection (d)(3)—

(A) by striking "1988, 1989, and 1990" in subparagraph (A) and inserting "1991, 1992, and 1993";

(B) by adding at the end of subparagraph (A) the following new sentence: "The Secretary shall solicit and may approve applications pursuant to this paragraph which encompass multiple universities within the same State university system or two or more universities which are otherwise unrelated.";

(C) by striking "1987" and inserting "1990" in subparagraph (B); and

(D) by adding at the end of subparagraph (B) the following: "If an insufficient number of quality applications, as determined by a peer review process, from such unserved States have not been received in any fiscal year, the Secretary may consider applications for such fiscal year from States that are served by a university affiliated program or satellite center which is not able to serve particular geographic regions of the State, only if such applications demonstrate a need for additional training within the State and an exemplary service capacity to serve individuals within the State.";

(2) in subsection (e)(1)—

(A) by striking "by regulation"; and

(B) by striking the period at the end thereof and inserting the following: ", including on-site visits or inspections as necessary. Such peer review shall be coordinated, as appropriate, with the peer review described in section 152(b)(1)(D)."

SEC. 19. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 154 of the Act is amended to read as follows:

"SEC. 154. AUTHORIZATION OF APPROPRIATIONS.

"(a) For the purpose of grants under subsections (a), (d), and (e) of section 152, there are authorized to be appropriated \$11,400,000 for fiscal year 1991, \$12,390,000 for fiscal year 1992, \$13,430,000 for fiscal year 1993 and \$14,310,000 for fiscal year 1994. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

"(b) For the purpose of grants under sections 152(b) and 152(c), there are authorized to be appropriated \$7,000,000 for fiscal year 1991, \$8,652,000 for fiscal year 1992, \$10,386,000 for fiscal year 1993, and \$12,050,000 for fiscal year 1994.

"(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b)."

SEC. 20. PURPOSE.

Section 161 of the Act is amended by striking the period at the end thereof and inserting the following: ", and to support the development of national and State policy which enhances the independence, productivity, and integration of persons with developmental disabilities through data collection and analysis, technical assistance to program components, technical assistance for the development of information and referral systems, educating policymak-

ers, Federal interagency initiatives, and the enhancement of minority participation in public and private sector initiatives in developmental disabilities.".

SEC. 21. GRANT AUTHORITY.

Section 162(a) of the Act is amended—

(1) in paragraph (1) by inserting "improve supportive living and quality of life opportunities which enhance recreation, leisure and fitness," after "referral system,"; and

(2) in paragraph (2) to read as follows:

"(2) technical assistance and demonstration projects (including research, training, and evaluation in connection with such projects) which expand or improve the functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and protection and advocacy system described in section 142.".

SEC. 22. PART E AUTHORIZATION OF APPROPRIATIONS.

Section 163 of the Act is amended to read as follows:

"SEC. 163. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—To carry out this part, there are authorized to be appropriated \$3,900,000 for fiscal year 1991, \$4,095,525 for fiscal year 1992, \$4,299,750 for fiscal year 1993, and \$4,514,800 for fiscal year 1994.

"(b) LIMITATION.—At least 8 percent, but not less than \$300,000, of the funds appropriated pursuant to the authority of subsection (a) shall be used to carry out the provisions of section 162(a)(2)."

Mr. LEVIN. Mr. President, I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

JOHN F. SHEA FEDERAL BUILDING

Mr. LEVIN. Mr. President, I ask unanimous consent that the Veterans' Affairs Committee be discharged from further consideration of H.R. 4035 regarding a building designation in Santa Rosa, CA, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4035) designating the Federal Building location at 777 Sonoma Avenue in Santa Rosa, CA, as the "John F. Shea Federal Building."

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the bill was considered, ordered to a third reading, read the third time, and passed.

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL POW-MIA RECOGNITION DAY AND NATIONAL LAW ENFORCEMENT TRAINING WEEK

Mr. LEVIN. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of the following House Joint Resolution 467, "National POW-MIA Recognition Day," House Joint Resolution 554, "National Law Enforcement Training Week," and that they be considered en bloc, read a third time, passed, and that their preambles be agreed to.

The PRESIDING OFFICER. Without objection it is so ordered.

Mr. MURKOWSKI. Mr. President, I rise today, with the distinguished Senator from Kansas and 53 of our colleagues, to urge your support and passage of a joint resolution which would designate September 21, 1990, as "National POW-MIA Recognition Day." In addition, this resolution would formally recognize the POW-MIA flag of the National League of Families of American Prisoners and Missing in Southeast Asia as the symbol of our Nation's concern and commitment to Americans still unaccounted for in Southeast Asia.

The fullest possible accounting of Americans still missing in action is, and must remain, a priority for our Government and our people. This priority has been expressed in prior years by the U.S. Congress. The joint resolution would continue the focus of this ongoing priority by calling upon the American people to observe September 21, 1990, as our Nation's day of recognition to those still missing.

The POW-MIA flag has become a tangible emblem of our national commitment to those still missing. In addition to designating a day of recognition for our MIA's, the joint resolution would also acknowledge the POW-MIA flag by officially designating it as the symbol of our Nation's concern and commitment.

I urge my colleagues to join in passage of this important legislation as a means of showing our continued commitment to the 2,203 Americans still missing in Southeast Asia. In doing so we also stand in support of their families and all Americans who join us in our hope to see the return of any American service members still held prisoner as well as the fullest possible accounting of those still missing.

MEASURES INDEFINITELY POSTPONED

Mr. LEVIN. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of Senate Joint Resolution 327 and Senate Joint Resolution 288, the Senate companions, and that they be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

CARL D. PERKINS VOCATIONAL APPLIED TECHNOLOGY EDUCATION ACT AMENDMENTS—CONFERENCE REPORT

Mr. LEVIN. Mr. President, I submit a report of the committee of conference on H.R. 7 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such Act through the fiscal year 1995 having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of August 2, 1990.)

Mr. PELL. Mr. President, I am extremely pleased to be able to bring before the Senate the House-Senate conference report on H.R. 7, the reauthorization of the Carl D. Perkins Vocational Education Act. As the chairman of the conference, I want to express my deepest appreciation for the cooperative work that emanated not only from both Houses of Congress but also from both sides of the aisle. Also, I would be very remiss if I did not acknowledge the many long, hard hours of work of our respective staff members.

The product of our deliberations is an excellent one, and I can commend it to my colleagues without reservation. The conference report, first and foremost, reflects the concern that dominated the Senate's work in vocational education. That concern was, basically, recognition of the overwhelming need to make sure that vocational education and training in America is of the highest quality possible, and that its services should be focused first on those who need them most. As I have said on many occasions, to do anything less with the Federal dollar is not only to cheat the people who seek and need these services but also to cheat our Nation and its ability to compete on an equal footing in the international marketplace.

I am particularly pleased with the provisions of the conference report because of the benefit it will bring to my home State of Rhode Island. The Federal vocational education dollar is very important to Rhode Island. It supports critically important education

and training for jobs in every part of our State. The agreements embodied in this report will mean the continuance of more than \$4 million in vocational education assistance to Rhode Island. And, if this new act were fully funded, Rhode Island could receive as much as \$6 million a year.

At the beginning of our work well over a year ago, I stressed five goals that I thought must be addressed in reauthorization. They were to target the money to those who need Federal help the most, stress a linkage between secondary and postsecondary education, integrate academic and vocational education, make sure that our programs are state of the art, and adhere to the principle that what we do is provide not just job training, but vocational education and training. We do not simply prepare a person for a job; we prepare them for a lifetime.

As was true with the original Senate legislation, the conference report directly addresses those goals, and I would like, therefore, to summarize some of the more important provisions of the conference agreement as they relate to the work of the Senate in this area.

First, for the first time in Federal vocational education history, we would send money directly to local education agencies or area vocational schools serving those agencies. We would do so on the basis of a modification of the chapter 1 formula in the Elementary and Secondary Education Act. Further, we would stipulate a minimum grant, which will help avoid a frittering away of the Federal dollar.

Second, we require that the money flowing to these areas would serve four important populations: the economically disadvantaged, the disabled, the limited English proficient, and the equity needs and concerns of training women and men in nontraditional occupations.

Third, of particular interest to me, we would consider the corrections education agency as a local education agency and would also continue the 1-set-aside in current law. We also mandate a corrections education office within the Department of Education. These steps, we hope, will mean a continued flow of funds to provide education and training to end the horror of the revolving door from prison to society and back to prison.

Fourth, we stipulate that funds at the local level would be spent on program improvement, services for the targeted populations, and the integration of academic and vocational education.

Fifth, we would provide a strengthened emphasis on the importance of guidance and counseling. This means both prevocational counseling and comprehensive guidance and counseling when the student is pursuing a

course of study in vocational education. It means not only counseling for jobs or postsecondary education after graduation from secondary school but also part-time and summer job counseling and assistance while the student is in secondary school.

Sixth, we stress the importance of the Federal dollar in terms of upgrading vocational education at every level. The final conference agreement does not reflect as strong an emphasis upon secondary vocational education and training as was contained in the Senate legislation, but our provisions and the new provisions for sending money directly to local education agencies make clear our position that programs at the secondary level must be the best we can provide.

Equally important, we target the postsecondary education funds to institutions where the need is greatest. And, we enable both secondary and postsecondary education to serve the needs of adults who seek vocational education training and retraining.

Seventh, we retain and protect the sex equity programs and the programs for single parents, displaced homemakers and single pregnant women. These programs have produced remarkable results, and I am very pleased that we have been able to continue them for at least another 5 years.

Eighth, we provide the State a new role and new powers in monitoring and evaluating programs at the local level. And, we give the Secretary of Education more authority in the approval or rejection of State plans.

Ninth, we acknowledge that the State plays a critical role in curriculum development, in teacher and administrator training and retraining, and in the support of student vocational clubs. We continue Federal support for those important efforts.

Tenth, we provide new support for the tech-prep concept linking secondary and postsecondary education, but we go beyond that as well. We include not only postsecondary education in the linkage but also apprenticeship training.

Mr. President, these are highlights of the major changes embodied in the conference report that I bring before the Senate. The conference report makes significant changes in other areas as well, in such as the collection of data on vocational education, vocational education research, and strengthening the relationship between vocational education and private industry, business and labor.

I believe that what I said about this legislation when we originally brought the Senate bill to the floor bears repeating today. Make no mistake about the importance of the work we do in this area. The Federal vocational education dollar accounts for only about 10 percent of all vocational education

spending. But it is without question the engine that pulls the train.

The Federal Government has been involved in vocational education since 1917 and passage of the Smith-Hughes Act. We are no strangers to the field and to just how critical a role we play. As we look ahead, Mr. President, we can see clearly that world economic leadership in the future will probably focus upon three areas: Japan and the nations of the Pacific rim; Europe united after 1992, and the United States, with Canada after 1992. Where we eventually rank among those three will depend directly upon our ability to compete, and that ability depends, in turn, upon the quality of the education and training provided our people. If we are to have a world-class work force, we must have a world-class education. The conference agreement we bring before the Senate today not only reflects that need but also charts a legislative course that will keep America on the cutting edge of international competition.

I urge my colleagues to join me in approving this report.

Mr. COCHRAN. Mr. President, I am pleased to have served as a conferee on this bill. As a member of the Subcommittee on Education, I had an opportunity to work with Chairman PELL, Senator KASSEBAUM, and other members of the subcommittee in developing this legislation, which I think is one of the most important education bills to come before the 101st Congress.

I know of no legislation that better channels and targets available resources to equip our Nation with a qualified work force and to make us more competitive in the developing global economy.

If I could sum up this bill into a single message, it would be, "our children will now have an opportunity to make the most of their lives, to become partners in a world class work force, strengthening the Nation and enriching all of our lives in the process."

We did not take a timid approach in this bill. We made a realistic assessment of student trends, and business and industry needs, and shaped a new vocational program that is high technology in nature, provides students with a strong basic skills foundation, focuses training on job skills needed by local communities and encourages involvement by business and industry.

The conference agreement successfully melds the House and Senate vocational bills to better target Federal vocational funds to those in greatest need and to infuse traditional vocational education with a new emphasis on state-of-the-art marketable skills.

One highlight of this legislation I particularly endorse is the tech-prep program, which couples the last 2 years of high school with the first 2

years of post secondary education. The model tech-prep programs developed in Mississippi and other States are important links to career opportunities for young people at risk of dropping out of school or who might otherwise not go to college. Sometimes referred to as "2-plus-2," tech-prep has become the cornerstone of this reauthorization legislation. To fund the program, the conference agreement authorizes \$180 million to be distributed to States based on the vocational formula.

Another important provision of the bill authorizes grants to States to improve and expand vocational programs in areas with highest concentrations of disadvantaged students. The bill authorizes \$100 million to be distributed to States based on the State's allocation under the chapter 1 concentration grant formula. Funds are then distributed to local school districts or area schools in accordance with the concentration grant formula. These supplemental funds are to be used by the local school district or area school to improve facilities, update equipment, and conduct other program improvement activities such as teacher training, curriculum development, or development of innovative approaches to provide better prepared entry level workers.

The bill strengthens the role of the State vocational councils, which serve as important links to the private sector. The conference agreement also encourages greater involvement by trade organizations, student clubs, and school board members. In addition, State boards are required to consult with the State council in developing the State's vocational education plan. State councils are now given authority to review State plans and to register formal objections.

Also included, at my request, is a study of the vocational education funding formula, which has not been reviewed since the Federal vocational education program was first enacted in 1963. The study will be submitted to Congress indicating whether the current formula sufficiently targets funds to States having the greatest need for Federal assistance and examining alternative methods for directing Federal funds to States to better meet the objectives of the act.

Another important provision allows schools and colleges the flexibility to use equipment purchased for Federal vocational programs for alternative educational purposes, as long as the alternative use does not interfere with or detract from the vocational program.

With the adoption of this conference agreement, we show our determination to produce a better educated group of students equipped to ensure our Nation's competitiveness in the years ahead.

Mr. President, I commend the committee and our staff members for their hard work, especially our two leaders, Chairman PELL and Senator KASSEBAUM. We can all be proud of this legislation. I urge the Senate to approve it.

Mr. DURENBERGER. Mr. President, I rise today to support the conference report on the Carl D. Perkins Vocational and Technical Education Act. I would like to compliment the members of the conference committee for their work on this legislation. I think the bill before us today reflects an earnest effort by both sides to strengthen the vocational-technical education system in this country and to provide the resources necessary to carry us into the 21st century.

It is unfortunate that vocational-technical education is often overlooked in the realm of our overall educational system because vocational-technical education is the keystone for providing the job-related training and education that is so critically important if we are to maintain and improve our economic competitiveness around the world.

Demographics tell us that 85 percent of the work force at the turn of the century are already in the work force today. We also know that the skills of a large number of these workers are becoming obsolete or will soon be made obsolete by changes in technology. Workers, threatened by dislocation due to plant closures, industrial relocation, and increasing technology will become more dependent on vocational-technical education for the training and retraining they need to keep their skills in line with changing technology.

It is for this reason that I applaud the conferees in working out an agreement that eliminated the Senate proposal that would have required a split between postsecondary and secondary institutions. I fought against this proposal when that bill was before the Senate and I believe the decision by the conference committee to retain State flexibility in determining the mix of funds was a wise one. States continue to be the leaders in education policy and are just not beginning to implement the comprehensive reforms necessary to improve the faltering education system in America today. The needs of each State are different and we in the Federal Government need to support these efforts but should not be dictating a structured plan of reform based on our own opinions of what is needed.

Again, Mr. President I want to thank all those on the conference committee for the work they have done to come up with a balanced reauthorization that will provide the tools for us to move forward into the 21st century. I urge support of the conference report.

Mr. HATCH. Mr. President, this bill is the result of a lot of hard work and compromise on both sides of the aisle. I appreciate the rapid manner in which the Senate and House were able to resolve the issues in the two bills.

This reauthorization takes into account many of the changes which have been proposed as a result of the hearings held throughout the United States and the studies conducted by the National Assessment of Vocational Education.

I am pleased that, in the final compromise, we were able to maintain the State councils for vocational education. I believe these councils serve an important role in vocational education in that they provide a mechanism for the exchange of ideas and information with the private sector and other community groups. I am also pleased that we were able to continue to provide the States with flexibility in deciding how much of the funds went to secondary versus postsecondary training.

The impact of this legislation on increasing opportunities for women in the job market has been very significant. Many displaced homemakers who have suddenly had to be the primary source of support for their families have been trained as a result of the funds available through this act. I am pleased that both Houses recognized the importance of these programs and maintained them in this legislation.

Changes have been made in this legislation to ensure that special populations will be served within the overall programs available to all students. Guarantees have been built into the State and local plans to ensure such access. The bill is aimed at strengthening existing program quality for special populations, as well as the student body at large. I think this approach will result in persons with disabilities receiving better training as they enter the work force.

The Carl Perkins legislation is some of the best education legislation that this body has produced. In the last few years, the national understanding of the value and significance of vocational education has grown tremendously. No longer is there a stigma attached to the idea of vocational education. People who are trained in fields typically referred to as vocational are accorded the respect and admiration that is appropriate for individuals with such technical and complex skills.

I urge my colleagues to support this conference report. Vocational education will be enhanced as a result of the passage of this legislation. Students enrolled in the programs outlined will benefit from the new assessment criteria and new program requirements which are integral parts of this legislation. I am proud to be a cosponsor of this far reaching legislation and look

forward to hearing from my fellow Utahns about the many successes of this new and better legislation.

Mrs. KASSEBAUM. Mr. President, I am pleased that the Senate is considering the conference report on H.R. 7, legislation to reauthorize Federal vocational education programs. It has been a pleasure to work with the chairman of the Education Subcommittee, Senator PELL, and other members of the conference committee in putting together a final bill.

Persistent concern about our ability to compete in the international market and to maintain our standard of living has increased our awareness of the need to train skilled workers.

It is unfortunate that vocational education is too often regarded as a stepchild of our overall education system. In fact, we should be taking quite the opposite view. Strong vocational programs are a critical component of the economic machinery which will assure our continued world leadership and prosperity.

Federal support plays a small, but critical, role in vocational education. It enhances substantial State and local efforts in this area by encouraging broad program improvement activities and targeting aid toward populations which might otherwise be neglected.

The bill we are considering today represents a significant departure from the current structure of Federal vocational education programs. The House and Senate bills took somewhat different paths to a common goal, which is succinctly expressed in the statement of purpose included in the conference bill:

It is the purpose of this Act to make the United States more competitive in the world economy by developing more fully the academic and occupational skills of all segments of the population. This purpose will principally be achieved through concentrating resources on improving educational programs leading to academic and occupational skill competencies needed to work in a technologically advanced society.

The legislation developed by the conferees will, I believe, give new vitality to efforts to assure that the workers we train will measure up to the standards we need and expect.

Specifically, the bill increases flexibility through the elimination of most set-asides while maintaining assurances that special needs are met. It recognizes that expanding the access of disadvantaged populations is meaningless unless that access is provided to high quality programs.

It maintains a State leadership role in areas such as teacher training and curriculum development, which are most effectively conducted on a statewide basis. At the same time, it strengthens local efforts by sending funds directly to local school districts and postsecondary institutions on a formula basis. As provided in the

House bill, States will continue to determine how they will divide funds between secondary and postsecondary institutions.

It was not possible to devise a formula by which to allocate funds to area vocational education schools, which vary considerably in structure from State to State. Recognizing the importance of area schools in offering quality vocational programs, the conferees established special procedures by which funds allocated to a local educational agency may be transferred to area schools. I am hopeful that these procedures will result in a fair allocation of funds and will be taking particular interest in the implementation of these provisions.

The legislation emphasizes the need for better coordination of vocational education programs through the establishment of tech-prep education programs, which link the last 2 years of high school with 2 years of postsecondary training.

It also stresses the importance of the linkage between academic and vocational training, attempting to dispel the notion that the two are somehow at odds with one another. In fact, the bill requires that Federal funds be used in programs which integrate academic and vocational education. At a time when the computer is the main tool of the secretary as well as the auto mechanic, technical competence demands a strong command of academic subjects.

The legislation attempts to assure that Federal assistance is provided in grants of sufficient size to make an identifiable impact. Concentrating assistance is essential to our efforts to evaluate the impact of Federal support and to promote more generous levels of that support. The conferees have agreed to a \$15,000 minimum grant for secondary school recipients and a \$50,000 minimum grant for postsecondary recipients in an attempt to serve this purpose.

Strong emphasis is also placed on accountability for results. States and localities are required to develop standards and measures by which to determine program performance in areas such as job or work skill attainment, retention in school, and learning and competency gains. In instances in which local programs do not make progress in meeting these standards and measures, they must develop local improvement plans.

Finally, separate vocational education councils are maintained in order to assure the continued input of the business community.

The changes we are seeking in Federal assistance to vocational education programs will, I believe, inspire reforms which are needed to assure a skilled and adept work force. Quality vocational training programs are truly key to the future we hope to build for

ourselves and our children. Our sights are on a new century in which both technological and demographic changes will profoundly alter the world in which we live. I hope this measure will enhance our capability to address these challenges.

I would also like to commend and recognize the hard work done by members of my staff and other staff of the subcommittee on this bill. They have all put in very long hours, and I appreciate all that they have done.

Many thanks to Susan Hattan, Becky Rogers Voslow, and Lydia Spencer of my staff; David Evans, Ann Young and Merry Richter of Senator PELL's staff; Laurie Chivers with Senator HATCH; Terry Hartle and Rusty Barbour with Senator KENNEDY; Pam Kruse with Senator JEFFORDS; Doris Dixon and Lee Sanders with Senator COCHRAN; Kent Talbert and Deanne Folse of Senator THURMOND's staff; Joan Hogan Gilman with Senator DODD; Cheryl Smith, Judy Wagner and Brian Kennedy with Senator SIMON; Cheryl Birdsall with Senator METZENBAUM; and Karen Calmeise with Senator MIKULSKI. A special thanks as well to Mark Sigurski with the Senate Legislative Counsel Office.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OIL TANKER NAVIGATION SAFETY ACT

Mr. LEVIN. I ask unanimous consent that Calendar No. 196, S. 1461, the oil tanker safety bill, be indefinitely postponed.

The PRESIDING OFFICER. Without objection it is so ordered.

CHILD RESTRAINT SYSTEMS ON COMMERCIAL AIRCRAFT

Mr. LEVIN. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 760, S. 1913, the child restraints bill.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1913) to require the use of child restraint systems on commercial aircraft.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to

strike all after the enacting clause, and inserting in lieu thereof other language.

Mr. BOND. Mr. President, I am very pleased that the Senate has approved this legislation. I want to thank Senator HOLLINGS, chairman of the Senate Commerce Committee and Senator DANFORTH, the ranking member, along with the chairman and ranking member of the Aviation Subcommittee, Senator FORD and Senator MCCAIN, for their support of this bill. I particularly appreciate the fast action by the committee in reporting S. 1913 last week.

I have spoken on the floor about this issue several times and my colleagues know how strongly I feel about it. For 9 years I have been trying to convince the FAA to amend its policy with regard to child safety seats. Current policy gives airlines the discretion to allow or prohibit the use of child safety seats for children under the age of 2. As a result, most toddlers and infants travel in a parent's lap. And when they do, they face a much higher risk of injury or death because the force of a crash or even severe turbulence completely overwhelms the parent's ability to restrain him.

Why do we require restraints for an infant's family—his parents and brothers and sisters—but not for him? Why are airlines required to tie down and secure every single item in the cabin before takeoff—luggage, liquor, food, and coffee pots—but not babies? I find it outrageous that this helpless group of travelers is denied the same protection as adults and inanimate objects.

The FAA is in the process of considering changes in its current policy but I am not hopeful that the agency will issue a mandatory seat rule. That is why I feel all the more strongly about the urgency of my bill.

Finally, let me address the issue of cost. There are two major issues—the cost of a ticket for the child under 2 and the cost of a child safety seat. My legislation leaves the decision on fares up to the airlines. I do not want to raise traveling costs for families—they are already high enough. I believe that the airlines will make every effort to keep fares reasonable because they want families to keep flying with them. Many airlines currently offer discounted fares for children over 2 and they could simply extend those fares to include children under 2. In addition, many airlines allow parents who bring a safety seat to use a vacant seat free of charge. I am hopeful that they will continue this practice.

With regard to the cost of a safety seat, most parents already have one because all 50 States require children under 2 to use one in the car. Fortunately, most seats manufactured since 1985 are certified for both auto and air travel. Parents simply have to take the

seat from the car to the plane. They will then be able to use the seat at their destination when they rent a car or borrow grandmother's.

It is long past due for a mandatory seat rule. I thank the Commerce Committee members again for their support and look forward to fast action by the House and enactment by the President.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 1913) was passed, as follows:

S. 1913

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHILD RESTRAINT SYSTEMS ON COMMERCIAL AIRCRAFT.

(a) IN GENERAL.—Section 601 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1421) is amended by adding at the end the following new subsection:

"(g) CHILD RESTRAINT SYSTEMS.—Not later than 90 days after the date of enactment of this subsection, the Administrator shall issue regulations requiring the use of child safety restraint systems approved by the Administrator on air carriers providing interstate air transportation, intrastate air transportation, and overseas air transportation. Such regulations shall establish age or weight limits for children who are to use such systems."

(b) CONFORMING AMENDMENT.—The table of contents contained in the first section of such Act is amended by inserting at the end of the matter relating to section 601 the following new item:

"(g) Child restraint systems."

SEC. 2. INTERNATIONAL STANDARD.

It is the sense of the Congress that the United States representative to the International Civil Aviation Organization should seek an international standard to require that passengers on a civil aviation aircraft be restrained on takeoff and landing and when directed by the captain of such aircraft.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TELEVISION DECODER CIRCUITRY ACT

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 720, S. 1974, the Television Decoder Circuitry Act of 1990.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1974) to require new televisions to have built-in decoder circuitry.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Commerce, Science, and Transportation, with amendment; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets, and the parts of the bill intended to be inserted are shown in italic.)

S. 1974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION. 1. This Act may be cited as the "Television Decoder Circuitry Act of [1989"] 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology, deaf and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television [could] will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television [could] will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing;

(5) Closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a Television decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that [same decoder circuitry] closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

[DISPLAY CLOSED-CAPTIONED TELEVISION] REQUIREMENT FOR CLOSED-CAPTIONING EQUIPMENT

SEC. 3. Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size."

[SHIPPING OR IMPORTING]

PERFORMANCE AND DISPLAY STANDARDS

SEC. 4. [(1)] (a) Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsection (c), and by [adding] inserting immediately after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed-captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting System engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. [Five years from the date of promulgating the original rules required by this section, the Commission shall evaluate compatibility issues and advancement in television technology and shall take any action it deems necessary to amend such rules so as to ensure that such decoder chip circuitry is capable of continuing service to closed-caption consumers regardless of new broadcast technologies.] As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it."

[(2)] (b) Section 330(c) of such Act, as redesignated by [this Act.] subsection (a) of this section, is amended by deleting "and section 303(s)" and inserting in lieu thereof ", section 303(s), and section 303(u)".

EFFECTIVE DATE

SEC. 5. Sections 3 and 4 of this Act shall take effect on October 1, 1992.

RULES

SEC. 6. The Federal Communications Commission shall promulgate rules to implement this Act within 180 days after the date of its enactment.

AMENDMENT NO. 2513

(Purpose: To extend the effective date of sections 3 and 4)

Mr. LEVIN. In behalf of Senator INOUE, I send to the desk a technical amendment and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN), for Mr. INOUE, proposes an amendment numbered 2513.

Mr. LEVIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 5, line 14, strike "October 1, 1992" and insert in lieu thereof "July 1, 1993".

Mr. LEVIN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2513) was agreed to.

Mr. LEVIN. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. INOUE. Mr. President, today I rise in support of S. 974, the Television Decoder Circuitry Act of 1990. This bill, referred to as the Decoder Act, was introduced by Senator HARKIN and is cosponsored by 14 Senators, including myself. This legislation before us represents the efforts of many Senators on the Commerce Committee, and I want to thank Senators DANFORTH, McCAIN, and KASTEN for their assistance. I especially want to thank Senator HARKIN for his initiation of and persistence on this measure, for without the Senator's unremitting conscientious drive, the Decoder Act might never have been conceived.

S. 974 is supported by the deaf, hearing impaired, and hard of hearing community, literacy groups, and the educational community. I also want to thank the Electronic Industries Association and representatives of television manufacturers for their assistance in the development and support of this measure.

For nearly 20 years, the Federal Government and the Public Broadcasting Service have helped almost 24 million deaf and hard-of-hearing Americans receive televised communications through closed captioning services. The National Captioning Institute, or NCI, which was created by Congress in 1979, and the private sector have been instrumental in expanding this special service to these citizens.

Because of these efforts, Mr. President, today there are nearly 140 hours of closed captioned programming each week; there is captioning on cable and on videocassette movies; and there is real time captioning that provides captioning services to live and special events.

Currently, the only way to access this service is through a separate decoder unit that is attached to a television set. But because of the expense, the stigma, and the technical barriers of these units, a great many people in need of this service simply are not making use of them. And there, Mr. President, lies the rub.

The price of these separate decoders is \$160 to \$200, which is often too expensive for those persons that could benefit from closed captioning. During our subcommittee hearing, we learned that many disabled Americans between the ages of 16 and 64 are not employed, and those who are employed are often working in low paying jobs. The cost of decoders is also a deterrent to senior citizens with a hearing loss, the majority of whom have annual incomes less than \$25,000.

Moreover, the stigma attached to purchasing decoders weighs heavily on the minds of deaf and hard of hearing people—and especially the elderly.

Last, deaf and hard-of-hearing people—again, primarily the elderly—are intimidated by the complex instructions for connecting these devices to their television sets. When one has a cable service or a VCR, or both, attached to his or her TV, the installation of these devices becomes even more cumbersome.

Producers of close-caption programs are concerned that the low numbers of decoders purchased will serve as a disincentive for expansion of closed captioning. It is very expensive to produce captioned services—about \$3,000 and 20 to 30 man-hours to close-caption a 1-hour program. Absent an increase in viewership, they will wonder whether it makes economic sense to continue close captioned programming. I would consider any rollback in this service a disaster.

It would be a disaster, Mr. President, because in addition to the 24 million deaf and hard-of-hearing citizens who would benefit from the passage of this legislation, there are others who would benefit from the expansion of closed caption services. Today in America, there are 27 to 29 million American adults who are functionally illiterate; millions of children who are learning to read; and 3 to 4 million people learning English as a second language. Some of these persons already benefit from closed captioning. If we in the Congress can find the right answer and act upon it. Then we can ensure that others have access to these services.

Senator HARKIN, the other cosponsors, and I believe S. 974 provides the right answer. It requires decoder circuitry to be built into all new television sets with screens 13 inches and larger that are manufactured in or imported into the United States. This circuitry, which must conform to FCC display standards, would display closed

captioned television programs, thereby expanding the accessibility of closed caption technology to serve the needs of the deaf and hearing impaired and others. The bill also charges the Federal Communications Commission [FCC] with ensuring that closed-captioning services be available to the public as new technologies are developed. In response to concerns raised by the Electronics Industry Association, I am offering an amendment today to extend the effective date of this legislation 9 months, from October 1, 1992, to July 1, 1993.

This legislation does not require that a specific decoding chip or module be installed in television sets. Instead, the act permits flexibility on the part of the manufacturers to research and develop this technology, as long as it meets any display criteria established by the FCC. In addition, the committee does not intend to require the retrofitting of this circuitry in television sets that are available for sale on the date this legislation takes effect.

While this legislation will result in a minimal increase in the cost of television sets—\$5 to \$20—I believe that spreading costs over all or most buyers of TV sets is quite logical. First, the cost is not that significant, especially when this circuitry is produced in mass quantities. Second, by increasing access to this service, it will help bring this very large segment of our society into the mainstream. And third, there are various features on TV sets sold today that are used by only a small percentage of buyers—yet, we all pay for them.

In sum, Mr. President, S. 974 will eliminate the need to purchase the cumbersome separate decoder units; significantly reduce the cost to consumers to receive closed captioning; make closed captioning more widely available to those desiring the service; and create market incentives for broadcasters to invest in and provide more closed captioned programming. I believe it is incumbent upon us to approve this legislation today.

Mr. HOLLINGS. Mr. President, today I also rise in support of S. 974, the Television Decoder Circuitry Act of 1990. The Decoder Act was introduced by Senator HARKIN and is cosponsored by 14 Senators, including myself. It has strong support among the deaf, hearing-impaired, and education and literacy advocates. This bill also has the support of the Electronic Industries Association and television set manufacturers.

S. 974 is designed primarily to assist the approximately 24 million deaf, hard-of-hearing, and hearing-impaired Americans by guaranteeing the availability and expansion of closed-captioned programming. To accomplish this worthy goal, the act requires the

installation of low cost decoding circuitry in new television sets with screens 13 inches and larger. This circuitry will eliminate the need for individuals, who will benefit from the expansion of captioning services, to purchase expensive and awkward separate decoding units. Finally, the act makes it the responsibility of the Federal Communications Commission [FCC] to ensure that closed-captioning services are available to the public as new technologies are developed.

In the June Communications Subcommittee hearing on the Decoder Act, representatives of the television manufacturers voiced their concerns about the initial language of the bill, which limited the decoding capability to a specific technology. They were concerned that this requirement would thwart competitiveness in research, development, and production of decoding technology. The bill before us today does not restrict manufacturers to one technology. It permits flexibility in the development of decoding technology. I believe S. 1974 addresses the industry's concerns without obstructing the goal of expanding captioning services.

Mr. President, in addition to our Nation's deaf, hard-of-hearing and hearing-impaired citizens, various experts believe that closed captioning benefits 27 to 29 million Americans who are functionally illiterate; 3 million persons in the United States who are trying to learn English as a second language; and millions of our children and grandchildren who are learning to read. In short, it is now becoming apparent that closed captioning can be used as a tool to educate our young citizens and as a weapon to fight the cancerous illiteracy suffered by adults.

The educational benefits of closed captioning are especially interesting to me as one who has worked long and hard to develop a modern educational system in South Carolina. With the implementation of a technical school system during my years as Governor and the implementation of the Education Improvement Act by former Gov. Richard Riley, South Carolina's education reforms have become a model for the Nation. Still, too many of our resources are directed toward remedial reading courses in all levels of our education system, and we are not doing as well in economic development and economic competitiveness as we should because of the high rate of illiteracy in our work force. It is not just a problem in South Carolina; it is a national problem. Now, I am not advocating that we do away with books and buy more TV's with decoder circuitry. But if by expanding this educational tool called closed captioning we can help our children, our grandchildren, and our illiterate adult population learn to read, then by all means let us not wait to act on this measure before us today.

Mr. President, I take this opportunity to recognize the hard work of Senator HARKIN, the author of S. 1974, in introducing the Decoder Act to benefit the disabled citizens of our country. He is truly a leader in this area. I also commend my colleague and chairman of the Communications Subcommittee, Senator INOUE, who has been instrumental in the passage of legislation such as this one to ensure that the disabled have access to our ever-advancing communications network.

In closing, Mr. President, I believe we have a fine piece of legislation before us. During my many years of public service in South Carolina and the U.S. Senate, I have been strongly committed to giving all Americans the opportunity to be full participants in our society. I have brought that commitment to my chairmanship of the Commerce Committee and have made it the continued goal of the committee to ensure that all American citizens have access to and can enjoy the benefits of what is a public good—our Nation's airwaves. That goal and philosophy are the foundation of this measure, and I know are shared by all of us. Therefore, I urge my colleagues to support this important legislation.

Mr. HARKIN. Mr. President, I rise in support of S. 1974, the Television Decoder Circuitry Act, which I was proud to introduce in this session of Congress.

On July 26, 1990, the Americans With Disabilities Act became the law of the land. The ADA is no less than the 20th-century emancipation proclamation for people with disabilities. It sends a clear, unequivocal message to the world that people with disabilities are entitled to be judged on the basis of their abilities and not on the basis of ignorance, fear, and prejudice. From now on, our Nation will no longer construct or devise barriers that prevent people with disabilities from enjoying full, effective, and meaningful participation in the economic, social, political, and cultural mainstream of American society.

The ADA is without exaggeration the most critical legislation affecting people with disabilities ever considered by Congress. It will provide access to jobs, services provided by State and local governments, public accountants, transportation, and telecommunications.

However, a very important issue was not covered in the ADA—broader access to closed-captioned television broadcasts. Today, television has become a pervasive and integral vehicle for sharing information in American society. It is not only an entertainment medium. Television provides a vital link to the world, providing news, emergency, and educational programming. Unfortunately, many Americans with hearing loss are denied full and equal access to this critical source of

information. The promise of full integration into the mainstream of society will not become reality for the deaf and hard of hearing community until equal access to the television is assured.

With the availability of closed-captioned television programming, deaf and hard of hearing individuals do have access to information provided via television. Unfortunately, the high cost of separate stand alone decoders has created an enormous gap between the numbers of people who can benefit from television closed captioning and the number of people who actually view closed captioning.

For equal access to television broadcasts, Americans with hearing loss have to purchase a television set and a decoder attachment that costs an additional \$180. Many deaf and hard of hearing individuals, including elderly people on fixed incomes, are unable to afford the additional expense for equal access to television. I might add that many senior citizens and other people with hearing loss are intimidated by the complex instructions for connecting the decoder to their televisions. Howard "Rocky" Stone, executive director of Self Help for Hard of Hearing People, offered the following testimony on behalf of S. 1974 before the Subcommittee on Communications:

One of our members, an intelligent, active person at age 70 told us, "I wasted \$98 on two servicemen trying to get my decoder 3000 hooked up. The first one couldn't figure out the hook up with all the TV attachments. The second one got the VCR in backwards, so I could not record the captions. Finally, an electronics expert, who is also my neighbor, got everything straightened out. This legislation would eliminate that kind of frustration."

Senior citizens have also been reluctant to purchase a separate decoder because of the stigma they attach to that purchase.

The Television Decoder Circuitry Act addresses this situation by requiring that by July 1, 1993, all televisions with screens 13 inches or larger will have built-in decoder circuitry to display closed-captioned television transmission. The cost of this new technology is estimated to be \$3 to \$5 in mass production. The built-in decoder circuitry will greatly increase the audience that can be served by closed-captioned television by dramatically reducing the cost of the decoder circuitry needed to receive closed-captioned television. Further, an increased market will provide significant incentives to the television broadcasting industry to provide more closed-captioned programming.

In a letter to the Commission on Education of the Deaf, the American Broadcasting Co. [ABC] said:

If decoders were more widely used and viewership were to grow, the marketplace

can be relied on to increase captioning because more viewers would be reached at a decreased per capita cost. Increased decoder ownership—not just more captioning—is required for a strong, self-sustaining captioning service.

In short, this legislation is the critical next step in establishing a self-sustaining closed captioning industry.

THE NEED FOR LEGISLATION

During this decade, the amount of closed-captioned television programming has increased dramatically. Only about 16 hours of prime time television was closed captioned in the early 1980's. This year, 100 percent of prime time television is closed captioned. But the maintenance and growth of self-sustained closed-captioned television programming depends on the wide use of decoder technology.

Since the separate decoders have been on the market beginning in 1980, fewer than 300,000 have been sold. The Commission on the Education of the Deaf pointed out that the low number of decoders purchased by consumers has resulted in a lack of commercial incentives for private funding of captioning services.

Witnesses testified that this lack of market incentive has resulted in many television programs outside of prime time and VCR movies not being closed captioned. Only 90 out of 1,400 broadcast affiliates close caption local news programs. During recent national disasters, such as Hurricane Hugo and the San Francisco and Los Angeles earthquakes, local news broadcasts failed to provide captions to accompany their reports. Neil Pilon, president of CBS Sports, wrote the following to me:

As a businessman and broadcaster, I am concerned about this imbalance between the cost of captioning programming and the very limited number of viewers. This gap makes it difficult to justify the expansion of captioning beyond those widely-viewed kinds of programming being captioned today. Furthermore, some in the industry who have demonstrated their growing support of captioning through funding may begin to reevaluate their commitment and, I fear, gradually reduce that commitment.

THE POTENTIAL AUDIENCE

The potential audience for closed-captioned programming is immense. Over 24 million people in the United States are deaf or hard of hearing. Gallaudet University, the National Center for Law and the Deaf, the National Association of the Deaf, Self Help for Hard of Hearing People, the Council of Representatives [COR], and many other organizations representing individuals with hearing loss vigorously support this bill.

Over 40 percent of older Americans have significant hearing loss. The 32 million members of AARP, the American Association of Retired Persons, support this bill. The 4½ million members of the National Council of Senior Citizens strongly support S. 974.

In developing this legislation, I found that individuals with hearing loss are not the only individuals who will benefit from closed-captioned television. There are about 27 to 29 million adults in the United States who cannot read. They will benefit from built-in decoder circuitry and closed captioning, according to the National PTA, the National Education Association [NEA], and the Literacy Volunteers of America—the organization that Mrs. Barbara Bush has worked with so effectively—as well as many other education and literacy organizations.

We also found that there are 3 to 4 million immigrants in the United States learning English as a second language. There are 18 million children learning to read in kindergarten through third grade. Educational experts tell us that all of these individuals will benefit significantly from greater access to closed-captioned TV broadcasts. Several studies have indicated that exposure to closed-captioned television improves students' word recognition, reading comprehension, and language retention skills. The same studies showed that closed-captioned broadcasts enhance the students' motivation for learning. Mr. President, the June 6, 1990 issue of Education Week describes the effective use of captioned television in teaching reading. The article documents the successful use of captioned television in teaching elementary school students learning English as a second language. According to the Education Week story, "40 percent of decoder sales in recent years have been to Hispanic-American and Asian-American people."

PROVISIONS OF THE BILL

Mr. President, the technology is available to ensure a significantly increased market for closed-captioned television that will benefit people with hearing loss, adults with literacy problems, children learning to read, and people learning English as a second language. That technology would enable decoder circuitry to be built right into new television sets at a minimal cost by July 1, 1993. Several companies are currently working on this technology, and have indicated that this built-in decoder circuitry chip can be built into televisions in mass production for as little as \$3.

This legislation is intended to encourage competition for the development and use of built-in decoder circuitry. Such competition will also reduce the cost of this technology. The Consumer Federation of America in endorsing this legislation pointed out it "would provide easy and affordable access to closed captioning for all Americans."

This bill would require that all new television sets with screens 13 inches or larger, whether manufactured in

the United States or imported for use in the United States, be equipped with this built-in decoder circuitry designed to display closed-captioned television transmissions. The bill would further require the Federal Communications Commission to promulgate rules providing performance and display standards for this built-in decoder circuitry.

These standards must conform to the established signal and display specifications referenced to in this legislation to insure that television viewers can universally receive and read closed captioned captions. These display specifications insure that the intent of the program producer, captioning agency, and program distributor are conveyed properly to the viewer. The display specifications define such things as placement, color, font, and mode of the captions. These standards are essential to insure that caption producers will be able to create captions that are readable regardless of which television set or decoder circuitry is used. Any equivalent specifications must insure that television viewers can universally receive and read closed captions with the same clarity, consistency and to the same extent as such viewers would be able to receive and read closed captions produced in accordance with the PBS engineering report as amended.

Mr. President, this bill provides a unique opportunity for the Congress to finally provide equal access to television broadcasting for millions of Americans at an insignificant cost. Congress mandated in the Communications Act of 1934 that communication services be "made available, so far as possible to all the people of the United States." With the passage of the Americans With Disabilities Act and the requirements of a nationwide telephone relay system, we are finally after 55 years about to achieve universal telephone service for deaf people. But for many Americans we have still not achieved universal service to television. This legislation will offer that equal access. This legislation will, as Sy DuBow, legal director of the National Center for Law and the Deaf, testified in the Senate hearing, "making sure that disabled Americans and those on the bottom of the socioeconomic ladder have access to the benefits of our communication system."

Mr. President, the Television Decoder Circuitry Act has enjoyed strong bipartisan support. S. 974 is cosponsored by Senator HOLLINGS, chairman of the Committee on Commerce, Science, and Transportation. It is also cosponsored by Senator INOUE, chairman of the Subcommittee on Communications. Other distinguished cosponsors include Senators MCCAIN, EXON, BENTSEN, GORE, KERRY, PRESLER, BURNS, KASTEN, DOLE, and

SIMON. The deserving constituencies served by this legislation and their families will long remember the leadership of these Senators.

I especially want to thank Senator INOUE and Senator McCAIN for all their outstanding work and leadership on this legislation, and the excellent assistance of Toni Cook and Hap Connors on the subcommittee staff and Mark Buse of Senator McCAIN's staff. I also want to thank my staff members, Bob Siverstein, Katy Beh, and Bill McCrone for their hard work and Sy DuBow of the National Center for Law and the Deaf for his efforts to make this bill a reality.

Mr. President, this bill is designed to ensure that captioned television reaches the millions of Americans who could benefit from this technology. This bill will make sure there is a strong self-sustaining captioning service. I urge my colleagues to join me in supporting this legislation.

I ask unanimous consent that a list of the groups endorsing the bill be printed in the RECORD at this point.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

ORGANIZATIONS SUPPORTING TV DECODER CIRCUITRY ACT

I. TELEVISION INDUSTRY

Electronic Industries Association.
Zenith Corporation.
The Public Broadcasting Service (PBS).
The Corporation for Public Broadcasting.
The National Association of Public Television Stations.
Neal H. Pilson, President, CBS Sports.
"The Cosby show".
KCNC-TV, Denver, Colorado (NBC).
WOKR, Rochester, New York (NBC).
KAET, Tempe, Arizona.
WRGB, Schenectady, NY (CBS).
WJLA, Washington, DC (ABC).
WSBT-TV, South Bend, Indiana.
KATU Television Center, Portland, Oregon (ABC).
Dynatech Newstar, Madison, Wisconsin.
AT&T, Corporate Broadcast Manager.
The Caption Center, WGBH, Boston, Massachusetts (PBS).
National Captioning Institute.

II. EDUCATIONAL ORGANIZATIONS

American Federation of Teachers.
National PTA.
National Education Association.
Laubach Literacy International.
Literacy Volunteers of America—Barbara Bush, Honorary Chair.
International Reading Association.
Council for Exceptional Children.
Gallaudet University.
Gallaudet University Alumni Association.
Conference of Educational Administrators Serving the Deaf.
Convention of American Instructors of the Deaf.
National Association of State Directors of Special Education.

III. NATIONAL DISABILITY ORGANIZATIONS AND OTHER NATIONAL ORGANIZATIONS

ACLD, An Association for Children and Adults with Learning Disabilities.
Alexander Graham Bell Association for the Deaf.
American Association of Retired Persons.

American Association of the Deaf Blind.
American Civil Liberties Union.
American Council of the Blind.
American Deafness and Rehabilitation Association.
American Foundation for the Blind.
American Society for Deaf Children.
American Speech-Language-Hearing Association.
Association for Education and Rehabilitation of the Blind and Visually Impaired.
Association for Retarded Citizens of the United States.
Consumers Federation of America.
Council of State Administrators of Vocational Rehabilitation.
Disability Rights Education and Defense Fund.
Disabled But Able to Vote.
Epilepsy Foundation of America.
Mental Health Law Project.
National Association of Developmental Disabilities Councils.
National Association of the Deaf.
National Association of Protection and Advocacy Systems.
National Center for Law and the Deaf.
National Council on Independent Living.
National Council on Rehabilitation Education.
National Council of Senior Citizens.
National Easter Seal Society.
National Fraternal Society of the Deaf.
National Head Injury Foundation.
National Network of Learning Disabled Adults.
National Rehabilitation Association.
National Shorthand Reporters Association.
Paralyzed Veterans of America.
Registry of Interpreters of the Deaf, Inc.
Self Help for Hard of Hearing People, Inc.
Spina Bifida Association of America.
Telecommunications for the Deaf, Inc.
United Cerebral Palsy Association.
World Institute on Disability.

Mr. KENNEDY. Mr. President, I join in urging the Senate to approve the Television Decoder Circuitry Act of 1990. This important legislation will make television accessible to millions of deaf and hearing impaired individuals. With the flip of a switch, these citizens will be able to enjoy their favorite television shows, news programs, weather and sports, old and new films, like the rest of us. No longer will they be required to purchase expensive equipment or be restricted to watching television on sets with a decoder. Instead of relying on hearing friends and family to explain a missed punchline or turn of plot, deaf and hearing impaired individuals will be able to read captions of the spoken text along the bottom of the screens—anytime and anywhere they want to watch television.

Captioning can benefit not only the deaf and hearing impaired, but also the elderly, those learning English as a second language, young children learning to read, and adults seeking to overcome their illiteracy. Studies have shown that exposure to closed captioning can significantly improve word recognition, reading comprehension and language retention skills and can be a substantial motivation for learning English.

Thus, in addition to serving approximately 24 million Americans who are either deaf or hearing impaired, closed captions can also be a learning tool for over 20 million people in the United States who do not speak English, for more than 18 million students in kindergarten through third grade who are learning to read, and for almost 27 million adult illiterates who are trying to improve their reading skills.

I am particularly impressed with the promise of this legislation for helping disadvantaged children learn to read. I recently spoke with Ms. Jane Oates Lichman, a teacher who works with special needs children in the Philadelphia public school system. She emphasized the promise of closed captioning for this purpose, calling it a potential bonanza for anyone learning to read. As Ms. Lichman pointed out, books, magazines, and newspapers are not commonplace in the homes of children who are at or below the poverty level. As a result, teachers use any reading material available in the home to get students to practice their skills, even the small print on the back of a box of breakfast cereal.

But now, many of these families are buying generic cereal, with no small print. For these children, school is one of the few places where they are presented with the written word. But, there is one tool almost all families have—a television set. In the classroom, Ms. Lichman has found that children who practice reading by listening while visually tracking a script are more motivated and are able to make significant advances in reading levels. She pointed out that a television with closed captioning can have the same advantage, by exposing children and parents to written English in a nonthreatening, nonjudgmental and visually appealing manner, while they listen to the spoken words.

The Television Decoder Circuitry Act will provide access for deaf and hearing impaired to television. It will also bring benefits to many others in our society, and I urge those implementing the captioning system to consider these additional uses to the maximum extent feasible. Closed captions can improve the reading and English language skills of large numbers of Americans of all ages. It can provide access to the written word for non-English speakers, illiterate adults and children learning to read. For the price of a \$3 decoder chip, we are making an unusually promising investment in the Nation's future.

Mr. President, I commend Senator HARKIN and the other sponsors of this important measure, and I commend the members of the Commerce Committee for expediting its consideration. I urge the Senate to adopt this legislation and I ask unanimous consent to have printed in the RECORD a letter

from Ms. Jane Oates Lichman describing its importance in teaching children to read. Ms. Lichman's inspiring letter brings home the real significance in very practical human terms of what we hope to accomplish by this measure and I believe that all Senators will find her comments of interest.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

PHILADELPHIA, PA, July 27, 1990.

Senator EDWARD M. KENNEDY,
Chairman, Labor and Human Resources
Committee, U.S. Senate, Washington,
DC.

DEAR SENATOR KENNEDY: I am a teacher of the mildly handicapped and, for 14 years, have taught a mixed category special needs class at Stetson Middle School, in the Philadelphia public school system.

I am writing to you in regard to S. 974, the Television Decoder Circuitry Act of 1990.

I know that the major concern of this bill is to assist the deaf and hearing impaired. As someone who works with children who, among other difficulties, have hearing problems, I am more than pleased that such steps are going to be taken by the federal government.

I would like to take this opportunity to point out what to me is an extremely important second goal served by this bill: Children who have other handicapping conditions that limit their reading ability will be greatly helped by the captioning provisions. It is a potential bonanza for anyone—child or adult—who is learning to read.

In my experience working with children who are at or below the poverty level, I know the need for outside supplemental reading materials. Books, magazines and newspapers are not commonplace in most of the homes of my students. School is the only place that they are presented with the written word. They are given no opportunity for reading practice, and, therefore each time they are presented with a reading task, it produces frustration. What they learn in school stays in school.

One common factor in all the homes of my students is the television. The television is a baby sitter and a friend to many of my students, children who in many cases come from dysfunctional families. This non-threatening, non judgmental "friend" could help them gain self assurance with basic reading skills, which could then be reinforced in school—and all under the provisions of this current bill.

I, and many of my colleagues, are giving the education of these children our best shot. But there is no way that seven-year reading deficiency can be remediated by a 45-minute-a-day intensive reading workout. Teachers are out here teaching—but we need all the help we can get.

In my classroom, children using the "listening while visually tracking a script" technique have been more motivated and have made tremendous advances in reading levels. That's the kind of help they should be getting at home, but many, many children are not. These are children from dysfunctional families, drug-scarred homes which cannot provide the enriched environment that our parents and our grandparents gave as a matter of regular family life. There is no mother or father coming home after a hard day's work, with a nightly paper and a comic book for a good boy or

girl. There is no friendly snuggle on the sofa while a grown-up reads you a story.

We have to use the "friends" that these children already have in their lives, the support systems already in place and currently giving them the help to get through what are very tough days. Television is there, accessible and ready to help reinforce the skills that they are struggling to learn in school. There is no mother or father to sit at the kitchen table and go over homework. In the best of circumstances for many of my students, the parents are illiterate themselves, or, in the case of many recent arrivals, are struggling to learn the rudiments of the language themselves. In these families, not only would closed captioning help the children, but their parents would be given a boost towards true reading and writing proficiency.

I am pleased and delighted that once again, in the middle of a budget crisis and transforming events in Europe, there are elected officials who realize that the more the world changes, the more we have to be sure our children will be able to live in that changing world.

Thank you.

JANE OATES LICHMAN.

Mr. SIMON. Mr. President, I am pleased to be a cosponsor of the Television Decoder Circuitry Act and am grateful to our colleagues Senator HARKIN and Senator INUYE for once again providing leadership in this important area.

I also want to recognize the contribution of the Zenith Electronics Corp., which is located in my home State. Anticipating the needs of the Nation, Zenith had already begun closed-captioning preparation prior to Congress' announced intention to examine and review this issue. During the many hours spent crafting this legislation, Zenith contributed greatly. I am grateful to them for their leadership as well as their cooperation and expertise. It is these public/private partnerships that strengthen our Nation.

There are more than 24 million Americans who are deaf or hearing impaired. About 38 percent of older Americans are either deaf or have a serious hearing impairment. This bill will be invaluable to these individuals, permitting them to participate with their fellow Americans in the public information, education, and entertainment we receive from television. It will dramatically improve the quality of life of people now living too much in isolation. And it goes hand in hand with the Americans With Disabilities Act, bringing individuals with disabilities fully into the mainstream of American life.

But there are many others who will benefit as well from this legislation. The thousands of new Americans who enter our country as immigrants each year, eager to improve their English, will find captioned television a great help to them. It will also be an aid to individuals with learning disabilities and those having difficulty in mastering basic reading skills.

One of the greatest problems we face in our country today is illiteracy. At least 23 million Americans can be considered illiterate, and another 45 million read with only minimal comprehension. We are moving ahead on a National Literacy Act I introduced to address this problem, and I am hopeful we will send this vital legislation to the President before the end of this session. But we need to attack this immense problem from many directions and with many tools. Captioned television will make another important tool available for this effort.

I encourage my colleagues to give wholehearted support to this legislation.

Mr. McCAIN. Mr. President, I am pleased to support final passage of S. 974, the Television Decoder Circuitry Act. By passing this important legislation, the Senate is yet again reaffirming its longstanding commitment of making our society more accessible. Because of this commitment, our communities are better places, and society as a whole will benefit. The Television Decoder Circuitry Act is an important step in this process, and I am proud to be the primary cosponsor of this legislation.

Two years ago, I introduced the Telecommunications Enhancement Act of 1988 to ensure that hearing and speech impaired individuals have access to the Federal Government. Last year I authored title IV of the Americans With Disabilities Act which ensures that our Nation's telecommunication network becomes accessible to all. This requirement in title IV of the ADA will finally provide universal telephone access for hearing and speech impaired Americans. However, Mr. President, many of our citizens still do not have full access to television programming.

Mr. President, there are over 150 million television sets are being used in the United States. As a matter of fact, more American homes have television sets than have telephones or indoor bathroom facilities.

The power of television as a medium of communication cannot be underestimated. Television has touched all our lives. It serves as a vital outlet of information. For those who are hearing impaired or deaf, however, its impact and power can only be truly realized if television programming is captioned. S. 974 makes an important step toward ensuring that television is universally available.

The Harkin-McCain Television Decoder Circuitry Act seeks to further this goal of universal communication. Until the advent of new technology in the 1970's, television was basically inaccessible to deaf and hearing-impaired individuals. We now possess the technology to break down that wall of isolation.

Many will benefit from this legislation. Twenty-four million deaf and hard of hearing people, 27 to 29 million adults with literacy problems, 3 to 4 million immigrants learning English as a second language and millions of children learning how to read will all reap benefits from this legislation, the cost of which is minimal.

This bill would require that all new television sets with screens 13 inches or larger, whether manufactured in the United States or imported for use in this country, be equipped with this built-in decoder circuitry designed to display closed captioned television transmissions. The bill would further require the Federal Communications Commission to promulgate rules providing performance and display standards for this built-in decoder circuitry.

These standards must conform to the established signal and display specifications referenced to in S. 974 to ensure that television viewers can universally receive and read closed captions. These display specifications ensure that the intent of the program producer, captioning agency, and program distributor are conveyed properly to the viewer. The display specifications define such things as placement, color, form and mode of the captions. These standards are essential in making sure that caption producers will be able to create captions that are readable regardless of which television set or decoder circuitry is used. Any equivalent specifications must ensure that television viewers receive and read closed captions with the same clarity, consistency, and to the same extent as such viewers would be able to receive and read closed captions produced in accordance with the PBS engineering report as amended.

Mr. President, it is time we address this issue. In 1986, the Senate realized—and rightly so I believe—that it could no longer ignore the power of the television medium and decided to televise our proceedings. Last year I strongly supported legislation to mandate that the Senate's daily business be closed captioned. We must encourage this process to continue and give all Americans the opportunity to be entertained by, to learn from, and be part of television.

Mr. President, I want to thank my colleagues for their work on this important subject, and most importantly, all my deaf and hearing-impaired friends who have been an inspiration for all of society.

I yield the floor.

Mr. KASTEN. Mr. President, I rise in support of the bill, S. 974.

This bill, which I am a cosponsor, is extremely important to our more than 24 million silent partners. In recent months I have had an opportunity to interact with numerous deaf and hearing-impaired citizens. I have found them to be very energetic and committed—

their thirst for knowledge knows no bounds. I think that this bill will help satisfy that thirst for which they strive.

The hearing population will also benefit from this bill. This bill might well be the answer to the illiteracy problem that afflicts our Nation. There are 27 million American adults who are functionally illiterate; 18 million children in grades kindergarten to third grade who are now learning how to read; about 3 to 4 million immigrants who are seeking to learn English as a second language; and countless other Americans who are seeking to improve their literacy skills. All of these Americans will benefit greatly from the passage of this bill.

Studies have shown that exposure to closed-captioned television improves students' work recognition, reasoning, comprehensive, and language retention skills. It is also a very effective motivational tool for learning. Suppose there are 24 hours of captioning and an average person watches 7 hours of it. Think of how much English that person can absorb. The children would be enjoying the programs and simultaneously learning important language skills.

Another group that will benefit from the passage of this bill is the senior citizens. More often than not the elderly have a difficult time trying to listen to TV. Some elderly people buy hearing aids to compensate for that hearing loss, however, hearing aids cost money, and the current closed-caption decoder is expensive too—around \$180 to \$200. This bill will enable senior citizens to enjoy TV without incurring the added costs.

The Inouye - Danforth - Kasten amendment adopted at the committee markup will provide manufacturers the latitude to implement caption decoding capability in the best and most efficient manner, which will ensure that businesses are provided with the best tools to keep them competitive and market oriented.

For many years, deaf and hearing-impaired citizens have been left out of American society; they have never been able to enjoy the same range of information as their hearing counterparts—news broadcasts, talk shows, sitcoms, sporting events, the list is endless. The Americans with Disabilities Act will help bring hearing-impaired citizens closer to society, and the passage of this bill will be yet another step toward full citizenship for the deaf community.

I eagerly give this bill my support and urge my colleagues to do the same.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill (S. 974) was ordered to be engrossed for a third reading, was read the third time, and passed as follows:

S. 974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Television Decoder Circuitry Act of 1990".

FINDINGS

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology, deaf and hearing-impaired people should have equal access to the television medium;

(2) closed-captioned television transmissions have made it possible for thousands of deaf and hearing-impaired people to gain access to the television medium, thus significantly improving the quality of their lives;

(3) closed-captioned television will provide access to information, entertainment, and a greater understanding of our Nation and the world to over 24,000,000 people in the United States who are deaf or hearing-impaired;

(4) closed-captioned television will provide benefits for the nearly 38 percent of older Americans who have some loss of hearing;

(5) closed-captioned television can assist both hearing and hearing-impaired children with reading and other learning skills, and improve literacy skills among adults;

(6) closed-captioned television can assist those among our Nation's large immigrant population who are learning English as a second language with language comprehension;

(7) currently, a consumer must buy a TeleCaption decoder and connect the decoder to a television set in order to display the closed-captioned television transmissions;

(8) technology is now available to enable that closed-caption decoding capability to be built into new television sets during manufacture at a nominal cost by 1991; and

(9) the availability of decoder-equipped television sets will significantly increase the audience that can be served by closed-captioned television, and such increased market will be an incentive to the television medium to provide more captioned programming.

REQUIREMENT FOR CLOSED-CAPTIONING EQUIPMENT

SEC. 3. Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end thereof the following:

"(u) Require that apparatus designed to receive television pictures broadcast simultaneously with sound be equipped with built-in decoder circuitry designed to display closed-captioned television transmissions when such apparatus is manufactured in the United States or imported for use in the United States, and its television picture screen is 13 inches or greater in size."

PERFORMANCE AND DISPLAY STANDARDS

SEC. 4. (a) Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended by redesignating subsection (b) as subsec-

tion (c), and by inserting immediately after subsection (a) the following new subsection:

"(b) No person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States, any apparatus described in section 303(u) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section. Such rules shall provide performance and display standards for such built-in decoder circuitry. Such rules shall further require that all such apparatus be able to receive and display closed captioning which have been transmitted by way of line 21 of the vertical blanking interval and which conform to the signal and display specifications set forth in the Public Broadcasting System engineering report numbered E-7709-C dated May 1980, as amended by the Telecaption II Decoder Module Performance Specification published by the National Captioning Institute, November 1985. As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that closed-captioning service continues to be available to consumers. This subsection shall not apply to carriers transporting such apparatus without trading it."

(b) Section 330(c) of such Act, as redesignated by subsection (a) of this section, is amended by deleting "and section 303(s)" and inserting in lieu thereof "section 303(s), and section 303(u)".

EFFECTIVE DATE

SEC. 5. Sections 3 and 4 of this Act shall take effect on July 1, 1993.

RULES

SEC. 6. The Federal Communications Commission shall promulgate rules to implement this Act within 180 days after the date of its enactment.

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MEASURE PLACED ON CALENDAR—H.R. 5140

Mr. LEVIN. Mr. President, I ask unanimous consent that the Labor Committee be discharged from further consideration of H.R. 5140, the School Dropout Prevention and Basic Skills Improvement Act of 1990, and that the measure then be placed on the Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR COMMITTEES TO FILE REPORTS ON THURSDAY, AUGUST 30, 1990

Mr. LEVIN. Mr. President, I ask unanimous consent that during the recess and/or adjournment, the Senate committees may file reported legislative and executive calendar business on Thursday, August 30, from 11 a.m. to 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL CHARTER TO THE SUPREME COURT HISTORICAL SOCIETY

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 1834, a bill to provide a charter for the Supreme Court Historical Society.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (S. 1834) to recognize and grant a Federal charter to the organization known as the Supreme Court Historical Society.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

The PRESIDING OFFICER. The bill is before the Senate and open to the amendment. If there be no amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1834) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1834

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHARTER.

The Supreme Court Historical Society, Incorporated, a nonprofit corporation organized under the laws of the District of Columbia, is recognized as such and is granted a Federal charter.

SEC. 2. POWERS.

The Supreme Court Historical Society, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

SEC. 3. OBJECTS AND PURPOSES OF CORPORATION.

The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation.

SEC. 4. SERVICE OF PROCESS.

With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

SEC. 5. MEMBERSHIP.

Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the corporation shall be as provided in the constitution and bylaws of the corporation.

SEC. 6. BOARD OF TRUSTEES; COMPOSITION; RESPONSIBILITIES.

Except as provided in section 8, the composition of the board of trustees of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

SEC. 7. OFFICERS OF CORPORATION.

Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity

with the laws of the State in which it is incorporated.

SEC. 8. NONDISCRIMINATION.

In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of the directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age or national origin.

SEC. 9. RESTRICTIONS.

(a) INCOME AND ASSETS.—No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) LOANS.—The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) SHARES OF STOCK.—The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) CONGRESSIONAL APPROVAL.—The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

SEC. 10. LIABILITY.

The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

SEC. 11. BOOKS AND RECORDS; INSPECTION.

The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

SEC. 12. AUDIT OF FINANCIAL TRANSACTIONS.

The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law," approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(73) The Supreme Court Historical Society, Incorporated."

SEC. 13. ANNUAL REPORT.

The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document.

SEC. 14. RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER.

The right to alter, amend, or repeal this Act is expressly reserved to the Congress.

SEC. 15. DEFINITION OF "STATE".

For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Common-

wealth of the Northern Mariana Islands, and the territories and possessions of the United States.

SEC. 16. TAX-EXEMPT STATUS.

The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire.

SEC. 17. SALES AND USE TAX EXEMPTION.

Notwithstanding the provisions of section 105 of title 4, United States Code, or chapter 20 of title 47 of the District of Columbia Code, or any other provision of the District of Columbia Code, the Corporation shall not be required to pay, collect, or account for any tax specified in such provisions applicable to taxable events occurring within the Supreme Court Historical building and grounds.

SEC. 18. EXCLUSIVE RIGHTS TO NAMES.

The corporation shall have the sole and exclusive right to use the names "The Supreme Court Historical Society, Incorporated," and "The Supreme Court Historical Society," and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights.

SEC. 19. TERMINATION.

If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

Mr. LEVIN. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR STAR PRINT—S. 2870

Mr. DOLE. Mr. President, I ask unanimous consent that S. 2870, regarding Fort Hall Indian water rights settlement, be star printed to reflect the following changes, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TOMORROW

Mr. MITCHELL. Mr. President, I ask unanimous consent that when the Senate recesses today, it stand in recess until 8:45 a.m. on Friday, August 3; that following the prayer,

the Journal of proceedings be deemed approved to date; that the time of the two leaders be reserved for their use later in the day; that there be a period for the transaction of morning business not to extend beyond 9 a.m., with Senator BENTSEN to be recognized for a speech not to exceed 10 minutes in length; that at 9 a.m., the Senate resume consideration of the Department of Defense authorization bill with Senator WIRTH being recognized to offer an amendment relating to the availability of abortions on U.S. military bases overseas; that there be 90 minutes for debate, with Senator WIRTH controlling 45 minutes and Senator HUMPHREY controlling 45 minutes, at the conclusion of which time a cloture vote occur on the Wirth amendment as if a duly filed cloture motion had ripened but with the mandatory quorum call waived; with no amendments to the amendment in order prior to the cloture vote; and that if cloture is not invoked on the Wirth amendment, it be withdrawn; that following the disposition of the Wirth amendment, Senator CONRAD be recognized to offer an amendment relating to U.S. troop reductions in Europe, on which there be 40 minutes equally divided in the usual form with no amendment to the Conrad amendment being in order.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. Reserving the right to object, I am going to have to ask the distinguished majority leader to allow time for this Senator to consult with the Republican leader. We have not as yet been able to fully examine the proposal. I am hopeful it will be accepted.

Mr. MITCHELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I modify my previously requested unani-

mous-consent request in the following manner: Delete all previous references to the Conrad amendment and substitute in lieu thereof the following: that following the disposition of the Wirth amendment, Senator CONRAD be recognized to offer an amendment relating to U.S. troop reductions in Europe.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. MITCHELL. Mr. President, I thank my colleagues. I especially thank the managers, Senator NUNN and Senator WARNER, for the usual dispatch and organization with which they are handling this very important bill.

Mr. WARNER. Mr. President, I thank the distinguished majority and minority leader. I think I would like to observe that it is just about 12 hours that this bill has been considered by the Senate. I think the total of the quorum calls has been less than 30 minutes. That is not only to the credit of the managers but all Senators being cooperative to make this bill a reality.

RECESS UNTIL 8:45 A.M. TOMORROW

Mr. LEVIN. Mr. President, if there is no further business to come before the Senate today, I now ask unanimous consent that the Senate stand in recess under the previous order until 8:45 a.m. tomorrow.

There being no objection, the Senate, at 11:32 p.m., recessed until Friday, August 3, 1990, at 8:45 a.m.

NOMINATIONS

Executive nominations received by the Senate August 2, 1990:

FEDERAL EMERGENCY MANAGEMENT AGENCY

THOMAS F. KRANZ, OF CALIFORNIA, TO BE AN ASSOCIATE DIRECTOR OF THE FEDERAL EMERGENCY MANAGEMENT AGENCY, VICE JAMES P. MCNEILL, RESIGNED.

FEDERAL HOUSING FINANCE BOARD

THE FOLLOWING NAMED PERSONS TO BE DIRECTORS OF THE FEDERAL HOUSING FINANCE BOARD FOR THE TERMS INDICATED:

WILLIAM C. PERKINS, OF WISCONSIN, FOR A TERM OF 1 YEAR. (NEW POSITION)
MARILYN R. SEYMANN, OF ARIZONA, FOR A TERM OF 5 YEARS. (NEW POSITION)

HOUSE OF REPRESENTATIVES—Thursday, August 2, 1990

(Legislative day of Tuesday, July 10, 1990)

The House met at 10 a.m.

The Rev. Dr. William Holmes, the National Methodist Church, Washington, DC, offered the following prayer:

Almighty and Eternal God, on this day we give You thanks for the sources of authority by which this House has been established and conducts itself. For the Constitution of the United States, providing for legislative, executive, and judicial branches. For the continuing consent of citizens, electing and reelecting representatives to fashion laws addressing both specific needs and the common good. For courtesies and protocols by which this House perpetuates its own great spirit and traditions. And, above all else, for the authority of this body as derived from Your providence and will, ever calling us to the things that make for peace, justice, and a careful stewardship of this, our land, and the whole good Earth. Keep us now and always as a nation under God, and ever accountable to You—the Lord of history. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. CLINGER. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. CLINGER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 289, nays 108, answered "present" 1, not voting 34, as follows:

[Roll No. 300]

YEAS—289

Ackerman	Applegate	Bartlett
Anderson	Archer	Bateman
Andrews	Aspin	Bates
Annuzio	Atkins	Beilenson
Anthony	Barnard	Berman

Bevill	Hall (OH)	Neal (MA)
Bilbray	Hamilton	Nowak
Boggs	Hammerschmidt	Oakar
Bonior	Hansen	Oberstar
Borski	Harris	Obeys
Bosco	Hatcher	Olin
Boucher	Hawkins	Ortiz
Boxer	Hayes (IL)	Owens (NY)
Brennan	Hayes (LA)	Owens (UT)
Brooks	Hefner	Packard
Browder	Hertel	Pallone
Bruce	Hoagland	Panetta
Bryant	Horton	Parker
Bustamante	Houghton	Patterson
Byron	Hoyer	Payne (NJ)
Campbell (CO)	Hubbard	Payne (VA)
Cardin	Huckaby	Pease
Carper	Hughes	Pelosi
Carr	Hutto	Penny
Chapman	Hyde	Perkins
Clarke	Jenkins	Petri
Clement	Johnson (CT)	Pickett
Clinger	Johnson (SD)	Pickle
Coleman (MO)	Johnson	Porter
Coleman (TX)	Jones (GA)	Poshard
Collins	Jontz	Price
Combest	Kanjorski	Pursell
Condit	Kaptur	Quillen
Conte	Kasich	Rahall
Conyers	Kastenmeier	Rangel
Cooper	Kennedy	Ravenel
Costello	Kennelly	Ray
Coyne	Kildee	Richardson
Crockett	Kliczka	Ritter
Darden	Kolter	Robinson
Davis	Kostmayer	Roe
de la Garza	LaFalce	Rose
DeFazio	Lancaster	Rostenkowski
Dellums	Lantos	Roth
Derrick	Laughlin	Rowland (CT)
Dicks	Lehman (CA)	Rowland (GA)
Donnelly	Lehman (FL)	Roybal
Dorgan (ND)	Lent	Russo
Downey	Levin (MI)	Sabo
Durbin	Levine (CA)	Saiki
Dwyer	Lewis (GA)	Sangmeister
Dymally	Lipinski	Sarpalius
Dyson	Livingston	Savage
Early	Lloyd	Sawyer
Eckart	Long	Schiff
Edwards (CA)	Lowey (NY)	Schneider
Emerson	Luken, Thomas	Schulze
Engel	Manton	Schumer
English	Markey	Serrano
Erdreich	Martinez	Sharp
Espy	Matsui	Shaw
Evans	Mavroules	Shumway
Fascell	Mazzoli	Shuster
Fazio	McCloskey	Sisisky
Feighan	McCurdy	Skaggs
Fish	McDade	Skeen
Flippo	McDermott	Skelton
Foglietta	McEwen	Slatery
Frank	McHugh	Slaughter (NY)
Gaydos	McMillen (MD)	Smith (FL)
Gejdenson	McNulty	Smith (NE)
Gephardt	Meyers	Smith (NJ)
Geren	Mfume	Smith, Denny
Gibbons	Michel	(OR)
Gillmor	Miller (CA)	Snowe
Gilman	Mineta	Soiarz
Gingrich	Moakley	Spratt
Glickman	Mollohan	Staggers
Gonzalez	Montgomery	Stallings
Gordon	Moody	Stark
Gradison	Morella	Stenholm
Grandy	Morrison (WA)	Stokes
Grant	Mrazek	Studds
Gray	Murtha	Swift
Green	Myers	Synar
Guarini	Nagle	Tallon
Gunderson	Natcher	Tanner

Tauzin	Vento	Wheat
Taylor	Visclosky	Whitten
Thomas (GA)	Volkmer	Williams
Torres	Walgren	Wilson
Torricelli	Walsh	Wise
Trafficant	Washington	Wolpe
Traxler	Watkins	Wyden
Unsoeld	Waxman	Yates
Valentine	Weiss	Yatron
Vander Jagt	Weldon	

NAYS—108

Armey	Hastert	Ridge
Baker	Hefley	Rinaldo
Ballenger	Henry	Roberts
Barton	Hiler	Rogers
Bentley	Hopkins	Rohrabacher
Bereuter	Hunter	Ros-Lehtinen
Bliley	Inhofe	Saxton
Blochert	Jacobs	Schaefer
Brown (CO)	James	Schroeder
Buechner	Kolbe	Schuetter
Bunning	Kyl	Sensenbrenner
Burton	Lagomarsino	Shays
Campbell (CA)	Leach (IA)	Sikorski
Chandler	Lewis (CA)	Slaughter (VA)
Clay	Lewis (FL)	Smith (TX)
Coble	Lightfoot	Smith (VT)
Coughlin	Lukens, Donald	Smith, Robert
Courter	Machtley	(NH)
Craig	Marlenee	Smith, Robert
Crane	Martin (IL)	(OR)
Dannemeyer	Martin (NY)	Solomon
DeLay	McCandless	Spence
DeWine	McCollum	Stangeland
Dickinson	McGrath	Stearns
Dornan (CA)	McMillan (NC)	Stump
Douglas	Miller (OH)	Sundquist
Dreier	Miller (WA)	Tauke
Duncan	Molinar	Thomas (CA)
Fawell	Moorhead	Thomas (WY)
Fields	Murphy	Upton
Frenzel	Nielson	Vucanovich
Galleghy	Oxley	Walker
Gallo	Parris	Weber
Gekas	Pashayan	Whittaker
Goodling	Paxon	Wolf
Goss	Regula	Young (FL)
Hancock	Rhodes	

ANSWERED "PRESENT"—1

Jones (NC)

NOT VOTING—34

Alexander	Ford (MI)	Morrison (CT)
AuCoin	Ford (TN)	Neal (NC)
Bennett	Frost	Nelson
Bilirakis	Hall (TX)	Roukema
Broomfield	Herger	Scheuer
Brown (CA)	Hochbrueckner	Smith (IA)
Callahan	Holloway	Towns
Cox	Ireland	Udall
Dingell	Leath (TX)	Wyllie
Dixon	Lowery (CA)	Young (AK)
Edwards (OK)	Madigan	
Flake	McCrery	

□ 1026

Ms. SLAUGHTER of New York and Mr. DARDEN changed their vote from "nay" to "yea."

Mrs. BOGGS changes her vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PLEDGE OF ALLEGIANCE

□ 1030

The SPEAKER pro tempore (Mr. McNULTY). The Pledge of Allegiance will be led by the gentleman from New York [Mr. PAXON].

Mr. PAXON led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a joint resolution of the House of the following title:

H.J. Res. 625. Joint resolution designating August 6, 1990, as "Voting Rights Celebration Day."

The message also announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5040. An act to extend the authorizations of appropriations for the Tribally Controlled Community College Assistance Act of 1978 and the Navajo Community College Act.

The message also announced that, pursuant to Public Law 101-194, the Chair on behalf of the majority leader, announces the appointment of Mrs. C. Abbott Safford, secretary for the majority; and Ron Klain, chief counsel, Committee on the Judiciary; to the President's Commission on the Federal Appointment Process.

PERMISSION FOR SUBCOMMITTEE ON SURFACE TRANSPORTATION OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT TODAY DURING THE 5-MINUTE RULE

Mr. MINETA. Mr. Speaker, I ask unanimous consent that the Subcommittee on Surface Transportation of the Committee on Public Works and Transportation be permitted to sit today, August 2, 1990, while the House is under the 5-minute rule.

This request has been cleared by the minority leadership of both the House and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair wishes to announce to the Members of the House that we will accept seven 1-minute speeches on each side of the aisle today, and that other 1-minutes will be accepted later in the day.

COMMITTEE ON FOREIGN AFFAIRS WORKING ON EMBARGO AND SANCTIONS BILL TODAY

(Mr. FASCELL asked and was given permission to address the House for 1 minute.)

Mr. FASCELL. Mr. Speaker, I take this moment to advise the House that the Committee on Foreign Affairs met yesterday and voted out a sanctions bill. In light of the invasion, however, that dastardly, drastic and dangerous invasion of Kuwait, we are revisiting the legislation and expect to be out here, back on the floor, later today with an embargo bill and a sanctions bill. We are working with my distinguished colleague on the Committee on Ways and Means, the chairman of the Trade Subcommittee, the gentleman from Florida [Mr. GIBBONS], and any other committee that has some possible jurisdiction with respect to this legislation. The Committee on Foreign Affairs is now meeting and will stay in continuous session until we finish drafting this bill. We will build on the bill that the committee unanimously adopted yesterday, and, from what I have determined so far today, we will probably have unanimous agreement coming out of the Foreign Affairs Committee with the new legislation.

OPPOSE THE NEW HITLER OF THE MIDDLE EAST

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, appeasement of ruthless dictators never worked in Europe, and it surely is not going to work in the volatile Middle East against the blood thirsty and brutal dictator of Iraq, Saddam Hussein.

The invasion of Kuwait is the logical consequence of State Department appeasement and the blind pursuit of profits by European and Japanese companies, and by some of our own, as they scrambled, with their tongues hanging out, to lap up Iraqi petrodollars.

However, Mr. Speaker, the situation can be turned around. We need a total embargo against Iraq by all the civilized world. If this latest outrage of the Iraqi dictator persuades our State Department, Japan, and Europe to impose tough, multilateral sanctions that hurt, if the civilized world finally understands that outlandish threats by blood-thirsty dictators must be taken seriously, then and only then will we restrain the new imperialism of the new Hitler of the Middle East.

WHAT MUST BE SAID BACK HOME DURING SUMMER VACATION

(Mr. CONTE asked and was given permission to address the House for 1 minute.)

Mr. CONTE. Mr. Speaker, we are now 1 day away from summer vacation. Imagine that—summer vacation, when there is a \$104 billion sequester that's coming down the pike faster than a Mack truck.

Mr. Speaker, I just want to tell you what every Member of this House will have to tell our constituents, while we are home on vacation.

A reduction of 1 million military personnel—about half the force; 100 air traffic control towers shut down; elimination of student aid for 1.2 million students; 140 days of no safety inspections for the food we eat. Stop eating, folks; 6,600 Federal prisoners moved into already overcrowded facilities; and crippling of our efforts against AIDS.

Mr. Speaker, if we go home, that's what we've got to report to our constituents. It's a disgrace. I don't want to go home.

Mr. Speaker, keep us here and turn off the air-conditioning. Then you will see proposals to reduce the deficit start coming out of the woodwork and put it back on the bargaining table.

IRAQI ATTACK SHOWS IMPORTANCE OF BEING PREPARED

(Mr. SKELTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKELTON. Mr. Speaker, Winston Churchill once said that wars come very suddenly. The Iraqi attack upon Kuwait within the last few hours is a tragic example of this.

Mr. Speaker, Saddam Hussein, who some call the Butcher of Baghdad, ordered his troops across the border with Kuwait. He is making his bid for strong man of the Arab world. Earlier he promised President Mubarek of Egypt that he would not attack Kuwait. He made the same promise with our Ambassador last week. His promises, Mr. Speaker, are reminders of those made by Adolph Hitler some 50 years ago.

This conflict could have serious repercussions here in the United States. Americans remember the oil price increases in 1973 and 1979. Saddam Hussein wants the rest of us to pay for his recent war with Iran. Hussein's attack is a financial assault upon America and upon the industrialized world which is dependent on Mideast oil. Today we are in the midst of reducing our Armed Forces. A decade's effort toward rebuilding the Armed Forces of this country is now at great risk. The Iraqi attack should cause us to under-

stand all the importance of keeping our Nation well prepared.

HEAVY HITTERS FROM K STREET AND HOLLYWOOD ARE PICKING THE WINNERS

(Mr. CLINGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CLINGER. Mr. Speaker, as we prepare to debate campaign finance reforms, I urge my colleagues to take another look at the idea that most of a candidate's financial support should come from the people who live in the district or State that the candidate seeks to represent.

One of the most serious charges leveled against the present campaign finance system is that it allows outside interests to have an abnormal influence on what should be local decisions. In other words, the heavy hitters from K Street and Hollywood are picking the winners in congressional elections by making sure their candidates have more money than their opponents and can thus buy more advertising and hold more attention-getting events.

Our colleague from California, Mr. THOMAS, has long advocated limiting outside contributions, and I think it deserves consideration. To deny this House this opportunity to consider this would be unconscionable.

THE INVASION OF GARBERVILLE, CA

(Mr. BOSCO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOSCO. Mr. Speaker, as one invasion rages in the Middle East, another invasion has broken out in Garberville, CA. While most Americans enjoyed their summer barbecues last week, a tiny town in the California redwoods was attacked by the U.S. Army. Five Black Hawk helicopters, 1 Huey, 2 C-130's, 150 National Guardsmen, 50 GI's from Fort Ord, and 50 BLM agents have launched a full scale assault by land and air to rid the area of marijuana plants.

Yesterday a quiet little convent called to tell me that they had been invaded. Some at first thought it was the Russians, and then they were surprised to find out it was the Americans. Little old ladies out watering their tomato plants in the morning were shocked to see camouflaged GI's crouching around in the bushes.

So far I am told drug czar Bill Bennett and his troops have confiscated 330 marijuana plants. This is compared to some 20,000 confiscated since January by the local police.

Mr. Speaker, it will remain to be seen what this unique show of military force will cost the taxpayer, but, had

the local authorities been contacted in advance, they could have told General Bennett where to look.

THE AIRLINE PASSENGER DEFENSE ACT

(Mr. RITTER asked and was given permission to address the House for 1 minute.)

Mr. RITTER. Mr. Speaker, have you ever flown into Washington National Airport only to discover that your luggage is on an extended vacation in Topeka? All of us have heard the war stories, flights canceled without notification, luggage lost, damaged, or destroyed, or arrived hours after the vacation is over, people getting rerouted into the twilight zone or just bumped off a flight.

□ 1040

Sad to say, most hard luck cases go unreported because passengers feel that their complaints go into some black hole somewhere. Competition is virtually nonexistent. Flying today has become the airborne equivalent of the New York City subway, except on the subway treatment is a little more hospitable.

The Airline Passenger Defense Act is a modest step forward for the beleaguered downtrodden airline passenger. Airline service has become the ultimate oxymoron of the American economy.

You can do something about it. Join over a hundred original cosponsors, including the leadership on the aviation issue today as we introduce the Airline Passenger Defense Act.

TOUGHER SANCTIONS AGAINST IRAQ

(Mr. GIBBONS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GIBBONS. Mr. Speaker, unfortunately naked aggression is loose again in the world. We witnessed it against Ethiopia. We witnessed it in Europe by Hitler against many small and defenseless countries.

We cannot tolerate what is taking place between Iraq and Kuwait. It is time for action.

I intend to support the resolution that will be on the floor this morning and I intend to have additional sanctions added to it, if it is within my power. The sanctions that I call for will ask for American sacrifice, but we need to sacrifice now and we must lead. The sanctions that I will call for will place a total economic embargo on Iraq and upon Kuwait as long as they are occupied and controlled by Iraq; but in addition to that, we will say to our trading partners throughout the world, every trading partner, including

Europe, Japan, Russia, and China, that if you do not also embargo the same way we do, you products will be excluded from our market to the extent that you continue to trade with that country.

Mr. Speaker, this is tough. It must be done.

TURNING FROM B-1 BOB INTO B-2 BOB

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, all the tough liberal Democrat talk in the world will never stop aggression.

May I paraphrase Teddy Roosevelt. "Speak softly and carry a big B-2."

Today is the day that this Member turns from B-1 Bob into B-2 Bob.

The reason? Power projection. A week ago Saturday, I was at the christening by Barbara Bush of the U.S.S. *George Washington*. Our super carriers are for power projection.

The B-2 is for power projection.

Mr. Speaker, these words on this House wall, "In God We Trust," are fitting. But after the way we decimated our defense budget 2 days ago in the Armed Services room, do you know what 2118 Rayburn needs on the wall? Plato: "Only the dead have seen the end of war."

The world's largest oil company has just been taken over. That is a hostile takeover, my liberal Democrat friends. Sanction all you want and call him a mini-Hitler. We called Hitler a mini-Napoleon in the midthirties to little effect.

No, this is a dangerous world we live in. Last year, the blood in the streets of Tiananmen Square helped save the decimation of our defense budget. Blood in the streets of Kuwait may make some Democrats wake up.

The Kuwaiti Ambassador is serving crow over in the Kuwaiti Embassy right now. I hope some of my liberal colleagues have the common decency to eat a little of it.

THE TRANSFER OF CHEMICAL WEAPONS TO JOHNSTON ISLAND FROM GERMANY

(Mr. FALEOMAVAEGA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FALEOMAVAEGA. Mr. Speaker, I have a personal interest in the transfer and destruction of any chemical weapons in what I consider as my backyard. This is the same backyard shared with the people in the States of California, Oregon, Washington, Alaska, Hawaii, and the Territory of Guam.

Mr. Speaker, I am firmly opposed to the transportation of nerve gas and other chemical weapons and hazardous substances from Germany to Johnston Island and I oppose the incineration of these chemical weapons for several reasons.

First, I am not sure that incineration of these chemical weapons would not be hazardous to the lives of the millions of people who live in the Pacific. Second, I am also not sure that incineration of these chemical weapons is environmentally safe. Third, it is not clear to me that the means of transporting these chemical weapons is secure. One only has to recall last summer's *Exxon Valdez* oilspill to realize what could happen if chemical weapons, and not oil, spilled into the ocean. It would clearly be a travesty.

Mr. Speaker, I call upon the administration to stop the movement of these chemical weapons to Johnston Island until a congressional delegation is allowed to examine this whole plan.

Mr. Speaker, it is so difficult to have our President consult with our NATO allies and collectively set up a facility to destroy the chemical weapons in Europe, since after all it was for their defense against possible Communist aggression?

Mr. Speaker, I submit I am sick and tired of having the Pacific Ocean as the world's dumping ground for toxic and dangerous chemical weapons.

AN OPEN RULE ON CAMPAIGN REFORM AND CIVIL RIGHTS

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, today the House is going to take up civil rights, and tomorrow it is going to take up campaign reform. I would suggest that tomorrow when we take up campaign reform, the way in which you and the majority are trying to structure the debate, it will neither be civil nor will there be any rights. You will not allow a free and open debate.

What are you afraid of, Mr. Speaker? What is the Democrat majority afraid of? Why do they not want to have each issue debated on its merits?

If the majority of the people in this body agree on an issue, fine; but let us not lie to the American public, Mr. Speaker. Let us not say we will have civil rights in some matters, but on an issue of major import to the American public, reforming the political campaign process, we are not going to allow civility, nor will we allow rights. You are going to give us very close to a closed rule. You are going to have two bites of the apple, and we get one little nibble on the crumbs, and you are going to amend that.

Is that the way to treat the American public? The Keating Five would be

proud of you, Mr. Speaker. That is the way to do it. Keep down debate. Keep incumbents in. Keep money flowing in from PAC's and outside special interests. Do your best, Mr. Speaker, and the Democratic majority, to thumb your nose at civility and rights and to the rights of the American public to know just why their campaign system sucks.

DIAL 1-800-USA AND GET FREE AMERICAN HELP

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, we are going to hear a lot about Iraq today. Let me say, there is some good news, some good news in that the cold war is over and for the first time in a long time we are seeing the U.N. Security Council unanimously vote with no vetoes to sanction Iraq. I think that not only their sanctioning of Iraq, then we must move them to do economic sanctions and we must keep everyone together.

One of the mistakes I think we have made in that area is that the world thinks all they have to do is dial 1-800-USA and we come free of charge.

As chairwoman of the burden-sharing panel, I must tell you the last time it cost us \$100 per barrel of oil that was shipped out of there to Japan and Europe. That was very nice of us, but I think this time we must demand that they pay their fair share, too.

We have heard speeches this morning that if we had just voted for the B-2, this would be over. The B-2 would not do a thing about this. This means committing ground troops to push their forces back.

This is a very, very serious thing, and I think we must insist that our allies join. No more dialing 1-800-USA and we come free.

CONGRESS SHOULD TAKE PREVENTIVE ACTION AGAINST INVASION ON AMERICAN CONSUMERS

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, some people claim that Congress never learns from experience. Let us prove them wrong. The news out of Kuwait and Iraq is most disturbing, but there is no reason to whip up hysteria about it.

I am asking Congress to take preventive action now before the invasion, the true invasion, the real invasion takes place, the invasion of the American consumers' pocketbooks.

In the past this kind of incident has always been used as a pretext to increase oil and gasoline prices at the

pump. I say pretext, because upon investigation it has always been the conclusion.

Let us in Congress take the initiative and send a strong message that we will not condone or allow this incident to be used as a pretext by the big oil companies to increase prices.

□ 1050

Now is the time for action. Now is the time for us to focus an eagle eye on the big oil companies and see what happens to the oil and gasoline prices.

Mr. KASICH. Mr. Speaker, will the gentleman yield?

Mr. ROTH. I yield to the gentleman from Ohio.

Mr. KASICH. Mr. Speaker, the invasion of Kuwait frightens everyone. We must deal with Saddam Hussein in an effective way. This underscores the military problems we face in the new world.

Mr. ROTH. Reclaiming my time, I thank the gentleman for his comments.

But this, in my opinion, is for us to focus on what is taking place as far as gasoline and oil prices. That is the key issue. To whip up hysteria about the invasion is going to do nothing for us.

AVIATION SAFETY AND CAPACITY EXPANSION ACT OF 1990

The SPEAKER pro tempore (Mr. McNAULTY). Pursuant to House Resolution 428 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 5170.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the further consideration of the bill (H.R. 5170) to amend the Airport and Airway Improvement Act of 1982, to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the airport and airway trust fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes, with Mr. PICKETT (Chairman pro tempore) in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. When the Committee of the Whole House rose on Thursday, July 19, 1990, the bill was open for amendment at any point.

Are there further amendments to the bill?

Mr. OBERSTAR. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I do this to advise the Committee of the Whole where we stand on this legislation since it has been almost 3 weeks since we interrupted consideration of the bill.

At the time when we concluded the initial action on this legislation, we had approved the rule. We had concluded general debate. And we had dealt with some seven amendments to the legislation, either adopting most of them or resolving them in acceptable fashion. We have at least one, possibly two, amendments remaining. One is a major amendment to be offered by the gentleman from California [Mr. Bosco] to strike a provision of the bill.

I would just simply like to summarize as a refresher for our colleagues the main provisions of H.R. 5170, the airport improvement bill.

This legislation authorizes \$5.5 billion for air traffic control modernization for fiscal years 1991 and 1992. That is an average 59-percent increase in spending on air traffic control equipment, computers, color weather radar systems, doppler weather radar systems, wind shear detection systems that are needed at major airports to make air travel safe and efficient.

Second, the legislation authorizes \$3.7 billion for airport capital development for fiscal years 1991 and 1992. This is a 29-percent increase over the current fiscal year spending.

Air capacity improvement and expansion are necessary if we are going to deal with the 117 million hours of delay air travelers experienced last year and the \$5 billion it cost our national economy for those delays. You do not build capacity without spending some money, and this bill does that out of the aviation trust fund.

The third, the bill will fund 75 percent of FAA's total budget out of the aviation trust fund pursuant to an agreement worked out between the Subcommittee on Aviation and the Subcommittee on Transportation Appropriations, the Office of Management and Budget, and the Department of Transportation. We have a bipartisan three-way agreement on what has been a very important, I would say even crucial, ingredient in this total program of drawing down the surplus in the trust fund, spending it on airport improvement, investing it in modernization of the air traffic control system, and moving ahead with the business of aviation.

As a result of this agreement, and I must say also that the House Committee on Ways and Means has been part of that agreement. The aviation trust fund balance will be reduced from the current \$7.6 billion to \$1.1 billion over the next 5 years. We will not have an increase and we will not need an increase in the aviation ticket tax to fund these program levels over the next 5 years, because we deal with them by the agreement I have just outlined plus one other provision that I will address in a moment.

The bill also reforms the essential Air Service Program to prevent further reductions of cities from the es-

sential Air Service Program and to ensure funding on a consistent, sustained basis for this program that was part of the basic agreement in 1978 to deregulate aviation.

The legislation also extends a very effective State Block Grant Program. It establishes a new program to support the conversion of military airfields to civilian use to enhance capacity, and it requires the FAA to establish a system of satellite flight service stations in areas that have unique weather or operational conditions that are crucial to the safety of flight.

The other element of this legislation that is innovative and different is that it increases additional revenues to provide for expansion of airport capacity, and that is through the use of a passenger facility charge which is permitted in this legislation for airports who choose to adopt through their ordinary procedures an additional charge on passengers similar to a toll on a bridge or a toll road. They do not have to put it on. They can if they wish.

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Mr. Chairman, they can if they wish impose that or adopt that charge. It is limited in this bill only to airside uses, only to runways, taxiways, and to gates. It cannot be used beyond the airport, just like a toll on a toll road. It is used only to build that road or to retire the debt on that road or to maintain that road, and so the PFC is limited very narrowly. It is an essential part of this total agreement drawing down the trust fund, spending that money on airport capacity, enhancement and improvement.

There is a difference of opinion. Some people say we should not have this charge, and we will debate that as the gentleman from California offers his amendment.

That is kind of where we are as an overview of the legislation. We must adopt this legislation. It will set the tone for aviation for the next decade for a \$600 billion a year industry, to enhance its growth, improve air travel, and reduce that congestion that we all face every time we get on a plane.

Mrs. COLLINS. Mr. Chairman, I rise in support of H.R. 5170, the Aviation Safety and Capacity Expansion Act of 1990. As chairwoman of the Government Activities and Transportation Subcommittee of the Government Operations Committee, I have examined a range of issues over the last several years related to aviation safety, airport security, and air traffic control. Having thoroughly investigated and studied these and other aviation issues, I am convinced that H.R. 5170 is urgently needed and that it deserves our strong support.

Of extreme importance is the fact that H.R. 5170 establishes the framework for a com-

bined Federal and local program to develop the crucial aviation infrastructure for this country. For example, permitting airports to assess a passenger facility charge [PFC], the bill will effectively cause the aviation trust fund surplus to drop from over \$7 billion to \$1 billion by 1995, thus creating a potential of \$1 billion in new annual capital funding for airport capacity and safety improvements.

This is significant because State and local governments that own and operate airports, like my own city of Chicago, need to finance \$50 billion in projects over the next 5 years to increase capacity, improve safety and security, and reduce aircraft noise.

In addition, the bill increases authorizations for the Airport Improvement Program, FAA's facilities, equipment, operations, and maintenance accounts, as well as the Essential Air Service Program; and provides significant new funding which will enable all airports to address their funding needs for such vitally needed projects as runway expansion.

Of the \$10 billion annual capital needs the Federal Airport Improvement Program [AIP] authorization covers only \$1.8 billion per year, and actual appropriations are even less. Moreover, the Airport Improvement Program is only one of the aviation programs funded from the trust fund through the Federal ticket tax and only assists certain airport projects. For example, the Airport Improvement Program has provided only marginal support for Chicago airport capital development programs. Historically, Chicago's airports have received only minimal allocations of AIP discretionary dollars. From 1982 through 1987, O'Hare ranked 21 out of the top 24 airports in return of AIP discretionary funds per enplaned passenger. As a result of Chicago's low return on AIP discretionary funds, the city has had to rely on airline-sponsored revenue bonds to fund its projects, resulting in increased debt service to the city.

Furthermore, the Airport Improvement Program does not include funding for any AIP eligible projects the city is currently scheduled to implement as part of its O'Hare Development Program. Furthermore, it falls nearly \$2.7 million short in meeting the costs of Chicago's 5-year airport improvement plan for O'Hare, Midway, and Meigs airports.

Providing airport operators with the ability to impose passenger facility charges gives local governments the option of raising funds from air travelers to help pay for local airport development needs. Since passengers benefit the most from airport expansion and improvements, the only way to adequately increase airport funding is for Congress to permit airports to raise funds directly from passengers. The additional cost of \$1 to \$3 to the passenger, I believe, is reasonable and justifiable, particularly if you consider that passenger are already paying far more in delay costs and higher fares because of inadequate airport capacity, not to mention inconvenience.

The passenger facility charges provided in H.R. 5170 would be used to expand and improve airports, to reduce passenger delay costs, and provide capacity needed for airline competition to reduce airfares.

I urge my colleagues to support it.

AMENDMENT OFFERED BY MR. BOSCO

Mr. BOSCO. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. Bosco: Strike sections 108, 109, and 110 of the bill and redesignate subsequent sections of title I of the bill accordingly.

Conform the table of contents of the bill accordingly.

Mr. BOSCO (during the reading). Mr. Chairman, I ask unanimous consent that the amendment be considered as read and printed in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BOSCO. Mr. Chairman, today we decide whether we are going to turn the Nation's airports into tax-ports.

The bill before us would allow local airport officials to treat passengers like cash cows, able to indiscriminately milk rich and poor alike, family vacationers, frequent flyers, everyone, every time they step on an airplane.

□ 1100

If you are going from Washington through Chicago to San Francisco with your family, you, your wife and each of your two kids will shell out \$3 each, first in Washington, then in Chicago. And on the way home you will shell out another \$24. My amendment strikes this new tax from the bill.

A couple of months ago people around here were talking about new taxes in hushed tones. Now since the President's lips have become a lot easier to read, not a day goes by that a new tax is not proudly announced from the budget summit; taxes on wine and beer, taxes on tobacco, increased taxes on home mortgages, limited deductions on real estate taxes, you name it. The American people are quaking in their boots to see what new tax we are going to come up with next.

Today each and every Member of the House will have a chance to vote on the first big new tax of the season, a \$1 billion tax on the traveling public. It has been so long since we have seen a big new tax around here that many Members have a hard time recognizing it.

I think a lot of people recall the ancient fable of the blind men feeling the elephant, not able to see the elephant, and each decided that they would feel a different part of the elephant's body to determine what it looked like. One went up and felt the trunk and said, "Oh, my goodness, an elephant really is much like a snake." Another went back and felt the tail and said, "Oh no, an elephant is just a rope or a vine." Then the other one wrapped his arms around the elephant's feet and said, "No, an elephant is just like a tree trunk." Of

course they were all wrong in describing the creature. That is how we look at taxes around here. One goes up and feels it and says, "Oh no, this is not a tax, it is a user fee." Another goes up and says, "Oh my goodness, this is not a tax, it is just a charge." And some say, "Well, this thing that we are feeling has been approved by both the Republican and Democratic leadership and therefore, it is an old fashioned, good tax."

Well, there is one group out in the country that is not going to be blind to this tax, and that is the people who are going to have to pay it, not once, not twice, but every time they step onto an airplane.

Today I am giving everyone a chance to vote against a plain and simple new tax. In fact, it is a double tax, a regressive tax, and an unneeded tax.

There are some who will make the argument today that these passenger facility charges are not really taxes, they are user fees. But in fact, your constituents already pay an 8-percent fee to use the airport every time they buy a passenger ticket. This fee is tacked onto every airplane ticket that a person buys. Its sole purpose is to pay for airport facilities and the air traffic control system.

The tax we will be voting on today does exactly the same thing. It is a double tax. And at a time when almost \$8 billion is reposing unused, unspent in the airport and airways trust fund, we are asking the American people to pay another tax to do the very thing we have collected \$8 billion of their money for and have not spent.

The distinguished and very able chairman of our Aviation Subcommittee, my good friend, has explained this by saying people have got to recognize that there is no free lunch. But in this case, the American people have paid for their lunch and it has never been delivered to the table. And now we are going to ask them to pay another tax to get into the restaurant.

There are some in this room better at explaining things back home than I am. In fact, there are some that can explain just about everything to their constituents, and I am not quite as good at it. Frankly, if I were at a town meeting and some person in the audience raised his hand and said, "How is it, Congressman, that you could have \$8 billion that you have already taxed me and the American people sitting in a fund that you have not used, and now you are going to tax me another \$3 every time I get into an airplane to pay for the same thing?" I am going to have a hard time explaining that.

The tax before us is often glibly explained away by the proponents of this tax by saying yes, we have the \$8 billion sitting there, but under this bill everybody has agreed, the President, the OMB, the Democrats, the Republicans, everybody has agreed that we

are going to start spending down the aviation trust fund.

The CHAIRMAN. The time of the gentleman from California [Mr. Bosco] has expired.

(By unanimous consent, Mr. Bosco was allowed to proceed for 5 additional minutes.)

Mr. BOSCO. Mr. Chairman, where is the tooth fairy when we need her? Every time we have reauthorized this trust fund the same promise has been made. Ever since 1972, the promise has been made that we are going to start spending down the trust fund and it has never happened. The fund has been kidnapped and hidden in a dark garage, and now we are saying to the American people give us \$1 billion more in ransom money and we will let the trust fund loose.

Members will hear about the so-called trigger mechanism built into this bill that says that if we do not keep our promise and spend down the trust fund all of this new tax will be erased from the books. But pay close attention to how cleverly this provision is written, because the bill allows every airport that starts to collect a passenger facility charge before October of 1992 to continue charging that charge even if we do not spend down the trust fund. The old trigger mechanism, in fact old Trigger, is going to be long out of the stable by the time this barn door gets shut on this new tax.

Members will hear arguments that this is not a new tax that we are charging here in the Congress, all we are doing is allowing the local airports to charge this tax. Before you start washing your hands of this affair, keep in mind Congress now specifically prohibits airports from charging a head tax on passengers. And it is not going to take any Sherlock Holmes for passengers to start figuring out who authorized this new tax.

Many Members have come up to me and said well, my airports have called me and all of them want this new tax. Well of course they do. Do you know any full-blooded, red-blooded bureaucracy in this country that would not love to get its hands on an unlimited new ability to tax the American people? Yet, these taxports already have vast ability to raise revenues. Airports can issue bonds for facilities improvements and tax the airlines and consumers to pay off those bonds. In fact, the first 5 months of this year alone nearly \$3 billion in airport bonds have been issued, a dramatic increase over previous years. Airports can tax businesses both on and off the airport to fill their coffers. Let me repeat that, airports can and actually do charge income taxes to businesses that are not even located on the airport property. No other jurisdiction that I know of has this power.

And because business travelers will write off the tax that is included in this bill on their income taxes, the new taxes in this bill will actually cost the Federal Treasury \$200 million and increase the Federal deficit. In fact, at this very moment the administration is proposing to increase the 8-percent tax that we already charge by 2 percent, so that if this new proposal goes into effect, the average traveler will be paying a combined tax increase of 62 percent.

My amendment strikes the new taxes from this otherwise excellent piece of legislation. My amendment says do not turn airports into taxports. Let us spend the taxes that we have already collected from the taxpayers' pockets before reaching our hand into the other pocket.

We have the support of all of the major unions in the country, the American Society of Travel Agents, the American Automobile Association, the Regional Airline Association, and I hasten to say, airline travelers everywhere.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I think it is important that we understand what this amendment does. I do not think one would ever understand what it does from listening to the comments of my friend and colleague on the committee who just spoke.

The provisions in the reauthorization bill do not represent the imposition of a tax as has just been characterized. It is not a Federal tax; it is a local option.

This legislation merely restores taxing power to local authorities which they enjoyed up to 1973 when they were prohibited from using it by Congress. This type of legal authority is currently utilized by the States in other transportation areas, and there is no reason to prevent them from raising capital for airport development.

Similar user charges are imposed by the States through taxes on gasoline as well as highway tolls.

Therefore, we are not creating some new hybrid type of user fees, but are merely giving back to the States a power which they formerly had and which they had up until 1973.

Let me explain what the bill does and the importance of it.

This amendment is dangerous. It would eliminate one of the most important features of the bill, the passenger facilities charge.

It is well known that we have been trying for many years to meet the funding needs of our airport and airways system. Yet, we fall further and further behind. No new airports have been built in more than 15 years.

□ 1110

It is now estimated that about \$10 billion per year will be necessary to keep up with the growth in air travel in this country. Even with the full funding for the Airport Improvement Program in this bill and a spend down in these trust fund surpluses, we cannot meet those needs. Therefore, it is necessary to look at innovative approaches for expanding airport capacity.

The PFC is one such innovative approach. A PFC has several advantages.

One thing, it is totally voluntary. A local airport proceeds with a PFC if it has a high-priority safety or capacity expansion project that it needs to pursue;

It could not be blocked by an airline that dominates an airport and wishes to keep out new competition; and

In the long run as new capacity comes on line, it will mean more competition and thus lower fares for passengers.

Furthermore, the legislation contains several protections to prevent abuses of the new PFC. For example:

It is not an open-ended tax imposed by local authorities as has been characterized by the speaker before me.

Mr. Chairman, any PFC would have to be approved by the Secretary of Transportation to ensure that the project it will fund has a national purpose; revenues from the PFC could not be diverted to nonairport uses. The bill contains auditing provisions to ensure this; And continued PFC authority is tied to full funding of the airport improvement and essential air service programs and thus to the continued draw-down of the trust fund surpluses.

It should be emphasized that the PFC in this bill also the small ones. Under its terms, a large airport that charges a PFC will have to turn back some of its Federal airport improvement money to a small airport fund. That fund will make millions of dollars available for nonhub and general aviation airports.

In short, under this bill, with its PFC provision, everyone, everyone in this country who uses the air traffic system is a winner.

Therefore, I urge my colleagues to support the PFC and to soundly reject this amendment.

Mr. ANDERSON. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the amendment by my good friend and colleague from California. The amendment, simply put, means that less investment will be made in the Nation's airport system right at a time when it is desperately needed. We have reached a point in the development of our air transportation system where we need to enable all levels of government, Federal, State, and local,

to do everything they can to finance infrastructure improvements at the Nation's airports.

Federal funding alone will not be sufficient to meet the needs for airport development. Federal funds must be supplemented by local PFC's. H.R. 5170 establishes a program to spend all the new funds contributed by users to the Federal airport and airway trust fund and to draw down the \$7.6 billion surplus in the fund over the next 5 years. However, this Federal program of about \$2 billion a year for airport development falls far short of the \$10 billion a year which is needed. Airports also need access to PFC revenues, estimated at about \$1 billion a year.

Because the needs for airport development are so great, we should not delay a PFC until we have spent the surplus in the trust fund as some have argued. The House appropriating and authorizing committees have now agreed on a program to spend down the trust fund surplus over the next 5 years. We should go forward now with both the Federal program and PFC's. In addition, H.R. 5170 includes protections against the failure of the Federal program. The bill cuts off further PFC's in 2 years if the Federal program falls short of the agreed upon levels.

If you do not like sitting and waiting in crowded, congested airports today, the amendment by Mr. Bosco will make the situation even worse by taking away a major source of relief to those problems—the passenger facility charge. The PFC provision is crucially needed. Just ask your hometown airport director.

I urge defeat of the amendment.

Mr. PETRI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to support the amendment offered by my colleague, Mr. Bosco. As a member of the Aviation Subcommittee, I am aware of the pressing need for additional capacity at our Nation's airports. I do not, however, believe that a passenger facility charge offers a painless solution. We are talking, after all, about a head tax on every passenger traveling through those airports which implement PFC's. The airport and airway trust fund contains a surplus of over \$7 billion already collected from air passengers for capital improvements. How can we levy a PFC until we first spend this surplus?

Most everyone agrees that we need to spend more money on our aviation infrastructure; the issue is who will pay, and when. Users of the system already are taxed on each ticket purchased.

Ironically, that excise tax is slated for a 25 percent increase in the proposed fiscal year 1991 budget, from 8

percent to 10 percent. The airport and airway trust fund receives its revenues from that ticket tax and aviation fuel taxes. Ostensibly, these taxes are collected for the same purpose as a PFC. The trust fund surplus should be spent before we impose yet another tax on the traveling public.

Furthermore, a passenger facility charge unfairly hits the traveling public for some costs which should be borne by local communities. After all, they benefit from the economic activity generated by the airports in their jurisdiction. Although there is a national interest in having a well-developed aviation system, there is also a strong local interest in good local airports. Therefore, the costs should be shared between the two levels of government.

The PFC provisions of H.R. 5170 would allow local airport authorities to impose their own billion dollar annual tax largely on residents of other communities to fund airport development. That would help them shift their share of airport costs back to the travelers of the whole Nation.

This is not the first time Congress has addressed the issue of allowing airports to establish a head tax. In the early seventies, Congress decided to prevent airports from collecting such charges from passengers. One of the principal concerns at that time was the diversion of revenues generated on the airport site to nonairport related uses.

While I welcome the efforts of Mr. OBERSTAR, Mr. CLINGER, and others to include provisions in this legislation to guard against such diversions, those efforts just won't work. This proposed new revenue stream will indirectly relieve cities of some of their costs for airport maintenance and development. And those cities fortunate enough to have hub airports will gain an enormous windfall at the expense of everyone else.

Consider the case of Chicago for a minute. Its airports, like all airports, generate economic activity which contributes to the local tax base. The city of Chicago has projected a multibillion dollar gain over only a few years resulting from the construction of a new airport in the southeast sector of that city. Why then should we let Chicago finance its share of the costs of such an airport by taxing all passengers passing through Midway and O'Hare? If the airport is so valuable, let Chicago pay its share of the costs itself.

Mr. Chairman, giving local airport authorities direct taxing authority through PFC's unfairly hits air passengers twice for the same purpose. For the Federal share of airport development costs, let's spend the money already in the Federal trust fund. For the local share, don't let local authorities tax the general traveling public

again. Head taxes were bad policy in 1973, and they're bad policy today. I urge my colleagues to vote for the Bosco amendment.

□ 1120

Mr. NOWAK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of this bill, including the PFC initiative in the bill.

I can also understand the frustration of the Members who want the trust fund balances reduced and expended, for the purposes of airport and safety improvements. This is why they are collected.

I am sure we would all be against higher fees to reduce the Federal deficit.

The passenger facilities charges are a user tax needed to advance airport capital development projects that will enhance capacity, reduce delays, and improve safety and security.

It is a user fee that I believe users of airports will support because its proceeds will be dedicated to improving airports they utilize.

Recently, the voters in California supported such dedicated taxes when they voted in June to approve an increase in that State's gasoline tax. That increased tax, will be dedicated to transportation infrastructure improvements.

When we come back in September, we will be faced with a budget vote from the summit that contains deep cuts, more fees, and hopefully, some progressive taxes to balance the package. This vote today will be a small piece and at least it is dedicated to needed airport infrastructure improvements.

Mr. SMITH of Nebraska. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of H.R. 5170 and in opposition to the Bosco amendment. The voluntary passenger facility charges are a central part of this legislation and a key part of the plan to improve our Nation's airways and airports—from the largest to the smallest.

I am especially interested in, and pleased with, provisions in the bill that address the Essential Air Service Program. H.R. 5170 would authorize \$39 million per year for the program through fiscal year 1998, require that beginning in fiscal year 1992, appropriations for EAS subsidy payments be made from the airport trust fund instead of general appropriations, would restrict the ability of the Department of Transportation to eliminate communities from the program, and would preserve the authority to permit additional eligible communities to participate in the program.

EAS, first enacted in 1978 and reauthorized in 1987, is designed to ensure

continued air service to communities where affordable air service would not be otherwise offered. Mr. Chairman, the key word here is "essential." EAS provides an essential service. It is not luxurious air service. It is not convenient air service. It is essential air service. The communities across America that need it are not asking for something special that the rest of the country does not enjoy—only a small part of what the rest of the country expects.

EAS offers protection to those communities at risk because of airline deregulation, and Congress has shown its continued support for the program by passing a 10-year reauthorization.

Nevertheless, in recent years EAS has faced major funding cuts. As a rural program in an urban-oriented House, it loses the battle when our budget problems pit rural against urban for scarce transportation dollars.

The recent bus strike illustrated the precarious state of transportation in many areas of our country. How many news articles were headlined "When the bus is gone, there is no way out?"

An automobile, for many is a luxury or an impossibility. Bus service is in serious trouble. In some areas, there is no bus company to go on strike. Rail service touches a relatively small part of the country. There are Members of this body who oppose funding Amtrak, pointing to the accessibility of air travel as an obvious option to rail. Without EAS, many communities could be faced with no transportation options at all.

If we deprive small communities of their air service, we also deprive them of a good part of their economic base. In my district, for example, small communities with an economy dependent on manufacturing or distribution are especially dependent on regularly scheduled air service. If company managers and customers cannot get in and out of communities on a regular basis, some plants will be forced to relocate. In small and rural towns, a loss of only 40 or 50 jobs is totally devastating.

A lack of viable transportation creates a feeling of isolation in affected communities. Take, for example, my State of Nebraska. Nebraska is 500 miles wide. Without EAS service, western Nebraskans must travel to Denver, hundreds of miles to the west, to get to the State capital, Lincoln, hundreds of miles to the east.

The areas served by EAS are themselves essential to our Nation. These communities provide the country with its food, fiber, lumber, minerals, oil, coal, and so many other resources. These communities provide essential products and services and, in turn, need and deserve essential services. These are not ghost towns—these are cities central to the nation's livelihood.

Hot Springs, AR—Alamogordo, NM—Ottumwa, IA—Dodge City, KS—Morgantown, WV—Mankato, MN—Lake Placid, NY.

Already, painful cuts to the program have left many communities to fend for themselves. One of those cities, Sidney, NE, dropped from the program in 1990, is now forced to contribute \$20,000 of municipal funds to the airline serving the area to regain the only scheduled service.

Mr. Chairman, I think we are on the right track today with this legislation to provide for a more orderly and sufficient funding of the program. I do not see this is an ideal, cure-all, solution. This fight has been going on a long time and it will continue, but I think this is a big step in the right direction. I urge my colleagues to support the bill.

Mr. MINETA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, first of all I take this time reluctantly because I do not want to really be in opposition to my good friend and colleague, the chairman of the full Committee on Public Works and Transportation [Mr. ANDERSON]; nor my very fine colleague, the gentleman from Minnesota [Mr. OBERSTAR]; or the gentleman from Arkansas [Mr. HAMMERSCHMIDT]; or the gentleman from Pennsylvania [Mr. CLINGER]; everyone else who seems to be in opposition to the Bosco amendment, but I really think in terms of public policy this is really what is in the bill, is the wrong way to go.

Therefore, I rise in support of the amendment offered by my very good friend and colleague from California [Mr. BOSCO], to eliminate the passenger facilities charge [PFC's], also known as a head tax. Let Members be clear about one thing: Today we are talking about once again taxing the consumer. Regardless of how Members might call this, if it walks like a duck, if it quacks like a duck, and it smells like a duck, it has to be a tax. Even proponents of the passenger facility charge say that it was taxing power that local governments once had. However, the Congress long ago barred airport operators from imposing these taxes of their own on passengers passing through their airports.

After all, a nationwide Federal ticket tax was being imposed on these same passengers, and these same passengers should not be subject to this type of double taxation. This year, the administration has proposed that we change this policy and allow local airport operators to charge an additional tax on passengers, citing the need for enhancing airport capacity growth.

Mr. Chairman, it is no secret that for years capital improvements at our airports have been grossly underfunded. It is no secret that these necessary improvements are going to cost

money. Today's debate is generated by the need to find adequate funding. However, consumers should not be asked again to pay for improvements when the moneys they have already paid are idling away in the Office of Management and Budget's version of a Swiss bank account.

In addition, we are not only looking at a passenger facility charge but a ticket tax increase from 8 to 10 percent because that was in the President's fiscal year 1991 budget proposal that the aviation ticket tax be increased from 8 to 10 percent. Now, many Members here oppose even that proposed increase, but the unfortunate truth is that the budget summitters may well impose that tax increase despite our protests.

Mr. Chairman, the simple truth is that in the end it is the air traveler who is going to pay. The aviation trust fund established by Congress was designed to fuel airport growth and airline passengers have been paying into the aviation trust fund for that very purpose. The fact that the administration continues to bottle up the \$7 billion surplus in the aviation trust fund should not become the excuse to tax the flying public twice for the same thing. Airline passengers are once again on the verge of being taken for a ride by the White House, and Congress should not license this latest slap at consumers.

Therefore, I urge my colleagues to support the Bosco amendment, strike the passenger facility charge from this bill, and get on with the financing of the airport construction needs by drawing down against the airport aviation trust fund.

□ 1130

Mr. Chairman, the proponents will say we are doing that exact thing, drawing down against the aviation trust fund.

The CHAIRMAN. The time of the gentleman from California [Mr. MINETA] has expired.

(By unanimous consent, Mr. MINETA was allowed to proceed for 2 additional minutes.)

Mr. MINETA. Mr. Chairman, if the proponents are going to say that they have secured the agreement of the Transportation Appropriations Subcommittee to go with \$1.8 billion for the Airport Improvement Program, that is a 1-year appropriations program for which the Senate last week already reduced that by \$150 million. So, we are no longer at the \$1.8 billion level, and, even with their proposal, of what they cite going out to fiscal year 1995 as the figures, they still show an unobligated surplus in the aviation trust funds of \$5.3 billion.

Mr. Chairman, if that is the case, then why do we need this passenger facility charge? We do not need it. We do not need it.

So, Mr. Chairman, I am strongly in opposition to the imposition of the possibility of an aviation ticket tax going from 8 to 10 percent, based on the President's submission of his own fiscal year 1991 budget, and now, on top of that, asking for the possibility of adding this passenger facility charge of \$3 per person for a two-segment trip. That means on a round trip a \$12 increase in the aviation tax, or, in this case, the passenger facility charge, a \$12 increase in the fare, and so to me this just does not make good public policy sense or good fiscal sense.

Mr. BOEHLERT. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment offered by the gentleman from California [Mr. BOSCO].

Mr. Chairman, I am pleased to follow my distinguished colleague, the gentleman from California [Mr. MINETA] who applied the duck test to this passenger facility charge. If it walks like a duck, and talks like a duck and looks like a duck, my conclusion is it is probably a duck. We are not talking about that. We were talking about a user charge, not something that will be imposed on all Americans, but only those who use the facilities.

Mr. Chairman, the people I talked with, and I talked with a great many people who are frequent fliers including my colleagues here in the House, and they tell me they are willing to be subjected to an additional user charge if they are convinced that the fees collected will be used to improve service, enhance competition and improve safety, and that is what we are talking about.

I would urge all of our colleagues who might be undecided at this point to read the committee report. I have been privileged to be part of the committee that has developed this report and this legislation, and I support the passenger facility charge for some very basic reasons.

First Mr. Chairman, is that it is optional. It is not mandatory. It is not mandatory. It is not the heavy hand of the Federal Government reaching out saying, "You must do this." What we are saying from Washington is, "You have the option of doing something, if you want to do it." Americans want that option.

Second, it is very limited in scope. It does not say that we can impose a user fee, a passenger facility charge, of \$20, or \$30, or \$40. It places a limit of \$3 and no more than two \$3 charges per trip. Very specific. As the report language says, and I quote the language because I think it is critically important, "It is designed to enhance safety, capacity, security and airline competition in the national aviation system."

Mr. Chairman, that is what we all want. We spend a lot of time talking

about that, and I would point out that some enterprising airport operators cannot say we are going to launch this new passenger facility charge in our local unit of government to raise some revenue for some nonaviation-related purpose. It cannot be done. It cannot be done. The proposal has to be submitted to the Secretary of Transportation, and, as the report points out, it can be imposed, and we are talking now about the passenger facility charge, only to the extent that they are needed to support specific projects approved by the Department of Transportation involving safety, involving capacity, involving competition.

Then we put in a sweetener to this deal, and this is what makes it appealing to me. I was legitimately concerned, as all of my colleagues should be if they represent districts that do not have the major metropolitan airports, the major hubs. What about small town U.S.A.? What happens to those airports? That is the sweetener in the pot because, as the report points out, what we are going to do is increase Federal assistance that will be made available for smaller airports. The reported bill provides that large and medium hub airports which impose PFC's will give up half, 50 percent, half, of their formula funds for the airport improvement program. Seventy-five percent of the funds made available under this provision will be placed in a special fund for development of small airports, and that is what we want, my colleagues.

So, for all of the right reasons, it is optional, not mandatory, it is very limited in scope, it enhances safety, it encourages increased competition, it improves capacity, it is very specific, and it will help the smaller airports, I urge that we proceed with this innovative approach, and I request opposition to the amendment of my distinguished colleague and good friend, the gentleman from California [Mr. Bosco].

Mr. CLEMENT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise today in strong support for H.R. 5170, the Aviation Safety and Capacity Act. This bill not only calls for increasing spending from the airport trust fund, but allows airports to have more flexibility and freedom to finance badly needed airport improvements.

Mr. Chairman, our Nation's airports are in a crisis. Many airports are seriously congested and the FAA estimates that many more will become congested unless greater investment is made in expanding airport facilities. Passenger delays cost air travelers and airlines about \$5 to \$6 billion each year due to lost time and wasted fuel and crew expenses, not to mention the losses to our local and national economies.

Recently, the Committee on Public Works and Transportation reported H.R. 5170 which authorizes the airport improvement program for next year at \$1.8 billion. Tennessee airports alone need \$435 million in capital improvements and expansion projects over the next 5 years for noise mitigation, runway and airfield expansion, and safety and security projects. Nationwide, airports need \$10 billion each year to finance necessary expansion. Obviously, the airport improvement program alone will not be able to adequately fund total system needs.

Currently, Tennessee air carrier airports receive about \$12.4 million in airport improvement program entitlements. A \$3 fee to passengers could raise over \$28 million each year. In addition, the \$3 fee would support up to \$235 million in bonds. These PFC funds would go directly into local projects to improve Tennessee airports, expand capacity, and reduce delays, and the moneys would not pass through Federal hands nor be tied up in the trust fund.

I commend the leadership of the Public Works and Transportation Committee for formulating a bill which recognizes that just spending down the trust fund is not enough to fund current capacity and safety projects at our Nation's airports. Airports need the option of raising additional capital funds through a local passenger facility charge. I urge my colleagues to support H.R. 5170 as reported by the Public Works and Transportation Committee and oppose any changes to the bill which will prohibit airports the option of financing airport improvement needs with a passenger facility charge.

□ 1140

Mr. INHOFE. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the Bosco amendment.

Mr. Chairman, I think this is probably the first time since I have been in Congress when I have arisen to speak against an amendment by a person whom I consider to be one of the most knowledgeable and intelligent Members of Congress, the gentleman from California [Mr. Bosco]. In addition, he is one of my closest and personal friends. I listen quite often in these Chambers to the words of wisdom that come from the gentleman from California [Mr. Bosco] and I am always a richer person as a result of it. It does show, however, that even occasionally a man of this character can be wrong, and in this case I believe he is wrong.

In order to predicate the two points that I want to make today, and I have been listening intently to all the debate that has taken place on the Bosco amendment, I crossed off almost everything I was going to say because it would be redundant for me

to repeat it. There are two points that I want to make, but in order to make these I have to establish some credibility for making these points.

First, when the gentleman from California [Mr. Bosco] was talking about the amendment, it seemed to be an amendment to do away with taxation and to stop additional taxation in this country. I have to say that there are groups that have looked at us in Congress as to our relative interest in lowering spending and lowering taxation. One is the National Tax Limitation Committee that is located in California. I will read a paragraph here:

The National Tax Limitation Committee was organized in 1975 to seek constitutional and other limits on taxation, spending and deficits, at the state and federal levels.

In keeping with the mission, periodically the National Tax Limitation Committee has analyzed voting records of Members of Congress on taxing and spending issues. This report covers the 100th Congress and analyzes the bills. The rating in the 100th Congress for myself in terms of stopping taxes and excessive spending was 87 percent, and that of the gentleman from California [Mr. Bosco] was 21 percent.

Second, as a predicate to my brief comments, I want to mention that I have a 35-year background in aviation. When I came to Congress, the first committee I wanted to be on was the Public Works and Transportation Committee. The first subcommittee was the Aviation Subcommittee, and the reason is twofold. First, aviation is the largest industry in my district in Tulsa, OK. I sometimes characterize it as the aviation capital of America.

Second, one specific employer is aviation, our largest employer, so it is very important to our economy.

Second, of course, with my personal background I am one who is licensed to pedal around in this airspace. I am one who has tried so hard relentlessly to get the Air Force trust fund off-budget and to have those funds spent for their designed purpose.

To me the fact that even though I am a Republican, and I know that the administration has come out for two tax increases, one being a 25-percent tax raising the passenger ticket tax from 8 to 10 percent, and the other was the aviation fuel tax, I was very aggressively opposed and have already spoken in opposition to these taxes. How can we pass a tax increase, as the gentleman from California says, when we have a \$7 billion surplus in the Aviation Trust Fund that can be spent only for airport improvements and airway improvements?

But let us not get apples and oranges confused in this case, because only yesterday we passed out of the Public Works and Transportation Committee

a bill to take the highway trust funds and the aviation trust funds off-budget, and I hope we will be doing this.

What we are talking about here is some local options. What can they do at home? So with that predicate, let me only mention to you that this is not a tax increase. This is merely saying to the local entities, "You guys out there know what your needs are better than we do."

I have been privileged to serve at three levels of government. I was in the State legislature. I was mayor of the city of Tulsa, and I am now honored to serve in Congress. When I was mayor of the city of Tulsa, by virtue of being mayor I was the one who appointed the members of the airport authority. I also served on the airport authority.

I do not think anyone in this Chamber can name one airport authority in America that does not have at least one elected official who is responsible to the public.

Now, I have learned from serving at the local level, on the state level and the national level, that the closer you get to the people, the better job you have got to do of convincing them of needs, if you are talking about taxation.

What this does, the passenger facility charge, is offering the local entity the option, you know what your needs are. Are you willing to stand up for those needs and try to convince the public that those needs justify increasing a fee or establishing a fee, because no action we take up here is going to establish a fee for local use. In lieu of that, it is going to say to the local entity, if you can convince the people, you elected officials who are on the airport authorities that you should have this fee or the tax, then you go out and influence them to pass it.

The CHAIRMAN. The time of the gentleman from Oklahoma has expired.

(By unanimous consent, Mr. INHOFE was allowed to proceed for an additional 30 seconds.)

Mr. INHOFE. However, if you pass the Bosco amendment, what you are saying to the people at home is, "We know better what is good for you in Washington, DC, then you know back in Tulsa, OK, or out in California, so we are going to do what is best for you and we are going to take away your ability to take care of your own needs."

Mr. Speaker, I urge you to oppose the Bosco amendment.

Mr. LEHMAN of Florida. Mr. Chairman, I move to strike the requisite number of words. I rise in opposition to the amendment.

Mr. Chairman, let me first commend the chairman of the subcommittee, the gentleman from Minnesota [Mr. OBERSTAR] and the ranking members,

the gentlemen of the full committee and subcommittee from Arkansas [Mr. HAMMERSCHMIDT] and Pennsylvania [Mr. CLINGER] for being the leaders in this legislation and bringing this legislation to the floor. It's a superbly crafted piece of legislation.

One of the reasons that I have heard today that people oppose the passage of this facility charge and support the amendment of the gentleman from California is that there is a large available balance in the aviation trust fund. I think there is perhaps a balance, but there is certainly at this point not a large available balance.

The fact that this is not going to be available is primarily based on an agreement that our Subcommittee on Transportation Appropriations has worked out with the Subcommittee on Aviation of the Public Works and Transportation Committee. Under this agreement, which is the linchpin of this legislation, we made a commitment to increase the appropriations out of the trust fund for aviation expenditures.

In this year in the House-passed version of the Transportation Appropriation legislation, we are going to be spending \$700 million more out of the aviation trust fund than the receipts are going to be. This year we are spending just on facilities and equipment, \$2.1 billion; for operations, \$2 billion, which is a huge increase; on airport grants, \$1.8 billion, which is almost a \$400 million increase, and an additional \$200 million for research and development.

□ 1150

As I said, these amounts exceed revenues by \$700 million. In 5 years this balance will be practically depleted, and so there is not really an available surplus in the trust fund.

I strongly urge the defeat of the Bosco amendment.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. LEHMAN of Florida. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, I really respect the chairman of the Appropriations Subcommittee on Transportation, but the part that troubles me, and I really appreciate the gentleman going to bat for the FAA in terms of the increased amounts that are available; the problem is that the aviation trust fund was created for making capital improvements for safety and expansion purposes.

All of these recitations of increases in spending against the aviation trust fund are for increasing the operations and maintenance costs out of the aviation trust fund, and to me that is just going against the very purpose for which it was created. It was 55 percent coming out of the aviation trust fund for operations and maintenance, and I believe under this bill it takes it up to

75 percent for operations and maintenance out of the aviation trust fund, and that is why the squeeze is being put on local airports to put this passenger facility charge on, because more of the aviation trust fund that was intended for capital improvements is going to operations and maintenance, and now we are saying we are going to shift that responsibility to local governments.

To me, that is the shift and the shaft, and we ought not to be doing it in terms of that approach.

I appreciate the chairman yielding to me.

Mr. LEHMAN of Florida. Mr. Chairman, reclaiming my time, I understand what my friend from California is saying, but by increasing the spending from 55 to 75 percent, we are reducing the subsidy for the cost of maintaining our air traffic control system from the general taxpayers to those who use it, and that is what I am in favor of.

Mr. McEWEN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think the gentleman from California raised the issue that is appropriate in any kind of consideration of these bills.

The fact is that we established the trust fund for the purpose of building airports. In 1978, the Congress chose to do away with the excessive regulation of transportation airways. As a result, since 1978, the number of Americans traveling through our airports has more than doubled. That creates a tremendous strain on airways and airports. It means the old, outmoded equipment the air traffic controllers are now using must be updated. It must be replaced. These are capital expenditures.

For that purpose, the Congress established the trust fund that said 8 percent of the cost of a passenger ticket should go for the purpose of replacing that old, outmoded equipment, making our airways safe, building new airports. However, due to the decision that we have just heard discussed here of the Congress and the President saying that we will not use these funds, we will keep them sequestered, keep them locked away, we will make sure they do not flow for that purpose, since 1978 we have not built a single new airport in the United States. We have doubled the number of people traveling. We have not built a new airport.

As a result, you know what has been happening. The overburden is tremendous. The risks that people are taking when they travel are increasing. The number of investigators and people doing the enforcement and regulation has been diminishing. As a result, the FAA is facing a severe financial crisis.

Thus, we have the alternative here today which says that if Washington

will not do it, if the purpose for which we have collected the money is not going to be used, then let us allow people in Tulsa to do it for themselves. Let them tax those who travel through the airport, and we will use that money for what could have and should have been done by the Congress when it established the trust fund.

I would only add this, that we have faced this issue now for the past couple of years repeatedly, and I will continue to do so.

When the American people pay a tax for the purpose of maintaining safe airways, it should be used for that purpose.

As we stand here at this moment, there are \$14 billion resting in the trust fund. They are available for the purpose to build airports, to update the FAA transportation system, to put in the secure and safe equipment that air traffic controllers need very badly, and yet we have chosen not to do it for the reasons that the Appropriations Committee chairman explained moments ago.

I believe that we should break that tradition. We should restore faith in the trust funds. We should release them immediately.

Mr. ROSTENKOWSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment which would strike the provision authorizing airports to impose passenger facility charges on airline passengers using those airports. The passenger facility charge provision creates a substantial new source of funding for the major capital needs of our nation's airports, which are faced with the enormous costs of needed capacity expansion and safety improvements.

In this time of large Federal budget deficits, it makes very good sense to permit our airports to pay more of their own way when they want to. This bill will mean reduced demand upon our limited Federal resources. It will permit airports to leverage their receipts from these passenger facility charges to meet capital needs. That means that fewer airports will need to wait for Federal improvement grants.

We are all well aware of the safety and delay problems faced by today's air travelers. Airport travel has grown dramatically in the past 10 years and existing funding sources simply cannot support this new demand and the problems that go along with it.

Chicago's O'Hare Airport has a massive delay problem which can only be alleviated by the development of a third airport. There is no way that this third airport, estimated to cost \$4.9 billion, can be constructed within our current funding structure. This crucial project, and others like it across the country, cannot be built

without Passenger Facility Charges contributing a portion of the cost.

Mr. Chairman, I urge my colleagues to join me in opposing the Bosco amendment.

Mr. PORTER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

My understanding is that the bill authorizes a passenger facility charge of \$1, \$2, or \$3, and that it also provides for apportionment of that fee not only to the hub airports but to small airports and to nonhub airports, so that it appears to me that there is a great deal of fairness and equity built into this provision of the bill.

Many of our larger cities, as the gentleman from Illinois just stated, are faced with very great and evident need for new or expanded facilities. The projections of their use in the future are very, very high, indeed. Chicago is obviously one of those cities that faces this severe problem.

This, of course, is not a federally imposed tax. It is, rather, Federal permission for a locally imposed user fee.

The sponsor of the amendment said that air travelers will be thankful if this passenger facility charge is not placed into operation, that they will complain if it is. Very frankly, Mr. Chairman, mine will not complain. What they complain about is airport delay. What they complain about is overbooked flights. What they complain about is no seats, no availability, and safety being compromised. They understand, and I think the American people understand, that you do not get something for nothing, that things that are useful and needed have to be paid for, and without this provision in the bill, Mr. Chairman, we are simply encouraging more and more borrowing, because that is where the funds will have to come from, borrowed funds.

Mr. Chairman, let us stop encouraging borrowing which, at the Federal level and State level and local level and in the private sector, is already way, way too high. Let us encourage people, if they wish to do so, to raise the funds locally, to provide for their needs through a user fee and to get the job done for air travelers all across this country.

Mr. MINETA. Mr. Chairman, will the gentleman yield?

Mr. PORTER. I yield to the gentleman from California.

Mr. MINETA. Mr. Chairman, the bill is for a 2-year period, and it allows the imposition of passenger facility charges by the local airport authority, local government, for a 2-year period. But if the local airport authority decides to utilize 20-year revenue bonds or 30-year revenue bonds, that tax will be there for 20 years or 30 years for the duration of the amortization of

those revenue bonds. So it is not just a 2-year facility charge. It is one that can go on for 20 or 30 years, and now to me, that is a borrowing authority that the gentleman just spoke against, and it just seems to me to be, again, bad public policy.

□ 1200

Mr. PORTER. I am reclaiming my time. The alternative to that apparently is all borrowing authority with no fee collected as you go along. It seems to me the answer to that is have the fee.

Mr. MINETA. If my colleague will yield further, it would not be, because under the airport improvement grant, it is in fact a grant program. It is coming in from the user fees that are generated from whether it is the aviation taxes paid by general aviation, by pilots or user fees paid for by the airline commercial passengers that are user fees.

Mr. PORTER. The gentleman is talking about the development fund that is not being spent or used?

Mr. CARR. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, I do not like to differ with my appropriations subcommittee chairman, the gentleman from Florida [Mr. LEHMAN], but I find that I like this amendment and hope that we all support it.

To some extent I want to clear up something though here. We seem to have gotten into an apples and oranges kind of debate. Under the current, as I understand it, the proposed Airport Improvement Program, the passenger facility charges or passenger facilities are not qualifying assets to get airport improvement money, so we have sort of digressed here into the old debate about the surplus and the meaning of the surplus. And I might end up on the other side of the issue. But I would like to bring it now back to passenger facility charges and passenger facilities.

The thing that is wrong with this particular proposal of the administration incorporated in this bill is that for those of us who are advocates and adherents to deregulation in the aviation industry, this undermines the market discipline that we were trying to put in the deregulation of the airline industry. I can appreciate there are a lot of folks in this Congress who do not like aviation airline deregulation, and how everyone has crept their way back toward a regulated environment. The fact of the matter is this undermines the marketplace.

Passenger facilities today are constructed, but they are constructed using market discipline. The airport levies a charge on the airlines, pledges the revenues for the bonds. The air-

line is part of the negotiated equation. Airports, hub airports in America are major joint ventures, public/private joint ventures. What happens is the airline then can bargain with the airport to keep those charges as low as possible. The airport might want to increase them for added passenger facility capacity. But there is a negotiation, there is a marketplace mechanism that brings discipline, market discipline to the decisions on how much passenger facilities we increase, how many new concourses, how many new gates, how many parking ramps. Those decisions ought to be bound by market discipline.

This seeks to avoid market discipline allowing local authorities to levy a tax to build these concourses and parking ramps, and the other passenger facilities.

You may say that is OK, because there is some political discipline out there. But we are talking about major hub airports, the majority of the passengers of which do not live in the local jurisdiction that is levying the tax. It is awfully easy for an airport authority, whether elected or appointed, to levy charges on people that do not vote for them, for whom they owe no special responsibility. The fact is it is always easier to levy a tax on the transient. So there is no political discipline in the levying of these taxes.

My fear, based on some experience that I have had on our appropriations subcommittee, is that there is a motivation, a very strong motivation out of our airport managers around the country to build good facilities, needed facilities, but they all have a little twinkle in their eye about how they are going to make their airport bigger and more prominent than the next. They all have a motivation to try to improve their facilities beyond what the market will bear, to build facilities on speculation that at some point some other airline is going to come in and make their airport the new O'Hare of the world and bring prominence to their community.

I think the motivations and the forces and the human behavior in this is not on the side of the consumer. It is not on the side of airline deregulation. I hope that you will support the amendment of my colleague from California.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. CARR. I am glad to yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, the gentleman has made some very important points here, and I would like to address the point he raised about market discipline.

There is an arrangement in airport construction under which the airline or airlines serving a particular airport negotiate runway improvements, runway enhancements, taxiway im-

provements, and gates. Under the majority and interest clause arrangements an airline or airlines can veto construction of new gates, can veto enhancement of airport capacity. So what you have at Detroit, Minneapolis-St. Paul, Memphis, St. Louis, single-carrier-dominated hubs, is a market monopoly. No other carrier can get in there to compete because there are not enough gates.

Under this legislation we prohibit the airlines from vetoing, from having a single veto over expansion to enhance competition and to enhance capacity.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CARR] has expired.

(On request of Mr. OBERSTAR and by unanimous consent Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. OBERSTAR. Mr. Chairman, historically, and I have reviewed the history of airport construction since World War II and all of the major legislation that has been passed, airports have historically underbuilt rather than overbuilt. The gentleman is making the historic Taj Mahal argument. We have to prevent airports from building Taj Mahals.

Airports typically are under capacity rather than over capacity.

Finally, there is a further restraint by the requirement in the legislation that the revenue from the PFC must be project specific, approved by the Secretary, in conformance with the national airport plan. So we have some guarantees, I want to advise the gentleman, against overbuilding; but more importantly, protection that there will be competition at those single carrier dominated hubs which I think the gentleman should support.

Mr. CARR. If I might reclaim my time and respond to the distinguished chairman, who I know has worked very, very hard on this legislation, and I might add in the main I support the efforts of this committee, but I would merely say that I am not convinced.

The CHAIRMAN. The time of the gentleman from Michigan [Mr. CARR] has again expired.

(On request of Mr. OBERSTAR and by unanimous consent Mr. CARR was allowed to proceed for 1 additional minute.)

Mr. CARR. Mr. Chairman, I do not have confidence that the limits that the gentleman speaks about are anything more than illusory. We see people in this political system having all kinds of incentives. I mean we might end up with airport capacity at a particular place, overcapacity which I think this PFC does. I think, yes, there are some undercapacities. I think in time those undercapacities will be fixed through the market mechanism. I fear PFC will lead to overcapacity, and we may have con-

courses and parking ramps in places in the country you will never believe based on what a Secretary of Transportation is going to do to elect his President for another term. I think those are the wrong incentives. They seem like they are good incentives, and they are checking and balancing, but I just do not have the faith in the political discipline that is not in this, and I do have more faith in the market discipline that I think is in the system without PFC's, and I would ask for support for the amendment.

Mr. COUGHLIN. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, I first really want to congratulate the distinguished gentleman from Minnesota [Mr. OBERSTAR], chairman of the subcommittee, and my good friend and colleague from Pennsylvania, the ranking minority member as well as the chairman of the full committee and the ranking minority member of the full committee for the tremendous amount of work that has gone into this bill. A lot of work has gone into it. It has been the product of a compromise. It means that we will be preparing for the 21st century. We are talking about our aviation business into the 21st century. That is what this bill is doing, and I could not be more grateful for the work you have put into this bill and moving our aviation industry into the 21st century.

What this bill will enable us to do is indeed to spend down the trust funds, to provide better air service, to provide better air facilities, to provide better safety in our airways, to provide more efficient air service. That is what this legislation is all about.

I want to associate myself with the remarks of the distinguished chairman of the Transportation Appropriations Subcommittee as the vice chairman of that committee because we believe that what you are doing here will permit us to modernize, to enhance, to improve our air facilities in a way that we have been unable to do in a number of years.

□ 1210

Yes, part of the money will be spent for air traffic controllers. It should be, it should be. That is what part of the air traffic control system is about, that is what air traffic safety is about. That is why we need to be able to spend money for our controllers as part of the system.

It will be spent for facilities, for radars, for equipment, for automated equipment to automate the air traffic system. It will be spent for passenger facilities as well.

So I congratulate the committee. I urge rejection of the amendment. It would be a terrible step backward be-

cause this legislation takes us into the 21st century.

Mr. Chairman, I urge defeat of the amendment.

Mr. BORSKI. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Bosco amendment.

Mr. Chairman, since 1978, air travel passengers have jumped from 266 million to 480 million.

The Federal Aviation Administration estimates that close to 775 million Americans will be carried across this country, through our skies by the year 2000.

The tremendous increase in passengers and in air freight activities has stretched our airports and airway systems beyond their capacities.

This year alone, it is estimated that passenger delays will total 117 million hours.

Unless we take steps now to expand and improve our air transportation system dramatically, our economy cannot continue to grow, and we cannot compete internationally as a great economic power.

Mr. Chairman, passenger facility charges are essential to ensure that America has the air transport system it needs.

We cannot fund the huge backlog of improvements solely from the Airport Improvement Program.

Although, thanks to the tireless efforts of Aviation Subcommittee chairman, Mr. OBERSTAR, this bill authorizes spending down the estimated \$7.6 billion surplus in the aviation trust fund.

We urgently need local PFC revenues to help pay for hundreds of new terminals, runways, taxiways, aprons, and other improvements.

I want to assure my colleagues that H.R. 5170 strictly limits PFC revenues to airport improvements.

The bill requires that each PFC must be approved by the Secretary of Transportation to fund only projects which improve air safety, capacity, or security.

I want to make clear that PFC's are not a new Federal tax. PFC's are optional local airport user fees similar to bridge and highway tolls.

Mr. Chairman, America is at a historic crossroads. The world is changing rapidly and America must be prepared to meet the new challenges to our economy and our security. Germany, Japan, and many of our other competitors abroad are investing heavily in transportation infrastructure improvements.

They understand the importance of a first rate air transport system to a growing and productive economy. While our foreign competitors rebuild and expand their aviation systems, America has not built a major new airport since 1974.

If we are to compete successfully in today's tough global marketplace, if we are to expand our economy and provide good jobs for our people, we must have an aviation system second to none. H.R. 5170 establishes a new partnership between the Federal Government and local authorities to get the job done.

I strongly urge my colleagues to oppose this amendment and to support H.R. 5170. Let's not lose this very important opportunity, to give the Nation's airports the resources they need, to provide our Nation with the best aviation system in the world.

Mr. DELAY. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment.

Mr. Chairman, I rise in strong opposition to the Bosco-Mineta amendment which seeks to strike this passenger facility charge provision.

I might say, first of all, that I am absolutely a deregulator and I believe in the deregulation of the airline industry. I believe it has been beneficial to the consumers and to the traveling public of America.

But I also understand the problems that have been associated to deregulation. I take issue with some statements that have been made on this floor today that claim that because we are not spending enough of the trust fund we are not building enough capacity.

The problems with deregulation right now are lack of capacity, because we have so many people flying today that otherwise would not have the opportunity to fly before deregulation. Our capacity is in serious disarray and jeopardy as a consequence.

We just do not have the capacity to handle the free market principles that have been applied to the airline industry.

We have to have more capacity. I disagree with some that say that the trust fund is not providing that capacity because it is not being spent down.

The main reason that we are having problems in providing more capacity for the increased traveling public is mostly local problems. People do not want an airport in their backyard, they do not want an airport to be expanded.

So we have to go farther and farther outside of major cities to build airports such as the situation presently in Houston.

There we are trying to build our third airport way west of town in order to serve those who are moving further and further west out of Houston. Yet we cannot build that airport because of many different reasons.

This bill will provide Houston the opportunity to raise local taxes through the passenger facility charge provision to pay for building that westside airport.

It will give the locals—and I might take issue with the gentleman from Michigan—it will give locals the opportunity to tax those that are using a facility that they have chosen to burden themselves with and to build.

I have seen nothing wrong with a user fee on those who are using the facility, no matter where they come from.

That is what this bill does. But the amendment strikes that.

Mr. Chairman, Federal funding for airport expansion and development is limited. On the Transportation Subcommittee of the Appropriations Committee, we have vehemently tried to provide adequate funding for airport expansion and development. But, as every single one of us knows, there are just not enough funds to go around. Passenger facility charges [PFC] will provide a needed supplement to Federal funds for airports, an estimated \$1 billion a year.

Opponents of this provision point to the so-called surplus in the aviation trust fund as being sufficient to meet our aviation construction needs. But, Mr. Chairman, this is just not the case. This bill does provide for increased trust fund spending over the next 5 years. However, even with this increased spending, over the next 5 years Federal funds fall short. Our airports, particularly the small airports, still need the additional \$1 billion that the PFC will generate. We cannot afford to wait.

The PFC provision will result in more airport projects—runways, taxiways, gates, and more. It is essential that we employ this provision to most effectively and competitively utilize our airport system. New airports are very difficult—and some would say practically impossible—to build. Consequently, we must make the best use of those that already exist.

I urge my colleagues to vote no on the Bosco-Mineta amendment and, instead, vote yes for less airport congestion, delay, and frustration.

Mr. SAVAGE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the question here is accepted that there is a need and an urgent need for greater facilities.

But the debate reminds me of the joke that makes the rounds when the other major tax legislation is before us. The old joke about "Don't tax you, don't tax me, tax the guy behind the tree."

The problem, of course, is there is no "guy behind the tree."

We have to face up to the need. One of the reasons that we are suffering such a great deficit is that we recognize and often try to avoid paying for them. It would make you think that this is an election year or something, when they talk about—walk like a

duck, quack like a duck. Well, I say some of the evasive arguments I hear here indicate an unwillingness to stand up and pay for what we need. That would cause me to suspect that some of the quacks against this bill are really coming not from ducks but from chickens.

Mr. Chairman, let me just look quickly at some of these arguments. They talk about using the trust fund when we all know that what is left in the trust fund is greatly inadequate compared to the need for increased airport capacity.

□ 1220

We also know even though this is an attempt to evade this in the debate that this very bill begins to increase spending down in the trust fund. Fiscal year 1991 and fiscal year 1992 it proposes to spend down \$2.3 billion additionally. Now, also when they try to say, "well, why not have bonds issued and make airlines pay for the bonds?" The problem with that, when the airlines pay for the bonds, that cost is transferred down to all airline passengers. The airline does not absorb that at the end. They pass it on. When they argue that, "Well, they would charge all airline passengers," the truth of the matter is, user fee is the best way to avoid charging all American taxpayers or all air travelers for what they do not use.

In this instance, we are saying discharge those who enplane at the airport, that needs greater capacity because of delays in the congestion. So if we really honestly are against the delays and the congestion so great at major airports, then how can we be for it if we are afraid to pay for it? The best way to pay is to have those who use it pay.

We can hold a fee, a tax, but that does not make a fee a tax any more than that old story from the Lincoln-Douglas debates, when Douglas asked Lincoln, "How many legs would a donkey have if you call his tail a leg?" And the answer, of course, is still four legs, because you can call a tail a leg, but you cannot make the tail a leg.

We are talking about user fees which in the end as a consequence of increasing competition, in the end will probably cost Americans nothing at all, and we will get the needed increase in airport capacity.

I thank the gentleman, and I rise in opposition to the Bosco amendment.

Mr. BOSCO. Mr. Chairman, will the gentleman yield?

Mr. SAVAGE. I yield to the gentleman from California.

Mr. BOSCO. I admire the gentleman and all of the Members of Congress from Illinois because many of the speakers against my amendment, if the gentleman will notice, are from Illinois because Chicago wants to build a new airport. We understand that,

Denver is building a new airport. They are not charging passengers to build it.

Does the gentleman want airline passengers from all over the country to pay for the airport?

Mr. SAVAGE. I take back my time to make one correction. Do not just talk about those who are for the bill. Recognize also that they and other speakers speaking against the bill happen to both be from California, so if they talk about who is from Illinois, talk about also who is from California.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of H.R. 5170 and in opposition to the Bosco amendment.

Mr. Chairman, I support H.R. 5170, and oppose the Bosco amendment.

I would like to say as a personal aside, it is a pleasure for me to be working with my neighbor in Minnesota, the chairman of the subcommittee, the distinguished gentleman [Mr. OBERSTAR]. Often we do not work together on issues on this floor, but I must salute his work on this particular bill.

Mr. Chairman, I oppose the Public Works and Transportation Committee included this new funding mechanism for airport capacity and noise control projects that do not depend on the Federal budget for financing. H.R. 5170 would lift the 17-year-old prohibition on local- and State-owned and operated airports imposing passenger facility charges. At the same time, reasonable limitations would be imposed to ensure their proper use.

As a member of the Tax Writing Ways and Means Committee, I do not regard this as a new Federal tax. The fact that PFC's are totally voluntary is crucial evidence that they are user fees rather than taxes. This bill sets no fee, nor delegates any agency to collect any fee. PFC's allow local governments some flexibility in responding to local aviation needs.

The revenues cannot be diverted to off-airport uses. The fees are collected at the local level and do not come back to the Federal Government. The money does not go into general revenues and does not go into the aviation trust fund. It does not go to any Federal fund.

Currently, aviation users are getting more than they are paying for, but their benefits are coming at the expense of the general taxpayer. The implementation of a passenger facility charge would focus benefits to the passengers at the airports they actually use.

The fee is a modest one—\$1, \$2, or \$3 fee levels—and is limited to two fees per trip. The airports' ability to use this revenue on badly needed projects and enhancement may attract competitive new service. This is especially important at the HUB airports, such as the one in my district.

What we are really talking about here is getting the Federal Government out of the way and allowing local airport authorities the opportunity to choose whether or not they want to impose a fee to help reduce delays and enhance capacity. That seems a responsible proposal, and I, therefore, shall vote "no" so it is retained in the bill.

Mr. SANGMEISTER. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the Bosco amendment.

Mr. Chairman, it has been very interesting to sit here and hear these arguments this morning. I guess the duck thing has been overdone. I guess I also remember that started with Mr. Darman about a year ago, that a duck is a duck is a duck, but my good friend from Illinois [Mr. SAVAGE], whether it is a duck or whether it is a chicken, it is crowing or waddling its way straight to the Oval Office of the White House, and apparently this will be the first new tax that we are going to approve.

I hope that is not true, because obviously I rise in support of the Bosco amendment. It is kind of ironic that we have a piece of legislation that does two things in itself: first, raise taxes; and second, it also spends at the same time. Usually we have a separate bill to establish the taxes, and of course, an appropriation bill to spend, but in the context of this bill we can do both.

I have no objection, and I think it is a good piece of legislation, and I commend the chairman of the committee for bringing it forward. One thing it does do, we cannot deny, it does tax and it does spend. Maybe I am a little sensitive on that, but back in my district, and I am rather surprised, I might say, of the Republican opposition to this particular amendment, because back in my district, in fact, Republican leadership was there and said, "You know, if we get some of the outside Sangmeisters that like to tax and spend, we wouldn't have this Congress that we have in the Congress today," but now I see substantial support over on that side of the aisle for exactly that concept.

It is a passenger facility charge is what it is called, and I think maybe in the drafting of this there was a little bit of ingenuity put in it, because it is nothing more than a passenger facility tax. On the other hand, the thing that I would like to address, and some of the difficult things we have to do here, of course, is to oppose some of our good friends and colleagues that are on the opposite side of this issue. As has been indicated by the gentleman from California [Mr. Bosco], great initiative for this tax, of course, is coming from the city of Chicago and the mayor of that city, all of whom are good friends of mine, and after all, they have a parochial interest in get-

ting this done as I have, perhaps, a parochial interest in seeing that this does not happen.

We should be aware of the fact that there is a great contest going on for the location of the third major airport in the Chicago area, which apparently the Secretary of Transportation is putting his approval on and is going to happen. Originally, for 2 or 3 years, we have been studying four different sites, but all of a sudden a sixth site has appeared on the scene, and that is the one for the city of Chicago. I do not want to stand here and discuss the merits of whether that is a good site or not, but all of a sudden we see the city of Chicago feels that they will have to do something, apparently, because the Secretary of Transportation says there is going to be a third major airport in the Chicago land area.

But what does that have to do with the legislation before Members today? I want to tell Members it has an awful lot to do with it, because if this passes and the Bosco amendment is defeated, it means that the city of Chicago is going to be in a premier position to get the location of the airport exactly where they want it. Now, maybe that is all right with other Members, maybe Members think that that is fair. I frankly do not think it is.

□ 1230

Mr. Chairman, they are Johnny-come-lately's on the scene, and at this point, this particular tax would allow them to raise somewhere, it has been estimated by Crane's magazine, at around \$91 million a year that is going to be the income that the city of Chicago is going to have from this tax.

Mr. Chairman, I would say to my colleagues that, "You can go to any bonding company at that point and raise, I don't know how much, raise over a billion dollars easily when you can guarantee that kind of income to pay those bonds, and, as Chairman MINETA has indicated to you, under the provisions of this bill, that's an ongoing matter once those bonds are floated."

So in my district we have communities such as Cal City that are very concerned about this and I say to my colleagues, "You're going to dislocate in Cal City, and in Burnham and in Haguish, some 26,000 people who are going to have to be moved in order to put this airport in." Mr. Chairman, they are looking for somebody to stand up for their rights and for someone to express the opinion, and that is why I am here today, particularly for the residents of Cal City who are almost totally opposed, and certainly the mayor and city council is, to this new airport in this particular area to displace all these people. But they are not going to have a voice in it, my colleagues, once this tax has been put on, once it is levied by the city of Chicago,

and they have this bargaining power. It is all going to be gone.

So, I tell my colleagues to seriously consider what they are doing here. Let us not have a tax-and-spend policy. Let us adopt the amendment of the gentleman from California [Mr. BOSCO].

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. SANGMEISTER. I yield to the gentleman from Chicago, IL.

Mr. LIPINSKI. Mr. Chairman, this committee that the gentleman talked about that is established to select a third airport; what is the makeup of that committee?

Mr. SANGMEISTER. Mr. Chairman, the original makeup of the committee was that there were four Members from Illinois, and four Members from Indiana, and one of those Members was from the city of Chicago. However, as my colleague knows very well, that has been changed now.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. SANGMEISTER] has expired.

(On request of Mr. LIPINSKI and by unanimous consent, Mr. SANGMEISTER was allowed to proceed for 2 additional minutes.)

Mr. SANGMEISTER. Mr. Chairman, as the gentleman from Illinois [Mr. LIPINSKI] fully well knows, the commission is now being restructured, so there is going to be three representatives from the city of Chicago, and I thank the gentleman for reminding me, which gives them even one more upmanship.

Mr. LIPINSKI. But there will be four from the State of Indiana, the sovereign State of Indiana, four from the State of Illinois, only three from the city of Chicago, and then there will be a chairman selected by the Secretary of Transportation?

Mr. SANGMEISTER. Mr. Chairman, the question that I have with that is: Why is the city of Chicago all of a sudden entitled to three representatives on this commission when 6 or 7 months ago they did not even have a site to offer?

Mr. LIPINSKI. Mr. Chairman, the city of Chicago has always had a site to offer. The thing was that the commission itself had rejected the site at the time because of its prejudice toward the city of Chicago.

Mr. BOSCO. Mr. Chairman, will the gentleman yield?

Mr. SANGMEISTER. I yield to the gentleman from California.

Mr. BOSCO. Mr. Chairman, the question I would like to ask is: What is the fairness in asking airline travelers from all over the country, California, Tulsa, New York, and everywhere else, to pay for the airport that Chicago is building? Chicago is going to get millions, hundreds of millions of dollars, from that airport economically, and yet, to pay for the airport, they are

going to be charging all of us from all over the country. We do not have any seat on any airport commission in Chicago; do we?

Mr. SANGMEISTER. No, we do not, absolutely. The gentleman from California [Mr. BOSCO] is entirely correct.

Mr. LIPINSKI. Mr. Chairman, will the gentleman yield?

Mr. SANGMEISTER. I yield to the gentleman from Illinois.

Mr. LIPINSKI. Mr. Chairman, as the gentleman from California [Mr. BOSCO], my very good friend, knows, this is a national aviation transportation bill, and there are probably 9 or 10 other cities that will receive as much revenue from this bill as the city of Chicago will. We are embroiled in a local controversy, and I simply want to make sure that everyone here on the floor knew that the passage of this bill really will have very little effect upon where the airport goes. There is an independent committee dominated by people from the State of Illinois and the State of Indiana who will make the decision.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. SANGMEISTER] has expired.

(By unanimous consent, Mr. SANGMEISTER was allowed to proceed for 1 additional minute.)

Mr. SANGMEISTER. Mr. Chairman, there is no question about who the motivators in this legislation and this particular tax are. It was the city of Chicago. All my colleagues have to do is read any of the news articles and contact the media who have, day after day, said that, if this tax goes through, it will assure that the city of Chicago gets the next major airport, so there is no question about where this is being motivated from and what the eventual result is going to be if we adopt this tax.

Mr. Chairman, I strongly urge my colleagues to vote for the amendment of the gentleman from California [Mr. BOSCO].

Mr. HASTERT. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the amendment offered by the gentleman from California [Mr. BOSCO].

Mr. RAY. Mr. Chairman, will the gentleman yield?

Mr. HASTERT. I yield to the gentleman from Georgia.

Mr. RAY. Mr. Chairman, I rise in support of H.R. 5170, the Aviation Safety and Capacity Expansion Act.

This is much needed legislation which will assist our Nation's airports in making improvements in airport facilities. It is my hope that there will also be improvements in air service which continues to deteriorate.

I have received a great number of complaints in the Third District of Georgia about Atlantic Southeast Airlines [ASA]. I want to submit for the RECORD a letter I received from Mr. Mark Oropeza, airport director of the Co-

lumbus Metropolitan Airport. In this letter, Mr. Oropeza documents the large number of cancellations by ASA.

It is important to the citizens of the Third District to receive adequate air service. ASA has let them down, and continues to do so. I am hopeful that ASA will do a better job in the future.

COLUMBUS METROPOLITAN AIRPORT,
Columbus, GA, January 3, 1990.
Congressman RICHARD RAY,
Cannon Office Building, Washington, DC.

DEAR CONGRESSMAN RAY: Earlier this year, you asked that the communities within your district who are served by ASA to keep you

informed regarding their cancellation performance. Enclosed please find a recap of ASA's performance in the Columbus market from June 20, 1989 to December 31, 1989. During this 195 day period, ASA has cancelled either a departure or arrival 117 times. In reviewing the data, it is interesting to note that rarely does ASA have an arrival into Columbus and then cancel the following departure. By and large the flight is cancelled in Atlanta resulting in a cancellation in an arrival and departure for the Columbus market. This, of course, means that we have passengers of who are inconvenienced at both ends of the Atlanta-Columbus-Atlanta segment of their flight.

If you will recall at our meeting with ASA and Delta representatives in Atlanta, ASA indicated that they were constructing a new expanded maintenance facility in Macon. As recently as last week, I spoke with the airport director in Macon and he has indicated that ASA's cancellation rate has not improved. Likewise, in reviewing the data from Columbus, we have not seen an improvement either.

Hopefully, the enclosed information will assist you with your deliberations with ASA at the congressional level. If I may be of further help, please let me know.

Sincerely,

MARK OROPEZA,
Airport Director.

ASA Flight Cancellations

Number	Carrier	Flight No.	Departure/Arrival	Time	Date	PAX Bkd.	Remarks
1	ASA	2086	Departure	10:15A	June 20, 1989		Fuel leak.
2	ASA	2074	Departure	11:14A	June 20, 1989		N/A.
3	ASA	2079	Arrival	5:26P	June 20, 1989		N/A.
4	ASA	2080	Departure	5:40P	June 20, 1989		N/A.
5	ASA	2077	Arrival	3:10P	June 23, 1989		Maintenance.
6	ASA	2078	Departure	3:42P	June 23, 1989		Maintenance.
7	ASA	2079	Arrival	5:26P	June 25, 1989		Maintenance.
8	ASA	2080	Departure	5:40P	June 25, 1989		Maintenance.
9	ASA	2079	Arrival	5:26P	July 8, 1989		N/A.
10	ASA	2080	Departure	5:40P	July 8, 1989		N/A.
11	ASA	2077	Arrival	3:10P	July 12, 1989		N/A.
12	ASA	2078	Departure	3:24P	July 12, 1989		N/A.
13	ASA	2085	Arrival	10:00A	July 14, 1989		N/A.
14	ASA	2086	Departure	10:15A	July 14, 1989		Maintenance.
15	ASA	2074	Departure	11:14A	July 19, 1989		Maintenance.
16	ASA	2079	Arrival	5:26P	July 19, 1989		N/A.
17	ASA	2080	Departure	5:40P	July 19, 1989		N/A.
18	ASA	2079	Arrival	5:26P	July 21, 1989		N/A.
19	ASA	2080	Departure	5:40P	July 21, 1989		N/A.
20	ASA	2073	Arrival	10:49A	July 25, 1989		N/A.
21	ASA	2074	Departure	11:14A	July 25, 1989		N/A.
22	ASA	2092	Departure	2:05P	July 26, 1989		Maintenance.
23	ASA	2085	Arrival	10:00A	July 30, 1989		Maintenance.
24	ASA	2086	Departure	10:15A	July 30, 1989		Maintenance.
25	ASA	2082	Departure	7:30P	July 30, 1989		Maintenance.
26	ASA	2092	Departure	2:05P	August 2, 1989		Maintenance.
27	ASA	2091	Arrival	1:55P	August 3, 1989		Maintenance.
28	ASA	2092	Departure	2:05P	August 3, 1989		Maintenance.
29	ASA	2092	Departure	2:05P	August 4, 1989		Maintenance.
30	ASA	2077	Arrival	3:10P	August 6, 1989		Maintenance.
31	ASA	2079	Arrival	5:26P	August 8, 1989		N/A.
32	ASA	2080	Departure	5:40P	August 8, 1989		N/A.
33	ASA	2079	Arrival	5:26P	August 9, 1989		Maintenance.
34	ASA	2080	Departure	5:40P	August 9, 1989		Maintenance.
35	ASA	2077	Arrival	3:10P	August 12, 1989		Maintenance.
36	ASA	2083	Arrival	10:50P	August 12, 1989		Maintenance.
37	ASA	2079	Arrival	5:26P	August 14, 1989		Maintenance.
38	ASA	2080	Departure	5:40P	August 14, 1989		10 Maintenance.
39	ASA	2072	Departure	8:40A	August 15, 1989		26 Maintenance.
40	ASA	2077	Arrival	3:10P	August 18, 1989		Maintenance.
41	ASA	2078	Departure	3:42P	August 18, 1989		57 Maintenance.
42	ASA	2086	Departure	10:15A	August 21, 1989		13 Maintenance.
43	ASA	2091	Arrival	1:55P	August 29, 1989		Maintenance.
44	ASA	2092	Departure	2:05P	August 29, 1989		13 Maintenance.
45	ASA	2073	Arrival	10:49A	September 5, 1989		N/A.
46	ASA	2074	Departure	11:14A	September 5, 1989		25 N/A.
47	ASA	2083	Arrival	10:50P	September 16, 1989		N/A.
48	ASA	2072	Departure	8:40A	September 17, 1989		19 N/A.
49	ASA	2083	Arrival	10:50P	September 25, 1989		N/A.
50	ASA	2072	Departure	8:40A	September 26, 1989		17 N/A.
51	ASA	2091	Arrival	1:55P	September 29, 1989		N/A.
52	ASA	2092	Departure	2:05P	September 29, 1989		21 N/A.
53	ASA	2077	Arrival	3:10P	September 30, 1989		N/A.
54	ASA	2078	Departure	3:24P	September 30, 1989		15 N/A.
55	ASA	2073	Arrival	10:49A	October 2, 1989		N/A.
56	ASA	2074	Departure	11:14A	October 2, 1989		18 N/A.
57	ASA	2083	Arrival	10:50P	October 2, 1989		Maintenance.
58	ASA	2072	Departure	8:40A	October 3, 1989		15 N/A.
59	ASA	2073	Arrival	10:49A	October 3, 1989		N/A.
60	ASA	2074	Departure	11:14A	October 3, 1989		18 N/A.
61	ASA	2085	Arrival	10:00A	October 4, 1989		N/A.
62	ASA	2086	Departure	10:15A	October 4, 1989		11 N/A.
63	ASA	2085	Arrival	10:00A	October 16, 1989		WX.
64	ASA	2086	Departure	10:15A	October 16, 1989		12 WX.
65	ASA	2079	Arrival	5:26P	October 18, 1989		Maintenance.
66	ASA	2080	Departure	5:40P	October 18, 1989		9 Maintenance.
67	ASA	2083	Arrival	10:50P	October 19, 1989		N/A.
68	ASA	2072	Departure	8:40A	October 20, 1989		14 N/A.
69	ASA	2083	Arrival	10:50P	October 23, 1989		N/A.
70	ASA	2072	Departure	8:40A	October 24, 1989		N/A.
71	ASA	2073	Arrival	10:49A	October 25, 1989		N/A.
72	ASA	2074	Departure	11:14A	October 25, 1989		N/A.
73	ASA	2077	Arrival	3:10P	October 26, 1989		Maintenance.
74	ASA	2078	Departure	3:24P	October 26, 1989		Maintenance.
75	ASA	2085	Arrival	10:00A	November 1, 1989		Maintenance.
76	ASA	2086	Departure	10:15A	November 1, 1989		13 Maintenance.
77	ASA	2081	Arrival	7:20P	November 3, 1989		N/A.
78	ASA	2082	Departure	7:30P	November 3, 1989		N/A.
79	ASA	2085	Arrival	10:00A	November 6, 1989		34 N/A.
80	ASA	2086	Departure	10:15A	November 6, 1989		N/A.
81	ASA	2077	Arrival	3:10P	November 9, 1989		Maintenance.

ASA Flight Cancellations—Continued

Number	Carrier	Flight No.	Departure/Arrival	Time	Date	PAX.Bkd.	Remarks
82	ASA	2078	Departure	3:24P	November 9, 1989	35	Maintenance.
83	ASA	2077	Arrival	3:10P	November 10, 1989		N/A.
84	ASA	2078	Departure	3:24P	November 10, 1989	21	N/A.
85	ASA	2085	Arrival	10:00A	November 12, 1989		N/A.
86	ASA	2086	Departure	10:15A	November 12, 1989	9	N/A.
87	ASA	2083	Arrival	10:50P	November 15, 1989		WX
88	ASA	2081	Arrival	7:20P	November 15, 1989		WX
89	ASA	2082	Departure	7:30P	November 15, 1989	5	WX
90	ASA	2079	Arrival	5:26P	December 1, 1989		N/A.
91	ASA	2080	Departure	5:40P	December 1, 1989		N/A.
92	ASA	2091	Arrival	1:55P	December 4, 1989		Maintenance.
93	ASA	2092	Departure	2:05P	December 4, 1989	17	Maintenance.
94	ASA	2077	Arrival	3:10P	December 4, 1989		N/A.
95	ASA	2078	Departure	3:24P	December 4, 1989	22	N/A.
96	ASA	2081	Arrival	7:20P	December 8, 1989		N/A.
97	ASA	2082	Departure	7:30P	December 8, 1989	20	N/A.
98	ASA	2085	Arrival	10:00A	December 9, 1989		N/A.
99	ASA	2086	Departure	10:15A	December 9, 1989		N/A.
100	ASA	2072	Departure	8:40A	December 10, 1989	18	Maintenance.
101	ASA	2091	Arrival	1:55P	December 12, 1989		WX
102	ASA	2092	Departure	2:05P	December 12, 1989	13	WX
103	ASA	2079	Arrival	5:26P	December 12, 1989		N/A.
104	ASA	2080	Departure	5:40P	December 12, 1989	3	N/A.
105	ASA	2072	Departure	8:40A	December 18, 1989		N/A.
106	ASA	2073	10	10:49A	December 19, 1989		N/A.
107	ASA	2074	Departure	11:14A	December 19, 1989		N/A.
108	ASA	2085	Arrival	10:00A	December 21, 1989		WX
109	ASA	2086	Departure	10:15A	December 21, 1989		WX
110	ASA	2073	Arrival	10:49A	December 21, 1989		WX
111	ASA	2074	Departure	11:14A	December 21, 1989		WX
112	ASA	2091	Arrival	1:55P	December 23, 1989		WX
113	ASA	2092	Departure	2:05P	December 23, 1989		WX
114	ASA	2085	Arrival	10:00A	December 24, 1989		WX
115	ASA	2086	Departure	10:15A	December 24, 1989		WX
116	ASA	2081	Arrival	7:20P	December 29, 1989		N/A.
117	ASA	2082	Departure	7:30P	December 29, 1989		N/A.

Mr. VISCLOSKY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to rise in strong support of the amendment of the gentleman from California [Mr. Boscol]. I think there are four primary problems with the proposed passenger facility charge.

The first, Mr. Chairman, is that it represents an abdication of our national responsibility. Second, I believe it will lead to a national aviation policy that will be developed randomly through local initiatives. Third, I think that it will continue a very ominous trend from the 1980's, and that is the strong will get stronger, and the weak will atrophy. Lastly, this is a new regressive tax, particularly for those living in rural areas, those who must use hub airports and use a connecting flight.

During the decade of the 1980's the administration and Congress failed to resolve their differences regarding investing in our national aviation structure. That was a bipartisan failure, and in many instances it revolved around conflicts of committee jurisdiction. It is regrettable, but we should not compound the mistake.

□ 1240

The abdication of our responsibility during the 1980's should not now be foisted on to the municipalities and States of our Nation.

During the subcommittee markup, the chairman of the committee, the gentleman from Minnesota [Mr. OBERSTAR] very rightly pointed out that our national responsibility is enormous; but now instead of making the hard decisions regarding the expenditure of

trust fund moneys and raising additional Federal revenues to fully support a comprehensive national aviation transportation policy, some would have us shift this responsibility to the locales. It is unfortunate, given the unique nature of air travel and the control systems needed to ensure its safety and efficiency, those ought to be developed with a national perspective.

Second, it is my fear that not only are we abdicating our Federal responsibility, but we will be creating a national policy scheme that is randomly driven by the local ability to raise money. If you are strong, you are going to get stronger and your airports are going to get bigger. In relative terms, if you are a medium-sized facility or if you are a small rural airport, you are going to die on the vine and those 9 or 10 airports cited earlier in the debate are going to call the shots in terms of what our national aviation policy should be.

Finally, this is a new tax. This is a new user charge. In any event, it is going to provide the ability of those who run airports to take \$3 to \$6 out of each of your pockets during each flight.

Mr. Chairman, I ask all my colleagues to support the Bosco amendment. I think my colleague, the gentleman from California, is absolutely right. I think the passenger facility charge is a bad idea.

Mr. CLINGER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the amendment.

I hasten to point out that I am not from the State of Illinois, but from

Pennsylvania. I am still opposed to this amendment for some very, very sufficient reasons.

I want to ask all our colleagues to think for a moment about the last time that they sat waiting in an airplane to take off, that they were delayed and inconvenienced because of congestion at an airport. I would suggest probably for most of us it was just last weekend, or I would ask my fellow Members to think of the mail or the phone calls they have received from their local airports pointing out the very real needs that those airports have to keep up with what has been a burgeoning explosion in the use of aviation as the preferred means of travel.

Every airport in this country has unmet needs. It is estimated that nationwide we have \$10 billion of need each year for the next 10 years. Those needs are going to be unmet certainly in the near term without the passenger facility charge. Let us make no mistake about this. This is a gutting amendment. It is going to slow airport development to a snail's pace.

Let me take just one example, San Jose. The capital needs of the San Jose Airport that have been identified over the next 5 years total \$96 million. The estimated entitlement funds which San Jose will receive in the next 5 years total \$16 million.

Now, with a PFC, the San Jose Airport is estimated to receive about \$43 million. That sum would enable the San Jose Airport to go into the bonding market to the tune of about \$86 million, which will go a long way toward meeting its total capital needs.

The idea that we should first spend down the trust fund will not solve San

Jose's problem. There is going to be a shortfall between what is the identified capital needs of the airport for the next 5 years and the amount the airport will receive from the fund of about \$80 million.

So what can San Jose do? What can any airport do that finds itself with this kind of a shortfall?

Well, first, of course, it can just delay capital projects that are necessary to address their capacity problems and wait until their entitlements funds or discretionary funds out of the Airport Improvement Programs become available.

Second, the gentleman from California [Mr. Bosco] referred earlier to the tooth fairy. They can hope that maybe the tooth fairy under cover of night will expand the airport or extend the runway or build a new terminal. Elves or tooth fairies are about the only other option they have, or they can indeed hope that the PFC amendment is defeated and the PFC does become available.

Mr. Chairman, to review some of the elements that have been kind of lost in debate of what the PFC is and what it is not, first of all I have to stress these funds cannot be used for anything except air side improvements, and that means to improve capacity, to improve the security at the airport, to effect noise reduction programs, and so forth, and to provide new gates. That is all that these funds can be used for. They cannot be used for off airport purposes, for access roads or other embellishments, so the idea that this is somehow going to be a boondoggle, that airports are going to be massively overbuilding in all directions, just is not true.

Second, the thing that it will do is provide very, very good oversight from the FAA.

I want to point out in response to one of the charges made that we would have these things imposed for 30 years or more, on frivolous projects that will go on and on. I would call the attention of the committee to our committee report which says that we expect that the PFC's will be approved only to the extent necessary to support specific AIP eligible projects achievable within a reasonable period of time. The Secretary should not approve a series of vague future projects permitting a PFC to be collected indefinitely, even if the law's limitations on new PFC's takes effect.

So we have clearly indicated in our report that we expect this privilege to be used with some considerable restraint.

The CHAIRMAN. The time of the gentleman from Pennsylvania has expired.

(By unanimous consent, Mr. CLINGER was allowed to proceed for 2 additional minutes.)

Mr. CLINGER. Mr. Chairman, I would just remind the members of the committee that we are talking here about a very carefully negotiated agreement between the administration, between the Appropriations Committee, and between this authorizing committee.

What this bill provides is that the trust fund is going to be drawn down, and if it is not drawn down in accordance with the commitment, then the authority to impose a PFC is revoked. We have that lever in there to require that the trust funds be drawn down.

Now, what the PFC is not, and I think this has to be stressed again and again, this is not a tax. It is a local option. It is an option which can be provided to an airport upon demonstrating a need for that PFC to impose a local user fee for a local project. These funds do not come anywhere near the Federal Treasury. All the bill does is restore an authority which airports had up until 1973. They abused that authority in that time, and that is why we revoked it. We have put very strict controls into how that passenger facility charge can be used now and there is excellent oversight provided.

Mr. Chairman, the point is, the bottom line here is that the need is there. The capacity needs are desperate. They are critical, and the bottom line is somebody has got to pay, and the passenger ultimately is going to pay. He is either going to pay through increased fares or through this passenger facility charge, which is, I think, the far preferable means because it is controlled. It is limited in time. It is directed to specific projects, and it expires when that project is constructed, so I think it is the fairest way to go about meeting the critical capacity needs of this country, and significantly improve our air transportation system.

Mr. Chairman, I strongly urge our Members to vote against the Bosco amendment.

Mrs. COLLINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to the Bosco amendment.

I believe that most of you are aware of the fact that for many years now I have been extremely concerned about airplane safety and about the security of our airports.

As chairwoman of the Government Activities and Transportation Subcommittee, we have had investigations and held hearings on a wide range of issues over these past several years about those things: Aviation safety, airport security and air traffic control and so forth. That is one of the reasons why after our subcommittee has had all these investigations, I am convinced that it is necessary that we do in fact need the passenger facility charge.

□ 1250

To every traveler around the country, and to every subcommittee that has engaged in various related investigations, it becomes clear that there is an infrastructure undercapability in our Nation. Aviation is the preferred mode of travel in our country today, and we have to do something to make it safe and secure for everybody.

Every time you pick up a newspaper or you see on television where there has been a near miss someplace, all of the blame is supposed to be placed on the air traffic controllers.

That is not the only reason why. One of the reasons why is because we do not have sufficient runways, and in order to try to accommodate the large, vast number of passengers who are traveling in and out of our airports we try to move them a little bit closer together, thus creating a climate and situation of perhaps a little more danger.

A lot of the blame is also supposed to be placed on the FAA. I have certainly been one to place sufficient blame on the FAA time and time again. The matter does not rest solely with the FAA. The matter rests with the fact that we do not have sufficient infrastructure in our country to make sure that we have adequate facilities, adequate gates, adequate runways, more terminals more airports.

It seems to me that any passenger who flies anywhere ought to be willing, ought to be eager to pay a few dollars to try to have the safety factor that is involved here. I know I certainly would be, and I am sure everybody else would say, "There is nothing wrong with paying a user fee if I am going to use the facility that I am flying into. Certainly I am willing to pay to use that facility that is safe, that is secure, that when we land we do not have to be worried about landing on a short runway, we do not have to wait for half an hour to get to a gate, we do not have to be put in the penalty box because somebody else is already there," and so forth.

It just makes good sense, and I would urge all of my colleagues to defeat this amendment.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mrs. COLLINS. I am happy to yield to the gentleman from Minnesota.

Mr. OBERSTAR. Mr. Chairman, I would like to thank the gentleman for her statement which was very thorough and sound, but more to compliment her for the splendid persistent work she has done over so many years ensuring the safety of the air traffic control system. When she speaks on that issue with the perspective that she does, she brings great dignity to this debate and to the assurance of safety in our air traffic control system.

Mrs. COLLINS. I thank the gentleman.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong opposition to the Bosco amendment and find myself in unusual agreement with the administration and Secretary Skinner on this issue.

This is not an issue of Chicago versus Indiana or Chicago versus Illinois and other parts of the State. This is an issue of whether or not we are going to have an adequate and a safe and a competitive air transportation system into the next century.

Even if we spend every single cent in the aviation trust fund over the next 4 to 5 years, there will be \$50 billion of unmet needs out there. The aviation trust fund, colleagues, is not spent for expansion of terminals. So to say that, well, this is just going to subvert the existing system, it does not subvert the existing system, because the existing system is not intended to fund many of the activities that we are talking about here that are all airside improvements, all airport improvements, but things not generally funded currently out of the ticket tax.

It is, first of all, about capacity and safety, and I do not have to tell you about that, because we all fly a lot, and we are all delayed a lot. We know that a good reason for many of those delays is the fact that the system we now have is not adequate, and we have not built a new airport in this country in many years. It is about competition. Talk to your local airport, ask them if there are any new airlines that want to come in there or talk to the airlines themselves and ask them, "Would you like to provide service into my State, into my airport?" In many cases the answer is, "Yes, but we cannot get a gate. There are no more gates at that airport. They are all locked up in the current contract with TWA, United, or with American," and many of you live in areas where this is the case.

This will provide the additional gates and the capacity we need at the terminal to bring in new competition, to help keep prices down into the future.

Finally, it is about equity. There has been, you know, a lot of talk here about this is inequitable in the way we are going to raise this tax. It is exactly equitable, because you do not have to pay the tax in Chicago if you do not go to Chicago. The people who use these airports will pay for the improvements that are needed for the future and the present capacity of those airports.

My own local jurisdiction recently built a new airport terminal. It is done, and I do not have a dog in this fight. We do not need the passenger facility charge. We could have used it though, because the airport authority could only raise taxes within one city in my district. I happen to live in the

city across the river, and I use the airport for free, and the people in the city of Eugene are paying the tax for the bond issue, the general property tax.

Many of you have similar situations. Portland, in the north of Oregon, borders another State, and even if they could levy a tax that covered some substantial portion of the Portland metropolitan area, they could not levy a tax on the people of Washington who use that airport.

The fairest way to raise those funds is to tax the people through a passenger facility charge who use that airport, not all of your constituents, not your constituents who do not fly, not other people's constituents who do not use the airport.

This is fair. It is equitable. It gets us the capacity. It gets us to the competition, and it gets us the equity we need.

I urge my colleagues to vote no on the Bosco amendment and yes on final passage of the bill.

Mr. APPLEGATE. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the Bosco amendment. My arguments may be somewhat redundant in all of this. However, let me just say this, that I certainly understand the arguments that are being made by the big-city Members who have big airports, who say that they need the improvements to their airport facilities.

But, also, let me point this out, that the trust fund is there for the purpose for which passengers are being taxed in the first place, and now are being asked to be taxed again. And why? Why, I ask, is this necessary?

I do not think it is necessary. At least, it is not needed now until at least the fund is depleted. I mean, let us use the surplus that we have now.

Why do we have the surplus? Why is it not being used? Well, I will tell you why. It is not being used, and I think everybody knows it, and it has been stated that it is being used for the purpose of showing a smaller budget deficit.

Let us take the trust fund; let us take all of the trust funds, let us take the highway trust fund, this trust fund, let us take all of them off budget and show what the actual budget deficit really is.

This only hinders the ability to be able to spend this money on the purposes for which it was taxed in the first place. So why should passengers be asked to be double taxed? It does not make sense.

Being one who lives in a rural area, where my people either have to go to Columbus or Cleveland or Pittsburgh or Chicago, they are the ones who are going to be hit hard. They are going to be hit hard, harder than most of the others. I do not think that it is necessary.

I think that safety is far too important to be so lightly disregarded by using the trust fund for political purposes, and the purpose is to show a smaller deficit.

I think that passengers, because of this, not only being double taxed, are being placed in double jeopardy. So let us forget about that, release the trust fund now, spend the surplus that we have, and forget about putting a new tax on the passengers in this country.

Mr. WILLIAMS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support and ask my colleagues to give consideration to, and then hopefully vote for, the Bosco amendment.

If this new tax passes, there will not be enough airsick bags on the planes to take care of the nauseated public. Passengers all over this country are going to be nauseated with this.

This is a new tax. Oh, I know, some say no, it is not a t-a-x. It is a f-e-e, fee. Quack, quack, quack.

This new tax came out of the administration. Secretary Skinner first brought it up. It is going to be interesting to see how our colleagues on the Republican side who have newly come out of a caucus in which they said they are not going to vote for any more taxes, it is going to be interesting to see how they quack on this one.

□ 1300

Well, I am making a little light of it, but it is a serious matter. I think the seriousness goes beyond just this tax.

In the early days of the United States, America went through a great test, and that was whether we were going to be 13 countries or 1. We go through that test periodically. Today the test is whether we are going to be 50 countries, each pulling its own way, or one.

One of the great symbols of whether or not this country is going to pull together, unify, share, express concern one for the other, is how we tax each other.

In the early days of this country, when we had decided that we weren't really a United States, our taxing system was made up of fees. Americans remember the toll roads.

Our early taxing structure was that of a toll road mentality. When you were in Pennsylvania, you paid Pennsylvania. Then as you came across the border and you landed in your carriage in the next State, you paid the toll at the next State. You paid Connecticut or Massachusetts or New York. The user paid for whatever the user consumed. Toll road taxation. It was the hallmark of a nation divided.

Years later America decided with our general use that we should not do it that way, we should really move to a massive system of taxing, and pay into

a central fund through a system called the progressive income tax. In that way we would show each our concern for the others, my constituents in Montana showing through the taxing structure their concern for the welfare recipients living in New York, and New Yorkers in turn showing their concern for the traveling public, the farmers the ranchers, of Montana.

Now, under former President Reagan America began for the first time in many years to once again abandon the notion of a central system of progressive taxation, and we began to move instead back toward the toll road mentality.

Members all remember the findings of the Grace Commission. Among them were that people that go into Yosemite or Glacier or Yellowstone National Park should have to pay the cost of maintaining that park with their entry fee. So fees would go from \$5 to \$50. But, after all, the user should pay, as if Yellowstone did not enrich all America.

Now we are telling the traveling public you must pay if you are going to use this great transportation system of the United States, and pay through a fee. You must be a contributor for the airport where you have just landed.

I suggest that this tax, which would cost the traveling public \$2 billion, with a "b," \$2 billion in tax increase over the next 24 months, as important as it is, that \$2 billion is important for another reason. Because this new tax, this new user fee tax, represents a long step in the wrong direction, back toward the days of toll road taxation.

Mr. Chairman, do not take that step. Vote for the Bosco amendment.

Mr. SMITH of Florida. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I want to commend the gentleman from California [Mr. Bosco], as well as the gentleman from California [Mr. MINETA], for their very, very important amendment. It is important beyond that which it would accomplish, which is to ultimately refuse to allow the imposition of this tax, as the gentleman from Montana [Mr. WILLIAMS] has indicated, but also because of the importance as it relates to something that has yet to be discussed in this debate.

Just who was it that decided to build these airports in the first place? Did the people from northern California get together one day and say, "You people in Chicago should have an airport"? Did the people in rural Fayetteville, AR, say, "Heck, we can't get to South America. You people in Miami better build us an airport"?

Everybody knows what the true story is. The people who live in jurisdictions where these airports are now located thought it was in their best interests to build these airports. The

Federal Government does not have a policy vis-a-vis airports, like it does vis-a-vis roads. There is no national airport interstate. There is no set of connected airports.

Yes, we control the airports nationally. Yes, we control safety. Yes, we control a lot of other things. Yes, we have an airport tax. Yes, we have a trust fund. But nobody says to a particular area, "You must build an airport." That is a local decision.

Do you know why they build them locally, folks? They build them because it is good for that locality. Nobody builds an airport because it is good for the folks in Duluth. It is good for them.

When folks in Chicago or New York or Detroit or Miami or Phoenix or Los Angeles wanted to bring people into their cities, tourists, businesses, permanent residents, they decided to build an airport.

I can tell Members that they did not care at all what the people in Sopchoppy, northern Florida, thought about whether or not they were building an airport in that jurisdiction.

But now, oh, now it is different. Now it is, "Why, it is for your benefit, not ours, if we expand our runways and expand our capability to bring more planes in with more gates, and we put on more safety factors," which frankly is a joke. That will never happen because the Federal Government is not going to permit that to happen, because they are not going to spend out the trust funds.

What is going to be the benefit to the traveling public? Nothing but being able, for the privilege of using an airline which does not have a non-stop flight, they will get on a flight that makes a stop there and tells them, "You have to stop there whether you like it or not," that they are going to pay that city that decides to impose this passenger facility charge for the privilege of being able to stop in that city, when that city wants to do it because it is good for them economically, because it will bring more business to that city, because it will bring more industry to that city, because it will bring more tourists to that city.

Why is it that this debate is all centered around what good is it going to be for everybody else but the place that the airport is located? Those people coming in on those planes were not the ones that made that decision in the first place. Members all know that.

To impose this tax on those people that have to go and stop there when that is not their final destination, because there is not an airline that you get on from where they are to do that, is to tax them once again.

The gentleman from Montana [Mr. WILLIAMS] is absolutely right. I am curious as to whether or not all these

people who do not want to tax Americans, how they are going to vote on this issue. I can tell you how I am going to vote. I am going to vote with the gentleman from California [Mr. Bosco] and the gentleman from California [Mr. MINETA] and the other supporters of this amendment, to take this ridiculous provision out of this otherwise good bill.

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

(By unanimous consent, Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. Do not tax Americans because people in the local areas who have an airport, who built it on their own, do not tax them because those people want to make their airport bigger and better for their own benefit. Chicago would still be a minor city without the advent of those two airports. Miami would not be what it is without the advent of its airport. All around the country, the same thing.

Mr. OBERSTAR. Mr. Chairman, will the gentleman yield?

Mr. SMITH of Florida. I yield to the gentleman from Minnesota.

Mr. OBERSTAR. The gentleman from Florida [Mr. SMITH] is making the argument that there is no national system. Is the gentleman aware how airports started in the first place? They were built as a national system in large part by the U.S. Army Air Corps in support of delivery of the U.S. mail. It was the U.S. mail in the 1920's that supported the beginnings of aviation in America, and airports were an outgrowth of the need to deliver mail to strategically located areas.

□ 1310

The CHAIRMAN. The time of the gentleman from Florida [Mr. SMITH] has expired.

(On request of Mr. OBERSTAR and by unanimous consent, Mr. SMITH of Florida was allowed to proceed for 1 additional minute.)

Mr. SMITH of Florida. Mr. Chairman, let me just respond to the gentleman and reclaim my time. That is not a national policy in airports. We did not mean to connect all these cities and to increase the growth a thousandfold in cities by virtue of the original desire to deliver mail from city to city to allow Americans to communicate with one another.

Mr. OBERSTAR. If the gentleman will yield further, when passengers from Duluth, as the gentleman raised earlier, want to go Miami in order to enjoy the Sun in the cold winters of northern Minnesota as respite from 40 below zero, they want to arrive on time.

Mr. SMITH of Florida. And we are glad to have them.

Mr. OBERSTAR. And they want to have runways that can accept those aircraft from northern Minnesota. And if the airport does not expand those runways, then our folks cannot come and spend their dollars in your town.

Mr. SMITH of Florida. Let me reclaim my time. The gentleman is absolutely correct, and those runways can and are being extended now, without the benefit of a PFC in airports all over the country. And if the gentleman goes around this country, like I have, and I am sure he does, he sees airports with construction going on all over the place.

This is just another excuse to tax Americans more because they do not want to at home tell people that they have to pay for the privilege of maintaining their own airport.

Mr. LIPINSKI. Mr. Chairman, I move to strike the requisite number of words and I rise in opposition to the Bosco amendment.

Mr. Chairman, first I would like to mention to the previous speaker that the city of Chicago was the second largest city in population in the United States in the year 1900 which I believe is a few years prior to the time the first flight took place at Kitty Hawk, NC. So I think we were a major city before we built any airports.

But more importantly, to move on to this amendment, this Nation has a great need for airport capacity, airport security and for increasing competition. Yes, we have a trust fund. At the present time there is \$7 billion in that trust fund.

Because of the work of the chairman of the Aviation Subcommittee, that trust fund is going to be drawn down \$1.8 million, \$1.9 million, \$2.1 million over the course of the next 3 years. Within 5 years it will be down to \$1 billion, and everyone agrees that we need a reserve of at least \$1 billion in that fund. So we spend \$6 billion over the course of the next 5 years.

The need for airport capacity improvement over the course of the next 5 years in this Nation is \$50 billion, that is five-zero-billion. How can we possibly meet those airport capacity needs, the security needs if we do not have this passenger facility charge?

For too long this Nation has postponed, postponed, postponed paying for what we need today and tomorrow. We no longer can do that.

I just read an article this morning in an international newspaper talking about the major reasons for the great strides Germany and Japan have made since 1945, and it is because of the great emphasis they have placed upon their infrastructure. Infrastructure, airlines, roads, trains, move people, move goods. If we are going to be truly competitive in this Nation and worldwide in every way we must improve our transportation system, and it has

to be done by the people who fly on the planes. That is the only way that it can be done. It is the only way we can achieve our goals. It is the only way we can meet the needs that we have in this country.

Now there has been talk about Chicago and third airports. That is irrelevant. This is a national piece of legislation. Whatever problems GEORGE SANGMEISTER has with this bill or why I particularly favor this bill are irrelevant as far as it goes. This is a national bill. It helps everyone. Yes, it helps the major airports, but it also helps general aviation in this country, it helps the small rural airports in this country.

We cannot continue to put off paying for what we need. Nobody likes to impose taxes. I do not like to do so. The Republicans do not like to do so. The Democrats do not like to do so. The President does not like to do so.

But we have to pay our way. There is no free lunch. If we want to have a good airline system in this country, if we want to increase competition, if we want to get away from where one carrier dominates an airport or two carriers dominate an airport, we have to pass this passenger facility charge. If we pass this passenger facility charge we will have greater competition at each and every airport in this country, and we will drive down the price of the airline ticket.

Yes, right now it will cost \$6 to go from Los Angeles to Chicago to New York. But if we have greater competition in each and every one of these airports, we will probably be paying \$10, \$15, \$20 less per trip.

In conclusion, I want to say that this is good public policy. This is the way we should go. Yes, it is supported by the White House. Yes, it is supported by Secretary Skinner. Yes, it is supported by the Democratic House leadership. It is supported by the Republican House leadership. It is supported by the leadership of the Public Works and Transportation Committee. It is supported by the Republican leadership on that committee.

Please, for your good, the good of your constituents, the good of America, the aviation system, defeat the Bosco amendment.

Mr. OBERSTAR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I perceive that we are winding down to the last of this debate, and it has been a good debate, and it has been a good exploration of the issues involved. I want to thank all of those who participated. It has been on issues and not on personalities.

All you lip readers and duck watchers, read my lips. No new revenue, no new airports, no new infrastructure.

We cannot have it both ways. We cannot pause for holy pictures alongside decaying bridges alongside crum-

bling interstate highways, against clogged runways, and vote against the money to build them. We cannot decry the congestion, we cannot decry the economic loss and vote against the money to do something about it.

We do not build runways with crocodile tears. We do not build runways with wrung hands crying over taxes. We build runways with bond issues supported by the revenues generated by air travelers, plain and simple.

Last year's 170 million hours of delay will not be reduced by speeches against taxes or against passenger facility charges. It will not be reduced by people complaining that this is the wrong policy; let us wait 5 years.

You want to wait 5 years? Here are all of the projects that you are going to be waiting for. These are the airport improvement projects all across America pending with the FAA that cannot be built because there is not enough money to build them.

Whatever you want to call it, tax, fee, charge, delay will only be relieved and reduced by the great engine of America's economy, moved forward by this great aviation sector, a \$620 billion a year sector; moved forward when we start building runways, when we start improving the air traffic controllers system, when we start paying air traffic controllers enough to do this job.

We cannot wait 5 years to spend down the trust fund. The chairman of the Transportation Appropriations Subcommittee said it well. We have an agreement. The spend down is underway. We will be down to a \$1 billion reserve in the Aviation Trust Fund in 5 years, and that is what we ought to have. We have an agreement from the Department of Transportation and the Secretary of Transportation, from Office of Management and Budget to do that, to spend that surplus in the trust fund down.

□ 1320

And at the same time, we need more money on top of what is coming in from the ticket tax, to do the job of meeting the needs of air travel in this country. You want to wait 5 years until we spend it down and then start figuring out where we are going to get the money to meet the needs of air traffic control, and modernization of the system?

It is going to cost us \$25 billion in the next 10 years to modernize the air traffic control system. Think about it.

There is a need for airport development, runway improvement, taxiway improvement, building of gates to have some competition at single-carrier-dominated hubs so they can reintroduce competition into this deregulated environment and break the monopoly of those single airlines that run the hubs. This is the way to do it.

There is \$40 billion in needs, and this legislation will begin to put \$40 billion into the construction mainstream.

You want to talk about infrastructure? It was on the front pages of all the newspapers and magazines, in the first half decade of the eighties? We did not do anything about it. This bill does something about infrastructure instead of having Members of Congress stand beside the Williamsburg Bridge with tears in their eyes about how bad it is, standing with their bags in their hands at airports where they cannot move, with tears in their eyes. "I can't get to my meetings." They are not doing anything about it.

This does something. It puts money into bond issues, this puts money into airport construction. This says we rebuild America. And it is a partnership.

You put money into the big airports with the passenger facility charge, and they give up some money that goes back into regional and commuter airports and general aviation airports. How do you suppose you get to Chicago?

The CHAIRMAN. The time of the gentleman from Minnesota [Mr. OBERSTAR] has expired.

(By unanimous consent, Mr. OBERSTAR was allowed to proceed for 2 additional minutes.)

Mr. OBERSTAR. How do you suppose you get to Chicago if you do not start at a Chisholm-Hibbling airport, whose runway is inadequate, whose facilities are inadequate? This gives us an opportunity to compete. This helps rural America be competitive with urban America. This helps build a national system.

It is targeted, it is targeted to only those projects that improve runway capacity. It is targeted only to those projects that enhance competition. It is targeted only to the real needs that fit into a national airport system. That is what we are talking about.

I want to now turn to a point that has been argued that the Bosco amendment should be supported because the Davis-Bacon prevailing wage law. Let me set the record straight on this. PFC's will result in more contracts for airport construction and most, if not all, of the added construction will be subject to Davis-Bacon.

Davis-Bacon will apply whenever a PFC project receives Federal AIP funds in addition to PFC funds. Based on historical experience, PFC projects should generally be able to obtain Federal funding; in recent years we do not know of any major AIP eligible projects which were undertaken without Federal support.

Theoretically, an airport could forgo Federal funding to get out of Davis-Bacon. But it is extremely unlikely that an airport would do so. Most major airports would be subject to Davis-Bacon type local statutes even if

they did not receive Federal funds. An Airport Operators Council International survey shows that 22 of the top 30 airports are subject to local prevailing wage laws.

These airports which are not subject to local prevailing laws are also unlikely to forgo Federal funds. Under existing law, airports are free to avoid Federal requirements, such as Davis-Bacon, by funding a project exclusively with non-Federal funds. However, we do not know of any major airports which have rejected Federal funding in the past. There is no reason to think airports would forgo Federal funding for PFC projects.

Some have suggested that Davis-Bacon can be evaded because an airport could divide a project into a AIP project and PFC project, with the latter not subject to Davis-Bacon.

The intent of our bill is to prevent segmentation of projects to avoid Davis-Bacon.

Section 515(b) of the Airport and Airport Improvement Act of 1982 requires that all contracts in excess of \$2,000 for work on projects for airport development which are supported by Federal Airport Improvement grants must comply with Davis-Bacon Act wage requirements. I understand that FAA interprets section 515(b) as requiring that when a project is supported by both Federal and local funds all contracts on the project must comply with Davis-Bacon. It is our intention that FAA apply this interpretation to projects which are supported by both PFC funds and AIP funds. On these types of projects, contracts in excess of \$2,000 must comply with Davis-Bacon. Moreover, FAA should not permit Davis-Bacon requirements to be avoided by artificial limitations on the scope of a project. For example, if a runway or a new terminal is built with both AIP grants and PFC revenues, FAA should consider the project, for the purposes of Davis-Bacon, to be the entire terminal or the entire runway. FAA should require all contracts for work on the terminal or runway to comply with Davis-Bacon. FAA should not permit an airport sponsor to avoid Davis-Bacon by dividing construction of a runway or terminal into Federal and non-Federal projects.

Finally, I was not a supporter of this idea early on until I studied it and looked at it and gave it a shot, and until we had an agreement with our colleagues on the Appropriations Committee to spend down the surplus in that trust fund and a way to do it responsibly, did I decide it was time to move on passenger facility changes.

Then I said now let us get about meeting the real needs of America. This is a rebuild America program, get America back on track, let us build our aviation system for the future. Let us not stand alongside bridges, clogged

runways, congested airports, and cry about infrastructure. Let us do something. Let us pass this bill.

Defeat the pending amendment and get on with the business of America.

Mr. BOSCO. Mr. Chairman, will the gentleman yield?

Mr. OBERSTAR. I yield to the gentleman.

Mr. BOSCO. I thank the gentleman for yielding.

Mr. Chairman, as we close this debate, I think everyone agrees that it has been a very good debate. Even as strongly as I feel sitting here, sometimes I started to waver toward the other side. I think other people have had the same feeling.

Let me say that no one respects the chairman of our Aviation Subcommittee more than I do. I think in every respect the gentleman has elevated the Nation's air traffic problems, the Nation's airports problem, the infrastructure difficulties that we face, to a level of national discussion that it needs. We all respect the gentleman for that and thank him.

Mr. OBERSTAR. I thank the gentleman for those kind remarks.

Mr. KYL. Mr. Chairman, I rise in opposition to the Bosco amendment and in support of the passenger facility charge [PFC] provisions of the bill.

I do so, Mr. Chairman, as a means of getting this language to conference where I hope it can be refined to ensure that it is not just another tax on airline passengers—a tax that can be hoarded like the trust fund to mask the size of the deficit.

We know our airports are in desperate need of infrastructure improvements. And, it seems to me that a true user fee is the fairest way of financing those improvements.

The language to the bill is a step in the right direction. It is written as a user fee, not a tax. Only those travelers who use an airport that elects to charge a PFC will pay the PFC. The PFC is airport specific, project specific. That is precisely what a user fee is supposed to be, and that is why I am voting to preserve the PFC language today.

Moreover, if the airport trust fund is not drawn down, the trigger mechanism of the bill will allow the authority to charge a PFC to expire. In that sense, it will guarantee that PFC revenues supplement, rather than supplant, trust fund revenues for infrastructure improvements. However, I do think the trigger mechanism in the bill can still be tightened up.

Mr. Chairman, I urge my colleagues to oppose the Bosco amendment and allow the conferees the opportunity to refine the language.

Mr. GEPHARDT. Mr. Chairman, I rise in strong opposition to the Bosco amendment which would eliminate a vital component of H.R. 5170, the Aviation Safety and Capacity Expansion Act. This provision, authorizing passenger facility charges [PFC's], will give airports the ability to finance capital expansion projects beyond the Airport Improvement Program grant system which cannot now meet current capacity needs.

Thanks to the leadership of Congressman OBERSTAR, chairman of the Aviation Subcommittee, the provision is crafted with attention to both fairness and administrative efficiency.

It is fair because it will phase out grant money as a condition for accepting PFC money, so that smaller airports which may not be able to levy PFC's, will have more grant money available to them.

It will be administered according to strict project eligibility, tied to standards in existing grant programs and provides oversight authority to the Department of Transportation.

I have been a long-time proponent of the concept of passenger facilities charges because I know our national aviation system needs a shot in the arm when it comes to capital financing. Whether the project in question is in St. Louis, Chicago, or wherever, we must remember that a national air transportation system is good for the entire country. I urge Members to oppose the Bosco amendment and preserve the integrity of the committee bill.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California [Mr. Bosco].

The question was taken, and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. BOSCO. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 171, noes 252, not voting 9, as follows:

[Roll No. 301]

AYES—171

Ackerman	Feighan	Matsui
Applegate	Flippo	Mavroules
AuCoin	Gaydos	McCloskey
Bates	Gedjenson	McCurdy
Beilenson	Gibbons	McDade
Bereuter	Gilman	McDermott
Berman	Glickman	McGrath
Bevill	Gordon	McMillen (MD)
Bonior	Grant	McNulty
Bosco	Guarini	Mfume
Boucher	Hall (OH)	Miller (CA)
Boxer	Harris	Mineta
Brennan	Hatcher	Moody
Browder	Hefley	Morella
Bunning	Herger	Mrazek
Burton	Hertel	Murphy
Bustamante	Hoagland	Nagle
Byron	Hochbrueckner	Neal (MA)
Campbell (CO)	Hoyer	Nielson
Cardin	Jacobs	Oakar
Carper	Jenkins	Olin
Carr	Johnson (SD)	Ortiz
Chapman	Johnston	Owens (NY)
Clarke	Jones (GA)	Pallone
Clay	Jontz	Payne (NJ)
Condit	Kanjorski	Payne (VA)
Conyers	Kaptur	Pease
Cox	Kastenmeier	Pelosi
Crane	Kennelly	Petri
Crockett	Kildee	Price
Dannemeyer	Kleczka	Pursell
Darden	Kolter	Quillen
de la Garza	Lancaster	Rahall
Dellums	Lantos	Rangel
Douglas	Levin (MI)	Ravenel
Downey	Levine (CA)	Richardson
Dwyer	Lewis (GA)	Ridge
Dyson	Lowey (NY)	Rinaldo
Early	Machtley	Ritter
Edwards (CA)	Manton	Rohrabacher
Engel	Martin (IL)	Ros-Lehtinen
Erdreich	Martinez	Roybal

Saiki
Sangmeister
Saxton
Scheuer
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Serrano
Sharp
Shuster
Skaggs
Slattery
Slaughter (VA)
Smith (FL)

Smith (NJ)
Smith (VT)
Smith, Robert
(NH)
Smith, Robert
(OR)
Solomon
Spence
Staggers
Stallings
Stokes
Swift
Synar
Tallon
Torres
Towns

Trafigant
Traxler
Unsoeld
Visclosky
Volkmer
Walker
Washington
Watkins
Weiss
Whitten
Williams
Wilson
Wolpe
Wyden
Yatron

Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Thomas (WY)
Torricelli
Udall
Upton

Valentine
Vander Jagt
Vento
Vucanovich
Walgren
Walsh
Waxman
Weber
Weldon

Wheat
Whittaker
Wise
Wolf
Yates
Young (AK)
Young (FL)

NOT VOTING—9

Billakis
Flake
Ford (MI)

Ford (TN)
Hall (TX)
Leath (TX)

Morrison (CT)
Nelson
Wylie

NOES—252

Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Army
Aspin
Atkins
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bilbray
Bliley
Boehlert
Boggs
Borski
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Callahan
Campbell (CA)
Chandler
Clement
Clinger
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Costello
Coughlin
Courtner
Coyne
Craig
Davis
DeFazio
DeLay
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dreier
Duncan
Durbin
Dymally
Eckart
Edwards (OK)
Emerson
English
Espy
Evans
Fascell
Fawell
Fazio
Fields
Fish
Foglietta
Frank
Frenzel

Frost
Gallegly
Gallo
Gekas
Gephardt
Geren
Gillmor
Gingrich
Gonzalez
Goodling
Goss
Gradison
Grandy
Gray
Green
Gunderson
Hamilton
Hammerschmidt
Hancock
Hansen
Hastert
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Henry
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
James
Johnson (CT)
Jones (NC)
Kasich
Kennedy
Kolbe
Kostmayer
Kyl
LaFalce
Lagomarsino
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lipinski
Livingston
Lloyd
Long
Lowery (CA)
Luken, Thomas
Lukens, Donald
Madigan
Markey
Marlenee
Martin (NY)
Mazzoli
McCandless
McCollum
McCrery
McEwen
McHugh
McMillan (NC)
Meyers

Michel
Miller (OH)
Miller (WA)
Moakley
Mollinari
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murtha
Myers
Natcher
Neal (NC)
Nowak
Oberstar
Obey
Owens (UT)
Oxley
Packard
Panetta
Parker
Parris
Pashayan
Patterson
Paxon
Penny
Perkins
Pickett
Pickle
Porter
Poshard
Ray
Regula
Rhodes
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Sabo
Sarpallius
Savage
Sawyer
Schaefer
Schiff
Schneider
Shaw
Shays
Shumway
Sikorski
Sisisky
Skeen
Skelton
Slaughter (NY)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny
(OR)
Snowe
Solarz
Spratt
Stangeland
Stark
Stearns
Stenholm
Studds
Stump
Sundquist
Tanner

□ 1346

The Clerk announced the following pairs:

On the vote.

Mr. Ford of Michigan for, with Mr. Morrison of Connecticut, against.

Mr. TORRICELLI, Mrs. LLOYD, and Messrs. PENNY, WAXMAN, and HUBBARD changed their vote from "aye" to "no."

Messrs. CRANE, FLIPPO, MARTINEZ, and PURSELL, Mrs. MORELLA, and Messrs. TRAXLER, SPENCE, VOLKMER, and DOUGLAS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. FISH. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I take this opportunity to speak briefly about section 107 of the bill before us, the Aviation Safety and Capacity Expansion Act of 1990.

Section 107 provides for the establishment of the former military airport program. The laudable purpose of this program is to encourage the conversion of former military bases to civilian use in order to help relieve our Nation's airport and airspace capacity problems.

Stewart International Airport, located in my district in New York's Hudson Valley, served for years as a military airfield. It is an outstanding example of an underutilized airport that can benefit from this type of program. The successful advent of commercial service at Stewart clearly demonstrates that its further development is vitally needed. Only this past April, American Airlines inaugurated commercial jet service to both Chicago and Raleigh-Durham from Stewart. This service was such an immediate success that American has added more capacity and introduced nonstop service to JFK and Dallas-Fort Worth, and United Express has entered the market with service to Dulles.

This is a wonderful success story, but the road traveled has been neither easy nor cheap. Substantial funds are needed to convert a military base into a commercial airport, yet Federal funds are not set-aside for this purpose. These types of conversions could significantly alleviate pressure at many of our Nation's congested air-

ports, yet the cost is often prohibitive-ly high.

Passage of section 107 comes just in time to meet Stewart's need for AIP funds to finance its hopefully continued development. It is ready and willing to take part in the former military airport program, and Mr. Chairman, I hope you will join me in urging the Secretary to designate Stewart promptly as one of the first participants.

□ 1350

Mr. SKAGGS. Mr. Chairman, I move to strike the last word.

Mr. Chairman, I would like to thank the distinguished chairman for agreeing to include language in the committee's report on H.R. 5170 regarding a Department of Energy proposal to prohibit use of large areas of airspace near nuclear weapons facilities. This is of particular importance to me because the Rocky Flats plant is in my district in Colorado.

As some of my colleagues may know the Federal Aviation Administration [FAA] is currently reviewing the DOE proposal and will decide later this summer whether to accede to DOE's request and initiate a rulemaking procedure.

Everybody agrees that the Federal Government must be vigilant in protecting our Nation's nuclear weapons facilities. But many, including myself believe that the DOE proposal may be more intrusive and restrictive than necessary to ensure safety and security at those facilities. Beyond that, the proposed airspace restrictions could have a significant impact on aviation capacity, safety, and commercial operations at several airports around the Nation.

To illustrate this point, let me explain what would happen to one airport in my district. Jefferson County Airport currently serves as one of three reliever airports for Stapleton International Airport. If the DOE proposal for Rocky Flats goes forward as drafted, Jeffco Airport could no longer function as a reliever. In addition, they would lose their ILS approaches and a new Doppler VOR—which is currently being flight tested for installation at Jeffco as part of the new Stapleton Airport navigation system. Finally, the plan would virtually eliminate the only available VFR flight corridor lying between the Denver TCA and the Rocky Mountains.

It's ironic that at a time when one branch of the Federal Government is struggling to finance additional aviation capacity, another branch is pursuing a course of action that could significantly diminish air capacity and safety.

The report language addresses this serious problem by instructing the Federal Aviation Administration to consider other technological and airspace management tools that may be capable of providing the same measure of safety and security as airspace restrictions without placing unreasonable and unwarranted restrictions on very valuable airspace. In addition, the report requests that the FAA consider the impacts of the various options on aviation capacity, air safety, and commercial operations, and local economies in the affected regions—including Denver, CO.

Mr. Chairman, I think that this report language will encourage the DOE and the FAA to agree on safe, secure, and a more reasonable proposal to protect our Nation's nuclear weapons facilities. And in the end, that will benefit all of us.

Again, I want to thank you in behalf of Colorado for your assistance on this critical issue.

The CHAIRMAN. If there are no other amendments to the bill, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The SPEAKER. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. BONIOR) having assumed the chair, Mr. PICKETT, Chairman pro tempore of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5170) to amend the Airport and Airway Improvement Act of 1982 to authorize appropriations for fiscal years 1991 and 1992, to improve aviation safety and capacity, to reduce the surplus in the airport and airway trust fund, to authorize the Secretary of Transportation to grant authority for the imposition of airport passenger facility charges, and for other purposes, pursuant to House Resolution 428, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. ANDERSON. Mr. Speaker on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 405, nays 15, not voting 12, as follows:

Ackerman	Eckart	Kyl
Alexander	Edwards (CA)	LaFalce
Anderson	Edwards (OK)	Lagomarsino
Andrews	Emerson	Lancaster
Annunzio	Engel	Lantos
Anthony	English	Laughlin
Applegate	Erdreich	Leach (IA)
Archer	Espy	Lehman (CA)
Armey	Evans	Lehman (FL)
Aspin	Fascell	Lent
Atkins	Fawell	Levin (MI)
AuCoin	Fazio	Levine (CA)
Baker	Feighan	Lewis (CA)
Ballenger	Fields	Lewis (FL)
Barnard	Fish	Lewis (GA)
Bartlett	Flippo	Lightfoot
Barton	Foglietta	Lipinski
Bateman	Frank	Livingston
Bellenson	Frenzel	Lloyd
Bennett	Frost	Long
Bentley	Gallegly	Lowery (CA)
Bereuter	Gallo	Lowey (NY)
Berman	Gaydos	Lukens, Donald
Bevill	Gejdenson	Machtley
Billbray	Gekas	Madigan
Bliley	Gephardt	Manton
Boehlert	Geren	Markey
Boggs	Gibbons	Marlenee
Borski	Gillmor	Martin (NY)
Boucher	Gilman	Matsui
Boxer	Gingrich	Mavroules
Brennan	Glickman	Mazzoli
Brooks	Gonzalez	McCandless
Broomfield	Goodling	McCloskey
Browder	Gordon	McCollum
Brown (CA)	Goss	McCrery
Brown (CO)	Gradison	McCurdy
Bruce	Grandy	McDade
Bryant	Grant	McDermott
Buechner	Gray	McEwen
Bunning	Green	McGrath
Burton	Guarini	McHugh
Bustamante	Gunderson	McMillan (NC)
Byron	Hall (OH)	McMillen (MD)
Callahan	Hamilton	McNulty
Campbell (CA)	Hammerschmidt	Meyers
Campbell (CO)	Hancock	Mfume
Cardin	Hansen	Michel
Carper	Harris	Miller (CA)
Chandler	Hastert	Miller (OH)
Chapman	Hatcher	Miller (WA)
Clarke	Hawkins	Moakley
Clay	Hayes (IL)	Molinari
Clement	Hayes (LA)	Mollohan
Clinger	Hefley	Montgomery
Coble	Hefner	Moody
Coleman (MO)	Henry	Moorhead
Coleman (TX)	Herger	Morella
Collins	Hiler	Morrison (WA)
Combest	Hoagland	Mrazek
Conte	Hochbrueckner	Murphy
Conyers	Holloway	Murtha
Cooper	Hopkins	Myers
Costello	Horton	Nagle
Coughlin	Houghton	Natcher
Courter	Hoyer	Neal (MA)
Cox	Hubbard	Neal (NC)
Coyne	Huckaby	Nielson
Craig	Hughes	Nowak
Darden	Hunter	Oakar
Davis	Hutto	Oberstar
de la Garza	Hyde	Obey
DeFazio	Inhofe	Olin
DeLay	Ireland	Owens (NY)
Dellums	James	Owens (UT)
Derrick	Jenkins	Oxley
DeWine	Johnson (CT)	Packard
Dickinson	Johnson (SD)	Pallone
Dicks	Johnston	Panetta
Dingell	Jones (GA)	Parker
Dixon	Jones (NC)	Parris
Donnelly	Jontz	Pashayan
Dorgan (ND)	Kanjorski	Patterson
Dornan (CA)	Kaptur	Paxon
Douglas	Kasich	Payne (NJ)
Downey	Kastenmeier	Payne (VA)
Dreier	Kennedy	Pease
Duncan	Kennelly	Pelosi
Durbin	Kildee	Penny
Dwyer	Kleczka	Perkins
Dymally	Kolbe	Petri
Dyson	Kolter	Pickett
Early	Kostmayer	Pickle

Porter	Serrano	Tallon
Poshard	Sharp	Tanner
Price	Shaw	Tauke
Pursell	Shays	Tauzin
Quillen	Shumway	Taylor
Rahall	Shuster	Thomas (CA)
Rangel	Sikorski	Thomas (GA)
Ravenel	Sisisky	Thomas (WY)
Ray	Skaggs	Torres
Regula	Skeen	Torricelli
Rhodes	Skelton	Towns
Richardson	Slattery	Trafficant
Ridge	Slaughter (NY)	Traxler
Rinaldo	Slaughter (VA)	Udall
Ritter	Smith (FL)	Unsoeld
Roberts	Smith (IA)	Upton
Robinson	Smith (NE)	Valentine
Roe	Smith (NJ)	Vander Jagt
Rogers	Smith (TX)	Vento
Rohrabacher	Smith (VT)	Visclosky
Ros-Lehtinen	Smith, Denny	Volkmer
Rose	(OR)	Vucanovich
Rostenkowski	Smith, Robert	Walgren
Roth	(NH)	Walsh
Roukema	Smith, Robert	Washington
Rowland (CT)	(OR)	Watkins
Rowland (GA)	Snowe	Waxman
Roybal	Solarz	Weber
Russo	Solomon	Weiss
Sabo	Spence	Weldon
Salki	Spratt	Wheat
Sarpalius	Staggers	Whittaker
Savage	Stallings	Whitten
Sawyer	Stangeland	Williams
Saxton	Stark	Wilson
Schaefer	Stearns	Wise
Scheuer	Stenholm	Wolf
Schiff	Stokes	Wolpe
Schneider	Studds	Wyden
Schroeder	Stump	Yates
Schuetz	Sundquist	Yatron
Schulze	Swift	Young (AK)
Schumer	Synar	Young (FL)

NAYS—15

Bates	Crane	Martin (IL)
Bonior	Crockett	Mineta
Bosco	Dannemeyer	Sangmeister
Carr	Hertel	Sensenbrenner
Condit	Jacobs	Walker

NOT VOTING—12

Bilirakis	Hall (TX)	Morrison (CT)
Flake	Leath (TX)	Nelson
Ford (MI)	Lukens, Thomas	Ortiz
Ford (TN)	Martinez	Wylie

□ 1411

Mrs. MARTIN of Illinois and Mr. BONIOR changed their vote from "yea" to "nay."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORRISON of Connecticut. Mr. Speaker, I was unavoidably absent for rollcall No. 300, the vote on the Journal, and rollcall No. 301, imposing a trade embargo on Iraq. Had I been here, I would have cast the following votes: "present," and "aye."

GENERAL LEAVE

Mr. OBERSTAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks, and include therein extraneous material, on H.R. 5170, the bill just passed.

The SPEAKER, pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4492

Mr. JACOBS. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 4492.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Indiana?

There was no objection.

□ 1412

SANCTIONS AGAINST IRAQ ACT OF 1990

Mr. FASCELL. Mr. Speaker, I ask unanimous consent for the immediate consideration of the bill (H.R. 5431) to impose sanctions on Iraq.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Florida?

Mr. WALKER. Mr. Speaker, reserving the right to object, on our side the leadership is somewhat confused by this change in the schedule when we had been assured that we were going to be taking up the civil rights bill this afternoon, and now all of a sudden we have had this major change in the schedule. We understand the need for moving the legislation today, but in all honesty, it just came out of the committee. The State Department is reviewing it as we speak, and one portion of the legislation coming out of the Committee on Ways and Means has yet to be attached to the bill we have on the floor. Many Members are not familiar with the content of this bill. There is no reason in our opinion that we cannot take this bill up following the debate on the civil rights bill this evening.

It would be our hope that since the President has already imposed most of the conditions in this bill anyhow as a result of executive order, that we could give the Members an opportunity to review the bill and then bring it up at the close of the debate this evening. That is a more orderly way to proceed. It is something which the membership, I think, would find more accommodating to their ability to review the legislation.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I am happy to yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I say to the gentleman two things, that the Democratic leadership is far sighted but yesterday when they spoke of the schedule for today there was concern about this invasion, but it had not yet occurred. Since we met yesterday, the Iraqi Government has brutal-

ly come in and crushed the army of Kuwait. There is looting, pillaging, and murder going on on the streets of Kuwait, and I think it is something of an important action for this Congress to as quickly as possible speak out. I think we are too late in many ways.

We worked with the gentleman from Michigan [Mr. BROOMFIELD] and others on the committee and I would just hate to see the gentleman from Pennsylvania stand in the way of the Congress quickly speaking out on this issue.

Mr. WALKER. Further reserving the right to object, first of all, to reply to the gentleman, the President has already taken the action necessary for the United States to move forward most of the actions that are in this bill.

I would say to the gentleman it is also important for us as a country to make certain that we do the right thing in the course of taking actions with regard to Iraq. There are many Members of the House who do not even know this legislation is around let alone that it is available for the House to debate.

All I am suggesting is that we can wait maybe 4 or 5 hours and take it up after the Members have had a chance to review it.

Mr. GEJDENSON. I would say that that would be very little comfort for the women and children and citizens of Kuwait that the House waits another 5 hours to accommodate the gentleman from Pennsylvania while since early this morning we have worked on this legislation. This is not a time to dally. This is a crisis where a country is being destroyed by a tyrant, and we ought to act immediately.

Mr. WALKER. Further reserving the right to object, I certainly understand the gentleman, and he is very emotional about it. But I would say to the gentleman that it is also the time to do the right thing, and Members of Congress do have, I think, the acceptable concern that they have a chance to at least read legislation before we act on it.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. Further reserving the right to object, I am happy to yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, let me say to the gentleman that I am not sure I understand his concern, although I know why he wants to put it off if he can.

Mr. WALKER. Will the gentleman tell me why that is? He said he knows why I want to put it off.

Mr. FASCELL. He told me he wanted to put it off until later. He just got through telling everybody.

Mr. WALKER. I said because I thought we ought to proceed ahead on the civil rights bill.

Mr. FASCELL. I understand.

Mr. WALKER. Just so we understand.

Mr. FASCELL. I said I understand why the gentleman wants to put it off. I did not say anything awkward. I am just trying to respond to the gentleman's reservation with regard to this bill.

First of all, as far as the bill is concerned, it has been carefully considered by the Committee on Foreign Affairs over quite some period of time and came out unanimously, I might add, and that was yesterday. We did not foresee the invasion. Now, the reason we went back into committee, I will say to the gentleman, is to add to it the action taken by the President under his authority under existing law, and to make the statement that the Congress joins in the condemnation of the invasion and supports the President in the actions that he has taken.

Mr. WALKER. Further reserving the right to object, let me say to the gentleman that there is no one on our side who disagrees with that. We think that can be done.

Mr. FASCELL. Well, then, let us just vote on the bill.

Mr. WALKER. Well, no; that certainly can be done later on this afternoon or later on this evening rather than now. I would say to the gentleman that one of our concerns is the Committee on Ways and Means has not even drafted the amendment that is going to be added to this bill that we are going to be considering.

Mr. FASCELL. Will the gentleman read it to him?

Mr. WALKER. Our understanding from the staff here a minute ago, and I am glad to see it is drafted, and obviously the gentleman has, you know, a piece of paper in his hand. Some of us would probably like to see it before we act on it.

Mr. BARTON of Texas. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am happy to yield to the gentleman from Texas.

Mr. BARTON of Texas. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I just want to make a few comments here.

I understand the distinguished chairman of the Committee on Foreign Affairs and the hectic nature of the schedule, but I also understand the rush going on over in Ways and Means today.

The gentleman from Arizona [Mr. UDALL] and myself have a bill that we have had in the Congress for several years, H.R. 1515, that has 184 cosponsors, a wide political spectrum, both sides of the aisle, and I would ask the distinguished chairman of the Committee on Foreign Affairs if, in fact, we do not vote on this bill immediately that he would give some consideration to considering allowing H.R. 1515 to be

offered as an amendment to the bill when it does come up on the floor later this evening.

Mr. FASCELL. If the gentleman will yield further, I will say to the gentleman, with all due respect, that I know a lot of people want to jump on this vehicle because they understand the emergency, and while I can respect the gentleman's sincere desire to legislate with regard to most-favored-nation treatment about something or other, this is not the vehicle. I cannot assure the gentleman that we are going to open up this bill for all kinds of amendments on other policy matters.

We view this as simply an emergency for the country to speak in a unified voice behind the President on the actions that we deem absolutely essential for the United States to speak by saying that we condemn the invasion, and we are acting to impose sanctions, period.

□ 1420

Now, I am sorry, but I believe anything else will have to wait until some other time, some proper vehicle. Not until tonight, not until tomorrow, not until next week. We can debate it here. It is not that complicated an issue. One is either for sanctions against Iraq, now, or forget it.

Mr. WALKER. Mr. Speaker, reserving the right to object, I am sorry the gentleman from Florida [Mr. FASCELL] thinks we have to take it up at 2:20 in the afternoon or never. It seems to me it is a valuable resolution that probably ought to be considered by the House yet today. The only question before us now is if it is a valuable enough resolution, that all Members of the House should have an opportunity to review it before we pass it. That is the question here.

I am also disappointed that the gentleman from Florida [Mr. FASCELL] has indicated that it will be brought out by a process that allows no amendments, if in fact this is a resolution that Members have not had a chance to review. There may in fact be some good ideas for amendment.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, the gentleman from Pennsylvania [Mr. WALKER] has some very valid and some very interesting points. Let me assure the gentleman, and I hope he will remove his objection, that the Committee on Ways and Means unanimously approved the language that I have here. It is not controversial. It merely enhances the power of the President to carry out an effective embargo. He has already placed the embargo on. We are merely giving him the power to more effectively carry out that embargo.

I offer the amendment to the gentleman from Pennsylvania [Mr. WALKER] and the language to read. I assure the gentleman that every Republican on the Committee on Ways and Means, all of whom I believe were present, voted for this. I hope the gentleman will reconsider his objection.

Mr. WALKER. Mr. Speaker, reclaiming my time, maybe we can accommodate both our needs here. If all the gentlemen are telling us is that there is absolutely nothing wrong with this bill and that everything has been done by both committees and that the House can in fact trust the work of all the committees, maybe we can have an immediate passage of the bill by unanimous consent, so that we can go on to civil rights, so we do not have to spend an hour to an hour and a half debating on the House floor.

Mr. Speaker, could we have a unanimous-consent request for the immediate passage of the bill, so that we do not have to spend an extra hour and a half to even consider it?

Mr. FASCELL. Mr. Speaker, I am perfectly happy to do that.

Mr. WALKER. Will the gentleman make that request?

Mr. FASCELL. Mr. Speaker, I ask unanimous consent for the consideration and passage of the bill, H.R. 5431, with the amendment of the Committee on Ways and Means.

The SPEAKER pro tempore (Mr. BONIOR). Is there objection to the request of the gentleman from Florida?

Mr. BARTON of Texas. Mr. Speaker, reserving the right to object, I am not sure whether I will object or not. I understand very clearly the need to move quickly. I understand the sincerity of the chairman of the Committee on Foreign Affairs and the chairman of the subcommittee of the Committee on Ways and Means.

Mr. Speaker, the bill that I am asking to be considered as an amendment has been before the Congress for a number of years. At every stage where we might be given an opportunity to see the light of day on the House floor, there has been some reason it could not be.

I think if we are going to ask for a unanimous consent request, that at least it should be made in order that H.R. 1515 be considered. Now, I know that the gentleman from Florida [Mr. FASCELL] has not had a chance to really study 1515.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, let me say this, and I say it with all due respect. I have not examined the bill of the gentleman from Texas [Mr. BARTON]. There are matters that I have worked on around here for more than 3 years, some of them as much as

20 years. So do not let that deter you, the fact you have not gotten your bill.

Also, let me say in all fairness that our committee has moved legislation through this House to which, if your bill comes, or any part of it, under the jurisdiction of the Committee on Foreign Affairs, that those rules were of such a nature that the gentleman could have been heard.

Mr. Speaker, I am not trying to foreclose the gentleman from Texas [Mr. BARTON] out. I just cannot agree with the gentleman that this bill should now be opened up to other subject matters at this time. The determination of laying down the criteria with respect to most-favored-nation treatment is not one of the matters under consideration here that I want to get into a debate on. It is just not fair.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, I understand the concern of the gentleman from Florida [Mr. FASCELL], and I feel we ought to go through the normal process of the House of Representatives. But if because of the emergency nature of the matter before us we are going to resort to unanimous-consent requests where we consider things without even any debate, I think it should at least be made in order that H.R. 1515 be reviewed as an amendment. Then if you want to vote it down, so be it. I have a feeling we will get 400 votes on it. I may be wrong. I have got copies up at the Committee on Rules, thinking we were going to go to the Committee on Rules for a rule. Since we have come directly to the floor, that is being foreclosed.

Mr. BERMAN. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from California.

Mr. BERMAN. Mr. Speaker, is the bill of the gentleman from Texas [Mr. BARTON] in the nature of criteria for denial of most-favored-nation status for Iraq?

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, that is not the nature of H.R. 1515. The State Department right now maintains a list of nations that sponsor terrorism. Iraq has been on that list. It is my understanding that right now they are not on that list.

Mr. Speaker, H.R. 1515 simply states that any nation that is identified as a terrorist nation under S(6)(j) of the Foreign Imports Act of 1979, not receive most-favored-nation status.

Mr. BERMAN. Mr. Speaker, if the gentleman will yield further on his reservation, I happen to think that is an excellent proposal. But the fact is this proposal is a total embargo on trade with Iraq. The issue of most-favored-nation status for Iraq becomes moot if this bill passes.

Mr. GEJDENSON. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Connecticut.

Mr. GEJDENSON. Mr. Speaker, I would ask the gentleman from Texas [Mr. BARTON] not to object. I just want to say that I have bills that have sat in my own committee and in other committees and they have not moved. The difference today is that as we sit here and debate, more and more women and children, people in Iraq, are being murdered by the forces of Saddam Hussein. To try to stop this process, to prevent us from moving forward, to try to get one's own legislation moved forward, it is the wrong time. We have got a country that has been decimated by the forces. We have got unanimity in the Committee on Foreign Affairs and in the Committee on Ways and Means.

Mr. Speaker, we ought to step forward, united as a House, condemning this outrage against humanity, and not sit here and debate whether or not my bill or your bill can get to the floor on this vehicle.

Mr. FASCELL. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Florida.

Mr. FASCELL. Mr. Speaker, I am trying to clarify this as to one point. I am sorry I have to do this. I know the gentleman is very determined about his measure. But just on a quick, cursory examination now with Legis, we do not even find this in our committee. It is in the Committee on Ways and Means or some other committee, the Committee on Energy and Commerce, and two other committees.

I respect what the gentleman from Texas [Mr. BARTON] is doing, but he is just going to foul up this legislation to make his point.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, with all due respect to the distinguished chairman, the gentleman from Florida [Mr. FASCELL], I am not attempting to foul up anybody's legislation. The chairman is absolutely correct, it has not been drafted to be referred to the Committee on Foreign Affairs. It has been drafted to go to the Committee on Ways and Means and the Committee on Energy and Commerce. But this is the train that is at the station getting ready to leave. It is germane.

Mr. GIBBONS. Mr. Speaker, will the gentleman yield?

Mr. BARTON of Texas. I yield to the gentleman from Florida.

Mr. GIBBONS. Mr. Speaker, if I have the bill of the gentleman from Texas [Mr. BARTON], I did not know I had it. If the gentleman had asked me for a hearing, I would probably have had the hearing for him. But I will right here in front of all the Members and the cameras and everything promise the gentleman from Texas [Mr. BARTON] a hearing as soon as possible on this thing. I will be glad to do it. I

have not meant to be obstructionist on the bill of the gentleman from Texas [Mr. BARTON]. It sounds like a pretty good idea. But we do not move without a hearing. I will give the gentlemen a hearing just as soon as we can physically possibly have one.

Mr. BARTON of Texas. Mr. Speaker, reclaiming my time, I know the distinguished subcommittee chairman, the gentleman from Florida [Mr. GIBBONS] is very busy, but I have talked to the chairman. He has promised me a hearing. We have yet to see the hearing.

With the word of the gentleman from Florida [Mr. GIBBONS] now that I will get a hearing, I withdraw my reservation of objection.

□ 1430

The SPEAKER pro tempore (Mr. BONIOR). The gentleman from Florida [Mr. FASCELL] will restate his unanimous consent request.

Mr. FASCELL. Mr. Speaker, I ask unanimous consent for the immediate consideration and passage of the bill (H.R. 5431) to impose sanctions on Iraq, as amended by the Committee on Ways and Means, which amendment I would ask the Clerk to read.

The Clerk read the bill and the amendment, as follows:

H.R. 5431

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Sanctions Against Iraq Act of 1990".

TITLE I—IMPOSITION OF TRADE EMBARGO

SEC. 101. DECLARATIONS OF POLICY REGARDING THE IRAQI INVASION OF KUWAIT.

The Congress—

- (1) condemns Iraq's invasion of Kuwait;
- (2) supports the actions that have been taken by the President in response to that invasion;
- (3) calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait;
- (4) supports the efforts of the United Nations Security Council to end this violation of international law and threat to international peace;
- (5) calls for the imposition of multilateral sanctions against Iraq; and
- (6) calls on United States allies and other countries to support the efforts of the United Nations Security Council, and to take other appropriate actions, to bring about an end to the Iraqi invasion of Kuwait.

SEC. 102. CONSULTATIONS WITH CONGRESS.

The President shall keep the Congress fully informed, and shall consult with the Congress, with respect to current and anticipated events regarding the international crisis caused by Iraq's invasion of Kuwait, including with respect to United States actions.

SEC. 103. IMPOSITION OF EMBARGO.

(a) REQUIREMENT FOR EMBARGO.—The President shall immediately impose the following sanctions with respect to Iraq, using

the authorities of the International Emergency Economic Power Act:

(1) All property and interests in property of the Government of Iraq, its agencies, instrumentalities, and controlled entities and the Central Bank of Iraq that are in the United States, that hereafter come within the United States, or that are or hereafter come within the possession or control of United States persons, including their overseas branches, shall be blocked.

(2) The following transactions shall be prohibited:

(A) The import into the United States of any goods or services of Iraqi origin, other than publications and other informational materials.

(B) The export to Iraq of any goods (including agricultural commodities and the products thereof), technology (including technical data or other information controlled for export pursuant to section 5 of the Export Administration Act of 1979), or services from the United States, except publications, other informational materials, and donations of articles intended to relieve human suffering, such as food, clothing, medicine, and medical supplies intended strictly for medical purposes.

(C)(i) Any transaction by a United States person relating to transportation to or from Iraq.

(ii) The provision of transportation to or from the United States by any Iraqi person or any vessel or aircraft of Iraqi registration.

(iii) The sale in the United States by any person holding authority under the Federal Aviation Act of 1958 of any transportation by air which includes any stop in Iraq.

(b) EXCEPTIONS TO AND LIFTING OF EMBARGO.—The requirements of subsection (a) shall not apply to the extent that the President so notifies the Congress in advance.

(c) RELATION TO TITLE II SANCTIONS.—The sanctions required by this title are in addition to, and not in lieu of, the sanctions required by title II of this Act; and the requirements of title II apply without regard to whether the authority of subsection (b) of this section has been exercised with respect to the requirements of subsection (a) of this section.

TITLE II—ADDITIONAL SANCTIONS WITH RESPECT TO IRAQ

SEC. 201. FINDINGS.

The Congress finds that—

(1) the Government of Iraq is a party to the International Conventions on Human Rights and is obligated under the Conventions, as well as the Universal Declaration of Human Rights, to respect internationally recognized human rights;

(2) the State Department's Country Reports on Human Rights Practices for 1989 again characterizes Iraq's human rights record as "abysmal";

(3) Amnesty International, Middle East Watch, and other independent human rights organizations have documented extensive, systematic, and continuing human rights abuses by the Government of Iraq, including summary executions, mass political killings, disappearances, widespread use of torture, arbitrary arrests and prolonged detention without trial of thousands of political opponents, forced relocation and deportation, denial of nearly all civil and political rights such as freedom of association, assembly, speech and the press, and the imprisonment, torture, and execution of children;

(4) since 1987, the Government of Iraq has intensified its severe repression of the Kurd-

ish minority as evidenced by the expulsion of approximately 500,000 Kurds and Assyrians from their mountain villages, the deliberate destruction of villages, and the forcible resettlement of Kurds and Assyrians in specially built towns far from their normal means of livelihood;

(5) in August 1988, the Iraqi armed forces launched an offensive against Kurdish rebel forces using chemical weapons against guerrillas and innocent civilians, in which up to 5,000 people were killed;

(6) the Government of Iraq is engaged in a consistent pattern of gross violations of internationally recognized human rights;

(7) in violation of international law, Iraq repeatedly used chemical weapons against Iran, which also used chemical weapons against Iraq;

(8) Iraq continues to expand its chemical weapons capability, and in a speech given on April 2, 1990, President Saddam Hussein threatened to use chemical weapons against other countries, if attacked;

(9) Iraq has developed ballistic missile systems with a range of greater than 300 kilometers;

(10) there are strong indications that Iraq has taken steps to produce nuclear weapons;

(11) Iraq attempted to smuggle from the United States components for triggering devices used in nuclear warheads whose manufacture would contravene the Treaty on the Non-Proliferation of Nuclear Weapons, to which Iraq is a party;

(12) Iraq is increasing its support for Palestinian groups that have conducted terrorist acts; and

(13) an enhanced Iraqi capacity to support terrorist operations will add to further instability in the Middle East.

SEC. 202. IMPOSITION OF SANCTIONS AGAINST IRAQ.

(a) FMS SALES.—The United States Government may not sell to Iraq any item on the United States Munitions List.

(b) COMMERCIAL ARMS SALES.—Licenses may not be issued for the export to Iraq of any items on the United States Munitions List.

(c) CONTROLS ON CERTAIN EXPORTS.—

(1) PRESUMPTIONS OF DENIAL OF LICENSES FOR CERTAIN EXPORTS.—There shall be a presumption of denial of any license application under the Export Administration Act of 1979—

(A) for the export to Iraq of any goods or technology that could enhance the ability of Iraq to support acts of international terrorism,

(B) for the export of any goods or technology to an end user in Iraq that is engaged in missile or chemical or biological weapons proliferation activities, or

(C) for any export where there is a risk of diversion to missile or chemical or biological weapons proliferation activities in Iraq.

(2) DENIAL OF LICENSES FOR EXPORTS RELEVANT TO CHEMICAL OR BIOLOGICAL WEAPONS PRODUCTION.—Licenses may not be issued under the Export Administration Act of 1979 for the export to Iraq of any chemical or biological agent that the President determines may be used primarily in the production of chemical or biological weapons or may be otherwise devoted to chemical or biological warfare purposes.

(3) REQUIREMENT FOR VALIDATED EXPORT LICENSE FOR CERTAIN ITEMS.—

(A) LIST OF ADDITIONAL ITEMS SUBJECT TO LICENSING REQUIREMENTS.—In accordance with section 6(1) of the Export Administration Act of 1979, there shall be established—

(i) a list of goods and technology whose export to Iraq is to be controlled pursuant to this paragraph in order to enhance United States foreign policy of nonproliferation of chemical and biological weapons or missile technology; and

(ii) a list of goods and technology whose export to Iraq could enhance the ability of Iraq to support acts of international terrorism.

(B) REQUIREMENT FOR VALIDATED EXPORT LICENSE FOR LISTED ITEMS.—After the end of the 60-day period referred to in subparagraph (C), an individual validated license shall be required under section 6 of the Export Administration Act of 1979 for the export to Iraq of goods or technology on either list established pursuant to subparagraph (A).

(C) EFFECTIVE DATE OF LISTS; PUBLICATION.—The initial lists pursuant to subparagraph (A) shall be established and published in the Federal Register not later than 60 days after the date of enactment of this Act.

(4) REQUIREMENT FOR VALIDATED EXPORT LICENSE FOR CERTAIN END USES.—

(A) END USES SUBJECT TO REQUIREMENTS.—An individual validated license shall be required under section 6 of the Export Administration Act of 1979 for the export of any goods or technology to Iraq—

(i) if the exporter knows, or has reason to know, that the goods or technology would be used in the design, testing, manufacture, or use of missiles or chemical or biological weapons; or

(ii) if the exporter knows, or has been informed by the Department of Commerce, that the goods or technology would be used to support acts of international terrorism.

(B) EFFECTIVE DATE.—Subparagraph (a) applies with respect to exports occurring more than 30 days after the date of enactment of this Act.

(5) RELATION TO OTHER EXPORT LICENSE REQUIREMENTS.—The requirements for a validated license for exports to Iraq that are imposed by paragraphs (3) and (4) are in addition to other requirements for validated licenses for exports to Iraq that are imposed under the Export Administration Act of 1979.

(6) NUCLEAR EQUIPMENT, MATERIALS, AND TECHNOLOGY.—

(1) NRC LICENSES.—The Nuclear Regulatory Commission may not issue any license or other authorization under the Atomic Energy Act of 1954 for the export to Iraq of any source or special nuclear material, any production or utilization facility, any sensitive nuclear technology, any component, item, or substance determined to have significance for nuclear explosive purposes pursuant to section 109b. of the Atomic Energy Act of 1954, or any other material or technology requiring such a license or authorization.

(2) DISTRIBUTION OF NUCLEAR MATERIALS.—The authority of the Atomic Energy Act of 1954 may not be used to distribute any special nuclear material, source material, or by-product material to Iraq.

(3) DOE AUTHORIZATIONS.—The Secretary of Energy may not provide a specific authorization under section 57b. (2) of the Atomic Energy Act of 1954 for any activity that would constitute directly or indirectly engaging in Iraq in activities that require a specific authorization under that section.

(4) EXPORT LICENSES.—The Secretary of Commerce may not issue any license under the Export Administration Act of 1979 for

the export directly or indirectly to Iraq of any goods or technology—

(A) that are intended for a nuclear related end use or end user;

(B) that have been identified on the Commodity Control List pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978 as items that could, if used for purposes other than those for which the export is intended, be of significance for nuclear explosive purposes; or

(C) that are otherwise subject to the procedures established pursuant to section 309(c) of the Nuclear Non-Proliferation Act of 1978.

(e) ASSISTANCE FROM INTERNATIONAL FINANCIAL INSTITUTIONS.—The United States shall oppose any loan or financial or technical assistance to Iraq by international financial institutions in accordance with section 701 of the International Financial Institutions Act.

(f) DENIAL OF ACCESS TO THE EXPORT-IMPORT BANK.—Credits or credit guarantees through the Export-Import Bank of the United States shall be denied to Iraq.

(g) DENIAL OF OTHER ASSISTANCE.—All forms of assistance under the Foreign Assistance Act of 1961 (other than emergency assistance for medical supplies and other forms of emergency humanitarian assistance) and the Arms Export Control Act shall be denied to Iraq.

SEC. 203. CONTRACT SANCTITY.

For purposes of the export controls imposed pursuant to subsection (c) and (d)(4) of section 202, the date described in section 6(m)(1) of the Export Administration Act of 1979 shall be deemed to be August 1, 1990.

SEC. 204. EXPIRATION.

Section 202 shall cease to apply at the end of the 4-year period beginning on the date of enactment of this Act.

SEC. 205. WAIVER.

The President may waive the requirements of any subsection of section 202 if the President certifies to the Congress—

(1) that the Government of Iraq—

(A) has demonstrated, through a pattern of conduct, substantial improvement in its respect for internationally recognized human rights;

(B) is no longer acquiring chemical, biological, and nuclear weapons and delivery systems and components for such weapons, and has forsworn the first use of such weapons;

(C) has recommitted itself to abide by the 1925 Geneva Protocol for the Prohibition of the Use in War of Asphyxiating, Poisoning or Other Gases, and of Bacteriological Methods of Warfare; and

(D) does not provide support for international terrorism; and

(2) that he has determined that it is essential to the national interests of the United States to waive the requirements of that subsection;

except that any such waiver shall not take effect until at least 60 days after the President's certification is submitted to the Congress. Any such certification shall include the justification for the President's determination under each subparagraph of paragraph (1) and under paragraph (2).

SEC. 206. MULTILATERAL COOPERATION.

The Congress calls on the President to seek multilateral cooperation—

(1) to deny dangerous technologies to Iraq;

(2) to induce Iraq to respect internationally recognized human rights; and

(3) to induce Iraq to allow appropriate international humanitarian and human rights organizations to have access to Iraq, in particular the areas in northern Iraq traditionally inhabited by Kurds.

Amendment: In section 103 of the bill, redesignate subsections (b) and (c) as subsections (c) and (d), and after subsection (a) insert the following new subsection:

(b) ADDITIONAL IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the sanctions listed under subsection (a), and is consistent with the national interest, the President may prohibit, for such period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

(1) prohibited the importation of products of Iraq into its customs territory; or

(2) given assurances satisfactory to the President that such an import sanction will be promptly implemented.

In subsection (d), as so redesignated, strike "(b)" and insert "(c)".

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

Mr. BROOMFIELD. Mr. Speaker, reserving the right to object, I want to indicate my strong support for the unanimous consent request offered by the chairman of our Foreign Affairs Committee with the addition of the amendment sponsored by the gentleman from Florida [Mr. GIBBONS] that has been approved by the Committee on Ways and Means, and I ask for an immediate vote.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection. The amendment was considered as agreed to. The bill, as amended, was considered to be engrossed and read a third time, and was considered to have been passed, and a motion to reconsider was laid on the table.

Mr. BROOMFIELD. Mr. Speaker, on that I demand the yeas and nays.

The SPEAKER pro tempore. The Chair would suggest to the gentleman from Michigan that the bill was passed by a unanimous consent request.

Mr. FASCELL. Mr. Speaker, let the Members have the yeas and nays. I have no objection to the yeas and nays.

Mr. SHAW. Mr. Speaker, I rise today in support of the bill offered by my colleague from Florida, Mr. FASCELL, and amended by my other colleague from Florida and fellow Ways and Means Committee member, Mr. GIBBONS. This bill calls for multilateral sanctions against Iraq by urging our allies to follow America's lead in imposing sanctions of their own against Iraq.

Early this morning, Iraq executed a brutal act of war. On the orders of Saddam Hussein, Iraqi troops stormed into neighboring Kuwait, and occupied the entire country. One can only guess the reasons why Saddam Hussein would overthrow the government of one of his

Middle East neighbors, a country that supported his nation in its war against Iran. I am sure, though, that one of the main reasons revolves around Iraq's desire to flex its strength as the dominant military force in OPEC and the Middle East.

This action by Iraq represents a serious threat to our national security. By attacking Kuwait and seizing control of its oil production facilities, Iraq has jeopardized one of America's most reliable sources of foreign oil. The United States receives roughly 5 percent of its oil from Iraq and Kuwait.

This action also represents a potential military threat to U.S. military personnel in the Persian Gulf. Recently Kuwait purchased Stinger missiles from us. These weapons in all probability have now fallen into the hands of a madman. With Saddam Hussein now in possession of Stinger missiles, U.S. planes in that region of the world are now placed in great danger.

Our allies have been placed in danger as well. Saudi Arabia, another major exporter of oil to the United States, now has a hostile army on its border.

For all these reasons, I strongly support this bill today. Not only does it call for United States sanctions against Iraq, but it also asks the President to ask our allies to place sanctions against Iraq. So far, many of our allies have joined us in our condemnation of Iraq. The Soviet Union has announced its intention to stop all exports of arms to Hussein. The U.N. Security Council has just voted unanimously to condemn Iraq. British Prime Minister Margaret Thatcher has announced that her country would join the embargo as well. I expect more of our allies to join us shortly.

Mr. Speaker, the worldwide condemnation of this aggressive act is encouraging. With this bill today, however, the United States is going farther than mere condemnation of a cowardly act by a brutal regime. America should be taking the lead in punishing this act, and this bill will help accomplish this objective. This bill is a good bill, and I strongly urge its adoption.

Mr. HOUGHTON. Mr. Speaker, I rise in strong support of H.R. 5431. It's important to speak out—one voice—the President and Congress—in condemnation of Iraq's invasion of Kuwait. This issue is critical. It should be passed immediately.

Iraq's invasion of Kuwait by force is unconscionable—period. It is the most serious military situation I've seen since becoming a Member of Congress—Panama notwithstanding.

Yes, I worry about Nicaragua, Azerbaidzhan, the economic sphere of a united Germany—but this situation is dynamite. The implications of a mad man invading, destroying, and controlling oil distribution is frightening. Saddam Hussein is Hitler reincarnated. He tests the limits with his bullying tactics. Iraq develops chemical weapons, ballistic missiles and long-range superweapon artillery devices. Iraq has one of the worst human rights records, continues to harbor terrorists and is the world's largest arms purchaser.

Now, American lives are on the line. So maybe is our economic future. Shipping lanes are threatened. United States flagged Kuwaiti oil tankers are at risk. We don't know where

or when Hussein's offensive will stop. Oil price increases and higher inflation are all a reality.

The message H.R. 5431 sends to Iraq will not stop the war but it comes through loud and clear. We will not tolerate such action, and we will support the President. Let me spell it out. H.R. 5431 legislates a total import-export ban on Iraq, including oil imports and dual-use items. The legislation supports the President's actions regarding the total embargo on the importation of Iraqi goods and services, freezes Iraq's assets in the United States curtails all transportation to and from Iraq and bans the export of any goods, technology, and technical data to Iraq.

This is a bad man. He casts because of oil a long shadow. He is a menace to his own citizens, to Israel, to the Middle East, to United States interests, and to world peace. I urge my colleagues to support this legislation.

Mr. FASCELL. Mr. Speaker, I rise in support of H.R. 5431, Sanctions against Iraq Act of 1990.

This legislation was ordered reported this morning by the Committee on Foreign Affairs, with strong bipartisan support. I would like to express my appreciation to the ranking minority member, of Foreign Affairs, Mr. BROOMFIELD, and to my colleague Mr. BERMAN for their cooperation in considering this important piece of legislation. I would like also to express my appreciation to the distinguished chairmen of the Ways and Means Committee, the Banking, Finance and Urban Affairs Committee, the Agriculture Committee, and the Public Works and Transportation Committee, Mr. ROSTENKOWSKI, Mr. GONZALEZ, Mr. DE LA GARZA, and Mr. ANDERSON for their cooperation in considering this important legislation which is before the House today.

Mr. Speaker, the outrageous behavior in Iraq's invasion of Kuwait must be condemned in the strongest terms and this legislation not only condemns Iraq but also imposes a total and complete import and export ban on Iraq.

Specially, H.R. 5431: Condemns Iraq's invasion of Kuwait; supports the actions taken by the President in response to that invasion; calls for immediate and unconditional withdrawal of Iraqi forces from Kuwait; supports the efforts of the U.N. Security Council to end this violation of international law and threat to international peace; calls for the imposition of multilateral sanctions against Iraq; calls on United States allies to support the efforts of the Security Council and to take other appropriate actions to bring about an end to Iraqi invasion of Kuwait; calls on the President to keep the Congress fully informed; reaffirms the President's actions and legislates the imposition of a total export and import embargo on Iraq; and requires advance congressional notification of any exceptions to or lifting of the embargo on Iraq.

Iraq's invasion of Kuwait is a major setback for United States policy in the Persian Gulf. The United States must move quickly to assure other friendly states in the region of our willingness to cooperate and contain any further threats by Iraq. I would hope that the United States, in cooperation with our allies, the Soviet Union and other members of the international community will join in the Security Council's efforts to successful dissuade Iraq from further expansionist steps and to secure

Iraq's immediate and unconditional withdrawal from Kuwait. This crisis must not be met only by the United States. Now is the time for firm resolve by all the civilized nations of the world to join in not only condemning, but curbing as well, the maniacal leader of Iraq, Saddam Hussein.

Mr. Speaker, in addition to a total embargo in response to the reprehensible Iraqi invasion of Kuwait, this legislation enacts sanctions against Iraq that would continue to be imposed even if the current crisis is resolved. Title II of H.R. 5431 imposes sanctions on Iraq because of their gross violations of human rights, support for international terrorism, and their aggressive weapons program, including chemical, biological, and nuclear weapons.

Mr. Speaker, the Government of Iraq is one of the most brutal and repressive regimes in the world. The regime of Saddam Hussein engages in summary executions, mass political killings, torture, disappearances, and the arbitrary arrest and imprisonment of thousands of political opponents. With the exception of freedom of worship, all internationally recognized political and civil rights, including freedom of assembly, association, movement, speech and the press, are denied. Any expression of dissent is ruthlessly suppressed. In a particularly gruesome and reprehensible practice, the security forces of the government have, for several years now, deliberately tortured, killed and abused children as young as five months of age.

Since 1987, Saddam Hussein has intensified Iraq's campaign to wipe out its beleaguered Kurdish minority. Over half a million Kurds and Assyrians have seen their mountain villages deliberately destroyed and have been forcibly relocated to inhospitable desert areas of Iraq. And, as well, all are painfully aware, in 1988, the Iraqi Government employed chemical weapons against the Kurds there, killing thousands of innocent men, women, and children through the indiscriminate use of poison gas.

Yet the bully Saddam Hussein has not restricted his aggression and brutality to within his own borders. In recent weeks, his regime has engaged in the virtual blackmail of its Arab neighbor Kuwait. He used chemical weapons against Israel, and continues to develop new and more ghastly forms of poison. His government supports and provides safe refuge to international terrorists including the infamous Abu Nidal organization which recently reopened its Baghdad office. He also provided support and safehaven to the notorious Abu Abbas who masterminded the recent Palestine Liberation front attack against Israel.

Mr. Speaker, this legislation is a reasonable response to the actions of a fanatic. I urge my colleagues to adopt it unanimously.

Mr. ANDERSON. Mr. Speaker, this morning August the second, Iraq invaded Kuwait, an ally of the United States in the Persian Gulf region and a moderate Arab State in the otherwise volatile Middle East. After Kuwait financially propped up Iraq in its war with Iran with billions in loans and credits, it now seems ironic, though predictable, that Iraq has turned against its former friend and neighbor in its search for Middle Eastern hegemony.

Possessing a modern army of over 1 million battle-veteran men and 6,000 tanks, the Iraqis

easily overran the Kuwaiti Army of just 20,000. Iraq's President and strongman Saddam Hussein has decided to play the role of bully in the Persian Gulf with a display of naked aggression against his tiny neighbor. This is an obvious attempt to assert Iraqi leadership in the region and cow the rest of the oil-producing Gulf States into raising the price of a barrel of oil. The real lesson we should learn from this action is that Hussein will use any tactic, including force, to get his way. Already he has used chemical weapons against Iran, even against his own people. He has embarked on a frenetic program to develop a nuclear weapon and has built long-range missiles enabling him to strike, with chemical weapons, any point in the Middle East, and threatened to do so should anyone challenge him. His regime has been an affront to world standards of human rights, with flagrant examples of executions of any political opposition, even the execution of international press reporters. Yet we still continue to buy oil from this man. Where Saddam Hussein will strike next is anybody's guess. Will the next victim be Saudi Arabia, the largest producer of America's imported oil?

While I do not see the United States responding militarily to this situation, the ramifications of this invasion are tremendous. We currently import approximately 50 percent of our oil from abroad, including 500,000 to 600,000 barrels a day from Iraq. Meanwhile, domestic production has fallen to just over 7 million barrels a day, the lowest amount since 1961. Domestically producing the same amount of oil we did 29 years ago, with an economy more than 10 times as large, puts this entire Nation at risk and holds us hostage to the egotistical ambitions of the power-hungry Hussein. Yet, certain interests of our society would continue to make it nearly impossible to take advantage of untapped domestic sources of oil. I have always been in favor of alternative energy sources, but the fact is we continue to rely on oil for our primary energy source. Even if we should decide to invest heavily in other sources of energy, it will be years before we can move away from our reliance on oil. The facts dictate that we must take advantage of our own domestic reserves instead of exposing ourselves to the mad ambitions of men like Saddam Hussein. If we do not regain energy independence, we stand at the mercy of the likes of Hussein. I do not think this country can afford that.

This action also makes me concerned about the direction of U.S. defense policy. I think this invasion should remind us that, despite the changes in Eastern Europe and the Soviet Union, the world is still a dangerous place. While we start the process of reducing our overseas base structure, we must retain and strengthen those elements of our armed forces which allow us to protect our far-flung national security interests. But at the same time our energy dependency grows, we are taking steps to reduce our ability to respond to outside threats. I would specifically point to the need to retain our aircraft carriers and build the B-2 Stealth bomber. My colleague, Senator SAM NUNN of Georgia, chairman of the Senate Armed Forces Committee, remarked that, "we do not have any aircraft

within striking distance [of Iraq] unless we fly land-based air, long-range bombers into that region." In a situation like this where it is obvious that it is not prudent to insert ground troops, I believe the B-2, as well as carriers, give this country the striking power we need to protect our national interests. The Iraqi invasion of Kuwait demonstrates that we will be making a serious mistake if we choose not to build the B-2 or if we cut our carrier fleet. And while I would support Senator NUNN's contention that "we would not want to get into a ground war in that area," I would also argue that one of the reasons for that reluctance is our inability to field a capable force in so distant a region. We must have forces capable of responding not only to situations in small countries like Panama, but to situations where the economic lifeblood of our economy is threatened, no matter the opponent. I have consistently pressed for the modernization and expansion of our airlift capability, namely the C-17, and the creation of an adequate fast sealift capability. When a country like Iraq knows we have the capability to respond militarily with overwhelming force, that country will be reluctant to challenge United States interests. Obviously, we can afford to cut much of our forces dedicated to defending against a Soviet invasion of Western Europe. But we simply cannot afford to decimate our forces to the extent we become militarily impotent and unable to respond to threats to our vital interests. I think that this Iraqi invasion should give us all pause, and give us reason to reconsider the extent of cuts we are going to make in our Armed Forces.

Mr. BROOMFIELD. Mr. Speaker, I rise in strong support of this legislation which will send a signal to Saddam Hussein that the United States will not tolerate international thuggery.

This bill calls for the immediate and unconditional withdrawal of Iraqi forces from Kuwait, and most importantly puts into legislation a total U.S. embargo on both Iraqi exports and imports.

That embargo includes oil. I am told that Iraq exports roughly a half a million barrels a day to the United States. At twenty dollars a barrel, that's \$10 million a day, or \$3.5 billion a year.

When you consider that Iraq's entire economy produces only \$34 billion a year, that's a significant economic countermeasure.

This bill also calls on the international community to join the United States in its complete embargo. More than a third of Iraq's production of goods and services is exported. A worldwide embargo would put real teeth into the international community's condemnation of Iraq.

The bill calls on the President "to immediately impose the following sanctions with respect to Iraq." I am happy to inform my colleagues that with the Executive orders issued today the President has already taken all the actions called for in this bill.

I am sure the President will be delighted that the Congress has given his actions such a strong measure of support by passing this legislation.

Yesterday's invasion by Iraq of Kuwait strikes at the heart of one of the most strategically important areas in the world.

The Persian Gulf holds much of the oil that powers the world's factories, drives its cars, and heats its homes. It is an invasion that cannot go unanswered.

Saddam Hussein is fast becoming the world's No. 1 war criminal in an area where the chances for all out warfare are the greatest. This is not just a regional disagreement; it is a major threat to world peace.

It seems like yesterday that Iran and Iraq agreed to end one of the bloodiest wars of the century. But it appears that Saddam Hussein's bloodlust has not been satisfied.

This invasion of tiny Kuwait comes shortly after Hussein had threatened to respond to any Israeli attack on Iraqi territory with a massive chemical air strike on Israel.

It seems like every day Hussein ups the ante. That's why President Bush's swift and forceful response to this invasion is so important.

It tells Hussein and other countries in the area that the United States and the other industrial democracies will not give tin horn Napoleons a free hand in the Persian Gulf.

The President's decision to freeze Iraqi assets in the United States tells Hussein that he cannot expect to seize the assets of others without having his own assets seized in return.

The President's decision to embargo all oil shipments is a message that Hussein cannot expect to snuff out the freedom of other nations and still expect to participate in the system of free trade.

I would hope that other free nations will unite with the President on this embargo and present a unified front on this important issue.

A unified front is also important in this country. It is important that America speak with one voice. That's why we must overwhelmingly pass this legislation.

The Iraqi Government of Saddam Hussein is an affront to the community of nations. Hussein has expelled a half a million Kurds and Assyrians from their villages and has killed as many as 5,000 Kurds with chemical weapons.

He has developed ballistic missile systems and is trying to import triggering devices for nuclear warheads.

He continues to sponsor terrorism throughout the Middle East and elsewhere.

I say this only to allay the concerns of any Member who may think this bill may be too severe. Saddam Hussein is a rogue elephant. His brand of international murder and mayhem must be stopped.

Mr. Speaker, I ask that the President's Executive orders be printed in the RECORD, and I urge my colleagues to give their unanimous support to this important bill.

BLOCKING KUWAIT GOVERNMENT PROPERTY

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and 3 U.S.C. 301.

I, George Bush, President of the United States, find that the situation caused by the invasion of Kuwait by Iraq constitutes an unusual and extraordinary threat to the national security, foreign policy and economy of the United States and have declared a national emergency to deal with that threat.

I hereby order blocked all property and interests in property of the Government of Kuwait or any entity purporting to be the Government of Kuwait, its agencies, instrumentalities and controlled entities and the Central Bank of Kuwait that are in the United States, that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, including their overseas branches.

For purposes of this Order, the term "United States person" means any United States citizen, permanent resident alien, juridical person organized under the laws of the United States or any person in the United States.

The Secretary of the Treasury is authorized to employ all powers granted to me by the International Emergency Economic Powers Act to carry out the provisions of this Order.

This Order is effective immediately and shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

THE WHITE HOUSE, August 2, 1990.

BLOCKING IRAQI GOVERNMENT PROPERTY AND PROHIBITING TRANSACTIONS WITH IRAQ

By the authority vested in me as President by the Constitution and laws of the United States of America, including the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.), the National Emergencies Act (50 U.S.C. 1601 et seq.), and section 301 of title 3 of the United States Code.

I, George Bush, President of the United States of America, find that the policies and actions of the Government of Iraq constitute an unusual and extraordinary threat to the national security and foreign policy of the United States and hereby declare a national emergency to deal with that threat.

I hereby order:

Section 1. All property and interests in property of the Government of Iraq, its agencies, instrumentalities and controlled entities and the Central Bank of Iraq that are in the United States, that hereafter come within the United States or that are or hereafter come within the possession or control of United States persons, including their overseas branches, are hereby blocked.

Section 2. The following are prohibited, except to the extent provided in regulations which may hereafter be issued pursuant to this Order:

(a) The import into the United States of any goods or services of Iraqi origin, other than publications and other informational materials;

(b) The export to Iraq of any goods, technology (including technical data or other information controlled for export pursuant to Section 5 of the Export Administration Act (50 U.S.C. App. 2404)) or services from the United States, except publications and other informational materials, and donations of articles intended to relieve human suffering, such as food, clothing, medicine and medical supplies intended strictly for medical purposes;

(c) Any transaction by a United States person relating to transportation to or from Iraq; the provision of transportation to or from the United States by any Iraqi person or any vessel or aircraft of Iraqi registration; or the sale in the United States by any person holding authority under the Federal Aviation Act of 1958, as amended (49 U.S.C.

1514), of any transportation by air which includes any stop in Iraq.

Section 3. This Order is effective immediately.

Section 4. The Secretary of the Treasury, in consultation with the Secretary of State, is hereby authorized to take such actions, including the promulgation of rules and regulations, as may be necessary to carry out the purposes of this Order. Such actions may include prohibiting or regulating payments or transfers of any property or any transactions involving the transfer of anything of economic value by any United States person to the Government of Iraq, its instrumentalities and controlled entities, or to any Iraqi national or entity owned or controlled, directly or indirectly, by Iraq or Iraqi nationals. The Secretary may redelegate any of these functions to other officers and agencies of the Federal government. All agencies of the United States government are directed to take all appropriate measures within their authority to carry out the provisions of this Order, including the suspension or termination of licenses or other authorizations in effect as of the date of this Order.

This Order shall be transmitted to the Congress and published in the Federal Register.

GEORGE BUSH.

THE WHITE HOUSE, August 2, 1990.

Mr. ROSTENKOWSKI. Mr. Speaker, the Committee on Ways and Means met earlier today to consider the bill as introduced and, after lengthy discussion, reported the bill favorably with an amendment.

The amendment as adopted by the Committee on Ways and Means gives the President authority to impose an import ban against any third country that does not impose import sanctions like those imposed by the United States. The committee believes that this amendment is an important addition to the powers of the President to induce our trading partners to join us in imposing trade sanctions against Iraq. All too often, the United States stands alone in taking such action against countries whose behavior violates every norm of civilized behavior. This amendment would give the President a strong bargaining chip to bring about multilateral import sanctions against Iraq. It sends the strongest possible message to Iraq that unless and until it pulls its forces out of Kuwait and commits to live peacefully within its borders, it faces the prospect of bankruptcy due to its inability to sell oil and other goods on the international market.

Mr. Speaker, the shocking invasion of Kuwait by Iraq—an unprovoked act of blatant aggression—represents the worst in a series of aggressive and abusive actions by the Government of Iraq toward neighboring countries and its own citizens. This action requires that the United States and other countries respond in sure and swift fashion. H.R. 5431 reaffirms the actions taken by the President today and is the very least which this body can do in order to send the message that the United States abhors the aggressive behavior of the Government of Iraq.

Mr. Speaker, I urge my colleagues to support the bill and the Ways and Means Committee amendment.

Mr. SOLOMON. Mr. Speaker, I am pleased that the Foreign Affairs Committee has reported this bill and that the leadership of this House has brought it to the floor today.

I want to express my very strong support for it. I believe it will serve as a warning to Saddam Hussein that his brutal, cynical, and outrageous invasion of the little country of Kuwait will not go without punishment from the United States and from the international community.

Mr. Speaker, I imagine that Saddam Hussein likes to think of himself as a modern-day King of Babylon. Indeed, perhaps he thinks that, as a King of Babylon, he has the right to use his army and weapons to inflict as much pain as he wishes on his Middle Eastern neighbors.

The fact is that his dream of glory and his increasing acts of aggression are nothing more than a sad replay of the kind of bullying carried out by Benito Mussolini and Adolf Hitler in the 1930's—again in the name of past glories like the Roman Empire and the Reich.

If we learned anything from the tragic days that led to the Second World War, we learned this—appeasement or apathy do nothing more than entice a dictator to further acts of aggression.

If the international community fails to respond firmly and decisively to this latest outrage by Mr. Hussein, we all know that it will not stop with Kuwait.

After all, Saddam Hussein has not been labeled the world's most dangerous man for no reason. He is a dictator—accustomed to using chemical weapons against people in his own country—accustomed to hanging foreign journalists he accuses of espionage—accustomed to stealing dangerous military technology abroad when he cannot obtain it by legal means—accustomed to invading his neighbors and threatening others with his large army, and more important, with his new missiles armed with chemical weapons.

Again, I welcome this bill. I think it will serve as a sign that this country, for one, will respond firmly to this brutal aggression.

In closing, however, I just want to again point out to my colleagues one important thing.

The United States has vital interests around the world. In this instance, two specific things.

First, a heavy dependence on energy supplies from Kuwait and its neighbors.

Second, the need to support moderate Arab nations of the region, like Kuwait, in order to prevent the spread of dictators like Hussein, whose dreams of past empires would inevitably submerge that region in a war that could have terrible consequences far beyond the area.

Mr. Speaker, I urge my colleagues to keep this vital fact in mind as we consider what resources we will contribute to our armed forces in the coming years.

Who can say when we and our allies abroad may have to join to defend those vital interests in the future?

Mr. GILMAN. Mr. Speaker, I rise to express my strong support for this critically important legislation imposing economic sanctions against Iraq—H.R. 4585—and I would like to commend the gentleman from California, Mr. BERMAN, for his outstanding work on this important, timely measure. Permit me to commend the distinguished chairman of our Foreign Affairs Committee, Mr. FASCELL, our dis-

tinguished ranking Republican member of our committee, Mr. BROOMFIELD, as well as the chairman and ranking Republican on the Subcommittee on Human Rights and International Organizations, Messrs. YATRON and BEREUTER, for their outstanding work on this measure.

Mr. Speaker, it's about time that we send a clear, unequivocal message to the Iraqis that Iraq cannot keep bullying other states in the Middle East. Iraq already possesses extraordinary military capability in both the conventional, and strategic realms. Not too long ago, Iraq used chemical weapons on its Kurdish population, in one of the most egregious human rights violations in recent history. Iraqi President Saddam Hussein has threatened to use these same weapons of mass destruction against Israel.

Currently, Iraq has initiated military action against Kuwait, by massing tens of thousands of troops, as well as hundreds of pieces of armor and artillery near the Kuwaiti border. Last night, as well all know, these troops crossed over the Kuwaiti border and initiated hostile military action against the emirate of Kuwait.

It is a known fact that Iraq continues to harbor such notorious international terrorist as Abu Al-Abbas, the despicable murderer who was responsible for both the *Achille-Lauro* hijacking, which resulted in the murder of Leon Klinghoffer, as well as the recent Tel Aviv beach attack which was aborted by Israeli defense forces.

There is a great deal of credence to the oft stated observation that unilateral sanctions are not effective. I call upon our European allies to join the United States in expressing indignation to the Iraqis over their outrageous politico-military escapades.

This morning, President Bush announced an Executive order which serves to freeze Iraqi assets in the United States, and prohibits the United States from engaging in any business transactions in Iraq. Now is the time for both the executive and legislative branches of government to come together in demonstrating a unified front on this critical issue. We must give our President maximum flexibility to secure United States interests during this tumultuous period.

Mr. Speaker, our Committee on Foreign Affairs has worked extensively on this legislation. This measure condemns the invasion of Kuwait; supports actions undertaken by President Bush in response to the Iraqi invasion; it calls for immediate, unconditional withdrawal of Iraqi forces from Kuwait, as well as a multitude of other actions which are designed to express our unequivocal disapproval of Saddam Hussein's latest outrageous act. This legislation will also reaffirm the President's imposition of a total export and import embargo on Iraq.

Mr. Speaker, permit me to also express my outrage and indignation at the Iraqi Ambassador's assertion that Iraq has taken this action in support of a coup attempt from within the Kuwaiti Government. That statement, which is without substantiation, is nothing more than gratuitous and self-serving. It is clear to all of us who closely monitor events in the Persian Gulf that this is a banal attempt to justify the

despicable acts of aggression that Iraq has proven itself capable of once again.

In conclusion Mr. Speaker, the 1989 State Department Human Rights Report calls Iraq's record on human rights abysmal. The Government of Iraq participates in such gross human rights violations as summary execution, torture, imprisonment, as well as the denial of nearly all basic civil and political rights. It's about time a little glasnost travels to one of the most repressive regimes on the face of the earth. Accordingly, I am pleased to express my unequivocal support for this measure and urge my colleagues to fully approve this measure.

Mr. FEIGHAN. Mr. Speaker, I want to commend the chairman of the Foreign Affairs Committee, Mr. FASCELL, for his leadership with other committee chairmen in bringing this sanctions bill to the floor.

The committee has in essence codified the administration's call for international embargo against Iraq. But this must be the first step in the United States taking the lead in fashioning a worldwide response to this brutal and illegal invasion.

This invasion marks the first time in modern history that one Arab country has invaded another Arab country. But memory serves to remind us that Saddam Hussein's Iraq has already been responsible for some of the most heinous acts in modern history.

This is the same Iraqi regime that used poison gas, not only against its Iranian foes, but against its own Kurdish citizens.

This is the same Iraqi regime that attempted to smuggle high-powered electronic switches that can be used in production of nuclear weapons.

This is the same Iraqi regime that indicated that it was prepared to scorch half of Israel if provoked.

And last night, Iraq crashed into Kuwait. It is clear that this conflict is more than just a family quarrel. And it's more than an effort by Iraq to set off another oil shock. It is a plain and simple power grab, designed to make Iraq the preeminent power in the region—politically, economically, and militarily.

Our efforts today should give force to the unanimous vote of the U.N. Security Council resolution condemning the Iraqi invasion and calling for its immediate withdrawal from Kuwaiti territory. It should also give support to the potential mediating efforts of the Arab League Foreign Ministers, who are now meeting in Cairo.

But for these efforts to bear any fruit, the word must go out to Baghdad—not just from Washington—but from London, Paris, Bonn, and Cairo—that the international community will not tolerate this kind of behavior. It is illegal, it is murderous, and it should be punished.

Mr. GEJDENSON. Mr. Speaker, I commend the administration for the trade embargo imposed on Iraq. It is regrettable that it took so long for the administration to act. The brutal extermination of 5,000 innocent Kurds, the threatened use of chemical weapons against its neighbors, and the methodical acquisition of the equipment and technology needed for ballistic missiles and nuclear weapons have all taken place over a period of time. Yet, following a tradition of timidity and appeasement

first established in response to the horrors in China a year ago, the administration chose to drive straight down the road to appeasement. The President's policy to Iraq was as successful as his policy toward China.

Whether the butcher resides in Baghdad or Beijing, the administration somehow feels that the power of reason and quiet diplomacy will prevail. Such an approach is a poor excuse for a lack of courage.

I am not one who ordinarily favors the imposition of unilateral sanctions. They rarely deprive the country in question of the products and services it is seeking. Yet when one commits crimes against humanity, harbors known terrorists, and threatens regional and possibly world peace, we are left with no choice but to take a clear stand in a way that even Saddam Hussein can understand.

I commend my colleagues, Mr. BERMAN and Chairman FASCELL, for their leadership on this important issue.

Mr. YATRON. Mr. Speaker, I first want to commend Chairman FASCELL and the ranking minority member of the Foreign Affairs Committee, Congressman BROOMFIELD, as well as the other chairmen and ranking members for their leadership in expeditiously bringing this extremely important legislation to the floor.

Mr. Speaker, Iraq's illegal and unjust invasion of neighboring Kuwait should come as no surprise. For years, the Hussein regime has engaged in massive human rights violations against its own people. This regime's reign of terror has included the use of chemical weapons to kill its own Kurdish population including innocent women and children. This is the same regime that was willing to sacrifice hundreds of thousands of its own people in a senseless war with Iran. And this is the same regime that threatened to burn half of Israel.

Iraq now invades a sovereign state because it disagreed with Kuwait's oil production. It did so because Iraq wants to increase oil prices which will in turn be absorbed by the American consumer.

This bill sends a clear message to the Government of Iraq that the President, the Congress, and the American people are fully committed to working with our allies to utilize all the economic and diplomatic tools at our disposal to compel Iraq to withdraw from Kuwait immediately.

Mr. Speaker, I urge my colleagues to unanimously approve this bill.

Mr. WEISS. Mr. Speaker, I rise in strong support of this legislation to condemn the invasion of Kuwait by Iraq's dictator, the tyrant Saddam Hussein. In response to this flagrant violation of international law, this bill rightly imposes a comprehensive trade embargo on Iraq.

The legislation also makes clear that the invasion of Kuwait is only the latest and most egregious violation by Saddam Hussein. The Iraqi dictator is guilty of gross abuses of human rights, severe repression of Iraq's Kurdish minority, the unspeakable use of chemical weapons against civilians, and—perhaps most ominously—the reported development of advanced nuclear weapons capability.

These actions alone would justify stiff sanctions against Iraq. But after last night's brutal and unprovoked invasion of Kuwait, nothing

short of a comprehensive, multilateral embargo on imports and exports will suffice.

And this bill does just that—it mandates U.S. sanctions, and it calls on our allies to join in a multilateral effort to isolate Saddam Hussein, both economically and diplomatically. The bill further expresses strong support for the efforts of the U.N. Security Council to address this continuing threat to international peace. With such a firm, multilateral approach to the problem, the United States can play a crucial role in resolving the crisis.

Mr. Speaker, this is a tough—and appropriate—sanctions bill in response to an outrageous violation of international law. I urge my colleagues to support the bill.

Mr. DYMALLY. Mr. Speaker, I rise to speak to this resolution.

In light of what is taking place in Kuwait as a result of the invasion by Iraqi forces, the concern for the adequate protection of the embassies and their personnel and the safety of United States citizens in Iraq and Kuwait is, indeed, most pressing.

The lives and properties of thousands of United States citizens in these two nations—approximately 4,000 in Kuwait and 500 in Iraq—are now threatened.

Most of these citizens are serving the best interest of the United States in increasing and enhancing U.S. competitiveness in these nations.

In light of this, the administration is hereby urgently requested to devise appropriate plans and exert every effort, short of militaristic intervention, to protect the lives and property of these United States citizens including the United States Embassies and Embassy personnel in Iraq and Kuwait.

More specifically, the President and the Secretary of State should enjoin the Embassies in these two countries to begin immediate negotiations with the appropriate parties in Iraq to obviate the possibility of United States citizens becoming hostages and to guarantee safe passage out of these countries if that course becomes necessary.

I urge my colleagues to support this amendment.

Mr. TRAFICANT. Mr. Speaker, I rise today to condemn the unprovoked attack of Iraq upon Kuwait, its innocent neighbor.

In the 1930's, the world turned away when Adolf Hitler took Austria. Hitler then went on to take Czechoslovakia, Poland, and France in his attempt to conquer the world.

In the 1980's, the world turned away when Saddam Hussein used poison gas on his own people, and then on the country of Iran. Saddam Hussein then threatened to scorch the very existence of Israel, our friend and most strategic ally in the Middle East, with weapons of mass destruction.

Today, Iraq ruthlessly conquered Kuwait. What's next? Israel? Saudi Arabia?

Let there be no mistake, that if the bloodthirsty Adolf Hussein is not satisfied with his conquest and turns his troops upon our strategic allies in Israel and Saudi Arabia that the United States will not hesitate to protect its interests. We have B-1's, B-2's, B-3's, B-14's, B-30's, B-52's, and B-100's and Adolf Hussein must know we do not have \$1 trillion de-

fense budget to fund the neighborhood crime watch.

In Saddam Hussein's quest for power in the Arab world, he is bent on destabilizing the entire Middle East from the Persian Gulf to Jerusalem. The United States is prepared to deal with this new threat, but let it be known that the United States will not act as a rubber stamp for a 911 call, we expect all nations concerned to pay their fair share in the defense of this vital region. The American taxpayer cannot go it alone.

Let Saddam Hussein be put on notice: The United States Congress will not stand still for further aggression by Iraq.

Mr. BERMAN. Mr. Speaker, I rise in strong support of the legislation before the House today. The measures we are considering today are long overdue. The character and intentions of Saddam Hussein are no mystery to us. His aspirations of dominance over the entire Arab world have been obvious for many years.

Iraq's invasion of Kuwait constitutes a violation of the very core of international law: Respect for the borders of other sovereign nations. But Iraq does not now, and under Saddam Hussein has never had, any respect for international law.

In violation of an international agreement to which it is a party, Iraq callously used chemical weapons against Iran and casually used them after the war to kill over 5,000 of its own citizens. Iraq appears also to have signed and violated the Nonproliferation Treaty, as it cynically attempted to smuggle nuclear weapons components out of the United States earlier this year.

Our own State Department calls Iraq's record on human rights deplorable; to my reading, their record is the worst in the world. Over the last 10 years, Saddam Hussein has consolidated his government into the worst kind of dictatorship, where torture and terror are the routine means of controlling the population.

Iraq has developed three separate ballistic missile systems which reach all over the region. It is the largest weapons importer in the world and, though it sits on the second largest oil reserves in the world, is seriously in debt as it spends over 60 percent of its budget to maintain the largest standing army in the region.

The lesson of Iraq is clear: You win nothing by appeasing a bully. He merely becomes a bolder and more dangerous bully. Consider that no one communicated to Iraq that its use of chemical weapons was unacceptable; Iraq continued to use them against Iran and then proceeded to use them to solve a domestic problem. Point of fact: No one told Iraq that it was unacceptable to use its muscle to force higher oil prices out of OPEC; it got its price rise and went on to demand restitution payments, debt forgiveness, and border territory from Kuwait. This is preposterous.

Appeasing a bully gets us nowhere. The United States has a moral obligation to dissociate itself from this repressive and dangerous regime.

While I applaud its actions today, I regret that the administration, and the previous one as well, were for so long unwilling to take a stance and consider sanctions. The opportuni-

ty to act has been available for some time now. If the United States had imposed sanctions on Iraq 2 years ago, as I proposed after Iraq's use of chemical weapons, Saddam Hussein would not today be occupying Kuwait City.

The lessons of that lackluster policy will cost us dearly, though not as dearly as what it is costing Kuwait. We must look ahead now to see to it that Saddam Hussein does not misread our intention not to permit his savagery to go unpunished. I also hope that the rest of the world will take note of this lesson and will join us by conveying through concrete acts their own condemnation of Iraq's aggression against Kuwait.

Ms. SLAUGHTER of New York. Mr. Speaker, I commend Chairman FASCELL and the Foreign Affairs Committee for their expeditious work on the sanctions legislation we have before us.

Some of us were not too surprised by the early morning news of Iraq's invasion of Kuwait. We knew Saddam Hussein was undependable and not to be trusted when he attacked Kuwait at the recent OPEC meeting. We also know that Iraq is not above using chemical weapons against its own people. These are the very reasons this House voted sanctions against Hussein in considering the farm bill last Friday.

Today, we must pass the stringent economic sanctions recommended by the Foreign Affairs Committee. Economic and diplomatic pressures are the only way we'll achieve peace in the Persian Gulf. None of us wants to see an armed resolution to this conflict. Above all else we must remember that we've still got hostages over in Lebanon. Every time I hear macho rumblings in the Middle East, things get volatile, and I fear for the lives of Terry Anderson and the other Western hostages. They make for easy retaliation targets and we must not jeopardize their safety. The economic sanctions we consider today are the most judicious response to the present emergency and the most likely to bring Iraqi President Saddam Hussein to his senses.

For the first time, in dealing with a Middle East crisis, we can turn to the Soviet Union for help. Working together, the world's economic powers should be able to convince Hussein to end Iraqi aggression in Kuwait. Not only must we prevent Hussein from obtaining nuclear technology and chemical weapons, we must cut off his lifeline by refusing to purchase his oil. All Hussein's got is oil and we all know his people can't eat that. We must pass this sanctions bill and get that message across loud and clear.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in strong support of H.R. 5431.

This legislation essentially codifies what the President did this morning via Executive order and puts the Congress—Democrats and Republicans alike—square behind President Bush's policy.

The legislation correctly condemns Iraq's invasion of Kuwait.

It codifies a ban on all—not just military or dual use items—but all imports and exports.

All assets of both Iraq and Kuwait—to protect Kuwait from further raiding of its financial base by Iraq—are frozen. This includes all property and interests in property of the Iraqi

Government, in addition to that Government's agencies, and controlled entities and the Central Bank of Iraq that are in the United States.

The aggressive and belligerent invasion of Kuwait by Iraqi armed forces puts President Hussein's regime totally outside the norms of internationally accepted behavior. This invasion culminates Iraq's systematic massing of as many as 100,000 troops along the Iraqi-Kuwaiti border.

I agree with the President that we have a moral obligation not to carry on "business as usual" in our relations with that government, and I believe we have no alternative but to respond with this statement of disapproval with Iraq's recent actions and impose this list of sanctions against the regime.

Mr. Speaker, the Human Rights Subcommittee recently marked up and approved House Concurrent Resolution 298, condemning this persistent pattern of the abuse of human rights which has become the norm in Iraq in recent years. The world was horrified when it became known, in 1988, that Iraq had responded to Iran's growing military pressure and use of chemical weapons with their own chemical weapons—not only against their enemies but also killing innocent civilians.

We continue to receive reports of the torture—in fact, the imprisonment and torture of children, summary executions, and the arrest and lengthy detention without trial of President Hussein's political opponents. Thousands have been listed as disappeared and the Government of Iraq has failed to provide explanations for these missing individuals. As noted in the State Department's country report on Iraq, its human rights record is abysmal.

President Hussein's warning that his country is prepared to use binary chemical weapons if attacked, is a strong indication that he has no qualms about violating the Geneva Protocol regarding the use of chemical warfare. The aggressive movements taken last week to amass as many as 100,000 army troops, as well as tanks and rockets, along the Iraqi border with fellow oil-producer Kuwait have forced the United States to take our national security concerns into account. In fact, the sanctions bill we passed out of the Foreign Affairs Committee yesterday, includes an amendment I offered which highlighted the saber rattling actions taken by President Hussein and his army in the last week. My amendment was adopted.

As my colleagues may know, President Hussein has accused Kuwait and the United States of trying to sabotage Iraq's economy by trying to lower world oil prices. In addition, Iraq has made it clear that it wants to make good on long-running Iraqi claims on parts of Kuwaiti territory. It has been reported that Iraq's maximum demands on Kuwait could include as much as \$10 billion in aid, \$2.4 billion for allegedly stolen oil, cancellation of \$10 billion in debts incurred during the war with Iran, and a renunciation of Kuwait's claims to the disputed Rumaila oilfield, which extends beneath both countries.

Mr. Speaker, I believe the time has come for the United States to respond to the string of events which the Iraqis have provoked.

Mr. CRAIG. Mr. Speaker, today the world has seen proof of the danger Saddam Hus-

sein poses to continued peace in the Middle East. I cannot express too strongly my condemnation of the Iraqi invasion of Kuwait.

Aside from his total disregard for Kuwait's territorial sovereignty and basic human rights, in one swift move Hussein has gained control of 20 percent of the world's oil supply, which will clearly effect the U.S. economy. Hussein has stated that his goal was to drive world oil prices to \$30.00 a barrel—if that happens, this Nation and other energy dependent nations would experience severe economic impact.

For these reasons, I joined my colleagues in unanimous support to impose sanctions against Iraq. I am pleased that our Nation has come together with a united voice to denounce Iraq's actions and to give our support to Kuwait. Peace in the Middle East has long been a pursuit of U.S. foreign policy and those efforts are now at risk. Hussein is a real danger to our interests in the gulf region and to our ally Israel. The United States can no longer view Iraq's threats against Israel, or any other country in the Middle East, as empty words.

I support the actions taken by the President and I urge my fellow colleagues in Congress to do the same. At a time when our eyes have been focused on peace, we must not forget that the act of a single leader could plunge us into war. World peace is within reach, there can be no place for this sort of unprovoked belligerent action. For the sake of our allies in the region we must stand-up to Hussein.

Mr. LEVINE of California. Mr. Speaker, all those who have had their heads in the sand about what Saddam Hussein is really about are being forced to face reality today.

The reality is that we are faced with a tyrant in the Middle East whose appetite for power, domination and territory knows no bounds.

No one should have been caught unaware by Iraq's invasion of Kuwait. A number of us in this body have been pleading for a considerable period of time for our colleagues and the administration to believe that Saddam Hussein means what he says. His threats are not an idle "war of words."

It's crazy to think we can call his bluff, because Saddam Hussein is not bluffing.

Saddam Hussein has massacred thousands of his own citizens with poison gas.

He has the worst human rights record in the world, allows no dissent whatsoever, tortures and executes prisoners and real and perceived opponents, and generally has obliterated any concept of basic civil rights and freedoms in Iraq.

He has threatened to incinerate half of Israel with chemical weapons—a threat the Bush administration has countered with little more than shrugs.

Despite these most heinous acts of Hussein's regime, the administration has consistently before today resisted any efforts to thwart Iraq's quest for domination and his thirst for terror.

We have essentially been engaged in a policy of appeasement.

I ask my colleagues then, is it any wonder that Saddam Hussein was emboldened enough to essentially annex Kuwait this morning?

Mr. President, of course I strongly, strongly support this embargo bill before us this after-

noon. I am only saddened that we did not take this decisive action earlier. If we had enacted strong sanctions earlier, we may not be facing the crisis in the Middle East we are facing today, with all the attendant repercussions for our energy security and our economy. Had we stood up to Saddam Hussein earlier, and encouraged our allies to do the same, we may have been able to prevent this.

It is now absolutely essential that we move immediately, decisively, and in concert with our allies to enact the strongest possible measures against Iraq. International condemnation must be combined with international economic action to embargo and isolate that country completely.

Unless we force Saddam to pay a stiff price for this latest atrocity, he will continue to raise the stakes, and I fear we will continue to pay dearly for his growing megalomania.

Mrs. LOWEY of New York. Mr. Speaker, I rise in strong support of the pending legislation to impose stiff sanctions against the nation of Iraq and its despotic ruler, Saddam Hussein, in the wake of the invasion of Kuwait.

The Iraqi invasion of Kuwait is an unacceptable act of aggression by a dangerous tyrant who is known for his flagrant human rights violations and his barbaric use of force against neighboring nations and his own citizens.

The invasion not only threatens to disrupt the supply of oil to the United States and other nations, it also heightens the risks of conflict throughout the entire Middle East, where a massive military build-up in the Arab world has contributed to dangerous instability. Hussein's unrestrained aggression against his neighbors threatens to plunge the entire region into conflict, at a severe cost to the United States and its allies.

It is imperative that the United States respond swiftly and strongly to the Iraqi invasion. President Bush did just that earlier today when he froze Iraqi assets and blocked most oil imports from that nation. This legislation provides strong support for the actions the President has already taken, and it provides him with additional tools to place added pressure on Iraq to help bring to an end the aggression by that nation.

The actions of Iraq should be condemned by all civilized peoples, and we should join with as many other nations as possible in applying strong pressure on Iraq to end its occupation of Kuwait. It is essential that we do so as quickly as possible, so that we can minimize the disruption to world oil supplies and prevent the conflict from escalating further. In addition, we should take all appropriate steps to ensure the safety of Americans in that nation.

Mr. Speaker, as I mentioned earlier, the President has already acted forcefully to respond to the tragic incidents in Kuwait. This legislation will help the President go even further to protect our interests and our allies in that region of the world.

I urge my colleagues to demonstrate their unanimous opposition to Iraq's unwarranted invasion, and their commitment to assist the President in responding forcefully to this aggression, by approving this important legislation.

The SPEAKER pro tempore. Without objection, the Chair will put the question of final passage.

There was no objection.

The SPEAKER pro tempore. The question is on the passage of the bill. The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 416, nays 0, answered "present" 1, not voting 15, as follows:

[Roll No. 303]

YEAS—416

Ackerman	DeFazio	Hertel
Alexander	DeLay	Hiler
Andrews	Dellums	Hoagland
Annunzio	Derrick	Hochbruckner
Anthony	DeWine	Holloway
Applegate	Dickinson	Hopkins
Archer	Dicks	Horton
Armey	Dingell	Houghton
Aspin	Dixon	Hoyer
Atkins	Donnelly	Hubbard
AuCoin	Dorgan (ND)	Huckaby
Baker	Dornan (CA)	Hughes
Ballenger	Douglas	Hunter
Barnard	Downey	Hutto
Bartlett	Dreier	Hyde
Barton	Duncan	Inhofe
Bateman	Durbin	Ireland
Bates	Dwyer	Jacobs
Beilenson	Dymally	James
Bennett	Dyson	Jenkins
Bentley	Early	Johnson (CT)
Bereuter	Eckart	Johnson (SD)
Berman	Edwards (CA)	Johnston
Bevill	Edwards (OK)	Jones (GA)
Bilbray	Emerson	Jones (NC)
Bliley	Engel	Jontz
Boehlert	English	Kanjorski
Boggs	Erdreich	Kaptur
Bonior	Espy	Kasich
Borski	Evans	Kastenmeier
Bosco	Fascell	Kennedy
Boucher	Fawell	Kennelly
Boxer	Fazio	Kildee
Brennan	Feighan	Klecicka
Brooks	Fields	Kolbe
Broomfield	Fish	Kolter
Browder	Flippo	Kostmayer
Brown (CA)	Foglietta	Kyl
Brown (CO)	Frank	Lagomarsino
Bruce	Frenzel	Lancaster
Bryant	Frost	Lantos
Buechner	Gallegly	Laughlin
Bunning	Gallo	Leach (IA)
Burton	Gejdenson	Lehman (CA)
Bustamante	Gekas	Lehman (FL)
Byron	Gephardt	Lent
Callahan	Geren	Levin (MI)
Campbell (CA)	Gibbons	Levine (CA)
Campbell (CO)	Gillmor	Lewis (CA)
Cardin	Gilman	Lewis (FL)
Carper	Gingrich	Lewis (GA)
Carr	Glickman	Lightfoot
Chandler	Gonzalez	Livingston
Chapman	Goodling	Lloyd
Clarke	Gordon	Long
Clay	Goss	Lowery (CA)
Clement	Gradison	Lowey (NY)
Clinger	Grandy	Lukens, Donald
Coble	Grant	Machtley
Coleman (MO)	Gray	Madigan
Coleman (TX)	Green	Manton
Collins	Guarini	Markey
Combest	Gunderson	Marlenee
Condit	Hall (OH)	Martin (IL)
Conte	Hamilton	Martin (NY)
Conyers	Hammerschmidt	Martinez
Cooper	Hancock	Matsui
Costello	Hansen	Mavroules
Coughlin	Harris	Mazzoli
Courter	Hastert	McCandless
Cox	Hatcher	McCloskey
Coyne	Hawkins	McCollum
Craig	Hayes (IL)	McCrery
Crane	Hayes (LA)	McCurdy
Dannemeyer	Hefley	McDade
Darden	Hefner	McDermott
Davis	Henry	McEwen
de la Garza	Herger	McGrath

McHugh	Ravenel	Snowe
McMillan (NC)	Ray	Solarz
McMillen (MD)	Regula	Solomon
McNulty	Rhodes	Spence
Meyers	Richardson	Spratt
Mfume	Ridge	Staggers
Michel	Rinaldo	Stallings
Miller (CA)	Ritter	Stangeland
Miller (OH)	Roberts	Stark
Miller (WA)	Robinson	Stearns
Mineta	Roe	Stenholm
Moakley	Rogers	Stokes
Molinari	Rohrabacher	Studds
Mollohan	Ros-Lehtinen	Stump
Montgomery	Rose	Sundquist
Moody	Rostenkowski	Swift
Moorhead	Roth	Synar
Morella	Roukema	Tallon
Morrison (CT)	Rowland (CT)	Tanner
Morrison (WA)	Rowland (GA)	Tauke
Mrazek	Roybal	Tauzin
Murphy	Russo	Taylor
Murtha	Sabo	Thomas (CA)
Myers	Saiki	Thomas (GA)
Nagle	Sangmeister	Thomas (WY)
Natcher	Sarpalius	Torres
Neal (MA)	Savage	Torricelli
Neal (NC)	Sawyer	Towns
Nielson	Saxton	Trafficant
Nowak	Schaefer	Traxler
Oakar	Scheuer	Udall
Oberstar	Schiff	Unsoeld
Obey	Schneider	Upton
Olin	Schroeder	Valentine
Ortiz	Schuette	Vander Jagt
Owens (NY)	Schulze	Vento
Owens (UT)	Schumer	Vislosky
Oxley	Sensenbrenner	Volkmer
Packard	Serrano	Vucanovich
Pallone	Sharp	Walgren
Panetta	Shaw	Walker
Parker	Shays	Walsh
Parris	Shumway	Washington
Pashayan	Shuster	Watkins
Patterson	Sikorski	Waxman
Paxon	Sisisky	Weber
Payne (NJ)	Skaggs	Weiss
Payne (VA)	Skeen	Weldon
Pease	Skelton	Wheat
Pelosi	Slattery	Whittaker
Penny	Slaughter (NY)	Whitten
Perkins	Slaughter (VA)	Wilson
Petri	Smith (FL)	Wise
Pickett	Smith (IA)	Wolf
Pickle	Smith (NJ)	Wolpe
Porter	Smith (TX)	Wyden
Poshard	Smith (VT)	Yates
Price	Smith, Denny	Yatron
Pursell	(OR)	Young (AK)
Quillen	Smith, Robert	Young (FL)
Rahall	(NH)	
Rangel	Smith, Robert	
	(OR)	

NAYS—0

ANSWERED "PRESENT"—1

Williams

NOT VOTING—15

Anderson	Ford (TN)	Lipinski
Bilirakis	Gaydos	Lukens, Thomas
Crockett	Hall (TX)	Nelson
Flake	LaFalce	Smith (NE)
Ford (MI)	Leath (TX)	Wylie

□ 1452

Mr. COURTER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. FASCELL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include therein extraneous

material on H.R. 5431, the bill, as amended, just passed.

The SPEAKER pro tempore (Mr. SIKORSKI). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. FASCELL. Mr. Speaker, I further ask unanimous consent that the remarks of those Members who revise and extend their remarks today, that their remarks may be included in the RECORD just prior to the vote on H.R. 5431, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER pro tempore. The Chair will receive 10 1-minutes from each side.

PRESERVE THE CIVIL RIGHTS ACT

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, earlier today in Statutory Hall in an event sponsored by both the Congressional Black Caucus and the congressional Hispanic caucus, we commemorated the courageous action taken by the U.S. Congress 25 years ago in signing the Voting Rights Act of 1965. We also paid tribute to those 30 Members of Congress who presently serve in the Congress who were there and voted for that civil rights bill, that Voting Rights Act of 1965.

I thus take this well to point out the incredible contradiction, the extraordinary irony, indeed the shame, that we have to leave that hall to come to the floor of this Congress this afternoon to protect and preserve, and hopefully allow to survive the Civil Rights Act of 1990. It is my hope, Mr. Speaker and Members of this House, that the Members of this Congress will have the same courage to stand up in the winds of justice, to seek on behalf of the citizenry of this country. I want to say to all of my colleagues on both sides of the aisle, but particularly the colleagues on this side of the aisle whose party this Member is a member of, for those Members who are the members of the Congressional Black Caucus, this is throw-down time. This is the bottom line. This is integrity.

There is no substitute to freedom and human dignity, the minority party substitute notwithstanding, there is no substitute for justice. I have served here for 20 years with all Members eyeball to eyeball with dignity and a sense of freedom and a sense of justice. Join Members to pass the 1990 Civil Rights act so that we can look

each other in the face and go down the road, meeting our justice, meeting our destiny as equal human beings.

MAKE HISTORY WITH CIVIL RIGHTS VOTE

(Mr. RANGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RANGEL. Mr. Speaker, as we see the walls of communism falling down around the world, it is natural to assume that many people will be coming to these great United States to see how a multiracial society could survive and to do so well. The answer will be that we did it the hard way, that many black and white lives were lost, that we suffered lynching, barking dogs, and roaring firehoses, but we did it when good-thinking people came together and said it was not just good for blacks, it was good for our country.

Many Members in this Congress played a role in this by voting for the legislation which my colleague, the gentleman from California [Mr. DELLUMS] has talked about. However, now comes the time when once again history is going to be made and a vote is going to be taken as to which side a Member was on. There are some who believe that they have a better understanding of the problems than the victims of racism and prejudice in this country. There are some who believe that they can think better than the Committee on the Judiciary and the Committee on Education and Labor. There are some who are arrogant enough to believe that they know better than every civil rights organization in this country.

However, the record will speak for itself, and that is, did you vote for the civil rights bill, and did you vote against any crippling amendment?

SUPPORT 1990 CIVIL RIGHTS ACT

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, with the exception of the dean of the Congressional Black Caucus delegation, I am the only other Member of that distinguished body that was here in 1965, and I approach the well with confidence about what will occur today as we celebrate the 25th year of the Voting Rights Act of 1965. It is my belief that this Congress will support the 1990 Civil Rights Act that has been reported out of two of its major committees.

□ 1500

Mr. Speaker, I would address just one part of that legislation that has had a very difficult debate all the way

through, and that is the notion that quotas are somehow connected with this bill as we try to eliminate job discrimination. I have gone through both of the copies of the bill. We have examined it completely, and I want to assure the Members that if anyone raises the question of quotas, I do not know where they are. There is no reference to quotas in this bill. As a matter of fact, we have gone out of our way to continue a Supreme Court decision that, while it was operating, had no quota result whatsoever.

So, Mr. Speaker, I ask the Members on both sides of this great body to join us in this great measure that will soon be before us for our decision.

EQUALITY, FAIRNESS, DEMOCRACY EMBODIED IN CIVIL RIGHTS BILL

(Mrs. COLLINS asked and was given permission to address the House for 1 minute, and to revise and extend her remarks.)

Mrs. COLLINS. Mr. Speaker, I rise to urge all the Members of this body to vote for the 1990 Civil Rights Act.

Although I do not like being called one, I stand here as a two-fer. There is no question that I am black, and there is no question that I am a woman. I fit two minority standards, and those of us who are minorities really understand how important it is and that others must know how much we want this particular act.

Every African-American wants the passage of this act, every Hispanic-American wants the passage of this act, every Asian-American wants the passage of the 1990 act, every native American wants the passage of this act, every woman wants passage of this act, and every other minority group in this Nation wants to see the 1990 Civil Rights Act pass.

It seems to me that our effort today must not be to turn back the hands of time. That is what we will be doing if this act is not passed. That is what we will be doing if we do not stand up for equality, for fairness, for democracy, for everything that this Nation stands for.

LET THE BEST NEW YORK TRADITION PREVAIL ON CIVIL RIGHTS

(Mr. OWENS of New York asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. OWENS of New York. Mr. Speaker, New York State was one of the last original States to sign the Constitution. New York State was also one of the last Northern States to free its slaves. Political and moral confusion is one of the undesirable traditions of New York State.

Unfortunately, as we consider the Civil Rights Act of 1990, this tradition of New York's diseased decisionmaking process threatens to wreck this vitally needed civil rights legislation. A deformed monster amendment has been crafted by a New York State colleague of mine, the chairman of the Committee on Small Business. As it was in the case of slavery, a New Yorker is hiding behind the so-called pragmatic and business considerations instead of standing up to the moral and humanitarian imperatives of this legislation as presented by the committee of jurisdiction.

Mr. Speaker, I deeply regret that this fuzzy minded, technicality overwhelmed thinking has crawled out of the sewers of New York State's worst legacy.

The other more glorious leadership tradition of New York State is a record of toughmindedness, boldness, and compassion for all people. It is a record of Franklin Roosevelt, Robert Wagner, and others. I speak as a representative of this great tradition when I strongly urge the Members to vote down the dangerous monster amendment sponsored by the opposition.

Mr. Speaker, I ask the Members to listen to the voices which represent the best of New York State's Democratic Party tradition and vote yes to support the committee-sponsored Civil Rights Act of 1990.

NO QUOTAS, PUNITIVE DAMAGES, OR RETROACTIVITY IN CIVIL RIGHTS BILL

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute, and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, the vote today is whether we are going to strike a dagger through the heart of the civil rights bill. In the past 10 years the Reagan Supreme Court has turned back the clock on the Civil Rights Act of 1964 and the Voting Rights Act. The Supreme Court basically sent two messages: First, that it is OK to discriminate if you have a good lawyer, and, second, that it is OK to discriminate if it is bad for business. Today we vote on whether we go back or we go forward.

Mr. Speaker, this is not a bill for minorities, for blacks, or for Hispanics. It is a bill for women and the disabled majority of our population.

Mr. Speaker, does H.R. 4000 shift the burden of proof to employers? The answer is "no." Does this bill provide punitive damages for the first time? The answer is "no." Does it apply retroactively? The answer is "no." Does it result in quotas? The answer is "no."

Mr. Speaker, there is no reason to turn back the clock. Let us go forward.

EMPLOYMENT DISCRIMINATION ADDRESSED IN CIVIL RIGHTS ACT

(Mr. PAYNE of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PAYNE of New Jersey. Mr. Speaker, I rise in strong support of the H.R. 4000, the Civil Rights Act of 1990, to restore key protections against employment discrimination. Regrettably, these protections have been threatened in recent months by decisions handed down by the Supreme Court.

Today we celebrate the 25th anniversary observance of the passage of the Voting Rights Act of 1965. That landmark legislation kindled hope in the hearts of countless Americans who, up until that time, had been shut out of the American dream.

I want to stress that the bill we have before us today is not a radical overhaul of our employment discrimination laws. Rather, this measure seeks to restore the important protections that have helped make our society more fair and just since the passage of the Civil Rights Act of 1964.

The bill specifically states that "Nothing in the amendments made by this act shall be construed to require an employer to adopt hiring or promotion quotas * * *"

The Civil Rights Act of 1990 is a bill that is good for America. As the leader of the free world, the United States should continue to set a shining example for nations who are now embracing democracy and the principle of fairness it represents.

It is also important that we sharpen our competitiveness in the international marketplace. As more women and minorities enter the work force of the 1990's, it is in our Nation's best interest to continue to open up opportunities which will help strengthen our entire economy. We cannot achieve this goal if we weaken policies that have worked well, such as the prohibition of employment practices that have a "disparate impact" on women and minorities.

Like many others, who were involved in the civil rights movement in the 1960's, I am proud of the progress we as a Nation have made. It is my hope that we, as Americans, will live up to our ideal of one nation, indivisible, with liberty and justice for all. We have come too far, and invested too much, to turn back at this significant moment in history.

CIVIL RIGHTS LEGISLATION SHOULD BE PASSED WITHOUT WEAKENING AMENDMENTS

(Mr. MFUME asked and was given permission to address the house for 1

minute and to revise and extend his remarks.)

Mr. MFUME. Mr. Speaker, the real bottom line is this: What this really comes down to, after all our glorious pronouncements in this body day after day and week after week, is whether we are prepared as men and women duly elected to do the right thing, not to be ostriches and stick our heads in the sand, but to hold them high and to move forward.

Those nameless, faceless Americans who are black and white from the North and the East and the South, the old and the young, gave everything they had because they had a dream that this Nation would live out the true meaning of its creed, that it would be, in fact, one nation under God and the pursuit of happiness could be everyone's pursuit. We have to wonder now how we can find ourselves grappling on the verge of not knowing whether or not we are going to pass this civil rights bill because of a weakening substitute amendment.

The chairman of the caucus is right, there really is no substitute for justice. There can be no substitute for integrity. There is no substitute at all for fairness. We cannot come here and enjoy the comfort of opinion without the discomfort of thought. We cannot come here as we do day in and day out believing that we can somehow shirk our responsibilities. Few will remember what we say here today, but all will remember what we do.

Mr. Speaker, I urge this body to do the right thing and pass the Civil Rights Act of 1990.

□ 1510

THE RIGHT THING TO DO

(Mr. SMITH of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Florida. Mr. Speaker, I do not think anyone can be as eloquent as the previous eight speakers. I do not intend to be.

Mr. Speaker, I sit on the Committee on the Judiciary. I say to those of my colleagues that vote against this bill today, "You're not doing what's right."

Mr. Speaker, that is unfortunate to say, but it is true. This is the thing to do. This is the American thing to do. This is the right thing to do, and my colleagues have heard eight eloquent statements to that fact.

However, Mr. Speaker, I also want to say something else. We are in a very dangerous situation right now, the invasion by Iraq of Kuwait. It is a very serious attempt to corner what is our lifeline, our blood line, in this country, the oil that flows to run our country. We have got to be very careful and very much prepared to do what we need to do there also to protect, not

only the freedoms of those people in the region, but to prevent this madman from turning south, and turning right and going into Saudi Arabia. We sold Stinger missiles over the objections of a lot of people in this body to Kuwait. Now in whose hands are those missiles? The 17 political prisoners that were involved in terrorism, that the Kuwaitis refuse to give up even under pressure even from Iraq. Where are they now? In the hands of Iraq. Probably will get a hero's welcome in Baghdad riding down the street.

There is a lot more. Fifty billion dollars' worth of arms in Saudi Arabia, if he chooses to go after them.

Mr. Speaker, we have got to be very careful.

I hope the President will continue his strong actions on Iraq and make sure that we stop this now before it gets worse and affects America even worse than it has.

CIVIL RIGHTS ACT SHOWS WE STAND FOR HUMAN RIGHTS EVERYWHERE

(Mr. ENGEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ENGEL. Mr. Speaker, I, too, want to comment on the situation in Iraq and Kuwait.

Mr. Speaker, I commend this House for unanimously passing the Iraq sanctions bill. I think we need to reflect, as we see what the bloodthirsty terrorist Saddam Hussein with blood dripping from his hands is attempting to do. We must make sure that our allies in the Middle East are strengthened both militarily and economically. We need to continue our aid to Israel and Egypt, which are the voices of reason in the Middle East, and not do things to undermine them.

Mr. Speaker, it is very, very important that we stand up to the thug, Saddam Hussein, that we say that this country will not tolerate the wholesale murder of women and children and all people, and that we stand for something here. It is very important to continue foreign aid to our friends and allies, particularly in the Middle East.

I want to say that I also want to join with my colleagues in saying that it is very important for us today to pass the Civil Rights Act of 1990 and to show our commitment to civil rights and human rights for everyone around the world, in Iraq, in Kuwait, in the Middle East, and right here at home in the United States of America.

NEIGHBORHOOD CRIME WATCH?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, the world turned away when Hitler took Austria. He then took Czechoslovakia. He took Poland, and he took France, and then everybody started looking at Adolph!

Let there be no mistake. "Adolph" Hussein used poison gas on his own countrymen. He then used chemical weapons against Iran. This man literally made a threat against the existence of Israel, our true ally over there in a cluster of monarchs and dictators. Let there be no mistake, "Adolph" Hussein is dangerous!

What is next? I say we have B-1's, B-2's, B-14's, B-15's, and 16's. Mr. Hussein, "Adolph" Hussein, must know that we are prepared to use them, and not just on a 911 basis. The American taxpayers will not pay for it all, but we will certainly provide the service if the rest of the world will pitch in and help pay the bill.

In addition, Mr. Speaker, we must understand something. We do not have a \$300 billion defense budget to fund the neighborhood crime watch, and if need be, we'll use it. Think about it, folks.

H.R. 4000—THE PROMISED LAND

(Mr. FLAKE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FLAKE. Mr. Speaker, I rise today in support of H.R. 4000, the Civil Rights Act of 1990. It is imperative that we understand that there are many citizens in this country who found themselves in pursuit of that elusive promised land only to discover that each time it appeared they were ready to cross over there was something in the way or there was someone who created a mechanism to block their way. That is the case as it relates to the Supreme Court action recently, as it relates to those who have been in pursuit of this promised land.

So, Mr. Speaker, today we come with the glorious opportunity in this House of Representatives to say to this Nation, to say to the world, that this is a country of inclusion, there are some that have been able to get into the promised land and to reap the benefits of its riches, that we are open now to receive all of our citizens and allow them full participation.

Mr. Speaker, there is no greater piece of legislation before this House in this session of Congress than this particular bit of legislation on civil rights. It is time for America to once and for all say that we will not be a nation where there are some who are on the outside while others are in, some who are rich while others are poor, some who have shelters while others do not, that there will be people who will not be included with

fairness in this justice system with some degree of equanimity.

Mr. Speaker, I say it is time for us to vote for this Civil Rights Act so that we do not have to come back again trying to get into the promised land. This is our chance. Let us move.

SUPPORT OF THE CIVIL RIGHTS ACT OF 1990

(Mr. HAYES of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HAYES of Illinois. Mr. Speaker, last year America's progress toward the goal of equal opportunity for all was threatened by a Supreme Court out of step with our society. As a result, millions of Americans can no longer count on the protections of civil rights laws dating back to the 1960's and even the 1860's.

Just over a quarter century ago, Congress passed the Civil Rights Act of 1964 which outlawed discrimination in employment, public accommodations, and Federal funded programs. Ironically, today, we celebrate the 25th anniversary of the passage of the Voting Rights Act of 1965.

Now, more than 25 years after enactment of these historic acts, discrimination continues to keep minorities and women from fully participating in the work force. It would certainly be a sad commentary if we were to fail today to restore and strengthen our laws that attempt to wipe out prejudice on the job. We cannot allow nor accept this administration's attempt to turn back the clock on civil rights. All Americans deserve the right to equal employment opportunity, and that is why I am an original sponsor of the Civil Rights Act of 1990 and why I will strongly encourage passage of this legislation without weakening amendments.

Before we as a nation can move forward, we must reaffirm this Nation's basic commitment of civil rights—a commitment that seems to have escaped the notice of the current Supreme Court.

Congress must not retreat from its commitment to this ideal and must not allow a judicial dismantling of the advances made thus far. I encourage my colleagues' support of H.R. 4000.

CIVIL RIGHTS ACT OF 1990

Mr. WHEAT. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 449 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 449

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R.

4000) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against consideration of the bill for failure to comply with the provisions of clause 2(1)(6) of rule XI are hereby waived. After general debate, which shall be confined to the bill and the amendments made in order by this resolution and which shall not exceed three hours, with ninety minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor, and with ninety minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text printed in part one of the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. No amendment to said substitute shall be in order except those printed in part two of the report of the Committee on Rules accompanying this resolution. Said amendments shall be considered in the order and manner specified in the report, shall be considered as having been read, shall be debatable for the period specified in the report, equally divided and controlled by the proponent and a Member opposed thereto. Said amendments shall not be subject to amendment except as specified in the report. It shall be in order to consider en bloc the amendments numbered one in part two of the report and said amendments en bloc shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit. After passage of H.R. 4000, it shall be in order to take from the Speaker's table the bill S. 2104 and to consider said bill in the House. It shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the provisions contained in H.R. 4000 as passed by the House, and all points of order against said motion for failure to comply with the provisions of clause 7 of rule XVI are hereby waived. It shall then be in order to move to insist on the House amendment to S. 2104 and to request a conference with the Senate thereon.

□ 1520

The SPEAKER pro tempore (Mr. SIKORSKI). The gentleman from Missouri [Mr. WHEAT] is recognized for 1 hour.

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from New York [Mr. SOLOMON], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 449 is a modified open rule providing for 3 hours of general debate, to be equally divided between the chairman and ranking minority members of the Committee on Education and Labor and the Committee on the Judiciary on H.R. 4000, the Civil Rights Act of 1990, to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes.

The resolution makes in order an amendment in the nature of a substitute now printed in the report of the Committee on Rules accompanying this resolution as an original bill for the purpose of amendment under the 5-minute rule and said substitute is to be considered as having been read. All points of order against the substitute for failure to comply with clause 7 of title XVI (germaneness) are hereby waived.

The rule makes in order 3 amendments with 20 minutes of debate on an amendment on quotas, and 20 minutes of debate on an amendment to cap damages. Two hours of debate are provided in the Republican substitute (Michel/LaFalce). At the conclusion of the consideration of the bill for amendment, the rule provides for one motion to recommit.

Finally, after passage of H.R. 4000, the rule makes in order a motion to take S. 2104 from the Speaker's table and to consider the bill in the House. It shall then be in order to move to strike out all after the enacting clause of the Senate bill and to insert in lieu thereof the text of H.R. 4785 as passed in the House.

A motion to insist on the House amendment and to request a conference with the Senate may then follow.

House Resolution 449 provides that Members may fully debate this bill and provides that Members may choose one of two distinctly different alternatives to deal with discrimination in our post-1989 Supreme Court era.

Some would have us believe that certain kinds of discrimination are more onerous than other kinds of discrimination. I certainly do not mean to speak for all blacks in Congress or all black people but I can tell you from my personal view, that while racial discrimination certainly is debilitating in this country or wherever a person might feel it, I have a hard time understanding how any kind of discrimination that might be based upon gender, age, physical disability, would somehow be better or worse than discrimination based on race.

As far as I can tell, even though there might be a longer history or more intense history of discrimination based upon race in this country that requires a strong solution as a class, for people who suffer individual discrimination, there ought to be the same remedies in law.

H.R. 4000 as written by these two committees: Education and Labor, and Judiciary, provides that equality under the law which is so important to all of us who oppose discrimination in any form.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a closed rule and I must oppose it. Here we are, being asked to consider a civil rights bill under the terms of a closed rule, and how ironic that is. Make no mistake about it, this is a closed rule. If truth-in-labeling statutes were applied to the products being churned out by the Rules Committee lately, this rule would have to be called modified closed, and that is being generous to it.

With this rule, Mr. Speaker, we will cross the 50 percent threshold. As of today, this House of Representatives will chalk up more restrictive rules than open rules during this 101st Congress, and Mr. Speaker, this is a shame.

During this Congress, the House has seen fewer open rules than in any other Congress in modern times.

In my view, closed rules are indicative of closed minds. It is one thing to structure a rule so as to provide for a systematic and free debate, and that is what we all want. It is quite another thing to structure a rule so as to affect the final outcome of that debate. This rule falls into that latter category, unfortunately.

What many of us, particularly on this side of the aisle, resent is the denial in this rule of the minority's right to offer a motion to recommit with instructions. The argument comes back from our friends on the other side of the aisle that when a rule makes in order a Republican substitute, that we Republicans should not get another bite of the apple.

Well, I do not think the gentleman from New York [Mr. LaFALCE] who will be offering the substitute today considers himself to be a Republican. He is a Democrat. I served with him in the New York State Legislature. He is a very fine Democrat. Certainly his substitute will have broad support from Republicans on this side of the aisle; but there is a larger problem with the argument that the offering of a substitute should preclude the minority's right to offer a motion to recommit with instructions.

Mr. Speaker, the precedent for such a minority right goes all the way back to 1913. It has only been in the last few years that the majority has begun to assert that the offering of a minori-

ty substitute is our only bite at the apple; but Mr. Speaker, when the House is considering a bill under an open rule, the minority has that right and has always has that right to offer a substitute, as well as the right to offer a motion to recommit with instructions.

By denying us that right in this rule, the majority is telling us that this rule is by definition a closed rule.

Mr. Speaker, open rules are necessary in the legislative process. If people are treated like adults, they will act like adults.

□ 1530

Yesterday, for example, the House passed a \$28 billion authorization bill for housing programs. The rule governing consideration of that bill was the only fully open rule on a major authorization bill during this entire Congress, the only one. What happened? We had a dignified and a constructive debate in the best traditions of this House. Fears that the process would drag on forever, that there would be an endless proliferation of amendments, did not come true at all. Such fears did not prove to be justified at all.

In short, Members on both sides of the aisle took the legislative process seriously, and we acted seriously.

Mr. Speaker, we had a similar experience with the recently enacted legislation on behalf of disabled Americans. Do my colleagues over on that side of the aisle remember that bill? The rule on that bill was not entirely open, but it did represent a serious bipartisan effort to provide the House with a variety of important amendments. And what happened? We passed a very complicated bill, sent it down to the President, and now it is law.

Do we think this law is going to become law under this rule? Mr. Speaker, we cannot be so sure about this bill. If this bill is just ramrodded through without the Michel-LaFalce substitute and without some real bipartisan effort in the conference, we can pretty much expect to see this bill dead on arrival at the White House. Maybe that is what the Democratic leadership wants; I do not know. Maybe they would rather just posture than really get a bill. If that is the case, they certainly appear to be going about it in the right way.

But at least some of us believe that the legislative process and the issue of civil rights are too important to be trivialized with this kind of action on the floor, and so I cannot ask my colleagues to vote for this rule, nor can I support the bill in its present form.

I will not belabor the point, Mr. Speaker, about the bill. It needs much more work than this rule permits. Mr. Speaker, in testimony before the Committee on Rules, H.R. 4000 was var-

iously described as the Lawyers' Full Employment Act, the Employers' Intimidation Act, and I would suggest that we call it the Congressional Hypocrisy Act as well.

Once again, this Congress is exempting itself from the laws it is determined to foist on the rest of the country. If this bill is such a good idea for millions of employers and employees across this country, how come it is not such a good idea for 435 Members of this House, 100 Senators, and their 38,000 employees? They are not affected by this bill. Why not? If this bill were open to debate under an open rule, the gentleman sitting over here, the gentleman from Wisconsin [Mr. SENSENBRENNER], would offer an amendment that would bring this House under the terms of this bill.

Mr. Speaker, I will not take any more time. There are other Members who have more experience with legal issues than I do who will take time during general debate to explain the serious deficiencies of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WHEAT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have a number of requests for time. I want to make it available to those who requested it.

I do want to point out one more thing about his rule, and I perhaps failed in my intent to make this perfectly clear. The rule does allow for a substitute. It is the Michel substitute. The gentleman from New York is correct in pointing out that the other side should be allowed a substitute to this bill, and that is, in fact, what is included in the rule. It is very clearly labeled a substitute to be offered by the gentleman from Illinois [Mr. MICHEL] or his designee. I am not clear whether the gentleman from New York [Mr. LaFALCE] is going to offer this substitute for the gentleman from Illinois [Mr. MICHEL] or whether another person from the other side of the aisle will offer this substitute, but it is certainly the choice of the gentleman from Illinois [Mr. MICHEL] as to whether a member of the other side of the aisle will be able to offer this substitute or not.

Mr. Speaker, for purposes of debate only, I yield 4 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Speaker, I rise in strong support of this rule.

Discrimination in America today is unthinkable. It is offensive. It should be a relic of history. This bill should pass this House unanimously.

Discrimination and prejudice, of course, come in many forms, Mr. Speaker, and I hope we will address all of those forms in the remainder of the 101st Congress and, surely, in the 102d Congress.

When a person is denied employment and denied promotion, denied advancement because of color or gender or situation of disability, that is an offense to everything that this country stands for. There are several Members of this House who are disabled and who well could suffer discrimination and prejudice in the private sector. I am one of them.

I am proud to support this bill with its stricture against discrimination on grounds of disability as well as grounds of race and gender.

Equal access to the education system should be an absolute right in this country. When our country funds a Head Start slot, an enriched preschool experience for only 16 or 17 percent of its kids at dire education risk who are on the precipice of education failure, to me that is discrimination and prejudice, and because many of the kids, a disproportionate number of these young people in our society who are at dire education risk who cannot make it when they enter the schoolhouse doors without an enriched preschool experience, because a disproportionate number of them are black and Hispanic, that is a form of prejudice.

If our society does not offer these kids a Head Start experience that we know is their last fair chance of making it in school. And then when they get into school, how do we treat these young people who are noncollege-bound? With nowhere near the care and attention and concern that they get in other industrialized countries of Europe and the Orient.

Once a kid drops out of school, he is blipped off the computer screen, and if he does graduate from school, he has a hunting license to get a job.

Other societies in other developed countries take great care to ease their way from the world of education to the world of work. Teachers in school, vocational education teachers spend time in industry to know what the demands are, and leaders in industry, plant managers and so forth, work in school to bring them up to scratch on the kinds of skills that industry demands.

If we fail to do that, we are failing to give our kids an equal education, equal to the job of employing them.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. SCHEUER. I am happy to yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I noticed that in the course of 25 years since he joined us in 1965 to help legislate that very famous bill that his fervor and commitment to human and civil rights is as undiminished as it was a quarter century ago. I thank the gentleman for yielding.

Mr. SCHEUER. Mr. Speaker, I thank the gentleman. I could think of no finer tribute, no finer way to end my remarks.

Let us take a holistic comprehensive view of what equal access, equal opportunity is in our society. Of course, it is the elimination of prejudice. It is also the provision of real opportunity, real education, real job training, real access to college.

Harry Truman's Commission on Higher Education in 1947 told us that we ought to add 2 years to assure the years of education, add 2 years of college. But for the past 10 years these two administrations have turned grants and scholarships into loans. That is prejudicial and discriminatory to the rights of low-income Americans to have access to higher education.

Mr. SOLOMON. Mr. Chairman, I yield 3 minutes to the gentlewoman from Illinois [Mrs. MARTIN], a distinguished member of the Committee on Rules.

Mrs. MARTIN of Illinois. Mr. Speaker, I would appeal to House Democrats, the self-proclaimed party of Jefferson, to either begin to live up to that reputation or drop the pretense altogether. This gag rule, on a civil rights bill of all things, does not do your party or this House proud.

Pick up your Jefferson's Manual of Parliamentary Practice. In the very first section, entitled, "Importance of Adhering to Rules," Jefferson says that while the majority, by their numbers, can always stop improper measures proposed by their opponents, the only weapons the minority has to defend itself against similar attempts from those in power are the forms and rules of proceeding which have been adopted. And it is only by a strict adherence to those rules that the weaker party can be protected "from those irregularities and abuses which these forms were intended to check, and which the wantonness of power is but to often apt to suggest to large and successful majorities."

And Jefferson went on to say that it is more important to have a rule to go by than what that rule says, so that "there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the Members." And he concludes, "It is very material that order, decency, and regularity be preserved in a dignified public body."

Oh how far you have strayed from Jefferson's idea of uniform and orderly rules of proceeding. And how far we have come in 200 years from his idea of a Congress characterized by free and open debate and deliberations on amendments. This Congress has already set an all-time record for restrictive rules, that is, rules like this one which severely limit the right of Members to offer amendments. As of today, 52 percent of our rules in this 101st Congress have been restrictive, compared with 46 percent in the last Congress and just 15 percent back in the 95th Congress. Only three amend-

ments are permitted by this rule—two of which are controlled by the two committee chairmen of jurisdiction. What have we come to?

And to add insult to injury, the Democrats have once again prohibited the minority party from offering a motion to recommit of its choosing—a prerogative that has clearly been ours for the better part of this century.

Mr. Speaker, when the majority perverts the Jeffersonian concept of rules as a uniformity of proceeding and instead twists them into constantly changing devices by which to thwart the rights of the minorities within this House, then we have indeed lost our moorings and set our democracy afloat in dangerous waters.

Let us hope that when we are talking about a civil rights bill, of all things, the scales will fall from your eyes and you will see just how you are depriving the people's representatives in this House of their basic right to legislate for the good of the Nation. Vote down this anti-civil-rights rule.

I, at this point, insert tables on restrictive rules and on restricting motions to recommit.

OPEN VERSUS RESTRICTIVE RULES, 95TH-101ST CONGRESSES

Congress (years)	Total rules granted ¹	Open rules ²		Restrictive rules ³	
		No.	Percent	No.	Percent
95th (1977-78)	211	179	85	32	15
96th (1979-80)	214	161	75	53	25
97th (1981-82)	120	90	75	30	25
98th (1983-84)	155	105	68	50	32
99th (1985-86)	115	65	57	50	43
100th (1987-88)	123	66	54	57	46
101st (1989-90)	79	38	48	41	52

¹ Total rules counted are all order of business resolutions reported from the Rules Committee which provide for the initial consideration of legislation, except rules on appropriations bills which only waive points of order. Original jurisdiction measures reported as privileged are also not counted.

² Open rules are those which permit any Member to offer any germane amendment to a measure so long as it is otherwise in compliance with the rules of the House.

³ Restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules, as well as completely closed rules, and rules providing for consideration in the House as opposed to the Committee of the Whole.

Note.—The above data differs slightly from that published in previous Congresses because it is based on a rule-by-rule examination and not just on summary tables from committee surveys for the 95th-99th Congresses as was previously done. Moreover, appropriations rules (which only provide for waivers) and original jurisdiction measures are no longer counted.

Sources: Rules Committee Calendars & Surveys of Activities, 95th-100th Congresses; "Notes of Action Taken," Committee on Rules, 101st Congress, as of Aug. 1, 1990.

Prepared by the Minority Counsel, Subcommittee on the Legislative Process, Committee on Rules.

RULES GRANTED IN THE 101ST CONGRESS

(Providing for the initial consideration of legislation)

Rule No. H. Res.	Date granted	Rule type	Bill No. and subject
108	Mar. 14, 1989	MO	H.R. 1231: Emergency Strike Board.
111	Mar. 21, 1989	O	H.R. 1369: Mansfield Business Center.
112	Mar. 21, 1989	MC	H.R. 2: Minimum Wage.
117	Apr. 4, 1989	O	H.R. 18: Uniform Voting Time.
126	Apr. 11, 1989	MO	H.R. 1487: State Dept. Authorization.
127	Apr. 12, 1989	C	H.R. 1750: Contra Aid.
135	Apr. 25, 1989	O	H.R. 2072: Supplemental Appropriations.
138	Apr. 25, 1989	O	H.R. 1486: Maritime Adm. Authorization.
143	May 2, 1989	O	H.R. 7: Voc. Ed. Act Extension.

RULES GRANTED IN THE 101ST CONGRESS—Continued

(Providing for the initial consideration of legislation)

Rule No. H. Res.	Date granted	Rule type	Bill No. and subject
145.....	May 2, 1989.....	MC	H. Con. Res. 106: Budget Resolution.
155.....	May 16, 1989.....	O	H.R. 643: Oil Shale Claims.
160.....	May 23, 1989.....	C	H.R. 2442: SDI for Drugs Transfer.
161.....	May 23, 1989.....	O	H.R. 2392: Oil Shale Claims.
165.....	June 1, 1989.....	MC	S.J. Res. 113: FSX Agreement.
173.....	June 13, 1989.....	MC	H.R. 1278: Financial Institutions Reform.
179.....	June 20, 1989.....	MO	H.R. 2655: Foreign Aid Authorization.
195.....	July 11, 1989.....	O	H.R. 2022: Soviet and Indochinese Refugees.
196.....	July 11, 1989.....	O	H.R. 989: Tongass Timber Reform Act.
198.....	July 13, 1989.....	O	H.R. 1549: NRC Authorization.
199.....	July 13, 1989.....	O	H.R. 1484: Park System Review Board.
200.....	July 13, 1989.....	O	H.R. 828: BLM Authorization.
202.....	July 17, 1989.....	O	H.R. 1056: Federal Waste Disposal.
211.....	July 21, 1989.....	MO	H.R. 2461: DoD Authorization.
217.....	July 28, 1989.....	C	H.R. 3024: Debt Limit Increase.
224.....	Aug. 4, 1989.....	O	H.R. 1668: NOAA-Coastal Authorization.
228.....	Aug. 4, 1989.....	C	H.R. 1594: MFN Status for Hungary.
230.....	Aug. 4, 1989.....	O	H.R. 2427: NOAA-Satellite Authorization.
234.....	Sept. 7, 1989.....	O	H.R. 1759: NASA Authorization.
235.....	Sept. 7, 1989.....	O	H.R. 2869: Commodity Futures Improvements.
236.....	Sept. 7, 1989.....	O	H.R. 1659: Aviation Security Act.
245.....	Sept. 21, 1989.....	MC	H.R. 3299: Budget Reconciliation.
249.....	Sept. 26, 1989.....	MC	C. H.J. Res. 407: Continuing Appropriations.
246.....	Sept. 25, 1989.....	O	H.R. 2748: Intelligence Authorization.
254.....	Oct. 3, 1989.....	O	H.R. 1495: Arms Control Authorization.
255.....	Oct. 3, 1989.....	O	H.R. 3385: Nicaragua Election Assistance.
256.....	Oct. 3, 1989.....	C	H.R. 3402: Polish/Hungarian Initiative.
266.....	Oct. 17, 1989.....	O	H.R. 2494: International Development.
267.....	Oct. 17, 1989.....	O	H.R. 2459: Coast Guard Authorization.
270.....	Oct. 19, 1989.....	O	H.R. 2459: Coast Guard Authorization.
271.....	Oct. 23, 1989.....	MC	H.J. Res. 423: Continuing Appropriations.
273.....	Oct. 24, 1989.....	O	H.R. 45: Central American Studies.
275.....	Oct. 26, 1989.....	C	H.R. 3443: Airline Acquisition Review.
277.....	Oct. 31, 1989.....	O	H.R. 1465: Oil Spill Liability.
278.....	Oct. 31, 1989.....	C	H.R. 2710: Minimum Wage.
289.....	Nov. 13, 1989.....	S	S. 974: Nevada Wilderness.
290.....	Nov. 15, 1989.....	C	H.R. 3660: Ethics Reform Act.
295.....	Nov. 19, 1989.....	MC	H.R. 3743: Foreign Assistance Appropriations.
309.....	Jan. 30, 1990.....	MC	H.R. 2190: Voter Registration Act.
338.....	Feb. 20, 1990.....	O	H.R. 2570: Arizona Wilderness Act.
355.....	Mar. 7, 1990.....	MO	H.R. 3581: Rural Economic Development.
360.....	Mar. 20, 1990.....	O	H.R. 644: Wild and Scenic Rivers Amendments.
364.....	Mar. 22, 1990.....	MC	H.R. 3847: Dept. of Environ. Protect.
366.....	Mar. 27, 1990.....	O	H.R. 1463: Capital Metrorail System.
368.....	Mar. 28, 1990.....	MC	H.R. 3: Childhood Ed. and Develop.
372.....	Apr. 3, 1990.....	O	H.R. 2015: Economic Development Act.
373.....	Apr. 3, 1990.....	O	H.R. 1236: Price Fixing Prevention.
378.....	Apr. 18, 1990.....	O	H.R. 3848: Money Laundering Amendments.
379.....	Apr. 18, 1990.....	O	H.R. 4380: Super Collider Authorization.
382.....	Apr. 25, 1990.....	MC	H. Con. Res. 310: Budget Resolution.
388.....	May 9, 1990.....	MC	H.R. 770: Family and Medical Leave Act.
392.....	May 15, 1990.....	O	H.R. 4151: Human Services Authorization.
394.....	May 16, 1990.....	MC	H.R. 2273: Americans with Disabilities.
395.....	May 16, 1990.....	MC	H.R. 4636: Supp. Foreign Aid Authoriz.
399.....	May 22, 1990.....	MC	H.R. 3030: Clean Air Act Amendments.
403.....	May 24, 1990.....	MO	H.R. 4653: Export Administration Act.
408.....	June 6, 1990.....	MO	H.R. 4785: AIDS Authorization.
409.....	June 7, 1990.....	MO	H.R. 2567: Reclamation Authorization.
410.....	June 7, 1990.....	O	S. 280: Niobrara Scenic River.
417.....	June 20, 1990.....	C	H.R. 350: Flag Amendment, H.R. 5091: Flag Statute.
422.....	June 26, 1990.....	O	H.R. 4329: Technology Preeminence.
425.....	June 26, 1990.....	MC	H.R. 5114: Foreign Ops. Approps.

RULES GRANTED IN THE 101ST CONGRESS—Continued

(Providing for the initial consideration of legislation)

Rule No. H. Res.	Date granted	Rule type	Bill No. and subject
428.....	July 10, 1990.....	O	H.R. 5170: Aviation Safety Act.
430.....	July 11, 1990.....	MO	H.R. 5115: Education Excellence Act.
433.....	July 13, 1990.....	C	H.R. 5258: Balanced Budget Act.
434.....	July 13, 1990.....	MC	H.R. H.J. Res. 268: Balanced Budget Constitutional Amendment.
435.....	July 13, 1990.....	O	H.R. 1180: Omnibus Housing Act.
439.....	July 20, 1990.....	MO	H.R. 3950: Agriculture Authorization.
443.....	July 30, 1990.....	MC	H.R. 5355: Public Debt Limit Increase.
448.....	Aug. 1, 1990.....	MC	H.R. 5350: Temporary Debt Increase.
449.....	Aug. 1, 1990.....	MC	H.R. 4000: Civil Rights Act.

Code: A completely open amendment process is provided by an open rule (O). Restrictive rules are those which provide for less than a completely open amendment process and include: closed rules (C), modified closed rules (MC), and modified open rules (MO).

RULES RESTRICTING THE MINORITY'S RIGHT TO OFFER MOTIONS TO RECOMMIT WITH INSTRUCTIONS

Congress	Total rules granted ¹	Rules restricting instructions ²	As percent of total rules
95th.....	241	0	0
96th.....	198	1	0.5
97th.....	112	0	0
98th.....	145	0	0
99th.....	101	12	12
100th.....	138	18	13
101st.....	79	11	14

¹ Only rules providing for the initial consideration of legislation are included and not rules providing for the consideration of conference reports, Senate amendments to a House bill, or appropriations rules which only provide waivers and do not affect the amendment process.

² Rules which restrict the right to offer motions to recommit with instructions include those which deny instructions or which in any way limit the right to offer an amendment in recommitment instructions.

Sources: Legislation Calendars, Committee on Rules, 95th-100th Congresses; "Notices of Action Taken," Committee on Rules, 101st Congress, as of August 1, 1990.

Prepared by the Minority Counsel, Committee on the Legislative Process, Committee on Rules.

RULES WHICH RESTRICT RECOMMITTAL INSTRUCTIONS, 101ST CONGRESS

Rule No. H. Res.	Date granted	Bill No.	Subject
108.....	Mar. 14, 1990.....	H.R. 1231	Emergency Strike Board.
111.....	Mar. 21, 1989.....	H.R. 2	Minimum Wage.
160.....	May 23, 1989.....	H.R. 2442	Drug Appropriations.
179.....	June 20, 1989.....	H.R. 2655	Foreign Aid Authorization.
256.....	Oct. 3, 1989.....	H.R. 3385	Nicaragua Appropriations.
364.....	Mar. 22, 1989.....	H.R. 3847	Dept. of Environment.
358.....	Mar. 28, 1989.....	H.R. 3	Childcare.
430.....	July 11, 1990.....	H.R. 5115	Equity & Excellence in Education.
434.....	July 13, 1990.....	H.J. Res. 268	Balanced Budget Amendment.
439.....	July 20, 1990.....	H.R. 3950	Food and Ag Resources Act.
449.....	Aug. 1, 1990.....	H.R. 4000	Civil Rights Act.

□ 1540

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, it is not my purpose really to speak in detail about the rule. Perhaps the rule could be different. Perhaps it should be different. I expect to vote for it. But the main reason I want to talk today is to share with Members experiences that have come to me in my 42

years here in Congress, and the happiness I have that I have been here at a time when opportunities were made available for many Americans that were not here when I came here.

Mr. Speaker, the first time I ran for office I met with the Ku Klux Klan in my hometown. I made a speech before them, and they told me:

You have to join the Ku Klux Klan or you will never get anywhere in politics.

I said:

I cannot do that, because you are against the black race, you are against the Catholics, you are against the Jews. You are against things, and not for the betterment of our country. So I will just take a risk of not being elected.

I was barely elected, but I was elected, and I have never been defeated for office.

As I look back on my 42 years, there is nothing I have greater joy about than the fact that I see an opportunity for Americans today to share in the mainstream of life, much more than they did before. It is still not perfect. There are many things that can be done.

Like in every case I have had an opportunity to vote in this area of thinking, there has always been some intellectual reason why it might be an easy way not to do it or to find some excuse for not doing it, as superficial thing. But the heart of the matter is we are trying to open up all America to all Americans, to make a great country that is composed of all of our constituents.

Mr. Speaker, I therefore heartily approve of this legislation, and I am honored to be a cosponsor of it.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER] a member of the Committee on the Judiciary. The committee in which this legislation originated.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the proposed rule for H.R. 4000. Furthermore, I will object to ordering the previous question, and I ask Members of the House to vote the previous question down so that I may offer an amendment to bring the Congress of the United States under the same coverage and with the same remedies that we are imposing in this bill on every other segment of our society.

Make no mistake about it, the vote on ordering the previous question will be the vote on congressional coverage. A "no" vote means that the Member does not wish to establish a double standard of one set of rules for Congress, and another set of rules for everybody else. A "yes" vote is a vote for the double standard.

Mr. Speaker, I testified before the Committee on Rules to request that the amendments that I offered in the Committee on the Judiciary on con-

gressional coverage be included in the rule so that they could be offered as amendments on H.R. 4000 today. Unfortunately, not only are the amendments that I requested not included in the rule, but the congressional coverage provisions in the Edwards-Hawkins bill is weaker than that contained in the version as reported out of the Committee on the Judiciary.

The bill as reported by the Committee on the Judiciary applied title VII to the entire Congress of the United States, with the means of enforcement to be determined by a rule of each House. That would mean that in a subsequent vote we could include ourselves as Representatives and the operations of the officers and other functions of the House under the same judicial review procedure that would be contained in the statute for everybody else in society.

The Hawkins-Edwards bill applies congressional coverage only to the House, and not to the other body, and calls for enforcement under a House fair employment practices resolution.

Victims of discrimination in the Congress are denied the same protections and remedies as those afforded to all other Americans. This makes the Congress of the United States the last plantation.

Once again we have insulated ourselves from the very laws which we have imposed on the rest of the country. My amendment would have brought the Congress of the United States under the same scope of the legislation as is the private sector of our economy and the executive branch. It would subject Members of Congress who are guilty of unlawful discrimination to the same remedies as are imposed upon other parts of our society. Under H.R. 4000 that means lawsuits, jury trials, punitive damages, and compensatory damages, including that for pain and suffering, as well as for mental distress.

Mr. Speaker, we ought to practice what we preach. We ought to say what is good for everyone else is good for us. My amendment would have eliminated the double standard contained in H.R. 4000.

If the judicial branch can sit in judgment of what the executive branch does, victims of discrimination should be able to have their cases heard on the same basis as everyone else. In good conscience we cannot allow ourselves as an employer of 38,000 employees to exempt itself from the civil rights laws that apply to the rest of the Nation.

Mr. Speaker, I urge a "no" vote on the previous question so that we can offer a substitute rule that does allow for a vote on a congressional coverage amendment. I want us, as Representatives, to stand up and to be counted on whether we ought to bring ourselves in under the same enforcement

scheme as we were proposing for everyone else.

If the situation in the executive branch and the private sector of our economy is bad enough to warrant this legislation, subjecting everyone to lawsuits and compensatory and punitive damages, and huge lawyer fees and the potential of quotas, then the same thing ought to apply in the Congress of the United States.

Please vote "no" on the previous question. If the previous question is adopted, then please vote down this rule, and end the hypocrisy of us insulating ourselves from our own laws once and for all this afternoon.

□ 1550

Mr. WHEAT. Mr. Speaker, for purposes of debate only, I yield 3 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Speaker, I thank my friend from Missouri for yielding me the time.

Mr. Speaker, I rise in support of the rule. I listened with interest to my friend from Wisconsin talking about the problem with congressional coverage, and I share his concern. I do know that as I return to Kentucky and have my town hall meetings, many people feel that we do exempt ourselves from many of these wonderful laws that we apply to everyone else.

However, I would offer, as I did in the committee, my vote to the gentleman's amendment. I offer tonight and today my support to him in future efforts to make sure that Congress is covered by this bill and all other bills. But I do not think that the flaw the gentleman points out is sufficient to defeat this rule, and I would also suggest that that particular amendment could have been made part of the substitute which will be offered later today, and that does indicate that there is a difference of opinion on really both sides of the aisle as to the question of separate branches of government.

Let me take a moment to express my great fondness and admiration to the gentleman from New York who I think is one of the best Members in this entire Congress. While I did not share his view today on the pending resolution and on his amendment, I do think that the gentleman, as chairman of the Small Business Committee of the House, offers a lot of major help to the small business community of the country.

I rise in support of the rule and of the underlying legislation. I am a cosponsor of the original bill. I think it has been improved immeasurably in its travels through the Education and Labor Committee and through our Committee on the Judiciary.

I would refer my colleagues to two parts of the committee report which I think are very well done. On page 19

begins the discussion of the whole question dealing with what we call quotas, and that will be remedied further by an amendment offered later on this afternoon by the gentleman from North Carolina and the gentleman from Texas which I think will further change the bill to the positive.

Then I would refer my colleagues to page 38 of the committee report which discusses the questions of damages. I would remind my colleagues that damages which are available under section 1931, those damages are currently permitted in matters of racial discrimination. They are not now allowed in other forms of discrimination. The bill would permit this.

Only in intentional cases, not unintentional discrimination, and there will be later an amendment offered which will put a cap even on the compensatory and other damage verdicts that would be awarded for intentional acts of discrimination, it does appear to me that where there is clearly intentional wrongdoing, that should be penalized not just by reinstatement, and not just by a measure of coming up to standards, but by a penalty and by punitive action.

So I urge my colleagues, and I realize coming from the mid-South, this is not an easy vote for many of my colleagues, but I think it is a well-crafted bill, and I support the rule and the bill.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from California [Mr. CAMPBELL], a member of the Judiciary Committee.

Mr. CAMPBELL of California. Mr. Speaker, I rise in opposition to this rule as one who voted in favor of H.R. 4000 and proudly so. I am proud to have supported the civil rights bill in committee and intend to vote in favor of it when it comes to a vote here.

I also intend to vote for the compromise offered by my friend and esteemed colleague, the gentleman from New York [Mr. LAFALCE]. Therefore, I expect to be in something of a minority on my side of the aisle. But for that reason, perhaps Members might pay a little more attention to my views.

The reason why this rule is wrong is that this rule takes many different opinions of the Supreme Court and squeezes them into one single vote, yes or no. This bill is different from virtually every other bill we see. The reason is because it was not created by a single event, but by a series of Supreme Court opinions. They all just happened to occur in 1989, and for that reason they happened to be combined in a single bill.

What we should be voting on here are separate issues the American people may feel differently about. Let me put to my colleagues the different issues in this bill.

How should we use statistics in the proof of discrimination cases? It is a very, very complex issue, one that has been the subject of much debate.

Should we allow unlimited damages for a whole new category of cases?

What about the attorneys' fees? Should attorneys' fees always be taken care of first, or should we allow them to be an obstacle to the settlement of cases; and what about the right of somebody to challenge a decree once it has been entered?

I suggest these are each important and separate issues. I would like to vote yes on some, no on others, and express my conscience as best I can on each very, very difficult issue. But I am not permitted to do so. I am permitted one vote, up or down, with two amendments that were not presented in the Judiciary Committee as possible alternatives. This to me is why this rule should be defeated.

There is another reason why this rule should be defeated, and that is because of the unfairness it does to one of the most courageous men I know in the U.S. House of Representatives, the gentleman from New York [Mr. LaFALCE]. It takes courage to stand up to the leaders of your own party. It takes courage to put your career on the line and say I am doing this because it is right, because it is what I believe is good for the United States. JOHN LaFALCE does not deserve the treatment he has been given. JOHN LaFALCE deserves the honor to have his name attached to his amendment.

In conclusion, I wish to say that this debate has not, to my sadness, been characterized by a great degree of enlightenment. There has been overstatement on both sides. There has been overstatement by some who say vote against this bill, it is a quota bill. There are some who say if you do not vote exactly H.R. 4000 as it came out of the Judiciary Committee you are not for civil rights. Neither statement is true. The truth is somewhere in between for many of us, and we should allow this rule to be defeated so that the truth as each of us sees it can be manifest.

Mr. CONYERS. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL of California. I yield to the gentleman from Michigan.

Mr. CONYERS. Mr. Speaker, I thank the gentleman from California, a colleague who supported the vote for the civil rights bill in the Judiciary Committee.

I just wanted to point out that the name of the gentleman from New York [Mr. LaFALCE] has been mentioned several times during the debate on the rule. I was with him yesterday evening when he asked that his name be removed from the substitute. That is all I wanted, was to correct the impression that the gentleman from New

York [Mr. LaFALCE] is the author of the substitute.

Mr. LaFALCE. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL of California. I yield to my colleague, the gentleman from New York.

Mr. LaFALCE. Mr. Speaker, apparently my name has been and will be used quite often in the course of this debate, and I regret that deeply.

Let me try to simply stick to the facts. I attempted to work out a bipartisan compromise. It was my desire to offer a bipartisan compromise. It became clear that a rule would not be given which permitted that. It became clear that it would have to be a Republican substitute.

I did not want to be a party to a substitute that was known as a Republican substitute. I did not want to be a designee of the Republicans. I wished at all times to be nonpartisan. That still is my wish, to be nonpartisan.

Mr. CAMPBELL of California. Reclaiming my time. I conclude with this remark: It is a shame, and for this reason if for no other the rule should be defeated, that a Member of this body who has worked so hard to craft a bipartisan compromise in the interests of this Nation is cast in the position that he must assume the name of a party with which he is not affiliated to present his amendment. I would find that offensive if I was forced to do it on my side.

Mr. WASHINGTON. Mr. Speaker, will the gentleman yield?

Mr. CAMPBELL of California. I yield to the gentleman from Texas.

Mr. WASHINGTON. Mr. Speaker, I would ask the gentleman, do you remember a couple of weeks ago when the Democrats had to yield some time to you because nobody in your party would? Have you forgotten that?

Mr. CAMPBELL of California. I do not actually believe or see how that is pertinent particularly to the debate.

Mr. WASHINGTON. The gentleman suggested somehow some egregious harm was done to this man. Does the gentleman remember when we were talking about the flag bill and he could not get any time over there and came over here and got time?

Mr. CAMPBELL of California. No, I do not recall that happening. In fact, I am quite sure it did not happen. So I find it interesting. Perhaps the gentleman has mixed me up with another Member. And I do not believe the issue of yielding time is the same issue as letting a courageous Member represent his views on the floor.

Mr. WHEAT. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. DYMALLY].

□ 1600

Mr. DYMALLY. Mr. Speaker, it was not my intention to speak on the rule. I had hoped to make a few observa-

tions in general debate. But my friend from California, for whom I have such great respect, really disappointed me when he came here and asked for a vote against this rule. The substitute, which is going to be carried by Mr. MICHEL, embodies all of the amendments they would have wanted to offer on the floor. So it is not a closed rule in that sense. It was open for Members to include it in the substitute.

The other point is this: A bill in which one Democrat unilaterally decides to join with the Republicans is not a bipartisan bill. A bipartisan bill comes out of a collective thought of Democrats and Republicans. Only one Democrat identified himself in a bipartisan manner.

So one cannot call this unilateral action a bipartisan effort. It is a Republican substitute. It came from the White House and the Department of Justice.

The gentleman from New York was not carrying a bipartisan bill; he was carrying a Republican substitute.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. DYMALLY. Let me yield to my friend from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, let me briefly just say that there was a "Dear Colleague" letter circulated by about 15 good Democrats in support of the LaFalce substitute. But that is not my point.

My point is that as a second ranking member on the Committee on Rules I offered an amendment for Mr. CAMPBELL, for Mr. MILLER, for Mr. SENENBRENNER and an awful lot of other Members to make their amendments in order so they could be debated. These are people who are knowledgeable, people who are members of the originating committee. They were denied. That is what is unfair about the rule.

I respect the gentleman.

Mr. Speaker, I yield 1 minute to the gentleman from Wisconsin [Mr. SENENBRENNER].

Mr. SENENBRENNER. I thank the gentleman for yielding.

Mr. Speaker, the gentleman from California [Mr. DYMALLY] said all of the Republican amendments were folded into the Michel-LaFalce substitute. That is not true. My congressional coverage amendment has not been folded either into H.R. 4000 or into the Michel-LaFalce amendment.

That is why I am seeking a defeat of the previous question so that we can get a vote on subjecting ourselves to the same laws that we are imposing on the rest of society. The Committee on Rules turned me down flat on that.

The Michel-LaFalce substitute does not contain the appropriate enforcement mechanism for Members of Con-

gress that we are imposing upon other segments of society either through Michel-LaFalle or through H.R. 4000.

That is why I think it would be only fair to vote down the previous question in order for us to get a vote on whether to end this hypocrisy.

Mr. SOLOMON. If the gentleman would yield to me, I would point out also that I offered a separate motion in the committee, as my good friend, the gentleman from Missouri [Mr. WHEAT], also knows, to make in order the Sensenbrenner amendment, which would have brought Congress under this legislation. That was defeated on a party-line vote.

Mr. WHEAT. Mr. Speaker, might I inquire how much time is remaining on both sides of the aisle?

The SPEAKER pro tempore (Mr. SIKORSKI). The gentleman from Missouri [Mr. WHEAT] has 13 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 10 minutes remaining.

Mr. WHEAT. Mr. Speaker, I yield 6 minutes to the gentleman from Maryland [Mr. MFUME].

Mr. MFUME. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise to take the well for the purpose of entering into a colloquy with the gentleman from Missouri, who is representing the position of the Committee on Rules regarding this particular rule.

I would preface those remarks by indicating, I think, as was previously stated by the gentleman from Texas, that Mr. LAFALCE of New York has made it explicitly clear that he is, as he has always been, a free thinker, that no one motivates him to do what he does not want to do and that he is not and will not be the designee of this substitute amendment.

Now, I do not know how much we can underscore that, but that is the essence of what he said.

May I ask the gentleman from Missouri a couple of points just so that this Member might have some clarity?

There has been a great deal of discussion about this being a restrictive rule. I sat and listened to this debate.

As I understand restrictive, it is applicable in many instances. But would not it be the case that if the Committee on Rules did not accept the 300 rules that were being offered by 300 Members and chose perhaps only to accept 299, could not that rule be then termed also a restrictive rule?

Mr. WHEAT. If the gentleman will yield, the gentleman is correct. It would not be termed "could be called a restrictive rule," that in fact technically would be a restrictive rule. Any rule that is anything other than a completely open rule that allows all germane amendments is in fact a restrictive rule.

Mr. MFUME. So then a restrictive rule is not the exception to the rule, it is basically the norm.

Mr. WHEAT. It is not unusual in the House at all. There are scholars of this institution who suggest this body could not effectively and efficiently operate without the right to have restrictive rules.

One prime example would be to examine the operations of the other body for a clear example.

Mr. SOLOMON. Mr. Speaker, I have great respect for the gentleman in the well. Would he yield?

Mr. MFUME. I yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would point out the gentleman is making a finite point. The point is well taken. But there is one point that he has forgotten, and that is the motion to recommit with instructions. That has been by tradition the rule of this House since 1913. We are being denied that one. That is a main reason we are complaining.

I thank the gentleman for yielding.

Mr. MFUME. Mr. Speaker, if I could reclaim my time, let me pursue this a bit further with the distinguished gentleman from Missouri, if I might.

Is it not true that the Committee on Rules, recognizing there was a substantial amount of disagreement on the other side of the aisle to some of the provisions in this bill, taking that into consideration, did not the Committee on Rules then allow for those who had points of controversy or opposition to have the time and the ability and the wherewithal to craft their own substitute version and to include into that any tenet, any philosophy, any amendment, that they wanted?

Mr. WHEAT. If the gentleman will yield, recognizing the controversy surrounding this bill and around most bills, the Committee on Rules did in fact allow a minority substitute to be offered on this bill.

Of course, neither the Committee on Rules nor any member of the majority party may instruct the minority party what they may or may not include in their substitute.

Mr. MFUME. Let me just, if I might, ask one other question so that this Member is absolutely clear, particularly on the point of congressional coverage, because I think the gentleman raises a good point.

I am someone who believes that that ought to be the case with every particular bill. I am a bit befuddled by the fact that if the gentleman believes so strongly about it and could argue so passionately about it, that why those who sought to craft the substitute chose not to embody in the substitute the basic tenet of congressional coverage. I realize the gentleman from Missouri perhaps does not know that, but

I would suspect that most Members in this body do not know it.

Mr. WHEAT. If the gentleman will yield further, I cannot speak for the other side of the aisle as to why they chose not to include the gentleman's amendment in their substitute.

But I would point out to the gentleman that, in fact, congressional coverages are not, in fact, the exact amendment that the gentleman suggests. The congressional coverage is, in fact, included in the bill by the committee. The majority bill does include congressional coverage. If there is a difference as to what that coverage should be, then a perfect opportunity would have been to have that included in the substitute so that they would have it available for debate.

Mr. SENSENBRENNER. Mr. Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, perhaps the gentleman from Maryland can enlighten the House as to why the congressional coverage contained in the substitute made in order from the Committee on the Judiciary is significantly more restrictive than the bill that was reported out of the committee. The bill that was reported out of the committee applied to the other body, and it gave us a second vote on whether to allow our employees to sue us.

What we are voting on here in the guise of H.R. 4000 does not either.

Mr. MFUME. I think the gentleman raises an interesting point, but I would suggest that the point is better directed to the chairman of the committee who presided over the modification, if, in fact, there was a modification.

Mr. CLAY. Mr. Speaker, will the gentleman yield?

Mr. MFUME. I yield to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I would like to pose a question to the gentleman from the Committee on the Judiciary. Is the gentleman implying that if the Members of Congress were covered, he would support the Civil Rights Restoration Act?

Mr. SENSENBRENNER. I would be much more enthusiastic to vote for it. Mr. CLAY. Would you support it?

Mr. SENSENBRENNER. Certainly I would be more—

Mr. CLAY. The gentleman is saying that the reason he is opposed to it is because the Congress is not included.

Mr. SENSENBRENNER. Well, I think if you fix up the quotas and the remedies section, you would have my vote very enthusiastically.

Mr. CLAY. Even if the Members of Congress were not covered?

Mr. SENSENBRENNER. With the inclusion of the Members of Congress under the same rules that we apply to—

Mr. MFUME. Reclaiming my time at this point, just to close on my own perception regarding this: With all due respect to the gentleman on the other side of the aisle who are in opposition to this and in opposition to this particular rule, let me suggest that those 100 organizations from across this Nation who have labored day in and day out in a bipartisan fashion regardless of region or philosophy to craft this measure and to bring it before this body, recognize that if an open rule were to take place, that would really open Pandora's box and people who would want to water this down, that that would turn this civil rights bill into a zoo and into a dog-and-pony show. It would be a shame.

That is why I would urge Members of this body to come to the well, speak in favor of this particular rule and then come to the floor and vote in favor of it.

Mr. SOLOMON. Mr. Speaker, I yield 5 minutes to the gentleman from Texas [Mr. BARTLETT], a member of the Committee on Education and Labor.

□ 1610

Mr. BARTLETT. Mr. Speaker, I would like to begin by yielding to the gentleman from Missouri [Mr. CLAY] if he would like to answer a question I have. We serve on the Committee on Education and Labor. I wonder if congressional coverage with disparate impact, during trials, punitive and compensatory damages were included in the civil rights bill, would the gentleman from Missouri still support it? And if so, why would he not vote for congressional coverage in the Committee on Education and Labor when I offered it?

Mr. CLAY. Mr. Speaker, I think we have voted for congressional coverage on every bill the gentleman wanted. We just did not support the gentleman's version, but we included the congressional Members.

Mr. BARTLETT. I would suggest, Mr. Speaker, that the facts are entirely different. Congressional coverage is not included for jury trials. It is not included for quotas. It is not included for disparate impact. It is not included for punitive damages or compensatory damages for Congress, but it is included for the rest of the world. I wonder if those were included for Congress, would the gentleman from Missouri still support the civil rights bill?

Mr. CLAY. It is a question of enforcement, a question of who enforces, and separation of power. If we establish an enforcement agency for this body, then in all possibility I would support. I do not want the executive branch enforcing any rules in the

House of Representatives. We have seen the abuse over and over again, even when they should not be.

Mr. BARTLETT. If full congressional coverage including the same enforcement for Congress as the rest of society were included in this bill, would the gentleman from Missouri support the bill?

Mr. CLAY. With the proper enforcement agency.

Mr. BARTLETT. With the same enforcement agency?

Mr. CLAY. Does the gentleman believe in separation of powers?

Mr. BARTLETT. I strongly believe in separation of powers, but do not use this to allow to discriminate in employment. I repeat my question: If full congressional coverage as proposed by the gentleman from Wisconsin [Mr. SENSENBRENNER] were included in this bill, would the gentleman still support the bill?

Mr. CLAY. The answer to that question is that is not the only possible way of eliminating the discrimination in this House.

Mr. BARTLETT. I note that if the gentleman from Missouri would reach that conclusion later in the debate we might want to share with Members if he would support the bill with full congressional coverage.

Mr. CLAY. I will ask the gentleman the same question I asked the gentleman from Wisconsin [Mr. SENSENBRENNER]: If congressional employees were covered, would the gentleman support the bill?

Mr. BARTLETT. I will give the same answer: It would make me feel better because then Members of Congress would understand what disparate impact, jury trials, punitive damages, and compensatory damages would bring to the rest of the society.

Mr. Speaker, I yield to the gentleman from Texas [Mr. WASHINGTON], who did support congressional coverage in the committee, and I thank the gentleman for his support.

Mr. WASHINGTON. Mr. Speaker, I was going to suggest to the gentleman that I voted for that amendment in the Committee on Education and Labor, and voted against it in the Committee on the Judiciary. Unequivocally, I would vote for the bill with congressional coverage, no ifs, ands, or buts, but the problem I have is that the gentleman from Wisconsin [Mr. SENSENBRENNER] will not be forthcoming and say, "Yes, I will vote with congressional coverage."

Mr. BARTLETT. Mr. Speaker, reclaiming my time, I thank the gentleman from Texas for his candor and his openness and his continued support for congressional coverage.

There are a couple of brief comments I would like to make. First, we just passed the housing bill, and the housing bill was brought to this floor 700 pages long, with the first open

rule of a major authorization this session. Under that completely open rule, allowing a full and complete debate on all the issues, the House acted in an orderly manner, one day plus a morning of debate, all rules were made in order, the House in an orderly manner considered all the subjects, considered the areas, accepted some amendments, rejected some other amendments, and it was done most orderly. We can do the same thing on the civil rights bill since, it seems to me, a civil rights bill such as this, designed to last for 100 years ought to be completely and fully debated and not debated under a closed rule.

Second, I have to say that the Members on the other side of the aisle, the Democrats in this body, should be absolutely offended by this rule. The fact is that the gentleman from Illinois [Mr. MICHEL] cannot ask for a substitute. He did not prepare a substitute. He did not offer a substitute. He did not ask to offer a substitute. A Democrat asked for a substitute. He prepared it. He has been working on it for 6 months. He is the chairman of the committee. The gentleman from New York [Mr. LaFALCE] has asked for a substitute, but it is Mr. LaFALCE who was denied the opportunity to offer a substitute.

Somehow there is this figleaf, there is this imagination, somehow there is this trick in which perhaps the Committee on Rules thinks the American public will be fooled if we call the LaFalce substitute the Michel substitute or the Washington substitute or the Natcher substitute or the Solomon substitute, if it is still the LaFalce substitute. Mr. LaFalce prepared it, it is a far better approach to civil rights than anything else before Members. I urge a no vote on the rule.

Mr. WHEAT. Mr. Speaker, I yield 4 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I rise in strong support of this legislation and I think it's important to make note of why it is necessary.

Our Declaration of Independence clearly sets forth our objective here today, that all men, and by that we mean all people, are created equal. For the past 100 years, we had been making steady progress toward eliminating discriminatory practices.

Until last year that is when our progress was threatened by a Supreme Court out of touch with the mainstream of American thinking on this issue. What we want to accomplish today is to restore the degree of civil rights protection provided by the 1866 and 1964 acts. We are reestablishing standards which were in place in this country from 1971 until last year. Employers were not forced to use quotas during that time and the language conforms exactly to the wording of

the 1989 Supreme Court decision on Griggs.

Concerns that this bill will require quotas are completely off base. Some of us remember the horrors which were supposed to follow the Grove City legislation. As I recall, churches were going to be forced to hire a practicing active gay drug user with aids to work in a day care center. Well, it appears that those concerns were a bit far fetched and I think many that we're hearing today are equally off the mark.

In our form of government, the majority may rule, but the rights of the minority are to be protected.

I am confident that the detractors of H.R. 4000 will see that legislation to reestablish our statutes against discrimination in employment is a necessary and just remedy to problems which do exist and which must be addressed.

I think what we need is a healthy dose of "can do" instead of a lot of specious arguments about why we can't act to fulfill this country's destiny. With that kind of thinking, many of us would not be here in this Chamber today. Much of what I'm hearing reminds me very much of the arguments used against giving women the right to vote. The irony, of course, is that women are now the majority and we have political consultants scrambling to capture the women's vote.

If history, and I might add the Bible, teaches us anything, it teaches us that we will reap what we sow. Throughout the world, we are seeing people react to oppression. We are seeing those who have been out of power take to the streets and demand they be accorded what we recognize as their unalienable rights.

Isn't it easier, and in line with our religious values, to be fair at the outset—to treat others the way we would be treated. To evaluate them on their abilities not on their race or sex or religion? Much of the world's troubles could have been avoided if each leader had only done so.

The people this legislation ensures justice for will be key players in America's future. Between now and the next century, 91 percent of the net growth in America's work force will be minorities and women. If America is to hold onto a competitive place in the world economy, we need to be encouraging them to reach their full potential—not reversing 100 years of progress.

Let me repeat again for some of those who have received incomplete information on this bill. We are reestablishing standards which have been in place for many years. Employers will still be able to set requirements for employees as long as those standards are required by business necessity. And we are making it very clear that there is no quota requirement.

Discrimination has no place in American society. This bill is a just remedy to problems which must be addressed.

□ 1620

Mr. SOLOMON. Mr. Speaker, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Speaker, most of us are familiar with George Orwell's book, "1984," but not many are as familiar with the tragedy of "Brave New World," penned by Aldous Huxley in 1932. Huxley's sage described a totalitarian state where the word "mother" is an obscenity and a pornographic impropriety. One young man named "Savage" struggles against the state only to lose. On his death bed, in one last emotional appeal, Savage cries out:

I don't want comfort. I want God, I want poetry, I want real danger, I want freedom, I want goodness, I want sin. I want the right to be unhappy.

In that one last line, Huxley's desperate protagonist sums up the struggle between those who want to repeal the fall of man and those who recognize its reality. "I want the right to be unhappy." Freedom is a stake, the freedom to work at your life as you see fit.

The world our liberal friends on the Democratic side seek to bring to us with this bill was described by Frederick Lynch of California State University at Los Angeles. Describing his attempts to find a university teaching position, Lynch, a white male observed:

Once, for example, I was informed by a plainly discomfited chairman that I had lost a position at Sweet Briar College strictly because I was male. On another occasion the department chairman at Ponom College told me that the only sociologist he could hire was a black. On yet a third occasion, Occidental College abruptly cancelled an interview, later notifying me—and several other candidates—that it had hired a female "native of Jamaica."

This nonsense about quotas has to stop because when we begin to hire and promote people on the basis of their race, we are going to bring to our society feelings of distress, feelings of unhappiness, and these emotions will accumulate and ultimately explode and destroy us.

I will say to my colleagues on the left that it is amazing what is going on in America. It was my privilege this week to listen to three persons from the Soviet Union, persons from the State of Russia. They were describing what is happening to child care in that country. Do you know what they are doing? Previously they operated the way your child care did, in that the state would provide the money and run the child care business. That is the way they have done it, and they were offended by that because they

were teaching children Leninism in the child care system.

Do you know what they are doing now? They are now changing the ground rules whereby the money will be given to the parents and the parents decide where they want to place their children to be raised, because then they have an opportunity for religious instruction.

This nonsense that there is a benevolent state out there that is going to decide we are all going to be equal at the finish line is a tragedy, and the sooner we divest ourselves of this nonsense, the better off we are all going to be.

This rule should be disavowed. I support the LaFalce amendment. This closed rule is an abomination, a nuisance, and it should be defeated.

In a recent article, columnist Ben Wattenberg noted the ascending importance of the quota issue in American politics. He wrote:

The litmus issue of our judicial moment is quotas . . . If there is one issue that threatens the well-being of our nation, it is race, and that issue is deeply exacerbated by quotas.

Mr. Wattenberg is correct. Because quotas condone the extension of benefits or privileges, or the withholding of them, solely on the basis of race, sex, religion, color or national origin, most Americans find them offensive. Americans, in fact, overwhelmingly support even-handed policies that treat all individuals equally.

Fortunately, President Bush agrees with this assessment. In a Rose Garden ceremony on May 17, 1990, the President outlined the principles which should guide any revision of employment discrimination law:

Civil rights legislation must operate to obliterate consideration of factors such as race, color, religion, sex, or national origin from employment decisions . . . The focus of employers in this country must be on providing equal opportunity for all workers, not on developing strategies to avoid litigation.

Unfortunately, H.R. 4000 sends the very message to American employers that the President wants to avoid—if you want to avoid expensive and protracted litigation, if you want to avoid the uncertainty of jury trials and multi-million dollar punitive damage awards, and if you want to avoid the public stigma that accompanies these sanctions, hire by the numbers. Quotas are the employer's only rationale response to the hostile environment that would be created under H.R. 4000. Quotas, it is clear, are the litmus test of H.R. 4000.

But H.R. 4000 contains a number of fatal flaws.

In sections 3 and 4, the bill would require the defendant-employer to shoulder the burden of proving his innocence in suits alleging disparate impact; in section 5, it would abolish the traditional requirement in Western jurisprudence that a plaintiff establish that the defendant's actions caused the harm in question; in section 6, it would extinguish another traditional precept of the law, that every individual be entitled to seek redress in the courts; in section 7, it would extend the cur-

rent statute of limitations from 6 months to 2 years; in section 8, it would expand the available remedies under title VII to include compensatory and punitive damages, thus guaranteeing that there will be a long line of attorneys waiting to file employment discrimination claims; and, in section 9, it would give the plaintiff's attorney veto authority over proposed settlements if the proposal does not satisfy his request for fees and other remuneration.

The proponents of this legislation argue that employers do not now resort to quotas to meet employment goals. Unfortunately, everyone has heard anecdotal accounts of how employers invidiously implement quota systems. Perhaps the most recent, and illustrative, account is by Frederick R. Lynch of California State University at Los Angeles. Describing his attempts to find a university teaching position in a recent article in *Commentary* magazine, Lynch, a white male, observed:

Once, for example, I was informed by a plainly discomfited chairman that I had lost a position at Sweet Briar College strictly because I was male. On another occasion the department chairman at Pomona College told me that the only sociologist he could hire was a black. On yet a third occasion, Occidental College abruptly canceled an interview, later notifying me—and several other candidates—that it had hired a female "native of Jamaica."

Reverse discrimination is a very real problem in our society, even without H.R. 4000. H.R. 4000 will only increase the actual incidents of discrimination described by Mr. Lynch.

Finally, while the legislation would establish tough new standards for private businesses with 15 or more employees, it exempts the Congress from coverage by depriving its 40,000 employees of a meaningful third-party review of congressional employment practices. While there may be legitimate separation of powers concerns in subjecting the Congress to the regulatory whims of the executive branch, congressional employees alleging employment discrimination should, at a minimum, be entitled to appeal decisions rendered by the Office of Fair Employment Practices to the appropriate Federal district court.

Taken together, these provisions represent a radical departure from the traditional purpose of title VII, which seeks to encourage conciliation and negotiation between employer and employee. The above provisions, in my opinion, would multiply the number of frivolous title VII lawsuits and transform our civil rights laws into an elaborate lottery with no real winners.

THE LAFALCE-GOODLING SUBSTITUTE

The LaFalce-Goodling substitute is worthy of our support. Why?

It requires the plaintiff to shoulder a meaningful burden of proof, one that will discourage frivolous lawsuits. Before the burden would shift to an employer, the plaintiff would first have to: First, present evidence—in addition to mere statistical evidence—of a disparate impact; second, link one or more employment practices to that disparate impact; and third, demonstrate that such practice causes or, in the case of two or more practices, that each practice contributes to the disparate impact.

At this point the burden would shift to the employer to show that the practice or practices were required by business necessity. The substitute defines what is required by business necessity to mean:

... that the challenged practice has a manifest relationship to the employment in question or that the respondent's legitimate employment goals are significantly served by, even if they do not require, the challenged practice or group of practices.

This language comes directly from the decisions in *Griggs* and *Beazer* and also represents an improvement over H.R. 4000. The key point is that the plaintiff must meet a burden of persuasion that is much more in line with the burden traditionally placed on plaintiffs in Western jurisprudence. To satisfy the burden in *LaFalce*, the plaintiff would have to introduce more than mere statistical evidence of a racial or other imbalance in the work force, and they would have to make this showing with respect to each of the alleged illegitimate employment practices. The strengthened definition of business necessity, moreover, eliminates the incentive in H.R. 4000 for plaintiffs—and their attorneys—to bring frivolous lawsuits.

REMEDIES

The substitute would eliminate jury trials and punitive and compensatory damages. Instead, plaintiffs would be allowed to recover up to \$100,000 in equitable relief for cases of intentional discrimination under title VII. In order to award equitable relief, the court would have to conclude that the additional remedy is necessary to deter the employer from engaging in further violations of title VII.

MIXED MOTIVE CASES

The substitute, upon close examination, makes a marginal improvement over H.R. 4000, but it still has the effect of overturning the *Price Waterhouse* decision. It states that a plaintiff may establish an unlawful employment practice whenever an illegitimate consideration is a major contributing factor for any employment practice. Although the substitute enhances the standard in H.R. 4000, it still allows the plaintiff to collect equitable relief even where the employer shows that the same decision would have been reached anyway. This is the weakest part of the substitute.

CHALLENGES TO CONSENT DECREES

Here the substitute is a substantial improvement over H.R. 4000. An individual would be prohibited from challenging a consent decree only if, at the time the settlement was proposed, he first, was employed or an applicant for employment at the entity covered by the decree, second, had actual notice that the settlement was likely to affect his interests, and third, had a reasonable opportunity to challenge the proposed settlement.

CONGRESSIONAL COVERAGE

The substitute contains a meaningless provision applying title VII to the Congress; that is, it leaves it to each House to determine the appropriate means of enforcement. Again, this is a weak provision.

RETROACTIVITY

The substitute contains an excellent provision that makes the bill applicable only to claims arising after the date of enactment.

CONCLUSION

Aside from the language in mixed motive cases—*Price Waterhouse*—and the lack of any meaningful congressional coverage, this is a real and substantial improvement over H.R. 4000. It also has the support of the business community, such as the chamber of commerce, National Federation of Independent Business, the National Retail Federation, and so on. The civil rights groups, it is important to note, oppose the substitute with a Bork-like vengeance.

I urge my colleagues to support the substitute.

Mr. WHEAT. Mr. Speaker, for the purposes of debate, I yield 30 seconds to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I come to this rule from the other perspective. I think the Rules Committee has been overly generous.

When it comes to the cap, when it comes to the quota issue, it is the Rules Committee that has permitted an alternative amendment. I do not understand the concern over the rule.

Does this bill result in quotas? The answer is no. There is an amendment that is going to be offered that wipes out any semblance of it.

Second, is it retroactive? The answer is no. The rules provide for that. What about punitive damages? There is cap. The Rules Committee has provided an amendment to deal with that.

Mr. Speaker, I do not understand the concern over the rule. I think the majority and the minority have been overly generous in constructing a rule that is fair.

The SPEAKER pro tempore (Mr. SIKORSKI). The gentleman from Missouri [Mr. WHEAT] has 2 minutes remaining, and the gentleman from New York [Mr. SOLOMON] has 2 minutes remaining.

Mr. SOLOMON. Mr. Speaker, I yield the balance of my time to the gentleman from Wisconsin [Mr. SENSENBRENNER], a member of the Committee on the Judiciary.

Mr. SENSENBRENNER. Mr. Speaker, we have heard, and we will hear, many very good speeches on the evils of discrimination. Let their be no question about it, discrimination is evil. It must be eradicated. There is no difference between Republicans and Democrats, liberals and conservatives, on that subject. The debate over this bill is how best to do it and how to do it in a manner that is fair to those who do not discriminate. We are going to be hearing much more about that, too.

However, I think it is quite clear that on the issue of congressional coverage, we cannot hide behind the issue of separation of powers to exempt ourselves from the same law and the same enforcement mechanism that we are imposing upon other segments of the society. If the issue of separation of powers was that critical, why, then,

does this bill proceed to have the judicial branch sit in judgment over the actions of the executive branch? That is just as much a violation of the separation of powers as having the executive branch sit in judgment over the actions of the legislative branch. That is a double standard.

We have to eliminate the double standards, and on the vote that is coming, when I ask Members to vote down the previous question, that will be a vote to eliminate that double standard. I ask Members to vote no on the previous question. Let us have a vote on bringing the Congress under the same coverage and enforcement scheme that everybody else in society is being brought under. Let us not go out and see our constituents during the months of August with a vote for congressional hypocrisy under our belts.

Mr. Speaker, I ask the Members to vote on the previous question. If the previous question is not defeated, then I ask the Members to defeat the rule.

Mr. WHEAT. Mr. Speaker, I yield myself my remaining 2 minutes.

Mr. Speaker, in the time I have remaining I want to apologize to the other side of the aisle. I suggested that congressional coverage was not included in their bill, and it is my understanding now that it is. In fact, congressional coverage was included in both the majority and the minority bills. It is only the coverage offered by the gentleman from Wisconsin that is not included, and it had every opportunity to be included in the minority bill.

I also want to point out very briefly what I have learned over the last few days. We have heard a lot about quotas, and if there is anything I have learned, it is that quotas is no way to determine the fairness of a complicated, sophisticated issue. Then the minority comes in and says that since we have not met our quota of open rules, this is not a fair rule.

We have a majority bill, and we have a majority substitute. We have a majority amendment to this bill on quotas, and we have a minority substitute that was suggested by the gentleman from New York [Mr. FISH]. We have every opportunity for fair and open debate on a major bill that we need to go to the floor on this week, Mr. Speaker.

Mr. Speaker, I yield to the chairman of the committee, the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Speaker, let me just briefly say that the congressional coverage is included in the bill, and if anyone says it is not, I think that is a poor excuse not to vote for the rule. The congressional coverage that we have included in H.R. 4000 is precisely

the congressional coverage that was included in the disability bill that the President himself signed just a week ago. Now it would seem to me that one is inconsistent with the President and in disagreement with the President if one would vote against the rule on this weak excuse and thus prevent not only this congressional coverage to be included in the act but also preclude a discussion on the adoption of a damaging amendment, a strengthening amendment on the subject of quotas.

So it seems to me we have done everything reasonable to give everybody an idea to be included in the proposal, even some bad ideas, in my opinion, but at least they have been included. During the last 6 months every Member has had an opportunity to present their proposals before this House.

The SPEAKER pro tempore. All time has expired.

Mr. DORNAN of California. Mr. Speaker, I rise today in strong opposition to the misnamed Civil Rights Act of 1990. It should really be called the Trial Lawyers Act. This bill does nothing to advance civil rights. In fact, it is diametrically opposed to the original intent of the civil rights movement, in which I am proud to have participated as a young Air Force captain in my off duty hours.

Those of us who marched with Dr. Martin Luther King in Washington in 1963, were not marching for hiring quotas or other racial preferences. We were marching for a colorblind society in which all Americans would be judged by "the content of their character," in Dr. King's words, not the color of their skin. Instead of building on that dream, we are being asked today to embrace a bill that reinforces one of America's oldest and ugliest racial myths, that whites are superior to blacks. In that respect, it can truly be said that passing this legislation will be turning the clock back. How ironic.

In the popular 1970's novel "Love Story," Eric Seagal wrote that "Love is never having to say you're sorry." I do not know if that is true for love, Mr. Speaker, but it is sure true for being a liberal. I am convinced that an integral part of being a liberal is never saying you're sorry, never admitting that any Great Society program failed. That is why I have spent so many years here looking for an honest liberal. But alas, I have come up emptyhanded.

Any honest liberal would have to admit that affirmative action has been a dismal failure. Now this in no way impugns the motives of those who pushed affirmative action. They were prepared to sacrifice an important principle, that of equal justice, to produce a social good, a growing middle-class black establishment. They felt that such a tradeoff was justified and well worth the price. They were wrong.

Instead of advancing the cause of blacks, affirmative action has hurt the cause of blacks. Why? Because racial preference im-

plies inferiority. And this implied inferiority actually aggravates the white racism affirmative action was designed to eradicate. That is why there has been an increase in racial incidents, for instance on college campuses, around the country.

Affirmative action also produces self-doubt in the minds of black people. Let me quote Charles Krauthammer on this.

This self doubt is rooted in what black writers Jeff Howard and Ray Hammond call "rumors of inferiority." Affirmative action advertises and amplifies the rumor. In trying to cure the effects of racism, it perpetuates racist myths by making any successful black carry the stamp "Preferred, Thus Presumed Inferior." No one asks but everyone thinks: Did that black professor/pilot/executive make it on merit or on race?

The bill would also create divisiveness because it is rooted in the paradoxical notion that the way to lessen racial tensions is to encourage as many lawsuits as possible. Does anyone here believe this? I hope not. Litigation by its nature is bitter and divisive. Litigation exaggerates differences and forces people to take extreme positions. The high pressure atmosphere of the courtroom further contributes to this extremism.

The major fault with this bill, Mr. Speaker, is that, despite protestations to the contrary, it is a quota bill. There is no denying this. The bill's mechanics would drive the system toward that end, whether or not that is the goal of its authors. Further, the bill creates a presumption of an employers guilt. An employer who is sued under the provisions of this bill will be guilty of discrimination unless he can explain the existence of any "disparate impact" in hiring by race and sex. He must prove that employment practices must have a "substantial and demonstrable relationship to effective job performance," whatever that means.

We all know what the result will be, Mr. Chairman. Businesses fearing lawsuits will act to avoid them by turning to a quota system. And a quota system, like any affirmative action scheme, will chip away at the good things the civil rights movement accomplished, as I mentioned earlier.

It is also embarrassing, Mr. Speaker, that the Congress has seen fit to exempt itself from the bill's coverage. My liberal colleagues are constantly reminding us that "no one is above the law." Yet Congress consistently puts itself above the law by exempting itself from the law. The American people, rightly enough, don't understand this regal attitude with which we conduct our affairs. I don't understand it either. And this exemption alone is enough to oppose this bill.

The Congress, Mr. Speaker, has given up its responsibility to craft clear and decisive laws. Instead, we write vague and foggy legislation and leave it up to the courts to decide what we mean. This cowardly approach to lawmaking is an abuse of the trust of the American people.

In closing Mr. Speaker, let me quote George Will who writes,

... this year's bill mocks the core tenet of what once was the civil rights movement. That tenet is: rights inhere in individuals

and do not derive from membership in government-favored minority groups.

That says it all, Mr. Speaker.

Now a "no" vote on the bill is bound to be politically unpopular because the civil rights industry, it is no longer a movement but an industry, will demagog the issue. But I hope that my colleagues are made of sterner stuff and will stick to the core tenet of the old civil rights movement that I was proudly a part of and which was expressed so clearly by George Will.

Let us face it, the problems of the black community will not be helped, and in fact will be hurt, by enacting this bill. Further, it is time to decide whether we are interested in a colorblind society, or a racial spoils system. I therefore urge a "no" vote on Kennedy-Hawkins and a "yes" vote on the LaFalce-Republican substitute. And therefore I also urge a "no" vote on this restrictive rule.

Mr. WHEAT. Mr. Speaker, having no further requests for time, I urge my colleagues to support this vitally important rule so that we may proceed to debate and discussion of the 1990 Civil Rights Act.

Mr. Speaker, I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. Sikorski) The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 247, nays 171, answered "present" 2, not voting 12, as follows:

(Roll No. 304)

YEAS—247

Ackerman	Cardin	Edwards (CA)
Alexander	Carper	Engel
Anderson	Carr	English
Andrews	Chapman	Erdreich
Annunzio	Clarke	Espy
Anthony	Clay	Evans
Applegate	Clement	Fascell
Aspin	Coleman (TX)	Fazio
Atkins	Collins	Feighan
AuCoin	Condit	Flake
Barnard	Conyers	Flippo
Bates	Cooper	Foglietta
Beilenson	Costello	Frank
Bennett	Coyne	Frost
Berman	Crockett	Gaydos
Bevill	Darden	Gejdenson
Bilbray	de la Garza	Geren
Boggs	DeFazio	Gibbons
Bonior	Dellums	Glickman
Borski	Derrick	Gonzalez
Bosco	Dicks	Gordon
Boucher	Dingell	Gray
Boxer	Dixon	Guarini
Brennan	Donnelly	Hamilton
Brooks	Dorgan (ND)	Harris
Browder	Downey	Hatcher
Brown (CA)	Durbin	Hawkins
Bruce	Dwyer	Hayes (IL)
Bryant	Dymally	Hayes (LA)
Bustamante	Dyson	Hefner
Byron	Early	Hertel
Campbell (CO)	Eckart	Hoagland

Hochbrueckner	Mollohan	Schumer
Hoyer	Montgomery	Sharp
Hubbard	Moody	Sikorski
Huckaby	Morella	Siskisky
Hughes	Morrison (CT)	Skaggs
Hutto	Mrazek	Skelton
Jacobs	Murphy	Slattery
Jenkins	Murtha	Slaughter (NY)
Johnson (SD)	Nagle	Smith (FL)
Johnston	Natcher	Smith (IA)
Jones (GA)	Neal (MA)	Solaz
Jones (NC)	Neal (NC)	Spratt
Jontz	Nowak	Staggers
Kanjorski	Oakar	Stallings
Kaptur	Oberstar	Stark
Kastenmeier	Obey	Stokes
Kennedy	Olin	Studds
Kennelly	Ortiz	Swift
Kildee	Owens (NY)	Synar
Kleczka	Owens (UT)	Tallon
Kolter	Pallone	Tanner
Kostmayer	Panetta	Tauzin
Lancaster	Parker	Taylor
Lantos	Patterson	Thomas (GA)
Laughlin	Payne (NJ)	Torres
Leach (IA)	Payne (VA)	Torricelli
Lehman (CA)	Pease	Towns
Lehman (FL)	Pelosi	Traficant
Levin (MI)	Penny	Traxler
Levine (CA)	Perkins	Udall
Lewis (GA)	Pickett	Unsoeld
Lipinski	Pickle	Valentine
Lloyd	Poshard	Vento
Long	Price	Visclosky
Lowe (NY)	Rahall	Volkmer
Manton	Rangel	Walgren
Markey	Ray	Washington
Martinez	Richardson	Watkins
Matsui	Roe	Waxman
Mavroules	Rose	Weiss
Mazzoli	Rostenkowski	Wheat
McCloskey	Rowland (GA)	Whitten
McCurdy	Roybal	Williams
McDermott	Russo	Wilson
McHugh	Sabo	Wise
McMillen (MD)	Sangmeister	Wolpe
McNulty	Sarpalius	Wyden
Mfume	Savage	Yates
Miller (CA)	Sawyer	Yatron
Mineta	Scheuer	
Moakley	Schroeder	

NAYS—171

Archer	Fish	Lukens, Donald
Armey	Frenzel	Machtley
Baker	Gallegly	Madigan
Ballenger	Gallo	Marlenee
Bartlett	Gekas	Martin (IL)
Barton	Gillmor	Martin (NY)
Bateman	Gilman	McCandless
Bentley	Gingrich	McCollum
Bereuter	Goodling	McCrery
Bliley	Goss	McDade
Boehrlert	Gradison	McEwen
Broomfield	Grandy	McGrath
Brown (CO)	Grant	McMillan (NC)
Buechner	Green	Meyers
Bunning	Gunderson	Michel
Burton	Hammerschmidt	Miller (OH)
Callahan	Hancock	Miller (WA)
Campbell (CA)	Hansen	Molinaro
Chandler	Harstert	Moorhead
Clinger	Hefley	Morrison (WA)
Coble	Henry	Myers
Coleman (MO)	Herger	Nielson
Combest	Hiler	Oxley
Conte	Holloway	Packard
Coughlin	Hopkins	Parris
Courter	Horton	Pashayan
Cox	Houghton	Paxon
Craig	Hyde	Petri
Crane	Inhofe	Porter
Dannemeyer	Ireland	Pursell
Davis	James	Quillen
DeLay	Johnson (CT)	Ravenel
DeWine	Kasich	Regula
Dickinson	Kolbe	Rhodes
Dornan (CA)	Kyl	Ridge
Douglas	Lagomarsino	Rinaldo
Dreier	Lent	Ritter
Duncan	Lewis (CA)	Roberts
Edwards (OK)	Lewis (FL)	Rogers
Emerson	Lightfoot	Rohrabacher
Fawell	Livingston	Ros-Lehtinen
Fields	Lowery (CA)	Roth

Roukema	Smith (NE)	Sundquist
Rowland (CT)	Smith (NJ)	Tauke
Saiki	Smith (TX)	Thomas (CA)
Saxton	Smith (VT)	Thomas (WY)
Schaefer	Smith, Denny	Upton
Schiff	(OR)	Vander Jagt
Schneider	Smith, Robert	Vucanovich
Schuetz	(NH)	Walker
Schulze	Smith, Robert	Walsh
Sensenbrenner	(OR)	Weber
Shaw	Snowe	Weldon
Shays	Solomon	Whittaker
Shumway	Spence	Wolf
Shuster	Stangeland	Wyllie
Skeen	Stearns	Young (AK)
Slaughter (VA)	Stump	Young (FL)

ANSWERED "PRESENT"—2

LaFalce	Stenholm
---------	----------

NOT VOTING—12

Bilirakis	Hall (OH)	Lukens, Thomas
Ford (MI)	Hall (TX)	Nelson
Ford (TN)	Hunter	Robinson
Gephardt	Leath (TX)	Serrano

□ 1648

Ms. SNOWE, Mrs. SAIKI, and Mr. CALLAHAN changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 246, nays 175, answered "present" 1, not voting 10, as follows:

(Roll No. 305)

YEAS—246

Ackerman	Collins	Gejdenson
Alexander	Condit	Gephardt
Anderson	Conyers	Geren
Andrews	Cooper	Gibbons
Annunzio	Costello	Glickman
Anthony	Coyne	Gonzalez
Applegate	Crockett	Gordon
Aspin	Darden	Gray
Atkins	de la Garza	Guarini
AuCoin	DeFazio	Hamilton
Barnard	Dellums	Harris
Bates	Derrick	Hatcher
Beilenson	Dicks	Hawkins
Bennett	Dingell	Hayes (IL)
Berman	Dixon	Hayes (LA)
Bevill	Donnelly	Hefner
Bilbray	Dorgan (ND)	Hertel
Boggs	Downey	Hoagland
Bonior	Durbin	Hochbrueckner
Borski	Dwyer	Hoyer
Bosco	Dymally	Hubbard
Boucher	Dyson	Huckaby
Boxer	Early	Hughes
Brennan	Eckart	Hutto
Brooks	Edwards (CA)	Jacobs
Browder	Engel	Jenkins
Brown (CA)	English	Johnson (CT)
Bruce	Erdreich	Johnson (SD)
Bryant	Espy	Johnston
Bustamante	Evans	Jones (GA)
Byron	Fascell	Jones (NC)
Campbell (CO)	Fazio	Jontz
Cardin	Feighan	Kanjorski
Carr	Flake	Kaptur
Chapman	Flippo	Kastenmeier
Clarke	Foglietta	Kennedy
Clay	Frank	Kennelly
Clement	Frost	Kildee
Coleman (TX)	Gaydos	Kleczka

Kolter	Oakar	Skelton
Kostmayer	Oberstar	Slattery
Lancaster	Obey	Slaughter (NY)
Lantos	Olin	Smith (FL)
Laughlin	Ortiz	Smith (IA)
Lehman (CA)	Owens (NY)	Solarz
Lehman (FL)	Owens (UT)	Spratt
Levin (MI)	Pallone	Staggers
Levine (CA)	Panetta	Stark
Lewis (GA)	Parker	Stokes
Lipinski	Patterson	Studds
Lloyd	Payne (NJ)	Swift
Long	Payne (VA)	Synar
Lowey (NY)	Pease	Tallon
Manton	Pelosi	Tanner
Markey	Perkins	Tauzin
Martinez	Pickett	Taylor
Matsui	Pickle	Thomas (GA)
Mavroules	Poshard	Torres
Mazzoli	Price	Torricelli
McCloskey	Rahall	Towns
McCurdy	Rangel	Traficant
McDermott	Richardson	Traxler
McHugh	Roe	Udall
McMillen (MD)	Rose	Unsoeld
McNulty	Rostenkowski	Valentine
Mfume	Rowland (GA)	Vento
Miller (CA)	Roybal	Visclosky
Mineta	Russo	Volkmer
Moakley	Sabo	Walgren
Mollohan	Sangmeister	Washington
Montgomery	Sarpalius	Watkins
Moody	Savage	Waxman
Morrell	Sawyer	Weiss
Morrison (CT)	Scheuer	Wheat
Mrazek	Schroeder	Whitten
Murphy	Schumer	Williams
Murtha	Serrano	Wilson
Nagle	Sharp	Wise
Natcher	Shays	Wolpe
Neal (MA)	Sikorski	Wyden
Neal (NC)	Siskys	Yates
Nowak	Skaggs	Yatron

Smith, Robert	Stenholm	Walsh
(NH)	Stump	Weber
Smith, Robert	Sundquist	Weldon
(OR)	Tauke	Whittaker
Snowe	Thomas (CA)	Wolf
Solomon	Thomas (WY)	Wyllie
Spence	Upton	Young (AK)
Stallings	Vander Jagt	Young (FL)
Stangeland	Vucanovich	
Stearns	Walker	

ANSWERED "PRESENT"—1

LaFalce

NOT VOTING—10

Bilirakis	Hall (TX)	Nelson
Ford (MI)	Leach (IA)	Robinson
Ford (TN)	Leath (TX)	
Hall (OH)	Luken, Thomas	

□ 1707

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SIKORSKI). Pursuant to House Resolution 449 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 4000.

□ 1708

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 4000) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment and for other purposes with Mr. MFUME in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from California [Mr. HAWKINS] will be recognized for 45 minutes; the gentleman from Pennsylvania [Mr. GOODLING] will be recognized for 45 minutes; the gentleman from Texas [Mr. BROOKS] will be recognized for 45 minutes, and the gentleman from Wisconsin [Mr. SENSENBRENNER], will be recognized for 45 minutes.

The Chair recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, may I simply say at the beginning, before we get into the issue of the merit of H.R. 4000, that H.R. 4000 was introduced at the beginning of the year, in February of this year, as a response to the Supreme Court decisions of 1989. It was introduced at the request of some 180 sponsors, a number which has since increased, Republicans and Democrats alike.

□ 1710

Along the way, as I recall, in chairing the Education and Labor Committee, the administration also later introduced a bill. I do not know what has happened to that bill. It was obviously an opportunity for the administration to present its bill before the committee and to include any ideas that might emanate from that group. Later another bill was introduced which I assume was the genesis of the substitute which has been permitted to be introduced today. That substitute has been generally referred to as authored by different individuals whose names have been repeated here today. I have no way of knowing whether or not the substitute was the work of any particular individual. I have referred to it in different ways as different authors have surfaced.

We have conducted more than seven hearings on H.R. 4000. We have sought the views of every Member of the Congress. We have made several amendments in order as a result of individuals suggesting different other ideas.

The question is, it seems to me, one of fairness, that we have sought to be fair to everyone and to the American people as well. Everyone has had an opportunity to respond to the Supreme Court decisions made more than a year ago, so everyone has had a great opportunity to be for civil rights, to sponsor a civil rights bill. So if we have only one before us or two before us today, it is because the others desired not to sponsor a civil rights bill.

It is on that basis that I am proud as chairman of the committee to be presenting a bill today which is supported by Republicans and Democrats, by more than 125 organizations, and I think it speaks for the American people and presents a consensus.

Mr. GOODLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I say this not because I am looking for pats on the back or patting myself on the back, but to set the tone of why I am involved in the debate today. Helping those less fortunate than I have been, not because of wealth but because of other circumstances, has been the work of my life, and it has been a work of love. So when we talk about WIC, when we talk about school lunch, child nutrition, Even Start, Head Start, chapter 1, and on and on, I take a back seat to no one in the Congress of the United States, and therefore, I want to make sure that today we pass a pro-civil-rights bill, a bill that the President will sign, a bill that will not encourage quotas, a bill that will help the aggrieved. I think the lawyers can fend for themselves and fill their pockets without us helping them. And yes, maybe this is asking for too much, I

NAYS—175

Archer	Gingrich	Miller (OH)
Armey	Goodling	Miller (WA)
Baker	Goss	Molinar
Ballenger	Gradison	Moorhead
Bartlett	Grandy	Morrison (WA)
Barton	Grant	Myers
Bateman	Green	Nielsen
Bentley	Gunderson	Oxley
Bereuter	Hammerschmidt	Packard
Billey	Hancock	Parris
Boehlert	Hansen	Pashayan
Broomfield	Hastert	Paxon
Brown (CO)	Hefley	Penny
Buechner	Henry	Petri
Bunning	Herger	Porter
Burton	Hiler	Pursell
Callahan	Holloway	Quillen
Campbell (CA)	Hopkins	Ravenel
Carper	Horton	Ray
Chandler	Houghton	Regula
Clinger	Hunter	Rhodes
Coble	Hyde	Ridge
Coleman (MO)	Inhofe	Rinaldo
Combest	Ireland	Ritter
Conte	James	Roberts
Coughlin	Kasich	Rogers
Courter	Kolbe	Rohrabacher
Cox	Kyl	Ros-Lehtinen
Crane	Lagomarsino	Roth
Dannemeyer	Lent	Roukema
Davis	Lewis (CA)	Rowland (CT)
DeLay	Lewis (FL)	Saiki
DeWine	Lightfoot	Saxton
Dickinson	Livingston	Schaefer
Dorman (CA)	Lowery (CA)	Schiff
Douglas	Lukens, Donald	Schneider
Dreier	Machtley	Schuetz
Duncan	Madigan	Schulze
Edwards (OK)	Marlenee	Sensenbrenner
Emerson	Martin (IL)	Shaw
Fawell	Martin (NY)	Shumway
Fields	McCandless	Shuster
Fish	McCollum	Skeen
Frenzel	McCrery	Slaughter (VA)
Gallegly	McDade	Smith (NE)
Gallo	McEwen	Smith (NJ)
Gekas	McGrath	Smith (TX)
Gillmor	McMillan (NC)	Smith (VT)
Gilman	Meyers	Smith, Denny
	Michel	(OR)

would even like to have a civil rights bill that will protect the people who serve in the Congress of the United States, who want to stand up for their rights, who have opinions of their own so they are able to say those things and do those things without the fear of recrimination. Perhaps that is asking for too much.

But I am here to say today that, in my estimation, the Kennedy-Hawkins bill does not fit that. There is a bipartisan substitute that I think will.

Mr. Chairman, despite long debate in committees of this Congress and in the press, there still is serious misconception about the Kennedy-Hawkins bill. I would like to once more try to lay these misconceptions to rest so that my colleagues clearly understand just what this legislation does.

The proponents of the Kennedy-Hawkins legislation have repeatedly stated that their intent is to overturn a series of five Supreme Court rulings which they feel, and in some cases I feel have irreparably harmed the discrimination laws in this country. But in actual fact, Mr. Chairman, the Kennedy-Hawkins bill does much more. There are cases that would significantly modify upward of 25 other decisions, and it would change not 5 but 9 Supreme Court rulings.

In four of the nine cases, and this really bothers me, in four of the nine cases the reversal would have the effect of benefiting lawyers. I repeat, benefiting lawyers, not plaintiffs, not victims of discrimination, but lawyers. I ask my colleagues, is that what we are really trying to achieve in this legislation, to line the pockets of lawyers?

Kennedy-Hawkins would also institute extensive changes to current civil rights laws totally unrelated to these changes and cases, and amend title VII of the Civil Rights Act of 1964 to include both punitive and compensatory damages, remedies which are available nowhere, nowhere else in labor law.

It includes a provision which in effect would allow a lawyer to reject a settlement, even a settlement which the plaintiff wanted, if his or her lawyer's fee were not acceptable as determined by, who else, the lawyer. Again, we are creating legislation for lawyers, not for victims of discrimination.

Proponents of this legislation will protest I know, but once again it must be made clear, the provisions of Kennedy-Hawkins aimed at reversing the Supreme Court decision in Wards Cove will result in quotas in hiring and promotion, and no matter how often we discuss an amendment that will be presented today that positively, positively does nothing, we will not be able to get away from it. Let me put this as simply as I can. If you are an employer and you have a work force in which certain jobs do not mirror the demographics of the relevant outside labor pool, you can now anticipate having to

justify any and all employment practices you have against a possible lawsuit by a plaintiff who is part of a protected group which is unrepresented in your business. And what will you do to avoid the lawsuit? You will ensure that the positions in your work force mirror the relevant outside labor pool. It is quotas, folks.

Proponents scoff at this argument. They say we are just returning to Wards Cove law, and they said it did not occur before. With all due respect to my esteemed colleagues, I would ask them to show me in current case law precisely where their exact language, "there is a significant relationship to successful performance on the job," and "must bear a significant relationship to a significant business objective of the employer," exists in current law.

So again I would say, Mr. Chairman, as we consider our bipartisan substitute to the Kennedy-Hawkins bill I would hope everyone would listen carefully to the debate. I want to make sure, as I said before, that it is a true civil rights piece of legislation, and that we will be helping the aggrieved above all.

Mr. Chairman, despite long debate in committees of this Congress and in the press, serious misconceptions still exist about the Kennedy-Hawkins bill. I would like once more to try to lay these misconceptions to rest so that my colleagues clearly understand just what this legislation does.

The proponents of the Kennedy-Hawkins legislation have repeatedly stated that their intent is to overturn a series of five Supreme Court rulings which they feel have irreparably harmed discrimination law in this country. In actual fact, Kennedy-Hawkins does much more.

Kennedy-Hawkins would reverse not five but nine Supreme Court cases and would significantly modify upwards of 25 others. In four of the nine cases, this reversal will have one overriding effect—to benefit lawyers—not plaintiffs, not victims of discrimination, but lawyers. I ask my colleagues—is that what we are trying to achieve with this legislation—to line the pockets of lawyers?

Kennedy-Hawkins would also institute extensive changes to current civil rights laws totally unrelated to these cases—it amends title VII of the Civil Rights Act of 1964 to include both punitive and compensatory damages—remedies which are available nowhere else in labor law. It includes a provision which in effect would allow a lawyer to reject a settlement—even a settlement which the plaintiff wanted—if his or her lawyer's fees were not acceptable—as determined by the lawyer, of course. Again, we are creating legislation for lawyers and not for victims of discrimination.

Proponents of this legislation will protest, I know, but once again it must be made clear—the provisions of Kennedy-Hawkins aimed at reversing the Supreme Court's decision in Wards Cove will result in quotas in hiring and promotion—however surreptitious—on the part of employers.

Let me put this as simply as I can. You are an employer and you have a work force in which certain jobs do not mirror the demographics of the relevant outside labor pool. You can now anticipate having to justify any and all employment practices you have against a possible lawsuit by a plaintiff who is part of a protected group which is underrepresented in your business. What will you do to avoid such a lawsuit? You will ensure that positions in your work force mirror the relevant outside labor pool—in a word—quotas.

Proponents scoff at this argument—"We are just returning to pre-Wards Cove law," they assert, "and this didn't occur then." With all due respect to these esteemed colleagues, I would ask them to show me—in current case law—precisely where their exact language, "bears a significant relationship to successful performance on the job" and "must bear a significant relationship to a significant business objective of the employer," exists. In any case, the proponents have offered various formulations on the issue of "business necessity," beginning with "essential to effective job performance" and ending with today's language. Each time they have said, "This solves the quota problem." Which version should we believe—indeed, why should we believe any of them?

Other serious issues have been raised during our debates on this legislation, including its impact on the prompt resolution of disputes which has always been the primary goal of title VII. I would submit that the remedies sections of this bill, combined with the extension of the statute of limitations to 2 years, the retroactivity provisions reopening hundreds of closed cases, and the outrageous provisions for lawyers, will not lead to swift resolutions but rather to the extended pursuit of the proverbial "pot of gold."

Mr. Chairman, later today we will consider a bipartisan substitute to Kennedy-Hawkins. This substitute represents a serious effort on the part of many in this Chamber to craft a responsible and responsive piece of legislation which avoids the problems so pervasive in Kennedy-Hawkins in its current form. It will not lead to employment quotas, it will not lead to a "lawyer's bonanza," and it will not lead to a Presidential veto. It will lead to equal justice for all.

I would urge my colleagues to pay careful attention to the very serious debate which will take place on this floor during consideration of Kennedy-Hawkins and to recognize and support the merits of the bipartisan substitute.

Mr. Chairman, I reserve the balance of my time.

□ 1720

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. Brooks], the chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the American people have made tremendous strides in eliminating inequities in the workplace for women and minorities. Under a postcivil war act—the Civil Rights

Act of 1866—and title VII of the Civil Rights Act of 1964, timeworn habits, fixed attitudes, and discriminatory patterns have given way to acceptance and greater opportunity for all our citizens.

Yet, in a few short months in 1989, the accomplishments of years of struggle have been placed in grave jeopardy by a Supreme Court that appears determined to look for ways to place roadblocks in the way of this progress. In five major decisions in the area of employment for women and minorities, the Supreme Court has veered away from the consensus view of the Congress' intent in enacting these remedial statutes.

The purpose of the Civil Rights Act of 1990 is to clarify and strengthen the employment-related civil rights laws that have been thrown into such confusion by our Highest Court. The act effectively overturns these five decisions. In addition, the bill permits victims to seek damages for intentional discrimination.

Mr. Chairman, this bill is essential to restore this Nation's commitment to civil rights and end the continued unraveling of our civil rights laws—laws that have come to be accepted by businesses, labor unions, and the American people over decades of time. H.R. 4000 will assure women and minorities equal access to the workplace and fairness in seeking remedies for wrongs.

Specifically, the bill clarifies that decisions in employment may not be based on race, color, sex, or religion; racial harassment on the job is prohibited; employers must justify employment practices that have a disparate impact; the statute of limitations takes effect at the time discrimination is experienced; consent decrees are protected from delayed challenges; and victims of intentional discrimination may be compensated for the harm they have suffered.

A vote for H.R. 4000 is a vote for equity, justice, and opportunity in the workplace. It will reaffirm our national commitment to the principle that people seeking a job must be judged on their own individual skill, performance, abilities, and record of hard work—not on their race, religion, sex, or other factor. I urge the Members to support the Civil Rights Act of 1990.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 6 minutes.

Mr. Chairman, this afternoon we are going through a debate that I think is very unfortunate. This bill could do a lot of good for a lot of people. It could meaningfully address discrimination in our society, but it is going to be vetoed and it is going to be vetoed because the ugly head of partisanship has gotten into the consideration of this legislation.

The way this bill is drafted is that it turns employment discrimination cases into a plaintiffs' lawyers full-employment act. It encourages litigation, and it makes quotas as the only effective defense to a lawsuit that might be brought either with merit or without merit.

I would like to explain why this is a quota bill and why this is a plaintiffs' lawyers enrichment bill, so that the issues can be very clearly placed on the table.

The engine that drives this bill is section 8, the remedy section, which for the first time allows jury trials with punitive and compensatory damages for unlawful employment discrimination charges. Compensatory damages not only include back pay and other out-of-pocket expenses that may be suffered but also sums for things like pain and suffering and for mental distress.

Because this is a jury trial system, we turn unlawful employment activities into torts, and the entire tort law system, with all of the warts and all of the complaints that have been lodged against it in recent years, end up going into the workplace.

A plaintiff's lawyer could very easily file a lawsuit he knew was of questionable merit, accepting a contingency fee, and the employer would then have to make the economic determination of whether to experience the expense of going to trial and being vindicated by the jury or whether it would be simply cheaper to cut the losses and to settle the case out of court.

Furthermore, the settlement provision of H.R. 4000, as reported by the Committee on the Judiciary, says that if in any way the defendant coerced the plaintiff into not paying the full attorney's fees, then the lawsuit cannot be dismissed and the settlement cannot be approved.

Now, given that scenario and given the huge litigation expenses that an employer would have to incur in order to vindicate his name, there is an encouragement to settle these cases whether they have merit or not. And then we have turned this issue not into a civil rights bill but to a bill that legalizes extortion against employers who are subjected to claims of unlawful discrimination that are without merit.

Now, to make matters worse, this bill also is retroactive. So that for things that were perfectly legal during the last year since the Supreme Court of the United States rendered the decisions that are complained of by the supporters of this bill, it retroactively makes those practices illegal and subjects the employers to the lawsuits and compensatory and punitive damages that I have outlined above.

And there is basic unfairness in the retroactivity statute.

For example, the Ward's Cove Packing Co., which is a fish packing firm in the State of Washington, in a community that is about 10 percent minority and has 24 percent minority people in skilled labor jobs and 52 percent minority people in unskilled labor jobs, spent 16 years and \$2 million to win their case in the Supreme Court of the United States. And with this retroactivity feature, that expense will be lost and they will be subjected by an act of Congress to a retroactive illegal employment practice.

That is just flat out unfair. Later on during the debate the supporters of this bill are going to attempt to cap the punitive damages. But the way they have drafted their cap is that it is leaky, as leaky as a sieve and is not going to reduce the potential liability of an employer of 100 or more employees whatsoever, and I will explain that later.

So do not allow the supporters of this legislation to hide behind their phony punitive damages cap. It will have no practical effect on the litigation that will occur.

I would hope that if the Michel-LaFalce amendment is not approved, then this bill would be defeated and we could go back to the drawing boards to address real discrimination in the workplace that does exist, to deal with the Supreme Court decisions that did misread the intent of Congress. I will admit there are at least two of them.

And to get a bill together that is fair and balanced, and which the President of the United States can sign.

This would restore the bipartisan consensus on civil rights that we had during the 1950's and 1960's, and early 1970's and even up to the passage of the Voting Rights Act extension of 1982, because with that bipartisan consensus we have made real progress in civil rights. And I would hope that we would continue that bipartisan consensus through the adoption of the Michel-LaFalce amendment and, failing that, send this bill back to the drawing boards.

□ 1730

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I rise in support of the bill. I commend the chairman, the gentleman from California [Mr. HAWKINS] for his efforts. It is probably his last term from what I understand. He deserves much credit in this country for the progress we have made.

The Civil Rights Act of 1990 is very seriously one thing, folks: It keeps in place the original intent of the Civil Rights Act of 1964. Now, what screwed up in Washington is very simple. The Constitution says that the people's

representatives makes the laws. The President executes the laws and the Supreme Court interprets. What we have in 1990, is a Supreme Court that is setting laws, and the Congress letting them get away with it. Those days are over with the back of the bus. The buzzword has become "quotas." There are no quotas in this 1964 act. There are no quotas here, and that is nothing more than the excuse to deny opportunities in the workplace. We have a number of people in this country that are not participating in the progress of our great Nation leaving many American citizens only one option, to be on the street corners. Members know it as well as I know it.

So what we are here about today is, very simply, to let the Supreme Court know that what Congress did in the 1988 session with the 1964 Civil Rights Act is the intent of what Congress wants to reestablish today. We are not setting all that new territory. I think it is time that Congress legislates, watches very carefully a Supreme Court which has gone beyond that and is trying to legislate, and Presidents who are recommending laws, not executing them. They have a veto power, pull out your pen, but Congress legislates.

Mr. Chairman, I would like to give a tribute here to the chairman of the committee, the gentleman from California [Mr. HAWKINS]. I think his name will appear in history along many of the great strides we made in civil rights. I think we all owe him that tribute.

Mr. Chairman, I rise in support of H.R. 4000, the Civil Rights Act of 1990. The import of this bill cannot be overlooked. This bill is a direct reaction of judicial activism of the U.S. Supreme Court. Justice Blackmun, in his dissent in the *Wards Cove* decision, said of his conservative colleagues on the Court, "One wonders whether the majority still believes that discrimination is a problem in our society, or even remembers if it ever was." Well, obviously the conservative majority does not, and now it is Congress' duty to respond to misinterpretations of the statutes we enact. The intent of the Civil Rights Act of 1964 and the Civil Rights Act of 1990 is clear—to rectify inequities in our society. The Civil Rights Act of 1990 is designed to restore the original intent of the 1964 act. We are here today to endorse a policy: That all discrimination in employment is wrong, and it will not be tolerated. What was said in the House report of the 88th Congress holds true today, "Nothing in this bill permits a person to demand employment . . . internal affairs of employers will not be interfered with except to the limited extent that correction is required in discrimination practices." Employers, have been scared witless by opponents of this legislation, this is not a quota bill. The word quota, is the buzzword used by opponents of civil rights, to scare employers out of their wits. Well, the argument of quotas didn't work in the 1964 debate and I hope it is not successful today. Representatives ANDREWS' and NEAL's

amendment guarantees that this is not a quota bill.

If the Price Waterhouse decision is not overturned, then we send the message that there is nothing wrong with a little overt racism or sexism, as long as it was not the only thing on the employer's mind. We must reaffirm the principle that title VII tolerates no discrimination.

I would also like to address the issue of punitive damages. As it stands now, victims of racial discrimination, under section 1981, are the only victims of discrimination that are entitled to punitive damages. If this bill passes then all victims of discrimination will have the right to seek punitive damages in such cases with the Hawkins amendment limit of \$150,000. I hardly consider that an offensive measure. By not doing this we then send the message to other victims of discrimination that they are second-class citizens, who only deserve second-class remedies.

I also endorse the lengthening of the statute of limitations for filing with the EEOC to 2 years. One of my own constituents, Boyd Graves, fell victim to this technicality. The merits of his case were never heard because of confusion in the system. Most discrimination complainants represent themselves and this expansion will help them pursue their claims.

Mr. GOODLING. Mr. Chairman, I yield 15 minutes to the distinguished gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I wish I were not here today. I wish this bill had been scheduled as I was originally told it was going to be scheduled, in September, because we would have had time to sit down quietly and discuss the issues within our own party and with the Republicans, and hopefully, and maybe I am naive in this, we could have come out with a great bill.

It did not work out that way, unfortunately. So I am here in what has been a painful day and a painful week. I hope it will not be painful forever. It is painful for me as a person. It is painful for me as a Democrat. It is painful for me as a committee chairman. However, do what must be done, and try to be true to yourself. That gives a person solace. I am doing what I think somebody must do, and nobody else would. I wish it were not me, but it is.

I am not just a Democrat. I am also a liberal. I have received the endorsement of the Democrat and Liberal Parties every year that I have run for office: 1970, 1972, 1974, 1976, et cetera. I never have any problem with the Democratic leadership except for a few primaries I had some problem with the Liberals. Sometimes I had to go into Supreme Court to maintain that, and people told me, "In your district you are crazy." I do not know of any other district incumbent in my congressional district who has ever held both, but I wanted both. I still do. Little more difficult time getting it this year than in the past, unfortu-

nately, because of the issue of abortion. I am a liberal there too. I happen to believe in the rights of the child in the womb. Maybe I should not have mentioned that because that is extraneous to this debate. However, I think that most individuals who ask how to characterize me would respond, "He is a flaming moderate." I am surely my own man, and every Member in this body knows that. I have a lot of 90-percent AFL-CIO voting records. They have not endorsed me the last 2 elections because I disagree with them on the textile bill. So be it. And a whole slew of other things. I think this flaming moderation of mine comes because of a cardinal principle that motivates me in almost every judgment I make. That is, the world is made up of competing interests, and those competing interests often are valid but competing. So we need to reconcile those valid but competing interests. That may sometimes mean I am vehemently opposed to the Republicans, and sometimes it means I am strongly opposed to what my Democrats want to do. Not too often. I probably have about an 80 percent consistency, maybe 90 percent, I don't know. I think it is great, it is pretty good. Nobody could find fault with it.

On the issue of civil rights, I try not to wear many things on my sleeve. People have said, "For 15 years we didn't know you felt so strongly on the issue of abortion." I also did, always voted that way. It was only when people started yelling and screaming and making it uncomfortable that I felt a person must speak out.

My life got a little bit more complicated in 1987 because then I was elected chairman of the Subcommittee on Small Business, and I said, "By God, I'm going to be the best chairman the Committee on Small Business has ever had, if it is within me to do that." That makes it tough, though, and I am a Democrat, and I am going to remain true to the Democratic principles, but I am going to make sure that the interests of the small business community are heard, and so we can reconcile the interests of the small business community, and Democrats, whether on the issue of the minimum wage, whether it is on the issue of family leave, whatever it might be.

That is what society is all about. That is what good law is all about. Something happened today. I am attempting to reconcile different interests in the Superfund. I just testified on that this morning for a subcommittee of the gentleman from Ohio [Mr. THOMAS A. LUKEN]. I introduced the first Superfund bill in Congress, because I represent Love Canal, the very first one, and now I am trying to change Superfund. The environmentalists are saying the worst things in the world, but the law has been inter-

preted in an extreme fashion, and it needs correction. We need to restore its original intent. A little nature victory. EPA says now they agree with me. The Court has gone too far with legitimate concerns and they will promulgate a new rule and maybe come up with legislation if need be with a few cautions. Mine is not the best in the world. It needs some improvements, but it will work.

□ 1740

That is great. I felt the same way about family leave. I feel very strongly that we need better family leave laws. I remember when the gentlewoman from Colorado [Mrs. SCHROEDER] introduced the first bill. I said, "I want to coauthor that," and I asked her if she would take a picture with me, and I put it in my newsletter and I said, "We need a strong national policy on family leave."

Rational people can disagree on this, but I thought that the bill that was introduced got greedy. It went so far, and it backtracked in certain ways from what was asked, but it went so far in others. It added spousal care and elderly care, which to my knowledge, after my investigation, no other country on the face of this Earth has. I will not go into that.

But now I feel compelled to try hard to get a good moderate family leave bill passed in this Congress, and I have written to every single Member saying, "Let's try again."

There again, I think that was my idea of moderation. But there is a problem. This is a civil rights bill, and civil rights is different. We cannot be moderate about civil rights, not given the history of discrimination, especially against blacks and also especially against women in the history of the United States. We must be zealous.

But there is another problem, too. I feel passionately about something else. I feel passionately about the rule of law. I think the rule of law is what keeps us together. It is what binds us together. It is what makes this country whole. There are a lot of things to consider about the rule of law, but most essentially the rule of law must be fair. I feel passionately about that.

So how do we proceed? Well, we need very good laws. We need very strong laws to deal with discrimination, and our discrimination laws were not strong enough in the past. Our discrimination laws, as interpreted by the Supreme Court, are now disgracefully weak. We must reverse those Supreme Court decisions, and we must strengthen the civil rights law that exists. But we must do so fairly. We must not assume and the law must not assume that everyone who alleges discrimination is de facto a victim of discrimination.

This bill does not do that. But we ought not to tilt the rule so much, we

ought not to tilt the scales of justice, which must always be equal. I think the committee bill does that, and I have attempted to come in with a substitute that reverses the Supreme Court decisions, that strengthens the civil rights laws. It strengthens the civil rights laws so that any victim of discrimination can prove his or her case without insuperable difficulties and get not only backpay but significant equitable relief.

I wish I had more to work with the Members to accomplish this. I saw the bill going through so fast, and I did not want to do what I had to do. Last Wednesday I asked, "Can't this civil rights bill be brought up, as I was originally told, in September?" And I was told there was nothing else that could be scheduled for the calendar this week. Well, I read between the lines on that. Then we got together, and I said, "You know, I feel a little bit guilty." Again it goes back to the family leave bill. I said, "I feel guilty that as chairman of the Small Business Committee I didn't become more involved before the bill was passed."

I left it up to somebody else. The gentleman from Minnesota [Mr. PENNY] had an amendment that I was going to support. That did not do everything I want to do, not by a long shot, but at least it was something. There is always a conference and different bills to be considered, but it did not work out that way.

I said, "Look, let's not get caught short again. Let's try to become involved if we can."

I had almost no time to do this. Maybe I did not do it in the best way I could have, but I tried my best. I scheduled a hearing. I scheduled the hearing initially for Wednesday when I thought the bill might come up on Friday. Then, after I scheduled it for Wednesday, I found out the bill was going to come up on Wednesday, and I said, "Let's try to reschedule it for Monday."

They said, "What are you going to do?"

I said, "I don't know what I am going to do until I hear everybody." They said, "Who do you want to hear?"

I said, "Get the best legal minds in the country on both sides."

They said, "Who do you want on the civil rights side?"

I said, "Let's get Elanor Holmes Norton, Let's get Vernon Jordon. Let's get Larry Tribe, et cetera."

I also ran into somebody at the White House when I was there for the signing of the ADA: John Dunne, the Assistant Attorney General whom I served with in my days as a New York State Senator.

I said, "John, I really need to know what you think about this, and I really need some terrific tutoring on this fast."

The CHAIRMAN. The time of the gentleman from New York [Mr. LAFALCE] has expired.

Mr. SENSENBRENNER. Mr. Chairman, I yield 10 additional minutes to the gentleman from New York [Mr. LAFALCE].

Mr. LAFALCE. Mr. Chairman, I tried to stack up all the Supreme Court decisions, the Kennedy-Hawkins bill, and the Republican substitutes that were offered in the Judiciary Committee, because I thought they would offer me something to see where I was. As I viewed Kennedy-Hawkins, I said, "That seems to me extreme." And as I viewed the Republican amendments offered in the Judiciary Committee, I said, "They seem to me extreme." In almost every case, not every one, I was in between. Then I became aware that Senator NANCY KASSEBAUM in the Senate had worked on a bill that attempted to strike a compromise that she had worked on with perhaps a dozen Democratic Senators.

□ 1630

Mr. Chairman, it seems to me, and time was short, that the introduction of that bill, which agreed with my position in virtually every score, was the most expedient way if I wanted to introduce a bill immediately to just have something there for the RECORD, and I immediately wrote to the Speaker and the chairman of the Committee on Rules and said, "I may wish to offer a number of amendments, or, if not, a substitute."

Mr. Chairman, I was then told that a number of amendments would be impossible, that this was going to be, and this would have been my preference, a very narrowly drawn rule. One or two amendments perhaps.

I said, "Well, what I would like then is to let the Republicans offer whatever substitute they want to, and I'll come in with my substitute, and it will be in between. It will be moderate, and it will be fair, and it will be balanced."

Mr. Chairman, maybe I am wrong, but I pray I am not, and, if I am, and anybody can educate me about that, I will change my mind.

A funny thing happened on the way to the forum. I think the Republicans decided they had no chance at all, if they went with their substitute. I still wanted to introduce my substitute because I thought the bill was extreme. So, I ask that my substitute be made in order.

Then, Mr. Chairman, I was told that it would be a Republican substitute. I said, "Well, I'd still like to offer mine," but then they were going to.

It became very complicated, and there was partisanship on both sides. I mean the Democrats were trying to win, the Republicans were trying to associate themselves with my name, and I got caught in the middle.

The rule that finally came out said it should be offered by the gentleman from Illinois [Mr. MICHEL] or his designee. Mr. MICHEL does not want a Democrat to be his designee, and this Democrat does not want to be the designee of Mr. MICHEL.

However, Mr. Chairman, I do want a good law passed, whether it is offered by a Democrat or Republican. It should not make any difference.

Mr. RANGEL. Mr. Chairman, will the gentleman yield?

Mr. LaFALCE. I yield to the gentleman from New York.

Mr. RANGEL. Mr. Chairman, the gentleman from New York [Mr. LaFALCE] has such limited time, and I have been listening attentively. Does he intend to address any part of his amendment in the remaining part of the time that has been allotted?

Mr. LaFALCE. Mr. Chairman, I say to the gentleman from New York [Mr. RANGEL], "Charlie, it depends whether I'm able to get to it."

Mr. RANGEL. OK.

Mr. LaFALCE. Mr. Chairman, there is something that disturbs me very much, and that is more litmus tests. I mean nobody should be viewed as for or against civil rights depending on how they vote on the substitute that is going to be offered. That is my opinion. That is my opinion.

I have a lot of concerns. I will not go into them now. I will go into them after the gentleman from Pennsylvania [Mr. GOODLING] offers his substitute later, but I have concerns about the issue of causation.

My colleagues, it seems to me that causation is a fundamental concept in the law, and I am very worried that the committee bill dilutes the traditional concepts of causation considerably.

I am very concerned that subjective criteria, which everyone agrees are legally permissible, must be shown now by demonstrable evidence. I am very concerned about the definition of business necessity, and I am concerned with who is really telling the truth in saying they are restoring the test of Griggs.

My colleagues will see that there is language in Griggs that Kennedy-Hawkins uses, and there is language in Griggs that the substitute uses. It is my belief that the language of the substitute is the language contained from the holding and the language that has been cited in every single Supreme Court decision ever since.

I am concerned about the issue of mixed motives. I think Justice Brennan's decision was wrong. It is ironic that it was Justice Brennan. We think Justice Brennan's decision was wrong. We both want to reverse it.

The question is: How far do we go in reversing Justice Brennan's decision, and what is appropriate?

I am not sure that the words in the substitute are the best words. I say to the gentleman, "Yours are very wrong. Maybe we can work together."

There are a whole host of other things.

Maybe my biggest problem which I have not mentioned is the conversion of basically a conciliation process into an adversarial relationship by giving plaintiffs an absolute right to demand a jury trial upon an allegation of intentional discrimination, by giving them, even after the amendment, putting a cap on punitive damages is passed, by giving them a right to unlimited pain and suffering. I think we do violence to the whole concept of title VII of the civil rights law, and we do violence to our judicial system, and I hope we can work out some type of a compromise.

Let me conclude. I want very much to see a good civil rights bill pass. There is nobody in this House who wants to see a good civil rights bill passed more than I. After my conversations with the President yesterday, I believe that, if the substitute goes down, there will be no ceremony. I could be wrong. He could change his mind. I believe that, if the substitute goes down, there is virtually nothing to negotiate on in conference. The committee bill and the Senate bill are virtually identical.

Should the substitute be passed, it does not become the law of the land. We go to conference. The gentleman from California [Mr. HAWKINS] will be in that conference. The gentleman from California [Mr. EDWARDS] will be in that conference. TED KENNEDY will be in that conference. Hopefully we can come out with a good civil rights bill that will not arouse partisanship, that will be signed by the President.

There is nothing more that I want to do than be with the gentleman from New York [Mr. RANGEL], the gentleman from Illinois [Mr. HAYES], the gentleman from Georgia [Mr. LEWIS], the gentleman from Colorado [Mrs. SCHROEDER], the gentleman from Texas [Mr. WASHINGTON], and the gentleman from California [Mr. EDWARDS], all of them, when we sign that good civil rights bill into law.

If it does get signed into law, I hope history might give me some recognition for making it possible.

The CHAIRMAN. Under the rules of general debate, the gentleman from Wisconsin [Mr. SENSENBRENNER] reserves the balance of his time, and the Chair will recognize the gentleman from Texas [Mr. BROOKS].

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. EDWARDS], the chairman of the Subcommittee on Civil and Constitutional Rights of the Committee on the Judiciary.

Mr. EDWARDS of California. Mr. Chairman, the subcommittee that I

chair had the responsibility for the Committee on the Judiciary's portion of the bill, last year, when we and the civil rights community and concerned Americans everywhere saw and read what the Supreme Court was doing and had done to civil rights laws that had been working very well for many, many years and bringing equity to minorities, to women, to different segments of our society that had not been allowed to participate fully. A shock wave ran through the country and said, "What is this Court doing?"

□ 1800

Then we realized that it was some of the first actions of the Supreme Court where a majority was appointed by President Reagan and that we could expect more of this. And so we went to work, fine lawyers all over Washington and elsewhere went to work to help draft some legislation that would return the law to where it was and to where it had been working so satisfactorily all these years.

We are not talking just about five cases where civil rights were injured sorely, Mr. Chairman, there were a number more.

This bill before us today only deals with five, plus portions of a few more which my extended remarks will describe.

I was privileged, as the chairman of the subcommittee, to share the hearings with the Education and Labor Committee, chaired by my friend of nearly a half century, the great Congressman from California who was sworn in on the same day that I was sworn in back in January 1963.

Mr. Chairman, we held weeks of hearings, and the hearings did not just go on in the morning. They went on from early morning until late in the afternoon and sometimes into the evening. Some of my friends from the Education and Labor Committee and the Judiciary Committee on both sides of the aisle attended and listened carefully to all of the experts. All of the Members were invited to testify, Members of the House of Representatives who were interested in this subject and who were concerned about these Supreme Court decisions and what it was doing to the civil rights laws and to our fellow Americans.

The gentleman from New York [Mr. LaFALCE] did not testify in all the many months that my subcommittee and I have been working on this bill. The first time the gentleman from New York [Mr. LaFALCE] mentioned the bill to me was in the elevator yesterday. We would have loved to have heard from the gentleman from New York [Mr. LaFALCE]. We would have loved to have had him testify.

This bill before us today was approved after great study and hearings after hearings by the Education and

Labor Committee and then by the Senate. The Senate bill and the Education and Labor Committee bill and the Judiciary Committee bill are very similar. They are fine bills. I think that is the proof that the amendments to be offered, the substitute to be offered by the Republicans, should not be accepted because it varies so much from the bill and it does not take care of the five Supreme Court cases. Perhaps it takes care of two of the weakest, starkest, but certainly not all five cases.

What the bill does, in short, Mr. Chairman, in the most controversial part—the Wards Cove case—it returns the law to where it was in the Griggs decision of 1971.

The CHAIRMAN. The time of the gentleman from California has expired.

Mr. BROOKS. Mr. Chairman, I yield 1 additional minute to the gentleman from California.

Mr. EDWARDS of California. Mr. Chairman, Griggs was a unanimous decision of the Court, written by Chief Justice Burger. The Court held there that practices need not be motivated by discriminatory intent if they have a discriminatory effect and cannot be justified by business necessity. That worked very well for all the years since 1971, until it was turned on its head last year by the Wards Cove decision of the Supreme Court.

I assure you, Mr. Chairman, all we are doing—and we are using the exact words of Chief Justice Burger in this bill—we are returning the law to Griggs, and I assure you that Griggs did not result in any quotas.

Mr. Chairman, I rise in strong support of H.R. 4000, the Civil Rights Act of 1990.

H.R. 4000, as reported to the floor, is essentially the bill reported by the Judiciary Committee last week. The Judiciary Committee approved the bill by a vote of 24 to 12.

H.R. 4000 amends the Civil Rights Acts of 1866 and 1964 to restore and strengthen civil rights laws that ban discrimination in employment. The Supreme Court dramatically narrowed these laws in a series of decisions last year.

H.R. 4000 overturns five major cases: *Patterson versus McLean Credit Union*, *Wards Cove Packing Co. versus Atonio*, *Price Waterhouse versus Hopkins*, *Martin versus Wilks*, and *Lorance versus AT&T*.

The bill also overturns a number of other cases that have adversely affected the ability of victims of employment discrimination to find an attorney and to present a case. H.R. 4000 also makes important changes to strengthen the civil rights laws and to fill inexplicable gaps in the law.

Mr. Chairman, earlier this month the Senate passed a companion bill, S. 2104. The Senate passed bill is quite similar to the bill reported by the Judiciary Committee, and it made a number of changes in response to concerns raised in both Houses.

I would like to take a few minutes to describe the two issues that have generated the

most interest, the issue of disparate impact, which has been greatly clarified by the substitute, and the issue of damages for intentional discrimination.

PROHIBITING DISCRIMINATORY EFFECT

The first part of the substitute overturns *Wards Cove* versus *Atonio* and codifies the prohibition against practices that have a discriminatory effect, as set forth by the Supreme Court in *Griggs versus Duke Power Co.*

Under Griggs, a unanimous decision written by Chief Justice Burger in 1971, the Court held that practices need not be motivated by discriminatory intent, if they have a discriminatory effect and cannot be justified by business necessity.

As the Court wrote:

Good intent or absence of discriminatory intent does not redeem employment procedures or testing mechanisms that operate as 'built-in headwinds' for minority groups and are unrelated to measuring job capability.

Since H.R. 4000 was introduced, there has been much confusion and misinformation about the standards the Supreme Court developed in Griggs. Let me take a minute to review the standards and show how a disparate impact case works under Griggs, and under H.R. 4000.

First, the individual applicant or employee has the first burden of showing that certain facially neutral employment practices result in a disparate impact based on race, color, religion, sex, or national origin. In order to show a disparate impact, the number of qualified persons in the relevant labor pool is compared with the composition of an employer's work force. One compares apples with apples, not apples with oranges. And like all civil rights laws, the individual claiming discrimination must be qualified.

If there is a statistically significant disparity, a disparity that cannot be explained away by chance, then a prima facie case of a disparate impact is made. If the plaintiff cannot make this showing, then the case is dismissed.

Some have claimed that H.R. 4000 permits a plaintiff to establish a violation solely on the basis of statistical comparisons. But H.R. 4000 does not change the Griggs standard of showing that there is a statistically significant disparity. The use of statistical comparisons is not new; employers have been subject to them since 1971.

I have received many letters stating that H.R. 4000 presumes employers are guilty until they prove themselves innocent. But H.R. 4000 only restores the burden of proof that existed before the *Wards Cove* case.

And that burden is first on the plaintiff to show discriminatory effect—that there is a statistically significant disparity between the number of its employees and the qualified work force. If the plaintiff cannot make this showing, then the case would be dismissed.

But even if the plaintiff makes a prima facie case, the case does not end there. Under Griggs, an employer may continue to use a practice that has a discriminatory effect if the employer can show that the practice is required by business necessity.

The Court turned these principles on their head in *Wards Cove*. The Court did two things: First, it switched the burden of demonstrating business necessity from the defend-

ant to the plaintiff, and second, it created a new, and far lower, standard of business necessity, a standard of "legitimate employment goals."

The substitute puts the burden back on the defendant to demonstrate business necessity if a plaintiff makes a prima facie showing of disparate impact. The substitute also restores the Griggs definition of business necessity.

In order to justify that the practice is required by business necessity, the employer must show that the practice bears "a significant relationship to successful performance of the job." This standard is taken from Griggs, from page 426 of the decision.

A number of commentators have claimed that employers will never be able to justify their business practices, that the standard of business necessity in the bill is impossible to meet. And thus, employers will resort to quotas to avoid liability.

In order to respond to these concerns, and to make it clear that we intend only to return to Griggs, the business necessity standard has gone through an evolution during our consideration of the bill. In the bill as introduced, it was "essential to effective job performance." In the subcommittee bill, it was "substantial and demonstrable relationship to effective job performance." Although this is very close to language in Griggs, and captures its essence, it differs slightly from the language in Griggs.

The language in the bill before us is language from Griggs, and demonstrates our intent to codify Griggs and its 18-year history. Employers were able to meet this burden under Griggs without resorting to quotas, in fact there is no evidence, absolutely none, that Griggs led employers to use quotas to avoid litigation. By restoring the Griggs standards, I do not see how the requirements of H.R. 400 will lead to quotas.

DAMAGES

H.R. 4000 is also designed to strengthen civil rights laws. Although few of us were Members in 1964, when Congress crafted the omnibus Civil Rights Act, all of us remember the situation then: A country segregated by law and tradition, and a civil rights bill subject to filibuster and compromise.

A compromise was reached on the bill and filibusters were overcome. The result was a historic bill, but one not perfect by any means.

The 1964 Civil Rights Act only did so much. It did not cover voting rights, housing discrimination, or discrimination against the disabled. It provided a mechanism to address some of the worst problems we faced.

In the 26 years since, our Nation made great progress. We passed the Voting Rights Act in 1965, which has been strengthened and extended a number of times since. We passed the Fair Housing Act in 1968, and substantially strengthened it in 1988. And, just last week, the Americans With Disabilities Act, an omnibus civil rights law for persons with disabilities, was signed into law.

The title VII provisions of the 1964 act itself was amended in 1972 to provide a more effective enforcement mechanism for employment discrimination. But remedies were still limited to back pay and injunctive relief.

So here, in H.R. 4000, we are strengthening title VII by adding a damages remedy for cases of intentional discrimination.

Damages are available only for intentional discrimination, and not for cases of disparate impact, as some opponents of the bill have misunderstood.

Compensatory damages are available for cases of intentional discrimination. In addition, the bill makes punitive damages available in cases of egregious violations—if the employment practice was engaged in "with malice, or with reckless or callous indifference to the federally protected rights of others."

Compensatory and punitive damages are already available to victims of intentional racial discrimination, under 42 U.S.C. section 1981. But women and religious minorities, who are covered only under title VII, cannot be awarded any damages at all.

By adding damages to title VII, H.R. 4000 seeks to provide an adequate remedy for all prohibited intentional employment discrimination, whether based on race, color, religion, sex, or national origin. The same remedies should be available for all victims of intentional discrimination.

This should not be the subject of controversy. As Members recall, we removed the cap on punitive damages in the Fair Housing Amendments Act of 1988. And damages under the Fair Housing Act are not as restricted as under H.R. 4000: They are not limited to cases of intentional discrimination, nor are punitive damages limited to cases of malice, or reckless or callous indifference, as they are in H.R. 4000.

Remember, too, that the right to a jury trial was the fundamental point of contention we had with the National Association of Realtors and the White House on the fair housing bill, and this issue bottled up the bill for 10 years. By providing a right to a jury trial, we were able to accommodate the realtors and the White House, and enact the fair housing amendments.

Our hearings on H.R. 4000 detailed horrifying stories of sexual harassment, harassment without remedy. Listen to the distressing testimony of Carol Zabkowitz, who worked as a warehouse worker for the West Bend Company.

My co-workers would constantly pull on my bra straps. One of my co-workers left a handwritten poem on my desk regarding my sex life with my husband. Another man would often call me "sexy bitch," or "H and H," which I discovered meant "Hot and Horny." Still another would grab his penis in front of me and ask me if I could handle his "twenty-five pounder." He would also call out to me, and when I looked in his direction, he would be standing with his buttocks exposed. Another man also exposed his buttocks to me, and on occasion would lift up the leg of the cut-off shorts he was wearing, call my name, and expose his testicles to me. This same man made a huge cardboard cut-out of a penis, which he would pretend to poke me with in the behind when my back was turned. Yet another man would post drawings of caricatures of myself. These drawings would depict me naked, often performing sexual acts with either a human being or an animal. My initials would be written on the drawings.

Mrs. Zabkowitz put up with this harassment for 4 years. She continually complained to her company but without results. She needed the job and also believed that she should not be forced out of the job because of the wrongdoing of others.

But finally it became too much for her. Besides severe emotional trauma, she also suffered vomiting, severe nausea, diarrhea, and cramping. While pregnant, her doctor advised her to take a medical leave of absence from her job, and she did.

She sued the company, and won. But she was awarded \$2,700—back pay to make up for her medical leave of absence. She could not recover for her medical bills or emotional distress, or to punish the perpetrators. And in her words: "If I had never taken that medical leave, I guess I wouldn't have gotten anything for winning."

Why shouldn't victims of intentional gender and religious discrimination have an adequate remedy for intentional discrimination? Why shouldn't we follow the lead of the fair housing amendments and provide modern remedies for victims of discrimination?

Mr. Chairman, the Civil Rights Act of 1990 gives us the opportunity to reinvigorate the civil rights laws banning discrimination in employment. We should seize this opportunity to provide equal opportunity for all Americans.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from New York [Mr. FISH].

The CHAIRMAN. The Chair will indicate that by order of proceedings the time now goes to the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I will take the next designation.

The CHAIRMAN. The gentleman from New York [Mr. FISH] is recognized.

Mr. FISH. I am delighted to speak in support of H.R. 4000, the Civil Rights Act of 1990. This legislation, which I joined in sponsoring, is designed to overturn the negative effects of certain recent, controversial Supreme Court rulings—and clarify and expand civil rights protections.

H.R. 4000, in the form we are considering today, incorporates a substantial number of changes fashioned by the other body in response to concerns expressed by the administration. This bill—together with Judiciary Committee reported language on quotas and a limitation on damages being offered as separate amendments—represents a compromise that merits favorable consideration in this body. The substitute, by contrast, disregards finely crafted efforts to accommodate diverse points of view in favor of a formulation that fails to effectuate important civil rights objectives. Although this legislation—without the substitute—does not enjoy administration backing, I am hopeful that compromises satisfactory to the President will be fashioned in conference.

The denial of employment opportunities to any of our citizens—based on such invidious criteria as race, sex, or

religion—represents an injustice that cannot be tolerated in late twentieth century America. Although we have passed civil rights legislation on various occasions in the past—reaffirming our national commitment to ending discrimination—we recognize that the courts perform the critical role of applying statutory language in the context of litigation. When the Supreme Court renders restrictive interpretations of civil rights law designed to protect women and members of minority groups, it is incumbent on us—as the authors of such legislation—to clarify the meaning of the congressional design in ways that preserve and strengthen essential safeguards.

A review of some recent Supreme Court opinions underscores the need for remedial legislation.

It is unreasonable and burdensome to require individuals denied employment opportunities to disprove a business justification—a matter within the employer's special knowledge—yet this is the effect of *Wards Cove* versus *Atonio*.

It is disruptive to reopen consent decrees in civil rights cases when groups choose not to intervene in a timely fashion—yet this is the result in *Martin* versus *Wilks*.

It is debilitating when civil rights legislation, enacted in the immediate aftermath of the Civil War, is interpreted not to bar discriminatory harassment on the job—yet this is the outcome of *Patterson* versus *McLean Credit Union*.

It is unfair to bar employees, who could not anticipate adverse impacts in advance, from challenging seniority systems adopted with unlawful discriminatory motives—yet this will be the consequence if the decision in *Lorance* versus *AT&T* stands.

It is unjust for our courts to ignore reliance on discriminatory employment criteria simply because an employer can show that "its legitimate reason, standing alone, would have induced it to make the same decision"—yet this gap in civil rights law will remain if Congress fails to rectify the *Price Waterhouse* problem.

The unfortunate results of these decisions require corrective congressional action.

This legislation—I want to assure members of the business community—does not compel or encourage the use of quotas. As an opponent of employment-related quotas and an original sponsor of H.R. 4000, I can state with confidence that this is not a quota bill. The Civil Rights Act of 1990 contains a number of provisions designed to remove any doubts about this point.

The lingering perception that H.R. 4000 encourages employers to rely on quotas overlooks critical details of the bill. Concerns about quotas hopefully

can be laid to rest if we keep a few points in mind.

First, the legislation codifies—and explicitly acknowledges that it codifies—"the meaning of 'business necessity' as used in *Griggs versus Duke Power Co.*"—a Supreme Court decision with an 18 year history of not leading to quotas.

Second, section 4 of the Judiciary Committee reported bill—which is incorporated in the amendment on quotas—states unequivocally that "[t]he mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation." The term "disparate impact" appears in many judicial opinions involving employment discrimination. It refers generally to facially neutral practices which have disproportionate adverse impacts on women or members of minority groups.

Third, section 13 of our committee's reported bill—also incorporated in the amendment on quotas—addresses the quota concern head on with the following unequivocal language: "Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex or national origin. * * *

This legislation provides a damages remedy in title VII of the Civil Rights Act, but damages will not be available in cases of unintentional discrimination—thus negating any suggestion that employers may need to rely on quotas in order to avoid large damage awards. In considering the damages section, we need to bear in mind that damages already are available for racial discrimination under other legislation. This bill places intentional employment discrimination based on sex, religion, and national origin on a footing comparable with discrimination based on race.

In that regard, I believe that the intentional discrimination limitation in H.R. 4000 is significant. There is no damages remedy at all in disparate impact cases.

Later today, we will have the opportunity to vote for a limitation on punitive damages for enterprises with fewer than 100 employees which, I understand, comprise 97 percent of all U.S. businesses.

This legislation safeguards the civil rights of millions in our work force without overlooking the needs of American businesses. I urge my colleagues to join me in supporting the Civil Rights Act of 1990.

□ 1810

The CHAIRMAN. The Chair will notify the Chamber that the gentleman from California [Mr. HAWKINS] has 40 minutes remaining; the gentle-

man from Pennsylvania [Mr. GOODLING] has 24 minutes remaining; the gentleman from Texas [Mr. BROOKS] has 36 minutes remaining; and the gentleman from Wisconsin [Mr. SENBRENNER] has 24 minutes remaining.

The Chair again recognizes the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of the Civil Rights Act of 1990, not just as a Representative but as a former Director of the U.S. Office for Civil Rights, involved in enforcement actions that involved these laws.

This Nation, as we all know, is dedicated to the principle that all are created equal, and yet from its very first Constitution to this very day inequality and discrimination remain very much a part of our society. Progress has been made, there is no question about it, but the progress was not made through good will or good words. It was made through battles in the courts, in the streets, and here in the halls of Congress. All were fought for the simple point that there is no right unless there is a remedy. There is no law unless there is enforcement of that law.

As Director of the U.S. Office for Civil Rights, I can assure the Members that without the ability to enforce the civil rights acts to gain remedies for the discrimination that was found, little can be done to alter existing discrimination. Those are the tools of justice that we use in this country.

The Supreme Court unfortunately has eroded those tools and undermined the ability to protect equal rights. This bill restores the vital tools that we need for enforcement.

It is easy to talk about civil rights. It is easy to say you are for civil rights. It is probably easy to find reasons to vote against civil rights bills. But the real test today is not just talk, it is action and your votes.

John Mitchell when he was Attorney General of the United States during the Nixon years used to like to say, "Watch not what we say but what we do." It reflected the standard of hypocrisy on Justice at the time.

Today the House has the opportunity to say and do the same thing by voting for a strong civil rights act.

Mr. GOODLING. Mr. Chairman, I yield 5 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in opposition to the Hawkins-Kennedy bill. I would like to talk in the short time that I have about remedies and the reasonableness of the remedies which are in this bill for title VII.

The Members will notice that I am not talking about gutting the title VII provisions, because actually the title VII provisions, I will not say they were gutted, but they were tremendously altered by that which you call a civil rights bill, and the gentleman from California [Mr. EDWARDS] when he rose and spoke not too long ago said the Supreme Court had made some mistakes and had changed the civil rights law which had served us so very, very well. Let me tell the Members this, there are no Supreme Court decisions that have suggested that you ought to revert to a tort remedy for damages. That, I think, is the worst of all worlds.

I am arguing much as has already been set forth here, the fairness, the reasonableness of the changes which the proponents of the Hawkins-Kennedy bill are making, the damage which I think they are putting upon the title VII whole remedy.

The Hawkins-Kennedy bill is, I think it is fair to say, a bonanza for attorneys. The American Bar Association, of which I am a member, endorsed it within 3 or 4 days after it had been filed. They knew all about it. It was a bonanza for plaintiffs' attorneys, their being enriched by a change, a change and a gutting of the EEOC and the procedures which, and I quote Mr. EDWARDS, "have served us so very well for all these years."

This is no action by the Supreme Court. This is an action by activists who believe that they have the best way of doing it, but to hear some people talk, if anybody gets up and suggests that maybe the Kennedy-Hawkins bill might be wrong, you feel as though we are doing something to motherhood.

I hope you will give me at least credit for being sincere if not right, but I am an attorney. I sat through with the gentleman from California [Mr. HAWKINS], bless his heart. He is a tremendous man, and many times just the two of us in hours and hours and hours and days and days of hearings, and I have read that bill over, and I have read the cases. I think what we are doing is wrong for America. I do not think it is right for the minorities at all.

Mr. Chairman, we are making a mistake, and I am talking now about the remedies portion. I have my ideas in reference to quotas and so forth and so on. There have been some improvements made there, but we are still coming through with a new cause of action, for instance, that defines an illegal employment practice as having been created any time that race or sex or religion or national origin is a contributing factor to any employment practice, and the employer is allowed no defense to that. It is like strict liability in tort, and you attorneys know

what I am talking about here. Under the new cause of action under section 5 employers are allowed no defense once the plaintiff simply proves that sex, for instance, was a "contributory factor" to any employment practice; it could be a de minimis allegation in regard to discrimination. And the proponents of Hawkins-Kennedy also bring in a 2-year tort statute of limitation, with jury trials, like common negligence cases, to replace the 180 days period now allowed under title VII where you have to file a discrimination complaint with the EEOC. Then these are compensatory damages authorized which brings in mental distress and pain and suffering jury awards. And you have punitive damages authorized, which is defined as "callous indifference to federally protected rights of others."

Somebody tell me what that means. I have found nobody who can tell me what it means.

The purpose of title VII has always been remediation, to get the employee back to work, do it as fast as you possibly can, be able to have equitable remedies that include back pay, and although I do not agree with everything that is in the LaFalce substitute, I believe equitable remedies are, indeed, the way we ought to be going. That has served us well for the last 25 years.

Let me refer in closing here to the remarks of a man who testified before our Education and Labor Committee. It was Jeremy Rabkin, professor of social science from Yale University. He talked about the ghettos where the black children are having such a tremendously difficult time and what we ought to be really doing, and he says,

Let me be blunt. The approach of a tort remedy for multimillion-dollar recoveries is not merely a disappointment, it is a scandal. The sponsors of this legislation are not even proposing to throw money at the problems in the well-meaning and naive fashion of the Great Society programs. Instead, they propose to throw money at lawyers who may be hanging around the remotest periphery of the problems, or at lawyers who are simply hanging around. A generation of inner-city youth is drowning in drugs and violence and despair. Does Congress really have no better idea than encouraging new lawsuits to intimidate employers?

□ 1820

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentlewoman from Colorado [Mrs. SCHROEDER].

Mrs. SCHROEDER. Mr. Chairman, I want to answer some of the things that we have just heard. We are hearing here that there is something wrong with this bill because there are remedies.

Well, for crying out loud. What kind of rights are there if you do not have any remedies?

We are also hearing there is something radical and new in this bill,

these remedies, and lawyers may actually get paid. Astounding.

Well, let me tell Members: First of all, there has been punitive damages for racial discrimination for 20 years under the law, and all we are talking about here is making all discrimination equally treated. Equally treated.

I stand here in this well saying that the bill that came out of the Civil Rights Subcommittee and the Committee on Education and Labor is the bill we should pass without any amendments, because it treats all discrimination equally.

There are going to be amendments offered to cap damages vis-a-vis title VII. What does that really mean? Basically that means sex discrimination. Are we going to treat sex discrimination differently than racial discrimination? I hope not. I hope we are going to treat all discrimination equally.

Let me tell Members one more thing about punitive damages. You do not get punitive damages unless there was intent. It is all equitable, unless there is intent. It seems to me in this country that if there is intent to discriminate, then we certainly should be out trying to assess some kind of punitive damages. Otherwise, someone just assigns it as a cost of doing business.

Now, we heard a Member down here saying the world is made up of competing interests. No, it is not. Unless we pass this bill, a lot of us are not going to be able to compete. That is what this is about. This is not revolutionary, it is restorative. The people pushing this bill are not partisan, they are statesmen. They are trying to get the bill and the law back where it was. It is very important that we do that. I salute the committees in their very hard work. I hope that all Members look at the three pages of nonprofit groups urging us to turn down the substitute.

Mr. SENSENBRENNER. Mr. Chairman, I yield 5 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, I would like to talk about quotas, and I would like to tell Members a story about a business in my district.

Imagine a business back in the year 1971, a fish processing company. Imagine that that business is a leader in minority hiring, that 52 percent of their unskilled positions are held by minorities. Imagine further that 24 percent of their skilled positions and management positions are held by minorities. Imagine further that the minority percentage of the population in the area is 10 percent.

Then imagine that the Government in 1971, in a class of plaintiffs, take this business to court and alleges and claims there is a presumption of discrimination because of the difference between the 52 percent figure for minorities in unskilled positions and the

24 percent in skilled positions, a presumption of discrimination in skilled position hiring.

No individual acts of discrimination are alleged. While unfair hiring practices are alleged, there is no causal link stated between such hiring practices and the statistics.

Imagine that this litigation goes on for 19 years, with millions of dollars of attorney's fees. Imagine finally that the Supreme Court says hey, wait a minute. Statistics without a causal link to unfair practices, that is not enough. You cannot say there is a presumption of discrimination, or otherwise we would end up with hiring by statistics. We would end up with quotas.

Well, that is not imagination. That is the real thing. That is what happened to the Ward's Cove Packing Co. in my district.

The proponents of the bill, and the bill contains some very good points, some good provisions, but among the provisions the proponents say they want to completely reverse the Ward's Cove Packing Co. case. Of course, they say they do not want quotas, but because they allow a presumption of discrimination without a causal link between the statistics and the practices, and because of the unlimited damages, that is what is going to happen.

What about this business in my district? What will they do if this provision in the bill becomes law? To comply with the law they will have to do one of two things: they will have to either bring their hiring of minorities in skilled management positions up from 24 percent to 52 percent, which would get them from the presumption of discrimination. It would also result in hiring people not on the basis of merit. Or they can bring the 52 percent down to 24 percent, institute hiring practices that would result in unskilled minorities, those most in need of jobs, not getting the jobs.

Well, let us focus on people, not numbers. Rights in this country should be for people, not numbers or statistics. We need colorblind opportunity in this country, not quotas. We need to empower people, not have quotas.

Mr. Chairman, I urge that this House support the LaFalce substitute so that we can have real civil rights and not quotas.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. Mr. Chairman, I rise today in support of the Civil Rights Act of 1990 and in opposition to the Michel substitute which, I believe, would open a huge loophole that undermines the purpose of this act. The Civil Rights Act of 1990, makes significant improvements in our efforts to end discrimination and improve em-

employment opportunities for all Americans. We must not dilute the intentions of this act by allowing employers an out for denying employment to women, racial, ethnic, or religious minorities.

It is clear that Congress must take an active role, indeed the leadership, to end racial, religious, ethnic and gender discrimination which impairs our Nation's ability to guarantee to all citizens the fairness envisioned in the Constitution. We must remember that our rights are protected only if we have the right to sue for them.

In six Supreme Court decisions, decided by the narrowest of margins, we witnessed an erosion of the two most important laws protecting Americans against job discrimination. These decisions weakened the 123 year old civil rights law (section 1981) by getting rid of workers' protection against discrimination after they are hired, including harassment on the job, unjust firings and other unfair job practices. The Court also reversed the 1971 *Duke Power versus Griggs* unanimous decision, and in so doing, places the burden of proof on the employees who have been victimized by policies unfair to women and minorities. Finally, the Court's decisions gutted the established legal principle that it is always illegal for prejudice to play a part in job determinations including hiring, firing, promotion or demotion. Clearly, Congress must act to restore the protection enjoyed by all Americans prior to these Supreme Court rulings.

I am particularly interested in the provisions of this measure which deal with challenging employment practices that have a disparate effect on women or minorities. H.R. 4000 seeks to return the burden of proof to the employer to prove that an employment practice which results in a disproportionate number of women and minorities hired is required by business necessity. This section further defines a "business necessity" as bearing "significant relationship to successful performance of the job."

Today more than 50 percent of all American families living below the poverty level are headed by women. Women earn on average only 65 percent of their male counterparts. Seventy-one percent of women in the work force are there because of economic necessity. We must recognize the significance of this situation. Working women and minorities must not be denied access to employment opportunities.

I am opposed to the language of the LaFalce substitute which defines "business necessity" as a practice that "has a manifest relationship to the employment in question or that the employers legitimate employment goals are significantly served by, even if they do not require, the challenged practice. This definition would serious-

ly impair the ability of women and minorities to challenge unfair hiring practices. We have documented the problems that face women and minorities in our workforce. Wage disparities, unemployment, and occupational segregation are the realities of the American workforce for more than half of our workforce. We cannot allow employers to exercise unfair hiring practices simply because they don't want to make the effort to be fair.

I urge my colleagues to oppose the LaFalce substitute and to support H.R. 4000, the Civil Rights Act of 1990, with no weakening amendments so that Congress sends a clear message that discrimination against women and racial, ethnic, or religious minorities in the workplace will not be tolerated. We must continue our efforts to ensure all Americans are guaranteed equal employment opportunities.

□ 1830

Mr. GOODLING. Mr. Chairman, I yield 6 minutes to the gentleman from Wisconsin [Mr. GUNDERSON], who along with the gentleman from Illinois [Mr. FAWELL] and the gentleman from Texas [Mr. WASHINGTON], probably spent more time setting this legislation than the rest of the committee.

Mr. GUNDERSON. Mr. Chairman, first of all I want to begin by saying thank God the tensions are beginning to lower a little bit around here. I was beginning to think that we were going to have to take a time out and ask everybody to stand up and shake hands with their neighbor and say it is okay to be friends. You know, we had the military fights over here in the 1980s, and everybody got up on the democratic side of the aisle and said you can be against an increase in defense and still be for national security, and you are right. And we had the flag debate a little while ago, and you know what, you can be against the flag amendment and still be patriotic.

Well now, can we also agree this afternoon that you can have different philosophies about how to achieve through law civil rights and equal opportunity for everybody without somehow being anti-civil-rights or being a racist or something like that?

Let us understand what is in front of us. We have the Kennedy-Hawkins bill, and we have the bipartisan substitute. Will everybody please begin by understanding that both options overturn five Supreme Court cases. Both options overturn five Supreme Court cases. It is not like the alternative here today is to say no to progress or that business as usual is OK.

But let us get into some of the specifics. Both overturn *Wards Cove*. The difference is that the bipartisan substitute says in terms of business necessity that you have to have a manifest relationship to the employment in question. It cannot be, as the Ken-

dy-Hawkins bill says, significantly related to successful job performance.

Now what that means is if you are the best person for the job, that does not count. It has got to be whether or not you are significantly related to successful job performance.

In terms of group practices we find the same situation. The bipartisan substitute says that you can list group practices when you are going after intentional discrimination, but you have to list what each of the practices within that group shows as intentional discrimination. Kennedy-Hawkins just says list them, and let the defendant try to figure out which one of those is the one we are talking about.

Now both options in front of Members this evening reverse *Price Waterhouse*. That is the mixed motives case. Our bipartisan substitute says the mixed motive, the dual motive has to be a major contributing factor, not just a contributing factor, very important in terms of something that may be done or said or at some other time. Does that affect the employment discrimination in question?

Then we get to *Martin versus Wilks*. Again, both bills overturn *Martin versus Wilks*. Our substitute says you cannot challenge a consent decree if at the time of settlement you were an employee or an applicant of the firm, or No. 2, you had actual notice that the settlement affects your particular interest. Now the Kennedy-Hawkins bill says that you simply cannot challenge it.

Both bills overturn *Patterson* regarding section 1981. Both options overturn the *Lorance* case. So is there agreement here that both options in front of us overturn five Supreme Court cases?

That then really gets down to the question of does or does not the bill impose quotas, and it gets down to the question of litigation.

Justice delayed is justice denied, and anybody who thinks you are going to do something for somebody by sending them as a victim of discrimination into the court system of this country ought to know better. You simply ought to know better.

Take a look at the *Wards Cove* case. It was filed in 1974, and 16 years later we still do not have a resolution. *Price Waterhouse*, 6 years later we do not have a resolution. *Martin versus Wilks*, 15 years; *Patterson*, 7 years; *Lorance*, 6 years. We do not do a victim of discrimination a service by putting them into a court system full of litigation, jury trials and see how high we can get the damages so you can figure out how high you can pay the plaintiff's attorney. Come on.

Let us understand that there is a better way, a quicker way to find civil rights for the victim. It is in the bipartisan substitute.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I thank the gentleman for yielding time.

The question we have is this: What has been the history of antidiscrimination legislation enforcement in this country, because competing pieces of legislation, and it is possible to look at the words in each, and cogitate, and speculate, and say it might mean this or it might mean that. If we were dealing for the first time with antidiscrimination legislation, that is what we would have gone on. But we are dealing with efforts to outlaw bigotry for 30 years and more. We have a record, and the record is overwhelming.

If you have lived in this country, and you have paid attention, you know that discrimination is very hard to attack and very easy to defend. The scarce examples that are conjured up of what might happen are simply contradicted by the record of reality. The overwhelming advantages are on the side of the smart bigots.

Every time we legislate, the Civil Rights Act itself in 1964, the equal rights amendment in the States, we have people now, for instance, saying that oh, the EEOC is fine. Not the people here, but those lobbying for the bipartisan substitute, so called, were the people who told us that the EEOC would wreak terrible havoc on America. Now that it is in place, they retroactively find it okay, because it is useful as a stick with which to beat back efforts to continue our efforts of antidiscrimination.

Every time we deal with antidiscrimination legislation we are presented with horrific examples of what might happen, and it almost never does. Every one of us who lives in this country understands that given the power that racism still has, it is diminishing and we are winning that fight, but slowly, given the power that racism still has, given the advantages that go with the territory when you have to meet a burden of proof, given the difficulty of looking in people's minds, discrimination continues to be hard to defend.

If we pass H.R. 4000 we give those who are discriminated against a better chance. If we pass the substitute, we do not make it harder for them; yes, it is an improvement, but it is not nearly the improvement that a commitment to our moral principles requires.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. McCOLLUM].

□ 1840

Mr. McCOLLUM. All of us here are opposed to discrimination in the employment place. There is no question about that. The issue is whether or not the bill that is before us is going to

cause quotas or whether it is going to cause an enormous amount of cost in litigation for the employer unnecessarily.

And I would submit to you that as a practical matter it does cause quotas. That is the issue why we need to adopt the LaFalce substitute.

I would like to give you an example from a column of James Jackson Kilpatrick, a column of a few weeks ago. He says,

Let us suppose that 1,000 plumbers are available in a given city. Of these, 200 are black. The ABC Corp., a large plumbing contractor, regularly employs 100 plumbers. They are hired if they have graduated from a trade school, have one year of experience, and can present satisfactory references during an interview.

Along comes Joe Johnson, a black applicant who has not graduated from a trade school and has only six months of experience. He applies to ABC and is turned down. He sues, charging that ABC's hiring policies have had a "disparate impact" upon the black community. Instead of having 20 minority plumbers, the company has only 10.

On this evidence the company stands guilty as charged. The employer is now subject to heavy damages. The rejected applicant "shall not be required to demonstrate which specific practice or practices result in such disparate impact." On the contrary, it is up to the employer to prove that all of his conditions are "essential," that they are required by business necessity—that is, that the requirements bear a "substantial and demonstrable relationship" to effective job performance.

Such a burden of proof would be formidably difficult to establish in court. Is a trade school certificate necessary? Is a year's experience too much to require? Are references a matter of subjective decision that could be racially biased?

Defending Johnson's suit is expensive, not only in lawyers' fees but also in the time of executives who must be taken from their regular duties. Johnson, of course, has a lawyer who works on a contingent basis.

What is the ABC Corp. to do? People who live in the real world know exactly what ABC will do, will drop 10 white plumbers and hire 10 black plumbers (never mind their education, experience or references), and its payroll will then meet the 20 percent minority quota. There will no longer be a demonstrable "disparate impact."

But there will then, as a practical matter, be an imposition of quotas. That is the problem with the bill as it now stands. The LaFalce substitute will amend that, change that, still remedy the issue presented to us by the Supreme Court that we need to change.

I urge my colleagues, in looking at this, to look at it rationally. All of us want no discrimination in the employment place. But I think if we are going to as a practical matter avoid quotas being brought into place and avoid high litigation costs that the unnecessary provisions of this bill would impose, we have to adopt the sensible approach today, and that is the LaFalce substitute.

Mr. Chairman, I urge my colleagues to do it.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS].

Mrs. COLLINS. Mr. Chairman, H.R. 4000, the Civil Rights Act of 1990, all boils down to equality and justice.

We need not rehash our Nation's history of racial discrimination in employment that gave rise to Federal statutes such as section 1981, passed in 1866, and title VII of the Civil Rights Act of 1964. It is clear, though, that they were passed because of the undeniable pervasiveness of job related discrimination.

Mr. Chairman, five recent decisions by the Supreme Court have gutted the 1964 Civil Rights Act to the extent that that act is not now able to single-handedly eliminate employment discrimination. These decisions and actions of the Reagan court and administration have brought about a resurrection of these problems. This is well known and equally disturbing. Race, as well as gender, religion and national origin, regrettably figure in management's decisionmaking regarding hiring, promotions, layoffs, firings and day-to-day operations.

Such practices are absolutely intolerable. In this country we speak frequently about "equality." What is the word "equality" worth if it only applies in theory? What are employment protections worth if they are unenforceable? What are judicial remedies worth if they are obstructed with impenetrable barriers? Nothing. Absolutely nothing, but to give hope of fairness where there really is none, and the charade of democratic practices where they do not actually exist.

As chairwoman of the Government Activities and Transportation Subcommittee of the Committee on Government Operations, I have concluded through our oversight investigations that for women and minorities there is only an illusion of professional and business equality. I can say unequivocally that despite all the laws passed by this body to eliminate discrimination in the workplace and to improve the economic well-being of minority business, the dreams of true opportunity for minorities and women are too often dreams deterred. My subcommittee found after a 2-year investigation of the airline industry, for instance, that the industry continues to deny opportunities to black pilots, managers, and other professionals. Minority and female airline employees are disproportionately concentrated in low-wage, low-skill positions. Few have been able to become vice presidents and members of the board. The industry remains a bastion of white male domination.

That fact holds true for all of corporate America. We see it in the media, in the television and movie and in industry, in the electronics industry, in

the pharmaceutical industry, ad infinitum.

The same picture even emerges, with respect to employment trends and practices of cultural institutions receiving Federal funds. In an investigation of the Smithsonian which my subcommittee recently completed, we found that in the Smithsonian's 142-year history, there has been only one minority assistant secretary. Today, none of the Smithsonian's 7 assistant secretaries is a minority, and of 15 bureau directors there are only 2. That same minority underrepresentation extends to curators, researchers, as well as the Smithsonian's Board and its many committees and councils.

In the procurement area, minority and women-owned firms enjoyed very limited participation. Despite set-aside provisions and laws to encourage subcontracting to minorities and women, we find that opportunity for these groups falls typically in areas such as janitorial and food service. We minorities and women, have many capable construction and high-technology firms that simply are not getting the opportunity to compete.

The Supreme Court engaged in unprecedented judicial activism last year when it curtailed well-established rights and remedies under section 1981 and title VII. Previous Court decisions were haphazardly overruled and new interpretations were carelessly expounded. The net result is that the Court disregarded both the letter and the spirit of Congress' efforts, thus doing damage to the legitimate rights of millions of Americans. I believe the Court simply made a mistake.

Today is a historic occasion in the House of Representatives. Today, we have the opportunity to restore several essential rights and fashion a non-discrimination ethic for American business that cannot be ignored.

To begin with, in 1866, Congress only recognized discrimination in hiring. However, it is clear today that such improprieties arise in other aspects of employment. H.R. 4000 would reverse *Patterson versus McLean Credit Union* on this point.

Second, in the *Wards Cove* case, the Court overturned its decision in the earlier *Griggs* case by shifting the critical burden of proof from the employer to the employee to prove that the employer has a reasonable justification for discriminating. That conclusion was incomprehensible, because only the employer has access to the employer's information on why they made their decisions. H.R. 4000 would restore the *Griggs* decision by returning the burden of proof to the employer.

Third, there is clarification of what is a business necessity for purposes of justifying a discriminatory practice. This definition is necessary so that an employer cannot arbitrarily justify ac-

tions as a business necessity when the primary motivation is a discriminatory one.

Fourth, in *Lorance versus AT&T*, the Court stated that the statute of limitations begins to run when a discriminatory practice is initiated. But that is patently unfair, since an individual employee is not able to keep abreast of every management decision. It may be years until that employee learns of the practice and is affected by it. That should be the time when the statute of limitations begins to run, and H.R. 4000 adopts that policy.

Fifth, in *Price Waterhouse versus Hopkins*, the Court allows intentional discrimination where it is not the primary factor in a management decision. That conclusion was unjustifiable since even our finest psychologists have not found a way to analyze genuine priorities of thought inside the mind of a business administrator. How do we really determine whether discrimination was a primary factor? H.R. 4000 makes it clear that intentional discrimination is never acceptable, whether as a primary factor or otherwise.

Finally, to aid in enforcement, H.R. 4000 stipulates that compensatory and punitive damages, as well as attorney's fees, are available in certain appropriate situations.

To those critics who suggest that this bill goes too far, I suggest that they consider the issue from the other point of view. If they were subject to racial, gender or age discrimination in getting or maintaining a job, I believe that they would be very supportive of H.R. 4000. It is easy to oppose a measure for equality when one cannot fathom the effects of discrimination against oneself. To those critics, I ask simply that the fundamental American principles of equality and justice be upheld irrespective of the extra sheets of paper that it take to do so.

Mr. Chairman, H.R. 4000 sets forth a fair and workable mechanism to protect the employment rights of all Americans. I urge my colleagues to support this bill and defeat all weakening amendments.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a distinguished and able Member, the gentleman from California [Mr. LEVINE].

Mr. LEVINE of California. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I would like to pay tribute, in beginning my remarks, as others have done as well, to my very distinguished colleague, the gentleman from California [Mr. HAWKINS], chairman of the Committee on Education and Labor, for whom this legislation is another very fitting tribute to the more than half century of marvelous public service that he has provided to this country.

Mr. Chairman, for those of us whose politics were forged in the 1960's, there are no issues that define more what America means and what ideals America should stand for than civil rights. The fact of the matter is, Mr. Chairman, over the course of the past generation, this country has made consistent programs on a bipartisan basis in historical civil rights strides with regard to the range of civil rights laws that were passed in the 1960's.

Mr. Chairman, I had the thrill 25 years ago of sitting in the gallery of this Chamber as a student when President Lyndon Johnson stood before this House, addressed a joint session of Congress, announcing voting rights legislation in 1965.

Whether it was the civil rights legislation of 1964, the voting rights legislation of 1965, those bills define what America stands for at its best. The fact that all people were to be included in the opportunities of our society, the fact that people, regardless of race, regardless of gender, were going to be given a stake in society in which we all share.

Unfortunately, Mr. Chairman, what we have seen cloaked in the language of judicial conservatism has been some of the most extreme form of judicial activism in the late 1980's in reversing the progress that we made as a nation throughout the 1960's and 1970's.

Mr. Chairman, this legislation, unamended, will reverse what the Supreme Court has done in the late 1980's, in order to restore what we thought we were doing as a Nation in the 1960's. Nothing is more important to us as a society with liberty and justice for all.

Mr. Chairman, I urge you to defeat the weakening amendment and support the legislation.

Mr. Chairman, today we are dealing with unfinished business. When this distinguished body passed the Civil Rights Act of 1964 it should have been clear that America would no longer tolerate discrimination of any kind. After the *Griggs* ruling, and the *Martin versus Wilks* ruling it should have been clear that the practice of discrimination in employment and hiring was no longer acceptable in our great land of freedom and equality. Apparently that was not the case.

Last year, the Reagan appointees joined other conservatives on the Supreme Court to begin the process of unraveling the mosaic of laws protecting Americans from discrimination in employment.

Congress must not let that happen. It is up to us to stop this assault on the civil rights of all Americans. It is up to us to stand up for the millions of Americans whose basic freedoms are now jeopardized by the Supreme Court.

Opponents of this legislation have raised the specter of quotas. This is absurd. This is not a quota bill. It specifically rejects the use of quotas.

I understand the concern of many of my colleagues about quotas. I know that quotas

can be used to discriminate. I would not be here speaking on its behalf if it were a quota bill. This is a smokescreen opponents of this bill are using to hide their opposition to overturning the Supreme Court ruling.

Everything in this bill is consistent with what the United States stands for. This is the one opportunity we will have to make a strong statement in favor of protecting the rights of women, minorities, the disabled, and others who have been discriminated against for too long.

I urge my colleagues to uphold the principles on which this great Nation was founded: equality, freedom, justice. Let us affirm the rights of everyone living under our Constitution, regardless of race, regardless of gender, regardless of ability or religion.

I urge you to join me in rejecting the Republican substitute and in passing the Civil Rights Act of 1990. Let us finish our unfinished agenda.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. CAMPBELL].

Mr. CAMPBELL of California. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise to speak to the issue of whether the LaFalce substitute violates the Constitution by not providing for a jury trial. I believe the LaFalce bill is unconstitutional.

The seventh amendment to the U.S. Constitution states:

In suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved * * *

This language immediately invokes the common law difference between suits in law and suits in equity. Jury trials are required for suits at common law; they are not for suits in equity. Here is how that distinction has played out in the discrimination area.

Title VII of the Civil Rights Act of 1964 does not provide for jury trials, and the Supreme Court has never held that they are required. Almost all the lower courts have held they are not required. The relief available under title VII is provided in the following language:

The court may enjoin the respondent from engaging in such unlawful employment practice, and order such affirmative action as may be appropriate to which may include, but is not limited to, reinstatement or hiring of employees, with or without back pay . . . or any other equitable relief as the court deems appropriate. 42 U.S.C. section 2000e-5(g).

The Supreme Court had the jury question before it in *Curtis v. Loether*, 415 U.S. 189 (1974). The case dealt with whether a jury trial was required under title VIII, the fair housing provision of the Civil Rights Act. Justice Thurgood Marshall held, for the Court, that a jury trial was required, and contrasted this case with title VII:

We need not, and do not, go so far as to say that any award of monetary relief must necessarily be 'legal' relief. * * * A compari-

son of Title VIII with Title VIII of the Civil Rights Act of 1964, where the courts of appeals have held that jury trial is not required in an action for reinstatement and backpay, is instructive, although we of course express no view on the jury trial issue in that context. In Title VII cases the courts of appeals have characterized backpay as an integral part of an equitable remedy, a form of restitution. . . . In Title VII cases, also, the courts have relied on the fact that the decision whether to award backpay is committed to the discretion of the trial judge. There is no comparable discretion here: if a plaintiff proves unlawful discrimination and actual damages, he is entitled to judgment for that amount.

The test, according to the Supreme Court, in this opinion by Justice Marshall, seems to have two prongs. First, is the relief an "integral part of an equitable remedy" such as restitution? Second, is there discretion vested in the trial judge?

Look again at the language of the LaFalce substitute:

The court may require the respondent to pay the complaining party an amount not to exceed \$100,000 if the court finds that—(a) an additional equitable remedy beyond those otherwise available is needed to deter the respondent from future violations of this title; and (b) such an award is otherwise justified by the equities.

In order to grant the relief, the trial court has to exercise judgment. Relief is not automatic upon proof to exercise judgment. Relief is not automatic upon proof of damage. Furthermore, the finding the judge must make is quite particular. In clause (a), the judge must find that awarding this relief is necessary to deter the respondent from future violations.

The respondent may not be ordered to pay unless the judge finds that is necessary to prevent the respondent from future harassment or other discriminatory conduct. If it is clear the respondent will not discriminate again, the judge may not order the remedy. Hence, it is the future likely conduct of the respondent, not the damage felt by the employee, that triggers relief.

Injunctions are equitable relief. In an injunction, the court orders a respondent to do something or to stop doing something. In the LaFalce substitute, the respondent is ordered not to discriminate again, and, if necessary to make that happen, the judge can make the respondent know the judge is serious—by requiring the respondent to pay up to \$100,000.

The two-prong test by Justice Marshall could thus not be more clearly met. The remedy is an integral part of an equitable remedy, namely the relief of injunction—don't do this—and the judge has to exercise discretion.

One other factor is suggested in *Lorillard v. Pons*, 434 U.S. 575 (1978), where the Supreme Court decided that a jury trial was necessary under the Age Discrimination Act, even though it had never held a jury trial was required in title VII. Once again,

Justice Marshall wrote for the Court. He focused upon "the remedial and procedural provisions of the two laws that are crucial and there we find significant differences." The Age Discrimination Act had used the procedures of the Fair Labor Standards Act, not title VII. This was significant to the Court.

Once again, the analogy is direct. Section 1981, which was at issue in *Patterson versus McLean*, allows for jury trials for damages for racial discrimination. It is quite different procedurally from title VII. There is no EEOC, there is no mandated agency review, there is no explicit grant of discretion to the judge, as there is in title VII. The LaFalce substitute, of course, is not only modeled on title VII; it is an amendment of title VII. Thus, if it has been constitutional to deny a jury trial under title VII for these past 26 years, it is constitutional to continue to do so under title VII as amended by LaFalce. Quite a different case would be presented where section 1981 to be amended—but that route was explicitly not followed by either H.R. 4000 or the LaFalce substitute.

Lastly, attention has been drawn to a letter drafted for Senator KENNEDY by Steve Sussman, a well-known plaintiff's attorney in Houston. Mr. Sussman reaches the conclusion that a jury trial must be required under the Kassebaum proposal, which, on this point, is identical with LaFalce.

Obviously, good lawyers can disagree on a point. It is important, however, that the Sussman analysis pays no attention to the fact that the remedy can only be ordered if the judge finds it is necessary in order to compel the respondent not to discriminate in the future. The case on which Mr. Sussman relies is *Ross v. Barnard*, 396 U.S. 531 (1970). Here is the quotation from that decision which he provides:

The "legal" nature of an issue is determined by considering first, the premerger [of the courts of law and equity] custom with reference to such questions; second, the remedy sought; and third, the practical abilities and limitations of juries.

To this test, one can only say, "Exactly!" Before the courts of law and the courts of equity were merged, injunctions were heard only in the courts of equity. And, as analyzed above, the LaFalce substitute provides for relief in a form most closely analogous to an injunction.

Point two—the remedy sought is the cessation of the practice; for it is only if the \$100,000 remedy is necessary to force the respondent not to discriminate again that the court can award the remedy. Once again, this is equity—it is forcing a party to do or not to do something.

Point three—just consider the practical limitations on juries. How are they to determine whether making the

respondent pay up to \$100,000 is necessary to force him or her to stop? That kind of decision has always been made by a judge; it is the most typical kind of decision we vest in a judge who sees many different defendants and can judge what it takes to effect their conduct, rather than in a jury that sees only one defendant.

It is exceptionally clear that the relief provided in the LaFalce substitute is equitable in nature, and thus no jury trial is required under the seventh amendment to the Constitution.

□ 1850

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I want to remind this body, the last time this Congress dealt with discrimination and employers, and it was in the Immigration Act when we instituted employer sanctions, and do Members know what happened when we instituted employer sanctions? Well, we caused discrimination.

The GAO report, as part of the Immigration bill, said that 20 percent of all employers in this country were discriminating, primarily against Hispanics, primarily against Asians or any person that looked foreign, any person that was not, perhaps, blond and blue-eyed. So that is the record of this Government in protecting discrimination.

Then we went ahead and had the Reagan years, and we deregulated savings and loans, we deregulated banking and airlines, and then we tried to deregulate people with the Supreme Court decisions, setting back the Civil Rights Acts of many years past. So we are here today to reverse those wrongs and to simply say that one of the basic functions of government is national defense, but it is also to protect people that cannot defend themselves, that do not have those business lobbies running around and saying, in an era of unprecedented growth, economic growth in this country, the error of greediness of the 1980's, where business had it all, tax cuts, growth, prosperity, and now they also want to discriminate against people.

We cannot have a Congress and a President that says it is wrong, and that we are going to say no, and that we are going to proceed with a good simple bill that does not have quotas and protects people. I hope this House passes this bill without any kind of amendments that dilute what this country has stood for.

Mr. Chairman, today the House will consider one of the most important and historic pieces of legislation, the Civil Rights Act of 1990. Why do we need this legislation after more than 25 years under the Civil Rights Act of 1964? Because last year, the Supreme Court made several decisions that severely cut back on the effectiveness of existing civil rights laws. It is time for Congress to replace the

balance of fairness, integrity, and equality of opportunity diminished by those decisions.

As a Hispanic, I cringed at the thought of how those decisions would affect minorities who have for so long fought to receive fair and just treatment in the workplace. In essence, the Supreme Court found that it is OK for employers to discriminate, as long as they have a good lawyer! One of the decisions involving the Wards-Cove case shifted the burden of proof of discriminatory practices onto the plaintiff. Employers who wish to engage in intentional discrimination in the hiring, promotion, or discharge of an employee can now prevail merely by establishing that an otherwise discriminatory motive was accompanied by a legitimate business reason. We cannot allow such crippling blows to the statutory framework designed to protect our work force.

Of course, everyone wants to be viewed as a champion of civil rights, but actions speak louder than words. President Bush has indicated he will veto this bill as drafted and labels it a quota bill. Mr. Chairman, we have an obligation to eliminate discrimination in the workplace and everywhere, and we should not be compromising in this effort. I urge my colleagues to join me in support of the Civil Rights Act of 1990.

WHAT'S WRONG WITH THE MICHEL/LA FALCE REPUBLICAN SUBSTITUTE

H.R. 4000, the Civil Rights Act of 1990, overturns last year's Supreme Court decisions interpreting federal civil rights protections prohibiting discrimination in the workplace. The Michel/LaFalce substitute would codify the most objectionable aspects of those decisions. Specifically, Michel/LaFalce:

I—provides that under Title VII victims of intentional gender, religious, or national origin discrimination could not recover damages in any cases in which back pay may be awarded. However, no such limitation applies to victims of intentional racial discrimination under a separate federal statute, who may receive both compensatory and punitive damages.

II—provision of a so-called \$100,000 "equitable relief" provision is clearly unconstitutional because it violates the constitutional right to a jury trial in damage cases under the Seventh Amendment.

III—fails to prohibit discrimination with respect to the "terms and conditions" of an employment contract, thereby codifying the decision in *Patterson* that the federal civil rights statute known as Section 1981 prohibits discrimination only in hiring, but not once the employee has begun working.

IV—codifies the weakened "business necessity" test in *Wards Cove* that employers may justify discriminatory employment practices as "serving any business purpose" rather than adopting the unanimous 1971 decision in *Griggs* that discriminatory practices be "significantly related to successful job performance."

V—insulates from challenge employment practices which are made partly on the basis of race or gender because plaintiffs would have to establish that race or gender was a "major contribution factor" in the employment decision.

VI—fails to provide successful plaintiffs with the right to be reimbursed for time expended in successfully defending the relief they obtained from an employer against collateral attacks.

GROUPS OPPOSED TO THE MICHEL/LA FALCE REPUBLICAN SUBSTITUTE TO THE CIVIL RIGHTS ACT OF 1990

Leadership Conference on Civil Rights.
American Civil Liberties Union.
American Federation of Labor—Congress of Industrial Organizations.
American Federation of State, County & Municipal Employees, AFL-CIO.
International Union of United Automobile Workers.
League of Women Voters.
Mexican American Legal Defense and Education Fund.
National Association for the Advancement of Colored People.
NAACP Legal Defense and Educational Fund, Inc.
National Council of Churches.
National Council of La Raza.
National Council of Negro Women.
National Education Association.
National Organization for Women.
National Urban League.
National Women's Political Caucus.
People for the American Way.
Southern Christian Leadership Conference.
Union of American Hebrew Congregations.
United Steelworkers of America.
Women's Legal Defense Fund.
American Bar Association.
National Association of Counties.
National Bar Association.
National Black Caucus of State Legislators.
National Black Republican Civil Rights Task Force.
National Conference of Black Mayors, Inc.
U.S. Conference of Mayors.
Actors Equity.
African Methodist Episcopal Church.
African Methodist Episcopal Zion Church.
Alpha Kappa Alpha Sorority, Inc.
Alpha Phi Alpha Fraternity, Inc.
Amalgamated Clothing & Textile Workers of America.
American Association for Affirmative Action.
American Association of Retired Persons.
American Association of University Women.
American Baptist Churches, USA—National Ministries.
American Ethical Union.
American Federation of Government Employees.
American Federation of Teachers.
American Jewish Committee.
American Jewish Congress.
American Postal Workers Union, AFL-CIO.
American Society for Public Administration.
American Veterans Committee.
Americans for Democratic Action.
American Nurses Association.
Anti-Defamation League of B'nai B'rith.
A. Philip Randolph Institute.
Association for the Education and Rehabilitation of the Blind and Visually Impaired.
Association of Junior Leagues International.
Associated Actors and Artistes of America, AFL-CIO.
Association for Women in Science.
Building & Construction Trades Department, AFL-CIO.
Center for Community Change.
Children's Defense Fund.

Church of the Brethren—World Ministries Commission.
 Church Women United.
 Citizenship Education Fund.
 Coalition of Labor Union Women.
 Common Cause.
 Communications Workers of America.
 Delta Sigma Theta Sorority.
 Disability Rights Education & Defense Fund.
 Division of Homeland Ministers—Christian Church (Disciples of Christ).
 Epilepsy Foundation of America.
 Episcopal Church—Public Affairs Office.
 The Evangelical Lutheran Church in America.
 Federally Employed Women.
 Federation of Organizations for Professional Women.
 Food & Allied Service Trades, AFL-CIO.
 Friends Committee on National Legislation.
 Frontiers International, Inc.
 Frontlash.
 Hadassah, Women's Zionist Organization of America.
 Hotel and Restaurant Employees and Bartenders International Union.
 Improved Benevolent & Protective Order of Elks of the World.
 Industrial Union Department, AFL-CIO.
 International Association of Black Professional Firefighters.
 International Association of Machinists and Aerospace Workers.
 International Association of Official Human Rights Agencies.
 International Ladies' Garment Workers' Union of America.
 International Molders & Allied Workers Union.
 International Union of Electrical, Radio & Machine Workers.
 International Union of Operating Engineers.
 Iota Phi Lambda Sorority, Inc.
 Human Rights Campaign Fund.
 Japanese American Citizens League.
 Jewish Labor Committee.
 Jewish War Veterans.
 Kappa Alpha Psi Fraternity.
 Labor Council for Latin American Advancement.
 Labor Zionist Alliance.
 Lawyers' Committee for Civil Rights Under Law.
 Mennonite Central Committee.
 Mental Health Law Project United Cerebral Palsy Association, Inc.
 Na'Amat USA.
 National Alliance of Postal & Federal Employees.
 National Alliance of Postal & Federal Employees—National Women's Auxiliary.
 National Association for Equal Opportunity in Higher Education.
 National Association of Americans of Asian Indian Descent.
 National Association of Colored Women's Clubs, Inc.
 National Association of Commissions for Women.
 National Association of Community Health Centers.
 National Association of Human Rights Workers.
 National Association of Market Developers.
 National Association of Negro Business & Professional Women's Clubs, Inc.
 National Association of Social Workers.
 National Association of University Women.
 National Association of Women Federal Contractors.

National Black Republican Civil Rights Task Force.
 National Business League.
 National Community Action Agency Executive Directors Association.
 National Community Action Foundation.
 National Conference of Christians and Jews, Inc.
 National Congress for Community Economic Development.
 National Congress for Puerto Rican Rights.
 National Congress of American Indians.
 National Council of Jewish Women.
 National Federation of Business and Professional Women's Clubs.
 National Federation of Temple Sisterhoods.
 National Federation of Temple Youth.
 National Gay & Lesbian Task Force.
 National Hispanic Housing Coalition.
 National Image.
 National Institute for Employment Equity.
 National Jewish Community Relations Advisory Council.
 National Jewish Welfare Board.
 National Legal Aid & Defender Association.
 National Low Income Housing Coalition.
 National Neighbors.
 National Newspaper Publishers Association.
 National Parent Teacher Association.
 National Post Office Mail Handlers, Watchmen, Messengers & Group Leaders.
 National Puerto Rican Coalition.
 National Rainbow Coalition.
 National Sorority of Phi Delta Kappa, Inc.
 National Urban Coalition.
 National Women's Law Center.
 9 to 5, National Association of Working Women.
 Oil, Chemical & Atomic Workers International Union.
 Older Women's League.
 Omega Psi Phi Fraternity, Inc.
 Opportunities Industrialization Center.
 Organization of Chinese Americans, Inc.
 Organization of Pan Asian American Women.
 Phi Beta Sigma Fraternity, Inc.
 Potomac Institute.
 Presbyterian Church (USA), Washington Office.
 Project Equality, Inc.
 Project on Education/NOW Legal Defense and Education Fund.
 Wholesale & Department Store Union, AFL-CIO.
 Service Employees International Union.
 Sigma Gamma Rho Sorority, Inc.
 Spina Bifida Association of America.
 Synagogue Council of America.
 Transport Workers Union of America.
 Unitarian Universalist Association.
 United Association of Journeymen & Apprentices of the Plumbing & Pipe Fitting Industry of the U.S. & Canada, AFL-CIO.
 United Church of Christ—Commission for Racial Justice Now.
 United Church of Christ—Office for Church in Society.
 United Farm Workers of America, AFL-CIO.
 United Food and Commercial Workers International Union.
 United Hebrew Trades.
 United Methodist Church—Board of Church and Society.
 United Methodist Church—Board of Global Ministries Women's Division.
 United Mine Workers of America.

United Rubber, Cork, Linoleum & Plastic Workers of America.
 United States Catholic Conference.
 United Synagogue of America.
 U.S. Student Association.
 Voter Education Project, Inc.
 Women in Communication.
 Women's American ORT.
 Women's International League for Peace and Freedom.
 Women's Workforce—Wider Opportunities for Women.
 Workmen's Circle.
 Young Women's Christian Association of the USA, National Board.
 Zeta Phi Beta Sorority, Inc.

Mr. GOODLING. Mr. Chairman, I wish those in power on the other side would deregulate their membership.

I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. CONYERS] a distinguished member of the Committee on the Judiciary and the chairman of the Committee on Government Operations.

Mr. CONYERS. Mr. Chairman, the test that we are put to for the next day or two is to determine whether America is going to move forward out of the past that was characterized by the lack of enforcement, by the lack of adequate remedies, for civil rights measures. I think that is what puts the committee bill in such sharp contrast with the substitute.

It would be nice for everyone in the Congress to know that they would not be judged how they vote on this substitute. That would be the best of all worlds. But unfortunately, Members are going to be judged by whether they vote for the Hawkins-Edwards measure or whether they vote for the substitute. That is what we are here for. We are going down in history.

For anyone to suggest that the gentleman from California [Mr. HAWKINS] and [Mr. EDWARDS] represent a zealot's view of civil rights, is to know these gentlemen at all. That is the only thing I can say about that kind of characterization. These are the two most thoughtful, moderate civil rights advocates that we have ever seen in the Congress.

Then there is the question of the Kilpatrick hypothetical of an untrained, unprepared, black apprentice, applying for a job that is going to lock out 10 other whites because they do not want to fight the lawsuit. I want to point out, the one single reason why the gentleman from Florida [Mr. McCOLLUM] is totally incorrect in asserting that kind of hypothetical is that because in the last 18 years of Griggs, no person has ever raised the charge of being forced to adopt quotas. I urge Members to stick with the committee bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, I rise in strong support of the bipartisan substitute, which I believe is a vast improvement over both the legislation (S. 2104) that recently passed in the other body and the version approved by the House Judiciary Committee (H.R. 4000).

The substitute would strengthen the current federal law prohibiting employment discrimination without favoring either employers or employees and, most importantly, without requiring employers to establish quotas. Under the current language of H.R. 4000, employers will be pressured to select the safest means to protect against potential discrimination claims—and that will be to establish a quota system for both hiring and promotion. Instead, the substitute relies on and strengthens the existing conference, conciliation and early settlement processes through the Equal Employment Opportunity Commission. The substitute would overrule the *Wards Cove* decision by clearly shifting the burden of proof to an employer once a prima facie case of discrimination has been established in a disparate impact case. See *Wards Cove Packing Company, Inc. v. Antonio*, 109 S.Ct. 2115 (1989). However, unlike the committee version of H.R. 4000, an employer could rebut that prima facie case if he can show the challenged employment practice has a "manifest relationship to the employment in question", or that "legitimate employment goals are significantly served" by the challenged practice or group of practices. Thus, the substitute utilizes the exact language of the holdings in *Griggs v. Duke Power Co.*, 401 U.S. 424, 432 (1971) and *New York City Transit Authority v. Beazer*, 440 U.S. 568 (1979).

The substitute is also a tremendous improvement on the remedies issue. The committee-approved bill would encourage counterproductive litigation in workplace disputes by allowing damages for pain and suffering punitive damages and jury trials. Instead the LaFalce-Michel-Goodling substitute would continue the current system of back pay and injunctive relief. In addition, the substitute would establish a new equitable relief remedy where a judge, rather than a jury, could award equitable damages to deter future unlawful conduct. This remedy would only be available in cases where no back pay can be awarded. Equitable damages up to \$100,000 would be permitted in these cases to deter intentional discrimination in the future. The provision also allows a claimant to seek immediate injunctive relief in a Federal court to stop intentional violations of title VII.

The substitute also contains other significant changes in civil rights law. For example, the much criticized decision in *Patterson* case is overruled so

as to make it clear that 42 U.S.C. 1981 applies to on-the-job racial harassment. *Patterson v. McLean Credit Union*, 109 S. Ct. 2363 (1989). The substitute also contains language dealing with *Price Waterhouse v. Hopkins*, 109 S. Ct. 1775 (1989) and *Martin v. Wilks*, 109 S. Ct. 2180 (1989).

Mr. Chairman, when the Judiciary Committee considered this legislation, I offered an amendment that would have made all the changes in current law contained in H.R. 4000 prospective only. I argued, at that time, that it was simply not fair to "change the rules in the middle of the game" for parties already in proceedings before the EEOC or for litigants already in court. It is simply not fair to retroactively affect cases pending before a Federal administrative agency or in the courts. Both the committee bill and the substitute overrule numerous aspects of Supreme Court holdings. There may or may not be good policy reasons to change those decisions, but it is completely unfair to change the outcome of cases already filed, where the parties reasonably relied on those Supreme Court decisions as the "law of the land". My amendment lost in the Judiciary Committee by the narrowest of margins on an 18-18 tie vote.

Therefore, I am particularly gratified that the LaFalce-Michel-Goodling substitute adopts my prospective approach on effective date. Section 13 of the substitute makes it clear that this act and the amendments made by this act take effect on the date of enactment. Furthermore, Section 13(b) states that "the amendments made by this act shall not apply with respect to claims arising before the date of enactment * * *".

Mr. Chairman, this substitute offers the House of Representatives an opportunity to enact a landmark civil rights bill that is both fair and pragmatic. It does away with the negative aspects of *Wards Cove* and *Patterson* without necessitating quota systems or creating a plaintiffs' lawyers paradise. We already know that H.R. 4000 in its current form would prompt a Presidential veto. The LaFalce-Michel-Goodling substitute offers us a positive alternative. It is a bill that effectively deters future discrimination in the workplace and it is a bill that President Bush can and will sign. I urge an "aye" vote.

□ 1900

Mr. HAWKINS. Mr. Chairman, I yield 2½ minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, what an honor it is to participate in this debate. There are so many great things about our country, all the freedoms that we have, speech, religion, the right to vote and choose our leaders, and of course our greatness lies in our mobility, our upward mobility, the

ability of each and every one of us, regardless of the circumstances of our birth, to rise in American society, to pursue our individual dreams.

Mr. Chairman, we may not fulfill that dream due to our own shortcomings, and government cannot help us with that. Some may want to be an opera singer; others, a star baseball player; others, the first violinist in a symphony. We may not make that dream because of our own limitation, and government cannot help us there.

However, Mr. Chairman, government needs to make sure of one thing, that the reason our dream fell through, that the reason we could not live up to our potential, was not because of a big, old, mean-spirited employer, one who stopped us in our tracks because of our gender, because of our color, because of our religion. Because, if a person does that, then they have to know that they are depriving us of our basic civil rights as Americans, and, if they do that, and it is proven, then they will be stopped by our Government clearly, and without hesitation and with remedies.

Mr. Chairman, this country has no room for mean-spirits, harassment, bigotry, hatred, and we need to clarify that today.

I want to talk a moment to the women of this country and tell them that for the first time they will be protected from harassment, from discrimination, by punitive damages. We have come a long way in this country, but we have far to go, and this democratic bill will get us there.

Mr. Chairman, I urge my colleagues' support for the bill.

Mr. HAWKINS. Mr. Chairman, I reserve the balance of my time.

Mr. GOODLING. Mr. Chairman, I yield 3½ minutes to the gentleman from North Carolina [Mr. BALLENGER].

Mr. BALLENGER. Mr. Chairman, let me preface my statement by saying that, before coming to Congress, I was a businessman, not a lawyer, and I hope I was a good one.

Mr. Chairman, earlier this year I read a column in the Washington Times regarding congressional consideration of the Civil Rights Act of 1990. The editorial said: "Some Congressmen would probably vote for a declaration of war against Canada if it were contained in a bill with the words 'civil rights' in its title."

I thought to myself that I have never read a truer statement. It seems that some Members do not care what is actually written in the legislation; all that really matters is that the "civil rights" appear in the title. In an election year, no one wants to be accused of voting against civil rights.

While I strongly support the protection of civil rights for all Americans, I do remain concerned about the effect

of this legislation on the business community.

Supporters of Kennedy-Hawkins claim that awards under the bill will be modest in amount, and that punitive damage awards will be few in number. The Labor Policy Association provided me with information on a 1988 RAND Corp. study of wrongful discharge cases in California, where compensatory and punitive damages are available, which provides hard evidence to the contrary. While I realize these cases do not cover discrimination, the study does provide an insightful look at damages.

The Rand Corp. study looks at jury awards in wrongful termination suits in California between 1980 and 1986 after the State courts interpreted California law to allow for compensatory and punitive damages in such cases. This is the same thing H.R. 4000 would do to cases under title VII.

The Rand study shows: Plaintiffs won in 67.5 percent of cases. Punitive damages were awarded in one out of every three cases. The average final payout for plaintiffs' verdicts was \$307,628. The average net payment to plaintiffs, after deduction of plaintiff attorney contingency fees, was \$188,520, with a median of \$74,500. The average contingency fee paid to plaintiff's lawyers was \$119,108, a lawyers' bonanza. The number of cases filed rose rapidly during the period studied, with nearly seven times as many cases filed in 1986 as in 1980.

Proponents of Kennedy-Hawkins claim the Rand study shows the average jury award in these cases is \$30,000. This figure included defense verdicts, and thus does not represent a reliable prediction of plaintiffs' verdict under title VII.

Committee testimony from California lawyers indicates that if the California experience becomes national law, the Kennedy-Hawkins bill should really be called the Lawyers' Employment Act because it will enrich attorneys at the expense of employers.

This Congress has considered an avalanche of legislation this year that is an assault on businesses across the country. One such bill is before us today, the Kennedy-Hawkins bill. Later today, a better solution to advance equal opportunity will be offered by the Michel-LaFalce substitute. This moderate approach solves one problem in the Kennedy-Hawkins bill by removing the provisions calling for jury trials and unlimited punitive or compensatory damages.

Join me in voting for the LaFalce bipartisan substitute, the fair and reasonable approach for the protection of the civil rights of all Americans.

I would like to be, if I may, one of the few businessmen in here that still has a company, explain a quandry that this puts me in. A good businessman prepares for the worst, and some

of my colleagues say it is not a quota bill. Maybe it is not, but I as a businessman, would be prepared along those lines. At the present time my company has 200 employees, and in my home town 15 percent of my people are African-Americans. Sixty percent of my plants' employees are African-Americans or Vietnamese, in other words, minorities. My understanding is, if I am a good businessman and prepared for this thing, quota or no quota, I have got to fire a lot of minority people to get it done. I do not think that's proper.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. CROCKETT], a distinguished member of the Committee on the Judiciary.

Mr. CROCKETT. Mr. Chairman, I rise this evening in strong support for H.R. 4000, the Civil Rights Act of 1990. I support this bill because it will restore and strengthen our civil rights laws that have been gutted by our Federal judiciary.

Early in this decade, the Justice Department—charged with protecting the civil and human rights of all our citizens—embarked on a deliberate campaign to negate the strides made in the 1960's and 1970's by our country in the battle against employment discrimination. It went to court—not to ensure equal employment opportunity—but to ensure the principle of last hired, first fired.

The philosophy of the Justice Department was based on the false notion of racial neutrality—something that never existed in America. Ours is not, nor has it ever been, a color-blind society since the first slave ship dropped anchor in Jamestown. Blacks have not been discriminated against because of individual attributes, but because of their blackness. America has always been and still is, a society that distributes its rewards and its responsibilities on the basis of group classification.

Equal opportunity is meaningless if it does not take this fact into account. Equal opportunity is an empty phrase if it suggests that the power of the law is not needed to redress the balance. Equal opportunity is a hollow promise, if it suggests we can all run the race from the same starting point.

Mr. Chairman, this bill should be called the "Civil Rights Restoration Act." We are there this evening to restore the civil rights of all of the American people, because we simply can no longer depend on the courts to protect or enforce those rights without congressional action.

And so, I urge my colleagues tonight to do the right thing, to defeat any crippling amendments and specious substitutes that would ratify the harmful Supreme Court decisions, and to restore the civil rights of all of the American people.

□ 1910

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from New Hampshire [Mr. DOUGLAS], a retired justice of the New Hampshire Supreme Court.

Mr. DOUGLAS. Mr. Chairman, I want to praise, before I begin, I want to praise the gentleman from New York [Mr. LaFalce] for coming out with a very fair, balanced substitute. This is not a bill that guts any other bill.

In fact, I want to talk about one section that is identical, section 7 in both those bills. Both of the bills overturn a Supreme Court opinion that was too restrictive to minorities and to women in challenging seniority systems.

The Supreme Court last year decided the case of Lorraine versus AT&T technology. What they said was that the women who were upset with the seniority system that discriminated against them should have come into court within a half a year of the time the system was adopted, rather than when it impacted them.

We agree, all of us who support the LaFalce substitute, as well as the folks who support Kennedy-Hawkins, that is too restrictive. That is too unfair; but where we part company is in that half a year to come into court from when you are impacted or when the plan is adopted, the other side has gone out and said, "We're going to quadruple the amount of time it takes to go to court. We're going to go from half a year, or the statute of limitations, or 2 years."

That is 2 years in which other people have been hired, other people have been promoted, other people have been moved around to different positions is too long in the workplace. That is why the 1964 civil rights bill had half a year. You know when you were not hired. You know when you were fired. You know when you were passed over. You do not need 2 years to go see a lawyer, but what it will do by dragging it out 2 years will lead to more disruption in the workplace, will not enable the EEOC to come in and do the mediation and the work that it likes to do to try to prevent cases from going to court, and it also departs from the NLRB and its process, which is also in the workplace, a statute of limitations of half a year.

So the LaFalce substitute is fair. It is balanced, but to quadruple the statute of limitations with no evidence and no requirement shown to the committee is an unfair part of the bill. That is why the LaFalce substitute makes more sense.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Wisconsin [Mr. KASTENMEIER], a distinguished member of the Judiciary Committee.

Mr. KASTENMEIER. Mr. Chairman, I rise in strong support of H.R. 4000, the Civil Rights Act of 1990.

H.R. 4000 is the bill approved by the Committee on the Judiciary, with minor changes, by a 24 to 12 vote.

The Subcommittee on Civil and Constitutional Rights, on which I serve with the chairman, my friend from California, Mr. EDWARDS, held a series of hearings on this important bill. During the course of the consideration of this bill in subcommittee and committee, we amended the bill to improve it.

We responded to concerns about the possibility that this bill would be unfair to employers and would result in quotas. We responded to concerns that this bill violated due process rights. We responded to concerns that mere thoughts and not actions would result in liability for discrimination. We have reported a very strong bill designed to respond to five devastating Supreme Court cases.

H.R. 4000 is also designed to strengthen civil rights laws. I was a Member in 1964 when Congress crafted the great Civil Rights Act of 1964, and I remember the situation then—our country was tragically segregated by law and tradition, and this civil rights bill was subject to filibuster and compromise.

Nonetheless, Congress enacted an historic bill, but it was not perfect by any means. It provided a mechanism to address some of the worst problems we faced. The act did not cover voting rights, housing discrimination, or discrimination against the disabled.

Since then, we made great progress. This week marks the 25th anniversary of the Voting Rights Act of 1965. We passed the Fair Housing Act in 1968, and significantly strengthened it in 1988. And last week the President signed the omnibus Americans with Disabilities Act, a great law to provide civil rights protections for persons with disabilities.

But 26 years after the Civil Rights Act, 26 years of great progress on civil rights, remedies under the Civil Rights Act for employment discrimination are still limited to back pay and injunctive relief.

H.R. 4000 strengthens title VII of the Civil Rights Act of 1964 by adding a damages remedy for cases of intentional employment discrimination. Compensatory damages are available for cases of intentional discrimination. In addition, punitive damages are available in cases of egregious violations—if the employment practice was engaged in "with malice, or with reckless or callous indifference to the federally protected rights of others."

Damages are available only for intentional discrimination, and not for cases of disparate impact, as some may misunderstand.

Compensatory and punitive damages are already available to victims of intentional racial discrimination, under the Civil Rights Act of 1866, codified at section 1981 of title XLII. But women and religious minorities, who are covered only under title VII, cannot be awarded any damages at all.

By adding damages to title VII, H.R. 4000 seeks to provide an adequate remedy for all prohibited intentional employment discrimination, whether based on race, color, religion, sex, or national origin.

Mr. Chairman, we have a great opportunity today, to reinvigorate our great civil rights

laws. The Civil Rights Act of 1990 gives us that opportunity.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Chairman, I thank the gentleman, the prime sponsor of the bill, for yielding this time to me.

Mr. Chairman, I rise in support of the Civil Rights Act of 1990. The act is a bipartisan attempt to reinstate constitutional guarantees of longstanding civil rights, through a comprehensive employment rights bill. This legislation, which is not a quota bill will protect the civil rights of minorities, women, the disabled, the elderly, and others who have been the victims of discrimination in the past.

Mr. Chairman, it was just a little more than a quarter of a century ago that Congress passed the historic Civil Rights Act of 1964, which outlawed discrimination in employment, public accommodations, and federally funded programs. However, a series of Supreme Court decisions, made in the belief that a nondiscriminatory society has already been achieved, have restricted civil rights protections and have turned against the victims of discrimination.

I am concerned that the balance in civil rights protections has tilted dramatically against the discriminated. Despite great strides in the past 25 years, I do not believe the battle against eradicating race and sex discrimination has yet been won. America is still striving to reach a colorblind society and one free of gender bias. I believe we must continue to move America forward, not backward, in the march against prejudice. We share the same goals on both sides of the aisle and we in Congress must continue to spell out our intention to shield Americans from all forms of bias.

H.R. 4000 will help to do so.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. ANDREWS], a distinguished member of the Ways and Means Committee.

Mr. ANDREWS. Mr. Chairman, in listening to this debate I am reminded of how much progress we really have made in such a short period of time. Growing up in Texas as a young boy, I remember well that blacks were not allowed to drink out of the same water fountain as whites. They were not allowed to use the same restrooms or go to the same schools. Our football teams in high school did not play black high school football teams.

We have come a long, long way. At the University of Texas there were very few black students in the school. Even in the late sixties, when the University of Texas won the national championship in football, there were no black football players on the team. It is amazing how much progress we

have made in a short period of time, and yet in the area of employment discrimination, due to the recent Supreme Court cases we have much to do. The reason we are here tonight is because of the actions of the Supreme Court in several recent decisions.

Let me mention one particular case and one reason I think this bill is so important. Last year in *Patterson versus McLean Credit Union*, the Supreme Court held that in making and enforcing private employment contracts, racial discrimination causes of action could not be filed based on actions of the employer during the time of employment.

□ 1920

In other words, racial harassment would only be prohibited during the hiring process. In the Federal court of the southern district of Texas a black man brought a lawsuit against his employer. He alleged that the company used harsher methods to evaluate him than white employees, that even though he was qualified, he was denied every promotion. He was paid a lower salary than white employees who worked side by side with him, and finally he was fired, solely because he was black. The district court ruled that even if every one of these contentions were true, he could not get relief. The case was dismissed because of the *Patterson* decision.

That is why we are here tonight, to give remedy to the next plaintiff, to make right from this wrong.

In 1963, Lyndon Johnson said:

We have talked long enough in this country about equal rights. We talked for 100 years or more. Yet, it is time now to write the next chapter and to write it in books of law.

And tonight, once again, we get to harken to those words of Lyndon Johnson and change the law. I look forward to the passage of this bill.

Mr. SENSENBRENNER. Mr. Chairman, I yield 30 seconds to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman yielding me this time.

Mr. Chairman, I think it is only fair that everyone understand in this debate that both the bill and the substitute overturn *Patterson*. To come here tonight and suggest you have got to vote for Kennedy-Hawkins to overturn *Patterson* is just not true. Both of them overturn *Patterson*.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Maine [Mr. BRENNAN].

Mr. BRENNAN. Mr. Chairman, over 25 years ago in what was a victory for millions of Americans the Congress passed the Civil Rights Act of 1964. That legislation marked a milestone in American history and, as a result,

American minorities could feel secure in knowing that discrimination was illegal and it would not be tolerated.

For over 25 years America has made steady progress toward the goal of eliminating discrimination. Sadly, however, we have taken a step backward with the recent series of cases decided by the U.S. Supreme Court. These 1989 decisions have made it more difficult for victims of discrimination to get justice.

Individual rights are being championed in Eastern Europe with the United States being looked to as a model. Yet, the civil rights of American citizens have been effectively reduced by our courts.

Passage of today's civil rights bill is necessary. Simply stated, it should not be more difficult for victims of discrimination to seek justice to vindicate their civil rights as Americans, and finally, with Justice William Brennan leaving the Supreme Court and realistically it is only a matter of time before Justice Thurgood Marshall leaves that Court as well, two of the great guardians of the rights of minorities in the history of America, with the departure of these two giants it is more important than in years that we write into the laws of this Nation clearly and explicitly the important protections provided by the 1990 Civil Rights Act.

I urge my colleagues to join me in supporting this act and supporting the bill as reported by the committee.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. DELAY].

Mr. DELAY. Mr. Chairman, I rise in strong opposition to the Kennedy-Hawkins bill, and let me once again remind the Members that the remedies in this bill apply and will be taken up as remedies to the Americans with Disabilities Act. So you are expanding the remedies to a whole host and millions of people across this country.

Mr. Chairman, the proponents of this bill in the heat of their compassion to take care of those that are discriminated against have forgotten their compassion for millions of their fellow Americans, and those are the small business people of this country.

The Kennedy-Hawkins bill is legalized gambling, because an employee can gamble on receiving a cash payment by bringing a frivolous suit for whatever reason. He takes a gamble that that small businessman will settle and he will walk away with very little expenses with a settlement.

Most small business people live off the profits of their labor with very little left over for reinvestment. They live off of those profits.

This bill and the implementation of the remedies of this bill would leave a small businessperson to pay some \$30,000 to \$80,000 for legal fees, exactly the amount of money that they live

off of in order to hire a lawyer to represent them in a frivolous lawsuit. Whether they win the lawsuit or not, they have got to hire a lawyer in order to represent them rather than just make a deal with the EEOC under present law. He has a choice of paying that lawyer and losing his business or paying off the employee. That is not a compassionate choice.

Make no mistake about it, this is a quota bill, because that small businessperson will have to implement quotas so as to eliminate any possibility of lawsuits.

The LaFalce substitute is compassionate because it is a compassionate compromise. The remedies in Kennedy-Hawkins are vicious and vindictive.

Mr. HAWKINS. Mr. Chairman, I yield 2½ minutes to the gentlewoman from New York [Mrs. LOWEY].

Mrs. LOWEY of New York. Mr. Chairman, I rise in strong support of the Civil Rights Act of 1990.

Our Nation stands for certain fundamental principles, including freedom and equality of opportunity for all citizens. These are the principles upon which our Nation was founded, and they are the principles which keep our Nation strong. These principles are intended to provide all American citizens with the opportunity to succeed in the field of their own choice—and to provide their children with a better future.

All Americans deserve to share in these freedoms and to know that their own search for success is constrained only by the extent of their own talents and abilities.

However, even today, that is not always the case. The ongoing tragedy of discrimination and prejudice continues to violate these principles and to limit opportunities for many Americans.

We have made major strides in recent years in fighting discrimination in our Nation. Grassroots movements supported by millions of Americans have fought back against prejudice and intolerance. And all three branches of Government have made contributions to this battle as well—by passing and upholding important laws that protect American citizens against discrimination.

At one time, the Supreme Court could be counted on as an ally in that struggle. But in recent years, the faces on that court have changed, and its commitment to the principle of equal opportunity can no longer be taken for granted. In fact, in five instances in recent years, the Supreme Court has rendered decisions which make it more difficult for victims of discrimination in the workplace to prove their cases and to seek redress in the courts.

Our objective must be to make prejudice and discrimination a thing of the past, and to ensure that every American citizen can achieve the American

dream. But these five Supreme Court decisions turn back the clock on civil rights, robbing Americans of the right to employment opportunity regardless of race, color, religion, sex, or national origin. These decisions protect those who discriminate, and deprive American citizens of their fundamental rights.

The Civil Rights Act of 1990—H.R. 4000—overturns these decisions. It will restore and strengthen our civil rights laws by making clear that employment decisions based on prejudice are illegal. The bill encourages broad interpretation of Federal civil rights laws to prevent any manner of discrimination. And it will restore fair and effective civil rights enforcement.

There are many who would like us to believe that this bill is something other than what it is.

They would like us to believe it is a quota bill that will result in employers adopting specific hiring preferences based on race rather than qualification.

But the bill contains specific language making clear that it does not in any way mandate quotas.

The bill has been clarified repeatedly to ensure that it will not result in any system of quotas in practice.

And groups that have steadfastly opposed any form of quotas stand in strong support of this legislation.

Some would also like us to believe that this bill will lead to a flood of lawsuits against innocent employers—lawsuits that will bankrupt businesses and tie them up in court for years.

But the bill is designed to discourage litigation when possible.

In past cases involving racial discrimination, claims have been infrequent, and damages have been reasonable. There is no reason to believe this bill will alter past experience.

And the law will encourage fairness by establishing the same award system for victims of racial discrimination and victims of discrimination on the basis of sex, religion, or disability.

The bill's opponents are intent on staring the truth in the face and calling it by another name. The Civil Rights Act is not a quota bill. It is not a scheme to enrich attorneys at the expense of business. It is, very simply, a bill to restore fairness to our civil rights laws and to give all American citizens a fair shake in the workplace.

Discrimination against any American citizen on the basis of race or sex or religious affiliation or disability is abhorrent. It is not to be tolerated in this society, where we place the highest value on equality of opportunity for all Americans.

We need to fight back against the crime of discrimination, not for some Americans, but for all Americans. That is what this bill is designed to do. That is what this bill will accomplish.

And that is why all Members of this body should stand up for equal opportunity, stand up for civil rights, stand up for the American dream, by voting to approve the Civil Rights Act of 1990.

□ 1930

Mr. BROOKS. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, in reviewing the legislation I had two primary concerns. First, will this bill impose quotas, yes or no? The answer to that is absolutely not.

Why do I say this? I would just urge Members to read page 27 of the bill, lines 4 through 9. This language is identical to the Andrews amendment, which we will have an opportunity to vote on later this evening. Let me read the language:

The mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origin, is not alone sufficient to establish a prima facie case of disparate impact violation.

The key words are, "is not alone."

What does this mean? It means exactly what it says. What it says is that if you go to court arguing only a statistical imbalance to convince a judge of a discrimination case, you are going to get thrown out on your ear. You have to do more than show a mere statistical imbalance. I hope Members will keep that in mind.

My second concern was this: Will this legislation encourage a dramatic increase in jury trials in race discrimination cases? I have concluded that it will not. Why do I say that? I hope that Members understand that under existing law a person can sue alleging race discrimination under section 1981, and seek compensatory and punitive damages. This is under existing law.

It is interesting, however, that over the last 10 years only 576 such cases have been brought and, guess what, only 68 plaintiffs have won awards under section 1981 over the last 10 years. This is hardly what I would call a rampant use of the courts.

This legislation will merely extend this protection to cover discrimination based on sex, religion, national origin, and disability. This is what we are talking about.

I would ask Members this: why should we not extend to women in this country, who are the victims of discrimination, the same rights and opportunities that minorities have? That is what we are talking about in this legislation. I do not believe we can justify such a distinction.

Mr. Chairman, let us not overlook one additional fact, which is also very important, and that is when we adopt, as we are certain to do later on this evening, the Brooks-Hawkins-Tallon

amendment, we will set a cap on punitive damages in title seven cases.

Mr. Chairman, under existing law there is no cap on punitive damages. None whatsoever. I think the cap provision is also a very important distinction and a very important improvement over the Senate bill from the standpoint of the business community.

Mr. Chairman, H.R. 4000 has been terribly misrepresented. The quota argument is an absolute red herring, and so is the argument about a sharp increase in the number of lawsuits with respect to race discrimination.

Mr. Chairman, I urge Members to oppose this amendment, and support the Brooks amendment and the Andrews amendment, and H.R. 4000, as amended.

Mr. SENSENBRENNER. Mr. Chairman, I yield 30 seconds to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, I do want the gentleman from Kansas [Mr. SLATTERY], whom I respect a great deal, to understand where the quota language is in H.R. 4000. The gentleman will find it in the Judiciary print on page 4, lines 19 to 22, in which it states quite clearly, and this is throughout the bill, that the complaining party, "shall not be required to demonstrate which specific practice or practices within the group result in such disparate impact."

I would inquire of the gentleman from Kansas [Mr. SLATTERY], of the complaining does not have to say which practice results in the disparate impact, then how can the employer change the practice?

Mr. SLATTERY. Mr. Chairman, if the gentleman will yield, I would just point out that has nothing to do with the quota issue, and that is what I was talking about.

Mr. HAWKINS. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. HAYES].

Mr. HAYES of Illinois. Mr. Chairman, first let me commend the chairman of the Committee on Education and Labor for his perseverance and hard work which has been put into this piece of legislation.

I must confess I had a prepared statement that I was going to present in support of H.R. 4000, but after listening to the remarks of some Members here, I had to make my own notes quickly and sort of see what I could say that may help us to get a train that is derailed back on track.

Mr. Chairman, I always understood, having been one who was the victim of discrimination, and still is, for many, many years, and participated in many of the struggles to try to bring about democracy without regard to race, creed, color, or sex, I thought that the purpose of civil rights statutes was not to correct a wrong, but to serve as a way to deter discrimination, and, yes,

correct it, if it so happens that it occurred.

It was not a law to give haven for fees for lawyers, as we are witnessing right under our nose here in Washington, DC, as the Federal Government tries to convict the Mayor of the city because of drugs. God knows how much it will cost. It is not a law that we witnessed last year, with the efforts of the Federal Government to prove the circumvention of this body by Colonel North in the transferral of arms to Contras, the aid to Contras, after we had decided as a Congress that it should not be done. Nobody knows how much that cost. Nor, if we look a little longer, later his boss, Mr. Poindexter, who has been convicted and may never serve any time because of his connections. This kind of justice we try to eliminate.

When we talk about justice and what it means, Zsa Zsa Gabor spent 3 days in jail, and Colonel North collects \$25,000 for making one speech. What do we give to him?

I have marched in the South for the rights of people. I was taught in school that this democracy of ours is a government of the people, by the people, and for the people.

□ 1940

And all we are saying in this kind of legislation is that it was broken down by the Supreme Court, and let us put the train back on the track and make it work, yes, for all our citizens whether they be black, white, green, male or female, or have some kind of physical handicap.

And Lord knows, let us quit kidding ourselves. I am not a lawyer, but I am a citizen, I am a Member of this body, and I want to see us do what we should do to support legislation that is going to protect people who vote in this country because of action that we took years ago, who would like a job, a decent job, and not be discriminated against because of the color of their skin or their sex or national origin.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa [Mr. GRANDY].

Mr. SENSENBRENNER. Mr. Chairman, I yield an additional 2 minutes to the gentleman from Iowa [Mr. GRANDY].

The CHAIRMAN. The gentleman from Iowa [Mr. GRANDY] is recognized for 4 minutes.

Mr. GRANDY. Mr. Chairman, I thank both my colleagues for yielding time.

Mr. Chairman, let me say at the outset, like my colleague, the gentleman from Illinois, Mr. HAYES, I am not an attorney. I have made a couple of them very happy in my lifetime, but I am not a lawyer. I did not go to law school, and it is not my purpose today

to debate the legal arguments in H.R. 4000 versus the LaFalce substitute.

I am, like my colleague from California, Mr. LEVINE, a member of that generation that saluted and applauded the Civil Rights Act of 1964. But unlike my colleague from California, today I stand in support of the LaFalce amendment and in opposition to H.R. 4000. I will leave it to this body to decide which one of us has fallen from grace for our support for civil rights. I do not know. But I know that as far as I am concerned it is no testament against civil rights to support legislation that will emphasize mediation over litigation, and the LaFalce substitute provides equitable relief for discrimination and harassment in the workplace by allowing a judge to determine the amount of equitable relief, which was the original intent of the 1964 Civil Rights Act, as determined by many court decisions. Employees and employers have a much better chance of achieving a conciliatory, prompt, and equitable resolution, and by keeping jury trials out of title VII cases we can avoid the chance of a legal lottery where plaintiffs' attorneys would gamble for huge awards and work to collect large fees.

The idea of creating a Federal tort system, Federal tort law system for employment discrimination will create a lawyer's bonanza but not necessarily increase civil rights for Americans. And it is ironic that a majority of the Senate Members and Members of this body apparently support creating this new Federal tort system for employment discrimination cases when at the same time we see legislators at both the Federal and State level working to find alternatives to the tort system in areas like medical malpractice and product liability. So I am confused.

There is a recent report of the Federal Courts Study Commission that graphically explains that Federal Courts are overburdened, that they are becoming congested. The report explains that the recent surge in Federal criminal trial is "preventing Federal judges in major metropolitan areas from scheduling civil trials, especially civil jury trials, of which there is a rapidly growing backlog."

The report goes on to suggest, Mr. Chairman, that arbitration should be emphasized over litigation for employment discrimination. So H.R. 4000 may have the best of intentions, but it would probably have the worst of effects.

I hope that we do what is right, whichever side of that civil rights banner we march under today. The LaFalce substitute, to this gentleman, provides thorough, equitable remedies, puts the plaintiff before the plaintiff's attorney, and accomplishes what we set out to do. It reinstates civil rights laws that existed prior to the recent Supreme Court cases.

For these reasons I urge all of my colleagues to defeat the Hawkins-Kennedy bill and support the LaFalce substitute.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to our distinguished colleague, the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, I want to compliment two gentlemen, the gentleman from California and the gentleman from Texas, and others for their fine work on this legislation.

It is not sad that at a time, during a decade when many countries are being liberated, being freed, we in this country have to struggle to hold onto what we already thought we had, civil rights, a bill that was passed a generation ago? Our country, under the leadership of a southern President, Lyndon Johnson, passed the Civil Rights Act of 1964, and here we are, 25 years later, trying to restore in part one of the most important titles, title VII, which is the specific title related to employment discrimination.

Let us be honest. Even with title VII, before the gutting 1989 Supreme Court decisions, there have been attempts to skirt that law. There has been race and sex-based wage discrimination. There has been sexual harassment and racial harassment in the work force, and there has been unfairness in employment practices.

We had an EEOC during the Reagan years that did not function properly. Ironically, during the last decade we had a Civil Rights Commission that had a director and a majority who worked against civil rights.

The least we can do is restore in part the law that Congress passed a generation ago and protect our citizens. Our country is behind other countries in health care, behind in pension reform. For heaven's sake, let us not fall behind in civil rights. Let us protect all of our people under the law.

We have in our country separate but equal branches of government. This is our day when Congress can show leadership. Let us protect our people. Let us stand up for America.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. TORRES].

Mr. TORRES. Mr. Chairman, I rise in support of the Civil Rights Act of 1990, without weakening amendments. A number of Members today have taken the floor to allege that this bill is antibusiness. Nothing could be further from the truth.

The bill before us contains numerous provisions to protect the rights of defendants in civil rights cases. The legislation also contains provisions which restrict the ability of plaintiffs to bring discrimination suits in Federal courts.

And further, I would point out to my colleagues that this legislation, in seeking to overturn six recent Su-

preme Court decisions, merely restores civil rights law to the conditions prior to 1989.

To allege that this bill is antibusiness is to say that our civil rights laws prior to 1989 were antibusiness, and yet I do not hear that from my colleagues.

To allege that this bill is antibusiness is to say that prior to 1989 there was a gun at the head of businesses, forcing them to prove that each and every employment standard and practice is essential to job performance, and yet I do not hear that from my colleagues.

Prior to 1989 neither I nor my colleagues were the focus of a coordinated lobbying effort by business men and women to drastically revise our civil rights laws.

On the contrary, we didn't hear from them because they know that conducting their business in a nondiscriminatory fashion is profitable.

My colleagues, we engage in this debate emersed in a time in history when people all over the world are discovering their inalienable rights. Amidst this tide of history we would engender shame upon this institution if we voted to turn back the clock, and negate the gains we so mightily fought for our own people, during our own history. Now in the 1990's we are entering an era of political and social change unprecedented in modern times.

The challenge before us today is whether we have the courage to face the future and provide for our citizens the civil rights protections guaranteed them by our Constitution.

□ 1950

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, all of the talk about this bill in terms of whether or not it would require racial and other quotas has largely masked provisions which I find it hard to believe even the supporters of this bill can seriously try to justify. And unfortunately, if something like "all it does is reverse five recent Supreme Court decisions from the conservative Reagan Court" is repeated often enough around here, it's believed by an awful lot of people who never look at the bill.

Some provisions of this bill seem entirely without reason other than to create another "protected class" under our civil rights laws—that being plaintiffs' attorneys. I have pointed to the provision on the Flight Attendants versus Zipes case as a prime example of the overreaching nature of this bill. In that case, a settlement between individual employees and the airline was challenged by the flight attendants or-

ganization, and the question was whether the individual employees could be reimbursed for their attorney's expenses in defending the settlement. The Supreme Court found no authority to reverse the American rule and shift those costs from the party that incurred them. Overturning Zipes could have been done by shifting those costs to the intervening party. But the intervening party is often a union or other employee association. So stick it to the employer. A small point in the bill, but it says a lot in terms of how this bill was put together.

I've been assured along the way that this provision would be removed or fixed—yet it's still in the bill. And rather than fixing some of these mischievous provisions, the committees which have had jurisdiction of this bill made them worse. Where else would we even think about intervening in the attorney-client relationship to the extent of prohibiting settlements of lawsuits unless the attorney's fee is guaranteed, which is what this bill does.

Mr. Chairman, under the guise of a civil rights bill, we are creating the opposite of what we want—turning the workplace into a more litigious environment, discouraging voluntary resolution of claims that are brought, adding to the burden on our courts and legal costs on our economy. I do not understand why the supporters of this bill have been willing to modify and compromise on the provisions which protect minorities, but so unwilling to change those provisions which primarily benefit attorneys? Who, really, are they trying to protect?

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI], a distinguished member of the Committee on the Judiciary.

Mr. MAZZOLI. I thank the chairman for yielding the time.

Let me salute the gentleman from Texas [Mr. BROOKS], our chairman, and the gentleman from California [Mr. HAWKINS], who have together led the fight in this great area, and my friend, the gentleman from California [Mr. EDWARDS] as well.

I could not help but be struck today when I was in Statuary Hall, when they had the videotape of the 1965 speech that President Johnson gave from just behind where I am standing at this moment, and every now and then the camera would go into the crowd. I noticed there were people sitting steely faced, hands in their laps, not reacting to the applause of the moment, obviously concerned about what this bill meant, perhaps even opposed to the bill that the President then suggested that the House pass, which it did.

I would suspect that if the debate that occurred in 1965 were to be re-

peated, we probably would have a lot of what we have today, and that is good-faith, careful examination of all the jots and titles of the law and with the suggestion that because we are not quite sure we know exactly what every word means, we are not quite sure we know what every concept is and we ought not get into the bill.

Yet at the same time, those 22 Members who were in the House in 1965 and who are still in the House today would probably say that the bill was one of the best bills they ever voted for. And those people who are not here in the House, perhaps who also voted for it, would also agree.

What I guess I am trying to say is that I think there are moments when we probably ought not to be too completely overawed by the details and absolute assurance that every word we know and every concept we fully understand, opting as I think we should tonight and tomorrow if we take the rest of the bill up, for a statement in behalf of what the bill stands for, which is equality, equal opportunity, a chance for people to make it in this world, a chance for people not to have something held against them because of the accident of skin color or gender.

So, Mr. Chairman, I would just sum up—I think we could talk all night long about the detail of damages and the fact that only damages permitted here are intentional violation, we could talk about quotas, and there are no quotas in the bill. Let me sum up by saying I think the bill is a good bill. I think it ought to be passed. I think it would be a good day for America and for the House to pass it.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in support of the LaFalce substitute. I strongly support the LaFalce substitute as a fair and balanced approach to civil rights reform and am confident it will be signed by the President. I know nearly everyone in Congress agrees with the main objective of any civil rights legislation. However, I and hopefully others, will rise in support of a workable bill that will lead to the end of discrimination within the parameters of the Constitution.

Specifically, I support the LaFalce amendment because in principle, I am opposed to quotas and quota systems. I believe that quotas infer that ethnic groups are inferior, and otherwise unable to compete on an equal basis. The LaFalce amendment provides that the mere existence of a statistical imbalance in an employer's work force is not sufficient to establish a case of discrimination. Recently, several black scholars have commented that quota systems harm blacks because they imply inferiority. The LaFalce amendment will give all individuals the dignity and respect to compete with one another on an equal basis.

Passage of H.R. 4000 would almost certainly mean the adoption of quotas by businesses in order to avoid defending against discrimina-

tion suits. I am against the use of quotas as a method of remedying discrimination. Racial quotas, while well meaning, violate basic principles of equal justice and can serve to fuel racial hatred by pitting one group against another, and harm minorities by tainting hard earned achievements.

Although legislation is important, I believe that it is equally important to support community programs which assist in the minority community. I have spent a great deal of time in my congressional district working with minority leaders such as Joyce Burns of Teague, Ms. Lois Jean Hart of Corsicana, and the Reverend Gaylong Rolen, Mr. Leroy Jones, and Mr. Walter Alexander, all of Ennis. All of these individuals have been vital in working to change attitudes of discrimination on the local level, rather than waiting to have a judicial remedy rendered to address their problems. I commend the efforts of these individuals and their willingness to work together to eliminate racial discrimination.

Today's vote is an important measure that should enhance the United States as a world leader in antidiscrimination policy. The LaFalce amendment will help eliminate remaining racial discrimination. Please join me in supporting the LaFalce amendment.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from Maryland [Mr. HOYER].

Mr. HOYER. I thank the chairman for yielding.

Mr. Chairman, I congratulate Chairman Brooks and particularly I congratulate my very good friend, Chairman EDWARDS, one of the great leaders in civil rights in this Nation.

Mr. Chairman, this is going to be a historic session for civil rights. We recently opened the door to all of the opportunities that America has to offer, to 43 million Americans. We thought we had opened the door to people of color, gender, national origin, different from the favored of us, prior to 1964. And indeed we did.

But no one needs to travel throughout America to know that racism still exists, that there are still practices not only by employers but by others to exclude Americans based upon their race or their color. And the bastion in America to prevent that discrimination has been the Supreme Court of the United States in this century.

Unfortunately, it has not been the protector and defender that it once was in recent times.

And so we speak to five Supreme Court cases, and we speak in a way that says we meant what we said in 1964 and we expect people in America to honor the civil rights commitment that this Nation really made in 1776 and in 1787 and in the 1860's in the adoption of significant amendments to our Constitution, but which we know and which was said so eloquently in 1963, that we have still not lived out the promises of those documents, and that is true today.

Let us pass this act, let us reject these weakening amendments, let us move on to the commitment to civil rights for each and every American.

Mr. Chairman, I rise today in strong support of H.R. 4000, the Civil Rights Act of 1990. I first want to commend the chairmen of the Education and Labor and the Judiciary Committees for their leadership in bringing H.R. 4000 to the floor and providing the House the opportunity to respond to the substantial weakening of the 1964 Civil Rights Act. I would also like to commend the Judiciary Subcommittee chairman, DON EDWARDS, for his vigilance, his vision and his unwavering commitment to the cause of civil rights and justice.

The House has before it today legislation that will return the Civil Rights Act of 1964 to the foundation of equality and justice that it was designed to be.

Not much more than two decades ago, our Nation examined its soul. It was a time of turmoil, controversy and hope. Although our Nation was founded on great principles of equality and justice, before the Civil Rights Act, many Americans did not have an equal opportunity to get a job, and, as importantly, hold a job, to eat in the restaurant of their choice, travel as they pleased, or rest on their travels in the hotel of their choice.

Thus, during a time of greatness, this body responded to the cries of the oppressed, and our collective heart responded to the call of justice, which is, indeed, the heart of America.

The Congress approved and President Lyndon Johnson signed the most sweeping civil rights legislation the world had ever known. In 1964 we said no longer would a man be judged by the color of his skin or by his heritage, no longer would a woman be judged by her gender, but that all Americans would be judged by their talents and their character. And from that point forward, the words equality and justice for all would have meaning for all Americans.

Yet, last year, the Supreme Court dealt devastating blows to the effectiveness of the Civil Rights Act. The Court's rulings in five cases turned an effective, strong law which guaranteed that every American had a fair chance at a job or at a promotion, into a mockery of its former self.

The Court's rulings have had an adverse impact on claims involving racial and ethnic harassment, discharge, promotion, retaliation and other job discrimination. Cases have been dismissed at a rate of one per day since the Court's rulings.

The Court's rulings disastrously narrowed the scope of coverage of section 181, and turned long-held burdens and standards of proof on their head in cases where employment practices had a disparate impact on women and minorities. The Supreme Court further allowed employers to consider factors, which were previously, and should be, impermissible factors such as racial, religious, gender, or ethnic stereotypes.

H.R. 4000, overturns these rulings and puts the Civil Rights Act back to where it was intended to be in 1964. Without this bill, employment practices which operate to exclude or limit the opportunities of millions of Americans will be left unchallenged. As America approaches the 21st century, we cannot afford

to allow systems to exist which erect illogical barriers which prevent the full participation of all Americans in our society.

Finally, H.R. 4000 addresses a longstanding inequity, and provides for comparable remedies for victims of intentional discrimination in appropriate cases, according to the same standards under which victims of racial discrimination to recover damages under section 181. I would emphasize to my colleagues that these damages are available only in cases of intentional discrimination. However, I firmly believe that all victims of intentional discrimination should be entitled to the same remedies. Be it discrimination based on race, gender, or disability, discrimination is wrong and all parties should be entitled to the same remedy. We need a meaningful deterrent to intentional discrimination. Two years ago, under the Fair Housing Act amendments, this very House provided for monetary damage awards in cases of housing discrimination. There is no reason for there to be a difference in employment discrimination.

Therefore, I intend to strongly oppose the substitute amendment to be offered by the minority leader. The substitute limits the remedies for victims of intentional gender, religious, or national origin discrimination. This is an unfair, unjust and un-American differentiation.

Furthermore, the committee bill addresses the most grievous aspects of the Patterson decision and clarifies that all aspects of the employment relationship are covered, including actions which take place during employment. The substitute, however, codifies the Patterson decisions and limits protection only to hiring.

The substitute would also allow employment decisions that are made with race, gender, religion, or national origin in mind to be permissible. That is not an acceptable America.

If the substitute prevails, ours will be a nation where the course of an American's life will be dictated and defined not by their talents, character, abilities, and dreams, but by their race, gender, disability, religion, or national origin.

The time to return the 1964 Civil Rights Act to the vision and vehicle of justice that it was intended to be is, now. I strongly urge my colleagues to oppose the substitute and support the committee bill.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. MINETA].

Mr. MINETA. Mr. Chairman, I rise in strong support of H.R. 4000, the Civil Rights Act of 1990.

In recent years, a number of decisions by the U.S. Supreme Court have weakened U.S. civil rights laws—the very laws that make our Nation great.

Today, with the the Civil Rights Act of 1990, the House has the opportunity to restore the health and integrity of our commitment to civil rights.

In the 1980's, we have been witness to frightening increases in prejudice against Americans—prejudice based on race, ethnicity, religious beliefs, and other assets of our national diversity.

As an American of Asian ancestry, I know personally of prejudice. I know of the damage it can do, of the injus-

tices that result, and of the lingering subtleties that range from stereotyping to outright violence.

Recent Supreme Court decisions make it very difficult for Americans of Asian ancestry, for example, to challenge instances of discrimination.

Glass ceilings—the stealthy denial of advancement opportunities and educational tenure, among others—are becoming increasingly and distressingly common.

But, make no mistake. Glass ceilings and other forms of discrimination are not Asian-American issues.

They are not African-American, or Hispanic-American, or Polish-American issues.

They are American issues.

Mr. Chairman, I urge my colleagues to support this legislation.

Passage of the the Civil Rights Act of 1990 is vital if we are to reaffirm the original intent of civil rights laws, and protect the future from the forces that would divide us, not unite us.

□ 2000

Mr. SENSENBRENNER. Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. LEHMAN].

Mr. LEHMAN of California. Mr. Chairman, today is an historic day in this House. Once again we face a fork in the long road toward social equality and justice. As has always been the case, many will find this choice a difficult one. Some are nervous about offending certain economic groups. Some are content in the relative comfort of their own positions.

I urge my colleagues to rise to the challenge of this occasion. History will not look kindly on those who are timid in the face of discrimination of any kind. Do not cripple this legislation.

Mr. Chairman, I rise today to support the bill and oppose the substitute. This amendment cannot be considered a compromise in any form; the substitute is simply a killer amendment that would codify the very cases that H.R. 4000 seeks to overturn. The substitute would provide that under title VII victims of intentional gender, religious, or national origin discrimination could not recover damages in cases in which backpay may be awarded. This amendment is not consistent with current law. No such limitation applies to victims of intentional racial discrimination who may receive both compensatory and punitive damages. Punitive damages have been available the last 20 years and the average jury award in such cases has been \$40,000.

In addition, this substitute would codify the definition of "business necessity" used in the Wards Cove case, the key case H.R. 4000 seeks to overturn. The Wards Cove court dramatically lowered the standard of business

necessity to "whether a challenged practice serves, in a significant way, the legitimate goals of the employer"—a standard so low that virtually any employment practice could meet it.

In fact, Judge Richard Posner of the Seventh Circuit Court of Appeals has stated that the Wards Cove definition is so lenient that it permits the use of any practice that excludes women or minorities, so long as it is not unreasonable, and has pointed out that "Wards Cove dilutes the 'necessity' in the business necessity defense."

Mr. Chairman, let us remember that the purpose of the Civil Rights Act of 1990 is to overturn the Supreme Court decisions interpreting Federal civil rights protections prohibiting discrimination in the workplace. If we hope to achieve the intended goal of this legislation, then it is impossible to support the substitute which codifies the most objectionable aspects of those decisions.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from Ohio [Mr. STOKES].

Mr. STOKES. Mr. Chairman, I rise in support of the bill and in opposition to the amendment.

Mr. Chairman, I rise today in strong support of H.R. 4000, the Civil Rights Act of 1990, which seeks to restore and strengthen civil rights laws that ban discrimination in the workplace, and strengthen the remedies available for victims of discrimination. I also want to commend the gentleman from California [Mr. HAWKINS] for his demonstrated commitment to promoting equal rights for all people and for bringing this bill to the floor.

The fact that Congress is having to revisit the issue of protecting basic civil rights reflects poorly on progress our Nation has made toward eradicating discrimination in employment. More than that, it reflects a resurgence of racism and the erosion of many of the gains which took more than 20 years to accomplish as a result of the civil rights movement. In effect, the Supreme Court has taken us back to where we were before 1964. Now Congress is having to restore these rights.

In 1964, Congress attempted to put this issue to rest when it passed title VII of the Civil Rights Act. Triggered by our Nation's concern over centuries of racial injustice, title VII created sweeping legislative programs which proscribed discrimination in employment.

Until last term, title VII decisions handed down by the Supreme Court provided a liberal interpretation of the statute in consonance with legislative intent. In the landmark *Griggs* versus *Duke Power Co.* case, Chief Justice Burger described precisely the intent of enacting title VII, that is, "The removal of artificial, arbitrary, and unnecessary barriers to employment when the barriers operate invidiously to discriminate". Title VII and the *Griggs* decision where the catalysts in adoption of measures to overcome centuries of systemic discrimination. The doors to economic opportunity for racial and ethnic minorities and women had

begun to open. Paradoxically, just as they started through, the Supreme Court slammed the doors shut.

In five civil rights cases last term, the Court dismantled a body of carefully constructed, long-settled employment discrimination law. As Justice Stevens suggested in the dissenting opinion in *Wards Cove Packing Co., Inc. versus Antonio*:

Title VII of the Civil Rights Act of 1964 prohibits employment practices that have discriminatory effects as well as those that are intended to discriminate. Federal courts and agencies consistently have enforced that interpretation, thus promoting our national goal of eliminating barriers that define economic opportunity not by aptitude and ability but by race, color, national origin, and other traits that are easily identified but utterly irrelevant to one's qualification for a particular job. Regrettably, the Court retreats from these efforts [T]urning a blind eye to the meaning and purpose of title VII, the majority's opinion perfunctorily rejects a longstanding rule of law

As suggested by Justice Stevens, the progress made in the area of civil rights now stands in peril.

There is clear evidence, from the testimony at the hearings on H.R. 4000, that the recent Supreme Court decisions already have adversely impacted civil rights litigation and enforcement. For example, as a result of the *Wards Cove Packing Co. versus Antonio* requirement that an employee pinpoint a precise discriminatory business practice to show significant disparate impact, it is now more difficult, and in some cases virtually impossible, for victims to prove discrimination. Consequently, it is easier for employers who discriminate to escape liability.

Benjamin Hooks, executive director of the NAACP legal defense fund, testified at the hearings that in the first 8 months after *Patterson versus McLean Credit Union*, in which the scope of section 1981 was narrowed to protect only against discrimination in the "making of contracts." Over 200 employment discrimination claims were dismissed. He estimates that there are over 11 million employees in this Nation who may be subjected to egregious acts of intentional racial and ethnic discrimination, but will no longer be protected by any Federal law.

In *Lorance versus AT&T Technologies*, the Supreme Court set an unreasonable time limit on challenges to discriminatory employer practices. The Court held that the statute of limitations begins to run when the practice is adopted, rather than when the employee begins to experience the effects of the practice. As a prominent civil rights attorney explained at the hearings, *Lorance* puts employees in a no-win situation; they may not realize they have been hurt until it is already too late to challenge the employment practice.

In *Price Waterhouse versus Hopkins*, the Court held that employers who engage in intentional discrimination can prevail merely by establishing that an otherwise legitimate business reason motivated the hiring, promotion, or discharge of an employee. At the hearings, it was suggested that as the law now stands, a little bit of racial, ethnic, or gender discrimination by an employer is okay, as long as the

employer can show that the discriminatory motive was accompanied by a second, lawful motive.

If victims of employment discrimination are somehow able to overcome the barriers to initiating and proving their claims, they are then confronted with additional barriers in securing relief. As a result of the decision in *Martin versus Wilks*, Court-approved consent decrees are now vulnerable to unlimited attack. The president of the American Bar Association noted that numerous, long-settled discrimination cases have now been reopened, and precious judicial resources are now being wasted on issues resolved years earlier.

The bill we have before us today, the Civil Rights Act of 1990, simply restores the legal protections which made progress for minorities and women possible over the last decade. In addition, H.R. 4000 provides religious and ethnic minorities and women the same right to recover damages for intentional employment discrimination now available to racial minorities.

The bill does not pressure employers to adopt hiring quotas to avoid liability. There was no widespread resort to hiring quotas after *Griggs*. Moreover, the statute was amended to specifically tell employers not to resort to quotas. H.R. 4000 simply restores the status quo, by placing the burden of proof on the employer to demonstrate business necessity. Nor does the bill make it difficult for employers to defend their hiring standards. Over the last three decades, employers have demonstrated repeatedly that they can meet their business needs and, at the same time, adopt measures to remove barriers to equal employment opportunity for minorities and women.

Most importantly, the Civil Rights Act of 1990 simply states what ought to be obvious: Under no circumstances will discrimination in the workplace be tolerated in our society—not even a little bit. The bill reaffirms congressional intent to relegate discrimination in the workplace to its rightful place—as a part of a closed chapter in our Nation's racially blemished history. Anything less, any tolerance of such practices, would compromise the foundation upon which the future greatness of our democracy rests. In this regard, I am reminded of observations made almost 30 years ago by the late President John F. Kennedy. His comments are as significant today as they were then. In 1963, he said:

Race discrimination hampers our economic growth by preventing the maximum development and utilization of our manpower. It hampers our world leadership by contradicting at home the message we preach abroad. It mars the atmosphere of a united and classless society in which this Nation rose to greatness. It increases the costs of public welfare, crime, delinquency, and disorder. Above all it is wrong.

Mr. HAWKINS. Mr. Chairman, I yield such time as he may consume to the gentleman from New York [Mr. OWENS].

Mr. OWENS of New York. Mr. Chairman, I rise in very strong support of H.R. 4000, the Civil Rights Act of 1990, and against the killer amendments which will be offered today.

We have spent a great deal of time in this Congress trying to clean up the messes Ronald Reagan left behind. It hasn't been easy. From the environment to the S&L scandal to the budget deficit, it's been our misfortune to discover that the Reagan legacy is all too enduring and will be something that we, our children, our grandchildren and perhaps even their children will have to struggle with for many years to come.

Today, however, we have the opportunity to push aside relatively cleanly and quickly at least one of Reagan's burdensome legacies; by enacting the Civil Rights Act of 1990 we can prevent the poisonous civil rights policies of the Reagan administration from being permanently embedded in the laws of our Nation.

For African-Americans and other minorities, the reign of Reagan was catastrophic. The enormity of the changes that Reagan and the neanderthal right succeeded in effecting in the status of minorities in this country over the last decade is frightening to contemplate. Years of steady progress lurched to a halt; the clock didn't just stop—it started ticking backward. Here again in America, racism has been made socially acceptable. There are lynchings in the streets of Bensonhurst and Howard Beach. Here again in America, racism has been made politically viable. No less than the imperial wizard of the Ku Klux Klan now feels safe to take off his hood and run for political office. And now thanks to Ronald Reagan's appointments to the Supreme Court, here again in America, racism in the workplace has been made legally tenable.

In its 1989 civil rights decisions, the Reagan Supreme Court declared open season on affirmative action and equal employment opportunity in America. Years of consensus and consistent precedent were swept aside. In the *Wards Cove* decision, in particular, the Court attacked what has been one of the driving forces behind the economic advancement of minorities in this country—the 1971 unanimous Burger Court decision in *Griggs versus Duke Power Co.* that title VII of the Civil Rights Act prohibits “not only overt discrimination but also practices that are fair in form, but discriminatory in operation”. Critical protection against systematic racial and sexual discrimination in the workplace has been dramatically scaled back. In essence what the Court has said to employers in *Wards Cove* is that while you still can't commit blatant, obvious acts of discrimination against minorities and women, if you are sophisticated and discreet about it, we will look the other way. You cannot hang a “No Blacks Allowed” sign on your door, but if you're clever and come up with a standardized test or some other superficially neutral ruse that achieves exactly the same result, no one will stand in your way. You can be a bigot, in other words, so long as you are a kind and gentle one.

H.R. 4000 would restore the protections afforded by the 1971 *Griggs* decision against systematic discrimination. It would put the burden back on the employer to try to justify discriminatory practices. Once a person proves that a practice has a disparate, discriminatory impact, the employer would be required to try to justify the practice by showing that it is necessary to the operation of its business. If it could not, the practice must cease.

Opponents of H.R. 4000 have declined to debate this issue on its merits, choosing instead to mount a smear campaign against the legislation. Over and over, without foundation, without evidence, they have loudly insisted that this bill will somehow require, authorize, or encourage employers to adopt quotas in hiring and promotions. In reality, H.R. 4000 would prohibit such quotas and the sponsors of the bill have repeatedly amended it to make this absolutely clear. We will vote today on yet another one of these redundant amendments to restate the ban on quotas yet again. But still the shouting, the nasty smears have continued. Still the White House and others insist that this is somehow a “quota bill”.

What really seems to be behind all this phony talk about quotas is no high-minded commitment to principle but a small-minded peevishness. The Chamber of Commerce and the radical right don't like this bill and the *Griggs* decision it would codify because they consider it a hassle, an inconvenience to have to scrutinize their hiring and promotion policies to assure that they do not cause discrimination. As with the Fair Labor Standards Act, the Occupational Safety and Health Act, and every other law we have on the books to try to assure some measure of dignity and equity in the workplace, big business just couldn't be bothered with civil rights. Equal opportunity is a nuisance.

It's conceivable, I suppose, that some of the opponents of H.R. 4000 are not quite so small-minded and that some of them are actually sincere in their misty-eyed paeans to a color-blind society and their appeals to put the past behind us. But sincere or not, they couldn't be more wrong. After two centuries of genocide, slavery, and oppression, you cannot, in 1990, build a color-blind society by being blind to people of color and you cannot put the past behind you by denying it. We can move forward toward a color-blind society only if and to the extent that we confront our ugly history and begin to act to fulfill this Nation's obligation to try to repair the horrors that have been inflicted upon African-Americans in the past. It isn't easy; it isn't convenient; it isn't cheap. As Martin Luther King put it.

When millions of people have been cheated for centuries, restitution is a costly process * * *. Justice so long deferred has accumulated interest and its cost for this society will be substantial in financial as well as human terms.

In 1990, the debt still to be repaid is large; the gulf between black and white America is wide. The black poverty rate is 3 times that of whites. The black unemployment rate is 2 times that of whites. Black per capita income is half that of whites. And the median net worth of black households is one-tenth that of whites.

To make matters worse, this vast gulf has been widening, thanks in large part to the civil rights and economic policies of the Reagan and now Bush administration. We are moving backward. In its recent report “A Common Destiny” the National Research Council of the National Academy of Sciences concluded that if we continue down this regressive path laid down during the Reagan era, if current trends

in the economic situation of African-Americans continue unchanged, by the year 2000, the economic status of African-Americans relative to that of whites will be the same as what it was in 1960—4 years before the original Civil Rights Act was enacted.

This does not have to be. We have the opportunity today to help stop the backward slide, to repudiate the Supreme Court's attack on equal employment opportunity and restore the vitality of our civil rights laws. The LaFalce substitute, in contrast, would lock us into the disastrously regressive course set by Ronald Reagan. Represented as a compromise, the substitute is in fact nothing of the kind. It does not overturn most of the destructive civil rights decisions made by the Court last year; it does not modify them; and it does not clarify them. Instead, it codifies them as law. Nor, for that matter, does the LaFalce substitute bring anything particularly new or constructive to this debate. The substance of the substitute is identical to what John Sununu offered months ago as the White House's initial bargaining position in negotiations with the Senate and the civil rights community. Indeed, perhaps in the interest of accuracy, we should refer to this alternative not as the LaFalce substitute, but as the Sununu substitute.

I urge my colleagues to defeat the killer substitute and enact the Civil Rights Act of 1990 without weakening amendments. Let's put at least one of Ronald Reagan's burdensome legacies behind us this year. Let's get the clock moving forward again on civil rights in America.

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. DYMALLY].

Mr. DYMALLY. Mr. Chairman, the Civil Rights Act of 1990 is a bill that we can all be proud of. The bill will overturn the Supreme Court decisions in *Patterson versus McLean Credit Union*, *Wards Cove Packing Co. versus Antonia*, *Martin versus Wilks*, *Price Waterhouse versus Hopkins*, and *Lorance versus AT&T*. It is necessary that we clarify the intent of our prior legislative pronouncements, and correct judicial interpretations that clearly fall short of that mark.

The substitute amendment would devastate the Civil Rights Act in five important ways:

First, it would make it impossible for women and religious minorities who are bias victims to recover any damages whatsoever. This is because the amendment's so-called \$100,000 equitable relief provision is patently unconstitutional because it violates the fundamental constitutional right to a jury trial in damages cases under the seventh amendment.

Second, it would adopt rather than overrule the damaging *Wards Cove* decision. It would require bias victims to bear the burden of proof on business necessity and it would adopt the weakened *Wards Cove* definition of business necessity.

Third, it requires that bias victims prove that race or an other prohibitive

motive was a "major contributing factor" in a job decision. This would make the law even worse than under the Supreme Court's Price Waterhouse decision, and could actually allow employers to make job decisions partly on bias.

Fourth, it would endorse and codify all or part of each of the restrictive Supreme Court decisions which H.R. 4000 was introduced to overrule.

Fifth, it would even codify the holding in *Patterson* that on-the-job racial harassment is legal under 42 U.S.C. 1981 by failing explicitly to prohibit bias with respect to the "terms and conditions" of a contract as H.R. 4000 does.

H.R. 4000 is not, as some would suggest, a bill which requires or encourages quotas in the workplace. To the contrary, the civil rights bill will help ensure that individuals not only have the right to be free from discrimination in getting a job, but will also be protected from racial harassment and discrimination once on that job. H.R. 4000 will ensure that minorities and women will be equal participants in the workplace.

I urge my colleagues to vote yes on H.R. 4000.

The CHAIRMAN. The Chair will advise Members controlling the debate that the gentleman from California [Mr. HAWKINS] has 13 minutes remaining, the gentleman from Pennsylvania [Mr. GOODLING] has 6 minutes remaining, the gentleman from Texas [Mr. BROOKS] has 9 minutes remaining, and the gentleman from Wisconsin [Mr. SENSENBRENNER] has 2 minutes remaining.

Mr. BROOKS. Mr. Chairman, I yield 2 minutes to a fine Member, the gentleman from Mississippi [Mr. ESPY].

Mr. ESPY. Mr. Chairman, I want to thank the chairman of the Committee on the Judiciary for yielding to me, and I would also express thanks to the chairman of the Committee on Education and Labor, the gentleman from California [Mr. HAWKINS] for doing fine work on such a good bill.

Mr. Chairman, I rise to express my strongest possible support for passage of the Civil Rights Act of 1990. This is a crucial time in our Nation's history. Once again the Congress is faced with one basic question: Will we act to ensure the blessings of liberty to all Americans? Or will we repeat the tragic times when the Congress, the Supreme Court and the executive branch have reinforced the prejudice and fear which has caused so much turmoil in our society? Mr. Chairman, I think the question can best be expressed to the title of an old civil rights song, "Which Side Are You On, Which Side Are You On?"

Mr. Chairman, some colleagues are arguing for the substitute on the basis that we need to send a bill up that the

President is guaranteed to sign. They say that those Members who want to pass this act are trying to embarrass the President. That is certainly not my intention. However, neither do I want to appease the President by any means, to pass a civil rights bill with any retrogression. We do not want to embarrass the President, but neither do we want to embarrass the catalyst thousands who sacrificed life and limb and property, putting themselves in fear of great bodily harm, just to pass the Civil Rights Act of 1964 and the Voting Rights Act of 1965. Laws, Mr. Chairman, which have been eroded by a very conservative Supreme Court. So this is not just a civil rights bill, this is a civil restoration act.

Colleagues argue that the Civil Rights Act before Members will force employers to hire by quota. However, this bill has been amended to address that issue. It will say unequivocally that "Nothing in the Act shall be construed to require an employer to adopt quotas." It will say that the "mere existence of a statistical imbalance" in the work force is not sufficient to find a violation, so the issue of quotas has been addressed.

Mr. Chairman, in conclusion, we still have discrimination based on race, on sex, and religion in this country, whether it is on some golf course or whether it is in the workplace. The best way to remember those who sacrificed for freedom and justice is to continue that cause today. I urge my colleagues to vote against this substitute and to vote for the Civil Rights Act of 1990.

□ 2010

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. WEISS].

Mr. WEISS. Mr. Chairman, I rise in strong support of the Civil Rights Act of 1990. I want to commend our distinguished colleague from California, Chairman HAWKINS for the diligence and patience he has demonstrated since this bill's introduction. All in this Chamber and indeed in this country are greatly indebted to him. I want to commend as well our distinguished colleagues Mr. Brooks and Mr. Edwards for their outstanding work.

The civil rights movement in this Nation has experienced a long and arduous journey. A journey which at times has been plagued by strife and frustration but which has also overcome many obstacles such as segregated schools and lunch counters and the exclusion of minorities from the political process. Unfortunately, last year the Supreme Court set up a new roadblock with five decisions which severely weakened equal employment protection for minority groups and for women. Today, we have the opportunity to remove that roadblock and to continue the journey by enacting the

most significant civil rights bill since 1964.

The Civil Rights Act of 1990 is for the most part a restorative bill. It overturns last year's *Wards Cove Packing Inc. versus Atonio* decision which unduly placed the burden of proof in discrimination claims on the plaintiff. This legislation restores the landmark *Griggs versus Duke Power Co.* decision which forbade both employment practices with a discriminatory intent and those that have a discriminatory effect on minorities and women. This decision has worked successfully since 1971 and never required the business community to adopt quotas. To call the bill before us a quota bill is pure bunk, it clearly does not go beyond the standards set in *Griggs*.

In regard to damages, the bill extends remedies to enable all victims of deliberate discrimination to recover compensatory damages in appropriate cases. As extensive congressional testimony has documented, this section is necessary to deter intentional job discrimination and to ensure that all victims have access to appropriate remedies.

We are not casting a vote for a few individuals and a handful of advocacy groups as the measure's opponents contend. We are casting a vote for a system of government which endeavors to represent, protect, and respect all its peoples.

I urge my colleagues to cast a decisive, courageous, and principled vote for equality and to support the Civil Rights Act of 1990 with no weakening amendments.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. HOUGHTON].

Mr. HOUGHTON. Mr. Chairman, I rise in support of the bipartisan substitute.

Mr. Chairman, I am very proud to be here. I am proud to know the gentleman from California [Mr. HAWKINS]. I am proud to know the gentleman from Michigan [Mr. CROCKETT]. I am proud to know the gentleman from Georgia [Mr. LEWIS]. I will never be able personally to assume and feel the agony of the civil rights movement the way they have, but I do feel that we should be concerned that only we have in our hands the ability to right a wrong.

The assumption is that the people who create the jobs is that they are wrong, they are bad, they will not do the things on their own. Words such as "bigoted," "mean-spirited," "discrimination," "unfairness," have wafted through this debate, and I think that is wrong.

I, in 1964, when the civil rights bill was passed, became chairman of a company, and I fought alongside minorities in extending the right, moving into the South, moving into minority areas, battling my white associates,

and I feel a little bit of what we are trying to do. It was the right thing, and it was the right thing because it was the important thing for business.

However, Mr. Chairman, the weakness in this bill, in the Hawkins bill, with all great credit to him, is the quotas. And I do not say that there is a black and white case here. But I do say that quotas are something which are inevitable, and I, as a businessman, would not take a chance operating without them, and I think that is wrong. I want to fight and encourage the employment in the upward mobility in this society of ours, but the quota route is the thing that bothers me more than anything as a practical businessman supplying the jobs that those people need the most.

The gentleman from Mississippi's, Mr. EsPY, "Which side are you on? Which side are you on?" I want to be on his side, but let us think of those people who we are trying to help.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. CLAY].

Mr. CLAY. Mr. Chairman, I rise in support of the bill and in opposition to the amendment.

Mr. Chairman, like many of my colleagues and other leaders across the Nation, my public life has been dedicated to protecting and promoting the basic equal rights of all Americans. For many years our Nation made tremendous strides in the struggle to overturn time-honored notions and traditions of discrimination against blacks, women and other minorities.

I am proud to have participated in the struggle of the 1960's which today we remember as the golden era of the civil rights movement. But, just as nothing is more permanent than change, over the last decade, the pendulum of history has swung backward and today we are experiencing an era of regressive policymaking that has thwarted our progress toward achieving genuine equality for all American citizens. The years under the Presidency of Ronald Reagan were particularly mean and harsh for black citizens.

A Supreme Court greatly influenced by his anti-civil rights, anti-black appointees reversed civil rights laws Congress enacted to prohibit discrimination. These decisions have undermined efforts to improve the opportunities for women, racial minorities and physically handicapped to secure jobs and opportunities traditionally, historically denied them.

These biased court rulings have so badly mangled long-decided employment discrimination issues and eviscerated the legal protections needed to prevent discrimination in the workplace that we have no choice but to enact new legislation. The Civil Rights Act of 1990 will amend the Civil Rights Act of 1964 by closing the gaps in the law that allows the courts opportunities for judicial misinterpretation and permits the Supreme Court latitude to obliterate the real meaning of the Civil Rights Act.

Mr. Chairman, those opposing this legislation boastfully proclaim belief in the principle

that all people are created equal. But their logic is distorted when they oppose the basic democratic values that assure Americans equal opportunity and freedom from discrimination because of skin color or gender. They are the values that make our Nation a model in the eyes of the world. Mr. Chairman, a revolution is sweeping the world. It is no time for us to falter in our forward march toward individual rights and freedoms.

Mr. Chairman, the Civil Rights Act of 1990 may well be the most important bill we have considered in this session of Congress. As with all major legislation, it reflects a compromise. For many, the bill does not reach far enough. I would like to see stronger prohibitions against discrimination and stiffer penalties for those who violate the civil rights of others. But, in the interest of successfully reaching the goal of passage we have made accommodations and have compromised. But we cannot wait any longer and cannot compromise any further. Today we should speak up for the principles upon which this Nation was founded. We should reject all efforts to weaken the Civil Rights Act of 1990. We should give this legislation our overwhelming approval.

Mr. BROOKS. Mr. Chairman, I yield 5 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I want to speak to you today as a southern Democrat, a Member of Congress from the deep South. I grew up in rural Alabama. I saw those signs that said white and colored—white men, colored men—white waiting, colored waiting. I have tasted the bitter fruits of racism and discrimination. But because of the Civil Rights Act of 1964 and the Voting Rights Act of 1965, we have experienced a nonviolent revolution. A revolution, not only of values, but of ideas. Because of the Voting Rights Act of 1965, my own mother was allowed to register to vote for the first time at the age of 51.

Today, I feel like I'm watching a 26-year-old TV rerun. In 1964, we were told that the passage of major civil rights legislation would be bad for business. We were told that civil rights legislation would result in chaos and would create a field day for lawyers and for litigation.

Today, we are hearing those same tired arguments—that civil rights legislation is bad for business—that it would result in chaos—that the stars would fall out of the sky in Texas, in Alabama, in Georgia. But the stars didn't fall from the sky in 1964 with the passage of the Civil Rights Act. They didn't fall in 1965 with the passage of the Voting Rights Act. The stars didn't fall from the sky with the Fair Housing Act. And, the stars aren't going to fall from the sky with the passage of the Civil Rights Act of 1990.

I know we have come a distance. We have made progress since the 1964 Civil Rights Act and the 1965 Voting Rights Act. But the fact is, the U.S.

Supreme Court has recently made it harder for women and minorities to prove discrimination in the workplace.

Now, the administration wants to amend the Civil Rights Act of 1990. But, my friends, we all know the intent of the Michel substitute. The Michel substitute is a dagger in the heart of the Civil Rights Act. A vote for the Michel substitute is a vote against civil rights. Mr. Speaker, we cannot sweep the problem of discrimination under the rug by shielding ourselves behind the Michel substitute.

As Members of Congress, we are in a position to create a climate—an environment—to pave the way for the private sector to adhere to equal opportunity.

For so many years, we had a policy in this country of keeping people out. This act further affirms the participation of all of our citizens. We have a moral obligation—a mandate—a mission to be a headlight rather than a taillight.

Some of my colleagues will still insist that this legislation is not needed—that it will hurt business. But we don't just represent business. In some of our congressional districts, 20, 30, 50 percent of our electorate are women and minorities.

Mr. Chairman, I have seen and tasted the bitter fruits of racism. It is a fact that racism is still deeply embedded in every corner of our society—in both the public and private sector. And we must use the instrument of law to remove those scars of discrimination from our society. Our society will never be whole until all Americans are able to participate fully and share in the American dream regardless of race, religion, sex, or national origin.

When historians pick up their pen and begin to write about this Congress, don't let it be said that on your watch, the 101st Congress slept through a nonviolent revolution and voted to weaken the Civil Rights Act of 1990.

I say to you, my colleagues—keep the faith—don't give up. We are still on the way to an interracial democracy. Don't be sidetracked by the Michel substitute. Keep your eyes on the prize.

□ 2020

Mr. HAWKINS. Mr. Chairman, I yield 2 minutes to the gentlewoman from Washington [Mrs. UNSOELD].

Mrs. UNSOELD. Mr. Chairman, today we have an opportunity to insure equal rights under civil rights. For 14 years, victims of intentional discrimination have been able to receive compensation for damages, except for women. We have been sending the wrong signal. But today we can remove this inequity. We can vote for the Hawkins bill. It allows women damage remedies that are already

available to victims of race discrimination.

The civil rights bill before us would guarantee fair treatment and effective relief for all victims of intentional discrimination. Women who have been victims of sexual discrimination and harassment can now be vindicated in the courts. With more and more women entering the work force, we must ensure they have the same rights that have been afforded everyone else.

I urge my colleagues to oppose the Michel bill. It sends a dangerous message that some kinds of discrimination are less serious and less deserving of full relief. This cannot be tolerated.

I urge my colleagues to support equal protection against discrimination. We must support meaningful deterrents. A slap on the hand from the EEOC just isn't good enough. We must vigorously continue to uphold civil rights and guarantee equal employment opportunities for all.

Mr. GOODLING. Mr. Chairman, I yield our remaining time to the gentleman from Texas [Mr. BARTLETT].

The CHAIRMAN. The gentleman from Texas is recognized for 4 minutes.

Mr. BARTLETT. Mr. Chairman, it is with some sadness that I sit here this afternoon and listen to this debate and listen to the sometimes overblown rhetoric as Member after Member has risen to talk about restoring the Civil Rights Act of 1964. My sadness is that those individuals could not have read H.R. 4000 that is before us. I would say to my colleagues before you vote, read the bill.

The fact is that H.R. 4000 has very little to do with overturning the Supreme Court decisions of 1989. That is a clever disguise. It is a clever charade, but this bill goes way beyond the Civil Rights Act of 1964. It goes way beyond any civil rights law that was in place before or since the 1989 decisions.

As other speakers have said, I am from the generation of the 1960's. I hate the Jim Crow laws because I lived with them. I hated the segregation of the South and I hate the segregation of public housing of the Nation's big cities today, and I hate the discrimination that still unfortunately does exist too often in the workplace; but the way to stop that discrimination is not with quotas. It is not with hiring more lawyers. It is not with more legal fees. It is not with multimillion dollar lawsuits. The way to stop the discrimination is by restoring the Civil Rights Act of 1964, but not going so dramatically beyond it.

The bottom line for us on this vote tonight is that the LaFalce substitute restores the Civil Rights Act of 1964 as it has been enforced by the Griggs decision of 1971, because the LaFalce substitute takes the language of the Griggs decision of 1971 as enforced up until 1989, no more, no less.

H.R. 4000, I would say to my colleagues, by contrast does two things which I do not believe the country or the Constitution or any Americans really want us to do. It does two things that are quite radical that have never been done before in civil rights laws.

First, it requires quotas. Now, I have heard speakers say that we will not get quotas from this bill, and I would suggest that you can run from those quotas, but no one in the workplace can hide from those quotas because the only way that an employer can comply with this bill is to adopt a quota system.

Second, it imposes new, radical, unheard of penalties, and lawsuits. It imposes a new set of jury trials. It imposes in section 9 guaranteed legal fees, even if those legal fees, it says in the bill, are not in the best interests of the victim. It imposes punitive damages and compensatory damages never before a part of the Civil Rights Act of 1964, not a part of it prior to 1989 and not a part of it today.

The only parties that benefit are plaintiffs' attorneys and those who make their living that way.

The Civil Rights Act of 1964 was based on two principles which the gentleman from New York [Mr. LaFalce] restores. First it is to make whole the victim, to identify the discriminatory practice, to restore to that person who was abused all that he or she may have lost, and then to stop that practice. That is what the LaFalce bill does.

H.R. 4000 does exactly the opposite. Second, to identify the discriminatory practice itself and then outlaw it.

H.R. 4000, by contrast, says that the plaintiff only demonstrates that there is a disparate impact in the workplace, that the percentages are wrong.

□ 2030

Then the burden of proof shifts to the employer, and whether or not the plaintiff has identified a practice that is discriminatory, the employer must prove somehow in a black box that all of his employment practices are somehow nondiscriminatory even though none of them have been alleged to have been discriminatory.

H.R. 4000 then also says to the employer that the employer who upon trying to identify the black box, even if he can identify the employment practice, he would then have to prove that employment practice is required for the successful job performance of the business, an absolutely impossible burden of proof that was not imposed by the Civil Rights Act of 1964, not imposed by Griggs of 1971, not imposed by any court decision in the history of the land, and yet in the name of restoring something that never existed we radicalize the process. We make the process more litigious than it has ever been. We deny civil rights.

We clog up the courts, and we deny victims, while granting more money to their attorneys. It is wrong.

The LaFalce substitute is right.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself the remainder of my time, 1 minute.

Mr. Chairman, this has been a vigorous debate, and those who have supported the Michel-LaFalce substitute, I believe, have dramatized the difference between the two proposals, and we have stuck to the issues and talked about those Supreme Court decisions rather than appealing to nebulous principles or using catchwords and buzzwords.

I think from this debate it is clear that the Michel-LaFalce substitute is a moderate approach to a real problem that has been caused by some Supreme Court decisions, but that the Hawkins-Edwards bill is overkill, one which will result in quotas and one which will increase litigation and the cost of litigation significantly. That is the difference between the two, and that is what we will be voting on later on.

Mr. BROOKS. Mr. Chairman, I yield 3 minutes, the remainder of my time, to the gentleman from California [Mr. HAWKINS].

Mr. HAWKINS. Mr. Chairman, I yield myself such time as I may consume. I will not use the entire 10 minutes. I think we should go on.

Mr. Chairman, in closing out the debate and going on to the amendments which we hope to present tonight I would again indicate that as a matter of actually assuring the Members on the quota issue.

I think the amendments that we will present will reinforce some of the statements that we have made. I consider that the issue has become rather clear as the debate has gone on. I think it is pretty obvious that H.R. 4000 has been carefully crafted. It has been scrutinized. It has been heard in committees for the last 6 months. It was not crafted in the last 48 hours. It was not contested as to its authorship, that it simply attempts to restore the law to its dignity that it occupied prior to the 1989 Supreme Court decisions. It is, therefore, a reaffirmation of the Civil Rights Act of 1964.

On the contrary, the so-called substitute, and I say so-called substitute, because I cannot possibly identify its genesis. Nobody seems to claim it. It has been referred to as the substitute, as the Michel substitute, as the creation of the gentleman from New York [Mr. LaFalce]. It has been referred to even today as a compromise Republican-Democratic authorship, and so it has a phantom existence, very difficult to identify. I think that Members who have seen the language will recognize it as being the same document although it has had many

claims as to its authorship. It is the same language in a bill that was introduced in the other body, and then withdrawn because it lacked support, and so it ends up here with various assertions as to what it is. It is difficult to say what it is. I think it is difficult to say what it is because it accomplishes nothing.

The bill seeks to legalize the disputed Supreme Court decisions of 1989. That is all it does. It reaffirms them and puts them into the statutes, and that is about all that it does, and that is saying the best thing about it. So that it does not make any difference whether we pass it or whether we do not, because if we pass it, it simply reaffirms the law of the land because it legalizes the Supreme Court decisions anyway, and if we fail to pass it, it will be the same.

There has been some reference as to whether or not the President will sign it, and we have been told today in a vague sort of a way that he may have a rose garden ceremony if that bill passes. I cannot believe that that is worth what it really says. I think the President should speak for himself, and I think that we should not take his name in vain as to what he will and what he will not sign.

Supporters on both sides, including the Civil Rights Commission and the Chairman of that Commission that he named, have said that he should sign it, and others say that he should not.

Mr. Chairman, may I simply say that the issue then is whether we want to support the Civil Rights Act of 1964 or whether we want to support a proposal that accomplishes nothing even if the President did sign it. I think this body should exercise its accountability and do what it thinks best, and I submit that there is only one thing before us, either we are for the Civil Rights Act of 1990 or we are for nothing, which is what it amounts to.

Mr. Chairman, I yield back the balance of my time.

Mr. VENTO. Mr. Chairman, I rise in strong support of H.R. 4000, the Civil Rights Act of 1990, a measure which I've cosponsored, and in opposition to the Michel substitute.

While this Nation has come a long way in the struggle to end discrimination in employment and on the job, the struggle still continues. The recent report of the U.S. Civil Rights Commission notes that unfortunately discrimination in employment still exists and frequently continues without a remedy for its victims. H.R. 4000 reverses or modifies several recent adverse U.S. Supreme Court decisions which collectively have had the effect of rolling back the clock on civil rights and narrowing the remedies for victims of discrimination in hiring practices and in actual employment.

In *Patterson versus McLean Credit Union*, the Court departed from previ-

ous judicial interpretations of section 1981 of the Civil Rights Act of 1966, which prohibits discrimination in making and enforcing private contracts, to find that this section only applies to discrimination in the formation of a contract and not to problems that may arise later from the conditions of continuing employment. H.R. 4000 clarifies congressional intent and reinstates prior Federal judicial interpretations to include all aspects of a private contract, including the formation, performance, modification, and termination of all private contracts.

In *Wards Cove Packing Co. versus Atonio*, the Court modified its holding, in *Griggs versus Duke Power Co.*, a 1971 case which held that employment practices which have a disparate impact upon women and minorities are prohibited by title VII of the 1964 Civil Rights Act unless the employer can prove that the practice is required by business necessity, defined as significantly related to successful job performance. In *Wards Cove*, the Court abandoned prior interpretations of title VII by shifting the burden of proof on the question of business necessity from the employer to the plaintiff to prove that the employer's discriminatory practice is not required by business necessity. H.R. 4000 draws upon the language from the holding in the *Griggs* case to codify the meaning of "business necessity." Furthermore, the legislative proposal before us stipulates that unsubstantiated opinions and hearsay are not sufficient in deciding whether the business necessity standard has been met. Rather, demonstrable evidence is required. Also, a plaintiff is required to be specific about which practice or practices of an employer result in a disparate impact.

Some opponents of this bill have suggested that this is a quota bill which would, in effect, force employers to adopt quotas in hiring to avert law suits under title VII. This is clearly not a quota bill. Quotas are illegal. Nowhere does the bill mandate quotas, either expressly or by implication. Indeed, the bill defines "business necessity," stating Congress' intent to codify the *Griggs* definition of business necessity, and finally states that amendments to the Civil Rights Act shall not be construed to require an employer to adopt hiring or promotion quotas. The *Griggs* holding has been the law of the land for nearly two decades. During that time, employers have not moved to adopt hiring quotas based upon race or sex. It is simply not reasonable to assume that by codifying a 19-year-old holding, employers will suddenly be forced to resort to hiring quotas.

The Michel substitute to the proposal before the House uses the same definition of "business necessity" used in the *Wards Cove* case; the same case which abandoned the *Griggs* standard

and which H.R. 4000 is intended to reverse. Additionally, the Michel substitute eliminates punitive damages for the victims of intentional discrimination. Instead, the substitute would permit a capped payment of up to \$100,000 but only in circumstances where back pay is not available and where additional equitable relief is necessary to deter the employer from future illegal conduct, not to punish past illegal conduct.

While punitive damages as contained in H.R. 4000 would represent a new remedy under the provisions of title VII, nevertheless, the Michel substitute would be worse than simply preserving the status quo since it would actually set a cap on damages which would limit what a judge could find regardless of how grievous the harm to the plaintiff or how heinous the nature of the discrimination. This is not in the tradition of modern American jurisprudence and law which has been able to recognize that for a defined wrong there should be a defined remedy. Instead, justice would depend solely upon whether the plaintiff received back pay and whether a judge was predisposed to supplement that back pay with an additional amount not to exceed \$100,000.

In *Price Waterhouse versus Hopkins*, the Court implied that it may be permissible for employers to intentionally discriminate based on race, color, religion, sex, or national origin, as long as such discrimination is not the primary motivating factor in deciding whether to hire, dismiss, or promote an employee. This decision is particularly unsettling since it implies that some forms of discrimination can be legally sanctioned as long as other factors can be cited to explain why an individual was not hired or promoted or why someone was terminated from his employment. That is totally at odds with nearly a quarter century of American jurisprudence and the historical role of the courts in protecting the victims of discrimination rather than the perpetrators of intentional discrimination. H.R. 4000 clarifies that it is illegal to discriminate period.

There is concern regarding the bill's authorization of punitive damages in title VII cases for the first time ever. Current remedies under title VII include only injunctive relief, back pay, and attorney's fees. This new provision does not ensure as some have speculated, a massive new backlog of cases or unreasonable jury awards. Critics of this provision seem to have little faith in the intelligence and common sense of jurors and judges in this process to distinguish meritorious claims from unsubstantiated claims. Experience has shown that plaintiffs generally cannot afford to bring frivolous or unsubstantiated title VII claims in the Federal courts. The bill

provides that any party in a title VII action may demand a jury trial. Federal judges also have the authority, which they are not hesitant to invoke, to modify and even to set aside an unreasonable or unsubstantiated award for damages. Such decisions are, of course, fully subject to appeal.

Mr. Speaker, there has been much criticism lately about judicial activism and about judges who reach beyond the issues presented before them to make new laws. Some of these critics, however, only seem to be concerned with a style of jurisprudence which is sympathetic to recognizing claims of discrimination. They are apparently not bothered by a judicial philosophy that goes out of its way to curtail recognized legal standards. The cases which this legislation seeks to reverse or modify all involve instances where certain justices of the Supreme Court or lower Federal court judges have chosen to ignore established legal principles and *stare decisis* to make new laws by rolling back the rights of victims of discrimination. Until recently, the trend since the passage of the Civil Rights Act of 1964 has been to protect the legal rights of victims of discrimination in housing, employment, and other aspects of modern American life. If the courts are now going to abandon this role by reaching beyond the issues presented to roll back the rights of victims of discrimination, then Congress must surely act to clarify the law's intent. That is what this legislation does. I urge my colleagues to join me in opposing the Michel substitute and voting for the passage of H.R. 4000.

Mr. KLECZKA. Mr. Chairman, I urge my colleagues who have any lingering doubts about the Civil Rights Act of 1990, H.R. 4000, to lay them aside and vote for passage of this necessary legislation today.

A lot of misunderstanding about this legislation is circulating. As a cosponsor of H.R. 4000, I watched in dismay during the past months as misunderstanding of it gathered momentum, generating strong fears that restoring equal opportunity in the workplace would create a hostile business climate in America.

Nothing could be farther from the truth. The Civil Rights Act of 1990 simply removes many barriers to relief from employment bias that face women and racial, religious, and ethnic minorities that resulted from recent Supreme Court decisions overturning established law. Contrary to what many opponents claim, this legislation is not a quota bill.

A close examination of two of the more controversial measures in H.R. 4000 may help diffuse some of the criticism. First, as to quotas, the bill adopts the Griggs business necessity standard overturned in the *Wards Cove* versus *Atonio* case. During House hearings on this legislation, witnesses were unable to produce a single case in which this standard led to employment quotas during its 18 year history. The bill explicitly codifies the Griggs standard. Finally, H.R. 4000 clarifies

that nothing in it may be "construed to require an employer to adopt hiring or promotion quotas". Given these strong protections, additional precautions seem unnecessary.

On this issue, I agree with the Milwaukee Journal's excellent analysis that H.R. 4000 "should be enough to allay any fears that companies would have to resort to rigid quotas in order to avoid liability. They wouldn't be permitted to erect artificial barriers against minorities and women, as has been done all too often, but neither would the companies be forced to abandon valid job requirements."

As for monetary damages, this legislation does not aim to make the cost of running a business the right way an unbearable burden. Instead, it provides that employers who intentionally discriminate would be subject to increased liability.

As a deterrent to job discrimination, H.R. 4000 would add compensatory and punitive damages under title VII for victims of intentional job bias based on sex or religion. Title VII remedies are now limited only to back pay. Expansion would eliminate the differences between title VII remedies and section 1981 remedies for racial discrimination. As you may know, in the 100th Congress I attempted to expand section 1981 to apply to women [H.R. 4132]. Applying section 1981 compensatory and punitive damages to the title VII statute covering gender bias, as this bill does, is a welcome step in that direction.

Two years ago Congress overwhelmingly approved a provision similar to the H.R. 4000 title VII expansion in the fair housing amendments. This law provides compensatory and punitive damages for victims of race, sex and disability bias. Notably, President Bush—who now opposes title VII expansion—was one of the first Reagan administration officials to endorse such broadening of the historic civil rights statute in the fair housing amendments.

Efforts to make it explicitly clear that H.R. 4000 is not a quota bill, have my full support. It is for this reason that I favor the Andrews-Neal amendment. This useful measure clarifies Congress' intent that absolutely nothing in H.R. 4000 requires employment quotas on the basis of race, color, religion, sex or national origin. A statistical imbalance in an employer's work force is not alone sufficient to establish a case of disparate impact either, according to this measure.

The Hawkins-Brooks-Tallon amendment capping title VII damages for employers with moderate-sized work forces also has my support. This measure recognizes the constraints faced by small businesses by limiting title VII damages to \$150,000 or the amount of back pay and compensatory damages owned, whichever amount is greater.

Together, both of these amendments should help ensure that misconceptions about H.R. 4000 are dispelled, and that American businesses and

workers are treated fairly by the Nation's equal opportunity laws.

Voting for H.R. 4000 will make it clear that our government will neither tolerate nor support employment bias. Employment discrimination is repugnant in a democracy. For the well-being of our country, discrimination in any form must not be permitted. It is for this reason that I urge my colleagues to cast the right vote—for passage of the Civil Rights Act of 1990.

Mr. RAY. Mr. Chairman, today we are considering H.R. 4000, the Civil Rights Act of 1990. It is a bill which all of us would like to support. Unfortunately, there are some serious problems with this legislation which we need to address.

The Michel-LaFalce substitute addresses a number of problems with the bill. It provides some clarifications to the bill without changing the primary thrust of the legislation—which we all agree with—which is to provide protection to workers from discrimination in the workplace.

I am fearful that without the changes which would be made by this amendment that we would be left with a bill which would encourage lawyers to file frivolous lawsuits against employers. The cost of defending oneself against a lawsuit is very expensive and could force many small businesses into bankruptcy. Even if they win the case, many small businesses will spend so much money on attorney fees and other associated costs that they will be financially weakened or perhaps put out of business all together.

We cannot continue to put these types of burdens on small businesses. The Michel-LaFalce substitute addresses these problems in the bill in a commonsense way, and I strongly urge my colleagues to support the substitute amendment.

Mr. FAZIO. Mr. Chairman, I strongly support H.R. 4000, the Civil Rights Act of 1990. I commend the bill's sponsor, Chairman GUS HAWKINS, for his efforts on behalf of H.R. 4000. Passage of this legislation is a fitting tribute to his long and illustrious career. I also applaud Chairman JACK BROOKS and Chairman DON EDWARDS for their roles in bringing this measure to the floor.

H.R. 4000 is a fair bill which will right the wrongs of several recent Supreme Court decisions with regard to employment discrimination. Contrary to what opponents of this measure claim, nothing in this bill will mandate or encourage quotas. It merely reaffirms our commitment to ensuring equal opportunity in the workplace and continues our rich tradition of guaranteeing equality for all.

It is unfortunate that we must revisit this issue, more than 25 years after the landmark Civil Rights Act outlawed discrimination and became the standard for equal opportunity. Yet again, we find ourselves taking up the fight to stop discrimination in the workplace and fighting the same civil rights battles we have already fought and won.

We have an obligation to provide legal protection against discrimination for women and minorities and ensure that they are not treated as second class citizens. Our Nation's longstanding commitment to equality demands

that any discrimination based on race, gender, religion, or national origin will not be tolerated. Only the strong protections offered in H.R. 4000 will give victims of employment discrimination an avenue of redress and access to equal justice.

Let us reaffirm our national commitment to civil rights. I urge my colleagues to support this important bill without weakening amendments.

Mr. DELLUMS. Mr. Chairman, the passage of the Civil Rights Act of 1990 constitutes a moral imperative for the 101st Congress and this administration.

It is a national tragedy that, 26 years after the passage of the landmark Civil Rights Act of 1964, a series of recent Supreme Court decisions have undermined the national commitment to end discrimination in the workplace, public services, and public accommodations for all Americans.

This corrective legislation will both demonstrate a national commitment to make America a more inclusive society for all Americans, regardless of race, religion, gender, age, national origin—and for those who are physically disadvantaged, and it will vindicate the intent of this House in earlier legislative efforts.

Sadly, a small group of obstructionists, in and out of the Congress, have sought to undermine support for this legislation by misrepresenting it as a quota bill. That charge is uninformed at best, intellectually dishonest at worst. The legislation not only does not mandate quotas, it doesn't even authorize them or encourage them.

Finally, I would remind my colleagues that this legislation has the unqualified endorsement of the national civil rights community, and even the administration-appointed U.S. Commission on Civil Rights. And I note with gratitude that the American Jewish Committee, which has long opposed quotas of any kind, fully supports this legislation.

Mr. Chairman, the commitment to equality represented by this bill legislation is an absolute necessity if we as a society are to live up to the promises contained in our own Declaration of Independence and Bill of Rights. I urge the Congress to help make a better America for all Americans by voting "aye" on this legislation.

Mr. COYNE. Mr. Chairman, I rise in support of the 1990 Civil Rights Act, H.R. 4000. This legislation would correct several discrepancies and remedy some weaknesses that now exist in our Nation's civil rights law.

I would like to review briefly four of its major provisions.

First, it would clarify that a 1966 Federal civil rights statute, known as section 1981, prohibits racial discrimination in all aspects of an employment contract, not just the formation of a contract. This clarification would help protect against such practices as racial harassment on the job.

Second, H.R. 4000 would replace the burden of proof on the employer to show that an employment practice with a disparate impact on women or minorities is required by business necessity.

This point is a bit complicated, but it is central to this legislation. In the *Wards Cove* case last year, the Supreme Court put the burden of proof regarding business necessity on the

plaintiff, the one claiming harm. In other words, the Court said that a plaintiff must prove that the employer's practice is not required by business necessity.

H.R. 4000 would take a very different approach, by establishing that the employer would have to prove that the practice is required by business necessity.

Third, the Civil Rights Act would establish a procedure to limit the ability of nonparties to challenge later a court decree that resolved an employment discrimination claim.

Fourth, it would clarify that the statute of limitations begins to run either when a discriminatory employment practice is implemented or when it has an adverse effect on the plaintiff, whichever is later.

Finally, there is another provision of H.R. 4000 that I believe especially deserves our close attention. This provision would, for the first time, permit the courts to award compensatory damages in cases of intentional discrimination under title VII and to award punitive damages in egregious situations.

Although this specific language is new, it is based on principles that are familiar territory in civil rights law. For some time, the victims of intentional job discrimination on the basis of race have been entitled to compensatory and punitive damages under section 1981—but that applies only to victims of race discrimination. H.R. 4000 would extend those remedies to people encountering job discrimination because of sex, religion, or national origin.

I would suggest that there are two persuasive arguments for this reform. First, our society should recognize that all job discrimination is abhorrent, whether it is on the basis of race, sex, religion, national origin, or some other factor unrelated to an individual's qualifications and performance.

The law should not punish some acts of discrimination and merely wink at others. It should not assume that certain kinds of discrimination are somehow more permissible than others. H.R. 4000 eliminates the current double standard by making available the same kinds of remedies to victims of discrimination in all of these categories.

Second, some have implied that it is too harsh on the business sector generally to punish severely those business people who intentionally discriminate. I disagree.

I am convinced that the great majority of business people are fair-minded individuals who would not deliberately discriminate. They are not really affected by this measure in any event.

But against potential discriminators, this measure could have a powerful deterrent effect. And in those instances when an employer is violating the law, H.R. 4000 would permit the victim to sue for the damages that she or he deserves.

Two generations ago, our country began a great national project—eliminating the scourge of race discrimination in the United States. This effort has produced heroes such as Rosa Parks, Martin Luther King, Bayard Rustin, Viola Liuzzo, John Lewis, Phil Randolph, and thousands of other extraordinary women and men whose names we will never know. Perhaps we will never realize their ideal fully, but it is still worth working and struggling for.

There are good arguments for individual provisions of H.R. 4000. But I think the strongest argument for it may be that it dignifies one of our best political traditions—the tradition of civil rights for which it was named—and it extends it to areas where it properly applies. Because of that, I commend this legislation to you and ask you to join me in supporting it.

Mr. DE LUGO. Mr. Chairman, I rise as an original cosponsor of the Civil Rights Act of 1990, in full support of this historic measure which once again places our Nation in the forefront of the quest for equality and justice for all our people.

In 1964 then-President Lyndon Baines Johnson stood up before the U.S. Congress and declared—with infinite determination—"We are gonna pass this Civil Rights Act if it takes all night!" Mr. Speaker, my House colleagues and I are here today with the same infinite determination to pass this Civil Rights Act of 1990. Why? Because this restores the full prohibitions against discrimination on the basis of race, color, religion, sex, or national origin as embodied in that historic 1964 document whose power has been so diminished in recent years by diluting Supreme Court decisions.

To those who oppose this proposed legislation I say the Civil Rights Act of 1990 will not generate quota systems across the land, as we have so often been told. As my colleagues are well aware, this act merely restores the standards used to determine discrimination as embodied in the Supreme Court's landmark 1971 *Griggs* decision; standards used by this Nation from 1971 to 1989 when another Supreme Court decision diluted this ruling.

Further employers were asked to come forward, during hearings on this very bill, to tell us if they had any evidence that quotas were being used to comply with these standards used under the *Griggs* ruling. Not one employer chose to do so. Clear proof that the quota argument was merely a red herring.

Opponents of the proposed Civil Rights Act of 1990 also balk at the expansion of the provision that allows compensatory and punitive damages to victims of intentional job discrimination based on race. But I ask my colleagues: Should not a person discriminated in the job marketplace for being of a different sex, of a different religion or a different national origin have just as much access to damages as remedies as those who are victimized because of being of a different race? Are not these victims of discrimination subject to just as much pain, suffering and economic deprivation when they are denied jobs?

And I ask my colleagues, who among you can oppose legislation that would assure that, after a private contract is drawn up, no evils, such as discriminatory working conditions or racial harassment, would later ensue. Should an employer cry that business necessity demands discrimination, then this legislation would place the entire burden of proof of that necessity on the employer.

Mr. Speaker, this bill is supported by over 180 of the most well respected organizations in this country. Every one of these groups has a long history in the struggle for ensuring that we keep alive the equality of opportunity, and freedom from harassment and victimization, of

every living American. I, myself, and the people of the Virgin Islands also proudly stand up in full support of this bill.

Mr. SHUMWAY. Mr. Chairman, I rise in opposition to H.R. 4000, the Civil Rights Act of 1990. Proponents would lead us to believe that the purpose of this legislation is to restore the status of employment discrimination law prior to recent Supreme Court decisions regarding civil rights. However, this legislation would not only reverse these Supreme Court decisions, it would dramatically change and expand employment discrimination laws which have been developed over the past 25 years. The Civil Rights Act of 1990 would reverse the current legal standard of innocent until proven guilty, mandate a quota system, and result in massive litigation with unlimited punitive and compensatory damage awards.

Under this bill, businesses which fail to meet certain racial, ethnic, and gender-based percentages in the workplace must prove that these disparities are not a result of discrimination. Under current law, claimants must identify the cause of the discrimination. Under this bill, the claimant need only demonstrate that certain racial hiring percentages do not exist and the burden of proof shift to the employer. In other words, the employer is guilty until proved innocent.

In an effort to avoid litigation, employees will adopt employment quotas as the only reasonable means of avoiding litigation. Employers will be forced to hire a certain percentage of employees based not on merit or qualification, but on race or sex. By imposing racial quotas rather than merit, we further weaken the American labor force's ability to compete in a fiercely competitive world.

H.R. 4000 will result in massive litigation. The availability of jury trials resulting in compensatory and punitive damages provides employees with an irresistible incentive to litigate. In my home State, California, wrongful discharge cases have skyrocketed. From 1980 through 1986 employees won over 70 percent of the cases tried before juries with an average award of \$645,000; \$1 million settlements are not uncommon. In reaction to these unreasonable settlements, the Supreme Court of California recently ruled that compensation and punitive damages should not be recovered in most wrongful discharge cases.

The Civil Rights Act of 1990 wrongfully assumes that all statistically unbalanced work forces are attributable to discrimination and curable by quotas. Rather than providing equal opportunity for employment this legislation will provide racial and gender-based entitlements for a select few. America needs a positive civil rights strategy which empowers all individuals and rewards them on merit not on race, or sex.

Mr. CRAIG. Mr. Chairman, today this House will consider H.R. 4000, the Civil Rights Act of 1990. This bill was introduced in response to several Supreme Court decisions that were interpreted as weakening the present law. I am a strong supporter of civil rights, but H.R. 4000, as reported out of committee, goes beyond good intentions.

Under the present law, a plaintiff or employee, in alleging discrimination, is required to identify the employment practice that is discriminatory. The employer or defendant can

defend the employment practice by proving that it serves a "legitimate employment goal." H.R. 4000 would not only overturn this decision but it would dramatically change the standard of proof long accepted in title VII employment discrimination cases. It would not require the plaintiff to identify the specific practice that caused discrimination or demonstrate a link between the employment practices and the disparate impact. Instead, it would allow the plaintiff to make a case by using statistics that showed an imbalance in the work force.

The employer would be left to defend the employment practice and demonstrate that it is a business necessity, essential to extremely difficult and burdensome for an employer to provide. Therefore, in order to avoid potential expense litigation, employers would be pushed into implementing quota systems in hiring personnel. Quotas are not a positive resolution for employees or the employer.

In short, Mr. Chairman, while H.R. 4000 may have the best of intentions, it would have the worst of effects. Congress will, however, have the opportunity to vote on language for an equitable approach to civil rights. Congressmen MICHEL and LAFALCE will be offering an amendment that will provide reasonable relief to victims of discrimination without forcing employers to follow quotas in order to protect against open-ended suits. The substitute leaves the burden of proof with the employer and provides for equitable damages for intentional discrimination, of up to \$100,000 as awarded by a judge.

I believe that all people should receive equal protection under the law. I will stick to that principle by voting for the Michel/LaFalce substitute, and I hope my colleagues will do the same.

Mr. ARMEY. Mr. Chairman, I rise in opposition to H.R. 4000, not because I oppose civil rights, but to the contrary, because I am a strong supporter of the rights of all Americans, black and white, male and female; and I have never believed that any one group should receive preferential treatment at the expense of others.

As an advocate of opportunity and choice in the marketplace, I have consistently supported legislation which would ensure that all members of society are free to pursue the career options of their choice. In my view, H.R. 4000 circumvents this objective by seeking employment guarantees rather than job opportunities.

I believe that recent Supreme Court decisions regarding affirmative action have been consistent with the original congressional intent. H.R. 4000 would end this consensus by potentially overturning 20 Supreme Court decisions writing rigid quotas into the law. H.R. 4000 assumes a government responsibility which I think is unrealistic. Sadly, in the effort to achieve this goal, the costs, regulations and other burdens which are imposed are deemed irrelevant. I disagree.

There are several provisions in this bill that I find particularly troublesome. The first issue is the changing standard for determining the burden of proof. Historically in this country Americans have been innocent until proven guilty. No longer. H.R. 4000 would overrule the Supreme Court's *Ward's Cove* decision by

placing the burden of proof on employers thus requiring them to demonstrate that an employment practice which has a "disparate impact" (has a greater adverse effect on minorities, women, or members of certain religious groups) is justified.

To compound matters the standard needed to justify employment practices is "business necessity." This language has never before been used in statutory law nor by the Supreme Court. Many are concerned that it will require an employer to prove that the action is essential to the continued existence of the company. Such a standard is in my view unrealistically high. Together with placing the burden of proof on the employer, nearly 25 years of title VII precedent stressing equality of opportunity instead of equality of outcome is to be abandoned.

A second issue involves provisions within the bill which would reopen settled discrimination cases and prevent certain individuals from ever being able to have their day in court. H.R. 4000 contains a retroactive provision which would mean any cases already heard and settled prior to the enactment of H.R. 4000 could be reopened, including those decided by the Supreme Court, in light of any changes made in the law. At the same time H.R. 4000 would place severe limitations on nonminorities whose employment opportunities are adversely impacted by consent decrees from being able to challenge such action.

Another section which is particularly troublesome involves the damages provision of H.R. 4000. Traditionally, when individual employees have been harmed by an unlawful practice, Federal employment law has historically provided "make whole" remedies. These typically include reinstatement, back pay, and the restoration of lost benefits designed to restore the injured party to the status he or she would have enjoyed had the violation not occurred. H.R. 4000 tosses out this concept and would make unlimited damage claims broadly available in discrimination cases.

It allows juries to award both compensatory and punitive damages without any limitations whatsoever. Jury trials and unlimited damages have never been available before under title VII. It is inconceivable that such provisions, (including expert witness and attorney's fees, can have any effect other than serving as an irresistible inducement to plaintiffs and their lawyers to institute jury trials in a quest for large monetary awards.

A related factor is language which provides "that an unlawful employment practice is established whenever a discriminatory factor is a contributing factor for an employment practice." In other words even if an employer demonstrates that the same decision would have been made in the absence of the discriminatory factors, they would still face unlimited liability.

Mr. Chairman, the many features in H.R. 4000 would result in radical changes in title VII. In many instances it would make statistical disparities sufficient enough grounds to bring a title VII case, put the burden on the accused employer to prove its innocence and make employer defenses so narrow and difficult that companies would have no alternative

but to adopt employment quota systems to avoid liability. I cannot support such a measure.

My preference is to promote opportunity as opposed to guaranteeing results. Promoting opportunity for all Americans has a unifying effect. Those who demand guaranteed results either because of their race, sex, or sexual orientation are, by definition, divisive.

The CHAIRMAN. The Chair will advise the committee that all time previously assigned under general debate has been completed.

Pursuant to the rule, an amendment in the nature of a substitute printed in part 1 of House Report 101-656 will be considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments now printed in the bill, and is considered as read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 4000

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Civil Rights Act of 1990".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in a series of recent decisions addressing employment discrimination claims under Federal law, the Supreme Court cut back dramatically on the scope and effectiveness of civil rights protections; and

(2) existing protections and remedies under Federal law are not adequate to deter unlawful discrimination or to compensate victims of such discrimination.

(b) PURPOSES.—The purposes of this Act are to—

(1) respond to the Supreme Court's recent decisions by restoring the civil rights protections that were dramatically limited by those decisions; and

(2) strengthen existing protections and remedies available under Federal civil rights laws to provide more effective deterrence and adequate compensation for victims of discrimination.

SEC. 3. DEFINITIONS.

Section 701 of the Civil Rights Act of 1964 (42 U.S.C. 2000e) is amended by adding at the end thereof the following new subsections:

"(1) The term 'complaining party' means the Commission, the Attorney General, or a person who may bring an action or proceeding under this title.

"(m) the term 'demonstrates' means meets the burdens of production and persuasion.

"(n) The term 'group of employment practices' means a combination of employment practices that produces one or more decisions with respect to employment, employment referral, or admission to a labor organization, apprenticeship or other training or retraining program.

"(o)(1) The term 'required by business necessity' means—

"(A) in the case of employment practices involving selection (such as hiring, assignment, transfer, promotion, training, apprenticeship, referral, retention, or membership in a labor organization), the practice or group of practices must bear a significant relationship to successful performance of the job; or

"(B) in the case of employment practices that do not involve selection, the practice or group of practices must bear a significant relationship to a significant business objective of the employer.

"(2) In deciding whether the standards in paragraph (1) for business necessity have been met, unsubstantiated opinion and hearsay are not sufficient; demonstrable evidence is required. The defendant may offer as evidence statistical reports, validation studies, expert testimony, prior successful experience and other evidence as permitted by the Federal Rules of Evidence, and the court shall give such weight, if any, to such evidence as is appropriate.

"(3) This subsection is meant to codify the meaning of 'business necessity' as used in *Griggs v. Duke Power Co.* (401 U.S. 424 (1971)) and to overrule the treatment of business necessity as a defense in *Wards Cove Packing Co., Inc. v. Atonio* (109 S. Ct. 2115 (1989)).

"(p) The term 'respondent' means an employer, employment agency, labor organization, joint labor-management committee controlling apprenticeship or other training or retraining programs, including on-the-job training programs, or those Federal entities subject to the provisions of section 717 (or the heads thereof)."

SEC. 4. RESTORING THE BURDEN OF PROOF IN DISPARATE IMPACT CASES.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) is amended by adding at the end thereof the following new subsection:

"(k) PROOF OF UNLAWFUL EMPLOYMENT PRACTICES IN DISPARATE IMPACT CASES.—(1) An unlawful employment practice based on disparate impact is established under this section when—

"(A) a complaining party demonstrates that an employment practice results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such practice is required by business necessity; or

"(B) a complaining party demonstrates that a group of employment practices results in a disparate impact on the basis of race, color, religion, sex, or national origin, and the respondent fails to demonstrate that such group of employment practices is required by business necessity, except that—

"(i) except as provided in clause (iii), if a complaining party demonstrates that a group of employment practices results in a disparate impact, such party shall not be required to demonstrate which specific practice or practices within the group results in such disparate impact;

"(ii) if the respondent demonstrates that a specific employment practice within such group of employment practices does not contribute to the disparate impact, the respondent shall not be required to demonstrate that such practice is required by business necessity; and

"(iii) if the court finds that the complaining party can identify, from records or other information of the respondent reasonably available (through discovery or otherwise), which specific practice or practices contributed to the disparate impact—

"(I) the complaining party shall be required to demonstrate which specific practice or practices contributed to the disparate impact; and

"(II) the respondent shall be required to demonstrate business necessity only as to the specific practice or practices demonstrated by the complaining party to have contributed to the disparate impact;

except that an employment practice or group of employment practices demonstrated to be required by business necessity shall be unlawful where a complaining party demonstrates that a different employment practice or group of employment practices with less disparate impact would serve the respondent as well.

"(2) A demonstration that an employment practice is required by business necessity may be used as a defense only against a claim under this subsection.

"(3) Notwithstanding any other provision of this title, a rule barring the employment of an individual who currently and knowingly uses or possesses an illegal drug as defined in Schedules I and II of section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)), other than the use or possession of a drug taken under the supervision of a licensed health care professional, or any other use or possession authorized by the Controlled Substances Act or any other provision of Federal law, shall be considered an unlawful employment practice under this title only if such rule is adopted or applied with an intent to discriminate because of the race, color, religion, sex, or national origin."

SEC. 5. CLARIFYING PROHIBITION AGAINST IMPERMISSIBLE CONSIDERATION OF RACE, COLOR, RELIGION, SEX OR NATIONAL ORIGIN IN EMPLOYMENT PRACTICES.

(a) IN GENERAL.—Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by section 4) is further amended by adding at the end thereof the following new subsection:

"(1) DISCRIMINATORY PRACTICE NEED NOT BE SOLE CONTRIBUTING FACTOR.—Except as otherwise provided in this title, an unlawful employment practice is established when the complaining party demonstrates that race, color, religion, sex, or national origin was a contributing factor for any employment practice, even though other factors also contributed to such practice."

(b) ENFORCEMENT PROVISIONS.—Section 706(g) of such Act (42 U.S.C. 2000e-5(g)) is amended by inserting before the period in the last sentence the following: "or, in a case where a violation is established under section 703(1), if the respondent establishes that it would have taken the same action in the absence of any discrimination. In any case in which a violation is established under section 703(1), damages may be awarded only for injury that is attributable to the unlawful employment practice".

SEC. 6 FACILITATING PROMPT AND ORDERLY RESOLUTION OF CHALLENGES TO EMPLOYMENT PRACTICES IMPLEMENTING LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

Section 703 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-2) (as amended by sections 4 and 5) is further amended by adding at the end thereof the following new subsection:

"(m) FINALITY OF LITIGATED OR CONSENT JUDGMENTS OR ORDERS.

(1) notwithstanding any other provision of law, and except as provided in paragraph (2), an employment practice that implements and is within the scope of a litigated or consent judgment or order resolving a claim of employment discrimination under the United States Constitution or Federal civil rights laws may not be challenged in a claim under the United States Constitution or Federal civil rights laws—

"(A) by a person who, prior to the entry of such judgment or order, had—

"(i) actual notice from any source of the proposed judgment or order sufficient to apprise such person that such judgment or order might affect the interests of such person and that an opportunity was available to present objections to such judgment or order; and

"(ii) a reasonable opportunity to present objections to such judgment or order;

"(B) by a person with respect to whom the requirements of subparagraph (A) are not satisfied, if the court determines that the interests of such person were adequately represented by another person who challenged such judgment or order prior to or after the entry of such judgment or order; or

"(C) if the court that entered the judgment or order determines that reasonable efforts were made to provide notice to interested persons.

A determination under subparagraph (C) shall be made prior to the entry of the judgment or order, except that if the judgment or order was entered prior to the date of the enactment of this subsection, the determination may be made at any reasonable time.

"(2) Nothing in this subsection shall be construed to—

"(A) alter the standards for intervention under rule 24 of the Federal Rules of Civil Procedure or apply to the rights of parties who have successfully intervened pursuant to such rule in the proceeding in which they intervened;

"(B) apply to the rights of parties to the action in which the litigated or consent judgment or order was entered, or of members of a class represented or sought to be represented in such action, or of members of a group on whose behalf relief was sought in such action by the Federal government;

"(C) prevent challenges to a litigated or consent judgment or order on the ground that such judgment or order was obtained through collusion or fraud, or is transparently invalid or was entered by a court lacking subject matter jurisdiction; or

"(D) authorize or permit the denial to any person of the due process of law required by the United States Constitution.

"(3) Any action, not precluded under this subsection, that challenges an employment practice that implements and is within the scope of a litigated or consent judgment or order of the type referred to in paragraph (1) shall be brought in the court, and if possible before the judge, that entered such judgment or order. Nothing in this subsection shall preclude a transfer of such action pursuant to section 1404 of title 28, United States Code."

SEC. 7. STATUTE OF LIMITATIONS; APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.

(a) **STATUTE OF LIMITATIONS.**—Section 706(e) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(e)) is amended—

(1) by striking out "one hundred and eighty days" and inserting in lieu thereof "2 years";

(2) by inserting after "occurred" the first time it appears "or has been applied to affect adversely the person aggrieved, whichever is later,";

(3) by striking out "except that in" and inserting in lieu thereof "In"; and

(4) by striking out "such charge shall be filed" and all that follows through "which-ever is earlier, and".

(b) **APPLICATION TO CHALLENGES TO SENIORITY SYSTEMS.**—Section 703(h) of such Act (42 U.S.C. 2000e-2) is amended by inserting after the first sentence the following new sentence: "Where a seniority system or seniority practice is part of a collective bargaining agreement and such system or practice was included in such agreement with the intent to discriminate on the basis of race, color, religion, sex, or national origin, the application of such system or practice during the period that such collective bargaining agreement is in effect shall be an unlawful employment practice."

SEC. 8. PROVIDING FOR DAMAGES IN CASES OF INTENTIONAL DISCRIMINATION.

Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended by inserting before the last sentence the following new sentences: "With respect to an unlawful employment practice (other than an unlawful employment practice established in accordance with section 703(k)) or in the case of an unlawful employment practice under the Americans with Disabilities Act of 1990 (other than an unlawful employment practice established in accordance with paragraph (3)(A) or paragraph (6) of section 102 of that Act) as it relates to standards and criteria that tend to screen out individuals with disabilities)—

"(A) compensatory damages may be awarded; and

"(B) if the respondent (other than a government, government agency, or a political subdivision) engaged in the unlawful employment practice with malice, or with reckless or callous indifference to the federally protected rights of others, punitive damages may be awarded against such respondent;

in addition to the relief authorized by the preceding sentences of this subsection, except that compensatory damages shall not include backpay or any interest thereon. Compensatory and punitive damages and jury trials shall be available only for claims of intentional discrimination. If compensatory or punitive damages are sought with respect to a claim of intentional discrimination arising under this title, any party may demand a trial by jury."

SEC. 9. CLARIFYING ATTORNEY'S FEES PROVISION.

Section 706(k) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(k)) is amended—

(1) by inserting "(1)" after "(k)";

(2) by inserting "(including expert fees and other litigation expenses) and" after "attorney's fee,";

(3) by striking out "as part of the"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) No consent order or judgment settling a claim under this title shall be entered, and no stipulation of dismissal of a claim under this title shall be effective, unless the parties or their counsel attest to the court that a waiver of all or substantially all attorney's fees was not compelled as a condition of the settlement.

"(3) In any action or proceeding in which any judgment or order granting relief under this title is challenged, the court, in its discretion, may allow the prevailing party in the original action (other than the Commission or the United States) to recover from the party against whom relief was granted in the original action a reasonable attorney's fee (including expert fees and other litigation expenses) and costs reasonably incurred in defending (as a party, intervenor or otherwise) such judgment or order."

SEC. 10. PROVIDING FOR INTEREST, AND EXTENDING THE STATUTE OF LIMITATIONS, IN ACTIONS AGAINST THE FEDERAL GOVERNMENT.

Section 717 of the Civil Rights Act of 1964 (42 U.S.C. 2000e-16) is amended—

(1) in subsection (c), by striking out "thirty days" and inserting in lieu thereof "ninety days"; and

(2) in subsection (d), by inserting before the period "and the same interest to compensate for delay in payment shall be available as in cases involving non-public parties, except that prejudgment interest may not be awarded on compensatory damages".

SEC. 11. CONSTRUCTION.

Title XI of the Civil Rights Act of 1964 (42 U.S.C. 2000h et seq.) is amended by adding at the end thereof the following new section:

"SEC. 1107. RULES OF CONSTRUCTION FOR CIVIL RIGHTS LAWS.

"(a) **EFFECTUATION OF PURPOSE.**—All Federal laws protecting the civil rights of persons shall be interpreted consistent with the intent of such laws, and shall be broadly construed to effectuate the purpose of such laws to provide equal opportunity and provide effective remedies.

"(b) **NONLIMITATION.**—Except as expressly provided, no Federal law protecting the civil rights of persons shall be construed to repeal or amend by implication any other Federal law protecting such civil rights.

"(c) **INTERPRETATION.**—In interpreting Federal civil rights laws, including laws protecting against discrimination on the basis of race, color, national origin, sex, religion, age, and disability, courts and administrative agencies shall not rely on the amendments made by the Civil Rights Act of 1990 as a basis for limiting the theories of liability, rights, and remedies available under civil rights laws not expressly amended by such Act."

SEC. 12. RESTORING PROHIBITION AGAINST ALL RACIAL DISCRIMINATION IN THE MAKING AND ENFORCEMENT OF CONTRACTS.

Section 1977 of the Revised Statutes of the United States (42 U.S.C. 1981) is amended—

(1) by inserting "(a)" before "All persons within"; and

(2) by adding at the end thereof the following new subsections:

"(b) For purposes of this section, the right to 'make and enforce contracts' shall include the making, performance, modification and termination of contracts, and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

"(c) The rights protected by this section are protected against impairment by non-governmental discrimination as well as against impairment under color of State law."

SEC. 13. LAWFUL COURT—ORDERED REMEDIES, AFFIRMATIVE ACTION AND CONCILIATION AGREEMENTS NOT AFFECTED.

Nothing in the amendments made by this Act shall be construed to affect court-ordered remedies, affirmative action, or conciliation agreements that are otherwise in accordance with the law.

SEC. 14. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstances is held to be invalid, the remainder of this Act and the amendments made by this Act, and the application of such provi-

sion to other persons and circumstances, shall not be affected thereby.

SEC. 15. APPLICATION OF AMENDMENTS AND TRANSITION RULES.

(a) APPLICATION OF AMENDMENTS.—The amendments made by—

(1) section 4 shall apply to all proceedings pending on or commenced after June 5, 1989;

(2) section 5 shall apply to all proceedings pending on or commenced after May 1, 1989;

(3) section 6 shall apply to all proceedings pending on or commenced after June 12, 1989;

(4) sections 7(a)(1), 7(a)(3) and 7(a)(4), 7(b), 8, 9, 10, and 11 shall apply to all proceedings pending on or commenced after the date of enactment of this Act;

(5) section 7(a)(2) shall apply to all proceedings pending on or commenced after June 12, 1989; and

(6) section 12 shall apply to all proceedings pending on or commenced after June 15, 1989.

(b) TRANSITION RULES.—

(1) IN GENERAL.—Any orders entered by a court between the effective dates described in subsection (a) and the date of enactment of this Act that are inconsistent with the amendments made by sections 4, 5, 7(a)(2), or 12, shall be vacated if, not later than 1 year after such date of enactment, a request for such relief is made.

(2) SECTION 6.—Any orders entered between June 12, 1989 and the date of enactment of this Act, that permit a challenge to an employment practice that implements a litigated or consent judgment or order and that is inconsistent with the amendment made by section 6, shall be vacated if, not later than 6 months after the date of enactment of this Act, a request for such relief is made. For the 1-year period beginning on the date of enactment of this Act, an individual whose challenge to an employment practice that implements a litigated or consent judgment or order is denied under the amendment made by section 6, or whose order or relief obtained under such challenge is vacated under such section, shall have the same right of intervention in the case in which the challenged litigated or consent judgment or order was entered as that individual had on June 12, 1989.

(3) FINAL JUDGMENTS.—Pursuant to paragraphs (1) and (2), any final judgment entered prior to the date of the enactment of this Act as to which the rights of any of the parties thereto have become fixed and vested, where the time for seeking further judicial review of such judgment has otherwise expired pursuant to title 28 of the United States Code, the Federal Rules of Civil Procedure, and the Federal Rules of Appellate Procedure, shall be vacated in whole or in part if justice requires pursuant to rule 60(b)(6) of the Federal Rules of Civil Procedure or other appropriate authority, and consistent with the constitutional requirements of due process of law.

(c) PERIOD OF LIMITATIONS.—The period of limitations for the filing of a claim or charge shall be tolled from the applicable effective date described in subsection (a) until the date of enactment of this Act, on a showing that the claim or charge was not filed because of a rule or decision altered by the amendments made by sections 4, 5, 7(a)(2), or 12.

SEC. 16. COVERAGE OF THE HOUSE OF REPRESENTATIVES.

(a) IN GENERAL.—Notwithstanding any provision of title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) or of other

law, the purposes of such title shall, subject to subsections (b) and (c), apply in its entirety to the House of Representatives.

(b) EMPLOYMENT IN THE HOUSE.—

(1) APPLICATION.—The rights and protections under title VII of the Civil Rights Act of 1964 (42 U.S.C. 2000e et seq.) shall, subject to paragraph (2), apply with respect to any employee in an employment position in the House of Representatives and any employing authority of the House of Representatives.

(2) ADMINISTRATION.—

(A) IN GENERAL.—In the administration of this subsection, the remedies and procedures made applicable pursuant to the resolution described in subparagraph (b) shall apply exclusively.

(B) RESOLUTION.—The resolution referred to in subparagraph (A) is House Resolution 15 of the One Hundred First Congress, as agreed to January 3, 1989, or any other provision that continues in effect the provisions of, or is a successor to, the Fair Employment Practices Resolution (House Resolution 558 of the One Hundredth Congress, as agreed to October 4, 1988).

(3) EXERCISE OF RULEMAKING POWER.—The provisions of paragraph (2) are enacted by the House of Representatives as an exercise of the rulemaking power of the House of Representatives, with full recognition of the right of the House to change its rules, in the same manner, and to the same extent as in the case of any other rule of the House.

SEC. 17. OTHER STATUTE OF LIMITATIONS: NOTICE OF RIGHT TO SUE.

(a) STATUTE OF LIMITATIONS.—Section 7(d) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(d)) is amended—

(1) in paragraph (1)—

(A) by striking out "180 days" and inserting in lieu thereof "2 years"; and

(B) by inserting "or has been applied to affect adversely the person aggrieved, whichever is later" after "occurred"; and

(2) in paragraph (2), by striking out "within 300 days" and all that follows through "whichever is earlier" and inserting in lieu thereof "a copy of such charge shall be filed by the Commission with the State agency".

(b) NOTICE OF RIGHT TO SUE.—Section 7(e) of such Act (29 U.S.C. 626(e)) is amended—

(1) by striking out paragraph (2);

(2) by striking out the paragraph designation in paragraph (1);

(3) by striking out "Sections 6 and" and inserting "Section"; and

(4) by adding at the end thereof the following: "If a charge filed with the Commission is dismissed by the Commission, the Commission shall so notify the person aggrieved and within 90 days after the giving of such notice a civil action may be brought against the respondent named in the charge by a person defined in section 11 (29 U.S.C. 630)."

SEC. 18. ALTERNATIVE MEANS OF DISPUTE RESOLUTION.

Where appropriate and to the extent authorized by law, the use of alternative means of dispute resolution, including settlement negotiations, conciliation, facilitation, mediation, factfinding, minitrials, and arbitration, is encouraged to resolve disputes arising under the Acts amended by this Act.

The CHAIRMAN. No amendments to said substitute are in order except the amendments printed in part 2 of House Report 101-656, which shall be considered in the order and manner

specified in the report, shall be considered as read, and shall not be subject to amendment. The amendments numbered 1 in part 2 of House Report 101-656 may be considered en bloc and shall not be subject to a demand for a division of the question.

AMENDMENT OFFERED BY MR. ANDREWS

Mr. ANDREWS. Mr. Chairman, I offer an amendment.

Mr. CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. ANDREWS: In section 4 of the amendment—

(1) strike the close quotation marks and the period at the end; and

(2) add the following at the end:

"(4) The mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

In section 13 of the amendment, strike "Nothing" and insert the following:

"Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin: *Provided, however, That nothing*."

The CHAIRMAN. Under this rule, the gentleman from Texas [Mr. ANDREWS] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Does the gentleman from Pennsylvania [Mr. GOODLING] seek to be recognized in opposition?

Mr. GOODLING. Mr. Chairman, I do.

The CHAIRMAN. The Chair recognizes the gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I am introducing this amendment today with the gentleman from North Carolina so that it is perfectly clear that nothing in the Civil Rights Act of 1990 can be construed to require an employer to adopt quotas.

The word "quota" has concerned us all. No one here wants to institute quotas, and I would suggest that women and minorities shun them also. No one wants to be hired purely on the basis of their race, color, religion, sex, or national origin.

Many have argued that the Civil Rights Act of 1990 does more than reinstate Griggs versus Duke Power Co. That our bill goes further and will provide employers with no other choice than to institute quotas is simply not true. However, our amendment puts that issue to rest.

The language in the Civil Rights Act of 1990 is carefully drafted regarding cases of disparate impact. With our amendment, H.R. 4000 insures that the Wards Cove decision is overturned and that quotas will not be required.

The first section of our amendment clearly reaffirms that "the mere existence of a statistical imbalance in an employer's workforce on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

The opponents of this bill have claimed that all a plaintiff has to do in disparate impact cases is to simply say my workplace contains fewer women or minorities than my community and therefore the employer is discriminating. This is not true. A plaintiff in a disparate impact case must prove many things before the burden of proof is switched to the employer.

Griggs clearly sets out that the plaintiff must show first that a specific employment practice or set of practices results in the disproportionate exclusion of women or minorities. Further, the plaintiff must show that the practice excludes qualified women or minorities based on a comparison with the relevant labor pool for that job. Only if the plaintiff can prove that the jobs at issue are unskilled, is the general population the relevant comparison.

Second, the plaintiff must show that there is a linkage between that practice and the elimination of a high proportion of qualified women or minorities for the jobs in question.

Third, the plaintiff must show that the exclusion or disparate impact of the employment practice affects disproportionately higher and significant numbers of women and minorities. Disparate impact cases take large numbers of people. The employer tends to be a large company or agency which hires many people routinely. In fact, the best known disparate impact cases are those regarding the exclusion of women, Hispanics, and Asians from police and firefighting forces across the country because of height and weight requirements.

No one can argue that Griggs, during the 18 years it set the rules for employment practices, caused employers to institute quotas. Our amendment ensures that one could construe that what we are doing today will cause employers to adopt quotas in the future.

Wards Cove has clearly had a detrimental effect on employees across the country. Today we move forward and ensure that the rules of the game regarding employment discrimination protect employees.

□ 2040

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Wisconsin [Mr. SENSENBRENNER].

Mr. SENSENBRENNER. Mr. Chairman, this probably can be called the found fig leaf amendment as reported from the Judiciary Committee. This language was in the bill, and some-

where between there and the Committee on Rules it got lost. I am very happy that the gentleman from Texas [Mr. ANDREWS] has found the language and is proposing to reinsert it back in the bill, but it really does not do anything. I think this shows the charade that has been going on by those who support the bill to try to hide the fact that the bill is a quota bill.

First of all, provision No. 1 in the first section of the bill does not do anything of substance in terms of the overturning of the Ward's Cove case.

Second, this bill, even with the amendment, will result in quotas, not by requiring them directly, but by inducing employers to adopt surreptitious quotas in order to avoid the cost and trouble of disparate impact lawsuits, which this bill makes it very, very difficult for employers to win.

Finally, the amendment by the gentleman from Texas [Mr. ANDREWS] does nothing to change section 6 of the bill, which would insulate many illegal quota arrangements from challenge.

Mr. Chairman, I would urge that this amendment be voted down. It does not do anything to solve the quota problem. It merely provides a fig leaf for some people to hide behind, and we ought not do these kinds of things on the floor.

Mr. ANDREWS. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. NEAL].

Mr. NEAL of North Carolina. Mr. Chairman, our Nation is based on the premise that every person is important, that every person is worthy of dignity and respect. Our Constitution guarantees each individual equality of treatment under the law. It is essential that we support policies which ensure that this fundamental principle of American Government is not violated.

Mr. Chairman, recent Supreme Court decisions have overturned longstanding, well-understood, completely legitimate interpretations of civil rights law. As a result, protection against discrimination in employment has been significantly and unjustly restricted. It is necessary, Mr. Chairman, for Congress to overturn these decisions and reassert the original intent of our civil rights laws.

Mr. Chairman, the Civil Rights Act of 1990 is a good bill, a necessary bill. However, I have been concerned about fears expressed over the past few months that this bill could somehow require or cause quotas in hiring.

Mr. Chairman, I am completely opposed to quotas. Quotas do not represent equality of treatment under the law. They do not allow individuals to be judged according to their own merits and qualifications. They violate the very principles of the original Civil Rights Act of 1964, and they violate the basic premise of our Constitution.

I just want to remind by colleagues that when Congress debated the original Civil Rights Act, our distinguished former colleague, Senator Hubert Humphrey, forcefully expressed his opposition to quotas and stated unequivocally that they were not and should never be required under law.

Mr. Chairman I did not cosponsor H.R. 4000 because I wanted to be able to assure myself, and my constituents, that this is not a quota bill. Although the bill's sponsors did not and do not intend for their bill to be a quota bill, I want to be absolutely certain that we do not inadvertently promote hiring quotas.

Therefore, I am pleased to have the opportunity to join my colleague from Texas in offering an amendment which will resolve this issue once and for all. Our amendment guarantees that the Civil Rights Act of 1990 does not require quotas and will not cause employers to implement quotas.

By approving this amendment, Congress will send a clear message to the courts and to the American public. We specifically state that statistics alone are not grounds for a disparate impact case. In addition, we make it clear that nothing in this bill should be interpreted as requiring employers to implement quotas.

Mr. Chairman, the original Griggs decision on disparate impact cases came out of my congressional district. In this case, the Supreme Court ruled that employment practices which appear neutral on their face but which operate to exclude qualified minorities are not allowed under title VII of the Civil Rights Act of 1964 unless the employer can show that these practices are justified by "business necessity."

The Griggs standard has been in effect since 1971. In the 19 years since this decision came down, employers have not resorted to quotas in order to comply with it. By codifying Griggs and rejecting the 1989 Wards Cove decision which overturned this important civil rights precedent, we are in no way requiring or advocating quotas. The amendment that Congressman Andrews and I are offering takes the bill one step further and clearly codifies the intent of the Civil Rights Act of 1964 as interpreted in Griggs.

Mr. Chairman, this bill is not about quotas, it is about preventing discrimination. It is not about quotas, it is about civil rights. It is not about quotas, it is about justice. I urge my colleagues to support our amendment, make the bill absolutely clear on this issue and then support final passage of the Civil Rights Act of 1990.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, it is important that Members realize exactly what truly is going

on here. The language that the gentleman from Texas [Mr. ANDREWS] is proposing as an amendment was in the bill when it was in the Committee on the Judiciary. It is in the Senate bill. It was taken out of the bill in order to be proposed here as an amendment so people could get up and say that this is no longer a quota bill. I can hardly believe the charade of it all.

But what I want to say is that it is a real tragedy that the party which says tonight they are the strong supporters of civil rights have been neither civil nor respectful of the rights of their own Members in their advocacy of their position on this bill. It saddens me to see this kind of charade called an amendment.

Mr. Chairman, it saddens me to have people from your side come and pull their names off of our speakers list because they have been intimidated. It saddens me to know that people have been threatened with being taken off of committees, being not allowed to be put on committees, even with their districts being redistricted, because they did not agree with the position of the leadership of the Democratic Party on this issue.

Mr. Chairman, that is not democratic, it is not civil, it is not respectful of rights. This amendment demonstrates the thinness of the veil. To have taken out of a bill language that was already in it, to offer it as an amendment, to somehow prove that you are against quotas, when a bill does not say and never did say quotas. We did not claim it said quotas.

Mr. Chairman, in my 4 minutes I will say why I think it is a quota bill. But truly the lack of civility and lack of respect for rights that has moved the LaFalce amendment from a winning amendment this morning to maybe or maybe not a winning amendment now saddens me and disrespects this House.

□ 2050

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from Texas [Mr. BROOKS], chairman of the Committee on the Judiciary.

Mr. BROOKS. Mr. Chairman, I rise in support of the Andrews-Neal amendment.

Mr. Chairman, this amendment states clearly and unequivocally that "the mere existence of a statistical imbalance in the employer's work force on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation."

Opponents of the bill have raised red herrings all along, saying that if this bill passes, statistics alone will be enough basis to find an employer guilty of discrimination. Mr. Chairman, that is not the case. It has never been the case. In order to make a prima facie case, the plaintiff must

show that a specific employment practice, or group of employment practices, results in a disparate impact.

This amendment states in a straightforward way: "Statistics alone are not enough."

Further, the amendment makes it clear that this act "shall not be construed to require an employer to adopt hiring or promotion quotas on the basis of race, color, religion, sex, or national origin."

This bill reinstates case law that has been in effect since 1971 when *Griggs versus Duke Power Co.*, was decided by the Supreme Court. From 1971 until the Supreme Court gutted that decision in *Wards Cove Packing Co. versus Atonio* in 1989, businesses were not forced to resort to the use of quotas. That was the situation for the period of almost two decades that *Griggs* was the law of the land. Restoring *Griggs* through passage of the Civil Rights Act of 1990 will not automatically force businesses to resort to quotas.

The opponents of the Civil Rights Act of 1990 have raised the spurious issues of statistics and quotas as scare tactics. This amendment sets the record straight.

I urge a yes vote on the amendment.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. Mr. Chairman, I support the amendment offered by the gentleman from Texas. I do not see how any Member could do otherwise. I wonder why we are doing it.

No one should seriously argue that quotas are explicitly encouraged or required in H.R. 4000. The problems with this bill are more insidious than that.

Disparate impact cases arise when there is unintentional discrimination. Cases where a high school diploma or drug free workplace have been required have gone to the Supreme Court because such policies have been found to have a disparate impact. Today, I wonder if a no smoking policy will be next. Almost any selection criteria for a job can result in a work force that does not exactly, proportionately represent the labor pool.

Some employers base hiring on a guesstimate of an applicant's ability to be promoted to more difficult, more important tasks. Hirings and promotions often are based on subjective assessments of leadership ability or professional attitude. Will one of my colleagues say he or she does not hire and promote on such bases?

Kennedy-Hawkins however, lists examples of how employers should meet their burden of proof that an employment practice is not discriminatory: "Statistical reports, validation studies, expert testimony," etc.

I have not used statistical reports or validation studies in hiring hands for my farm or my congressional office. I

wonder how many of my colleagues have?

I try to use what they call, where I come from, west Texas tractor seat common sense. Under Kennedy-Hawkins, I believe employment decisions based on tractor seat common sense probably will be an unlawful practice.

All the language in sections 3 and 4 of Kennedy-Hawkins are results-oriented, not causation-oriented. The "right" result, under Kennedy-Hawkins is avoidance of a statistical disparity. There is only one way to avoid a statistical disparity, and that is to hire and promote according to the statistics.

That sounds like quotas. Not, I admit, quotas as an express requirement, but as a safe harbor to which employers will feel forced to flee to avoid protracted and expensive lawsuits.

The floor amendment we consider today makes no real change in Kennedy-Hawkins. In fact, curiously enough, until yesterday, this language was in the bill.

Right here, in the July 24 substitute offered in the Judiciary Committee offered by the gentleman from California [Mr. EDWARDS], on page 6, lines 20-24, it says:

Paragraph 4. The mere existence of a statistical imbalance in an employer's work force on account of race, color, religion, sex, or national origin is not alone sufficient to establish a prima facie case of disparate impact violation.

And, starting with line 25, on page 15:

Nothing in the amendments made by this Act shall be construed to require an employer to adopt hiring or promotion quotas * * *.

I look at the bottom of page 6 and 15 of the text made in order as original text for floor debate—and I find no such language.

Where did it go?

It's in the quotas amendment before us, today.

This language was taken out so that we could add it back on the floor as a supposedly improving amendment. This amendment is not being offered on the floor to make a substantive change—after all, the language was already in the bill, for a while—it's being offered to make everyone feel good by casting a symbolic vote against quotas.

Moreover, this amendment makes no difference. It restates the obvious, that the bill does not anywhere say quotas are required. But as has already been well argued today, Kennedy-Hawkins is drafted more subtly than that. The only way a well-meaning employer can make sure, under this bill, to avoid statistically incorrect and unlawful results, is to hire and promote according to the statistics.

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. HAWKINS], chairman

of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, I rise in support of the amendment. I am surprised at those who accuse the bill of being a quota bill. Now presumably they are opposing a bill because of this amendment. Are they opposed to the amendment? Are they in favor of quotas? That is the issue.

We emphasize again, as was done in 1964, that discrimination is prohibited as to any individual. Any white person who is not hired for a less qualified black has a right to a suit. Qualifications are and should be the test, and that is all we are saying in this bill.

We are doing this because the Committee on Education and Labor did not have the language, and in combining the bills we wanted to make sure that this was the test. It should be qualifications.

Neither was the statistical language included in the bill, and this does include it.

So if Members want both the statistical language prohibition and a quota prohibition, this is the opportunity. Do not stand up and oppose this amendment if you are trying to do something against quotas.

Mr. GOODLING. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois [Mr. FAWELL].

Mr. FAWELL. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I agree with the gentleman from Connecticut who has already spoken on this issue. It is an absolute puzzle to me. Both of these phrases, these paragraphs dealing with quotas, no quotas, and by the way it is the present law right now too, were in the bill that was taken from the Judiciary Committee. They came out of the Judiciary Committee.

Then we go through these kinds of charades so that we can convince people that we are doing something different, which I think has to be an insult to your side of the aisle if not to all of Congress. Is this the way you convince people that this is not a bill that creates quotas? That seems just absolutely insane to me that this body is doing something like this. Talk about having senseless things that we do that cost money to build up a record.

Do you know where quotas do come from? Where you have allegations, for instance, where statistical imbalances are deemed to be proof of disparate impact. Yes, where you have a lack of specificity, for instance, and you have lack of specificity in these bills. And when you have impossible burdens of proof, then of course you are going to have the person who happens to have the burden of proof, who cannot prove it, by the guy who loses. That is what you call quotas. That is what you have when people say I had to go into safe

harbor. I do not have any other chance. I cannot win this case.

And I will tell you what else, when you have multimillion-dollar potential lawsuits, when you actually say, as we do in this bill for the very first time, look at section 5, the employer has no defense whatsoever to a simple discrimination claim.

Mr. GOODLING. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. LaFALCE].

Mr. LaFALCE. Mr. Chairman, I think everybody in this body should vote for this amendment. This amendment was, is in the substitute. This amendment was in, as I understand it, the bill that was reported out of committee, and it should be in any bill that becomes law. It is a good amendment.

I do not think it is adequate to meet the legitimate concerns, but it is certainly an improvement over the primary bill that is before us today, and everyone here should vote for it. I cannot see any grounds whatsoever for opposing it.

Mr. GOODLING. Mr. Chairman, I yield my remaining 1 minute to the gentleman from Texas [Mr. BARTLETT].

Mr. BARTLETT. Mr. Chairman, this amendment is an absolute see-through fig leaf. It is of absolutely no consequence to the bill, to the quota argument at all.

The bill says that you must adopt quotas in order to avoid multimillion dollar punitive and compensatory damages, and then the amendment by the gentleman from Texas would come back and say that if you do not mind the multimillion dollar punitive damages, well then you do not have to adopt quotas. It is like the old master sergeant in the Army that ordered a recruit to do something he should not have been ordered to do, and he says, "Private, I can't make you do it, but I can make you wish you had."

Every employer in America will be required to adopt quotas by this bill whether we tell them that they have to or not, because they have to adopt the quotas to avoid the punitive and compensatory damages. It is in the bill.

2100

Mr. ANDREWS. Mr. Chairman, I yield 1 minute to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, the amendment has been offered to calm the fears which have developed because of the mislabeling of this bill as a "quota" bill. This amendment makes clear that a mere statistical difference between a work force and a community or within the work force itself does not create a civil rights violation.

This legislation has been the subject of intense scrutiny from all sides of the debate. From any angle of review, this bill can not be said to contain quotas nor can the language be construed as necessitating the adoption of quotas as a means of compliance.

The Civil Rights Act of 1990 is essential to the goal of equality for all Americans. The interests served by this bill are those of all Americans for fairness and justice.

So that there is no question as to the intent and effect of the Civil Rights Act of 1990, I urge you to support this amendment.

I do not support enforced quotas nor would I support a bill that would mandate quotas either specifically or as a practical result of provisions contained in legislation. I am certain that this bill is one I can support.

Mr. ANDREWS. Mr. Chairman, I yield 30 seconds to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. I thank the gentleman for yielding.

Mr. Chairman, I just want to reemphasize a point I made earlier this evening, and that is when you look at the Andrews amendment, read it and read it carefully, there is absolutely no way you can conclude this is a quota bill. This amendment is very important.

Mr. Chairman, I urge its adoption.

Mr. ANDREWS. Mr. Chairman, to close debate, I yield the balance of my time to the gentleman from California [Mr. EDWARDS], 1 minute.

Mr. EDWARDS of California. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I compliment the gentleman from North Carolina [Mr. NEAL] and the gentleman from Texas [Mr. ANDREWS] for offering this amendment. I think it is very important.

Mr. Chairman, I rise in support of the amendment. The language presented in this provision was included in two separate sections of the bill reported by the Judiciary Committee and was designed to assure that H.R. 4000 is not a quotas bill. This amendment is being offered to enable this House to reemphasize that this is not a quotas bill.

Twenty-six years after enacting title VII and 19 years after Griggs, there is no evidence that title VII compels employers or unions to use quotas. Why then are quota arguments made about this bill?

The argument goes like this: to avoid litigation, employers will hire or promote by the numbers because plaintiffs can use statistics to show imbalances and employers will never be able to justify the business necessity of their discriminatory employment practices because the bill's definition of business necessity is too stringent.

First of all, employers who hire or promote by the numbers may be subject to so-called reverse discrimination claims. But more importantly, the sponsors of H.R. 4000 took a number of steps to make clear that title VII and the changes made to it by this bill does not require employers to implement quotas. Clarifying language necessary to put the quotas argument to rest is reflected in the pending amendment. I urge you to support it.

A number of clarifications were made by the sponsors.

First, "no quotas" language was added to the House Judiciary and Senate-passed bills. This amendment reiterates that language. It says that nothing in H.R. 4000 should be construed "to require an employer to adopt hiring or promotion quotas."

Second, during the course of both Houses' consideration of the bill, the business necessity defense was modified several times, in response to concerns about quotas:

The standard set out in the introduced bill was "essential to effective job performance"; bills reported by Education and Labor, and the Civil Rights Subcommittee, modified the standard to "substantial and demonstrable relationship to effective job performance"; and bills reported by the Judiciary Committee and passed by the Senate required that the challenged employment practice(s) "bears a significant relationship to successful performance of the job." That is the language in the bill we are voting on today.

Finally, to ensure that courts do not treat "business necessity" as a new standard, language was added to the bill stating the Act's definition of business necessity restores the Griggs standard and overrules Wards Cove's treatment of the business necessity defense.

Concern has been raised that HR 4000 would result in plaintiffs winning law suits based on mere statistical comparisons. The gentleman's amendment includes language from the bill reported by the House Judiciary Committee which states that the "mere existence of a statistical imbalance in an employer's work force * * * is not alone sufficient to establish a prima facie case of disparate impact." This means that a plaintiff cannot win merely by showing that an employer had a smaller proportion of minority or female employees than existed in the general population.

Let me emphasize that HR 4000 does not change what Griggs requires the plaintiff to show. The plaintiff must compare the employer's work force with the relevant labor pool, and any disparity between this comparison must be statistically significant, that is, not explained away by chance.

As explained in the House Judiciary Committee report, statistics may still

be used to make a prima facie case of disparate impact. Indeed, such cases usually rely on statistics. But these statistics must meet the requirement of law. Mere statistical imbalance without more will not suffice to establish a prima facie case. The relevant comparison is between the qualified labor pool and those actually selected. Simple reference to the population at large will generally be insufficient.

Let me stress that Griggs has encouraged employers to review policies that may adversely affect equal employment opportunity (an important governmental objective) and to take actions. The law does not compel an employer to adopt "quotas" and it does not prohibit the employer from engaging in affirmative action which does not unnecessarily trammel the right of others. In fact, the law allows an employer or union to enter voluntary agreements providing for race-conscious remedial action. It authorizes courts to enter whatever relief deemed appropriate to remedy past discrimination, including race-conscious relief, as well as relief that may benefit individuals who are not identified victims of unlawful discrimination.

Mr. Chairman, ironically, the quota argument was raised in 1964 when title VII was being debated. As a result, section 703(j) was added to title VII saying, "[title VII] does not require preferential treatment * * * on account of imbalance * * *" between an employer's work force and the general population. This means an employer is not required to grant preferential treatment to correct any perceived racial gender or ethnic imbalance in his/her work force. I support this amendment giving the House an opportunity to reaffirm what the sponsors of the legislation have always said, H.R. 4000 does not require quotas and employers are not guilty of discrimination merely because of a statistical imbalance in their work force. I urge my colleagues to vote yes on this amendment.

The CHAIRMAN. All time on this amendment has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. ANDREWS].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ANDREWS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 397, noes 24, not voting 11, as follows:

[Roll No. 306]

AYES—397

Ackerman
Alexander
Anderson

Andrews
Annunzio
Anthony

Applegate
Aspin
Atkins

AuCoin
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Bilbray
Billey
Boehlert
Boggs
Bonior
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Browder
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Bustamante
Byron
Campbell (CA)
Campbell (CO)
Cardin
Carper
Carr
Chandler
Chapman
Clarke
Clay
Clement
Coble
Coleman (MO)
Coleman (TX)
Collins
Combest
Condit
Conte
Conyers
Cooper
Costello
Coughlin
Courter
Cox
Coyle
Craig
Crockett
Dannemeyer
Darden
Davis
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Douglas
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
Engel
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio

Feighan
Fields
Fish
Flake
Flippo
Foglietta
Frank
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gephardt
Geras
Gibbons
Gillmor
Gilman
Glickman
Gonzalez
Gordon
Goss
Grandy
Grant
Gray
Green
Guarini
Hall (OH)
Hamilton
Hancock
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hogland
Hochbrueckner
Hopkins
Horton
Houghton
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
James
Jenkins
Johnson (CT)
Johnson (SD)
Johnston
Jones (GA)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Laughlin
Leach (IA)
Lehman (CA)
Lehman (FL)
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston

Lloyd
Long
Lowey (NY)
Lukens, Donald
Machtley
Manton
Markley
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCrery
McCurdy
McDermott
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
McNulty
Meyers
Mfume
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinaro
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal (MA)
Neal (NC)
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Pallone
Panetta
Parker
Parris
Patterson
Paxon
Payne (NJ)
Payne (VA)
Pease
Pelosi
Penny
Perkins
Petri
Pickett
Pickle
Porter
Poshards
Price
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Roe
Rogers
Rohrabacher
Ros-Lehtinen
Rose
Rostenkowski

Roth	Smith (NE)	Torricelli
Roukema	Smith (NJ)	Towns
Rowland (CT)	Smith (TX)	Traficant
Rowland (GA)	Smith (VT)	Traxler
Roybal	Smith, Denny	Udall
Russo	(OR)	Unsoeld
Sabo	Smith, Robert	Upton
Saiki	(NH)	Valentine
Sangmeister	Smith, Robert	Vento
Sarpalius	(OR)	Viscosky
Sawyer	Snowe	Volkmer
Saxton	Solarz	Vucanovich
Schaefer	Solomon	Walgren
Scheuer	Spence	Walsh
Schiff	Spratt	Washington
Schneider	Staggers	Watkins
Schroeder	Stallings	Waxman
Schuette	Stark	Weiss
Schumer	Stearns	Weldon
Serrano	Stenholm	Wheat
Sharp	Stokes	Whittaker
Shaw	Studds	Whitten
Shays	Stump	Williams
Shumway	Sundquist	Wilson
Shuster	Swift	Wise
Sikorski	Synar	Wolf
Sisisky	Tallion	Wolpe
Skaggs	Tanner	Wyden
Skeen	Tauke	Wyllie
Skelton	Tauzin	Yates
Slatery	Taylor	Yatron
Slaughter (NY)	Thomas (CA)	Young (AK)
Slaughter (VA)	Thomas (GA)	Young (FL)
Smith (FL)	Thomas (WY)	
Smith (IA)	Torres	

NOES—24

Archer	Gingrich	Michel
Armey	Goodling	Myers
Baker	Gradison	Savage
Burton	Gunderson	Schulze
Callahan	Hammerschmidt	Sensenbrenner
Clinger	Holloway	Stangeland
Crane	Lowery (CA)	Walker
DeLay	Madigan	Weber

NOT VOTING—11

Bilirakis	Leath (TX)	Pashayan
Ford (MI)	Lukens, Thomas	Robinson
Ford (TN)	McDade	Vander Jagt
Hall (TX)	Nelson	

□ 2122

Messrs. GRANDY, SKEEN, SHUMWAY, ROBERTS, WHITTAKER, KYL, SHUSTER, DENNY SMITH, LIGHTFOOT, LENT, ROBERT F. (BOB) SMITH, and NAGLE changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. PASHAYAN. Mr. Speaker, I ask unanimous consent to say that I was on the way and did not reach the Chamber in time to cast a vote on roll-call No. 306.

Had I been here, I would have cast the vote, "aye."

AMENDMENT OFFERED BY MR. BROOKS

Mr. BROOKS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. BROOKS: In section 8 of the amendment—

(1) insert "(a) DAMAGES.—" before "Section 706(g)", and

(2) by adding at the end the following:

(b) LIMITATION ON PUNITIVE DAMAGES.—Section 706(g) of the Civil Rights Act of 1964 (42 U.S.C. 2000e-5(g)) is amended—

(1) by inserting "(1)" after "(g)"; and

(2) by adding at the end the following

"(2) If the respondent has fewer than 100 employees for each working day in each of twenty or more calendar weeks in the current or preceding calendar year, then the amount of punitive damages that may be awarded under paragraph (1)(B) to an individual against the respondent shall not exceed—

"(A) \$150,000; or

"(B) an amount equal to the sum of compensatory damages awarded under paragraph (1)(A) and equitable monetary relief awarded under paragraph (1); whichever is greater."

The CHAIRMAN. Under the rule, the gentleman from Texas [Mr. Brooks] will be recognized for 10 minutes, and a Member opposed will be recognized for 10 minutes.

Mr. SENSENBRENNER. Mr. Chairman, I rise in opposition to the amendment offered by the gentleman from Texas [Mr. Brooks].

The CHAIRMAN. The gentleman from Wisconsin [Mr. SENSENBRENNER] will be recognized for 10 minutes.

The Chair recognizes the gentleman from Texas [Mr. Brooks].

Mr. HAWKINS. Mr. Chairman, will the gentleman yield?

Mr. BROOKS. I yield to my distinguished friend, the gentleman from California [Mr. HAWKINS], the chairman of the Committee on Education and Labor.

Mr. HAWKINS. Mr. Chairman, it is my intent in rising to indicate that, after the next vote on the pending amendment, that it is the intent of us on this side to move to rise.

Mr. GUNDERSON. Mr. Chairman, will the gentleman yield?

Mr. HAWKINS. I yield to the gentleman from Wisconsin.

Mr. GUNDERSON. What happens then?

I mean do we do this tomorrow?

Mr. HAWKINS. Tomorrow morning it is the intent to go to the amendment of the gentleman from Illinois [Mr. MICHEL] as the first order of business at 10 a.m.

Mr. GUNDERSON. So, we are going to, in one day, do the major debate on the major issue on civil rights, and we are going to do campaign reform, all in one day, while we pass a debt ceiling and we try to get out of here, in addition to three conference reports?

Mr. HAWKINS. Mr. Chairman, I say to the gentleman from Wisconsin, It's going to be the same time regardless if we do it tonight up until midnight or tomorrow morning. We will have the same time under the rule, so we are not shortening or lengthening the debate.

Mr. GUNDERSON. Mr. Chairman, I understand what the gentleman from California [Mr. HAWKINS] is saying.

Mr. Chairman, the point I am trying to make is that all of a sudden we are going to take the two most important issues, or two of the most important issues in this session, civil rights and

campaign reform. We are going to try to do both of those in one day. We are going to add to that a series of conference reports, including the oilspills conference report, and we are going to try to raise the debt ceiling all in one day.

Mr. HAWKINS. I repeat, whether you do it all in 1 day or in 2 days, it's going to be the same time. It's a matter of accommodating Members who have expressed a desire not to work late tonight.

Mr. Chairman, I say to the gentleman from Wisconsin [Mr. GUNDERSON], If your leadership is opposed to it, and I thought they were agreeable to it, if they're opposed to it, then let's not waste the time now. Let's proceed.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I say we are opposed to it, so let us proceed.

Mr. BROOKS. Mr. Chairman, from many quarters we have heard that section 8 of the Civil Rights Act of 1990, the section that authorizes compensatory and punitive damages for victims of discrimination under title VII of the Civil Rights Act of 1964, is unacceptable. We are told this provision will force employers to take extravagant actions—such as the implementation of a quota system—to avoid the possibility of a suit, and to pay out monies as a matter of course, even to settle frivolous suits, in order to avoid being subjected to the uncertainties and potential outrageous punitive damage awards that might result from a jury trial.

Mr. Chairman, the amendment that I am offering along with our esteemed colleague, the Chairman of the Committee on Education and Labor and the gentleman from South Carolina [Mr. TALLON] seek to lay these unfounded fears to rest. Our amendment places a cap on punitive damages for all businesses with fewer than 100 employees. With the passage of our amendment, 97.7 percent of all businesses in this country will know that they will never face punitive damage awards exceeding \$150,000, or an amount equal to the sum of compensatory damages and back pay, to victims of employment discrimination.

Bear in mind that the damages provision in the bill we are working on today, the Civil Rights Act of 1990, authorizes monetary damages only where discrimination is intentional. In addition, punitive damages are authorized only where that intentional discrimination is malicious and is done with callous and reckless disregard for the civil rights of any person. Businesses will be subject to punitive damages in the first place only if they or their officers and employees are malicious, callous or reckless—mean and vicious—with regard to the rights of all persons to enjoy fair and equal opportunities in the workplace.

As a matter of fact, compensatory and punitive damages currently are allowed under section 1981 of title 42, United States Code, which had its origin in a post-Civil War statute designed to protect the rights of blacks. As we consider whether to expand the right to collect damages from blacks to women and other minorities in H.R. 4000, it would be instructive to look at the past experience of damages awards under section 1981 of title 42.

A study conducted by Shea and Gardner, a respected law firm, of cases brought under section 1981 found that monetary damage awards were more than \$200,000 in only three decisions reported throughout the country during the past 10 years. In over 85 percent of the reported cases, no monetary damages were awarded at all, and in the cases where there were monetary damages, the average award was about \$40,000.

Mr. Chairman, businesses in this country have made considerable progress in opening the work place to people of all walks of life. Attitudes are hard to change, but with the proper incentives, people can and do adjust their attitudes with new requirements in mind. But, the battle against discrimination is not yet over. The damages provision in the Civil Rights Act of 1990 adds appropriate incentives for businesses and individuals to comply with the law.

The cap on punitive damages clearly sets the upper limit for the businesses that run afoul of the law and are found to have violated the civil rights of others.

I urge all Members to support our amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, this amendment does not solve the problem of huge litigation costs as the proponents would seem to indicate. It does not eliminate jury trials. It does not eliminate the huge fees that are paid to lawyers in order to take a case to the jury.

Furthermore, it completely blows a hole in the proponents' arguments in favor of this bill that we should not treat sex and religious discrimination differently than racial discrimination, because it does put a cap, and a weak cap at that, on the amount of punitive damages that are awarded.

Also, the Members should be very clear that this does not put a cap on compensatory damages, which includes pain and suffering, emotional distress and back pay.

What it does do is it says that the cap is \$150,000 on punitive damages, or the amount of compensatory damages, whichever is greater. That means that if the jury should award just a dollar in compensatory damages for each minute of pain and suffering and emotional distress, that would be \$1,440 a day, \$43,200 a month, and \$518,400 a

year, which could be matched by punitive damages under the amendment of the gentleman from Texas.

This is not an effective cap on punitive damages. It certainly does not reduce the leverage that plaintiffs' lawyers can have to force suits to settlement even when the suits do not have merit.

Mr. Chairman, I urge opposition to the amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. BROOKS. Mr. Chairman, I yield 2½ minutes to the gentleman from South Carolina [Mr. TALLON].

Mr. TALLON. Mr. Chairman, I thank the distinguished gentleman for yielding this time to me.

Mr. Chairman, policies that promote and protect full employment are important to all Americans. However, we must balance the need between the right to challenge unfair and discriminatory employment practices, against the need to prevent the encouragement of costly and adversarial litigation.

This amendment will provide for that balance, and complement the Civil Rights Act and existing civil rights law.

This amendment simply states that all people have a right to collect compensatory damages and/or equitable relief, while protecting small businesses from excessive judgements.

This amendment provides a cap of \$150,000 for employers with less than 100 employees, or the amount equal to the sum of compensatory damages and equitable relief, whichever is greater. Of our country's businesses, 97 percent will be covered by this cap.

While this amendment will provide relief for people who have been wronged and who have been willfully discriminated against, it will not place an excessive burden on our small businesses because it provides a cap. A cap which will stifle frivolous cases and limit fiscal damage.

Our task is not to fix the inequities of the past, but to fix a course for the future. This bill does that.

What are some in this body afraid of in 1990? History has taught us that the only way to conquer fear is to keep doing the things we fear to do.

We learn how to work together, not by sacrificing principles, but by learning to understand one another.

So if we would just treat every person as we would want to be treated, there would be no question that we would support the committee bill.

And in years to come this 1990 Civil Rights Act will be heralded as a great success—a progressive realization of a worthwhile goal.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Iowa (Mr. GRANDY).

Mr. GRANDY. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, although this amendment is ostensibly designed to protect small businesses from large jury awards, the amendment offers no such protection. This amendment would limit punitive damages to \$150,000, or the amount of compensatory damages and back pay and other equitable monetary relief awarded to the plaintiff, whichever is greater. Therein lies the flaw of this amendment, the amount of punitive damages is limited by the completely limitless amount of compensatory and other damages. There simply is no monetary limit on the amount that a jury may award a plaintiff for injuries such as pain and suffering or loss of consortium. Consequently, there is no limit on the amount of punitive damages that a plaintiff may be awarded. This is not a cap. This is an ante.

Just to cite one example of the kind of money that we are talking about when we say that punitive damages are limited by the amount of compensatory damages, back pay, and other equitable monetary relief, we can look at the Price Waterhouse case with which we are now somewhat familiar. The plaintiff, who we very often forget, Mr. Chairman, prevailed in this case, was found to have been denied a partnership on the basis of her sex. She was awarded \$371,175 in back pay and an ownership share in the Price Waterhouse accounting firm and attorney's fees totaling \$422,460. This award is totally independent of any compensatory damages which are not available under current law. To say that punitive damages are limited by the sum of \$371,000, plus the value of a partnership share in a major national accounting firm, plus under H.R. 4000 the amount of any compensatory damages, seems to me to be no real limit at all.

□ 2140

Do not support this amendment. This is, as I said earlier, an ante and not a cap.

The CHAIRMAN. The Chair will announce that the gentleman from Texas [Mr. BROOKS], who reserves the right to close debate, has 2½ minutes remaining. The gentleman from Wisconsin [Mr. SENSENBRENNER] has 6 minutes remaining.

Mr. SENSENBRENNER. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. GUNDERSON].

Mr. EDWARDS of Oklahoma. Mr. Chairman, will the gentleman yield?

Mr. GUNDERSON. I am happy to yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I wanted to ask the gentleman from Texas a question, and the

question was about his statement about the limitation of the amount of damages that would be allowable under his amendment. I just wanted to point out that he misstated it by pointing out that there was a \$150,000 cap. That is not true, because there is also the amount of the compensatory damages which may be greater. I would make the point that that is precisely what is wrong with this bill. This bill is not about civil rights, because the Hawkins bill and the LaFalce bill both deal with civil rights. The problem with H.R. 4000 is it is a lawyers' bill. It is a way for lawyers to get rich. It is not civil rights.

If you want civil rights, you pass the LaFalce amendment. If you want ways to get more money into the pockets of the lawyers, you pass the Brooks amendment.

Mr. GUNDERSON. Mr. Chairman, I appreciate the gentleman's comments.

The point I want to share with you all is what you are doing under this amendment is you are establishing three different sets of civil rights enforcement in this country under title VII. Right now we say any business with 14 or less employees is exempt from title VII. This amendment comes up with a new category. It says anybody from 15 up to 100 is going to have B set of remedies. We now have created a new civil rights enforcement.

Companies from 15 to 100 employees, they have the damages prescribed in this amendment, but anybody over 100, well, they are going to have the book thrown at them, so think of it, you are for civil rights, but you have now established three different categories of enforcement.

Second, I have got to tell you that this is the you-can't-have-it-both-ways amendment. You cannot come down to the well of the House in general debate and suggest that the beauty of Kennedy-Hawkins is it treats sexual harassment and racial harassment under 1981 the same, and then vote for this amendment which puts a cap of \$150,000 on because now you have taken sexual harassment and said, that is right, we are going to put a cap on sexual harassment or sexual discrimination, but we are going to maintain unlimited for 1981 in racial, and you cannot have it both ways, folks. You have to choose in this amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself 3½ minutes, the remainder of my time, but I will not take it all.

Mr. Chairman, I would like to emphasize the point just made by my colleague, the gentleman from Wisconsin [Mr. GUNDERSON].

Throughout the course of this debate the proponents of H.R. 4000 have repeatedly said that we should not treat sexual harassment differently from racial harassment suits under

1981, and we should have the same remedy scheme for both.

This amendment goes back on those statements, and anybody who claimed to support H.R. 4000 on the basis of treating sexual and racial harassment equally should oppose this amendment. I urge a no vote.

Mr. BROOKS. Mr. Chairman, I yield 30 seconds to the distinguished gentleman from California [Mr. EDWARDS].

Mr. EDWARDS of California. Mr. Chairman I rise in opposition to this amendment to cap punitive damages at \$150,000, even though it is offered by my good friends, my chairman, the gentleman from Texas [Mr. BROOKS], my partner on this bill, the gentleman from California [Mr. HAWKINS], and the gentleman from South Carolina [Mr. TALLON].

Women and religious minorities should not be subject to second-class treatment or second-class remedies. They should have the same remedies that racial minorities have under the Civil Rights Act of 1866 (42 U.S.C. § 1981). The administration supports keeping full compensatory and punitive damages for racial minorities—why not for women and religious minorities? Why should sexual harassment be treated differently from racial harassment.

I am very puzzled about the notion of capping damages. Two years ago, in the fair housing amendments, we lifted the cap on punitive damages that was contained in the original Fair Housing Act. This cap was rightfully seen as a severe impediment in enforcing that law, and Congress correctly removed the cap.

Mr. Chairman, my conservative friends, people who I almost never agree with, support damages for victims of intentional discrimination. People like former Attorney General Edwin Meese, former Assistant Attorney General Wm. Bradford Reynolds, Judge Clarence Thomas, former chairman of EEOC and Clint Bolick, writing for the Heritage Foundation.

During his tenure as head of the Civil Rights Division, Mr. Reynolds and I had many sharp disagreements. But hear Mr. Reynolds on damages: "The Administration is saying we can tolerate jury trials and damages for racial harassment but not for harassment of women and religious minorities. I have a hard time following the rationale of that." (Congressional Quarterly, 4/21/90).

We are not providing damages in a vacuum. Both compensatory and punitive damages have been available to racial minorities under 42 U.S.C. § 1981 for a number of years. There have been very few cases of damages under section 1981. The law firm of Shea and Gardner studied this issue and found:

Over the last 10 years, there were 576 reported section 1981 cases. In only 68 of those cases were compensatory or punitive damages awarded.

In 42 of the cases where it is possible to determine the exact amount of the damages award, the combined compensatory and punitive award per case was \$50,000 or less.

In four cases, plaintiffs received less than \$500.

Only three cases where plaintiff was ultimately awarded more than \$200,000 combined compensatory and punitive damages.

[See 136 Cong. Rec. 19470 (Daily ed. July 25, 1990)]

Damages in employment discrimination complaints have not been a lawyer's bonanza, nor have they brought unwarranted riches on victims of employment discrimination. We should learn by this experience and not put an unnecessary and unwarranted cap on damages. Let us not make women and religious minorities second-class citizens.

Mr. BROOKS. Mr. Chairman, I yield such time as he may consume to the gentleman from North Carolina [Mr. HEFNER].

Mr. HEFNER. Mr. Chairman, I would like to ask the gentleman a question. We have heard all of this talk. You do not pay anything unless you are guilty, do you?

Mr. BROOKS. Mr. Chairman, if the gentleman will yield, the gentleman is correct.

Mr. Chairman, I yield the balance of my time to the gentleman from California [Mr. HAWKINS] to close the debate.

Mr. HAWKINS. Mr. Chairman, I thank the gentleman.

Mr. Chairman, this is a very difficult vote. It is a difficult vote for me personally because I do not believe in caps. Now, there are caps under both bills.

The one under the so-called substitute is a conditional cap which is no cap at all, because it provides that in those cases where awards may be given other awards may be given that it would not apply. Title VII does give other awards, back pay, for example.

Under this proposal, while I disagree in principle with the cap, I believe that in the transitional period it is desirable.

I think we have always recognized in civil rights legislation that there is a certain period of time in which the public must be educated, and we cannot move ahead of our constituency. For that reason, I intend to support a cap on damages in this instance.

Those who have pleaded for small business now expose themselves to the fact that they are trying to protect big business. It was not small business, it was big business. Now, this is an exemption for small business. The only

one who will be affected actually are the AT&T, the General Motors, and the others who have over a period of time paid rather large damage suits out, and so this is a clear-cut protection on a temporary basis at least for those, and we can revisit this at any time for small businesses.

I am surprised at those who have asked us to insert damages into H.R. 4000 are now opposing it. The only reason I can anticipate that the effect of that is that they do not want H.R. 4000 to have a damage cap in order that they can then say we do not want to support H.R. 4000, and we want the substitute.

Again, you just cannot have it both ways. But I would remind the Members that this is the only opportunity we will have to address this issue. The Senate bill does not have such a provision, and if you at least want to address the issue to keep it alive, to do with it whatever you please in conference or otherwise, this is the only time we are going to have an opportunity to vote on it, and if you vote against this, it simply means that you are voting against the damages, the great damages that you have been parading before us as a means of defeating H.R. 4000.

Mr. Chairman, I suggest we support the amendment.

The CHAIRMAN. All time reserved for debate for this amendment has expired.

The question is on the amendment offered by the gentleman from Texas [Mr. BROOKS].

The question was taken; and on a division (demanded by Mr. SENSENBRENER), there were—ayes 94, noes 61.

RECORDED VOTE

Mr. BROOKS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 289, noes 134, not voting 9, as follows:

[Roll No. 307]

AYES—289

Ackerman	Brooks	Davis
Alexander	Browder	de la Garza
Anderson	Brown (CA)	DeFazio
Andrews	Brown (CO)	Derrick
Annuizio	Bruce	Dicks
Anthony	Bustamante	Dingell
Applegate	Byron	Dixon
Aspin	Campbell (CO)	Donnelly
Atkins	Cardin	Dorgan (ND)
Barnard	Carper	Downey
Barton	Carr	Duncan
Bates	Chapman	Dwyer
Beilenson	Clarke	Dymally
Bennett	Clay	Dyson
Bentley	Clement	Early
Bereuter	Coble	Eckart
Berman	Coleman (MO)	Engel
Bevill	Collins	English
Bilbray	Condit	Erdreich
Bliley	Conte	Espy
Boehlert	Conyers	Evans
Boggs	Cooper	Fascell
Borski	Courter	Fazio
Bosco	Coyne	Feighan
Boucher	Crockett	Fields
Brennan	Darden	Fish

Flake	Martin (NY)	Saiki
Flippo	Martinez	Sangmeister
Frost	Matsui	Sarpalius
Gallo	Mavroules	Sawyer
Gaydos	Mazzoli	Saxton
Gephardt	McCandless	Schaefer
Geren	McCloskey	Schiff
Gibbons	McCurdy	Schneider
Gillmor	McDermott	Schuetz
Gilman	McEwen	Schulze
Glickman	McGrath	Schumer
Gonzalez	McHugh	Serrano
Gordon	McMillan (NC)	Sharp
Grant	McMillen (MD)	Shays
Gray	McNulty	Sisisky
Green	Meyers	Skaggs
Guarini	Miller (OH)	Skeen
Hall (OH)	Miller (WA)	Skelton
Hamilton	Moakley	Slatery
Harris	Mollohan	Slaughter (NY)
Hatcher	Montgomery	Smith (FL)
Hawkins	Moody	Smith (IA)
Hayes (LA)	Moorhead	Smith (NE)
Hefner	Mrazek	Smith (NJ)
Herger	Murphy	Smith (TX)
Hertel	Murtha	Smith (VT)
Hoagland	Natcher	Snowe
Hochbrueckner	Neal (MA)	Solomon
Hopkins	Neal (NC)	Spence
Horton	Nowak	Spratt
Houghton	Oberstar	Staggers
Hoyer	Obey	Stallings
Hubbard	Olin	Stearns
Huckaby	Ortiz	Stenholm
Hughes	Owens (NY)	Stokes
Hunter	Owens (UT)	Studds
Hutto	Packard	Swift
Jacobs	Panetta	Synar
James	Parker	Tallon
Jenkins	Pashayan	Tanner
Johnson (CT)	Patterson	Tauke
Johnson (SD)	Payne (VA)	Tauzin
Johnston	Pease	Taylor
Jones (CA)	Penny	Thomas (GA)
Jones (NC)	Petri	Torres
Jontz	Pickett	Torricelli
Kanjorski	Pickle	Towns
Kaptur	Poshard	Trafficant
Kildee	Price	Traxler
Kleczka	Pursell	Udall
Kolter	Quillen	Unsoeld
LaFalce	Rahall	Valentine
Lagomarsino	Rangel	Vander Jagt
Lancaster	Ravenel	Vento
Lantos	Ray	Visclosky
Laughlin	Regula	Volkmer
Leach (IA)	Richardson	Vucanovich
Lehman (CA)	Ridge	Walgren
Lehman (FL)	Rinaldo	Walsh
Lent	Ritter	Watkins
Levin (MI)	Roberts	Weldon
Lewis (CA)	Roe	Wheat
Lightfoot	Ros-Lehtinen	Whittaker
Lipinski	Rose	Whitten
Lloyd	Rostenkowski	Wilson
Long	Roukema	Wise
Machtley	Rowland (CT)	Wyden
Manton	Rowland (GA)	Yates
Markey	Roybal	Yatron
Martin (IL)	Russo	
	Sabo	

NOES—134

Archer	Cox	Gingrich
Armey	Craig	Goodling
AuCoin	Crane	Goss
Baker	Dannemeyer	Gradison
Ballenger	DeLay	Grandy
Bartlett	Dellums	Gunderson
Bateman	DeWine	Hammerschmidt
Bonior	Dickinson	Hancock
Boxer	Dornan (CA)	Hansen
Broomfield	Douglas	Hastert
Bryant	Dreier	Hayes (IL)
Buechner	Durbin	Hefley
Bunning	Edwards (CA)	Hiler
Burton	Edwards (OK)	Holloway
Callahan	Emerson	Hyde
Campbell (CA)	Fawell	Inhofe
Chandler	Foglietta	Ireland
Clinger	Frank	Kasich
Coleman (TX)	Frenzel	Kastenmeier
Combest	Galleghy	Kennedy
Costello	Gejdenson	Kennelly
Coughlin	Gekas	Kolbe

Kostmayer	Oakar	Smith, Robert (NH)
Kyl	Oxley	Smith, Robert (OR)
Levine (CA)	Pallone	Solarz
Lewis (FL)	Parris	Stangeland
Lewis (GA)	Paxon	Stark
Livingston	Payne (NJ)	Stump
Lowery (CA)	Pelosi	Sundquist
Lowery (NY)	Perkins	Thomas (CA)
Lukens, Donald	Porter	Thomas (WY)
Madigan	Rhodes	Upton
Marlenee	Rogers	Walker
McCollum	Rohrabacher	Washington
McCrery	Roth	Waxman
Mfume	Savage	Weber
Michel	Scheuer	Weiss
Miller (CA)	Schroeder	Williams
Mineta	Sensenbrenner	Wolf
Molinari	Shaw	Wolpe
Morella	Shumway	Wyllie
Morrison (CT)	Shuster	Young (AK)
Morrison (WA)	Sikorski	Young (FL)
Myers	Slaughter (VA)	
Nagle	Smith, Denny (OR)	
Nielson		

NOT VOTING—9

Billirakis	Hall (TX)	McDade
Ford (MI)	Leath (TX)	Nelson
Ford (TN)	Luken, Thomas	Robinson

□ 1211

The Clerk announced the following pairs:

On this vote:

Mr. Ford of Michigan for, with Mr. Robinson against.

Mr. BONIOR, Mrs. LOWEY of New York, and Messrs. LEWIS of Georgia, WOLPE, HAYES of Illinois, WAXMAN, WEISS, PORTER, DURBIN, COLEMAN of Texas, and KASTENMEIER, Ms. OAKAR, and Messrs. SIKORSKI, BRYANT, PALLONE, and PAYNE of New Jersey changed their vote from "aye" to "no."

Mr. SPENCE, Mrs. SAIKI, Mrs. VUCANOVICH, and Mr. SKEEN changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

□ 2210

Mr. HAWKINS. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose, and the Speaker pro tempore (Mr. Hoyer) having assumed the chair, Mr. MFUME, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 4000) to amend the Civil Rights Act of 1964 to restore and strengthen civil rights laws that ban discrimination in employment, and for other purposes, had come to no resolution thereon.

PERSONAL EXPLANATION

Mr. NELSON of Florida. Mr. Speaker, had I been present, I would have voted "yea" on rollcall 300, 302, 303, 304, 305, 306, and 307. I would have voted "nay" on rollcall 301.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 2952. An act to amend the Energy Policy and Conservation Act to extend the authority for title I and II.

REPORT ON RESOLUTION WAIVING CERTAIN POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 1465, OIL POLLUTION PREVENTION, RESPONSE, LIABILITY AND COMPENSATION ACT OF 1989, AND AGAINST CONSIDERATION OF SUCH CONFERENCE REPORT

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-658) on the resolution (H. Res. 452) waiving certain points of order against the conference report on the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5400, CAMPAIGN COST REDUCTION AND REFORM ACT OF 1990

Mr. MOAKLEY, from the Committee on Rules, submitted a privileged report (Rept. No. 101-659) on the resolution (H. Res. 453) providing for the consideration of the bill (H.R. 5400) to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections, to reduce costs in House of Representative elections, and for other purposes, which was referred to the House Calendar and ordered to be printed.

PERMISSION FOR REPRESENTATIVE MICHEL OF ILLINOIS TO SUBMIT TO THE CONGRESSIONAL RECORD AN AMENDMENT IN THE NATURE OF A SUBSTITUTE TO THE SUBSTITUTE TO H.R. 5400, CAMPAIGN COST REDUCTION AND REFORM ACT OF 1990

Mr. MOAKLEY. Mr. Speaker, consistent with the rule just filed, I ask unanimous consent that the distinguished minority leader, Representative MICHEL of Illinois, have until midnight tonight to submit to the CONGRESSIONAL RECORD of August 2, 1990, an amendment in the nature of a substitute to the substitute to H.R. 5400

made in order as original text under the rule.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on Banking, Finance and Urban Affairs be discharged from further consideration of the bill (H.R. 5432) to extend the expiration date of the Defense Production Act of 1950.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. HOYER). Is there objection to the request of the gentleman from Ohio?

Mr. SHUMWAY. Mr. Speaker, reserving the right to object, and I shall not object, I yield to the gentleman from Ohio for an explanation.

Ms. OAKAR. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, the Defense Production Act of 1950 expires August 10, 1990. Because we are going into recess shortly, it is obvious we cannot complete consideration of H.R. 486 before the expiration of the act. Failure to extend the act can jeopardize our ability to prepare for a national security emergency. I would note that the Defense Production Act is the cornerstone of the Nation's defense resource and mobilization structure. It is the key authority for emergency preparedness and provides the statutory basis for the readiness of the Nation's industrial resources. There have been several occasions when the authority contained in the act have been used to ensure the availability of essential defense production. Continuation of these authorities is essential to our industrial readiness and our national defense.

The bill before the House today will extend the Defense Production Act until September 30, 1990. This short extension indicates that the committee is determined to report out and pass Comprehensive Defense Production Act amendments shortly upon our return from the August district work period.

Mr. SHUMWAY. Mr. Speaker, further reserving the right to object, I would like to say the administration very much is in favor of this short-term extension. We are making progress on the reauthorization of the Defense Production Act. I think this will see us through the recess and keep the act, which is a very important act for our national defense and national security, in place until we can complete our work here in the Congress.

The administration supports it, and so do I.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the bill as follows:

H.R. 5432

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TEMPORARY EXTENSION OF DEFENSE PRODUCTION ACT OF 1950.

The first sentence of section 717(a) of the Defense Production Act of 1950 (50 U.S.C. App. 2166(a)) is amended by striking "August 10, 1990" and inserting "September 30, 1990".

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 5432, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

THE WORLD'S MOST DANGEROUS MAN

(Mr. SOLOMON asked and was given permission to address the House for 1 minute and to revise and extend his remarks and to include extraneous material.)

Mr. SOLOMON. Mr. Speaker, several weeks ago during debate I held up this headline from U.S. News and World Report. This is the headline. And I warned this Congress that Saddam Hussein, labeled the most dangerous man in the world, was building a deadly arsenal of nuclear weapons, chemical weapons supplied to him by Communist China and the Soviet Union, that could disrupt peace in the Middle East and threaten the oil supplies that run America's cars and run America's industries. Today, this Hitler of the Middle East has done just that.

Mr. Speaker, let this be a warning to all of my colleagues who want to mothball our warships, ground our B-2 bombers, and decimate our troop strength. Tyrants like Saddam Hussein must be dealt with, and they cannot be dealt with from weakness, my colleagues.

[From U.S. News and World Report]

THE WORLD'S MOST DANGEROUS MAN—WITH BILLIONS TO SPEND AND HELP FROM THE UNITED STATES, THE SOVIET UNION AND EUROPE, SADDAM HUSSEIN IS AMASSING A TRULY TERRIFYING ARSENAL

In this strange season of political upheaval, with the lights of dictators winking out

around the globe, the world suddenly seems a saner and safer place. But as Mikhail Gorbachev and George Bush confer this week, providing a little new hope for safety and sanity, in ancient Baghdad, half a world away, a dangerous man with great ambitions is hosting a summit of his own.

While Bush and Gorbachev are signing agreements to reduce their arsenals of chemical and nuclear arms, Iraqi President Saddam Hussein, the host of the Arab summit, continues to spend billions of dollars in the pursuit and development of those very same weapons. What is even more troubling is that while the superpowers are trying to ensure that their bulging arsenals are never used, Hussein has already lobbed his nerve gas not only at his archenemies in Iran but at some of his own people, killing several hundred Kurdish tribesmen. It is no small irony that this new threat to peace and stability is coming from Mesopotamia, from the cradle of civilization, but if Saddam Hussein has taken note of the fact, he has not deigned to comment on it. He is not, after all, a man much inclined to humor. What he is, demonstrably, is the most dangerous man in the world.

In his ruthless and obsessive quest to become the "Sword of the Arabs," as Hussein lately has styled himself, he has relied upon the complicity of Western and other governments, the greed of middlemen, and a clandestine arms-procurement network with front companies in the U.S. and Europe. The Atlanta branch of Italy's biggest state-owned bank extended more than \$1 billion in credit for Iraqi arms deals, U.S. officials say. A Canadian ballistics and rocket expert was helping Hussein build the world's biggest gun where he was mysteriously murdered in Brussels, and Iraq obtained hundreds of tons of a chemical used to make mustard gas from a Baltimore manufacturer before the transaction was caught by U.S. Customs.

The fateful combination that fuels Iraq's drive for military power is at once simple and familiar: Money, militarism and ego. With virtually unlimited funds from an oil industry that has an estimated 10 percent of the world's petroleum reserves, he has infinitely more cash to spend on instruments of destruction than Iran, Libya or North Korea. The U.S. intelligence community has consistently underestimated Iraq's military capabilities, but now a growing number of intelligence officials believe Hussein may have a nuclear-weapons capability in between two and five years. And unlike Kim II Sung in North Korea, Hussein's ambitions are not contained by a powerful military on his border. His phenomenal military spending, estimated by some intelligence officials at as much as \$50 billion over the past decade, has made him the world's single biggest buyer on the international market of chemical, biological and nuclear weaponry.

Even more frightening than his capabilities are the ample indications that Hussein has few qualms about using them. "I swear to God," he said in a statement printed around the world a few weeks ago, "we will let our fire scorch half of Israel if it tries to wage anything against us." Defenders of the Iraqi leader point out that he threatened to use force only in retaliation for an Israeli attack. But he is so isolated, both from his own people and from the international community, that no one knows for sure what he might do.

Worse, there is virtually no one, at home or abroad, who can restrain his worst impulses. He has few friends, even in the Arab

world, and fewer and fewer within Iraq's own political structure. He has stubbed out rivals, real and imagined, like cigarette butts, and Western intelligence agencies have reported several instances in which he has pulled the trigger himself. Hussein committed his first murder at 14, attempted his first political assassination at 22, and there is no evidence to suggest he has broken the habit. The State Department calls Iraq's human-rights record "abysmal" and says the country continues to harbor several of the world's most notorious terrorists.

In recent years, moreover, what few constraints there were on Hussein have withered. The Ba'ath Socialist Party, which he rode to power, and the Revolutionary Command Council, which he dominated once he got there, have both fallen into decline, and more and more of the business of government is being handled by trusted members of Hussein's own family.

□ 2210

REPORT ON SANCTIONS AGAINST IRAN ACT OF 1990

The SPEAKER pro tempore (Mr. HOYER). Under a previous order of the House, the gentleman from Illinois [Mr. ROSTENKOWSKI] is recognized for 5 minutes.

Mr. ROSTENKOWSKI. Mr. Speaker, I am submitting for printing in the RECORD the report by the Committee on Ways and Means to accompany the bill, H.R. 5431.

AMENDMENTS TO H.R. 5431 OFFERED BY Mr. ROSTENKOWSKI OF ILLINOIS

In section 103 of the bill, redesignate subsections (b) and (c) as subsections (c) and (d), and after subsection (a) insert the following new subsection:

(b) ADDITIONAL IMPORT SANCTIONS.—If the President considers that the taking of such action would promote the effectiveness of the sanctions listed under subsection (a), and is consistent with the national interest, the President may prohibit, for such period of time as he considers appropriate, the importation into the United States of any or all products of any foreign country that has not—

(1) prohibited the importation of products of Iraq into its customs territory; or

(2) given assurances satisfactory to the President that such an import sanction will be promptly implemented.

In subsection (d), as so redesignated, strike "subsection (b)" and insert "subsection (c)".

REPORT

PURPOSE AND SUMMARY

In the early hours of Thursday, August 2, 1990, the Government of Iraq sent a large military force into Kuwait, crushing the Kuwaiti army and, according to early reports, toppling the legitimate government of Kuwait. This unprovoked act of blatant aggression represents the worst in a series of aggressive and abusive actions by the Government of Iraq toward neighboring countries and its own citizens. Those actions have included highly credible reports of Iraqi use of chemical weapons against Iranian soldiers and its own Kurdish minority, coupled with recent threats by the President of Iraq to use chemical weapons against Israel.

These actions by the Government of Iraq violate every norm of civilized behavior. The

purpose of H.R. 5431 as amended by the Committee on Ways and Means is to require the imposition of a wide range of economic sanctions against Iraq until such time as the President notifies Congress that he is lifting the sanctions. The sanctions provided for in the bill mirror the sanctions imposed by the President on August 2 under authority of the International Emergency Economic Powers Act, following confirmation of the Iraqi invasion of Kuwait.

Section 103(a)(2)(A) of H.R. 5431 is within the jurisdiction of the Committee on Ways and Means. That subsection requires the President to prohibit the importation of any goods or services of Iraqi origin, other than publications and other informational materials. This import ban is to be imposed under the President's existing authority of the International Emergency Economic Powers Act. An amendment adopted by the Committee adds a new subsection (b) which authorizes the President, if he considers it would promote the effectiveness of the U.S. sanctions and is consistent with the national interest, to impose an import ban on any or all products of any country that has not prohibited the importation of Iraqi goods into its own territory or given assurances satisfactory to the President that such an import sanction will be implemented promptly. Although the President has general authority to impose such a third country import ban under certain circumstances, this provision clarifies the President's authority in this regard.

COMMITTEE ACTION

H.R. 5431 was introduced on August 2, 1990, by Congressman Dante B. Fascell for himself and others and was referred to the Committee on Ways and Means and other committees. On August 2, the Committee on Ways and Means considered those provisions of H.R. 5431 which were within its jurisdiction and ordered the bill favorably reported by voice vote with an amendment.

SECTION-BY-SECTION ANALYSIS

Following is an analysis of those provisions of H.R. 5431 which are within the jurisdiction of the Committee on Ways and Means.

Section 1. Short Title

This section states that the bill may be cited as the "Sanctions August Iraq Act of 1990".

Section 101. Declarations of Policy Regarding the Iraqi Invasion of Kuwait

Section 102 sets forth six declarations of policy regarding the Iraqi invasion of Kuwait, including a condemnation of the invasion, a call for the immediate and unconditional withdrawal of Iraqi forces, a call for multilateral sanctions against Iraq, and other policy statements.

Section 102. Consultations with Congress

This section requires the President to keep the Congress fully informed, and to consult with Congress, with respect to events surrounding Iraq's invasion of Kuwait, including U.S. actions.

Section 103. Imposition of Embargo

(a) Requirement of Embargo: Effective immediately upon enactment of H.R. 5431, this subsection requires the President to impose a range of specified economic sanctions against Iraq, under authority of the International Emergency Economic Powers Act. Among the sanctions which the President must impose is a prohibition on the import into the United States of any goods or services of Iraqi origin, other than publications and other informational materials.

(b) Additional Import Sanctions: This subsection, which was added as an amendment by the committee on Ways and Means, provides that if the President considers it would promote the effectiveness of the U.S. sanctions and is consistent with the national interest, he may impose an import ban on any or all products of any country that has not prohibited the importation of Iraqi goods into its own territory or given assurances satisfactory to the President that such an import sanction will be implemented promptly.

The Committee believes that unilateral trade sanctions have proven to be ineffective in the past to accomplish foreign policy objectives. This amendment provides the President with the tools necessary to ensure that similar sanctions are imposed by other civilized nations to maximize the pressure on Iraq to withdraw its forces from Kuwait and commit to living peacefully within its own borders. The provision was made discretionary in order to give the President maximum flexibility in using the authority of this section to accomplish the worthwhile objectives of this bill.

(c) Exceptions to and Lifting of Embargo: This subsection provides that the requirements of subsection (a) relating to the imposition of sanctions shall not apply to the extent that the President so notifies Congress in advance.

OTHER MATTERS REQUIRED TO BE DISCUSSED UNDER THE RULES OF THE HOUSE

VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with clause 2(1)(2)(B) of rule XI of the Rules of the House of Representatives, the following statement is made relative to the vote of the Committee in reporting the Bill: H.R. 5431 was ordered favorably reported by the Committee by voice vote with an amendment.

OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives relating to oversight findings, the Committee, after extensive discussion and consideration of recent developments with respect to the Iraqi invasion of Kuwait, including the imposition of broad economic sanctions by the President, has concluded that H.R. 5431 as amended by the Committee is an appropriate response to the aggressive actions by the Government of Iraq.

With respect to clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives, no oversight findings or recommendations have been submitted to the Committee by the Committee on Government Operations with respect to the subject matter contained in the bill.

BUDGETARY AUTHORITY OR TAX EXPENDITURES

In compliance with clause 7(a) of rule XIII and with clause 2(1)(3)(B) of rule XI of the rules of the House of Representatives, the Committee states that there are no tax expenditures or new budgetary authority providing financial assistance to State and local governments in the bill.

INFLATIONARY IMPACT

With respect to clause 2(1)(4) of rule XI of the Rules of the House of Representatives, the Committee states that H.R. 5431 would not have any significant impact on prices and costs in the operation of the general economy.

THE WORLD REQUIRES A STRONG AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. McEWEN] is recognized for 5 minutes.

Mr. McEWEN. Mr. Speaker, 26 hours ago Saddam Hussein of Iraq took his forces, 700 tanks, 120,000 men, and marched boldly, in less than 6 hours, into Kuwait and took over a country while America slept.

This sort of activity reminds Members that we live in a dangerous world. We live in a world in which if a nation is not prepared to stand for its principles, it invites aggression. History has told Members that repeatedly.

Collectively, some months ago, the allies of freedom in NATO said that they would build an airport in Croton, for our 401st Air Wing of the F-118 if the United States would but occupy it. It was going to be built and financed and paid for by our allies for less than half the price of 1 bomber. The F-18 would be stationed there on the lower flank of NATO for patrol of the Mediterranean.

Mr. Speaker, about 72 hours ago this House of Representatives said, "No, we don't need that, we will leave the Mediterranean unprotected by American air forces," and thereby invite those who wish to exert force in the area. Less than 24 hours later, the Committee on Armed Services said:

Now only will we withdraw our bases from abroad, but we will also not finance a long projected strategic bomber. We will no longer finance the next generation of technology for our defenses, and will not answer the administration's request for a strategic bomber that could project forces around the globe.

Thus, the United States is withdrawing into fortress America, in which it will withdraw from the rest of the world, leave our allies exposed, not join hands in defense of freedom and invite the crazies of the world to move aggressively against their neighbors. Mr. Speaker, we will leave here in another day. When we come back, I hope that a certain amount of sensibilities will have settled upon the Congress. We will recognize that when our allies choose to give the United States an air base, that we should occupy it; that when we are flying strategic bombers, having reduced our bomber force from 2,300 to less than 300 over the last 25 years, that we should begin to replace the remaining 364 that we have in our inventory, that we should begin to replace those with the next generations of bombers, the B-2, and that we will understand that the world requires a strong America with the loudest and strongest forces for freedom and democracy in the world, should not cover its head in the sand and withdraw from the world because every time the Congress has done it, it has invited aggression and cost American lives.

In the interests of peace, in the interests of freedom, in the interests of stability, America should occupy on the lower flank of NATO, Croton, and it should continue the production of next generation of freedom bomber, the B-2.

ORDER OF BUSINESS

Mr. DORNAN of California. Mr. speaker, I ask unanimous consent to vacate my special order for 60 minutes for a 5-minute special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

THE MEDICARE/MEDICAID REIMBURSEMENT ACT OF 1990

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. STARK] is recognized for 5 minutes.

Mr. STARK. Mr. Speaker, the people of the United States have long paid the bill for health costs incurred due to the use of cigarettes. Some of these costs are direct and measured in an unnecessary number of premature deaths and disabilities. Others are indirect and result in lost productivity to our economy. In dollars this means a cost to the Nation of \$65 billion a year.

For 25 years now the Surgeon General has been advising us of the consequences of smoking. As a nation and as a Congress we have patronized, subsidized, and made exceptions for an industry whose products are responsible for more than one of every six deaths in the United States. It is time to make the tobacco industry accountable for part of the economic losses their products cause.

Therefore, Mr. Speaker, today I am introducing the Medicare/Medicaid Reimbursement Act of 1990 which assigns part of the health-related costs of smoking to the tobacco industry where it rightfully belongs. My proposal will permit the Secretary of Health and Human Services to recover funds expended in the care and treatment of Medicare and Medicaid patients with tobacco induced cancer, tobacco induced cardiovascular, and tobacco induced lung diseases.

Each year there are nearly 400,000 smoking-related deaths in the United States. Cancer due to smoking is the greatest cause of these deaths accounting for approximately 140,000 lives lost annually. Cigarette smoking causes 90 percent of all lung cancer cases in men, 79 percent in women. Lung cancer has surpassed breast cancer as the main cancer killer of women.

Cardiovascular disease, our No. 1 killer nationwide is the second most prevalent cause of smoking related mortality in the United States, accounting for 115,000 deaths annually. Smokers have more than twice the risk of heart attack as nonsmokers. Cigarette smoking causes up to 90 percent of all cases of chronic obstructive lung disease in the United States, killing another 57,000 persons each year.

The Federal Government spends more than \$4.2 billion in Medicare and Medicaid payments annually to treat smoking-related illnesses. The tobacco industry's argument that people voluntarily choose to smoke in spite of the warning labels on cigarettes is not valid in a world where over 90 percent of all tobacco users begin while teenagers or younger, 70 percent of use has begun by age 15, and 50 percent by age 13. Thus we see that the majority of persons now creating the Medicare and Medicaid expenditures for cigarette-related health costs became addicted before the age of consent. We are talking about an addiction perpetrated upon children.

Even adults cannot be considered completely voluntary smokers because they remain uninformed participants. Our consumer safety laws, our hazardous substance laws and our toxic substance laws have all worked to protect the tobacco industry from disclosing the carcinogenic ingredients of cigarettes. Although the notification of risk of cancer appears on the cigarette packages, the specific information the consumer needs to make an informed consent is sadly missing. In this day and age, consumers often receive information about using possible cancer causing substances; recent examples are alar with apples and benzene with Perrier mineral water. Although immediate attention was given these substances to protect our health, few people realize that there is at least 50 times more benzene in a pack of cigarettes than in a single bottle of Perrier which was removed from the shelves. At this time no Federal agency has the authority to require that these additives be disclosed or even removed if they are found to be harmful. Smoking can hardly be called informed consent, nor is our Government acting responsibly to protect the consumers' health. Hopefully some of the important smoking advertising legislation introduced this session will be helpful in that regard.

In addition to those addicted to cigarette smoking, we now know that significant health care costs arise from the effects of passive smoking. The 1986 Surgeon General's Report stated that involuntary smoking is a cause of disease in healthy nonsmokers, resulting in approximately 4,000 lung cancer deaths a year. Also, the children of parents who smoke compared with the children of nonsmoking parents have an increased frequency of respiratory infections, doctor visits and hospitalizations.

Mr. Speaker, the cigarette manufacturers must become directly accountable for a portion of the health care costs they create. I propose that the tobacco industry's accountability be assigned in a very simple but fair and effective way. Every 3 years, the Secretary will be apprised of the Federal Government's averaged annual expenditure for the care and treatment of Medicare and Medicaid patients with tobacco induced disease. Each of the tobacco companies, domestic and foreign, will be assessed on an annual basis, payable quarterly, the percentage of that cost which their sales reflect for each of the next 3 years.

All of us recognize that much tobacco induced disease has long latency periods, and that the cigarettes sold today do not result in the cost of health care produced today. How-

ever, we are taking a clean slate and not assessing sales in the past. Sales today will result in lung cancer, cardiovascular disease and pulmonary disease in the future just as they always have. By averaging out the Medicare/Medicaid expenses and the industry sales over a period of years it will be equitable to both parties.

Mr. Speaker, the bill I am introducing today represents a most vivid way to bring to our level of awareness the very real responsibility the tobacco industry bears for the health tragedies and costs its products cause. That is why I have named it the Medicare/Medicaid Reimbursement Act. Congress must see in these critical times of health care cost containment that each responsible party pays his or her fair share of that cost. We must also enact legislation that will promote better health. I believe that my bill does both. By making the tobacco companies responsible for the actual paid-out costs of the Medicare/Medicaid program for smoking related diseases, the companies will realize the consequences of their activity. As this cost is passed along to the consumer it will have the positive effect of discouraging tobacco use.

In 1988, the top six cigarette manufacturers sold 556 billion cigarettes. If the \$4.2 billion Medicare and Medicaid paid out for cigarette induced disease were divided among these producers it would cost them three-fourths of a cent per cigarette or 15 cents per pack.

It is estimated that a 16-cent increase in cost to the consumer would encourage almost 3.5 million Americans to forgo smoking habits. This figure includes more than 800,000 teenagers and almost 2 million young adults aged 20 to 35 years. Because adolescents usually have limited disposable income, their purchases are especially sensitive to increases in the price of cigarettes.

Unfortunately, use of tobacco among children and teenagers is at an alltime high. More than 3-million kids under the age of 18 are daily smokers, and another 2-million experimenters are at high risk of addiction. The tobacco industry needs to recruit children to replace the more than 3,000 adult smokers who quit or die every day. The young people becoming addicted today will be the cases of lung cancer and emphysema tomorrow.

Mr. Speaker, the occupational tax which I am proposing in the Medicare/Medicaid Reimbursement Act of 1990 must be considered in addition to the excise tax bills which are before Congress at this time. I myself have proposed such a tax and believe strongly in its merit. The bill which I am introducing today will provide for the recovery of economic loss to the people of the United States due to illness incurred by the use of tobacco and tobacco products.

The Medicare/Medicaid Reimbursement Act of 1990 can be a major step to make the 1990's the decade in which the tobacco industry will finally pay a measured amount of the true health care costs of cigarette smoking. It has taken us a long time to direct this cost to those responsible for it. However, just as the 1980's was the decade in which smoking became socially unacceptable, the 1990's can become the decade in which the tobacco industry pays for its costs to society. The end result will be a healthier nation.

ANNUNZIO CHALLENGES PROPOSED MEDICARE CUTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, an ill-wind is blowing over the Nation's Capital, and it bodes bad tidings for the elderly across the Nation. In its zeal to reduce the deficit, the Bush administration and some Members of Congress want to saddle senior citizens with the burden of trimming the debt by reducing the spending on Government benefit programs, primarily Medicare and Medicaid and Social Security.

I, too, want to cut spending and reduce the national debt which has grown to such extraordinary heights in the last decade that the average person cannot comprehend its magnitude until he or she sees how small their incomes have shrunk or how little they can buy with it.

However, I oppose any proposal that would place a further burden on the backs of our senior citizens, many of whom are currently living at or below the poverty line. Instead, I believe the negotiators should take a closer look and turn their budget ax to the Pentagon spending programs as a way of cutting \$50 billion from next year's Federal budget deficit.

I wholeheartedly support the action of the House Armed Services Committee which this week voted to kill the B-2 Stealth bomber, drastically reduce the Star Wars antimissile program and cut into troop strength, thus slashing more than \$24 billion from the Bush administration's \$307 billion defense budget.

I believe more can be reduced from the defense budget. I personally believe that the Congress should make reductions in U.S. commitments abroad in order to make our trading competitors pick up a larger percentage of the costs of maintaining troops and weapons in Europe and the Far East.

Mr. Speaker, the threat of Social Security cuts has waned recently, but senior citizen groups have geared up to block any attempt to cut benefits as part of a deficit-cutting deal between the White House and the Congress. There are those, like myself, who believe that you don't have to touch cost-of-living increases in Social Security benefits to solve the budget deficit. There is no need for any change in Social Security because the trust fund is running a surplus and is not responsible for the deficit.

Despite the surplus, the administration has been able to cause problems for the elderly and the disabled on Social Security. According to news reports, the Social Security Administration has suspended hearings in September for people seeking disability benefits because money for administrative expenses are running short at the end of the fiscal year. Because the Social Security judges hear appeals under Medicare, the order to put off hearings also will affect beneficiaries of the Federal health insurance program for 33 million elderly and disabled people. Officials hope hearings will resume after October 1, the start of the next fiscal year, when they expect to receive an infusion of money. The Social Security Administration issued no announcement about

the curtailment of hearings, which was made Monday, but administrative law judges, who hear the cases, brought it to the attention of the New York Times because, they said, they were concerned that justice would be delayed.

Mr. Speaker, these types of incidents are disheartening to me because it is not you, or I, or the bureaucrat who will be injured. It is the elderly in this country that must suffer.

A recent Gallup survey showed that Americans 18 or older oppose substantial cuts in Medicare to reduce the Federal deficit by an 88-percent to 8-percent margin. The survey also showed that 70 percent of the respondents believed that raising taxes on high-income people, on alcohol, tobacco, and gasoline, and on businesses that create pollution, would be excellent or good ways of reducing the deficit.

In addition to opposing Medicare cuts, 65 percent of those surveyed believed the proportion of gross national product spent on all U.S. health care should be increased over the 11 percent level now in effect. On average, the favored proportion was 19.9 percent. The survey also suggested most Americans would be willing to spend more than the 6 percent of family income they now spend on health. While 29 percent felt the figure should be under 6 percent, 51 percent thought it should be from 6 percent to 10 percent and 7 percent felt it should be higher.

Mr. Speaker, I am happy to note that this week we celebrate the 25th anniversary of the Medicare and Medicaid programs which were born under the great society of President Lyndon B. Johnson to deal with the health problems of the elderly, the disabled and the poor. I am proud to say that I was one of the original sponsors of the legislation that became law on July 30, 1965 as titles XVIII and XIX of the Social Security Act.

No one thought the programs were perfect solutions. However, few doubted that many people's lives would be much better as a result of that action. And there is no doubt that millions of Americans are better off due to Medicare and Medicaid.

At a hearing of the House Select Committee on Aging to commemorate the 25th anniversary, famed actor Burt Lancaster set the tone by calling the gathering a "bittersweet" celebration. He said Medicare and Medicaid have gone a long way toward meeting the needs of millions who qualify for help under these programs. But there is still an enormous amount left to do.

He said 50 million Americans are uninsured or underinsured. Of the 50 million, 37 million have no insurance at all, and many of those are the elderly. Thanks to Medicare and Medicaid, they have at least some coverage.

Any illness to these peoples' lives quickly becomes catastrophic, because of the crushing financial burdens they must face. Nursing home costs now average \$30,000 and up a year. Families who try to provide care in their own home must suffer tens of thousands of dollars in lost income.

Mr. Lancaster said the United States, still the richest Nation on earth, must find a way to provide all of its people with universal, comprehensive health care. I agree, we must make a commitment to all Americans by guaranteeing them a National Health Plan.

During my 26 years in Congress, I have supported many, many programs to help the elderly of the Nation. This session of Congress has not been different. Among others, I have cosponsored bills to take into account monthly earnings in determining the amount of disability benefits payable under Social Security, to provide protection against expenses of long-term home care under the Medicare program and to establish a national health plan administered by the States.

The House Select Committee on Aging and U.S. Bipartisan Commission on Comprehensive Health Care, better known as the Pepper Commission, each have recommended programs to ensure health and long-term protection for all Americans.

The committee issued a report at the hearing which outlined a set of proposals representing expansions and improvements to the Medicare and Medicaid programs. It also is designed to bring comprehensive health care and long-term care reform. It leans toward a federally-based, nationwide program built upon Medicare and covering health and long-term care. The Pepper Commission, named for that great defender of the elderly, the late Congressman Claude Pepper of Florida, has recommended—its final report will be completed in the fall—the use of employer-mandated health insurance, Medicare and an improved Medicaid-type program to ensure health and long-term care protection. The commission believes the Government should help the elderly poor pay Medicare charges, add coverage of preventive services to Medicare and order improvements in supplementary insurance coverage.

Mr. Speaker, there are other recommendations and proposals, such as adopting the Canadian national health plan, all meritorious and worth studying. The important thing is that comprehensive reform is picking up supporters from a broad spectrum of the American public. They want to help the elderly, disabled and poor fight the rising costs of health care. So the final chapter has not been written, despite 25 successful years of Medicare and Medicaid. We must continue the battle, even if it takes 25 more years. We cannot do less for our elderly.

SERBS IN KOSOVO NEED OUR HELP, NOT OUR CONDEMNATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin [Mr. KLECZKA] is recognized for 5 minutes.

Mr. KLECZKA. Mr. Speaker, in recent days, there has been a good deal of debate in Congress on the volatile issue of Serbian-Albanian relations in Kosovo.

This is an explosive issue which must be reasonably discussed if we are to defuse extreme passions and restore peace in this strife-torn province.

There is no doubt that mistakes have been made on both sides. Yes, there has been violence in Kosovo, and, yes, it has been brought on by Serbs and Albanians.

Yes, the Republic of Serbia has instituted a state of emergency in Kosovo and suspended the free press. And, yes, people have had

their freedoms taken from them in part or in full; some have even died.

But while this is not excusable, it must be viewed in the context of the ethnic conflict going on in Kosovo today. To understand this conflict, you must know something of the history of this region.

Contrary to what some may be saying, Kosovo is the homeland of the Serbian people. It is their cradle and their birthplace. Serbians were living in Kosovo far before the immigrant Albanians arrived.

Indeed, Serbians have defended their homeland for centuries. Just last year, we commemorated the 600th anniversary of the battle of Kosovo Polje in 1389 in which Prince Lazar of Serbia martyred himself fighting for Serbian freedom and his orthodox Christian beliefs against a much larger contingent of invading Turkish troops.

Knowing this painful history, we should not be singling out the Republic of Serbia or any other government for condemnation. Instead of blaming other governments, our Government should be taking positive steps, such as offering its good offices, toward resolving this tragic situation.

Nobody is really sure how peace can be brought to this tortured province. We do know that Albanians and Serbs are both dying, and that this must stop. Making inflammatory statements blaming only one side will not help. Instead, let us carefully consider the history of Kosovo, and then formulate a reasoned position on what we can do to help.

THE ARCHIVES OF CONGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Louisiana [Mrs. BOGGS] is recognized for 5 minutes.

Mrs. BOGGS. Mr. Speaker, for the past several years I have served as Chairman of the Commission on the U.S. House of Representatives Bicentenary and as a member of the National Historic Records and Publications Commission. During this period I have had opportunities to work closely with the National Archives, the Clerk of the House and the Secretary of the Senate—the individuals with direct responsibilities for the record of Congress—and with the historians of the House and Senate. One of the things that has impressed me most about my experiences is the importance of our official records and papers since they represent the documentary heritage and memory of this institution.

Unfortunately, there are some very real concerns that our records are not receiving the quality of attention and maintenance they deserve and require. The Center of Legislative Archives at the National Archives deserves a higher level of professionalism and stability than currently exists. There is also a real need for a more formalized system of advice and guidance from the officers and leadership of the House and Senate to the Archives regarding the maintenance of our legislative records.

The records of Congress constitute a relatively small collection within the National archives. Over the years, they have been generally given a low priority and treated like the records of a minor executive branch agency.

Between 1938 and 1982, they fell within the jurisdiction of thirteen separate units, including those responsible for diplomatic records, Indian records, and judicial records. The records of Congress are unique, complex, and representative of one-third of the national government's structure. Strategies for management of executive branch records are not necessarily appropriate to legislative records.

Today I am introducing legislation to improve the management of the records of Congress in the custody of the National Archives. This legislation would accomplish the following:

First. Establish the position of Director of the Center for Legislative Archives at a GS-16 salary level—the position is currently set at the GS-14 level.

Second. Establish the position of Specialist in Congressional History in the Center for Legislative Archives at a salary level of GS-13/14—this would be a new position.

Third. Create a permanent 11-member advisory committee on legislative records. That committee is to meet semiannually, and its chairmanship will be held in alternating Congresses by the Secretary of the Senate and the Clerk of the House of Representatives.

The committee will include the following members:

- Secretary of the Senate;
- Clerk of the House of Representatives;
- Archivist of the United States;
- Senate Historian;
- House of Representatives Historian;
- Appointee of the Speaker of the House;
- Appointee of the Minority Leader of the House;
- Appointee of the Senate Majority Leader;
- Appointee of the Senate Minority Leader;
- Appointee of the Secretary of the Senate;
- and
- Appointee of the Clerk of the House of Representatives.

These changes will go a long way toward stopping the revolving door that prevents the development of expertise in Congressional Records at the Archives, and the new advisory committee will give us an important new mechanism to continue to improve the Center for Legislative Archives in the future. The records of Congress, representing an entire branch of government, need proper maintenance, preservation, and the attention of top archival and historical experts. While smaller in volume than some agencies of the executive branch, they are nonetheless of great importance to the House and Senate, as well as the public.

INTRODUCTION OF RESOLUTION TO COMMEMORATE ELLIS ISLAND

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. GUARINI] is recognized for 5 minutes.

Mr. GUARINI. Mr. Speaker, I rise to introduce, with 73 of my distinguished colleagues, a resolution to commemorate Ellis Island by declaring October as National Ellis Island Month. In 1992, Ellis Island will be celebrating its centennial; the first immigrants passed through there in 1892.

Ellis Island is a symbol of hope, liberty, and freedom for millions of people in our country. More than 17 million immigrants first set foot on American soil at Ellis Island. Those who sought a new beginning and freedom saw Ellis Island as a beacon of hope and a gateway to their independence. Their dedication, patriotism, and hard work helped build a foundation of prosperity and opportunity for all, which has made our country the envy of the world.

Forty percent of all living Americans can trace their heritage to an ancestor who had come to the United States through Ellis Island. Now, after years of renovation, Ellis Island is scheduled to reopen in the fall of 1990 as a historical site of interest to tourists, as well as families of past immigrants.

Designating October 1990 as National Ellis Island Month will remind us of those early pioneers. It will also honor the hard work of the people who made the refurbishing of Ellis Island possible * * * the largest historic renovation project in the history of the United States. Finally, it will be a timely reminder of the upcoming 100th year of Ellis Island.

It is time for us to commemorate what was "the other side of the rainbow" for millions of citizens of the world community. I urge my distinguished colleagues who have not had the opportunity to cosponsor to do so as soon as possible so we can celebrate October as National Ellis Island Month.

ON THE SUBJECT OF HUMAN RIGHTS IN YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Hawaii [Mrs. SAIKI] is recognized for 5 minutes.

Mrs. SAIKI. Mr. Speaker, I rise to express my concern over the human rights situation in Yugoslavia.

In stark contrast to the events in much of Europe over the past year, the human rights situation in Yugoslavia has taken a turn for the worse. The ethnic Albanian population of Kosovo has felt the heavy hand of the Government of the Republic of Serbia, first, by the imposition of a state of emergency last year, and then also through a series of constitutional amendments which effectively suspended the autonomous status of the province of Kosovo.

Human rights organizations have also documented numerous violations of the rights of the Albanian people including: Indiscriminate killings and mistreatment by police, arrest and detention of Albanian community leaders, imprisonment of Albanians without due process, and many other examples of systematic discrimination against Albanians.

On July 5 of this year, even stricter measures were placed against the Albanian people. One day, after we in the United States celebrated the anniversary of our independence, the Serbian Government dissolved the Kosovo provincial assembly, disbanded the local government, closed down

radio and television stations, and detained members of Kosovo's democratic opposition leadership. An Albanian language newspaper has since been banned from distribution, and police force has been used against strikes and assemblies.

Mr. Speaker, we in the U.S. Congress must speak out against this suppression of democracy. The Albanian people deserve the same basic democratic rights we enjoy in America. It is my hope that our Government will convey in the most emphatic terms to the Government of Yugoslavia, the feeling of outrage which is felt here in America at these events, and that we will not extend any economic aid to Yugoslavia until that country meets the "Baker criteria" for foreign economic assistance.

SUSPENDING MFN STATUS TO YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, on this date, when there is bloodshed and suffering around the world, I rise to speak about a bill that I am one of the original cosponsors on today. It is drafted by Mr. BROWN of Colorado, our colleague, Mr. CRANE of Illinois, and Mr. TRAFICANT of Ohio, the four original cosponsors.

It is a bill to suspend the most-favored-nation trade privileges to the Socialist Republic of Yugoslavia. Mr. Speaker, I come from a part of California where just about every ethnic group in the world is represented.

□ 2230

Mr. Speaker, my family is married into a great Serbian family in southern California, the Radovichs. I have got a good friend, Mike Antonovich, who has been a supervisor in Los Angeles County for years. But I have also made friends over the years with Slovenian-Americans, Croatia-Americans, Montenegrin-Americans, Albanian-Americans who are, because of this strange carving up of this area after World War I in Yugoslavia.

Mr. Chairman, I have enjoyed traveling to Yugoslavia. I have enjoyed going to the coast along Dubrovnik. I must have 100 or 200 friends who visited Medjugorje in Yugoslavia. They received great treatment from the Government. But the Government in some areas has been a serious violator of human rights.

Now they have taken a friend of mine, a good friend, a former Member of this body for 4 years, Mr. Dioguardi of New York, and they have banned him from the country for 5 years in some sort of extralegal matter after he visited the country with Mr.

TOM LANTOS of our body, one of our current sitting Members, outstanding Member on human rights.

So, I would like to just submit at this point in the RECORD the bill that we are on, a letter to Mr. James Baker by Mr. LANTOS asking that our State Department vigorously appeal this shoddy treatment of a former Member of Congress; and then I would like to put in the RECORD a letter by Mr. LANTOS and Mr. BEN GILMAN, both members of our human rights caucus, to his Excellency, Jacques Delors, the President of the European Commission, that explains why some of us in this Congress, particularly members of the human rights caucus, and I am one of those, feel that there are these emerging, terrible and, in some cases, vicious human rights problems in Yugoslavia and why the Government should be tough, forthcoming, join the whole drift in the world, and this country that is made up of so many wonderful ethnic groups should be setting a standard of excellence for human rights instead of trying to cover them up.

So, as a proud Irish-American who has Serbian-Americans in my extended family, I want to submit these for the RECORD and ask the Government in Yugoslavia to get with the program here, the program of decency for human rights around the world, and maybe we will never have to implement legislation to do to the Yugoslavian Government what we had to do to the government in Romania, and that is take away something that all these countries treasure, that even the Soviet Union is lusting for, most-to-favored-nation trade status.

Mr. Speaker, before I yield back the time, I ask people to pray for those Kuwaiti soldiers, the enlisted men and officers, just a handful, who had the guts to fight for their young country today while looking over their shoulders toward Saudi Arabia wondering if their American allies were coming to back them up. I hope they did not die in vain because they shed blood for a little jewel of a nation. Kuwait has been swallowed whole within less than 7 hours by, yes, the most dangerous man in the world, Saddam Hussein.

U.S. CONGRESS,

Washington, DC, July 24, 1990.

Re Human rights in Yugoslavia.
His Excellency JACQUES DELORS,
President, European Commission,
Brussels, Belgium.

DEAR MR. PRESIDENT: As members of the United States Congress and as Chairman and Vice Chairman of the Permanent U.S. Congressional Delegation to the European Parliament we are writing to express our serious concern over the human rights crisis in the Southern Yugoslav Province of Kosova, and to urge the European Community in all its dealings with Yugoslavia to apply the Baker guidelines—respect for human rights, adherence to the rule of law, establishment of political pluralism, holding

of fair and free elections, and the development of a market economy.

While the human rights situation in most of Eastern Europe improved steadily throughout 1989 and the first half of 1990, it has deteriorated dramatically during that same period in Kosova. First, the Government of the Republic of Serbia contrived the imposition of a state of emergency by the Federal Government of Yugoslavia throughout the Province of Kosova on February 27, 1989. Second, the Serbian Government abrogated the autonomous status of the Province on March 28, 1989, through a series of questionable constitutional amendments. These two actions effectuated a pattern of gross and massive human rights violations in Kosova.

According to the United Nations, the European Parliament's Commission of Inquiry, the International Helsinki Federation for Human Rights, the International Federation for Human Rights, and Amnesty International, these violations included:

(a) The indiscriminate police killing of at least fifty-eight and the brutal maltreatment of several hundred peaceful Albanian demonstrators;

(b) The arbitrary arrest and detention of at least 213 Albanian community and economic leaders;

(c) The summary trial and imprisonment of over one thousand Albanians without due process of law;

(d) The purging of several hundred Albanians from the Communist Party as well as state and local government, the administration of justice, and various other institutions;

(e) The arbitrary dismissal of in excess of eight thousand Albanian workers from large and small enterprises;

(f) The selective firing and disciplining of Albanian professors and teachers;

(g) The closure of numbers of Albanian schools and the elimination of Albanian language, history, and cultural instruction;

(h) The attempted silencing of Albanian journalists and broadcasters; and

(i) The segregation of the Albanian from the Serbian population through redistricting and through the creation of separate schools, hospitals, and work places.

All these repressive measures were calculated to prevent the Albanians in Kosova from participating equally in the political, economic, social, and cultural life of the Province by denying them such basic human rights and freedoms as the rights to liberty, peaceful assembly, engagement in public life, work, and education, as well as the freedoms of opinion and expression.

Despite the severe restrictions on these democratic rights, the democratic movements in Kosova have attracted large numbers of Albanian supporters. Tens of thousands of these supporters demonstrated the strength of their democratic convictions by taking part in peaceful pro-democratization rallies organized throughout the Province of Kosova in January-February of this year, knowing full well that these would be brutally dispersed by Yugoslav and Serbian security forces wielding automatic assault weapons armed with high caliber live ammunition. This year, between the end of January and the beginning of February, at least thirty-four Albanians are known to have been killed by Yugoslav and Serbian security forces during those pro-democratization rallies.

Although the strict emergency measures imposed by the Yugoslav Federal and Serbian Republic Governments were formally

lifted on April 21 this year, the Serbian police presence in Kosova increased substantially, with the Province's day-to-day decision-making and administration of justice effectively placed under their control. The word "democracy" became a "slogan with hostile content" whose use resulted in six days imprisonment.

On June 29, the Serbian Parliament institutionalized this de facto police state in Kosova by promulgating the Special Circumstances in Kosova Act. The Act authorized the Serbian Government to dissolve the Kosova Provincial assembly, disband its government, and introduce special measures to safeguard public order. Pursuant to these provisions, the Serbian speaker of the Kosova Assembly tried to postpone its session from July 2 to July 5. The members of the Assembly did not agree to the postponement and adopted a resolution proclaiming Kosova an "independent unit of Yugoslavia" subject to free elections on July 2. In response, on July 5, the Serbian Government dissolved the Assembly, disbanded the local government, brutally closed down the radio and television stations, and detained and questioned all of Kosova's democratic opposition leadership. Since the imposition of this state of emergency, other human rights have been abrogated. For example, the Albanian-language newspaper "Rilindja" has been banned from distribution, and strikes and assemblies have been prohibited and met with police force. The President of Kosova has, moreover, asked for intervention by the federal authorities.

In light of these developments we urge the European Commission to condition its negotiations regarding the Second Financial Protocol with Yugoslavia and transfer her Cooperation Agreement into an Association Agreement on respect for human rights, adherence to the rule of law, establishment of political pluralism, holding of fair and free elections, and the development of a market economy. These are the conditions we believe the Commission advised the Council of Foreign Ministers to adopt in its May 30 Communication on Relations Between the European Community and Yugoslavia. Only if these conditions are applied by all governments will democracy and stability be ensured in Kosova as well as Serbia.

Sincerely,

TOM LANTOS,
BENJAMIN A. GILMAN,
Members of Congress.

HOUSE OF REPRESENTATIVES,
Washington, DC, August 1, 1990.

HON. JAMES A. BAKER III,
Secretary of State of the United States, Department of State, Washington, DC.

DEAR MR. SECRETARY: An issue of extreme importance that I wish to raise with you is the decision of the Government of Yugoslavia to ban former Congressman Joseph J. DioGuardi from visiting Yugoslavia for a five-year period. This strikes me as an arbitrary, capricious, and outrageous totalitarian action that we in the United States have consistently and vigorously opposed. I ask that the Department of State protest this outrageous action of the Yugoslav government.

The actions of Mr. DioGuardi, which the Yugoslav government cites as the basis of its ban against him, took place during a visit to Yugoslavia where I was present. A member of the staff of the U.S. Embassy in Belgrade was also present with us during that visit to Kosova. The strongest point made by Mr. DioGuardi—and a point which

I made repeatedly during that visit—was that ethnic Albanian citizens of Yugoslavia should be entitled the same civil and human rights that other citizens of Yugoslavia enjoy.

I urge the State Department to raise this issue with the Yugoslav government immediately, and unless this arbitrary and capricious decision is reversed our Government must take strong action against Yugoslavia.

Cordially,

TOM LANTOS,
Member of Congress.

H.R. —

A bill to suspend most-favored-nation trade privileges to the Socialist Federal Republic of Yugoslavia

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL FINDINGS.

The Congress—

(1) finds that elements with the Government of the Socialist Federal Republic of Yugoslavia have failed to meet their obligations as a signatory to the Helsinki Final Act of the Conference on Security and Cooperation in Europe with respect to their treatment of ethnic Albanians;

(2) recognizes and emphasizes the continued dedication of the United States to fundamental human rights (as noted in section 402 of the Trade Act of 1974) and is concerned with the lack of commitment to those rights by authorities within the government of the Socialist Republic of Serbia as they relate to ethnic Albanians living in Serbia and throughout the country;

(3) finds that the government of Serbia has, against the will of many of its people, placed substantial obstacles in the way of democratic reforms and has suspended the Kosovo Assembly;

(4) finds that Serbia has reintroduced a State of Emergency in Kosovo and has greatly increased its military and police presence in the Province;

(5) finds that Yugoslavia does not meet the five point criteria set forth by the Administration for the receipt of economic assistance: Adherence to the rule of law, respect for human rights, multi-party political systems, free and fair elections and a movement toward a market oriented economy;

(6) believes that extension of non-discriminatory treatment (most-favored-nation) for products of the Socialist Federated Republic of Yugoslavia will be construed by leaders of those elements within Yugoslavia which support the practices mentioned above as an endorsement of such practices and will serve as cause for their continuation.

SEC. 2. SUSPENSION OF NONDISCRIMINATORY TREATMENT FOR YUGOSLAV PRODUCTS.

The products of the Socialist Federal Republic of Yugoslavia shall not receive non-discriminatory (most-favored-nation treatment) beginning on the date of enactment of this Act.

THE FACTS ON YUGOSLAVIA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, I was very disturbed over the past two nights to see a few of my colleagues take to the floor of this Chamber and

continue to spread their one-sided and very inaccurate view of the present situation in Yugoslavia.

For the benefit of the House, I will attempt this evening to counter some of the baseless allegations that were made with facts. I will also share with the House, portions of a speech given 2 weeks ago by former Ambassador John D. Scanlan who represented our Nation in both Poland and Yugoslavia. Those of us who are privileged to consider John Scanlan our friend know that he has a long and distinguished career in the diplomatic corps, particularly in Soviet and Eastern European affairs.

Ambassador Scanlan offered his very insightful remarks on the Yugoslav issue, which is of great importance to United States foreign policy.

It is said, Mr. Speaker, that a little knowledge can be very dangerous. The remarks of some of my colleagues over the past 2 days gives new meaning to that old quote.

Ambassador Scanlan's views are vital to this debate because of his great expertise on this region of the world. In his speech, Ambassador Scanlan noted a recurrent theme in the American view of the Yugoslav situation. It goes, and I quote, "Good Slovene—Bad Serb—Poor Albanian."

Ambassador Scanlan was calling attention to the general American ignorance of Yugoslavia's history, culture, and geography, without which the present situation cannot be understood without a firm understanding of these factors.

Ambassador Scanlan took particular exception to the view that the Albanians are the victims in Kosovo. In addressing this issue, 2 weeks ago, Ambassador Scanlan raised the following charge, and I quote:

Most Americans do not know that there are almost as many Albanians living in Yugoslavia as in Albania and that 90 percent of the Albanians in Yugoslavia are Moslems who are able to practice their religion freely in Yugoslavia. But not in Albania. Most Americans do not know that the Albanians in Yugoslavia enjoy the same civil and human rights as all other Yugoslavs and have infinitely more freedom in Yugoslavia than the Albanians in Albania, the last Stalinist State in Europe. Most Americans do not know the Albanian is a legal language in the Kosovo and that all Albanian children in the Kosovo attend Albanian language schools all the way through university, and Pristina is one of the largest universities in Europe in terms of numbers of students. Most Americans do not know that the largest and most modern library and repository of Albanian literature and culture is in Yugoslavia, in the city of Pristina, not in Albania, and that that library is one of the largest and finest libraries in Yugoslavia.

Here, Mr. Speaker, is one of the most well versed and respected American authorities on Yugoslavia, giving his assessment of the Kosovo crises.

Ambassador Scanlan echoed the position of our own State Department

which issued the following statement regarding Kosovo on June 29, 1990. It reads:

We are deeply concerned about rising tensions in the province of Kosovo, in the Yugoslav Republic of Serbia. Rooted in a long history, the conflict between ethnic groups living in the area threatens the well-being of all the people of Kosovo, Serbia, and Yugoslavia.

We believe this conflict can only be resolved through peaceful, democratic dialogue and respect for the dignity and human rights of all citizens of the province. It cannot be solved by means of violence, intimidation, or the threat or use of force by any party.

□ 2240

By the same token, we call upon the Albanian population in Kosovo to respect and protect the rights of all resident Serbs and Montenegrins and others.

It is for the people of Yugoslavia alone to decide under what constitutional arrangements they wish to live. The United States continues to support the unity, independence, and territorial integrity of Yugoslavia. We hope that the people of Yugoslavia, of all national and ethnic groups, will live together on the basis of mutual respect, democratic pluralism, and the principles enshrined in the Helsinki Final Act and CSCE process. It is incumbent on the ethnic majority in each republic and province to guarantee the security and fundamental human rights of all national and ethnic minorities living within its territory.

Since World War II Yugoslavia has, on the whole, provided a commendable example of national, cultural, and ethnic harmony in a multinational state. We hope Yugoslavia can continue this proud tradition.

Mr. Speaker, the statement I just read is one of the most balanced views of the Kosovo crises that I have seen. It recognizes the legitimate grievances of both Albanians and Serbs in Kosovo and calls for greater respect for the rights of all.

And I might add, it is a far cry from the demagoguery offered by those who have spoken on this issue over the last 2 nights.

Earlier, I said that a little knowledge is dangerous. In reading the remarks of those who spoke, I see the wisdom of this saying. For example, the gentleman from Colorado [Mr. BROWN] last night painted a picture of the Albanians in Kosovo as being a people who only want to return to the autonomous status they were guaranteed by Tito's constitution of 1974. I would point out to the gentleman, that this Constitution was imposed on the Serbs by a ruthless Communist dictator whose objective was to split the vast majority of the Serbian people from Kosovo, their ancestral homeland for hundreds of years.

I might insert at this point, Mr. Speaker, an AP piece that has just come over in the last few days which refers to Mr. Tito. It says that there were a number of discoveries of burial pits filled with thousands of human bones and that these have revealed

the fate of anti-Communist captured by Communist-led partisans at the end of World War II.

They have forced a reevaluation of the late President Josip Tito and other guerrilla leaders who were lionizing for 45 years as Yugoslavia's liberators from the Nazis.

Mr. Speaker, I will include the whole article at this point:

[From the Associated Press, Aug. 2, 1990]

NEWLY DISCOVERED MASS GRAVE REVIVES OLD FEUDS

ZAGREB, Yugoslavia.—Discovery of a burial pit filled with thousands of human bones has stirred old ethnic hatreds and political feuds in this troubled nation.

Several such discoveries have revealed the face of anti-Communists captured by Communist-led partisans at the end of World War II.

They have forced a re-evaluation of the late president Josip Tito and other guerrilla leaders who were lionized for 45 years as Yugoslavia's liberators from the Nazis.

The mass grave at a pit known as Jazovka in the rolling, wooded hills of Croatia about 35 miles west of Zagreb, is fanning rivalries between Croats and Serbs that date to the unification of Yugoslavia in 1918.

Videotapes of the scene show human remains, more than 10 yards deep in places, covering the floor of the cavernous grave, the last resting place of an army of 40,000 Croats who collaborated with the Nazis.

Most of the victims were Ustasha soldiers fighting for the German-sponsored Croatian puppet state. They were killed by the victorious Communists in what witnesses said was a carefully planned operation during the three months after World War II ended.

Teams of explorers lowered into the pit said it consists of a vertical funnel about 45 yards long leading into a large, downward-sloping cavern packed with human bones, army boots, belts, crutches and other items.

The grave, found in June after a former partisan involved in the killings told journalists about it, has inspired debate about the 1 million people believed killed in fratricidal clashes from 1941 to 1945.

Serbs claim 700,000 compatriots were murdered by Croatian Ustasas in Jasenovac, one of several death camps that existed in Croatia during the war.

Ustasas were fanatical, SS-like units of Croatian nationalists accused of killing hundreds of thousands of Jews, Serbs and gypsies in concentration camps set up by the Nazi puppet state.

Nationalism is on the rise in Serbia Both its Communist rulers and political opposition demand that Croatia, now led by non-Communists, pay reparations for Ustasha atrocities.

"There will be no peace in Yugoslavia until the blood of 700,000 Serbs is avenged," Vuk Draskovic, leader of an extremist Serbian nationalist party, told The Associated Press.

In an attempt to reduce tension, Croatia's ruling center-right Democratic Union party has proposed an investigation by the national parliament of civilian and military casualties in the war.

The Jazovka revelations have heated emotions on both sides.

"Discovery of the Jazovka it has enabled us to set our history straight," said Ivan Cesar, a Croatian Christian Democrat. He said the Communists "instilled in us a complex that we are a genocidal people."

The prominence given the discovery in the Croatian media has angered Serbs who remember Ustasha violence.

"There are hundreds of similar pits throughout Croatia containing the bones of innocent victims of Ustasha genocide against the Serbs," said NIN, a Serbian magazine. "Why does the Croatian press devote such attention to only one pit, while maintaining complete silence about the others?"

Jovan Raskovic, leader of the 500,000-member Serbian minority in Croatia, rejected a proposal by the republic's reform Communists that all republican parties commemorate massacres by both sides in order to end the "civil war raging since 1941."

Extremist members of Raskovic's Serbian Democratic Party called the proposal "just another premeditated effort to deceive the Serbian people."

Ambassador Scanlan himself addressed this issue in his recent remarks when he said that, and again I quote.

Most Americans do not know that Serbia is the only Republic of Yugoslavia that had two autonomous regions carved out of it by the Yugoslav Constitution of 1974, when there was just as much justification for carving out of Croatia an autonomous region of Lika to recognize the more than half million Serbs living there or an Autonomous region of Istria to recognize the large Italian minority living there.

Again I want to emphasize the fact there are other areas in Yugoslavia where there are large minorities and they have not asked for autonomy.

I do not know if Mr. Brown has ever read or even seen the Yugoslav Constitution of 1974 or if he is aware of the circumstances under which it was imposed, but I would suggest to him that he consider reviewing all these issues before making such authoritative pronouncements on the crises in Kosovo.

However, Mr. Speaker, I do want to point out that I hold the gentleman from Colorado in the highest regard. He is a distinguished Member of this body, and although I question very strongly how he has come by his views on this issue, I look forward to the opportunity to continue to share my thoughts with him.

I would next like to address my comments to the remarks of the gentleman from California [Mr. LANTOS], which I consider to border on the outrageous. Mr. LANTOS raised his tired and discredited apartheid charge once again against the Serbs in Kosovo. Earlier this year, Congressman JIM MOODY and I answered this allegation in a letter to every Member of the House.

Once again, Mr. LANTOS presents the Albanian case for autonomy, ignoring the very reasons for which the Albanians themselves, by their repeated and sustained criminal actions against others living in the province, forced the Yugoslav Federal and the Serbian Republican Government to act.

Before I go any further, I would like to address Mr. LANTOS's complaint that our former colleague Joseph DiGuardi has been barred from traveling

to Yugoslavia for the next 5 years. I would point out to Mr. LANTOS that when American citizens travel abroad they are the guests of sovereign foreign nations. Perhaps if Mr. DiGuardi had behaved as a proper guest while in Yugoslavia he would not now be barred from visiting that country. I would note that even our own diplomats in Belgrade were disturbed over Congressman LANTOS' and Mr. DiGuardi's actions and remarks while in Yugoslavia earlier this year.

Because I have already done so many times on this floor, I will not again point out the flaws and inaccuracies in Mr. LANTOS' presentation on the situation in Kosovo. I would direct Members attention to the letter that Congressman MOODY and I sent to each Member of the House on this subject earlier this year and ask Members to let me know if they need another copy of this letter. I would also remind Mr. LANTOS that it was not until the Albanian majority in Kosovo's Parliament voted to secede from Serbia that a state of emergency in Kosovo was reimposed. This vote was in violation of the 1974 Constitution on which the Albanians based their rights and the legitimacy of which many of us question.

There is one final comment in Mr. LANTOS' remarks that I feel must be addressed. While on one hand condemning Yugoslavia and Serbia and calling for United States sanctions against them, Mr. LANTOS also called on our State Department to establish full diplomatic relations with Albania. Mr. Speaker, perhaps Mr. LANTOS is unaware that in Albania today, it is illegal for a member of my church, the Orthodox Church, to have a priest baptize a child when it is brought into this world, or bless a grave when someone is laid to rest. Albania is, in the words of Ambassador Scanlan only 2 weeks ago, still the last Stalinist regime in Europe.

During my two trips to Kosovo this year, I noted progress on the construction on new mosques throughout the region, as well as the signs of Islamic religious activity. Ambassador Scanlan himself noted this fact 2 weeks ago when he said, and again I quote:

Most Americans do not know that there are almost as many Albanians living in Yugoslavia as in Albania and that 90 percent of the Albanians in Yugoslavia are Muslims who are able to practice their religion freely in Yugoslavia, but not in Albania.

In light of all these circumstances, Mr. Speaker, I think it is very irresponsible of Mr. LANTOS to advocate diplomatic censure for Yugoslavia while in the same breath calling for full diplomatic relations with Albania.

□ 2250

Mr. Speaker, no one questions that there have been human rights viola-

tions in Yugoslavia. As Ambassador Scanlon said, "We should not hesitate to condemn human rights violations whenever and wherever we find them." However, he cautions, "We should be totally objective in doing so and, in a powder keg of ethnic divisiveness such as Yugoslavia represents today, we should be extremely cautious to avoid the appearance of tilting for or against any ethnic group, particularly when emotions are as high as they are today in Kosovo."

If the Members of this House truly wish to promote and foster increased human rights for the people of Yugoslavia, then let us not be selective in who we criticize. Let us speak for the human rights of not only the Albanians of Kosovo, but the Serbians and Montenegrins there as well, who have also suffered. There is not a single republic in Yugoslavia that does not have significant minority populations.

The situation of the Serbs and Jews in Croatia should be addressed in the same context. I would note that the Helsinki Commission report, after our visit in April, stated that the single largest problem facing the Jewish people in Croatia was Croatian refusal to permit the building of a synagogue in Zagreb. I can say with no hesitation that the Albanians of Kosovo have more freedom and autonomy than the Serbs and Jews living in the so-called liberal northern Yugoslav republics of Croatia and Slovenia.

Mr. Speaker, I appreciate the time I have been given this evening and urge the House to follow the advice of Ambassador Scanlon who calls for the United States to allow the Yugoslavs to resolve the situation on their own with the United States taking the position of neither side. To quote once again Ambassador Scanlon,

The modern Kosovo problem has been created by all the Yugoslavs, let them now all join together with malice toward none and charity toward all, to solve the problem. It is in their common interest, and in ours, that they do so.

Mr. MOODY. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentleman from Wisconsin, who has lived and who has spent some 2 or 3 years living in Yugoslavia and is very familiar with the situation.

Mr. MOODY. Mr. Speaker, I thank the gentlewoman from Maryland for yielding, and I appreciate her comments. I would like to associate myself with her comments, because I think they attempt to put some perspective on a situation that is very complex. It is historically complicated and has been misinterpreted and misstated quite frequently, not only in the U.S. press but on the House floor right here. In fact, this evening some earlier comments were quite inaccurate in their content, and I appreciate the

gentlewoman bringing up the time facts about Kosovo.

Mr. MURTHA. Mr. Speaker, will the gentlewoman yield?

Mrs. BENTLEY. I am happy to yield to the gentleman from Pennsylvania.

Mr. MURTHA. Mr. Speaker, I want to join the gentlewoman from Maryland and the gentleman from Wisconsin and say how much I appreciate the gentlewoman from Maryland bringing up this very important issue.

I had a number of constituents who came to me and were indignant about the misinformation that was being put out in the national press and in many cases spread locally throughout the United States. You know, it is one of those things where there is so much misinformation, it is very difficult even for the Members, and many Members, I think, have taken a position before they really had an opportunity to hear both sides of this issue. So I appreciate the great work that the gentlewoman from Maryland [Mrs. BENTLEY] has done over the last few months in getting the correct information out to the American people, and I join her in hoping that we can get this thing straightened out so that the American people hear the right side of this very complicated issue.

Mrs. BENTLEY. I thank the gentleman from Pennsylvania for those remarks, and recognizing the fact that there are two sides to every story. I think that is very, very important in this. It has been a very, very one-sided presentation.

Mr. MOODY. If the gentlewoman will yield further, I would agree totally with my friend and colleague from Pennsylvania that the situation in Kosovo is complex and that there has not been an adequate description of both sides of this issue.

As the gentlewoman mentioned, I lived in Yugoslavia for 2 years. I lived in Belgrade, but I traveled through Kosovo, as well as Croatia, Slovenia, Serbia, Vojvodina, Montenegro Macedonia, and all other parts of Yugoslavia. I probably have spent more time in Yugoslavia than any Member in this body by quite a measure.

While I am not the world's expert on Yugoslavia, I can say that the level of misunderstanding and distortion of the facts has been truly monumental on this House floor of recent days.

I have been in Kosovo a number of times, most recently in April with the Helsinki Commission, with the gentleman from Maryland [Mr. HOYER], Senator DeCONCINI, and the gentlewoman from Maryland.

Obviously it is complex, and obviously the situation is far from perfect on either side. No one is pretending that current official Serbian government policy is perfect. No one is pretending that the Albanians in Kosovo are totally wrong when they complain of official government action. They have

some grievances, and they should be addressed. But, it is important to put a few facts on the record.

First, contrary to the constant statements that have recently been made in Congress, the Serbs living in Kosovo are not the majority. They are the tiny minority. It is not the Serbian majority persecuting the Albanian minority. It is the Serbian minority under incredible pressure in their own homeland and in the land which marks the cradle of their civilization. They are now less than 15 percent, probably around 12 percent, and some estimate down to 10 percent; 80 to 90 percent of the population in Kosovo is not Serbian but Albanian.

Mrs. BENTLEY. I think we need to point out that up until World War II that 50 percent of the population in Kosovo was Serbian, but during World War II they were moved out, and after World War II, Tito pushed them out because he wanted to make the Serbians suffer, because he did not agree with them, and he was afraid of them. He then moved the Albanians in there, and that is why the percentages have changed so much.

Mr. MOODY. If the gentlewoman will yield further, in fact, the policy of the Government of Yugoslavia under Tito was to not permit Serbs who had left Kosovo to move back to their homeland. Under Tito, if Serbs left Kosovo for any reason, for a job or for other reasons, they were not allowed to come back home. There was a systematic policy of the Government of Yugoslavia during the whole Tito period, 40-some years, to drain Kosovo of the Serbian population, remove them one way or another, and all sorts of incentives were presented to the Albanians to settle there.

We are not commenting on the propriety of that policy some years ago. All we are doing is trying to put the facts on the record that the Serbians are not the majority in Kosovo. They are the small minority in Kosovo, and they are under incredible pressure. As the gentlewoman will remember, when we were in Kosovo in April we heard testimony on all sides of the Serbian-Albanian issue, including testimony from the Serbian community that they had their graves desecrated, their churches burned, and their priests beat up. Those who carried out those irresponsible acts did not represent the entire Albanian community, but represented certain elements of the Albanian community. Thus it is a very misrepresented situation when people describe the Serbs persecuting the Albanians in Kosovo. That is No. 1.

Second, I would like to put on the record very clearly that the Albanians in Kosovo are not generally prevented from expressing themselves culturally, religiously, or in other ways. During the whole Tito period and subsequent-

ly, the Albanians have been able to practice their religion and were encouraged to do so. Most Members recognize that Yugoslavia was not a Stalinist state in this period, and had a substantially milder form of communism. Mosques were built and kept up. Further, the Albanians were encouraged to speak their own language in all educational and official fora. I do not think that Members realize that in Kosovo the language in the courts, the language in the government, the language in the university, and the language on Radio Pristina is not Serbian. It is Albanian. It is the Serbs who are trying to figure out what is being said on the radio, what is being said in court, and what is being said in the classroom. Yes, there are some classes in Serbian in the university in Kosovo, but the predominance of the classes are in Albanian. It is the Serbs who are very much in the minority and struggling to try and stay and keep pace.

It is also important to point out that in Pristina, the capital of Kosovo, there is a parliament which is, I think, probably at least 90 percent Albanian in its makeup. No one is complaining about that. But it gives balance to the picture to point out that it is not as frequently depicted.

As the gentlewoman points out, it was only after this parliament, in the semiautonomous region of Kosovo, declared independence that they were suspended. We do agree or disagree with that action, but it does give some content. It is not some whimsical decision by the Serbs to suppress free expression.

Mr. MURTHA. If the gentlewoman will yield further, I am inserting in the RECORD an article by Alexander F.C. Webster, which appeared in the Washington Post on Tuesday, July 31. It says, "What the Media Have Missed in Eastern Europe." It goes on to explain some of the inconsistencies in the news media and just explains what all three of us have been trying to straighten out, so I want to associate myself with the gentleman from Wisconsin [Mr. MOODY] and the gentlewoman from Maryland [Mrs. BENTLEY] and my folks at home who are so upset because there is so much misinformation on this issue, so I appreciate what both of you have done in this very important issue.

[From the Washington Post, July 31, 1990]

WHAT THE MEDIA HAVE MISSED IN EASTERN EUROPE

(By Alexander F.C. Webster)

In media coverage of the reemergent ethnic conflicts in Eastern Europe, short shrift is usually given the predominantly Orthodox Romanians, Serbs, Bulgarians and Russians. This is due largely to an affinity of reporters and pundits for "Western" culture, meaning Western Europe and often only Northwestern Europe. These cultural blinders preclude recognition of the full range of

Western civilization, which includes Byzantine political and religious culture too.

In each of the hot spots in the region, the warring ethnic communities are portrayed as either oppressors or victims. Commonly, the historical depth of this reportage goes back at most to the beginning of the 20th century, ignoring the complex historical causes of ethnic and religious conflicts.

In Romania, ethnic Romanians—the vast majority Orthodox—supposedly wear the black hats, while Hungarian-speaking citizens are their victims. The deposed Communist dictator, Nicolae Ceausescu, did focus much of his wrath on the Hungarian minority in the Transylvania region of Romania, prohibiting, for example, use of the Hungarian language in village schools and other public venues. The Latin-Rite Catholics, Reformed Protestants and Unitarians who constitute the majority of the ethnic Hungarians in Romania can testify to the religious persecution they endured.

But the Romanian-Hungarian conflict didn't begin with Ceausescu, or even with the incorporation of Transylvania into Romania in 1919. For centuries the Roman Catholic Hapsburg dynasty in Austria held sway in this region. After establishment of the "Dual Monarchy" in 1848, the Hungarian component of that empire assumed full local control. Its suppression of Romanian language and culture was thorough and ruthless. Forced Magyarization of indigenous Romanians preceded forced Romanization of indigenous Hungarians by a century.

In Yugoslavia, that crazy-quilt of southern Slavdom, the embattled Serbs must confront a two-front war of propaganda. The leader of the Serbian Republic, Slobodan Milosevic, has emerged as the doctrinaire Communist and rabid nationalist whom Americans love to hate. As either a Serbian Stalin in the making or merely the latest tribal chieftain, he serves as a convenient stereotype of the entire Serbian nation.

Meanwhile, the Croats and Slovenes in the north, having inaugurated democratic reforms and poised themselves to declare their independence from the Yugoslav federation, turn longingly to the West. Their Catholic heritage and affinity for Western culture are too easily contrasted to the Serbs' historic Eastern Orthodoxy and centuries of supposed cultural retardation under the Turkish yoke. Slovenian and Croatian political moderation is often juxtaposed to alleged Serbian expansionism and hegemonism.

This caricature fails to acknowledge the Serbs' memory of their own wretched experience during World War II. When Nazi Germany conquered the recalcitrant Yugoslavs, German overlords propped up an independent Croatian national state. Atrocities committed against Serbs by the fascist Croatian Ustashi—including the murder of as many as 1 million out of a pre-war population of 8 million Serbs—rank the Serbian holocaust among the worst genocides in history. Have the Serbs and Croats simply exchanged black and white hats, or is there enough ugliness to go around?

Meanwhile, the Serbian minority in the Kosovo-Metohia region also has been placed unfairly in a bad light. The cradle of Serbian Orthodoxy, this region in recent decades has witnessed an extraordinary demographic shift. A high birthrate among the mostly Moslem Albanians and a mass exodus by Serbs have created an Albanian majority. According to Serbian Orthodox authorities, the Serbs have fled for their

lives in the wake of repeated beatings, rapes and destruction of property administered by militant Albanian youths. This side of the story, however, rarely finds its way into the coverage of this exotic corner of Yugoslavia. Instead the American public is fed a steady diet of Albanian laments about injustices real or imagined.

Bulgaria was dominated by Ottoman Turks longer than any other Balkan nation. Naturally, this overwhelmingly Orthodox people retains vivid memories of centuries of Turkish oppression. When the new reformist government of Petar Mladenov granted civil rights to the Turkish minority, Bulgarian nationalists protested this democratic move, seeking to prevent the Turks from reverting to Turkish surnames or using the Turkish language in public. In this religious-ethnic squabble, Bulgarian nationalists come across as vengeful fanatics, which may, in fact, be an apt description. But the historical background of this anti-Turkish sentiment rarely gets a nod, much less equal time, from the American media.

Finally, the volatile Ukraine has received considerable attention of late, virtually all of it skewed in favor of the Ukrainian nationalists, particularly the renaissance Ukrainian Catholic Church in the western part of this Soviet republic. Ironically, the 3 million to 5 million Ukrainian Catholics ("Uniates") constitute only a small fraction of the Ukraine's 50 million people, most of whom are Eastern Orthodox. But even the most diligent news junkie in America would probably have no idea of these relative numbers.

Coverage of this conflict reaches back only to 1946, when Stalin liquidated the Uniate community and forcibly integrated it into the Russian Orthodox Church. But the animosity between Uniates and the Orthodox majority in the Ukraine actually dates back centuries to the Union of Brest in 1596. At that council, which met under Polish suzerainty, most of the Orthodox bishops in the Western Ukraine, but only a minority of the faithful, were arguably "enticed" into union with Rome by offers of political privileges and cultural benefits in the Catholic Polish state. Dissenters faithful to Orthodoxy were forcibly suppressed by Polish authorities.

Worse, the shameless shilling for Ukrainian nationalism in the press is often accompanied by an unconscionable bashing of all things Russian, including the Russian Orthodox Church. Not only has Russian nationalism become automatically associated with antisemitism but the Russians are also generally depicted as somehow sinister and congenitally imperialistic, while the Poles and Lithuanians—who ran roughshod over Russia in the 16th and 17th centuries—are supposed to be Moscow's perennial victims. Of course, in the popular mythology Russia represents the "backward" Orthodox East and Poland the "enlightened" Catholic West.

Certainly none of the foregoing should be construed as a justification for the more recent undemocratic villainy by some of these Orthodox peoples against their neighbors. But accuracy and fairness in reporting require a better grounding in history than the American media elites have heretofore demonstrated.

□ 2300

Mr. MOODY. Let me add a point to that if I could. It is also important to put on the record what the gentle-

woman from Maryland has alluded to. Namely, it is the Serbians who probably suffered more than any single group in Yugoslavia under the Nazis. It is the Serbians who probably suffered more than any single group under the Communist regime, at least under the Tito period when Tito had a conscious policy of pulling Serbia down to make it more equal with the other republics, because Serbians are the most numerous single minority in the country.

Mrs. BENTLEY. If the gentleman would yield 1 minute on that, I think we have to really emphasize that point, that in Eastern Europe and in Yugoslavia, that area in particular, it has been only the Serbians who were part of the Allies, who supported the Allies in World War I and World War II. They were the only ones.

All of the others were with the Nazis, with the Axis in World War II. The Albanians were with the Axis, the Croats were with the Axis, and so forth. And in World War I the same story.

So I think we need to make that point, that it was the Serbians who have been the friends of the Allies, and it was the Serbians who supported the Jews, and who helped with the Jews during World War II when they were being persecuted and beaten up by the Nazis in Yugoslavia.

Mr. MOODY. If I may have a moment back, I would not say the Croats were with the Nazis. Some few Croats were with the Nazis. I am sure the majority of the Croats were not.

Mrs. BENTLEY. The rest were partisans.

Mr. MOODY. I think it is important to make sure that that is clarified. The majority of the Croats are freedom loving, democracy loving people who detested the Nazi and Fascist regimes. The Croats are wonderful people, and would never willingly embrace fascism.

Mrs. BENTLEY. I agree.

Mr. MOODY. It was during the Ustashi takeover under Nazi and Mussolini control that in effect certain very unfortunate individuals in Croatia were able to take over and run it like a fascist state.

Mrs. BENTLEY. I thank the gentleman for making that point.

Mr. MOODY. The only point I am trying to make here is that the Serbs suffered under the Nazis tremendously because they were out and out occupied by them. There were whole villages in Serbia that were massacred in retaliation for acts of resistance. There are villages in Serbia where every single male inhabitant above the age of 6 or 7 was simply machine-gunned down in the town square simply in retaliation. Not that others in Yugoslavia did not suffer under fascism, they did. But Serbia was out and

out occupied in a way that was probably more onerous than some of the other parts of the country, and it did suffer tremendously.

As I said a minute ago, frankly, the Serbs suffered probably more under the Communist system of Mr. Tito than any other group because he had a conscious policy of reducing Serbia's influence and strength inside their federation of Yugoslavia because he feared the Serbs as being the single largest republic.

The gentlewoman from Maryland and I are not here today to criticize any group inside Yugoslavia—Albanian or Croatian, or any other. They are all wonderful people, as I know from living and working there 2 years. No one is here to criticize. But I think it is important to set the record straight about the Serbs and what happened to them in the past, how they have been misrepresented, and how they have been castigated unfairly in the press and by certain Members of Congress.

Press commentary would lead one to think that the Serbian people are somehow supporting communism and a hardline regime, when that is the opposite of what is true, at least from my experience of living in and later visiting that country. In fact, I think Serbia will have free elections, hopefully in the not too distant future. There have been demonstrations in Serbia calling for that already. Many Serbs see what has happened in Croatia and Albania, and recognize that it is new day dawning for democracy in Yugoslavia.

But quite frankly, it is a misunderstanding about the Kosovo situation, and the exploitation of that situation, that has actually made the whole situation more difficult, rather than easier, to resolve in Kosovo.

I appreciate the gentlewoman bringing it up tonight, and I agree with her comments a few moments ago that we are not asking for special consideration of the Serbs, or the Serbian government, tonight. We only ask the Serbs be held to the same human right standards as other groups or countries are being held to in Eastern Europe.

All of us want to see human rights in Kosovo. We want the Albanian minority to have their rights to speak and organize politically, but we also want the situation there to be reported correctly. To set straight the facts have been often misrepresented about that region.

Mrs. BENTLEY. Very true. I thank the gentleman from Wisconsin and also the gentleman from Pennsylvania for their remarks.

Mr. Speaker, I want to point out, before I close tonight, that 10 days ago there were several hundred Serbian-Americans from all parts of the United States who gathered here in Washington for a seminar sponsored by the American-Serbian Heritage Founda-

tion, and joining in the group were the Serbian National Federation and representatives of a number of other groups.

They passed a couple of resolutions that I would like to read so that the record will be complete, and so everybody will understand exactly where the American-Serbians come from.

Whereas, the communist ruled countries of Eastern Europe have all had free, multi-party democratic elections with the exception of Albania, the last Stalinist outpost, during which the communist regimes have all been swept aside; and

Whereas, before all these recent democratic developments, the Serbian people were the first nation to break the yoke of Stalinist control in the Balkans and steadfastly have led the resistance to communist rule in Yugoslavia; and

Whereas the Serbian people should be commended for their heroic efforts but they now must continue their historic journey to establish a free and democratic society.

Now, therefore, the Serbian community gathered in Washington, D.C. during July 21-24, 1990 does hereby resolve:

1. That free democratic multi-party elections be scheduled as soon as possible in the Republic of Serbia, with a prior notice of at least four months so that the opposition parties will have adequate time to prepare.

That is very important, Mr. Speaker, because in many of these countries the opposition parties have not had time to prepare. It has been the same old story, with the Communists that changing their tightening and moving down the line.

2. That all parties have full legal standing and equality to campaign.

3. That all media must be accessible to all political parties without discrimination.

4. That all voters in Serbia should be able to support the party of their choice without threat of intimidation and must be guaranteed a free, peaceful democratic process.

The other one on human rights, Mr. Speaker, says:

Whereas, the people of the U.S. have rightly supported the pursuit of human rights wherever they have been oppressed or denied; and

Whereas, wherever the Serbian people live in Yugoslavia—some 40 percent live outside the borders of Serbia including the areas of Lika, Kordun and Banija, Croatia, the Republics of Macedonia and Bosnia-Herzegovina—and the region of Kosovo-Metohija, the Serbs have been oppressed and denied their basic human rights; and

Whereas, the pursuit of human rights must not be pre-determined, for or against any groups, but should be promoted in all parts of Yugoslavia wherever any groups or individuals are denied their basic human rights.

Now, therefore, the Serbian community gathered in Washington, D.C. during July 21-24, 1990 do hereby resolve:

1. That the basic human rights of the Serbian people in Yugoslavia, wherever they live, must be supported and promoted by all democratic and peaceful means possible.

2. All basic human rights including economic, cultural and social as well as civil and political rights must be supported for all the Serbian people throughout Yugoslavia.

3. All other groups in Yugoslavia should be guaranteed human rights without discrimination.

Mr. Speaker, I want to point out that when this American-Serbian Congress was going on here in Washington, that a group of some 50 Albanians every day had banners up across from the White House in Jackson Place, Lafayette Square, which said, "Congresswoman BENTLEY, Stalinist Puppet."

Now, I find that rather offensive, but it just shows again the kind of people we are dealing with.

Mrs. VUCANOVICH. Mr. Speaker, having listened to both sides of this very volatile issue, what has been made very clear is that mistakes have been made on both sides. Yes, there has been violence in Kosovo, and yes, it has been brought on by Serbs and Albanians. Yes, the Republic of Serbia has instituted a state of emergency in Kosovo, suspending the free press. And, yes, people have had their freedoms taken from them in part or in full; some even have died.

But while this is not excusable, it can certainly be justified when we consider the cause of these problems, which is the ethnic Albanian population in Kosovo.

As an aside, I found it amusing to hear my colleagues praising Albania. This is rather ironic considering the fact that Albania is the last hardline Communist regime left in Eastern Europe.

But it is the Albanian population which has truly precipitated the tension in Kosovo. Contrary to what my colleague from California asserted last night, Kosovo is not the "Albanian ethnic province of Yugoslavia." Actually, Kosovo is the homeland of the Serbian peoples, and is to Serbia what Israel is to Jews. Serbians were living in Kosovo far before being invaded by waves of immigrant Albanians. Indeed, Serbians have defended their homeland for centuries; perhaps the most remarkable instance was in the battle of Kosovo Polje in 1389, when Serbians died trying to defend their homeland from the Turks, who subsequently occupied the territory for 500 years.

Mr. Speaker, it is not the Government of the Republic of Serbia whom we should be condemning. Instead, we must realize that so many problems which exist in Kosovo exist because of the overwhelming presence of ethnic Albanians.

But the fact is that the Albanians are there, and the Serbs are there, and they're not getting along. Nobody is really sure how peace can be brought to this tortured province. But I am positive that we can't help the people of Kosovo merely by censuring its government.

Instead of blaming other governments, our own must take positive steps toward resolving this problem. Mr. Speaker, I call upon my colleagues to consider carefully the history of Kosovo and the present situation, and to then formulate a reasoned opinion on what we can do to help.

GENERAL LEAVE

Mrs. BENTLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within

which to revise and extend their remarks and include therein extraneous material on my special order.

The SPEAKER. Is there objection to the request of the gentleman from Maryland.

There was no objection.

CONFERENCE REPORT ON H.R. 7, THE CARL D. PERKINS VOCATIONAL AND APPLIED TECHNOLOGY EDUCATION ACT AMENDMENTS OF 1990

Mr. HAWKINS submitted the following conference report and statement on the bill (H.R. 7) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such Act through the fiscal year 1995:

CONFERENCE REPORT (H. REPT. 101-660)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 7) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such Act through the fiscal year 1995, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

SECTION 1. SHORT TITLE.

(a) *THIS ACT.*—This Act may be cited as the "Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990".

(b) *AMENDMENTS.*—Section 1 of the Carl D. Perkins Vocational Education Act (in this Act referred to as the "Act") (20 U.S.C. 2301 note) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) *SHORT TITLE.*—This Act may be cited as the 'Carl D. Perkins Vocational and Applied Technology Education Act'.

"(b) *TABLE OF CONTENTS.*—The table of contents for this Act is as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title; table of contents.

"Sec. 2. Statement of purpose.

"Sec. 3. Authorization of appropriations.

"TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

"PART A—ALLOTMENT AND ALLOCATION

"Sec. 101. Allotment.

"Sec. 101A. The territories.

"Sec. 102. Within State allocation.

"Sec. 103. Indian and Hawaiian natives programs.

"PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

"Sec. 111. State administration.

"Sec. 112. State council on vocational education.

"Sec. 113. State plan.

"Sec. 114. State plan approval.

"Sec. 115. State and local standards and measures.

"Sec. 116. State assessment and evaluation.

"Sec. 117. Program evaluation and improvement.

"Sec. 118. Criteria for services and activities for individuals who are members of special populations.

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"Sec. 201. State programs and State leadership.

"PART B—OTHER STATE-ADMINISTERED PROGRAMS

"Subpart 1—Programs to Provide Single Parents, Displaced Homemakers, and Single Pregnant Women With Marketable Skills and to Promote the Elimination of Sex Bias

"Sec. 221. Programs for single parents, displaced homemakers, and single pregnant women.

"Sec. 222. Sex equity programs.

"Sec. 223. Competitive award of amounts; evaluation of programs.

"Subpart 2—Corrections Education

"Sec. 225. Programs for criminal offenders.

"PART C—SECONDARY, POSTSECONDARY, AND ADULT VOCATIONAL EDUCATION PROGRAMS

"Subpart 1—Within State Allocation

"Sec. 231. Distribution of funds to secondary school programs.

"Sec. 232. Distribution of funds to postsecondary and adult programs.

"Sec. 233. Special rule for minimal allocation.

"Sec. 234. Reallocation.

"Subpart 2—Uses of Funds

"Sec. 235. Uses of funds.

"Subpart 3—Local Application

"Sec. 240. Local application.

"TITLE III—SPECIAL PROGRAMS

"PART A—STATE ASSISTANCE FOR VOCATIONAL EDUCATION SUPPORT PROGRAMS BY COMMUNITY-BASED ORGANIZATIONS

"Sec. 301. Applications.

"Sec. 302. Uses of funds.

"PART B—CONSUMER AND HOMEMAKING EDUCATION

"Sec. 311. Consumer and homemaking education grants.

"Sec. 312. Use of funds from consumer and homemaking education grants.

"Sec. 313. Information dissemination and leadership.

"PART C—COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS

"Sec. 321. Grants for career guidance and counseling.

"Sec. 322. Use of funds from career guidance and counseling grants.

"Sec. 323. Information dissemination and leadership.

"PART D—BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING

"Sec. 331. Findings and purpose.

"Sec. 332. Authorization of grants.

"Sec. 333. Use of funds.

"PART E—TECH-PREP EDUCATION

"Sec. 341. Short title.

"Sec. 342. Findings and purpose.

"Sec. 343. Program authorized.

"Sec. 344. Tech-prep education programs.

"Sec. 345. Applications.

"Sec. 346. Reports.

"Sec. 347. Definitions.

"PART F—SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES

"Sec. 351. Statement of purpose.

"Sec. 352. Allotment to States.

"Sec. 353. Allocation to local educational agencies.

"Sec. 354. Uses of funds.

"Sec. 355. State applications.

"Sec. 356. Local applications.

"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

"Subpart 1—Community Education Employment Centers

"Sec. 361. Short title.

"Sec. 362. Purpose.

"Sec. 363. Program authorized.

"Sec. 364. Program requirements.

"Sec. 365. Support services requirements.

"Sec. 366. Parental and community participation.

"Sec. 367. Professional staff.

"Sec. 368. Eligibility.

"Sec. 369. Application.

"Sec. 370. Evaluation and report.

"Sec. 371. Definitions.

"Subpart 2—Vocational Education Lighthouse Schools

"Sec. 375. Vocational education lighthouse schools.

"PART H—TRIBALLY CONTROLLED POSTSECONDARY VOCATIONAL INSTITUTIONS

"Sec. 381. Short title.

"Sec. 382. Purpose.

"Sec. 383. Grants authorized.

"Sec. 384. Eligible grant recipients.

"Sec. 385. Grants to tribally controlled postsecondary vocational institutions.

"Sec. 386. Amounts of grants.

"Sec. 387. Effect on other programs.

"Sec. 388. Grant adjustments.

"Sec. 389. Report on facilities and facilities improvement.

"Sec. 390. Definitions.

"TITLE IV—NATIONAL PROGRAMS

"PART A—RESEARCH AND DEVELOPMENT

"Sec. 401. Research objectives.

"Sec. 402. Research activities.

"Sec. 403. National assessment of vocational education programs.

"Sec. 404. National Center or Centers for Research in Vocational Education.

"PART B—DEMONSTRATION PROGRAMS

"Sec. 411. Programs authorized.

"Sec. 412. Materials development in telecommunications.

"Sec. 413. Demonstration centers for the training of dislocated workers.

"Sec. 414. Professional development.

"Sec. 415. Blue ribbon vocational education programs.

"Sec. 416. Development of business and education standards.

"Sec. 417. Educational programs for Federal correctional institutions.

"Sec. 418. Dropout prevention.

"Sec. 419. Model programs of regional training for skilled trades.

"Sec. 420. Demonstration projects for the integration of vocational and academic learning.

"Sec. 420A. Cooperative Demonstration Programs.

"PART C—VOCATIONAL EDUCATION AND OCCUPATIONAL INFORMATION DATA SYSTEMS

"Sec. 421. Data systems authorized.

"Sec. 422. National Occupational Information Coordinating Committee.

"Sec. 423. Information base for vocational education data system.

"Sec. 424. Miscellaneous provisions.

"PART D—NATIONAL COUNCIL ON VOCATIONAL EDUCATION

"Sec. 431. Council established.

"PART E—BILINGUAL VOCATIONAL TRAINING

"Sec. 441. Program authorized.

"PART F—GENERAL PROVISIONS

"Sec. 451. Distribution of assistance.

"TITLE V—GENERAL PROVISIONS

"PART A—FEDERAL ADMINISTRATIVE PROVISIONS

"Sec. 501. Payments.

"Sec. 502. Maintenance of effort.

"Sec. 503. Authority to make payments.

"Sec. 504. Regional meetings and negotiated rulemaking.

"Sec. 505. Requirements relating to reports, plans, and regulations.

"Sec. 506. Federal laws guaranteeing civil rights.

"Sec. 507. Student assistance and other Federal programs.

"Sec. 508. Federal monitoring.

"PART B—STATE ADMINISTRATIVE PROVISIONS

"Sec. 511. Joint funding.

"Sec. 512. Review of regulations.

"Sec. 513. Identification of State-imposed requirements.

"Sec. 514. Prohibition on use of funds to induce out-of-State relocation of businesses.

"Sec. 515. State administrative costs.

"Sec. 516. Additional administrative requirements.

"PART C—DEFINITIONS

"Sec. 521. Definitions."

SEC. 2. STATEMENT OF PURPOSE.

Section 2 of the Act (20 U.S.C. 2301) is amended to read as follows:

"SEC. 2. STATEMENT OF PURPOSE.

"It is the purpose of this Act to make the United States more competitive in the world economy by developing more fully the academic and occupational skills of all segments of the population. This purpose will principally be achieved through concentrating resources on improving educational programs leading to academic and occupational skill competencies needed to work in a technologically advanced society."

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 3 of the Act (20 U.S.C. 2302) is amended to read as follows:

"SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There are authorized to be appropriated \$1,600,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out the provisions of titles I, II, III, and IV of this Act.

"(b) TITLE I.—(1) Of the amounts remaining from amounts made available under subsection (a) after providing amounts for the programs described in paragraph (2) and subsections (d) and (f)—

"(A) 1.5 percent shall be available to carry out the provisions of section 103, relating to Indian and Hawaiian natives programs; and

"(B) .2 percent shall be available to carry out the provisions of section 101A, relating to the territories.

"(2) Of the amounts made available in the fiscal year 1991 under subsection (a), not more than \$9,000,000 shall be available to carry out the provisions of section 112, relating to State councils on vocational education.

"(c) BASIC PROGRAMS.—Of the amounts remaining from amounts made available under subsection (a) after providing

amounts for the programs described in subsections (b)(2), (d), and (f), 95.8 percent shall be available to carry out the provisions of title II, relating to basic programs.

"(d) SPECIAL PROGRAMS.—(1) Subject to paragraph (2), of the amounts made available under subsection (a) for the fiscal year 1991—

"(A) not more than \$15,000,000 shall be available to carry out the provisions of part A of title III, relating to State assistance for vocational education support programs by community-based organizations;

"(B) not more than \$38,500,000 shall be available to carry out the provisions of part B of title III, relating to consumer and homemaking education;

"(C) not more than \$20,000,000 shall be available to carry out the provisions of part C of title III, relating to comprehensive career guidance and counseling programs;

"(D) not more than \$10,000,000 shall be available to carry out the provisions of part D of title III, relating to business-labor-education partnerships;

"(E) not more than \$125,000,000 shall be available to carry out the provisions of part E of title III, relating to tech-prep education;

"(F) not more than \$100,000,000 shall be available to carry out the provisions of part F of title III, relating to supplementary State grants for facilities and equipment and other program improvement activities;

"(G) not more than \$10,000,000 shall be available to carry out the provisions of part G of title III, of which—

"(i) an amount equal to 75 percent of the amounts made available to carry out such part shall be available to carry out the provisions of subpart 1 of such part, relating to community education employment centers; and

"(ii) an amount equal to 25 percent of the amounts made available to carry out such part shall be available to carry out the provisions of subpart 2 of such part, relating to vocational education lighthouse schools; and

"(H) not more than \$4,000,000 shall be available to carry out the provisions of part H of title III, relating to tribally controlled postsecondary vocational institutions.

"(2) Notwithstanding the provisions of paragraph (1), amounts shall be available to carry out the provisions of part C, D, or G of title III in any fiscal year only to the extent that the amount available for such fiscal year to carry out the provisions of title II exceeds \$1,000,000,000.

"(e) NATIONAL PROGRAMS.—For each fiscal year, of the amounts remaining from amounts available pursuant to subsection (a) after providing amounts for the programs described in subsections (b)(2), (d), and (f), 2.5 percent of such remainder shall be available to carry out the provisions of title IV (other than parts D and E), relating to national programs.

"(f) OTHER NATIONAL PROGRAMS.—(1) Of amounts made available under subsection (a) for the fiscal year 1991, not more than \$350,000 shall be available to carry out the provisions of part D of title IV, relating to the National Council on Vocational Education.

"(2) Of amounts made available under subsection (a) for the fiscal year 1991, not more than \$10,000,000 shall be available to carry out the provisions of part E of title IV, relating to bilingual vocational training programs."

SEC. 4. INTERDEPARTMENTAL TASK FORCE ON COORDINATION OF VOCATIONAL EDUCATION AND RELATED PROGRAMS.

(a) **ESTABLISHMENT.**—There is established the Interdepartmental Task Force on Vocational Education and Related Programs (in this section referred to as the "Task Force").

(b) **MEMBERSHIP.**—The Task Force shall consist of the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, and such other personnel of the Department of Education, the Department of Labor, and the Department of Health and Human Services as the Secretaries consider appropriate.

(c) **DUTIES.**—The Task Force shall—

(1) examine principal data required for programs under the Adult Education Act, the Carl D. Perkins Vocational and Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act;

(2) examine possible common objectives, definitions, measures, and standards for such programs; and

(3) consider integration of research and development conducted with Federal assistance in the area of vocational education and related areas, including areas of emerging technologies.

(d) **REPORT TO CONGRESS.**—The Task Force shall, every 2 years, submit a report on its findings to the appropriate committees of the Congress.

SEC. 5. JOINT FUNDING.

(a) **JOB TRAINING PARTNERSHIP ACT.**—(1) Section 123 of the Job Training Partnership Act (29 U.S.C. 1533) is amended by adding at the end the following new subsection:

"(e)(1) Sums available for this section pursuant to section 202(b)(1) may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this section;

"(C) such program provides services in a coordinated manner with services provided under this section; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act."

(2) Section 204 of the Job Training Partnership Act (29 U.S.C. 1604) is amended—

(A) by inserting "(a)" after "SEC. 204."; and

(B) by adding at the end the following new subsection:

"(b)(1) Funds provided under this title may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this title;

"(C) such program provides services in a coordinated manner with services provided under this title; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act."

(3) Section 314 of the Job Training Partnership Act (29 U.S.C. 1661c) is amended by adding at the end the following new subsection:

"(g) **JOINT FUNDING.**—(1) Funds allotted under section 302 may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this title;

"(C) such program provides services in a coordinated manner with services provided under this title; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) The Wagner-Peyser Act."

(b) **WAGNER-PEYSER ACT.**—Section 7 of the Wagner-Peyser Act (29 U.S.C. 49f) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) Funds made available to States under this section may be used to provide additional funds under an applicable program if—

"(A) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(B) such program serves the same individuals that are served under this Act;

"(C) such program provides services in a coordinated manner with services provided under this Act; and

"(D) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(2) For purposes of this subsection, the term 'applicable program' means any program under any of the following provisions of law:

"(A) The Carl D. Perkins Vocational and Applied Technology Education Act.

"(B) Section 123, title II, and title III of the Job Training Partnership Act."

TITLE I—VOCATIONAL EDUCATION ASSISTANCE TO THE STATES

PART A—ALLOTMENT AND ALLOCATION

SEC. 101. ALLOTMENT.

(a) **IN GENERAL.**—Section 101 of the Act (20 U.S.C. 2311) is amended—

(1) in subsection (a)—

(A) by amending paragraph (1) to read as follows:

"(1) In each fiscal year, of the amounts remaining from amounts made available under section 3(a) after providing amounts for the programs described in subsections (b)(2), (d), and (f) of section 3, the Secretary shall reserve—

"(A) 2.5 percent for the activities described in title IV (other than parts D and E);

"(B) 1.5 percent for the purpose of carrying out section 103, of which—

"(i) 1.25 percent shall be for the purpose of carrying out section 103(b); and

"(ii) .25 percent shall be for the purpose of carrying out section 103(c); and

"(C) .2 percent for the purpose of carrying out section 101A."

(B) in paragraph (3)—

(i) in clause (i) of subparagraph (B)—

(I) by striking "subparagraph (A)" and inserting "subparagraphs (A), (C), and (D)"; and

(II) by striking "(D), or (E)" each place it appears and inserting "or (D)";

(ii) by amending subparagraph (C) to read as follows:

"(C) In the case of the Virgin Islands, the minimum allotment for all programs under this Act shall not be less than \$200,000."

(iii) by adding at the end the following:

"(D)(i) Subject to clause (iii), no State shall, by reason of subparagraph (B), be allotted more than the lesser of—

"(I) 150 percent of the amount that the State received in the preceding fiscal year; and

"(II) the amount calculated under clause (ii).

"(ii) The amount calculated under this clause shall be determined by multiplying—

"(I) the number of individuals in the State counted under paragraph (2) in the preceding fiscal year; by

"(II) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(iii) Notwithstanding the provisions of clauses (i) and (ii), no State shall be allotted an amount under this section in any fiscal year that is less than the amount such State is allotted in the fiscal year 1991."

(2) in subparagraph (B) of subsection (c)(1), by striking ", Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands" each place such phrase appears and inserting "and the Virgin Islands"; and

(3) by adding at the end the following:

"(d) For the purpose of this section, the term 'State' means any 1 of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, and the Virgin Islands."

(b) **THE TERRITORIES.**—Part A of title I of the Act (20 U.S.C. 2311 et seq.) is amended by inserting after section 101 the following:

"SEC. 101A. THE TERRITORIES.

"(a) **THE TERRITORIES.**—From funds reserved pursuant to section 101(a)(1)(C), the Secretary shall—

"(1) make a grant in the amount of \$500,000 to Guam; and

"(2) make a grant in the amount of \$190,000 to each of American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(b) **REMAINDER.**—Subject to the provisions of subsection (a), the Secretary shall make a grant of the remainder of funds reserved pursuant to section 101(a)(1)(C) to the Center for the Advancement of Pacific Education, Honolulu, Hawaii, or its successor entity as the Pacific regional educational laboratory to make grants for vocational education and training in Guam, American Samoa, Palau, the Commonwealth of the Northern Mariana Islands, the Federated States of Micronesia, and the Republic of the Marshall Islands, for the purpose of providing direct educational services, including—

"(1) teacher and counselor training and retraining;

"(2) curriculum development; and

"(3) improving vocational education and training programs in secondary schools and institutions of higher education, or improving cooperative programs involving both

secondary schools and institutions of higher education.

"(c) **LIMITATION.**—The Center for the Advancement of Pacific Education may use not more than 5 percent of the funds received pursuant to subsection (b) for administrative costs."

SEC. 102. WITHIN STATE ALLOCATION.

Section 102 of the Act (20 U.S.C. 2312) is amended to read as follows:

"SEC. 102. WITHIN STATE ALLOCATION.

"(a) **PROGRAMS OTHER THAN STATE GRANTS.**—From the allotment made to each State from funds appropriated under section 3(a) for each fiscal year—

"(1) an amount equal to at least 75 percent of the allotment shall be available only for basic programs under part C of title II;

"(2) an amount equal to 10.5 percent of the allotment shall be available only for the program for single parents, displaced homemakers, and single pregnant women described in section 221 and the sex equity program described in section 222, of which—

"(A) not less than 7 percent of such allotment shall be reserved for the program for single parents, displaced homemakers, and single pregnant women; and

"(B) not less than 3 percent of such allotment shall be reserved for the sex equity program;

"(3) an amount equal to not more than 8.5 percent of the allotment shall be available only for State programs and activities described in section 201;

"(4) the State may use for administration of the State plan an amount that does not exceed 5 percent of the allotment or \$250,000, whichever is greater, of which—

"(A) not less than \$60,000 shall be available only for purposes of carrying out the provisions of section 111(b)(1); and

"(B) remaining amounts may be used for the costs of—

"(i) developing the State plan;

"(ii) reviewing local applications;

"(iii) monitoring and evaluating program effectiveness;

"(iv) providing technical assistance; and

"(v) assuring compliance with all applicable Federal laws, including required services and activities for individuals who are members of special populations; and

"(5) an amount equal to 1 percent of the allotment shall be available only for programs for criminal offenders under section 225.

"(b) **MATCHING REQUIREMENT.**—Each State receiving financial assistance under this Act shall match, from non-Federal sources and on a dollar-for-dollar basis, the funds reserved pursuant to subsection (a)(4).

"(c) **HOLD HARMLESS PROVISION.**—(1) Except as provided in paragraph (2) and notwithstanding the provisions of subsection (a), each State shall reserve for the program for single parents, displaced homemakers, and single pregnant women under section 221, the sex equity program under section 222, and the program for criminal offenders under section 225, respectively, an amount that is not less than the amount such State reserved for each such program in the fiscal year 1990.

"(2) In any year in which a State receives an amount for purposes of carrying out programs under title II that is less than the amount such State received for such purposes in the fiscal year 1990, such State shall ratably reduce the amounts reserved under paragraph (1)."

SEC. 103. INDIAN AND HAWAIIAN NATIVES PROGRAMS.

Paragraph (1) of section 103(b) of the Act (20 U.S.C. 2313) is amended to read as follows:

"(1)(A) From the funds reserved pursuant to section 101(a)(1)(B)(i), the Secretary is directed—

"(i) upon the request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934; or

"(ii) upon an application received from a Bureau funded school (as such term is defined in section 1139(3) of the Education Amendments of 1978) offering secondary programs filed at such time and under such conditions as the Secretary may prescribe, to make grants to or enter into contracts with any tribal organization of any such Indian tribe or to make a grant to such Bureau funded school, as appropriate, to plan, conduct, and administer programs or portions of programs authorized by and consistent with the purposes of this Act, except that—

"(I) such grants or contracts with any tribal organization shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with the provisions of sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this sentence; and

"(II) such grants to Bureau funded schools shall not be subject to the requirements of the Indian Self-Determination Act or the Act of April 16, 1934.

"(B)(i) Any tribal organization or school eligible to receive assistance under this paragraph may apply individually or as part of a consortium with another such tribal organization or school.

"(ii) In the case of a Bureau funded school, the minimum amount of a grant made under this section shall be \$35,000.

"(C) The Secretary may not place upon grants made or contracts entered into under this paragraph any restrictions relating to programs or outcomes other than restrictions which apply to grants made to or contracts entered into with States under section 101. The Secretary, in making grants under this paragraph, shall give special consideration to—

"(i) grants which involve, coordinate with, or encourage tribal economic development plans; and

"(ii) applications from tribally controlled community colleges which—

"(I) are accredited or are candidates for accreditation by a nationally recognized accreditation organization as an institution of postsecondary vocational education; or

"(II) operate vocational education programs that are accredited or are candidates for accreditation by a nationally recognized accreditation organization and issue certificates for completion of vocational education programs."

PART B—STATE ORGANIZATIONAL AND PLANNING RESPONSIBILITIES

SEC. 111. STATE ADMINISTRATION.

Section 111 of the Act (20 U.S.C. 2321) is amended—

"(1) in subsection (a)(1)(A), by striking "113(b)(9)" and inserting "113(b)(8), section 116, and section 117";

"(2) in subsection (a)(1)(C), by inserting "including business, industry, and labor," before "involved";

"(3) in subsection (b)(1)—

"(A) in subparagraph (A)—

"(i) by striking "201(f)" and inserting "221"; and

"(ii) by striking "201(g)" and inserting "222";

"(B) by redesignating subparagraphs (C), (D), (E), (F), and (G), as subparagraphs (D), (E), (F), (G), and (H), respectively;

"(C) by striking "and" at the end of subparagraph (F) (as redesignated by subparagraph (B) of this paragraph);

"(D) by striking the period at the end of subparagraph (G) (as redesignated by subparagraph (B) of this paragraph) and inserting a semicolon; and

"(E) by inserting after subparagraph (B) the following:

"(C) reviewing and commenting upon, and making recommendations concerning, the plans of local educational agencies, area vocational education schools, intermediate educational agencies, and postsecondary educational institutions to ensure that the needs of women and men for training in nontraditional jobs are met;"; and

"(F) by adding at the end the following:

"(I) developing an annual plan for the use of all funds available for such programs;

"(J) managing the distribution of funds pursuant to section 223;

"(K) monitoring the use of funds distributed to recipients under such programs; and

"(L) evaluating the effectiveness of programs and activities supported by such funds."

"(4) in subsection (b)(3) by inserting "from funds allocated under section 102(a)(4)(A)" before "expend";

"(5) by striking subsection (e);

"(6) by redesignating subsections (c) and (d) as subsections (f) and (g), respectively; and

"(7) by inserting the following new subsections after subsection (b):

"(c) **REVIEW OF PLANS WITH RESPECT TO STUDENTS WITH HANDICAPS.**—(1) Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office responsible for administering part B of the Education of the Handicapped Act to review the implementation of the provisions of this Act as such provisions relate to students with handicaps by reviewing all or a representative sample of plans of eligible recipients to—

"(A) assure that individuals with handicaps are receiving vocational educational services;

"(B) assure that the plans of the eligible recipient provide assurances of compliance with the provisions of section 504 of the Rehabilitation Act of 1973 and the Education of Handicapped Act regarding equal access to programs; and

"(C) assure that the eligible recipients have—

"(i) identified the number of students with handicaps enrolled in vocational programs operated by the eligible recipient;

"(ii) assessed the vocational needs of the students identified pursuant to clause (i); and

"(iii) developed an adequate plan to provide supplementary services sufficient to meet the needs of such students.

"(2) For purposes of this subsection and subsections (d) and (e), the term "State" means any 1 of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(d) **NEEDS OF ECONOMICALLY DISADVANTAGED STUDENTS.**—Any State desiring to par-

ticipate in the programs authorized by this Act shall assign the head of the State office or other appropriate individual responsible for coordinating services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to review all or a representative sample of plans of the eligible recipients to ensure that the number of economically disadvantaged students have been identified, and that the needs of such students are being met as outlined by such plans.

"(e) **NEEDS OF STUDENTS OF LIMITED ENGLISH PROFICIENCY.**—Any State desiring to participate in the programs authorized by this Act shall designate or assign the head of the State office or other appropriate individual responsible for administering programs for students of limited English proficiency to review all or a representative sample of the plans of the eligible recipients to ensure the numbers of students of limited English proficiency have been identified and that the needs of such students for participation in vocational education programs are being met as outlined by such plans."

SEC. 112. STATE COUNCIL ON VOCATIONAL EDUCATION.

Section 112 of the Act (20 U.S.C. 2322) is amended—

(1) in subsection (a)(1)(A), by inserting "trade organizations," after "industry,";

(2) in subsection (a)(2), by striking the period at the end and inserting "and may include members of vocational student organizations and school board members,";

(3) in subsection (a), by inserting the following new sentence at the end of the matter following paragraph (2): "No employee of the State board shall serve on the State council,";

(4) in subsection (d)(2), by—

(A) striking "advise" and inserting "make recommendations to";

(B) redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(C) inserting the following new subparagraph (A) before subparagraph (B) (as redesignated by subparagraph (B) of this paragraph):

"(A) the State plan,";

(5) in subsection (d)(8), by—

(A) striking "the individuals described in section 201(b)" and inserting "individuals who are members of special populations"; and

(B) striking "and" at the end;

(6) by striking subsection (d)(9) and inserting the following new paragraphs:

"(9) analyze and review corrections education programs; and

"(10)(A) evaluate at least once every 2 years—

"(i) the extent to which vocational education, employment, and training programs in the State represent a consistent, integrated, and coordinated approach to meeting the economic needs of the State;

"(ii) the vocational education program delivery system assisted under this Act, and the job training program delivery system assisted under the Job Training Partnership Act, in terms of such delivery systems' adequacy and effectiveness in achieving the purposes of each of the 2 Acts; and

"(iii) make recommendations to the State board on the adequacy and effectiveness of the coordination that takes place between vocational education and the Job Training Partnership Act;

"(B) comment on the adequacy or inadequacy of State action in implementing the State plan;

"(C) make recommendations to the State board on ways to create greater incentives for joint planning and collaboration between the vocational education system and the job training system at the State and local levels; and

"(D) advise the Governor, the State board, the State job training coordinating council, the Secretary, and the Secretary of Labor regarding such evaluation, findings, and recommendations.";

(7) in subsection (e) by inserting the following new sentences at the end: "Each State council may submit a statement to the Secretary reviewing and commenting upon the State plan. Such statement shall be sent to the Secretary with the State plan.";

(8) by amending subsection (f)(1)(A) to read as follows:

"(f)(1)(A) Except as provided in subparagraph (B), from the sums appropriated pursuant to section 3(c), the Secretary shall first make grants of \$150,000 to each State council. From the remainder of such sums the Secretary shall allot to each State council an amount in accordance with the method of allotment set forth in section 101(a)(2) of this Act, provided that—

"(i) no State council shall receive more than \$250,000 for each fiscal year;

"(ii) no State council shall receive less than \$150,000 for each fiscal year; and

"(iii) no State council shall receive less than such State council was allotted in the fiscal year 1990;" and

(9) by amending subsection (f)(1)(B) to read as follows:

"(B) From the sums appropriated pursuant to section 3(c) for each fiscal year, the Secretary shall make grants of—

"(i) \$60,000 to each of the State councils of the Virgin Islands and Guam; and

"(ii) \$25,000 to each of the State councils of American Samoa, Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658), and the Commonwealth of the Northern Mariana Islands.";

SEC. 113. STATE PLAN.

Section 113 of the Act (20 U.S.C. 2323) is amended to read as follows:

"SEC. 113. STATE PLAN.

"(a) **IN GENERAL.**—(1)(A) Any State desiring to receive funds from its allotment for any fiscal year shall submit to the Secretary a State plan for a 3-year period, in the case of the initial plan, and a 2-year period thereafter, together with such annual revisions as the State board determines to be necessary.

"(B) The planning periods required by subparagraph (A) shall be coterminous with the planning program periods required under section 104(a) of the Job Training Partnership Act.

"(2)(A) In formulating the State plan (and amendments thereto), the State board shall meet with and utilize the State council established pursuant to section 112.

"(B) The State board shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State board's response shall be included with the State plan.

"(3) In developing the State plan, the State shall conduct an assessment according to section 116. Such assessment shall include analysis of—

"(A) the relative academic, occupational, training, and retraining needs of secondary, adult, and postsecondary students; and

"(B) the capability of vocational education programs to provide vocational education students, to the extent practicable, with—

"(i) strong experience in and understanding of all aspects of the industry the students are preparing to enter (including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety, and environmental issues); and

"(ii) strong development and use of problem-solving skills and basic and advanced academic skills (including skills in the areas of mathematics, reading, writing, science, and social studies) in a technological setting.

"(b) **CONTENTS.**—Each State plan shall—

"(1) describe the procedures and the results of each of the assessments required by section 116(a), including the needs identified by such assessments; and

"(2) describe how uses of funds reflect the needs described in paragraph (1);

"(3) provide assurances that, and where necessary a description of the manner in which, eligible recipients will comply with the requirements of titles I and II, including—

"(A) a description of the manner in which the State will comply with the criteria required for programs for individuals who are members of special populations and a description of the responsiveness of such programs to the special needs of such students;

"(B) assurances that the State board will develop measurable goals and accountability measures for meeting the needs of individuals who are members of special populations;

"(C) assurances that the State board will conduct adequate monitoring of programs conducted by eligible recipients to ensure that programs within the State are meeting the goals described in subparagraph (B); and

"(D) assurances that, to the extent consistent with the number and location of individuals who are members of special populations who are enrolled in private secondary schools, provision is made for the participation of such individuals in the vocational education programs assisted under section 231;

"(4) describe the estimated distribution of funds to corrections educational agencies as prescribed by section 225, the estimated distribution of funds to local educational agencies, area vocational education schools, or intermediate educational agencies as prescribed by section 231, and the planned estimated distribution of funds to eligible institutions as prescribed by section 232;

"(5) provide assurances that the State will comply with the provisions of section 102, including assurances that the State will distribute not less than 75 percent of the funds made available for title II to eligible recipients pursuant to such title;

"(6) describe the criteria the State board will use—

"(A) in approving applications of eligible recipients; and

"(B) for spending the amounts reserved for the State under paragraphs (2) through (5) of section 102(a);

"(7) describe how funds expended for occupationally specific training will be used for occupations in which job openings are projected or available, based on a labor market analysis;

"(8) provide assurances that the State will develop and implement a system of stand-

ards for performance and measures of performance for vocational education programs at the State level that meets the requirements of section 115;

"(9) describe, in each State plan submitted after the fiscal year 1991, the progress the State has made in achieving the goals described in previous State plans;

"(10) provide such methods of administration as are necessary for the prompt and efficient administration of programs under this Act;

"(11) provide assurances that, in the use of funds available for single parents, displaced homemakers, and single pregnant women under section 221, the State will emphasize assisting individuals with the greatest financial need, and that the State will give special consideration to displaced homemakers who because of divorce, separation, or the death or disability of a spouse must prepare for paid employment;

"(12) provide assurances that the State will furnish relevant training and vocational education activities to men and women who desire to enter occupations that are not traditionally associated with their sex;

"(13) describe how the State is implementing performance evaluations with eligible recipients as prescribed in section 117;

"(14) describe the methods proposed for the joint planning and coordination of programs carried out under this Act with programs conducted under the Job Training Partnership Act, the Adult Education Act, chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, and the Rehabilitation Act of 1973, and with apprenticeship programs;

"(15) provide assurances that programs of personnel development and curriculum development shall be funded to further the goals identified in the State plan;

"(16) provide assurances that the vocational education needs of identifiable segments of the population in the State that have the highest rates of unemployment have been thoroughly assessed, and that such needs are reflected in and addressed by the State plan;

"(17) provide assurances that the State board will cooperate with the State council in carrying out the Board's duties under this part;

"(18) provide assurances that none of the funds expended under this Act will be used to acquire equipment (including computer software) in any instance in which such acquisition results in a direct financial benefit to any organization representing the interests of the purchasing entity or its employees or any affiliate of such an organization;

"(19) provide assurances that State and local funds will be used in the schools of each local educational agency that are receiving funds under this Act to provide services which, taken as a whole, are at least comparable to services being provided in schools in such agency which are not receiving such funds;

"(20)(A) provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs;

"(B) as a component of the assurances described in subparagraph (A), annually assess and report on the degree to which expenditures aggregated within the State for career guidance and vocational counseling from allotments under title II are not less than such expenditures for such guidance and

counseling within the State in the fiscal year 1988;

"(21) provide assurances that the State will provide for such fiscal control and fund accounting procedures as may be necessary to assure the proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

"(22) provide procedures by which an area vocational education school, intermediate educational agency, or local educational agency may appeal decisions adverse to its interests with respect to programs assisted under this Act; and

"(23) describe how the State will comply with the provisions of section 118.

"(c) AMENDMENTS TO STATE PLAN.—When changes in program conditions, labor market conditions, funding, or other factors require substantial amendment to an approved State plan, the State board, in consultation with the State council, shall submit amendments to such State plan to the Secretary. Any such amendments shall be subject to review by the State job training coordinating council and the State council."

SEC. 114. STATE PLAN APPROVAL.

Section 114 of the Act (20 U.S.C. 2324) is amended to read as follows:

"SEC. 114. STATE PLAN APPROVAL.

"(a) In General.—The State board shall develop the portion of each State plan relating to the amount and uses of any funds proposed to be reserved for adult education, postsecondary education, tech-prep education, and secondary education after consultation with the State agency responsible for supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary vocational education, and the State agency responsible for secondary education. The State board shall, in developing such plan, take into consideration the relative training and retraining needs of secondary, adult, and postsecondary students, and shall include the State's rationale for distribution of funds. If a State agency finds that a portion of the final State plan is objectionable, such agency shall file such objections with the State board. The State board shall respond to any objections of such agency in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) Time for Submission; Approval.—Each State plan shall be submitted to the Secretary by May 1 preceding the beginning of the first fiscal year for which such plan is to be in effect. The Secretary shall approve each plan before the expiration of the 60-day period beginning on the date the plan is submitted, if the plan meets the requirements of section 113 and is of sufficient quality to meet the objectives of this Act (including the objective of developing and implementing program evaluations and improvements), and shall subsequently take appropriate actions to monitor the State's compliance with the provisions of its plan and the requirements of this Act on a regular basis. The Secretary shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State board."

SEC. 115. STATE AND LOCAL STANDARDS AND MEASURES.

Section 115 of the Act (20 U.S.C. 2325) is amended to read as follows:

"SEC. 115. STATE AND LOCAL STANDARDS AND MEASURES.

"(a) GENERAL AUTHORITY.—Each State board receiving funds under this Act shall develop and implement a statewide system of core standards and measures of performance for secondary and postsecondary vocational education programs. Each State board receiving funds under this Act, before the expiration of the 30-day period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, shall appoint the State Committee of Practitioners (in this section referred to as the 'Committee') as prescribed by section 512(a) after consulting with local school officials representing eligible recipients, and representatives of organized labor, business, superintendents, community-based organizations, private industry councils established under section 102(a) of the Job Training Partnership Act, State councils, parents, special populations, correctional institutions, the administrator appointed under section 111(b)(1), the State administrator of programs assisted under part B of the Education of the Handicapped Act, the State administrator of programs assisted under chapter 1 of title I of the Elementary and Secondary Education Act, the State administrator of programs for students of limited English proficiency, and guidance counselors. Such system shall be developed and implemented before the end of the 2-year period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 and shall apply to all programs assisted under this Act. Eligible recipients may make local modifications to such system based on economic, geographic, or demographic factors, or the characteristics of the population to be served. Such modifications shall conform to the assessment criteria contained in the State plan. The State board shall convene the Committee on a regular basis to review, comment on, and propose revisions to a draft State proposal, which the State board shall develop, for a system of core standards and measures of performance for vocational programs.

"(b) REQUIREMENTS.—Each system developed under subsection (a) shall include—

"(1) measures of learning and competency gains, including student progress in the achievement of basic and more advanced academic skills;

"(2) 1 or more measures of performance, which shall include only—

"(A) competency attainment;

"(B) job or work skill attainment or enhancement including student progress in achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in the industry the student is preparing to enter;

"(C) retention in school or completion of secondary school or its equivalent; and

"(D) placement into additional training or education, military service, or employment;

"(3) incentives or adjustments that are—

"(A) designed to encourage service to targeted groups or special populations; and

"(B) for each student, consistent with the student's individualized education program developed under section 614(a)(5) of the Education of the Handicapped Act, where appropriate; and

"(4) procedures for using existing resources and methods developed in other programs receiving Federal assistance.

"(c) **CONSISTENCY WITH OTHER PROGRAMS.**—In developing the standards and measures included in a system developed under subsection (a), the State board shall take into consideration—

"(1) standards and measures developed under job opportunities and basic skills training programs established and operated under a plan approved by the Secretary of Health and Human Services that meets the requirements of section 402(a)(19) of the Social Security Act; and

"(2) standards prescribed by the Secretary of Labor under section 106 of the Job Training Partnership Act.

"(d) **INFORMATION PROVIDED BY STATE BOARD.**—(1) The Committee shall make recommendations to the State board with respect to modifying standards and measures to be used under this section, based on the information provided under paragraph (2).

"(2) To assist the Committee in formulating recommendations under paragraph (1), the State board shall provide to the Committee information concerning differing types of standards and measurement, including—

"(A) the advantages and disadvantages of each type of standard or measurement;

"(B) instances in which such standards and measures have been effective; and

"(C) instances in which such standards and measures have not been effective.

"(3) In the event that the State board does not accept the Committee's recommendations made as required by paragraph (1), the State board shall set forth in the State plan its reasons for not accepting such recommendations.

"(e) **TECHNICAL ASSISTANCE.**—The Secretary shall provide technical assistance to the States with respect to the development of systems under subsection (a). In providing such assistance, the Secretary shall utilize existing resources in other Federal agencies.

"(f) **REPORT.**—The Secretary shall submit a report to the appropriate committees of the Congress not later than the expiration of the 4-year period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. Such report shall include—

"(1) a detailed description of the status of each State's system of standards and measures developed as required by this section;

"(2) an assessment of the validity, predictiveness, and reliability of such standards and measures, unbiased to special populations, in the areas of academic achievement, vocational skill competencies, employment outcomes, and postsecondary continuation and attainment; and

"(3) an evaluation of the comparability of State-developed performance standards across States to establish a core of common indicators."

SEC. 116. STATE ASSESSMENT AND EVALUATION.

Part B of title I of the Act (20 U.S.C. 2321 et seq.) is amended by adding at the end the following:

"SEC. 116. STATE ASSESSMENT.

"(a) **IN GENERAL.**—Each State board receiving assistance under this Act shall conduct an assessment using measurable objective criteria developed by the State board to assess program quality. Such criteria shall be developed in consultation with representatives of the groups described in section 115(a) and shall use information gathered by the National Occupational Information Coordinating Committee and, if appropriate, other information. Each State board shall widely disseminate such criteria. State boards shall develop such criteria no later

than the beginning of the 1991-1992 school year. Such criteria shall include such factors as—

"(1) integration of academic and vocational education;

"(2) sequential course of study leading to both academic and occupational competencies;

"(3) increased student work skill attainment and job placement;

"(4) increased linkages between secondary and postsecondary educational institutions;

"(5) instruction and experience, to the extent practicable, in all aspects of the industry the students are preparing to enter;

"(6) the ability of the eligible recipients to meet the needs of special populations with respect to vocational education;

"(7) raising the quality of vocational education programs in schools with high concentrations of poor and low-achieving students;

"(8) the relevance of programs to the workplace and to the occupations for which students are to be trained, and the extent to which such programs reflect a realistic assessment of current and future labor market needs, including needs in areas of emerging technologies;

"(9) the ability of the vocational curriculum, equipment, and instructional materials to meet the demands of the work force;

"(10) basic and higher order current and future workplace competencies which will reflect the hiring needs of employers; and

"(11) other factors considered appropriate by the State board.

"(b) **DEADLINE FOR ASSESSMENT.**—Each State board shall complete the assessment required by subsection (a) before the expiration of the 6-month period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.

"SEC. 117. PROGRAM EVALUATION AND IMPROVEMENT.

"(a) **ANNUAL EVALUATION.**—Each recipient of financial assistance under part C of title II shall annually evaluate the effectiveness of the program conducted with assistance under this Act based on the standards and measures (or modifications thereto) developed as required by section 115. As part of each such evaluation, each such recipient shall—

"(1) review programs, with the full and informed participation of representatives of individuals who are members of special populations, to—

"(A) identify and adopt strategies to overcome any barriers which are resulting in lower rates of access to vocational education programs or success in such programs for individuals who are members of special populations; and

"(B) evaluate the progress of individuals who are members of special populations in vocational education programs assisted under this Act; and

"(2) evaluate the progress of vocational education programs assisted under this Act in providing vocational education students with strong experience in and understanding of all aspects of the industry the students are preparing to enter.

"(b) **LOCAL PROGRAM IMPROVEMENT PLAN.**—Beginning not less than 1 year after the implementation of the provisions of section 115, if any recipient described in subsection (a) determines that the recipient is not making substantial progress in meeting the standards and measures developed as required by section 115, such recipient shall develop a plan, in consultation with teach-

ers, parents, and students concerned, for program improvement for the succeeding school year. Such plan shall describe how the recipient will identify and modify programs funded under part C of title II, including—

"(1) a description of vocational education and career development strategies designed to achieve progress in improving the effectiveness of the program conducted with assistance under this Act; and

"(2) if necessary, a description of strategies designed to improve supplementary services provided to individuals who are members of special populations.

"(c) **STATE AND LOCAL JOINT PLAN.**—If, after 1 year of implementation of the plan described in subsection (b), sufficient progress in meeting the standards and measures developed as required by section 115 has not been made, the State shall work jointly with the recipient and teachers, parents, and students concerned to develop a plan for program improvement. Each such plan shall contain—

"(1) a description of the technical assistance and program activities the State will provide to enhance the performance of the eligible recipient;

"(2) a reasonable timetable to improve the school performance under the plan;

"(3) a description of vocational education strategies designed to improve the performance of the program as measured by the evaluation; and

"(4) if necessary, a description of strategies designed to improve supplementary services provided to individuals who are members of special populations.

"(d) **FURTHER ACTION.**—The State shall, in conjunction with the eligible recipient, annually review and revise the joint plan developed under subsection (c) in order to improve performance and will continue to do so each consecutive year until the recipient sustains, for more than 1 year, fulfillment of the State and local standards and measures developed under section 115.

"SEC. 118. CRITERIA FOR SERVICES AND ACTIVITIES FOR INDIVIDUALS WHO ARE MEMBERS OF SPECIAL POPULATIONS.

"(a) **ASSURANCES OF EQUAL ACCESS FOR MEMBERS OF SPECIAL POPULATIONS.**—The State board, in its State plan, shall provide assurances that—

"(1) individuals who are members of special populations will be provided with equal access to recruitment, enrollment, and placement activities;

"(2) individuals who are members of special populations will be provided with equal access to the full range of vocational education programs available to individuals who are not members of special populations, including occupationally specific courses of study, cooperative education, apprenticeship programs, and, to the extent practicable, comprehensive career guidance and counseling services, and shall not be discriminated against on the basis of their status as members of special populations;

"(3)(A) vocational education programs and activities for individuals with handicaps will be provided in the least restrictive environment in accordance with section 612(5)(B) of the Education of the Handicapped Act and will, whenever appropriate, be included as a component of the individualized education program developed under section 614(a)(5) of such Act;

"(B) students with handicaps who have individualized education programs developed under section 614(a)(5) of the Education of the Handicapped Act shall, with re-

spect to vocational education programs, be afforded the rights and protections guaranteed such students under sections 612, 614, and 615 of such Act;

"(C) students with handicaps who do not have individualized education programs developed under section 614(a)(5) of the Education of the Handicapped Act or who are not eligible to have such a program shall, with respect to vocational education programs, be afforded the rights and protections guaranteed such students under section 504 of the Rehabilitation Act of 1973 and, for the purpose of this Act, such rights and protections shall include making vocational education programs readily accessible to eligible individuals with disabilities through the provision of services described in subsection (c)(3);

"(D) vocational education planning for individuals with handicaps will be coordinated between appropriate representatives of vocational education, special education, and State vocational rehabilitation agencies; and

"(E) the provision of vocational education to each student with handicaps will be monitored to determine if such education is consistent with the individualized education program developed for such student under section 614(a)(5) of the Education of the Handicapped Act, in any case in which such a program exists;

"(4) the provision of vocational education will be monitored to ensure that disadvantaged students and students of limited English proficiency have access to such education in the most integrated setting possible; and

"(5)(A) the requirements of this Act relating to individuals who are members of special populations—

"(i) will be carried out under the general supervision of individuals in the appropriate State educational agency or State board who are responsible for students who are members of special populations; and

"(ii) will meet education standards of the State educational agency or State board; and

"(B) with respect to students with handicaps, the supervision carried out under subparagraph (A) shall be carried out consistent with and in conjunction with supervision by the State educational agency or State board carried out under section 612(6) of the Education of the Handicapped Act.

"(b) PROVISION OF INFORMATION.—(1) Each local educational agency shall provide to students who are members of special populations and parents of such students at least 1 year before the students enter or are of an appropriate age for the grade level in which vocational education programs are first generally available in the State, but in no event later than the beginning of the ninth grade, information concerning—

"(A) the opportunities available in vocational education;

"(B) the requirements for eligibility for enrollment in such vocational education programs;

"(C) specific courses that are available;

"(D) special services that are available;

"(E) employment opportunities; and

"(F) placement.

"(2) Each eligible institution that receives assistance under title II shall provide the information described in paragraph (1) to each individual who requests information concerning or seeks admission to vocational education programs offered by the institution, and, when appropriate, assist in the preparation of applications relating to such admission.

"(3) The information provided under this subsection shall, to the extent practicable, be in a language and form that the parents and students understand.

"(c) ASSURANCES.—Each eligible recipient that receives assistance under title II shall provide assurances that such eligible recipient shall—

"(1) assist students who are members of special populations to enter vocational education programs, and, with respect to students with handicaps, assist in fulfilling the transitional service requirements of section 626 of the Education of the Handicapped Act;

"(2) assess the special needs of students participating in programs receiving assistance under title II with respect to their successful completion of the vocational education program in the most integrated setting possible;

"(3) provide supplementary services to students who are members of special populations, including, with respect to individuals with handicaps—

"(A) curriculum modification;

"(B) equipment modification;

"(C) classroom modification;

"(D) supportive personnel; and

"(E) instructional aids and devices;

"(4) provide guidance, counseling, and career development activities conducted by professionally trained counselors and teachers who are associated with the provision of such special services; and

"(5) provide counseling and instructional services designed to facilitate the transition from school to post-school employment and career opportunities.

"(d) PARTICIPATORY PLANNING.—The State board shall—

"(1) establish effective procedures, including an expedited appeals procedure, by which parents, students, teachers, and area residents concerned will be able to directly participate in State and local decisions that influence the character of programs under this Act affecting their interests; and

"(2) provide technical assistance and design such procedures to ensure that such individuals are given access to the information needed to use such procedures."

TITLE II—BASIC STATE GRANTS

SEC. 201. BASIC STATE GRANTS.

Title II of the Act is amended to read as follows:

"TITLE II—BASIC STATE GRANTS FOR VOCATIONAL EDUCATION

"PART A—STATE PROGRAMS

"SEC. 201. STATE PROGRAMS AND STATE LEADERSHIP.

"(a) GENERAL AUTHORITY.—From amounts reserved under section 102(a)(3), each State shall conduct State programs and State leadership activities.

"(b) REQUIRED USES OF FUNDS.—The programs and activities described in subsection (a) shall include—

"(1) professional development activities for vocational teachers and academic teachers working with vocational education students, including corrections educators and counselors, and educators and counselors in community-based organizations, including inservice and preservice training of teachers in state-of-the-art programs and techniques, including integration of vocational and academic curricula, with particular emphasis on inservice and preservice training of minority teachers;

"(2) development, dissemination, and field testing of curricula, especially—

"(A) curricula that integrate vocational and academic methodologies; and

"(B) curricula that provide a coherent sequence of courses through which academic and occupational skills may be measured; and

"(3) assessment of programs conducted with assistance under this Act, including the development of—

"(A) performance standards and measures for such programs; and

"(B) program improvement and accountability with respect to such programs.

"(c) AUTHORIZED ACTIVITIES.—The programs and activities described in subsection (a) may include—

"(1) the promotion of partnerships among business, education (including educational agencies), industry, labor, community-based organizations, or governmental agencies;

"(2) the support for tech-prep education as described in section 344;

"(3) the support of vocational student organizations, especially with respect to efforts to increase minority participation in such organizations;

"(4) leadership and instructional programs in technology education; and

"(5) data collection.

"PART B—OTHER STATE-ADMINISTERED PROGRAMS

"Subpart 1—Programs to Provide Single Parents, Displaced Homemakers, and Single Pregnant Women With Marketable Skills and to Promote the Elimination of Sex Bias

"SEC. 221. PROGRAMS FOR SINGLE PARENTS, DISPLACED HOMEMAKERS, AND SINGLE PREGNANT WOMEN.

"(a) GENERAL AUTHORITY.—Each State shall use the amount reserved under section 102(a)(2)(A) only to—

"(1) provide, subsidize, reimburse, or pay for preparatory services, including instruction in basic academic and occupational skills, necessary educational materials, and career guidance and counseling services, in preparation for vocational education and training that will furnish single parents, displaced homemakers, and single pregnant women with marketable skills;

"(2) make grants to eligible recipients for expanding preparatory services and vocational education services when the expansion directly increases the eligible recipients' capacity for providing single parents, displaced homemakers, and single pregnant women with marketable skills;

"(3) make grants to community-based organizations for the provision of preparatory and vocational education services to single parents, displaced homemakers, and single pregnant women if the State determines that the community-based organization has demonstrated effectiveness in providing comparable or related services to single parents, displaced homemakers, and single pregnant women, taking into account the demonstrated performance of such an organization in terms of cost, the quality of training, and the characteristics of the participants;

"(4) make preparatory services and vocational education and training more accessible to single parents, displaced homemakers, and single pregnant women by assisting such individuals with dependent care, transportation services, or special services and supplies, books, and materials, or by organizing and scheduling the programs so that such programs are more accessible; or

"(5) provide information to single parents, displaced homemakers, and single pregnant women to inform such individuals of vocational education programs, related support services, and career counseling.

"(b) **SETTINGS.**—The programs and services described in subsection (A) may be provided in postsecondary or secondary school settings, including area vocational education schools, that serve single parents, displaced homemakers, and single pregnant women.

"SEC. 222. SEX EQUITY PROGRAMS.

"(a) **GENERAL AUTHORITY.**—Except as provided in subsection (b), each State shall use the amount reserved under section 102(a)(2)(B) only for—

"(1) programs, services, comprehensive career guidance and counseling, and activities to eliminate sex bias and stereotyping in secondary and postsecondary vocational education;

"(2) preparatory services and vocational education programs, services, and activities for girls and women, aged 14 through 25, designed to enable the participants to support themselves and their families; and

"(3) support services for individuals participating in vocational education programs, services, and activities described in paragraphs (1) and (2), including dependent-care services and transportation.

"(b) **WAIVER OF AGE LIMIT.**—The administrator appointed under section 111(b)(1) may waive the requirement with respect to age limitations contained in subsection (a)(2) whenever the administrator determines that the waiver is essential to meet the objectives of this section.

"SEC. 223. COMPETITIVE AWARD OF AMOUNTS; EVALUATION OF PROGRAMS.

"The administrator appointed under section 111(b)(1)—

"(1) shall, on a competitive basis, allocate and distribute to eligible recipients or community-based organizations the amounts reserved under section 102(a)(2) for carrying out this subpart, ensuring that each grant made under this subpart is for a program that is of sufficient size, scope, and quality to be effective; and

"(2) shall develop procedures for the collection from eligible recipients, including community-based organizations, that receive funds under this subpart of data appropriate to the individuals served in order to permit evaluation of the effectiveness of such programs as required by section 111(b)(1)(L).

"Subpart 2—Corrections Education

"SEC. 225. PROGRAMS FOR CRIMINAL OFFENDERS.

"(a) **DESIGNATION OF STATE CORRECTIONS EDUCATIONAL AGENCY.**—(1) Each State board shall designate 1 or more State corrections agencies as State corrections educational agencies to administer vocational education programs assisted under this Act for juvenile and adult criminal offenders in correctional institutions in the State, including correctional institutions operated by local authorities.

"(2) Any corrections agency that desires to be designated under paragraph (1) shall submit to the State board a plan for the use of funds provided to such corrections agency from the amounts reserved by the State under section 102(a)(5).

"(b) **DUTIES OF STATE CORRECTIONS EDUCATIONAL AGENCY.**—In administering programs receiving funds under this section, each State corrections educational agency designated under subsection (a) shall, in carrying out a vocational education program for criminal offenders—

"(1) give special consideration to—

"(A) providing services to offenders who are completing their sentences and preparing for release; and

"(B) providing grants for the establishment of vocational education programs in correctional institutions that do not have such programs;

"(2) provide vocational education programs for women who are incarcerated;

"(3) improve equipment; and

"(4) in cooperation with eligible recipients, administer and coordinate vocational education services to offenders before and after their release.

"PART C—SECONDARY, POSTSECONDARY, AND ADULT VOCATIONAL EDUCATION PROGRAMS

"Subpart 1—Within-State Allocation

"SEC. 231. DISTRIBUTION OF FUNDS TO SECONDARY SCHOOL PROGRAMS.

"(a) **GENERAL RULE.**—Except as otherwise provided in this section and section 233, each State shall distribute funds available in any fiscal year for secondary school vocational education programs to local educational agencies within the State as follows:

"(1) From 70 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 70 percent as the amount such local educational agency was allocated under section 1005 of the Elementary and Secondary Education Act of 1965 in the preceding fiscal year bears to the total amount received under such section by local educational agencies in the State in such year.

"(2) From 20 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 20 percent as the number of students with handicaps who have individualized education programs under section 614(a)(5) of the Education of the Handicapped Act served by such local educational agency in the preceding fiscal year bears to the total number of such students served by local educational agencies in the State in such year.

"(3) From 10 percent of such funds, each local educational agency shall be allocated an amount that bears the same relationship to such 10 percent as the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of such local educational agency in the preceding fiscal year bears to the number of students enrolled in schools and adults enrolled in training programs under the jurisdiction of all local educational agencies in the State in such year.

"(b) **MINIMUM GRANT AMOUNT.**—(1) Except as provided in paragraph (2), no local educational agency shall be eligible for a grant under this part unless the amount allocated to such agency under subsection (a) is not less than \$15,000. A local educational agency may enter into a consortium with other local educational agencies for purposes of meeting the minimum grant requirement of this paragraph.

"(2) The State may waive the application of paragraph (1) in any case in which the local educational agency—

"(A) is located in a rural, sparsely-populated area; and

"(B) demonstrates that the agency is unable to enter into a consortium for purposes of providing services under this part.

"(3) Any amounts which are not allocated by reason of paragraph (1) or paragraph (2) shall be redistributed to local educational agencies that meet the requirements of paragraph (1) or paragraph (2) in accordance with the provisions of this section.

"(c) **LIMITED JURISDICTION AGENCIES.**—(1) In applying the provisions of subsection (a), no State board receiving assistance under this Act shall allocate funds to a local educa-

tional agency that serves only elementary schools, but shall distribute such funds to the local or regional educational agency which provides secondary school services to secondary school students in the same attendance area.

"(2) The amount to be allocated under paragraph (1) to a local educational agency that has jurisdiction only over secondary schools shall be determined based on the number of students that entered such secondary schools in the previous year from the elementary schools involved.

"(d) **ALLOCATIONS TO AREA VOCATIONAL EDUCATION SCHOOLS AND INTERMEDIATE EDUCATIONAL AGENCIES.**—(1) The State shall distribute funds available for secondary school vocational education programs to the appropriate area vocational education school or intermediate educational agency in any case in which—

"(A) the area vocational education school or intermediate educational agency and the local educational agency concerned—

"(i) have formed or will form a consortium for the purpose of receiving funds under this section; or

"(ii) have entered into or will enter into a cooperative arrangement for such purpose; and

"(B)(i) the area vocational education school or intermediate educational agency serves an approximately equal or greater proportion of students with handicaps and students who are economically disadvantaged than the proportion of such students attending the secondary schools under the jurisdiction of all of the local educational agencies sending students to the area vocational education school or the intermediate educational agency; or

"(ii) the area vocational education school, intermediate educational agency, or local educational agency demonstrates that it is unable to meet the criterion described in clause (i) due to the lack of interest by students described in clause (i) in attending vocational education programs in that area school or intermediate educational agency.

"(2) If an area vocational education school or intermediate educational agency meets the requirements of paragraph (1), then—

"(A) the amount that would otherwise be distributed to the local educational agency shall be allocated to the area vocational education school, the intermediate educational agency, and the local educational agency based on each school's or entity's relative share of students described in paragraph (1)(B)(i) who are attending vocational education programs that meet the requirements of section 235 (based, if practicable, on the average enrollment for the prior 3 years); or

"(B) such amount may be allocated on the basis of an agreement between the local educational agency and the area vocational education school or intermediate educational agency.

"(3)(A) For the purposes of this subsection, the State may determine the number of economically disadvantaged students attending vocational education programs on the basis of eligibility for any of the following:

"(i) Free or reduced-price meals under the National School Lunch Act.

"(ii) The program for aid to dependent children under part A of title IV of the Social Security Act.

"(iii) Benefits under the Food Stamp Act of 1977.

"(iv) Services under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(v) Other indices of economic status including estimates of such indices, if the State demonstrates to the satisfaction of the Secretary that such indices are more representative of such number.

"(B) If a State elects to use more than 1 factor described in subparagraph (A) for purposes of making the determination described in such subparagraph, the State shall ensure that the data used is not duplicative.

"(4) The State board shall establish an appeals procedure for resolution of any dispute arising between a local educational agency and an area vocational education school or an intermediate educational agency with respect to the allocation procedures described in this section, including the decision of a local educational agency to leave a consortium.

"(5) Notwithstanding the provisions of paragraphs (1), (2), (3), and (4) any local educational agency receiving an allocation which is not sufficient to conduct a program which meets the requirements of section 235(c) is encouraged to—

"(A) form a consortium or enter into a cooperative agreement with an area vocational education school or intermediate educational agency offering programs that meet the requirements of section 235(c) and that are accessible to economically disadvantaged students and students with handicaps served by such local educational agency; and

"(B) transfer such allocation to the area vocational education school or intermediate educational agency.

"SEC. 232. DISTRIBUTION OF FUNDS TO POSTSECONDARY AND ADULT PROGRAMS.

"(a) **GENERAL RULE.**—Except as provided in subsection (b) and section 233, each State shall distribute funds available in any fiscal year for postsecondary and adult vocational education programs to eligible institutions within the State. Each such eligible institution shall receive an amount that bears the same relationship to the amount of funds available under such section as the number of Pell Grant recipients and recipients of assistance from the Bureau of Indian Affairs enrolled in programs meeting the requirements of section 235 offered by such institution in the preceding fiscal year bears to the number of such recipients enrolled in such programs within the State in such year.

"(b) **WAIVER FOR MORE EQUITABLE DISTRIBUTION.**—The Secretary may waive the application of subsection (a) in the case of any State that submits to the Secretary an application for such a waiver that—

"(1) demonstrates that the formula described in subsection (a) does not result in a distribution of funds to the institutions within the State that have the highest numbers of economically disadvantaged individuals and that an alternative formula would result in such a distribution; and

"(2) includes a proposal for an alternative formula that may include criteria relating to the number of individuals attending institutions within the State who—

"(A) receive need-based postsecondary financial aid provided from public funds;

"(B) are members of families participating in the program for aid to families with dependent children under part A of title IV of the Social Security Act;

"(C) are enrolled in postsecondary educational institutions that—

"(i) are funded by the State;

"(ii) do not charge tuition; and

"(iii) serve only economically disadvantaged students;

"(D) are enrolled in programs serving economically disadvantaged adults;

"(E) are participants in programs assisted under the Job Training Partnership act; or

"(F) are recipients of Pell Grants.

"(c) **MINIMUM GRANT AMOUNT.**—(1) No grant provided to any institution under this section shall be for an amount that is less than \$50,000.

"(2) Any amounts which are not allocated by reason of paragraph (1) shall be redistributed to eligible institutions in accordance with the provisions of this section.

"(d) **DEFINITION.**—For the purposes of this section—

"(1) the term 'eligible institution' means an institution of higher education, a local educational agency serving adults, or an area vocational education school serving adults that offers or will offer a program that meets the requirements of section 235 and seeks to receive assistance under this part;

"(2) the term 'institution of higher education' has the meaning given that term in section 435(b) of the Higher Education Act of 1965; and

"(3) the term 'Pell Grant recipient' means a recipient of financial aid under subpart 1 of part A of title IV of the Higher Education Act of 1965.

"SEC. 233. SPECIAL RULE FOR MINIMAL ALLOCATION.

"(a) **GENERAL AUTHORITY.**—In any fiscal year in which a minimal amount is made available by a State for distribution under section 231 or section 232 such State may, notwithstanding the provisions of section 231 or section 232, as appropriate, in order to result in a more equitable distribution of funds for programs serving the highest numbers of economically disadvantaged individuals, distribute such minimal amount—

"(1) on a competitive basis; or

"(2) through any alternative method determined by the State.

"(b) **MINIMAL AMOUNT.**—For purposes of this section, the term 'minimal amount' means not more than 15 percent of the total amount made available for distribution under this part.

"SEC. 234. REALLOCATION.

"(a) **IN GENERAL.**—In any academic year that a local educational agency or eligible institution does not expend all of the amounts it is allocated for such year under section 231 or section 232, such local educational agency or eligible institution shall return any unexpended amounts to the State to be reallocated under section 231 or section 232, as appropriate.

"(b) **REALLOCATION OF AMOUNTS RETURNED LATE IN AN ACADEMIC YEAR.**—In any academic year in which amounts are returned to the State under sections 231 or 232 and the State is unable to reallocate such amounts according to such sections in time for such amounts to be expended in such academic year, the State shall retain such amounts to be distributed in combination with amounts provided under this title for the following academic year.

"Subpart 2—Uses of Funds

"SEC. 235. USES OF FUNDS.

"(a) **GENERAL AUTHORITY.**—Each eligible recipient that receives a grant under this part shall use funds provided under such grant to improve vocational education programs, with the full participation of individuals who are members of special populations, at a limited number of sites or with respect to a limited number of program areas.

"(b) **PRIORITY.**—Each eligible recipient that receives a grant under this part shall

give priority for assistance under this part to sites or programs that serve the highest concentrations of individuals who are members of special populations.

"(c) **REQUIREMENTS FOR USES OF FUNDS.**—(1) Funds made available under a grant under this part shall be used to provide vocational education in programs that—

"(A) are of such size, scope, and quality as to be effective;

"(B) integrate academic and vocational education in such programs through coherent sequences of courses so that students achieve both academic and occupational competencies; and

"(C) provide equitable participation in such programs for the special populations consistent with the assurances and requirements in section 118.

"(2) In carrying out the provisions of paragraph (1), grant funds may be used for activities such as—

"(A) upgrading of curriculum;

"(B) purchase of equipment, including instructional aids;

"(C) inservice training of both vocational instructors and academic instructors working with vocational education students for integrating academic and vocational education;

"(D) guidance and counseling;

"(E) remedial courses;

"(F) adaptation of equipment;

"(G) tech-prep education programs;

"(H) supplementary services designed to meet the needs of special populations;

"(I) a special populations coordinator paid in whole or in part from such funds who shall be a qualified counselor or teacher to ensure that individuals who are members of special populations are receiving adequate services and job skill training;

"(J) apprenticeship programs;

"(K) programs that are strongly tied to economic development efforts in the State;

"(L) programs which train adults and students for all aspects of the occupation, in which job openings are projected or available;

"(M) comprehensive mentor programs in institutions of higher education offering comprehensive programs in teacher preparation, which seek to fully use the skills and work experience of individuals currently or formerly employed in business and industry who are interested in becoming classroom instructors and to meet the need of vocational educators who wish to upgrade their teaching competencies;

"(N) provision of education and training through arrangements with private vocational training institutions, private postsecondary educational institutions, employers, labor organizations, and joint labor-management apprenticeship programs whenever such institutions, employers, labor organizations, or programs can make a significant contribution to obtaining the objectives of the State plan and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions.

"(3) Equipment purchases pursuant to sections 231 and 232, when not being used to carry out the provisions of this Act, may be used for other instructional purposes if—

"(A) the acquisition of the equipment was reasonable and necessary for the purpose of conducting a properly designed project or activity under this title;

"(B) is used after regular school hours or on weekends; and

"(C) such other use is—

"(i) incidental to the use of that equipment under this title;

"(ii) does not interfere with the use of that equipment under this title; and

"(iii) does not add to the cost of using that equipment under this title.

"(4) Each eligible recipient receiving funds under this part shall use no more than 5 percent of such funds for administrative costs.

"Subpart 3—Local Application

"SEC. 240. LOCAL APPLICATION.

"Any eligible recipient desiring financial assistance under this part shall, according to requirements established by the State board, submit to the State board an application, covering the same period as the State plan, for the use of such assistance. The State board shall determine requirements for local applications, except that each such application shall—

"(1) contain a description of the vocational education programs to be funded, including—

"(A) the extent to which the program incorporates each of the elements described in section 235;

"(B) how the eligible recipient will use the funds available under this part and from other resources to improve the program with regard to each use of funds described in section 235;

"(2) contain a report on the number of individuals in each of the special populations;

"(3) contain a description of how the needs of individuals who are members of special populations will be assessed and a description of the planned use of funds to meet such needs;

"(4) describe how access to programs of good quality will be provided to students who are economically disadvantaged (including foster children), students with handicaps, and students of limited English proficiency through affirmative outreach and recruitment efforts;

"(5) provide assurances that the programs funded under this part shall be carried out according to the criteria for programs for each special population;

"(6) describe the program evaluation standards the applicant will use to measure its progress;

"(7) describe methods to be used to coordinate vocational education services with relevant programs conducted under the Job Training Partnership Act, including cooperative arrangements established with private industry councils established under section 102(a) of such Act, in order to avoid duplication and to expand the range of and accessibility to vocational education services;

"(8) describe methods used to develop vocational educational programs in consultation with parents and students of special populations;

"(9) provide a description of coordination with community-based organizations;

"(10) consider the demonstrated occupational needs of the area in assisting programs funded by this Act;

"(11) provide a description of how the eligible recipient will provide a vocational education program that—

"(A) integrates academic and occupational disciplines so that students participating in the program are able to achieve both academic and occupational competence; and

"(B) offers coherent sequences of courses leading to a job skill;

"(12) provide assurances that the eligible recipient will provide a vocational education program that—

"(A) encourages students through counseling to pursue such coherent sequences of courses;

"(B) assists students who are economically disadvantaged, students of limited English proficiency, and students with handicaps to succeed through supportive services such as counseling, English-language instruction, child care, and special aids;

"(C) is of such size, scope, and quality as to bring about improvement in the quality of education offered by the school; and

"(D) seeks to cooperate with the sex equity program carried out under section 222;

"(13) provide an assurance that the eligible recipient will provide sufficient information to the State to enable the State to comply with the provisions of section 231(d); and

"(14) describe how the eligible recipient will monitor the provision of vocational education to individuals who are members of special populations."

TITLE III—SPECIAL PROGRAMS

SEC. 301. USE OF FUNDS.

Section 302(b) of the Act (20 U.S.C. 2352(b)) is amended by—

(1) redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) inserting the following new paragraph (6) after paragraph (5):

"(6) model programs for school dropouts;".

SEC. 302. CONSUMER AND HOMEMAKING EDUCATION.

Paragraph (2) of section 311 of the Act (20 U.S.C. 2361) is amended by inserting "individual and family health," after "food and nutrition."

SEC. 303. USE OF FUNDS FROM CONSUMER AND HOMEMAKING EDUCATION GRANTS.

Section 312 of the Act (20 U.S.C. 2362) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "in" and inserting "for residents of"; and

(B) in paragraph (3), by inserting after "encourage" the following: ", in cooperation with the individual appointed under section 111(b)(1).";

(2) in paragraph (1) of subsection (b)—

(A) by striking "managing home and work responsibilities" and inserting "balancing work and family";

(B) by inserting after "family crises" the following: "(including family violence and child abuse)";

(C) by inserting after "parenting skills" the following: "(especially among teenage parents), preventing teenage pregnancy";

(D) by striking "handicapped individuals," and inserting "individuals with handicaps, and members of at-risk populations (including the homeless)."; and

(E) by striking "improving nutrition," and inserting "improving individual, child, and family nutrition and wellness."

SEC. 304. INFORMATION DISSEMINATION AND LEADERSHIP.

The second sentence of subsection (a) of section 313 of the Act (20 U.S.C. 2363) is amended—

(1) by inserting after "State leadership" the following: "and full time State administrators"; and

(2) by inserting "educational" after "experience" and

SEC. 305. ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT.

Part C of title III of the Act (20 U.S.C. 2371 et seq.) is repealed.

SEC. 306. COMPREHENSIVE CAREER GUIDANCE AND COUNSELING PROGRAMS.

(a) REDESIGNATIONS.—(1) Title III of the Act (20 U.S.C. 2351 et seq.) is amended by redesignating part D as part C.

(2) Sections 331, 332, and 333 of the Act (20 U.S.C. 2381, 2382, 2383) are redesignated as sections 321, 322, and 323, respectively.

(b) AMENDMENT TO PART HEADING.—The heading for part D of title III of the Act (as redesignated in subsection (a)(1)) is redesignated as the heading to part C.

(c) USE OF FUNDS FROM CAREER GUIDANCE AND COUNSELING GRANTS.—Section 322 of the Act (as redesignated by subsection (a)(2)) (20 U.S.C. 2382) is amended in paragraph (2) of subsection (b), by inserting after "equipment acquisition," the following: "development of career information delivery systems,".

SEC. 307. BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING.

(a) REDESIGNATIONS.—(1) Title III of the Act (20 U.S.C. 2351 et seq.) is amended by redesignating part E as part D.

(2) Sections 341, 342, and 343 of the Act (20 U.S.C. 2391, 2392, 2393) are redesignated as sections 331, 332, and 333, respectively.

(b) AMENDMENT TO PART HEADING.—The heading for part D of title III of the Act (as redesignated by subsection (a)(1)) is amended to read as follows:

"PART D—BUSINESS-LABOR-EDUCATION PARTNERSHIP FOR TRAINING".

(c) FINDINGS AND PURPOSE.—Section 331 of the Act (as redesignated by subsection (a)(2)) (20 U.S.C. 2391) is amended to read as follows:

"SEC. 331. FINDINGS AND PURPOSE.

"The Congress finds that—

"(1) there is a need to infuse resources into the schools for the purpose of improving the quality of vocational education; and

"(2) there is a need to fulfill the needs of business for skilled employees who meet certain minimal standards in key occupational areas."

(d) AUTHORIZATION OF GRANTS.—Section 332 of the Act (as redesignated by subsection (a)(2)) (20 U.S.C. 2392) is amended—

(1) by amending subsection (a) to read as follows:

"(a)(1) From amounts authorized under section 31(d)(1)(D) that are made available for this part, the Secretary shall make grants to States to enable States to award grants to partnerships among—

"(A) an area vocational education school, a State agency, a local educational agency, a secondary school funded by the Bureau of Indian Affairs, an institution of higher education, a State corrections educational agency or an adult learning center; and

"(B) business, industry, labor organizations, or apprenticeship programs;

to carry out business-labor-education partnership training programs in accordance with this part.

"(2) The Secretary shall ensure an equitable geographic distribution of grants under this part."

(2) by amending subsection (b) to read as follows:

"(b) Grants to any State under this part shall be used in accordance with State plans and shall provide incentives for the coordination of programs assisted with funds under this part with related efforts under part E and under the Job Training Partnership Act. Each such State plan shall contain assurances to the Secretary that—

"(1) funds received under this part will be awarded on a competitive basis solely for vocational education programs, including programs—

"(A) to provide apprenticeships and internships in industry;

"(B) to provide new equipment;
 "(C) to provide teacher internships or teacher training;

"(D) that bring representatives of business and organized labor into the classroom;

"(E) to increase the access to, and quality of, programs for individuals who are members of special populations;

"(F) to strengthen coordination between vocational education programs, and the labor and skill needs of business and industry;

"(G) to address the economic development needs of the area served by the partnership;

"(H) to provide training and career counseling that will enable workers to retain their jobs;

"(I) to provide training and career counseling that will enable workers to upgrade their jobs; and

"(J) that address the needs of new and emerging industries, particularly industries in high-technology fields.

"(2) the State will give preference to partnerships that coordinate with local chambers of commerce (or the equivalent), local labor organizations, or local economic development plans;

"(3) the State will give priority to programs offered by partnerships that provide job training in areas or skills where there are significant labor shortages;

"(4) the State shall ensure an equitable distribution of assistance under this part between urban and rural areas;

"(5) except as provided in paragraph (6), not less than 50 percent of the aggregate cost of programs and projects assisted under this part will be provided from non-Federal sources, and not less than 50 percent of such non-Federal share will be provided by businesses or labor organizations participating in the partnership; and

"(6) in the event that the partnership includes a small business or labor organization, 40 percent of the aggregate cost of the programs and projects assisted under this part will be provided from non-Federal sources and not less than 50 percent of such non-Federal share will be provided by participating businesses or labor organizations.";

(3) by adding at the end the following new subsection:

"(d) The Secretary shall prescribe policies for vocational education programs carried out with assistance under this part. Such policies shall include examples of allowable expenses for business-labor-education partnerships."

SEC. 308. TECH-PREP EDUCATION.

Title III of the Act (20 U.S.C. 2351 et seq.) is amended by adding at the end the following new part:

"PART E—TECH-PREP EDUCATION

"SEC. 311. SHORT TITLE.

"This part may be cited as the 'Tech-Prep Education Act'.

"SEC. 312. FINDINGS AND PURPOSE.

"(a) FINDINGS.—The Congress finds that—

"(1) rapid technological advances and global economic competition demand increased levels of skilled technical education preparation and readiness on the part of youths entering the work force;

"(2) effective strategies reaching beyond the boundaries of traditional schooling are necessary to provide early and sustained intervention by parents, teachers, and educational institutions in the lives of students;

"(3) a combination of nontraditional school-to-work technical education programs, using state-of-the-art equipment and

appropriate technologies, will reduce the dropout rate for high school students in the United States and will produce youths who are mature, responsible, and motivated to build good lives for themselves;

"(4) the establishment of systematic technical education articulation agreements between secondary schools and postsecondary educational institutions is necessary for providing youths with skills in the liberal and practical arts and in basic academics, including literacy instruction in the English language, and with the intense technical preparation necessary for finding a position in a changing workplace;

"(5) by the year 2000 an estimated 15,000,000 manufacturing jobs will require more advanced technical skills, and an equal number of service jobs will become obsolete;

"(6) more than 50 percent of jobs that are developing will require skills greater than those provided by existing educational programs;

"(7) dropout rates in urban schools are 50 percent or higher, and more than 50 percent of all Hispanic youth drop out of high school; and

"(8) employers in the United States pay an estimated \$210,000,000,000 annually for formal and informal training, remediation, and lost productivity as a result of untrained and unprepared youth joining, or attempting to join, the work force of the United States.

"(b) PURPOSE.—It is the purpose of this part—

"(1) to provide planning and demonstration grants to consortia of local educational agencies and postsecondary educational institutions, for the development and operation of 4-year programs designed to provide a tech-prep education program leading to a 2-year associate degree or a 2-year certificate; and

"(2) to provide, in a systematic manner, strong, comprehensive links between secondary schools and postsecondary educational institutions.

"SEC. 313. PROGRAM AUTHORIZED.

"(a) DISCRETIONARY AMOUNTS.—In any fiscal year in which the amount made available under section 3(d)(1)(E) to carry out the provisions of this part is equal to or less than \$50,000,000, the Secretary, in accordance with the provisions of this part which are not inconsistent with this paragraph, shall award grants for tech-prep education programs to consortia of—

"(1) local educational agencies, intermediate educational agencies or area vocational education schools serving secondary school students, or secondary schools funded by the Bureau of Indian Affairs; and

"(2)(A) nonprofit institutions of higher education which offer a 2-year associate degree program, a 2-year certificate program, and which are qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978, or a 2-year apprenticeship program that follows secondary instruction, if such nonprofit institutions of higher education are not subject to a default management plan required by the Secretary; or

"(B) proprietary institutions of higher education which offer a 2-year associate degree program and which are qualified as institutions of higher education pursuant to section 481(a) of the Higher Education Act of 1965 if such proprietary institutions of

higher education are not subject to a default management plan required by the Secretary.

"(b) STATE GRANTS.—(1) In any fiscal year for which the amount made available under section 3(d)(1)(E) to carry out the provisions of this part exceeds \$50,000,000, the Secretary shall allot such amount to the States in accordance with the provisions of section 101(a)(2).

"(2) From amounts made available to each State under paragraph (1), the State board, in accordance with the provisions of this part which are not inconsistent with this paragraph, shall award grants on a competitive basis or on the basis of a formula determined by the State board, for tech-prep education programs to consortia described in subsection (a)(1).

"SEC. 314. TECH-PREP EDUCATION PROGRAMS.

"(a) GENERAL AUTHORITY.—Each grant recipient shall use amounts provided under the grant to develop and operate a 4-year tech-prep education program.

"(b) CONTENTS OF PROGRAM.—Any such program shall—

"(1) be carried out under an articulation agreement between the participants in the consortium;

"(2) consist of the 2 years of secondary school preceding graduation and 2 years of higher education, or an apprenticeship program of at least 2 years following secondary instruction, with a common core of required proficiency in mathematics, science, communications, and technologies designed to lead to an associate degree or certificate in a specific career field;

"(3) include the development of tech-prep education program curricula appropriate to the needs of the consortium participants;

"(4) include in-service training for teachers that—

"(A) is designed to train teachers to effectively implement tech-prep education curricula;

"(B) provides for joint training for teachers from all participants in the consortium; and

"(C) may provide such training in week-end, evening, and summer sessions, institutes or workshops;

"(5) include training programs for counselors designed to enable counselors to more effectively—

"(A) recruit students for tech-prep education programs;

"(B) ensure that such students successfully complete such programs; and

"(C) ensure that such students are placed in appropriate employment;

"(6) provide equal access to the full range of technical preparation programs to individuals who are members of special populations, including the development of tech-prep education program services appropriate to the needs of such individuals; and

"(7) provide for preparatory services which assist all participants in such programs.

"(c) ADDITIONAL AUTHORIZED ACTIVITIES.—Each such program may—

"(1) provide for the acquisition of tech-prep education program equipment; and

"(2) as part of the program's planning activities, acquire technical assistance from State or local entities that have successfully designed, established, and operated tech-prep programs.

"SEC. 315. APPLICATIONS.

"(a) IN GENERAL.—Each consortium that desires to receive a grant under this part shall submit an application to the Secretary or the State board, as appropriate, at such

time and in such manner as the Secretary or the State board, as appropriate, shall prescribe.

"(b) **THREE-YEAR PLAN.**—Each application submitted under this section shall contain a 3-year plan for the development and implementation of activities under this part.

"(c) **APPROVAL.**—The Secretary or the State board, as appropriate, shall approve applications based on their potential to create an effective tech-prep education program as provided for in section 344.

"(d) **SPECIAL CONSIDERATION.**—The Secretary or the State board, as appropriate, shall give special consideration to applications which—

"(1) provide for effective employment placement activities or transfer of students to 4-year baccalaureate degree programs;

"(2) are developed in consultation with business, industry, and labor unions; and

"(3) address effectively the issues of dropout prevention and re-entry and the needs of minority youths, youths of limited English proficiency, youths with handicaps, and disadvantaged youths.

"(e) **EQUITABLE DISTRIBUTION OF ASSISTANCE.**—In making grants under this part, the Secretary shall ensure an equitable distribution of assistance among States and the Secretary or the State board, as appropriate, shall ensure an equitable distribution of assistance between urban and rural consortium participants.

"(f) **NOTICE.**—(1) In the case of grants to be made by the Secretary, each consortium that submits an application under this section shall provide notice of such submission and a copy of such application to the State educational agency and the State agency for higher education of the State in which the consortium is located.

"(2) The Secretary shall notify the State educational agency, the State agency for higher education, and the State council on vocational education of any State each time a consortium located in such State is selected to receive a grant under this part.

"SEC. 346. REPORTS.

"(a) **REPORT TO THE SECRETARY.**—In the case of grants made by the Secretary, each grant recipient shall, with respect to assistance received under this part, submit to the Secretary such reports as may be required by the Secretary to ensure that such grant recipient is complying with the requirements of this part.

"(b) **REPORT TO THE CONGRESS.**—After grant recipients who receive grants in the first year in which grants are made under this part complete their eligibility under the program, the Secretary shall submit to the Congress a report evaluating the effectiveness of the program under this part.

"SEC. 347. DEFINITIONS.

"For purposes of this part:

"(1) The term 'articulation agreement' means a commitment to a program designed to provide students with a nonduplicative sequence of progressive achievement leading to competencies in a tech-prep education program.

"(2) The term 'community college'—

"(A) has the meaning provided in section 1201(a) of the Higher Education Act of 1965 for an institution which provides not less than a 2-year program which is acceptable for full credit toward a bachelor's degree; and

"(B) includes tribally controlled community colleges.

"(3) The term 'tech-prep education program' means a combined secondary and postsecondary program which—

"(A) leads to an associate degree or 2-year certificate;

"(B) provides technical preparation in at least 1 field of engineering technology, applied science, mechanical, industrial, or practical art or trade, or agriculture, health, or business;

"(C) builds student competence in mathematics, science, and communications (including through applied academics) through a sequential course of study; and

"(D) leads to placement in employment.

"(4) The terms 'institution of higher education' and 'higher education' include institutions offering apprenticeship programs of at least 2 years beyond the completion of secondary school."

SEC. 309. SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES.

Title III of the Act (as amended by section 308 of this Act) (20 U.S.C. 2351 et seq.) is further amended by adding at the end the following new part:

"PART F—SUPPLEMENTARY STATE GRANTS FOR FACILITIES AND EQUIPMENT AND OTHER PROGRAM IMPROVEMENT ACTIVITIES

"SEC. 351. STATEMENT OF PURPOSE.

"It is the purpose of this part to provide funding to local educational agencies in economically depressed areas for program improvement activities, especially the improvement of facilities and acquisition or leasing of equipment to be used to carry out vocational education programs that receive assistance under this Act.

"SEC. 352. ALLOTMENT TO STATES.

"In each fiscal year, from any amounts appropriated for purposes of carrying out this part, the Secretary shall allot to each State an amount which bears the same ratio to such appropriated amounts as the aggregate amount allocated to counties in such State for such fiscal year under section 1006 of the Elementary and Secondary Education Act of 1965 bears to the total amount appropriated for carrying out such section for such fiscal year.

"SEC. 353. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

"(a) **DISTRIBUTION OF ALL GRANT AMOUNTS.**—In each fiscal year for which a State receives a grant under this part, the State shall distribute not less than 100 percent of the amounts made available under the grant to eligible local educational agencies as provided in subsection (b).

"(b) **GRANT AMOUNTS.**—In each fiscal year for which a State receives a grant under this part, each eligible local educational agency or consortium of such agencies in the State shall receive an amount under this part that bears the same relationship to the amount received by such local educational agency or agencies under section 1006 of the Elementary and Secondary Education Act of 1965 bears to the aggregate amount received by local educational agencies in such State under such section in such fiscal year.

"SEC. 354. USES OF FUNDS.

"Each local educational agency or consortium of such agencies that receives a grant under this part shall—

"(1) give first priority to using funds provided under the grant for improving facilities and acquiring or leasing equipment for carrying out vocational education programs that receive assistance under this Act; and

"(2) then may use any funds not required to carry out the provisions of paragraph (1) for other program improvement activities, such as curriculum development or teacher training.

"SEC. 355. STATE APPLICATIONS.

"(a) **IN GENERAL.**—Each State that desires to receive a grant under this part shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(1) designate the sole State agency described in section 111(a)(1) as the State agency responsible for the administration and supervision of activities carried out with assistance under this part;

"(2) provide for a process of consultation with the State council established under section 112;

"(3) describes how funds will be allocated in a manner consistent with section 353;

"(4) provide for an annual submission of data concerning the use of funds and students served with assistance under this part;

"(5) provide that the State educational agency will keep such records and provide such information to the Secretary as may be required for purposes of financial audits and program evaluations; and

"(6) contain assurances that the State will comply with the requirements of this part.

"(b) **PERIOD OF APPLICATION.**—An application submitted by the State under subsection (a) shall be for a period of not more than 3 years and shall be amended annually.

"SEC. 356. LOCAL APPLICATIONS.

"Each local educational agency or consortium of such agencies that desires to receive a grant under this part shall submit to the State an application at such time, in such manner, and containing or accompanied by such information as the State may reasonably require."

SEC. 310. COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS.

Title III of the Act (as amended by sections 308 and 309 of this Act) is further amended by inserting at the end the following:

"PART G—COMMUNITY EDUCATION EMPLOYMENT CENTERS AND VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS

"Subpart 1—Community Education Employment Centers

"SEC. 361. SHORT TITLE.

"This part may be cited as the 'Community Education Employment Center Act of 1990'.

"SEC. 362. PURPOSE.

"It is the purpose of this part to establish and evaluate model high school community education employment centers to meet the education needs of low-income urban and rural youth by awarding grants to eligible recipients to enable such eligible recipients to establish community education employment centers to provide students with the education, skills, support services, and enrichment necessary to ensure—

"(1) graduation from secondary school;

"(2) successful transition from secondary schools to a broad range of postsecondary institutions; and

"(3) employment, including military service.

"SEC. 363. PROGRAM AUTHORIZED.

"(a) **IN GENERAL.**—The Secretary is authorized to make grants to eligible recipients having applications approved pursuant to section 369 to establish and operate not more than 10 community education employment centers nationwide.

"(b) GRANT PERIOD.—Grants awarded under this section may be for a period of 5 years.

"SEC. 364. PROGRAM REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall—

"(1) operate a community education employment center on an extended year and extended day basis;

"(2) establish a collegial working environment, with substantial opportunities for staff training and development and shared decisionmaking;

"(3) maintain small class sizes, and to the extent possible, maintain an average class size of 15 students or less;

"(4) have the option to organize community education and employment centers into 1 or more programs, specializing in different areas of study of particular interest and employment opportunities for the student population;

"(5) offer a broad array of secondary school coursework, including, to the extent possible—

"(A) English, mathematics, history, geography, biology, chemistry, physics, and computer science;

"(B) opportunities for student participation in a wide range of extracurricular activities, including community service and exploration, sports, fine and performing arts and tutorial study sessions;

"(C) a comprehensive vocational-technical education program developed through regular consultation with employer-labor panels with knowledge of relevant industries, and which offers skills in planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, economic development and health, safety, and environmental issues;

"(D) courses in health, nutrition, and parenting;

"(6) offer students on-site opportunities for assistance with career planning and decisionmaking, employability, entrepreneurial abilities, interpersonal communication skills, and remedial studies;

"(7) maintain an emphasis on the development of academic skills, regardless of student career objectives;

"(8) provide technical assistance and training to staff from other schools and local education agencies within the State who wish to replicate community education employment center capabilities;

"(9) seek to utilize community organizations to provide support for educational activities and services to parents and students; and

"(10) offer school-to-work transition services.

"SEC. 365. SUPPORT SERVICES REQUIREMENTS.

"Each eligible recipient receiving a grant under this part shall establish in each community education employment center a support system to coordinate services for students, including—

"(1) a comprehensive program of confidential guidance counseling, providing—

"(A) guidance for career and personal decisionmaking and postsecondary institution placement;

"(B) mentoring and referral to appropriate social services; and

"(C) an accessible counseling service to help parents to focus on the enhancement of student education;

"(2) an on-site job service office to offer students—

"(A) career guidance, development, and employment counseling, which provides in-

formation about a broad range of occupations and alternative career paths;

"(B) labor market information, job development, career testing, and occupational placement services for part-time and summer employment, internships, cooperative programs, and part-time and full-time employment opportunities upon graduation; and

"(C) assistance in arranging part-time employment, so long as such employment does not adversely affect academic performance;

"(3) assistance in arranging a summer program of work, education, or enrichment sessions;

"(4) to the extent possible, providing transportation to and from the community education employment center and part-time job sites; and

"(5) access to day care services for children of participating students.

"SEC. 366. PARENTAL AND COMMUNITY PARTICIPATION.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall employ a parent/community coordinator to provide for the active and informed participation of parents and appropriate community representatives in each community education employment center by—

"(1) encouraging parents and students to make informed decisions in reviewing and selecting the choice of community education employment center programs for their children;

"(2) conducting regular parent seminars to—

"(A) inform parents about community education employment center operations;

"(B) obtain parent input; and

"(C) disseminate information on how parents can encourage student performance;

"(3) providing the parents of each student with a regular opportunity to meet with counselors, teachers, and the student to discuss student progress, plans, and needs;

"(4) providing a range of roles in which parents may work with students at home or as class assistants or volunteer coordinators;

"(5) establishing an advisory Council of Advisors (in this part referred to as the 'Council') consisting of 1 individual representing each of the following entities:

"(A) the local educational agency;

"(B) the State council on vocational education and the State agency responsible for secondary vocational education;

"(C) the student body;

"(D) the local teacher organization;

"(E) guidance counselors;

"(F) community-based organizations;

"(G) parents; and

"(H) the appropriate private industry council.

"(b) FUNCTIONS OF THE COUNCIL.—The Council shall provide recommendations to, and work with, eligible recipients to—

"(1) establish annual community education employment center priorities, programs, and procedures;

"(2) establish student selection criteria to ensure that all students in the school district have an equal opportunity to attend the community education employment center and that participants will be representative of the secondary school population in the school district;

"(3) promulgate a student code of conduct that shall be developed in consultation with the students and teachers;

"(4) assist in the selection of the community education employment center principal, administrators, department chairpersons, and teachers;

"(5) assist in the selection and application of assessment tools for continuous evaluation of student learning progress;

"(6) make recommendations for the selection of curriculum textbooks, software, and other learning resources and equipment; and

"(7) make recommendations regarding the coordination of activities assisted under this part with activities assisted under the Job Training Partnership Act and school to work transitions.

"SEC. 367. PROFESSIONAL STAFF.

"(a) IN GENERAL.—Each eligible recipient receiving a grant under this part shall only employ professional staff who demonstrate the highest of academic, teaching, guidance, or administrative standards.

"(b) TEACHERS.—(1) Each eligible recipient receiving a grant under this part shall ensure that community education employment center teachers receive inservice training at least annually in techniques, procedures and policies relevant to the community education employment center.

"(2) Each eligible recipient receiving a grant under this part shall employ a sufficient number of full-time certified or licensed guidance and career counselors to assist, enhance and monitor student progress.

"SEC. 368. ELIGIBILITY.

"An eligible recipient shall be eligible to receive a grant under this part if—

"(1) the eligible recipient is located in or serves 1 or more local educational agencies that are eligible for assistance under section 1006 of the Elementary and Secondary Education Act of 1965; and

"(2) the eligible recipient demonstrates that it will serve a student population which is predominantly educationally and economically disadvantaged.

"SEC. 369. APPLICATION.

"(a) APPLICATION REQUIRED.—Each eligible recipient desiring to participate in the demonstration grant program authorized by this part shall prepare and submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may require.

"(b) CONTENTS OF APPLICATION.—Each application submitted pursuant to subsection (a) shall—

"(1) demonstrate that the area where the center is to be located has a high concentration of children from low-income families, relative to the county and State as a whole;

"(2) describe the activities and services for which assistance is sought;

"(3) provide assurances that the eligible recipient will comply with the provisions of sections 364, 365, 366, 367, and 368;

"(4) contain assurances that the State and local educational agency will, in any fiscal year, at least supply the same fiscal effort per student with respect to the free provision of public education to community education employment center students as such local educational agency provides for students attending secondary schools in such local educational agency;

"(5) utilize funding available from appropriate employment, training, and education programs in the State;

"(6) contain assurances that the community education employment center will coordinate the operations of such center to help meet local economic needs; and

"(7) provide such additional assurances as the Secretary may reasonably require.

"SEC. 370. EVALUATION AND REPORT.

"(a) **LOCAL EVALUATION.**—Each community education employment center shall submit annually to the Secretary a comprehensive and continuous evaluation of student learning progress, including—

"(1) academic and vocational competencies;

"(2) dropout rates;

"(3) information concerning employment and earnings while the students are attending a community education employment center and upon the graduation of such students from such center;

"(4) information concerning student attendance at postsecondary institutions or student enlistment into military service upon the graduation of such students from the community employment education center; and

"(5) parental, student, and community participation in the activities of the community employment education center.

"(b) **REPORT.**—The Secretary shall report to the Congress on the evaluations submitted pursuant to subsection (a) not later than October 1, 1995.

"SEC. 371. DEFINITIONS.

"As used in this part—

"(1) the term 'eligible recipient' means a secondary school or an area vocational school; and

"(2) the term 'parent' includes a legal guardian or other person standing in loco parentis.

**"Subpart 2—Vocational Education
Lighthouse Schools**

"SEC. 375. VOCATIONAL EDUCATION LIGHTHOUSE SCHOOLS.

"(a) **PROGRAM AUTHORIZED.**—The Secretary is authorized to make grants to secondary schools and area vocational education schools to enable such schools to establish and operate vocational education lighthouse schools.

"(b) **USE OF FUNDS.**—Grants awarded under this section shall be used to establish vocational education lighthouse schools which—

"(1) serve as a model vocational education program—

"(A) to provide each student with knowledge of, and experience in, all aspects of the industry or enterprise the student is preparing to enter;

"(B) to provide each student with basic and higher order skills and develop the student's problem solving abilities in a vocational setting;

"(C) to offer exceptionally high quality programs for disadvantaged and minority students;

"(D) to provide the special services and modifications necessary to help individual students successfully complete the program;

"(E) which is planned, developed and implemented with the participation of staff, local employers and local community; and

"(F) which offers a full range of programs, including comprehensive career guidance and counseling, for students who plan to seek employment upon graduation or who will enroll in a 2- or 4-year college;

"(2) provide information and assistance to other grant recipients, vocational programs, vocational education personnel, parents, students, other educators, community members and community organizations throughout the State regarding—

"(A) curriculum materials;

"(B) curriculum development, especially the integration of vocational and academic education;

"(C) inservice and preservice staff development, training, and assistance, through

off-site activities and through a range of short-term and long-term opportunities to participate in activities at the demonstration site;

"(D) opportunities to systematically observe the model program; and

"(E) technical assistance and staff development, as appropriate;

"(3) use funds received under this section, together with funds from non-Federal sources, to develop and implement model programs containing the elements described in paragraph (1);

"(4) develop comprehensive linkages with other local schools, community colleges, 4-year colleges, private vocational schools, community-based organizations, labor unions, employers, and other business groups, as appropriate; and

"(5) develop and disseminate model approaches—

"(A) for meeting the education training needs and career counseling needs of minority students, disadvantaged students, students with handicaps, and students of limited English proficiency; and

"(B) to reduce and eliminate sex bias and stereotyping."

**SEC. 311. VOCATIONAL EDUCATION OPPORTUNITIES
FOR INDIANS AND ALASKA NATIVES**

Title III of the Act (as amended by sections 308, 309, and 310 of this Act) (20 U.S.C. 2351) is further amended by adding at the end the following new part:

**"PART H—TRIBALLY CONTROLLED
POSTSECONDARY VOCATIONAL INSTI-
TUTIONS**

"SEC. 381. SHORT TITLE.

"This part may be cited as the 'Tribally Controlled Vocational Institutions Support Act of 1990'.

"SEC. 382. PURPOSE.

"It is the purpose of this part to provide grants for the operation and improvement of tribally controlled postsecondary vocational institutions to ensure continued and expanded educational opportunities for Indian students, and to allow for the improvement and expansion of the physical resources of such institutions.

"SEC. 383. GRANTS AUTHORIZED.

"(a) **GENERAL AUTHORITY.**—The Secretary shall, subject to the availability of appropriations, make grants pursuant to this section to tribally controlled postsecondary vocational institutions to provide basic support for the education and training of Indian students.

"(b) **USE OF GRANTS.**—Amounts made available under grants made pursuant to this section may be used for—

"(1) training costs;

"(2) educational costs;

"(3) equipment costs;

"(4) administrative costs; and

"(5) costs of operation and maintenance of the institution.

"SEC. 384. ELIGIBLE GRANT RECIPIENTS.

"To be eligible for assistance under this part a tribally controlled postsecondary vocational institution shall—

"(1) be governed by a board of directors or trustees, a majority of whom are Indians;

"(2) demonstrate adherence to stated goals, a philosophy or a plan of operation which fosters individual Indian economic and self-sufficiency opportunity, including programs which are appropriate to stated tribal goals of developing individual entrepreneurship and self-sustaining economic infrastructures on reservations;

"(3) have been in operation for at least 3 years;

"(4) hold accreditation with or be a candidate for accreditation by a nationally recognized accrediting authority for postsecondary vocational education; and

"(5) enroll the full-time equivalency of not less than 100 students, of whom a majority are Indians.

**"SEC. 385. GRANTS TO TRIBALLY CONTROLLED POST-
SECONDARY VOCATIONAL INSTITU-
TIONS.**

"(a) **APPLICATIONS.**—Any tribally controlled postsecondary vocational institution that desires to receive a grant under this part shall submit an application to the Secretary. Such application shall include a description of recordkeeping procedures for the expenditure of funds received under this part which will allow the Secretary to audit and monitor programs.

"(b) **INITIAL GRANTS.**—In the first year for which amounts are appropriated to carry out this part, the number of grants issued shall be not less than 2.

"(c) **CONSULTATION.**—In making grants pursuant to this part, the Secretary shall, to the extent practicable, consult with the boards of trustees and the tribal governments chartering the institutions being considered.

"(d) **LIMITATION.**—Amounts made available under grants made pursuant to this part shall not be used in connection with religious worship or sectarian instruction.

"SEC. 386. AMOUNT OF GRANTS.

"(a) **ALLOWABLE EXPENSES.**—Except as provided in subsection (d), the Secretary shall, subject to the availability of appropriations, provide for each program year to each tribally controlled vocational institution having an application approved by the Secretary, an amount necessary to pay expenses associated with—

"(1) the maintenance and operation of the program, including development costs, costs of basic and special instruction (including special programs for individuals with handicaps and academic instruction), materials, student costs, administrative expenses, boarding costs, transportation, student services, day care and family support programs for students and their families (including contributions to the costs of education for dependents);

"(2) capital expenditures, including operations and maintenance and minor improvements and repair, physical plant maintenance costs; and

"(3) costs associated with repair, upkeep, replacement, and upgrading of the instructional equipment.

"(b) **PAYMENTS.**—(1) For each fiscal year, the Secretary shall provide amounts to institutions that are approved for grants under section 385 in 2 payments.

"(2)(A) The first payment shall be made before the end of the 30-day period beginning on the date of the enactment of an Act providing appropriations for such fiscal year for purposes of carrying out this part. Except as provided in subparagraph (B), such payment shall be in an amount that is equal to at least 50 percent of the amount determined to be required under subsection (a) for the preceding year.

"(B) In the first year that an institution receives a grant under this part, the Secretary shall determine the amount of the first payment by estimating the costs described in subsection (a) based upon information submitted by the institution.

"(3) Each institution that receives a grant under section 385 shall receive a final payment of amounts to which it is entitled based on its costs under subsection (a) not

later than January 1 of the fiscal year in which the costs are incurred.

"(c) ACCOUNTING.—Each institution receiving payments under this part shall annually provide to the Secretary an accurate and detailed accounting of its operating and maintenance expenses and such other information concerning costs as the Secretary may reasonably require.

"(d) ADDITIONAL GRANTS AUTHORIZED.—(1) After providing grants to all eligible institutions under subsection (a), the Secretary shall, from any amounts remaining—

"(A) first allocate to institutions receiving their first grant under this part an amount equal to the training equipment costs necessary to implement training programs; and

"(B) from any remaining funds, review training equipment needs at each institution receiving assistance under this part at the end of the 5-year period beginning on the first day of the first year for which the institution received a grant under this part, and provide allocations for other training equipment needs if it is demonstrated by the institution that its training equipment has become obsolete for its purposes, or that the development of other training programs is appropriate.

"(2) For the purposes of carrying out this subsection, the Secretary may require from each institution the submission of such information relating to the feasibility of such training programs as is reasonable and practical.

"SEC. 387. EFFECT ON OTHER PROGRAMS.

"(a) IN GENERAL.—Except as specifically provided in this Act, eligibility for assistance under this part shall not preclude any tribally controlled postsecondary vocational institution from receiving Federal financial assistance under any program authorized under the Higher Education Act of 1965 or any other applicable program for the benefit of institutions of higher education or vocational education.

"(b) PROHIBITION ON ALTERATION OF GRANT AMOUNT.—The amount of any grant for which tribally controlled postsecondary vocational institutions are eligible under this part shall not be altered because of funds allocated to any such institution from funds appropriated under the Act of November 2, 1921.

"(c) PROHIBITION ON CONTRACT DENIAL.—No tribally controlled postsecondary vocational institution for which an Indian tribe has designated a portion of the funds appropriated for the tribe from funds appropriated under the Act of November 2, 1921, may be denied a contract for such portion under the Indian Self-Determination and Education Assistance Act (except as provided in that Act), or denied appropriate contract support to administer such portion of the appropriated funds.

"SEC. 388. GRANT ADJUSTMENTS.

"(a) ALLOCATION.—(1) If the sums appropriated for any fiscal year for grants under this part are not sufficient to pay in full the total amount which approved applicants are eligible to receive under this part for such fiscal year, the Secretary shall first allocate to each such applicant which received funds under this part for the preceding fiscal year an amount equal to 100 percent of the product of the per capita payment for the preceding fiscal year and such applicant's Indian student count for the current program year, plus an amount equal to the actual cost of any increase to the per capita figure resulting from inflationary increases to necessary costs beyond the institution's control.

"(2) For purposes of paragraph (1), the per capita payment for any fiscal year shall be determined by dividing the amount available for grants to tribally controlled postsecondary vocational institutions under this part for such program year by the sum of the Indian student counts of such institutions for such program year. The Secretary shall, on the basis of the most accurate data available from the institutions, compute the Indian student count for any fiscal year for which such count was not used for the purpose of making allocations under this part.

"(b) NEEDS ESTIMATE.—The Secretary shall, based on the most accurate data available from the institutions and Indian tribes whose Indian students are served under this part, in consideration of employment needs, economic development needs, population training needs, prepare an actual budget needs estimate for each institution eligible under this part for each subsequent program year, and submit such budget needs estimate to the Congress in such a timely manner as will enable the appropriate committees of the Congress to consider such needs data for purposes of the uninterrupted flow of adequate appropriations to such institutions.

"SEC. 389. REPORT ON FACILITIES AND FACILITIES IMPROVEMENT.

"(a) STUDY OF TRAINING AND HOUSING NEEDS.—(1) The Secretary shall conduct a detailed study of the training and housing needs of each institution eligible under this part.

"(2) The study required by paragraph (1) shall include an examination of—

"(A) training equipment needs; and

"(B) housing needs of families whose heads of household are students and whose dependents have no alternate source of support while such heads of household are students.

"(3) The Secretary shall report to the Congress not later than July 1, 1991, on the results of the study required by paragraph (1).

"(4) The report required by paragraph (3) shall—

"(A) include the number, type, and cost of meeting the needs described in paragraph (2); and

"(B) rank each institution by relative need.

"(5) In conducting the study required by paragraph (1), the Secretary shall give priority to institutions which are receiving assistance under this part.

"(b) LONG-TERM STUDY OF FACILITIES.—(1) The Secretary shall provide for the conduct of a long-term study of facilities of each institution eligible for assistance under this part.

"(2) The study required by paragraph (1) shall include a 5-year projection of training facilities and equipment and housing needs and shall consider such factors as projected service population, employment and economic development forecasting, based on the most current and accurate data available from the institutions and Indian tribes affected.

"(3) The Secretary shall submit to the Congress a detailed report on the results of such study not later than the end of the 18-month period beginning on the date of the enactment of this Act.

"(4) The Secretary shall submit to the Congress a progress report not less often than once every 6 months, beginning on the date of the enactment of this Act, concerning activities conducted pursuant to this section.

"(c) CONSTRUCTION AND RENOVATION GRANTS.—Pursuant to the studies conducted and the report submitted under subsections

(a) and (b), the Secretary is authorized to make grants to the tribally controlled vocational institutions for construction, rehabilitation, major alterations and renovation of buildings and other physical structures for the conduct of programs funded under this part. Such grants shall be made in such time and pursuant to such applications as the Secretary shall by regulation determine.

"SEC. 390. DEFINITIONS.

"For the purposes of this part:

"(1) The terms 'Indian' and 'Indian tribe' have the meaning given such terms in section 2 of the Tribally Controlled Community College Assistance Act of 1978.

"(2) The term 'tribally controlled postsecondary vocational institution' means an institution of higher education which is formally controlled, or has been formally sanctioned or chartered by the governing body of an Indian tribe or tribes which offers technical degrees or certificate granting programs.

"(3) The term 'Indian student count' means a number equal to the total number of Indian students enrolled in each tribally controlled vocational institution, determined as follows:

"(A) The registrations of Indian students as in effect on October 1 of each year.

"(B) Credits or clock hours toward a certificate earned in classes offered during a summer term shall be counted toward the computation of the Indian student count in the succeeding fall term.

"(C) Credits or clock hours toward a certificate earned in classes during a summer term shall be counted toward the computation of the Indian student count if the institution at which the student is in attendance has established criteria for the admission of such student on the basis of the student's ability to benefit from the education or training offered. The institution shall be presumed to have established such criteria if the admission procedures for such studies include counseling or testing that measures the student's aptitude to successfully complete the course in which the student has enrolled. No credit earned by such student for purposes of obtaining a high school degree or its equivalent shall be counted toward the computation of the Indian student count.

"(D) Indian students earning credits in any continuing education program of a tribally controlled vocational institution shall be included in determining the sum of all credit or clock hours.

"(E) Credits or clock hours earned in a continuing education program shall be converted to the basis that is in accordance with the institution's system for providing credit for participation in such programs."

SEC. 312. TRIBAL ECONOMIC DEVELOPMENT.

The Tribally Controlled Community College Assistance Act of 1978 is amended by adding at the end the following new title:

"TITLE IV—TRIBAL ECONOMIC DEVELOPMENT

"SEC. 401. SHORT TITLE.

"This title may be cited as the 'Tribal Economic Development and Technology Related Education Assistance Act of 1990'.

"SEC. 402. GRANTS AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary is authorized, subject to the availability of appropriations, to make grants to tribally controlled community colleges which receive grants under either this Act or the Navajo Community College Act for the establishment and support of tribal economic development and education institutes. Each program conducted with assistance under a

grant under this subsection shall include at least the following activities:

"(1) Determination of the economic development needs and potential of the Indian tribes involved in the program, including agriculture and natural resources needs.

"(2) Development of consistent courses of instruction to prepare postsecondary students, tribal officials and others to meet the needs defined under paragraph (1). The development of such courses may be coordinated with secondary institutions to the extent practicable.

"(3) The conduct of vocational courses, including administrative expenses and student support services.

"(4) Technical assistance and training to Federal, tribal and community officials and business managers and planners deemed necessary by the institution to enable full implementation of, and benefits to be derived from, the program developed under paragraph (1).

"(5) Clearinghouse activities encouraging the coordination of, and providing a point for the coordination of, all vocational activities (and academically related training) serving all students of the Indian tribe involved in the grant.

"(6) The evaluation of such grants and their effect on the needs developed under paragraph (1) and tribal economic self-sufficiency.

"(b) AMOUNT AND DURATION.—The grants shall be of such amount and duration as to afford the greatest opportunity for success and the generation of relevant data.

"(c) APPLICATIONS.—Institutions which receive funds under other titles of this Act or the Navajo Community College Act may apply for grants under this title either individually or as consortia. Each applicant shall act in cooperation with an Indian tribe or tribes in developing and implementing a grant under this part.

"SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for grants under this part \$2,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the 5 succeeding fiscal years."

SEC. 313. FACILITIES.

Section 112 of the Tribally Controlled Community College Assistance Act of 1978 is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary shall enter into a contract with an organization described in paragraph (2) to establish and provide on an annual basis criteria for the determination and prioritization in a consistent and equitable manner of the facilities construction and renovation needs of colleges that receive funding under this Act or the Navajo Community College Act.

"(2) An organization described in this section is any organization that—

"(A) is eligible to receive a contract under the Indian Self-Determination and Education Assistance Act; and

"(B) has demonstrated expertise in areas and issues dealing with tribally controlled community colleges.

"(3) The Secretary shall include the priority list established pursuant to this subsection in the budget submitted annually to the Congress."

TITLE IV—NATIONAL PROGRAMS

SEC. 401. RESEARCH AND DEVELOPMENT.

The heading for part A of title IV of the Act is amended to read as follows:

"PART A—RESEARCH AND DEVELOPMENT"

SEC. 402. RESEARCH OBJECTIVES.

Section 401 of the Act (20 U.S.C. 2401) is amended—

(1) in paragraph (1), by striking "single parents or homemakers" and inserting "single parents, displaced homemakers, or single pregnant women";

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) to authorize additional research and development activities that are related to the purposes of this Act as stated in section 2."

SEC. 403. RESEARCH ACTIVITIES.

Section 402 of the Act is amended—

(1) in subsection (a)—

(A) by striking "National Institute of Education or any other division of the Department of Education which the Secretary determines to be appropriate" and inserting "Office of Educational Research and Improvement";

(B) in paragraph (1), by striking "individuals who are single parents or homemakers" and inserting "single parents, displaced homemakers, single pregnant women";

(C) by striking paragraphs (5) and (6);

(D) by redesignating paragraph (4) as paragraph (6);

(E) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively;

(F) by redesignating paragraph (7) as paragraph (8);

(G) by inserting after paragraph (1) the following new paragraphs:

"(2) research on the development and implementation of performance standards and measures that fit within the needs of State boards or eligible recipients in carrying out the provisions of this Act and on the relationship of such standards and measures to the data system established under section 421, which may include evaluation of existing performance standards and measures and dissemination of such information to the State board and eligible recipients;

"(3) evaluation of the use of performance standards and measures under this Act and the effect of such standards and measures on the participation of students in vocational education programs and on the outcomes of students in such programs, especially students who are members of special populations";

(H) in paragraph (6) (as redesignated by subparagraph (D) of this section)—

(i) by inserting "and more advanced" after "basic"; and

(ii) by inserting "and problem-solving" after "academic"; and

(I) by inserting after paragraph (6) (as redesignated by subparagraph (D) of this section) the following new paragraph:

"(7) successful methods for providing students, to the maximum extent practicable, with experience in and understanding of all aspects of the industry such students are preparing to enter; and"

(2) by amending subsection (b) to read as follows:

"(b) In addition, the Secretary shall support meritorious, unsolicited research proposals from individual researchers, community colleges, State advisory councils, and State and local educators relating to the goals of this Act."

(3) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively; and

(4) by inserting after subsection (b) the following new subsection:

"(c) DISSEMINATION.—The Secretary shall establish a system for disseminating information resulting from research and development activities carried out under this Act. In establishing such system, the Secretary shall use existing dissemination systems, including the National Diffusion Network, the National Center or Centers for Research in Vocational Education, and the National Network for Curriculum Coordination in Vocational and Technical Education, in order to assure broad access at the State and local levels to the information being disseminated.

"(2)(A) In order to comply with paragraph (1), the Secretary shall establish through grants or contracts a National Network for Curriculum Coordination in Vocational and Technical Education (in this paragraph referred to as the 'Network') consisting of 6 regional curriculum coordination centers. The Network shall—

"(i) provide national dissemination of information on effective vocational education programs and materials, with particular attention to regional programs;

"(ii) be accessible by electronic means;

"(iii) provide leadership and technical assistance in the design, development, and dissemination of curricula for vocational education;

"(iv) coordinate the sharing of information among the States with respect to vocational education curricula;

"(v) reduce duplication of effort in State activities for the development of vocational education curricula; and

"(vi) promote the use of research findings with respect to vocational education curricula.

"(B) The Secretary shall encourage the designation by each State of a liaison representative for the Network"; and

(5) in paragraph (1) of subsection (e) (as redesignated in paragraph (3)) by striking "(1)"; and

(6) by striking paragraph (2) of subsection (e) (as redesignated in paragraph (3)).

SEC. 404. NATIONAL ASSESSMENT.

Section 403 of the Act is amended to read as follows:

"SEC. 403. NATIONAL ASSESSMENT OF VOCATIONAL EDUCATION PROGRAMS.

"(a) IN GENERAL.—(1) The Office of Education Research and Improvement (in this section referred to as the 'Office') shall conduct a national assessment of vocational education programs assisted under this Act, through studies and analyses conducted independently through competitive awards.

"(2) The Office shall appoint an independent advisory panel, consisting of vocational education administrators, educators, researchers, and representatives of business, industry, labor, and other relevant groups, to advise the Office on the implementation of such assessment, including the issues to be addressed, the methodology of the studies, and the findings and recommendations. The panel, at its discretion, may submit to the Congress an independent analysis of the findings and recommendations of the assessment. The Federal Advisory Committee Act shall not apply to the panel established under this paragraph.

"(b) CONTENTS.—The assessment required under subsection (a) shall include descriptions and evaluations of—

"(1) the effect of this Act on State and tribal administration of vocational education programs and on local vocational edu-

cation practices, including the capacity of State, tribal and local vocational education systems to address the priorities identified in this Act;

"(2) expenditures at the Federal, State, tribal and local levels to address program improvement in vocational education, including the impact of Federal allocation requirements (such as within-State allocation formulas) on the delivery of services;

"(3) preparation and qualifications of teachers of vocational and academic curricula in vocational education programs, as well as shortages of such teachers;

"(4) participation in vocational education programs, including, in particular, access of individuals who are members of special populations to high-quality vocational education programs and the effect on the delivery of services to such populations, of Federal legislation giving States flexibility in allocating funds to serve such populations;

"(5) academic and employment outcomes of vocational education, including analyses of—

"(A) the effect of educational reform on vocational education;

"(B) the extent and success of integration of academic and vocational curricula;

"(C) the success of the school-to-work transition; and

"(D) the degree to which vocational training is relevant to subsequent employment;

"(6) employer involvement in, and satisfaction with, vocational education programs;

"(7) the effect of performance standards and other measures of accountability on the delivery of vocational education services;

"(8) the effect of Federal requirements regarding criteria for services to special populations, participatory planning in the States, and articulation between secondary and postsecondary programs;

"(9) coordination of services under this Act, the Adult Education Act, the Job Training Partnership Act, the National Apprenticeship Act, the Rehabilitation Act of 1973, and the Wagner-Peyser Act; and

"(10) the degree to which minority students are involved in vocational student organizations.

"(c) CONSULTATION.—(1) The Secretary shall consult with the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives in the design and implementation of the assessment required under subsection (a).

"(2) The Secretary shall submit to the Congress—

"(A) an interim report on or before January 1, 1994; and

"(B) a final report, summarizing all studies and analyses completed after the assessment, on or before July 1, 1994.

"(3) Notwithstanding any other provision of law or regulation, the reports required by this subsection shall not be subject to any review outside of the Office of Educational Research and Improvement before their transmittal to the Congress, but the President, the Secretary, and the independent advisory council established under subsection (a)(2) may make such additional recommendations to the Congress with respect to the assessment as they deem appropriate.

"(d) STUDY.—(1) The assessment required by subsection (a) shall include a study of the distribution of Federal vocational education funds to the States. The study shall—

"(A) consider the distributional effects of the formula for allocation to the States established in section 101(a)(2), including the

age cohorts and the per capita income allotment ratios;

"(B) examine the impact that various other factors such as State tax capacity, tax effort, per capita income, poverty and educational achievement, could have in achieving the Federal goals and policy objectives of this Act;

"(C) specifically address the appropriate distribution mechanism to serve the target populations of this Act;

"(D) explore the use of other possible methods of targeting funds to individuals who are members of special populations, particularly individuals who are economically disadvantaged, including the poverty rate of the school-aged population, the gross State product per school-aged child, relative tax capacity, and tax effort of the State, unemployment figures, and dropout rates.

"(2) The findings of the study required by paragraph (1) shall be used to formulate recommendations on the most appropriate criteria and methods to direct Federal funds to the States and to achieve the Federal goals and policy objectives of this Act.

"(3) The study required under paragraph (1) shall be completed by January 1, 1994."

SEC. 405. NATIONAL CENTER OR CENTERS FOR RESEARCH IN VOCATIONAL EDUCATION.

Section 404 of the Act is amended to read as follows:

"SEC. 404. NATIONAL CENTER OR CENTERS FOR RESEARCH IN VOCATIONAL EDUCATION.

"(a) GENERAL AUTHORITY.—(1) In order to address the purposes of this Act through the involvement of a broad array of individuals, including both vocational and academic teachers and administrators, the Secretary is authorized to award a grant or grants for the establishment of 1 or 2 national centers in the areas of—

"(A) applied research and development; and

"(B) dissemination and training.

"(2)(A) Each entity selected to establish and operate a Center pursuant to paragraph (1) shall operate such Center for a period of 5 years.

"(B) Beginning after December 31, 1992, the Secretary shall award an annual grant to the National Center or Centers selected pursuant to paragraph (1) for each of the 5 years such National Center is operated. After the third year in which the National Center or Centers receive a grant under this section the Secretary shall review the research priorities of the National Center or Centers.

"(3) Of the amount available pursuant to section 451(a)(1) for purposes of carrying out this section, at least 2/3 of such amount shall be available for applied research and development.

"(4)(A) The Secretary shall hold a competition at the same point in time for the grant or grants for the activities described in paragraph (1). Any institution of higher education or consortium of such institutions may compete for either or both sets of activities.

"(B) For the purpose of this section the term 'institution of higher education' has the same meaning as provided by section 435(b) of the Higher Education Act of 1965.

"(5) If an institution or consortium demonstrates that it can effectively carry out both activities either directly or through contracting, such institution or consortium shall be given a preference in the grant selection. If no institution or consortium demonstrates such capability and 2 grants are awarded, the Secretary must assure coordination of the activities under both grants.

"(6) Not more than 10 percent of each year's budget for the Center or for each of the Centers may be used to respond to field-initiated needs unanticipated prior to the annual funding period and which are in the mission of the Center but not part of the scope of work of the grant.

"(7) The National Center in existence on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 shall continue to operate through its 5-year cycle ending December 31, 1992.

"(b) ACTIVITIES.—(1) The applied research and development activities shall include—

"(A) economic changes that affect the skills which employers seek and entrepreneurs need;

"(B) integration of academic and vocational education;

"(C) efficient and effective practices for addressing the needs of special populations;

"(D) efficient and effective methods for delivering vocational education;

"(E) articulation of school and college instruction with high quality work experience;

"(F) recruitment, education, and enhancement of vocational teachers and other professionals in the field;

"(G) accountability processes in vocational education, to include identification and evaluation of the use of appropriate performance standards for student, program, and State-level outcomes;

"(H) effective practices that educate students in all aspects of the industry the students are preparing to enter;

"(I) effective methods for identifying and inculcating literacy and other communication skills essential for effective job preparation and job performance;

"(J) identification of strategic, high priority occupational skills and skills formation approaches needed to maintain the competitiveness of the United States work force, sustain high-wage, high-technology jobs and which address national priorities such as technical jobs needed to protect and restore the environment;

"(K) identification of practices and strategies that address entrepreneurial development for minority-owned enterprises; and

"(L) upon negotiation with the Center, and if funds are provided pursuant to subsection (d), such other topics as the Secretary may designate.

"(2) The Center conducting the activities described in paragraph (1) shall annually prepare a study on the research conducted on approaches that lead to effective articulation for the education-to-work transition, including tech-prep programs, cooperative education or other work-based programs, such as innovative apprenticeship or mentoring approaches, and shall submit copies of such study to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(c) DISSEMINATION AND TRAINING.—(1) The dissemination and training activities shall include—

"(A) teacher and administrator training and leadership development;

"(B) technical assistance to assure that programs serving special populations are effective in delivering well-integrated and appropriately articulated vocational and academic offerings for secondary, postsecondary, and adult students;

"(C) needs assessment, design, and implementation of new and revised programs

with related curriculum materials to facilitate vocational-academic integration;

"(D) evaluation and follow-through to maintain and extend quality programs;

"(E) assistance in technology transfer and articulation of program offerings from advanced technology centers to minority enterprises;

"(F) assistance to programs and States on the use of accountability indicators, including appropriate and innovative performance standards;

"(G) delivery of information and services using advanced technology, where appropriate, to increase the effectiveness and efficiency of knowledge transfer;

"(H) development of processes for synthesis of research, in cooperation with a broad array of users, including vocational and non-vocational educators, employers and labor organizations;

"(I) dissemination of exemplary curriculum and instructional materials, and development and publication of curriculum materials (in conjunction with vocational and non-vocational constituency groups, where appropriate);

"(J) technical assistance in recruiting hiring, and advancing minorities in vocational education; and

"(K) upon negotiation with the Center and if funds are provided pursuant to subsection (d), such other topics as the Secretary may designate.

"(2) The Center conducting the activities described in paragraph (1) shall annually prepare a study on the dissemination and training activities described in paragraph (1) and shall submit copies of such study to the Secretary of Education, the Secretary of Labor, the Secretary of Health and Human Services, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(d) AUTHORIZATION OF OTHER RESEARCH.—There are authorized to be appropriated \$3,000,000 for the fiscal year 1991 and such sums as may be necessary for each of the fiscal years 1992, 1993, 1994, and 1995 to carry out such additional activities assigned by the Secretary to the National Center in existence on the date of enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990 until the termination of its grant on December 31, 1992 and to carry out the provisions of subsections (b)(1)(L) and (c)(1)(K).

SEC. 406. DEMONSTRATION PROGRAMS.

(a) IN GENERAL.—Part B of title IV of the Act is amended to read as follows:

"PART B—DEMONSTRATION PROGRAMS

"SEC. 411. PROGRAMS AUTHORIZED.

"(a) IN GENERAL.—From amounts available pursuant to section 101(a)(1)(A) in each fiscal year, the Secretary shall make demonstration grants in accordance with the provisions of this part.

"(b) PRIORITY.—In awarding demonstration grants pursuant to this part, the Secretary shall give priority to the programs described in sections 412 and 413.

"SEC. 412. MATERIALS DEVELOPMENT IN TELECOMMUNICATIONS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to nonprofit educational telecommunications entities to pay the Federal share of the costs of the development, production, and distribution of instructional telecommunications materials and services for use in local vocational and technical educational schools and colleges.

"(b) FEDERAL SHARE.—(1) The Federal share of the cost of each project assisted under this section shall be 50 percent.

"(2) The non-Federal share of the cost of each project assisted under this section shall be provided from non-Federal sources.

"(c) USE OF FUNDS.—Grants awarded pursuant to this section may be used to provide—

"(1) a sequential course of study that includes either preproduced video courseware or direct interactive teaching delivered via satellite, accompanied by a variety of print and computer-based instructional materials;

"(2) the development of individual videocassettes or a series of videocassettes that supplement instruction, which shall be distributed both via broadcast and nonbroadcast means;

"(3) videodiscs that produce simulated hands-on training; and

"(4) teacher training programs for vocational educators and administrators and correctional educators.

"(d) PRIORITY.—In awarding grants under this section the Secretary shall give priority to programs or projects which serve—

"(1) students in area vocational and technical schools;

"(2) teachers, administrators, and counselors in need of training or retraining;

"(3) out-of-school adults in need of basic skills improvement or a high school equivalency diploma to improve the employability of such individuals;

"(4) college students, particularly college students who are working toward a 2-year associate degree from a technical or community college;

"(5) workers in need of basic skills, vocational instruction, or career counseling to retain employment; and

"(6) workers who need to improve their skills to obtain jobs in high-growth industries.

"SEC. 413. DEMONSTRATION CENTERS FOR THE TRAINING OF DISLOCATED WORKERS.

(a) GENERAL AUTHORITY.—The Secretary is authorized to establish 1 or more demonstration centers for the retraining of dislocated workers. Such center or centers may provide for the recruitment of unemployed workers, vocational evaluation, assessment and counseling services, vocational and technical training, support services, and job placement assistance. The design and operation of each center shall provide for the utilization of appropriate existing Federal, State, and local programs.

"(b) EVALUATION.—The Secretary shall provide for the evaluation of each center established under subsection (a).

"(c) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information on successful retraining models developed by any center established under subsection (a) through dissemination programs operated by the Secretary and the Secretary of Labor.

"(d) ELIGIBLE ORGANIZATIONS.—Any private, nonprofit organization that is eligible to receive funding under the Job Training Partnership Act is eligible to receive funding under this section.

"SEC. 414. PROFESSIONAL DEVELOPMENT.

(a) TRAINING AND STUDY GRANTS.—(1) The Secretary is authorized to provide grants to institutions of higher education, State educational agencies, or State correctional education agencies to provide grants, awards, or stipends—

"(A) to individuals who are entering the field of vocational education;

"(B) for graduate training in vocational education;

"(C) for vocational teacher education; and

"(D) for attracting gifted and talented students in vocational programs into further study and professional development.

(2) Grants, awards, and stipends awarded under paragraph (1) shall provide—

"(A) opportunities for experienced vocational educators;

"(B) opportunities for—

"(i) certified teachers who have been trained to teach in other fields to become vocational educators, including teachers with skills related to vocational fields who can be trained as vocational educators, and especially minority instructors and instructors with experience in teaching individuals who are economically disadvantaged, individuals with handicaps, students of limited English proficiency, and adult and juvenile criminal offenders;

"(ii) individuals in industry who have skills and experience in vocational fields to be trained as vocational educators; and

"(iii) vocational educators to improve or maintain technological currency in their fields; and

"(C) opportunities for gifted and talented vocational education secondary and post-secondary students to intern with Federal or State agencies, nationally recognized vocational education associations and student organizations or the National Center or Centers for Research in Vocational Education.

"(b) LEADERSHIP DEVELOPMENT AWARDS.—(1) In order to meet the needs of all States for qualified vocational education leaders (such as administrators, supervisors, teacher educators, researchers, career guidance and vocational counseling personnel, vocational student organization leadership personnel and teachers in vocational education programs), the Secretary shall make grants to institutions of higher education for leadership development awards. Individuals selected for such awards shall—

"(A) have not less than 3 years of experience in vocational education or in industrial training, or, in the case of researchers, experience in social science research which is applicable to vocational education;

"(B) are currently employed or are reasonably assured of employment in vocational education and have successfully completed at least a baccalaureate degree program;

"(C) are recommended by their employer, or others, as having leadership potential in the field of vocational education and have been accepted for admission as a graduate student in a program of higher education approved by the Secretary; and

"(D) have made a commitment to return to the field of vocational education upon completion of education provided through the leadership development award.

"(2) For a period of not more than 3 years, stipends shall be paid to individuals selected for leadership development awards. Such stipends shall be paid (including allowances for tuition, nonrefundable fees, and other expenses for such individuals and their dependents) as may be determined to be consistent with prevailing practices.

"(3) The Secretary may provide grants to institutions for stipends to individuals, which shall not exceed \$9,000 per individual per academic year or its equivalent and \$3,000 per individual per summer session or its equivalent.

"(4) The Secretary shall approve the application of the vocational education program of an institution of higher education for the purposes of this section only upon finding that—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research, and curriculum development;

"(B) such program is designed to substantially advance the objective of improving vocational education through providing opportunities for graduate training of vocational teachers, supervisors, and administrators, and of university-level vocational education teacher educators and researchers; and

"(C) such programs are conducted by a school of graduate study in the institution of higher education.

"(5) The Secretary, in carrying out this subsection shall apportion leadership development awards to institutions of higher education equitably among the States, taking into account such factors as the State's vocational education enrollments and the need for additional vocational education personnel in the State.

"(6) Each individual who receives a leadership development award under this subsection shall receive payments as provided in paragraph (2) for not more than a 3-year period during which such individual is—

"(A) pursuing a full-time course of study in vocational education in an approved institution of higher education;

"(B) maintaining satisfactory proficiency in such course of study; and

"(C) not engaged in gainful employment other than part-time employment by such institution in teaching, research, or similar activities.

"(c) VOCATIONAL EDUCATOR TRAINING FELLOWSHIPS.—(1) The purpose of this subsection is to provide fellowships—

"(A) to meet the need to provide adequate numbers of teachers and related classroom instructors in vocational education who are technologically current in their fields;

"(B) to take full advantage of the education which has been provided to already certified teachers who are unable to find employment in their fields of training and of individuals employed in industry who have skills and experience in vocational fields; and

"(C) to encourage more instructors from minority groups and teachers with skills and experience with individuals of limited English proficiency to become vocational education teachers.

"(2) The Secretary shall make available fellowships, in accordance with the provisions of this subsection, to individuals (especially minority instructors and instructors with experience in teaching individuals who are economically disadvantaged, individuals with disabilities, students of limited English proficiency, and adult and juvenile criminal offenders) who—

"(A)(i) are employed in vocational education and need an opportunity to improve or maintain technological skills;

"(II) are certified by a State, or were so certified during the 10-year period preceding their application for a fellowship under this subsection, as teachers in secondary schools, area vocational education schools or institutions, or in community or junior colleges; and

"(III) have skills and experiences in vocational fields so that such individuals can be trained to be vocational educators; or

"(ii) are employed in agriculture, business, or industry (and may or may not hold a baccalaureate degree) and have skills and experience in vocational fields for which there is a need for vocational educators;

"(B) have been accepted in a program to become a vocational educator by an institution of higher education approved by the Secretary; and

"(C) have made a commitment to work in the field of vocational education upon completion of such program.

"(2) The Secretary shall, for a period of not more than 2 years, provide stipends to individuals who are awarded fellowships under this subsection (including such allowances for tuition, nonrefundable fees, subsistence and other expenses for such individuals and the dependents of such individuals) as the Secretary may determine to be consistent with prevailing practices.

"(3) The Secretary shall approve an institution of higher education under this subsection if—

"(A) the institution offers a comprehensive program in vocational education with adequate supporting services and disciplines such as education administration, career guidance and vocational counseling, research and curriculum development; and

"(B) such program is available to individuals receiving fellowships under this subsection so that such individuals receive the same quality of education and training provided for undergraduate students at such institution who are preparing to become vocational education teachers.

"(4) The Secretary shall apportion the fellowships available under this subsection equitably among the States, taking into account such factors as the State's vocational education enrollments, and the need in the State for additional vocational educators, especially minority educators and individuals with skills and experience in teaching individuals of limited English proficiency.

"(5) Individuals receiving fellowships under this subsection shall continue to receive payments provided in paragraph (2) only during such period as such individuals—

"(A) are maintaining satisfactory proficiency;

"(B) are devoting full time to study in the field of vocational education in an institution of higher education; and

"(C) are not engaging in gainful employment other than part-time employment by such institution.

"(6)(A) The Secretary shall, before the beginning of each fiscal year for which amounts are appropriated or otherwise made available to carry out this subsection, publish a listing of—

"(i) the areas of teaching in vocational education in need of additional personnel;

"(ii) the areas of teaching which will likely have need of additional personnel in the future; and

"(iii) areas of teaching in which technological upgrading may be especially critical.

"(B) The listing required by subparagraph (A) shall be based on information from the National Occupational Information Coordinating Committee, State occupational information coordinating committees, the vocational education data system established pursuant to section 421, and other appropriate sources.

"(7) In selecting recipients for fellowships under this subsection, the Secretary shall, to the maximum extent practicable, grant fellowships to individuals seeking to become teachers or improve their skills in the areas identified in the listing required by paragraph (6)(A).

"(d) INTERNSHIPS FOR GIFTED AND TALENTED STUDENTS.—(1) The purpose of this subsection is to provide stipends for internships to

meet the need of attracting gifted and talented vocational education students into further study and professional development in the field of vocational education.

"(2)(A) The Secretary shall, from recommendations provided by State directors of vocational education, select gifted and talented students from vocational education secondary and postsecondary programs to work as interns for Federal and State agencies, nationally recognized vocational education associations, or the National Center or Centers for Research in Vocational Education. Each such student shall receive a stipend for the period of the student's internship, which shall not exceed 9 months. Such stipend shall cover subsistence and other expenses for such individuals and shall be in such amount as the Secretary may determine to be consistent with prevailing practices.

"(B) Each individual selected under this paragraph shall have been recommended as gifted and talented by a vocational educator at the secondary or postsecondary school the student attends.

"(C) Each individual selected under this paragraph shall, during the period of such individual's internship, be provided with professional supervision by an individual qualified and experienced in the field of vocational education at the agency or institution at which the internship is offered.

"SEC. 415. BLUE RIBBON VOCATIONAL EDUCATION PROGRAMS.

"(a) INFORMATION DISSEMINATION.—The Secretary is authorized to disseminate information and exemplary materials regarding effective vocational education.

"(b) STANDARDS OF EXCELLENCE.—(1) The Secretary, in consultation with the National Center or Centers for Research in Vocational Education (in this section referred to as the 'National Center or Centers for Research'), the National Diffusion Network, and the Blue Ribbon Schools Program, is authorized to carry out programs to recognize secondary and postsecondary schools or programs which have established standards of excellence in vocational education and which have demonstrated a high level of quality. Such schools and programs shall be known as 'Blue Ribbon Vocational Programs'. The Secretary shall competitively select schools and programs to be recognized from among public and private schools or programs within the States and schools funded by the Department of the Interior.

"(2) In the case of a private school or vocational education program that is designated as a Blue Ribbon Vocational Education Program, the Secretary shall make suitable arrangements to provide the award to such school.

"(c) Awards.—(1) The Secretary, in consultation with the National Center or Centers for Research and the National Occupational Information Coordinating Committee (in this section referred to as the 'Committee'), is authorized to designate each fiscal year a category or several categories of vocational education, which may include tech-prep education, in which Blue Ribbon Vocational Education Program awards will be named. Such categories shall emphasize the expansion or strengthening of the participation of individuals who are members of special populations and may give special consideration to any of the following:

"(A) program improvement;

"(B) academic and occupational competencies; and

"(C) other categories determined by the Secretary in consultation with the National Center or Centers for Research and the Committee.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(d) CONSULTATION.—(1) The Secretary shall carry out the provisions of this section, including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency, area vocational education school, intermediate educational agency, tribal authority, Bureau of Indian Affairs, or appropriate State agency with jurisdiction over the school or program involved submits an application to the Secretary at such time, in such manner and containing such information as the Secretary may reasonably require.

"SEC. 416. DEVELOPMENT OF BUSINESS AND EDUCATION STANDARDS.

"(a) FINDINGS.—The Congress finds that, in order to meet the needs of business for competent entry-level workers who have received a quality vocational education, national standards should be developed for competencies in industries and trades.

"(b) GENERAL AUTHORITY.—(1) The Secretary, in consultation with the Secretary of Labor, is authorized to establish a program of grants to industrial trade associations, labor organizations, or comparable national organizations for purposes of organizing and operating business-labor-education technical committees.

"(2) The committees established with assistance under this section shall propose national standards for competencies in industries and trades. Such standards shall at least include standards for—

"(A) major divisions or specialty areas identified within occupations studied;

"(B) minimum hours of study to be competent in such divisions or specialty areas;

"(C) minimum tools and equipment required in such divisions or specialty areas;

"(D) minimum qualifications for instructional staff; and

"(E) minimum tasks to be included in any course of study purporting to prepare individuals for work in such divisions or specialty areas.

"(c) MATCHING REQUIREMENT.—Each recipient of a grant under this section shall agree to provide for the committee to be established under the grant an amount equal to the amount provided under the grant.

"(d) APPLICATION.—Any industrial trade association, labor organization, national joint apprenticeship committee, or comparable national organization that desires to receive a grant under this section shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"SEC. 417. EDUCATIONAL PROGRAMS FOR FEDERAL CORRECTIONAL INSTITUTIONS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to Federal correctional institutions in consortia with educational institutions, community-based organizations of demonstrated effectiveness, or business and industry, to provide education and training for criminal offenders in such institutions.

"(b) USE OF FUNDS.—Grants awarded pursuant to this section may be used for—

"(1) basic education programs with an emphasis on literacy instruction;

"(2) vocational training programs;

"(3) guidance and counseling programs; and

"(4) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after such offenders are released from correctional institutions.

"SEC. 418. DROPOUT PREVENTION.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to partnerships between—

"(1) local educational agencies or area vocational education schools; and

"(2) institutions of higher education or public or private nonprofit organizations which have an established record of vocational education strategies that prevent students from dropping out of school.

"(b) USE OF FUNDS.—Grants awarded under this section shall be used to develop, implement, and operate vocational education programs designed to prevent students from dropping out of school. Such programs shall—

"(1) serve special populations, including significant numbers of economically disadvantaged dropout-prone youth;

"(2) provide inservice training for teachers and administrators in dropout prevention; and

"(3) disseminate information relating to successful dropout prevention strategies and programs through the National Dropout Prevention Network and the Center on Adult, Career and Vocational Education of the Educational Resources Information Clearinghouse.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to partnerships which—

"(1) provide the special support services necessary to help individual students successfully complete the program such as mentoring, basic skills education, and services which address barriers to learning; and

"(2) utilize measures to integrate basic and academic skills instruction with work experience and vocational education.

"SEC. 419. MODEL PROGRAMS OF REGIONAL TRAINING FOR SKILLED TRADES.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to regional model centers which provide—

"(1) training for skilled tradesmen within a region serving several States; and

"(2) technical assistance for programs which train such tradesmen within a region serving several States.

"(b) USE OF FUNDS.—The regional model centers described in subsection (a) shall—

"(1) provide training and career counseling for skilled tradesmen in areas of skill shortages or projected skill shortages;

"(2) provide prejob and apprenticeship training and career counseling in skilled trades;

"(3) upgrade specialized craft training; and

"(4) improve the access of women, minorities, economically disadvantaged individuals, individuals with handicaps and ex-criminal offenders to trade occupations and training.

"(c) SPECIAL RULE.—In awarding grants under this section, and to the extent practicable, the Secretary shall ensure an equitable distribution of funds available under this section to the various skilled trades.

"SEC. 420. DEMONSTRATION PROJECTS FOR THE INTEGRATION OF VOCATIONAL AND ACADEMIC LEARNING.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to make grants to institutions of higher education, area vocational education schools, local educational agencies, secondary schools funded by the Bureau of Indian Affairs, State boards, public or private nonprofit organizations, or any consortia thereof, to develop, implement and operate programs using different models of curricula which integrate vocational and academic learning by—

"(1) designing integrated curricula and courses;

"(2) providing inservice training for teachers and administrators in integrated curricula; and

"(3) disseminating information regarding effective integrative strategies to other school districts through the National Diffusion Network established under section 1562 of the Elementary and Secondary Education Act of 1965.

"(b) REQUIREMENTS RELATING TO GRANT AWARDS.—In awarding grants under this section, the Secretary shall ensure—

"(1) an equitable geographic distribution of funds awarded pursuant to this section;

"(2) that programs supported under this section offer significantly different approaches to integrating curricula;

"(3) that the programs supported under this section serve individuals who are members of special populations;

"(4) that programs supported under this section serve—

"(A) vocational students in secondary schools and at postsecondary institutions;

"(B) individuals enrolled in adult programs; and

"(C) single parents, displaced homemakers, and single pregnant women; and

"(5) that adequate evaluation measures will be employed to measure the effectiveness of the curriculum approaches supported under this section."

"SEC. 420A. COOPERATIVE DEMONSTRATION PROGRAMS.

"(a) PROGRAM AUTHORIZED.—The Secretary is authorized to carry out, directly or through grants to or contracts with State and local educational agencies, postsecondary educational institutions, institutions of higher education, and other public and private agencies, organizations, and institutions, programs and projects which support—

"(1) model programs providing improved access to quality vocational education programs for those individuals described in section 521(31) of this Act and for men and women seeking nontraditional occupations;

"(2) examples of successful cooperation between the private sector and public agencies in vocational education, involving employers or consortia of employers or labor organizations and building trade councils, and State boards or eligible recipients designed to demonstrate ways in which vocational education and the private sector of the economy can work together effectively to assist vocational education students to attain the advanced level of skills needed to make the transition from school to productive employment, including—

"(A) work experience and apprenticeship programs;

"(B) transitional worksite job training for vocational education students which is related to their occupational goals and closely linked to classroom and laboratory instruction provided by an eligible recipient;

"(C) placement services in occupations which the students are preparing to enter;

"(D) where practical, projects (such as the rehabilitation of public schools or housing in inner cities or economically depressed rural areas) that will benefit the public; and

"(E) employment-based learning programs;"

"(3) programs to overcome national skill shortages, as designated by the Secretary in cooperation with the Secretary of Labor, Secretary of Defense, and Secretary of Commerce;

"(4) model programs described in section 312(b)(1), including child growth and development centers;

"(5) grants to community-based organizations in partnerships with local schools, institutions of higher education, and businesses for programs and projects that assist disadvantaged youths in preparing for technical and professional health careers (which partnerships should include in-kind contributions from such schools, institutions, and businesses and involve health professionals serving as preceptors and counselors); and

"(6) model programs providing improved access to vocational education programs through centers to be known as agriculture action centers, which programs shall be operated under regulations developed by the Secretary in consultation with the Secretary of Labor and—

"(A) shall assist—

"(i) individuals who are adversely affected by farm and rural economic downturns;

"(ii) individuals who are dislocated from farming; and

"(iii) individuals who are dislocated from agriculturally-related businesses and industries that are adversely affected by farm and rural economic downturns;

"(B) shall provide services, including—

"(i) crisis management counseling and outreach counseling that would include members of the family of the affected individual;

"(ii) evaluation of vocational skills and counseling on enhancement of such skills;

"(iii) assistance in obtaining training in basic, remedial, and literacy skills;

"(iv) assistance in seeking employment and training in employment-seeking skills; and

"(v) assistance in obtaining training related to operating a business or enterprise;

"(C) shall provide for formal and on-the-job training to the extent practicable; and

"(D) shall be coordinated with activities and discretionary programs conducted under title III of the Job Training Partnership Act.

"(b)(1) Projects described in clause (2) of subsection (a) may include institutional and on-the-job training, supportive services authorized by this Act, and such other necessary assistance as the Secretary determines to be necessary for the successful completion of the project.

"(2) Not less than 25 percent of the cost of the demonstration programs authorized by this subpart shall be provided by the recipient of the grant or contract, and such share may be in the form of cash or in-kind contributions, including facilities, overhead, personnel, and equipment fairly valued.

"(c) All programs assisted under this section shall be—

"(1) of direct service to individuals enrolled in such programs; and

"(2) capable of wide replication by service providers.

"(d) The Secretary shall disseminate the results of the programs and projects assisted

under this section in a manner designed to improve the training of teachers, other instructional personnel, counsellors, and administrators who are needed to carry out the purposes of this Act.

SEC. 107. DATA SYSTEMS AUTHORIZED.

Section 421 of the Act (20 U.S.C. 2421) is amended to read as follows:

"SEC. 421. DATA SYSTEMS AUTHORIZED.

"(a) ESTABLISHMENT OF SYSTEM.—(1) The Secretary shall, directly, or by grant, contract or cooperative agreement, establish a vocational educational data system (in this section referred to as the 'system'), using comparative information elements and uniform definitions, to the extent practicable.

"(2) The Secretary shall establish the system not later than the end of the 6-month period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990.

"(3) The National Center for Education Statistics (in this section referred to as the 'National Center') shall coordinate the development and implementation of the system.

"(b) FUNCTIONS OF SYSTEM.—Through the system, the Secretary shall collect data and analyze such data in order to provide—

"(1) the Congress with information relevant to policymaking; and

"(2) Federal, State, and local agencies and Tribal agencies with information relevant to program management, administration and effectiveness with respect to education and employment opportunities.

"(c) CONTENTS OF SYSTEM.—(1)(A) The system shall include information—

"(i) describing the major elements of the vocational education system on at least a national basis, including information with respect to teachers, administrators, students, facilities, and, to the extent practicable, equipment; and

"(ii) describing the condition of vocational education with respect to the elements described in clause (i).

"(B) The information described in subparagraph (A) shall be provided, to the extent practicable, in the context of other educational data relating to the condition of the overall education system.

"(C) The Secretary, in consultation with the Task Force, the National Center, and the Office of Adult and Vocational Education (in this section referred to as the 'Office'), shall modify existing general purpose and program data systems to ensure that an appropriate vocational education component is included in the design, implementation and reporting of such systems in order to fulfill the information requirements of this section.

"(2) The information system shall include data reflecting the extent of participation of the following populations:

"(A) women;

"(B) Indians;

"(C) individuals with handicaps;

"(D) individuals of limited English proficiency;

"(E) economically disadvantaged students (including information on students in rural and urban areas);

"(F) adults who are in need of training and retraining;

"(G) single parents;

"(H) youths incarcerated in juvenile detention or correctional facilities or criminal offenders who are serving time in correctional institutions;

"(I) individuals who participate in programs designed to eliminate gender bias and sex stereotyping in vocational education;

"(J) minorities; and

"(K) displaced homemakers.

"(3) The Secretary, in consultation with the National Center and the Office, shall maintain and update the system at least every 3 years and assure the system provides the highest quality statistics and is adequate to meet the information needs of this Act. In carrying out the requirements of this paragraph, the Secretary shall ensure that appropriate methodologies are used in assessments of students of limited English proficiency and students with handicaps to ensure valid and reliable comparisons with the general student population and across program areas. With respect to standardized tests and assessments administered under this Act, test results shall be used as 1 of multiple independent indicators in assessment of performance and achievement.

"(d) ASSESSMENT OF INTERNATIONAL COMPETITIVENESS.—The Center shall carry out an assessment of data availability and adequacy with respect to international competitiveness in vocational skills. To the extent practicable, the assessment shall include comparative policy-relevant data on vocational education in nations which are major trade partners of the United States. The assessment shall at a minimum identify available internationally comparative data on vocational education and options for obtaining and upgrading such data. The results of the assessment required by this paragraph shall be reported to the appropriate committees of the Congress not later than August 31, 1994.

"(e) USE OF AND COMPATIBILITY WITH OTHER DATA COLLECTION SYSTEMS.—(1) In establishing, maintaining, and updating the system, the Secretary shall—

"(A) use existing data collection systems operated by the Secretary and, to the extent appropriate, data collection systems operated by other Federal agencies;

"(B) conduct additional data collection efforts to augment the data collection systems described in subparagraph (A) by providing information necessary for policy analysis required by this section; and

"(C) use any independent data collection efforts that are complementary to the data collection efforts described in subparagraphs (A) and (B).

"(2) In carrying out the responsibilities imposed by this part, the Secretary shall cooperate with the Secretary of Commerce, the Secretary of Labor, and the National Occupational Information Coordinating Committee established under section 422 with respect to the development of an information system under section 463 of the Job Training Partnership Act to ensure that the information system operated under this section is compatible with and complementary to other occupational supply and demand information systems developed or maintained with Federal assistance. The Secretary shall also ensure that the system allows international comparisons to the extent feasible.

"(3) The Secretary shall assure that the system, to the extent practicable, uses data definitions common to State plans, performance standards, local applications and evaluations required by this Act. The data in the system shall be available for use in preparing such plans, standards, applications, and evaluations.

"(f) REPORTS.—The Secretary shall report to the Congress at least biennially with respect to—

"(1) the performance of the system established under subsection (a); and

"(2) strategies to improve the system and expand its implementation.

"(g) VOCATIONAL EDUCATION ADVISORY TASK FORCE.—(1) The Secretary, in consultation with the National Center and the Office shall establish a Vocational Education Advisory Task Force.

"(2) The Secretary shall establish the Task Force before the expiration of the 90-day period beginning on the date of the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, and shall terminate upon the expiration of the 2-year period beginning on such date.

"(3) The Task Force shall advise the Secretary on the development and implementation of an information reporting and accounting system responsive to the diverse programs supported by this Act.

"(4) The membership of the Task Force shall be representative of Federal, State, and local agencies and Tribal agencies affected by technological information, representatives of secondary and vocational postsecondary educational institutions, representatives of vocational student organizations, representatives of special populations, representatives of adult training programs funded under this Act, and representatives of apprenticeships, business, and industry.

"(5) The National Center shall provide the Task Force with staff for the purpose of carrying out its functions.

"(h) ASSESSMENT OF EDUCATIONAL PROGRESS ACTIVITIES.—As a regular part of its assessments, the National Assessment of Educational Progress shall collect and report information for at least a nationally representative subsample of vocational education students, including students who are members of special populations, which shall allow for fair and accurate assessment and comparison of the educational achievement of vocational education students and other students in the areas assessed. Such assessment may include international comparisons.

SEC. 108. NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE.

(a) AMENDMENT TO HEADING.—The heading for section 422 of the Act is amended to read as follows:

"NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE".

(b) AMENDMENT TO TEXT.—Section 422 of the Act is amended—

(1) in subsection (a)—

(A) by inserting after "Coordinating Committee" the following: "(in this section referred to as the 'Committee')";

(B) by inserting after "Office of Bilingual Education and Minority Language Affairs," the following: "the Assistant Secretary for Postsecondary Education,";

(C) by striking "(Manpower, Reserve Affairs, and Logistics)" and inserting "(Force Management and Personnel)";

(D) in paragraph (2), by inserting before the semicolon the following: "including regularly updated data on employment demand for agribusiness";

(E) in paragraph (3)—

(i) by striking "conduct studies on" and inserting the following: "conduct studies to improve the quality and delivery of occupational information systems to assist economic development activities, and examine"; and

(ii) by striking "and" at the end thereof;

(F) by redesignating paragraph (4) as paragraph (6); and

(G) by inserting after paragraph (3) the following new paragraphs:

"(4) continue training, technical assistance activities to support comprehensive career guidance, and vocational counseling programs designed to promote improved career decisionmaking by individuals (especially in areas of career information delivery and use);

"(5) coordinate the efforts of Federal, State, and local agencies and Tribal agencies with respect to such programs; and";

(2) by adding at the end the following new subsections:

"(c)(1)(A) The Committee, in consultation with the National Center or Centers for Research in Vocational Education, appropriate Federal agencies, and the States, shall establish a demonstration program to monitor educational outcomes for vocational education using wage and other records. The Committee shall develop procedures for establishing and maintaining nationally accessible information on a sample of wage and earnings records maintained by States on earnings, establishment and industry affiliation and geographical location, and on educational activities. This information shall be collected on at least an annual basis. The program shall ensure that a scientific sample of vocational education students and nonvocational education students, local educational agencies, and States participate in the program. The Committee shall maintain, analyze, and report data collected under the program and shall provide technical assistance to States, local educational agencies, and others that wish to participate in the study.

"(B)(i) Participation in the program described in subparagraph (A) shall be voluntary. The Committee shall enter into an agreement with any State which desires to carry out a study for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(I) that the State will participate in the study;

"(II) that the State will pay from non-Federal sources the non-Federal share of participation; and

"(III) that the State agrees to the terms and conditions specified in this section.

"(ii) For each fiscal year, the non-Federal share for the purpose of this program shall be the cost of conducting the study in the State, including the cost of administering the assessment for the State sample and the cost of coordination within the State.

"(2) The program shall provide for an independent evaluation conducted by the Office of Technology Assessment of the Congress to assess the validity, fairness, accuracy, and utility of the data it produces. The report shall also describe the technical problems encountered and a description of what was learned about how to best implement and utilize data from the program.

"(3) The provision of wage and other records to the Committee by a State employment security agency shall be voluntary and pursuant to an agreement between the Committee and the agency. Such agreement shall take into consideration issues such as—

"(A) reimbursing the State employment security agency for the costs to the agency of providing the information; and

"(B) compliance with safeguards established by the State employment security agency and determined by the Secretary of Labor to be appropriate to ensure that the information disclosed to the Committee is used only for the purposes of this subsection.

"(4) The Executive Director of the Committee, in consultation with the Secretary, shall ensure that all personally identifiable

information about students, their educational performance and their families and information with respect to individual schools shall remain confidential in accordance with the provisions of section 552 of title 5, United States Code. The data gathered under this subsection shall not be used to rank, compare, or otherwise evaluate individual students or individual schools. No individual may be included in the program without that individual's written consent. At least once every 3 years the Secretary shall remind participants in writing of their inclusion in the program.

"(d) Of amounts reserved under section 451(a)(3)(A) to carry out the provisions of this section, the Committee shall use—

"(1) to support State occupational information coordinating committees for the purpose of operating State occupational information systems and career information delivery systems, the greater of—

"(A) an amount equal to the aggregate amount appropriated or otherwise made available for that purpose for the fiscal year 1990; or

"(B) an amount equal to 75 percent of the aggregate amount appropriated or otherwise made available to carry out this section; and

"(2) for purposes of carrying out subsection (c)—

"(A) an amount equal to not less than 10 percent of the amounts available to carry out this section; or

"(B) if the amount remaining after carrying out paragraph (1) is insufficient to provide the amount described in subparagraph (A), such remaining amount."

SEC. 109. INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM.

Section 423 of the Act is amended to read as follows:

"SEC. 123. INFORMATION BASE FOR VOCATIONAL EDUCATION DATA SYSTEM.

"(a) INFORMATION RELATING TO STUDENTS WITH HANDICAPS.—(1) The Secretary shall ensure that adequate information on access to vocational education by secondary school students with handicaps is maintained in the data system established under section 421.

"(2) The system shall include detailed information obtained through scientific sample surveys concerning—

"(A) types of programs available; and

"(B) enrollment of students with handicaps by—

"(i) type of program;

"(ii) type of instructional setting; and

"(iii) type of handicap.

"(3)(A) The General Accounting Office shall conduct a 3-year study, using representative samples, of the effects of the amendments made by title II of the Carl D. Perkins Vocational and Applied Technology Education Amendments of 1990 on the access to and participation in vocational education of disadvantaged students, students with handicaps, students of limited English proficiency, and, to the extent practicable, foster children.

"(B) The study shall include consideration of issues such as—

"(i) the proportion of students described in paragraph (1) who are enrolled in vocational education programs during the first 3 program years to the amendments made by the Carl D. Perkins Vocational and Applied Technology Education Amendments Act of 1990 apply compared to the program year preceding such years;

"(ii) the number of such students who enroll in vocational education programs for the first time during the period of study;

"(iii) the number of such students who participate in vocational education programs that lead to an occupational skill or job placement;

"(iv) the extent to which academics are incorporated with vocational education courses;

"(v) the manner in which vocational education programs have addressed special needs of such students for supportive services, material, and equipment;

"(vi) the comparability of vocational education services provided to such students with vocational education services provided to students who are not members of special populations; and

"(vii) in the case of students with handicaps—

"(I) the types and severity of handicaps of such students who enroll in vocational education programs;

"(II) the extent to which such students participate in the same vocational education programs as students who do not have handicaps;

"(III) the number of such students with individualized education programs developed under section 614(a)(5) of the Education of the Handicapped Act who have individualized education programs that include vocational education programs;

"(IV) the extent to which special personnel such as special education personnel or vocational rehabilitation personnel assist in the selection and provision of vocational education programs with respect to such students;

"(V) the extent to which such students and their parents are involved in selecting vocational education courses and programs;

"(VI) the number of such students who have returned to secondary vocational education programs after dropping out of or formally exiting the local educational system; and

"(VII) the ages of such students.

"(C) In conducting the study required by this subsection, the General Accounting Office may consider and include information from other sources to address or augment the issues considered in the study.

"(4) The General Accounting Office shall submit to the appropriate committees of the Congress a report describing the results of the study conducted as required by this subsection not later than July 1, 1995.

"(b) INFORMATION RELATING TO STUDENTS WHO HAVE COMPLETED SECONDARY SCHOOL.—

(1) To carry out the provisions of this section, in accordance with the provisions of section 3 of the Technology Assessment Act of 1972, the Office of Technology Assessment shall conduct an assessment of a sample of tests designed to be administered to students who have completed secondary school to assess the level of technical knowledge relating to broad technical fields possessed by such students. The assessment shall include at least—

"(A) an assessment of the quality, validity, reliability, and predictive capability of widely used vocational aptitude and competency tests and assessments, with particular attention to—

"(i) the use of such assessments with respect to students who are members of special populations; and

"(ii) patterns of actual usage with respect to entry into vocational education programs, promotion within such programs, completion of such programs, and placement in appropriate positions;

"(B) identification of trends in such tests and assessments, including any relationship to vocational education curricula; and

"(C) identification of policy options for—

"(i) strengthening development and quality of such tests and assessments to ensure that such tests and assessments are conducted in an impartial manner that does not penalize students on the basis of race, sex, or economic background; and

"(ii) means of sustaining competition in the development of such tests and assessments.

"(2) The results of the study required by paragraph (1) shall be reported to the appropriate committees of the Congress not later than September 30, 1994."

SEC. 416. MISCELLANEOUS PROVISIONS.

Part C of title IV of the Act is amended by adding at the end the following new section:

"SEC. 424. MISCELLANEOUS PROVISIONS.

"(a) COLLECTION OF INFORMATION AT REASONABLE COST.—The Secretary shall take such action as may be necessary to secure at reasonable cost the information required by this part. To ensure reasonable cost, the Secretary, in consultation with the Vocational Education Task Force, the National Center for Education Statistics, the Office of Vocational and Adult Education, and the National Occupational Information Coordinating Committee shall determine the methodology to be used and the frequency with which information is to be collected.

"(b) COOPERATION OF STATES.—All States receiving assistance under this Act shall cooperate with the Secretary in implementing the information systems developed pursuant to this part."

SEC. 411. REPEAL OF NATIONAL COUNCIL ON VOCATIONAL EDUCATION.

(a) IN GENERAL.—Part D of title IV of the Act (20 U.S.C. 2431) is repealed.

(b) CLERICAL AMENDMENT.—The table of contents contained in section 1 of the Act (20 U.S.C. 2301 note) is amended by striking the items relating to part D and to section 431.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on October 1, 1991.

SEC. 412. GENERAL PROVISIONS.

Section 451 of the Act is amended to read as follows:

"SEC. 451. DISTRIBUTION OF ASSISTANCE.

"(a) IN GENERAL.—Subject to the provisions of subsection (b) and section 504, of the amounts available pursuant to section 3(e)(1) for any fiscal year for this title—

"(1) 30 percent shall be available for part A, relating to research and development, of which 90 percent shall be available for section 404, relating to the National Center or Centers;

"(2) 30 percent shall be available for part B, relating to demonstration programs; and

"(3) 40 percent shall be available for part C, relating to vocational education and occupational information data systems, of which not less than—

"(A) 22 percent of the total amount appropriated pursuant to the authority of section 3(e) shall be available to carry out section 422, relating to the National Occupational Information Coordinating Committee;

"(B) 8 percent shall be available to carry out the provisions of section 421, relating to data systems; and

"(C) 10 percent shall be available to carry out the provisions of section 402(c), relating to the National Network for Curriculum Coordination.

"(b) HOLD HARMLESS.—Notwithstanding the provisions of subsection (a), the

amounts available to carry out the activities described in subsection (a)(1) and in subsections (a)(3)(A) and (a)(3)(C) shall be at least equal to the amounts made available for such activities in the fiscal year 1990."

TITLE V—GENERAL PROVISIONS

SEC. 501. FEDERAL ADMINISTRATIVE PROVISIONS.

(a) ELIMINATION OF MATCHING REQUIREMENTS AND TRANSFER OF STATE PROVISION.—(1) Sections 502, 504, and 505 of the Act (20 U.S.C. 2462, 2465, 2466) are repealed.

(2) Sections 503 and 506 of the Act (20 U.S.C. 2463, 2466), are redesignated as sections 502 and 503, respectively.

(b) MAINTENANCE OF EFFORT.—The first sentence of section 502(b) of the Act (as redesignated by subsection (a)(2) of this section) is amended by inserting after "this section" the following: "(with respect to not more than 5 percent of expenditures by any State educational agency)".

(c) ADDITIONAL ADMINISTRATIVE PROVISIONS.—Title V of the Act (20 U.S.C. 2461 et seq.) is amended—

(1) by redesignating part B as part C; and

(2) by inserting after section 503 the following:

"SEC. 504. REGIONAL MEETINGS AND NEGOTIATED RULEMAKING.

"(a) IN GENERAL.—(1) The Secretary shall convene regional meetings to obtain public involvement in the development of proposed regulations under the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. Such meetings shall include individuals and representatives of groups involved in vocational education programs under this Act, such as Federal, State, tribal and local administrators, parents, teachers, members of local boards of education and special populations.

"(2) During each meeting described in paragraph (1), the Secretary shall provide for a comprehensive discussion and exchange of information on at least 4 key issues, selected by the Secretary, concerning implementation of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990. The Secretary shall take into account information received at such meetings in the development of proposed regulations, and shall publish a summary of such information in the Federal Register together with such proposed regulations.

"(b) DRAFT REGULATIONS.—After holding regional meetings and before publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations under this Act and submit regulations on at least 2 key issues to a negotiated rulemaking process. The Secretary shall follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4 and 85-5, 'Procedures for Negotiating Proposed Regulations' (1 C.F.R. 305.82-4 and 85-5) and any successor recommendation, regulation, or law. Participants in the negotiation process shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in subsection (a)(1) and all geographic regions. At least 10 participants, 1 from each of the regions served by a regional office established pursuant to section 416 of the Department of Education Organization Act, representing the groups described in subsection (a)(1), shall be chosen under the preceding sentence. The negotiation process shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period

required by section 431(g) of the General Education Provisions Act.

"(c) **SPECIAL RULE.**—If a regulation must be issued within a very limited time period to assist States and eligible recipients with the operation of a program under this Act, the Secretary may issue a regulation without fulfilling the requirements of subsections (a) and (b), but shall immediately convene regional meetings to review the regulation before such regulation is issued in final form.

"(d) **APPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.**—The Federal Advisory Committee Act shall not apply to activities carried out under this section.

"(e) **RESERVATION OF AMOUNTS.**—For the fiscal year 1991, the Secretary may reserve for purposes of carrying out subsection (b) not more than \$300,000 from amounts made available under section 31e).

"SEC. 505. REQUIREMENTS RELATING TO REPORTS, PLANS, AND REGULATIONS.

"The General Accounting Office shall, upon the request of any Member of the Congress—

"(1) investigate the circumstances of any failure by the Secretary to submit any report or research finding or issue any regulation required by this Act by the time specified in the provision of this Act requiring the submission of such report or research finding or issuance of such regulation; and

"(2) submit to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report containing the results of any investigation conducted pursuant to paragraph (1), including an identification of the cause of delay and of the office or offices of the Department of Education or of the Office of Management and Budget responsible for the delay.

"SEC. 506. FEDERAL LAWS GUARANTEEING CIVIL RIGHTS.

"Nothing in this Act shall be construed to be inconsistent with appropriate Federal laws guaranteeing civil rights.

"SEC. 507. STUDENT ASSISTANCE AND OTHER FEDERAL PROGRAMS.

"(a) **ATTENDANCE COSTS NOT TREATED AS INCOME OR RESOURCES.**—The portion of any student financial assistance received under this Act that is made available for attendance costs described in subsection (b) shall not be considered as income or resources in determining eligibility for assistance under any other program funded in whole or in part with Federal funds.

"(b) **ATTENDANCE COSTS.**—The attendance costs described in this subsection are—

"(1) tuition and fees normally assessed a student carrying the same academic workload as determined by the institution, and including costs for rental or purchase of any equipment, materials, or supplies required of all students in the same course of study; and

"(2) an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for a student attending the institution on at least a half-time basis, as determined by the institution.

"SEC. 508. FEDERAL MONITORING.

"The Secretary shall make every effort to provide adequate monitoring of compliance by recipients of assistance under this Act with the provisions of this Act. Such monitoring activities shall be developed by the Secretary in consultation with parents, students, and advocacy organizations, and shall—

"(1) consider items such as whether the provisions of the State plan are being fully implemented;

"(2) consider items such as whether the State board's monitoring of local recipients of assistance under this Act is adequate to assure full compliance with the provisions of this Act by such recipients;

"(3) consider items such as whether the State-level coordinators for individuals who are members of special populations are able to review the local plans for serving such individuals;

"(4) consider items such as whether the other State responsibilities under this Act are being implemented; and

"(5) provide for input from students, parents, teachers, and special populations in the States.

"PART B—STATE ADMINISTRATIVE PROVISIONS

"SEC. 511. JOINT FUNDING.

"(a) **GENERAL AUTHORITY.**—Funds made available to States under this Act may be used to provide additional funds under an applicable program if—

"(1) such program otherwise meets the requirements of this Act and the requirements of the applicable program;

"(2) such program serves the same individuals that are served under this Act;

"(3) such program provides services in a coordinated manner with services provided under this Act; and

"(4) such funds would be used to supplement, and not supplant, funds provided from non-Federal sources.

"(b) **APPLICABLE PROGRAMS.**—For the purposes of this section, the term 'applicable program' means any program under any of the following provisions of law:

"(1) Section 123, title II, and title III of the Job Training Partnership Act.

"(2) The Wagner-Peyser Act.

"(c) **ISSUANCE OF REGULATIONS.**—Notwithstanding the provisions of section 504, the Secretary shall develop regulations to be issued under this section in consultation with the Secretary of Labor.

"(d) **USE OF FUNDS AS MATCHING FUNDS.**—For the purposes of this section, the term 'additional funds' includes the use of funds as matching funds.

"SEC. 512. REVIEW OF REGULATIONS.

"(a) **ESTABLISHMENT OF REVIEW COMMITTEE.**—Except as provided in subsection (b), before any State publishes any proposed or final state rule or regulation pursuant to this Act, the State shall establish and convene a State Committee of Practitioners (in this section referred to as the 'Committee') for the purpose of reviewing such rule or regulation. The Committee shall be selected from nominees solicited from State organizations representing school administrators, teachers, parents, members of local boards of education, and appropriate representatives of institutions of higher education. The Committee shall consist of—

"(1) representatives of local educational agencies, who shall constitute a majority of the members of the Committee;

"(2) school administrators;

"(3) teachers;

"(4) parents;

"(5) members of local boards of education;

"(6) representatives of institutions of higher education; and

"(7) students.

"(b) **LIMITED EXCEPTION.**—In an emergency, where a regulation must be issued within a very limited time period to assist eligible recipients with the operation of a program, the State may issue a regulation without ful-

filling the requirements of subsection (a), but shall immediately convene the Committee to review the regulation before it is issued in final form.

"SEC. 513. IDENTIFICATION OF STATE-IMPOSED REQUIREMENTS.

"Any State rule or policy imposed on the administration or operation of programs funded by this Act, including any rule or policy based on State interpretation of any Federal law, regulation, or guideline, shall be identified as a State imposed requirement.

"SEC. 514. PROHIBITION ON USE OF FUNDS TO INDUCE OUT-OF-STATE RELOCATION OF BUSINESSES.

"No funds provided under this Act shall be used for the purpose of directly providing incentives or inducements to an employer to relocate a business enterprise from 1 State to another State if such relocation would result in a reduction in the number of jobs available in the State where the business enterprise is located before such incentives or inducements are offered.

"SEC. 515. STATE ADMINISTRATIVE COSTS.

"For each fiscal year for which a State receives assistance under this Act, the State shall provide from non-Federal sources for costs the State incurs for administration of programs under this Act an amount that is not less than the amount provided by the State from non-Federal sources for such costs for the preceding fiscal year.

"SEC. 516. ADDITIONAL ADMINISTRATIVE PROVISIONS.

"(a) **IN GENERAL.**—(1)(A) Funds made available under title II shall be used to supplement, and to the extent practicable increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the application, and in no case supplant such State or local funds.

"(B) Notwithstanding subparagraph (A), funds made available under title II may be used to pay for the costs of vocational education services required in an individualized education plan developed pursuant to sections 612(4) and 614(a)(5) of the Education of the Handicapped Act, in a manner consistent with section 614(a)(1) of such Act, and services necessary to meet the requirements of section 504 of the Rehabilitation Act of 1973 with respect to ensuring equal access to vocational education.

"(2) No State shall take into consideration payments under this Act in determining, for any educational agency or institution in that State, the eligibility for State aid, or the amount of State aid, with respect to public education within the State.

"(b) **LIMITATION.**—Any project assisted with funds made available under title II shall be of sufficient size, scope, and quality to give reasonable promise of meeting the vocational education needs of the students involved in the project.

"(c) **PERMISSIBLE SERVICES AND ACTIVITIES.**—(1) Vocational education services and activities authorized in title II may include work-site programs such as cooperative vocational education, programs with community-based organizations, work-study, and apprenticeship programs.

"(2) Vocational education services and activities described in title II may include placement services for students who have successfully completed vocational education programs.

"(3) Vocational education services and activities described in title II may include programs which involve students in addressing

the needs of the community in the production of goods or services which contribute to the community's welfare or which involve the students with other community development planning, institutions, and enterprises.

"(d) **ACADEMIC CREDIT.**—Each State board receiving financial assistance under title II may consider granting academic credit for vocational education courses which integrate core academic competencies.

SEC. 502. DEFINITIONS.

Section 521 of the Act is amended to read as follows:

"SEC. 521. DEFINITIONS.

"As used in this Act:

"(1) The term 'administration' means activities of a State necessary for the proper and efficient performance of its duties under this Act, including supervision, but does not include curriculum development activities, personnel development, or research activities.

"(2) The term 'all aspects of the industry' means strong experience in, and understanding of, all aspects of the industry the students are preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor issues, and health and safety.

"(3) The term 'apprenticeship training program' means a program registered with the Department of Labor or the State apprenticeship agency in accordance with the Act of August 16, 1937, commonly known as the National Apprenticeship Act, which is conducted or sponsored by an employer, a group of employers, or a joint apprenticeship committee representing both employers and a union, and which contains all terms and conditions for the qualification, recruitment, selection, employment, and training of apprentices.

"(4) The term 'area vocational education school' means—

"(A) a specialized high school used exclusively or principally for the provision of vocational education to individuals who are available for study in preparation for entering the labor market;

"(B) the department of a high school exclusively or principally used for providing vocational education in not less than 5 different occupational fields to individuals who are available for study in preparation for entering the labor market;

"(C) a technical institute or vocational school used exclusively or principally for the provision of vocational education to individuals who have completed or left high school and who are available for study in preparation for entering the labor market; or

"(D) the department or division of a junior college, community college or university operating under the policies of the State board and which provides vocational education in not less than 5 different occupational fields leading to immediate employment but not necessarily leading to a baccalaureate degree, if, in the case of a school, department, or division described in subparagraph (C) or this subparagraph, it admits as regular students both individuals who have completed high school and individuals who have left high school.

"(5) The term 'career guidance and counseling' means programs—

"(A) which pertain to the body of subject matter and related techniques and methods organized for the development in individuals of career awareness, career planning, career decisionmaking, placement skills,

and knowledge and understanding of local, State, and national occupational, educational, and labor market needs, trends, and opportunities; and

"(B) which assist such individuals in making and implementing informed educational and occupational choices.

"(6) The term 'community-based organization' means any such organization of demonstrated effectiveness described in section 4(5) of the Job Training Partnership Act.

"(7) The term 'construction' includes construction of new buildings and acquisition, and expansion, remodeling, and alternation of existing buildings, and includes site grading and improvement and architect fees.

"(8) The term 'cooperative education' means a method of instruction of vocational education for individuals who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field. Such alternation shall be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half days, full days, weeks, or other periods of time in fulfilling the cooperative program.

"(9) The term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender.

"(10) The term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"(11) The term 'Council' means the National Council on Vocational Education.

"(12) The term 'curriculum materials' means instructional and related or supportive material, including materials using advanced learning technology, in any occupational field which is designed to strengthen the academic foundation and prepare individuals for employment at the entry level or to upgrade occupational competencies of those previously or presently employed in any occupational field, and appropriate counseling and guidance material.

"(13) The term 'disadvantaged' means individuals (other than individuals with handicaps) who have economic or academic disadvantages and who require special services and assistance in order to enable such individuals to succeed in vocational education programs. Such term includes individuals who are members of economically disadvantaged families, migrants, individuals of limited English proficiency and individuals who are dropouts from, or who are identified as potential dropouts from, secondary school.

"(14) The term 'displaced homemaker' means an individual who—

"(A) is an adult; and

"(B)(i) has worked as an adult primarily without remuneration to care for the home and family, and for that reason has diminished marketable skills;

"(ii) has been dependent on public assistance or on the income of a relative but is no longer supported by such income;

"(iii) is a parent whose youngest dependent child will become ineligible to receive as-

sistance under the program for aid to families with dependent children under part A of title IV of the Social Security Act within 2 years of the parent's application for assistance under this Act; or

"(iv) is unemployed or underemployed and is experiencing difficulty in obtaining any employment or suitable employment, as appropriate, or

"(C) is described in subparagraph (A) or (B) and is a criminal offender.

The Secretary may not prescribe the manner in which the States will comply with the application of the definition contained in this paragraph.

"(15) The term 'economically disadvantaged family or individual' means such families or individuals who are determined by the Secretary to be low-income according to the latest available data from the Department of Commerce.

"(16) Except as otherwise provided, the term 'eligible recipient' means a local educational agency, an area vocational education school, an intermediate educational agency, a postsecondary educational institution, a State corrections educational agency, or an eligible institution (as such term is defined in section 232(d)(1)).

"(17) The term 'general occupational skills' means experience in and understanding of all aspects of the industry the student is preparing to enter, including planning, management, finances, technical and production skills, underlying principles of technology, labor and community issues, and health, safety, and environmental issues.

"(18) The term 'high technology' means state-of-the-art computer, microelectronic, hydraulic, pneumatic, laser, nuclear, chemical, telecommunication, and other technologies being used to enhance productivity in manufacturing, communication, transportation, agriculture, mining, energy, commercial, and similar economic activity, and to improve the provision of health care.

"(19) The term 'individual with handicaps' means any individual who is an individual with any disability (as defined in section 3(2) of the Americans With Disabilities Act of 1990).

"(20) The term 'intermediate educational agency' means a combination of school districts or counties (as defined in section 1471(5) of the Elementary and Secondary Education Act of 1965) as are recognized in a State as an administrative agency for such State's vocational or technical education schools or for vocational programs within its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction over a public elementary or secondary school.

"(21) The term 'limited English proficiency' has the meaning given such term in section 703(a)(1) of the Elementary and Secondary Education Act of 1965.

"(22) The term 'local educational agency' means a board of education or other legally constituted local school authority having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision in a State, or any other public educational institution or agency having administrative control and direction of a vocational education program. For the purposes of sections 114, 115, 116, 117, and 240, such term shall include a State corrections educational agency.

"(23) The term 'postsecondary educational institution' means an institution legally au-

thorized to provide postsecondary education within a State, a Bureau of Indian Affairs controlled postsecondary institution, or any postsecondary educational institution operated by or on behalf of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934.

"(24) the term 'preparatory services' means services, programs, or activities designed to assist individuals who are not enrolled in vocational education programs in the selection of, or preparation for participation in, an appropriate vocational education or training program, such as—

"(A) services, programs, or activities related to outreach to or recruitment of potential vocational education students;

"(B) career counseling and personal counseling;

"(C) vocational assessment and testing; and

"(D) other appropriate services, programs, or activities;

"(25) The term 'private vocational training institution' means a business or trade school, or technical institution or other technical or vocational school, in any State, which—

"(A) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution;

"(B) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations;

"(C) has been in existence for 2 years or has been specially accredited by the Secretary as an institution meeting the other requirements of this subsection; and

"(D) is accredited—

"(i) by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this clause;

"(ii) if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit schools of a particular category, by a State agency listed by the Secretary pursuant to this clause; or

"(iii) if the Secretary determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by the Secretary and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards.

For the purpose of this paragraph, the Secretary shall publish a list of nationally recognized accrediting agencies or associations and State agencies which the Secretary determines to be reliable authority as to the quality of education or training afforded.

"(26) The term 'school facilities' means classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed. Such term shall not include any facility intended primarily for events for which admission is to be charged to the general public.

"(27) The term 'Secretary' means the Secretary of Education.

"(28) The term 'small business' means for-profit enterprises employing 500 or fewer employees.

"(29) the term 'sequential course of study' means an integrated series of courses which are directly related to the educational and occupational skills preparation of individuals for jobs, or preparation for postsecondary education.

"(30) The term 'single parent' means an individual who—

"(A) is unmarried or legally separated from a spouse; and

"(B)(i) has a minor child or children for which the parent has either custody or joint custody; or

"(ii) is pregnant.

"(31) The term 'special populations' includes individuals with handicaps, educationally and economically disadvantaged individuals (including foster children), individuals of limited English proficiency, individuals who participate in programs designed to eliminate sex bias, and individuals in correctional institutions.

"(32) The term 'specific job training' means training and education for skills required by the employer that provides the individual student with the ability to obtain employment and to adapt to the changing demands of the workplace.

"(33) The term 'State' includes, in addition to the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, and Palau (until the Compact of Free Association with Palau takes effect pursuant to section 101(a) of Public Law 99-658).

"(34) The term 'State board' means a State board designated or created by State law as the sole State agency responsible for the administration of vocational education, or for supervision of the administration of vocational education in the State.

"(35) the term 'State corrections educational agency' means the State agency or agencies responsible for carrying out corrections education programs in the State.

"(36) The term 'State council' means the State council on vocational education established in accordance with section 112.

"(37) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary or secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

"(38) The term 'supplementary services' means curriculum modification, equipment modification, classroom modification, supportive personnel, and instructional aids and devices.

"(39) the term 'technology education' means an applied discipline designed to promote technological literacy which provides knowledge and understanding of the impacts of technology including its organizations, techniques, tools and skills to solve practical problems and extend human capabilities in areas such as construction, manufacturing, communication, transportation, power and energy.

"(40) The term 'tribally controlled community college' means an institution which receives assistance under the Tribally Controlled Community College Assistance Act of 1976 or the Navajo Community College Act.

"(41) The term 'vocational education' means organized educational programs offering a sequence of courses which are directly related to the preparation of individuals in paid or unpaid employment in current or emerging occupations requiring other than a baccalaureate or advanced degree. Such programs shall include compe-

tency-based applied learning which contributes to an individual's academic knowledge, higher-order reasoning, and problem-solving skills, work attitudes, general employability skills, and the occupational-specific skills necessary for economic independence as a productive and contributing member of society. Such term also includes applied technology education.

"(42) The term 'vocational student organizations' means those organizations for individuals enrolled in vocational education programs which engage in activities as an integral part of the instructional program. Such organizations may have State and national units which aggregate the work and purposes of instruction in vocational education at the local level.

TITLE VI—MISCELLANEOUS

PART A—CORRECTIONAL EDUCATION

SEC. 601. SHORT TITLE.

This title may be cited as the "Office of Correctional Education Act of 1990".

SEC. 602. CORRECTIONAL EDUCATION.

(a) IN GENERAL.—Title II of the Department of Education Organization Act is amended by—

(1) repealing section 213;

(2) redesignating section 214 as section 215; and

(3) inserting the following new section 214 after section 212:

"OFFICE OF CORRECTIONAL EDUCATION

"SEC. 214. (a) FINDINGS.—The Congress finds and declares that—

"(1) education is important to, and makes a significant contribution to, the readjustment of incarcerated individuals to society; and

"(2) there is a growing need for immediate action by the Federal Government to assist State and local educational programs for criminal offenders in correctional institutions.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this title to encourage and support educational programs for criminal offenders in correctional institutions.

"(c) ESTABLISHMENT OF OFFICE.—The Secretary of Education shall establish within the Department of Education an Office of Correctional Education.

"(d) FUNCTIONS OF OFFICE.—The Secretary, through the Office of Correctional Education established under subsection (a) of this section, shall—

"(1) coordinate all correctional education programs within the Department of Education;

"(2) provide technical support to State and local educational agencies and schools funded by the Bureau of Indian Affairs on correctional education programs and curricula;

"(3) provide an annual report to the Congress on the progress of the Office of Correctional Education and the status of correctional education in the United States;

"(4) cooperate with other Federal agencies carrying out correctional education programs to ensure coordination of such programs;

"(5) consult with, and provide outreach to, State directors of correctional education and correctional educators; and

"(6) collect from States a sample of information on the number of individuals who complete a vocational education sequence, earn a high school degree or general equivalency diploma, or earn a postsecondary degree while incarcerated and the correla-

tion with job placement, job retention, and recidivism.

"(e) DEFINITIONS.—As used in this section—
 "(1) the term 'criminal offender' means any individual who is charged with or convicted of any criminal offense, including a youth offender or a juvenile offender;

"(2) the term 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders; and

"(3) the term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law."

(b) CLERICAL AMENDMENTS.—The table of contents contained in section 1 of the Department of Education Organization Act is amended by striking the items relating to sections 213 and 214 and inserting the following:

"Sec. 214. Office of Correctional Education.

"Sec. 215. Federal Interagency Committee on Education."

PART B—MISCELLANEOUS PROVISIONS

SEC. 611. STUDY OF THE DUAL SYSTEM OF VOCATIONAL EDUCATION IN THE FEDERAL REPUBLIC OF GERMANY.

(a) GENERAL AUTHORITY.—The General Accounting Office (in this section referred to as the "Office") shall conduct a thorough study of the Dual System of Vocational Education in the Federal Republic of Germany, including an analysis of the desirability, advantages, and disadvantages of establishing a nationwide job apprenticeship program in the United States similar to the Dual System of Vocational Education in the Federal Republic of Germany.

(b) CONTENTS.—In studying the West German Dual System of Vocational Education, the Office shall assess—

(1) the ability of such a system to prepare workers for the technical workplace;

(2) the level of academic skills an apprentice in the Dual System acquires;

(3) the effectiveness of combining on-the-job training with classroom instruction;

(4) the participation in apprenticeships by gender and minority status;

(5) the dropout rate of West German students;

(6) the construction and oversight of skill certification tests;

(7) the unemployment rate and relative wage levels of former participants;

(8) the labor mobility of apprentices;

(9) whether such a system has helped West Germany maintain a competitive workforce and a competitive edge in the world economy;

(10) the value and productivity of apprentices to business; and

(11) the direct and indirect costs and benefits to the country, industry, company, and individual that result from the Dual System of Vocational Education.

(c) FACTORS TO BE CONSIDERED.—In assessing the ability of a similar program to be replicated in the United States, the Office shall evaluate such factors as—

(1) existing job apprenticeship programs and their ability to prepare workers for the technical workplace;

(2) the future need for skilled workers and the extent to which job apprenticeship programs could meet such future workforce needs;

(3) the appropriate age or grade level for students to enter job apprenticeship programs (such as secondary students, postsecondary students, or both);

(4) the potential for such programs to reduce the dropout rate, place more qualified workers in the workplace, provide continuing education, including postsecondary opportunities, and increase the lifetime earnings of those who participate in such a job apprenticeship program;

(5) the issues in obtaining labor and management utilization of skills, certification for employee recruitment, promotion, and other purposes, and issues in creating and improving such certification to reliably and validly reflect the changing structure of work in the skills certified;

(6) the training wage appropriate for an apprentice;

(7) the estimated value and productivity of apprentices to business;

(8) the Federal, State, employer, and labor roles in regulating and funding such a program;

(9) the direct and indirect costs and benefits of such a program to the Federal and State governments, industry, the company and the individual; and

(10) the quality and adequacy of Federal and State data on training, including apprenticeships, directly or indirectly provided by employers, including data on the level and distribution of training by industry, firm size, and of labor and management employees.

(d) DEADLINE FOR STUDY.—The study required by subsection (a), together with comments and recommendations, shall be completed and presented to Congress not later than the expiration of the 1-year period beginning on the date of enactment of this Act.

SEC. 612. HIGHER EDUCATION ACT.

Section 621 of the Higher Education Act of 1965 is repealed.

TITLE VII—EFFECTIVE DATE

SEC. 701. TRANSITION PROVISION.

Upon the enactment of the Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990, each State and eligible recipient of Federal financial assistance under a State plan submitted pursuant to section 113 of the Carl D. Perkins Vocational Education Act may expend funds currently available under the Carl D. Perkins Vocational Education Act to—

(1) conduct planning for any program or activity authorized under the Carl D. Perkins Vocational and Applied Technology Education Act, including the development of a State plan under section 113 of such Act;

(2) develop State and local standards and measures as required by section 115 of the Carl D. Perkins Vocational and Applied Technology Education Act; and

(3) conduct assessments as required by section 116 of the Carl D. Perkins Vocational and Applied Technology Education Act.

SEC. 702. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on July 1, 1991.

(b) SPECIAL RULE.—Sections 3, 115, 116, 504, and 512 and part H of title III of the Carl D. Perkins Vocational and Applied Technology Education Act (as amended by this Act) shall take effect upon the enactment of this Act.

And the Senate agree to the same.

AUGUSTUS F. HAWKINS,
 WILLIAM D. FORD,
 GEORGE MILLER,
 DALE E. KILDEE,
 PAT WILLIAMS,
 MATTHEW G. MARTINEZ,
 MAJOR R. OWENS,
 CHARLES A. HAYES,
 CARL C. PERKINS,
 TOM SAWYER,
 DONALD M. PAYNE,
 NITA LOWEY,
 GLENN POSHARD,
 JOLENE UNSOELD,
 NICK RAHALL,
 BILL GOODLING,
 TOM PETRI,
 STEVE GUNDERSON,
 STEVE BARTLETT,
 HARRIS W. FAWELL,
 FRED GRANDY,
 PETER SMITH,

Managers on the Part of the House.

EDWARD M. KENNEDY,
 CLAIBORNE PELL,
 HOWARD M. METZENBAUM,
 CHRISTOPHER J. DODD,
 PAUL SIMON,
 BARBARA A. MIKULSKI,
 ORRIN HATCH,
 NANCY LONDON,
 KASSEBAUM,
 THAD COCHRAN,
 JAMES M. JEFFORDS,
 STROM THURMOND,

Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill joint resolution (H.R. 7) to amend the Carl D. Perkins Vocational Education Act to extend the authorities contained in such act through the fiscal year 1995, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

1. *Short Title.* The House bill is called the "Applied Technology Education Amendments of 1989." The Senate amendment is called "The Carl D. Perkins Vocational Education Act Amendments of 1989."

The House recedes with an amendment naming the bill "The Carl D. Perkins Vocational and Applied Technology Education Act Amendments of 1990."

2. *State Councils: Establishment.* (a) The House bill, but not the Senate amendment, requires each State to establish a State human investment council to review Federal programs under the Adult Education Act, the Carl D. Perkins Applied Technology Education Act, the Job Training Partnership Act, the Rehabilitation Act of 1973,

and the Wagner-Peyser Act. Under current law, each State is required to establish a State council on vocational education and a job training coordinating council and may establish, at its discretion, a State advisory council on adult education. No councils are currently required under the Rehabilitation Act of 1973 or the Wagner-Peyser Act.

The Senate amendment, but not the House bill, retains the requirement from the current Perkins Act that each State have a council on vocational education.

The House recedes.

3. State Councils: Duties—Coordination. The House bill requires that this new human investment council must review the provision of services under the five programs and advise the governor on how to coordinate such services consistent with the provisions of each program.

The Senate amendment clarifies the section of the current law requiring an evaluation at least every 2 years of the coordination between vocational education and JTPA.

The House recedes.

4. State Councils: Duties—Advice. The council created by the House bill is also charged with advising the governor on the implementation of State and local performance standards and measures which are newly required to be developed under the State plan.

The Senate amendment adds to the current duties of the State council on vocational education by requiring that it make recommendations to the State board on the State plan. The State council is also authorized to submit a statement to the Secretary of Education commenting on each State's plan. Such comments shall be filed with the State plan.

The House recedes.

5. State Councils: Membership. The House bill contains provisions specifying the membership of each State council: 30% from business and industry, 30% from labor and CBOS, 20% from the State agencies administering the programs and from State legislatures and other State agencies, and 20% from local governments and educational institutions and individuals knowledgeable about special needs populations.

The Senate amendment modifies the current council membership by adding a representative of trade organizations and by permitting membership from vocational student organizations and school board members.

The House recedes.

6. State Councils: Membership Prohibition. The Senate amendment, but not the House bill, includes a new requirement barring any employee of the State board from serving on the State council.

The House recedes.

7. State Councils Duties—Corrections Education. The Senate bill, but not the House amendment requires the council to review corrections education programs.

The Senate amendment but not the House bill, requires the Council to comment on the adequacy of the State plan and its implementation.

The House recedes.

8. State Councils: Membership Terms. The House bill, but not the Senate amendment, provides for staggered terms for the membership of the council—with 1/3 being appointed for 1 year, 1/3 for 2 years, and 1/3 for 3 years when members are initially appointed.

The House recedes.

9. State Councils: Funding. (A) The House bill provides that the funding for the coun-

cil will be derived from the Perkins Act, JTPA, and, at the discretion of the State, the Adult Education Act.

The House recedes.

(B) The Senate amendment modifies current law by raising the minimum grant to each State for its council from \$120,000 to \$150,000 and by raising the maximum grant from \$225,000 to \$250,000. A 1990 harmless provision is included. Grants to councils in the territories are changed from the current \$50,000 to \$60,000 for the Virgin Islands, Guam, and Micronesia and to \$25,000 for American Samoa, Palau, the Marshall Islands, and the Commonwealth of the Northern Marianas.

The House recedes with an amendment deleting Micronesia and the Marshall Islands and including Palau until the Compact of Free Association with Palau takes effect.

(C) The Senate separately authorizes \$10 million for FY 1991, and such sums thereafter.

The Senate recedes with an amendment authorizing \$9 million for fiscal year 1991.

(D) The House bill retains the current council formula, and requires the Council to prepare a budget by including funds from other applicable council funds, i.e., Adult Ed. JTPA, etc.

The House recedes.

10. State Councils: Effective Date. The House bill makes the state council section effective on July 1, 1990.

The Senate amendment as part of the whole bill sets an effective date of July 1, 1991.

The House recedes.

11. Interdepartmental Task Force. The House bill, but not the Senate amendment, requires the creation of an interdepartmental task force on applied technology education and related programs. The membership would consist of the Secretaries of Education, Labor, and Health and Human Services, and such other personnel as appropriate. This task force would examine the data required under the Adult Education Act, Perkins Act, JTPA, Rehabilitation Act, and the Wagner-Peyser Act, examine possible common objectives and standards, and consider integration of research. A report would be annually submitted to the Congress.

The Senate recedes with an amendment for a 2-year report.

12. Joint Funding. The House bill, but not the Senate amendment, permits States to use funds from any of the five programs in jointly-funded programs if such programs meet the requirements of each Act, and are used to supplement and not supplant funds provided from non-Federal sources.

The Senate recedes with an amendment limiting the provision to the Perkins, JTPA, and Wagner-Peyser Acts for coordinated services to the same populations.

13. Uniform Criteria. The House bill, but not the Senate amendment, amends JTPA to make eligible for services as disadvantaged or handicapped individuals, any individual who is determined to be disadvantaged under the Perkins Act or entitled to a free appropriate public education under the Education of the Handicapped Act.

The House recedes.

14. New Name. The House bill, but not the Senate amendment, renames the Perkins Act as the Perkins Applied Technology Education Act and substitutes for the term "vocational education" the new term "applied technology education" wherever it appears in the Act.

The House recedes with the same amendment as in #1.

15. Purpose. The House bill, but not the Senate amendment, revises the statement of purpose of the Perkins Act by emphasizing that the United States will become more competitive in the world economy through developing more fully the academic and occupational skills of all segments of the population.

The Senate recedes.

16. Authorization Basic State Grants. The House bill authorizes \$1 billion for fiscal year 1990 for titles I (other than section 112), II and IV (other than Part E); and for title III the following:

\$15 m. for Part A
\$40 m. for Part B
\$30 m. for Part C
\$20 m. for Part D
\$200 m. for Part E
\$100 m. for Part F

Also authorized is \$8 million for Title I section 112 and \$10 million for Part E, Title IV—for a total of \$1.4 billion. Such sums are authorized for fiscal years 1991 through 1995.

The Senate amendment authorizes \$1.5 billion for fiscal year 1991 and such sums for fiscal years 1992 through 1995 for titles I, II, III, and IV.

The Senate recedes with an amendment setting a total of \$1.6 billion for the Act for fiscal year 1991 allocated as follows:

	Amount
Basic State grant (billions)	\$1,258.15
CBO's (millions)	\$15
Consumer education (millions)	\$38.5
Guidance (millions)	\$20
Business partnerships (millions) ..	\$10
Tech-prep (millions)	\$125
Supplementary State grants for facilities and equipment (millions)	\$100
Bilingual (millions)	\$10
State Advisory councils (millions)	\$9
National Advisory Council	\$350,000
Community Education—Light-house schools (millions)	\$10
Tribally controlled post-secondary voc. institutions (millions) ..	\$4

Under Section 3, authorizations are specified for each of the separate programs contained in Title III, in addition to the State advisory council and bilingual education. The managers want to make very clear that authorizations of appropriations for each of these programs in the fiscal years 1992 through 1995 are contained in the overall authorization of appropriations under Section 3(a), which is the overall ceiling for Titles I, II, III and IV. Such sums as may be necessary are authorized to fiscal years 1992 through 1995 under this subsection, and this authorization would therefore apply to each of the separate programs for these years.

17. Authorization: Community-Based Organizations. The House bill authorizes \$15 million for fiscal year 1990 and such sums for fiscal years 1991 through 1995 for community-based organizations.

The Senate amendment authorizes \$14 million for fiscal year 1991 and such sums for fiscal years 1992 through 1995 for community based organizations.

The Senate recedes with an amendment setting \$15 million for fiscal year 1991.

18. Authorization: Consumer and Home-making Education. The House bill authorizes \$40 million for fiscal year 1990 and such

sums for fiscal years 1991 through 1995 for consumer and homemaking education.

The Senate amendment authorizes \$37 million for fiscal year 1991 and such sums for fiscal years 1992 through 1995 for consumer and homemaking education.

The House recedes with an amendment setting \$38.5 million for fiscal year 1991.

19. *Authorization: Guidance and Counseling.* The House bill authorizes \$30 million for FY 1990 and such sums for FY 1991-1995 for guidance and counseling.

The Senate amendment does not contain a separate authorization for guidance and counseling but instead folds the separate authorization into the National Demonstration Programs under Title IV and permits funds under the basic State grant to be used for that purpose.

The Senate recedes with an amendment setting \$20 million for fiscal year 1991, subject to a trigger level of \$1 billion in funding for the basic State grant.

20. *Authorization: Business-Education-Labor Partnerships.* The House bill authorizes \$20 million for FY 1990 and such sums for FY 1991-1995 for business-education-labor partnerships.

The Senate amendment does not contain a separate authorization for business-education-labor partnerships; instead creates a new business and labor partnership under the National Demonstration Programs under Title IV.

The Senate recedes with an amendment setting \$10 million for fiscal year 1991, subject to a trigger level of \$1 billion in funding for the basic State grant.

21. *Authorization: Tech-Prep Education.* The House bill authorizes \$200 million for FY 1990 and such sums for FY 1991-1995 for tech-prep education.

The Senate amendment does not have a separate authorization for tech-prep but instead reserves 5% of each State's basic grant for this purpose.

The Senate recedes with an amendment setting \$125 million for fiscal year 1991.

22. *Authorization: Supplemental Grants.* The Senate amendment, but not the House bill, authorizes \$100 million for FY 1991 and such sums for FY 1992-1995 for supplemental assistance grants to needy areas.

The Senate recedes.

23. *Authorization: National Assessment.* The House bill reserves a portion of the Secretary's funds for the national assessment of vocational education.

The Senate amendment authorizes \$3 million for FY 1991 and 1992 for the national assessment.

The Senate recedes with an amendment permitting funding for the national assessment to be provided from the funds reserved for research under national programs (Part A of Title IV).

24. *Authorization: Improvement of Facilities and Acquisition of Equipment.* The House bill, but not the Senate amendment, authorizes \$100 million for FY 1990 and such sums for FY 1991-1995 for improvement of facilities and acquisition of equipment.

The Senate recedes with an amendment setting \$100 million for fiscal year 1991.

25. *Authorization: Hold Harmless.* The House bill, but not the Senate amendment, requires that the appropriations for the basic State grant for FY 1990 must equal or exceed the amount necessary to carry out activities in the preceding fiscal year if sums are to be authorized for guidance and counseling, business-education-labor partnerships, tech-prep, and facilities and equipment.

The Senate recedes with amendment for a \$1 billion trigger for guidance and counseling, business-labor-education partnerships, and community education-lighthouse school programs.

26. *Authorization: State Councils.* The House bill authorizes \$8 million in FY 1990 and such sums for FY 1991-1995 for the new human investment council.

The House recedes with an amendment setting \$38.5 million for fiscal year 1991.

The Senate amendment authorizes \$10 million for FY 1991 and such sums for FY 1992-1995 for State councils on vocational education.

The Senate recedes with an amendment setting \$9 million for fiscal year 1991.

27. *Authorization: Bilingual.* The House bill authorizes \$10 million in FY 1990 and such sums for FY 1991-1995 for bilingual vocational programs.

The Senate amendment authorizes \$7 million in FY 1991 and such sums for FY 1992-1995 for bilingual vocational programs.

The Senate recedes with an amendment setting \$10 million for fiscal year 1991.

28. *Authorization: National Advisory Council on Vocational Education.* The Senate amendment, but not the House bill, authorizes \$350,000 for FY 1991 and \$200,000 (subject to a special limitation) for FY 1992 for the National Council.

The House recedes with an amendment deleting 1992.

29. *Authorization: National Programs.* For national programs, the House bill reserves 2% of the appropriations made under the Act. The Senate amendment reserves 2.75%.

The House recedes with an amendment setting 2.5% because this percentage reflects more accurately the current appropriations.

30. *State Allotment.* The House bill, but not the Senate amendment, modifies the provision guaranteeing each State no less than one-half of 1% of the appropriation by placing a limitation on each State of no more than an amount calculated by multiplying the number of individuals in the State counted for the formula by 150% of the national average per pupil payment. However, no State would receive less than it received in FY 1989.

The Senate recedes with an amendment for a fiscal year 1991 hold harmless.

31. *State Allotment: Indian Programs.* The Senate amendment, but not the House bill, increases from 1½ to 2% the amounts reserved for Indian programs.

The Senate recedes with an amendment clarifying that 1½ is for Indian programs and ¼ for native Hawaiians.

32. *State Allotment: The Territories.* The Senate amendment, but not the House bill, creates a new section which includes a reservation of .25% of the amounts in the bill for the Territories, with the exception of the Virgin Islands—which is kept in the state basic grant formula.

The House recedes with an amendment reserving .2%.

33. *The Territories.* The Senate amendment, but not the House bill, removes Guam, American Samoa, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands from Section 101(c)(1)(B).

The House recedes.

34. *The Territories: Minimum Allotment.* The Senate amendment, but not the House bill, deletes the minimum allotment (\$200,000) for the territories.

The House recedes with an amendment setting the minimum allotment only for the Virgin Islands and clarifying that the small State minimum does not apply.

35. The Senate amendment, but not the House bill, contains a clarifying technical amendment regarding the outlying areas.

The House recedes.

36. *Within State Allocation.* (a) The House bill permits a State to reserve a maximum of 5% of the basic State grant for State administration and sets a minimum of \$250,000 per State. The Senate amendment also reserves a maximum of 5% for State administration (25% of a maximum of 20%) but does not contain any minimum. The Senate amendment, but not the House bill, requires States to match dollar for dollar the funds reserved for State administration.

The Senate recedes on 1st and 2nd sentences. The House recedes on the 3rd sentence with an amendment requiring States to use the 5% State administration funding to develop State plans; review/approve local applications; administer funds; monitor and evaluate program effectiveness; provide technical assistance; assure compliance with all aspects of law, including required services and activities for individuals who are members of special populations. The managers intend that the matching requirement be applied to overall, not line-by-line, State administration expenditures. For example, the \$60,000 reserved for the State sex equity coordinator must be matched, but the matching funds need not be used for such coordinator. For further information regarding this provision, see item #39.

(b) The House bill requires that 10% of the basic State grant be reserved for the program for single parents, homemakers, displaced homemakers and for the sex equity program. The Senate amendment reserves 4% (20% of the maximum of 20%) of the basic State grant for sex equity programs and reserves for the displaced homemakers program at least 10.5% of the amount a State reserves for secondary and postsecondary programs. The Senate amendment requires that the funds reserved for the displaced homemaker program be taken from the amount a State set aside for postsecondary programs.

The Senate recedes with amendments setting 10½% for both programs, of which no less than 7% is for the displaced homemakers and no less than 3% for sex equity, and providing for a 1990 hold harmless for both programs which will be ratably reduced if sequestration or a decline in appropriations occurs.

37. *Within State Allocation—Partnerships, Standards Development.* The House bill permits a State to reserve up to 5% of the basic State grant for business-education-labor partnerships, the development of State performance standards, the training and retraining of staff, at least one program for incarcerated youth or criminals, pre-service and in-service training, and support of student organizations.

The Senate amendment, reserves 15% (75% of 20%) of the basic State grant for State programs and State leadership.

The House recedes setting 8½% for discretionary State-level activities.

38. *Within State Allocation—Tech-Prep.* The Senate amendment, but not the House bill, reserves 5% of the basic State grant for tech-prep programs. The House bill separately authorizes these programs for \$200 million in FY 1990.

The Senate recedes on the reservation and instead \$125 million is authorized.

39. *Within State Allocation—State Administration Match.* The Senate amendment, but not the House bill, requires States to

match dollar-for-dollar the funds reserved for State administration.

The House recedes with an amendment requiring the sex equity coordinator's salary to come from the 5% for administration. The managers intend that this provision lead to overall, not line item, matching for State administration. Also included is the same amendment as in #36(a).

40. *Within State Allocation—Secondary/Postsecondary Split.* The Senate amendment, but not the House bill, requires each State to fund secondary and postsecondary programs in accordance with a range of permissible percentages. (Of the 75% of the basic State grant reserved for title II, 65%-75% would be reserved for secondary programs and 25%-35% would be reserved for postsecondary programs.)

The Senate amendment includes a hold harmless phase-in of this requirement (20% in FY 1991, 36% in FY 1992, and 51% in FY 1993) and also permits a waiver for states (which is described later).

The Senate recedes with an amendment which provides that, if a State uses less than 15% of Title II, Part C funds for either secondary or postsecondary programs, it can allocate such funds through competitive grants—provided that better targeting results.

41. *Within State Allocation—Title II Programs.* The Senate amendment reserves 75% of the basic State grant for basic programs under part C of title II. The House bill applies the remainder of allotments not used for administration (5% maximum), sex equity/displaced homemakers (10%), and special programs (5% maximum) to title II basic programs.

The Senate recedes with an amendment reserving no more than 25% for State activities (administration, displaced homemakers, sex equity, corrections, and discretionary programs) and directing at least 75% to local uses.

42. *Indian and Hawaiian Programs.* The Senate amendment, but not the House bill, increases the set-aside for Indian and Alaska Native programs to 2% and changes the distribution of funds. (See Note 31.)

The House bill adds a provision that the Secretary is to put no conditions on Indian or Alaska Native grantees not placed upon States and is to give special consideration to grant applications involving tribal economic development.

The Senate recedes with an amendment clarifying requirements administered by the Department of Education.

43. *Indian and Hawaiian Programs—Distribution of Funds.* The Senate amendment, but not the House bill, changes the distribution of the set-aside for Indians and native Hawaiians.

The Senate recedes.

(a) Seven-twelfths of the 2% is reserved for grants or contracts with Indian tribes and tribal organizations. Special consideration is given to applications from tribally controlled community colleges which meet one of three accreditation requirements.

The Senate recedes on the first sentence. The House recedes on the second sentence. The managers allow qualified schools operated by the Bureau of Indian Affairs to compete for grants under this section. Such applications may be made either as individual schools, or in consortia made up of a number of such schools or such schools, and other entities. Such applications are to be considered in the same fashion as all other applications. However, if a B.I.A. operated school or consortia is successful, the manag-

ers have mandated a minimum grant. This should be taken into consideration either in the initial application or in a request by the Department for an amendment to the application, which shall involve activities in support of the initial project. Tribally operated schools, whether contract or grant, would continue to qualify as tribal organizations. With respect to administration of grants or contracts with successful B.I.A. operated schools, the Secretary of Education shall enter into an arrangement with the Secretary of the Interior for the transfer of funds to the Secretary of Interior/Assistant Secretary of B.I.A. for administration through the B.I.A.'s cost-accounting system, provided that the B.I.A. shall pass through to the successful school/consortia the entire amount of money, in exactly the form and with the exact conditions as are associated with the successful grant and the B.I.A. shall take no administrative or handling or indirect cost funds from the grant/contract for the handling of such transfer. The Secretary of Education shall conduct such evaluation and receive all other grant documents or products directly from the grantee.

43. (b) One-twelfth of the funds reserved under this section will go for grants to BIA secondary schools to provide vocational programs for secondary students attending the school, with a minimum grant size of \$35,000. The bill outlines the distribution of any excess funds.

The Senate recedes on $\frac{1}{12}$. The House recedes on the \$35,000 minimum.

43. (c) Two-twelfths of the funds reserved under this section will go for grants to two or more schools of vocational-technical education, which are: a) governed by a majority of trustees who are Indians, b) in operation for five or more years, c) enroll a minimum of 100 students of which a majority are Indians, and d) nationally accredited, or a candidate for accreditation for at least 5 years. If any funds from the reservation are left over, the Secretary may award grants first to tribally-controlled colleges and, if any funds are still remaining, to Indian tribes and organizations. A minimum grant of \$50,000 is specified.

The Senate recedes.

43. (d) Two-twelfths of the funds are reserved for contracts with organizations serving native Hawaiians.

The Senate recedes with an amendment clarifying that $\frac{1}{4}$ is for programs for native Hawaiians.

44. *The Territories.* The Senate amendment, but not the House bill, adds a new section . . . which requires that the Secretary reserve funds for the territories. Guam & Micronesia will receive \$500,000, the amount provided to Guam in FY 1990. American Samoa, Palau, the Marshall Islands, and the Commonwealth of the Marianas will receive \$190,000, the amount provided to American Samoa in FY 1990 for vocational education programs. From the remaining funds, the Secretary shall make a grant to the Center for the Advancement of Pacific Education in Hawaii for vocational education and training grants in the territories for teacher and counselor training, curriculum development, and improving secondary and postsecondary programs. This Center may use no more than 5% of the funds for administration of the grant.

The House recedes with an amendment of \$500,000 for Guam and \$190,000 each for American Samoa, Commonwealth of the Marianas and Palau, but Palau may only receive funding until it ratifies any compact of

free association. Additional amendments affect the Center on Pacific Education by limiting funds to direct educational services permitting CAPE to make grants as well to the Marshall Islands and the Federated States of Micronesia, and clarifying any successor agency as the one designated as the Pacific Regional Laboratory. The managers intend that the allocation for Palau be granted directly to the Micronesian Occupational College (MOC) in Koror.

45. *State Administration—Consultation with Business.* The Senate amendment, but not the House bill, requires the State board to consult not only with the State council, but also with business and industry in planning, administering, evaluating, and coordinating programs.

(The House bill, but not the Senate amendment, substitutes the human investment council for the State council under state administration.)

The House recedes with an amendment including labor among the groups to be consulted.

46. *State Administration—Sex Equity Review.* The Senate amendment, but not the House bill, requires the State board to review and comment upon plans of local educational agencies to ensure that the needs of women and men for training in non-traditional jobs are met.

The House recedes with an amendment including all eligible recipients and deleting language requiring the State board to recommend programs for funding.

47. (a) *State Administration—Handicapped Children.* The House bill requires each State to assure access to programs for students with handicaps who are covered by the Education of the Handicapped Act or by Section 504 of the Rehabilitation Act, are not less than 12 years of age, and are not older than the upper-age limit established by the State for eligibility for special education services.

The House recedes.

(b) The Senate amendment requires each State to designate the head of the State office for the education of the handicapped to review all local plans to assure that students are receiving vocational services required by individual educational programs, to ensure that local agencies have submitted assurances of compliance with Section 504 of the Vocational Rehabilitation Act and the Education of the Handicapped Act, to review all local plans to ensure that handicapped children have been identified, are enrolled in programs, have had their needs assessed, and adequate plans have been developed for supplementary services, and to evaluate local plans.

The House recedes with amendments setting review of all or a representative sample of applications and deleting evaluations.

48. *State Administration—Chapter 1.* The Senate amendment, but not the House bill, requires each State to assign the Chapter 1 Coordinator to review local plans to ensure that disadvantaged students have been identified and served.

The House recedes with same amendments as #47(b).

49(a). *State Administration—LEP.* The Senate amendment, but not the House bill, requires each State to designate the head of the State agency responsible for programs for students with limited English proficiency to review local plans to assure that such students have been identified and served.

The House recedes with same amendments as #47(b).

49(b). *State Administration—Parents.* The Senate amendment, but not the House bill, requires the State board to consult with parents, students, and teachers in the planning of vocational education programs.

The House recedes with an amendment to involve these groups in public hearings.

50. The House bill, but not the Senate amendment, amends current law regarding the duties of the Council to conform with the State Human Investment Council.

The House recedes.

51. *State Plans—NOICC.* The House bill, but not the Senate amendment, requires the State to use information gathered by the National Occupational Information Coordinating Committee in developing the State plan.

The Senate recedes with an amendment requiring that information gathered by the NOICC be used in the State assessment.

52. (a) *State Plans—Special Population.* The House bill requires the States to assess the responsiveness of programs to the special needs of students who are members of special populations.

The Senate recedes blending with (b).

(b) The Senate amendment requires that the State plan provide assurances that eligible recipients will comply with the requirements of the bill, including a description of the manner in which the State will comply with criteria required for programs for special population. The plan must also provide assurances that the State board will develop measurable goals and accountability measures for meeting the needs of special populations and will adequately monitor programs serving these populations. (The plan must describe the methods of assessment of each special population and report the number of individuals in each category for each occupationally specific program.)

The House recedes blending with (a).

53. *State Plans—Submissions.* The Senate bill, but not the House amendment, retains the requirement for submission to the Secretary of an initial 3-year plan and 2-year plans thereafter. The planning periods are to be coterminous with planning periods required under JTPA.

The House recedes.

54. *State Plans—Requirement.* (a) The House bill requires each State in developing the plan to assess the capability of local programs to provide students with strong experience and understanding of all aspects of the industry the students are preparing to enter and strong development and use of problem-solving skills and basic skills.

The Senate recedes with an amendment inserting "to the extent practicable."

(b) The Senate amendment requires each State to assure that the goal of each program is to give a student experience in, and understanding of, all aspects of the industry in which the student is preparing to enter.

The Senate recedes.

55. *State Plans—Consultation.* The Senate amendment, but not the House bill, requires the State board to meet with and utilize the State Council prior to development of the State plan. The board is also required to conduct public hearings to allow interested parties to present views and make recommendations. A summary of these recommendations must be submitted with the State plan.

The House recedes.

56. *State Plans—Assessment.*—(a) The Senate amendment, but not the House bill, adds a new requirement that States conduct a State assessment in developing the State plan, and describe how the planned use of funds reflects the assessment.

The House recedes.

(b) The House bill, but not the Senate amendment, requires the States to assess the responsiveness of programs to the special needs of students who are members of special populations.

The Senate recedes with an amendment to blend with (a) above.

(c) The House bill, but not the Senate amendment, revises the current law to emphasize that academic, occupational, training, and retraining needs must be addressed.

The Senate recedes.

(d) The Senate amendment, but not the House bill, revises the assurances included in the State plan to require the State to develop measurable goals and accountability measures for special populations and to provide for special populations and to provide adequate monitoring of local programs to ensure that such goals have been met. The Senate amendment also requires each State to set forth the planned distribution of secondary school funds to local entities.

The Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations. Different standards and measures may be established for secondary and postsecondary or adult programs.

57. *State Plans—Assurances/Private Schools.* The Senate amendment requires that the State plan include assurances that private elementary and secondary school students who are individuals described in Section 223 be permitted to participate in vocational education programs, to the extent consistent with other provisions of the Act.

The House recedes with an amendment deleting elementary school students.

58. (a) *State Plans—Assurance/Distribution of Funds.* The House bill requires that the State provide assurances that it will distribute at least 80% of the funds available for title II to local educational agencies and postsecondary institutions.

The Senate recedes with an amendment setting a minimum of at least 75%.

(b) The Senate amendment requires that the State plan set forth the planned distribution of secondary school funds to local entities. The Senate amendment also requires that the State plan provide assurances that the State will comply with provisions relating to the within state reservation of funds.

The House recedes with an amendment including the estimated distribution of funds to all eligible recipients.

59. *State Plans—Assurances/Application Approval.* The Senate amendment, but not the House bill, requires that the State plan set forth the criteria the State board will use in approving applications of eligible recipients.

The House recedes.

60. *State Plans—Assurance/State Reserve.* The Senate amendment, but not the House bill, requires that the State plan set forth the criteria for spending the 20% reserve for State administration and leadership activities.

The House recedes with an amendment requiring that the State plan set for the criteria for spending funds reserved for displaced homemakers, sex equity, state-wide discretion, State administration, and corrections programs.

61. *State Plans—Assurance/Special Reserve.* The Senate amendment, but not the House bill, requires that the State plan include assurances that the State will match the 10% reserve it is permitted to redistribute under section 101(c).

The Senate recedes.

62. *State Plans—Assurances/Job Openings.* The Senate amendment, but not the House bill, requires that the State plan describe how funds expended for occupationally specific training will be used only for occupations in which job openings are projected or available.

The House recedes with an amendment adding "based on labor market analysis". The managers intend that this analysis not be limited to the area in which the school is located.

63. *State Plan—Measures of Performance.* The House bill requires States to develop and implement a system of standards for performance and measures of performance. The Senate amendment requires States to develop measures of effectiveness of programs for special populations, whereas current law only requires such measures for programs for the handicapped.

The Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations.

64. *State Plans—Assurances/Performance Evaluations.* The Senate amendment, but not the House bill, requires each State to describe how it is implementing performance evaluations.

The House recedes.

65. (a) *State Plans—Assurances/Performance Standards.* The House bill requires States to develop and implement a system of standards for performance and measures of performance.

The Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations.

(b) The Senate amendment requires States to develop measures of effectiveness of programs for special populations (whereas current law only requires such measures for programs for the handicapped). In addition, the Senate amendment requires the State to measure program effectiveness based on occupational assessment skills achievement and linkages to labor and jobs.

The Senate recedes with the same amendment as in 65(a).

66. (a) *Guidance and Counseling.* The House bill, but not the Senate amendment, requires States to spend the same amount for guidance and counseling as they did in 1988.

The House recedes.

(b) The Senate amendment, but not the House bill, requires States to provide leadership, supervision, and resources in this area.

The House recedes.

67. (a) *Supplement, Not Supplant.* The House bill includes an addition to the supplement but not supplant provisions to require that schools receiving assistance re-

ceive at least the same amount of funding per student from non-Federal sources as is received by other schools and to require that schools receiving assistance shall not receive fewer services under other programs.

The Senate recedes with amendment requiring comparable services taken as a whole.

(b) The Senate amendment requires that the State plan provide assurances that Federal funds will be used to supplement and not supplant such State or local funds.

The House recedes with an amendment including supplement, not supplant, language in the administrative provisions contained in Title V (Sec. 516).

68. *Appeals Procedure.* The House bill, but not the Senate amendment, requires each State to establish procedures by which an area school may appeal decisions adverse to its interests with respect to program assistance under the Act.

The Senate recedes with an amendment including local educational agencies and intermediate educational agencies.

69. *Section 116.* The House bill, but not the Senate amendment, requires each State to provide assurances that it will carry out the provisions of section 116, dealing with state improvement plans.

The Senate recedes.

70. *State Plans—Assurances/Guidance & Counseling.* The Senate amendment, but not the House bill requires that the State plan provide assurances that the State will provide leadership, supervision, and resources for comprehensive career guidance, vocational counseling, and placement programs. As a component of those assurances, the State must *assess and report* on the degree to which aggregate guidance and counseling expenditures are not less than such expenditures in FY 1988.

The House recedes. The managers intend that this provision will result in States reporting in the State plan on expenditures for guidance and counseling. Although the assessment is to be done annually, reporting is required only as part of the State plan.

71. *State Plans—Approval.* The Senate amendment, but not the House bill, adds the Governor to the list of entities (State legislature and State job training coordinator) to receive the state plan at least 60 days before submission to the Secretary.

The Senate recedes.

72. (a) *State Plans—Consultation.* Both the House bill and the Senate amendment add a requirement that the State board develop the secondary and postsecondary portions of the State plans after consultation with the State agencies responsible for secondary and postsecondary education.

The Senate recedes.

(b) The House bill requires the State agencies responsible for the supervision of community colleges, technical institutes, or other 2-year postsecondary institutions primarily engaged in providing postsecondary applied technology education all be consulted if they are separate.

The Senate recedes.

(c) The Senate amendment only requires consultation with the State agency responsible for community colleges and for secondary education.

The Senate recedes.

73. *State Plans—Consultation/Tech-Prep.* The Senate amendment, but not the House bill requires that the State board develop the portion of the State plan relating to the reservation of funds of tech-prep education after consultation with appropriate State agencies.

The House recedes with an amendment deleting the setaside but requiring consultation for any tech-prep funding.

74. *State Plans—Approval by Secretary.* Both the House bill and the Senate amendment require that the State plan be submitted to the Secretary by May 1. The Secretary must approve qualified plans within 60 days of their submission. The House bill includes the development and implementation of performance standards, and the Senate amendment refers to performance evaluations and improvements.

The Senate recedes.

75. *Local Application.* The House bill retains the current local application under Title I, Part B—State Organization and Planning and adds to the list of requirements for local applications several new items.

The Senate amendment moves the local application to Title II, Part C, Subpart 1—Secondary School Programs and also adds new requirements.

The House recedes on placement of section in law, including it in Title II, Part C, Subpart 3.

(a) The House bill requires that local applications include a description of how the State performance standards and measures for applied technology education programs will be applied and implemented—in consultation with the private industry council under JTPA.

The Senate amendment requires that local applications include a description of the performance evaluation standards the applicant will use to measure its progress. In addition, the applications must describe methods to coordinate vocational education services with relevant programs under JTPA—including cooperative arrangements established with JTPA PICs in order to avoid duplication and expand accessibility.

The House recedes.

(b) The House bill requires that local applications include a description of how access to programs of good quality will be provided through outreach programs to students who are economically disadvantaged, handicapped, foster children, or are limited English proficient.

The Senate amendment requires that local applications ensure full and equitable participation in a vocational education program of quality.

The Senate recedes with amendment striking "foster children" and including after the term "disadvantaged" the following "(including foster children)".

(c) The House bill requires that local applications include a description of how applied technology education programs for handicapped students will be monitored.

The Senate amendment includes new requirements that local applications contain: (i) a report on the number of special population individuals being served, (ii) a description of how the needs of special populations will be assessed and of the planned use of funds to meet such needs, (iii) identification of the planned use of resources allocated to meet those needs, and (iv) assurances that programs will be carried out according to the criteria for programs for each special population. The applications must also assure that parents and special population students have been involved in developing programs.

The House recedes.

(d) The Senate amendment, but not the House bill, requires the local recipient to demonstrate that it has met the needs of special populations before school-wide use

of curriculum development and program improvement activities is permitted.

The Senate recedes.

(e) The Senate amendment, but not the House bill, requires that local applications include a description of coordination with community-based organizations.

The House recedes.

(f) The Senate amendment, but not the House bill, requires that the special needs coordinator review and comment on the assurances in the application regarding services to special populations.

The Senate recedes.

(g) The House bill, but not the Senate amendment, requires the local recipient to consider the occupational needs of the area being assisted.

The Senate recedes.

(h) The House bill, but not the Senate amendment, requires the local recipient to describe how funds will first be used to serve schools with the greatest concentration of special population students and which have programs that are in greatest need of improvement.

The Senate recedes with an amendment establishing the purpose of Perkins funds as being to improve programs at a limited number of sites or in a limited number of subject areas with the full participation of members of special populations. Recipients must annually choose sites and subject areas giving a priority to schools or institutions with the highest concentrations of special populations. Funds may only be used to improve programs that are of such size, scope, and quality as to be effective, integrate academic and vocational education, and provide equitable participation for special populations. Activities, such as tech-prep education, upgrading of curriculum, and in-service training may be supported with funds. The managers emphasize that the activities outlined in Section 235(c)(2) are intended to be illustrative. Other activities which meet the requirements of Section 235(c)(1) may be funded.

(i) The House bill, but not the Senate amendment, requires local recipients to provide a program in which academic and occupational disciplines will be integrated so that students receive competency in both, in which coherent sequence of courses leading to a job skill is offered, in which students are encouraged through counseling to pursue a coherent sequence of courses, in which special population students receive supportive services, which are of sufficient size, scope, and quality to bring about improvement, and which co-operate with the sex equity program.

The Senate recedes.

(j) The Senate amendment contains somewhat similar requirements in its provisions for the uses of funds for secondary and postsecondary recipients.

The Senate recedes.

(k) The House bill, but not the Senate amendment, requires each local educational agency working in a consortium to describe how funds have been provided to area schools in the consortium according to such schools' relative shares of special population students.

The Senate recedes with an amendment which provides that funds must be allocated directly to an area school if an LEA and an area school form a consortium and if the area school serves an approximately equal or greater number of economically disadvantaged and disabled students. Diverse types of data can be used for these purposes. Also, if an LEA allocation is not suffi-

cient to provide a quality program, the LEA is encouraged to transfer funds to an area school.

76. Local application—waiver. The House bill, but not the Senate amendment, requires that the local application include any other appropriate information that the State may require.

The House recedes.

77. State Improvement Plans. The House bill, but not the Senate amendment, requires each State to review all programs in secondary and postsecondary institutions to determine whether such programs coordinate academic and occupational education, offer coherent sequences of courses, counsel students, lead to academic and occupational competencies, provide access to good programs for special population students, and provide updated equipment and materials. A State may fulfill this requirement either in fiscal 1991 or 1992.

The House recedes.

78. Standards and Assessments. The House bill requires States receiving funds under the Act to develop State-wide systems of standards and measures of performance for technical education programs within two years of enactment.

The Senate amendment requires States desiring funding under Title II to develop criteria for and evaluate effectiveness of programs under Title II. The State assessment must be completed no later than the beginning of the 1993 school year.

The Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations; also an amendment which requires each eligible recipient with full participation by representatives of special populations to annually evaluate the effectiveness of the program based on the standards and measures set forth. If no progress is shown after the first year, the eligible recipient will develop a plan in consultation with teachers, parents, students, and all others involved.

Standards and Assessments—Measures (a) Gains. The House bill requires that the system of standards and measures of performance include measures of learning gains and competency gains.

The Senate amendment requires that program criteria and evaluation include student progress in the achievement of basic academic skills.

The Senate recedes with same amendments as in #78.

(b) Performance. The House bill requires that the system include one or more of the following measures of performance: competency attainment, job or work skill attainment or enhancement, retention in/completion of secondary school or its equivalent, articulation into additional training, education or military service.

The Senate amendment requires that program criteria include student progress in achieving occupational skills necessary to obtain employment in the field for which the student has been prepared, including occupational skills in all aspects of the industry the student is preparing to enter.

Same as numbers 78 and 78(a).

(c) Special Populations. The House bill requires that the system include incentives or adjustments to encourage service to target-

ed groups or special populations. It must also include performance levels for handicapped students, commensurate with their ability levels and IEPs.

The Senate amendment requires that program criteria include the program's ability to meet the needs of special populations.

The Senate recedes with an amendment requiring each eligible recipient, with full participation by representatives of special populations, to annually evaluate the effectiveness of the program based on the standards and measures set forth. If no progress is shown after the first year, the eligible recipient will develop a plan in consultation with teachers, parents, students and all others involved.

(d) Coordination. The House bill requires that the system include procedures for utilizing existing resources and methods developed in other programs receiving federal assistance.

The Senate amendment requires that the program criteria include any other measures the State deems necessary.

The House recedes and the Senate recedes with an amendment requiring each State to develop and implement a state-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations.

(e) Standards and Assessments—Consistency with Local Criteria. The Senate amendment, but not the House bill, requires that the State make every effort to develop criteria that are consistent with local criteria. If after two years the State determines that the local recipient is not making progress, then the State must work with that recipient to modify its program.

The Senate recedes with amendments requiring each State to develop and implement a State-wide system of standards and measures in consultation with a committee of practitioners; includes measures of learning and competency gains in both academic achievement and vocational skills competencies; also requires a report to show that standards and measures are unbiased to special populations. The Senate also recedes on an amendment requiring that if student progress has not been made after one year of implementation of the plan by the LEA, the State board and LEA will work jointly to develop a plan for improvement. If after one year of implementation of the joint plan, no progress is made, the State board and LEA will make revisions for each consecutive year until performance is sustained over a period of more than one year.

79. State Assessment. (a) The Senate amendment, but not the House bill, requires each State to develop measurable objective criteria and standards for programs. Wide consultation is required and such criteria must be used by school year 1993.

The Senate recedes with same amendment as in 78(d). The House recedes with amendment to change date to 1991.

(b) The Senate amendment further provides that such criteria must include several factors, such as student improvement in basic skills. Within each State, the head of the special education unit, the sex equity coordinator, and the administrator of limited-English proficiency programs must each develop data collection procedures appropriate to special populations.

The Senate recedes.

(c) The Senate amendment further requires each State board to assess improve-

ment in programs using six specific criteria, including the integration of academic and vocational education.

The House recedes with an amendment adding additional criteria.

80. Standards and Assessments—Technical Assistance. The House bill, but not the Senate amendment, requires the Secretary to provide technical assistance to the States regarding the development of a system of standards and measures of performance.

The Senate recedes.

81. Standards and Assessments—Report. The House bill, but not the Senate amendment, requires the Secretary to report to Congress within four years regarding the status of each State's system of standards for performance and measures of performance developed and any effects due to the implementation of same.

The Senate recedes with same amendment as in 78(d).

82. State Assessment—Criteria.—The Senate amendment, but not the House bill, requires that the State assessment include criteria relating to: (a) student improvement in basic skills; (b) gains in learning and educational outcomes; (c) competency in all aspects of the industry the student is preparing to enter; (d) student improvement in life skills, problem solving, and career decision making; (e) the ability of recipients (under Title II, subpart 2 of part C) to meet the needs of special populations; (f) the quality of vocational education in terms of pertinence of programs; the technological and educational capacity of vocational curricula, equipment, and instructional materials to meet the increased demands of the workplace; capability to provide training to address the changing content of jobs; capability of programs to give experience in all aspects of the industry and to provide job placements; and measurement of the state-of-the-art quality of vocational education and (g) setting measurable goals to meet the needs of special populations.

The House recedes with an amendment requiring the State to develop measurable objective criteria to assess program quality including integration of academic and vocational education, sequential course of study, pertinence of programs to the workplace, and the ability of eligible recipients to meet the needs of special populations.

83. State Assessment—Data Collection/Special Populations. The Senate amendment, but not the House bill, requires the head of the special education office, the sex equity administrator, the Chapter 1 Coordinator, and the administrator of LEP programs to develop data collection procedures (including program services and outcomes as well as individuals being served) appropriate to the special populations being served.

The Senate recedes.

84. State Assessment—Improvements Needed. The Senate amendment, but not the House bill, requires each State board to assess improvements needed in programs. Factors in the assessment include: (a) academic/vocational education integration, (b) all aspects of the industry, (c) sequential course of study, (d) increased student job placement, (e) increased linkages between secondary and post-secondary institutions, (f) assistance to special populations; and (g) raising the quality of programs in schools with high concentrations of poor and low achieving students.

The House recedes with same amendment as #82.

85. State Assessment—Improvements Needed/Timetable. The Senate amendment,

but not the House bill, requires the State board to complete an assessment of improvements needed pursuant to a timetable consistent with the State plan.

The House recedes with an amendment requiring the assessment to be completed six months after date of enactment.

86. State Leadership. The House bill permits a State to reserve up to 5% of the basic State grant for business-education-labor partnerships, the development of State performance standards, the training and retraining of staff, at least one program for incarcerated youth or criminals, preservice and inservice training, and support of student organizations.

The Senate amendment adds a new section which allows a State to reserve a maximum of 15% of the basic State grant for state programs and state leadership activities. State programs authorized may include the following activities: training and retraining programs for teachers, administrators, and counselors; curriculum development and dissemination and field testing; programs in technology education, and supporting student vocational organizations.

The House recedes with an amendment requiring that the State shall use the 8.5% allotted for State leadership activities for staff development (both in-service and preservice training for vocational and academic teachers working in vocational education, counselors, CBO personnel, corrections educators, special emphasis on training of minority teacher); curriculum development (integration of vocational and academic training, and sequential courses of study in state-of-the-art programs and techniques for integration); assessment, performance standards and measures, program improvement, and accountability. Also the State may use these funds for promoting business, education, industry and labor, CBO or inter-agency partnerships; techprep education, data collection, support of vocational student organizations, and programs in technology education. The managers intend that States be afforded flexibility in providing technical assistance with any funds carried over from prior years into years affected by these amendments. The managers also intend that current restrictions on use of Perkins funds for awards and student travel apply to the provision authorizing States to support vocational youth organizations.

87. State Leadership—Emphasis in Training & Retraining. The Senate amendment, but not the House bill, requires that state programs give particular emphasis in training and retraining programs to recruiting and training minority teachers and counselors and that the utilization of business and industry equipment and personnel be encouraged.

The House recedes.

87. State Leadership—Curriculum. The Senate amendment, but not the House bill, requires that curriculum development/dissemination/field-testing activities in state programs give priority to curriculum which: (a) integrates academic and vocational studies, and (b) incorporates the needs of business, industry, and labor in high skilled occupations. These activities may include the award of contracts to the Corporation for Public Broadcasting and of grants for techprep programs.

The Senate recedes with same amendment as in #86.

89. State Leadership—Leadership Activities. The Senate amendment, but not the House bill, permits State leadership activities to include: (a) monitoring and evalua-

tion, (b) development and implementation of performance evaluations, (c) development and implementation of the State assessment, (d) promoting business-industry-labor-interagency linkages, (e) promoting technology education courses, (f) establishing guidelines for local plan development, (g) creation and maintenance of a public awareness program, (h) developing linkages with community-based organizations, and (i) building collaborative efforts to improve vocational education services in traditionally underserved populations.

The House recedes with same amendment as in #86.

90. State Leadership—Matching Funds. The Senate amendment, but not the House bill, requires a dollar-for-dollar match for leadership activities.

The Senate recedes.

91. Sex Equity-Displaced Homemaker Program Coordinator. Both the House bill and the Senate amendment require that a coordinator be appointed who would be responsible for administering both the homemakers and sex equity programs. The House bill, but not the Senate amendment, adds new requirements as regards this coordinator. For example, the coordinator would have to be responsible for developing an annual plan for the use of all funds available for such programs and for managing and monitoring these funds.

The House bill places the coordinator under Title I, Part C ("State Administered Programs").

The Senate amendment places the coordinator under Title II, Part A ("State Programs").

The Senate recedes with an amendment to incorporate into State administration. (Section 111).

92. Sex Equity-Displaced Homemaker Program Coordinator/Administration. The House bill retains current language (Section 111(b)(1)) listing the duties to be fulfilled by the coordinator. This language is expanded by adding: (a) development of an annual plan for use of funds; (b) management of fund distribution; (c) monitoring of use of funds; (d) evaluation of program effectiveness.

The Senate amendment retains Section 111(b)(1), language and adds a new provision which allows the coordinator to review and comment on LEA plans to ensure the needs of women and men in nontraditional jobs are met.

The Senate recedes on first sentence with an amendment.

The House recedes on second sentence.

93. Homemakers Program—Participants. The House bill offers programs for single parents, homemakers and displaced homemakers.

The Senate amendment offers programs for single parents, displaced homemakers, and single pregnant women.

The House recedes.

94. Homemakers Program—Reserve of Funds. The House bill requires that the State program to assist single parents, homemakers, and displaced homemakers be funded with the sex equity program in an amount equal to 10% of the basic State grant. Seventy percent of that 10% reserve will be used for homemakers programs and the remaining 30% for sex equity programs.

The Senate amendment reserves for programs serving single parents, displaced homemakers, and single pregnant women at least 10.5% of the amount the State reserves for both secondary and postsecondary programs. (Sex equity reserve is 4% of the basic

State grant.) The funds will be taken from the amount set aside for postsecondary programs, but programs may be offered in either secondary of postsecondary schools.

The Senate recedes with amendments reserving 10½%, requiring at least 7% for displaced homemakers and 3% for sex equity, and providing for a 1990 hold harmless adjusted ratably if sequestration or a reduction in appropriations occurs.

95. Homemaker Program—Required Services. The Senate bill provides that homemaker programs must provide vocational and prevocational programs, including comprehensive career guidance and counseling, to participants.

The House recedes. The managers intend guidance and counseling to be a part of the general State program but not necessarily a part of each local program.

96. Homemaker Program—Activities. In general, the House bill indicates that the State shall use a portion of its allotment only for the activities listed below.

The Senate amendment permits the State to use funds for the activities listed below.

The Senate recedes. The managers intend that these funds be used for direct services and the smallest amount possible be used for administration.

(a) **Preparatory/Pre-Vocational.** The House bill provides that homemaker programs may provide, subsidize, reimburse, or pay for *Preparatory services*, including basic literacy instruction and necessary educational materials, to provide participants with marketable skills.

The Senate recedes.

(b) The Senate amendment provides that homemaker programs may provide, subsidize, reimburse, or pay for *vocational and prevocational education and training activities*—including basic academic skills, necessary educational materials, and career guidance and counseling to provide participants with marketable skills.

The House recedes with amendment changing "may" to "shall".

97. Grants. The House bill provides for grants to eligible recipients for *Preparatory services of applied technology education and applied technology education services*.

The Senate bill refers to grants to local recipients for *vocational and prevocational education services*.

The Senate recedes on "preparatory" and "local".

The House recedes on "applied technology".

98. Support Services. The House bill provides that homemaker programs may assist participants with dependent care or transportation services.

The Senate amendment provides that homemaker program may provide support services including dependent care, transportation services, *special services and supplies, books and materials*.

The House recedes.

99. Information. The House bill provides that homemaker programs may provide information to single parents, homemakers, and displaced homemakers about applied technology education programs and related support services.

The Senate amendment provides that homemaker programs may provide information to single parents, displaced homemakers, and single pregnant women about vocational education programs, related support services, and career counseling.

The House recedes.

100. Sex Equity Programs—General Provisions. Both the House bill and the Senate

amendment make similar requirements for sex equity programs. Provisions are identical, with the exception of the two items noted below:

(a) The Senate amendment, but not the House bill, includes comprehensive career guidance and counseling among activities to eliminate sex bias and stereotyping.

The House recedes. The managers have agreed on a State-level requirement for guidance and counseling and not on a requirement for such activities within each local program.

(b) The House bill refers to "preparatory services for applied technology education and applied technology education programs."

The Senate bill refers to "vocational and prevocational education programs."

The Senate recedes on preparatory. The House recedes on "applied technology".

101. *Sex Equity Programs—Secondary School Level.* The Senate amendment, but not the House bill, adds new provisions dealing with sex equity in schools offering secondary programs. Schools must provide: equal access to nontraditional occupation education and training and to the full range of vocational programs, programs to overcome sex bias/stereotyping, programs to expand outreach to nontraditional occupations, supplementary services, and programs to increase and provide support services. The sex equity coordinator must review these programs and services.

The House recedes with an amendment applying requirements to postsecondary institutions.

102. *Sex Equity Programs—Competitive Awards.* The House bill, but not the Senate amendment, adds a new section requiring that the administrator of the sex equity and homemakers programs distribute the funds for both programs on a competitive basis and collect data from recipients so that evaluations can be conducted.

The Senate recedes with an amendment regarding size, scope and quality so as to ensure success. The requirement to distribute funds for sex equity and single parent/displaced homemaker programs on a competitive basis does not mean that programs may not receive continuing support from year to year if they continue to compete successfully. It is intended that successfully operating programs be supported through continued funding and that States not apply a maximum number of years a program may be funded. It is intended that the distribution of funds for the sex equity and single parent/displaced homemaker programs be based on information and needs identified by the sex equity coordinator. The funding formulas for basic grant funds are not applicable to these programs.

103. *Secondary Programs—Within State Allocation.* The House bill requires each State to allocate basic State grant funds (Title II) by formula to each LEA serving secondary students as follows: Each local educational agency within the State would receive an allocation based on its relative share of Chapter 1 basic grants (70 percent of the allocation), handicapped students (20 percent), and general enrollment—including adults enrolled in training programs (10 percent) within the State. (The State may decide how much of its Federal funds will be spent on secondary programs.)

The Senate amendment requires the State to allocate the amount reserved for secondary programs to each local educational agency in proportion to the amount of funds such agency received in basic and concentration grants under Chapter 1.

The Senate recedes. An LEA may receive funds directly or designate a fiscal agent to receive such funds in the case where LEAs form a consortium.

104. *Secondary Programs—State Correctional Program.* The Senate amendment, but not the House bill, requires the State board to ratably reduce the funds reserved for secondary programs to provide moneys to the State corrections education agency in an amount substantially equal to the amount it would have received had it been eligible for Chapter 1, but not more than 5 percent of the total secondary programs reserve. The age of individuals in correctional institutions to be counted shall be 9 through 35, although services are not limited to those in this age group.

The House recedes with an amendment treating the correctional agency or agencies as an LEA and includes in the count of individual criminal offenders in all non-Federal correctional institutions within the State, provides that the funds shall be made available to a correctional agency or agencies designated by the State board, and treats such correctional agency or agencies as if they were LEAs applying for grants to the State board.

105. The Senate amendment requires an allocation to be equal to or exceed \$25,000 in order for an LEA, area school, or intermediate agency to be eligible. Such entities, however, may form consortia and aggregate their individual amounts in order to achieve this threshold. The \$25,000 minimum grant requirement does not apply to State correctional agencies.

The House bill provides that any LEA receiving a grant of not more than \$5,000 must participate in a consortium. The State, however, may waive this requirement for an LEA in a rural or sparsely populated area which demonstrates an inability to form a consortium.

The House recedes with an amendment of a \$15,000 minimum grant with a waiver for school districts that are unable to form a consortium if in a rural, sparsely populated area.

106. (a) *Secondary Programs—Redistribution of Funds.* The Senate amendment, but not the House bill, provides that amounts not allocated due to LEA's not meeting the \$25,000 funding threshold shall be redistributed to LEAs in accordance with the provisions of the section.

The Senate recedes with same amendment as #105.

(b) The House bill requires that the amount which would have gone under this formula to LEAs serving only elementary schools must be allocated to LEAs with secondary schools educating the students from such elementary school district. Conversely, the amount to be allocated to an LEA only serving secondary schools is determined based on the number of students that enter such secondary schools from the elementary schools involved.

The House recedes on 1st sentence.

The Senate recedes on 2nd sentence.

(c) The Senate amendment prevents any LEA only serving elementary schools from receiving funds and redistributes such funds to the local or regional educational agency which provides secondary school services in the same attendance area.

The House recedes.

(d) The Senate amendment provides that amounts available to LEAs served by an area vocational school shall be made available to the area school. A State agency is permitted to distribute funds to both an

area school and an LEA served by such school, if the area school and the LEA offer comparable programs. In such a case, the \$25,000 minimum must be met both by the area school and the LEA.

The House recedes with the same amendment as #75(k).

107. *Secondary Programs—Intermediate Educational Agency.* Senate amendment, but not the House bill, provides that where an intermediate educational agency and an LEA served by such an intermediate educational agency offer comparable vocational programs, the State agency may distribute funds to both an intermediate educational agency and an LEA served by such an agency if the \$25,000 minimum is met.

The House recedes with same amendment as #75(k).

108. *SECONDARY PROGRAMS—LEA Notification to State.* The House bill, but not the Senate amendment, requires an LEA to notify the State of the portion of its allocation which should be distributed to the LEA, to any consortium in which such LEA participates, or to any area school.

The Senate recedes with same amendment as #75(k).

109. The House bill requires an LEA to notify the State of the portion of its allocation which should be distributed to the LEA, to any consortium in which such LEA participates, or to any area school. Further, any LEA sending students to an area school must participate in a consortium with such school and with any other LEAs sending students to such schools and must provide a relative percentage of its allocation to be sent to such school based on the relative percentage of special needs students in that school who are from that LEA.

The Senate amendment requires an area vocational school to be allocated the funds which are available to LEAs served by that school. Intermediate educational agencies would also receive the funds allocated to LEAs served by that agency.

The Senate amendment, however, permits a State agency to distribute funds to both an area school and an LEA served by such area school if the area school and the LEA offer comparable programs. In such a case, the \$25,000 minimum requirement must be met both by the area school and the LEA.

The House recedes with same amendment as #75(k).

110. *Secondary Programs—State Reserve.* The Senate amendment, but not the House bill, permits States to reserve up to 10% of secondary school program funds to make special allocations to areas experiencing severe hardships and whose percentage, or concentration, of these hardships are above the statewide average. Such severe hardships include: severe unemployment, severe poverty concentration, high dropout rate, high crime rate, high incidence of drug abuse, or high concentration of LEP students. Funds may be distributed to LEAs, area vocational schools, intermediate educational agencies, or community colleges. Such reserved funds would have to be matched by the State using State sources or private sources. No funds from LEAs, area schools, or intermediate agencies may be used to meet this matching requirement. In addition to such distributions, a State may use these reserved funds at community colleges for programs providing high school diplomas to youths 16 through 18 if these community colleges match the grants.

The Senate recedes.

111. *Postsecondary Education Allocation.* (a) The House bill requires each State to

distribute by formula the amount it reserves for postsecondary and adult programs. Each eligible institution would receive a relative share of these funds based on its numbers of Pell grant and BIA grant recipients (70% of the allocation), handicapped individuals receiving assistance under the Rehabilitation Act (20%), and general enrollment (10%), within the State. A State is permitted to use training enrollment in lieu of general enrollment if the State determines that applied technology programs offered by eligible institutions are clearly distinguishable from other education programs offered by such institutions.

The Senate recedes with an amendment establishing the relative distribution of Pell and BIA grants among recipients enrolled in Perkins eligible programs in institutions of higher education, LEAs serving adults, and area schools serving adults, as the basis for distributing postsecondary funds within a State but permitting a State to apply to the Secretary for a waiver for an alternative formula proposing one or more substituting or additional factors, such as participation in publicly-funded student aid, AFDC, or JTPA programs, if such alternative results in better targeting of funds to institutions with the highest numbers of economically disadvantaged students and adults enrolled in Perkins eligible programs. A minimum grant of \$50,000 is required. If the institutions decline to use the money, it shall revert back to the State to be redistributed consistent with the purposes of this Act.

(b) The Senate amendment reserves for postsecondary and adult programs 25%-35% of the 75% available for secondary, postsecondary, and adult programs and permits States to distribute these funds on either a competitive basis or formula determined by the State board.

The Senate recedes with same amendment as in #40.

(c) The Senate amendment permits a State to distribute the funds it reserves for these programs on either a competitive basis or by formula. Unlike the House bill, the Senate amendment permits such grants to be awarded to community-based organizations.

The Senate recedes.

112. *Postsecondary Programs—Priorities.* The Senate bill, but not the House amendment, gives priority to: (a) programs serving special populations; (b) apprenticeship programs; (c) programs strongly tied to economic development efforts within the State; (d) programs which train in all aspects of the occupation where job openings are projected or currently available, provide comprehensive career guidance and counseling, and are developed in conjunction with business/labor/industry/the community/the State board/other local eligible recipients, and focus on the most salable, highest placement aspects of the industry; and (e) partnerships with business/industry/labor.

The House recedes with an amendment establishing for postsecondary institutions the same criteria for local uses of funds as are applicable to secondary schools. Permissive uses of funds include tech-prep, apprenticeship, economic development, and programs involving all aspects of the industry.

113. *Postsecondary Programs—Reallocation of Funds.* The House bill, but not the Senate amendment, requires each LEA and eligible institution which does not expend all of its funds in one academic year to return such funds to the State for reallocation. If the State is not able to reallocate, then it may retain such funds to be distributed in the following academic year.

The Senate recedes.

114. *Postsecondary Programs—Coordination with other Programs*

The Senate recedes.

The Senate amendment requires that postsecondary awards be coordinated with programs and services provided through JTPA, the Adult Education Act, and the Family Support Act.

The House recedes retaining the provision with the exception of the formation of a human investment council.

115. *Secondary Programs—Minimum Grant Size.* The House bill provides a minimum grant size of \$5,000. Any LEA receiving a grant of less than \$5,000 must participate in a consortium.

The Senate amendment requires a minimum grant size of \$25,000 in order for an LEA area school, or intermediate agency to be eligible for funds. Such entities may form consortia and aggregate their individual amounts in order to achieve this threshold.

Secondary Programs—Minimum Grant Size Exemption. The Senate amendment, but not the House bill, exempts State correctional agencies from the minimum grant requirement.

The House recedes with same amendment as #105.

116. *Secondary Programs—Minimum Grant Size Waiver.* The House bill, but not the Senate amendment, permits a State to waive the minimum grant requirement for an LEA in a rural or sparsely populated area which demonstrates an inability to form a consortium.

The Senate recedes with same amendment as #105.

117. *Secondary/Postsecondary Funding—Hold Harmless.* House bill, but not the Senate amendment, provides a hold harmless with no LEA or eligible entity receiving less than 80% of the average of its allocation percentage for each of the 3 preceding fiscal years; in the second and third fiscal years, no less than 80% of the allocation percentage for the preceding fiscal year. In the event a State does not receive sufficient funding to pay the full hold harmless amount, payments will be ratably reduced.

The House recedes.

118. *Secondary/Postsecondary Funding—Duplication.* The House bill, but not the Senate amendment, forbids Federal funds from being used to duplicate facilities or services unless alternative services or facilities would be more effective.

The Senate recedes.

119. *Secondary/Postsecondary—Allocation Percentage.* The House bill, but not the Senate amendment, defines "allocation percentage" for this subsection as the percentage which an LEA or eligible institution received of the total amount allocated under this section or allotted under the previous Perkins Act to all agencies and institutions in the State.

The House recedes.

120. *Postsecondary Program—Eligible Institutions.* The House bill defines "eligible institution" as any secondary school, area school, technical institute, community college, or institution of higher education designated by the State that offers programs qualified for funds under the basic State grant and that seeks to receive assistance. (This definition is applicable to both secondary and postsecondary programs.). In addition, the House bill permits an LEA to apply for funds as part of a consortium with other LEAs or eligible institutions of higher education to conduct programs.

The Senate amendment does not define "eligible institution" but makes eligible for postsecondary funding: (a) postsecondary education institutions, (b) LEAs for programs for adults in secondary schools, (c) area vocational schools serving postsecondary students or adults, (d) community-based organizations providing vocational education to adults, (e) any of the above entities in partnership with business/industry/labor, and (f) consortia of the above entities.

The House recedes with an amendment defining "eligible institution" as an institution of higher education, an LEA serving adults, or an area vocational education school serving adults. In addition, the definition of postsecondary education is clarified to include BIA controlled postsecondary education institutions.

121. *Secondary/Postsecondary Funding—Definitions.* The House bill, but not the Senate amendment, adds "institution of higher education" and "Pell Grant recipient" to the list of definitions of Title II.

The Senate recedes.

122. *Use of Funds.* The House bill retains the application provision from current law and proposes new limitations on the use of Federal funds. Each LEA and eligible postsecondary institution may only use its funds to:

(1) first serve schools with the most special needs students and which have programs in greatest need of improvement;

(2) provide programs that integrate academic and occupational disciplines, offer coherent sequences of courses leading to a job skill, offer counseling, assist special needs students through supportive services, are of sufficient size, scope and quality, and cooperative with the sex equity program. The House bill also retains the provision from current law permitting the State to fund programs in private-for-profit institutions.

The Senate recedes with same amendment as #75(h).

123. The Senate amendment has separate requirements for use of funds for secondary programs and for postsecondary and adult programs. The Senate amendment requires that secondary school funds be spent only on the following populations: economically disadvantaged students, individuals with disabilities, individuals who participate in programs designed to eliminate sex bias, economically disadvantaged adults, and criminal offenders.

The Senate recedes. The managers intend that programs for adults may be supported from either the secondary or postsecondary allocation received by an area school or LEA serving adults. In addition, postsecondary institutions serving high school students, ages 16-18 would be eligible for funding from either the secondary or postsecondary allocations.

124. *Use of Funds—Assessment.* The Senate amendment, but not the House bill, requires the services provided under the basic State grant to be identified and designed through an assessment of the interests, abilities and needs of special population students and shall reflect the participation of both parent and student, and guidance counseling activities to criminal offenders.

The House recedes with an amendment requiring the participation of students and parents.

125. *Use of Funds—Administrative Costs.* The Senate amendment but not the House bill, limits the amount of basic State grant funds to be used by local recipients for administrative costs to no more than 5%.

The House recedes with an amendment also applying to postsecondary recipients.

126. Use of Funds—Community-Based Organizations. The Senate amendment, but not the House bill, permits secondary schools to use funds to develop programs in consortia or in cooperation with community-based organizations.

The House recedes.

127. Use of Funds—Programs Which May Be Offered. Both the House bill and the Senate amendment authorize funds for programs which integrate academic and occupational disciplines; requires such integration "to the extent practicable." The House bill requires a "coherent sequence of courses leading to a job skill" while the Senate bill requires a "sequential course of study" which motivates students to excel and incorporates business and industry.

The Senate recedes with an amendment regarding providing counseling throughout the course of study as a permissive use of funds.

(a) The House bill authorizes programs which use counseling to encourage students, while the Senate amendment requires programs to provide comprehensive guidance and counseling by grade 9 and throughout the vocational program.

The Senate recedes with amendment regarding providing counseling throughout the course of study.

(b) The House bill requires support services for special populations while the Senate bill mandates supplementary services which enable special populations to participate fully in programs.

The House recedes with the same amendment as #75(h).

(c) The House bill uses the phrase "of such size, scope, and quality to bring about improvement" while the Senate amendment uses the phrase "give reasonable promise of meeting the vocational needs of the students in describing the requirement that projects be of sufficient size, scope and quality."

The Senate recedes with an amendment providing that programs be of such size, scope, and quality as to be effective.

(d) The House bill authorizes programs which seek to cooperate with activities of the sex equity programs while the Senate bill authorizes programs to eliminate sex bias in addition to the sex equity reserve at the state level.

The House recedes with the same amendment as #75(h).

128. Informational. (b)(1) The Senate amendment has separate sections for use of funds for secondary programs and for postsecondary and adult programs.

Secondary programs must use funds to provide special needs students with supplementary services, ensure that programs for such individuals are of the highest quality and state-of-the-art, and support additional staff, equipment, materials, and services for such individuals. Secondary programs shall, to the extent practicable use funds for special needs individuals to integrate academic and vocational training, providing a sequential course of study, and which encourages use of the business-industry model of applied learning. These programs must also provide program improvement to upgrade instruction and must designate a special populations coordinator. Further, comprehensive guidance and counseling must be provided to students below 9th grade and to their parents. Once the needs of special population students are met, then funds may be used to benefit other populations. No more

than 5% of a local grant may be used for administrative costs. Equipment purchased under the Act may be available for instructional purposes not related to special needs students if certain conditions are met.

The Senate recedes with same amendment as #75(h).

129. Use of Funds—Private Institutions and Employers. The House bill permits a State, LEA, or eligible institution to use a portion of their respective allotments to provide educational training through arrangements with private applied technology training institutions, private postsecondary educational institutions, labor organizations, joint labor-management apprenticeship programs, and employers whenever such institutions or employers can make a significant contribution to State plan objectives and can provide substantially equivalent training at a lower cost or can provide equipment or services not available in public institutions.

The Senate amendment permits postsecondary and adult grant funds to provide education and training through arrangements with private vocational training institutions, private postsecondary educational institutions, and employers under the same conditions specified in the House bill.

The Senate recedes.

130. Coordinator. The Senate amendment, but not the House bill, requires the local recipient to designate a special populations coordinator to ensure that special populations are receiving services. Funds for the coordinator shall be paid from administrative monies.

The Senate recedes with an amendment making a permissible use of local administrative money the payment, in whole or in part, of a special populations coordinator's salary.

131. Use of Funds—Tech Prep. The Senate amendment, but not the House bill, permits the use of secondary school funds for tech prep programs for special populations.

The House recedes with an amendment not limiting to special populations, and not limiting to secondary programs.

132. Use of Funds—Other Than Special Populations. The Senate amendment permits secondary funds with respect to curriculum development and program improvement to be used for other populations once the needs of special population students are met.

The Senate recedes with same amendment as #75(h).

133. Use of Funds—Equipment. The Senate amendment, but not the House bill, provides that equipment purchased with federal secondary school funds with respect to curriculum development and program improvement may be used for instructional purposes not related to special needs students if the acquisition of the equipment: was reasonable and necessary, if it is used after regular school hours or on weekends, and if such other use is incidental to the use of the equipment, does not interfere with the use of that equipment, and does not add to the cost of its use.

The House recedes. The managers intend, by adopting this provision, to make more widely available equipment purchased with Federal funds. For instance, data processing equipment used in Perkins-supported programs during the regular school day could be made available for adult literacy courses at night. The managers want to emphasize that nothing in this section is designed to place limitations on use of equipment in Perkins funded programs.

134. Use of Funds—Consultation. The Senate amendment, but not the House bill, requires local recipients to provide for consultation with members of special populations, students, parents, teachers, workers and members of community-based organizations in the planning of secondary school programs.

The House recedes with the same amendment as #75(h).

135. Report. The Senate amendment adds a new requirement that the local application must contain a report on the number of special population individuals being served and must assess the needs of special populations and the planned use of funds to meet those needs. This application must also show that parents and special population students have been involved in developing programs and there has been coordination with community-based organizations. The special needs coordinator must review and comment on the assurances in the application regarding services to those populations.

The House recedes on first two sentences.

The Senate recedes on the third sentence.

136. Performance Evaluation and Improvement. The House bill requires each State to review all programs in secondary and post-secondary institutions.

The Senate amendment requires that: (a) secondary programs receiving basic State grant funds develop goals and evaluate the effectiveness of programs with respect to basic and occupational skills and the ability to meet the needs of special populations; (b) local recipients consult with the State in developing measurement criteria; (c) if a local entity is not making substantial progress in meeting performance criteria, the entity must develop a program improvement plan; and (d) regular program reviews, including participation of special population representatives, must be done to overcome any barriers resulting in lower rates or access or success for special populations. The Senate amendment further requires the local recipient to consult with the State board in developing the measurement criteria.

The Senate recedes with amendments requiring each eligible recipient with full participation by representatives of special populations to annually evaluate the effectiveness of the program based on the standards and measures set forth. If no progress is shown after the first year, the eligible recipient will develop a plan in consultation with teachers, parents, students and all others involved. In addition, the amendment requires that if student progress has not been made after one year of implementation of the plan by the LEA, the State and LEA will work together to develop a joint plan for improvement. If after one year of implementation of the joint plan, no progress is made, the State and LEA will make revisions for each consecutive year until performance is sustained over a period of more than one year. These amendments also apply to "sex equity and displaced homemakers" programs.

137. Program Improvement Plan. The Senate bill, but not the House amendment, requires that each entity operating a secondary program must adopt an improvement plan if substantial progress is not being made to meet the evaluation criteria. If, after one year of implementation of this plan, sufficient progress has not been made, the State shall work jointly with the local entity (and teachers, parents, and students) to develop a further plan of program improvement which will include technical as-

assistance from the State and a timetable for improvement.

The House recedes with an amendment requiring that if student progress has not been made after one year of implementation of the plan by the LEA, the State and LEA will work jointly to develop a plan for improvement. If after one year of implementation of the joint plan, no progress is made, the State and LEA will make revisions for each consecutive year until performance is sustained over a period of more than one year.

138. *Special Populations*. (a) The House bill contains requirements for State level assurances and for local assurances that special populations will be served. The State Board must assure that such populations have access to programs and that individuals with handicaps be served in conformity with the Education of the Handicapped Act and Section 504 of the Rehabilitation Act. The State must also assure that programs for special populations will be monitored and will be supervised by individuals in the State responsible for such populations. Each local educational agency must provide specific information to special population students one year before they would be eligible for programs. Each LEA and institution of higher education must assure that the special needs of these students are being met in integrated settings and through adopting a curriculum and providing counseling. The State must also provide for participatory planning in the creation of programs and for an appeal procedure.

The Senate recedes.

(b) The Senate amendment includes: the economically disadvantaged, individuals with disabilities, individuals who participate in programs designed to eliminate sex bias and stereotyping in vocation education, LEP students, economically disadvantaged adults, and criminal offenders—both juveniles and adults—who are serving in correction institutions as special populations.

The House recedes.

(c) The Senate amendment contains State assurances regarding special populations in the State plan. The amendment also requires the special populations to be served by local secondary agencies, but has different provisions for the populations to be served by post secondary agencies.

The Senate recedes.

139. *Special Populations—Adults*. The Senate amendment, but not the House bill, permits any LEA with a student enrollment exceeding 100,000 which served economically and education disadvantaged adults in FY 1990 to continue to serve such adults with the same proportionate amount of funds as they used for that purpose in FY 1990.

The Senate recedes.

140. *Special Populations—Assurances/Disadvantaged*. The House bill requires that the State board provide assurances that all special populations (in both secondary and postsecondary programs) be provided with equal access to recruitment, enrollment, and placement activities and that they be provided equal access to the full range of programs available to others (including occupationally specific courses of study, cooperative education, and apprenticeship programs) and shall not be discriminated against on the basis of their status. The education of disadvantaged students will be monitored to assure they have access in the most integrated setting possible.

The Senate recedes.

141. The Senate amendment contains similar provisions that secondary school pro-

gram recipients provide disadvantaged students with equal access in recruitment, enrollment, and placement activities and with equal access to the full range of vocational programs (including occupational specific courses of study, cooperative, education and apprenticeship programs), and also requires comprehensive career guidance and counseling services and the supplementary services necessary to ensure full participation in programs.

The House recedes with an amendment that comprehensive guidance and counseling be provided "to the extent practicable".

142. *Special Populations—Assurances/Students With Disabilities*. In addition to the general assurances for special populations, the House bill requires individuals with handicaps be served in conformity with the EHA and Section 504 of the Rehabilitation Act and in the least restrictive environment. If the student has an IEP, services must be provided in accordance with it. If a student does not have an IEP, services will be provided under Section 504 guarantees. Planning for such individuals must be coordinated between appropriate representatives of vocational education, special education, and State vocational rehabilitation agencies. Their education will be monitored and supervised in conjunction with supervision by the State agency administering EHA.

The Senate recedes with an amendment "and for the purpose of this Act such rights and protection shall include making vocational education programs readily accessible to qualified individuals with disabilities by the provision of services defined in sections of this Act".

143. The Senate amendment requires secondary school program Title II recipients to provide students with disabilities equal access to recruitment, enrollment, placement, and a full range of vocational programs in the least restrictive environment, as well as in conformance with the vocational education component of an IEP. *Supplementary services must be provided*. Planning must be coordinated with appropriate representatives of vocational and special education. The head of the State office responsible for administering Part B of EHA must review the planning. The equal access provisions of Section 504 and EHA will be applied.

The Senate recedes with an amendment inserting language after the word "institution", "and when appropriate, assist in the preparation of applications".

144. *Special Populations—Assurances/Educationally Disadvantaged*. The House bill limits the term "disadvantaged" to only those economically disadvantaged.

The Senate amendment defines "disadvantaged student" to mean a student who is economically or educationally disadvantaged.

The House bill requires the State to monitor access to programs for economically disadvantaged. The Senate bill requires the Chapter 1 coordinator to monitor services, and further requires each local recipient to provide equal access and supplementary services for economically disadvantaged students.

The House recedes on the first two sentences.

The Senate recedes on the third and fourth sentences.

145. *Special Populations—Assurances/LEP*. In addition to the general population assurances, the House bill requires that LEP students have access in the most integrated setting possible.

The Senate amendment requires that secondary school program recipients assured equal access in recruitment, enrollment, placement, and full range of programs. In addition, *supplementary services must be provided, such as adapted vocational instruction, communication and counseling in the students' language, and bilingual and cultural counseling*. Planning for LEP students must be reviewed by the head of the State office responsible for education of LEP students.

The Senate recedes.

146. *Special Populations—Provision of Information*. The House bill, but not the Senate amendment, requires that LEAs provide special population students and their parents with information regarding opportunities, eligibility requirements, specific courses, special services, employment opportunities, and placement at least one year before the students enter vocational training. Postsecondary institutions must provide such information upon request or when a special population student seeks admission. Information must be presented in an understandable form.

The Senate bill requires guidance and counseling of all special populations in grade 9 in the course of study in each program, its requirements, postsecondary, apprenticeship and career opportunities. In addition, the Senate bill requires guidance and counseling services at the prevocational level.

The Senate recedes of first paragraph with an amendment "and when appropriate, assist in the preparation of applications".

The House recedes on second paragraph with amendment contained in #75(h).

147. The House bill requires an assurance that each LEA or higher ed. institution will assess the special needs of participating students and provide special services, while the Senate amendment requires each postsecondary school to provide equal access and supplementary services and to regularly review the program. Each local recipient of secondary school funds is required to provide supplementary services, and to assess the abilities and needs of the students.

The Senate recedes with an amendment including a new paragraph: "(1) Assist students who are members of special populations to enter vocational education programs. With respect to students with handicaps, institutions of higher education shall assist local educational agencies in fulfilling the transition requirements of the Education of the Handicapped Act".

148. The House bill requires each grant recipient to provide counseling services for the transition from school to work, while the Senate amendment requires each secondary school recipient to provide guidance and counseling for part-time and summer employment while in school, and for post-school employment.

The House recedes and the Senate recedes.

149. The House bill, but not the Senate amendment, requires LEAs in a consortium to determine each school's relative share of special populations.

The House recedes.

150. *Special Populations—Participatory Planning*. The House bill requires the State board to establish procedures to assure direct participation in State and local decisions by parents, students, teachers, and area residents; provide procedures by which such individuals may appeal adverse decisions; and provide technical assistance to

assure that such individuals receive the information needed to use these procedures.

The Senate recedes with an amendment to include an appeals procedure as part of the assurances. It is expected that the participatory planning requirements will help ensure that vocational education programs are responsive to the needs of the students, the special populations, and the communities they serve, and that these programs will work in the manner Congress intended. It is the intent of the managers that the expeditious appeals procedure or any other provisions in this law will in no way restrict an individual's ability to pursue remedies under any other provision of law.

151. Special Populations—Assurances/Programs for Criminal Offenders. The Senate amendment, but not the House bill, requires State correctional education agencies receiving Title II funds to administer vocational programs for male and female criminal offenders to update equipment. Funds are to be distributed to correctional institutions in proportion to the number of individuals served by each facility.

The House recedes with an amendment which makes criminal offenders in non-Federal correctional institutions, including county and local correctional institutions eligible for services; requires programs to coordinate with eligible recipients in the provision of services to offenders both prior to and following release, gives special consideration for services to inmates who are completing their sentences and preparing for release, and requires that special consideration in the awarding of funds be given to correctional institutions at which vocational education programs are not currently available.

152. Special Populations—Others Remedies. The House bill, but not the Senate amendment, has a disclaimer which indicates that nothing in the subsection shall be construed to limit remedies available under any other provision of law.

The House recedes.

152. Use of Funds—Postsecondary. The Senate amendment, but not the House bill, establishes separate requirements for postsecondary and adult programs. It provides grants for postsecondary and adult vocational education programs for: (a) training older individuals, (b) the costs of serving adults in other vocational programs, (c) training programs designed cooperatively with employer or labor, (d) industry-education-labor partnerships in high technology fields, (e) programs offering high school diplomas to individuals aged 16-18, and (f) tech-prep. The State must use funds available under this part for apprenticeship training. The State may also use these funds for comprehensive tech prep programs and State-wide mentoring programs.

The Senate recedes.

154. Use of Funds—Postsecondary/Apprenticeship Programs. (Page 95). The Senate amendment, but not the House bill, requires that postsecondary basic State grant funds shall be used for apprenticeship program.

The Senate recedes.

155. Use of Funds—Postsecondary-Private Institutions & Employers. The House bill permits funds to be used to provide education and training through arrangements with private institutions (including labor organizations and joint-labor management apprenticeship programs).

The Senate amendment allows postsecondary & adult grants to be used to provide education and training through arrangements with private vocational training insti-

tutions, private postsecondary educational institutions, and employers if those institutions can make a significant contribution at a lesser cost—or provide equipment or services not otherwise available.

The House recedes with an amendment adding labor organizations and apprenticeship programs.

156. Use of Funds—Postsecondary/Mentoring. The Senate amendment, but not the House bill, permits a State board to award grants for mentoring programs to institutions of higher education offering comprehensive programs in teacher or counselor preparation. The mentoring programs must establish partnerships aimed at preparing and meeting the continuing needs of vocational educators and counselors, provide competency-based teacher education programs, and assess professional education skills. The program shall employ highly qualified classroom educators as mentors to assist with the program.

The House recedes with an amendment including "mentoring" in the list of permissive activities.

157. Use of Funds—Postsecondary/Special Populations (Page 97). The Senate amendment requires that postsecondary program fund recipients provide special populations equal access recruitment, enrollment, placement, and vocational programs and offer needed supplementary services. Recipients must regularly review such programs, with groups, to identify barriers to success.

The House bill requires that Perkins dollars first serve these populations.

The Senate recedes on first two sentences. The House recedes on last sentence.

158. Administrative Provisions—Supplement, Not Supplant. The Senate amendment, but not the House bill, adds a new supplement but not supplant requirements, but permits an exception for services under an IEP pursuant to the Education of the Handicapped Act and services under Section 504 of the Rehabilitation Act.

The House recedes.

159. Administrative Provisions—State Consideration of Fed. Aid. The Senate amendment, but not the House bill, adds a new requirement barring a State from considering Federal aid in distributing other aid within the State.

The House recedes.

160. Administrative Provisions—Waiver Authority. The Senate amendment, but not the House bill, permits the Secretary to waive the two new requirements listed above for FY 1991 through 1993 for any State that has spent for postsecondary education programs more than 70% of the funds available under this title for FY 1989.

The Senate recedes.

161. Administrative Provisions—Size, Scope, Quality. The Senate amendment, and the House bill require that postsecondary programs be of sufficient size, scope, and quality to give promise of meeting the needs of students.

The House recedes with a conforming amendment to apply provisions on size, scope, and quality to secondary schools.

162. Administrative Provisions—Other Allowable Programs. The Senate amendment, but not the House bill, permits postsecondary program funds to be used for work-site programs, placement services, and programs which involve students in meeting the needs of the community.

The House recedes.

163. Administrative Provisions—Academic Credit. The Senate amendment, but not the House bill, permits the State board to con-

sider granting academic credit for vocational courses which integrate core academic competencies.

The House recedes.

164. Administrative Provisions—Waiver of "Split".—The Senate amendment, but not the House bill, permits a State to petition the Secretary for a waiver of the requirements that 65-75% of Perkins funds must be spent for secondary programs. The Secretary may approve such waiver only if certain conditions are met, such as the need to serve more effectively special populations enrolled in secondary or area schools or having dropped out of high school. In case of a waiver, such funds must be directed to serve such populations to become better trained or to achieve a high school diploma and such funds must be spent in postsecondary schools with high concentrations of special populations. The Senate secondary school agency is afforded the opportunity to file objections to such waiver petition. If granted, such waiver cannot permit less than 50% of a State's Perkins funds to be used for secondary programs except for a demonstration program in no more than five States under certain conditions.

The Senate recedes.

165. The Senate amendment, but not the House bill, also permits the Secretary to establish a demonstration program for no more than 5 states to spend up to 65% for postsecondary and adult programs. In selecting the five states, the Secretary is required to take into consideration the school dropout rates, state unemployment figures and the demand for postsecondary and adult education programs.

The Senate recedes.

166. Regulations.—The House bill, but not the Senate amendment, requires the Secretary of Education to issue regulations in consultation with the Secretaries of Labor, and Health and Human Services.

The Senate recedes with an amendment striking the Secretary of Health and Human Services.

167. Special Programs—Community-based Organizations. The Senate amendment, but not the House bill, permits community based organization funds to be used for model programs for school dropouts.

The House recedes.

168. (a) Special Programs—Consumer and Homemaking Education. The House bill, but not the Senate amendment, requires that any sex bias programs funded with home economics money must be administered in cooperation with the State sex equity program.

The Senate recedes.

168. (b) The House bill requires the state to provide a full-time state administrator, whereas the Senate amendment makes this permissive.

The Senate recedes.

169. Special Programs—Repealers. The House bill repeals Part C, Adult Training. The Senate amendment repeals Part C, Adult Training; Part D, Career Guidance and Counseling; and Part E, Industry-Education Partnerships. The Senate amendment, but not the House bill, transfers the guidance and counseling program from Title III to Title IV as an authorized program under National Demonstration programs.

The Senate recedes with the same amendment as in No. 16, but authorized for the career guidance and counseling and industry-education partnerships programs are triggered at \$1 billion in funding for the basic State grant.

170. *Special Programs—Guidance and Counseling/Career Info.* The House bill, but not the Senate amendment, amends the guidance and counseling program by authorizing the development of career information delivery systems.

The Senate recedes.

171. *Special Programs—Guidance and Counseling/R&D Seaside.* The House bill, but not the Senate amendment, adds a new requirement that not less than 20 percent of the sums available under career guidance and counseling must be used for research and demonstration projects demonstrating student outcomes.

The House recedes.

172. *Special Programs—Business-Labor Education Partnerships.* The House bill revises the business-labor-education partnership program by changing the findings and purpose to broaden its scope beyond the high technology occupations and to emphasize coordination with JTPA. Specifically, the House bill:

The Senate recedes with an amendment to authorize at \$10 million, triggered at \$1 billion in appropriations for the basic State grant.

(a) Revises the authorization of grants to include (i) apprenticeships, (ii) new equipment, (iii) cash contributions to programs, (iv) teacher internships and training, and (v) bringing representatives of business and organized labor into the classroom.

The Senate recedes with an amendment adding the Senate uses of funds to list of activities and eliminating cash contributions to programs.

(b) Requires the State to provide 60 percent of the funds for the partnerships;

The Senate recedes with an amendment clarifying that the 60 percent is for small businesses as defined by the Secretary of Labor or labor organizations. Otherwise, a 50% match is required.

(c) Gives preference to partnerships that coordinate with local groups;

The Senate recedes with an amendment adding priority for partnerships providing job training in areas with significant labor shortages.

(d) Requires that grants be equitably distributed between rural and urban areas;

The Senate recedes with an amendment requiring nationwide geographic distribution.

(e) Requires that no less than 50 percent of the aggregate cost of programs and projects for these partnerships come from non-federal sources and not less than 50 percent of such non-federal share will be provided by participating businesses or labor organizations; and

The Senate recedes with an amendment clarifying that the 50% match is not applicable to small businesses or labor organizations.

The Senate amendment repeals Part E, Industry-Education Partnerships, and creates a new business-industry and labor partnership under National Demonstration Programs in Title IV. Under the new program, the Secretary is authorized to make grants to business-industry-labor partnerships to provide access to special populations, strengthen coordination, address economic development needs, provide training and career counseling to retain and upgrade worker and address the needs of new high-tech fields. Priority for grants will be given to areas with significant labor shortages.

The Senate recedes.

173. *Tech-Prep—Authorization.* The House bill authorizes the tech-prep program as

Part E of title III, Special Programs, separately as a national program administered by the Secretary.

The Senate amendment authorizes tech-prep a Part B of Title II, the basic State grant.

The Senate recedes.

174. *Tech-Prep—Statement of Purpose.* Both the House bill and the Senate amendment create a new technology preparation program. The House bill, but not the Senate amendment, contains findings and a statement of purpose.

The Senate recedes.

175. *Tech-Prep—Funding.* The House bill authorizes \$200 million in FY 1990 and such sums in FY 1991-1995 for tech-prep education.

The Senate amendment reserves 5 percent of each State's grant for State administered tech-prep programs.

The Senate recedes with an amendment setting \$125 million for 1991 and then such sums.

176. *Tech-Prep—Eligible Recipients/Proprietary Schools.* The House bill includes as eligible tech-recipients non-profit institutions of higher education offering 2-year associate degrees or certificates and which qualify under Section 481(a) of the Higher Education Act, including institutions receiving assistance under the Tribally Controlled Community College Assistance Act of 1978. In addition, the House bill specifically makes eligible for funding proprietary institutions offering two-year associate degree programs which qualify under Section 481(a) of the Higher Education Act.

The Senate amendment includes institutions of higher education offering a 2-year associate's degree or a 2-year postsecondary certificate.

The Senate recedes with an amendment that institutions under a default management plan as required by the Secretary are not eligible tech-prep recipients.

177. *Tech-Prep—Eligible Recipients/Intermediate Agencies, BIA.* The Senate amendment, but not the House bill, includes as participants in consortia intermediate educational agencies serving secondary school students and secondary schools funded by the Bureau of Indian Affairs.

The House recedes.

178. *Tech-Prep—Federal Share.* The House bill, but not the Senate amendment, has a declining Federal share for the program. (Year 1: 100% for planning, Year 2: 80% for implementation/operation, Year 3: 70% for operation, Year 4: 60% for operation, Year 5: 50% for operation.)

The House recedes.

179. *Tech-Prep—Apprenticeship Programs.* The Senate amendment, but not the House bill, includes 2-year apprenticeship programs as part of tech-prep.

The House recedes with amendments requiring the apprenticeship program to be at least two years' duration and to follow a secondary education.

180. (a) *Degree.* The House bill require the program to lead to an associate degree or certificate, while the Senate amendment requires that it lead to an associate degree.

The Senate recedes.

180. (b) Both the House bill and the Senate amendment requires training for counselors but in a somewhat different form.

The Senate recedes.

180. (c) The Senate amendment, but not the House bill, requires programs to provide equal access to special populations and to provide such populations with pre-vocational programs.

The House recedes with a conforming amendment to change "prevocational" to "preparatory".

181. *Tech-Prep—Counselor Training.* The House bill requires counselor training designed to assist counselors to more effectively recruit students, assure their successful program completion, and assure appropriate placement.

The Senate amendment makes the same provision for counselor training as is provided for teachers. In addition, programs may provide the same type of counselor training specified in the House bill.

The Senate recedes.

182. *Tech-Prep—Equal Access.* The Senate amendment, but not the House bill, requires programs to provide equal access to special populations and to provide such populations with pre-vocational programs.

The House recedes with a conforming amendment to change "prevocational" to "preparatory".

183. *Tech-Prep—Equipment/Technical Assistance.* The House bill permits programs to provide for the acquisition of tech-prep program equipment or instructional materials.

The Senate amendment permits programs to provide training for counselors to effectively recruit students, provided for acquisition of equipment, and acquire technical assistance from State or local entities with successful tech-prep programs.

The House recedes on permitting contracting with States for technical assistance. The Senate recedes on counselors.

184. *Tech-Prep—Submission of Application.* The House bill requires an application be submitted to the Secretary for approval.

The Senate amendment requires an application to be submitted to the State board for approval.

Blend provisions: at or under a \$50 million appropriation, tech-prep is a Federal discretionary grant program; over \$50 million, funds are distributed to States according to the basic grant formula.

185. *Tech-Prep—Plan Length.* The House bill provides for a five-year plan as part of local application.

The Senate amendment provides for a three-year plan.

The House recedes.

186. *Tech-Prep—Special Considerations.* The House bill requires that the Secretary give special consideration to applications which provide for effective transfer of students to 4-year degree programs, demonstrate a commitment to continuing the program after termination of Federal aid, are developed in consultation with business, industry and labor unions, and address the needs of minority, LEP, handicapped and disadvantaged youths and issues of dropout prevention and re-entry.

The Senate amendment requires that the Senate board give special consideration to effective transfer to 4-year programs and to plans developed in consultation with business, industry, and labor unions.

The House recedes on the first part regarding special consideration for those committed to continuing the program. The Senate recedes on last part regarding addressing needs of special populations.

187. *Tech-Prep—Equitable Distribution.* The House bill, but not the Senate amendment, requires an equitable distribution of grants between rural and urban areas and requires that the State be notified of applications and grants.

The Senate amendment requires that the Senate board give special consideration to

effective transfer to 4-year programs and to plans developed in consultation with business, industry, and labor unions.

The Senate recedes with an amendment applying the provisions to the program at or under \$50 million.

188. *Tech-Prep—Notice to States.* The House bill, but not the Senate amendment, requires each consortia submitting an application notice to the SEA and State agency for higher education and that the Secretary notify the State agency for higher education, SEA and State Human Investment Council when a tech-prep grant award is made in the State.

The Senate recedes with same amendment as in No. 187.

189. *Tech-Prep—Sequential Course of Study.* The Senate amendment, but not the House bill, includes as part of the definition of tech-prep sequential course of study.

The House bill includes a definition of "articulation agreement" which means a program to provide students with nonduplicative sequence of progressive achievement leading to competencies in a tech-prep program. (See Page 115.)

The Senate recedes.

190. *Tech-Prep—Reports.* The House bill, but not the Senate, requires the local recipients submit reports to the Secretary and that the Secretary shall submit a report to Congress regarding the effectiveness of this program.

The Senate recedes with an amendment limiting provision to program when appropriations are at or under \$50 million.

191. *Tech-Prep—Definitions.* The House bill adds definitions of the term "articulation agreement" and "tech-prep education" to Title III, Part E—Definitions.

The Senate amendment, but not the House bill adds new definition for Title II, Part B, which include: "articulation agreement," "community college," (which included institutions under section 120(a) of the MEA and Tribally Controlled Community Colleges), and "technical preparation education program" (including the fields of agriculture, health, and business).

The House recedes on definition of "community colleges" and on the inclusion of agriculture, health and business in the fields of study. The Senate recedes on "tech-prep".

192. *Facilities Improvement and Equipment Acquisition.* The House bill, but not the Senate amendment, authorizes a new Title III, Part F—Improvement of Facilities and Equipment Acquisition—for the improvement of facilities and the acquisition of equipment.

The Senate recedes with an amendment authorizing \$100 million for grants to States and LEAs, distributed according to the Chapter 1 concentration grant formula, for equipment and renovation (and if such needs are fulfilled, for program improvement).

193. *Facilities Improvement and Equipment Acquisition/Allotment.* The House bill, but not the Senate amendment, allots funds for the acquisition of equipment to each State in proportion to the number of children aged 5 to 17 eligible to be counted for Chapter 1. LEAs with Chapter 1 count of 204 or more may receive funds, and funds must be equally divided between rural and urban LEAs.

The Senate recedes with same amendment as in # 192.

194. *Supplementary Grants.* The Senate amendment, but not the House bill, adds a new Part F to Title III for Supplemental

Grants, which authorizes \$100 million in FY 1991 and such sums for the subsequent four years for grants to the States to improve vocational education (in LEAs, area schools, intermediate educational agencies) in economically depressed areas.

The Senate recedes.

195. If appropriations are over \$500 million, the funds are distributed using a Chapter 1 formula. If under \$50 million, the Secretary makes the grants. In cases where the Secretary makes grants, priority shall be given to States with high percentages of Chapter 1 eligible children, individuals in poverty, and school dropouts.

The Senate recedes.

196. In addition, state "level of effort" on education spending shall be considered in the awarding of grants by the Secretary, and grants shall be distributed equitably among geographic regions.

The Senate recedes.

197. In cases where States receive the funds, they must submit an application to the Secretary, and local recipients must submit applications to the State. States are required to distribute at least 954 of the funds by competitive grants to local recipients.

The Senate recedes.

198. *Community Education Employment Centers.* The Senate amendment, but not the House bill, creates a Part G of Title III—Community Education and Employment Centers and authorizes \$16 million in each of FY 1991-1992 for grants to establish community education employment centers. Such centers, not to exceed 10 nationally, are meant to provide comprehensive education, employment and social services for poor youths.

The House recedes with an amendment authorizing \$10 million to be divided between lighthouse schools (25%) and community education centers (75%), but no appropriation unless the basic grant receives \$1 billion. Another amendment requires the involvement of PICs and the coordination with JTPA and transition to employment in community education centers.

199. *Research—Technical Amendments.* The House bill, but not the Senate amendment, amends Section 401 of Title IV, Part A to include development in the title expand the definition of homemakers to homemakers and displaced homemakers, and to include a new provision authorizing additional research and development activities.

The Senate recedes.

200. *Research—Unsolicited Proposals.* The House bill amends Section 402 of Title IV to require research in vocational education to be done through OERI, expands the definition of homemakers to homemakers to displaced homemakers.

The Senate amendment amends Section 402 of Title IV to require research on vocational education be done through OERI, expanding research activities to include single pregnant and replacing the current subsection (b) with a provision to require the Secretary to fund meritorious, unsolicited research proposals.

The House recedes.

201. *Research—Annual Report.* The Senate amendment, but not the House bill, eliminates the requirement that the Secretary report annually a summary of research he funds.

The House recedes.

202. *Research—Performance Standards.* The House bill, but not the Senate amendment, expands Section 402 to require the

Secretary to conduct research on developing performance standards and measures and the relationship of these to the data system to be established (Section 421) and to evaluate the use of performance standards, including their effect on student participation and outcomes.

The Senate recedes.

203. *Research—Advanced Skills/All Aspects of Industry.* The House bill, but not the Senate amendment, requires more advanced skills and problem-solving be included in research and successful methods for preparing students on all aspects of the industry they are preparing to enter. (The House bill also eliminates paragraphs 5 and 6 of the current law.)

The Senate recedes with an amendment regarding all aspects of the industry "the extent practicable."

204. The House bill, but not the Senate amendment, requires the Secretary to disseminate research and development results through certain agencies and authorizes the establishment of a national network for curriculum coordination.

The Senate recedes.

205. (a) The Senate amendment, but not the House bill, reserves 3.5% of funds reserved for national programs for the network.

The Senate recedes with an amendment including a reservation of funds for the national network for curriculum coordination.

(b) The Senate amendment, but not the House bill, requires that there be six regional curriculum coordination centers.

The House recedes.

206. *National Assessment.* (a) The House bill provides for a national assessment of vocational education to be conducted through the Office of Education Research and Improvement by an independent assessment group. Such assessment shall not be subject to any review before its submission to the Congress.

The Senate recedes.

(b) The Senate amendment provides for a national assessment to be conducted by the Secretary through studies conducted through competitive awards. An independent advisory panel must be appointed by the Secretary and this panel may submit its own analysis to the Congress. The Senate amendment, unlike the House bill, revises extensively the topics to be reviewed by this assessment.

The House recedes.

207. *National Assessment—Topics to Be Reviewed.* The House bill modifies Section 403 language on what the assessment shall include to add language regarding experience in and understanding of all aspects of the industry.

The Senate amendment extensively revises the list of items to be included in the assessment, including: effect on State and Tribal administration of programs, expenditures at all levels addressing program improvement, teacher preparation and qualifications, program participation—particularly by special populations, academic and employment outcomes (Impact of educational reform, academic/vocations integration, school-to-work transition, relevancy of vocational training), employer involvement/satisfaction, impact of performance standards, impact of Federal special populations requirements, and coordination of Perkins with Adult Education Act, Family Support Act, JTPA, National Apprenticeship Act, Rehabilitation Act of 1973, and Wagner-Peyser.

The House recedes.

208. *National Assessment—Submission to Congress.* The House bill amends Section 403 by deleting subsection (b) which permitted the Secretary to analyze State plans and make suggestions for improvements and re-writing subsection (c) to provide that the assessment by the independent group will not be subject to any review before its submission to Congress.

The Senate amendment provides that the assessment will not be subject to any review outside of OERI. The President, the Secretary and the independent advisory panel may submit additional recommendations to Congress. In addition, the independent advisory panel may submit to Congress an independent analysis of the findings and recommendations of the assessment.

The House recedes.

209. *National Assessment—Consultation.* The Senate amendment, but not the House bill, requires the Secretary to consult with the appropriate committees of Congress in the design and implementation of the assessment.

The House recedes.

210. *National Assessment—Reporting Dates.* The Senate amendment, but not the House bill, requires the interim report required under Section 403 to be submitted no later than January 1, 1994, and a final report is to be submitted no later than July 1, 1994.

The House recedes.

211. *National Assessment—Funding.* The House retains the provision for current law that no more than 20% of the funds available for national research may be used for this assessment.

The Senate amendment authorizes \$3 million a year for FY 1991 and 1992 for this purpose.

The Senate recedes with an amendment permitting the use of funds reserved for Title IV, Part A, research program.

212. *Research Center(s).* The House bill amends Section 404 with several technical amendments dealing with the National Center for Research and revises subparagraph (c) on successful methods.

The Senate amendment amends Section 404 to have OERI conduct a competition to establish three or more national centers after the current contract for the center expires (December 31, 1992). Applications shall be submitted to the Secretary with such information as he deems necessary.

The Senate recedes with an amendment authorizing applied research and development and dissemination and training activities, reserving 90% of the amounts reserved under Part A for these purposes of which at least two-thirds must be for research and development, and authorizing a separate line item for additional duties. A competition would be held for both activities and any applicant demonstrating a capability to carry out both activities would be given a preference. Up to 10% would be available for field initiated work, and the current award would be honored. The managers urge the Secretary, when deciding where to assign responsibility within the Department for the grant or grants to consider the need to coordinate with other labs and centers and the need to implement most effectively the changes in the Act.

The advanced technology referred to in the training and dissemination section may include such things as audio-video cassettes, electronic networking, satellite-assisted programming, computer-based conferencing, and interactive video. The managers expect that the training and leadership develop-

ment will include an emphasis on training minority and women teachers and on programs and activities that aid in the development of minorities and women for leadership roles in vocational education. The managers expect that the applied research and development activities will also include an emphasis on the recruitment, education, and enhancement of minority and women vocational teachers and professionals and will include activities that aid in the development of minorities and women for leadership roles in vocational education.

213. *National Center—Responsibilities.* The Senate amendment, but not the House bill, requires the establishment of:

(a) one national center for Native American education;

The Senate recedes with the same amendment as in #212.

(b) one national center for applied research/technical assistance/training programs serving youth and

The House recedes with the same amendment as in #212.

(c) One national center for applied research/direct technical assistance & outreach/personnel enhancement/training.

The Senate amendment outlines specific criteria for the national centers described in subsections (a)(1)(C) and (a)(1)(A).

The House recedes with the same amendment as in #212.

214. *Research Center(s)—Duration.* The Senate amendment, but not the House bill, provides that each National Center will operate for a period of 5 years. Grants will be awarded annually and reviewed after 3 years. The Secretary is required to honor the current grant award to Berkeley, California.

The House recedes.

215. *Research Center(s)—Reserve.* The Senate amendment, but not the House bill, provides that each National Center may reserve up to 10% of its grant for addressing unforeseen field-initiated projects.

The House recedes.

216. *Research Center(s)—Directors.* The Senate amendment, but not the House bill, provides that each National Center shall appoint a Center Director.

The Senate recedes.

217. *Research Center(s)—General Responsibilities.* The Senate amendment, but not the House bill, provides that the National Center shall conduct research and development projects and programs with other public agencies and will disseminate information on their results as well as other available research. Applied research by the Centers shall include: economic changes, academic/vocational integration, effective practices for special populations, delivery methods, articulation between school and work, teacher and professional enhancement.

The House recedes with an amendment to add activities to the dissemination section.

218. *Research Center(s)—Definition.* The Senate amendment, but not the House bill, defines the term "Native American" for section 404.

The Senate recedes.

219. *Formula Study.* The Senate amendment, but not the House bill, adds a new section 405 to Title IV to require the Secretary to conduct a study on the formula for distribution of funds to the States under the Perkins Act. The study is to be completed by January 1, 1994.

The House recedes with an amendment requiring that the National Assessment conduct the study.

220. *Professional Development.* The House bill, not the Senate amendment, authorizes a new Section 406, Subpart 2—Professional Development—under Title IV creating a separate national program for leadership development awards, retraining of teachers, and awards for gifted and talented students. The House bill authorizes the Secretary to provide opportunities for professional staff working with vocational programs to participate in advanced study of vocational education; for teachers trained in other fields to become vocational education teachers; individuals working in the field to become teachers; and vocational educators to update their skills. The Secretary is also authorized to offer gifted and talented students internships with Federal or State agencies.

The Senate amendment authorizes the Secretary to award grants to institutions of higher education or SEAs for professional development. Grants include: leadership development stipends; teacher education fellowships for teachers wanting to update their skills; professionals in vo-tech fields who want to be teachers; teachers working in other areas who want to certify as vocational education teachers; and the offering of internships for gifted and talented vocational students.

The Senate recedes with an amendment including the program in the Secretary's demonstration grants.

221. *Professional Development/Leadership Development Awards.* The House bill, but not the Senate amendment, under Section 406(b) authorizes the Secretary to make leadership development awards from recommendations by respective State directors. Individuals selected for awards must have had 3 or more years teaching or researching vocational education, be currently employed and have a B.A., be recommended by their employers as having leadership potential and have a commitment to return to the vocational field. Awards shall be for no more than 3 years, and a stipend of \$9,000/individual/academic year of \$3,000/individual/summer session be provided for tuition, nonrefundable fees and other expenses including dependents.

The Senate amendment permits stipends, but does not specify an amount.

The Senate recedes with same amendment as in #220.

222. *Professional Development/Fellowships.* The House bill, but not the Senate amendment, authorizes under Section 406(c) the Secretary to award fellowships from recommendations of State directors to individuals currently employed and in need of upgrading their skills, presently certified (or within the last 10 years) as a teacher, and have past or current skills in vocational or to individuals employed in the vocational field who may not hold a B.A. degree and have been accepted by an institution of higher education in a program to be a vocational teachers. Fellowships shall not be more than 2 years, and stipends under this program include expenses for tuition, fees, and other expenses for individuals and their dependents. Fellowships will be apportioned equally among the states.

The Senate recedes with same amendment as in #220.

223. *Professional Development/Fellowships—Publication.* The House bill under Section 406(c) authorizing fellowships requires the Secretary to publish a listing of the areas which currently (or in the future will) need additional personnel and of the

areas of teaching in which technical upgrading may be especially critical.

The Senate amendment authorizes the Secretary to publish a listing of the areas of vocational education which are in need of additional personnel and the areas in which technological upgrading may be especially critical. (Section 417(c))

The Senate recedes with same amendment as in #220.

224. Professional Development/Internships. The House bill offers under Section 406(d) internships for attracting gifted and talented vocational education students for nine months. Students must be recommended by a vocational education teacher at their school and must be provided professional supervision while doing their internships.

The Senate amendment under Section 417(c) offers internships for gifted and talented students.

The Senate recedes with same amendment as in #220.

225. Professional Development—Authorization of Funds. The House bill authorizes at least \$5 million for the above section.

The Senate amendment authorizes funds to come from Title IV, Part B general demonstration program funding.

The House recedes.

226. Demonstration Programs—Employment-Based Learning. (a) The House bill amends Part B—Demonstration Programs, Subpart 1—Cooperative Demonstration Programs—by expanding the Secretary's authority to support: (a) employment-based learning programs, (b) model programs in consumer homemaking (including child growth and development centers), (c) grants to CBO partnerships to help prepare at-risk youth for health careers, and (d) agriculture action centers.

The Senate recedes.

(b) The House bill also requires the Secretary to establish one or more demonstration centers for retaining dislocated workers.

The Senate recedes with an amendment making this activity a priority in the Secretary's use of demonstration funds.

(c) The Senate amendment revises Section 411 to authorize demonstration programs under Part B of Title IV. Funds are reserved for telecommunications materials development and for lighthouse programs.

The House recedes with an amendment making telecommunications a priority in the Secretary's use of demonstration funds and providing a separate authorization for lighthouse schools.

227. Demonstration Programs—Materials Development in Telecommunications/Set Aside. The Senate bill, but not the House amendment, reserves 5% of national demonstration program funds for materials development in telecommunications.

The Senate recedes.

228. Demonstration Programs—Lighthouse Schools/Set Aside. The Senate amendment, but not the House bill, reserves 20% of national demonstration program funds for lighthouse schools.

The Senate recedes.

229. Demonstration Programs—Vocational/Academic Integration. The Senate amendment, but not the House bill, creates a new Section 412: Demonstration Projects for the integration of Vocational and Academic Learning, which authorizes the Secretary to make grants to institutions and consortia to carry out programs using different models of curricula which integrate vocational and academic learning, providing in-service training and dissemination of infor-

mation through the National Diffusion Network. In awarding the grant, the Secretary must ensure: an equitable geographic distribution of funds, that programs offer new approaches and serve special populations, and that adequate evaluation measures are employed.

The House recedes.

230. Demonstration Programs—Dislocated Workers. The House bill, but not the Senate amendment, requires the Secretary to establish one or more demonstration centers for the retraining of dislocated workers.

The Senate recedes with an amendment making a priority in the Secretary's use of demonstration funds.

231. Demonstration Programs—Skilled Trades Regional Training. The House bill retains the current Section 417 Model Centers for Vocational Education for Older Americans with only minor technical amendments.

The Senate amendment repeals the current Section 417 and replaces it with Section 414: Model Programs of Regional training for Skilled Trades, which authorizes the Secretary to make grants to regional model centers which provide training and related programs for skilled tradesmen on a regional and equitable basis.

The House recedes. The managers intend that firefighting be considered a skilled trade and that the masonry trades be given a priority in awarding grants.

232. Demonstration Programs—Blue Ribbon Vocational Education. Both the House bill and the Senate amendment authorize the Secretary to carry out Blue Ribbon Programs. The House bill authorizes a new Section 424 in Title IV, Part C: Technical and Occupational Data Systems. The Senate amendment repeals the current Section 415 under demonstration programs and replaces it with Blue Ribbon Vocational Education Programs.

The House recedes.

233. (a) The language of the two provisions is nearly identical with the following exceptions: "applied technology" (House) v. "vocational education" (Senate)

The House recedes.

(b) "several categories" (House) v. "a category or several categories" (Senate)

The House recedes.

(c) Include participation of special population (House) v. "emphasize the expansion or strengthening" of the participation (Senate)

The House recedes.

(d) Include the following (House) v. "give special consideration to any of" the following (Senate)

The House recedes.

(e) addition of "area vocational school, intermediate educational agency, Bureau of Indian Affairs" to eligible entities (Senate)

The House recedes.

234. Demonstration Programs—Materials Development in Telecommunications. The Senate amendment, but not the House bill, authorizes a new Section 416 under Title IV, Part B Demonstration Programs to require the Secretary to make grants from the set-aside to non-profit educational telecommunications entities to pay 50% of the costs to develop materials and services for use in local programs. Priority will be given to programs serving area vocational schools, teachers in need of retraining, out of school adults in need of basic skills/GED, colleges in tech-programs, and workers in need of basic or upgraded skills.

The House recedes with an amendment making it a priority in the Secretary's use of demonstration funds.

235. Demonstration Programs—Lighthouse School. The Senate amendment, but not the House bill, authorizes a new Section 419 for Vocational Education Lighthouse Schools which requires the Secretary to make grants to local schools from the 20% set-aside to establish and operate vocational education lighthouse schools. Such schools will serve as model programs, provide information and assistance to other grant recipients, develop comprehensive linkages with other schools, and develop model approaches for meeting the educational needs of special populations.

The Senate recedes with an amendment providing a separate authorization for lighthouse schools.

236. Demonstration Programs—Career and Guidance Counseling. The House bill provides for a separate authorization for career and guidance counseling programs.

The Senate amendment authorizes a new Section 420 under national programs for Career Guidance and Counseling Program. The Secretary is authorized to make grants to State boards to improve, expand and extend career guidance and counseling programs. Programs shall be organized and administered by certified counselors and designated to help individuals acquire career skills, make transition from school to work, maintain marketability of skills—including new, high-tech fields, develop mid-career job skills, and obtain & use information on financial aid for vocational training.

The Senate recedes.

237. Demonstration Programs—Dropout Prevention. The Senate amendment, but not the House bill, authorizes the new Section 420A to permit the Secretary to make grants to partnerships for the development and implementation of vocational program designed to prevent students from dropping out of school.

The House recedes.

238. Business-Labor-Education Committees for Competency Standards. The House bill, but not the Senate amendment, adds a new Subpart 5—Development of Business and Education Standards, of which Section 419 requires the Secretary to establish a program to assist industries to develop national standards for competencies in industries and trade. Committees will be established to formulate such standards, and each grant recipient must submit a grant application and provide a 50/50 funding match for the committee. Minimum elements of standards are included in the bill.

The Senate recedes with amendments providing for consultation with the Secretary of Labor, adding this program to the list of demonstration programs, and making the activity permissive, not mandatory.

239. Standards. The House bill, but not the Senate amendment, requires the Secretary to establish a program to assist industries to develop national standards for competitiveness in industries and trade.

The Senate recedes.

240. Data Systems. Both the House bill and the Senate amendment amend Section 421, requiring the Secretary to establish a vocational education day system no more than 6 months after implementation of this Act. The language is similar with a few technical disagreements and the following exceptions:

(a) *Establishment.* The House bill calls for the establishment of a data system.

The Senate amendment calls for the implementation of developing such a system.

The Senate recedes.

(b) *Tribal Agencies.* The Senate amendment, but not the House bill, includes tribal agencies among the agencies for which data is to be provided.

The House recedes.

(c) *Elements/Facilities.* The House bill requires the collection of information on women, and Indians.

The Senate recedes.

241. The House bill requires the collection of information on facilities. The Senate amendment provides for the collection of information on students and programs, as well as to the extent practicable on facilities.

The House recedes on including students.

The Senate recedes on deleting "to the extent practicable" on facilities.

242. *National Center & Office.* The House bill requires the Secretary to update the data system in consultation with the National Center for Research in Vocational Education-Applied Technology and the Office of Vocational Education.

The Senate amendment requires update of the system through the National Center and Office.

The Senate recedes.

243. The House bill, but not the Senate amendment, requires information on women and Indians.

The Senate recedes.

244. The House bill requires the Secretary to update the data system in consultation with the National Center for Education Statistics and with the Office of Vocational Education, whereas the Senate amendment requires maintenance of the system through the National Center and Office.

The Senate recedes.

245. *Local Applications.* The House bill requires that the system use data definitions in common for performance standards, local applications, and evaluations required by this Act.

The Senate amendment refers to common data definitions for performance evaluation and "other" evaluations.

The Senate recedes.

246. *Advisory Task Force.* The House bill requires the Secretary to "establish" an Applied Technical Education Advisory Task Force.

The Senate amendment requires the Secretary to "convene" such a Task Force.

The Senate recedes.

247. *Task Force Membership.* The Senate amendment, but not the House bill, requires that representatives of Tribal agencies, adult training programs, apprenticeships, business, and industry be represented on the task force.

The House recedes.

248. The House bill uses the phrase "nationally scientific subsample" while the Senate bill uses the phrase "nationally representative subsample."

The House recedes.

249. *Data Systems—Authorization.* The House bill reserves a minimum of \$1 million from the 2% of total funds authorized for National programs for the data system.

The Senate amendment reserves 3.5% of the accounts reserved for national programs.

The House recedes with an amendment reserving 8% of the 40% reserved for Part C which is equivalent to 3.2% of the amount reserved for national programs for this activity.

250. *National Occupational Information Coordinating Committee (NOICC).* Both bills provide nearly identical provisions. There are a few technical differences:

"(1) by striking 'Sec. 422.1';" (House)

"(ii) by striking 'and' at the end thereof;" (Senate)

"and Tribal agencies" (Senate)

The House recedes.

251. *NOICC—Voluntary Data Submission.* Both bills authorize a study of wage data by NOICC.

The Senate amendment, but not the House bill, requires the Submission of this data to be voluntary and may involve reimbursement to State employment agencies and compliance with safeguards.

The House recedes with the amendment to permit States to include individual elements in the longitudinal study provided the respective State assumes its share of the cost for its additional elements.

252. *NOICC—FUNDING.* The House bill reserves not less than \$6 million for the functions of the NOICC and SOICCs.

The Senate amendment reserves 22% of the national funds under the Perkins Act.

The House recedes with an amendment which holds the National Occupational Information Coordinating Committee (NOICC) harmless at the FY 1990 level; after the 1990 hold-harmless, at least 10% of the NOICC funds will be available for the demonstration longitudinal occupational data study.

The Managers intend that funding for this longitudinal occupational information demonstration program should not adversely affect the normal program activities of the State Occupational Information Coordinating Committees or the operation of the national office and related national activities by the National Occupational Information Coordinating Committee.

253. *Information Base.* The House bill, but not the Senate amendment, requires that specific information on secondary school students with handicaps be included in the data system. The type of information to be collected is specified. The House bill also requires that GAO conduct a study of the effects of these amendments on special populations and, to the extent practicable, foster children issues to be considered in the GAO study are specified. The report must be submitted no later than July 1, 1995. Further, the House bill requires the Office of Technology Assessment to conduct an assessment of the technical knowledge levels of students finishing secondary school. The OTA report must be submitted no later than September 30, 1994. Lastly, the House bill requires the Secretary to secure the required information at reasonable cost. States are required to cooperate with the Secretary in implementing information systems.

The Senate recedes.

254. *National Council on Vocational Education.* The House bill repeals the National Council on Vocational Education on the date of enactment.

The Senate amendment repeals the National Council on October 1, 1992.

The House recedes with an amendment limiting the council to one year until October 1, 1991.

255. *National Council—Appointment of Members.* The Senate amendment, but not the House bill, provides that Council members will be appointed by the Council itself rather than by the President (as is the case in current law), as of September 30, 1991.

The Senate recedes.

256. *National Programs—Distribution of Assistance/Demonstrations.* The House bill reduces the funds reserved for national programs for demonstration projects from 35% to 20%.

The Senate amendment reduces the funds reserved for national programs for demonstration projects from 35% to 33.5%.

The House recedes with an amendment reserving 30%.

257. *National Programs.* The House bill and the Senate amendment change the distribution of funds reserved for national programs in the following manner:

(a) the House bill, but not the Senate amendment, reduces the amount for research from 35% to 30%.

The Senate recedes.

(b) the House bill reduces demonstration projects from 35% to 20%, while the Senate amendment reduces the amount of 33.5%.

The House recedes with an amendment reserving 30%.

(c) The House bill increases data systems from 30% to 50% while the Senate amendment increases the amount to 31.5%; of this amount, the Senate amendment reserves:

1. 3.5% for the new data system;
2. 1.75% for the study of the within-state allocation formula; and
3. 3.5% for the National Network for Curriculum Coordination.

The Senate recedes with an amendment reserving 40%; of the amounts reserved, at least 8% will be made available for data systems and at least 10% for the National Network for Curriculum Coordination. The managers intend that the Department may choose to require different data collections for secondary, postsecondary, and adult programs due to their different characteristics.

258. *National Programs—Distribution of Assistance/Data Systems.* The House bill increases the funds reserved for national programs for data systems from 30% to 50%.

The Senate amendment increases the funds reserved for national programs for data systems from 30% to 31.5%.

The Senate recedes with an amendment reserving 40%.

259. *National Programs—Distribution of Assistance/Data Systems Implementation.* The Senate amendment, but not the House bill, requires that at least 3.5% of the 31.5% for data systems be spent in implementing the new system.

The House recedes with an amendment reserving 8% of the 40% for data systems.

260. *National Programs—Distribution of Assistance/State Allocation Formula Study.* The Senate amendment, but not the House bill, requires that at least 1.75% of the 31.5% for data systems be spent on the study of the within State allocation formula.

260. The Senate recedes.

261. *National Network for Curriculum Coordination.* The Senate amendment, but not the House bill, requires the establishment of a National Network for Curriculum Coordination consisting of six regional curriculum centers.

The House recedes.

262. *Matching Requirements.* Both the House bill and the Senate amendment eliminate the overall matching requirement from the Perkins Act, but different provisions are applied to administrative funding.

The House recedes.

263. *Matching Requirements/Administrative Funding.* The House bill requires each State to maintain its previous year's level of funding for administration.

The Senate amendment requires a State match for any Perkins fund used administration.

Combine House and Senate provisions.

264. *Maintenance of Effort.* The House bill, but not the Senate amendment,

changes the maintenance of effort provision from 100% maintenance to not less than 95%.

The House recedes with an amendment regarding a waiver in unusual economic circumstances to no less than 95% for one year only and returning in second year to previous level.

265. Federal Regulations—Regional Meetings. The House bill requires the Secretary to convene regional meetings before issuing proposed regulations.

The Senate amendment requires the Secretary to convene regional meetings in the development of proposed regulations.

The House recedes.

266. Federal Regulations—Regional Meetings/Participants. The Senate amendment, but not the House bill, requires the inclusion of Tribal administrators and members of special populations in regional meetings to assist with the development of proposed regulations.

The House recedes.

267. Federal Regulations—Regional Meetings/Issues. The Senate amendment, but not the House bill, requires that the regional meetings provide for comprehensive discussion of at least for key implementation issues, selected by the Secretary. This information will be taken into account in the development of regulations and will be summarized in the *Federal Register* when proposed regulations are published.

The House recedes.

268. Federal Regulation—Regional Meetings/Post-Regulation. The Senate amendment, but not the House bill, requires that the Secretary convene regional meetings after final regulations are issued for the purpose of sharing information about their implementation. Individuals and groups involved in vocational education must be included in these meetings.

The Senate recedes.

269. Federal Regulations—Negotiated Rulemaking. The House bill, but not the Senate amendment, requires that—after holding regional meetings and before publishing proposed regulations—the Secretary must submit draft regulations on a limited number of issues to a negotiated rulemaking process. Participants in the process will be selected by the Secretary from among regional meeting participants. The process is to be completed in a timely fashion.

The Senate recedes with an amendment requiring that at least two key issues be identified, that 10 representatives—one from each of the Department's 10 geographical regions in the country—be invited to the negotiations, and permitting the Secretary to use up to \$300,000 of national program funds for the negotiated rulemaking process.

270. Federal Regulations—Waiver. The House bill, but not the Senate amendment, permits regional meeting and negotiated rulemaking requirements to be waived in cases where a regulation must be issued quickly to assist State and local program operation. The Secretary must immediately convene regional meetings to review the regulation before it is finalized.

The Senate recedes.

271. GAO Investigations. The House bill, but not the Senate amendment, requires GAO to investigate any delay by the Secretary in submitting any report, research finding, or regulation by the time required by the Act. A report on findings—including identification of the ED or OMB office responsible for the delay—is to be submitted to the appropriate committees of Congress.

The Senate recedes with an amendment making the requirement contingent upon the request of any member of Congress.

272. Availability of Reports. The House bill, but not the Senate amendment, requires the Secretary to make available to the chairmen and ranking minority members of the House and Senate committees—upon request—any report or research required by the Act within ten days of the request.

The House recedes.

273. Sex Equity/Homemakers Program. The House bill, but not the Senate amendment, requires the Secretary biennially to determine if funds are being properly administered by the States in the sex equity and homemakers program and to take any corrective action required.

The House recedes.

274. Civil Rights. The House bill states that nothing in the Act shall be construed as being inconsistent with appropriate Federal civil rights laws.

The Senate amendment requires each State to certify in its application that the State and local school districts will not discriminate (on the basis of race, religion, color, national origin, sex, or handicap) against employees, students enrolling in or taking courses, or students involved in extra curricular activities. The Assistant Secretary for Civil Rights must determine whether these assurances have been met.

The Senate recedes.

275. Name. The House bill, but not the Senate amendment, makes clear that the new name of applied technology education does not have to apply to any vocational student organization; and administrator, counselor, or teacher paid from non-Federal funds; or any school.

The Senate recedes.

276. Student Aid. The House bill, but not the Senate amendment, bars the consideration of any student aid (for attendance costs) received under the Perkins Act from being considered in determining eligibility for assistance under other Federal programs. Attendance costs include tuition & fees (including costs for rental or purchase of equipment, materials, or supplies required of all students) and an allowance for books, supplies, transportation, dependent care, and miscellaneous personal expenses for at least half-time students.

The Senate recedes.

277. State Administration—Audits. The House bill, but not the Senate amendment, requires each State to obtain financial and compliance audits of Perkins Act funds at least every 2 years and to make these audits public.

The House recedes.

278. State Administration—Regulations. The House bill, but not the Senate amendment, requires each State to establish a State Committee of Practitioners to review any proposed or final State regulation issued pursuant to the Perkins Act. Members of the Committee shall be selected from nominees made by state organizations and institutions and shall include: LEA representatives (which shall be a majority of members), school administrators, teachers, parents, local board of education members, and representatives of institutions of higher education. In certain cases, this requirement may be waived to permit issuance of a proposed regulation; however, a meeting of the committee must be convened immediately to review the regulation before it is finalized.

The Senate recedes with an amendment adding "student".

279. State Administration—State-Imposed Requirements. The House bill, but not the Senate amendment, requires that any State rule or policy related to the program be identified as a State-imposed requirement.

The Senate recedes.

280. Joint Funding. The House bill but not the Senate amendment, authorizes use of Perkins funds as additional funds in four other Federal programs (Audit Education, JTPA, Rehabilitation Act of 1973, Wagner/Peyser) if: such program otherwise meets the requirements of the Perkins Act such funds are not required to be provided from non-Federal sources, and funds are used to supplement and not supplant funds from non-federal sources. Regulations related to this section are to be developed by the Secretary in consultation with the Secretary of Labor and the Secretary of HHS.

The Senate recedes with an amendment permitting joint funding from the Perkins, JTPA, and Wagner-Peyser Acts if the program meets the requirements of the applicable acts and if the same clients are served.

281. Prohibition. The House bill, but not the Senate amendment, prohibits Perkins funds from being used to induce an employer to relocate from one State to another if such relocation would result in a job loss.

The Senate recedes.

282. State Administrative Costs/Maintenance of Effort. The House bill, but not the Senate amendment, requires that States provide non-Federal funds for program administration in an amount no less than provided in the previous fiscal year.

The Senate recedes.

283. Federal Monitoring. The Senate amendment, but not the House bill, includes a section specifying how the Secretary should monitor State and local compliance with the Act. Monitoring activities are to be development in consultation with parents, students, and advocacy organizations. Specific items to be monitored are cited in the section.

The House recedes.

284. Definitions—Apprenticeship Training. The Senate amendment, but not the House bill, strikes "program" from the term "apprenticeship training program."

The Senate recedes.

285. Definitions—Applied Technology Education. The House bill, but not the Senate amendment, revises the definition of vocational education to re-label it "applied technology education" and defines the term to require the offering of a sequence of courses, to eliminate reference to particular occupations, to eliminate reference to additional preparation for a career in particular occupations, to eliminate references to vocational student organizations, to eliminate specific reference to payment for instruction and acquisition of equipment, and to include competency-based applied learning in the definition.

The Senate recedes with an amendment retaining the term "vocational" and indicating the term includes applied technology education.

286. Definitions—Area Schools. The Senate amendment, but not the House bill, revises the definition of area school to eliminate specific reference to technical institutions or schools for individuals who have completed or left high school, and divisions of community colleges for students having completed or left high school, and to include schools offering both secondary and postsecondary instruction if the secondary instruction involves at least five different occupational fields.

The House bill, but not the Senate amendment, guarantees that any program fitting the definition of area school before the enactment of these amendments will continue to be so considered.

The Senate recedes.

287. Definitions—Economically Depressed Areas. The Senate amendment, but not the House bill, eliminates the definition of economically depressed area.

The House recedes.

288. Definitions—Handicapped/Disabled. The House bill renames "handicapped individuals" as "individuals with handicaps."

The Senate amendment renames them "individuals with disabilities."

The Senate recedes with an amendment conforming the definition to the definition of an "individual with any disability" included in the Americans with Disabilities Act.

289. Definitions—Disadvantaged. The House bill, but not the Senate amendment, limits the term disadvantaged to only those economically disadvantaged and also assure that any individual determined to be economically disadvantaged under JTPA would be so considered under the Perkins Act.

The House recedes.

290. Definitions—Intermediate Educational Agency. The Senate amendment, but not the House bill, includes a definition of an intermediate educational agency.

The House recedes.

291. Definitions—All Aspects of the Industry/General Occupational Skills. The Senate amendment defines the term "all aspects of the industry" as strong experience in and understanding of all aspects of the industry, including planning, management, finances, technical and production skills, underlying principles of technology, and health and safety. (See Page 191).

The House bill defines the term "general occupational skills" as experience in and understanding of all aspects of the industry, including planning, management, finances, technical and production skills, underlying principles of technical, labor and community issues, and health, safety, and environmental issues.

The House recedes on "all aspects of the industry".

The Senate recedes on "general occupational skills".

292. Definitions—Local Eligible Recipient. The Senate amendment, but not the House bill, redefines "eligible recipient" to mean an LEA, an area school, an intermediate agency, or a State correctional education agency. The term "eligible recipient" under current law is defined as "an LEA or a postsecondary educational institution."

The Senate recedes with an amendment to include a LEA area vocational education school, intermediate education agency, State corrections agency, a postsecondary educational institution, or an eligible institution (as defined in Section 232(d)(1)).

293. Definitions—Supplementary Services. The Senate amendment, but not the House bill, defines supplementary services.

The House bill, but not the Senate amendment, defines general occupational skills.

The House recedes on "supplementary services".

The Senate recedes on "general occupational skills".

294. Definitions—Displaced Homemaker. The Senate amendment, but not the House bill, specifically includes criminal offenders as displaced homemakers if they otherwise qualify.

The House recedes.

295. Definitions—Preparatory/Pre-Vocational. The House bill defines "preparatory services."

The Senate bill offers the same definition for "prevocation services."

The Senate recedes.

296. Definitions—Homemaker. The House bill, but not the Senate amendment, adds to the definition of homemaker eligibility, an adult who is pregnant.

The Senate recedes.

297. Definitions—Special Populations. The House bill, but not the Senate amendment, defines special populations. The definition includes individuals with handicaps, disadvantaged individuals, individuals of limited English proficiency, and foster children on whose behalf State or local governmental payments are made.

The Senate recedes with amendments to include as special populations economically and educationally disadvantaged individuals (including foster children), individuals with handicaps, individuals who participate in programs designed to eliminate sex bias, and individuals in correctional institutions. The managers do not intend that these changes result in any double counting of foster children.

298. Definitions—Sequential Course of Study. The Senate amendment, but not the House bill, includes a new definition for "sequential course of study."

The House recedes.

299. Definitions—Technology Education. The Senate amendment, but not the House bill, includes a new definition for "technology education."

The House recedes.

300. Definitions—Specific Job Training. The Senate amendment, but not the House bill, includes a new definition for "specific job training."

The House recedes.

301. Definitions—State Correctional Education Agency. The Senate amendment, but not the House bill, includes a new definition for "State correctional education agency."

The House recedes.

302. Correctional Education. The Senate amendment, but not the House bill, creates an Office of Correctional Education in the Department in order to coordinate all correctional education programs, and to provide technical support.

The House recedes with an amendment requiring data collections on a sample basis.

303. Intergovernmental Advisory Council. The Senate amendment, but not House bill, repeals the requirement for an intergovernmental advisory council on education within the Department of Education.

The House recedes.

304. Advisory Board on International Education. The Senate amendment, but not the House bill, repeals the requirement for an advisory board on international education.

The House recedes.

305. Effective Date—In General. The House bill provides for immediate implementation of the amendments, but permits States to abide by the old or new law until July 1, 1990. The Senate amendment provides in general for July 1, 1991, as the effective date.

The House recedes.

306. Effective Date—Indian Programs. The Senate amendment, but not House bill, provide that the amendments to the Indian and Hawaiian programs take effect on October 1, 1990, except for the 1/2 of the 2% set-aside for secondary Indian and Hawaiian schools (which take effect July 1, 1991).

The House recedes.

307. The House bill provides for immediate implementation of the amendments but permits States to abide by the old or new law until July 1, 1990. The House bill also requires all orders, regulations, grants, and contracts under the Perkins Act to remain in effect until modified or revoked.

The House recedes.

308. Education in Federal Republic of Germany. The Senate amendment, but not the House bill, requires GAO to conduct a study of education in West Germany and of the desirability of establishing a nationwide job apprenticeship program in the United States. Items to be assessed and considered are specified in the amendment. The report is due no later than one year after enactment.

The House recedes with amendments.

309. Tribally Controlled Institutions. The House bill, but not the Senate amendment, authorizes a new program within the Department of Interior supporting tribally controlled postsecondary institutes. The provision stipulates eligibility criteria, the process for review of applications, and the method for determining the amount of each grant. There is also a provision relating to a study for needed facilities. Currently functioning programs would have priority funding. Authorization is for \$4 million in FY 1990 and such sums for the five succeeding fiscal years, and could be forward funded.

The Senate recedes with an amendment requiring the Department of Education to administer the program, moving the program to the Perkins Act, and changing the authorization date to FY 1991. The managers intend that these funds be considered basic support monies for these schools, to defray the basic operating expenses of the program. Receipt of funds under this program should not be interpreted, either by the Department of Education or any other Federal entity, in any way so as to interfere with receipt of, or application for, funds from any Federal, State or other source. Also, receipt of funds under this program should not lead to a decrease in the receipt of other funds, either by the school, its students, or the tribe sanctioning its operation.

310. Tribal Economic Development. The House bill, but not the Senate amendment, amends the Tribally Controlled Community Colleges Act to add a new activity related to economic development under the Department of Interior. The new authority would fund joint Tribal/Tribally Controlled Community College projects to identify resources of tribes, develop plans to develop those resources, and provide the training technical assistance and support necessary to put the plans into effect. The authorization is \$2 million for FY 1990 and such sums for the five succeeding fiscal years.

The House bill, but not the Senate amendment, also amends the Tribally Controlled Community Colleges Act by requiring the Secretary of the Interior to enter into a contract with the tribally controlled community colleges to assess their facility needs, construct a priority listing for facilities and periodically update such listing.

311. (a) The House bill, but not the Senate amendment, amends the Tribally Controlled Community Colleges Act to add a new activity related to economic development under the Department of Interior. The new authority would fund joint Tribal/Tribally Controlled Community College projects to identify economic resources of tribes, develop plans to develop those resources, and provide the training, technical assistance and support necessary to put the

plans into effect. The authority is \$2 million for FY 1990, and such sums for the five succeeding fiscal years.

The Senate recedes.

(b) The House bill, but not the Senate amendment, also amends the Tribally Controlled Community Colleges Act by requiring the Secretary of the Interior to enter into a contract with the tribally controlled community colleges to assess their facility needs, construct a priority listing for facilities and periodically update such listing.

The Senate recedes.

312. *Secondary Students in BIA Schools.* The House bill, but not the Senate amendment, modifies the Indian Student Equalization Formula, which funds schools funded by the BIA, by adding a weighted factor for secondary vocational education, subject to availability of funds.

The House recedes.

313. *Indian and Native Hawaiian Programs.* The House bill, but not the Senate amendment, prohibits the Secretary of the Interior from placing any restrictions on programs receiving Perkins funds that are not placed on States receiving such funds. The Secretary of the Interior is also charged with encouraging tribal economic development with funds reserved for Indian programs under the Perkins Act.

The House recedes.

314. *School Prayer.* The House bill, but not the Senate amendment, prohibits any funds in this Act, to be made available to any State or school district having a policy denying or effectively preventing participation in prayer in public schools by individuals on a voluntary basis.

The House recedes.

AUGUSTUS F. HAWKINS,
WILLIAM D. FORD,
GEORGE MILLER,
DALE E. KILDEE,
PAT WILLIAMS,
MATTHEW G. MARTINEZ,
MAJOR R. OWENS,
CHARLES A. HAYES,
CARL C. PERKINS,
TOM SAWYER,
DONALD M. PAYNE,
NITA LOWEY,
GLENN POSHARD,
JOLENE UNSOELD,
NICK RAHALL,
BILL GOODLING,
TOM PETRI,
STEVE GUNDERSON,
STEVE BARTLETT,
HARRIS W. FAWELL,
FRED GRANDY,
PETER SMITH,

Managers on the Part of the House.

EDWARD M. KENNEDY,
CLAIBORNE PELL,
HOWARD M. METZENBAUM,
CHRISTOPHER J. DODD,
PAUL SIMON,
BARBARA A. MIKULSKI,
ORRIN HATCH,
NANCY LONDON,
KASSEBAUM,
THAD COCHRAN,
JAMES M. JEFFORDS,
STROM THURMOND,

Managers on the Part of the Senate.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special

orders heretofore entered, was granted to:

(By unanimous consent, leave of absence was granted to:)

Mr. BILIRAKIS (at the request of Mr. MICHEL), for today, on account of medical reasons.

(The following Members (at the request of Mrs. BENTLEY) to revise and extend their remarks and include extraneous material:)

Mr. FIELDS, for 60 minutes, today.

Mr. McEWEN, for 5 minutes, today.

Mr. PARRIS, for 60 minutes each day, on August 3 and September 5, 6, 11, 12, and 13.

Mrs. SAIKI, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes, on August 4.

(The following Members (at the request of Mr. McNULTY) to revise and extend their remarks and include extraneous material:)

Mr. OWENS of Utah, for 5 minutes, today.

Mr. STARK, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. KLECZKA, for 5 minutes, today.

Mrs. BOGGS, for 5 minutes, today.

Mr. GUARINI, for 5 minutes, today.

Mr. TAUZIN, for 60 minutes, on August 3.

Mr. McCURDY, for 60 minutes, on August 3.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mrs. BENTLEY) and to include extraneous matter:)

Mr. SCHUETTE in three instances.

Mr. McEWEN.

Mr. MACHTLEY in three instances.

Mr. GINGRICH in two instances.

Mr. PORTER in two instances.

Mr. PURSELL.

Mr. LEWIS of California in two instances.

Mr. KYL.

Mr. CRANE.

Mr. CALLAHAN.

Mr. SOLOMON in two instances.

Mr. McGRATH.

Mr. OXLEY in two instances.

Mr. WALKER.

Mr. McCANDLESS.

Ms. SCHNEIDER.

Ms. ROS-LEHTINEN.

Mr. FRENZEL.

Mr. RITTER.

Mr. WHITTAKER.

Mr. MCCOLLUM.

(The following Members (at the request of Mr. McNULTY) and to include extraneous matter:)

Mr. KOSTMAYER.

Mr. MILLER of California.

Mr. STARK in two instances.

Mr. MONTGOMERY.

Mr. VISCLOSKEY.

Mr. TORRES.

Mr. MAZZOLI in two instances.

Mr. KANJORSKI.

Mr. SOLARZ.

Mr. NELSON of Florida in two instances.

Mr. STOKES.

Mr. BONIOR.

Mr. FOGLIETTA.

Mr. TALLON.

Mr. DYMALLY.

Mr. RAHALL.

Mr. DE LA GARZA.

Mr. THOMAS A. LUKEN.

Ms. LONG.

Mr. CARDIN.

Mr. TORRICELLI.

Mr. KOLTER in two instances.

Mr. LEVINE of California.

Mr. DYSON.

Mr. McMILLEN of Maryland.

Mr. ESPY.

Mr. GUARINI.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee had examined and found truly enrolled a bill and joint resolution of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 293. An act to direct the completion of the research recommended by the Technical Study Group on Cigarette and Little Cigar Fire Safety and to provide for an assessment of the practicality of a cigarette fire safety performance standard, and

H.J. Res. 625. Joint resolution designating August 6, 1990, as "Voting Rights Celebration Day."

SENATE ENROLLED BILLS AND JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1046. An act to amend the Wild and Scenic Rivers Act of 1968 by designating a segment of the Merrimack River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

S. 1524. An act to amend the Wild and Scenic Rivers Act of 1968 by designating segments of the Pemigewasset River in the State of New Hampshire for study for potential addition to the National Wild and Scenic Rivers System, and for other purposes;

S. 1543. An act to authorize the Board of Gumston Hall to establish a memorial to George Mason in the District of Columbia;

S. 1875. An act to redesignate the Calamus Dam and Reservoir authorized under the Reclamation Project Authorization Act of 1972 as the Virginia Smith Dam and Calamus Lake Recreation Area;

S.J. Res. 77. Joint resolution recognizing the National Firefighters' Memorial at the National Fire Academy in Emmitsburg, Maryland, as the official national memorial to volunteer and career firefighters who die in the line of duty;

S.J. Res. 256. Joint resolution to designate the week of October 7, 1990, through Octo-

ber 13, 1990, as "Mental Illness Awareness Week"; and

S.J. Res. 316. Joint resolution to designate the second Sunday in October of 1990 as "National Children's Day."

ADJOURNMENT

Mr. MOODY. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 10 minutes p.m.) the House adjourned until tomorrow, Friday, August 3, 1990, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

3658. A letter from the Administrator, Food and Nutrition Service, Department of Agriculture, transmitting a preliminary report detailing specific factors and trends responsible for recent variation in Food Stamp Program estimates; to the Committee on Agriculture.

3659. A letter from the Deputy Assistant Secretary (Acquisition), Department of the Air Force, transmitting notification of the plan to study the conversion to contractor performance of the Strategic Air Command's radar bomb scoring sites and six mobile duty location sites, pursuant to 10 U.S.C. 2304 nt.; to the Committee on Armed Services.

3660. A letter from the Secretary of Education, transmitting a report on defining literacy and the national adult literacy survey, pursuant to Public Law 100-297, section 2102 (102 Stat. 318); to the Committee on Education and Labor.

3661. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Belgium for defense articles and services (Transmittal No. 90-54), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3662. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Norway for defense articles and services (Transmittal No. 90-55), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3663. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to the Netherlands for defense articles and services (Transmittal No. 90-56), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3664. A letter from the Acting Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed letter(s) of offer and acceptance [LOA] to Denmark for defense articles and services (Transmittal No. 90-57), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

3665. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of the allocation of funds for economic support fund

assistance, pursuant to 22 U.S.C. 2413(a); to the Committee of Foreign Affairs.

3666. A letter from the Archivist of the United States, transmitting a report concerning the administration of functions of the Archivist, the Administration, the National Historical Publications and Records Commission, and the National Archives Trust Fund; a report concerning records management activities for the fiscal year ending September 30, 1989, pursuant to 44 U.S.C. 2106 and 2904(c)(8); to the Committee on Government Operations.

3667. A letter from the Acting Executive Director, National Commission on Libraries and Information Science, transmitting a report pursuant to the Inspector General Act for the 1989 fiscal year; to the Committee on Government Operations.

3668. A letter from the Director, Close Up Foundation, transmitting the semiannual report on the Civic Achievement Award Program covering the period from January 1, 1990 to June 30, 1990, pursuant to Public Law 100-158, section 3(b) (100 Stat. 897); to the Committee on House Administration.

3669. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3670. A letter from the Deputy Associate Director for Collection and Disbursement, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

3671. A letter from the Secretary of the Interior, transmitting a draft of proposed legislation to authorize the Secretary of the Interior to utilize fees collected for the evaluation of permissible mine explosives, and for other purposes; to the Committee on Interior and Insular Affairs.

3672. A letter from the Secretary of Agriculture, transmitting a draft of proposed legislation to designate a segment of the Little Bighorn River in Wyoming as a component of the National Wild and Scenic Rivers System, and for other purposes; to the Committee on Interior and Insular Affairs.

3673. A letter from the Deputy Assistant Attorney General, Department of Justice, transmitting copies of the report of the Attorney General regarding activities initiated pursuant to the Civil Rights of Institutionalized Persons Act during fiscal years 1988 and 1989, pursuant to 42 U.S.C. 1997f; to the Committee on the Judiciary.

3674. A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting a copy of a decision ordering a grant of defector status, pursuant to 8 U.S.C. 1254(c); to the Committee on the Judiciary.

3675. A letter from the Treasurer, the Congressional Medal of Honor Society of the United States of America, transmitting the annual financial report of the Society for calendar year 1989, pursuant to 36 U.S.C. 1101(19), 1103; to the Committee on the Judiciary.

3676. A letter from the Administrator, National Aeronautics and Space Administration, transmitting notification of the proposed use of fiscal year 1989 research and development funds for the design and construction of an addition to the Avionics Systems Laboratory, Building 16, at NASA Johnson Center, pursuant to Public Law

100-685, section 203 (102 Stat. 4089); to the Committee on Science, and Technology.

3677. A letter from the Director, Office of Environmental Restoration and Waste Management, Department of Energy, transmitting notification that the report which summarizes the progress of States and compacts in establishing new low-level radioactive waste disposal facilities for calendar year 1989 should be completed by September 30, 1990, pursuant to 42 U.S.C. 2021g(b); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3678. A letter from the Secretary of Energy, transmitting a summary of expenditures of rebates from the low-level radioactive waste surcharge escrow account for calendar year 1989, pursuant to 42 U.S.C. 2120e(d)(2)(E)(ii)(II); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

3679. A letter from the Assistant Secretary for Legislative Affairs, Department of States, transmitting notice that effective July 1, 1990, the Department designated Liberia as danger pay location, pursuant to 5 U.S.C. 5928; jointly, to the Committees on Foreign Affairs and Post Office and Civil Service.

3680. A letter from the Secretary of Defense, transmitting a draft of proposed legislation to provide transition assistance to military personnel separated from the Armed Services during force reductions, and for other purposes; jointly, to the Committees on Ways and Means, Veterans' Affairs, and Armed Services.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BONIOR: Committee on Rules. House Resolution 452. Resolution waiving certain points of order against the conference report on the bill (H.R. 1465) to establish limitations on liability for damages resulting from oil pollution, to establish a fund for the payment of compensation for such damages, and for other purposes (Rept. 101-658). Referred to the House Calendar.

Mr. BONIOR: Committee on Rules. House Resolution 453. Resolution providing for the consideration of H.R. 5400, a bill to amend the Federal Election Campaign Act of 1971 and certain related laws to clarify such provisions with respect to Federal elections, to reduce costs in House of Representatives elections, and for other purposes (Rept. 101-659). Referred to the House Calendar.

Mr. HAWKINS: Committee of Conference. Conference Report on H.R. (Rept. 101-660). Ordered to be printed.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. JONES of North Carolina. Committee on Merchant Marine and Fisheries. H.R. 2840. A bill to reauthorize the Coastal Barrier Resources Act, and for other purposes; with an amendment; referred to the Committee on Banking, Finance and Urban Affairs and Public Works and Transportation

for a period ending not later than September 14, 1990, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of those committees pursuant to clause 1 (d), rule X (Rept. 101-657, Pt. 1). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. FASCELL (for himself, Mr. BERMAN, Mr. BROOMFIELD, Mr. HAMILTON, Mr. YATRON, Mr. SOLARZ, Mr. STUDDS, Mr. WOLPE, Mr. GEJDENSON, Mr. DYMALLY, Mr. LANTOS, KOST-MAYER, Mr. TORRICELLI, Mr. SMITH of Florida, Mr. LEVINE of California, Mr. FEIGHAN, Mr. WEISS, Mr. ACKERMAN, Mr. UDALL, Mr. CLARKE, Mr. FUSTER, Mr. OWENS of Utah, Mr. JOHNSTON of Florida, Mr. ENGEL, Mr. FALEOMAVAEGA, Mr. BOSCO, Mr. McCLOSKEY, Mr. PAYNE of New Jersey, Mr. GILMAN, Mr. LAGOMARSINO, Mr. LEACH of Iowa, Mr. ROTH, Mr. SMITH of New Jersey, Mr. BURTON of Indiana, Mrs. MEYERS of Kansas, Mr. MILLER of Washington, Mr. DONALD E. LUKENS, Mr. BLAZ, Mr. GALLEGLY, Mr. HOUGHTON, Mr. GOSS and Ms. ROS-LEHTINEN:

H.R. 5431. A bill to impose sanctions on Iraq, jointly, to the Committees on Foreign Affairs; Ways and Means; and Banking, Finance and Urban Affairs.

By Mr. GONZALEZ (for himself, Mr. WYLIE, Ms. OAKAR, and Mr. SHUMWAY):

H.R. 5432. A bill to extend the expiration date of the Defense Production Act of 1950; to the Committee on Banking, Finance and Urban Affairs.

By Mr. STAGGERS:

H.R. 5433. A bill to direct the Secretary of Agriculture to release on behalf of the United States a condition in a deed conveying certain lands to the Conservation Commission of West Virginia, and for other purposes; to the Committee on Agriculture.

By Ms. LONG:

H.R. 5434. A bill to amend the Congressional Budget Act of 1974 to exclude the receipts and disbursements of the Unemployment Trust Fund from the calculation of deficits and maximum deficit amounts under the Balanced Budget and Emergency Deficit Control Act of 1985, and for other purposes; jointly, to the Committees on Government Operations and Ways and Means.

By Mr. CARDIN (for himself and Mr. DURBIN):

H.R. 5435. A bill to make significant progress toward granting self-determination to the Baltic Republics a condition on the granting of most-favored-nation treatment to the Union of Soviet Socialist Republics; to the Committee on Ways and Means.

By Mr. MILLER of California (for himself, Mr. HUNTER, Mr. MARTINEZ, Mr. PANETTA, Mr. MINETA, Mr. BROWN of California, Mr. BATES, Mr. LANTOS, Ms. PELOSI, Mrs. BOXER, and Mr. DELLUMS):

H.R. 5436. A bill to provide restoration of the Federal trust relationship with and assistance to the terminated tribes of California Indians and the individual members thereof; extend Federal recognition to cer-

tain Indian tribes in California to establish administrative procedures and guidelines to clarify the status of certain Indian tribes in California; to establish a Federal commission on policies and programs affecting California Indians; and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. CONYERS:

H.R. 5437. A bill to remove the Social Security trust from the deficit calculations required by the Balanced Budget and Emergency Deficit Control Act of 1985, to implement guaranteed multiyear deficit reduction, to revise the Gramm-Rudman-Hollings sequestration formula, and to provide truth-in-budgeting reforms; jointly, to the Committees on Government Operations, Ways and Means, and Rules.

By Mr. CONYERS (for himself and Mr. BROOKS):

H.R. 5438. A bill to provide accountability in the use of Presidential directives, and for other purposes; to the Committee on Government Operations.

By Mr. CONYERS (for himself, Mr. HORTON, Mrs. COLLINS, Mr. NEAL of North Carolina, Mr. LANTOS, Mrs. BOXER, Mr. BUSTAMANTE, Mr. CLINGER, Mr. McCANDLESS, and Mr. SHAYS):

H.R. 5439. A bill to amend the Act of March 3, 1933 (commonly known as the Buy American Act), to require the approval of the U.S. Trade Representative in order for the head of a Federal agency to waive the Buy American Act, and for other purposes; jointly to the Committees on Government Operations and Ways and Means.

By Mr. CRANE (for himself and Mr. MCCOLLUM):

H.R. 5440. A bill to preserve and protect the free choice of individual employees to form, join, or assist labor organizations, or to refrain from such activities; to the Committee on Education and Labor.

By Mr. FAUNTROY:

H.R. 5441. A bill to require that District of Columbia prisoners incarcerated at the District Correctional Complex in Lorton, VA, be treated as residents of the District of Columbia for purposes of the decennial census of population; to the Committee on Post Office and Civil Service.

By Mr. FRENZEL:

H.R. 5442. A bill to amend the Internal Revenue Code of 1986 to eliminate inequities and provide symmetry in certain foreign provisions, and for other purposes; to the Committee on Ways and Means.

By Mrs. KENNELLY (for herself, Mr. GEJDENSON, and Mr. MORRISON of Connecticut):

H.R. 5443. A bill to amend title XXV of the Public Health Services Act to make an adjustment relating to minimum allotments under the program of formula grants established in such title; to the Committee on Energy and Commerce.

By Mr. LIVINGSTON (by request):

H.R. 5444. A bill to prohibit discrimination by the States on the basis of nonresidency in the licensing of dental health care professionals, and for other purposes; to the Committee on Energy and Commerce.

By Mr. OWENS of New York:

H.R. 5445. A bill to amend the Domestic Volunteer Service Act to provide assistance to projects which utilize volunteers to protect students and employees of educational institutions from violence and criminal activity; to the Committee on Education and Labor.

By Mr. RAHALL (for himself and Mr. CAMPBELL of Colorado):

H.R. 5446. A bill to amend the Atomic Energy Act of 1954 to clarify the power of State and local governments to regulate the disposal of radioactive material that is not otherwise regulated by the Nuclear Regulatory Commission; jointly, to the Committees on Interior and Insular Affairs and Energy and Commerce.

By Mr. SOLARZ:

H.R. 5447. A bill to amend the Federal Food, Drug, and Cosmetic Act to require the filing of certain consumer information pertaining to religious dietary certification symbols on food labels; to the Committee on Energy and Commerce.

By Mr. STARK (for himself, Mr. DURBIN, Mr. WHITTAKER, Mr. ANDREWS, Mrs. BOXER, Mrs. COLLINS, Mr. LAFALCE, Mr. NIELSON of Utah, and Mr. BATES):

H.R. 5448. A bill to amend the Internal Revenue Code of 1986 to impose an additional occupational tax on manufacturers and importers of cigarettes and to provide that the amounts collected under this tax be used to reimburse the medicare and medicaid programs for providing care and treatment for smoking-related cancers, circulatory system diseases, and respiratory system diseases; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TRAFICANT (for himself, Mr. BROWN of Colorado, and Mr. RAHALL):

H.R. 5449. A bill to suspend most-favored-nation trade privileges to the Socialist Federal Republic of Yugoslavia; to the Committee on Ways and Means.

By Mr. WISE (for himself, Mr. KLECZKA, Mr. BUSTAMANTE, Mr. McCANDLESS, Mr. CLINGER, and Mr. DYSON):

H.R. 5450. A bill to amend title 5, United States Code, to ensure adequate verification of computer matching information that affects individuals' eligibility for Federal benefits; to the Committee on Government Operations.

By Mr. WYDEN:

H.R. 5451. A bill to amend titles XI, XVIII and XIX of the Social Security Act to improve the dissemination of information under the Medicare and Medicaid programs to State medical boards; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. BATES (for himself, Mr. JONTZ, Mr. OWENS of New York, Mr. FAUNTROY, and Mr. BOUCHER):

H.R. 5452. A bill to establish a National Repository of International Medical Graduate Records, and for other purposes; to the Committee on Energy and Commerce.

By Mr. RITTER (for himself, Mr. MINETA, Mr. CLINGER, Mr. TALLON, Mr. SHUSTER, Mr. KOLTER, Mr. LIPINSKI, Mr. STANGELAND, Mr. RAHALL, Mr. NOWAK, Mr. HASTERT, Mr. GRANT, Mr. DE LUGO, Mr. TRAFICANT, Ms. MOLINARI, Mr. ATKINS, Mr. AU COIN, Mr. BATES, Mr. BEILSON, Mrs. BENTLEY, Mr. BERMAN, Mr. BOUCHER, Mr. BROWN of California, Mr. BRUCE, Mr. CAMPBELL of California, Mr. COBLE, Mr. COYNE, Mr. DORGAN of North Dakota, Mr. DURBIN, Mr. ECKART, Mr. EDWARDS of Oklahoma, Mr. ENGEL, Mr. ENGLISH, Mr. ERDREICH, Mr. EVANS, Mr. FAZIO, Mr. FISH, Mr. FOGLIETTA, Mr. GALLO, Mr. GILMAN, Mr. GONZALEZ, Mr. GOODLING, Mr. GUARINI, Mr. GUNDERSON, Mr. HALL of Ohio, Mr. HANSEN, Mr. HEFNER, Mr. HOCHBRUECKNER, Mr.

HORTON, Mr. HUBBARD, Mr. HUGHES, Mr. HUNTER, Mr. JAMES, Mr. KANJORSKI, Ms. KAPTUR, Mr. KILDEE, Mr. KOSTMAYER, Mr. LANCASTER, Mr. LEACH of Iowa, Mr. LEATH of Texas, Mr. LENT, Mr. LEVINE of California, Mr. LEWIS of California, Mr. LEWIS of Florida, Mr. THOMAS A. LUKEN, Mr. MADIGAN, Mr. MARKEY, Mr. MARLENEE, Mr. MAVROULES, Mr. McDADDE, Mr. McMILLEN of Maryland, Mr. MILLER of Washington, Mr. MRAZEK, Mr. MURPHY, Mr. NAGLE, Mr. PENNY, Mr. PURSELL, Mr. RICHARDSON, Mr. RINALDO, Mr. ROBERTS, Mr. ROGERS, Mr. ROSE, Mr. ROWLAND of Georgia, Mr. ROWLAND of Connecticut, Mr. SAWYER, Mr. SAXTON, Ms. SCHNEIDER, Mr. SCHULZE, Mr. SHAYS, Mr. SPRATT, Mr. STAGGERS, Mr. STALLINGS, Mr. STARK, Mr. STUDDS, Mr. SWIFT, Mr. TORRICELLI, Mr. VISCLOSKEY, Mr. WALGREN, Mr. WAXMAN, Mr. WELDON, Mr. WHITTAKER, Mr. WISE, Mr. WOLFE, Mr. WYDEN, and Mr. YATRON):

H.R. 5453: A bill to establish an Office of Airline Passenger Advocacy in the Department of Transportation, to amend the Federal Aviation Act of 1958 to establish minimum standards for air carrier passenger services, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. BARTON of Texas:

H. Res. 451: Resolution providing for mandatory drug testing of Members of the House of Representatives; to the Committee on House Administration.

By Mr. GILLMOR:

H. Res. 454: Resolution to amend the Rules of the House of Representatives to prohibit the Committee on Rules from reporting rules waiving the germaneness requirement; to the Committee on Rules.

By Mr. GUARINI (for himself, Mr. ACKERMAN, Mr. ANDERSON, Mr. ANNUNZIO, Mr. APPELGATE, Mrs. BENTLEY, Mr. BOEHLERT, Mr. BORSKI, Mr. CONTE, Mr. COURTER, Mr. DE LUGO, Mr. DORGAN of North Dakota, Mr. DOWNEY, Mr. DWYER of New Jersey, Mr. ENGEL, Mr. FASCELL, Mr. FAUNTROY, Mr. FISH, Mr. FLAKE, Mr. GALLO, Mr. GEPHARDT, Mr. GILMAN, Mr. GREEN of New York, Mr. HOCHBRUECKNER, Mr. HORTON, Mr. HOUGHTON, Mr. HUGHES, Mr. IRELAND, Ms. KAPTUR, Mr. KILDEE, Mr. LAFALCE, Mr. LEHMAN of Florida, Mr. LENT, Mrs. LOWEY of New York, Mr. THOMAS A. LUKEN, Mr. McDADDE, Mr. HARRIS, Mr. BEVILL, Mr. McGRATH, Mr. McHUGH, Mr. McNULTY, Mr. MANTON, Mr. MARTIN of New York, Ms. MOLINARI, Mr. MRAZEK, Mr. MURPHY, Mr. NEAL of Massachusetts, Mr. NOWAK, Mr. OWENS of New York, Mr. PALLONE, Mr. PAXTON, Mr. PAYNE of New Jersey, Mr. RANGEL, Mr. RINALDO, Mr. ROE, Mrs. ROUKEMA, Mr. SAXTON, Mr. SCHEUER, Mr. SCHUMER, Mr. SERRANO, Ms. SLAUGHTER of New York, Mr. SMITH of New Jersey, Mr. SOLARZ, Mr. SOLOMON, Mr. TORRICELLI, Mr. TOWNS, Mr. WALSH, Mr. WEISS, Mr. WOLF, Mr. YATRON, Mr. YOUNG of Florida, Mr. YOUNG of Alaska, Mr. GEKAS, and Mr. SMITH of Florida):

H. Res. 455: Resolution expressing the sense of the House of Representatives that October 1990 should be designated as "National Ellis Island Month"; to the Committee on Post Office and Civil Service.

By Mr. WALKER:

H. Res. 456: Resolution concerning the United States position on environmental protection at the 1992 United Nations Conference on Environment and Development in Brazil; to the Committee on Foreign Affairs.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

483. By the SPEAKER: Memorial of the Legislature of the State of California, relative to maritime safety; to the Committee on Merchant Marine and Fisheries.

484. Also, memorial of the Legislature of the State of California, relative to oil tankers; to the Committee on Merchant Marine and Fisheries.

485. Also, memorial of the Legislature of the State of California, relative to U.S. Census postenumeration surveys of Asian and Pacific Islander Americans; to the Committee on Post Office and Civil Service.

486. Also, memorial of the Legislature of the State of California, relative to a veterans' center for Butte County; to the Committee on Veterans' Affairs.

487. Also, memorial of the Legislature of the State of California, relative to Martha Raye; to the Committee on Post Office and Civil Service.

488. Also, memorial of the Legislature of the State of California, relative to radiation and chemical contamination; jointly, to the Committees on Energy and Commerce and Armed Services.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 98: Mr. OLIN, Mr. SCHAEFER, Mr. LEATH of Texas, Mr. CALLAHAN, Mr. APPELGATE, Mr. KILDEE, Mr. MOODY, Mr. SERRANO, Mr. MARLENEE, Mr. MADIGAN, Mrs. JOHNSON of Connecticut, Mr. McHUGH, Mr. SUNDQUIST, Mr. SKEEN, Mr. LEHMAN of California, Mr. SOLOMON, Mr. SAVAGE, Mr. DICKS, Mr. McMILLAN of North Carolina, Mr. HERTEL, Mr. SCHEUER.

H.R. 446: Mr. STALLINGS.

H.R. 753: Mr. RANGEL.

H.R. 796: Mr. WALSH, Mr. LEHMAN of Florida, Mr. SLAUGHTER of Virginia, and Mr. HEFLEY.

H.R. 1268: Mr. ECKART and Mr. GUARINI.

H.R. 1578: Mr. BROWN of Colorado.

H.R. 1845: Mr. TORRICELLI.

H.R. 2285: Mr. MRAZEK.

H.R. 2395: Mr. KOLBE and Mr. SHARP.

H.R. 2436: Mr. SMITH of New Jersey, Mr. MARTIN of New York, Mr. TORRICELLI, and Mr. PAYNE of New Jersey.

H.R. 2589: Mr. GRANDY.

H.R. 2699: Mr. MINETA.

H.R. 2816: Mr. HILER and Mr. WELDON.

H.R. 3050: Mr. WALSH.

H.R. 3200: Mr. RICHARDSON, Mrs. UNSOELD, and Mr. DOWNEY.

H.R. 3252: Mr. CONTE.

H.R. 3270: Mr. VANDER JAGT, Mr. SWIFT, Mr. BRYANT, Mr. SHAW, and Mr. McNULTY.

H.R. 3383: Mr. LAGOMARSINO and Mr. BROWN of California.

H.R. 3483: Mr. VALENTINE.

H.R. 3488: Ms. PELOSI and Ms. KAPTUR.

H.R. 3862: Mr. DWYER of New Jersey.

H.R. 3880: Mr. DELLUMS.

H.R. 3922: Mr. CHAPMAN.

H.R. 3978: Mr. CLARKE.

H.R. 3999: Mr. SKAGGS, Mr. CROCKETT, and Mr. SAWYER.

H.R. 4006: Mr. FISH.

H.R. 4125: Ms. SLAUGHTER of New York, Mr. TALLON, Mr. GORDON, Mr. BEVILL, Mr. WEISS, and Mr. GLICKMAN.

H.R. 4131: Mr. WEISS.

H.R. 4249: Mr. CONDIT, Mr. FOGLIETTA, Mrs. VUCANOVICH, Mr. FRANK, Mr. LEWIS of Georgia, Mr. VANDER JAGT, Mr. VOLKMER, Mr. TAUKE, Mr. JAMES, Mr. FAZIO, Mr. LEWIS of California, Ms. PELOSI, and Mr. SHUMWAY.

H.R. 4287: Mr. LANCASTER, Mr. GOODLING, Mr. COSTELLO, Mr. HUGHES, Mr. LIVINGSTON, Mr. LAGOMARSINO, Mr. PURSELL, Mr. HENRY, Mr. WELDON, and Mr. CROCKETT.

H.R. 4292: Mr. SCHUETTE, Mr. JAMES, Mr. SENSENBRENNER, Mr. HERGER, and Mr. WOLF.

H.R. 4367: Mr. DICKINSON.

H.R. 4515: Mr. ENGEL.

H.R. 4565: Mr. PACKARD, Mr. BATEMAN, Mr. SCHIFF, and Mr. EMERSON.

H.R. 4621: Mr. EVANS, Mr. ROE, and Mr. KOLTER.

H.R. 4675: Mr. COX, Mr. MURPHY, and Mr. TOWNS.

H.R. 4690: Mr. HANSEN and Mr. ROSE.

H.R. 4772: Mr. GEKAS and Mr. GILLMOR.

H.R. 4868: Mr. BEILINSON and Mr. MFUME.

H.R. 4948: Mr. SMITH of Iowa.

H.R. 4954: Mr. PICKETT.

H.R. 4964: Mr. STUMP.

H.R. 4972: Mrs. MARTIN of Illinois.

H.R. 4997: Mr. BRUCE, Mr. COLEMAN of Missouri, Mr. SMITH of Iowa, and Mr. STALLINGS.

H.R. 5007: Mr. JOHNSON of South Dakota.

H.R. 5013: Mr. STALLINGS.

H.R. 5030: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, and Mr. GRANT.

H.R. 5031: Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5032: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5033: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, and Mr. LEWIS of Florida.

H.R. 5034: Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5035: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5036: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5037: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5038: Mr. HAMMERSCHMIDT, Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. DUNCAN, Mr. GRANT, and Mr. LEWIS of Florida.

H.R. 5039: Mr. BROOMFIELD, Mr. SOLOMON, Mr. CHANDLER, Mr. SMITH of Vermont, Mr. DUNCAN, Mr. GRANT, Ms. MOLINARI, and Mr. LEWIS of Florida.

H.R. 5097: Mr. ALEXANDER.
H.R. 5160: Mr. POSHARD.
H.R. 5237: Mr. CAMPBELL of Colorado.
H.R. 5244: Mr. JOHNSON of South Dakota,
Mr. LIGHTFOOT, and Mr. HORTON.
H.R. 5247: Mr. BUSTAMANTE, Mr. DWYER of
New Jersey, Mr. ECKART, Mr. STALLINGS, and
Ms. PELOSI.

H.R. 5341: Mr. McDERMOTT, Mr. KOST-
MAYER, Mr. NAGLE, Mr. KASICH, Mr. PORTER,
Mr. LOWERY of California, Mr. HOLLOWAY,
Mr. THOMAS of Wyoming, Mr. INHOFE, Mr.
LANCASTER, Mr. WEISS, Mr. RANGEL, Mr.
FAWELL, Mr. GILMAN, Mr. WALKER, Mr.
MARKEY, Mr. GRANT, Mr. GOSS, Ms. MOLIN-
ARI, and Mr. ACKERMAN.

H.R. 5351: Mr. FLIPPO.
H.R. 5378: Mr. GILMAN.
H.J. Res. 214: Mr. LEWIS of California, Mr.
VANDER JAGT, Mr. KLECZKA, Mr. WEISS, Mr.
SPENCE, Mr. RICHARDSON, and Mr. COYNE.
H.J. Res. 248: Mr. COSTELLO, Ms. OAKAR,
and Mr. SLATTERY.

H.J. Res. 374: Mr. CHANDLER.
H.J. Res. 476: Mr. DeWINE, Mrs. MARTIN
of Illinois, and Mr. RICHARDSON.

H.J. Res. 482: Mr. FORD of Michigan.
H.J. Res. 486: Mr. PAXON.
H.J. Res. 492: Mr. HAMMERSCHMIDT, Mr.
JOHNSON of South Dakota, Mr. CONTE, Mr.
DE LA GARZA, Mr. SLATTERY, Mr. BENNETT,
and Mr. PAXON.

H.J. Res. 509: Mr. SKAGGS, Mr. BEVILL, Mr.
FOGLIETTA, Mr. FUSTER, Mr. SMITH of Flori-
da, Mr. CONYERS.

H.J. Res. 519: Mr. DINGELL and Mr. GEREN.
H.J. Res. 543: Mr. CALLAHAN and Mr.
STARK.

H.J. Res. 552: Mr. MORRISON of Washing-
ton, Ms. SLAUGHTER of New York, Mr. SMITH
of Florida, Mr. SAXTON, Mr. GALLO, Mr.
REGULA, Mr. ROWLAND of Georgia, Mr.
RITTER, and Mr. DAVIS.

H.J. Res. 557: Mr. MAVROULES, Mr.
MURPHY, Mr. ROBINSON, Mr. ROYBAL, Mr.
GALLO, Mr. HAMMERSCHMIDT, Mr. LIVING-
STON, Mr. WILSON, Mrs. BYRON, Mr. NEAL of
Massachusetts, Mr. HALL of Ohio, Mr.
SHARP, Mr. RINALDO, Mr. HALL of Texas, Mr.
GILMAN, Mr. COUGHLIN, Mr. BOSCO, Mrs.
KENNELLY, Mr. GREEN of New York, Mr.
ESPY, Mr. OWENS of New York, Mr. LEHMAN
of California, Mr. STANGELAND, Mr. FASCELL,
Mr. BURTON of Indiana, Mr. LEVINE of Cali-
fornia, Mr. MARKEY, Mr. BALLENGER, Mr.
VENTO, Mr. JACOBS, Mr. BONIOR, Mrs. BOXER,
Mr. BROWDER, Mr. DURBIN, Mr. ECKART, Mr.
HOAGLAND, Mr. MRAZEK, Mr. NAGLE, Mr.
PICKLE, Mr. RIDGE, Mr. SAWYER, Mr. TORRI-
CELLI, Mr. WHITTEN, Mr. GEPHARDT, Mr.
PICKETT, Mr. LENT, Mr. RANGEL, and Mr.
BENNETT.

H.J. Res. 610: Mr. ARCHER, Mr. BEVILL, Mr.
BUSTAMANTE, Mr. CARDIN, Mr. CLEMENT, Mr.
COLEMAN of Texas, Mr. DARDEN, Mr. EVANS,
Mr. FASCELL, Mr. FAUNTROY, Mr. FAZIO, Mr.
FRANK, Mr. GREEN of New York, Mr. HALL of
Ohio, Mr. HAMMERSCHMIDT, Mr. HERTEL, Mr.
HUGHES, Mr. KLECZKA, Mr. LAGOMARSINO,
Mr. LANCASTER, Mr. LEHMAN of Florida, Mrs.
LLOYD, Mr. McDERMOTT, Mr. McNULTY, Mr.
MRAZEK, Mr. NELSON of Florida, Mr. PANET-
TA, Mrs. PATTERSON, Mr. PAYNE of New
Jersey, Mr. RANGEL, Mr. RICHARDSON, Mr.
SERRANO, Mr. SOLOMON, Mr. SYNAR, Mr. TOR-
RICELLI, Mr. VALENTINE, Mr. WALSH, Mr.
WEISS, Mr. WHEAT, and Mr. YATES.

H.J. Res. 616: Mrs. ROUKEMA, Mr. ACKER-
MAN, Mr. DONALD E. LUKENS, Mr. JOHNSON of
South Dakota, and Mr. TOWNS.

H.J. Res. 627: Mr. GUNDERSON, Mr. TOWNS,
Mr. SMITH of Florida, Mr. HALL of Ohio, Mr.
PICKETT, Mr. FALCOMA-VAEGA, Mr. GALLEGLY,
Mr. INHOFE, Mr. LIPINSKI, Mr. ROBINSON,

Mr. PETRI, Mr. SPENCE, Mr. CLINGER, Mr.
DICKS, Mr. DONNELLY, Mr. ESPY, Mr. DWYER
of New Jersey, Mr. CHAPMAN, Mr. DORGAN of
North Dakota, Mr. RANGEL, Mr. HASTERT,
Mr. HUTTO, Mr. NATCHER, Mr. DeWINE, Mr.
MURTHA, Mr. GEKAS, Mr. FROST, Mr. ACKER-
MAN, Mr. YATRON, Mr. VENTO, Mr. HAYES of
Louisiana, Mr. COBLE, Mr. HAMILTON, and
Mr. HILER.

H. Con. Res. 183: Mr. CHAPMAN.

H. Res. 312: Mr. FAZIO.

H. Res. 414: Mr. THOMAS of Georgia, Mr.
MRAZEK, Mr. GLICKMAN, and Mr. ROE.

H. Res. 418: Mr. LEWIS of Georgia, Mr.
MORRISON of Connecticut, Mr. CARDIN, Mr.
VISCLOSKEY, and Ms. KAPTUR.

H. Res. 446: Mr. WOLFE, Mr. GILMAN, Mr.
WEISS, Mr. SOLARZ, and Mrs. PATTERSON.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLU- TIONS

Under clause 4 of rule XXII, spon-
sors were deleted from public bills and
resolutions as follows:

H.R. 4492: Mr. JACOBS.

PETITIONS, ETC.

Under clause 1 of rule XXII,
221. The SPEAKER presented a petition
of the Attorney General, Boise, ID, relative
to his support for H.R. 5194; which was re-
ferred to the Committee on Energy and
Commerce.

AMENDMENTS

Under clause 6 of rule XXIII, pro-
posed amendments were submitted as
follows:

H.R. 5400

By Mr. MICHEL:
—Strike out all after the enacting clause
and insert the following:

SECTION 1. REDUCTION IN THE LIMITATION APPLI-
CABLE TO NONPARTY MULTICANDI-
DATE POLITICAL COMMITTEE CONTRI-
BUTIONS TO CANDIDATES.

(a) IN GENERAL.—Section 315 of the Feder-
al Election Campaign Act of 1971 (2 U.S.C.
441a) is amended by adding at the end the
following new subsection:

“(i) Notwithstanding subsection (a)(2)(A),
no nonparty multicandidate political com-
mittee may make contributions referred to
in that subparagraph which, in the aggre-
gate, exceed \$1,000.”.

“(b) TECHNICAL AMENDMENT.—Section
315(a)(2)(A) of the Federal Election Cam-
paign Act of 1971 (2 U.S.C. 441a(a)(2)(A)) is
amended by inserting after “(A)” the follow-
ing: “except as provided in subsection (i).”.

(c) EFFECTIVE DATE.—The amendments
made by this section shall apply with re-
spect to elections for Federal office taking
place after November 6, 1990.

SEC. 2. PROHIBITION OF SEPARATE SEGREGATED
FUND BUNDLING OF CONTRIBUTIONS
TO CANDIDATES.

Section 316 of the Federal Election Cam-
paign Act of 1971 (2 U.S.C. 441b) is amended
by adding at the end the following new sub-
section:

“(c) No separate segregated fund (as de-
scribed in subsection (b)(2)(c)) may act as
an intermediary or conduit with respect to a
contribution to a candidate for Federal
office.”.

SEC. 3. PROHIBITION OF TRANSFERS AMONG NON-
CANDIDATE, NONPARTY POLITICAL
COMMITTEES.

Section 315 of the Federal Election Cam-
paign Act of 1971 (2 U.S.C. 441a), as amend-
ed by section 1, is further amended by
adding at the end the following new subsection:

“(j) A noncandidate, nonparty political
committee may not make contributions, or
otherwise transfer funds, to any other non-
candidate, nonparty political committee. As
used in this subsection, the term ‘noncandi-
date, nonparty political committee’ means a
political committee that is not an author-
ized committee of a candidate for Federal
office and is not a political committee of a
political party.”.

SEC. 4. PROHIBITION OF LEADERSHIP COMMIT-
TEES: RESTRICTION ON CONTRI-
BUTIONS BETWEEN PRINCIPAL CAM-
PAIGN COMMITTEES.

“(a) LEADERSHIP COMMITTEE PROHIBI-
TION.—Section 302 of the Federal Election
Campaign Act of 1971 (2 U.S.C. 432) is
amended by adding at the end the following
new subsection:

“(j) A candidate for Federal office may
not establish, maintain, finance, or control a
political committee, other than the principal
campaign committee of the candidate.”.

(b) PRINCIPAL CAMPAIGN COMMITTEE RESTRICTION.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 1 and 3, is further amended by adding at the end the following new subsection:

“(k) A principal campaign committee of a
candidate for Federal office may not make
any contribution to any other principal
campaign committee (other than the principal
campaign committee of the same individual
as a candidate for another Federal
office).”.

SEC. 5. HOUSE OF REPRESENTATIVES ELECTION
LIMITATION ON CONTRIBUTIONS
FROM PERSONS OTHER THAN LOCAL
INDIVIDUAL RESIDENTS.

(a) IN GENERAL.—Section 315 of the Federal Election Campaign Act of 1971 (2 U.S.C. 441a), as amended by sections 1, 3, and 4 is further amended by adding at the end the following new subsection:

“(l)(1) A candidate for the office of Repre-
sentative in, or Delegate or Resident Com-
missioner to, the Congress may not, with re-
spect to a reporting period for an election,
accept contributions from persons other
than local individual residents totaling in
excess of the total of contributions accepted
from local individual residents.

“(2) As used in this subsection, the term
‘local individual resident’ means an individ-
ual who resides in a county, any part of
which is in the congressional district in-
volved.”.

(b) EFFECTIVE PROVISION.—During any
period with respect to which subsection (1)
of section 315 of the Federal Election Cam-
paign Act of 1971, as added by subsection (a)
is not in effect, such subsection (1) shall be
effective as so added, together with the fol-
lowing new paragraph:

“(3) For purposes of this subsection, an in-
dividual may not be considered a resident of
more than one congressional district.”.

SEC. 6. ADDITIONAL PROHIBITIONS ON ELECTION-
RELATED ACTIVITY BY CORPORA-
TIONS AND LABOR ORGANIZATIONS:
DISCLOSURE OF PERMITTED ELEC-
TION-RELATED ACTIVITY.

(a) PROHIBITED ACTIVITIES.—Paragraph (2)
of section 316(b) of the Federal Election

Campaign Act of 1971 (2 U.S.C. 441(b)(2)) is amended—

(1) in subparagraph (A), by striking out "subject;" and inserting in lieu thereof "subject (other than communication for the purpose of influencing any election for Federal office); and";

(2) by striking out "(B)" and all that follows through "families; and"; and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) **DISCLOSURE REQUIREMENTS.**—Section 304 of the Federal Election Campaign Act of 1971 (2 U.S.C. 434) is amended by adding at the end of the following new subsection:

"(d) Any corporation or labor organization that makes a payment for a communication or other activity that—

"(1) relates to any election for Federal office; and

"(2) by reason of subparagraph (A) or (B) of paragraph (2) of section 316(b), is not a contribution or expenditure;

shall report such payment to the Commission in the same manner as a contribution or expenditure, as the case may be, is reported by a principal campaign committee of a candidate for the House of Representatives or the Senate under this section."

SEC. 7. BAN ON SOFT MONEY.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following new section:

"LIMITATIONS AND REPORTING REQUIREMENT FOR AMOUNTS PAID FOR MIXED POLITICAL ACTIVITIES

"Sec. 324. (a) Any payment by the national committee of a political party or a State

committee of a political party for a mixed political activity—

"(1) shall be subject to limitation and reporting under this Act as if such payment were an expenditure; and

"(2) may be paid only from an account that is subject to the requirements of this Act.

"(b) As used in this section, the term 'mixed political activity' means, with respect to a payment by the national committee of a political party or a State committee of a political party, an activity, such as a voter registration program, a get-out-the-vote drive, or general political advertising, that is both (1) for the purpose of influencing an election for Federal office, and (2) for any purpose unrelated to influencing an election for Federal office."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

the House of Representatives and the Senate under this section."

EXTENSIONS OF REMARKS

TRIBUTE TO DYNCORP AND
ROB BRYANT

HON. ROY DYSON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. DYSON. Mr. Speaker, I rise today to pay tribute to DynCorp, a company located in my district, and one of its outstanding employees, Mr. Rob Bryant. I am sure that all my colleagues will find Mr. Bryant's accomplishments to be as inspiring as I have.

Rob Bryant has been a paraplegic since 1982 when he fell 55 feet from an oil rig. Despite this handicap, Rob has just completed a courageous, 3,500 mile "Row Across America". Beginning April 2, in Los Angeles, Rob began his 4-month tour of America with stops in 10 DynCorp locations, including Williams Air Force Base in Arizona, White Sands Test Range and Holloman Air Force Base in New Mexico, Columbus Air Force Base in Mississippi, DynCorp in Virginia, and the Naval Air Test Center, Patuxent River, MD. At each DynCorp location, Rob was greeted by supportive coworkers who hosted community receptions and fundraisers in his honor.

By rowing his specially designed three-wheeled rowing machine across country, Rob has raised money for the Kent Waldrep National Paralysis Foundation to further paralysis research. During the course of Rob's trip he spoke to over 100 groups to heighten the Nation's awareness of the need for more funding for research as well as explaining the needs and abilities of the disabled. He is also hoping to get his name into Guinness Book of World Records as the first person to ever rowcycle cross-country.

Rob has been supported and encouraged along the way by a loving family. His wife, Wanice first gave him the idea to buy the rowing machine, and was completely supportive of his goal to row cross-country. His two sons, Jason and Jonathan, ages 9 and 7, helped him train for a year and a half in preparation for his trip. While the help and support of his family was paramount to Rob's success, he could not have accomplished this incredible feat without the generosity of his employer, DynCorp.

When Rob approached DynCorp management to request time off for training, and to make his cross-country trip, his idea was immediately welcomed with the complete support of company officials and employees. Although, Rob is a valuable employee, DynCorp granted him leave from his job as a writer of technical manuals for the military. DynCorp gave him 2 days a week off to train, and once he was ready to begin his cross-country journey DynCorp gave Rob 6 months off with pay and full benefits.

Mr. Speaker, it is both an honor and a pleasure to salute Rob Bryant today. His courage in meeting life's challenges is an inspiration to all of us. I also want to applaud DynCorp, its officials and employees, for their willingness to become personally involved in this important cause. DynCorp stands as a shining example to other businesses for its support of Rob Bryant, and their ability to look beyond an individuals handicap.

ANNIVERSARY OF THE BEGIN-
NING OF THE KOREAN WAR

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CRANE. Mr. Speaker, last June 25 marked the 40th anniversary of the beginning of the Korean war. Before that brutal war ended 3 years later, on July 27, 1953, 54,246 American troops were dead, and 103,284 were wounded. During the war, 8,177 Americans were listed as missing or prisoners of war. We still have not accounted for 329 prisoners of war.

All in all, over 5,700,000 American service men and women were involved in the war, either directly or indirectly. Many of them had just survived the rigors of World War II, and still others went on to serve in Vietnam.

However, most of the veterans of the "forgotten war" simply returned home to resume their lives, and were never really recognized for their contribution to the freedom we now enjoy.

Now the time has come to acknowledge the service and the sacrifice of these veterans. Congress has appropriated \$1 million in seed money for the construction of a Korean War Memorial here in Washington. The other \$10 million needed to construct and maintain the memorial must, however, come from private contributions. Many organizations throughout the Nation are working at raising funds for the memorial.

One such group, the National Capital Friends of the Korean War Veterans Memorial, was organized for the sole purpose of raising funds. Not too long ago, that group was addressed by retired Army general, Richard Stilwell, who is the chairman of the Memorial's Advisory Board.

I insert the text of General Stilwell's splendid address before the group in the RECORD at this point:

ADDRESS BY GEN. RICHARD G. STILWELL

Given the importance of this luncheon and the patriotism and support that is evidenced by your participation therein, I abruptly left Congressman Sonny Montgomery in Seoul at 5:00 p.m. on Monday, the 28th of May, to be here this morning. I had the honor of accompanying the Chairman of the Veterans Affairs Committee of

the House of Representatives and his seven Congressional colleagues to the Military Armistice Commission building in the joint security area at Panmunjom, Korea, for the formal ceremony, which concluded with the turnover, to the custody of the United States of America, of the remains of five heretofore Missing in Action from the Korean War. One was Air Force, and four United States Army—two tentatively identified but all subject to ultimate corroboration by the forensic laboratory in Hawaii. The significance of this very emotional day was that not since early 1954 have any remains of our war dead—United Nations, across the board, or Americans exclusively—been returned to our custody.

I do not know whether this is a harbinger of things to come, whether there will be a much larger return of some portion of the 8,000 plus that we still carry as Missing in Action. It is hard to begin to predict the thought processes of an Asian Communist as extreme as Kim Il-Sung. One thing we do know is that this event and the resultant public consciousness of the very large number of soliders of all the twenty-one nationalities still carried as Missing in Action, will have some impact on the posture of the United States—as indeed, over the years, the much more vocal community, for humanitarian reasons, has had with respect to Viet Nam.

In any event, I went there because it seemed appropriate that, given my modest responsibilities for the Korean War Memorial, I should do so. I am no stranger to Korea. Like many in this room, I am a veteran of the Korean War. I saw it from three different vantage points, from the 25th of June 1950 to the 27th of July 1953. Interestingly enough, late on the 25th of June 1950 (the 26th, of course, in Korea) the head of the CIA, Admiral Hillenkoetter said, "Stillwell, what can you do to assist what is obviously gonna be a major effort?" I said, "at this point, sir, nothing."

Over the next two years in my capacity as head of the Far East operations division we tried with scant success to stimulate resistance activity behind North Korean and Chinese Communist lines. We started from scratch, we were amateurs, we nibbled a bit but, we had no appreciable impact on the war effort from the agents that we infiltrated by sea, by land and by air. It was a real challenge. Those activities gave me a fair picture of what was happening on the battlefield that I then joined, later on, as regimental commander of the 15th Infantry assigned to the 3rd Infantry Division—not the famous 3rd Marine Division that is so prominently represented here today by the officers of that Association.

And then, finally, I saw the War from a totally different perspective when General Max Taylor, to my chagrin, hauled me out of my command to make me the senior adviser for a Korean Army Corps. He said it was a mark of confidence in my potential and ability, but I tell you—as many in the room who have commanded troops, particularly in battle, will confirm—moving away from one's unit, whether a platoon or division or anything intermediate, is tough and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

particularly (Brigadier General Ayken, please note) because my 4th Battalion was the Greek expeditionary force second only to the Turkish Brigade in terms of motivation and battle prowess.

Nonetheless, the last several months of the War were interesting for I had de facto command of four Korean divisions. The Corps Commander whom I was there to "advise" wanted to think about much bigger things. So he said "run the Corps."

When the guns fell silent on the 27th of July 1953, the Armistice was envisaged to be temporary and supplanted by some sort of a political settlement that would regulate relations between two states of a still divided peninsula. That has never eventuated.

So, today, we have to remind ourselves that the only thing that determines what is North and what is South is that four kilometer wide, now heavily fortified zone, the modalities of which are governed by a Military Armistice Agreement—Kim Il-Sung as one signee, the Chinese Commander another and Mark Clark, Commander-in-Chief, United Nations Command, the third. We hope eventually for much better relationships, but we haven't got them yet.

The vivid memories of the War engulfed me on this most recent trip just one day ago. As most accounts stress, the War has been much ignored by history for the reason that it was sandwiched in between the universally supported effort of World War II, which took this nation to its apogee, and our very controversial involvement in Viet Nam beginning in the early 60's. Yes, as the President of the United States said on the first of May at our dinner, the War was a milestone in U.S. post-World War II foreign and defense policy. Although the battle lines on the 27th of July 1953 were astride the 38th parallel where it all started, it was not a stalemate except in military terms. It had achieved the political objectives for which any war is fought and those objectives were to restore the territorial integrity of the Republic of Korea and to save 40 million human beings from being overrun by a totalitarian Communist regime. That was the foundation from which the Republic of Korea has levered itself from the ashes into a middle power, the twentieth most important country in the world galaxy today. That was the minimum geo-political achievement of that War. But, more importantly, the decisions that flowed from Truman's initial decision ("we're going to intervene, unprepared though we are,") established the strategic posture of the United States that has been maintained since the early 50's.

We changed our defense plans. We determined to maintain multiservice balanced capabilities of whatever power was required to contain Soviet aggression at any level. We put muscle into NATO, enough muscle to make it the principal instrument for containing the Soviet empire on the European continent. We forged collective security arrangements in Asia, notably including those with Australia, New Zealand and the Philippines; Korea and Japan, which have maintained the climate of confidence behind which we have seen the remarkable economic dynamism which is going to make the year 2001 the beginning of the Century of the Pacific. As President Bush said, the people who fought in Korea can take some credit for the foundation for the march of democracy that is occurring worldwide today.

So, there is abundant reason why there should be a memorial to those brave Ameri-

can men and women who rallied to the colors; who crossed the wide ocean to defend a people that they never met, in a land that they knew not; who endured the harshest of terrain and weather, sometimes with numerical odds against them, but stayed the course and did all that along with the men and women of the Republic of Korea's armed forces and the men and women of fifteen other nations that provided combat contingents varying from brigade size and division size in the case of the Turks and the British, down to battalion or smaller size.

Congress mandated the Memorial nearly four years ago. What is unique about that Congressional legislation, ladies and gentlemen, is that it is a first. It not only directs a Federal agency, the American Battle Monuments Commission, to establish such a memorial but provides that that memorial be under government auspices throughout. It will be constructed by the Army Corps of Engineers. The money will be accounted for by the General Accounting Office, among others; the money will be on deposit in the United States Treasury.

So it is official in every respect except that the funds will come from private sources, less the seed money of \$1 million which the Congress has provided. We are totally different from the Congressional authorization for the Viet Nam Memorial, for the Women in the Military Service, for the Black Revolutionaries, for the Law Enforcement Officers, because all of their procedures for design, fund-raising, accounting, and so forth, are in non-governmental hands. Not so in our case.

To assist the American Battle Monuments Commission, Congress directed that there be a Board of twelve veterans of the Korean War, appointed by the President. It has been at work for three years. One of our major jobs has been to recommend a site. We have a magnificent site. Visualize yourself sitting on the Great Emancipator's lap and looking down the Reflecting Pool toward the Washington Monument . . . look 15 degrees to your left, and you see the Viet Nam Memorial. Now turn your gaze the same angle to the right front and you will see the grove (Ash Woods) where we are going to build our Memorial. When finished, it will complete a cruciform—long axis, Lincoln and Washington—short axis, Viet Nam and Korea.

Within a 2.2 acre actual site, excluding the approaches, walkways, trees, will be the Memorial whose design we selected in concept and unveiled in the Rose Garden on the 14th of June with the participation of the President of the United States. It will cover a football field—think of that—120 yards in one direction and 40 in the other. Its dominant feature will be a column of 38 heroic size statues (that's about 8 feet high) symbolic of the men—I repeat, men—who fought the War on foot. That column will extend approximately 200 feet up a very gentle slope down which will be flowing a stream of water, two to three inches deep, which will symbolize, for those in the audience who remember it well, something of the terrain in which the War was fought—rice paddies, snow, mud, streams. In between these figures will be an 8 foot wide smooth path up which the visitor will move and note, as he studies these statues, and exact record of the equipment, the weapons, the gear of the Korean War period.

The visitor will also observe the ethnic diversity of our nation in the faces of the individual statues: blacks, hispanics, American

Indians and Orientals. And three of the 26 Army troops will have Korean faces representative of the Korean augmentation of our ranks throughout the conflict. One of those 38 will be of somewhat smaller stature. Older, not in uniform, he will have a quilted jacket; he will have very gnarled thighs and calves; and on his back will be an A-frame made of wood and straw and loaded with either \$1 millimeter mortar shells or 5-gallon drums. We were determined that since the Korean Service Corps was so important to all nationalities represented out on the battlefields, it be represented in the Memorial. The service mix will be 26 Army (including those three KATUSAs), 6 Marines—a truncated squad, plus one Navy corpsman, 2 Air Force personnel (a forward air control team) and an air naval gunfire liaison control officer and his radio operator. So the Navy outguns the Air Force in that column three to two, somewhat to the chagrin of my Air Force colleagues.

The medium of the statues is yet to be determined. Colonel Badger, my colleague on the American Battle Monuments Commission, may have something further to say on that. We are leaving it to the architect to recommend whether it will be granite or of some metal. We old soldiers believe that the statues need to be cast to get the level of detail we would like to see in the uniforms and the equipment.

In the march up this column from rear to front you won't be in the water because the walkway will be above the water line. At the summit one is 8 feet above ground level. You will then descend a ramp that leads to an American flag toward which the column of troops is, in effect, moving. At the base of the flag will be the dedicatory plaque of the Memorial.

Then you turn around and face a wall 8 feet high, and divided into two unequal parts by the ramp; the left segment is 80 feet long—and the right, 40 feet. On the larger side, will be a continuous mural—some type of art form to be determined—which we want to express a coherent story of the War. We visualize the Pusan perimeter, Inchon, the Chinese intervention, and so forth. Limited only by the imagination of the muralist, we want to blueprint on that 80 by 8 foot mural all of the services, all of the fabric of support (and I use support in the combat as well as the service sense) that, combined together to sustain those on the battlefield. That's where we hope to give proper due to the United States Air Force, the Marine aviation, the United States Navy, the medical services of the Army, Navy and Air Force and all the others. If I sound enthusiastic, I am! To the right of the ramp is the 40 foot area we call the "Open Chapel." There with words simple, but eloquent, we want to carry out the mandate of Congress which stipulates that the Memorial is honoring everybody, but it will particularly express gratitude for those who were killed in action, those who are still unaccounted for, or those who were held as Prisoners of War. The Open Chapel is dedicated to precisely that.

We do not anticipate that there will be names on the wall. I might add, because we discussed this earlier, that this is without prejudice to some sort of an interactive video portrayal later on. It could well be an automated display system where the names will be recorded on film and can be called up by those who wish to do so, as an adjunct to the Memorial.

Time does not permit discussion of the landscaping concept which makes the Me-

morial a coherent whole. But, I must cover another important feature. This Memorial, although mandated by the Congress to honor Americans, must place the War in its larger context and recognize that we went to help the Korean armed forces who provided most of the manpower and who took the greatest losses. It must also recognize that the War was a multinational effort in which 21 other nations, United States included, participated under the United Nations banner. Sixteen provided combat contingents, and five provided medical support. We've left it to the architect to tell us what he thinks is the best way to reflect, in a notable manner, the contributions of those other nations. We will see what emerges. We have discussed a boulder or stone, provided by each of those nations on which could be inscribed the name of the country, the number of units, the casualties, or something of that nature.

The question is always asked, "when are we going to see this?" The simple answer is that "I don't know." We have some conflicting timelines. The generic legislation provides the music to which we dance. We are the first memorial to be under the generic law which provides that one must have all the money required for construction before one can get a construction permit, and one must have the construction within five years of the initial authorization. The initial authorization was in October 1986. So, by October 1991 we must have 100% of the construction costs plus another 10% for perpetual maintenance available to the National Park Service. But, it's going to be almost October 1991 before we really know how much the Memorial is going to cost; we are just starting the A & E phase and the deliverable is more than a year away.

Our best estimate, right now, of what it is going to take for construction, is \$10 million; and that may be a little low. Add another million for maintenance. That's our current target. The glass is a little more than half full with our assets of about \$6 million. We are not going to get any help from the United States Government; given the deficit, we would be low on that totem pole anyway. And, it's hard for the government to appropriate against an indeterminate requirement. So it's up to us.

The \$6 million has been raised over a period of three plus years. It represents a combination of the inputs of the veteran's organizations; some very good help from Korean commercial organizations who have subsidiaries in the United States; and from the grass roots of the United States, about 100,000 individual contributors total. We have had some very good help from some well placed volunteers like Dear Abby, whose columns have garnered \$750,000; a Dr. Chung, who wrote a book and gave us all of his proceeds, totaling \$200,000. The American corporate world has not been very helpful despite our best efforts. We're pursuing all avenues.

Our current most hopeful, most promising initiative is to get Congressional legislation for a commemorative coin to be issued next year for the 38th anniversary of the Armistice. That will give us a couple of million dollars up front. We need all the help we can get. We want maximum participation at any level * * * \$1.00 or more * * * because the breadth of American participation is more important than the individual big contributors. So, we are appealing to everyone. We will place a notice in every newspaper in the United States in the next couple of months. The message is straightforward. It

says: "there are 5 million of us who were in uniform during the Korean War and we need 5 million bucks. That translates to a buck a man—So, how about it? Just put a dollar in an envelope." They may violate postal regulations but, for a buck, who's going to care?

That's the story. I hope I have conveyed something of what the Korean War Veterans Memorial is all about, how important the War was in United States twentieth century history and how appropriate this tribute is to the men and women whose sacrifices made possible all of the subsequent geostrategic gains. I certainly thank you for your attention.

(Brigadier General Mete Ayken is the Defense and Air Attache at the Embassy of the Republic of Turkey in Washington, DC.)

A TRIBUTE TO EDWARD AND CLARA PENNY

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of honoring Mr. and Mrs. Edward Penny of Coleman, MI, on the occasion of their induction into the Michigan Farmers' Hall of Fame. Founded in 1982, the Michigan Farmer's Hall of Fame exists to honor farmers for their contributions to their community and to Michigan's agriculture industry. The Pennys are one of seven families who will be introduced into the Michigan Farmer's Hall of Fame on August 31, 1990.

Edward was born on a small farm near Midland, MI. While in school he was an active member of the Future Farmers of America [FFA]. He also attended various leadership camps and the national FFA convention in 1941. He received the State farmer degree in 1942.

Ed formed a partnership with his father in 1944. They increased his father's herd of milking cows from 10 to 20, and farmed 100 acres, an additional 40 acres to his father's original 60.

Ed and Clara were married in 1946. Together they have raised two sons and four daughters. Throughout their marriage Ed and Clara have remained interested and involved in their community. Ed has been active in local politics and the Methodist Church. He has also served as the township treasurer and as the township supervisor. Clara has participated in teaching Sunday school and has been involved with women's society, church suppers, and PTA. She has also held the office of deputy treasurer of Lincoln Township.

In 1946 Ed and Clara purchased their farm and rented many acres on which they raised hay, corn, oats, and potatoes. In 1972, Ed and Clara decided to sell the farm because of urban growth. They relocated to a farm in Isabella County and expanded their farming operation to 120 acres. Last year, Ed sold his milk cows. Now that he is semiretired, he plans to raise dairy heifers, soybeans, wheat, and cash crops.

Mr. Speaker, and my colleagues in the House, please join me today in honoring Ed and Clara Penny, and in celebrating their life of contribution to their community and to

Michigan agriculture. The Pennys are an example for all of Michigan to admire and emulate, of hard working, family people, who share a love of the land and have devoted their lives to agriculture.

TRIBUTE TO MARIAN VAN SLYKE

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, August 2, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to honor an outstanding member of my district who has been chosen as music director for the Newport Navy Choristers.

Ms. Marian Van Slyke, of Newport, RI, has provided enthusiastic guidance and vigorous direction to the Navy Choristers for the past 30 years. Her leadership has served to anchor the group. Marian is known as the heart of the group. It was under her direction that the group began singing under the sponsorship of local and national charity organizations, which benefited from the profits of ticket sales and program patrons.

Marian's accomplishments outside the music world are impressive. She has a degree in music from the Eastman School of Music of the University of Rochester. She has served as a director of the Salve Regina Glee Club and as a faculty member at Vernon Court Junior College. For 16 years she was an organist and music director at Newport's Trinity Church.

Marian has received several awards and citations from various civic and military groups, including a meritorious public service citation from the Chief of Naval Operations. She has been listed in the 1975 and 1986 editions of "International Who's Who in Community Service."

I take this time to commend Marian for her accomplishments and wish her continued success.

A SPECIAL HONOR AND TRIBUTE TO HYMAN AND SYLVIA HURWITZ

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the full U.S. House of Representatives to honor and pay very special tribute to Hyman and Sylvia Hurwitz, two very special and dedicated residents of Butler, PA, on the happy occasion of their 50th anniversary.

Although Hy and Sylvia's most proud contributions have been their three children—Larry, David, and Roberta—and their seven grandchildren, Hy and Sylvia have also made many major significant contributions to the Butler County community and surrounding areas.

Hy began his professional life as a high school science teacher, but World War II interrupted his career. Landing at Anzio beach-head, Hy suffered a severe foot injury and re-

turned to Deshon Army Hospital—now the Butler VA Medical Center—for immediate medical attention.

For a year, Hy's left foot remained infected and swollen, but exploratory surgery later revealed a complication of the battlefield surgery done on Hy's foot. With his eventual recovery, Hy returned to teaching and to public service.

President of B'Nai Abraham Congregation, Hy was an early organizer of the Butler County Music and Arts Festival, vice chairman of the group organizing construction of a new high school, chairman of the United Fund, advisor to Butler County Community College, commissioner of the Boy Scouts of America, president of the Rotary Club, president of Butler "Spark Plugs," recipient of "Man of the Year Award," and president of AAA.

As Hy became reestablished in the life of the community, he encountered his life's second major challenge in 1971 when he successfully underwent an operation for a cerebral aneurysm that left Hy paralyzed on his right side, removing his speaking capability.

Advised to institutionalize her husband, Sylvia declined and returned Hy to the Butler VA and enrolled him in corrective therapy. Hy learned to walk and 3 years later was among the first to enter the then-new speech and language therapy services at Butler VA.

It wasn't easy to walk and talk again, but Hy did both, and his actions speak louder than words in praise of the rehabilitation services of the Butler VA hospital, as well as the strength of his spouse, Sylvia.

Always ready, Hy returned to public life and public service. In 1978, Hy won second prize for an oil painting in the Butler County Music and Arts Festival, the organization he helped start years earlier, and Hy also began serving as a volunteer speech aide in the audiology and speech pathology service of Butler VA, where he works with stroke patients who now possess Hy's example to inspire them to overcome the seemingly impossible.

In fact, Hy passed up a trip to Austria to continue his therapy work at Butler VA.

Mr. Speaker, Hy's wife Sylvia is also a bright shining light in the community. Working for many years with the Butler YMCA and helping to establish a youth program there, Sylvia also organized a youth program at her local synagogue some 40 years ago.

Sylvia was first chairman for the then Golden Age Club—which her Council of Jewish Women organized—bringing in the YWCA and the local board of recreation.

Mrs. Hurwitz served on the board of AFS, Catholic Charities, the Cancer Board, the Symphony, the Easter Seals and the Butler County Memorial Hospital Auxiliary.

Sylvia, who is currently employed at WISR Radio in Butler, also serves as a volunteer for the Veterans Hospital, delivers for Meals on Wheels, serves on the synagogue board and is currently president of Sisterhood and Haddassah.

Mr. Speaker, Members of the U.S. House of Representatives. It is quite clear why this is a very special 50th wedding anniversary for a very special couple: Hyman and Sylvia Hurwitz. I congratulate and honor their significant and responsible contributions to the public well-being, and pay special tribute to them

today before the Congress on this very happy occasion.

A BILL RELATING MOST-FAVORED-NATION STATUS FOR THE SOVIET UNION TO NEGOTIATIONS FOR BALTIC INDEPENDENCE

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CARDIN. Mr. Speaker, today I have introduced a bill intended to lend support to the brave peoples of Estonia, Latvia, and Lithuania in their gallant struggle to force the Soviet Union to recognize their national sovereignty.

Over the past few months, the States of the Baltic region have made much progress in this regard—based primarily on their peoples' courage and determination in peacefully standing up for their freedom. This in the face of blatant political, economic, and military intimidation on the part of the central government in Moscow.

Beginning with Lithuania's dramatic March 11 declaration of its independence from the Soviet Union, the situation in the Baltics has evolved rapidly. The democratically elected governments of each republic have now issued declarations asserting their national independence.

Over the last 50 years, the U.S. Government has voiced many noble words of support for the aspirations of the Baltic people. I believe that we must back up these noble words with equally noble deeds. We need to actively encourage the Soviet Union to acknowledge and accept the legitimate rights of the Baltic peoples. Rights guaranteed under the Helsinki accords—to which the Soviet Union is a signatory. Rights guaranteed under the Soviet constitution itself.

All three of the Baltic States freely exercised their internationally recognized independence from 1918 until their seizure by the Soviet Union in 1940. Their democratic governments engaged in commerce, and entered into treaties—including treaties signed with the Soviet Union in 1920. The Government of the United States also entered into treaties with the independent Baltic Republics during this period—treaties which are still in force.

However in 1940, the Soviet Union seized the three Baltic States based on an infamous secret agreement between Stalin and Hitler. As their incorporation was an illegal act under international law, the United States and other Western nations have consistently refused to recognize Estonia, Latvia, and Lithuania as parts of the Soviet Union.

Current Soviet leaders have acknowledged the illegality of the secret protocols to the 1939 Molotov-Ribbentrop pact with Nazi Germany, which led to the Soviet military invasion of the Baltics. Late last year, the Soviet Congress passed, and President Gorbachev signed, a resolution on these secret protocols. They said, in part:

The Congress of the people's deputies of the Soviet Union condemns the signing of the "Secret Additional Protocol" of August 23, 1939, and the other secret agreements

with Germany. The Congress recognizes the secret protocols as illegal and invalid from the moment of their signing. The protocols did not create a new legal base for the Soviet Union's relations with third countries.

At the recent superpower summit in Washington, President Bush signed an agreement regarding most-favored-nation status for the Soviet Union. I understand that the President told Mr. Gorbachev at that time that he would not submit that agreement to the Senate until the economic coercion in Lithuania ends.

The bill I have introduced today would reinforce this message. It would ensure that most-favored-nation treatment is not approved for the Soviet Union until economic and military coercion against the Baltic States is brought to an end, and Moscow enters into meaningful independence negotiations with each of those states. Withholding these benefits should prove an important lever for encouraging the Soviet Union to live by the rule of law on this matter.

If our claim of support for freedom and democracy around the world is to have any credibility, at this critical moment in history, our Government must stand firmly with the Baltic people in support of their quest for independence.

When the effort of the Baltic Republics to reassert their independence began in earnest just a few months ago, many counseled that the time was not right; that it could undermine the efforts of Mr. Gorbachev to achieve perestroika in the Soviet Union. Many of these people did not appreciate that the moral strength and determination of the Baltic peoples could force so much progress in so little time. Yes, to some extent Mr. Gorbachev's push for greater truth and openness in Soviet national and international affairs helped to make this possible, but only because the Baltics so clearly have the right on their side.

As we celebrate the general improvement in relations between the Soviet Union and the United States, let us not abandon the legitimate aspirations of the Lithuanian people. Let us reaffirm our longstanding policy of nonrecognition and condemn the ongoing illegal occupation of the Baltic States. Let us communicate our continued recognition of their oppression, and our ongoing commitment to their cause.

We must do all we can to compel the Soviet Union to allow the people of Estonia, Latvia, and Lithuania to freely determine their own destinies without fear of economic or military reprisal. We must do all we can to encourage a peaceful, negotiated solution to this conflict. We must do all we can to assure independence for the brave people of the Baltic States.

I would suggest to my colleagues that this legislation is the least we can do in support of these goals. It sends a clear message that, while we want increased trade and peaceful cooperation with the Soviet Union, we have not forgotten the people of the Baltic Republics or their quest for freedom and independence. That while we want to see Mr. Gorbachev succeed in bringing openness and restructuring to the Soviet Union, it cannot be at the expense of the Baltic peoples. I urge my colleagues to support this proposal.

FUSION RESEARCH: NEW OPPORTUNITIES FROM LAB CONVERSION BILL

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. STARK. Mr. Speaker, the National Research Facilities Act of 1990, H.R. 5253, provides the means for an effective and efficient transition from defense research to civilian research at Lawrence Livermore National Laboratory [LLNL].

The changes in Eastern Europe which led to a decreased Soviet military threat allow us to move away from defense related research. In order to capitalize on the economic and social benefits of civilian research, as our European and Japanese allies have done, the same weapons-oriented facilities should be converted to civilian research.

One program that deserves more attention is the fusion energy program.

The fusion energy program is split into two parts: inertial confinement fusion [ICF] and magnetic fusion energy [MFE]. Up until now, ICF program was a defense program that concentrated on nuclear weapons research. ICF could also lead to fusion energy reactors which would produce environmentally safe energy for millions of Americans from the elements in water. As for the more civilian oriented MFE program, for the past 10 years it has been losing funding for research, which delays the time a magnetic fusion energy reactor could steer us away from dependence on fossil fuels.

The National Research Facilities Act of 1990 would help the ICF and MFE fusion programs come closer to providing Americans with energy, long after fossil fuels run out.

We can not continue to use fossil fuels indefinitely because of their terrible cumulative environmental impact. According to Jay D. Hair of the National Wildlife Foundation:

Increased global warming caused by concentrations of greenhouse gases, including carbon dioxide (CO₂), is one of the most serious environmental problems caused by our fossil-fuel-dependent society. The linkage between CO₂ emissions and climatic disruptions is no longer a matter of dispute.

In a July 17 letter to Speaker THOMAS FOLEY a group of concerned scientists said:

Last May, an international scientific panel (Interparliamentary Conference on the Global Environment) endorsed by the United States concluded that continued emissions of CO₂ and other gases will result in an average temperature increase by as much as 10°F. within the next century. This disastrous temperature change would be greater than any change that has occurred in the past 10,000 years. The United States is the largest contributor of carbon dioxide emissions in the world, and bears a special responsibility to take the lead in reducing this pollutant that threatens the entire planet."

We can slow fossil fuel consumption today by passing the "carbon tax," and we can replace fossil fuels tomorrow by supporting fusion research. If fusion research continues to be supported, then we will have an environ-

mentally safe, abundant energy alternative to fossil fuel in about 30 years.

The ICF program conversion would not abandon defense research; it would just change ICF's priorities. By supporting the power upgrade of the NOVA laser at Livermore Labs, the ICF program would achieve plasma ignition with some energy return by 2000. NOVA is the most powerful ICF laser. Plasma ignition is the next great step which would show that a fusion energy reactor is feasible. Once plasma ignition is achieved, then we could choose to pursue defense applications in the laboratory microfusion facility [LMF] and/or civilian applications in the engineering test facility/demonstration power plant [ETF/DPP]. To make civilian research a priority in the whole ICF program, not just at Livermore lab, a separate civilian inertial fusion energy [IFE] agency could be created within the Energy Department.

The magnetic fusion research investment also needs to be continued. Magnetic fusion produces fusion by heating hydrogen isotopes, which are found in water, to hundreds of millions of degrees. The plasma is confined by powerful magnets in a donut-shaped device. MFE research is mostly concentrated on the tokamak designs. This is different from ICF which fires lasers or other energy sources from every direction at a stationary hydrogen isotope. Energy is gained when hydrogen isotopes are fused together to produce helium and energy. LLNL does a great deal of magnetic fusion research. The microwave tokamak experiment [MTX] facility focuses its research around the Alcator-C tokamak. LLNL also works with the General Atomics laboratory on the Doublet-III tokamak. The recent National Academy of Sciences report on magnetic fusion recommends an immediate 20 percent increase in MFE funding in order to complete the compact ignition tokamak [CIT] at the Princeton Plasma Physics Laboratory and the international thermo-nuclear experimental reactor [ITER]. LLNL fusion research develops technology for both reactors.

Fusion power is environmentally safe energy. According to Eric Storm, program leader and deputy associate director for ICF at LLNL:

The fusion process itself is clean, it leaves no radioactive "ashes" behind and is inherently safe. Fusion would be environmentally acceptable, since it does not create such harmful environmental side effects as the "Greenhouse" effect, acid rain, and other polluting by-products caused by burning fossil fuel. Fusion does rely upon a nuclear process, but because it is not self-sustaining, there is no possibility of a "runaway" or "meltdown" situation as in the Chernobyl [or Three Mile Island] incidents. Although some structural parts of the "fusion boiler" will become activated and the fuel may contain tritium (a short-lived radioactive element), fusion power plants can be designed to pose even less environmental hazard than conventional fossil fuel plants.

Mr. Speaker, supporting civilian fusion energy research today will make us the leader in energy production tomorrow. I hope that H.R. 5253 could be a step toward promoting greater civilian fusion work at the outstanding Lawrence Livermore National Laboratory.

NEA FUNDING

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GINGRICH. Mr. Speaker, Dave Hamrick, editor of the Southside Sun in East Point, GA, wrote this July 26, 1990, column on funding the National Endowment for the Arts. His views well express the point which those of us working for standards at this taxpayer-financed institution are trying to make. There is a huge difference between censoring the arts and deciding, based on reasonable standards, how tax dollars will be spent on behalf of the public for the arts. We oppose the former and insist on the latter.

I encourage all of my colleagues to read the case Mr. Hamrick makes in "Strings Attached to Art Funding."

[From the Southside Sun, July 26, 1990]

STRINGS ATTACHED TO ARTS FUNDING

(By Dave Hamrick)

Suppose someone came up to you and asked for a sizeable sum of money.

And suppose you responded by inquiring as to what this person planned to do with the money. Imagine that this person then said, "None of your business," and proceeded to call you and your ancestors various unflattering names.

Would you give him the money anyway?

Or would you politely apologize, reaffirm his right to not divulge his intentions and then affirm your own right to not give him any money?

I vote for the latter.

Yet this is the scenario that is played out yearly when the subject of money for the arts comes up in Fulton County and across the nation.

LOOKING FOR FUNDS

We have a group of people who have their hands out. They want money to pursue "the arts." But if anyone suggests that taxpayer money not be used for artistic works that the majority would consider lewd, crude or just plain lousy, that person is branded with a scarlet "C," for "censor."

The C-word springs to the lips of many in the arts community so fast it would give you whiplash.

Any suggestion that government control of the arts would be a good thing is met with horrified gasps . . . as it should be.

Yet those who espouse the higher cultural aspects of society seem to think there's nothing strange about asking for money from the government.

SOME SIMPLE FACTS

Here's a hot flash. Most people don't give away money without expressing at least a passing interest in how it's being used.

Here's another hot flash. "The government" doesn't have any money. When various endowments for, coalitions of and funds for the arts receive money from the government, that means they're getting it from you and me.

I don't know about you, but when I see that money being used to sponsor artistic works like the now infamous photograph of a crucifix in a jar of urine, I tend to get a little stingy with my part of the government's money.

That doesn't mean I'm setting myself up as a censor of art, any more than it means

I'm a censor of hot dogs when I decide not to buy the ones available at the Omni because they're too cold.

Those in the arts community who get upset because the majority of us take an interest in how our money is spent should seriously consider whether they really want government assistance for the arts or not. Government funding has always meant government control, whether you're talking about the arts, education or sewer systems.

AN ALTERNATIVE

If they really don't want Big Brother looking over their shoulders when they decide what to paint, sculpt or sing, then perhaps they should finance their work on the open market.

I know that's a difficult concept to get a grasp on, but it works like this. You write, sculpt or draw whatever suits your fancy, whether that's ridiculous or sublime, sacred or mundane, modest or lewd. Then you scrape up some money, rent some space somewhere, run some advertisements and invite the public to view and buy your work.

If enough people think your work is worthwhile, then voila . . . you're funded.

Yes, there are bound to be people who produce or perform astounding works of art but who can't get public acceptance for one reason or another. I'm sorry about that, but it doesn't give anyone the right to take people's money by force, under threat of incarceration, and give it to that artist.

There is one exception to my diatribe, and that's when a public purpose is directly served. Programs, for instance, that bring a variety of basic artistic expression into the schools for educational purposes are worthy of funding.

But those who put together such opportunities must accept the fact that the public is going to be interested and concerned about the quality of the material.

There's just no such thing as a free endorsement.

AIRLINE PASSENGERS DEFENSE ACT OF 1990

HON. ROBIN TALLON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. TALLON. Mr. Speaker, I am pleased to support legislation introduced today by Congressman DON RITTER that is intended to protect airline passengers from undue delays and flight cancellations. The Airline Passengers Defense Act of 1990 guarantees the flying public certain rights to compensation for flights that are delayed or cancelled for reasons other than maintenance or safety and for baggage that is lost or delayed.

Of course, airlines want to provide satisfactory service to their customers; that is the basis of every profitable business. In today's airline market, however, each airline has its own standards of service to passengers, and sometimes it just isn't adequate. There is no consistency in the level of service among different carriers.

Currently, no uniform guarantee of compensation exists for lost or mishandled luggage and delayed or canceled flights. This legislation provides that uniformity. A passenger boarding any flight on any airline in the United

States will be guaranteed certain rights under this legislation.

The bill mandates that airlines will be held accountable if they cancel flights for reasons other than maintenance and safety and must adequately compensate passengers for those flights. Also, airlines must compensate passengers for lost or delayed luggage and standardize baggage claim forms. As well, an Office of Airline Passenger Advocacy will be established to receive and handle complaints relating to airline services, provide consumers with airline information, and enforce regulations relating to air carrier passenger services.

This legislation gives the airlines the opportunity to provide uniform and consistent services to consumers and allows passengers the means to protect their rights.

THOMAS J. MORAN HONORED AFTER A DECADE AS PRESIDENT OF LUZERNE COUNTY COMMUNITY COLLEGE

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. KANJORSKI. Mr. Speaker, I rise today to honor Mr. Thomas J. Moran, a man who has been an active and vital member of the northeastern Pennsylvania community, working for the education and development of our young people. Thomas Moran, third president of Luzerne County Community College [LCCC] in Nanticoke, PA, is ending a decade of service to a fine institution of higher learning.

Mr. Moran is a graduate of Bucknell University where he received a bachelor of science degree in education and English. He received his master of science degree from Columbia University School of Journalism and completed graduate work in public relations in higher education from New York University.

He began his career as a journalist in 1951, with the Pittsburgh Post-Gazette serving in a full-time position at night. While with the Post-Gazette, Mr. Moran began his teaching career at Duquesne University where he taught journalism as a full-time faculty member. In 1953, Mr. Moran was hired as the sports editor and feature columnist for the Wilkes-Barre Sunday Independent.

In 1961, Mr. Tom Moran was named Telegraph News Editor for the Wilkes-Barre Times Leader, and in 1965, he went back to the Sunday Independent as the suburban editor. In 1967, he was named the managing editor of the Sunday Independent and also worked as the regional correspondent for the New York Times.

Prior to joining the administrative ranks at LCCC in 1977, as dean of external affairs, Mr. Moran served as the executive director of public relations and alumni at Wilkes College. During his tenure at Wilkes, he expanded a journalism-program from one course to an 18-hour concentration with a professional internship. In addition, Mr. Moran established a Wilkes College campus chapter of Sigma Delta Chi Professional Journalism Society.

Since his appointment as president of LCCC, the college has added three facilities

to the 122-acre campus which have been a tremendous contribution to the citizens of northeastern Pennsylvania: the completion of the Conference Center; a faculty office building, which allowed the much-needed space for additional classrooms in other buildings by centralizing the faculty offices; and an \$8 million Advanced Technology Center.

The technology center was built last year in response to the growing need for a training facility for students interested in pursuing college degrees in the rapidly growing high-technology fields, as well as for local business and industry employers who require specific training and/or retraining programs for employees.

Throughout the years, Moran has always remained in close contact with the academic community. He has served as an adjunct faculty member at King's College, and continues to remain close to the classroom at LCCC, where he teaches an English composition course.

Mr. Moran has been recognized in the community for his expertise in the field of journalism by being named the recipient of the Lifetime Achievement Award for Contributions of Service to Journalism from the Pennsylvania News Media Association in 1986.

This past spring, the Capital Cities Foundation, Inc., and the Times Leader initiated the Thomas J. Moran Journalism Scholarship which will provide tuition for a graduating LCCC student who will be pursuing a journalism degree at Wilkes College.

Thomas Moran is being honored by his colleagues, family, and friends at a testimonial dinner to be held on Friday, August 10, 1990. I know my colleagues in the House of Representatives will join me in recognizing Mr. Moran's life work and praising him for his dedication and commitment to the education of our youth. He will be greatly missed by the LCCC family, and it is my hope that he will continue to share his journalistic talent with the northeastern Pennsylvania community.

H.R. 3950

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. KOSTMAYER. Mr. Speaker, the House of Representatives approved late last night, H.R. 3950, the Food and Agricultural Resources Act, with my amendment to establish a new program for the protection of prime farmlands.

Farmland provides the Nation with a variety of important benefits, ranging from national food security and local supply of high-value agricultural products, to wildlife habitat and aesthetic open space. Despite these valuable contributions, it has been estimated that nearly 1 million acres of prime farmland are converted to nonagricultural uses annually.

Nationwide, urban sprawl has resulted in the conversion of some of the Nation's most diverse and productive agricultural lands. For instance, the majority of the high-value agricultural products of this Nation—primarily fruits, vegetables, and dairy products—are produced in areas experiencing strong devel-

opment pressure. Many farsighted States have established voluntary programs to offer farmers viable alternatives to selling their farms for development. Such programs not only contribute to the necessary preservation of a strong national agricultural land base, but serve to safeguard the land providing locally grown supplies of fresh agricultural products, as well.

Farmers across the Nation have expressed their concern about the loss of farmland to nonfarming uses like subdivisions, highways, and commercial development. A recent survey coordinated by the American Farmland Trust found that 65 percent of farm operators believe farmland conversion to be a big or moderate problem. For the survey, AFT interviewed 1,000 farm operators randomly selected from a total of 42,860 producers in 100 agricultural counties, spread over 22 leading agricultural States.

The district I represent, Bucks County, PA, has experienced drastic reductions in agricultural infrastructure and farmland. Over the last 7 years we have lost 27,000 acres of farmland in our county. Almost 67,000 acres each year are being lost statewide. The State of Pennsylvania very recently has seen fit to establish a trust fund to aid communities in their fight to reward those farsighted States that have already set up a farmland protection program and would create an incentive for those States that have yet created such a program.

Because the early settlers founded many of this Nation's towns and cities in close proximity to fertile agricultural lands, the expansion of these cities have come at the expense of expansion in some of the most productive lands in the country. While urban expansion in some form is inevitable, without effective programs to address rationally the conversion of valuable farmland to nonagricultural uses, the Nation will increasingly depend on a limited number of marginal farms to produce the food. The loss of productive farmland comes at great cost to the consumer, the environment, and our international competitiveness in agricultural trade.

Environmentally, it is irresponsible to allow the Nation's most productive farmland to be lost to development. It is our most productive farmland that produces the most food at the least cost; the same land that requires the least input of agricultural chemicals and fertilizers, and is the least susceptible to soil erosion. As our agricultural land base dwindles, and our population increases, intensive production will be pushed onto land which is not ecologically suited to such use. Intensive production on sensitive lands contributes to the deterioration of soil, water and air resources, as well as the loss of threatened wildlife habitat.

Economically, it is unwise to allow the present trend of farmland conversion to continue. The U.S. food and fiber industry accounts for about 18 percent of our total gross national product, and we export nearly \$40 billion worth of agricultural goods annually. At the State level, agriculture and agriculture-related industry accounts for at least 20 percent of total employment in 25 percent of the States.

Farmland conversion is a problem of serious importance, both nationally and locally.

Recognizing the serious national ramifications of the dwindling agricultural land base, Congress passed the Farmland Protection Policy Act as part of the Agriculture and Food Act of 1981, in order to minimize the contributions of Federal programs to the conversion of farmland. Similarly, many States have established farmland protection programs in recognition of the grave local and State socioeconomic costs associated with farmland conversion, as well.

To further address the problem of farmland conversion at the national level, I introduced the Farms for Future Act on May 2, 1990. The legislation provides for loan guarantees to be made on a matching basis to qualifying State farmland protection programs. Additionally, the qualifying States would be fully reimbursed for the interested expenses during the first 5 years of the guaranteed loan.

As an amendment to the farm bill, the program established by this legislation would provide valuable financial assistance to State purchase-of-development-rights [PDR] and other farmland protection programs. These programs provide many important benefits to the States in which they operate by allowing farmers to voluntarily sell the development rights of their property, which would then remain in agricultural use perpetually.

By providing modest financial assistance to State farmland protection programs, the Farms for the Future Act further strengthens an established Federal-State partnership for farmland protection which has existed for nearly 10 years. Such a partnership is crucial to the continued viability of a geographically diverse agricultural industry.

The problems for traditional farming areas that stem from urban and suburban sprawl occur in areas beyond my district in Pennsylvania. In many small towns across the United States, the business districts wither while little shopping malls are built on the outskirts of town where crops formerly grew. These little shopping malls require expenditures for parking lots and other infrastructure—expenditures that were paid the first time a generation ago to create the town's main street.

Tax and financing policies far beyond the scope of this legislation perpetuate the problems. But we have the opportunity to provide a modest counterbalance, an offset to forces that can contribute to the destruction of a valuable natural resource. We should seize that opportunity.

ROUNDTABLE DISCUSSION HELPS FORGE BETTER UNDER- STANDING OF UNITED STATES- MEXICO TRADE

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. DE LA GARZA. Mr. Speaker, I was pleased to moderate a public policy forum in Coronado, CA, on June 29, 1990, called "U.S.-Mexico Relations in a Changing Global Economy." This roundtable forum was sponsored by the Citizens Network for Foreign Affairs and cosponsored by the American Cham-

ber of Commerce of Mexico City; the Bank of America; the Border Trade Alliance; the Foreign Trade Association; and the United States-Mexico Chamber of Commerce.

The purpose of this roundtable forum was to forge a better understanding of the economic interdependence between the United States and Mexico and to hopefully lay the groundwork for further improvements in the bilateral relationship between our two countries. In addition, we also discussed the future trading relationship between the United States, Mexico, and Canada.

Participants in the roundtable included leaders from both the public and private sectors. Besides myself, other participants included the Mexican Secretary of Commerce, Dr. Jaime Serra Puche; the Mexican Ambassador to the United States, H.E. Gustavo Petricoli; the Mexico Ambassador at Large, H.E. Miguel Aleman; Hon. Don Newquist, member of the U.S. International Trade Commission; Mr. Robert Clark, Director for U.S. Trade and Development Policy for the Canadian Department of External Affairs; Hon. Ernesto Ruffo, Governor of the Mexican state of Baja California Norte; Mr. John G. Smale, chairman of the Executive Committee Board of Proctor and Gamble; and approximately 150 other bankers and businessmen from the United States, Mexico, and Canada.

Mr. Speaker, I am pleased to provide our colleagues the following conclusions and recommendations reached by the participants at this meeting:

I. The people of Mexico and the United States are neighbors, friends, and business partners. Mexico is the United States' third largest trading partner, and the United States is Mexico's largest trading partner. The growing cultural, environmental, and economic relationship between our two countries presents truly great opportunities for both Mexico and the United States. Recent economic reforms initiated by Mexico and its people have ushered in a new era of mutual cooperation, friendship, and respect between the two countries. Both countries look forward to a closer relationship during the 1990's, while maintaining their unique national strengths and interests.

II. The Roundtable agreed that trade between Mexico and the United States is natural and inevitable. Therefore, the Roundtable welcomed Presidents Bush's and Salinas' announcement earlier this month of their intention to begin consultative talks before a formal free trade agreement. The Roundtable agreed that the consultative talks constitute a cautious and appropriate first step in formulating an acceptable and workable free trade agreement between our two countries.

The Roundtable also agreed that such consultative talks will provide both countries with the opportunity to fully assess any agreement that might come out of the "Uruguay Round" of GATT negotiations, which are expected to conclude this coming December. Specifically, if multilateral agreements are reached on agriculture, textiles, services, and intellectual property rights, bilateral free trade negotiations between Mexico and the United States will become easier and more productive.

The Roundtable suggested that both Presidents express formally their intent to enter into negotiations on a free trade

agreement during President Bush's visit to Monterrey, Mexico this coming December. The Roundtable also suggests that President Bush, as required by the 1988 Trade Law, formally notify the U.S. Congress of his intention to enter into negotiation on a free trade agreement with Mexico when the 102th Congress convenes in January, 1991.

The participants agreed that if Mexico and the United States are able to negotiate a free trade agreement, we could be on the verge of creating a North American Free Trade Area. Therefore, Canada should be invited to participate in such negotiations if Canada finds that a trilateral free trade agreement is in its best interest.

Lastly, after discussing the possibility of a United States-Mexico free trade agreement, all participants agreed that such an agreement would be of great benefit to both countries' economies, and therefore both countries should pursue a mutually beneficial and complementary free trade agreement.

III. Economic policy reform in Mexico, especially in the areas of trade and investment, has and will continue to lead to greater prosperity for the Mexican people. It will also provide valuable opportunities for both Mexican and United States exporters, investors, and workers. However, despite the great progress that Mexico has made during the past two years in liberalizing its economy, potential participants in the Mexican economy continue to require assurances that such reforms in Mexico will be permanent. For example, in addition to promulgating relaxed regulations on direct foreign investment, which Mexico has done, the Mexican government should consider making such regulations permanent in order to maximize the confidence of foreign investors in the Mexican economy.

Signed on June 29, 1990, in Coronado, CA by H.E. Gustavo Petricoli, Ambassador of Mexico; and Hon. E. (Kika) de la Garza, Chairman, Committee on Agriculture, U.S. House of Representatives.

INTRODUCTION OF AIDS LEGISLATION

HON. BARBARA B. KENNELLY

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mrs. KENNELLY. Mr. Speaker, today I am introducing legislation to assure that 35 States, Guam, the Virgin Islands, and the District of Columbia don't lose critical funding for AIDS.

As a result of a formula change contained in the Health Omnibus Programs Extension Act of 1988, these States and territories have been notified by the Centers for Disease Control that they stand to lose substantial funds in fiscal year 1991.

My home State of Connecticut, for instance, received \$1.237 million in fiscal year 1989, a similar amount this year, and will be slashed to \$787,000 in fiscal year 1991, a dramatic 36 percent cut. While I understand that all the States are struggling to cope with the AIDS crisis, Connecticut has a high incidence of AIDS and, in fact, the highest incidence of pediatric AIDS in the Nation.

Therefore, this legislation, would provide for a hold harmless provision for fiscal year 1991.

Pursuant to this provision, no State could receive less than it does currently.

Those States which stand to lose funding in fiscal year 1991 include: Alaska, Arizona, Arkansas, Colorado, Connecticut, Delaware, the District of Columbia, Georgia, Guam, Hawaii, Idaho, Illinois, Iowa, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Oklahoma, Oregon, Rhode Island, South Dakota, Utah, Vermont, Virginia, the Virgin Islands, Washington, West Virginia, Wisconsin, and Wyoming.

I urge my colleagues' support.

THE FAIRNESS AND COMPETITIVE FOREIGN INCOME TAX ACT OF 1990

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. FRENZEL. Mr. Speaker, the provisions of the Senate and House versions of the Tax Reform Act of 1986 (Public Law 99-514) were reconciled under severe budgetary and time pressures.

As a result of these pressures, inequities in the taxation of foreign source income resulted. Several provisions of the 1986 Tax Reform Act caused similar situations to be subject to widely differing tax treatment. Tax Reform, not only failed to address areas of asymmetrical tax treatment, but exacerbated their ill effects. Overall, the Tax Reform Act failed to deal either fairly or wisely with the taxation of foreign source income. Instead, it created confusion and made U.S. companies even less able to compete in international markets.

In the 1st session of the 100th Congress, I introduced H.R. 3365, the Foreign Income Tax Equity Act of 1987, to correct the inequities resulting from the 1986 Act. Since that time, Congress has acted to correct a few of these inequities. For the most part, however, the Congress has failed to tackle the major tax issues which unfairly impact U.S. operations abroad.

Accordingly, I am introducing a follow-up bill, the Fairness and Competitive Foreign Income Tax Act of 1990, to correct the remaining inequities identified in my earlier bill, as well as several others which have emerged in the intervening period.

My new bill would correct these problems, provide symmetry in our Tax Code, and reestablish basic principles consistent with sound tax policy. The Fairness and Competitive Foreign Income Tax Act would substantially reduce the incidence of international double taxation, primarily through changes to the rules governing the foreign tax credit limitation, income sourcing, and expense allocation.

This act would eliminate the arbitrary 90-percent limitation on claiming foreign tax credits against minimum tax liability. Under the act, gains from the sale of stock on 10-percent owned foreign corporations—section 902 corporations—would create foreign source, general limitation income for the purposes of foreign tax credit limitations, provided that vari-

ous qualifications are met. Similarly, gains from the sale of an interest in a foreign partnership would give rise to foreign source, general limitation income.

Dividends, interest, rents, or royalties received from section 902 corporations, look-through rules would apply, thus allowing general limitation treatment. Domestic losses, which reduce foreign source income and foreign tax credits, would be recaptured. Subsequent U.S. source income would be resourced as foreign source income and foreign tax credits, would be resourced as foreign source income, in order to avoid double taxation and provide symmetrical treatment for overall foreign losses in the calculation of the foreign tax credit limitation. With respect to foreign income tax payments, the act would generally provide for the translation of foreign income taxes using the translation rate applicable to earnings and profits distributions.

Consistent with a true worldwide fungibility concept, the Fairness and Competitive Foreign Income Tax Act would provide for the allocation of interest expense on the basis of the borrowings and assets of the taxpayer's worldwide affiliated group. The act would make permanent the rule of allocation 64-percent of U.S. R&D expenditure to U.S. source income, with the remainder apportioned on the basis of asset or sales. Under this act, deductions for State and local income and franchise taxes would be allocated to U.S. source income for foreign tax credit purpose.

In the subpart F area, the Fairness and Competitive Act would allow all pre-1987 (post-1962) accumulated deficits to offset similar subpart F income earned after 1986. Consistent with the legislative intent of the 1986 Tax Reform Act, this act would also exclude from the Passive Foreign Investment Company [PFIC] provisions those companies subject to subpart F provisions of the Code.

Except as otherwise noted, the Fairness and Competitive Foreign Income Tax Act would be applicable to taxable years beginning after December 31, 1990.

THE FUTURE OF OUR ENERGY POLICY

HON. CRAIG THOMAS

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. THOMAS of Wyoming. Mr. Speaker, today's events in the Middle East should focus attention on our need to give some consideration to domestic energy policy. For years we have watched the percentage of oil imports into our country rise, and consumers have enjoyed relatively low prices. However, this price comfort has come at a high cost in a number of other areas—specifically, a distorted balance of trade, economic hardship for the energy producing States, and perhaps worst of all the risk of oil dependence on Governments such as Iraq.

We need an energy policy which balanced oil imports with increased incentives for domestic oil producers so that we strengthen our economy and reduce the risk of dependence on loose-cannon dictators such as Saddam

Hussein. Crises has sadly forced us to review our energy policy. We must concentrate on our domestic energy producers and energy production.

Mr. Speaker, as we consider the future of our energy policy, we need to make certain we deal with substantive policy matters and not disguise it as a means of raising tax revenues.

ONIBAR-GENEVA REUNION TO BE HELD IN LAKE COMO, PA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SOLARZ. Mr. Speaker, later this month, nearly 200 men and women will assemble in Lake Como, PA, for an on-site reunion of Camps Onibar and Geneva. Although I cannot be at the reunion, I rise in tribute to the camp that I attended for many years, and to the many friendships and great memories that originated there.

Founded in the 1920's by the Rabbino family, Onibar (the boys camp) and Geneva (the girls camp) were high on the list of exceptional private camps for a period of more than 40 years. Situated in a beautiful area of the Pocono Mountains, Onibar and Geneva attracted boys and girls who returned year after year for carefree summers of enjoyment, fulfillment, and good fellowship.

The camps were sold in 1968 to a non-profit organization, which has graciously agreed to host the reunion. The tireless efforts of co-chairmen Steve Freidus and Ed Feldstein have produced a monumental mailing list of alumni, and I was not surprised to learn that people will be coming from all areas of the country to renew friendships and relive the days of their youth. Of special interest is the fact that nearly all the living members of the Rabbino family will be there, including Mike, Mitch, Bea, Sue, Bernie, Irma, and numerous spouses and children. From the celebrity ranks come Garry and Penny Marshall, Marvin Hamlisch, and James Caan. And of course Onibar-Geneva legends such as Herb Sarnat, Johnny Goldman, Marlene Rose, Lenny Kramer, and so many others too numerous to mention.

Camp Onibar played a very important role in my life. As leader of the Buff team in 1956, I received some on-the-job training for a career in politics. And it was on an Onibar trip to Harrisburg that same year that I made a campaign speech for Adlai Stevenson on the steps of the State Capitol, attracting a lunchtime crowd and earning a write-up in the following day's newspaper—I trust my efforts did not contribute to Governor Stevenson's defeat. As editor-in-chief of the Onibarker, I developed a "nose for news" that has persisted to this day. And finally, what is most important, friendships that have endured for more than 35 years began at camp, most notably with Gary Grossman, known in those days as "The Creeper."

I'm sorry that I won't be at the reunion, but I wish everyone well and look forward to having an opportunity to see all my camp friends on another occasion.

A TRIBUTE TO EUGENE F. THORNTON

HON. SONNY CALLAHAN

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CALLAHAN. Mr. Speaker, today, I have the privilege of recognizing Eugene Fabbretta Thornton, Jr., master chief personnellman of the U.S. Navy. Earlier this morning aboard the Display Ship *Barry*, the master chief received his transfer to the Fleet Reserve in honor of his retirement, after some 22 years of active service to our country.

Master Chief Thornton was born in 1948 in my hometown of Mobile, AL. He enlisted in the Navy at the age of 20, and since that humble beginning, he has climbed the ranks of service to our Nation. Over the years, many numerous accolades have come his way, some of which include: The National Defense Service Medal, the Sea Service Deployment Ribbon, The Vietnam Campaign Medal and the Vietnam Service Medal with three Bronze Stars.

Throughout his career, Master Chief Thornton's subordinates, peers and seniors, alike, have regarded him as "firm, but fair," in his role as a disciplinarian and humanitarian. Looking through his naval letters of recommendation, he was always suggested for the most demanding positions and the most heightened challenges.

Beyond the call of our Nation's security, Master Chief Thornton has met the ongoing responsibility he feels for his community by serving on a committee for the Virginia State Handicapped as well as a local chapter of the PTA. A devout Catholic and recipient of a Preliminary Catechist Certificate, the master chief has used this acquired knowledge of theology and psychology in his teaching of junior and senior high Sunday school. In addition, he has been active in local Scouting as both a Boy and Girl Scout leader, and has even coached a youth league basketball team.

Master Chief Thornton is a man who exemplifies the very best we, as Americans, have to offer. He is a role model who has shown by example that we often discover our true selves whenever we are really challenged. Those of us who have had the opportunity to work with Master Chief Thornton have benefited from his discipline and compassion—qualities that he, himself, puts into practice every day.

On this special occasion, I want to congratulate the master chief, his wife Linda Mae and their six children. Eugene Thornton is truly a great American, and I'm proud and honored to call him my friend.

TRIBUTE TO FIRST EVANGELICAL LUTHERAN CHURCH

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McMILLEN of Maryland. Mr. Speaker, I rise today to pay tribute to the upcoming 50th

anniversary of the founding of the First Evangelical Lutheran Church of Odenton, MD. On September 8, 1940, Rev. Emmanuel T. Finck traveled to the town of Odenton to deliver its first Lutheran service, and in so doing initiated the formation of an assembly which has grown over the last 50 years.

Reverend Finck served First Evangelical Lutheran Church, through its membership into the Evangelical Lutheran Synod of Missouri, Ohio, and the establishment of a Sunday school and kindergarten, until he passed away on May 30, 1960. Reverend Finck has been followed by a distinguished company; Rev. Walter E. Koller, Pastor John L. Beck, Rev. James O'Conner, Rev. H. Douglas Rathjen, and Daniel H. Quiram. The present pastor, Rev. Robert H. Bell, has led the congregation since October 23, 1983.

This remarkable congregation has conducted monthly celebrations since last December; with songfests, ice cream socials, and a sweetheart dance, all culminating on Thanksgiving Day. A cornerstone in the community of Odenton, this congregation of over 574 has established itself as a growing source of spiritual values, moral teachings, and learning. This church and its members are an inspiration for all of us and the many similar communities and congregations nationwide that provide the social bedrock for America. Mr. Speaker, I would like to urge my colleagues to join with me in congratulating the First Evangelical Lutheran Church of Odenton on its 50th anniversary.

SEPTEMBER 13, 1990—NATIONAL DARE DAY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to a continuing program of concern, caring, and commitment, DARE [Drug Abuse Resistance Education]. This program will be recognized on September 13, 1990, as we celebrate National DARE Day.

This year, more than 4.5 million schoolchildren across the country will learn the skills they need to resist pressure to take drugs or join gangs, thanks to the highly acclaimed DARE program.

DARE is a police officer-led, semester-long series of 17 lessons that teach fifth- and sixth-grade children how to resist pressure to experiment with drugs and alcohol, supplemented by classes in junior and senior high schools.

Chief Daryl Gates of the Los Angeles Police Department established DARE in 1983 to help prevent substance use among young people. The Los Angeles Police Department collaborated with the Los Angeles Unified School District to design and implement an effective drug-use prevention education curriculum. The DARE program has proven so successful that it has been adopted by schools in more than 2,000 communities in 49 States. It has also been adopted in Australia, New Zealand, American Samoa, and Canada.

The DARE program goes far beyond traditional drug abuse education programs which typically emphasize drug identification and utilize scare tactics about the harmful effects of drugs and alcohol. DARE teaches young people to recognize subtle and overt pressures to experiment with drugs and alcohol, and pragmatic, and real-world ways to resist.

The DARE curriculum is taught by police officers who have come straight from the streets. Their years of direct experience with street crimes caused by substance abuse gives them credibility among students unmatched by teachers, movie television celebrities or professional athletes.

Independent evaluations show students have learned to resist drugs and combat peer pressure. In addition, school vandalism, truancy and gang activity have decreased, and students have developed a more positive outlook toward police and school.

I ask my colleagues in the U.S. House of Representatives to join me in saluting this fine program for a job well done.

RHODE ISLAND NATIONAL NIGHT OUT

HON. CLAUDINE SCHNEIDER

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Ms. SCHNEIDER. Mr. Speaker, I would like to take this opportunity to commend some of my friends in Rhode Island on their efforts to fight crime and drugs. Specifically, I would like to applaud the Governor's Justice Commission and the Naval Education Training Center, who in conjunction with the National Night Out, will be sponsoring a unique crime and drug prevention event on August 7.

National Night Out, a national citizens campaign against crime, provides an opportunity for citizens and law enforcement agencies to work together to make the streets of America safe. Designed to increase awareness about crime and drug use prevention, generate support for local anticrime programs, and strengthen neighborhood spirit and involvement in crime prevention, National Night Out is the kind of grassroots action that is critical in the war on drugs. As I have stated on numerous occasions, the drug epidemic is a national problem with local, community-based solutions.

On August 7 some 2,000 people will be able to learn more about crime and drug use prevention through various informational booths and displays, including one on McGruff the Crime Dog. The Newport, Portsmouth, Middletown, and Jamestown police departments will also be present to discuss child safety and other issues of concern. In addition to these important informational events, the Navy Rhode Island Sound will present a concert featuring a variety of music. Once again, I would like to applaud my fellow Rhode Islanders for their initiative and commitment to making our State crime and drug free.

RECOGNIZING ARLINGTON, OH, AS FLAG VILLAGE, U.S.A.

HON. MICHAEL G. OXLEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. OXLEY. Mr. Speaker, I want to commend and recognize the community of Arlington, OH, as Flag Village, U.S.A.

The citizens of Arlington have a unique pride in our national flag. Arlington is becoming well-known in Ohio for its unwavering support for the United States and our flag. In these times of flag-burning and anti-patriotic sentiment, it is up to communities, such as Arlington, to promote patriotic themes. To me, there is no sight more beautiful than the streets of Ohio hometowns lined with red, white, and blue.

The flag of the United States is not just another piece of cloth. It is not, as some would have us believe, a mere tool for one philosophy or point of view to utilize. Rather, our flag is symbol for the Nation, a rallying point in times of trouble, and unifying force in times of peace. The people of Arlington recognize this fact.

Like the citizens of Flag Village, U.S.A., I was deeply disappointed that the Congress failed to provide constitutional protection for our flag. Arlington, OH, knows that for those of us who support Old Glory, we must continue to fly our flag higher, more often, and with a greater sense of pride and patriotism than ever before. We cannot allow the defeat of a constitutional amendment to lessen our devotion to all that our flag represents. I believe the people of Arlington, the people of Flag Village, U.S.A., will agree with my colleague Representative HENRY HYDE when he said about the flag, "too many have marched beside it—too many have slept in their caskets beneath it—too many parents, children, and widows clutch a flag folded into a triangle as the final remembrance of their loved one" to allow our commitment and support for Old Glory to be weakened.

Thank you Mr. Speaker, and thank you Flag Village, U.S.A.

CONGRATULATIONS TO THE ESSELTE PENDAFLEX CORP. OF GARDEN CITY, N.Y.

HON. RAYMOND J. McGRATH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McGRATH. Mr. Speaker, I rise today to offer congratulations to the Esselte Pendaflex Corp., located in Garden City, NY.

In these environmentally conscious times, it is enlightening to find private industry taking steps to improve our ecological State. Just recently, Esselte Pendaflex introduced a line of filing supplies made exclusively from recycled fibers. The Esselte Earthwise file folder line consists of the standard array of styles, available in five different earth-tone hues—all made from 100 percent recycled fibers.

Mr. Speaker, today's heightened awareness of environmental issues has led consumers to seek products that in some way contribute to the preservation of the Earth's natural resources. Since an enormous amount of these resources are consumed in the workplace, I regard the introduction of the Earthwise line as a major innovation in the \$100 billion office supplies industry and congratulate the employees of Esselte Pendaflex for taking one small step to clean the planet.

RESOLUTION ON 1992 UNITED NATIONS CONFERENCE ON ENVIRONMENT AND DEVELOPMENT

HON. ROBERT S. WALKER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. WALKER. Mr. Speaker, today, I am offering a resolution concerning the 1992 U.S. United Nations conference on environment and development which will be hosted in Brazil.

Prior to that conference, our United States delegation will be involved in the negotiations on the format and the topic issues. In fact, this month preliminary discussions are starting in Nairobi, Kenya.

With the world's growing awareness of global environmental problems and our Nation's efforts to clean up our environment, I believe we need to highlight to the American people the importance of our role in the conference and urge our delegation to seek an internationally agreed standard for pollution controls.

Our delegation should also seek international standards that do not place advanced industrial nations at a competitive disadvantage with those countries who continue to disregard the environment. Advanced industrial nations should not be handicapped because of stricter environmental standards. This can be implemented by focusing attention on innovative technologies to reduce or eliminate pollutants.

Finally, the United Nations should establish an effective international monitoring system to track implementation of treaties and agreements on pollution abatement.

The importance of this conference cannot be understated. We need to act now so our U.S. delegation to the United Nations understands that this Congress is deeply committed to fair and effective worldwide environmental standards.

THE HIGH MEDICARE HOSPITAL RELIEF ACT OF 1990

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SHAW. Mr. Speaker, on Monday July 23, 1990, I introduced H.R. 5348, the High Medicare Hospital Relief Act of 1990, which is designed to provide temporary relief for hospi-

tals with a high percentage of Medicare patients. By definition, a high Medicare hospital is one in which at least 65 percent of discharges are reimbursed by Medicare. These hospitals are vital to seniors, and my State of Florida has more of these institutions than any other State.

Because so many of their patients are covered by Medicare, these hospitals have little or no room to make up Medicare losses by charging more to non-Medicare patients. As a result of these and other factors, high Medicare hospitals are experiencing severely reduced, and in some cases negative, Medicare operating margins. It is noteworthy that the problems these hospitals face are not caused by mismanagement or low occupancy. Instead, they face a flawed payment system which short changes institutions with a significantly high proportion of Medicare patients. Over the years these hospitals have trimmed costs by staff cuts and tighter management. But now some hospitals are considering actual reductions in service or outright closure.

The issue of high Medicare hospitals was placed on the Prospective Payment Assessment Commission [ProPAC] agenda in response to a Ways and Means Committee request in the FY 1990 reconciliation bill. ProPAC, in its preliminary findings, determined that a problem exists. Their current recommendation is to withhold relief while they continue further study, even though their information verifies that these hospitals are experiencing greater negative Medicare operating margins than other hospitals.

Mr. Speaker, high Medicare hospitals can't wait for the result of further study. The High Medicare Hospital Relief Act attempts to address the disparity between the operating margins of high Medicare and nonhigh Medicare hospitals. This bill works in a simple way. It provides an additional payment for each Medicare discharge from a high Medicare hospital. High Medicare hospitals are critical resources of the retirement communities they serve. Without positive action, across to quality hospital care will be undermined in Florida and elsewhere in the country where hospitals serve primarily the elderly.

I invite my colleagues to join in this worthy effort.

TRIBUTE TO FLORIDA INFORMED PARENTS FOR DRUG FREE YOUTH

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Ms. ROS-LEHTINEN. Mr. Speaker, I am pleased to recognize the wonderful work done by Florida Informed Parents for Drug Free Youth, Inc. [FIP], an organization that has tried to begin a grassroots movement to rid the State of Florida from the scourge of drugs.

FIP believes that a concentrated endeavor by families and key members of the community is essential if a drug-free Florida is ever to be achieved. FIP represents this idea by what they call the "Drug Free America Wheel" in which the family and the neighborhood com-

munity are the core of the solution. The outer edges of the wheel include government and business services all striving to rid this Nation of drugs.

FIP is having their 6th Annual Summer Networking Conference in Orlando, FL, on August 13, 1990. At the conference, they will be discussing such issues as volunteer recruitment, group structure, and public relations. It is all aimed at organizing communities throughout all of Florida to provide leadership in the fight against drugs.

It is of vital importance that groups like FIP make a difference in communities. We need to find an end to the drug problem. The involvement of parents, family members, and the community are the solid foundation that we need to build the process of curing and curbing the drug problem. The people of Florida owe FIP a debt of gratitude for making Florida and my community a better place to live. Special thanks must also be extended to: Alex Mitchell, president; Robin Burns, vice president; Bennie Spanjers; Marlene Josefsberg, secretary; Cathy Bleyer, treasurer; and Dr. Willie Brown, District XI director.

A TRIBUTE TO LT. GEN. CHARLES W. BROWN, USA

HON. JERRY LEWIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. LEWIS of California. Mr. Speaker, I would like to bring to your attention today a most distinguished gentleman, Lt. Gen. Charles W. Brown of Rushville, NE. General Brown, who will retire from the U.S. Army on August 31, 1990, has served his country admirably for over 37 years.

General Brown grew up on a ranch in Rushville. He graduated from New Mexico Military Institute in 1953 where he majored in biology and excelled in rodeo and polo. He was subsequently commissioned from the Army ROTC as an Armor officer. During his military service, he completed a masters in public administration degree at Penn State University and recently studied national security at Harvard. His military education included attendance at the U.S. Army Command and General Staff College and the U.S. Army War College.

During General Brown's military career, he served in a variety of locations including Alaska, England, France, Luxembourg, Germany, Vietnam, Dominican Republic, Korea, and numerous military posts in the United States. His key command assignments have been Commander, 143d Signal Battalion, 3d Armored Division, Germany; Deputy Commander, 1st Signal Brigade, Korea; Commander, Division Support Command, 2d Armored Division in Texas; Commander, 200th Theater Army Materiel Management Center, Germany; and Commander, 2d Support Command, VII Corps, Germany. His combat experience included two tours in Vietnam.

His key staff assignments have been with Headquarters, Military Assistance Command, Vietnam and the 21st Vietnamese Infantry Division; Headquarters, 82d Airborne Division; Office of the J3, U.S. European Command;

Headquarters, Forces Command; Army Materiel Command; Office of the Deputy Chief of Staff, Logistics, Department of the Army; Assistant Deputy Chief of Staff, Logistics, U.S. Army Europe and Seventh Army; and Assistant Deputy Chief of Staff, Logistics, Department of the Army.

For the past 3 years, General Brown has served as Director of the Defense Security Assistance Agency. He has been responsible for managing Department of Defense activities related to formulation and execution of security assistance programs averaging \$12 billion in foreign sales over the last three years. General Brown has been successful in formulating programs that have contributed to improving U.S. relations with several countries of critical importance to U.S. national security strategy. He has played a leading role in efforts to preserve our industrial base through increasing foreign sales. His leadership, courage, and diplomatic acumen have made the difference between success and failure in this critical area of U.S. international relations.

General Brown's personal decorations include the Distinguished Service Medal, the Defense Superior Service Medal, the Legion of Merit (with Oak Leaf Cluster), the Bronze Star Medal with V Device (and Oak Leaf Cluster), the Meritorious Service Medal (with Oak Leaf Cluster), Air Medal, the Joint Service Commendation Medal, and the Army Commendation Medal (with Oak Leaf Cluster). He is also authorized to wear the Parachutist Badge, Air Crew Badge, and the Vietnamese Cross of Gallantry.

Mr. Speaker and colleagues, please join me today in recognizing the distinguished career of Lieutenant General Brown. His outstanding contributions are an inspiration not only to his wife, Sherry, and his family, but to all of us. His service to country is certainly worthy of recognition by the House of Representatives today.

REFLECTING ON THE 1980S AND RONALD REAGAN

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MAZZOLI. Mr. Speaker, I commend to the attention of my colleagues, the following abstract of Kevin Phillips' new book, the Politics of the Rich and Poor, which appeared in the June 24 edition of the New York Times magazine section.

Mr. Phillips offers thoughtful insight on economic realignment in the 1980's and how it will affect all Americans in the 1990's.

In reading Mr. Phillips' essay, certain disturbing facts emerge. The gap between the very rich and the very poor hit new heights in the 1980's. Profitable and conservatively operated companies became prey for the corporate raiders. The United States, formerly the world's largest creditor nation, became the world's leading debtor nation.

Greed and avarice—characteristics almost deified by the roaring, go-go eighties—gave rise to the savings and loan debacle and the glut of leveraged buyouts and junk bond-fi-

nanced deals. As we all know, cleaning up the mess will be long and arduous and very expensive.

Mr. Speaker, Mr. Phillips' book makes it clear that we cannot permit the 1990's to be a replay of the 1980's. If America is to succeed in this increasingly competitive and complex world, we must return to traditional values and steer away from policies to make the rich richer at the expense of everyone else.

REAGAN'S AMERICA—A CAPITAL OFFENSE
(By Kevin P. Phillips)

The 1980's were the triumph of upper America—an ostentatious celebration of wealth, the political ascendancy of the rich and a glorification of capitalism, free markets and finance. Not only did the concentration of wealth quietly intensify, but the sums involved took a megaleap. The definition of who's rich—and who's no longer rich—changed as radically during the Reagan era as it did during the great *nouveaux riches* eras of the late 19th century and the 1920's, periods whose excesses preceded the great reformist upheavals of the Progressive era and the New Deal.

But while money, greed and luxury became the stuff of popular culture, few people asked why such great wealth had concentrated at the top and whether this was the result of public policy. Political leaders, even those who professed to care about the armies of homeless sleeping on grates and other sad evidence of polarized economy, had little to say about the Republican Party's historical role; to revitalize capitalism but also to tilt power, Government largess, more wealth and income toward the richest portion of the population.

The public, however, understood and worried about this Republican bias, if we can trust late 80's opinion polls; nevertheless, the Democrats largely shunned the issue in the '88 election, a reluctance their predecessors also displayed during Republican booms of the Gilded Age of the late 19th century and the Roaring Twenties.

As the decade ended, too many stretch limousines in Manhattan, too many yacht jams off Newport Beach and too many fur coats in Aspen foreshadowed a significant shift of mood. Only for so long would strungout \$35,000-a-year families enjoy magazine articles about the hundred most successful businessmen in Dallas, or television shows about greed and glitz. Class structures may be weak in the United States, but populist sentiments run high. The political pendulum has swung in the past, and may be ready to swing again.

Indeed, money politics—but it avarice of financiers or the question of who pay for the binges of the 80's—is shaping up as a prime theme for the 1990's. As we shall see, there is a historical cycle to such shifts: Whenever Republicans are in power long enough to transform economic policy from a middle-class orientation to capitalist overdrive, the rich get so far ahead that a popular reaction inevitably follows, with the Democrats usually tagging along, rather than leading.

But this time, the nature of the reaction against excess is likely to be different. The previous gilded ages occurred when America was on the economic rise in the world. The 1980's on the other hand, turned into an era of paper entrepreneurialism, reflecting a nation consuming, rearranging and borrowing more than it built. For the next generation of populists who would like to rear-

range American wealth, the bad news is that a large amount of it has already been redistributed—to Japan, West Germany and to the other countries that took Reagan-era I.O.U.'s and credit slips.

Society matrons, Wall Street arbitrageurs, Palm Beach real-estate agents and other money-conscious Americans picking up USA Today on May 22, 1987, must have been at first bewildered and then amused by the top story. In describing a Harris survey of the attitudes of upper-bracket citizens, the article summed up the typical respondent as "rich. Very. He's part of the thinnest economic upper crust: households with incomes of more than \$100,000 a year."

A surprising number of 1980's polls and commentaries contributed to this naïve perception—that "rich" somehow started at \$50,000 or \$100,000 a year, and that gradations above that were somehow less important. The truth is that the critical concentration of wealth in the United States was developing at higher levels—decamillionaires, centimillionaires, half-billionaires and billionaires. Garden-variety American millionaires had become so common that there were about 1.5 million of them by 1989.

In fact, even many families with what seemed like good incomes—\$50,000 a year, say, in Wichita, Kan., or \$90,000 a year in New York City (almost enough to qualify as "rich," according to USA Today)—found it hard to make ends meet because of the combined burden of Federal income and Social Security taxes, plus the soaring costs of state taxes, housing, health care and children's education. What few understood was that real economic status and leisure-class purchasing power had moved higher up the ladder, to groups whose emergence and relative affluence Middle America could scarcely comprehend.

No parallel upsurge of riches had been seen since the late 19th century, the era of the Vanderbilts, Morgans and Rockefellers. It was the truly wealthy, more than anyone else, who flourished under Reagan. Calculations in a Brookings Institution study found that the share of national income going to the wealthiest 1 percent rose from 8.1 percent in 1981 to 14.7 percent in 1986. Between 1981 and 1989, the net worth of the Forbes 400 richest Americans nearly tripled. At the same time, the division between them and the rest of the country became a yawning gap. In 1980, corporate chief executive officers, for example, made roughly 40 times the income of average factory workers. By 1989, C.E.O.'s were making 93 times as much.

Finance alone built few billion-dollar fortunes in the 1980's relative to service industries like real estate and communications, but it is hard to overstate Wall Street's role during the decade, partly because Federal monetary and fiscal policies favored financial assets and because deregulation promoted new debt techniques and corporate restructuring.

Selling stock to retail clients, investment management firms or mutual funds paid well; repackaging, remortgaging or dismantling a Fortune 500 company paid magnificently. In 1981, analysts estimate, the financial community's dozen biggest earners made \$5 million to \$20 million a year. In 1988, despite the stock-market collapse the October before, the dozen top earners made \$50 million to \$200 million.

The redistribution of American wealth raised questions not just about polarization, but also about trivialization. Less and less wealth was going to people who produced

something. Services were ascendant—from fast food to legal advice, investment vehicles to data bases. It is one thing for new technologies to reduce demand for obsolescent professions, enabling society to concentrate more resources in emerging sectors like health and leisure. But the distortion lies in the disproportionate rewards to society's economic, legal and cultural manipulators—from lawyers and financial advisers to advertising executives, merchandisers, media magnates and entertainers.

A related boom and distortion occurred in nonfinancial assets—art and homes, in particular. Art and antiques appreciated fourfold in the Reagan era, to the principal benefit of the richest 200,000 or 300,000 families. Similar if lesser explosions in art prices took place in the Gilded Age and in the 1920's. While the top one-half of 1 percent of Americans rolled in money, the luxuries they craved—from Picassos and 18th-century English furniture to Malibu beach houses—soared in markets virtually auxiliary to those in finance.

Meanwhile, everyone knew there was pain in society's lower ranks, from laid-off steelworkers to foreclosed farmers. A disproportionate number of female, black, Hispanic and young Americans lost ground in the 1980's, despite the progress of upscale minorities in each category. According to one study, for example, the inflation-adjusted income for families with children headed by an adult under 30 collapsed by roughly one-fourth between 1973 and 1986.

Even on an overall basis, median family and household incomes showed only small inflation-adjusted gains between 1980 and 1988. Middle America was quietly hurting too.

While corporate presidents and chairmen feasted in the 1980's, as many as 1.5 million midlevel management jobs are estimated to have been lost during those years. Blue-collar America paid a larger price, but suburbia, where fathers rushed to catch the 8:10 train to the city, was counting its casualties, too. "Middle managers have become insecure," observed Peter F. Drucker in September 1988, "and they feel unbelievably hurt. They feel like slaves on an auction block."

American transitions of the magnitude of the capitalist blowout of the 1980's have usually coincided with a whole new range of national economic attitudes. Evolving government policies—from tax cuts to high interest rates—seem distinct, but they are actually linked.

Whether in the late 19th century, the 1920's or the 1980's, the country has witnessed conservative politics, a reduced role for government, entrepreneurialism and admiration of business, corporate restructuring and mergers, tax reduction, declining inflation, pain in states that rely on commodities like oil and wheat, rising inequality and concentration of wealth, and a buildup of debt and speculation. The scope of these trends has been impressive—and so has their repetition, through the two periods of the 20th century have involved increasingly more paper manipulation and less of the raw vigor typical of the late 19th-century railroad and factory expansion.

Federal policy from 1981 to 1988 enormously affected investment, speculation and the creation and distribution of wealth and income, just as in the past.

The reduction or elimination of Federal income taxes was a goal in previous capitalist heydays. But it was a personal preoccupation for Ronald Reagan, whose antipathy

toward income taxes dated back to his high-earning Hollywood days, when a top tax bracket of 91 percent in the 40's made it foolish to work beyond a certain point. Under him, the top personal tax bracket would drop from 70 percent to 28 percent in only seven years. For the first time since the era of Franklin D. Roosevelt, tax policy was fundamentally rearranging its class loyalties.

Reaganite theorists reminded the country that the Harding-Coolidge income-tax cuts—from a top rate of 73 percent in 1920 to 25 percent in 1925—helped create the boom of the 20's. Back then, just as in the 80's, the prime beneficiaries were the top 5 percent of Americans, people who rode the cutting edge of the new technology of autos, radios and the like, emerging service industries, including new practices like advertising and consumer finance, a booming stock market and unprecedented real-estate development. Disposable income soared for the rich, and with it, conspicuous consumption and financial speculation. After the 1929 crash and the advent of the New Deal, tax rates rose again; the top rate reached 79 percent by 1936 and 91 percent right after the war. In 1964, the rate fell in two stages, to 77 percent and then to 70 percent.

Under Reagan, Federal budget policy, like tax changes, became a factor in the realignment of wealth, especially after the 1981-82 recession sent the deficit soaring. The slack was made up by money borrowed at home and abroad at high cost. The first effect lay in who received more Government funds. Republican constituencies—military producers and installations, agribusiness, bondholders and the elderly—clearly benefited, while decreases in social programs hurt Democratic interests and constituencies: the poor, big cities, housing, education. Equally to the point, the huge payments of high-interest charges on the growing national debt enriched the wealthy, who bought the bonds that kept Government afloat.

Prosperous individuals and financial institutions were beneficiaries of Government policies in other ways. Starting in the Carter years, Congress began to deregulate the financial industry; but the leap came in the early 1980's, when deposit and loan interest ceilings were removed. To attract deposits, financial institutions raised their interest rates, which rose and even exceeded record postwar levels. The small saver profited, but the much larger gain, predictably, went to the wealthy. (The benefits of high interest were intensified, of course, by the declining maximum tax rate on dividend and interest income. The explosion of after-tax unearned income for the top 1 percent of Americans was just that—an explosion.)

The savings and loan crisis now weighing on American taxpayers also had roots in deregulation. Before 1982, savings and loan associations were required to place almost all their loans in home mortgages, a relatively safe and stable class of assets. But in 1982, after soaring interest rates turned millions of low-interest mortgages into undesirable assets, a new law allowed savings and loans to invest their funds more freely—100 percent in commercial real-estate ventures if they so desired. Like banks in the 1920's, many thrifts proceeded to gamble with their deposits, and by 1988, many had lost. Gamblers and speculators enriched themselves even as they stuck other Americans with the tab.

Reagan's permissiveness toward mergers, antitrust enforcement and new forms of speculative finance was likewise typical of

Republican go-go conservatism. Unnerving parallels were made between the Wall Street raiders of the 1980's—Ivan Boesky and T. Boone Pickens—and the takeover pools of the 1920's, when high-powered operators would combine to "boom" a particular stock. For a small group of Americans at the top, the pickings were enormous.

An egregious misperception of late 20th-century politics is to associate only Democrats with extremes of public debt. Before 1933, conservatives—Federalists, Whigs and Republicans alike—sponsored Government indebtedness and used high-interest payments to redistribute wealth upward.

In addition, Republican eras were noted for a huge expansion of private debt. In the 1920's, individual, consumer and corporate debt kept setting record levels, aided by new techniques like installment purchases and margin debt for purchasing securities. In the kindred 80's, total private and public debt grew from \$4.2 trillion to more than \$10 trillion. And just as they had 60 years earlier, new varieties of debt became an art form.

Government fiscal strategies were equally loose. In part to avoid the deficit-reduction mandates of the Gramm-Rudman-Hollings Act, they allowed Federal credit programs, including student and housing loans, to balloon from \$300 billion in 1984 to \$500 billion in 1989.

In contrast to previous capitalist blowouts, the fast-and-loose Federal debt strategies of the 80's did not simply rearrange assets within the country but served to transfer large amounts of the nation's wealth overseas as well. America's share of global wealth expanded in the Gilded Age and again in the 1920's. The late 1980's, however, marked a significant downward movement: one calculation, by the Japanese newspaper *Nihon Keizai Shimbun*, had Japan overtaking the United States, with estimated comparative assets of \$43.7 trillion in 1987 for Japan, versus \$36.2 trillion for the United States.

The United States was losing relative purchasing power on a grand scale. There might be more wealthy Americans than ever before, but foreigners commanded greater resources. On the 1989 *Forbes* list of the world's billionaires, the top 12, with the exception of one American, were all foreigners—from Japan, Europe, Canada and South Korea. Dollar millionaires, once the envy of the world, were becoming an outdated elite.

This shift partly reflected the ebb of America's postwar pre-eminence. Yet the same Reagan policies that moved riches internally also accelerated the shift of world wealth, beginning with the budget deficits of the early 1980's but intensifying after the ensuing devaluation of the dollar from 1985 to 1986.

If the devalued dollar made the Japanese, French and Germans relatively richer, it also increased their purchasing power in the United States, turning the country into a bargain basement for overseas buyers. This is the explanation for the surging foreign acquisition of properties from Fortune 500 companies to Rockefeller Center in Manhattan and large share of the office buildings in downtown Los Angeles.

The dollar's decline also pushed per capita gross national product and comparative wages in the United States below those of a number of Western European nations. The economist Lester C. Thurow summed up the predicament: "When it comes to wealth, we can argue about domestic purchasing power. But, in terms of international purchasing

power, the United States is now only the ninth wealthiest country in the world in terms of per capita G.N.P. We have been surpassed by Austria, Switzerland, the Netherlands, West Germany, Denmark, Sweden, Norway and Japan."

Not everyone looked askance at foreign wealth and investment. American cities and states welcomed it. From the textile towns of South Carolina to the rolling hills of Ohio, foreigners were helping declining regions to reverse their fate. Yet as Warren Buffett, the investor, said: "We are much like a wealthy family that annually sells acreage so that it can sustain a life style unwarranted by its current output. Until the plantation is gone, it's all pleasure and no pain. In the end, however, the family will have traded the life of an owner for the life of a tenant farmer."

Nowhere was Japanese investment more obvious than in Hawaii, where real-estate moguls from Tokyo pronounced the property they were grabbing up "almost free." An economist at a Hawaiian bank warned that the state was "a kind of test lab for what's facing the whole country." Indeed, in 1988 broader foreign ambitions were apparent. The author Daniel Burstein quoted Masaaki Kurokawa, the head of Japan's Nomura Securities International, who raised with American dinner guests the possibility of turning California into a joint U.S.-Japanese economic community.

Public concern over America's international weakness had been a factor in Ronald Reagan's election back in 1980. Voters had wanted a more aggressive leader than Jimmy Carter. For various reasons, the great things promised were not delivered. Reagan could re-create a sense of military prowess with his attacks on Grenada and Libya. But in the global economy he took a country that had been the world's biggest creditor in 1980 and turned it into the world's largest debtor. Despite opinion polls documenting public concern about this erosion, surprisingly little was made of the issue in the 1988 Presidential campaign, possibly because the Democrats could not develop a coherent domestic and international alternative.

Much of the new emphasis in the 1980's on tax reduction and the aggressive accumulation of wealth reflected the Republican Party's long record of support for unabashed capitalism. It was no fluke that three important Republican supremacies coincided with and helped generate the Gilded Age, the Roaring Twenties and the Reagan-Bush years.

Part of the reason survival-of-the-fittest periods are so relentless, however, rests on the performance of the Democrats as history's second-most enthusiastic capitalist party. They do not interfere with capitalist momentum, but wait for excesses and the inevitable popular reaction.

In the United States, elections arguably play a more important cultural and economic role than in other reditory aristocracy or Establishment, our leadership elites and the alignment of wealth are more the product of political cycles than they are elsewhere. Capitalism is maneuvered more easily in the United States, pushed in new regional and sectoral directions. As a result, the genius of American politics—failing only in the Civil War—has been to manage through ballot boxes the problems that less-fluid societies resolve with barricades and with party structures geared to class warfare.

Because we are mobile society, Americans tolerate one of the largest disparities in the industrial world between top and bottom incomes, as people from the middle move to the top, and vice versa. Opportunity has counted more than equality.

But if circulating elites are a reality, electoral politics is an important traffic controller. From the time of Thomas Jefferson, the nation has undulated in 28- to 36-year waves as each watershed election puts a new dominant region, culture, ideology or economic interest (or combination) into the White House, changing the country's direction. But after a decade or two, the new forces lose touch with the public, excessively empower their own elites and become a target for a new round of populist reform. Only the United States among major nations reveals such recurrent electoral behavior over two centuries.

The Republicans rode such a wave into office in 1968, as a middle-class, anti-elite correction, successfully squelching the social permissiveness and disorder of the 60's. Significantly, each Republican coalition—from Lincoln's to Nixon's—began by emphasizing national themes and unity symbols, while subordinating commercial and financial interests.

But it is the second stage—dynamic capitalism, market economics and the concentration of wealth—that the Republican Party is all about. When Republicans are in power long enough, they ultimately find themselves embracing limited government, less regulation of business, reduced taxation, disinflation and high real interest rates. During American's first two centuries, these policies shaped the three periods that would incubate the biggest growth of American millionaires (or, by the 1980's, billionaires). History suggests that it takes a decade or more for the Republican Party to shift from broad middle-class nationalism into capitalist overdrive, and the lapse of 12 years between the first Nixon inauguration in 1969 and the first Reagan inauguration repeats this transformation.

Nixon, like the previous Republican nationalist Presidents Abraham Lincoln and William McKinley, was altogether middle class, as was his "new majority" Republicanism. He had no interest in unbridled capitalism during his 1969-74 Presidency.

In fact, many of the new adherents recruited for the Republican coalition in 1968 and 1972 were wooed with the party's populist attacks on inflation, big government, social engineering and the Liberal Establishment. Many Republican voters of that era embraced outsider and anti-elite values, and like similar participants in previous Republican national coalitions, they would become uneasy in the 1980's as Reagan or Bush Republicanism embraced Beverly Hills or Yale culture and the economics of leveraged buyouts, not of Main Street.

Besides this uneasiness, reflected in opinion polls, a second sign that a conservative cycle is moving toward its climax has been the extent to which Democratic politics has been cooperative: when wealth is in fashion, Democrats go along. The solitary Democratic President of the Gilded Age, Grover Cleveland, was a conservative with close Wall Street connections. In the 20's, the Democratic Presidential nominees in both 1920 (James Cox, an Ohio publisher) and 1924 (John W. Davis, a corporate lawyer) were in the Cleveland mold. Alfred E. Smith, who ran in 1928, would eventually oppose Roosevelt and the New Deal. In the 20's, Congressional Democrats competed

with Republicans to cut upper-bracket and corporate taxes.

Fifty years later, Jimmy Carter, the only Democratic President to interrupt the long Republican hegemony after 1968, was accused by the * * * of an "eccentric effort to carry the Democratic Party back to Grover Cleveland." Despite his support for substantial new Federal regulation, Carter clearly deviated from his party's larger post-New Deal norm. He built foundations that would become conservative architecture under Reagan: economic deregulation; capital-gains tax reduction and the tight-money policies of the Federal Reserve. (The Fed's chairman, Paul A. Volcker, was a Carter appointee.) Congressional Democrats even echoed their policies of the 1920's by colluding in the bipartisan tax-bracket changes of 1981 and 1986.

Thus, the Democrats could hardly criticize Reagan's tax reductions for the most part, they laid little groundwork for an election-year critique in 1988, leaving the issue to Jesse Jackson, whose appeal was limited by his race and third-world rhetoric, and to noncandidates like Mario M. Cuomo, Michael S. Dukakis was obviously uncomfortable with populist politics. Though several consultants and economists urged him to pick up the theme of economic inequality, Dukakis made competence, not ideology, his initial campaign issue. Only in late October, with his campaign crumbling, did the Democratic candidate reluctantly convert to a more traditional party line. It came too late.

Republican strategists could hardly believe their luck. Said Lee Atwater, Bush's campaign manager, after the election: "The way to win a Presidential race against the Republicans is to develop the class-warfare issue, as Dukakis did at the end—to divide up the haves and have-nots and to try to reinvigorate the New Deal coalition and to attack."

On the surface, this was a missed Democratic opportunity. But the lesson of history is that the party of Cleveland, Carter and Dukakis has rarely rushed its anti-elite corrective role. There would be no rush again in 1988—nor, indeed, in 1989.

Early in his presidency, George Bush replaced the Coolidge portrait hung by Ronald Reagan in the White House with one of Theodore Roosevelt, reflecting Bush's belief in T.R.'s commitment to conservation, patrician reform and somewhat greater regulatory involvement.

Yet there has not been too much evidence of a kinder, gentler America beyond softer, more conciliatory rhetoric. The budget remained unkind to any major expansion of domestic programs, and Bush's main tax objective was a reduction in the capital gains rate, a shift that critics said would continue to concentrate benefits among the top 1 percent of Americans.

By spring 1990, Washington politicians confronted the most serious debt- and credit-related problems since the bank failures, collapse stock prices, farm foreclosures and European war debt defaults of the Great Depression. From the savings and loan associations bailout to junk bonds, from soaring bankruptcies and shaky real-estate markets to Japanese influence in the bond market, Federal policy makers were forced to realize that a crucial task—and peril—of the 1990's would involve cleaning up after the previous decade's credit-card parties and speculative distortions.

In May, the facade of successful deficit reduction crumbled as Administration officials confessed that bailing out insolvent

savings and loans could cost as much as a half-trillion dollars. It became clear that taxes would have to rise. In California, where the anti-tax revolt began more than a decade ago, the approval by the state's voters earlier this month of an increase in the gasoline tax was seen by many as a sign of public willingness to come to grips with the fiscal deficiencies of the 1980's.

Even some Democrats who previously collaborated with Republican economics have begun to argue that the rich who had made so much money in the 80's should bear a larger share of the new burdens of the 90's. A number of Republicans share this disquiet. The Senate minority leader, Bob Dole of Russell, Kan., insisted in late 1989 that if the White House wanted to cut capital-gains taxes for the prosperous, it should also raise the minimum wage for the poor. Last month, the House Republican leader, Robert H. Michel of Peoria, Ill., was reported to favor an increase in the tax rate for the top 1 percent of Americans, from 28 percent to 33 percent. The second-ranking Republican leader in the House, Newt Gingrich of Georgia, suggested in April that conservatives, too, had to develop some ideas for economic redistribution.

Meanwhile, opinion poll after opinion poll has shown lopsided voter support for raising the income-tax rate for people making more than \$80,000, \$100,000 or \$200,000. The 1990's seem ready to reflect a new anti-Wall Street, anticorporate and antigreed outlook set forth in books (and coming movies) like "Bonfire of the Vanities," "Liar's Poker" and "Barbarians at the Gate."

Nor was the changing mood apparent only in the United States. Kindred psychologies and political analyses could also be seen in other countries like Britain, Japan and Canada, where 1980's financial and real-estate booms likewise concentrated wealth in the hands of the very rich and increased economic inequity. A headline last month in the Financial Times of London could have been written in the United States: "The Rich Get Nervous."

Whether the populist reactions that followed past boom periods recur in the 90's no one can know. But there could be no doubt that the last decade ended as it had begun: With a rising imperative for a new political and economic philosophy, and growing odds that the 1990's will be a very different chapter than the 1980's in the annals of American wealth and power.

TRIBUTE TO LT. GEN. WILLIAM SHERIDAN FLYNN

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to pay tribute to William Sheridan Flynn, Lieutenant General Commander, 21st Theater Army Area Command, of Newport, RI.

General Flynn is the guest of honor at a reception held by the Colonel commanding, officers and men of the artillery company of Newport. For his years of exemplary service and accomplishments, General Flynn is being named as an honorary colonel.

General Flynn has faithfully served our Nation both at home and abroad. Among his key assignments are logistics staff officer,

U.S. Military Assistance Command, Vietnam; executive officer for both the Division Support Command and the 2d Brigade of the 8th Infantry Division, and command of the 708th Maintenance Battalion, 8th Infantry Division, in Germany. He is a graduate of the Industrial College of the Armed Forces, and the Naval School of Command and Staff. He has shared his success with his wife Lynn and their 5 children.

I would like to thank General Flynn for his years of dedicated and loyal service. I take this opportunity to congratulate General Flynn for his accomplishments and wish him continued success in the future.

INTRODUCTION OF BILL TO ALLOW A LAND SWAP BETWEEN THE STATE OF WEST VIRGINIA AND THE SUN LUMBER CO.

HON. HARLEY O. STAGGERS, JR.

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. STAGGERS. Mr. Speaker, I rise to introduce legislation that would allow the U.S. Government to release a condition in the deed that conveyed land to West Virginia in 1954. This release would allow the State of West Virginia to swap lands in and around Holly River State Park so that the State may acquire some private property currently within its overall boundary. If this legislation is approved the State will also acquire a scenic area currently outside of the park boundary.

Holly River State Park was created by the State of West Virginia after the Federal Government deeded 7,592 acres of land along the Holly River for the development of recreational opportunities for the citizens of West Virginia and the visiting public. The land was not self-enclosed and had a number of interior holdings which were owned by other private owners, the largest of whom was the Sun Lumber Co. State officials have told me that since 1961 they have attempted to negotiate with the Sun Lumber Co., in an attempt to gain the interior holding that Sun owned and trade off property out of the Holly River watershed thereby enhancing the beauty and utility of the park.

Several years ago the State renewed its interest in swapping properties. The Sun Lumber Co. seemed receptive and what seems to be a fair and reasonable exchange of lands has been proposed. Appraisals have been conducted and my office has, over the past 2 years, conducted two separate public hearings in the community to gauge the value of the land swap and to see if this swap would enhance the beauty and utility of what undoubtedly is one of the best kept secrets in West Virginia's outstanding State park system. Holly River is beautiful and I believe that the proposed swap will enhance the marketing of the park and allow a greater number of visitors to enjoy the park. This legislation will allow an area, currently outside of the boundary of the park, called the Chute to be included in the new park boundary.

The Chute is located along the Holly River where a natural cut through the rocks have

created a beautiful chute of water to enter the Holly River. This area is one of the most photographed and pictures of this area have been displayed at art shows and have been published in the State's official publications. It is a unique site and one that I believe demands out attempts to save it unscathed from development or commercial distraction.

Holly River State Park currently has a full-time office as well as a number of cabins and camping sites. It is a large park and lends itself to the vacationer who wishes to take a trip that keeps him away from modern distractions and allows him an opportunity to see large tracts of undisturbed lands. It is my hope that if this legislation is approved that the State, would, with its more secure interior holdings, seek to improve the park and allow greater numbers of visitors to take advantage of this treasure.

The land for the park was originally deeded to the State through the U.S. Forest Service and held a reverter clause. That is the reason that this legislation is necessary. Although the intent the land was given for in 1954 will not be changed, there will be some adjustments made in the physical description of the property if this legislation is approved.

I have taken this action after being requested to do so for the more than 3 years by members of the present and past administrations in West Virginia. This legislation is supported by the State department of natural resources, the State department of commerce and West Virginia's Governor.

Upon a long and careful review I believe that the proposed land swap is in the best interests of the people of Webster and neighboring Upshur County, the State of West Virginia and the generations of future visitors who will be able to enjoy a substantially improved State park as a result of this legislation.

A TRIBUTE TO RAYMOND AND JEAN TERWILLEGAR

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SCHUETTE. Mr. Speaker, I have the privilege today of honoring Mr. and Mrs. Raymond Terwillegar on the occasion of their induction into the Michigan Farmer's Hall of Fame. Founded in 1982, the Michigan Farmer's Hall of Fame exists to honor farmers for their contributions to their community and to Michigan's agricultural industry. The Terwillegars are one of seven families who will be inducted into the Michigan Farmer's Hall of Fame during a ceremony that will be held on August 31, 1990.

Raymond served in the Army during World War II. After his discharge, Raymond worked for a year at Dow Corning before deciding to begin a career in farming. Starting out with six cows and used machinery, the Terwillegar's dairy herd grew in size and eventually they were able to purchase additional land. At one point during their farming career, the Terwillegars farmed 3,600 acres of land. They sold their dairy herd in 1975, but continued cash crop farming.

Selected as the first outstanding farmer of Midland County, Raymond has always attended workshops and seminars to improve his farming skills and expand his knowledge of agriculture. In addition, Raymond has been the director of the Hemlock Coop Elevator and of the Comerica Bank of Midland. He was township trustee for 5 years and has been township treasurer since 1971.

Jean and Raymond have worked and supported each other in their life together on the farm. The Terwillegars have 6 boys, and 3 girls. Jean is a member, as well as secretary/treasurer, of the Midland Association of Extension Homemakers. She has experienced all the joys of raising nine children including sewing, chaperoning, driving, cooking, and attending 4-H and little league meetings.

The Terwillegars, who are from Midland, MI, have been farming for 50 years. They are now farming in partnership with five of their sons who will carry on the legacy of hard work and the tradition of Michigan agriculture Raymond and Jean began 50 years ago.

Mr. Speaker, and my colleagues in the House, join me today in honoring Raymond and Jean Terwillegar, and in celebrating their life of contribution to their community and to Michigan agriculture. The Terwillegars have set a standard of hard work and dedication for all of Michigan to look toward.

HONORING BETH TFILOH CONGREGATION

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CARDIN. Mr. Speaker, I rise today to recognize the service of Beth Tfiloh congregation on behalf of the Baltimore Jewish community and the State of Israel. At a special tribute ceremony service on September 11, Beth Tfiloh is honoring men and women who have served in the highest echelons of the Maryland Committee for State of Israel Bonds and the women's division for Israel bonds.

During September 1990, Beth Tfiloh will celebrate the 40th anniversary of the founding of the State of Israel bond program in Jerusalem. On this anniversary, Beth Tfiloh and its Israel Bond Committee will give special recognition to Arnold G. Cohen, Haron Dahan, Richard Rynd, Daniel Schapiro, Ben Schuster, Marvin H. Weiner, Rachel Dahan, Micki Naiditch, Selma Rynd and Jeannette Schapiro. I congratulate them on their tremendous commitment to the State of Israel bond program and am pleased that Beth Tfiloh is hosting this tribute dinner in their honor.

A SPECIAL TRIBUTE TO WILLIAM N. BELL

HON. JOE KOLTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. KOLTER. Mr. Speaker, I rise today before the U.S. House of Representatives to

honor and pay very special tribute to William N. Bell of Apollo, PA, who is the 89th Illustrious Patentate of Syria Temple in the Syria Mosque, one of the largest shrine temples in North America with 15,000-plus Nobles.

A 1948 graduate of Vandergrift High School, Illustrious Patentate Bell is a prominent businessman who has owned and operated an auto repair, tire dealership, and auto parts outlet in Vandergrift, PA, for the past 27 years.

He began his business career upon his release from active duty as a captain in the U.S. Army following the Berlin crisis, having served in the military during the period 1952 to 1954, being commissioned in 1953. As a member of the U.S. Army Reserve from 1955 to 1965 he was again called to active duty from 1961 to 1962. He is currently a member of Vandergrift American Legion Post 114.

Noble Bell and his family belong to the First Methodist Church in Vandergrift where he served on the administrative board. Among his community affiliations, he is honorary member of the George G. McNulty Fire Department and a member of the Western Pennsylvania Firemen's Association and a member of the Apollo Elks Lodge No. 386.

Mr. Bell has been a member of the Syria Temple for 25 years and has served the temple in a variety of positions. A member of the Syria Improvement Association for 6 years, he served as president for 3 years. He was chairman of the hospital crusade in 1986 and the assistant chairman for 1984. He also served as an aide to the potentate from 1973 to 1983. He is a former member of the drum and bugle corps. He is also past rabban of Hillbilly Clan No. 53; past president and member of V.A.L. Caravan 13; member of Caravan 16, Caravan 22, and the past president of the Syria Toy Committee; a member of the Legion of Honor and a past deputy for Northern Westmoreland County. Noble Bell also served as the 1989 chairman of the endowments, wills and gifts committee and the Hundred Million Dollar Club.

Brother Bell's masonic affiliation includes membership in Apollo Lodge, 437, F.&A.M., and the Scottish Rite Valley of Pittsburgh A.A.S.R., where he is active in several degrees. He has served on the Demolay Advisory Council (Kiski Valley Chapter) and has served 17 years as drill team director for the Order of Rainbow for Girls where he received the Grand Cross of Colour in 1986.

Noble Bell is widely known for his active participation in the Syria Temple Harige Unit, Middle Atlantic Shrine Clown Association. His award winning clown character of "Ding Dong Bell" and his four-legged friend "Gertrude," the donkey, have brought delight to many throughout the years.

The newly installed potentate is married to Rose C. Bell and the Bells are the parents of three sons and a daughter.

Beside her duties as the first lady of Syria Temple she is assistant head nurse with Allegheny Valley Hospital and a member of the Apollo Chapter 125 of the Order of the Eastern Star, as well as a past mother adviser of Rainbow Assembly 105.

Mr. Speaker, because Mr. William N. Bell is an outstanding member of his community, but most especially because of his dedicated and selfless public service—and the public service

of his wife and family—I rise today before the full U.S. Congress to inform my colleagues of this fine American who deserves our high praise and tribute.

THE ORPHAN DRUG WINDFALL PROFITS TAX

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. STARK. Mr. Speaker, on May 8, 1990 Inspector General Kusserow released a draft of his report on the effect of the interim payment rate for the orphan drug EPO on Medicare expenditures and dialysis facility operations.

In this report, the OIG was so disturbed at the excessive profitmaking over EPO that he recommended eliminating the market exclusivity provision of the Orphan Drug Act altogether. Furthermore, in testimony before the House Ways and Means Subcommittee on Health, an OIG official stated that the original estimate of annual cost for EPO to Medicare of \$100 million had to be revised to \$265 million due to a higher than expected market penetration. OIG stated that the market penetration in the first year was about 50 percent as opposed to the initial estimate of 20 percent.

Since its passage, the Orphan Drug Act has encouraged the development of over 40 drugs to treat rare diseases, and the market exclusivity provision is the most important incentive of the act. For these reasons, I do not support elimination of this key provision. However, I support the essence of the inspector general's report, in that I believe legislative measures should be taken to prevent the exploitation of the provisions of the act by companies who are producing highly profitable drugs. The Orphan Drug Act was not designed to create a protected market for drugs that are highly profitable.

The Orphan Drug Act was intended to encourage the development of drugs for rare diseases; drugs that would normally be unprofitable. Because companies such as Amgen are reaping windfall profits off the act's provisions, and because other companies may not be aware of just how profitable their drugs will be at the time of orphan designation, I believe that legislation is needed that will work in hindsight to recapture Federal subsidies that go to companies who later make excessive profits off of the provisions of the act. That is why I introduced the orphan drug windfall profits tax on July 31, H.R. 5421, as an amendment to the Orphan Drug Act.

By allowing a company to recover twice its development costs, along with a 25 percent rate of profit before the windfall tax is applied, my amendment still allows companies to make a very generous return on their investment. At the same time, it will allow the Federal Government to recapture its subsidization of the small handful of excessively profitable orphan drugs, such as EOP, while they are being protected by the seven-year market exclusivity provision of the act.

I feel strongly that my amendment will solve the problems that the inspector general refers to in his report, while still maintaining the effectiveness of the act.

REMINDING US OF DEFENSE NEEDS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GINGRICH. Mr. Speaker, I would like to call my colleagues' attention to an article by Harry Summers in today's Washington Times.

Americans must remember weakness invites war. For a year people have been talking about cutting American defense. Saddam Hussein believed them.

REMINDING US OF DEFENSE NEEDS

(By Harry Summers)

Events in the Persian Gulf last week underscored the fact that even though the Cold War may have ended, defending American interests abroad remains a most formidable task. On June 22, 1990, in what would prove to be an especially prescient address, Gen. Colin Powell, chairman of the Joint Chiefs of Staff, observed to his National Press Club audience that "In Iraq alone there are more tanks than Rommel had in his Afrika Korps. More than that, (with some 5,500 main battle tanks) Iraq has more tanks than Rommel, Montgomery and Eisenhower combined had during the North African campaign.

"So even as we reduce, we must maintain the ability to deter and defend," Gen. Powell warned. "We must maintain the ability here in the continental United States to reinforce rapidly [with] heavy active forces, trained and equipped to deal with the modern heavy conventional capability that will still be possessed by the Soviet Union and other similarly equipped nations. It also means that we must invest in strategic air and sea lift to get us to the point of crisis should it be necessary to go there."

Less than a month later, Gen. Powell's words became reality, as Iraq massed two armored divisions on its border with Kuwait to coerce that country, and other oil-producing nations in the region as well, to follow the Iraqi lead in curtailing output of the Organization of Petroleum Exporting Countries and thus drive up the price of oil.

It was a direct challenge to American interests.

So what did we do about it? We sent two aerial refueling tankers to the region, and announced a short-notice joint naval exercise with the naval forces of Kuwait's neighboring United Arab Emirates.

"Bush administration officials said the moves were intended as a demonstration of support for the two small gulf states," reported the July 25, 1990, New York Times, "and as a signal to Iraq that Washington was prepared to use military force to defend the flow of oil through the Straits of Hormuz."

But the Straits of Hormuz were not the issue. It was, rather, the continued existence of Kuwait as an independent nation, an existence threatened by all the Iraqi armor poised on its border. And to counter that threat, the American air and sea response was pitifully inadequate. Heavy land forces, as Gen. Powell had prophesied, were

what was needed. But America's heavy strategic reinforcement units, such as the 2nd Armored Division at Fort Hood, Texas, were disbanding, not deploying. The result was Kuwait's submission to the Iraqi demand for a price fix. But that might not be the worst of it.

"The danger," noted the British journal the Economist, "is that, having discovered the weakness all around him, [Iraq's President Saddam Hussein] will decide he is pushing at an open door."

That is a very real danger, for, left to its own devices, the Arabian Peninsula is indeed an open door. Between them, the Gulf Cooperation Council—Kuwait, the United Arab Emirates, Bahrain, Qatar, Oman, and Saudi Arabia—do not begin to have the combat power to stand up to Iraq's million-man force.

Battle-hardened in its long war with Iran, Iraq not only has all those tanks, it also has a chemical warfare capability that it has shown no hesitancy in using, and there is a distinct possibility that it will have nuclear weapons in the future. All this makes real the Iraqi military threat to the Arabian peninsula. And so is its threat to American access to Mid-east oil.

But despite Gen. Powell's prescription for a "national security insurance premium" to counter that threat, our capability is getting progressively weaker. Instead of developing strategic sea and air lift capable of transporting heavy forces into position, military planners, with Procrustean logic, have instead opted to cut the heavy force to fit the available strategic lift.

This is a recipe for disaster on a far larger scale than their earlier mutilation of the infantry squad, which was cut from 11 men to nine so that the squad—combat capability be damned—could fit into the so-called Bradley fighting vehicle.

In a world where some 30 nations have more than 1,000 main battle tanks, reliance on a primarily light military force on the grounds that it can be rapidly deployed is strategic madness. The rapidity of its deployment would only be exceeded by the rapidity of its destruction.

We found that out almost 30 years ago in "Desert Strike," a major training exercise in central Texas where two airborne divisions were deployed against the 2nd Armored Division. The result was a rout, with the tanks rapidly running the hapless paratroopers into the ground. It is a scenario that would be tragically repeated if U.S. light military forces were deployed in the face of Iraqi armored divisions.

How to bring our heavy forces to bear is a major strategic challenge. "This is still a dangerous world," Gen. Powell said, "and you had better be able to respond if someone challenges your interests." This time we'll pay at the gas pumps for our inability to respond. Before we find what the price will be next time, we'd better get our military house in order.

VA COMPUTER SYSTEM A MODEL FOR OTHERS WORLD- WIDE

HON. G. V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MONTGOMERY. Mr. Speaker, VA doctors, nurses and other health care providers

had to fight for it. The Office of Management and Budget [OMB] and some top VA officials didn't want it and chose instead to push for more costly and less practical systems from private vendors. Their erroneous assumption was that no Federal agency could possibly develop its own tools.

It is the state-of-the-art decentralized hospital computer system [DHCP] developed by VA health care professionals for the VA health care system, the Nation's largest, and it has captured the attention and the admiration of health care delivery systems across the country and around the world.

Mr. Speaker, I believe we should congratulate VA employees for taking the initiative, for developing and implementing their own successful computer software, and for saving the taxpayers millions of dollars in the process. This single project, arguably more than any other, demonstrates the concern and dedication of our VA health care staff when it comes to providing the best possible care to our veterans. Further, they are providing this technology, virtually free of charge, to States which are attempting to automate their health care records.

I would like to share with my colleagues the following article from the July issue of U.S. Medicine in which Washington State officials explain why they chose VA's DHCP:

[From U.S. Medicine, July 1990]

WASHINGTON STATE TURNS TO DHCP

OLYMPIA, WASH.—The state of Washington is casting its lot with computer software applications developed in the Department of Veterans Affairs as the most flexible and inexpensive way to automate state-run institutions.

While examining systems available commercially, a task force found its interest piqued by the Defense Department's 1988 award of a contract for the Composite Health Care System (CHCS). Since DoD's system was to be based on software from the VA, the task force then turned to the VA—and liked what it found. Michael J. Buckley, governor's executive fellow in the Department of Social and Health Services related.

"We were pretty disappointed in what we found was available off the shelf," Buckley, who directs the data automation effort, said.

The task force was further intrigued, he said, by the fact that there was "demonstrated interest" in the VA's Decentralized Hospital Computer Program (DHCP) outside the United States. For example, he noted, the Chinese government has expressed interest in adopting part of the software. In addition, the VA Kernel and the MUMPS language in which it is written are used in Japan, Scandinavia, Britain and West Germany.

"There's a lot of international interest in the system," he said.

What's more, Buckley noted, "the software is free of charge to state and local governments. That's a very good price!"

The Washington state project began by attempting to automate one hospital. Buckley related, and then escalated into a multi-institutional effort under the mental health division—and then into a multi-divisional one.

Buckley said there are four institutions in the mental health division, ranging from a 60-client child treatment center to a 1,200-

bed adult psychiatric hospital with a 200-bed medical hospital "embedded in it."

In addition, about another dozen institutions involving the treatment of developmental disabilities and of juvenile criminals are involved in the data automation project.

The task force, in looking at systems to fit such a variety of facilities, found that most clinical functionality in hospital information systems is "just smoke and mirrors," Buckley said. "We looked at about 143 vendors; the few systems that bordered on what we wanted were generally tied to a single vendor's processors."

But those processors weren't what the state wanted to buy or could afford, he said.

The task force decided that having an "open system" was essential, Buckley related. "We really wanted something that will run on microprocessors—a fully functional clinical information system that was integrated, with a common patient data base, that would also run on microcomputers. The DHCP will run on microprocessors."

"The funny thing is vendors were telling us that was impossible."

The task force was impressed, he said, by the fact that the DHCP operates in 169 VA hospitals, is used by the Indian Health Service, and had become the model for the Defense Department.

"What it came down to was number one, clinical functionality, and number two, cost-effective hardware and vendor independence. And the third thing, cheap."

"You can find the most fully functional system in the world, but it doesn't do you any good if you can afford it," Buckley observed.

The task force, he said, was given \$40,000 to do a five-month pilot project—"hardware, software modifications, consultants, etc."

"I think everybody kind of expected us to fail," he confided.

"Well, we ended up doing everything we said we were going to, and then some. It took us a couple of hours to modify VA software to fit state needs."

"This was just the ADT system, and some ancillary stuff, but that's electronic mail. Hardware, software, consulting fees, the whole nine yards—we spent about \$20,000."

"We were not only under budget, but we were ahead of schedule all the way. This is almost unheard of in information system development," he observed.

Buckley estimated that using the VA software will allow state facilities in Washington to automate at one-tenth the cost of using commercial systems or of building one from scratch.

"The normal dichotomy is that you buy or you build. In a sense we're building, but we're building on a baseline," he said. "The baseline is going to save our state, very conservatively, about \$5 to \$6 million."

"We can do basic automation in our state institutions for under \$1 million—that's hardware and software. And that's unheard of."

Buckley said he has been working with other states that have expressed interest in the VA software: Florida, Texas, Ohio.

"The taxpayers have already shelled out millions of dollars to help create this system, and a lot of very creative employees of the VA have helped design it and make it work. To me it would be a crime not to propagate that system, where it's appropriate," he said.

In a paper prepared for the Association for Computing Machinery's September conference on Computers and Quality of Life Buckley outlined the problem facing state

governments: "State and local government-run hospitals and institutions for the mentally ill and the developmentally disabled largely have been left out of the 'information revolution' of the 1980s."

The VA software, he wrote, offers a way for such institutions to join in the revolution—at a price they can afford. "Not only is this software available to state and local governments virtually free of charge, but it offers a host of advantages over most other alternatives: hardware and vendor independence, adaptability to a wide variety of settings, support for clinical as well as administrative and financial functions, conformity to current and emerging standards, etc."

Looking to the future, Buckley wrote, there are additional advantages "inherent" in using VA's software. "For example, the VA is already pursuing automated data exchange between JCAHO, HCFA and other accrediting/certifying bodies and individual institutions. Eventually, other DHCP users will be able to take advantage of such linkages."

What's more, he said, the federal adoption of MUMPS, the language in which the VA software is written, as a procurement standard means that the DHCP and systems based on it will play a central role in development of the automated clinical record currently being pursued by the Institute of Medicine and by other healthcare organizations and national standards bodies.

TRIBUTE TO GEORGE GRABOYS

HON. RONALD K. MACHTLEY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MACHTLEY. Mr. Speaker, I rise today to congratulate Mr. George Graboys, president and CEO of Citizens Financial Group, Inc. Mr. Graboys will be presented with the Torch of Liberty Award from the Anti-Defamation League.

This prestigious award was given to Mr. Graboys due to his ability to meet the challenges inherent in achieving significant professional success while maintaining a strong commitment to public service.

Mr. Graboys has shown Rhode Island how a person can use their own talent and vision in moving toward the creation of a more equitable society. Mr. Graboys has been a leader in Rhode Island. His current civic activities include serving as a member of the board of governors for higher education in Rhode Island, and as a director of the Miriam Hospital, the Rhode Island Urban Project, the International Institute of Rhode Island, and the National Conference of Christians and Jews. He has recently served as a national director of the U.S. Chamber of Commerce. In 1984 he was designated by the International Institute as Citizens of the Year, and in 1988 he was named Business Person of the Year by the New England Business magazine.

Mr. George Graboys is the kind of person and leader that our Nation needs. He has surely recognized that the purpose of one's life is not found in the size of his paycheck, but in the legacy that is left of community spirit and working toward a better understanding and love of mankind. He is a role model

that is worthy of recognition. He has reached the quintessential balance of commitment to excellence in business, contribution to community and love of family. I would like to congratulate not only Mr. Graboys, but his family as well: his wife Lois, and his three grown children, Kenneth, Angela, and James.

It is with great pleasure that I salute Mr. George Graboys for his outstanding achievements. I wish him continued success in the future.

MESICK, MICHIGAN'S CENTENNIAL YEAR

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SCHUETTE. Mr. Speaker, I am honored today to congratulate the village of Mesick, MI, on the occasion of its centennial year. The Mesick Centennial Celebration, which will include a variety of events, will be held on August 9-12, 1990.

This is truly a reason for celebration. The people of Mesick represent the best qualities of the citizens of Michigan. They work hard, they take pride in their families, and they give of themselves to others who are less fortunate.

The village of Mesick is located in the northwestern part of Wexford County in the Springville Township of Michigan. The community is 250 miles square with a population of approximately 3,000.

Originally this area was covered with forests and was inhabited by Indians. With the Ministee River and a high range of hills, Briar Hill, located just to the south of Mesick, the village is ideally located for ice fishing, skiing, snowmobiling, hiking, fishing, boating, canoeing, camping, and hunting.

Originally drawn to the area for its rich hunting resources when a young man, Howard Mesick, with his wife Ellenor, founded Mesick when they received a land grant of 160 acres from the U.S. Government under the Homestead Act in 1873. In 1889 the Mesicks chose a piece of land, 1 mile square, to be the village of Mesick.

On February 17, 1890, the State of Michigan accepted the village of Mesick's survey and plat. The village was incorporated in 1901. The first village council meeting was held on December 14, 1901. The council included R.M. Harry, president; F.E. Rice, clerk; George Cooley, William Peasley, Frank Willey, Clarence Powell, E.C. Godfrey and a Mr. Hall, councilmen.

Mr. Speaker, join me today in congratulating the people of the village of Mesick on the centennial of its founding. They have made Michigan the great State that it is.

FINANCIAL DISCLOSURE FOR 1989

HON. ROMANO L. MAZZOLI

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MAZZOLI. Mr. Speaker, it has been my custom to submit a statement of financial disclosure every year in which I have served in the House of Representatives. While the law now dictates that Members of Congress submit financial disclosure statements in May of each year, I continue to file this more detailed family financial report as I have since 1971. In this way, my constituents are kept fully and completely informed concerning my financial status and that of my family.

Romano L. and Helen D. Mazzoli income
calendar year 1989

Interest, dividends, rents and distributions:	
American United Life Insurance Co., policy No. 16-11163212-0	\$47.01
American United Life Insurance Co., policy No. 16-1011729-0	15.42
Congressional Federal Credit Union No. 62976	264.18
Congressional Federal Credit Union No. 84720	578.86
American United Life Insurance Co., proceeds of policy Nos. 16-1011729-0 and 16-1116312-0	1,997.85
Republic Bank & Trust Co., No. 20-556-7	70.69
Cumberland Federal Savings Bank No. 61-015549-9	11.02
Meritor Savings Bank No. 1433-01-674	77.91
Liberty National Bank & Trust No. 01-527329 (IRA) ..	1,613.89
Liberty National Bank & Trust No. 29-508132 (IRA) ..	914.75
Cumberland Federal Savings Bank No. 040156814 (IRA) ..	602.31
Liberty National Bank & Trust No. 010090063046	332.07
First National Bank No. 427-5518-4	104.00
Federal Employee Thrift Savings Plan (401K)	977.71
U.S. Treasury bills (Nos. 912794RE6; 912794RV8; 912794RX4; 912794SJ4; 912794SM7; 912794TD6	2,421.70)
939 Parkway Drive, Louisville, KY (rental property) ..	-3,174.00

Total: Interest, dividends, rent and distributions

Salaries and fees:

U.S. House of Representatives (R.L. Mazzoli)	85,024.92
Alexandria Drafting Co. (Helen Mazzoli)	17,823.12
Vecta, Inc. (Helen Mazzoli) ..	2,112.00
Mt. Vernon Realty (Helen Mazzoli)	478.50

Total: Salaries and fees

Gross income

Romano L. and Helen D. Mazzoli statement of financial worth, December 31, 1989

Cash and certificates of deposit:	
Congressional Federal Credit Union, certificates of deposit.....	\$5,569.25
Congressional Federal Credit Union No. 62976	1,674.23
Congressional Federal Credit Union No. 84720	5,841.25
Cumberland Federal Savings Bank No. 60-015549-9	247.16
Republic Bank & Trust Co., No. 20-556-7	1,734.31
Liberty National Bank & Trust No. 010090063046	5,206.02
First National Bank No. 427-5518-4	1,214.73
House of Representatives Sergeant At Arms No. 5348	2,752.34
Total: Cash and certificates of deposit.....	24,239.29
Individual retirement accounts:	
Liberty National Bank & Trust No. 01-527329	17,894.75
Liberty National Bank & Trust No. 29-508132	12,118.71
First Nationwide Bank No. 0401564814	3,825.51
Total: Individual retirement accounts	33,838.97
Bonds and Treasury bills:	
U.S. Government bonds, series E	2,398.44
U.S. Treasury bill No. 912794TP9	10,000.00
U.S. Treasury bill No. 912794UB8	10,000.00
U.S. Treasury bill No. 912794UD4	10,000.00
Total: Bonds and Treasury bills.....	32,398.44
Real Property:	
939 Ardmore Drive, Louisville, KY (assessed value)	58,700.00
Less: Mortgage, the Cumberland S&L, No. 15970	4,018.31
Subtotal	54,681.69
1030 Anderson St., Alexandria, VA (assessed value)	187,400.00
Less: Mortgage, Cowger & Miller Co., No. 15184	37,717.17
Subtotal	149,682.83
929 Parkway Drive, Louisville, KY (assessed value)	44,660.00
Less: Mortgage, Ms. Brad Valla	35,105.85
Subtotal	9,554.15
Total: Real property	213,918.67
Federal Employees Retirement System (total contributions since 1971)	
87,362.01	
Federal Employee Thrift Savings Plan (401K)	
14,669.59	
Automobiles:	
1965 Rambler (assessed value) ..	200.00
1973 Chevrolet (assessed value) ..	1,310.00
1985 Chevrolet (assessed value) ..	4,314.00
Total: Automobiles	5,824.00

Romano L. and Helen D. Mazzoli statement of financial worth, December 31, 1989—Continued

Household goods and miscellaneous personal property	6,000.00
Liabilities	-493.00
Net assets	417,757.97
<i>Romano L. and Helen D. Mazzoli, 1989 income tax recapitulation</i>	
Federal:	
Total income	\$108,635
Deductions and exemptions ..	30,296
Taxable income	78,339
Taxes due	18,361
Taxes withheld	23,004
Refund	4,643
Kentucky:	
Tax withheld (and tax paid to other States)	4,186
Tax due	3,442
Refund	744
Virginia:	
Tax withheld	770
Tax due	308
Refund	462
Louisville and Jefferson County, KY: Tax due	
492	

TV MARTI: A COSTLY FAILURE

HON. GEO. W. CROCKETT, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CROCKETT. Mr. Speaker, I rise to bring to my colleagues' attention the administration's report on the feasibility of TV Marti.

Although the report carefully avoids reaching the obvious conclusion dictated by its own data, the facts are clear: TV Marti is a costly failure.

I give you, Mr. Speaker, the report's own words:

The Government of Cuba has consistently and effectively jammed the TV Marti signal since broadcasts began.

The (U.S.) Interests Section concludes that there are a possible 50,000 to 70,000 individuals who could occasionally view TV Marti.

Mr. Speaker, this is 0.7 percent of Cuba's population.

Of 1,899 Cubans surveyed by our U.S. Interests Section, only seven said that they received TV Marti clearly.

In response to TV Marti, the Cubans have jammed the Radio Marti medium wave AM station, leaving us worse off than we were before.

These powerful Cuban counterbroadcasts on Radio Marti's frequency interfere with U.S. radio stations.

International and bilateral reaction to TV Marti has been restrained but generally unfavorable.

The International Frequency Registration Board (of the International Telecommunications Union) has objected to the across border broadcasts.

Mr. Speaker, there are more actions that the Cubans could take that they have so far refrained from taking. They could effectively wipe out TV Marti entirely by simply broadcasting reruns on the same channel at the same hours of the morning. They could retaliate by broadcasting a signal to the United States. We will probably face these actions if we try to put TV Marti into full operation.

The National Association of Broadcasters continues to oppose what it rightly calls: "This questionable Federal project." As the NAB points out in a recent letter to me: "The potential continues to exist for massive retaliatory interference from the Cubans, while our TV Marti signal is being easily jammed."

Mr. Speaker, the only thing TV Marti is feasible for is buttressing the political fortunes of some of our colleagues. We should cut our losses and stop this costly failure.

I include the report and the NAB letter for the information of my colleagues:

REPORT TO CONGRESS ON TV MARTI TEST BROADCASTS TO CUBA

EXECUTIVE SUMMARY

TV Marti television broadcasts to Cuba, which began on March 27 and have continued generally between 0345 and 0645 (local time), have demonstrated that:

A clear and an excellent quality TV Marti signal reached Havana, Cuba, from its broadcast site at Cudjoe Key, Florida.

Foreign and domestic stations are not being subjected to any adjacent and co-channel interference from TV Marti.

The Government of Cuba has consistently and effectively jammed the TV Marti signal since broadcasts began.

There is widespread interest among Cubans in seeing TV Marti, notwithstanding its early morning broadcast hours and GOC jamming.

Although there is no effective way to overcome Cuban jamming, there are areas where jamming does not interfere with the TV Marti signal.

Because of the difficulty in obtaining reliable information about the reception of TV Marti, the actual size of the audience is unknown.

The Cubans have effectively prevented reception of the Radio Marti medium wave AM signal by counterbroadcasting on that frequency.

International and bilateral reaction to TV Marti has been restrained but generally unfavorable.

The International Frequency Registration Board has objected to the across border broadcasts, asking that the USG change the manner in which it operates TV Marti.

International telecommunications commitments of the USG have been observed throughout the TV Marti test period by transmitting TV Marti when no regular Cuban service is using the same channel.

TECHNICAL FEASIBILITY

Extensive testing, monitoring and observation has shown that the TV Marti antenna and transmission system has met all technical specifications and requirements put forth by the TV Marti Task Force, including National Telecommunication and Information Administration (NTIA) and the Federal Communication Commission (FCC). Essentially, these requirements include sending a grade A television signal into the city of Havana, while simultaneously protecting both foreign and domestic stations from adjacent and co-channel interference. Measurements taken during exhaustive testing over a three-week period to construct antenna patterns demonstrate that the antenna does meet these stringent requirements. Measurements and observations made in Havana prove that the signal transmitted from Cudjoe Key is of high quality and has been described as "clear and bright," prior to Cuban jamming. It can also be concluded that weather conditions will occasionally

(approximately 20 percent of broadcast time during the test period) cause TV Marti to be unavailable. Weather effects will vary according to season and time-of-day. Otherwise the TV Marti transmission system performs with high reliability.

NTIA AND FCC PERFORMANCE CRITERIA

In accordance with NTIA/FCC rules and regulations, the TV Marti Task Force developed an antenna specification to meet strict domestic protection requirements. The Channel 13 station in Tampa and Channel 12 station in West Palm Beach were specific areas of concern within the United States. In Cuba, protection was required for the Channel 13 station in Matanzas.

Despite widely held concerns that the desired protection might be unattainable, the prime contractor, the General Electric Company, and its antenna subcontractor, the Multitenna Corporation, delivered a system with the critical antenna component that provided for protection for both domestic and foreign stations.

To allay concerns about interference, extensive tests of the TV Marti antenna system were conducted in two phases. First, low power and low altitude tests at Cape Canaveral defined the antenna pattern and produced over 140 patterns. Analyses showed that the antenna performed in accordance with specifications and provides protection to domestic stations. The second phase of tests conducted at low altitude at the Cudjoe Key Air Force Station demonstrated full compliance with domestic and foreign protection requirements.

In addition to stringent performance criteria for the antenna, the system included several safeguards to ensure that domestic broadcasting would be protected if the antenna were to become misdirected. First, the servo/pointing mechanism is accurate to within ± 0.5 degrees. An automatic shutdown circuit is activated if the main beam is off line by more than 0.5 degrees. Second, power output is set so as not to exceed the specified power limits. The entire system is controlled from the ground and the aerostat-mounted transmitter will not transmit without a signal provided by the ground station.

RESULTS OF MONITORING IN THE U.S.:

On March 27, 1990, TV Marti began its operational test. Several FCC and NTIA monitors were placed in southern Florida to cover the market areas of channels 12 and 13 to ensure that the conditions of the experimental license were met and that objectionable interference did not occur to other authorized TV stations. The NTIA report stated:

During the period of March 27 through 29, 1990, the NTIA measurement team while monitoring in the Tampa WTVT coverage area did not detect any signals from TV Marti on either the spectrum analyzer or on the TV set tuned to channel 13 that were used for monitoring during the initial turn-on period. Subsequent discussions with FCC personnel in the Tampa field office revealed that FCC's measurement team also did not detect any signals that were attributable to the test transmissions of TV Marti. Based on the results of monitoring during the trial operational period, NTIA concludes that TV Marti is operating in accordance with the design specifications and there is no indication that domestic TV viewers will be subjected to objectionable interference because of TV Marti's transmissions.

(NTIA and FCC reports are attached as addenda to this report.)

TV MARTI'S AUDIENCE IN CUBA:

Because of the difficulty in obtaining reliable information about the reception of TV Marti, the actual size of the audience is unknown. There have been several attempts to measure audience size, with diverse results. The US Interests Section personnel monitored the TV Marti broadcasts at the Interests Section building in downtown Havana. Direct feedback was available immediately. Prior to Government of Cuba (GOC) jamming, the TV Marti signal reception was reported to be very good. This was confirmed upon analysis of video tape of TV Marti VHF transmissions made by the Interests Section. Spectrum analyzer measurements showed the TV Marti signal and power level to be as good as or better than locally broadcast Havana television signals. It was reported that a good quality picture was received in Havana even when the transmitter was operated at reduced power for operational reasons. These observations were made during the first week of TV Marti when the GOC did not jam the programming until 15 to 20 minutes after transmissions had begun.

Interests Section personnel have also monitored TV Marti from their homes in greater Havana, and by visiting outlying areas in and around a 100 mile radius of Havana with a portable television set in their cars. Less concentrated monitoring has been carried out throughout Cuba.

As predicted prior to the initiation of TV Marti, Cuban jamming is incomplete in some areas. Mobile and stationary monitors have been unable to receive the TV Marti signal in urban Havana because of effective Cuban jamming. However, mobile monitoring teams from the Interests Section were able to receive good audio and visual reception, despite Cuban jamming, at specific locations within a geographic area which runs from the northeast to the southwest of Havana. This area is 15 to 50 miles outside Havana and is approximately 10 miles wide by 60 miles long. The picture in these areas is clear and remained viewable during the period in which the monitors were present in the specific location. In some areas, however, when monitors moved a few blocks the picture was lost to jamming.

Based on the population in the reception area, the Interests Section concludes that there are a possible 50,000 to 70,000 individuals who could occasionally view TV Marti. Given that monitoring is carried out in a vehicle and on an occasional basis, the length of time during which viewers receive a reliable and good quality signal is unknown.

The Interests Section in Havana provided Cuban visa applicants with simple questionnaires designed to determine if they had seen TV Marti or knew of someone that had seen it. Of a sample population of 1,899 respondents, seven respondents claim to have received TV Marti clearly despite jamming, and seven others reported viewing a distorted but not totally jammed image. As an approximate 70% of the sample population lives in the TV Marti viewing area, this would indicate that about 0.5% of the population in the viewing area could receive a good picture.

The United States Information Agency (USIA) commissioned an independent survey research firm, Belden and Russonello, to survey Cuban immigrants and non-immigrants to the U.S. regarding reception of TV Marti. The survey period ran from March 27 (when TV Marti broadcasts began) to May 6, 1990. Interviews principally were conducted in the Miami International

Airport and the INS Krome Center from April 18 to May 6. The research firm of Schulman, Ronca, and Bucuvalas, Inc. analyzed and interpreted the survey data in a report entitled *TV Marti Signal Strength Study: Final Report on Survey Findings*.

The major findings of the study are:

28% or approximately 273,000 households in the primary target area for TV Marti should be able to receive the broadcasts, at least occasionally.

There is considerable interference, which makes reception of TV Marti difficult and sometimes erratic.

External directional antennas have a significant impact on both the ability to receive TV Marti and the consistency of reception.

The interest in TV Marti, at least among this sample of Cuban tourists, emigres, and political refugees, is high. 81% of those surveyed who resided in the target area reported having tried to tune in TV Marti, many on several occasions.

The widely varying findings reported by the Interest Section and the USIA survey cannot be fully understood until we are able to conduct unimpeded research in Havana. This is not an early prospect, since the GOC has refused visas to VOA technicians who were to be sent to Havana to assist in carrying out monitoring.

CUBAN REACTION:

TV Marti broadcast began on March 27 on channel 13. The GOC jammed the signal about twenty minutes into the initial broadcast. By the end of the first week, the GOC was able to jam the program within a few minutes after the broadcast began at 0345 and until it ended at 0645. While TV Marti is on-the-air, the GOC jams both the visual and audio program.

The channel 13 station in Alamar generally runs repeats of other local Havana television stations during the hours of 0700 to 0130. On July 2, Cuba began broadcasting programs on channel 13 at 6 a.m., and in turn, TV Marti shortened its broadcast hours to avoid harmful interference. Moreover, after the initiation of TV Marti, the GOC established another channel 13 station in downtown Havana. This station is scheduled to begin regular service on July 28. There is no television service on either of the channel 13 stations in the Havana area during the hours TV Marti broadcasts to Cuba on this channel.

The GOC has sent harmful interference complaints to the Federal Communications Commission and complained to the International Frequency Registration Board (IFRB) of the International Telecommunications Union about USG use of channel 13. The GOC considers TV Marti a violation of its sovereignty because TV Marti transmissions are directed at Cuba from US territory.

The Cubans have effectively prevented reception of the Radio Marti medium-wave AM signal by counterbroadcasting on that frequency. In April, the GOC began interfering with Radio Marti AM broadcasts and it effectively blocked reception in Havana. In mid-June the GOC announced that it was extending its interference to stations throughout Cuba. The high-powered Cuban counterbroadcasts on Radio Marti's frequency also cause harmful interference to radio stations in the AM-band within the US. While about seventy percent of Cuban listeners have access to Radio Marti on short-wave frequencies, we do not know how

many listeners of AM broadcasts may have switched to short-wave.

INTERNATIONAL AND BILATERAL REACTION:

International and bilateral reaction to TV Marti has not resulted in any demonstrable harm to US foreign policy. Although there has been a generally negative reaction, especially in Latin America, public statements by officials and commentators have been mild with few exceptions. Our European allies stated prior to the broadcasts that they noted that it was our intention to abide by our international obligations. The Soviet Union and Cuba have strongly stated their objections to TV Marti. Cuba considers TV Marti a violation of its sovereignty. There has been little if any commentary from Eastern Europe and Africa.

The Government of Cuba, as a member of the United Nations Security Council, attempted to obtain support from the members of the United Nations for a statement that would condemn TV Marti. It was unsuccessful.

In response to Cuban complaints of harmful interference and charges that the United States was violating Cuban sovereignty, the International Frequency Registration Board informed the USG that TV Marti operations do not conform to a regulation which in principle admonishes members to avoid across border broadcasts. The United States disputes the IFRB's interpretation of this regulation because many countries broadcast across borders. We believe that the IFRB argument is flawed and that the Board is acting beyond its scope of authority.

LEGAL CONSIDERATIONS

There is no legal basis for objection *per se* to radio and television broadcasts from one country to another. Article 19 of the Universal Declaration of Human Rights, a widely-cited but non-binding resolution adopted by the United Nations Assembly in 1948, provides that:

"Everyone has the right of freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

This concept is expressed in other international instruments including the International Covenant on Civil and Political Rights and the Helsinki Final Acts. While such provisions do not affirmatively grant governments the right to send radio or television programs into another country, the precedent is well established. Stations which operate across borders include the BBC External Service, Vatican Radio, Radio Berlin International (GDR), and until recently, Radio Moscow from Cuba in the English language. Initiatives undertaken by the United States in international broadcasting have further fostered the free flow of information. Radio Free Europe, Radio Liberty, and RIAS-TV (Radio-TV in the American Sector, Berlin) have provided information to those otherwise unable to obtain it; they have continued despite protestations from affected governments relating to program content and national sovereignty.

Radio Marti and TV Marti continue this tradition of VOA programming. The Government of Cuba, entities such as the Vatican, the Soviet Union, the United Kingdom, as well as other governments, have long engaged in the cross-frontier international broadcasting of information and ideas.

At the same time, however, there is an obligation not to cause harmful interference

to another country's broadcasts. As the largest user of the electromagnetic spectrum, the United States actively supports the international legal regime which allocates the radio frequency spectrum and allows for the registration of radio frequency assignments in order to ensure orderly international use of the frequency spectrum and to avoid harmful interference between radio stations of different countries. Cuba and the United States are both party to the International Telecommunication Convention (Nairobi, 1982) and to the Radio Regulations (Geneva, 1979) which complement it. (The term "radio" encompasses all forms of broadcasting including "television".) The obligations described in these agreements relate to frequency use and are neutral with regard to program content of the signal.

The fundamental obligation regarding the use of radio (TV) frequencies as expressed in Article 35 of the International Telecommunication Convention is for radio transmissions to avoid harmful interference to frequencies used by other members:

"All stations, whatever their purpose, must be established and operated in such a manner as not to cause harmful interference to the radio services or communications of other Members. . . ."

The Radio Regulations permit member countries wide latitude in their use of frequencies, notwithstanding other detailed provisions, so long as stations do not cause harmful interference.

"Administrations of the Members shall not assign to a station any frequency in derogation of either the Table of Frequency Allocations given in this Chapter or the other provisions of these Regulations, except on the express condition that harmful interference shall not be caused to services carried on by stations operating in accordance with the provisions of the Convention and of these Regulations."

FUTURE OPERATIONS OF TV MARTI

TV Marti was designed and is operated so as to avoid harmful interference to Cuban, United States and third-country television services. The antenna which directs the signal carrying TV Marti programming was constructed to minimize side lobe radiation which could interfere with stations outside the Havana area. The antenna design is suitable for the frequency associated with channel 13, the channel unused by Cuba in the Havana area during broadcasting. Additionally, as the notification to the International Frequency Registration Board makes clear, the operating hours of TV Marti are selected so as to avoid harmful interference to a low power Cuban station, even though it seems to have been established by the Cuban regime principally to frustrate the prime time operation of TV Marti.

UNITED STATES TO CUBA: DON'T EXPORT PROBLEMS

(By Sandra Dibble and Luis Feldstein Soto)

The United States, denying any role in Cuba's growing diplomatic fracas, joined the war of words Friday by lecturing President Fidel Castro to keep his problems at home.

One day after Castro challenged the United States to "send the boats and visas," the State Department warned against any Cuban attempt to open its ports to another Mariel-like boatlift.

"We reject Castro's attempt to export his internal problems to the United States by encouraging people to leave," said State Department spokesman Richard Boucher. "Cuba's problems can only be resolved at

home through democratic process and freedom of speech."

Boucher said the United States has formally protested Castro's "baseless and irresponsible accusations," made during his nationally televised speech Thursday before hundreds of thousands of Cubans in Havana's Plaza of the Revolution.

Castro, coping with a rash of break-ins into foreign embassies, branded Spain and the United States as conspirators in an "imperialist aggression" to destabilize his 31-year-old regime. Twenty-two Cuban asylum-seekers remain holed up in the Spanish and Italian embassies in hopes of escaping the island.

In his three-hour speech, Castro tried to turn his woes against the United States and Western European countries. He made a jarring proposal to resolve the impasse using language that was startlingly reminiscent of his comments just before the 1980 Mariel boatlift.

Castro challenged the United States and Europe to take in all Cubans who want to leave the island.

"If they want, we can make an agreement, Spain and the European Community and ourselves . . . for free exit to the right-wing community of Europe for all who want to go," Castro told the cheering crowd in festivities marking the onset of the Cuban revolution.

He added: "Let them send the boats and visas."

But the State Department wasn't playing along Friday. Boucher said the Bush administration has no plans to alter its Cuban immigration policy. It's up to Castro to "solve his problems at home if the Cuban people are going to have a place where they can live in peace and where they want to stay," he said.

Yet Castro's words immediately set off speculation that he could be pondering another Mariel, which brought 120,000 Cubans to South Florida in a five-month exodus that caught Miami unprepared.

On Friday, many exiles were unsure whether Castro was merely trying to score propaganda points—or seriously threatening another boatlift. Even the State Department did not dismiss the prospect outright.

"Castro is trying to get rid of people rather than face the legitimate questions that they raise about his regime," Boucher said.

Most exile leaders, convinced that political changes sweeping Eastern Europe will soon convulse Cuba, oppose another boatlift. With internal tensions mounting in Cuba, they say, such a boatlift would only buy time for Castro.

"We should not let Castro do what he did during the Mariel boatlift," said Tony Costa, chief lobbyist for the powerful Cuban American National Foundation. "We should not let Castro dictate our immigration policy."

The State Department said it would stick to its immigration accord, which allows up to 20,000 Cuban emigres per year but in reality has brought closer to 3,000.

Boucher declined to say how the administration would react if Castro opened a port and local exiles embarked for Cuba to pick up relatives, as they did during Mariel and the much smaller 1965 exodus from the port of Camarioca.

Few doubt that an open port would generate a new flotilla of Mariel proportions. Reforms in Eastern Europe, lower Soviet subsidies and newly strained relations with Spain are exacerbating Cuba's economic troubles.

Compounding the problem is a near halt in emigration to the U.S., long an escape valve for the island's internal pressures. Record numbers of Cubans have been risking their lives to cross the Florida straits in rafts and small boats.

So far this year, the U.S. Coast Guard has rescued 216 Cubans at sea, compared to 93 in the same period last year. Last year's total of 389 was the highest for the decade.

"There are a lot of people who would like to leave now if given a chance," said Thomas Boswell, a University of Miami professor. "Whether or not hundreds of thousands of Cubans come will depend less on Castro than on the posturing and position of the United States government."

Alicia Torres, director of the Washington, D.C.-based Cuban American Committee Research and Education Fund, said Cuban officials are irate over the slow pace of immigration to the U.S.

"If this stuff does not get resolved, I don't see Cuba close to opening up the doors again, and saying 'OK, everyone who wants to leave can leave,'" Torres said.

But if many conditions are ripe for a new boatlift, many others aren't.

"I don't think another Mariel is possible," said Miami-Dade Community College Prof. Maria Cristina Herrera. "I don't think we are in 1990 where we were in 1980. The situation inside the island is different. The whole world is different."

Several scholars agree that if a boatlift materializes, the U.S. government would be better prepared than in 1980 to stop it. But Prof. Lars Schoultz, president-elect of the Latin American Studies Association, said Washington may not be willing to risk the wrath of Miami's powerful Cuban exile community.

"We can do what we do to the Haitians. We can send the Coast Guard out there and stop the boats, Schoultz said. "It is highly unlikely, unthinkable during the election year. The last thing they want to do is have the Cuban community become even modestly disaffected with the Republican Party."

"If a little flotilla does develop, old George Bush is in big trouble. He cannot stop it. If you get the start of a replay of Mariel, it will get completely out of hand."

CONGRATULATIONS TO NORTH CAROLINA'S STRIKERS

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PRICE. Mr. Speaker, I rise today to commend the Durham-Chapel Hill Strikers Soccer Team and to congratulate them on an outstanding season and their participation in the prestigious National Youth Challenge Cup Soccer Tournament. Coached by University of North Carolina-Chapel Hill men's soccer coach Elmar Bolowich, this 19 and under boys select soccer team is the first from Durham and Chapel Hill to participate in regional play. These 17 youths represent some of the Nation's finest athletes in this age group, and are current or former varsity players from Jordan, Durham Academy, Northern, Chapel Hill and Apex high schools, in addition to a member from each of the Radford and UNC-CH college teams.

The Strikers deserve special recognition for their competitive play in the USYSA National

Youth Challenge Cup. At the beginning of tournament action, the unranked Strikers had to qualify even to participate at the State level. After qualifying for the State tournament, the Durham-Chapel Hill Strikers defeated Raleigh's previously unbeaten International Soccer Academy to claim the 1990 State NCYSA Cup and advance to the South Regionals held in Atlanta, GA. Here the Strikers were up against the best teams from nine other Southern States all competing for the bid to play in the semifinals of the USYSA National Youth Challenge Cup for the national title.

The Strikers toppled each opponent and headed to the national finals in Woodbridge, VA last month where they finished in fourth place for the National Cup.

I am extremely proud of these fine athletes and Coach Bolowich, and I enjoyed meeting with the team while they were in Washington. The Strikers have shown remarkable dedication to the sport and strong teamwork in their impressive first showing in the USYSA National Youth Challenge Cup. I, along with other North Carolinians, congratulate the Strikers on the achievements that determination and skill have earned them.

WARNING OF A FREE-TRADE PACT WITH MEXICO

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. BEREUTER. Mr. Speaker, this Member commends the following opinion editorial by Prof. Robert Dunn of George Washington University which is found in the August 1, 1990 edition of the Washington Post. Dr. Dunn, a professor of economics at that institution in this capital city, very appropriately warns that with the economic benefits accruing to this country through such a free trade pact would also redistribute income away from unskilled and semi-skilled American laborers. Such an agreement, therefore, would require compensation if a further skewing of income is to be avoided.

[From the Washington Post, Aug. 1, 1990]
LOW-PAID WORKERS WOULD LOSE EVEN MORE IN FREE-TRADE PACT WITH MEXICO
(By Robert M. Dunn Jr.)

A free-trade pact between the United States and Mexico is being portrayed as little more than an extension of the U.S.-Canada free trade deal of two years ago.

It is no such thing.

Free trade between the United States and Mexico would affect the distribution of income within the United States in ways that need careful consideration before such a system is implemented. The U.S.-Canada pact did not produce these effects, so this problem did not arise two years ago.

Although free trade between the United States and Mexico would increase total incomes in this country, it would also redistribute income away from unskilled and semi-skilled labor and toward professional and technical labor and capital. Because the "winners" would be people whose incomes are already above average, while the "losers" would start with below average in-

comes, this arrangement would make the distribution of U.S. incomes more unequal.

This is because of the types of products each country would export to the other, and because of the resulting expansion of some industries and contraction of others. It is an argument first developed 70 years ago by two Swedish economists, Eli Hecksher and Bertil Ohlin.

They noted that when there is free trade between two countries when one has an abundance of labor and the other an abundance of capital, each will export products that use a great deal of its abundant input.

Labor-abundant countries export textiles because that industry uses a great deal of labor. Countries with large amounts of capital export products such as chemicals that require a lot of capital.

In the U.S.-Mexico case, this means that the United States will import labor-intensive goods such as garments and shoes from Mexico and will export capital and professional and technical labor-intensive goods such as computers and machinery. With an underemployed population of about 90 million people, Mexico could produce a huge volume of garments and shoes.

This pattern of trade would mean that labor-intensive industries in the United States would shrink, while capital and technical labor-using industries would expand. The U.S. demand for unskilled and semi-skilled labor would fall, while the demand for capital and for highly educated labor would grow. As a result, U.S. wage rates for unskilled and semi-skilled labor would fall, while returns to capital and to professional and technical labor would rise.

The U.S.-Canada free-trade agreement did not produce this effect because these two countries have very similar economies. U.S. labor is not threatened by competition from Canadians whose wages are similar to those prevailing here, but competition with Mexican labor is a very different matter.

Retraining laid-off workers, with the goal of making them high-income skilled workers, is often seen as the answer, but experience with such programs has been very disappointing. Most of the affected workers have limited educational backgrounds, and many are not young. Despite retraining efforts, they generally have ended up with lower incomes than in the jobs they lost.

There is a solution to this income redistribution problem, but it is difficult to implement. Because total U.S. incomes would undoubtedly rise as a result of free trade with Mexico, the winners would gain more dollars than the losers would lose. This makes it possible for the winners to compensate the losers and still gain. If, for example, half of the population gains \$100 each from free trade, while the other half loses \$50 per person, the winners could pay the losers \$50 each, thus restoring their original incomes, while still having net gains of \$50. If those benefiting from free trade with Mexico paid part of their gains as additional taxes, and if the revenues were used to compensate those whose incomes would decline, this would be an arrangement in which nobody loses.

The compensation approach is theoretically simple, but politically and administratively difficult. It implies a more active income redistribution policy from Washington, which is not a politically popular idea. It is also far from easy to measure the gains and losses with precision, so the compensation would be approximate at best. In any event, this approach has never been seriously considered by the Congress as part of U.S. trade policy.

Until it is clear that compensation will be provided, the AFL-CIO and other representatives of labor are correct in opposing the U.S.-Mexico free trade proposals. Most Americans are not unskilled or semi-skilled and would clearly gain from this arrangement, but the losers would be irrational if they did not oppose it.

There is, however, one way in which U.S. labor and the AFL-CIO would gain from free trade with Mexico, but it only partially offsets these income distribution effects.

Because Mexico is on the opposite side of the Hecksher-Ohlin process from the United States, it would export labor-intensive goods, and experience an increase in wage rates. Higher Mexican wages would reduce pressures to emigrate, thus cutting the number of illegal immigrants coming to the United States to compete with U.S. workers.

For years, the AFL-CIO has been looking for ways to reduce competition from foreign workers within our economy, and now it could have one, although it is a very expensive solution to the problem of illegal immigration. It requires trade flows that would reduce U.S. wage rates, which defeats the original reason for trying to keep foreign workers out.

Free trade with Mexico or the free international mobility of labor would produce the same income distribution effects. U.S. wages fall, while those in Mexico rise. The rational AFL-CIO goal is to both avoid free trade and keep foreign workers out of this country.

The United States faces a difficult dilemma in designing a policy for its trade with developing countries. On one hand, this country wants the gains in total income that result from free trade and would also like to encourage the growth of these economies and reduce pressures for their workers to try to come here. On the other side, there is already strong evidence that the distribution of U.S. incomes has become more unequal in the last two decades, and free trade with countries such as Mexico would make that problem worse.

If the United States is going to pursue free-trade discussions with Mexico as well as other Latin American countries, as suggested recently by the White House, serious thought must be given to providing compensation.

RECIPROCITY IN INTERNATIONAL GOVERNMENT PROCUREMENT ENFORCEMENT ACT OF 1990

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CONYERS. Mr. Speaker, on behalf of myself, the distinguished ranking minority member, Mr. HORTON, as well as several distinguished members of the Committee on Government Operations—Mrs. COLLINS, Mr. BUSTAMANTE, Mr. LANTOS, Mr. NEAL, Mrs. BOXER, Mr. KLINGER, Mr. MCCANDLESS, and Mr. SHAYS—I am today introducing the Reciprocity in International Government Procurement Enforcement Act of 1990.

This legislation is the result of hearings held by the Legislation and National Security Subcommittee on the operation of international procurement agreements and the implementa-

tion of the Buy American Act of 1988. It will facilitate access for U.S. companies to international Government procurement markets estimated to be more than \$200 billion.

On February 28, on behalf of myself, our distinguished ranking minority member, Mr. HORTON, and Mr. BUSTAMANTE, I introduced H.R. 4132, the Reciprocity in International Government Procurement Act of 1990, which amends the Buy America Act of 1933 to require that the U.S. Trade Representative approve any public interest waiver of that act's requirements.

Such a step is essential in obtaining access for U.S. companies to the nondefense Government procurement markets of our trading partners such as heavy electrical, telecommunications, supercomputers, and other manufactured goods. While the International Government Code of 1979 signed by 20 countries including the United States has sought to open these markets to U.S. companies, the record of accomplishment has been dismal. Fully 80 percent of the Government procurement opportunities under the Code are U.S. procurements. Such a situation, as pointed out by the General Accounting Office at our September 1989 hearing, represents a serious imbalance in Government procurement opportunities for our companies.

The legislation that we are introducing today would incorporate H.R. 4132, and accomplish two further changes:

First, our bill will remove a massive loophole in the Buy American Act which was utilized by the administration to avoid identifying countries as having engaged in government procurement discrimination against U.S. firms. This section of our bill would delete section 7003(C) of title VII—Buy American Act of 1988—from the Trade and Competitiveness Act of 1988—Public Law 100-418.

Section 7003(C) authorizes the President to "use any additional criteria deemed appropriate" in identifying countries engaging in Government procurement discrimination against U.S. firms. At our oversight hearing on May 1, 1990, we received testimony from the Deputy U.S. Trade Representative to the effect that despite the conclusion that several of our major trading partners were, in fact, discriminating against U.S. companies, this section was invoked as authority not to make formal identification which would then trigger mandatory consultations and sanctions if such negotiations failed. The reason given was that negotiations to liberalize trade were underway and that formally identifying such countries which is what the law required could undermine overall policy goals. We find this to be a misinterpretation of what the purpose of the statute was intended to do. Because reports identifying countries engaging in procurement discrimination will continue to be required through 1996, it is unhelpful to maintain a provision which is likely to become an all-purpose escape hatch. Our bill, therefore, eliminates this loophole.

Second, the imbalance in procurement opportunities between the United States and other nations appears to indicate significant impediments to the ability of U.S. manufacturers to compete for multibillion dollar Government procurement markets. Our hearings disclosed that official statistics on U.S. sales oc-

curing under the International Government Procurement Code and other recent data necessary for congressional oversight carry a national security classification. This appears unsupportable especially in view of the fact that the 19 other Code signatories have this information. Moreover, testimony received from the General Accounting Office indicated that much of this data is already public knowledge both in this country and abroad.

In order to address this problem, our bill requires that the Office of Federal Procurement Policy report to our committee no later than April 30, 1990, of each year on contracts and subcontracts awarded to foreign firms under all international procurement agreements. This would include procurements made under the Reciprocal Memorandums of Understanding by the Department of Defense as well as the International Government Procurement Code. This is especially important in light of the GAO's testimony pointed out serious deficiencies in reporting the extent of foreign contracting conducted by DOD. During our May 1, 1990, hearing the message was clear on this point: U.S. defense exports abroad may be overstated while imports may be understated.

Mr. Speaker, it is essential that Congress address the problem created through years of promoting international arms procurement at the expense of nondefense procurement. Integrating defense and civil manufacturing is one of the basic challenges we face in the years ahead.

It is also important that there is improvement of the U.S. data on defense and nondefense international procurement. The availability of accurate data will have a critical effect on the U.S. negotiating position in international negotiations, and will allow Congress to exercise its role more effectively.

One of the steps which we can take to ensure fairness in international procurement is through enactment of the legislation we are introducing today.

I want to encourage my colleagues to cosponsor this legislation, and look forward to early hearings by our subcommittee.

HUSSEIN HAS MORE ARMOR THAN BELLIGERENTS OF WORLD WAR II NORTH AFRICA CAMPAIGN

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SOLOMON. Mr. Speaker, the world is still a dangerous place, especially if America, leader of the free world, is not in a position to deal with threats from a position of strength.

I submit to you that Saddam Hussein of Iraq is just such a threat.

But I could not say it with more eloquence than Harry Summers did in his August 2 column in the Washington Times.

He began by pointing out that Hussein presently has more battle tanks than General Field Marshall Rommel, British Field Marshall Montgomery, and our own General Eisenhower had during the World War II North African campaign.

Mr. Speaker, I suggest all Members take heed, as we rush to strip America's defenses.

I enter Mr. Summer's column in today's RECORD:

[From the Washington Times, Aug. 2, 1990]

REMINDING US OF DEFENSE NEEDS

(By Harry Summers)

Events in the Persian Gulf last week underscored the fact that even though the Cold War may have ended, defending American interests abroad remains a most formidable task. On June 22, 1990, in what would prove to be an especially prescient address, Gen. Colin Powell, chairman of the Joint Chiefs of Staff, observed to his National Press Club audience that "In Iraq alone there are more tanks than Rommel had in his Afrika Korps. More than that, (with some 5,500 main battle tanks) Iraq has more tanks than Rommel, Montgomery and Eisenhower combined had during the North African campaign.

"So even as we reduce, we must maintain the ability to deter and defend," Gen. Powell warned. "We must maintain the ability here in the continental United States to reinforce rapidly [with] heavy active forces, trained and equipped to deal with the modern heavy conventional capability that will still be possessed by the Soviet Union and other similarly equipped nations. It also means that we must invest in strategic air and sea lift to get us to the point of crisis should it be necessary to go there."

Less than a month later, Gen. Powell's words became reality, as Iraq massed two armored divisions on its border with Kuwait to coerce that country, and other oil-producing nations in the region as well, to follow the Iraqi lead in curtailing output of the Organization of Petroleum Exporting Countries and thus drive up the price of oil.

It was a direct challenge to American interests.

So what did we do about it? We sent two aerial refueling tankers to the region, and announced a short-notice joint naval exercise with the naval forces of Kuwait's neighboring United Arab Emirates.

"Bush administration officials said the moves were intended as a demonstration of support for the two small gulf states," reported the July 25, 1990, New York Times, "and as a signal to Iraq that Washington was prepared to use military force to defend the flow of oil through the Straits of Hormuz."

But the Straits of Hormuz were not the issue. It was, rather, the continued existence of Kuwait as an independent nation, an existence threatened by all the Iraqi armor poised on its border. And to counter that threat, the American air and sea response was pitifully inadequate. Heavy land forces, as Gen. Powell had prophesized, were what was needed. But America's heavy strategic reinforcement units, such as the 2nd Armored Division at Fort Hood, Texas, were disbanding, not deploying. The result was Kuwait's submission to the Iraqi demand for a price fix. But that might not be the worst of it.

"The danger," noted the British journal the Economist, "is that, having discovered the weakness all around him, [Iraq's President Saddam Hussein] will decide he is pushing at an open door."

That is a very real danger, for, left to its own devices, the Arabian Peninsula is indeed an open door. Between them, the Gulf Cooperation Council—Kuwait, the United Arab Emirates, Bahrain, Qatar, Oman, and Saudi Arabia—do not have the

combat power to stand up to Iraq's million-man force.

Battle-hardened in its long war with Iran, Iraq not only has all those tanks, it also has a chemical warfare capability that it has shown no hesitancy in using, and there is a distinct possibility that it will have nuclear weapons in the future. All this makes real the Iraqi military threat to the Arabian peninsula. And so is its threat to American access to Mid-east oil.

But despite Gen. Powell's prescription for a "national security insurance premium" to counter that threat, our capability is getting progressively weaker. Instead of developing strategic sea and air lift capable of transporting heavy forces into position, military planners, with Procrustean logic, have instead opted to cut the heavy force to fit the available strategic lift.

This is a recipe for disaster on a far larger scale than their earlier mutilation of the infantry squad, which was cut from 11 men to nine so that the squad—combat capability be damned—could fit into the so-called Bradley fighting vehicle.

In a world where some 30 nations have more than 1,000 main battle tanks, reliance on a primarily light military force on the grounds that it can be rapidly deployed is strategic madness. The rapidity of its deployment would only be exceeded by the rapidity of its destruction.

We found that out almost 30 years ago in "Desert Strike," a major training exercise in central Texas where two airborne divisions were deployed against the 2nd Armored Division. The result was a rout, with the tanks rapidly running the hapless paratroopers into the ground. It is a scenario that would be tragically repeated if U.S. light military forces were deployed in the face of Iraqi armored divisions.

How to bring our heavy forces to bear is a major strategic challenge. "This is still a dangerous world," Gen. Powell said, "and you had better be able to respond if someone challenges your interests." This time we'll pay at the gas pumps for our inability to respond. Before we find what the price will be next time, we'd better get our military house in order.

(Harry G. Summers Jr., a retired U.S. Army colonel, is a distinguished fellow of the Army War College and a nationally syndicated columnist.)

INTRODUCTION OF CALIFORNIA TRIBAL STATUS ACT

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MILLER of California. Mr. Speaker, today I am introducing, along with 10 colleagues from California, comprehensive legislation to address the problems of California Indians.

This legislation, entitled the "California Tribal Status Act of 1990," seeks to correct a number of longstanding legal impediments that prevent California Indians from receiving the Federal services to which they are entitled.

The bill also initiates a process designed to make recommendations to assure that California Indians have life opportunities at least comparable to other American Indians.

Mr. Speaker, we are all aware of the complex and often confusing legal status of California Indians. The history of their relationship with the Federal Government is not one we can be proud of.

As a result, California Indians do not receive Federal health care, education, and other services to which they are entitled.

It is time for us to undertake a comprehensive approach to resolve the questions surrounding the legal status of California Indians.

This legislation will do just that.

The bill repeals termination statutes passed in the 1950's which disenfranchised 37 rancherias and 61 tribes.

The Secretary of the Interior would be required to provide a definitive answer within 2 years to those Indian groups applying for recognition.

Finally, a congressional commission would be established to make recommendations for improving the delivery of social and economic services to California Indians.

Mr. Speaker, this bill will lay the foundation for a stable and lasting relationship between the Federal Government and California Indians.

Rights and privileges California Indians have been denied for too long will finally be guaranteed.

I hope my colleagues can join me in support of this important legislation.

A section-by-section description of the bill follows:

CALIFORNIA TRIBAL STATUS ACT OF 1990

Sec. 1. Short title.

Sec. 2. Findings.

Sec. 3. Purposes.

Sets forth purposes of the bill which are to: confirm existing recognition of certain California Indian tribes; approves relationship with tribes not previously recognized; develops an expedited procedure to facilitate recognition and restoration for California Indian tribal groups; and, establishes a Congressional commission to study how to improve the delivery of services to California Indians.

Sec. 4. Definitions.

TITLE I—RECOGNITION OF CALIFORNIA INDIAN TRIBAL GROUPS

Sec. 101. Short title.

"California Indian Recognition and Restoration Act of 1990."

Sec. 102. Recognition of California Indian tribal groups.

Extends Federal immediate recognition to six California Indian groups; the bill does not, however, identify those tribes. This will be added at committee hearings.

Restores Federal recognition to tribal groups and their members whose relationship was terminated by Public Law 85-671, as amended. This group includes: Wappo Tribe (Sonoma County); Nisenan-Southern Maidu Tribe (Placer County); Wilaki and Maidu Tribes (Butte County); Northern Pomo Tribe (Mendocino County); Pomo Tribe (Sonoma County); Maidu Tribe (Nevada County); Nomlaki Tribe (Tehama County); Northern Pomo Tribe (Lake County); and, Miwok Tribe (Sacramento County).

TITLE II—ACKNOWLEDGMENT PROCEDURES FOR CALIFORNIA INDIAN GROUPS

Sec. 201. Short title.

"California Indian Tribal Acknowledgment Procedures Act of 1990."

Sec. 202. Scope.

Rights of application under this title shall be available to all California Indian tribal groups.

Sec. 203. California Indian tribal recognition process.

Any California Indian tribal group may apply for acknowledgment by submitting a petition containing specified information.

Sec. 204. Notice of receipt of petition.

Secretary must notice receipt of any petition for acknowledgment within 30 days.

Sec. 205. Processing the petition.

Secretary shall conduct a review of any petition received, and within 12 months, send a letter of obvious deficiency (OD). Within 120 days of receiving the response to the OD letter, the Secretary must make a preliminary ruling on whether to extend or deny acknowledgment. If the decision is to deny, the Secretary must explain why and publish the explanation.

If the Secretary fails to perform any required functions, a writ of mandamus may be filed in Federal court by the aggrieved party.

Petitions shall be considered on a first-come, first-served basis, except that petitions from parties to treaties shall have priority.

Sec. 206. Proposed findings and determinations.

Within one year of receiving response to an OD letter, the Secretary shall make a proposed finding on an acknowledgment request. If the decision is not to recognize, the Secretary shall publish the reasons for denial.

Sec. 207. Assistance to petitioners.

The Administration for Native Americans is authorized to make competitive grants to California Indian tribal groups to assist them in making applications for acknowledgment.

TITLE III—COMMISSION ON POLICIES AND PROGRAMS AFFECTING CALIFORNIA INDIANS

Sec. 301. Establishment of the commission.

Establishes a Commission on Policies and Programs Affecting California Indians. Composed of 3 Representatives, 3 Senators, and 3 Indian members selected by the Representatives and Senators.

Sec. 302. Duties.

Duties of Commission shall be to conduct a study, within 24 months, of the effectiveness of Federal and state policies and programs for California Indians, and recommend specific actions to Congress for: (1) assuring California Indians have "life opportunities" comparable to other American Indians; (2) addressing the economic needs of California Indians; and, (3) respecting the cultural differences of California Indians.

Sec. 303. Powers.

Provides authority to Commission chairman to hire staff and carry out administrative duties.

Sec. 304. Termination.

Terminates Commission 180 days after submission of report.

Sec. 305. Authorization of appropriations.

Authorizes \$5 million to carry out the provisions of this title.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Transfer of land to be held in trust.

Authorizes the Secretary to accept real property for the benefit of a California Indian tribal group recognized under this Act.

Sec. 402. Membership rolls.

Within one year after recognition or the date of enactment whichever is later, each

California Indian tribal group recognized under this act shall submit current membership rolls. Tribes shall establish their own criteria for enrollment.

Sec. 403. Economic development plans.

Secretary shall, at the request of each recognized California Indian tribal group, develop economic development plans.

Sec. 404. Applicability of other laws.

Unless otherwise stated, all Federal laws of general application to American Indian tribes shall apply to recognized California Indians tribal groups.

Sec. 405. Regulations.

Authorizes the Secretary to implement such regulations as deemed appropriate to implement this Act.

Sec. 406. Authorization of appropriations.

Authorizes appropriation of such sums as are necessary to carry out the provisions of this Act.

INTRODUCTION OF MR. DURBIN'S SPEECH INTO CONGRESSIONAL RECORD

HON. BOB WHITTAKER

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. WHITTAKER. Mr. Speaker, the Association of American Cancer Institutes [AACI], on June 22, 1990, awarded to Representative RICHARD DURBIN, the first annual AACI Leadership Award. The award reads: "The Association of American Cancer Institutes is proud to present its 'AACI Leadership Award' to U.S. Congressman RICHARD DURBIN in recognition of his outstanding service to the public in the fight against cancer."

Introducing Mr. DURBIN to the members of the AACI at their annual meeting in Rochester, MN, Dr. Sydney E. Salmon, director of the Arizona Cancer Center and president of the AACI, indicated Mr. DURBIN had performed extraordinary work for the cancer research effort in the United States in particular, and all of biomedical research in general, by his work both in the Budget Committee and the Appropriations Committee of the U.S. House of Representatives. Through his work, excellent Budget Committee language supporting biomedical research was added, and the committee advised that over \$700 million be added for biomedical research in this year's appropriations process.

This is a singular honor. The Association of American Cancer Institutes represents more than 70 cancer centers throughout the United States, many of which have received core grants support from the National Cancer Institute.

The Institute of Medicine, in a recent study, indicated that:

Scientists and clinicians in institutions with NCI core grants receive nearly half the research project grants awarded by the NCI through a process of competitive peer review, and they receive substantial amounts of peer-reviewed support from other NIH institutes, the National Science Foundation, the American Cancer Society, and other sponsors. As a result, cancer center researchers have been involved in many of the important basic, clinical, and epidemiologic cancer research advances made in the last 20 years. The centers also

are sites for more than half of the cancer research traineeships funded by NCI * * *. As a group, the centers are a valuable resource for the NCI in the national effort to understand, prevent, and treat cancer and its consequences. They are also valuable community resources for cancer treatment, prevention and control, and education services.

So that my colleagues have the opportunity to read the speech that Mr. DURBIN delivered, I include it at this point in the RECORD:

REMARKS OF CONGRESSMAN RICHARD J. DURBIN

Twenty years ago, the President and Congress declared a "War on Cancer." For Americans, the National Cancer Act of 1971 was a call to arms. For taxpayers it meant economic sacrifice—dollars in return for new treatment and cures; for physicians, researchers, and the medical community, it meant personal sacrifice—hard work and dedication in return for greatly expanded resources; and for government officials, it was a commitment, a pledge to beat cancer.

Twenty years later, how have we fared? It is an important question to ask. From the perspective of a member of Congress, I would like to briefly mention where I think we are in the "war on cancer" and how we can renew the "call to arms" and improve our cancer program. Then I would like to spend some time examining the role of cancer centers in our effort.

Let me begin by pointing out one absolute maxim of war: victory does not come cheap. The one-half to one trillion dollars price tag of World War II was a significant amount; but it was not significant relative to the loss of freedom and peace that was at stake had we not waged the war and won.

Similarly, the war on cancer is costly. But is it too costly, too expensive, relative to the 500,000 lives lost each and every year? Not by any objective standard. In fact, relative to the destruction inflicted on us by cancer, I think Congress and the Administration are trying to win this war with a bare minimum of resources. And it won't work. It is the equivalent of equipping an army to fight with water pistols. It's time for Congress to change course and give NCI the equivalent of cancer fighting B-2 Bombers.

To begin with, the very least that Congress can do is fund NCI at the level recommended in its Bypass budget. No less. And not for one year here and one year there. NCI has provided a five-year blueprint. It should be consistently supported for all five years and beyond.

The Bypass budget is a realistic and comprehensive assessment of the needs of NCI for the cancer program. For Congress and the Administration to turn their back on the Bypass budget would be to break the pledge made in 1971 when war was declared on cancer. We must remind ourselves continuously that victory doesn't come cheap or easy.

All of you gathered here today know that victory over cancer is not easy—as researchers who try to unlock the mystery of cancer you know the job is not easy—as physicians and nurses who treat day after day emaciated, scared, cancer-stricken children you know the job is not easy—as cancer center administrators who allocate dwindling resources to ever growing departments, functions, and causes you know the job is not easy—but Congress, I'm afraid, doesn't know.

If you leave this conference resolved to do something, please let it be to inform Congress how hard this fight against cancer is, and how necessary additional resources are.

Make no mistake. You are the key to additional funds. I can assure you that my colleagues in Congress will respond positively to helping NCI if they know the facts. You have to inform them. Call your representatives and senators; write your representatives and senators; ask them to visit your centers and see first-hand the progress being made. Don't let them off. Keep building pressure, keep letters flowing, and show them how important your research and clinical work is to their constituents. You'll be surprised how well they'll listen.

And those of us in Congress who are familiar with the facts about NCI will do the same. We will work hard to persuade our colleagues to support a strong cancer program that meets the goals we have set and supplies the resources necessary for you to accomplish those goals.

Towards that end, advocates of greater resources for biomedical research recently had a victory. In early May, the House passed House Concurrent Resolution 310, the 1990 budget resolution, which contained a \$750 million dollar increase for the National Institutes of Health. During budget committee mark-up, as I was struggling to obtain the highest figure possible for NIH, I was surprised and pleased by the level of support expressed by my colleagues. We have to tap that goodwill more frequently.

Where are we then, in the war on cancer? As someone not involved in the daily struggle against it, I don't have anywhere near the knowledge that you have about the cancer program. But, let me give you an indication, as an outsider, how the program is being assessed.

I see the annual statistics, and I am worried. The incidence, morbidity, and mortality figures keep going up. To me, a half a million lives lost annually to cancer is a national disgrace. But I realize the overall conclusion from the statistics should not deny the real successes in our efforts to control cancer. Those of you here who have had a hand in the research and treatment of diseases that affect children and young adults, can be especially proud of your efforts. For one form of cancer after another, death rates in the youngest age groups have been reduced. There can be no greater reward than to save the life of a child.

Over the last two decades, we have also witnessed marked improvements in palliation at all ages. It certainly still is no picnic getting rocked with a dose of cisplatin, bleomycin, and vinblastine or zapped with radiation or chopped by invasive surgery—but the incredible advances you have made bringing nearly normal lives to cancer victims is a remarkable achievement.

From advances in rehabilitative medicine to the development of drugs with fewer side effects, the discoveries that ease the pain of patients and help them lead more normal lives unfortunately go mostly unnoticed by the public, but are enormously important.

So where are the problems? I'm sure we are all aware of the General Accounting Office Report issued in 1987 that stated, "the improvements in patient survival have been most dramatic for the rarer forms of cancer and least dramatic for the more prevalent ones. As a result, even though the absolute number of lives extended is considerable, this number remains small relative to all cancer patients."

Is the relative lack of success in treating these more prevalent forms of cancer an in-

dication of a void of ingenuity in our scientists, or an indictment of the skill of our physicians? Of course not. As you know, the conquest of the commonest of all lethal cancers depends on the will of the people and the will of the government.

Cancer of the liver, preventable through immunization, should not be tolerated. Yet, we lose thousands of lives a year by not aggressively attacking this preventable cancer. The 43,000 plus annual mortalities from breast cancer are a national disgrace. A government that can afford \$700 toilet seats for its airplanes can afford \$50 mammograms for the poor.

And, of course, there is lung cancer. Our national policies regarding tobacco are shameful. We subsidize a product that kills more Americans in two years than all the Americans who have died in battle from the Revolutionary War through Vietnam. As a co-chairman of the Congressional Task Force on Tobacco and Health, I can assure you that many members of Congress are actively seeking an end to the tobacco holocaust. Interestingly enough, tobacco advocates are moving away from arguing that smoking is not dangerous. The overwhelming preponderance of medical evidence, that many of you helped to provide, is drowning out that pitiful tobacco industry argument. They are now reduced to framing the debate as a battle over "smoker's rights" and economic losses: tobacco bashing, they claim, will cost jobs. My friends, let me tell you, I'll gladly vote to retrain cigarette company employees for 390,000 lives, any day of any year.

But, the government will have to take an active role in educating the public and reducing tobacco use before the real significant reduction in statistics occur. And for that to happen, we will need the continued strong support of the medical community. Happily inroads are being made.

In 1987, we saw the first crack develop in the tobacco lobby's armor with passage of the two-hour airplane smoking ban. Last year, that crack developed into a pretty deep crevice with passage of the permanent smoking ban. It was a pleasure for me to lead that fight. And I owe my extreme gratitude to those of you who helped. If we are to reduce the statistics of incidence and mortality of cancer, chipping away at the tobacco industry's armor isn't enough; we'll have to completely peel it off.

Obviously, the American people and Congress have a challenging road ahead in order to meet the goals we have set for the year 2000. Reducing the incidence of cancer by 50% is lofty, but it's possible with our current knowledge.

What are the challenges for our cancer centers program? Quite clearly, the first answer is money. And a significant part of most cancer center budgets is core grants from NCI.

I am aware that the leadership of your Association has made its case strongly to the Congress, and especially to the Appropriations Committee, about the low level of funding for the Cancer Centers Program in NCI, and about the serious difficulties in the administration of the program within NCI. As a result of that concern, the Senate Appropriations Committee requested a report by the well-regarded Institute of Medicine; that report, completed last year, made a number of suggestions regarding increases in the budget of the Cancer Centers Program and administrative changes.

I am very pleased to hear that NCI has taken a number of steps to administratively

deal with the recommendations, and that your leadership has indicated to the Congress that the NCI has made its "good faith effort" to carry these out.

I congratulate the leadership of AACI for bringing this to the attention of Congress. The Institute of Medicine report will be a very positive instrument for you for years into the future.

One point, however, that concerns me deeply is that there have not been increases in the budget for the Cancer Centers Program. For example, it is my understanding that in fiscal year 1988 the program was budgeted at \$100.4 million. In spite of the fact that the IOM report recommended appropriate increases for fiscal years 1989, 1990, and thereafter; in fact, in 1989 the program was only increased by seven-tenths of 1 percent. In fiscal year 1990, the program only went up by an additional 1.7 percent. In other words, there has been a 2.4 percent increase over the last two years, or 1.2 percent per year, far less than the CPI, and definitely far less than inflation for biomedical research, which is almost 6 percent. These paltry increases will not allow the advances and progress in the cancer center program that Congress and the public envision.

Cancer centers for the American public are the most visible manifestation of years of support of NCI. Each day as thousands and thousands of Americans make the pilgrimage to their local clinical center or to a major comprehensive cancer center, support for NCI grows. Cancer centers, whether clinical or comprehensive, are the primary way for Americans to see how their support for NCI has been translated into meaningful therapies for them.

In no way does this observation diminish the excellent, encouraging, basic research activities of NCI or other cancer laboratories. No one in Congress would argue against the absolute necessity of basic research. We support basic research and that support is unwavering.

But naturally, as a representative of the people, I have to share with you my belief that our cancer program depends singularly and solely on the will and support of the American public. As long as the American public believes that the prevention, treatment, control, and research of cancer is a worthy goal, NCI will receive significant support in Congress. Anything that we can do to increase that support and to increase the awareness of NCI's work to the public helps tremendously. In that regard, cancer centers and clinics are extremely beneficial in building support and understanding with the public. I cannot emphasize to you enough my great respect for the mission and work of cancer centers.

Of course, those sentiments merely reflect the importance of cancer centers towards building political support for the cancer program. They don't reflect the importance of cancer centers, basic, clinical and comprehensive, on a human scale. There are few things that strike more fear into the hearts of people than cancer. When the diagnosis hits, an individual is paralyzed with fear. The immediate impression after such a diagnosis is pain and certain death. Yet, slowly but surely, the shroud of mystery that surrounds cancer is being unveiled by caring oncologists and health workers, and of course, through the leadership of NCI. The awakening of the public to the truth of cancer and cancer treatment is healthy development. Again, it will lead to greater un-

derstanding and awareness and ultimately greater support for the cancer program.

1,000,000 new cases of cancer per year, 500,000 dead. One out of every three families affected. Truly, cancer is a formidable disease.

We have made strides toward the elimination of this affliction since 1971. The considerable success that we have achieved by combining drug therapies is heartening. The successful modalities being used against Hodgkin's disease and leukemia in children, are two prime examples.

In the past decade, we have learned more about the cancer cell than in all the decades before, and the process is accelerating. We should not jeopardize the real and valuable success of our fight against cancer by trying to fund the research, prevention, and treatment of cancer on the cheap. The price of the Bypass budget is high, but the cost of our present indifference is even higher.

Victory is neither cheap nor easy. It is time to rearrange our national priorities. In this year's budget, the Administration calls on us to "invest in the future." Where does the Administration believe we should invest. Here's its priority list: Moon to Mars Mission, 47 percent increase in 1991 budget; super-conducting super-collider, 46 percent increase in 1991 budget; Space Station, 36 percent increase in 1991 budget; research in robotics, 28 percent increase in 1991 budget; and the National Cancer Institute (what's its increase), 3.6 percent. I think it's time to invest in our people and our health.

I will do as much as I can in Congress to ensure adequate resources for NCI. But I cannot do it alone. As I have mentioned, you are critical to the success of any additional funds. Together, we must begin to increase awareness and support.

I will also continue to support the cancer center program. Clinics and centers fill an important role in the effort to obtain additional resources by allowing the public some insight into the end results of basic research and investigation.

AIR SERVICE AT GARY'S AIRPORT

HON. PETER J. VISCLOSKEY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. VISCLOSKEY. Mr. Speaker, this year and during every session of Congress we consider a wide range of issues related to economic development, infrastructure, and access to national economic networks for local communities around our country. An important part of such access to modern economic opportunity is through our air transportation system. I want to relate an aviation and economic development success story currently underway in my congressional district.

From 1986 until June 11 of this year, the Gary Regional Airport was without commercial air service, denying people of the city of Gary and surrounding areas direct access to modern air travel. Due to the hard work and diligence of many community leaders and private citizens in northwest Indiana, this situation has now changed for the better.

On June 11, Direct Air began operations in Gary, with scheduled flights to Fort Wayne, Kokomo, Cleveland, Detroit, and Pittsburgh, providing the citizens of northwest Indiana

with local access to the national air transportation system.

I am optimistic about the success of Direct Air. Since it began service in June, the airline reports that daily passenger enplanements are increasing. The Gary Post-Tribune newspaper has also reported the progress of Direct Air and I would like to include in my remarks a recent news account and an editorial from the paper that further recounts this important and positive development.

Direct Air is to be commended for its commitment to serving the residents of northwest Indiana. Additionally, Mayor Barnes of Gary should be recognized for his important efforts in bringing Direct Air to the city.

I look forward to Direct Air's success and continued development of the Gary Regional Airport.

[From the Post-Tribune, July 12, 1990]

DIRECT AIR SOARS—MORE SERVICE IN AUGUST (By Rich James)

GARY.—It may not yet be a love affair, but Northwest Indiana and Direct Air are warming up to each other.

After the area gave the commuter airline the cold shoulder on its first day of scheduled service out of Gary Regional Airport a month ago, business has increased dramatically.

Will Davis, president of the airline headquartered in Fort Wayne, said Wednesday that he is pleased with the progress. He also said additional service will begin Aug. 1.

"We are getting a good indication people are trying us, liking us and coming back," Davis said during a telephone interview.

In the first four weeks of operation out of Gary, 114 paying customers have used Direct Air to Fort Wayne, Kokomo, Cleveland, Detroit, and Pittsburgh—especially to Pittsburgh.

Direct Air's first scheduled flight out of Gary on June 11 was canceled for lack of a passenger. There were two customers—one to Cleveland and one to Pittsburgh—the second day.

Paul Heidler, Direct Air's Gary terminal manager, said the company feels good about the 114 customers in the first month, especially since business was slow as expected the week of the Fourth of July.

"The passenger load is starting to increase," Heidler said, adding that the bulk of the customers are steel executives traveling to and from Pittsburgh.

David added, "When you start with a new service, there are a lot of unknowns. There are very strong indications of corporate use. We have to sell the corporate user."

Direct Air, which operates 11-seat turboprops, has two nonstop flights daily from Gary to Pittsburgh during the week.

Heidler said the morning departure time from Gary will change from 6:15 to 5:30 on Aug. 1 to allow businessmen to arrive in Pittsburgh at 8:10 a.m. rather than around 9 a.m.

Non-stop service to Detroit will begin Aug. 1, Davis said, adding that it is an indication that Direct Air is taking hold in Gary.

"Our next goal is to provide non-stop service to Cleveland," Davis said, adding that a starting date hasn't been set.

Davis said Direct Air's goal is to eventually move to larger airplanes.

"That's a little bit off," said Davis. "It is not in the game at this point. That's the direction we are going in."

Direct Air is the first airline to provide passenger service out of Gary since Britt

Airways left the airport after a short stay in 1986.

[From the Post-Tribune, July 15, 1990]

DIRECT SUCCESS

After a shaky start, Northwest Indiana's first scheduled airline service in five years appears to have taken off.

Owners of Direct Air—a Fort Wayne-based commuter airline that started service from Gary Regional Airport last month—even have scheduled direct flights to Detroit starting in August; maybe later they'll add Cleveland. Flights to those cities now connect through Fort Wayne. Direct Air provides non-stop service to Pittsburgh.

The airline's initial success is gratifying. That is particularly true in light of the failure of the area's local steel mills to make an initial commitment to the airline.

The airline got off to an inglorious start in Gary. No passengers signed on for the first day; only two were on board the second day. Traffic picked up after that.

Although local steel officials declined to make an early commitment to Direct Air, it appears that they are now using the airline and finding its service sufficient. We hope they continue to support the airline, knowing that it adds to the quality of life in the region.

Prior to Direct Air coming, Northwest Indiana was the largest area of the state without regular service.

Direct Air's flights out of Gary Regional Airport will become even more appealing as the number of passengers increase at Chicago's two major airports. Its most likely passengers are Northwest Indiana businessmen and recreational travelers who are tired of the hassles involved in the one hour to two hours that it takes to get to Midway and O'Hare airports in Chicago.

ENVIRONMENTAL AMENDMENT TO THE DEFENSE AUTHORIZATION BILL

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PORTER. Mr. Speaker, I want to inform my colleagues that it is my hope to introduce an amendment to the defense authorization bill, H.R. 4739.

The amendment would grant the Secretary of Defense the authority to transfer, at no cost to the Department, military equipment, and services for international environmental projects. The amendment provides for general conditions of management of the projects and for previous consultation with the Department of State:

SEC. . ASSISTANCE FOR INTERNATIONAL ENVIRONMENTAL PROJECTS AND RESTORATION.

(a) ASSISTANCE AUTHORIZED.—(1) Chapter 151 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2549. Equipment, supplies, and services: international environmental projects

"(a) AUTHORITY.—The Secretary of Defense may provide equipment, supplies, and services in connection with international environmental projects, including environmental restoration.

"(b) CHARGES.—Equipment, supplies, and services may be provided under this section with or without charge or for a nominal fee.

"(c) CONDITIONS.—Equipment, supplies, and services may be provided under this section only if—

"(1) the environmental project is under the management of a nongovernmental institution in cooperation with the environmental officials of the country in which the project is carried out;

"(2) the equipment, supplies, and services can be provided within funds of the Department;

"(3) the Secretary of Defense consults with the Secretary of State; and

"(4) the table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2549. Equipment, supplies, and services: international environmental projects."

(b) EFFECTIVE DATE.—Section 2549 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1990.

HUMAN RIGHTS VIOLATIONS IN PUNJAB

HON. ENI F.H. FALEOMAVAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today to strongly protest the grave human rights violations that are occurring in the Province of Punjab, better known as Khalistan.

Mr. Speaker, the Sikhs deserve and should have the right of self determination. They should be afforded their basic freedoms. As a result of the Indian Government's suppression and crackdown in Punjab, it has been reported that 20,000 Sikh men and boys have been killed by extra judicial killings. I call upon the Indian Government to cease these brutal acts and to open a dialog immediately with the Sikhs in Punjab. I also call upon the Bush administration to stop their reactionary posturing and to address this issue forthrightly.

Mr. Speaker, I want to submit the following articles on the human rights violations that are occurring in Punjab for the RECORD.

[From the New York Times, May 31, 1990]

SIKH BEARS A SWORD, PRISON SCARS AND A GRUDGE

(By Barbara Crossette)

AMRITSAR, INDIA, May 26.—Along the border with Pakistan, there are many tales to tell of Punjabi villagers who risked their lives to help India provision its army for three wars between these two countries. The stories have a ring of nostalgia about them now.

On Saturday, the leader of the strongest Sikh political organization in the state said that if India went to war with Pakistan again, Sikhs—a religious minority that has been a mainstay of the Indian Army—would refuse to fight. Farms, many deserted after nearly a decade of separatist war and security sweeps, will not longer offer help, he said.

Simranjit Singh Mann, a Sikh nationalist elected to the Indian Parliament six months ago from a prison cell where he says he was subjected to physical and mental torture, also said Sikhs had been watching events in neighboring Kashmir with great concern.

"We have learned that if they suppress the Kashmiris through the bullet and the tank, they will do the same thing on the rolling fields of the Punjab, which has no forests, no place to even hide our heads," he said.

DETAINED FOR FIVE YEARS

Mr. Mann is a 45-year-old former federal police official who was detained for five years without trial on unsubstantiated charges of conspiracy in the assassination of Prime Minister Indira Gandhi in 1984. He was released after being elected to Parliament.

Mr. Mann's faction of the 70-year-old Sikh party, the Akali Dal, won 6 of 12 Punjab national parliamentary seats and has allies in several more. But he has not taken his own seat because he has been refused the right to enter Parliament with a three-foot sword.

Carrying a sword, called a kirpan, is part of the Sikh code, permitted by the Constitution. Other Sikh members have agreed to carry miniature versions, but Mr. Mann rejects this.

600 KILLED THIS YEAR

In an interview before setting out on a six-week walk around Punjab to listen to grievances and strengthen his political base in anticipation of state elections, Mr. Mann asserted that 20,000 Sikh men and boys had "disappeared" in the custody of Indian policemen and intelligence agents over the last few years.

Mr. Mann's assertions were relayed for comment to the Indian Government spokesman's office, which has not issued any reply.

Indian authorities have been reporting the deaths of several "hardcore terrorists" daily, along with a dozen or more other victims of Sikh militants, paramilitary authorities or criminals. At least 600 people have died this year in violence in Punjab, 200 in the last month.

Mr. Mann said Punjabi Sikhs, feeling that they are all regarded as separatist suspects, have become so alienated and frightened of troops and policemen that some are talking of fleeing to Pakistan, reversing the movement families made at the partition of India in 1947.

Reflecting a bitterness couched more and more frequently in religious terms over the last year in both Punjab and Kashmir, Mr. Mann mocked India's claims to the label of the world's largest democracy while two states had legislatures suspended and were under virtual martial law.

"There is democracy for the Hindus," he said. "But as for Kashmir, which is a Muslim state, and Punjab, which is a Sikh state, they refuse us. They give us strong homilies that there should be democracy in South Africa, that there should be democracy in Fiji. Whereas in their own two states they deny us the very basic democratic structure."

"Do you understand the hubris and arrogance of these people?" he asked.

Political analysts in the Punjab and in New Delhi say that the Government of Prime Minister V. P. Singh would like to find a more cooperative candidate to head a state government before allowing elections to take place in Punjab, the country's most productive agricultural state.

Mr. Mann has many critics, among them armed separatists who fault him for clinging to the democratic system and traditional politicians who see him as a latecomer to politics who lacks a coherent political philosophy, but his party remains more popular

than any other and it is apparently for that reason that the Government in New Delhi has postponed state elections.

Less than a decade ago, before he left Government service to protest New Delhi's armed response to Sikh militancy, Mr. Mann was a high-ranking federal police official in charge of some of India's most sensitive nuclear and petrochemical installations in five Western states around Bombay. But years in prison have left him bruised and subdued.

PRISON AGONY RECOUNTED

Through five years in prison, he suffered mental and physical torture, he said. He was confined with insane criminals, forced to watch hangings, beaten, subjected to the agony of having his beard pulled out in tufts, and wired to an electric-shock machine he said he recognized as Soviet by its Cyrillic markings. He took off his shoes and socks to show his blackened, dead toenails.

"If the blood pressure gets too much, then it stops the shocks," he said. "They have perfected torture to such an extent—Russia and India—that they made torture humane."

"They used every method to humiliate me," he said. "They wanted to teach the Sikhs a lesson because I was the seniormost officer in their service who had challenged in writing their misdeeds in Punjab."

His specific allegations of torture were among the charges conveyed to the Government spokesman without drawing comment from him.

"Law enforcement in India has become primitive," Mr. Mann said. "Fifty people are killed in the streets of Kashmir because there are no procedures for stopping a riot, for dealing with crowds. They just go for the kill."

[From the New York Times, July 4, 1990]

INDIA PUTS NEW RESTRICTIONS ON VISITS BY AMNESTY TEAMS

NEW DELHI, July 3 (Reuters).—India, amending a recent Government announcement, said today that Amnesty International representatives could enter the country only for private visits and meetings with Government officials, but not for investigations.

Last week the Government had said it was completely lifting a six-month-old ban on visits by the London-based human-rights organization.

Members of the United States Congress urged Prime Minister Vishwanath Pratap Singh in a letter last month to allow recognized human-rights organizations to visit Punjab and Kashmir states to investigate reported excesses by security forces battling separatist militants.

THE SECRET MASSACRE OF SRINAGAR—A SURVIVOR DESCRIBES HOW INDIAN TROOPS SLAUGHTERED BYSTANDERS AND DEMONSTRATORS ALIKE

WASHINGTON, DC, February 16.—A United Kingdom newspaper, The Independent on Sunday, ran a story entitled "The secret massacre of Srinagar (copy enclosed)." Tony Allen-Mills, the author, interviewed Farooq Ahmed, in a hospital in Srinagar where he was recovering from six bullets received after India's Central Reserve Police Force (CRPF) opened fire on him during a Kashmiri nationalist demonstration.

Farooq Ahmed was not even part of the demonstration, he is a mechanical engineer who just happened to be watching fellow

Kashmiris rallying peacefully for independence from India.

"They [CRPF] should have given a warning, telling people to go back to their rooms. But there was no warning, so people thought the procession was allowed. Then there were two shots in the air, and more shots, shots, and shots—people were falling down . . . The CRPF took control of the area," said Ahmed.

"There were a lot of dead and injured," Ahmed continued. "But I was safe, no bullet. Then came somebody [sic], they said I was still alive, and that fellow, an officer, came with a Bren gun, a light machine-gun. He aimed at me and started firing." Ahmed described how the bullets miraculously missed his head and mostly hit his extremities. Ahmed further described how Indian troops moved through the dead and dying Kashmiris firing at those still alive.

"If they saw movement, a leg or a hand or a head, they would fire again and again. They were saying: 'So you want Pakistan, you want independence? Go and have independence!' " Mr. Ahmed cocked his finger and mimicked the sound of a pistol. "Shoom! Have independence. Shoom! And I saw one boy under a stall . . . and that fellow came and fired there at that boy."

Dr. Gurmit Singh Aulakh, President, Council of Khalistan, representing the Sikh freedom movement worldwide, was hardly surprised by what Mr. Ahmed went through: "Farooq Ahmed's story is typical of the programs that the Indian government has been engaging in over the past six years."

"What the Indian government has been doing in occupied Khalistan, the Sikh homeland, it has now unleashed in Kashmir as well," stated Aulakh. "The new regime, under V.P. Singh, is clearly bent on destroying the Sikh and Kashmiri independence struggles through the wholesale slaughter of our respective populations."

"Since 1984, over 80,000 Sikhs have been killed by Indian security forces, over a quarter million security and military personnel are within Khalistan. I fear for my Kashmiri neighbors to the north, Indian presence in that region has already resulted in the death of about 300 Kashmiris in the past month."

Aulakh continued, "In light of Farooq Ahmed's harrowing experience, it is clear why Indian authorities have imposed a press ban in Kashmir, a press clampdown has been imposed in Khalistan since 1984."

Aulakh concluded by declaring, "I publicly challenge Prime Minister V.P. Singh to prove to the world that India's claim as 'the world's largest democracy' is correct—open the borders of Khalistan and Kashmir to Amnesty International and other human rights groups who have been denied access to India since 1978; lift the repressive press ban in Khalistan and Kashmir; remove the Indian military presence in Khalistan and Kashmir; release the 15,000 Sikhs currently languishing in prison, none of whom have been charged, tried nor given legal counsel; divulge the names of the tens of thousands of Sikhs and Muslims killed by Indian police and security forces and offer fair compensation to their families; and lastly, I challenge V.P. Singh to honor the United Nations Resolution calling for a plebiscite in Kashmir granting the people of Kashmir the opportunity to exercise their God given and democratic right to self-determination."

[From the Independent on Sunday, Jan. 28, 1990]

THE SECRET MASSACRE OF SRINAGAR

(Tony Allen-Mills spoke to a victim of army action in the capital of Indian Kashmir)

Farooq Ahmed winced as he held the X-ray to the light. His right arm was in a sling, his left shoulder swollen with bandages. The X-ray showed the two bones of his forearm with the unmistakable shape of a bullet nestling beside them. "They took it out yesterday," he said. "Another one went through here." He pointed to a bloody dressing on his bicep. "The others grazed my shoulder. The doctors told me there were six altogether. It was lucky I managed to duck."

A 38-year-old mechanical engineer in service with the local government of Kashmir, Mr. Ahmed claims to have survived a massacre of Muslim civilians who were caught in the crossfire when two lines of Indian police opened fire on a Kashmiri nationalist demonstration in central Srinagar last Sunday. He said that officers of the Central Reserve Police Force (CRPF)—the paramilitary unit mobilised by the central government at times of regional rebellion—executed wounded Muslims as they lay bleeding in the street.

There have been many allegations of atrocities during the past few months of separatist upheaval in India's only Muslim-majority state. Many have been inflated. But, educated at university in Srinagar and with a gold medal for meritorious work, Mr. Ahmed is no militant subversive. Other wounded patients at Srinagar's Bone and Joint Hospital confirmed principal aspects of his account, which I tape-recorded at his bedside on Thursday night.

"I was just standing watching the procession [of Muslims demonstrating against India]," he said. "It was curfew time and there were CRPF on both sides of the lane. They should have given a warning, telling people to go back to their rooms. But there was no warning, so people thought the procession was allowed. Then there were two shots in the air, and more shots, shots, and shots—people were falling down. I also fell down. Someone pushed me down. The CRPF took control of the area. There were a lot of dead and injured. But I was safe, no bullet. Then came somebody, they said I was still alive, and that fellow, an officer, came with a Bren gun, a light machine-gun. He aimed at me and started firing."

Mr. Ahmed leaned back on his pillow and grimaced. "I was fortunate, my back was just touched. Six bullets, kat-kat-kat-kat-kat. But my head was safe, I was conscious also. I saw the bridge was completely full of dead bodies." He also saw policemen moving among the bodies, firing further shots at the injured. "If they saw movement, a leg or a hand or a head, they would fire again and again. They were saying: 'So you want Pakistan, you want independence? Go and have independence!' " Mr. Ahmed cocked his finger and mimicked the sound of a pistol. "Shoom! Have independence. Shoom! And I saw one boy under a stall . . . and that fellow came and fired there at the boy."

The engineer estimated that he lay bleeding for 45 minutes before a lorry came to take away the dead. "Another fellow came to kill me, because he said I was still conscious, but the old ones told him, don't fire, don't waste your bullet, he is going to die very soon. So he left me like that. It was God's grace."

When the lorry arrived, Mr. Ahmed was taken for dead and dumped in the back on a pile of corpses. "I saw they were throwing some dead bodies in the river. There were a lot of dead bodies hanging on the fence, because there was chaos, people running here and there, and some of them wanted to throw themselves in the river for safety. But they died when their bodies fell on the fence."

Eventually the police put a tarpaulin over the bodies in the lorry. It was driven to the central headquarters of the local Kashmir state police, many of whom are Muslims deeply resentful of the activities of the CRPF. When the tarpaulin was moved, one of the supposedly dead bodies gave a cry, and eventually four or five people, Mr. Ahmed among them, were found to be alive and taken to hospital.

Pressed on massacre allegations at a press conference earlier last week, Kashmir's new government-appointed Governor, Mr. Jagmohan, said he had no information about bodies floating in the Jhelluni river.

INTERNATIONAL COMMUNITY WATCHING WITH SKEPTICISM—WILL INDIA ALLOW AMNESTY IN TO INVESTIGATE HUMAN RIGHTS VIOLATIONS?

WASHINGTON, DC, July 6.—Only days after agreeing to let Amnesty International within its borders to investigate human rights violations, India has rescinded, claiming that the organization was invited only for talks in New Delhi and not to investigate atrocities in Punjab and Kashmir.

This new development comes at a time when India, trying to quell the demand for freedom by Sikhs in Punjab and Muslims in Kashmir, seeks to conceal its abominable human rights record from the rest of the world.

Today India declared Kashmir a "disturbed area" according to "The Washington Post" and "The Washington Times". Now the police are legally given the power to shoot-to-kill.

Rajiv Gandhi, leader of the opposition party has told students, "Take to the streets, stage a sit-in at the airport, but on no account should you let Amnesty International investigators to enter the country." As former Prime Minister, Mr. Gandhi has a vested interest in keeping human rights monitors from investigating India. He knows full well the atrocities those under his command have committed against Sikhs. Under the new V.P. Singh regime, Mr. Gandhi's death squad apparatus is still intact and the number of extrajudicial killings by police in Punjab have increased since Mr. Singh took power.

As "The New York Times" reports (May 31, 1990), 20,000 Sikh men and boys have been killed by Indian police in extrajudicial killings in the last few years.

Indian forces even opened fire on Muslim mourners attending the funeral of religious leader, Maulvi Mohammed Farooq, killing at least 150 and injuring over 400.

Though India likes to call itself "the world's largest democracy," it seems that liberty is reserved only for upper caste Hindus, Sikhs, Muslims, Christians and lower caste Hindus are not to be included in this "democracy." In India it is against the law to even speak of Khalistan, the free and sovereign Sikh homeland. According to The Terrorist and Disruptive Activities Act (TADA) of 1987, if you are a Sikh and you question, "Whether directly or indirectly, the sovereignty and territorial integrity of

India, you are subject to arrest including torture and, all too often, death. What kind of democracy denies the basis right of free expression?

Major General Narinder Singh, Vice Chairman of the Punjab Human Rights Organization has been repeatedly denied a passport by the Indian government. What kind of a democracy denies the freedom of movement?

Over 3000 Sikhs were arrested on June 6, 1990 as they tried to make their way to their own Golden Temple to pay homage to those Sikhs who died there in the June 1984 Indian Government attack on the shrine. Among those arrested were, again Major General Narinder Singh; Justice Ajit Singh Bains, Chairman of the Punjab Human Rights Organization; Bhai Manjit Singh, leader of the Sikh Student Federation; and two Members of Parliament, Simranjit Singh Mann and Bimal Kaur Khalsa. What sort of a democracy prevents people from entering their own place of worship?

Retired army major, Baldev Singh Ghuman was gunned down in front of his home on June 28, 1990 by plain clothed Indian agents driving unmarked cars and armed with automatic weapons. What kind of democracy kills its own army veterans?

Sikh Member of Parliament, Simranjit Singh Mann was just recently released from an Indian prison after five years of torture which included electrical shocks being applied to his genitals. What kind of democracy tortures political prisoners for five years, detaining them without trial and without bringing charges against them.

Apparently India has quite a bit to hide from Amnesty International. The world, however, is beginning to realize the despotic character of the regime. Through desperate measures like Mr. Gandhi's most recent fiasco, the international community grows more and more skeptical.

The Sikh demand for Khalistan, a sovereign Sikh homeland free from the tyrannical hand of the Indian government is gaining international support. Congress is pushing through legislation to pressure India to allow Amnesty International into Punjab and Kashmir to investigate the human rights violations. India is being exposed. Freedom is the God-given basic human right of every individual and nation and Sikhs will no longer live under Indian oppression. Sikhs declared their independence from India on October 7, 1987, naming the new nation Khalistan. This declaration of independence is irreversible, irrevocable and nonnegotiable.

SIKH LEADER DENIED PASSPORT—POLICE OPPRESSION AND THE VIOLATION OF HUMAN RIGHTS IN PUNJAB

WASHINGTON, DC, June 26, 1990.—Retired Sikh General of the Indian army and current Vice Chairman of the Punjab Human Rights Organization, Maj. Gen. Narinder Singh (Retd.) has been denied a passport by the Indian government despite repeated request.

"This is not such an uncommon incident in Punjab," says Dr. Gurmit Singh Aulakh, President of the Council of Khalistan which represents the Sikh freedom struggle worldwide. "The Indian government has a vested interest in restraining those who have witnessed first hand the gross human rights violations Sikhs in Punjab suffer at the hands of the so-called 'world's largest democracy.' The last thing Prime Minister V.P. Singh wants is for someone as respect-

ed as Maj. Gen. Narinder Singh to travel abroad and speak the truth so he keeps him at home. If the Indian government can keep Sikh leaders relatively unknown to the outside world then it will not have to suffer the same embarrassment it suffered when Indian security forces assassinated the Muslim religious leader, Mr. Farooq. I fear that Maj. General Narinder Singh's life is in grave danger and I warn V.P. Singh to be cautious because Sikhs will no longer sit by and watch their leaders be gunned down."

Though Sikhs worldwide had originally hoped that V.P. Singh's new government would put an end to the genocidal policies of the Gandhi regime the reality has been quite the opposite. "Not only are we being denied passports," says Dr. Aulakh, "but there are at least 20 to 30 Sikhs killed every day in extrajudicial killings. The atrocities have actually increased under V.P. Singh. The police and the Indian security forces have a license to kill in Punjab. And some people dare to question why we demand freedom."

Outside reports confirm Dr. Aulakh's outrage. "The New York Times" reported on May 31, 1990 that "at least 600 people have died this year in violence in Punjab, 200 in the last month." At the same time, "20,000 Sikh men and boys had 'disappeared' in the custody of Indian policemen and intelligence agents over the last few years." It is not so much of a mystery, therefore, to understand why India is the only so-called democracy in the world which does not allow Amnesty International within its borders to investigate human rights abuses.

Other Sikh leaders experience the humiliation and the persecution that Maj. Gen. Narinder Singh has suffered as well. On June 5, 1990, armed Indian security forces prevented Sikhs from all over Punjab from gathering in commemoration of the June 1984 Golden Temple attack by the Indian government which killed over 20,000 Sikhs. Among the over 300 arrested for attempting to pay tribute to the dead were Maj. Gen. Narinder Singh; Members of Parliament Simranjit Singh Mann and Bimal Kaur Khalsa; Justice Ajit Singh Bains, Chairman of the Punjab Human Rights Organization; and Bhai Manjit Singh, leader of the Sikh Student Federation. These men were not informed concerning under what charges they were being arrested because they had done nothing even remotely illegal. They were, nevertheless, detained for three days as police filed false reports to legalize the arrests. The Punjab Human Rights Organization has issued a statement to expose the concocted false case registered against the Sikh leadership.

"This is the way the Indian government operates," protests Dr. Aulakh. "We are being killed. The Indian government does not even allow the most respected Sikhs the freedom of movement. When they deny General Narinder Singh a passport they are even worse than the Soviet Union. Khalistan, a free Sikh homeland is what we need, not promises that the atrocities might end if we behave like the docile, obedient slaves that the Indian government wants us to be. We want simply to live as humans have the right to live and this is why the Declaration of Independence of Khalistan is irrevocable, irreversible and nonnegotiable."

TRIBUTE TO THE LATE SEAN FRANCIS HUGHES

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. TORRICELLI. Mr. Speaker, I rise today to share a sad note with the Congress of the United States. Today our Nation joins in mourning the loss of a valued and significant leader from Great Britain, the Honorable Sean Francis Hughes, Member of Parliament.

God's taking of this young, vibrant man is not only a loss to his lovely wife, Trisha, to his family and friends, it is not only a loss to the United Kingdom, but it is a loss to all public servants around the globe. For whenever someone of such rare and inspiring quality fails, especially so prematurely, all of us who fight for peace, justice, and betterment of humankind suffer too.

To those who knew him he was an erudite, studied, and insightful young leader. And most importantly, he grasped history's significance to our modern world and applied its lessons to the challenges and conundrums of today. He was respected as a critical thinker at this critical time of Europe's history.

To his neighbors and constituents, Sean Hughes, MP, was a compassionate, sensitive man. He sat and listened to their problems at endless surgeries and diligently worked, along with his staff, to bring relief. He had such a personal hand in the resolution of so many people's problems.

It would have been easy to relish the power and pomp of Parliament, but Sean Hughes always remembered that the public servant's greatest call is to be a voice for the voiceless and a help to the helpless.

To his friends he will be a fond memory of wit and wisdom. He will be remembered as a giving, caring man who spared no expense or effort for a friend. He was a model of what public service is all about. Sean Hughes brings to mind the words at the entrance of the John F. Kennedy Library, which is "dedicated to all those who through the art of politics seek a new and better world."

Ralph Waldo Emerson, the great American poet, wrote that to "leave the world a bit better, whether by a healthy child, a redeemed social condition, or that one life breathe easier because you lived—this is to have succeeded." By his beautiful and only child, Charlotte, by his tireless pursuit of peace, and through his constant concern for others, Sean Hughes was a clear and genuine success whose noble life will always remain a model for all.

Now we will carry on his fights, for peace, for social improvement, and so much more, holding true to his high principles and always remembering his fine example.

PRAISE FOR A DEDICATED COLLEAGUE

HON. BOB McEWEN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McEWEN. Mr. Speaker, today I rise to direct your attention—and that of our colleagues—to a recent news column that appeared in the Sunday, July 29, 1990 edition of the Dayton Daily News. This story profiles one of the most dedicated, hardworking Members of this distinguished body, and one whom I am proud to call a personal friend, my fellow Ohioan TONY HALL.

In the article, which I am submitting for the RECORD, Daily News reporter Tom Price alerts readers to TONY's solid record of accomplishment and growing influence in the House of Representatives, which of course we already know well. The story focuses on our colleague's unchallenged status as this Chamber's most tireless and effective warrior in the fight to end hunger in America and around the world. To this battle, TONY brings formidable weapons: great intelligence, unusual compassion, legislative dexterity and extraordinary leadership ability.

As chairman of the Select Committee on Hunger, TONY is our chief architect of policies and legislation which seek to eliminate hunger at home and abroad. The Daily News article details some of his recent achievements in this important effort, and I invite you, Mr. Speaker, and our colleagues, to take a moment to read this accurate profile of a fellow Member whose vision and hard work reflect an uncommon devotion to our fellow man. Thank you, Mr. Speaker.

IF HUNGER'S THE ISSUE, HALL'S NO. 1 IN THE HOUSE

WASHINGTON.—Michael Gessel, U.S. Rep. Tony Hall's longtime press secretary, has been in the best position to witness the recent rapid growth of the Dayton Democrat's political stature.

"From my perspective, there is a radical change in going from courting the news media on issues that Tony cares about to being courted by the news media," Gessel said.

"Before Tony was chairman of the Hunger Committee, he worked very hard on a lot of hunger and human-rights issues that were very dear to him, and it was pulling teeth to get reporters for the national media to take notice. Now they will call him to get his comment, to find out what he knows about Angola or Ethiopia or to find out what's happening with WIC," the federal nutrition program for women, infants and children.

National news coverage isn't the only evidence that Hall has established himself as the House's leader on the hunger issue. Other lawmakers, administration officials, anti-hunger activists and representatives of foreign governments regularly seek Hall's support, turn to him for advice and responds to his proposals.

Last Tuesday, for instance, the director of the U.S. Foreign Disaster Assistance Office visited Hall to report on a snag in the delivery of food to starvation-threatened Ethiopians and to seek Hall's public denunciation of the Ethiopian rebels who blocked the assistance.

Wednesday, a crew from the Public Broadcasting Service's MacNeil-Lehrer Newshour came to Hall to tape a lengthy interview about the WIC program.

Thursday, Ethiopia's foreign minister stopped by to repeat his government's support for the joint U.S.-U.S.S.R. relief effort that Hall helped put on the table at the recent Bush-Gorbachev summit.

The week before, Angola's U.N. ambassador met with Hall about famine.

The month before, Hall's legislation to increase WIC funding passed the House and Senate within less than a week of its introduction—an astounding speed.

The New York Times reported that "passage of the (WIC) bill largely reflects the work of Rep. Tony P. Hall." Nutrition Week, a specialty publication, wrote such glowing praise of Hall's accomplishment with the bill that Hall felt compelled to send the editor a letter noting the contributions of two other House members.

Image has great impact on substance in Washington, and Hall is caught in the reverse of a vicious circle—call it a virtuous circle.

Hall has labored in the anti-hunger movement since soon after his election to Congress in 1978. He was instrumental in creating the Hunger Committee in 1984 and chaired its International Task Force.

His image was enhanced by his promotion to Hunger Committee chairman last year, following the death of Texas Democrat Mickey Leland in an Ethiopian plane crash. The enhanced image enhanced his effectiveness, and each of his accomplishments has enhanced the image—and the effectiveness—some more.

Hall has enjoyed more insider influence than the average House member since 1981 when he joined the Rules Committee, which sets the procedures for House consideration of almost every piece of legislation. Now he also attends the regular meetings that the speaker has with the committee chairmen. House members turn to him for leadership on hunger issues. And he has developed effective working relationships with the senators who have the most authority over nutrition matters.

In repairing passage of Hall's WIC bill, the Times said the Hunger Committee "has no formal legislative authority, but serves as the conscience of Congress on food and nutrition issues."

Nutrition Week said Hall's accomplishments are "giving notice that hunger and malnutrition issues will have good leadership in Congress."

KUWAIT AND IRAQ'S TERRITORIAL ASPIRATIONS

HON. BILL McCOLLUM

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McCOLLUM. Mr. Speaker, tensions in the Persian Gulf have once again escalated. News reports this morning indicated that Kuwait has been invaded by Iraqi troops. Because the possibility of further conflict seems likely, I would like to present the following article to my colleagues. It is a piece written by my chief of staff, Vaughn Forrest, and the director of the Task Force on Terrorism and Unconventional Warfare, Yossef Bodansky. This

will hopefully provide a timely analysis of the history of the struggle in Kuwait:

KUWAIT AND IRAQ'S TERRITORIAL ASPIRATIONS

Saddam Hussein, with his transfer of an additional 30,000 troops to his force concentrations on Kuwait's border with Iraq, has once again demonstrated the volatility of the Persian Gulf oil region. However, Saddam Hussein's threats to Kuwait alleging excessive oil production and price reduction are little more than a smokescreen concealing the revival of Iraq's long standing claims to sovereignty over the oil rich emirate. Indeed, at present, the control over Kuwait's harbor installations constitutes a key to Iraq's designs to become the dominant naval power in the Persian Gulf. This is a sacred objective of Saddam Hussein, and the current Kuwaiti-Iraqi crisis is a major development in relations that have already been characterized, on the one hand, by Iraqi extortion and saber rattling and, on the other hand, by Kuwaiti subservience and repeated payments of blood money.

Officially, Baghdad has a historic claim over the territory of Kuwait. In the 19th century, the area currently called Kuwait was part of the "vileyat" of Basra, then under Ottoman rule. At the same time, however, the ruling sheik was invested with a quasi-autonomous rule by the Porte. This loose arrangement enabled the sheik to sign an Exclusive Agreement with Great Britain in 1899 that opened the door to the building of British hegemony in the Persian Gulf.

After the collapse of the Ottoman Empire at the end of the First World War and the establishment of British rule over Iraq and the Gulf Sheikdoms, London moved to consolidate Kuwait's unique position. In 1923, an Iraqi-Kuwaiti border agreement was imposed on the Kuwaiti Emir and the British installed King of Iraq. This border demarcation, that includes vast no-man's land sectors, was recognized by Baghdad in 1932 and still constitutes the Iraqi-Kuwaiti border.

Nevertheless, since the 1958 revolution that toppled the monarchy, Iraq has never ceased to reiterate its claim on Kuwait. Indeed, the Iraqi demands to annex Kuwait increased as Kuwait's oil wealth became increasingly apparent. However, as long as Kuwait had the Exclusive Agreement with the United Kingdom, Iraq was reluctant to escalate its demands into an armed confrontation for fear of British military intervention as stipulated under the 1899 Agreement.

However, on 19 June 1961, at the Emir's initiative, Kuwait and the United Kingdom signed an Exchange of Notes that cancelled the 1899 Agreement. On 25 June 1961, less than a week later, Iraqi Prime Minister, Abdul Karim Qassim, announced Iraq's intentions to annex Kuwait. Concentrations of Iraqi forces along the border began the very next day. Kuwait immediately requested the redeployment of British forces and the crisis was averted after a few border clashes. Soon afterward, however, Kuwait also provided Iraq with the first of many huge no-repayment-needed "loans."

Kuwaiti-Iraqi relations somewhat improved in the mid-1960s in direct relation to the size of Kuwaiti loans. However, Iraq became bolder in its demands after the British 1968 withdrawal from east of the Suez. At this stage, Baghdad's aspirations began to be motivated also by wider strategic considerations.

Soon after the April 1972, signing of the Soviet-Iraqi Treaty of Friendship and Coop-

eration, the USSR began expanding the naval base in Umm Qasr and Soviet Navy vessels began operating from that base. Emboldened by the Soviet military presence and strategic commitment to the Persian Gulf, Baghdad decided to become a regional naval power. Thus, the border dispute with Kuwait was revived in late-1972, with Iraq's renewed demands for control over Kuwait's territory. In early-1973, these demands were reinforced by large-scale Iraqi troop concentrations on the Kuwaiti border.

The Iraqi objectives were fully articulated in an ultimatum delivered to Kuwait. Soon afterward, in March 1973, a Kuwaiti delegation travelled to Baghdad and signed a draft treaty with Iraq whereupon Kuwait undertook upon itself to grant Iraq the right to build and operate diversified oil installations and strategic infrastructure, including harbors and airfields, on Kuwaiti territory in an extra-territorial status. Iraq also secured the right to unilaterally engage the services and assistance of a third party, which was to be the Soviet Union, to implement the projects with this party having the same extra-territorial rights.

Subsequently, Iraqi forces invaded Kuwait on 20 March 1973, virtually at the moment the Emir of Kuwait rejected the draft treaty. To repeated inquiries of the Arab League, Iraq asserted that it was merely liberating Iraqi territory and that the Iraqi-Kuwaiti border had no validity. The Iraqi forces unilaterally withdrew from Kuwait in early-April only after Soviet pressure and specific military and naval guarantees delivered by Admiral Sergei Gorshkov, who rushed to Baghdad to smooth the crisis. The unilateral moderation of Iraq's position was also helped by yet another huge "loan" from Kuwait. However, this arrangement did not prevent Iraq from renewing, as early as April 1973, its demands for Kuwait's Bubiyan and Warbah islands in the Persian Gulf.

After the Ba'ath coup of 1973, Saddam Hussein, who was then vice-president, claimed a more "moderate and realistic" position on the Kuwaiti issue. However, he still insisted on the validity and historic justness of Iraq's claims on Kuwait. Little wonder that Kuwait continued to pacify Baghdad with strong financial and political support. Indeed, in the early-1970s, during Iraq's negotiations with Iran toward the Shatt-al-Arab Agreement of 1975, Kuwait pressured Washington to tilt toward Iraq's position.

The extent of Kuwait's desperate efforts to appease Baghdad became most apparent during the Iran-Iraq War. Throughout the war, Kuwait was one of Iraq's staunchest allies. It provided Iraq with a safe outlet for its oil, and later even sold its own oil on Iraq's behalf in return for promises of post-war reimbursement. Kuwait contributed directly to Iraq's war effort, and Iraq enjoyed free harbor and transportation services for the delivery of war material, weapons from Kuwait's own stockpiles and foreign orders, as well as the sharing of intelligence Kuwait had received from the US. In addition, Baghdad received at least \$4 billion in "loans." No less important was Kuwaiti pressure on the West, and especially on Washington, for a policy tilt toward Iraq. This was ultimately expressed in the reflagging of Kuwaiti tankers and US Navy operations against Iran in the wake of an Iraqi Mirage F.1 attack on the frigate USS Stark.

In retrospect, Kuwait's all out commitment to the Iraqi war effort is the source of its current plight. The war with Iran dem-

onstrated the vulnerability of Iraq's outlet to the Persian Gulf. The harbor facilities in Basra were shelled to destruction and the strategic naval base in Umm Qasr was repeatedly threatened by Iranian offensives. Baghdad became apprehensive about its growing dependence on Kuwait Harbor for the vital flow of logistical support, which became increasingly evident during the war.

Saddam Hussein knows that for Iraq to be able to dominate the Persian Gulf, it must have extended and safe harbor facilities from which to operate a large Navy. Kuwait has the best harbors in the upper Persian Gulf and thus it is imperative for Iraq to control them in order to dominate the Gulf.

Furthermore, Saddam Hussein has nothing to lose in this crisis. Iraq's proven military power would crush Kuwait within a very short time. Indeed, Iraq's strategic might—ballistic missiles with incendiary, chemical and biological warheads—would suffice to deter any determined Arab effort to save Kuwait. Short of symbolic gestures, there is very little the US can actually do for Kuwait. Moreover, even US access to military installations in the Persian Gulf area would become uncertain once Iraq delivered an ultimatum or a threat. Indeed, Iraq might then finally occupy Kuwait, though it is more likely that Baghdad would settle on a far reaching compromise involving a degree of hegemony over Kuwait, with Iraqi control over, and access to, Kuwait's strategic infrastructure, and generous financial settlement of Iraq's outstanding debts and current shortages of cash.

The U.S.S.R. would tacitly rejoice in any crisis that would divert attention from the Iran-Iraq conformation, as it would facilitate Moscow's solidifying its strategic cooperation with Iran while gaining Iraq's acquiescence by supporting its adventures. In the case of a political settlement, Moscow may even emerge as Kuwait's savior, thus establishing itself as the Persian Gulf's dominant power (the "supreme arbiter" in Islamic political culture).

Thus, once again, the cross currents of international conflict have come together in the Persian Gulf and have set the stage for the acting out of long standing historical disputes. As Santanaya once said, "Those who forget the past are condemned to relive it."

(This paper may not necessarily reflect the views of all of the Members of the Republican Task Force on Terrorism and Unconventional Warfare. It is intended to provoke discussion and debate.)

THE 43D ANNIVERSARY OF INDIA'S INDEPENDENCE TO BE OBSERVED IN JERSEY CITY

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GUARINI. Mr. Speaker, on August 17, 1990, ceremonies will be held at City Hall in Jersey City marking the 43d anniversary of India's independence. India gained its independence from Great Britain on August 15, 1947, and became a dominion following endorsement of a plan to partition the subcontinent by the Moslem League and the All-India Congress. We all recall that Jawaharlal Nehru became the first prime minister of Hindu India.

Nehru, a close associate of Mahatma Gandhi, proclaimed that day:

"It is a fateful moment for us in India, for all Asia and for the world. A new star rises, the star of freedom in the East, a new hope comes into being, a vision long cherished materializes. May the star never set and that hope never be betrayed!"

In my district, upward of 15,000 Indo-Pakistani reside. They are industrious, hard-working individuals who are adopting the American way of life while proudly clinging to their rich heritage. These peaceful productive individuals have strong family ties and are full of ambition to succeed in many areas, especially business and education.

I have been privileged on many occasions over the years to be a guest of honor at some functions, including one at Madison Square Garden where 3,000 Indo-Americans gathered at a cultural event. It was indeed an inspirational sight.

India, of course, means so much to us because of the great contributions to mankind that Mahatma Gandhi gave to all. He was a relentless champion of human dignity and human rights, calling for equality for people of all races and nationalities, women and minorities. We will recall that his unshakable faith in the power of nonviolent struggle inspired the work in the civil rights movement we witnessed under the leadership of Dr. Martin Luther King.

Ghandi fervently and strongly supported the position that no society can be built on denial of individual freedom and "that the purification of politics requires the removal of the taint of the double standard by men of courage and integrity." Gandhi long preached truth and justice and proclaimed that:

"Truth is like a vast tree, which yields more fruit the more you nurture it. The deeper the search in the mine of truth, the richer the discovery of the gems buried there in the shape of openings for an ever greater variety of service."

"Truth quenches untruth. Love quenches anger, self-suffering quenches violence. This eternal rule is a rule not for saints only but for all."

In my district, Indo-Americans are making their mark in the professional fields of medicine, accounting and law. They are purchasing small businesses and opening restaurants. The children of this community show their competence by their matriculation in local schools and colleges.

It is in the area of education of our young people that Indo-American children seem to succeed, judging from the announcements in the local press of the valedictorians of high schools in our area. Their efforts are indeed paying off.

In Jersey City, on August 19, an Indian flag will be hoisted over City Hall by Mayor Gerald McCann, proclaiming the week of August 15 as India Independence Week. Mayor McCann, by proclamation, is also renaming Journal Square for the week.

In Jersey City, leaders of the Indian community are Hardyal Singh, who is president of the International Mahatma Gandhi Association, and is joined by Mono Sen, a community leader, and Manoj Patel, an attorney.

Hardyal Singh serves as a Jersey City Human Rights Commissioner, is a member of the New Jersey State Advisory Committee for Consumer Affairs, and is founder and President of the Indo-Pak Friendship Association, and is a leader at local, State and Federal levels in the Indo-American Associations, promoting racial harmony between the people of both India and the United States. I am indeed proud that the flag-raising ceremony over City Hall is the first of its type in any city in the United States.

I am sure that my colleagues here in the House of Representatives wish to join me in congratulating the Indian Community in this, their sixth annual ceremony.

THE CALIFORNIA HISPANIC CHAMBER OF COMMERCE TO HOLD 1990 STATE CONVENTION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. MILLER of California. Mr. Speaker, for the past 8 years the California Hispanic Chambers of Commerce have conducted Statewide conferences to promote excellence and a positive image for the entire Hispanic community. Today, I am honored to announce that the Hispanic Chamber of Commerce in my district of Contra Costa County will host the Ninth Annual State Convention in the city of Concord, CA, on August 22-26, 1990.

In order to emphasize the importance of leadership, the Chambers have specifically titled the convention "Hispanic Leadership: Gateway to Success in the 90's." Encouraging community participation has been made a top priority by the Chambers and deemed essential to the development of future Hispanic businesses and leaders.

The California Hispanic Chambers of Commerce was organized in the early 1980's as business leaders realized the potential of the Hispanic community and the need for structured representation. Unity and dedication enabled the community to successfully formalize a program to develop a business network promoting Hispanic interests in both the public and private sectors, and to create a positive environment for Hispanic businesses. In addition to these goals, the Chambers also provide successful role models for its youth to encourage pride through leadership.

Hispanics are the fastest growing population group in the United States, and within the next decade they will become the largest ethnic group in the State of California. Hispanic businesses will continue to expand beyond the present 400,000 and will grow to be a national influential and economic force.

I want to take this opportunity to extend my best wishes to the California Hispanic Chambers of Commerce for a very productive convention. I am particularly proud that the Contra Costa Hispanic Chamber will host the convention, and offer them all my full support for success in this endeavor.

ALBERT BERKOWITZ: GRANVILLE, NEW YORK COMMUNITY LEADER FOR SIX DECADES

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SOLOMON. Mr. Speaker, I'd like to tell you about a rather extraordinary man.

Sunday, September 16, 1990, will be "Berky Day" in Granville, NY. Berky is what everybody calls Albert Berkowitz, who has been a living institution in that upstate community for the better part of six decades.

Mr. Berkowitz has been practicing law in Granville since 1933. Since that time he has also been a town justice, village justice, Washington County district attorney, and New York State senator.

But his record of service goes far beyond the offices he has held. In my opinion, a great American is one who gives abundant time to the community above and beyond the time required in his profession. By that standard, Albert Berkowitz is a great American indeed.

He helped form the first youth commission in the State of New York, and served as its chairman for more than 50 years. He has been an active force with Rotary.

He also has been a member of the Washington County Children's Committee, Boy Scouts, Red Cross, Chamber of Commerce, Little League, March of Dimes, and Salvation Army. And, a special point with me is his service as a volunteer fireman.

Albert Berkowitz, acting with the Parent Teacher Association, was a driving force in encouraging community youth to further their education.

Mr. Speaker, let us have our own Berky Day today in tribute to this exceptional, civic-minded man. I ask all members to rise and to join me in saluting Albert Berkowitz of Granville, NY.

PRESIDENTIAL DIRECTIVES AND RECORDS ACCOUNTABILITY ACT

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. CONYERS. Mr. Speaker, today I am introducing, on behalf of myself and Mr. BROOKS, my predecessor as chairman of the Government Operations Committee, the Presidential Directives and Records Accountability Act.

This bill would regulate the issuance of national security directives and bring them under more control and public accountability.

NSD's, or NSDD's [National Security Division Directives] as they were known in the prior administration, although they form a significant body of national law and policy, are now cloaked in secrecy. This legislation would bring them out of the closet, at least to a limited extent.

If the President issues an executive order or other proclamation, that directive must be registered pursuant to the terms of the Federal

Register Act. However, directives such as NSDs are not covered. This bill would extend the coverage of the Federal Register Act to any Presidential directive which "establishes policy, directs the carrying out of law or policy, authorizes or requires the use of appropriated funds or other resources, including personnel, or otherwise asserts or appears to assert an authority of the President."

It is time that we once and for all put an end to the kind of secret policymaking we have seen far too much of in recent years. Under our Constitution, the Congress is an equal partner in the creation and development of national policy. However, all too often we have discovered of late that the executive branch has been carrying out policies of which Congress has not been informed, and, on occasion, contrary to the actual policies established by Congress.

Congress and the executive branch are jointly involved in an extremely important war on drugs, which affects the lives of all of our constituents. Congress' efforts in that war are the product of public debate and public scrutiny. We solicit the executive branch's input and constructive criticism of every one of our undertakings in that war.

However, the executive branch is not so forthcoming in sharing with us its activities in behalf of that war effort. It conducts the war pursuant to national security directives which to my knowledge have yet to be shared with the leadership of Congress or the appropriate congressional committees. The National Security Director, General Scowcroft, has at last conceded my right, as chairman of a relevant committee, to examine the appropriate NSD along with one majority and one minority staff member under rather onerous conditions. He will not agree to the delivery of a copy of the NSD to the Speaker of the House, as has been requested.

As noted in a report issued last year by the nonprofit organization People for the American Way, "the problem worsens when such secret laws are used as fugitive instruments for policymaking, mobilizing executive branch personnel and federal resources in ways that conflict with national policy and may violate our laws."

The Iran-Contra scandal was launched by Presidential directives not shared with Congress. A secret war was waged in Nicaragua pursuant to NSDD's for a substantial period of time before Congress learned about it.

This bill would place no restrictions upon the President's authority to establish and carry out national policy. All it would do is require that such policies be numbered and registered with the Office of the Federal Register and that copies of each such directive be transmitted to the Speaker of the House and the President of the Senate. If necessary for reasons of national security, they could be classified.

If such a practice had been in force during the decade of the eighties, Congress would have had an early warning system which might have permitted us to avoid the disastrous consequences of the failed Iran hostage policies.

AIRLINE PASSENGERS AT BOTTOM OF PRIORITY LIST

HON. DON RITTER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. RITTER. Mr. Speaker, I rise today to address an important segment of our national economy, the airline industry, to offer it some strong but constructive criticism, and to recommend a course of action that can ultimately make it both more praiseworthy and more profitable.

Since Congress passed the Airline Deregulation Act in 1978, air passengers have saved \$100 billion, average inflation-adjusted air fares are 20 percent lower, and 68 percent more people are flying. For millions of Americans who in 1978 had never set foot in an airplane, flying has become a routine means of travel. Every day, approximately 1½ million people take to the skies over America.

But deregulation has had its down side as well. Today, the top 8 airlines control more than 90 percent of the market, down from 15 airlines in 1984, and barriers to market entry are formidable. The eight major airlines have a virtual lock on all gate space at four of the Nation's largest airports.

Airlines have also adopted a hub-and-spoke system of operation. The airlines funnel planes into a central airport and then disperse them in spokes to dozens of cities. Where a single airline has an almost total lock on traffic and air routes, the fares are as high as 18 percent above those at all other airports.

In Kansas City, travel agents have been complaining that more people are driving the 257 miles to St. Louis now that Braniff Airlines has gone bankrupt and no longer serves the city. A fullfare, one-way coach ticket on TWA—April 1990—costs \$250. A cab fare costs \$231.

The lack of head-to-head competition for flights in the airline industry has led to a decline in the quality of passenger services. Without the necessary competition for air routes, or any regulatory oversight, the results are often disastrous. Let's face it, without competition in the marketplace, the airlines aren't providing decent service.

Recently, I saw a letter written to the chairman of an airline by a prominent business executive from my Congressional district. When the executive's party of four checked in at Washington's Dulles International Airport for their return flight to the A-B-E International Airport in Allentown, PA., they were told no such flight was scheduled. Yet tickets had been issued, and the flight had been advertised in Pennsylvania newspapers.

His letter expresses a sense of deep frustration that is all too common these days:

Needless to say, we were inconvenienced and nonplussed. We also missed the luncheon I was supposed to attend—not because of mechanical failures, not because of weather delays, but because your company decided to change plans and didn't notify us.

The orange insert in your ticket coupon stipulates that if we changed our plans we would be subject to a penalty and fee for changing or canceling the tickets.

At the same time, the fine print in your "conditions" statement claims you cannot be held responsible for failure to operate a flight according to schedule whether or not you've given notice to the passenger. Somehow, that doesn't seem quite equitable to me; nor does it smack of a commitment to quality service. I guess I still hold you responsible.

That letter hits home. Airlines are in the business of offering scheduled service, and schedules should mean what they say. Passengers understand that some delays are beyond the airline's control, because of mechanical difficulties or bad weather. Nonetheless, airlines have an obligation to engage in realistic scheduling.

As any frequent flyer can attest, plenty of problems afflict air travel in America. Flight delays are routine and infuriating. Millions of dissatisfied consumers report lost or mishandled baggage. The DOT's report for March listed 2.55 bumping per 10,000 passengers in 1989. That's over 102,000 people bumped last year.

How many more travelers have had problems—often at extra cost and inconvenience—but neglected to complain to the airlines, either because they didn't know where or how to lodge and follow up on their complaint, or because they thought their complaints would go nowhere? The Brookings Institution estimates that congestion-induced delays needlessly cost passengers and airlines \$5 billion in wasted time and extra aircraft operating costs.

What has happened to consumer rights? To basic humane and courteous treatment of airline passengers? Flying today has become the airborne equivalent of the New York City Subway—except on the subway, it's a little more courteous and hospitable. Today, the ultimate oxymoron is airline service.

I am concerned about the future of today's airline industry, when it gives such low priority to the backbone of its livelihood—the airline passenger.

Failure to deal with a customer fairly and courteously is short-sighted in any business. The high-profile airline industry is no exception. Short shrift for consumers is not the way to assure healthy profits. If profits are important to the airlines, then customers are the means to that end. Satisfied, well-treated customers return, and keep coming back.

Today's airline industry has illustrated, by its poor record on basic consumer rights, that common decency and respect toward passengers must be made mandatory, not optional.

The Airline Passengers Defense Act of 1990 would give the consumer some basic rights, and establish a mechanism which protect those rights. It would publicize transgressors and establish penalties for the most common and egregious practices of airlines toward consumers:

Today, airlines are not required to do anything if they cancel flights, even at the last minute. My bill would prohibit cancellations for reasons other than safety, within 72 hours of a scheduled departure, and require the airlines to compensate passengers in the case of a violation.

Today, airlines are not obligated to notify passengers of arrival or departure delays. My bill would require airlines to notify passengers

of 15-minute or longer departure or arrival delays, the approximate length of the delay, and the reason for the delay. Passengers would then have the opportunity to make other arrangements.

Today, airlines are not required to compensate passengers for rerouting scheduled flights. My bill would require airlines to compensate each passenger if the airline changes the route of a scheduled flight for any reason other than safety.

Today, airlines don't have to compensate passengers if they lose their luggage. Even if an airline decides to compensate a passenger for lost luggage, it pays on the depreciated value of the items lost, not the cost of replacing them. Most airlines also limit their liability to a low \$1,250 per passenger. My bill would require airlines to compensate passengers for lost baggage, up to a limit of \$2,500, and would penalize the airlines for failure to do so.

Today, airlines don't have to do anything if baggage is delayed. My bill would require airlines to compensate the passenger for baggage delayed 3 hours or more after arrival and would standardize and simplify baggage claim forms and procedures.

Today, airlines are free to take as long as they want to resolve lost or damaged baggage claims. My bill would require airlines to resolve lost or damaged baggage claims within 30 days or be subject to a penalty paid directly to the passenger.

To carry out these responsibilities, my bill would establish a new Office of Airline Passenger Advocacy, as an independent office within DOT. The Office of Airline Passenger Advocacy would be headed by an Assistant Secretary, confirmed by the Senate, who would report directly to the Secretary of Transportation.

The Office of Airline Passenger Advocacy [OAPA] would receive and handle passenger complaints; provide consumers with airline information; enforce airline passenger service regulations and levy penalties. Someone would be looking after the well-being of passengers.

Currently, the airlines are required to report on matters such as on-time performance. The Airline Passengers Defense Act would broaden that function by allowing the Secretary to publicize airline flights which are late more than 70 percent of the time in 3 consecutive months. This would enable passengers to have some idea about airline performances.

The Airline Passengers Defense Act would establish an [OAPA] Advisory Group composed of 12 qualified members who would advise the Assistant Secretary on issues affecting airline passengers. It would contain at least one quality management professional. The advisory group would submit an annual report containing their findings and recommendations to the President, Congress, and the Assistant Secretary. There could be real oversight by the Congress!

We need a strong consumer advocate, an independent guardian of consumer rights in air transportation: one who seeks not to humble or hamstring the airlines, but to obtain for consumers that which is his or her just due. The advocate should have the power to address

their complaints in those areas where the airlines haven't lived up to their responsibilities.

Airlines have near-monopolies on specific routes and in hub areas. And the record shows that wherever these monopolies occur, service to the customer declines. That is why we need the Airline Passenger Defense Act: to guarantee the rights of the consumers.

This is a modest step forward for the beleaguered, downtrodden airline passenger. It's not reregulation that's impossible and counterproductive.

I invite my colleagues to examine this proposal in depth. We've all heard our constituents' horror stories of passenger neglect. The Airline Passenger Defense Act is a positive step toward correcting the problems that passengers face. If the effort does not begin with us, who will look after the interests of the airline passenger?

The following are letters of support I have received for this bill.

AIRLINE PASSENGERS OF AMERICA,
Alexandria, VA, July 31, 1990.

Re: Airline Passengers Defense Act of 1990.
Hon. DON RITTER,
House of Representatives,
Washington, DC.

DEAR CONGRESSMAN RITTER: Airline Passengers of America, Inc., is pleased to indicate its support of your legislation, Airline Passengers Defense Act of 1990. This legislation will, when enacted, fill many of the gaps in airline passenger protections that occurred when the domestic airline industry was deregulated in 1978. For too many years now, airline passengers have been buffeted by poor airline service and inadequate remedies because the U.S. Department of Transportation was overly hesitant to impose even minimal regulatory constraints on the deregulated domestic airline industry.

Many of the provisions in your legislation—prohibition of airline cancelling of flights for economic reasons; requiring airlines to provide honest, accurate information to airline passengers; modernizing baggage damage and loss limits to approximate the current cost of such losses; and creation of a new office within DOT to protect airline passenger rights—all of these should be applauded by airline passengers.

The Airline Passengers Defense Act, as introduced, improves upon airline deregulation by assuring that airlines meet minimum standards of service quality while competing in an economically deregulated environment. We urge the 101st Congress to act on this important legislation without delay.

Sincerely,

DAVID J. JEFFREY,
Membership Director.

AIRLINE PASSENGERS ASSOCIATION
OF NORTH AMERICA, INC.,
Arlington, VA, August 1, 1990.

Hon. DON RITTER,
Rayburn House Office Building,
Washington, DC.
Subject: Support for Airline Passengers Defense Act of 1990.

DEAR CONGRESSMAN RITTER: The Airline Passengers Association of North America (APANA) has been pleased to work with you in the development of the Airline Passengers Defense Act of 1990. We support its early enactment by the Congress.

As you know, APANA is a membership organization supported by more than 110,000 frequent business flyers. Our members are professional people who regularly and

almost exclusively utilize air transportation for business and leisure travel. They collectively purchase over four million airline tickets and, on average, make over forty flights a year on commercial aircraft. They are a significant part of the eleven percent of air travelers who account for almost half of annual airline revenues.

We believe that the provisions of your legislation are important and are needed to protect the interests of airline passengers. The U.S. Department of Transportation should have protected airline passengers from the excesses of airline deregulation, but hasn't. For example, there are no regulations or penalties against cancellation of flights by airlines for economic, not safety, reason. Further there are no minimum standards for airline assistance when problems occur: Who pays the overnight hotel costs when a vacationing family misses an interline connection at a hub because of avoidable delays by the first airlines? Passengers cannot "know the rules" because there aren't any. Too many vacations have been ruined because of such unplanned travel expenses.

In addition, there are inadequate levels of coverage for loss of or damage to checked baggage. Too often airline personnel give inaccurate information to passengers about the causes and extent of delays in aircraft departure times. Passengers deserve honesty if not dependable schedules.

The DOT Office of Airlines Passenger Advocacy could, if established, become a voice for passengers rights within the deregulated airline system. There is no inconsistency between minimum standards for carrier behavior toward passengers and an economically deregulated system that encourages carriers to exceed minimum standards.

The Advisory Group of consumer and airline representatives that your important legislation would mandate could recommend solutions to these and other problems to DOT and the Congress.

We applaud your initiative and support early and favorable consideration by the Congress of these concepts.

Sincerely,

RICHARD E. LIVINGSTON,
Chairman and CEO.

TRIBUTE TO JOHN LOVE

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PAYNE of New Jersey. Mr. Speaker, I am pleased to inform my colleagues here in the House of Representatives about a very special event which will take place on August 25 in my hometown of Newark, NJ.

The Bachelors of 91, an organization which has made significant contributions to our community, is holding a 25th Reunion Dinner Dance in honor of one of their distinguished and well-respected founding members, the late Mr. John Love, Esq.

In keeping with Attorney Love's lifelong concern for the well-being of others, the Bachelors of 91 will donate the proceeds from the event to two of his favorite charities, The Juvenile Diabetes Foundation and the NAACP-Legal Defense Fund.

Mr. Love was born to the late John and Ada Hammond Love on May 23, 1938. He grew up

in Verona and Montclair. He graduated from Verona High School and received his degrees from Michigan State University and Rutgers University School of Law.

Mr. Love was a trial attorney for 25 years. He began his career as a clerk for Superior Court Judge Charles Barrett, and then served as a deputy attorney general for the State of New Jersey. He later formed the partnerships of Love & Randall with offices in East Orange, NJ.

Attorney Love was active in many organizations, including Michigan State University Black Alumni, Inc., New Jersey State Bar Association, The Association of Trial Lawyers of America, Big Brothers of America, the Montclair Board of Education, Essex County Chapter of Operation PUSH and the New Jersey chapter of the American Civil Liberties Union. He was also the chairman of the Montclair Civil Rights Commission and the Essex County Bar Association's corrections committee. He was a life member of the National Association for the Advancement of Colored People.

In addition, John Love was the recipient of the Martin Luther King, Jr. Award from St. Paul's Church in Montclair. He also received the PATCH Award.

Mr. Love had a wide variety of interests which included everything from campaigning to fishing, from birdwatching to playing the saxophone. He loved to hold audiences of all ages spellbound with his stories, many of which contained a moral or a special lesson for younger listeners.

It is fitting that the Bachelors of 91 chose to donate the proceeds of their 25th Reunion Dinner Dance to two such worthy causes in memory of John Love. The donations to the Juvenile Diabetes Foundation will contribute to research to find the cause and cure of diabetes. Mr. Love was a diabetic. Donations to the NAACP-Legal Defense Fund will provide funding for civil liberties cases involving minorities. John Love was a strong believer in the principle of equal justice under the law.

Mr. Love died after a short illness on June 2, 1989. His survivors include his wife of more than 25 years, Joan; a son, John IV; a daughter, Melanie Louise; a grandson, John V; a sister, Harriet Cotton; a nephew, Christopher; aunts, Louise Oswell, Mary De Leon and Evelyn Beverly; and numerous relatives and friends.

Mr. Speaker, John Love was a man whose life touched many other lives, a man who served as a source of inspiration to all those around him. I ask my colleagues to join me in sending our very best wishes to the Bachelors of 91 as they join together to pay tribute to their friend and founder, John Love.

A FAIR REPAYMENT SCHEDULE AT USDA

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. DORGAN of North Dakota. Mr. Speaker, the Agricultural Stabilization and Conservation Services of USDA starts a collection of debt

this week from drought victims of 1988 and 1989, and the manner of collection imposes severe and unnecessary hardship upon thousands of farmers.

Several members and I have tried for months to elicit from the secretary of agriculture a sensible procedure for collecting amounts that farmers must repay the government because of "advance deficiency payments" made to them in 1988 and 1989. Our concern is for farmers who suffered crop losses in the extended drought and who have neither the cash, nor source of credit, to repay ASCS. The secretary has been unwilling to consider the financial realities of such farmers.

As of today, ASCS expects to take all of a farmer's program payments at once to settle the 1988-89 debt, with consideration for neither the amount of the debt nor the consequences to the farmer.

I have introduced legislation to require ASCS to allow bonafide victims of the 1988-89 drought to repay ASCS on a 3-year installment plan. This requirement will cost the government little or nothing because the farmers would pay interest on any unpaid balance.

ASCS regulations, in fact, already provide for installment payments. My legislation will simply require ASCS to use the installment plan for farmers who need it, and many will. Most farmers count on the deficiency payments as part of their budget, to help pay the costs for producing the crops, to make loan payments at the local bank, and so forth.

That is the case especially for farmers who suffered drought in 1988 and 1989. The deficiency payments cannot be simply lopped off as though the income was something extra or dispensable. Payment by installments will allow the farmers to survive financially and settle their debt to ASCS at the same time.

The text of H.R. 5404 follows:

H.R. —

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADVANCE PAYMENTS.

Section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) is amended by adding at the end the following:

"(c)(1) Notwithstanding any other provision of law, effective only for producers on a farm who received an advance deficiency payment for the 1988 or 1989 crop of a commodity and are otherwise described in paragraph (2), the Secretary of Agriculture—

"(A) shall not charge an annual interest rate for any delinquent refund for the advance deficiency payment in excess of one percent above the prime rate;

"(B) shall not withhold, in each of the 3 succeeding crop years, more than 1/3 of farm program payments otherwise due to the producers, as a result of any delinquency in providing the refund; and

"(C) shall permit the producers to make the refund in three equal installments during each of the crop years 1990, 1991, and 1992, if the producers enter into an agreement to obtain multiperil crop for each of the crop years, to the extent the Secretary determines is similar to section 107 of the Disaster Assistance Act of 1989 (7 U.S.C. 1421 et seq.).

"(2) This subsection shall apply in the case of producers on a farm if—

"(A) the producers received an advance deficiency payment for the 1988 or 1989 crop of a commodity under subsection (a);

"(B) the producers are required to provide a refund under subparagraphs (G) or (H) of subsection (a)(2) with respect to the advance deficiency payments;

"(C) the producers reside in a county, or in a county that is contiguous to a county, where the Secretary of Agriculture has found that farming, ranching, or aquaculture operations have been substantially affected during two of the three crop years 1988, 1989, and 1990 by a natural disaster or by a major disaster or emergency designated by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.); and

"(D) the total quantity of the 1988 or 1989 crop of the commodity that the producers were able to harvest is less than the result of multiplying 65 percent of the farm payment yield established by the Secretary for the crop by the sum of the acreage planted for the harvest and the acreage prevented from being planted (because of the disaster or emergency referred to in subparagraph (C)) for the crop."

THE 25TH ANNIVERSARY OF THE SIGNING OF THE VOTING RIGHTS ACT

HON. MIKE ESPY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. ESPY. Mr. Speaker, Frank Parker begins his book, "Black Votes Count," by writing, "few events in American political life have had as profound or as far-reaching consequences as has passage of the Voting Rights Act of 1965. That law ended a century of denial to blacks of the most basic right of American citizenship—the right to vote."

Within a short time of its passage, blacks in large numbers throughout the South were registering to vote. Since 1965, more than 12 million black Americans have registered to vote. The number of black elected officials has increased from 500 in 1965, to more than 7,200 in 1989.

There are 24 black Members of Congress, more than 400 black State legislators, and more than 300 black mayors, and 1 black Governor. They symbolize the tremendous increase in black political participation due in large measure to passage of the Voting Rights Act.

The Voting Rights Act swept away the primary legal barriers to black registration and voting in the South. It eliminated literacy tests and declared the poll tax unconstitutional. It allowed the Justice Department to dispatch Federal registrars and poll watchers to insure the integrity of the voting process.

No State has benefited more from the Voting Rights Act than has Mississippi, where resistance to black voter participation was fiercest. Before 1965, even though 40 percent of Mississippi's population was black, discriminatory voter registration laws prevented all but 6.7 percent of black Mississippians from registering to vote, the lowest black registration rate of any State in the Nation. There were only six black elected officials in the State.

Twenty-five years later, Mississippi has over 650 black elected officials, more than any State except Alabama. They include one Su-

preme Court Justice, a Member of Congress, 22 black State legislators, almost 70 black county supervisors, more than 25 black mayors, and 282 black city council members.

It is appropriate that we honor those giants of the civil rights movement on whose shoulders we all stand; those who fought in the Halls of Congress, but perhaps more significantly those who fought, and some of whom died, in the streets of the South.

Many of them are no longer here: Fannie Lou Hamer, a Mississippi Delta sharecropper who left the cotton fields and led the Mississippi Freedom Democrat Party to the Democratic Convention in Atlantic City in 1964 to challenge the segregated Mississippi Democratic Party.

Medgar Evers, field secretary of the Mississippi NAACP who was assassinated in Jackson, MS, in 1963.

President John Kennedy, killed a few months later, whose courage and moral leadership in the face of stubborn racism and resistance emboldened the Federal Government to defend the rights of all American citizens. Dr. Martin Luther King, Jr., murdered in 1968; Andrew Goodman, James Chaney, and Michael Schwerner, three civil rights workers killed in 1964 in Philadelphia, MS.

Other heroes who braved cattle prods, police dogs, fire hoses, beatings, arrests, and shootings during the voter registration campaigns launched by the Student Non-Violent Coordinating Committee, the Southern Christian Leadership Conference, and others, are still here and have received little recognition for their sacrifices.

I think of Bob Moses, former SNCC leader; June Johnson, from Greenwood, MS, who along with Mrs. Hamer was beaten unconscious in the Winona, MS, jail; Lawrence Guyot, another SNCC leader, Hollis Watkins, and many others too numerous to name. I think of Victoria Gray and Annie Devine, two black women from my district who were leaders of the Mississippi Freedom Democrat Party.

Still another hero, of course, is our colleague, Congressman JOHN LEWIS, whose courage in the face of State-sponsored violence epitomized the determination of the Civil Rights Movement. The march he led on what came to be known as bloody Sunday demonstrated to the Nation the violence black Americans and their white allies faced in the South, simply for trying to exercise their constitutional right to vote.

There were the 1,000 students, most of them white, who participated in the freedom summer, of 1964, who left their comfortable homes in the north and traveled into the hostility of the South to assist with voter registration, open up freedom schools to educate black children, and operate community centers.

Their efforts triggered a tremendous backlash of violence, hundreds were arrested, or beaten, 35 churches were burned, 30 homes were bombed, and there were at least 35 shootings. Goodman, Chaney and Schwerner were murdered and dumped in an earthen dam in Philadelphia, MS.

Then, there were the thousands of blacks throughout the South who risked their lives

and livelihoods by refusing to be denied the right to register to vote. As a result of freedom summer, 17,000 black Mississippians attempted to register to vote, but because of poll taxes, literacy tests, and outright violence and intimidation, only 1,600 succeeded.

It is important to point out that the Voting Rights Act was the result of a tremendous grassroots movement in this country against our own particular form of apartheid.

In 1963, 250,000 people marched on Washington, in an historic march which graphically illustrated black Americans resolve to break down the walls of apartheid in this country. They too are responsible for the Voting Rights Act, which was a milestone achievement in black Americans historic struggle for equality in our country.

We also honor the Members of Congress who voted for the bill, and President Johnson who signed it into law. President Johnson provided the national leadership our country needed at its moment of crisis. He shepherded the Voting Rights Act, he said, because it was at the heart and the purpose of the meaning of America itself.

President Johnson told the Nation that the cause of voting rights was not just for blacks. "Their cause," he said, "must be our cause too. * * * It's really all of us who must overcome the crippling legacy of bigotry and injustice. And," he concluded, "we shall overcome." He signed the Voting Rights Act in the same room in the Capitol—the President's Room—where 104 years earlier, Abraham Lincoln had signed the Emancipation Proclamation.

I think it is also important to point out that even though the changes made possible by the Voting Rights Act were dramatic, resistance to blacks full participation in the political process did not stop with its passage. District lines were gerrymandered, and voting districts configured to dilute blacks' new found voting strength. Minority candidates still faced historic obstacles to election.

But today, in the 1990's, 25 years after the passage of the Voting Rights Act, signs are growing that black Americans are moving closer to becoming equal players in our political system. Jesse Jackson campaigns for President. Doug Wilder is elected in Virginia and Dave Dinkins in New York. The candidacies of Andy Young, Harvey Gantt and others demonstrate that we are fast approaching a time when the full promise of the Voting Rights Act will be realized.

Last, I must echo the comments of my colleague, RON DELLUMS. Later today we will debate and vote on the Civil Rights Act of 1990. It would be a tragic irony if we celebrate this morning, and Congress fails to pass this historic legislation today. Let us pass the Civil Rights Act of 1990, and celebrate more tomorrow.

ANTIDRUNK DRIVING

HON. JOHN PAUL HAMMERSCHMIDT

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. HAMMERSCHMIDT. Mr. Speaker, I rise to acknowledge the 10th anniversary of a very significant and influential Group with which I have been proud to work with in this Congress—mothers against drunk driving. For a decade now, MADD has been at the forefront of the fight against alcohol and drug-impaired driving.

Formed initially by those who knew the pain of losing a loved one to this senseless crime, MADD is now proud to claim many supporters who simply join them in their cause because they are incensed at the sheer numbers of lives lost on our Nation's highways by the actions of drunk drivers.

I am happy to report that alcohol use by drivers in fatal crashes has steadily decreased, thanks in part to the determination of MADD in raising the public's awareness of the problem and pursuing tougher drunk driving laws at both the Federal and State levels.

For the last 3 years, I have been proud to be an original cosponsor or resolutions supporting national drunk driving week and this year, national drive for life weekend over labor day.

In addition, the Public Works and Transportation Committee has shepherded many pieces of legislation through the Congress to toughen anti-drunk and drugged driving measures. Our committee was instrumental in ensuring that the strong drunk driving provisions were included in the 1988 Omnibus Drug Bill.

That bill created an incentive grant program for States to encourage them to adopt and implement drunk driving prevention programs. It authorized a National Academy of Science study to determine the blood alcohol concentration level at which an individual driving a motor vehicle is deemed impaired. A pilot program was established for drug recognition expert training. These are just some examples of our committee's active involvement in these issues.

My congratulations to Mothers Against Drunk Driving and their successful efforts toward achieving safer highways for all Americans. As we celebrate their 10th anniversary, I pledge to them my continued support in the Congress and urge my colleagues to do the same.

INTRODUCTION OF THE LOW-LEVEL RADIOACTIVE WASTE ENVIRONMENTAL AND HEALTH PROTECTION ACT

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. RAHALL. Mr. Speaker, today I along with the gentleman from Colorado [BEN NIGHORSE CAMPBELL], am introducing legislation to protect Americans from the threat of

low-level radioactive waste disposal in their local municipal landfills.

The Low-Level Radioactive Waste Environmental and Health Protection Act of 1990 would give the States, not the Nuclear Regulatory Commission [NRC], the final say as to whether low-level radioactive waste should be treated and disposed of as ordinary waste. Specifically, this legislation would amend the Atomic Energy Act of 1954 to prevent the Federal Government from forcing States and localities to accept low-level radioactive waste in municipal landfills. This legislation is prompted by a recent NRC proposal to do just that without the consent of the States.

On June 27, 1990, the NRC set into motion a policy which would enable nuclear utilities, hospitals, and other facilities to petition the NRC to treat waste materials now considered low-level radioactive waste the same as ordinary waste. In other words, facilities could legally dump their low-level radioactive waste into municipal landfills and incinerators. Making matters worse, the chairman of the NRC has made it clear that this policy would preempt a State from requiring the continued disposal of these wastes in a licensed facility as currently required by law.

The implication of such a policy concerns me for several reasons. First, the State of West Virginia stands to lose the most from this policy. As landfills across the United States reach their maximum capacity, States such as Pennsylvania and New Jersey have been targeting West Virginia as their alternative dumping site. If a petition is granted, West Virginia could become America's low-level radioactive waste dumping ground as low-level radioactive waste is mixed with ordinary waste.

Second, according to the NRC, even if West Virginia passed a law to require the continued disposal of low-level radioactive waste in licensed facilities, the NRC policy would prevail. Unlike the provisions in the Clean Air Act, the Clean Water Act, the Resource Conservation and Recovery Act, and the Uranium Mill Tailings Act that allow States to establish more stringent standards, the Atomic Energy Act of 1954 does not empower States to set more stringent standards for the regulation of the disposal of low-level radioactive waste should the NRC reclassify a portion of this waste as regular waste. As a result, even though States like Maine, Pennsylvania, and Minnesota have statutes that preclude the disposal of low-level radioactive waste reclassified as regular waste, this recent decision by the NRC would hold these States hostage to the NRC policy.

Finally, this policy is extremely shortsighted. By January 1, 1993, States will be required to dispose of their low-level radioactive waste in 1 of 12 licensed facilities. There is no justification for allowing the disposal of such volatile materials in municipal landfills when there will be a sufficient disposal space for these wastes in 2 years.

The NRC justifies this policy by stating that it will now be able to spend time on more pressing nuclear matters. It appears, however, that the NRC's goal has backfired. Instead, the NRC will exert much of its energy in the next months fighting off opposition from Con-

gress, the States, and environmental groups, and defending it's policy.

I fully intend to be in the front line of this battle and I urge my colleagues to join me by cosponsoring the Low-Level Radioactive Waste Environmental and Health Protection Act of 1990.

A TRIBUTE TO DR. HERBERT O. REID, SR.

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. DYMALLY. Mr. Speaker, today I rise to recognize an outstanding individual, whom I am proud and honored to call my friend, Dr. Herbert O. Reid, Sr., the Corporation Counsel for the District of Columbia. He has for more than 40 years been a mentor and role model for scores of this country's African American lawyers, as well as a respected law professor, with an international reputation as an authority in constitutional law. Dr. Reid was in the forefront of the struggle for the civil rights and equality of all Americans; he continues to champion the cause of justice. I invite my colleagues to join me in recognizing the long unselfish labor of this special man by paying tribute to him for an outstanding career in the law.

Dr. Herbert O. Reid, Sr., is presently the Charles Hamilton Houston Distinguished Professor of Law Emeritus at the School of Law, Howard University. Upon completion of his judicial clerkship in 1947, he immediately began his teaching career at Howard University, a point in time when Howard was considered the Black West Point. Dr. Reid specialized in constitutional law and administrative law. He was his students' friend and mentor, often-times paying tuition for a student in financial distress and guiding the career paths of many students. He served as interim dean of the School of Law from 1972 to 1974. In October, 1978 he was elected chairman of the Howard University Faculty. Prior to his retirement from the University in September, 1988, Dr. Reid served as a member of the Howard University Steering Committee and as counsel to the Faculty Senate. His capabilities as an educator are nationally renowned. During his teaching career, he served as a visiting professor at the University of Puerto Rico, Boston College of Law, and Rutgers University Law School. An acclaimed lecturer, his voice was heard at Harvard University, University of Maine, Duke University, and Texas A&M University. He is a former member of the executive committee of the American Association of Law Schools. At age 75, Dr. Reid continues to address colleagues at numerous bar association forums and national meetings.

Formerly special counsel for the National Association for the Advancement of Colored People, Dr. Reid presently serves as general counsel for the National Association for Equal Opportunity in Higher Education, an organization of 114 predominately black colleges and universities.

Dr. Reid interrupted his legal education to serve in the military to become a member of

special regiment. He joined an army of advocates composed of now U.S. Supreme Court Justice Thurgood Marshall and the late Wiley Branton, former dean of the Howard University School of Law, to fight for change in the lives of those whose voices were inaudible. His willingness to utilize his learned advocacy abilities in helping to resolve a case or controversy was skillfully demonstrated by Dr. Reid in his role as amicus curiae in numerous affirmative action cases before the U.S. Supreme Court. His accomplishments in Bakke versus Regents of the University of California, and as administrative judge in Sizemore versus D.C. Board of Education are most notable. He served as a member of the House of Delegates of the American Bar Association. The premise of "equal justice for all" is the solid rock on which Herbert O. Reid, Sr. stands. Since 1947, while simultaneously serving as an educator, Dr. Reid has participated in major civil rights cases before the U.S. Supreme Court. Among those cases were Powell versus McCormick (prevented removal of a U.S. Congressman from office), Brown versus Board of Education (disallowed segregation in public schools), Bolling versus Sharpe (the companion case to Brown in the District of Columbia), and Adams versus Richardson (preserved historically black colleges and universities as special tools for training of blacks and underserved populations). He aided the passage of numerous pieces of civil rights legislation. Most noteworthy, Dr. Reid authored the bill transferring the Frederick Douglass home to the Federal Government as a national monument. As staff director for an inquiry staff of the NAACP, he developed a report which was later published under the title, "Search and Destroy."

SALUTING THE 20TH ANNIVERSARY OF INROADS, INC.

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. STOKES. Mr. Speaker, I am pleased to take this opportunity to salute Inroads, Inc., of northeast Ohio, which is celebrating its 20th anniversary. Inroads is a non-profit career development organization for college-bound black, Hispanic, and Native American students interested in pursuing careers in business, engineering, computer technology, and allied health. I want to take this opportunity to share with my colleagues a brief history of this distinguished organization.

In 1970 Frank C. Carr, a white publishing executive, recognized the lack of minorities in the business management ranks. He reasoned that the ghettos and barrios of this Nation had as much talent as any other sector of society—talent that could be developed. Carr sought the support of the business community in providing training programs for minority youth. Seventeen companies became charter sponsors of the first class of 25 college interns. The program became known as Inroads. Today, Inroads boasts 36 affiliates and provides leadership training to 3,580 college interns and 700 high school students.

Mr. Speaker, Inroads began operating in northeast Ohio in 1976. I am proud to report that the program is enjoying great success. Currently, over 160 college students are training in 70 major corporations in the Greater Cleveland area. The northeast Ohio chapter can also boast 115 alumni and 82 pre-college students participating in the program.

The commitment and active involvement of the business community is a key component of the Inroads program. I am pleased to note that the Inroads/Northeast Ohio Board of Directors includes some of the finest leaders in the business community. These individuals have freely given their time, talent and resources to ensure the success of the program.

Mr. Speaker, it is a pleasure to salute Inroads of Northeast Ohio, Inc., on this special occasion. I ask that my colleagues join me in paying tribute to the efforts and undertaking of this distinguished organization.

WITNESS SECURITY PROGRAM

HON. ALFRED A. (AL) McCANDLESS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. McCANDLESS. Mr. Speaker, today I have joined my colleagues Congressmen BOB WISE and STEVE SCHIFF, in introducing a bill to increase the arsenal for our country's war on drugs. We are sponsoring legislation to enhance the prosecution of international drug trafficker through use of the Federal Witness Security Program.

The Federal Witness Security Program [Witsec] was created to assist the Government in successfully prosecuting high-ranking members of national crime syndicates. It allows prosecutors to offer threatened witnesses a new identity and relocation to a secure community in exchange for vital testimony. The program's success has been overwhelming. Yet increased international narcotics prosecutions have pointed to the need for certain program changes.

Today, almost 80 percent of all Witsec cases are related to narcotics prosecutions. These prosecutions often require the use of foreign national witnesses. As a successful former prosecutor pointed out, "When you are talking about defendants who are operating cocaine rings from Peru, Bolivia, or Colombia—most of them run their rings from their foreign jurisdictions. A great deal of the conversations and activities which have to be testified about take place in foreign jurisdictions, which means that your witnesses are going to come from those same jurisdictions."

Prosecutors, however, have encountered difficulties in bringing foreign national witnesses and their families into the Witsec program. Under current immigration procedure, a foreign national may enter the United States as a nonimmigrant as a parolee, visitor, or temporary or permanent employee of a U.S. subsidiary of a foreign company. Foreign nationals who are authorized to enter the Witsec program are usually paroled into the country and must appear annually to extend their non-immigrant status. Most are unable to qualify

for permanent residency under existing immigration law and are therefore left to immigration limbo, relying on timely annual status reviews to keep them in the United States and away from the certain death of deportation.

Widespread awareness of the hardships and uncertainty caused by this inflexibility have made obtaining vital foreign testimony more difficult as potential witnesses shy away from the program. Consequently, Congressmen WISE, SCHIFF, and I have introduced today's bill to provide the Attorney General with the authority to offer permanent resident alien status to up to 100 vital witnesses and their families per year.

I am proud to be a sponsor of this important legislation, and look forward to its early enactment into law.

TED AND HARRIET DUSANENKO CELEBRATE 50TH ANNIVERSARY

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GILMAN. Mr. Speaker, I wish to call to the attention of our colleagues the fact that one of the most dynamic and inspirational couples in our 22d Congressional District of New York is about to celebrate a milestone occasion.

Ted and Harriet Dusanenko married on August 18, 1940. The world has changed in many ways since their lives were joined as one, but their love for each other and commitment to a better world for all of us have remained a constant beacon throughout our ever-changing society.

As a veteran of World War II, Ted has served with distinction as Commander of the Ukrainian War Veterans organization, which has underscored the basic truth that one of the most patriotic of all groups in our nation have been Americans of Ukrainian extraction. It underscores also the crying need for freedom, justice and liberty in the Ukraine today.

Ted was one of the founders of the New City (NY) Ambulance Corps, and in that capacity has helped save countless lives. The New City Ambulance Corps, has extended to Ted the rare honor of being afforded a life membership—a fitting tribute to his assistance and his leadership.

Ted Dusanenko is also an active member of both the Rockland County Senior Citizens and the Rockland County Republican Committee. He has personified the adage that service to community is the greatest work of life.

Harriet's career and accomplishments are just as impressive. Harriet has been a lynchpin with both the National Heart Association and with the Cancer Foundation. She is active with the Ukrainian-American Association for Women, with the Embroidery Guild, and was a long-time leader in the Clarkstown High School PTA, where she served as president.

Harriet's dedication to the Republican Party has been just as intense as her husband Ted's. She is not only a long-time Rockland County Committeewoman, she has also served in the Women's Republican Club and the New York State Women's Association of Republican Clubs.

On August 18, the Dusanenko's sons, Ted and Jerry, their daughter, Andrea and four grandchildren, will be joining with their many friends and admirers to celebrate their anniversary at a surprise gala at the Spring Valley (NY) Ukrainian Hall. Mr. Speaker, I ask our colleagues to join with me in extending our congratulations to public spirited Dusanenkos on what promises to be a memorable and well-deserved celebration.

UNEMPLOYMENT INSURANCE PROGRAM

HON. JILL LONG

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Ms. LONG. Mr. Speaker, I rise today to introduce legislation to reform the way we budget for the Unemployment Insurance Program. Earlier this year, unemployment offices in States across the country were closed due to a shortfall in Federal funding. While the Congress passed a supplemental appropriation which reopened many of the offices, this legislation would address the underlying problem which caused the shortfall.

The administration of the Unemployment Insurance Program is paid for by a Federal tax on employers. The revenue raised by this tax is held in the Unemployment Trust Fund [UTF] and is dedicated solely to the Unemployment Insurance Program. However, the Unemployment Trust Fund is included in the calculation of the Gramm-Rudman-Hollings [GRH] deficit, and the funds that pay for the administration of the Unemployment Insurance Program are subject to sequester.

The recent funding shortfall was due to both a GRH sequester and an underestimation of the workload by the Department of Labor that resulted in inadequate fiscal year 1990 appropriations.

The fiscal year 1990 sequester was clearly a budget action to meet GRH targets. The underestimation of the workload and subsequent lack of attention to the problem may also have been driven by budget pressure to hold down spending in order to reach GRH targets. In fact, it appears that this year there will again be an underestimation of the workload by the Department of Labor. The Interstate Conference of Employment Security Agencies reports that, according to the mid-year review of economic assumptions, the Department of Labor has again underestimated the workload by \$100 million and, as of yet, has not made a decision to amend the fiscal year 1991 budget request.

However, these budget actions save money on paper only. Any unspent moneys are required to remain in the trust fund where they build up, unspent. The current estimate for the year-end balance in administrative funds account is \$1.64 billion.

The legislation I introduce today would address the shortfall by exempting administrative funding from sequester and removing the UTF from the GRH deficit calculation. By removing the UTF from the GRH deficit calculation, any pressure that may exist to hold down expenditures from the UTF and to build a surplus in

the trust fund would be eliminated. The sequester of funds that derive from a dedicated tax defeats the purpose of a dedicated tax and is merely an accounting device to meet GRH targets.

Mr. Speaker, this legislation would help bring integrity to the budget process and to protect the unemployment insurance program from unwarranted funding shortfalls, and I urge my colleagues to support it.

HUMAN GENE THERAPY

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PORTER. Mr. Speaker, genetic research has recently been attacked by Members of Congress and the press.

Critics point to several potential ethical problems inherent in screening individuals for genetic flaws. What are the implications for health insurance? Will people with bad genes be priced out of the market?

How will parents use our increased understanding of genetics? Should a mother abort a fetus with a predisposition to a fatal or debilitating condition? What about a less severe condition, or a fetus disposed to below average intelligence?

These are serious concerns. But they are the flip side of a much brighter picture. By understanding the human genetic code we may someday be able to cure the over 4,000 known genetic diseases. We may be able to cure cancer.

On Monday, Federal researchers received approval to perform the first human gene therapy, which is the only hope for people with a fatal skin cancer.

Mr. Speaker, we must address the ethical implications of our research. These are very serious concerns. But at the same time we must encourage efforts to improve the health of millions of Americans by leading-edge technologies like genetic research.

TRIBUTE TO MR. ALBERT STEPHEN VOLANSKY

HON. DAVID E. BONIOR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. BONIOR. Mr. Speaker, I rise today to pay tribute to a renowned individual, Mr. Albert Stephen Volansky. Mr. Volansky will be 80 years old on December 31, 1990. On August 4, 1990, there will be a surprise birthday party commemorating this achievement.

Mr. Volansky was born in Pennsylvania and moved to Michigan in 1930. He was a general foreman for Chrysler from 1932 until 1970. He has since retired and spends his summers on Higgins Lake in Michigan.

Mr. Volansky has lived during a unique time in American History. Within his lifetime he has witnessed the television age, the jet age, the nuclear age, the computer age and the space

age, not to mention two world wars and the beginning and end of the cold war.

Yet, Mr. Volansky's life has not been measured by scientific or political milestones, but by his own achievements within his family, with his friends and through his community.

After moving to Michigan, Mr. Volansky quickly became a part of our community. He started the Little League Baseball program in East Detroit, MI. His association with Notre Dame High School prompted him to start the Mom & Dads Club as well as the Conservation Club. I share the common experiences that East Detroit and Notre Dame have to offer and know they provide Mr. Volansky with fond memories.

I hold Mr. Volansky in the deepest regard. He will long be remembered as a true friend of our community.

TRIBUTE TO MAX AND GEORGIA VIDETO

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. PURSELL. Mr. Speaker, I rise today to pay tribute to two individuals who will be inducted in the Michigan Farmer's Hall of Fame later this month. Max and Georgia Videto are from Spring Arbor, which is located within my second congressional district.

Max started farming with his father in 1935. In 1943 he started buying land to expand the operation. By 1959, Max had a completely new dairy set-up for 300 cows.

Today the Videto Vista Farm includes 900 acres. In 1988, the farm earned the Michigan Dairy Herd Improvement Association's "Progressive Dairyman of the Year Award." Currently 250 acres of the farm are into hay and 650 acres are into corn.

Max has practiced crop rotation, TMR feeding, production splitting of milk cows, and has a current herd average of 19,800 pounds. He currently milks some 190 cows.

Now working the farm with his four sons, Max has received numerous awards from service clubs, has served as township supervisor, and currently is a county commissioner and serves on the county fair board.

Georgia has spent many years as a farm wife and has kept very busy raising four sons. Georgia also helped with the milking chores, raised a small garden, flowers and canned food.

She was active in the PTA, child study groups, and a member of the Farm Bureau for 30 years. Georgia now keeps busy with 11 grandchildren.

Mr. Speaker, I ask my colleagues to join with me in congratulating the Videtos on their induction to the Michigan Farmer's Hall of Fame.

TRIBUTE TO ROB BRYANT: A PROFILE IN STRENGTH AND PERSEVERANCE

HON. PETE GEREN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. GEREN of Texas. Mr. Speaker, strength and perseverance rolled into town this week in the heart of Rob Bryant. Rob is a DynCorp engineer from Fort Worth, TX, who just completed a 3,000-mile journey from Los Angeles to Washington on a bicycle. Rob is also a paraplegic.

Eight years ago in 1982, Rob Brant fell 60 feet from a scaffolding to wake up in a hospital, paralyzed from the waist down. The doctors told him he would never walk again. But he refused to accept the limitations they put on him, and 2 years later, he set a world record by walking the 24-mile stretch between Fort Worth and Dallas on crutches.

Rob's motto is "Don't stop in the face of adversity, but concentrate on the things you can do well." He is living proof of the power of belief, and the strength one can find in courage.

Rob began his newest challenge on April 2 of this year, when he left Los Angeles on a three-wheeled RowCycle to venture across country and carry his message of hope and optimism to all who would listen. Traveling across the country, covering from 10 miles per day to sometimes 60 miles per day, Rob beat all the odds. He overcame the daily repairs needed on his RowCycle, the 80 m.p.h. currents that produced the 38 degree winds in the mountains near El Paso, and the physical strain that no doubt accompanied him on his journey.

His physical trek across the country ended in Washington on Monday, July 30, but his challenge will continue. Not the challenge to survive or to get through every day. No, Rob conquered those challenges long ago. Rob's challenge will be to carry his message to all of those fighting adversity and to those facing the struggle of day-to-day life.

Rob Bryant has written a book about his life and faith, "Lord Lift Me Up * * * And Let Me Stand." But Rob already stands tall in our eyes. He truly is a profile in strength and perseverance and an inspiration to all of us.

FOOD AND AGRICULTURAL RESOURCES ACT

HON. MIKE SYNAR

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. SYNAR. Mr. Speaker, today I voted for H.R. 3850, the Food and Agricultural Resources Act, a bill which provides a 5-year reauthorization of our country's farm commodity programs, international food aid and agricultural export promotion activities, USDA research and extension programs and agricultural conservation and forestry activities.

I supported H.R. 3950 because these farm programs are needed to provide the structural

stability that produces the wide variety of affordable food our consumers enjoy. The 1990 farm bill is a continuation of the market-oriented principles Congress legislated in the 1985 farm bill. The provisions in this legislation will help reduce our farmer's dependence upon Government payments and strengthen reliance on the marketplace for income. In 1987, corn and wheat producers received 33 percent of their income as cash payments from the Government. In 1990, these same producers will get less than 15 percent of their income from the taxpayer. H.R. 3950 continues to reduce the costs of farm commodity programs by freezing target prices at current levels on wheat, corn, rice, and cotton through 1995.

I do, however, recognize that the cost of production increases combined with lower loan rates and price supports will have an adverse impact on the income of Oklahoma farmers. I am sympathetic to my District farmers' calls for increasing price supports and marketing loans, given that the net income of Oklahoma farmers is a mere \$13,209. Unfortunately, our country's pending fiscal crisis makes it impossible to allow for even inflationary increases in our support programs. Oklahoma farmers are very important to our nation's balance of trade. Oklahoma's chief cash crops, soybeans, wheat, and cattle, provide essential export opportunities for our country. I am hopeful the freeze in target prices and limited marketing loans will provide the necessary assistance to Oklahoma farmers so they can continue to compete in the global market with highly subsidized foreign farmers.

H.R. 3950 also includes provisions to make environmental improvements in our country's agricultural production methods. This bill will help protect our Nation's ground water and wetlands, and also provide incentives for farmers to reduce farm acreage and engage in soil and water conservation. The bill expands the list of Federal program benefits lost for any person who produces an agricultural commodity on highly erodible land without an approved conservation plan.

I am pleased the House voted to include my amendment which prohibits the export of pesticides banned in the United States. This amendment is important because it will provide protection to Oklahoma's farmers who are forced to compete against imported food products which are tainted by substandard pesticides. My amendment will also protect consumers who may be exposed to residues of these illegal chemicals on imported foods.

I do want to express my reasons for rejecting efforts to means test farm programs. I disagree with those who favor limiting participation in farm program to those individuals who earn more than \$100,000 in annual income. Yearly net income is an arbitrary indicator on which to base eligibility for farm programs. One good year of production can be followed by two bad years in this highly unpredictable, yet vital sector of our economy. In addition, I believe it is necessary for all sizes of producers to participate in Federal farm programs to ensure they operate efficiently and effectively. Imposing income limits on participation in Federal farm programs would undermine the main goals of U.S. farm policy. Farm programs are

not welfare. They help stabilize agricultural markets by managing production.

Finally, I recognize the need to establish limits on the amount of farm payments to farmers. The intent of farm programs is to help individual farmers. I am concerned that certain individuals organize into various trust and corporate schemes to avoid Federal farm payment limits. These abusive practices are clearly not the intent of Congress, and for this reason I supported the compromise Huckaby amendment which would continue to permit producers to collect deficiency payments as a participant in three different entities, but limit total payments to \$100,000. It is my hope this amendment will crack down on abusers who give negative publicity to our country's farm programs and place our family farmers at a competitive disadvantage. I applaud the Agriculture Committee's declaration to ensure USDA vigorously enforce the payment limit.

KATIE MORRIS TEACHES ABOUT ENVIRONMENT

HON. GEORGE E. BROWN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, August 2, 1990

Mr. BROWN of California. Mr. Speaker, during the celebrations of Earth Day this April, many of us expressed concern about our Nation's long-term dedication to fundamental changes to improve environmental quality.

Many feared that the enthusiasm of the day would end there—that people would quickly return to old, bad habits that degrade our air, water, and natural resources. However, in my district, a kindergarten teacher and her students are proving those skeptics wrong.

Katie Morris, a kindergarten teacher at Lytle Creek Elementary School, spent the month of June teaching her students about the environment—what actions are harmful to the environment and what we can do to protect and preserve it. One of her lessons taught the children that the chemicals used to manufacture plastic foam products are partially responsible for the destruction of the ozone layer, and that these same products, when discarded, take up landfill space because they are not biodegradable.

The students were quick to point out to Ms. Morris, that their school used styrofoam trays and cups to serve breakfast to the students in the mornings. A little research by Ms. Morris and her children revealed that 13 schools in the San Bernardino School District discard 7,500 foam trays every week.

Realizing that they were directly contributing to the environmental problem, the students quickly mobilized. Every morning Ms. Morris' children would proudly march into her classroom, arms overflowing with styrofoam trays and cups which they had collected from other students or had dug out of the trash, and excitedly announced how they were saving the environment.

After weeks of this crusade, Ms. Morris' kindergarten classroom was overflowing—there were garbage bags stuffed full of styrofoam cups and styrofoam trays were falling out of every cupboard. Appalled at the mess and tired of handwashing dozens of dirty breakfast trays every morning, Ms. Morris gathered up her students and all of their styrofoam and took their case to the school board, asking that better alternatives be considered. Impressed by their presentation and concern for the environment, the Board has begun to re-examine the products it uses throughout the district.

We can all learn from Ms. Morris and her students at Lytle Creek Elementary School. They epitomize the ideal in America that no matter how small or insignificant our actions may appear, the individual efforts of each one of us makes a difference. This is especially true with concern to the environment. Every action that we take can either degrade the environment or help build a cleaner and safer world. I am proud to point out the efforts of Ms. Morris and her students and hope that all of us will learn from their example.